

IOR FUEL SUPPLY TERMS AND CONDITIONS

1. TERMS AND CONDITIONS

1.1 Reference to the "Customer" in these terms and conditions ("Terms") means the entity named in the covering application form.

1.2 Reference to "IOR" in these Terms means:

- (i) where the supply of Fuel does not include any Aviation Fuel, then only IOR Petroleum (and IOR Aviation has no liability or obligation under these Terms);
- (ii) where the supply of Fuel is only Aviation Fuel, then only IOR Aviation (and IOR Petroleum has no liability or obligation under these Terms); or
- (iii) where Aviation Fuel and fuel other than Aviation Fuel is to be supplied to the Customer then these Terms shall be construed as a separate agreement between IOR Aviation and the Customer relating to the supply of the Aviation Fuel and a separate agreement between IOR Petroleum and the Customer for the supply of the fuel other than Aviation Fuel;

and in no circumstances shall IOR Petroleum be liable for any acts or omissions of IOR Aviation with respect to the supply of Aviation Fuel and IOR Aviation shall not be liable for the acts or omissions of IOR Petroleum with respect to the supply of fuel other than Aviation Fuel.

1.3 These Terms apply to every supply of Fuel by IOR to the Customer.

2. BULK FUEL SUPPLY

2.1 IOR is only obliged to supply Fuel against Purchase Orders issued by the Customer which IOR has accepted. IOR may accept or decline a Purchase Order in its absolute discretion, and reserves its rights to accept all or part of a Purchase Order. IOR shall use reasonable endeavours to indicate its acceptance or otherwise of a Purchase Order within 7 days of receipt. Upon each Purchase Order being accepted by IOR, a separate contract forms between IOR and the Customer on these Terms.

2.2 A Purchase Order must specify the Customer Site where the Fuel is to be delivered by IOR.

2.3 The Customer accepts full custody and control of the Fuel and all risk in the Fuel on delivery of the Fuel to the Customer Site.

2.4 Each delivery shall be for not less than the Drop Volume advised by IOR from time to time.

2.5 Fuel is metered into IOR's delivery truck by metering equipment owned by IOR or its suppliers. IOR's delivery note is conclusive evidence of the volume of Fuel delivered unless the Customer objects in writing, providing IOR with reasonable grounds and evidence to support the objection within 72 hours of receipt of the Fuel.

2.6 The Customer shall ensure that the fuel storage facilities at the Customer Site (including tanks, loading hoses and all associated equipment) are in safe and good working condition and compliant with all applicable laws and regulations (including the Aviation Regulations, where applicable).

2.7 The Customer must provide safe access for IOR's delivery vehicle to deliver Fuel at a Customer Site.

3. TAG FUEL SUPPLY

3.1 Tag Fuel Supply at IOR Network Sites

3.1.1 The Customer may collect Fuel at an IOR Network Site using a Tag and PIN at the Fuel dispensing system.

3.1.2 Fuel is deemed to be delivered to the Customer and risk in the Fuel passes to the Customer at an IOR Network Site when it is dispensed from the Fuel dispensing system using the Tag and PIN.

3.1.3 The Customer shall pay for the Fuel based on litres dispensed using the Tag and PIN over each week, with a week being Monday to Sunday inclusive.

3.1.4 IOR shall not be liable for Fuel destroyed or stolen where the Fuel has been dispensed using the Tag and PIN and the Customer shall pay IOR for all such Fuel.

3.1.5 Where the Customer has pre-paid for the Fuel, IOR shall give the Customer weekly and monthly email reports on the Customer's Fuel inventory. These

reports will be deemed to be correct unless the Customer raises an objection within 30 days from date of issue.

3.1.6 The Customer shall not leave any waste or rubbish at an IOR Network Site and the Customer shall not carry out or permit the carrying out of any servicing or repairs of vehicles at an IOR Network Site.

3.1.7 The Customer must promptly notify IOR of harm to any person, any Fuel spills or any damage, defect, harm, loss or malfunction of any equipment provided by IOR at any IOR Network Site.

3.1.8 24 hour surveillance cameras operate at IOR Network Sites to monitor the security of IOR's equipment and the distribution of fuel. Surveillance cameras may collect personal information. The Customer must inform its employees, contractors and agents of the existence of the cameras and the possible disclosure of personal information to the relevant police service, IOR's external legal advisers and the Customer at the discretion of IOR and without further notice if an incident occurs.

3.2 Tag Security

3.2.1 All Tags remain the property of IOR. The Customer must return all Tags on demand by IOR or upon the Customer closing the Customer account.

3.2.2 Lost or stolen Tags must be promptly reported to IOR, which shall deactivate those Tags within 48 hours of notification.

