

Schedule 3 Fuel Supply Conditions

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Fuel Supply General Conditions

1. The Fuel Supply Agreement

- 1.1 The parties acknowledge and agree that by signing and returning any acknowledgment attached to any Fuel Supply Offer from time to time, the parties have entered into an agreement for the supply and delivery of Products pursuant to the Credit Agreement, under which the parties may form separate Fuel Supply Agreements.
- 1.2 The parties acknowledge and agree that each Fuel Supply Agreement which is formed is a separate agreement and distinct from any other Fuel Supply Agreement between the parties and is in addition to and not in derogation of any previous Fuel Supply Agreement and/or any Credit Agreement.
- 1.3 Each separate Fuel Supply Agreement, will be governed by:
 - (a) the Credit Agreement (and Guarantee);
 - (b) the relevant Fuel Supply Offer, including any attachments to that Fuel Supply Offer; and
 - (c) these General Conditions, and any of the applicable Annexures.
- 1.4 A Fuel Supply Agreement will commence on the Commencement Date and continues for the Term.
- 1.5 The parties may at any time agree in writing to extend the Term.
- 1.6 Except to the extent otherwise agreed in writing between the parties:
 - (a) these General Conditions are supplemented by the full terms of the Credit Agreement, which have been previously agreed by IOR and the Customer, and are relied upon and incorporated herein by reference, with the full force and effect as though those terms were repeated herein.
 - (b) the relevant Fuel Supply Agreement governs the entire relationship between IOR and the Customer in connection with the Products and/or the Fuel Supply Works identified in the relevant Fuel Supply Offer, and supersedes all earlier conduct and prior agreements, representations, communications and understandings between the parties in connection with the subject matter of the relevant Fuel Supply Agreement, whether oral or in writing.
 - (c) any other document not included in a Fuel Supply Agreement (including purchase

order terms or procurement terms provided by the Customer) shall have no force or effect.

- (d) In the event of any inconsistency between the documents comprising the Fuel Supply Agreement, the order of precedence between those documents (unless otherwise agreed by IOR in writing) is:

- (i) the Credit Agreement (and Guarantee);
- (ii) the relevant Fuel Supply Offer (including any attachment thereto); then
- (iii) these General Conditions.

2. Performance and Payment

- 2.1 Subject to the terms of a Fuel Supply Agreement, IOR shall carry out the Fuel Supply Works for the Customer.
- 2.2 The Customer shall pay to IOR the Charges in accordance with a Fuel Supply Agreement, without set-off or reduction.
- 2.3 For additional costs, which IOR reasonably incurs in carrying out the Fuel Supply Works, the Customer shall pay to IOR, IOR's actual costs incurred, plus a mark-up of 10% for profit and overheads.
- 2.4 IOR will invoice the Customer progressively in accordance with the relevant Fuel Supply Offer.
- 2.5 Each invoice shall be submitted to the Customer in valid GST tax invoice format and shall include details of the Charges and may include details of other moneys then due to IOR pursuant to the provisions of a Fuel Supply Agreement.
- 2.6 After receipt of an invoice the Customer shall pay the amount owing to IOR in accordance with the terms of the Credit Agreement, without set-off or reduction, or otherwise within the time stated on the invoice.
- 2.7 If the requirement for a deposit is specified in the relevant Fuel Supply Offer:
 - (a) promptly after a Fuel Supply Agreement has been formed, IOR shall submit a tax invoice for the amount of the deposit specified in the relevant Fuel Supply Offer (**Deposit Tax Invoice**);

(b) the Customer shall pay IOR the amount of the Deposit Tax Invoice within 7 days of receipt of the Deposit Tax Invoice; and

(c) if the Deposit Tax Invoice is not paid, IOR may in its sole discretion suspend performance of the Fuel Supply Works until the deposit is received. IOR's suspension costs shall be a deemed Variation.

2.8 IOR may, acting reasonably, suspend performance of a Fuel Supply Agreement, at any time, if the Customer fails to pay any amount due and payable to IOR or if suspension is necessary to protect people and/or property, or to comply with Work Health, Safety and Environmental Requirements.

3. The Customer's Obligations

3.1 The Customer must comply with all Work Health, Safety and Environmental Requirements.

3.2 The Customer shall immediately report to IOR any spillage of Fuel, any damage to, or malfunctioning of any equipment (including tanks) associated with the Fuel Supply Works.

4. Time

4.1 If performance of the Fuel Supply Works is delayed for any reason beyond the control of IOR, then:

(a) the time for performance of the Fuel Supply Works shall be extended by the extent of the delay; and

(b) IOR's additional costs and expenses in connection with the extension of time shall, at IOR's discretion, acting reasonably, be added to the Charges.

5. Title

5.1 Unencumbered title and ownership in the Products shall not pass to the Customer or any other company, individual, agent or customer of the Customer until IOR has been paid in full for such Products.

