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APPLICATION FOR A COMMERCIAL TRADING ACCOUNT

To Xpress Fuel Australia Pty Ltd ACN 146 291 081. The information set out below supports the application for a commercial credit account with Xpress Fuel Australia Pty Ltd for the supply of goods as per the terms and conditions included in this Application. Xpress Fuel Australia Pty Ltd reserves the right to accept or reject this application in its absolute discretion.

Applicant Details:

Company Individual/Sole Trader Partnership Trust (a copy of the Trust Deed must be provided or this Application for a Commercial Trading Account will not be accepted by Xpress Fuel Australia)
 Other: (Provide Details) _____

Trading Name: _____

Legal Name: (if different to above): _____

A.B.N. _____ A.C.N. _____

Nature of Business: _____

Business Address: _____ Suburb _____

State _____ Post Code _____

Postal Address: _____ Suburb _____

State _____ Post Code _____

Delivery Address: _____ Suburb _____

State _____ Post Code _____

Contact: _____ Email: _____

Telephone: () _____ Fax: () _____ Mobile: _____

Contact (Accounts): _____ Telephone (Accounts): () _____

Email (Accounts): _____ Fax (Accounts): () _____

Credit Requested: \$ _____

Date Business Commenced: _____ How Long in Business Under Present Ownership: _____ (Years)

Bank Details:

Account Name: _____

B.S.B. No.: _____ Account No.: _____

Name of Bank: _____ Branch: _____

Details of Partners, Trustee or Proprietor

Details of Directors (If Proprietary Company)

1. Full Name: _____

1. Full Name: _____

Street Address: _____

Street Address: _____

Suburb: _____

Suburb: _____

Home Phone: _____

Home Phone: _____

Email Address: _____

Email Address: _____

2. Full Name: _____

2. Full Name: _____

Street Address: _____

Street Address: _____

Suburb: _____

Suburb: _____

Home Phone: _____

Home Phone: _____

Email Address: _____

Email Address: _____

Trade References (minimum 3 trade references required):

<i>Name:</i>	<i>Phone/Fax:</i>	<i>Average Monthly Expenditure</i>
1: _____	() _____	_____
2. _____	() _____	_____
3. _____	() _____	_____

Provide details when answered "Yes" to the following questions:

1. Are there any court actions outstanding against the applicant? YES / NO

2. Has the applicant given any guarantees / indemnities in respect to other parties? YES / NO

Credit Limit _____ Contact Person for Accounts _____

Contact Details of Contact Person (Phone & Email) _____

I hereby acknowledge and declare that:

- i) The applicant, its proprietors, directors, partners or trustees, and if an individual, are above the age of 18 years.
- ii) I have read and understood and been advised to obtain and have had the opportunity to obtain legal advice in relation to this account application and the current standard Xpress Fuel Australia Pty Ltd Terms and Conditions of Trade, which form part of, and are intended to be read in conjunction with this account application (copy contained herein)
- iii) The applicant agrees that if the application is approved that the applicant will abide by Xpress Fuel Australia Pty Ltd Terms and Conditions of Trade which may be varied from time to time by Xpress Fuel Australia Pty Ltd giving the applicant written notice of Xpress Fuel Australia Pty Ltd's amended Terms and Conditions of Trade or by posting an amended copy on their website. Unless the applicant notifies Xpress Fuel Australia Pty Ltd in writing within seven (7) days that it does not agree to the amended terms then the applicant will be bound by any such amendments.
- iv) This account application and any acquisition of goods or services from Xpress Fuel Australia Pty Ltd's by the applicant is solely for commercial and not for personal, domestic or household purposes.
- v) The above information is true and correct and I warrant I am the authorised representative of the applicant named above, and that I have the authority to agree to these terms and conditions on its behalf and have the authority of the applicant, its proprietors, directors, partners or trustees (as the case may be) to provide the information and acknowledgements in this application on their behalf.
- vi) Xpress Fuel Australia Pty Ltd may in accordance with the Privacy Act 1988 (Cth.) [the PA] and related or similar legislation provide to and seek from credit reporting bodies, other credit providers, prospective or current guarantors of the applicant or debt collection agencies personal information (including the above information, identification, credit, credit eligibility, payment, default, court proceedings or personal insolvency information) about the applicant and its proprietors, directors, partners or trustees and that information may be used for the purposes including:
 - (a) assessing this Account Application of the applicant;
 - (b) assessing whether to provide or continue to provide goods, services or credit to the Customer
 - (c) for the purpose of a credit reporting body or another credit provider assessing any other application for credit or managing credit obtained by or concerning any of them;
 - (d) the internal management purposes of Xpress Fuel Australia Pty Ltd, that are directly related to the provision or management of consumer, commercial or other credit by Xpress Fuel Australia Pty Ltd;
 - (e) for a particular commercial credit related purpose of Xpress Fuel Australia Pty Ltd in relation to the applicant or any Guarantor;
 - (f) a credit guarantee purpose of Xpress Fuel Australia Pty Ltd in relation to the applicant or any Guarantor;
 - (g) assisting the applicant or any Guarantor to avoid defaulting on his or her obligations in relation to consumer credit provided by Xpress Fuel Australia Pty Ltd to the applicant or Guarantor;
 - (h) assessing an application for consumer credit or commercial credit made to the recipient;
 - (i) for the purpose of a prospective guarantor of the applicant considering whether to offer to act as a guarantor in relation to the credit or to offer property as security for the credit;
 - (j) for a purpose related to the enforcement, or proposed enforcement, of any Guarantor's guarantee; or
 - (k) for the purpose of collecting payments that are overdue in relation to consumer or commercial credit provided by Xpress Fuel Australia Pty Ltd to the applicant or a Guarantor.
- vii) I am and each of the applicant, its proprietors, directors, partners or trustees is aware, that:
 - (a) Xpress Fuel Australia Pty Ltd's website at www.onsitefuel.com.au includes a statement of information about credit reporting under clause 4.1 of the Privacy (Credit Reporting) Code 2014 [the Code], including the names and contact details of the Credit Reporting Bodies (CRB), to which it is likely to disclose credit information;
 - (b) the key issues contained in the statement under the Code are:
 - (a) that the CRB, to whom the credit information is provided, may include the information in reports provided to other credit providers to assist them to assess the credit worthiness of the Customer, its proprietors, directors, partners or trustees;
 - (b) that if the applicant fails to meet its payment obligations in relation to consumer credit or commits a serious credit infringement, Xpress Fuel Australia Pty Ltd may be entitled to disclose this to the CRB;
 - (c) how the applicant, its proprietors, directors, partners or trustees may obtain Xpress Fuel Australia Pty Ltd's policy about the management of credit-related personal information required by section 21B of the PA and the CRB's policy about the management of credit-related personal information required by Section 20B;
 - (d) the right to access the information from Xpress Fuel Australia Pty Ltd, to request it to correct the information and to make a complaint to Xpress Fuel Australia Pty Ltd;

