

# CREDIT APPLICATION



(ACN 114 544 437)

## SOLE TRADER / PARTNERSHIP

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## COMPANIES / TRUSTS

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All Correspondence to:

39 Burleigh Street  
Spotswood Victoria 3015

## DEPOTS

### QUEENSLAND

Gladstone	Bowen	Richmond	Townsville	Miles
Biloela	Mackay	Cloncurry	Cairns	Goondiwindi
Emerald		Mt Isa		Brisbane (Pinkenba)
Rockhampton				

### NEW SOUTH WALES

Dubbo	Albert	Coonabarabran	Griffith
Condobolin	Warren	Bourke	

### WESTERN AUSTRALIA

Merredin	Katanning	Kalgoorlie	Perth (Hope Valley)
Corrigin	Albany	Busselton	

### SOUTH AUSTRALIA

Port Lincoln	Adelaide (Regency Park)
Port Augusta	

### NORTHERN TERRITORY

Katherine

### VICTORIA

Benalla	Horsham	Melbourne (Newport)
Rutherglen	Bendigo	

## HEAD OFFICE

Liberty Oil Australia

Head Office

P: 03 8530 3500

E: [applications@libertyoil.com.au](mailto:applications@libertyoil.com.au)

W: [www.libertyoil.com.au](http://www.libertyoil.com.au)

39 Burleigh Street  
SPOTSWOOD VIC 3015

**Trust (please tick and complete if applicable)**

Full Entity Name (Trustee and Trust):

Trading As/Business Name:

ACN for Trustee:

ABN for Trust:

Address:

Full Names of all Directors / Trustees:

Phone Number:

Email:

**Please attach a copy of the page from the Trust Deed which defines who the Trustee Company is.**

**Company (please tick and complete if applicable)**

Full Entity Name:

Trading As/Business Name:

ACN & ABN:

Address:

Full Names of all Directors:

Phone Number:

Email:

**Partnership (please tick and complete if applicable)**

Full Partnership Name:

Trading As/Business Name:

ACN &/or ABN:

Address:

Full Names of all Partners:

Phone Number:

Email:



**Sole Trader (please tick and complete if applicable)**

Full Name(s):

Trading As / Business Name:

ABN:

Address:

Phone Number:

Email:

**References**

Company

Contact Name

Phone

**Payment method (tick one of the options below)**

Direct Debit (Please complete direct debit request form attached at the end of this document)

Credit Card (Please enter card details using the link below or call us at 03 8530 3519 should you required assistance)

<https://www.payway.com.au/recurring/SignUpWelcomeView> ClientNumber 29830&Frequency VARIABLE&AddressRequired false&CustomerNumber &CustomerName

EFT Liberty Oil Australia  
BSB: 033079 Account Number: 229641

**Delivery details for bulk fuel supply**

Delivery Address 1	Tank Safe Fill Diesel Petrol	Approx Order Size	Approx. Orders per Day	Preferred Delivery Day Time
Special Delivery Instructions				

Delivery Address 2	Tank Safe Fill Diesel Petrol	Approx Order Size	Approx. Orders per Year	Preferred Delivery Day Time
Special Delivery Instructions				

Delivery Address 3	Tank Safe Fill Diesel Petrol	Approx Order Size	Approx. Orders per Year	Preferred Delivery Day Time
Special Delivery Instructions				

Delivery Address 4	Tank Safe Fill Diesel Petrol	Approx Order Size	Approx. Orders per Year	Preferred Delivery Day Time
Special Delivery Instructions				



**Terms of bulk fuel supply, lubricants and related products**

**1. Definitions**

In these terms:

- a. **Application** means this credit application for fuel supply terms document duly completed and signed by the Purchaser.
- b. **Fuel** means petrol, diesel, liquefied petroleum gas, biofuels (including ethanol, ethanol-blends and biodiesel), lubricants and related products offered for sale by Liberty.
- c. **Laws** means legislation and regulations, and determinations, rulings, orders, directions, requirements, standards, policies and guidelines of any government, authority or similar body, applying in Australia.
- d. **Liberty** means Liberty Oil Australia Pty Ltd ACN 114 544 437, its successors and assigns as well as where the context permits or requires, the Liberty Group.
- e. **Liberty Group** means Liberty and its related bodies corporate (as defined in the Corporations Act 2001), and any directors, officers, employees and contractors of those companies, each from time to time.
- f. **PPSA** means the Personal Property Securities Act 2009 (Cth).
- g. **Premises** means the premises specified by the Purchaser for delivery of the Fuel.
- h. **Purchaser** means the entity acquiring the Fuel on these terms (and a trustee is bound personally and as trustee).
- i. **Secured Property** means all Fuel delivered by Liberty to the Purchaser.
- j. **Security** means any mortgage, charge, personal guarantee, bank guarantee, bond or other security held by Liberty on account of the Purchaser.
- k. **Taxes** means all present and future Federal and State Government duties, levies, imposts fees and taxes of whatever nature (excluding income tax).
- l. **Terms and Conditions** means the terms and conditions in this document and any annexures.

**2. Binding terms and conditions**

- a. The only terms and conditions binding on Liberty in relation to the supply of Fuel to the Purchaser are these terms, any agreed in writing by Liberty, and any imposed by law and not capable of exclusion.
- b. These standard terms and conditions apply to every supply or possible supply of product by Liberty to the Purchaser unless a subsequent formal written agreement between Liberty and the Purchaser expressly supersedes them.

**3. Orders and delivery**

- a. The Purchaser must order the quantity of each type of Fuel it requires from Liberty according to the ordering procedures specified by Liberty from time to time.
- b. After accepting an order, Liberty will deliver the Fuel to the Premises (unless other arrangements are made by the parties as agreed to and accepting in writing by Liberty).
- c. Delivery occurs and title passes when the Fuel passes into the storage facilities at the Premises (except for lubricants which are delivered when the storage containers are offloaded from the vehicle onto the Premises).
- d. Liberty's calculation or statement of the quantity of Fuel in each delivery is conclusive evidence of the supply of that quantity to the Purchaser.
- e. The volume of Fuel supplied to the Purchaser will only be temperature adjusted if required by and in accordance with law.
- f. Liberty will deliver products ordered by the Purchaser within a reasonable time from acceptance by Liberty of the order, subject to availability and these terms and conditions.
- g. Liberty is not obliged to deliver or sell any Fuel to the Purchaser if the Purchaser has failed to pay (or Liberty has reasons to believe, in its sole and absolute discretion, that the Purchaser will not pay or will no longer pay) for any Fuel previously delivered to the Purchaser by Liberty or if the Purchaser has indicated that the Purchaser will not comply with any of these standard terms and conditions.
- h. Despite anything to the contrary in these terms and conditions but only to the maximum extent permitted by law (including without limitation the *Competition and Consumer Act 2010 (Cth)*), Liberty is under no obligation to accept any order, may refuse to supply Fuel to the Purchaser, or may withdraw or reduce any credit facility, without notice to the Purchaser and at Liberty's sole discretion
- i.



#### 4. Price and GST

- a. The price payable by the Purchaser to Liberty for each type of Fuel is the ruling price specified by Liberty as applicable to the Purchaser at the time of delivery.
- b. Liberty may also charge fees (as applicable from time to time) for delivery, credit terms, payments made by any method other than direct debit, cheque dishonours and payment rejections.
- c. All Federal and State Government duties, levies, imposts, fees and sales taxes (including without limitation any goods and services tax) which are current or introduced at any time will be charged to each delivery of Fuel ordered by the Purchaser as applicable and are paid solely by the Purchaser on the same terms as the price, unless an approved exemption is provided to Liberty at the time of ordering the applicable Fuel.
- d. Prices notified by Liberty (unless otherwise stated by Liberty) include GST as defined in A New Tax System (Goods & Services Tax) Act 1999.
- e. The Purchaser must pay when due and indemnifies Liberty in respect of:
  - i. Taxes that exist at the date of delivery, except where a price expressly includes those Taxes; and
  - ii. any costs incurred by Liberty as a direct or indirect result of any mandatory scheme for carbon trading or otherwise relating to the reduction of greenhouse emissions relating to Fuel supplied by Liberty to the Purchaser, whether incurred by Liberty or passed on to Liberty by a supplier, to the extent not already included in the relevant price under this clause 4.