5.2 Until title and ownership so passes, the Customer holds the Products as bailee for IOR.

5.3 If full payment for the Products is not received within the specified time, or the Customer sells or otherwise provides the Products to a third party, without IOR's written consent, prior to making payment in full, the Customer:

(a) assigns the benefit of any claim against the third party to IOR;

(b) will account to IOR for any sale proceeds; and

(c) consents to IOR registering a purchase money security interest on any relevant register in respect to the Products

6. Variations

6.1 IOR is not obliged to carry out any Variation which is outside the general scope of a Fuel Supply Agreement.

6.2 A Variation must be agreed to by the parties in writing.

6.3 The price of a Variation shall be agreed by the parties or, failing agreement, reasonable rates or prices shall apply, with mark-up of 10% for profit and overheads at IOR's sole discretion.

6.4 That price shall be added to the Charges.

7. Limitation of Liability

7.1 Without limiting anything in a Fuel Supply Agreement:

(a) IOR shall not be liable in any circumstances:

(i) for any personal injury or damage to any property of whatsoever kind situated in, or adjacent to the Site, resulting from Fuel Supply Works, except to the extent such injury or damage was directly caused by IOR;

(ii) for any Consequential Loss;

(iii) for any damages (whether liquidated or otherwise) for delay;

(iv) for any inability to supply Fuel or Fuel Supply Works; and

(v) for any costs, losses, damages, expenses or Claims arising from any act or omission of the Customer, its customers, agents or employees, or any third party;

(b) The Customer acknowledges and agrees that IOR makes no representation that and has no liability to the Customer

(c) IOR's total aggregate liability arising out of or in connection with a Fuel Supply Agreement, including in tort, in equity, under statute or any other legal or equitable remedy is limited to amount of the Charges paid under the relevant Fuel Supply Agreement.

(d) IOR's liability for failure to comply with any guarantee under the *Competition and Consumer Act 2010* (Cth) is limited to the replacement of the Fuel, the supply of

equivalent Fuel, the cost of replacing the Fuel or acquiring equivalent Fuel.

7.2 This clause survives the termination or expiry of the relevant Fuel Supply Agreement

8. Customer's Liability

8.1 The Customer shall indemnify IOR for all costs, losses, damages or expenses suffered or incurred by IOR (including third party claims) arising from any act or omission of the Customer, its customers, agents or employees, including any breach of a Fuel Supply Agreement.

8.2 The Customer shall effect and maintain the insurances as stated in the relevant Fuel Supply Offer.

8.3 This clause survives the termination or expiry of the relevant Fuel Supply Agreement.

9. Taxes and Other Charges

9.1 Subject to this clause, unless expressly stated in the relevant Fuel Supply Offer, the Charges do not include any statutory or government charges. Should any such charges or any other tax become payable by IOR, such charges shall be added to the Charges.

9.2 Subject to this clause, if any supply made under or in connection with a Fuel Supply Agreement constitutes a taxable supply, then the recipient of the supply of goods or services ("the Recipient") must determine and pay to the supplier of the goods or services ("the Supplier") the amount of GST required to be accounted for by the Supplier to the Commissioner of Taxation in respect of the supply in addition to any amount or consideration expressed as payable elsewhere in a Fuel Supply Agreement.

10. Termination

10.1 If:

- (a) the Customer commits a substantial breach of the relevant Fuel Supply Agreement and the breach is not remedied within 5 days of the Customer being given written notice by IOR of the breach; or
- (b) IOR is entitled to terminate a Fuel Supply Agreement under the Credit Agreement; or
- (c) otherwise in IOR's reasonable discretion

then IOR may in its absolute discretion, terminate the relevant Fuel Supply Agreement.

10.2 If a Fuel Supply Agreement is terminated for any reason other than the expiry of the Term, the Customer:

(a) shall pay IOR the value of the Fuel Supply Works completed by IOR up to the time of termination;

(b) any costs incurred by IOR due to the termination of the relevant Fuel Supply Agreement.

10.3 This clause survives the termination or expiry of the relevant Fuel Supply Agreement.

10.4 Without affecting any other right or remedy available to it, the parties may terminate a Fuel Supply Agreement by giving not less than 30 days' written notice of intention.

11. Force Majeure

(a) Either party shall be excused from performance and shall not be in default in respect of any obligation hereunder to the extent that the failure to perform such obligation is due to an Event of Force Majeure.

(b) If a party wishes to claim protection in respect of an Event of Force Majeure, it shall as soon as possible following the occurrence or date of commencement of such Event of Force Majeure, notify the other party of the nature and expected duration of such Event of Force Majeure and shall thereafter keep the other party informed until such time as it is able to perform its obligations. The parties shall use their reasonable endeavours to:

(i) overcome the effects of the Event of Force Majeure as soon as practicable;

(ii) mitigate the effect of any delay occasioned by any Event of Force Majeure; and

(iii) ensure resumption of normal performance of a Fuel Supply Agreement as soon as reasonably practicable and shall perform their obligations to the maximum extent practicable,

provided that neither party shall be obliged to settle any IOR, lock out, work stoppage, labour dispute or such other industrial action by its employees.

12. Personal Property Securities Act 2009 (Cth) ("PPSA")

12.1 The Customer grants to IOR a "Financing statement", "financing change statement", "security interest", "purchase money security interest", "attached", "attachment", "perfected", "accession",

“commingled” and all related terms have the meaning given to them by the PPSA.

attachment of the PMSI has in no way been deferred or postponed.