- (e) the right to request CRBs not to use their credit reporting information for the purposes of pre-screening of direct marketing by a Credit Provider; and
 - (f) the right to request the CRB not to use or disclose credit reporting information about an individual, if the individual believes on reasonable grounds that the individual has been, or is likely to be, a victim of fraud.
- (c) a statement of these matters (available on the website) may be obtained in hard copy upon request. I am and each of the applicant, its proprietors, directors, partners or trustees is further aware:
- A. that the policy (the **credit reporting policy**) of Xpress Fuel Australia Pty Ltd contains information about how an individual may access the credit eligibility information about the individual that is held by Xpress Fuel Australia Pty Ltd;
 - B. that the policy contains information about how an individual may seek the correction of credit information or credit eligibility information about the individual that is held by Xpress Fuel Australia Pty Ltd;
 - C. that the policy contains information about how an individual may complain about a failure of Xpress Fuel Australia Pty Ltd to comply with Division 3, Part IIIA of the PA or the Code;
 - D. that the policy contains information about how Xpress Fuel Australia Pty Ltd will deal with such a complaint; that Xpress Fuel Australia Pty Ltd is unlikely to disclose credit information or credit eligibility information to entities that do not have an Australian link; but if it were likely and practicable, the countries in which those entities are likely to be located would be specified in the policy.

I/We warrant that we have read the Terms & Conditions of Trade included in the Credit Application and hereby agree to those Terms & Conditions of Trade by signing below.
Please seek independent advice if you do not understand this Credit Application or the Terms and Conditions of Trade that apply to it.

Signed by all Directors, Partners or Sole Traders

Signature of Applicant (1): _____ Date: _____

Full Name: _____

Position / Title: _____

Signature of Applicant (2): _____ Date: _____

Full Name: _____

Position / Title: _____

Signature of Applicant (3): _____ Date: _____

Full Name: _____

Position / Title: _____

Signature of Applicant (4): _____ Date: _____

Full Name: _____

Position / Title: _____

TERMS AND CONDITIONS OF TRADE

These Terms and Conditions shall apply between Xpress Fuel Australia Pty Ltd (“the **Supplier**”) and the applicant named in the Application for a Commercial Credit Account (“the **Customer**”) and applies to any contract or agreement between the Supplier and Customer for the supply of goods and/or services to the Customer to the exclusion of any terms the Customer issues.

1. Definitions

In these Terms and Conditions:

“**Accession**” has the meaning given by s.10 of the Person Property Securities Act 2009

“**Goods**” means the goods and/or services delivered or provided by the Supplier to the Customer and the subject of an order by the Customer

“**PMSI**” has the meaning of the term “Purchase Money Security Interest” on the PPSA.

“**PPSA**” means Personal Property Securities Act 2009 (Cth).

“**PPS Register**” has the meaning in clause 7.3 (e).

“**Proceeds**” has the meaning by s.31 of the PPSA.

“**Security Interest**” has the meaning by s.12 of the PPSA.

“**Suppliers Security Interest**” has the meaning defined in clause 7.3 (a)-(c).

“**Supply**” means the supply of goods and/or services under these Terms and Conditions .

2. Credit Account

2.1 Subject to these terms and conditions, the Supplier agrees to supply Goods to the Customer on credit for the amount as is notified by the Supplier to the Customer (“the Credit Limit”).

2.2 The Supplier may, at its discretion and at any time:

- (a) Vary this Agreement by notice in writing to the Customer at the address last notified to the Supplier;
- (b) Vary the Credit Limit; and
- (c) Withdraw credit without notice to the Client.

3. Price

3.1 Unless otherwise agreed or required by law, the price for the Goods is exclusive of sales tax and/or goods and services tax (“GST”).

3.2 All prices quoted are excluding warehouse, packaging, freight and insurance charges which are extra

- 3.3 (a) If GST is or will be payable on a Supply, then the supplier may increase the amount payable by the customer otherwise provided pursuant to these Terms and Conditions for that Supply by the amount of that GST.
 - (b) If there is an event in relation to a Supply which results in the amount of GST on the Supply being different from the amount of GST recovered under clause 3.3(a), the Supplier may recover from the customer any amount by which the GST on the Supply exceeds the amount recovered and must refund to the Customer any amount recovered which exceeds the GST on the Supply, whichever is the case.
 - (c) if, as a result of the introduction of a GST or a subsequent change to the imposition or calculation of the GST or as a result of any change in or abolition of other taxes (excluding income tax) occurring immediately before, upon or subsequent to the introduction of a GST, such that the costs incurred by the Supplier in making a Supply (excluding GST on the Supply) are increased, then the price payable by the Customer can be increased by the Supplier by the same proportion as the increase in the Suppliers costs.
 - (d) any rebates, discounts, allowances or other reductions in price calculated by reference to the sales value to which the customer is entitled or which are granted by the Supplier are to be calculated on the base price, that is after excluding any amount in respect of the GST payable by the Supplier on the relevant sales.
- 3.4 In addition to a variation to the amount payable by the customer under clause 3.3, the Supplier may vary the price of Goods supplied to the customer by giving written notice of variation.
- 3.5 A variation under clause 3.4 will not apply to Goods ordered before the date of receipt by the Customer of written notice of variation.