3.2.3 The Customer is responsible for the security of each Tag and its PIN.

3.2.4 The Customer nominates the PIN for each Tag. Each PIN may be changed by the Customer at any time by request to IOR.

4. GENERAL FUEL TERMS

4.1 Property in the Fuel remains with IOR until it receives full payment for it.

4.2 IOR is not liable to the Customer for any failure or inability to supply Fuel due to lack of, or unavailability of, or suspension of, IOR's supplies.

4.3 The Customer warrants that the Fuel will be used for commercial or business purposes only with a view to using or transforming it in the conduct of a business.

4.4 Where IOR supplies Aviation Fuel, the Customer:

- (i) is solely responsible for all fuel testing required pursuant to the Aviation Regulations;
- (ii) must comply with the Aviation Regulations in all respects; and
- (iii) must indemnify and keep indemnified IOR against any loss or liability IOR may incur as a result of a failure by the Customer to comply with the Aviation Regulations.

4.5 IOR gives no warranty, representation or guarantee that the Fuel will have any particular component, quality or ability, except that the Fuel will comply with the *Fuel Quality Standards Act 2000* (Cth), the *Avgas Specification* and the *JetA1 Fuel Specification* (where applicable). Some locations may be supplied with maximum 50ppm sulphur diesel fuel. To the fullest extent permitted by law IOR excludes all warranties, representations and guarantees, except those expressly set out in these Terms.

5. PRICE AND PAYMENT

5.1 The price payable for Fuel supplied to the Customer by IOR is the price specified by IOR from time to time ("Price"). The Price is displayed on IOR's Customer Portal.

5.2 Unless IOR approves credit facilities for the Customer, all Fuel must be prepaid by the Customer at the Price applying at the date of an order.

5.3 Where IOR approves credit facilities for the Customer:

- (i) the Customer must pay IOR in accordance with the terms specified by IOR, which terms may be varied by IOR providing 7 days' prior notice to the Customer;
- (ii) if the credit facilities are terminated for any reason all amounts owing by the Customer for Fuel will become immediately due and payable; and

(iii) the Price payable by the Customer is that applicable on the date the Fuel is delivered to the Customer (whether dispensed using a Tag and PIN or supplied by bulk deliveries).

5.4 The Customer agrees to pay any expenses incurred by IOR in enforcing its rights under these Terms including without limitation any charges relating to dishonoured cheques and any fees paid to IOR's solicitors (on a full indemnity basis) or collection agents in connection with the recovery of moneys owed by the Customer to IOR.

5.5 An interest charge in an amount notified to the Customer in writing by IOR from time to time (but not exceeding 18% per annum) shall apply to amounts not paid by the due date in accordance with these Terms or any credit terms applying to the Customer. Interest charges shall accrue daily on the outstanding balance and shall compound monthly.

5.6 IOR reserves the right to impose the following additional fees and charges: a surcharge on credit card transactions, a fee of \$20.00 (including GST) for replacement or unreturned Tags and a fee of \$30.00 (including GST) for each dishonoured payment transaction.

5.7 All Government Imposts shall be paid by the Customer.

5.8 The Customer's obligation to pay the amounts owing under this clause 5 and other moneys under these Terms is absolute and unconditional. The Customer's payment obligations are not subject to set-off or reduction for any reason unless otherwise specified in these Terms.

5.9 Time is of the essence of the Customer's payment obligations.

5.10 Without limiting its rights at law or pursuant to these Terms, IOR may suspend supply of Fuel to the Customer and require immediate payment of all outstanding moneys owing by the Customer to IOR for Fuel supplied under these Terms if the Customer is in breach of a material term of these Terms or where any payment by the Customer to IOR under these Terms is overdue.

6. GST

6.1 If GST is imposed on any supply made by IOR, the Customer must pay, in addition to any consideration payable or to be provided by it for the supply, an additional amount calculated by multiplying the prevailing GST rate by the consideration for the relevant supply payable, or to be provided, by the Customer, under any clause in these Terms provided that IOR issues a valid tax invoice to the Customer within 7 days after the occurrence of the event that causes the GST liability of IOR on any taxable supply to the Customer to be attributed to a particular tax period.

6.2 Clause 6.1 does not apply if the consideration payable or to be provided by the Customer for the supply includes GST. However all prices and costs for the Fuel are, unless otherwise indicated, expressed exclusive of GST.

6.3 If for any reason the amount recovered by IOR from the Customer under clause 6.1 differs from the amount of GST payable at law by IOR in respect of the supply, the amount payable by the Customer to IOR will be adjusted accordingly upon delivery by IOR to the Customer of a valid adjustment note that complies with the requirements of the GST Law.