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| 12.2 | <p>The Customer acknowledges and agrees that each and every Fuel Supply Agreement from time to time:</p> <ul style="list-style-type: none"> (a) constitutes a security agreement for the purposes of the PPSA; and (b) creates a security interest in: <ul style="list-style-type: none"> (i) All present and after acquired property of the Customer; (ii) All Products (or proceeds of sale) coming into existence after the date of the relevant Fuel Supply Agreement; and (iii) all Equipment supplied, provided or made available by IOR to the Customer now and in the future (including, for the avoidance of doubt any Equipment which may have been supplied prior to the date of the relevant Fuel Supply Agreement); | 12.4 | <p>IOR reserves the right to register a financing statement in the Personal Properties Securities Register to perfect the PMSI and/or SI created under these Credit Terms and/or to give notice of ownership of Equipment held, bailed and/or leased by the Customer from time to time.</p> |
| | | 12.5 | <p>The costs of registering a financing statement or a financing change statement can be charged to the Customer by IOR at IOR’s complete discretion, and may, where applicable, be charged to the customer’s credit account with IOR.</p> |
| | | 12.6 | <p>The Customer must promptly, on request by IOR, execute all documents and do anything else reasonably required by IOR to ensure that the PMSI and SI created under these Credit Terms constitutes a perfected security interest.</p> |
| | | 12.7 | <p>The Customer must not agree to allow any person to register a financing statement over any of the Products and/or Equipment owned by IOR or in which IOR has any PMSI and/or SI without the prior written consent of IOR and will immediately notify IOR if the Customer becomes aware of any person or entity taking steps to register a financing statement in relation to any such Products and/or Equipment.</p> |
| 12.3 | <p>In consideration of IOR supplying the Products to the Customer at the request of the Customer, the Customer by signing these Credit Terms:</p> <ul style="list-style-type: none"> (a) grants to IOR a “Purchase Money Security Interest” (“PMSI”) in all Products supplied by IOR to the Customer from time to time as security for payment of the purchase price of the Products; (b) grants to IOR a “Security Interest” (“SI”) in all of its present and after-acquired property and in all of its present and future rights in relation to any personal property (as defined in the PPSA) from time to time as security for payment of any amount owed by the Customer to IOR and as security for the performance by the Customer of the obligations set out in these Credit Terms; (c) agrees that any Products or proceeds of sale of the Products coming into existence after the date of these Credit Terms will come into existence subject to the PMSI and SI granted herein and these Credit Terms without the need for any further action or agreement by any party; (d) acknowledges that the Customer has received valuable consideration from IOR and agrees that it is sufficient; and (e) agrees that the PMSI and SI has attached to all Products supplied now or in the future by IOR to the Customer and that the | 12.8 | <p>The Customer must not allow any Equipment and/or the Products to become accessions or commingled with other goods unless IOR has first perfected any PMSI or SI that IOR has in relation to the Products.</p> |
| | | 12.9 | <p>If IOR perfects any interest (including any PMSI and/or SI) that IOR has in relation to the Products and/or any Equipment, the Customer must not do anything that results in IOR having less than the security or priority granted by the PPSA that IOR assumed at the time of perfection, subject only to the rights of a mortgagee pursuant to a registered mortgage.</p> |
| | | 12.10 | <p>The Customer irrevocably grants to IOR the right to enter upon the Customer’s property or premises, without notice, and without being in any way liable to the Customer or to any third party, if IOR has cause to exercise any of IOR’s rights under Chapter 4 of the PPSA, and the Customer will indemnify IOR for any claims made by any third party as a result of such exercise.</p> |
| | | 12.11 | <p>The Customer acknowledges and agrees that:</p> <ul style="list-style-type: none"> (a) nothing in sections 125, 132(3)(d), 142 and 143 of the PPSA will apply to these Credit Terms; and (b) the Security Agreement created by these Credit Terms may only be reinstated on the |

terms considered appropriate by IOR at its complete discretion.

12.12 The Customer acknowledges and agrees that to the full extent permitted by law and mentioned below, the following provisions of the PPSA will not apply to the enforcement of any PMSI and SI created under these Credit Terms, and the Customer waives its right to:

- (a) not have goods damaged or be inconvenienced any more than necessarily incidental if IOR removes an accession under s.92 PPSA;
- (b) to receive notice of any intention to remove an accession under s.95(1)(a);
- (c) to apply to the Court for an order postponing the removal of the "accession" or to determine the amount payable to IOR for the retention of the accession under s.97 PPSA;
- (d) to receive notice of a decision to enforce the security interest in personal property in the same way as an interest in land which secures the same obligation under s.118(1)(b)(i) PPSA;
- (e) to receive notice of the enforcement of liquid assets under s.121(4) PPSA;
- (f) to receive notice of any proposal to dispose of collateral under s.130(1)(a) PPSA;
- (g) to receive a Statement of Account if no disposal under s.132(4) PPSA;
- (h) to receive notice of any proposal to retain collateral under s.135(1)(a) PPSA; and
- (i) to receive notice of a verification statement in relation to any registration event (including registration of a financing statement or a financing change statement) relating to the PMSI and SI created under these Credit Terms under s.157 PPSA.