4. Delivery

- 4.1 The Supplier shall deliver the Goods at a place for delivery nominated by the Customer. Delivery of Goods to the Customer occurs when they are actually delivered by the Supplier, regardless of, whether the Customer accepts delivery.
- 4.2 Any time which the Supplier quotes for delivery is an estimate only.
- 4.3 The Supplier may cancel the order if it determines that it will be unable to deliver the Goods within a reasonable time.
- 4.4 The Customer shall have no claim against the Supplier if the Supplier cancels the order or fails to deliver (for any reason) the Goods, or if there is any delay in the delivery of the Goods
- 4.5 The Supplier will endeavour to obtain a written acknowledgment of delivery from any manager, operator, employee or person appearing to be in charge of the location or appearing to be in charge of the location or appearing to be acting on the Customer behalf, such acknowledgment will be conclusive proof of delivery as to quantity and quality of the Goods delivered
- 4.6 If at the time of delivery the site is unattended or a written acknowledgment is not obtained, the Customer must notify the Supplier if any quantity or quality discrepancy within 24 hours of such delivery, otherwise the product quantity and quality will be deemed as to be as recorded by the Supplier.

5. Payment

- 5.1 The Customer agrees to pay in full the invoice amount prior to or upon delivery, unless the Supplier has agreed to provide credit terms or facilities to the Customer.
- 5.2 Where Supplier has provided the Customer with credit facilities or credit terms, the Supplier must receive payment within these terms, where no terms are specified, then payment will be due prior to delivery.
- 5.3 The Supplier may require the Customer to pay cash in full prior to delivery if in the Supplier's opinion the creditworthiness of the Customer becomes unsatisfactory.
- 5.4 Agreed discounts, rebates and allowances to which the Customer is entitled are credited to the Customer by the Supplier. In no circumstances is the Customer permitted to deduct any discount, rebate or allowance from moneys owing by it to the Supplier.
- 5.5 The Supplier in its absolute discretion may pass onto the Customer any fees and charges incurred in accepting the Customer's payments, including any bank, institution or merchant fees or charges when processing credit card and electronic payment transactions.
- 5.6 If the Customer has not paid in full by the due date, the Supplier may:
- (A) The Customer shall pay to the Supplier interest at the rate of 1.5% per month on daily balances in respect of any amounts as may from time to time be overdue until paid and such money together with all interest shall be recoverable forthwith from the Customer as a liquidated debt.
 - (B) Pursue an action for the price of the Goods for which payment has not been made (plus damages, interest and costs), even though property in the Goods remains with the Supplier.
- 5.7 The Customer must pay the Supplier for the Goods in full even if:
- (a) there was a delay in the delivery of Goods;
 - (b) the Customer disputes the quality, quantity or condition of the Goods delivery.
- 5.8 All payments must be made in Australian Dollars.
- 5.9 The Customer must pay to and indemnify the Supplier against all costs and expenses incurred by the Supplier in connection with:
- (a) default by the Customer under these Terms and Conditions;
 - (b) the recovery of any monies due and payable but unpaid by the customer (including legal costs on a solicitor /client basis, commercial or mercantile agent and dishonour fees); and
 - (c) the exercise or attempted exercise by the Supplier of any power conferred on it by these Terms and Condition
- 5.10 A statement in writing signed by an authorised officer of the Supplier setting out the moneys due or owing to the Supplier at the date of the statement shall be sufficient evidence of the amount so due or owing unless manifest error can be shown.
- 5.11 If the Customer is a company, then satisfactory Guarantor/s (as approved by the Supplier) must execute the Deed of Guarantee and Indemnity set out on page 12 of this document before any credit can be approved. In the event that no Guarantee is executed, then the person/s signing this Agreement for or on behalf of the Company Customer shall be personally liable in the terms set out in the Deed of Guarantee and Indemnity.
- 5.12 If the Customer is a partnership no change to the constitution of the partnership shall affect, impair or discharge the liability of the Customer under this Agreement whether past, present

or future notwithstanding the provisions of any legislation or any similar enactment in amendment, modification or substitution regulating partnerships.

- 5.13 If the Customer enters into this Agreement as a Trustee of any Trust, then the following provisions shall apply:-
- (i) the Customer shall be personally liable for the performance of all obligations and undertaking under this Agreement.
 - (ii) the Customer warrants that the Customer has complete and valid authority pursuant to the Trust to enter into this Agreement.
 - (iii) notwithstanding that there is no reference to a specific Trust the Suppliers rights of recourse shall extend both the Customers assets personally and the assets of the Trust.
 - (iv) The Customer undertakes to the Supplier that the Customers right of indemnity against the Trust assets have not been excluded by the provisions of the Trust or any breach of trust or otherwise and that the Customer will not release or otherwise prejudice such rights of indemnity.
- 5.14 The Supplier may refuse to supply Goods and/or services to the Customer until all amounts due to the Supplier have been paid in full
- 5.15 Notwithstanding anything else stated in these terms and conditions or in any credit application or other agreement, to which they relate:
- (a) the Customer shall be liable to pay the amount of any invoice for Goods or services supplied by the Supplier forthwith upon its issue by the Supplier,
 - (b) the Customer shall only be entitled to delay payment to the Supplier upon the issue of an invoice for Goods or services supplied for a period allowed by these terms and conditions, the credit application or other agreement [‘the Credit Period’], upon the condition, that the Customer has not defaulted in making payment upon any other invoice for Goods or services supplied by the Supplier to the Customer within the Credit Period applicable to them, and
 - (c) in the event of default by the Customer in payment for any Goods or services under an invoice within an applicable Credit Period, the Supplier may immediately or at such time or times as it deems fit require and enforce payment forthwith for any other Goods or services supplied by the Supplier to the Customer, whether or not subject of an issued invoice and irrespective of whether or not the Credit Period in relation to them has expired

6. Risk

Risk in the Goods will pass from the Supplier to the Customer upon delivery to the Customer.