#### 5. Payment

- a. The Purchaser must pay for the Fuel within the time and by the method specified by Liberty from time to time and if no time is specified, prior to delivery.
- b. Payment is only made when Liberty receives cleared funds. Time is of the essence for the Purchaser's obligation to pay for Fuel.
- c. The Purchaser must pay interest on any overdue amounts. Interest accrues daily at the then current 'Cash Rate' published by the Reserve Bank of Australia plus 4% from the date the amount became due until payment is made.

#### 6. Credit

- a. The Purchaser warrants that information provided about its financial position is true and correct and not misleading, must immediately notify Liberty of any change to its position and must provide further information on request from Liberty at any time and from time to time.
- b. Liberty may:
  - i. allow, withdraw and vary credit terms at its discretion from time to time and at anytime;
  - ii. from time to time set, change, modify a credit limit at Liberty's sole discretion and the Purchaser must ensure that the amount it owes Liberty does not at any time exceed that limit.

#### 7. PPS and Security Interest

- a. In this clause 7, capitalised expressions have the meaning given to them in the PPSA. These terms constitute a Security Agreement for the purposes of the PPSA.
- b. To secure payment of amounts owing by the Purchaser to Liberty under these terms, on signing of this Application the Purchaser grants a Security Interest to Liberty in the Secured Property from the time of delivery until Liberty has been paid in full. This Security Interest operates as a charge and remains in full force and effect whilst this Application remains in force and effect.
- c. The Purchaser consents to Liberty registering one or more Financing Statements or Financing Change Statements in respect of the Security Interest on and from the signing of this Application by the Purchaser.
- d. The Purchaser must promptly do anything required by Liberty to ensure that any Security Interest granted to Liberty is a perfected Security Interest and has priority over all other Security Interests in the Secured Property.
- e. The Purchaser must not cause the registration of a Financing Change Statement in respect of the Secured Property or make any Amendment Demand without Liberty's consent.
- f. These sections of the PPSA do not apply:
  - i. s.95 (notice of removal of accession) to the extent it requires the secured party to give a notice to the grantor;
  - ii. s.96 (when person with an interest in the whole may retain accession);
  - iii. s.125 (obligation to dispose of or retain collateral);
  - iv. s.129 (disposal by purchase);
  - v. s.130 (notice of disposal) to the extent it requires the secured party to give a notice to the grantor;
  - vi. s.132(3)(d) (contents of statement of account after disposal);
  - vii. s.132(4) (statement of account if no disposal);
  - viii. s.135 (notice of retention);
  - ix. s.142 (redemption of collateral); and
  - x. s.143 (reinstatement of security agreement).



- g. For the purposes of PPSA s.157, the Purchaser waives its right to receive notice of any verification statement.
- h. For the purposes of PPSA s.275(6), neither party may disclose information of the kind specified in PPSA s.275(1).
- i. Liberty may enter Premises where the Secured Property is stored or held free from trespass, to inspect the property or take possession in accordance with these terms.

## **8. Risk and insurance**

- a. All risk in the Fuel passes to the Purchaser on delivery.
- b. The Purchaser must obtain and keep current public liability insurance noting Liberty as an interested party for at least \$20 million for any one claim and produce a certificate to Liberty on request. The Purchaser must not do anything to compromise the insurance.

## **9. Quality & Defects**

- a. The Purchaser will maintain the quality of all Fuel delivered to the Purchaser and will provide appropriate, safe, and clean storage facilities for each delivery of Fuel. Liberty will not be liable for any loss or damage caused by a failure of the Purchaser to comply with any part of this condition.
- b. If the Purchaser believes (acting reasonably) it has received defective Fuel from Liberty, it must retain a sample of the relevant product, immediately inform Liberty of the defect, notify Liberty of any claim for the alleged defect within five days of delivery and give Liberty a reasonable opportunity to inspect and take samples of the relevant product.

## **10. Termination and breach**

- a. Either party may notify the other that it will no longer order or supply Fuel from or to the other.
- b. Upon such notification, or if the Purchaser breaches these terms, Liberty may do one or more of the following (without limitation):
  - i. Require the Purchaser to pay to Liberty all amounts owing by the Purchaser, whether or not in relation to the supply of Fuel and whether or not due for payment;
  - ii. Cancel any order placed by the Purchaser or notify the Purchaser that it must take delivery of the Fuel ordered;
  - iii. To recover amounts owing, exercise its rights under the Security and take possession of any Secured Property (or where it has been sold or disposed of, an equivalent volume of Fuel) held by the Purchaser and sell or retain it.
- c. Without prejudice to Liberty's rights and entitlements hereunder to terminate this agreement, Liberty is entitled to recover, and the Purchaser must pay Liberty on demand all costs incurred by the Liberty Group (including legal costs actually paid or payable) in connection with any breach of these terms by the Purchaser.