13. General

- 13.1 **Assignment** – The Customer may not assign a Fuel Supply Agreement without the prior written consent of IOR which shall not be unreasonably withheld.
- 13.2 **Varied terms** – A Fuel Supply Agreement may only be varied by both parties' agreement in writing.
- 13.3 **Governing Law** – A Fuel Supply Agreement is governed by the laws of the jurisdiction in which the Fuel Supply Works is performed.

14. Definitions and Interpretation

In these General Conditions:

- (a) **Annexure** means the annexures to these General Conditions.
- (b) **Charges** means the rates and charges payable by the Customer for the Fuel Supply Works, as set out in the relevant Fuel Supply Offer, adjusted by any additions or deductions made pursuant to a Fuel Supply Agreement.
- (c) **Claim** includes any claim for payment of money:
 - (i) under, arising out of, or in any way in connection with, a Fuel Supply Agreement; or
 - (ii) otherwise at law or in equity, including by statute, in tort (for negligence or otherwise, including negligent misrepresentation) or for restitution.
- (d) **Consequential Loss** means any consequential, indirect or special loss or damage, loss of actual or anticipated profits or revenue, loss of business, loss of production, loss of good will, loss of reputation, business interruption, wasted costs the Customer has incurred, amounts that the Customer is liable to the Customer's customers for or any loss suffered by third parties under or relating to a Fuel Supply Agreement or its subject matter, whether in contract, tort (including, without limitation, negligence), in equity, under statute, or under an indemnity, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.
- (e) **Offer Commencement Date** is the date stated in the relevant Fuel Supply Offer.
- (f) **Credit Agreement** means any Application for Commercial Credit entered into between IOR and the Customer, including the General Credit Terms therein, and any Guarantee in respect thereof.
- (g) **Equipment** means any equipment, chattels, apparatus or associated goods supplied or made available by or through IOR pursuant to a Fuel Supply Agreement, including any equipment identified in the relevant Fuel Supply Offer.
- (h) **Event of Force Majeure** means any circumstance not within the reasonable control of the party affected, but only if and to the extent that:

- (i) such circumstance, despite the exercise of reasonable diligence cannot be, or be caused to be, prevented, avoided or removed by such party;
 - (ii) such circumstance materially and adversely affects the ability of the party to perform its obligations under a Fuel Supply Agreement; and
 - (iii) such party has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the party's ability to perform its obligations under a Fuel Supply Agreement and to mitigate the consequences thereof,
- and may include:
- (iv) acts of war (whether war be declared or not), acts of the public enemy, or acts of foreign enemies;
 - (v) public disorders, insurrection, rebellion, revolution, terrorist acts, sabotage, riots or violent demonstrations or any other protests against political actions;
 - (vi) explosions, fires or floods not caused by or attributable to the Customer;
 - (vii) floods, earthquakes, hurricanes, tornadoes or other natural calamities or acts of God;
 - (viii) injunctions, civil disobedience, protests, blockades and other delays and disturbances not caused by any breach of a Fuel Supply Agreement by the Customer; and
 - (ix) endemics, epidemics or pandemics.
- (i) **Fuel** includes all Products supplied by IOR to the Customer from time to time.
 - (j) **Fuel Supply Agreement** means an agreement formed, in accordance with any Credit Agreement through the parties reaching agreement on a Fuel Supply Offer (from time to time) incorporating the terms of the Credit Agreement (and Guarantee), the Fuel Supply Offer and the Fuel Supply Conditions, and any further or other document referred to in the Fuel Supply Offer. Any reference to "relevant Fuel Supply Agreement" means the specific Fuel Supply Agreement which came into force upon the parties' agreement in respect of each relevant Fuel Supply Offer.
 - (k) **Fuel Supply Offer** means any offer made for the supply of Products by IOR under the Credit Agreement from time to time. Any reference to "relevant Fuel Supply Offer" means the specific Fuel Supply Offer which was agreed between the parties to form the separate Fuel Supply Agreement to carry out Fuel Supply Works.
 - (l) **Fuel Supply Works** means the goods, services, products, services, works and/or other things which IOR agrees to provide (subject to availability and the other matters specified in these Terms) pursuant to any Fuel Supply Agreement from time to time, as described in the relevant Fuel Supply Offer.
 - (m) **General Conditions** means these Fuel Supply General Conditions including all annexures hereto.
 - (n) **GST** has the meaning set out in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
 - (o) **Products** has the meaning given to it in the Credit Agreement, and includes all products and services supplied by IOR to the Customer from time to time.
 - (p) **Work Health, Safety and Environmental Requirements** means the requirements of all laws related to work health and safety, electrical safety, planning, the environment or hazardous substances and includes:
 - (i) any applicable Australian Standards and codes of practice; and
 - (ii) all directions, guidance notes, notices and the like issued by any relevant authority responsible for administering laws relating to the same; and
 - (iii) all directions, guidance notes, notices and the like issued by IOR, acting reasonably, from time to time.
 - (q) **Site** means the place where Fuel Supply Works is performed or carried out and may be specified in the relevant Fuel Supply Offer.
 - (r) **Term** means the term stated in the relevant Fuel Supply Offer, as may be varied by the parties' agreement in writing from time to time.