7. Title

- 7.1 Until the Customer has paid for the Goods in full and also paid all other moneys due and payable to the supplier by the Customer:
- (a) property in the Goods shall remain with the Supplier (“the retention of title”);
 - (b) the Customer shall hold the Goods as a fiduciary and bailee of the Supplier;
 - (c) the Customer shall hold the Goods in a way that clearly indicates the Supplier’s title to the Goods.
 - (d) if the Goods are processed or commingled with or made an accession to other Goods by the Customer, the Customer shall record and make available to the Supplier on request the record of the date of the processing, commingling or accession and hold the product, mass or whole in a way that clearly indicates the Supplier’s title to the product, mass or whole.
 - (e) the Customer shall not deal with the Goods, either in their original state or as part of a product, mass or whole, for a consideration of less value than the amount necessary to discharge the Customer’s liability to the Supplier in full for or in relation to the Goods and shall retain the consideration or other Proceeds of the Goods separate from all other property of the Customer and in a manner, which clearly identifies it as such consideration or other Proceeds of the Goods, product, mass or whole (unless otherwise agreed in writing by the Supplier).
- 7.2 The Customer must not sell, dispose, assign or encumber the Goods (by mortgage, lien, charge or otherwise) without the consent of the Supplier.
- 7.3 The Customer agrees that:
- (a) a Security Interest is retained in favour of the Supplier in:
 - (i) the Goods;
 - (ii) the Proceeds of the Goods;
 - (iii) any other property, to which the Goods become an accession;

- (iv) any product or mass, of which the Goods become a part by manufacture, process, assembly or commingling.
 - (b) the retention of title constitutes the grant of a purchase money security interest by the customer in favour of the supplier in respect of all present and after acquired Goods supplied to the customer by the supplier .
 - (c) the Security Interest secures
 - (i) the Customer's obligation to pay for the Goods, and
 - (ii) any and all other obligations of the Customer to pay money or money's worth (including costs, expenses, damages or losses) for the benefit of the Supplier now or in the future or from time to time under this agreement.
 - (d) to the extent the Supplier's Security Interest secures the Customers obligation to pay for the Goods, it constitutes a PMSI;
 - (e) with respect to the Supplier's Security Interest, the Customer will when called upon by the Supplier sign any further documents or provide any further information which the Supplier may reasonably require to register a financing statement or financing change statement on the Personal Properties Security Register ("**PPS Register**"), or in connection with the issue of a verification statement;
 - (f) it will not register or apply to register a financing statement or financing change statement which is in any way connected with the Goods (or any accession, mass or product, of which they form part) without the Supplier's prior written consent, which may be given or withheld at the supplier's absolute discretion;
 - (g) it will pay any costs or expenses incurred by the Supplier and keep the Supplier indemnified against any loss, damage or liability to third parties incurred in relation to:
 - (i) registering or seeking the release of any document relating to the Supplier's Security Interest on the PPS Register; or
 - (ii) enforcing the Supplier's security Interest (including its legal costs, on a solicitor-Customer basis);
 - (h) it will give the Supplier at least 14 days written notice of any proposed change in its name, contact details, place of incorporation, address, location, nature of business, ownership, or business practice; and
 - (i) it irrevocably appoints the Supplier to be the Customer's attorney to do anything which the Customer agrees to do under these Terms and Conditions and anything which the attorney thinks desirable to protect the Suppliers Security Interest and the Customer will take all steps required to ratify anything done by the attorney under this clause.
- 7.4 To the extent permitted by law, the Customer waives its right to notice as a grantor under section 157 of the PPSA; acknowledging, that the collateral, subject of the Supplier's Security Interest is properly described as commercial property. To the extent that they impose any obligation on the Supplier or grant any right to the Customer and section 115(1) of the PPSA allows them to be excluded: sections 95, 118, 121(4), 125, 130, 132 (3), 132 (4), 135, 142, and 143 of the PPSA do not apply to this agreement or the Supplier's security interest in the Goods. To the extent, that Part 4.3 of the PPSA imposes any obligation on the Supplier or grants any right to the Customer and s.115(7) permits, its application pursuant to s.116(2) is excluded.
- 7.5 Notwithstanding the payment by the customer of part or all of the price relating to the Goods, the Supplier's Security Interest will continue in the Goods, any Proceeds of the Goods or other property, to which the Suppliers Security Interest may apply (by operation of these Terms and Conditions or statute) until the Suppliers Security Interest is discharged in writing by the Supplier.
- 7.6 The Customer will not do, or omit to do, nor allow to be done or omitted to be done, anything which might adversely affect the Suppliers Security Interest.
- 7.7 If the Customer sells the Goods, either in their original state or as part of a product, mass or whole to its customers, the Customer assigns to the Supplier and authorises the Supplier to sue in its name to recover the benefit of any claim against its customers for the price of the Goods, the product, mass or whole, and in addition to its obligations under the PPSA, it shall hold on trust for the Supplier and account to the Supplier for the consideration and all Proceeds received in relation to the Goods, product, mass or whole.
- 7.8 This clause shall apply even though the Supplier may give credit to the Customer.

8. Right of Entry and Resale

- 8.1 Without limiting the rights or remedies available to the Supplier under these Terms and Conditions, statute (including under the PPSA) or other law, if the Customer;
- (a) (being a natural person) commits an act of bankruptcy;
 - (b) (being a corporation) does anything which entitles anyone to apply to wind up the Customer or is subject to the appointment of an administrator or receiver and manager; or
 - (c) breaches any of these "Terms and Conditions", (each of which is hereafter referred to as 'an act of default'), the supplier may take possession of and retain, resell or otherwise dispose of the Goods or any product, mass or whole, of which they form part.
- 8.2 To the extent permitted by law, in the event of any such act of default, the Customer authorises the Supplier to enter premises where the Goods may be located to take possession of the Goods or any product, mass or whole, of which they form part without notice to the Customer. The Customer shall indemnify the Supplier against all claims arising out of the entry by the Supplier into premises to take possession of the Goods or any product, mass or whole, of which they form part.

9. Return of Goods

The supplier reserves the rights in its complete and absolute discretion to refuse to accept any returns whatsoever.

10. Storage Handling and Safety

The Customer, at its cost, must comply with all relevant local and national laws and regulations including environmental laws and regulations relating to the storage and handling of the Goods and must allow the Supplier (including its representatives) immediate access to the Customer's premises to determine the manner in which the Customer stores and handles the Goods.

11. Product Characteristics

The Customer acknowledges that the Goods delivered are highly volatile, flammable and/or dangerous and that they must be properly handled and stored in accordance with all State Federal and Local Laws. The Customer further agrees that the petroleum products are susceptible to evaporation, shrinkage and loss and that at the time of delivery a measurement of the product delivered will be made and the records of the Supplier will be conclusive proof of delivery as to the quality and jauntily, aside that shrinkage, evaporation, contamination or loss may occur after delivery.