## **11. Exclusions and limitations**

- a. The only conditions and warranties binding on Liberty in respect of the state, quality or condition of the Fuel and/or the advice, information or services supplied by any of the Liberty Group to the Purchaser regarding the Fuel are those imposed and required to be binding by statute and to the extent permitted by statute all other conditions and warranties are excluded.
- b. To the extent permitted by statute, Liberty may discharge any liability arising from the breach of the conditions or warranties referred to in clause 11(a) by supplying equivalent Fuel or replacing the Fuel supplied or supplying the advice, information or services again.
- c. The Purchaser does not rely (and it is unreasonable for it to rely) on the skill or judgment of Liberty as to whether the Fuel supplied are fit for any purpose.
- d. Except to the extent provided in this clause 11(a), the Liberty Group has no liability to any person:
  - i. for any loss or damage suffered or incurred by that person in relation to the Fuel and/or advice, recommendations, information or services; and
  - ii. without limiting the above, for any loss of profits, income, revenue, contracts or production, business interruption or increased costs in operations, damage to goodwill or reputation or indirect losses or expenses or consequential damage whether suffered by the Liberty Group or any third party.
- e. Liberty will not be liable for any loss or damage resulting from any failure by Liberty to perform its obligations under these terms and conditions to the extent that such failure is caused in any part by compliance with any order, request or control of any government or government authority or person purporting to act for either, or by anything beyond Liberty's immediate control, including but without limitation, strikes lockouts, government imposed lockdowns or restrictions, employment difficulties, acts breakdowns and plant shutdowns.



- f. Despite anything else in these terms, Liberty is not liable for loss or damage resulting from any delay or failure supply Fuel.
- g. Nothing in these terms and conditions allows the Purchaser to use any trademark, image, logo, branding or insignia (without limitation) of Liberty or the Liberty Group without Liberty's prior written consent.
- h. To the extent permitted by law (and in particular, but without limitations, the Trade Practices Act 1974 and the Sale of Goods Act), any liability of Liberty to the Purchaser in respect of Fuel delivered including without limitation for breach of any condition or warranty, is limited to any one or more of the following at Liberty's option:
  - i. replacement of the Fuel;
  - ii. the supply of the Fuel again; or
  - iii. the payment of the cost of replacing the Fuel of acquiring the equivalent Fuel.

## 12. Safety and compliance with laws

The Purchaser:

- a. must provide suitable and safe facilities for receiving and handling Fuel;
- b. must comply with all applicable Laws (including those relating to the environment, health and safety, and those relating to fuel storage systems);
- c. is solely responsible for the safety of its employees, agents and contractors;
- d. must ensure that all persons engaged in relation to Fuel observe a safe system of work complying with all Laws; and
- e. must notify Liberty immediately on becoming aware of a leak or spill of Fuel.

## 13. Property

- a. Property in the Fuel will not pass from Liberty to the Purchaser until the Purchaser has paid for the Fuel in full. The Purchaser will take custody of the goods as trustee, fiduciary agent and bailee for Liberty until such time the Purchaser has paid Liberty:
  - i. The price for the Fuel invoiced; and
  - ii. Any other monies due and payable to Liberty by the Purchaser in relation to the Fuel.
- b. Until payment in full is received the Purchaser must:
  - i. Not mortgage, charge, pledge or otherwise encumber the Fuel; and
  - ii. Use all reasonable endeavours to keep and maintain sufficient records as to the storage and maintenance of Liberty's Fuels such that same may be properly identifiable separate from any other fuel and properly marked, stored, protected and insured as far as reasonably possible.
- c. The Purchaser shall have the right to resell the Fuel, but only as fiduciary agent, trustee and bailee for Liberty by way of bona fide sale at full market value and in the ordinary course of business.

