

Standard Terms and Conditions

Supply of Products and Air BP Card



1. DEFINITIONS

- 1.1 "Account" means a BP account opened for a Buyer pursuant to an Application.
- 1.2 "Application" means the "Credit Application" form or other application form issued by BP that a Buyer has completed and submitted to BP to apply to BP for the supply of Products on credit and/or the issue of an Air BP Card.
- 1.3 "Amounts Owing" means all amounts owing by the Buyer to BP at the relevant time.
- 1.4 "Air BP" means that part of BP's business that relates to the supply of aviation fuel.
- 1.5 "Air BP Card" means the Air BP Card that is issued by BP pursuant to clause 22 of these Terms.
- 1.6 "BP" means BP Oil New Zealand Limited and includes Air BP.
- 1.7 "Buyer" means, in relation to the Application, each Business Buyer (if applicable) and each Consumer Buyer (if applicable) named in it, or any one of them, as the context requires.
- 1.8 "Business Buyer" means any applicant named in the Application: (a) that is not a natural person; or (b) who is a natural person for whom the Products are used or intended to be used wholly or predominantly for business purposes.
- 1.9 "Business Day" means a day (other than a Saturday, Sunday or public holiday observed in New Zealand) on which registered banks are opened for general banking business in New Zealand.
- 1.10 "Credit Limit" means the maximum amount of credit, set by BP in response to the Buyer's Application which, subject to the payment terms specified in clause 5, the Buyer is allowed to remain outstanding on the Buyer's Account(s) with BP each month.
- 1.11 "Air BP Card" means a BP Air BP Card that is issued by BP pursuant to clause 22 of these Terms.
- 1.12 "Guarantor" means any person who executes a personal guarantee relating to the Buyer's obligations to BP or, if there is more than one Guarantor, any one of them.
- 1.13 "Insolvency Event" occurs if: (a) BP reasonably believes that the Buyer or a Guarantor is unable to pay any Amounts Owing as they fall due or is bankrupt or insolvent; (b) a Guarantor disputes the legal effectiveness of the relevant guarantee; and/or (c) any person takes enforcement action against the Buyer's or a Guarantor's property.
- 1.14 "Products" means: (a) in relation to purchases using Air BP Card, those goods and services purchased using Air BP Card (whether from BP or an authorised retailer); and (b) in relation to purchases other than by using Air BP Card, all goods and services supplied to the Buyer by Air BP.
- 1.15 "PPSA" means Personal Property Securities Act 1999.
- 1.16 "Terms" means these terms and conditions as amended from time to time under clause 15.
- 1.17 "Restricted Party" is any person who is identified from time to time by any government or legal authority under applicable trade sanctions, export controls, anti-money laundering, non-proliferation, anti-terrorism and similar laws as a person with whom trade or financial dealings and transactions by the Buyer and/or its Affiliated Companies are prohibited or restricted.

2. ACCEPTANCE OF APPLICATION

- 2.1 All applications must be submitted by the Buyer to BP on an Application, which may include an electronic form. BP will use reasonable endeavours to accept or decline an Application (at its sole discretion) by written notice to the Buyer within 21 days of receipt of the Application.
- 2.2 The Buyer acknowledges, by submitting the Application, that the Buyer has received a copy of, and agrees to be bound by, these Terms.
- 2.3 The Buyer undertakes that all information it supplies to BP in, or in connection with, the Application is accurate, up to date and not misleading.

3. CREDIT LIMIT

- 3.1 A Buyer must not exceed its Credit Limit. The Buyer is responsible for monitoring the Amounts Owing on the Buyer's Account to ensure that the Buyer does not exceed the Credit Limit. BP may at its discretion decline the purchase of Products using Air BP Card or suspend the Account if the Buyer exceeds the Credit Limit.
- 3.2 BP may increase or decrease a Credit Limit given to a Buyer from time to time. BP will notify a Buyer in writing of any change to its Credit Limit (on at least 14 days prior notice if the Buyer is a Consumer Buyer). A Buyer may decline any increase to its Credit Limit by notifying BP.
- 3.3 BP may charge all Amounts Owing under or in connection with these Terms to the Buyer's Account and all Amounts Owing will count towards the Credit Limit.

4. PRICE

- 4.1 The price payable for a Product is the price notified in writing for the relevant Product by BP (or the applicable retailer) to the Buyer from time to time.
- 4.2 The Buyer acknowledges the prices charged by BP for Products may be varied by BP from time to time, including as a result of changes in wholesale crude oil prices, currency or exchange rates, the oil market generally or the volume of Products purchased by the Buyer.
- 4.3 The price of Products purchased using Air BP Card will be charged by BP to the Buyer's Air BP Card Account.
- 4.4 In addition to the price of the Products, the Buyer is liable to pay:
 - (a) any applicable taxes and levies;
 - (b) for Air BP Card Accounts, BP reserves the right to charge an administration fee of \$50.00 per annum (or such other amount as BP from time to time may deem appropriate) where purchases on the Account are less than 1,000 litres (or such other amount as BP from time to time may deem appropriate) in any calendar year;

- (c) for the order of Products, any minimum order charge BP has notified to the Buyer from time to time, which may vary depending on the quantity of Products ordered; and
- (d) for the delivery of Products, any delivery charge BP has notified to the Buyer from time to time, which may vary depending on the quantity of Products delivered, distance travelled to effect delivery to the Buyer and the date of the delivery.