(s) **Variation** means to vary the Fuel Supply Works and includes:

- (i) increasing, decreasing or omitting any part of the Fuel Supply Works;
- (ii) changing the character or quality, or sequence or timing, of the Fuel Supply Works;
- (iii) changing the levels, lines, positions or dimensions; and
- (iv) carrying out additional Fuel Supply Works.

14.2 In a Fuel Supply Agreement:

- (a) references to a person include an individual, firm, partnership or body (corporate or unincorporated) or other legal entity as the context requires;
- (b) reference to a party includes that party's executors, administrators, successors and permitted assigns;
- (c) unless stated otherwise in writing, all sums and rates will be deemed to exclude GST;
- (d) 'including' and similar terms are not terms of limitation;

(e) clause headings are not part of a Fuel Supply Agreement and may not be used in interpretation of a Fuel Supply Agreement;

(f) all amounts will be in Australian dollars unless IOR states otherwise in writing;

(g) the contra proferentem rule does not apply and no part of a Fuel Supply Agreement may be interpreted against the interests of the party responsible for the drafting or the inclusion of that provision or part in a Fuel Supply Agreement;

(h) words in the singular include the plural and words in the plural include the singular, as determined in accordance with the context;

(i) derivative words (words formed from another by derivation) have a similar or the same meaning as the word defined, unless another meaning is expressly provided by a Fuel Supply Agreement;

(j) all communications purported to be under a Fuel Supply Agreement must be in English; and

(k) should any part of a Fuel Supply Agreement be determined to be void, unenforceable or otherwise excluded from a Fuel Supply Agreement, a Fuel Supply Agreement will be read as if that part was excluded.

Annexure A – Equipment Conditions

1. Application of Annexure

- 1.1 The terms of this Annexure will apply if marked as applicable in the relevant Fuel Supply Offer.
- 1.2 In this Annexure:
- (a) **Date for Equipment Delivery** means the date identified in the relevant Fuel Supply Offer.
 - (b) **Delivery** means the transportation of Equipment to the Site and “Deliver” has a corresponding meaning;
 - (c) **Equipment** means the Equipment to be supplied or supplied by IOR pursuant to a Fuel Supply Agreement, as identified in the relevant Fuel Supply Offer.
 - (d) **PPSA** means the *Personal Property Securities Act 2009* (Cth) (as amended) and any other legislation and regulations in respect of it.
 - (e) **PPS Law** means the PPSA and any amendment made at any time to the *Corporations Act 2001* (Cth) or any other legislation as a consequence of the PPSA;
- 1.3 All other terms have the same meaning ascribed in the General Conditions.

2. Commissioning of Equipment

- 2.1 Prior to the Date for Equipment Delivery, the Customer shall:
- (a) prepare the Site for placement of the Equipment in accordance with the requirements identified in the relevant Fuel Supply Offer and to IOR's satisfaction in its sole discretion; and
 - (b) obtain, and maintain all permits, approvals and consents necessary for the use of the Equipment at the Site, including the consent of the proprietor of the Site if the Customer is not the proprietor of the Site.
- 2.2 Subject to the terms of a Fuel Supply Agreement, and the Customer complying with its obligations in clause 2.1, IOR shall supply and commission the Equipment on the Site on the Date for Equipment Delivery or on the date advised by IOR.
- 2.3 Unless stated otherwise in the relevant Fuel Supply Offer, IOR shall bear the cost of the supply and commissioning of the Equipment on the Site.

- 2.4 The Customer shall (at its cost) ensure that the Equipment is supplied with electricity from the day the Equipment is commissioned on the Site until the earlier of the expiry of the Term or the end of the relevant Fuel Supply Agreement.

3. Use of Equipment

- 3.1 The Customer shall ensure that the Equipment is used and operated:
- (a) safely, in accordance with all laws, and only for its intended use; and
 - (b) in accordance with any directions or instructions issued by IOR from time to time.
- 3.2 The Customer is responsible for compliance with all relevant legislation and standards in relation to the use of the Equipment, including in respect to Work Health, Safety and Environmental Requirements.
- 3.3 The Customer must take all reasonable steps to ensure that the Equipment is not damaged in any way.
- 3.4 The Customer must not:
- (a) in any way alter, modify, tamper with, damage or repair the Equipment without IOR's prior written consent;
 - (b) deface, remove, vary or erase any identifying marks, plate, number, notices or safety information, on the Equipment; or
 - (c) remove or move the Equipment on or from the Site, without IOR's prior written consent.
- 3.5 The Customer shall immediately report to IOR any damage to the Equipment or any malfunction of the Equipment.
- 3.6 As necessary, the Customer will allow IOR to enter the Site to inspect and service and maintain the Equipment from time to time during the Term during normal working hours. If IOR cannot inspect or maintain the Equipment during normal working hours, then additional charges may apply.
- 3.7 Without limiting anything in a Fuel Supply Agreement, the Customer shall ensure that any persons having, or asserting, any right, title or interest in the Site:
- (a) do not interfere with the progress of the Fuel Supply Works; and

- (b) obeys all directions issued by IOR regarding access at and around the Equipment (including with respect to safety).

3.8 Unless otherwise agreed by the parties in writing:

- (a) IOR has the exclusive right to supply fuel into the Equipment; and
- (b) the Customer must not allow any person to supply or store anything, including fuel, in the Equipment.