## 14. Right of Re-Entry and Resale

- a. Liberty may at any time and without need to give notice to the Purchaser take possession of and resell the Fuel which remains the property of Liberty and for that purpose, the Purchaser:
  - i. Authorises Liberty to enter any premises where Liberty's Fuel may be situated and to use such reasonable means as may be required to enter such premises;
  - ii. Undertakes to Liberty to procure the consent of all persons having an interest in the premises where Liberty's Fuel may be situated to entry to the premises by Liberty; and
  - iii. Indemnifies and will keep indemnified Liberty from all claims, actions, suits, of whatsoever kind or nature arising out of or in connection with or in relation to the entry by Liberty to any premises where Liberty's Fuel may be situated.

## 15. Indemnity

- a. The Purchaser indemnifies the Liberty Group against all losses and liabilities (both civil and criminal) incurred by the Liberty Group including legal costs actually payable by the Liberty Group to its own legal representatives (whether or not under a costs agreement) arising directly or indirectly as a result of or in connection with each of the following.
  - i. Negligence or breach of these terms by the Purchaser.
  - ii. A payment under this deed being set aside under the Corporations Act 2001.
  - iii. Contamination at premises to which Fuel is delivered.
- b. Without limiting the above, the Purchaser indemnifies Liberty in respect of all actions, claims, demands, losses, damages, costs and expenses of whatever nature which the Purchaser of Liberty may suffer, incur or sustain in connection with the Fuel, including without limitation any claim for or arising from a breach by the Purchaser of these terms and conditions, the negligence of the Purchaser and claims for or arising from the negligence of Liberty.
- c. The Purchaser must pay to Liberty all liabilities, costs and other expenses referred to in the previous paragraph.
- d. The indemnities in these terms are continuing obligations, separate and independent from the parties' other obligations



**16. Set off**

If an amount is payable by Liberty to the Purchaser whether or not under these terms, Liberty is entitled to set-off that amount against any amount payable by the Purchaser to Liberty under these terms.

**17. Severability**

If any part of these terms and conditions, being a whole or part of a clause, is held to be unenforceable or invalid then it is severed without affecting any other part of these terms and conditions.

**18. Waiver**

Liberty does not waive any breach of rights under these terms and conditions or otherwise if it fails to exercise or delays exercising a right, gives a concession or indulgence to the Purchaser or accepts money from the Purchaser.

**19. Security**

- a. The Purchaser, if requested by Liberty, must provide Security or further Security in respect of its obligations to Liberty under these terms as required and deemed appropriate by Liberty in its sole discretion from time to time.
- b. Despite any other matter referred to in this Application, the Purchaser hereby charges all of its/their right, title and interest in any present or future personal property and real property held by the Purchaser for the performance of its obligations under this Application and hereby consents to the registration by Liberty of a charge or caveat against the title to such personal and/or real property. The Purchaser shall neither raise complaint nor require the lapsing of a caveat or charge as the case may be where Liberty registers such interest pursuant to this Application. This chargeable interest accrues and is applicable under the Personal Property Securities Act 2009 (Cth) and/or the Real Property Act 1900 (NSW), applicable interstate land registration Acts and under the Common Law. Subject to Liberty's rights under clause 7 herein which irrevocably apply and override this clause 19 from the date that Liberty's receives this Application duly signed by the Purchaser, the parties to this Application agree that Liberty's rights under this clause 19 only arise in circumstances where the Purchaser has breached any of its obligations hereunder.

**20. Assignment**

The Purchaser must not assign or otherwise deal with its rights or obligations under these terms (including but not limited to any directorship, shareholding, and/or unitholding changes contemplated in the Purchaser entity or any holding entity therein) except with Liberty's consent in its absolute discretion. Liberty may at any time assign any of its rights or obligations under these terms.

**21. Confidentiality**

Except as stated in these terms, the Purchaser must not disclose any of the information disclosed to it by Liberty in connection with the supply of Fuel to any person without Liberty's consent, except to the extent the information is generally available to the public (other than as a result of the wrongful disclosure by the Purchaser) or is required to be disclosed by law.

**22. Changes to the terms**

- a. Liberty may change or replace these terms on seven days' notice.
- b. No variation to these terms and conditions is binding on Liberty unless Liberty has agreed to variations in writing. Liberty may vary these standard terms and conditions at any time by notice in writing

**23. Force majeure**

If Liberty is prevented from or delayed in complying with an obligation by an event beyond its reasonable control, its obligation to perform is suspended while the event continues.