5. PAYMENT

- 5.1 The Buyer must not deduct, withhold or set-off any sum from any Amounts Owing to BP.
- 5.2 Payment will be effected by direct debit to the Buyer's bank account in accordance with the direct debit form in the Application. Unless agreed otherwise in writing between BP and the Buyer or a different date is specified on an invoice, the payment of invoices will be made on the 20th day of the month after the month in which the relevant Products are supplied. Unless the Buyer disputes the debit with BP within 30 days of the debit, that debit and its amount shall be taken as accepted by the Buyer and not open to challenge.
- 5.3 The Buyer must ensure that there are sufficient funds available in its nominated bank account to meet its direct debit deductions. If any direct debit is dishonoured or payment is otherwise not made in accordance with these Terms, in addition to the unpaid amount, then:
 - (a) if the Buyer is a Business Buyer, the Buyer will be liable to BP for simple interest on the unpaid amount calculated at a rate of 1.5% per month calculated daily from the due date until actual payment on all unpaid amounts;
 - (b) the Buyer will be liable to BP for all costs and expenses incurred by BP in attempting to enforce payment or otherwise incurred as a result of the non-payment, in accordance with clause 10; and
 - (c) BP may, in its discretion, cancel or suspend the Buyer's Account.
- 5.4 To the extent permitted by law, all money received by BP from the Buyer will be applied in the manner and order determined by BP.

6. TITLE AND RISK

- 6.1 If the Buyer is a Consumer Buyer, title and risk in Products passes to the Buyer on collection. If the Buyer is a Business Buyer, the remaining provisions of this clause 6 apply.
- 6.2 If the Buyer is a Business Buyer:
 - (a) risk of damage to or loss of the Products passes to the Buyer on collection or delivery (as applicable);
 - (b) title in the Products will remain with BP until all Amounts Owing by the Buyer to BP have been paid in full;
 - (c) until title in the Products passes to the Buyer, the Buyer must keep all Products clearly identifiable as the property of BP and must keep all Products free of security interests (as defined in the PPSA) other than any security interests granted in favour of BP.
- 6.3 If the Buyer is a Business Buyer, until ownership of Products passes to the Buyer, the Buyer grants irrevocable authority to BP or BP's agents, to enter any premises owned or occupied by the Buyer at any reasonable time but without notice, to remove any Products, including Products which have been mixed with Products. BP will not be liable for costs, damages or expenses or any other losses suffered or incurred by the Buyer or any third party as a result of this action.
- 6.4 This section 6 is inserted solely for the benefit of BP and does not entitle the Buyer to return any Products which have not been paid for. BP may bring an action for any Amounts Owing even where ownership of the Products has not passed to the Buyer.

7. BREACH AND TERMINATION

- 7.1 The Buyer may terminate its Account on 14 days' written notice to BP.
- 7.2 BP may suspend or terminate the Buyer's Account if the Buyer breaches these Terms or if an Insolvency Event occurs:
 - (a) if the Buyer is a Business Buyer, without notice; or
 - (b) if the Buyer is a Consumer Buyer, on 14 days' written notice to the Buyer, unless a shorter notice period (or no notice period) is reasonably necessary for BP to protect a legitimate interest, for example, if the Buyer or a Guarantor is deemed to be bankrupt or insolvent. A breach of these Terms includes any failure by the Buyer to maintain the Minimum Purchase Criteria.
- 7.3 In any other case BP may suspend or terminate an Account held by a:
 - (a) Business Buyer on 2 days' written notice to the Buyer; or
 - (b) Consumer Buyer, on 14 days' written notice to the Buyer.
- 7.4 In the event of any breach of these Terms by the Buyer, BP may take such action as it is entitled to take by law, including recovering Products in accordance with clause 6.3.
- 7.5 If the Buyer is in breach of its obligations to pay BP in respect of any Products but those Products have been sold by the Buyer then the Buyer shall, at the request of BP, assign to BP within 7 days all rights against the person or persons to whom the Products have been sold.
- 7.6 Upon termination, all Amounts Owing will become immediately due and payable to BP and, if the Buyer is a Business Buyer, interest will accrue in accordance with clause 5.3(a) on any Amounts Owing until the Amounts Owing are settled in full.
- 7.7 Termination will not affect any provisions of these Terms which expressly or by implication are intended to survive termination.

8. CONSUMER GUARANTEES ACT

8.1 For the purposes of section 5D of the Fair Trading Act 1986 (FTA) and section 43 of the Consumers Guarantees Act 1993 (CGA), the parties acknowledge and agree that, if the Buyer is acquiring, or holds itself out as acquiring, the Products in trade, to the extent permitted by law:

- (a) they are contracting out of the CGA (to the extent that the CGA would otherwise apply to any matters covered by these Terms);
- (b) it is fair and reasonable for the parties to be bound by this clause 8.1; and
- (c) they have received legal advice in relation to these Terms (or had the opportunity to seek such advice but decided not to).

8.2 Nothing in these Terms will affect any right any person may have under the CGA if they are a consumer (as defined in the CGA) and are not acquiring, or holding themselves out as acquiring, the Products in trade.

9. FORCE MAJEURE

BP is not liable for any failure to supply or other default resulting from any event beyond BP's reasonable control.

10. INDEMNITY

10.1 If the Buyer is a Business Buyer, the Buyer agrees to indemnify BP, its officers, employees and agents (each an "Indemnified Person"), against any costs, expenses, claims or losses (including legal costs on a solicitor and own client basis and debt collection agency fees) suffered or incurred by BP arising out of or in connection with the supply of Products (other than by reason of BP's negligence).

10.2 If the Buyer is a Consumer Buyer, the Buyer agrees to indemnify each Indemnified Person against any costs, expenses, claims or losses (including legal costs on a solicitor and own client basis and debt collection agency fees) suffered or incurred by an Indemnified Person arising out of or in connection with a breach by the Buyer of these Terms.

11. PERSONAL PROPERTY SECURITIES ACT

11.1 Each Business Buyer will do such acts and provide such information as in the opinion of BP (acting in its absolute discretion) may be necessary or desirable to enable BP to perfect under the PPSA the security interest (as defined in the PPSA) created in respect of the Products as a first-priority interest, or with such other priority as BP may agree to in writing.