4. Site Approvals

- 4.1 The Customer must maintain all permits, approvals and consents necessary for the use of the Equipment at the Site, including the consent of the proprietor of the Site if the Customer is not the proprietor of the Site.
- 4.2 If any permission, approval or consent is withdrawn for the use of the Equipment at the Site, the Customer must notify IOR immediately, following which IOR will, as soon as reasonably practicable, de-commission and remove the Equipment from the Site.
- 4.3 The costs incurred by IOR for the de-commissioning and removal of the Equipment under this clause will be added to the Charges and payable to IOR by the Customer.
- 4.4 The Customer shall indemnify IOR for all costs, losses, damages or expenses suffered or incurred by IOR (including third party claims) arising from, or connected to, the withdrawal of any permission, approval or consent for the use of the Equipment at the Site.

5. Return of Equipment

- 5.1 IOR shall de-commission and remove the Equipment from the Site as soon as practicable after the expiry of the Term.
- 5.2 Without limiting anything else in this Fuel Supply Agreement, if the Fuel Supply Agreement is terminated for any reason other than the expiry of the Term, the Customer shall (at its cost) promptly de-commission the Equipment and deliver the Equipment to the location nominated by IOR, failing which IOR may de-commission and remove the Equipment from the Site and the Customer shall be liable for all costs incurred by IOR.
- 5.3 This clause survives the termination of the relevant Fuel Supply Agreement.

6. Risk and Title

- 6.1 Upon the supply and commissioning of the Equipment at the Site, all risk in relation to such

Equipment shall pass to the Customer for the duration of the Term, or earlier termination of a Fuel Supply Agreement.

- 6.2 IOR retains title and ownership in the Equipment at all times. The Customer's rights to use the Equipment is as a bailee only.

7. Limitation of Liability

- 7.1 Without limiting anything in a Fuel Supply Agreement, IOR shall not be liable in any circumstances, for any defects in the Equipment directly or indirectly caused by:
 - (a) fair wear and tear; or
 - (b) the incorrect operation or use of the Equipment by the Customer, its customers, agents or employees, or any third party.
- 7.2 Without limiting anything in a Fuel Supply Agreement, IOR's liability for failure to comply with any guarantee under the *Competition and Consumer Act 2010* (Cth) in relation to the Equipment is limited to the replacement of the Equipment, the supply of equivalent Equipment, repair of the Equipment, the cost of replacing the Equipment or acquiring equivalent Equipment, or payment of the cost of having the Equipment repaired.
- 7.3 This clause survives the termination or expiry of the relevant Fuel Supply Agreement.

8. Customer's Liability

- 8.1 The Customer shall be liable for all costs incurred by IOR in rectifying any damage to the Equipment which is not attributable to fair wear and tear, whether the damage was caused by the Customer or other parties.
- 8.2 The Customer is responsible for any loss or theft of the Equipment howsoever and by whosoever caused during the Term, and while the Equipment is in the Customer's possession, and the Customer will be liable for, and the Customer must pay to IOR any costs incurred by IOR to recover or replace any lost or stolen Equipment.
- 8.3 The Customer shall indemnify IOR for all costs, losses, damages or expenses suffered or incurred by IOR (including third party claims) arising from any act or omission of the Customer, its customers, agents or employees, including any breach of a Fuel Supply Agreement or for any damage to the Equipment which is not attributable to fair wear and tear.
- 8.4 This clause survives the termination or expiry of the relevant Fuel Supply Agreement.