**24. Notice**

A notice or other communication connected with these terms must be:

- a. if to Liberty, must be mailed or delivered to it at 39 Burleigh Street, Newport, Victoria 3105 and emailed to [jgrey@libertyoil.com.au](mailto:jgrey@libertyoil.com.au) (or as subsequently notified); and
- b. if to the Purchaser, must be mailed or delivered to the Purchaser's last known address or registered office and emailed to the Purchaser's last-known email address.

If mailed, the communication is taken to be received 2 days after posting.





**25. Governing law and jurisdiction**

These terms and conditions are governed by the laws of the state of Victoria and the Commonwealth of Australia and the parties submit to the non-exclusive jurisdiction of the courts of the state of Victoria and the Commonwealth of Australia.

**26. Purchaser Warranty**

The Purchaser warrants to Liberty that the information given in this Application is true and correct and not misleading or deceptive.

**Signature**

By signing the below the Purchaser acknowledges and agrees:

1. To be bound by the Terms and Conditions:
2. The Purchaser applies to establish credit facilities with Liberty Oil Australia Pty Ltd ACN 114 544 437 (Liberty), warrants to Liberty that the information provided in this credit application (hereinafter referred to as the "Application") is true and correct and not misleading in any respect; agrees that the standard terms and conditions (overleaf) will apply to all products supplied and to credit granted to the Purchaser: agrees that Liberty is not obligated to grant credit to the Purchaser and that any credit facility may be withdrawn or reduced without any prior notice by Liberty at its discretion and the Purchaser consents to and authorises Liberty to at any time throughout the course of this Agreement:
  - a. Obtain a credit report containing credit information (including personal consumer credit information) about the Purchaser from a credit reporting agency for the purpose of assessing the Purchaser's application for commercial credit;
  - b. Give commercial credit information about the Purchaser to any credit reporting agency; and
  - c. Provide commercial credit information about the Purchaser to other credit providers for the purpose of assessing a credit application.
3. The Directors of the Purchaser each consent to and authorise Liberty to at any time throughout the course of this Agreement:
  - a. Obtain a credit report containing credit information (including personal consumer credit information) about the Purchaser from a credit reporting agency for the purpose of assessing the Purchaser's application for commercial credit;
  - b. Give commercial credit information about the Purchaser to any credit reporting agency; and
  - c. Provide commercial credit information about the Purchaser to other credit providers for the purpose of assessing a credit application.

**Signed by the Purchaser:**

Name:  
Position (if non individual):

**Signed by the Purchaser:**

Name:  
Position (if non individual):

\_\_\_\_\_  
Signature  
Date:

I have enclosed a copy of my ID

\_\_\_\_\_  
Signature  
Date:

I have enclosed a copy of my ID

**Site Information**

To ensure prompt and safe delivery, please include four images (showing four different sides) of your tank with your application for our operations team.

Date:

I have sent through 4 images of the tank that will be filled by Liberty Oil.

## GUARANTEE AND INDEMNITY

In Consideration for Liberty, the Liberty Group, or its related bodies corporate (jointly and separately called "Liberty") granting or confirming to grant credit to:

Guarantor (tick and insert details if applicable)	
Full name of Guarantor	Full name of Guarantor
Address	Address
Date of Birth	Date of Birth
Email	Email
Phone No.	Phone No.
Driver's License No.	Driver's License No.
Copy of License provided	Copy of License provided
Position/Relationship to Purchaser	Position/Relationship to Purchaser

Jointly and severally "the Guarantor(s)" agree and undertake as follows:

1. The guarantor guarantees that the Purchaser will pay Liberty every amount which it owes Liberty and the guarantor agrees to pay Liberty on demand any of those amounts in respect of which the Purchaser is in default, as well as any expense of Liberty to enforce this guarantees and indemnity including, but not limited to, legal costs and expenses, on a full indemnity basis.
2. The amount which the Purchaser owes Liberty includes all credit which Liberty extends, interest on overdue amounts and all enforcement expenses relating to the Purchasers indebtedness including but not limited to legal costs and expenses on a full indemnity basis. Liberty may extend credit in excess of the amount shown in the attached Application.
3. The guarantor has read a copy of Liberty's credit application and the terms and conditions of trade between Liberty and the Purchaser.
4. As a separate undertaking, the guarantor indemnifies Liberty and keeps it indemnified against each liability, loss, cost, charge and expense that Liberty incurs in the Purchaser breached any kind of obligation to Liberty (including, without limitation, any obligation to pay money) if the Purchaser makes an incorrect or misleading representation or warranty, or if any part of the guarantee and indemnity is unenforceable.
5. This guarantee and this indemnity are each unconditional, not revocable, continuing and will not be discharged by an intermediate payment or settlement of accounts or by the insolvency or death of one or more of the Guarantors.
6. If there is more than one guarantor, each guarantor is liable for every obligation to Liberty pursuant to this guarantee and indemnity both jointly with any other guarantor, as well as separately liable for every obligation on their own.