11.2 The Business Buyer waives any right to receive a copy of a verification statement under the PPSA and agrees, to the extent permitted by law, that, as between the Business Buyer and BP:

- (a) sections 114(1)(a), 133 and 134 of the PPSA will not apply;
- (b) the Business Buyer will have none of the rights referred to in paragraphs (a), (c) to (e) and (h) to (j) of section 107(2) of the PPSA; and
- (c) where BP has rights in addition to those in Part 9 of the PPSA, those rights will continue to apply and, in particular, will not be limited by section 109 of the PPSA.

11.3 The Business Buyer must pay the costs, charges and expenses of and incidental to the need for, or desirability of registration of, a financing statement or financing change statement or any action taken by BP to comply with the PPSA (including complying with a demand given under section 162 of the PPSA) or to protect its position under the PPSA. The Business Buyer must pay any costs incurred by BP, including legal costs on a solicitor-own client basis, arising from any disputes or negotiations with third parties claiming an interest in any Products supplied to the Business Buyer.

11.4 The Business Buyer will not change its name without first notifying BP in writing of the proposed name change and the new name at least 7 days before the change takes effect.

12. NOTICES

12.1 Subject to clause 12.3, a notice or other communication will be deemed to have been duly received:

- (a) if delivered by hand, at the time of delivery;
- (b) if sent by pre-paid post, 2 Business Days after posting;
- (c) if sent by email or other electronic notice, at the time of sending, except that if a notice or other communication is delivered by hand, or received by mail, email or other electronic means, on a day which is not a Business Day or after 5pm on a Business Day, then the notices or other communication will be deemed to have been received on the next Business Day.

12.2 For the avoidance of doubt, the notice provisions in this clause 12 replace sections 185-189 of the PPSA.

12.3 Clause 12.1 does not apply to a notice given under clause 25 of these Terms.

Notice under clause 25 is given when BP confirms that it has received the relevant notice.

12.4 If there is more than one Buyer named in an Application, notice to one Buyer will be deemed to be notice to all Buyers.

12.5 All communications directed to BP should be made to Buyer Services, BP Oil New Zealand Limited, PO Box 99873, Newmarket, Auckland 1149.

12.6 The Buyer consents to BP sending all communications including invoices by electronic means.

13. ENTIRE AGREEMENT

13.1 These Terms will apply to the supply of all Products supplied to the Buyer by BP and/or the purchase of Products using a Air BP Card (except to the extent they are inconsistent with the terms of any written supply agreement between the Buyer and BP for the provision of specific Products to the Buyer by BP). In the event of such inconsistency the terms of the supply agreement will prevail.

13.2 Other than any written supply agreement (as specified in clause 13.1):

- (a) these Terms supersede and replace any previous or existing negotiations, letters, offers, representations either verbal or in writing, between BP and the Buyer in relation to the supply of Products; and
- (b) any other terms and conditions proposed or issued by the Buyer shall have no effect.

14. MISCELLANEOUS

14.1 Failure or delay by either party in exercising, or partial exercise of, any right, power or remedy under or in connection with these Terms does not constitute a waiver of that right, power or remedy. A waiver, to be effective, must be in writing.

14.2 Where there is more than one Business Buyer, the liability of the Buyers is joint and several.

14.3 Should any part or provision of these Terms be held invalid or unenforceable, such invalid or unenforceable part or provision will be deemed severed from these Terms and will not

affect the validity or enforceability of the remainder of these Terms.

14.4 Unless otherwise specified, each party will, at its own expense and when requested by the other, promptly do, sign and deliver everything reasonably required to give full effect to these Terms and the transactions contemplated by these Terms and will take all practical steps to ensure relevant third parties, including the Guarantor, do the same.

15. ASSIGNMENT AND CHANGES TO THESE TERMS

15.1 The Buyer's ability to purchase Products on credit terms is personal to the Buyer and may not be assigned.

15.2 If the Buyer is a Business Buyer, BP may:

- (a) assign the Buyer's Account, or any of BP's rights in connection with the Buyer's Account, to any third party; and
- (b) unilaterally change any of these Terms by posting amended Terms on its website www.bp.co.nz, and/or notifying the Buyer of the updated Terms, from time to time.

15.3 If the Buyer is a Consumer Buyer, BP may unilaterally change any of these Terms by posting amended Terms on its website www.bp.co.nz, and/or notifying the Buyer of the updated Terms, from time to time: (a) at least 30 days prior to the changes taking effect; or (b) without notice if the changes do not cause detriment (financial or otherwise) to the Consumer Buyer or are required by applicable law.

16. SUPPLY OF BULK PRODUCTS

16.1 The terms and conditions set out in this clause 16 apply to Business Buyers who are supplied with Products by BP (via bulk delivery or otherwise) excluding the purchase of Products using Air BP Card.

16.2 BP warrants that the Products supplied will be of merchantable quality. No other warranty, expressed or implied, is given by BP.

16.3 BP will be relieved of all liability in respect of any claims relating to the Products if such claims are not made by the Buyer within 7 days of the delivery of those Products by BP to the Buyer. To the extent permitted by law, BP limits its liability to the replacement or the replacement cost of the relevant Products.

16.4 The Buyer must make available safe and unrestricted access for delivery at the site nominated for delivery in the Application, or otherwise as agreed by BP (the "Site") and provide not less than 3 Business Days prior notice of its delivery requirements. BP will use reasonable endeavours to deliver the Products ordered to the Site within 3 Business Days after receipt of the Buyer's order (excluding the day the order was received).

16.5 Delivery of the Products is made and risk will pass to the Buyer:

- (a) for liquid Products delivered by hose connection, when they pass into the permanent hose connection at the filling point at the Site; and
- (b) for packed or other Products, upon the removal of such Products from the delivery vehicle at the Site.

16.6 BP will provide to the Buyer, at the time of delivery or as soon as practicable after delivery, a delivery docket (the "Delivery Docket") specifying the type and quantity of the Products delivered.