12. Storage tank

- 12.1 The Customer warrants and undertakes that:
- (a) the receiving tank will be suitable and safe for receiving delivery without risk to property or persons;
 - (b) to take responsibility for any loss, leakage or contamination of the Goods deliverable which may occur in any tank or in any pipeline or equipment of the Customer; and
 - (c) to ensure that at the time of delivery all connections to the tank are properly secured.
- 12.2 The Customer indemnifies the Supplier from and against any loss or damage incurred by the Supplier in relation to the delivery of the Goods in the storage tanks. The Customer releases and holds harmless the Supplier against any claim relation to the supply of the Goods.

13. Liability

- 13.1 All conditions and warranties express or implied by law, statute, or otherwise, are excluded to the extent permitted by law. Where so permitted by law, the liability of the Supplier for the breach of a condition or warranty that cannot be excluded is limited, at the Supplier's option, to the replacement of the Goods or the supply of equivalent Goods, or the cost of replacing the Goods or acquiring equivalent Goods.
- 13.2 The Customer must indemnify the Supplier, and the Supplier's officers, agents and employees, against claims in respect of personal injury or death, or loss of damage to any property, whether as a result of negligence, breach of statutory duty or otherwise, which arise out of, or are a consequence of any act or omission of the Customer.
- 13.3 So far as the law permits, the Supplier shall not be liable for any loss or damage, which may be suffered by the Customer for any reason including, but not limited to, delay, negligence or any act, matter or thing done or permitted or omitted to be done by the Supplier.

13.4 No claim or action shall be maintainable against the Supplier unless it is first notified in writing and been furnished with full supporting documentary evidence in relation to the quantum of such claim.

14. Charge

14.1 The Customer hereby charges separately:

- (a) all the Customer's freehold and leasehold interest in land, including land which the Customer, after the date of this Agreement, obtains an interest in; and
- (b) all of the Customer's personal property as security for the performance by the Customer of its obligations to the Supplier under this Agreement and otherwise, including due payment to the Supplier of all moneys that may become payable to the Supplier arising out of the subject matter of the Agreement.

14.2 The charges created by clause 14.1 are separate charges over the Customer's property and in the event that either charge is void or unenforceable then such charge will be severable from this Agreement and does not affect validity of the other charge

14.3 If requested by the Supplier, the Customer must promptly deliver an executed mortgage, or such other instrument of security as the Supplier may require, in registrable form as additional security.

14.4 Further, the Customer agrees to:

- (a) the Supplier lodging a caveat over the Customer's title to any freehold and leasehold interest in land; and to secure the Supplier's interest in the real property.
- (b) Pay all stamp duty, registration fees and other costs (including legal costs) which the Supplier incurs in lodging, releasing or withdrawing a caveat.

14. Assignment

The Supplier may at any time, assign any of its rights or transfer by novation any of its rights and obligations under this agreement to any person or persons by providing notice to the Customer. The Customer must not assign or transfer its obligations under these terms and conditions without prior written consent of the Supplier (including, with respect to a corporate customer, any change to the shareholding or directorship of the Customer).

15 Notice

15.1 Any notice to be given by the Supplier to the Customer may be given by facsimile, post or hand delivered to the Customer's business address on the Account Application or last known to the Supplier.

15.2 Any notice to be given by the Customer to the Supplier must be in writing by facsimile, post or hand delivered to the Supplier's business address on the Account Application or last notified in writing by the Supplier.

15.3 A notice:

- (a) given by facsimile shall be deemed to be given on the business day following it is sent;
- (b) sent by pre-paid post shall be deemed to be given on the business day following the day on which it was posted; or
- (c) delivered by hand shall be deemed given when delivered.

16. Severability

Should any provisions of these terms and conditions are found to be invalid or unenforceable, the validity and enforceability of all other provisions will remain unaffected.

17. Entire Agreement

17.1 These Terms and Conditions, in addition to any written agreement between the Supplier and the Customer signed by an authorised representative of each party, constitute the entire agreement or contract between the supplier and the customer for the supply of Goods.

17.2 The Customer acknowledges that neither the Supplier nor anyone purporting to act on its behalf has made any representation or given any promise or undertaking which is not expressly set out in writing, whether as to the fitness of the Goods for any particular purpose or any other matter.

17.3 All the rights and remedies of the Supplier under these Terms and Conditions shall remain in full force and effect notwithstanding any neglect, forbearance or delay in enforcement by the Supplier and may only be waived expressly in writing.

18. Governing Law

These Terms and Conditions shall be governed by and construed in accordance with the laws of the state or territory nominated by the Supplier in which either the Goods were produced or the Customer took delivery and in default of nomination in accordance with the laws of the State of New South Wales and the parties submit to the jurisdiction of the courts of the state or territory so nominated or in default of nomination, the courts of New South Wales

**DEED TO GUARANTEE & INDEMNITY TO Xpress Fuel Australia Pty Ltd
ACN 145 291 081**

WARNING: THIS IS AN IMPORTANT DOCUMENT. IF YOU DO NOT UNDERSTAND THIS DOCUMENT YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE

A. Details of Guarantors

Name:	Name:
Private Address:	Private Address:

Name:	Name:
Private Address:	Private Address:

B. IN CONSIDERATION of Xpress Fuel Australia Pty Ltd ACN 146 291 081 (hereafter called “the Credit Provider”) agreeing to provide goods, services or credit or actually providing or continuing to provide goods, services or credit, including any time or indulgence, to:

Customer Name:	ABN/ACN:
Trading Name:	
Trading Address:	

The Guarantor (or if more than one, each of the Guarantors jointly and severally) detailed above, who has signed this document below, agrees to guarantee to the Credit Provider the due and punctual performance by the Customer of all its obligations under the Credit Provider’s Terms and Conditions of Trade (including any variation of them), as if the Guarantor(s) were the Customer, and to indemnify the Credit Provider against loss or damage in the event of default of the Customer in compliance with those Terms and Conditions of Trade.