7. LIABILITY

7.1 The parties must comply at all times with all obligations and requirements under relevant laws, ordinances and regulations, including health and safety, security and environmental laws.

7.2 The Customer releases IOR from all and any liability (including environmental harm and clean up costs) arising in connection with:

- (i) loss of Fuel at a Customer Site; and
- (ii) harm to any persons and loss or damage to any property of the Customer at any Site;

except to the extent that the loss or damage is caused by the wilful misconduct or negligence of IOR.

7.3 The Customer indemnifies IOR against all and any liability (including environmental harm and clean up costs) arising in connection with:

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- (i) harm to any persons and loss or damage to any property caused by the Customer, its employees, contractors or agents at any Site;
- (ii) any loss, theft, spill, leak or escape of Fuel from any fuel storage facilities on a Customer Site;
- (iii) any spill, leak or escape of Fuel after it is dispensed from a Fuel dispensing system using a Tag and PIN on an IOR Network Site; and
- (iv) the Customer's failure to fully comply with clauses 2.6 or 2.7;
- except to the extent that the loss or damage is caused by the wilful misconduct or negligence of IOR.
- 7.4 Notwithstanding any other provision of these Terms, neither party will be liable for any Consequential Loss the other party may suffer, however arising, including due to the negligent acts or omissions of the first party, its employees or contractors.
- 7.5 Nothing in these Terms is intended to exclude, restrict or modify rights which the Customer may have under the *Competition and Consumer Act 2010* (Cth) ("CCA") or any other legislation which may not be excluded, restricted or modified by agreement. If the CCA or any other legislation implies a condition or warranty into these Terms in respect of the Fuel, and IOR's liability for breach of that condition or warranty may not be excluded but may be limited, IOR's liability for any breach of that condition or warranty is limited to IOR doing any one or more of the following (at its discretion):
- (i) replacing the Fuel as applicable or supplying equivalent Fuel;
- (ii) resupplying the Fuel; and
- (iii) paying the cost of replacing the Fuel or of acquiring equivalent Fuel.
- 7.6 To the fullest extent permitted by law, IOR shall not be liable in respect of any loss, damage or cost whatsoever, however arising, including for breach, to an extent which exceeds:
- (i) the price for the quantity of Fuel to which the loss, damage or cost relates or is connected with in any way; and
- (ii) in aggregate the total amount actually paid by the Customer to IOR for the supply of Fuel.
- ## 8. VARIATIONS
- 8.1 These Terms may be varied from time to time by written notice to the Customer. The varied Terms will become effective and apply to all future orders of Fuel 7 days after any such notice is forwarded to you at your last notified postal or email address.
- 8.2 Subject to clause 8.1, no time, indulgence, representation, statement or other communication by or on behalf of any party shall be effective to derogate from or override the provisions of these Terms unless the same is in writing duly executed by the parties hereof.
- ## 9. RELATIONSHIP BETWEEN THE PARTIES
- 9.1 IOR is as an independent contractor. Nothing in these Terms shall constitute or be deemed to constitute:
- (i) a partnership or joint venture between the parties;
- (ii) either party as being an agent of the other party for any purpose whatsoever; or
- (iii) an employee/employer relationship between the parties.
- 9.2 Neither party may incur any liability on behalf of the other or in any way pledge or purport to pledge the other party's credit or in any other fashion make any contract binding upon the other party without the written approval of the other party.
- ## 10. DISPUTES
- 10.1 Until the relevant provisions of this clause have been complied with, no party shall commence any action, bring any proceedings or seek any relief or remedy in a court or by arbitration, except that nothing in this clause prevents:
- (i) either party from seeking interlocutory or equitable relief from a court;
- (ii) IOR from taking any action it considers necessary, including debt recovery proceedings, to recover unpaid amounts owed to it by the Customer; or
- (iii) a party from exercising the rights it is given under these Terms, including in the case of IOR its rights under clause 5.10.
- 10.2 Any dispute, controversy or claim ("Dispute") must be the subject of a notice from any party to the other party setting out the material particulars of the Dispute, and must immediately be referred to an authorised officer of each party who must endeavour in good faith to resolve the Dispute expeditiously.
- 10.3 If the Dispute has not been resolved or an alternate method of resolving the Dispute has not been agreed within 7 days of reference to the authorised officer of each party pursuant to clause 10.2, or a longer period if the parties agree, either party which has complied with this clause may terminate the dispute resolution process and commence court proceedings in relation to the Dispute.
- ## 11. FORCE MAJEURE