16.7 The Buyer may submit to BP a six-month reconciliation of Products delivered by BP for the purposes of assessing apparent loss or disparity between measured and actual delivery quantities. If the Buyer submits such a reconciliation to BP, BP will consider making an adjustment of the amount invoiced for the relevant Products delivered to the Buyer for that reconciliation period, if it appears that any disparity is a result of short delivery or other cause (excluding leakage from the Buyer's own equipment). Provided that:

- (a) whether or not an adjustment is made by BP under this clause, as well as the extent of any adjustment, is at all times in BP's sole and unfettered discretion and the Buyer will not withhold payment for any delivery which is under consideration under this clause;
- (b) if any adjustment results in an increase in the amount payable for Products supplied, the Buyer will pay that increase immediately; and
- (c) any reconciliation provided by the Buyer for consideration for adjustment of the invoiced amount under this clause must be submitted to BP within 30 calendar days of the final day of the relevant reconciliation period, in order to qualify for such consideration by BP under this clause.

17. COMPLIANCE

17.1 The Buyer agrees to comply with all legislation and guidelines, including guidelines and manuals issued by BP, relating to the storage and dispensing of Products supplied by BP. BP may cease delivery if BP considers that there are concerns as to the degree of compliance with such legislation, guidelines or manuals.

17.2 The Buyer is responsible for obtaining all licences and consents necessary for the storage, dispensing or other dealings with the Products.

17.3 The Buyer will allow BP access to any site where Products supplied by BP are delivered, stored or dispensed upon reasonable notice so that BP can ensure compliance with these Terms.

17.4 The Buyer acknowledges it indemnifies BP, pursuant to clause 10, for any liability BP may suffer directly or indirectly as a result of the Buyer's storage, dispensing or dealing with the Products.

18. LIABILITY

18.1 Except as otherwise stated in these Terms, and to the extent permitted by law, BP will not be liable to the Buyer for any loss or damage (whether in contract, tort (including negligence) or otherwise arising under or in connection with these Terms, whether directly or indirectly, including out of the supply of Products or the performance or non-performance by BP of any obligation under these Terms.

18.2 If the Buyer is a Consumer Buyer, the Buyer must give BP written notice of any act or omission by or on behalf of BP, in relation to Products supplied by BP, which gives rise to a breach of these Terms by BP, within 48 hours of the relevant act or omission. BP will investigate the act or omission (including, if applicable, the quality of the Products purchased from BP) and may, at BP's sole discretion, replace the Products purchased from BP or credit the Buyer's Account with the cost of such Products.

19. PRIVACY

19.1 The Buyer authorises BP to collect, store, use and disclose personal information (as defined in the Privacy Act 1993) provided by the Buyer and/or collected by BP from third parties ("Personal Information") in accordance with the Privacy Act and BP's Privacy Statement, as updated from time to time.

19.2 In addition, the Buyer authorises BP to collect, store, use and disclose Personal Information for the purpose of assessing the Buyer's creditworthiness from time to time. The Buyer agrees that this may include BP sharing Personal Information with credit reporting and

debt collection agencies (including credit default information, if applicable) who may collect and retain such Personal Information and use it to provide their credit reporting and debt collection services.

19.3 The Buyer has a right to access and request correction of Personal Information held by BP by contacting BP at the details set out in BP's Privacy Statement.

20. GOVERNING LAW AND JURISDICTION

These Terms are governed by the laws of New Zealand. Each party irrevocably submits to the exclusive jurisdiction of the courts of Auckland, New Zealand.

21. GENERAL

21.1 In these terms a reference to: (a) "in writing" includes by email or any other electronic means that creates a permanent record; (b) a statute includes amendments to that statute and any statute to the extent passed in substitution for that statute; (c) a clause is to a clause in these Terms; (d) "including" shall be construed as "including without limitation"; and (e) any agreement or document includes that agreement or document as amended at any time.

21.2 In these Terms: (a) headings are for convenience only and do not affect interpretation; (b) the word person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust or government agency, in each case, whether or not having a separate legal personality; and (c) all rights and remedies provided in these Terms are cumulative and not exclusive of any other rights or remedies that may be available to the parties; and (d) the singular includes the plural and vice versa.

21.3 BP can exercise its rights and enforce its obligations under these Terms even if it has not signed these Terms. These Terms may be executed in any number of counterparts (including by electronic signature) all of which, when taken together, will be treated as one document. These Terms must not be construed adversely to BP on the basis BP prepared them.

22. GENERAL USE OF YOUR AIR BP CARD

22.1 The terms and conditions set out in clauses 22 to 27 apply to Buyers who are issued with an Air BP Card.

22.2 The Air BP Card is issued by BP for the person or aircraft nominated in the Application. The Buyer, as the Air BP Card Account holder, is responsible for the use of the Air BP Card(s) by person(s) who use the Air BP Card(s) and ("Authorised User(s)").

22.3 The Air BP Card must be endorsed with the signature of the person named on the Air BP Card, or imprinted with the registration number of the aircraft identified on the Air BP Card, in the relevant space provided on the Air BP Card. By using or endorsing the Air BP Card the Buyer acknowledges it is bound by these Terms.

22.4 Every Air BP Card remains the sole property of BP at all times. BP may, at any time, require the return of any Air BP Card.

22.5 The Buyer agrees to comply with all guidelines and manuals issued by BP relating to the use of Air BP Card.

22.6 The Air BP Card may be used to purchase Products from participating retailers and automatic facilities approved by BP. The Air BP Card cannot be used to obtain cash, any cash equivalent, or cash for the refund of a Product.

22.7 The Air BP Card may be issued with a Credit Limit and/or other purchase limitation as set out in the Application. It is the Buyer's responsibility to ensure Authorised User(s) do not exceed the applicable purchase limitation. The Buyer is responsible for any purchase in excess of the purchase limitation. BP is not liable to the Buyer for any Air BP Card purchase in excess of the purchase limitation.