And it is further agreed by each Guarantor (whether one or more), that:

1. If more than one guarantor is named, this Guarantee and Indemnity is not conditional upon its execution by more than one of the named guarantors and may be enforced against any of them, who has signed or otherwise executed it, jointly or severally as if that or those guarantor(s) were the only guarantor(s).
2. In the event, that the Customer is unable or fails to pay any monies to the Credit Provider as and when they fall due for payment or otherwise fails to comply with the Credit Provider’s

Terms and Conditions

- (a) Each Guarantor agrees to pay those monies to the Credit Provider and make good any default of the Customer *without the need for any demand* by the Credit Provider and the Credit Provider may enforce the obligation to pay those monies and all other obligations owed by the Customer under the Credit Provider's Terms and Conditions of Trade against the Guarantor, as if the Guarantor were the Customer and a principal debtor (without need of any prior default by the Customer).
 - (b) Each Guarantor agrees on demand by the Credit Provider to indemnify and keep indemnified the Credit Provider from and against all loss and damage, including consequential loss or damage, claims, costs (including legal costs), charges, disbursements and expenses whatsoever that the Credit Provider may incur by reason of the inability or failure of the Customer to so pay or comply.
3. This is a continuing Guarantee and Indemnity and applies to all moneys and obligations which are now or may from time to time be owing or unpaid or unperformed by the Customer to the benefit of the Credit Provider. It may be revoked as to future transactions of the Customer by any Guarantor (without affecting the obligations of any other Guarantor) by at least one calendar month's written notice to the Credit Provider given at any time by the Guarantor or the legal representative of the Guarantor. The receipt by the Credit Provider of a written notice revoking the Guarantee and Indemnity by any Guarantor will be acknowledged in writing to confirm that the notice has been received by the Credit Provider
4. This Guarantee and Indemnity shall not otherwise be determined or discharged by reason of the liquidation (voluntary or otherwise), reconstruction, reconstitution, amalgamation with any other entity, death or bankruptcy of the Credit Provider, Customer or Guarantor(s) and shall continue to apply in relation to the rights and obligations under the Credit Provider's Terms and Conditions of Trade of their successors or assigns (to the extent law allows).
5. All rights and remedies of the Credit Provider under this guarantee and indemnity shall be unaffected and not released or waived by any postponement, forbearance, indulgence, compromise, waiver or release extended to the Customer or any Guarantor(s) by the Credit Provider nor by any failure by the Credit Provider to enforce, register or otherwise perfect any right of the Credit Provider under the Credit Provider's Terms and Conditions of Trade or any security nor by any proposal or agreement by the Credit Provider to vary the Credit Provider's Terms and Conditions of Trade (to which once varied this Guarantee and Indemnity shall equally apply) nor by any other thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Guarantor(s).
6. Each Guarantor shall not take any steps to recover or enforce a right or claim against the Customer or apply rights over property of the Customer to the satisfaction of its obligations to the Credit Provider and shall not prove in any insolvency administration, bankruptcy or liquidation of the Customer unless or until all debts and obligations of the Customer to the Credit Provider have been satisfied in full and shall in any such case exercise any voting rights held as directed by the Credit Provider until it has been so satisfied.
7. If any payment made by or on behalf of the customer is alleged to be void or voidable by any liquidator or like officer of the Customer under any law related to insolvency each guarantor indemnifies the Supplier against any costs or losses it may incur in connection with such claim.
8. If the Guarantor is a trustee of a trust, the Guarantor enters into this Agreement in both the Guarantor's personal capacity and as trustee of that trust.
9. The Credit Provider may assign the benefit of this Guarantee and Indemnity at any time without the consent of or notice to the Customer or any guarantor.
- 10.1 The Guarantor agrees that nothing in sections 125, 132(3)(d), 132(4), 135, 142 or 143 of the Personal Property Securities Act 2009 (Cth) ("the Act") will apply to the guarantee between the Guarantor and the Supplier, or the security under this guarantee.

- 10.2 The Guarantor agrees to waive its right to do any of the following or to receive any of the following notices or for the Supplier to carry out the following obligations under the following provisions of the Act:
- (a) Receive notice of removal of an accession under section 95
 - (b) Receive notice of a decision, under paragraph 117(2)(b), to enforce the security interest in the personal property in the same way as the interest in the land may be enforced under the land law under section 118;
 - (c) Receive notice of any action to be taken in accordance with subsection 120(2) under section 121(4)
 - (d) Receive notice of intention to seize collateral under section 123
 - (e) Receive notice of disposal of collateral under section 130;
 - (f) Receive a statement of account if there is disposal of collateral under section 132(3)(d);
 - (g) Receive every six months statements of account until there is disposal of collateral under section 132(4);
 - (h) Receive notice of retention of collateral under section 135;
 - (i) Receive notice to receive a verification statement in relation to registration events under section 157.
- 10.3 The Guarantor and the Supplier also contract out of each other provision of Part 4.3 of the Act, under sections 115(7) and 116(2), but only to the extent that the provision impose obligations on the Supplier.
- 10.4 The Guarantor and the Supplier agree that neither the Guarantor nor the Supplier will disclose information of the kind mentioned in section 275(1).
- 11.1.1 The Guarantor hereby charges with payment of any indebtedness to the Supplier all legal and beneficial interest (freehold or leasehold) in land and property, other than Personal Property to which the Personal Property Securities Act 2009 applies, held now or in the future by the Guarantor and upon non-payment of any monies due to the Supplier pursuant to this guarantee the Supplier may take possession of such land or property and exercise and do all or any acts, powers and authorities vested in or given to mortgagees by any statutory provision or at common law or in equity.
- 11.1.2 The Guarantor agrees that if demand is made by the Supplier, the Guarantor receiving such a demand will immediately execute a mortgage (incorporating the covenants contained in Memorandum No.Q860000 registered at the Land Titles Office in Sydney) or other instrument of security, or consent to a caveat, as required, and against the event that the Guarantor fails to do so within a reasonable time of being so requested, the Guarantor hereby irrevocably and by way of security, appoints any credit manager or solicitor engaged by the Supplier to be its true and lawful attorney to execute and register such instruments. Notwithstanding any other provision in this clause and in addition thereto the Supplier may lodge a caveat noting the interest given by this charge on the title of any property of the Guarantor whenever it so wishes.
- 11.2 The Guarantor grants a security interest to the Supplier 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 Personal Property Securities Act 2009.
12. Any notice or demand for the purposes of this Guarantee and Indemnity shall be deemed to be duly made and given:
- (a) to a guarantor, if it is forwarded in writing by ordinary pre-paid post to the Guarantor to be bound by it at the address of the Guarantor shown above or any other address given by the Guarantor to the Credit Provider, in which case it shall be deemed received by the Guarantor on the business day after posting, and
 - (b) to the Credit Provider, if it is delivered to the Credit Provider at its registered office and receipted in writing by a duly authorised officer of the Credit Provider.
13. Each Guarantor acknowledges and agrees, that:
- (a) He or she, if an individual, is above the age of 18 years.
 - (b) The Credit Provider may in accordance with the Privacy Act 1988 (Cth.)[the PA] and related or similar legislation provide to and seek from credit reporting bodies, other credit providers, other prospective or current guarantors of the Customer or debt collection

agencies personal information (including the above information, identification, credit, credit eligibility, payment, default, court proceedings or personal insolvency information) about the Guarantor and that information may be used for purposes including:

- (i) assessing the Account Application of the Customer and this Guarantee and Indemnity,
 - (ii) assessing whether to provide or continue to provide goods, services or credit to the Customer,
 - (iii) a credit reporting body or another credit provider assessing any other application for credit or managing any credit obtained by or concerning the Guarantor.
 - (iv) the internal management purposes of the Credit Provider that are directly related to the provision or management of consumer, commercial or other credit by the Credit Provider,
 - (v) for a particular commercial credit related purpose of the Credit Provider in relation to the Customer or Guarantor.
 - (vi) a credit guarantee purpose of the Credit Provider in relation to the Customer or Guarantor,
 - (vii) assisting the Customer or Guarantor to avoid defaulting on his or her obligations in relation to consumer credit provided by the provider to the Customer or Guarantor.
 - (viii) assessing an application for consumer credit or commercial credit made to the recipient.
 - (ix) for the purpose of a prospective guarantor of the Customer considering whether to offer to act as a guarantor in relation to the credit or to offer property as security for the credit,
 - (x) for a purpose related to the enforcement, or proposed enforcement, of any Guarantor's guarantee, including this guarantee.
 - (xi) for the purpose of collecting payments that are overdue in relation to consumer or commercial credit provided by the Credit Provider to the Customer or Guarantor.
- (c) The Guarantor is aware:
- (i) The Credit Provider's website at www.equifax.com.au includes a statement of information about credit reporting under clause 4.1 of the Privacy (Credit Reporting) Code 2014 [the Code], including the names and contact details of the Credit Reporting Bodies (CRB), to which it is likely to disclose credit information;
 - (ii) the key issues contained in the statement under the Code are:
 - A. that the CRB, to whom the credit information is provided, may include the information in reports provided to other credit providers to assist them to assess the credit worthiness of the Customer, its proprietors, directors, partners or trustees and the Guarantor;
 - B. that if the Customer or any of its Guarantors fails to meet its payment obligations in relation to consumer credit or commits a serious credit infringement, the Credit Provider may be entitled to disclose this to the CRB;
 - C. how the Customer, its proprietors, directors, partners, trustees or guarantors may obtain the Credit Provider's policy about the management of credit-related personal information required by section 21B of the PA and the CRB's policy about the management of credit-related personal information required by Section 20B;
 - D. the right to access the information from the Credit Provider to request it to correct the information and to make a complaint to the Credit Provider;
 - E. the right to request CRBs not to use their credit reporting information for the purposes of pre-screening of direct marketing by a Credit Provider;
 - F. the right to request the CRB not to use or disclose credit reporting information about an individual, if the individual believes on reasonable grounds that the individual has been, or is likely to be, a victim of fraud.
 - (iii) a statement of these matters (available on the website) may be obtained in hard copy upon request.

- (d) The Guarantor is further aware:
- A. that the policy (the *credit reporting policy*) of the Credit Provider contains information about how an individual may access the credit eligibility information about the individual that is held by the Credit Provider;
 - B. that the policy contains information about how an individual may seek the correction of credit information or credit eligibility information about the individual that is held by the Credit Provider;
 - C. that the policy contains information about how an individual may complain about a failure of the Credit Provider to comply with Division 3, Part IIIA of the PA or the Code;
 - D. that the policy contains information about how the Credit Provider will deal with such a complaint;
 - E. that the Credit Provider is unlikely to disclose credit information or credit eligibility information to entities that do not have an Australian link; but if it were likely and practicable, the countries in which those entities are likely to be located would be specified in the policy.

Executed as a Deed by the Guarantor of the Customer

Dated this _____ day of _____ 20

SIGNED, SEALED AND DELIVERED BY

in the presence of:

Signature of Guarantor

Signature of Witness

Print name of Guarantor

Print name of Witness

Address of Guarantor

Address of Witness

Drivers Licence No:

SIGNED, SEALED AND DELIVERED BY

in the presence of:

Signature of Guarantor

Signature of Witness

Print name of Guarantor

Print name of Witness

Address of Guarantor

Address of Witness

Drivers License No:

[annex additional pages containing the signatures of any additional Guarantor(s) and their witnesses]



Direct Debit Request

Request and Authority to debit the account named below to pay
Xpress Fuel Australia Pty Ltd

Request and Authority to debit

Your Surname or Company name _____

Your Given names or ABN/ACN _____

“I/We”

Request and authorise Xpress Fuel Australia Pty Ltd (ABN 16 146 291 081) to arrange, through its own financial institution, a debit to my/our nominated account any amount Xpress Fuel Australia Pty Ltd (User ID 389360) has deemed payable by *me/us*.

This debit or charge will be made through the Bulk Electronic Clearing System (BECS) from *your* account held at the financial institution you have nominated below and will be subject to the terms and conditions of the Direct Debit Request Service Agreement.

Insert the name and address of financial institution at which account is held

Financial Institution name _____

Address: _____

Insert details of account to be debited

Name/s on account

BSB number (Must be 6 Digits) | | | - | | |

Account number
| | | | | | | | | |

Acknowledgement

By **signing** *my/our* Direct Debit Request, and providing you with a valid instruction to debit *my/our* account, *I/we* have understood and agreed to the terms and conditions governing the debit arrangements between *me/us* and Xpress Fuel Australia Pty Ltd as set out in this Request and in your Direct Debit Request Service Agreement.

Insert your signature and address

Signature: _____
(If signing for a company, sign and print full name and capacity for signing e.g. director)

Address: _____

Date / /

Insert your signature and address

Signature: _____
(If signing for a company, sign and print full name and capacity for signing e.g. director)

Address: _____

Date ____/____/____



Direct Debit Request Service Agreement

The following is your Direct Debit Service Agreement with Xpress Fuel Australia Pty Ltd (ABN 16 146 291 081). The agreement is designed to explain what your obligations are when undertaking a Direct Debit arrangement with us. It also details what our obligations are to you as your Direct Debit Provider.