9. Personal Property Securities Act (Cth) 2009 ("PPSA")

- 9.1 The Customer grants to IOR a “Financing statement”, “financing change statement”, “security interest”, “purchase money security interest”, “attached”, “attachment”, “perfected”, “accession”, “commingled” and all related terms have the meaning given to them by the PPSA.
- 9.2 The Customer acknowledges and agrees that each and every Fuel Supply Agreement from time to time:
- (a) constitutes a security agreement for the purposes of the PPSA; and
 - (b) creates a security interest in:
 - (i) All present and after acquired property of the Customer;
 - (ii) All Products (or proceeds of sale) coming into existence after the date of the relevant Fuel Supply Agreement; and
 - (iii) all Equipment supplied, provided or made available by IOR to the Customer now and in the future (including, for the avoidance of doubt any Equipment which may have been supplied prior to the date of the relevant Fuel Supply Agreement);
- 9.3 In consideration of IOR supplying the Products to the Customer at the request of the Customer, the Customer by signing these Credit Terms:
- (a) grants to IOR a “Purchase Money Security Interest” (“**PMSI**”) in all Products supplied by IOR to the Customer from time to time as security for payment of the purchase price of the Products;
 - (b) grants to IOR a “Security Interest” (“**SI**”) in all of its present and after-acquired property and in all of its present and future rights in relation to any personal property (as defined in the PPSA) from time to time as security for payment of any amount owed by the Customer to IOR and as security for the performance by the Customer of the obligations set out in these Credit Terms;
 - (c) agrees that any Products or proceeds of sale of the Products coming into existence after the date of these Credit Terms will come into existence subject to the PMSI and SI granted herein and these Credit Terms without the need for any further action or agreement by any party;
- (d) acknowledges that the Customer has received valuable consideration from IOR and agrees that it is sufficient; and
 - (e) agrees that the PMSI and SI has attached to all Products supplied now or in the future by IOR to the Customer and that the attachment of the PMSI has in no way been deferred or postponed.
- 9.4 IOR reserves the right to register a financing statement in the Personal Properties Securities Register to perfect the PMSI and/or SI created under these Credit Terms and/or to give notice of ownership of Equipment held, bailed and/or leased by the Customer from time to time.
- 9.5 The costs of registering a financing statement or a financing change statement can be charged to the Customer by IOR at IOR’s complete discretion, and may, where applicable, be charged to the customer’s credit account with IOR.
- 9.6 The Customer must promptly, on request by IOR, execute all documents and do anything else reasonably required by IOR to ensure that the PMSI and SI created under these Credit Terms constitutes a perfected security interest.
- 9.7 The Customer must not agree to allow any person to register a financing statement over any of the Products and/or Equipment owned by IOR or in which IOR has any PMSI and/or SI without the prior written consent of IOR and will immediately notify IOR if the Customer becomes aware of any person or entity taking steps to register a financing statement in relation to any such Products and/or Equipment.
- 9.8 The Customer must not allow any Equipment and/or the Products to become accessions or commingled with other goods unless IOR has first perfected any PMSI or SI that IOR has in relation to the Products.
- 9.9 If IOR perfects any interest (including any PMSI and/or SI) that IOR has in relation to the Products and/or any Equipment, the Customer must not do anything that results in IOR having less than the security or priority granted by the PPSA that IOR assumed at the time of perfection, subject only to the rights of a mortgagee pursuant to a registered mortgage.
- 9.10 The Customer irrevocably grants to IOR the right to enter upon the Customer’s property or premises, without notice, and without being in any way liable to the Customer or to any third party, if IOR has cause to exercise any of IOR’s rights under Chapter 4 of the PPSA, and the Customer will indemnify IOR for any claims made by any third party as a result of such exercise.
- 9.11 The Customer acknowledges and agrees that:

- (a) nothing in sections 125, 132(3)(d), 142 and 143 of the PPSA will apply to these Credit Terms; and
- (b) the Security Agreement created by these Credit Terms may only be reinstated on the terms considered appropriate by IOR at its complete discretion.

9.12 The Customer acknowledges and agrees that to the full extent permitted by law and mentioned below, the following provisions of the PPSA will not apply to the enforcement of any PMSI and SI created under these Credit Terms, and the Customer waives its right to:

- (a) not have goods damaged or be inconvenienced any more than necessarily incidental if IOR removes an accession under s.92 PPSA;
- (b) to receive notice of any intention to remove an accession under s.95(1)(a);
- (c) to apply to the Court for an order postponing the removal of the “accession” or to determine the amount payable to IOR for the retention of the accession under s.97 PPSA;
- (d) to receive notice of a decision to enforce the security interest in personal property in the same way as an interest in land which secures the same obligation under s.118(1)(b)(i) PPSA;
- (e) to receive notice of the enforcement of liquid assets under s.121(4) PPSA;
- (f) to receive notice of any proposal to dispose of collateral under s.130(1)(a) PPSA;
- (g) to receive a Statement of Account if no disposal under s.132(4) PPSA;
- (h) to receive notice of any proposal to retain collateral under s.135(1)(a) PPSA; and
- (i) to receive notice of a verification statement in relation to any registration event (including registration of a financing statement or a financing change statement) relating to the PMSI and SI created under these Credit Terms under s.157 PPSA.

Annexure B – Bulk Fuel Supply Conditions

1. Application of Annexure

- 1.1 The terms of this Annexure will apply if marked as applicable in the relevant Fuel Supply Offer.
- 1.2 In this Annexure:
 - (a) **Bulk Fuel Supply** means the supply of Fuel which is to be charged based on the volume of Fuel delivered at any one time, and not by the volume of Fuel dispensed to the Customer.
 - (b) **Minimum Monthly Volume** means the minimum quantity of Fuel to be delivered each month, as stated in the relevant Fuel Supply Offer.
- 1.3 All other terms have the same meaning ascribed in the General Conditions.

2. Applicable Terms for Bulk Fuel Supply

- 2.1 Subject to the terms of the relevant Fuel Supply Agreement, the Customer may request that IOR carry out Fuel Supply Works by delivering Bulk Fuel Supply to the Site.
- 2.2 Without limiting anything in a Fuel Supply Agreement, the Customer shall pay to IOR the Charges for the Fuel Supply Works carried out under these Bulk Fuel Supply Conditions.
- 2.3 Upon delivery of the Fuel, the risk in the Fuel will pass to the Customer.
- 2.4 If the total measured volume of Fuel which is delivered in a month is less than 60% of the Minimum Monthly Volume (**Shortfall**), IOR may, in its sole discretion, invoice for, and the Customer must pay to IOR, an amount equal to 1 cent per litre for each litre difference between the total measured volume of Fuel which is delivered in the month and the Minimum Monthly Volume (**Shortfall Payment**). The Customer acknowledges and agrees that the Shortfall Payment is a genuine pre-estimate of the loss which IOR will suffer in the event that the Minimum Monthly Volume of Fuel is not delivered.
- 2.5 Without limiting anything in a Fuel Supply Agreement, if the Customer fails to pay any amount due and payable to IOR for Bulk Fuel Supply, IOR may, in its sole discretion, recover the unpaid Fuel from the Customer, and the Customer shall pay IOR for IOR's costs incurred in recovering the unpaid Fuel.
- 2.6 Without limiting anything in a Fuel Supply Agreement, the Customer indemnifies IOR for any costs, losses, damages or expenses suffered or incurred by IOR (including third party claims) arising from any damage, alteration or contamination of the recovered Fuel.