- 11.1 Notwithstanding any other provision of these Terms, neither party shall be liable for any delay or failure to perform its obligations (other than a failure to pay money) resulting from a Force Majeure Event.
- 11.2 Each party shall as soon as the Force Majeure Event ceases to affect its performance of its obligations, resume compliance with its obligations.
- 11.3 A party affected by a Force Majeure Event must as soon as practical after the effect occurs give written notice to the other party of the nature of the Force Majeure Event, the obligations affected and its expected duration.
- ## 12. GENERAL PROVISIONS
- ### 12.1 Whole Agreement
- 12.1.1 These Terms supersede all prior representations, arrangements, understandings and agreements between the parties and represent the entire, complete and exclusive understanding and agreement between the parties relating to the supply of Fuel.
- 12.1.2 The parties acknowledge and agree that they have not relied on any written or oral representation, arrangement, understanding or agreement not expressly set out or referred to in these Terms.
- 12.1.3 For clarity, terms and conditions set out in any Purchase Order are void and unenforceable, and any purported provisions to the contrary are hereby excluded or extinguished.
- ### 12.2 Severance
- If any provision of these Terms shall be or be determined to be illegal, invalid, void or voidable the legality or validity of the remainder of these Terms will not be affected and will continue in full force and effect.
- ### 12.3 Governing law
- These Terms are governed by the laws of Queensland and the parties irrevocably agree that the courts of that state shall have exclusive jurisdiction to hear and decide any suit, action or proceedings and settle any dispute which may arise out of or in connection with these Terms or the supply of Fuel by IOR and, for these purposes, each party irrevocably submits to the jurisdiction of the courts of Queensland.
- ## 13. DEFINITIONS AND INTERPRETATION
- 13.1 In these Terms, unless the context otherwise requires, the following words have the following meanings:
- ### Avgas Specification
- Avgas 100 or Avgas 100LL meeting the latest versions of either: DEF STAN 91-90; ASTM D910; or CAN CGSB 3.25.
- ### Aviation Fuel
- Avgas, JetA1 or any other fuel used for aviation purposes.
- ### Aviation Regulations
- All legislation, regulations, standards and guidelines, whether federal, state or local, relating to any of the storage, transporting and use of Aviation Fuel including but not limited to Civil Aviation Safety Authority (CASA).
- ### Consequential Loss
- Loss of actual or anticipated profits, savings or revenues, loss of business opportunity, loss of reputation or goodwill, loss by reason of shut down or non-operation, increased costs of finance or loss of use or productivity (in each case whether direct or indirect) and any consequential, indirect, exemplary, special or punitive damage or loss of any kind, in each case whether caused by breach of contract, warranty, tort, product liability, contribution or strict liability.
- ### Customer Site
- Any site that IOR delivers Fuel to at the request of the Customer.
- ### Drop Volume
- The minimum volume of Fuel per delivery, as advised by IOR at its discretion.
- ### Force Majeure Event
- An act or event or series of acts or events beyond the reasonable control of a party, the effects of which it could not have avoided or ameliorated to a substantial degree by the application of reasonable care.
- ### Fuel
- Any fuel or fuel additives supplied to the Customer by IOR.
- ### Government Imposts
- All taxes, excise, levies and other government charges including GST payable in respect of the sale of Fuel or provision of credit facilities to the Customer.
- ### GST
- GST as that term is defined in the GST Law.
- ### GST Law
- A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- ### IOR Aviation
- IOR Aviation Pty Ltd ABN 60 056 487 453 of 99 Southgate Avenue Cannon Hill Queensland 4170.
- ### IOR Network Sites
- Sites within Australia at which IOR owns or operates a Fuel dispensing system for use by its customers.
- ### IOR Petroleum
- IOR Petroleum Pty Ltd ABN 36 009 653 070 of 99 Southgate Avenue Cannon Hill Queensland 4170.
- ### Jet A1 Specification
- JetA1 to meet the Aviation Fuel Quality Requirements for Jointly Operated Systems "Joint Fuelling Standards Check List".
- ### PIN
- A personal identification number for the use of a Tag issued to the Customer by IOR.
- ### Purchase Order
- An order for Fuel made by telephone or email, facsimile or another document issued by the Customer to IOR.
- ### Site
- Each IOR Network Site and Customer Site.
- ### Tag
- A digitally encoded key tag or card with Customer selected PIN issued to the Customer by IOR for use of the Fuel dispensing systems at IOR Network Sites.
- 13.2 In these Terms, unless the context otherwise requires:
- (i) the singular includes the plural and vice versa;
- (ii) all dollar amounts refer to Australian currency;
- (iii) a party includes its executors, administrators, liquidators, successors and permitted assigns;
- (iv) the word "includes" and similar words are not words of limitation;
- (v) if any expression is defined, other grammatical forms of that expression have corresponding meanings; and
- (vi) a reference to any legislation includes all subordinate legislation made under it and any legislation amending, consolidating or replacing it.