22.8 When purchasing Products by Air BP Card it is the Buyer's responsibility to ensure any sales voucher or EFTPOS receipt correctly records the quantity, price and other details of the purchase. By signing the sales voucher or EFTPOS receipt, the Buyer authorises the purchase of the Products and any costs to be charged by BP to the Buyer's Air BP Card Account. The Buyer agrees that the signature of the person using the Air BP Card on the sales voucher or EFTPOS receipt, may be relied on by BP as valid authority from the Buyer for the purchase of the Products and the costs of such purchases shall be charged by BP to the Buyer's Air BP Card Account.

22.9 BP may from time to time issue a duplicate or replacement Air BP Card (including in circumstances where the Buyer requests a replacement for a damaged Air BP Card or shortly prior to the expiry of an existing Air BP Card). The destruction of the old Air BP Card is the responsibility of the Buyer and the Buyer will remain liable for any use of the old Air BP Card, notwithstanding the issue of a duplicate or replacement.

23. REPORTS

BP will provide the Buyer with a monthly tax invoice detailing the Air BP Card transactions for the previous month.

24. PRODUCTS PURCHASED FROM PARTICIPATING RETAILERS

24.1 The purchase of Products on Air BP Card is between the Buyer and: (a) BP, in respect of Products purchased from BP; or (b) the participating retailer, in respect of Products that are not purchased from BP. The Buyer acknowledges that BP has no liability, to the extent permitted by law, directly or indirectly, in respect of the Products purchased by the Buyer from a participating retailer using Air BP Card.

24.2 In the event the Buyer purchases defective Products from a participating retailer, it is up to the Buyer to resolve this with the participating retailer from which the Products were purchased. If the return of defective Products is accepted by a participating retailer, the Buyer should obtain a copy of a credit voucher, which will be processed by BP as a credit against the Buyer's Air BP Card Account.

24.3 In the event the Buyer purchases defective Products from an unmanned facility, the Buyer must give BP written notice of such purchase within 48 hours of the purchase. BP will investigate the quality of the Products purchased and may, at BP's sole discretion, replace the Products purchased or credit the Buyer's Air BP Card Account with the cost of the Products.

25. LOSS AND UNAUTHORISED USE OF Air BP Card

If any Air BP Card is lost, stolen or misused, the Buyer must notify BP immediately, requesting cancellation of that Air BP Card, by phone, email or via Air BP Card Online. The Buyer will not be liable for any unauthorised transactions on the Air BP Card made after notification of cancellation (due to loss or theft or misuse) is received and confirmed by BP. BP will not be liable for any transactions on a Air BP Card effected prior to the time that BP confirms receipt of notification from the Buyer requesting cancellation (due to loss or theft or misuse) of a Air BP Card.

26. LIABILITY

Without limiting any other provision in these Terms (including clause 18.2), to the extent permitted by law, BP is not liable to the Buyer, whether directly or indirectly for:

- (a) the actions or omissions of any participating Air BP Card retailer;
- (b) any Products purchased on Air BP Card, in accordance with clause 22 (unless otherwise stated in these Terms);
- (c) any fault with any automatic facility used in conjunction with the Air BP Card;
- (d) any fault with the Air BP Card itself;
- (e) any fault with the electronic systems which process the Air BP Card transaction;
- (f) any unauthorised use, misuse or fraud with a Air BP Card where BP has not received notification of cancellation from the Buyer in accordance with clause 25;
- (g) any unauthorised use, misuse or fraud with a Air BP Card where BP has not received notification of cancellation in accordance with clause 27; and
- (h) any loss or damage suffered by the Buyer arising out of the supply of Products or the performance or non-performance by BP of any obligation under these Terms (unless otherwise stated in these Terms).

27. CANCELLATION

27.1 The Buyer may cancel a Air BP Card where it is no longer required by requesting cancellation of that Air BP Card by BP, by phone, email or via Air BP Card Online.

27.2 The Buyer must destroy any cancelled Air BP Card. The Buyer will remain liable for all transactions recorded against a cancelled Air BP Card (except where the Air BP Card is cancelled pursuant to clause 25). For avoidance of doubt, the Air BP Card Account will remain active for all other Air BP Cards issued to the Buyer (if any).

27.3 Upon termination of any Air BP Card Account, all Amounts Owing will become immediately due and payable to BP. Interest will accrue in accordance with clause 5.3 on any Amounts Owing by a Business Buyer to BP until all Amounts Owing have been paid in full.

28. TRADE RESTRICTIONS

28.1 BP expressly prohibits payment of bribes and also payment of any so-called "facilitation" or "grease" payments in connection with BP's business operations by any party engaged to provide goods or services to BP or receive goods or services from BP. Therefore, the Customer represents and warrants that it currently complies and will continue to comply with all anti-corruption laws applicable to it and that it will comply with the principles of BP's Code of Conduct in connection with this Agreement.

28.2 The Customer represents and warrants that it has not made, offered, promised or authorised and will not make, offer, promise or authorize any improper or illegal payment, gift or other advantage, whether directly or through any other person or entity, to any third party, including any "government official" (i.e., any person holding a legislative, administrative, or judicial office, including any person employed by or acting on behalf of a public agency, a government-controlled enterprise, or a public international organization) or any political party or political party official or candidate for office, for purposes of influencing official actions or decisions or securing any improper advantage in order to obtain or retain business or where it would otherwise be improper for such advantage to be accepted.

28.3 Except as otherwise disclosed in writing to BP, as at the date of execution of this Agreement and during the term of this Agreement, no "government official" is or will become associated with, or will own or presently owns any interest in the Customer. At the request of BP, the Customer shall allow BP to review or audit the Customer's books, records and files relating to this Agreement, and relating to the ownership of the Customer and parties that have legal and equitable interests in the Customer. The Customer will provide information and answer any reasonable questions that BP may have relating to:

- (a) the Customer's performance of this Agreement in order to assess compliance with this clause 28.1, and
- (b) any ongoing background checks BP may wish to make while this Agreement is on foot in relation to the Customer, and the Customer hereby provides continuing authorisation to BP to make such checks from time to time, including but not limited to inquiries with Government and other government relates bodies.