Annexure C – PAYG Fuel Supply Conditions

1. Application of Annexure

- 1.1 The terms of this Annexure will apply if marked as applicable in the relevant Fuel Supply Offer.
- 1.2 In this Annexure:
 - (a) **PAYG Fuel Supply** means the supply of Fuel which is to be charged based on the volume of Fuel dispensed to the Customer, and not by the volume delivered to the Customer.
 - (b) **Minimum Monthly Volume** means the minimum quantity of Fuel to be delivered each month, as stated in the relevant Fuel Supply Offer.
- 1.3 All other terms have the same meaning ascribed in the General Conditions.

2. Applicable Terms for PAYG Fuel Supply

- 2.1 Subject to the terms of the relevant Fuel Supply Agreement, the Customer may request that IOR carry out Fuel Supply Works by delivering PAYG Fuel Supply to the Site.
- 2.2 Without limiting anything in a Fuel Supply Agreement, the Customer shall pay to IOR the Charges for the Fuel Supply Works carried out under these PAYG Fuel Supply Conditions.
- 2.3 Upon delivery of the Fuel, the risk in the Fuel will pass to the Customer.
- 2.4 If the total measured volume of Fuel which is delivered in a month is less than 60% of the Minimum Monthly Volume (**Shortfall**), IOR may, in its sole discretion, invoice for, and the Customer must pay to IOR, an amount an amount equal to 1 cent per litre for each litre difference between the total measured volume of Fuel which is delivered in the month and the Minimum Monthly Volume (**Shortfall Payment**). The Customer acknowledges and agrees that the Shortfall Payment is a genuine pre-estimate of the loss which IOR will suffer in the event that the Minimum Monthly Volume of Fuel is not delivered.
- 2.5 Any unused Fuel delivered remains the property of IOR and may be recovered by IOR at the end of the Term, or the earlier termination of the Fuel Supply Agreement.
- 2.6 Without limiting anything in a Fuel Supply Agreement, if the Customer fails to pay any amount due and payable to IOR for PAYG Fuel Supply, IOR may, in its sole discretion, recover the unpaid Fuel from the Customer, and the Customer shall pay IOR for its costs incurred in recovering the unpaid Fuel.
- 2.7 Without limiting anything in a Fuel Supply Agreement, the Customer indemnifies IOR for any costs, losses, damages or expenses suffered or incurred by IOR (including third party claims) arising from any damage, alteration or contamination of the recovered Fuel.
- 2.8 The parties may agree that other customers or contractors (of IOR or of the Customer) may request access to Fuel delivered by IOR to the Customer on a PAYG Fuel Supply basis. IOR may, in its sole discretion, grant or reject the request by the other customers or contractors. If IOR grants permission for other customers to access Fuel delivered to the Customer on a PAYG Fuel Supply basis, the Customer will not be held liable by IOR for any unpaid Fuel dispensed by IOR's other customers.

Annexure D – PAYG (Third Party or Yard) Fuel Supply Conditions

1. Application of Annexure

- 1.1 The terms of this Annexure will apply if marked as applicable in the relevant Fuel Supply Offer.
- 1.2 In this Annexure:
 - (a) **Third Party Fuel** means the supply of Fuel through a Third Party.
 - (b) **Third Party** means:
 - (i) a different customer of IOR; or
 - (ii) a different tank or fuel supplier than IOR.
 - (c) **Fuel Yard** means property notified by IOR where Fuel may be stored and supplied by IOR to the Customer.
- 1.3 All other terms have the same meaning ascribed in the General Conditions.

2. Applicable Terms for PAYG (Third Party or Yard) Fuel Supply

- 2.1 Subject to the terms of the relevant Fuel Supply Agreement, the Customer may request that IOR carry out Fuel Supply Works by the Customer:
 - (a) accessing Third Party Fuel at the Site; or
 - (b) by accessing IOR's Fuel Yard at the times agreed with IOR.
- 2.2 Without limiting anything in a Fuel Supply Agreement, the Customer shall pay to IOR the Charges on a dispensed volume basis for the Fuel Supply Works carried out under these PAYG (Third Party or Yard) Fuel Supply Conditions.
- 2.3 If the total measured volume of Fuel which is delivered in a month is less than 60% of the Minimum Monthly Volume (**Shortfall**), IOR may, in its sole discretion, invoice for, and the Customer must pay to IOR, an amount an amount equal to 1 cent per litre for each litre difference between the total measured volume of Fuel which is delivered in the month and the Minimum Monthly Volume (**Shortfall Payment**). The Customer acknowledges and agrees that the Shortfall Payment is a genuine pre-estimate of the loss which IOR will suffer in the event that the Minimum Monthly Volume of Fuel is not delivered.