We recommend you keep this agreement in a safe place for future reference. It forms part of the terms and conditions of your Direct Debit Request (DDR) and should be read in conjunction with your DDR form.

Definitions

Account means the account held at *your financial institution* from which *we* are authorised to arrange for funds to be debited.

Agreement means this Direct Debit Request Service Agreement between *you* and *us*.

Banking day means a day other than a Saturday or a Sunday or a Public Holiday in NSW.

Debit day means the day that payment by *you* to *us* is due.

Debit payment means a particular transaction where a debit is made.

Direct debit request means the Direct Debit Request between *us* and *you*.

Us or **we** or our means Xpress Fuel Australia Pty Ltd (ABN 16 146 291 081) (the Debit User) *you* have authorised by requesting a *Direct Debit Request*. **You** means the customer who has signed or authorised by other means the *Direct Debit Request*.

Your financial institution means the financial institution nominated by *you* on the DDR at which the *account* is maintained.

1. Debiting your account

- 1.1 By signing a *Direct Debit Request* *you* have authorised *us* to arrange for funds to be debited from *your account*. *You* should refer to the *Direct Debit Request* and this *agreement* for the terms of the arrangement between *us* and *you*.
- 1.2 We will only arrange for funds to be debited from *your account* as authorised by the *Direct Debit Request*.
- 1.3 If the *debit day* falls on a day that is not a *banking day*, *we* may direct *your financial institution* to debit *your account* on the following *banking day*. If *you* are unsure about which day *your account* has or will be debited *you* should ask *your financial institution*.

2. Amendments by us

- 2.1 We may vary any details of this agreement or a Direct Debit Request at any time by giving you at least fourteen (14) days written notice.

<p>3. Amendment by you</p>	<p>3.1 You may change, stop or defer a debit payment, or terminate this agreement by providing us with at least fourteen (14) days notification by writing to:</p> <p>Email: accounts@xpressgroup.com.au</p> <p>Or</p> <p>Phone: 02 9618 3736 7.30am to 3.30pm Monday-Friday</p>
<p>4. Your obligations</p>	<p>4.1 It is <i>your</i> responsibility to ensure that there are sufficient clear funds available in <i>your</i> account to allow a <i>debit payment</i> to be made in accordance with the <i>Direct Debit Request</i>.</p> <p>4.2 If there are insufficient clear funds in <i>your account</i> to meet a <i>debit payment</i>:</p> <p>4.2a <i>you</i> may be charged a fee and/or interest by <i>your financial institution</i>;</p> <p>4.2b <i>you</i> may also incur fees or charges imposed or incurred by <i>us</i>; and</p> <p>4.2c <i>you</i> must arrange for the <i>debit payment</i> to be made by another method or arrange for sufficient clear funds to be in <i>your account</i> by an agreed time so that <i>we</i> can process the <i>debit payment</i>.</p> <p>4.3 <i>You</i> should check <i>your account</i> statement to verify that the amounts debited from <i>your account</i> are correct</p> <p>4.4 If <i>we</i> are liable to pay goods and services tax (“GST”) on a supply made in connection with this <i>agreement</i>, then <i>you</i> agree to pay <i>us</i> on demand an amount equal to the consideration payable for the supply multiplied by the prevailing GST rate.</p>
<p>5. Dispute</p>	<p>5.1 If you believe that there has been an error in debiting <i>your account</i>, <i>you</i> should notify <i>us</i> directly on 02 9618 3736 and confirm that notice in writing to <i>us</i> as soon as possible so that <i>we</i> can resolve your query more quickly.</p> <p>5.2 If <i>we</i> conclude as a result of our investigations that <i>your account</i> has been incorrectly debited <i>we</i> will respond to <i>your</i> query by arrangement for <i>your financial institution</i> to adjust <i>your</i> account (including interest and charges) accordingly. <i>We</i> will also notify you in writing of the amount by which <i>your account</i> has been adjusted.</p> <p>5.3 If <i>we</i> conclude as a result of our investigations that <i>your account</i> has not been incorrectly debited <i>we</i> will respond to <i>your</i> query by providing <i>you</i> with reasons and any evidence for this finding in writing.</p> <p>5.1 Any queries you may have about an error made in debiting your account should be directed to us in the first instance so that we can attempt to resolve the matter</p>

	<p>between you and us. If we cannot resolve the matter you can still refer to your Financial Institution which will obtain details from you of the disputed transaction and may lodge a claim on your behalf.</p>
<p>6. Accounts</p>	<p>You should check:</p> <ul style="list-style-type: none"> (a) with <i>your financial institution</i> whether direct debiting is available from <i>your account</i> as direct debiting is not available on all accounts offered by financial institutions; (b) <i>your account details</i> which <i>you</i> have provided to <i>us</i> are correct by checking them against a recent <i>account statement</i>; and (c) with <i>your financial institution</i> before completing the <i>Direct Debit Request</i> if <i>you</i> have any queries about how to complete the <i>Direct Debit Request</i>.
<p>7. Confidentiality</p>	<p>7.1 We will keep any information (including <i>your account details</i>) in <i>your Direct Debit Request</i> confidential. We will make reasonable efforts to keep any such information that we have about <i>you</i> secure and to ensure that any of <i>our</i> employees or agents who have access to information about <i>you</i> do not make any unauthorised use, modification, reproduction or disclosure of that information.</p> <p>7.2 We will only disclose information that we have about <i>you</i>:</p> <ul style="list-style-type: none"> (a) to the extent specifically required by law; or (b) for the purposes of this <i>agreement</i> (including disclosing information in connection with any query or claim).
<p>8. Notice</p>	<p>8.1 If <i>you</i> wish to notify <i>us</i> in writing about anything relating to this <i>agreement</i>, <i>you</i> should write to</p> <p style="text-align: center;">Xpress Fuel Australia Pty Ltd PO Box 807 Ingleburn NSW 1890 OR Email: accounts@xpressgroup.com.au</p> <p>8.2 We will notify <i>you</i> by sending a notice in the ordinary post to the address <i>you</i> have given <i>us</i> in the <i>Direct Debit Request</i>.</p> <p>8.3 Any notice will be deemed to have been received on the third <i>banking day</i> after posting.</p>