28.4 BP shall have the right to terminate this Agreement and/or suspend payment and/or suspend supply hereunder with immediate effect if BP reasonably believes that any of the agreements, undertakings, representations or requirements set forth in this clause 28.1 have not been complied with or fulfilled by the Customer.

28.5 Notwithstanding any other provision of this Agreement, nothing in this Agreement shall be interpreted or construed, as inducing or requiring either Party to act in any manner (including failing to take any actions in connection with any sale or delivery of Fuel) which is inconsistent with, penalised or prohibited under any laws, regulations, decrees, ordinance, order, demand, request, rules or requirements of the United States of America, the United Kingdom, the European Union or other rules or requirements applicable to such Party which relate to international boycotts of any type, and neither Party will be obliged to perform any obligation if it would be in violation of such laws (the "Trade Restrictions").

28.6 Where any performance by a Party would be in violation of, inconsistent with, or expose such party to punitive measures under the Trade Restrictions, such party (the "Affected Party") shall, as soon as reasonably practicable give written notice to the other party of its inability to perform. Once such notice has been given the Affected Party shall be entitled:

- (a) to immediately suspend the affected obligation (whether payment or performance) until such time as the Affected Party may lawfully discharge such obligation; and/or
- (b) where the inability to discharge the obligation continues (or is reasonably expected to continue) until the end of the contractual time for discharge thereof, to a full release from the affected obligation, provided that where the relevant obligation relates to payment for goods which have already been delivered, the affected payment obligation shall remain suspended (without prejudice to the accrual of any interest on an outstanding payment amount) until such time as the Affected Party may lawfully resume payment, in each case without any liability whatsoever (including but not limited to any damages for breach of contract, penalties, costs, fees and expenses).

28.7 The Buyer warrants that any party to whom, either:

- (a) the Buyer or any of its Affiliated Companies resells Fuel sold to it by the Seller or one of the Seller's Affiliated Companies; or
- (b) the Buyer or any of its Affiliated Companies requires the Seller or one of its Affiliated Companies to deliver Fuel, is not a "Restricted Party".

TERMS OF USE

BP is able to offer you the facility to receive original or copy electronic invoices via an internet portal (“**Portal**”).

To the extent that we agree under any supply agreements between us (“**Supply Agreements**”) or otherwise that invoicing shall be done electronically, these terms of use (“**Terms**”) will govern the basis upon which electronic invoicing shall be carried out and in relation to the Supply Agreements shall supplement the terms of those agreements in relation to invoicing (only).

For the purposes of these Terms, “BP” means the BP company with which you have a Supply Agreement (“**Contracting Entity**”) and (where appropriate) the BP company which performs the sale and delivery obligations set out in a Supply Agreement on behalf of the Contracting Entity (“**Supplying Entity**”), “you” or the “Customer” means the company that is to be invoiced and “we” or “us” means all of the relevant parties.

By accepting these Terms, you agree to the following:

1. Use of the Portal

1.1 We shall agree in writing which purchase accounts shall be invoiced via electronic invoices (the “**Accounts**”). You agree that subject to relevant country legal and tax requirements and paragraph 2.1.8 of these Terms, BP will have the right to issue original paper invoices in relation to the Accounts. Where relevant country legal and tax requirements do not permit the issuing of original electronic invoices, BP will issue original paper invoices but will send you copy electronic invoices in relation to the Accounts. BP will inform you of the date from which original electronic invoices will be issued.

1.2 The electronic invoicing process shall operate as follows:

1.2.1 Invoices will be created in accordance with a specified format, using processes designed to secure the authenticity and integrity of the data. Original invoices shall be certified by an electronic signature. Once created, invoices shall be stored in an electronic repository on a server in Australia and the Customer may download certain invoices via the Portal where required. BP will initially upload 3 months of invoice data plus all open items. BP will use its reasonable endeavours to make available up to 2 years of invoice data once sufficient time has elapsed to make this possible.

1.2.2 You acknowledge and understand that unless you download original invoices via the Portal the data you access via the Portal is a presentation of the invoice data in electronic form.

1.2.3 You further acknowledge and agree that BP will use third party agents to store the invoice images in the electronic repository on a server in Australia.

1.2.4 Electronic signatures certifying the integrity of the invoice images shall be created and signed on our behalf by a third party.

1.2.5 Invoices shall be deemed to be issued by BP at the time the original invoice is created by BP whether electronically or otherwise. This shall be the date of invoice for the purpose of the Supply Agreement and these Terms.

1.2.6 The Portal has the facility to send an email notification to you that invoice data is available to view. You may set its account profile to receive such email notification at your discretion.

1.2.7 If you no longer wish to receive electronic invoices for any purchase account and wish instead to receive invoices in paper format, you must give BP at least 30 days’ prior written notice. Having discussed your use of the Portal, BP shall agree with you a process for issuing invoices thereafter.

2. Conditions of use

2.1 If you elect to receive electronic invoices via the Portal, you will comply with the following conditions of use:

2.1.1 You will only use the Portal for the purposes of viewing your invoices and (where relevant) orders for fuel (“**Permitted Purpose**”).

- 2.1.2 You must have the ability to access the internet in order to use the Portal. You will be responsible for ensuring that you have access to the internet at all times to view invoice data and electronic invoices BP sends electronically. We will not be responsible for any internet usage costs.
- 2.1.3 You will remain fully responsible and liable to pay original invoices issued electronically by us, regardless of whether or not you access the Portal and view the relevant invoice, are disconnected from your internet account for any reason or fail to read any email notification.
- 2.1.4 You accept that any original invoices issued via the Portal are validly issued by electronic transmission and expressly waive any rights to declare any invoice invalid on the sole ground that the invoice was issued electronically.
- 2.1.5 You will be responsible for ensuring that any login and password detail provided by BP or issued by the Customer Administrator to access the Portal shall be kept safely and securely and you undertake to implement and maintain control and security procedures and measures necessary to ensure the protection of data against the risk of unauthorised access, alteration, loss or destruction.
- 2.1.6 You will ensure that invoices are readily accessible and can be reproduced in a readable form and, if required by any government tax authorities, can be printed.
- 2.1.7 If you choose to receive email notification in accordance with paragraph 1.2.8, you must provide BP with a valid e-mail address to which such notifications shall be sent. It will be your sole responsibility to ensure the accuracy of the email address and the validity of the account.
- 2.1.8 Subject to relevant country legal and tax requirements, BP may in our sole discretion issue paper invoices in respect of the Accounts in addition to or instead of electronic invoices at any time. In such circumstances, BP will give you such notification as is reasonably practicable.
- 2.1.9 You must comply with our reasonable directions or those of any regulator or other body which administers public addressing identifiers ("**Regulator**") related to the use of the Portal. In addition, you must comply with the requirements of any Regulator and acknowledge and agree that:
 - 2.1.9.1 We do not control the allocation of public addressing identifiers;
 - 2.1.9.2 We are not liable to you if BP is required to change any public addressing identifiers as a result of any direction given by a regulator or other body which administers public addressing identifiers; and
 - 2.1.9.3 on ceasing to use the Portal, your right to use any related public addressing identifier shall cease.
- 2.1.10 In using the Portal you agree not to:
 - 2.1.10.1 use or manipulate the Portal in any way to interrupt, interfere with or damage the Portal or to make it less efficient;
 - 2.1.10.2 except to the extent expressly permitted by law, decompile, disassemble, reverse engineer or in any way modify the Portal program code;
 - 2.1.10.3 duplicate, copy, resell, sub-licence or otherwise commercially exploit any part of the Portal;
 - 2.1.10.4 use or attempt to use the Portal to transmit, publish or communicate any material which is defamatory, offensive, abusive, indecent, menacing or unwanted;
 - 2.1.10.5 breach the provisions of any privacy legislation governing BP's or your activities or of BP's or your employees, directors, agents, contractors, sub-contractors or affiliates;
 - 2.1.10.6 breach any applicable laws or regulations in relation to your use of the Portal or infringe any other person's rights; or
 - 2.1.10.7 expose BP to any liability.

3. Authority to receive electronic invoices

You will be responsible for ensuring that you can receive electronic invoices in your country of residence and that the electronic invoice and the use of the Portal will comply with all tax and legal requirements in that country.

4. Confidentiality

BP and you shall ensure that invoice data is maintained in confidence and is not disclosed or transmitted to any unauthorised persons, except as required by law or by any government tax authorities.

5. Liability and warranty

- 5.1 BP accepts no responsibility or liability in the event that your login and password details are used by any third party to access your account without your permission. In addition, whilst BP will take reasonable steps to ensure any login and password details are securely sent to you, BP will accept no responsibility or liability in the event that such information is accessed or read by any third party, including where such information is accessed due to negligence, fault or wilful default.
- 5.2 BP makes no representation or warranty:
 - 5.2.1 as to the fitness for purpose or merchantability of the Portal;
 - 5.2.2 that any advice provided by BP to assist in your use of the Portal, is accurate or correct or will not have a detrimental effect on your network or any other application installed on it.
- 5.3 Further, to the maximum extent permitted by law, BP excludes all conditions and warranties implied by law.
- 5.4 Whilst BP will endeavour to make the Portal available at all times, BP cannot guarantee uninterrupted and/or reliable access to the Portal and make no guarantees whatsoever as to its operation, availability, functionality, that it will be free of error or disruption or otherwise. To the extent permitted by law, BP accepts no liability for any loss incurred or suffered by you arising out of or in connection with your use of, or inability to use, the Portal.
- 5.5 BP shall not be liable for any loss of profits, loss of revenue, loss of business or goodwill, or any other economic loss nor for loss of, damage to, corruption of or compromise of data, in each case arising out of or in relation to use of the Portal.
- 5.6 BP shall not be liable for any indirect or consequential losses arising out of or in relation to use of the Portal.
- 5.7 We will implement and maintain control and security procedures and measures with a view to keeping information contained in the Portal secure, but our sole responsibility following any security breach will be to endeavour, taking reasonable steps, either by ourselves or through third parties, to prevent any continuance or reoccurrence once the problem has been identified by or notified to us.

6. Record retention

- 6.1 BP and you shall each store the invoices for a period of six (6) years or such longer period as may be required by local tax requirements in the following manner:
 - 6.1.1 the invoice data shall be accessible on reasonable notice by either party to the other;
 - 6.1.2 invoices shall be stored in their original and encrypted electronic format;
 - 6.1.3 the electronic signature for each invoice must be stored as evidence of the authenticity and integrity of the invoice; and
 - 6.1.4 the encryption codes for each invoice must be stored such that both BP and you can access such codes for the purpose of comparing the original encrypted invoice with the readable invoice data at any time.

7. Trademarks

Trademarks may be displayed on the Portal from time to time. These may belong to BP or third parties. You shall not use the trademarks on the Portal.

8. Data protection

We and you shall each comply with any and all relevant data protection legislation in relation to the processing of any personal data pursuant to this Agreement. Please see our Privacy Statement for more details.

9. Termination

We may terminate your access to the Portal either on 60 day's written notice without cause or with immediate effect in the event that any breach of this Agreement is not remedied within 10 business days of notification of such breach. If BP terminates access to the Portal, BP shall discuss alternative methods of invoicing with you and BP and you shall agree a process for issuing invoices thereafter.

10. Consent to electronic invoicing

You specifically agree that by agreeing to these Terms, you accept our use of electronic invoicing.

11. Variation

If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, they shall be deemed modified to the minimum extent necessary to make them valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this paragraph shall not affect the validity and enforceability of the rest of these Terms.

12. Governing law and jurisdiction

These Terms shall be governed by English law and both you and BP submit to the non-exclusive jurisdiction of the English courts.

Privacy Statement

AIR BP LIMITED (company number: 01150609), whose registered office is at Chertsey Road, Sunbury On Thames, Middlesex TW16 7BP, is responsible for this Portal, which is governed by the laws of England and Wales. The courts of England and Wales shall have exclusive jurisdiction over any dispute arising out of your use of it.

Collection, Use & Retention of Personal Information

This privacy statement, together with any other documents, policies, notices or other statements referred to herein sets out the basis on which we process personal information about you. Personal data is information that can identify a specific individual such as name, physical and/or email address and telephone number. By using this Portal or otherwise submit information to us e.g., by filling in forms or responding to surveys, you are choosing to provide us with your personal information. **You agree** that it will be used to provide the information, products or services you request (including information on additional products and/or services which BP reasonably thinks may be of interest to you). For more information see the "Direct Marketing" section below.

BP Group companies may carry out due diligence checks on potential and existing counterparties. These checks may involve BP collecting personal information via publicly available databases and other on/off-line sources. For information on how BP does this in accordance with applicable data privacy laws please contact privacy3@bp.com.

Personal information is held by us from the date of collection for the purposes of the Portal registration process and facilitating your access to and use of the Portal.

Keeping Personal Information Accurate & Access

We are committed to ensuring that your personal information is kept accurate and up to date. However, we can only make changes to your personal information if you notify us. It is your responsibility to let us know if there are inaccuracies or changes to your personal information. Please notify us at airbpmyninvoice@bp.com if there are any changes to or inaccuracies in your personal information, providing us with sufficient information to enable us to identify you, so that any changes can be made.

In accordance with our internal policies you may ask us to provide you with access to any personal data we process about you. If you want access to your personal information contact airbpmyninvoice@bp.com. We may be able to charge you for providing such access.

Security

Transmission of information via the internet is not always secure. We cannot guarantee the security of your data while being transmitted to our site; any transmission is at your own risk. However, once we have received your information, we take appropriate security measures to prevent unauthorised access, improper use or disclosure, unauthorised modification or unlawful destruction or accidental loss of personal information once it is under our control.

Disclosures and Transfers of Personal Information

Subject to the "Hyperlinks and Embedded Functionality" section below, BP does not sell or otherwise release your personal information to third parties to allow them to direct market their products and services to you. In order to provide our products and services we may, however, need to share your personal information with other companies within the BP Group, and/or third party service providers that process data on our behalf. If you submit personal information to BP, **you agree** to such disclosure.

Since BP operates globally, BP may want to transfer your personal information to other countries, including countries outside the European Economic Area (EEA). However, while in our control, we always seek to ensure that your personal information receives the same level of protection as it would had it stayed within the EEA, including seeking to ensure that it is kept secure and used only in accordance with our instructions and for the agreed purposes.

We reserve the right to disclose your personal information as required by law, or when we believe that disclosure is necessary to protect our rights and/or comply with a judicial proceeding, court order, request from a regulator or any other legal process served on BP. In the event that BP is subject to a takeover, divestment or acquisition we may disclose your personal information to the new owner of the business.

Direct Marketing

You agree that BP may send you marketing communications in line with your previously expressed marketing preferences. If you no longer wish to receive such, please contact us at airbpmymyinvoice@bp.com to modify your preferences, or follow the opt-out instructions contained in each marketing communication.

Site Traffic Information and Cookies

Servers located within BP and hosted by third party service providers (which may be located outside the EEA) automatically log data about your visit to this website based on your IP address. BP uses this information to see where the website is being used in the world to ensure seamless coverage.

To delete or stop cookies being placed on your computer refer to the help menu on your internet browser. In a few cases, blocking cookies may reduce the functionality of some websites or prevent access to them depending on your chosen browser options. Cookies can be “session cookies” (which are deleted when you close your browser) and/or “persistent cookies” which remain on your computer for a longer period of time.

By visiting this website, **you are agreeing** to our use of cookies for these purposes.

For further information about cookies, visit www.allaboutcookies.org

This Portal uses cookies which:

- (a) are strictly necessary to enable you to move around the site and use its features, e.g., accessing secured areas. Without these cookies some of the services you've asked for cannot be provided. These cookies do not gather information about you that can be used for marketing purposes, or for remembering where you've been on the internet; and
- (b) enhance the performance of the website by collecting information about how visitors use it (e.g., to maintain a consistent look and feel for the visitor). The information these cookies collect is not used to send you targeted advertising or remember where you've been on the internet; and
- (c) increase the website's functionality and make it more personal to you by allowing us to remember your previous choices (e.g., your location and preferred font type and size) and to provide any enhanced features detailed in the cookie-specific user notice. The information these cookies collect is **not** used to identify who you are, send you targeted advertising or remember where you've been on the internet.

You agree that your attention was specifically drawn to this section of our privacy statement and to the explicit privacy notice given to you and that you consent to our use of these cookies for these purposes.

Questions About Your Personal Information

If you have any questions relating to this privacy statement or the personal information we hold about you please contact us by email at airbpmyinvoice@bp.com or by post at the following address: Air BP Limited, PO Box 155, Mitcheldean, Gloucestershire GL17 0WH.

Changes to this Privacy Statement

We review this privacy statement regularly and may modify it from time to time. We will place any updates on this webpage. By continuing to use this website after such changes have been made, you acknowledge and agree you have read, understood and accept the changes. This privacy statement was last updated on 26 April 2017.

Hyperlinks and Embedded Functionality

This Portal may contain links to content or other functionality provided by third parties which are outside our control and are not covered by our privacy statement, including the embedded search box facility. If you access other websites using links or use other embedded functionality provided by third parties, the operators of those websites may collect information from or about you which will be used by them in accordance with their privacy statement, which may differ from ours. We encourage you to read those providers' privacy statements on their websites. We do not accept any responsibility or liability for these policies.