7. Each guarantors liabilities arising under this guarantee and indemnity are not affected by anything which might but for this clause, affect them at law or in equity. Without limitation, each guarantor is bound by this guarantee and indemnity even if any other person named as guarantor is not bound for any reason, or if the indebtedness of the Purchaser to Liberty is discharged, distinguished or postponed in any way and for any reason.

8. The rights of Liberty arising under this guarantee and indemnity are not affected by anything which might but for this clause, affect them at law or in equity. This includes but is not limited to, Liberty granting time or other indulgence to compound or compromise with or release the Purchaser or another guarantor, acquiescence, delays, acts, omissions or mistakes by Liberty, a novation of a right of Liberty or a variation of an agreement, arrangement or understanding between Liberty and the Purchaser.

9. If a claim is upheld, conceded or compromised that a payment or transfer to Liberty under an agreement, arrangement or understanding with the Purchaser or under this guarantee and indemnity is void or voidable, then Liberty is entitled immediately as against each guarantor to the rights to which it would have been entitled if the payment or transfer could not have occurred. This includes, but is not limited to, a claim under laws for liquidation, insolvency or protection of creditors.

10. The guarantor must obtain the prior written consent of Liberty before it can raise a set off or counter claim available to it or the Purchaser against Liberty in reduction of its liability pursuant to this guarantee and indemnity, or can claim entitlement to the benefit of a security or guarantee Liberty holds for the Purchaser, or can make a claim or enforce a right against the Purchaser, a guarantor or their property or can prove in competition with Liberty if a liquidator, receiver, official manager or trustee in bankruptcy is appointed for the Purchaser.

11. Liberty may claim under this guarantee and indemnity even if Liberty has not incurred an expense made a payment or started any proceedings against the Purchaser.

12. Liberty may assign its rights arising in relation to this guarantee and indemnity free of any equity, set off or counterclaim.

13. If any part of this guarantee or indemnity is illegal, unenforceable or void against one or more, of the guarantors then the part which is illegal, unenforceable or void is served and then only in respect of the guarantors against whom it is illegal, unenforceable or void. The remainder of this guarantee and indemnity continues in full force and effect.

14. If the guarantee is a company, it warrants that it is able to meet its debts as and when due, and that it has the authority and all the necessary approvals required by law, to give this guarantee and indemnity, including without limitation, the approval of its shareholders.

15. This guarantee and indemnity is governed by laws of the commonwealth of Australia and the parties submit to the non exclusive jurisdiction of the courts of the Commonwealth of Australia.

16. The guarantor acknowledges to Liberty that in providing credit to the Purchaser, Liberty has relied on the guarantors' representation that they understand the effect of this document, have had the opportunity to seek independent legal advice prior to executing this guarantee and indemnity and that they are entering into this document on their own free will.

17. Despite any other matter referred to in the Application and/or this Guarantee and Indemnity, the Guarantor hereby charges all of its right, title and interest in any present or future personal property and real property held by the Guarantor for the performance of its obligations under this credit application and/or this Guarantee and Indemnity and hereby consents to the registration by Liberty of a charge or caveat against the title to such personal and/or real property. The Guarantor shall neither raise complaint nor require the lapsing of a caveat or charge as the case may be where Liberty registers such interest pursuant to this credit application and/or this Guarantee and Indemnity. This chargeable interest accrues and is applicable under the Personal Property Securities Act 2009 (Cth) and/or the Real Property Act 1900 (NSW), applicable interstate land registration Acts and under the Common Law. The parties to this Application agree that Liberty's rights under this clause only arise in circumstances where the Purchaser or Guarantor have breached any of its obligations hereunder.

18. This Guarantee makes the Guarantors liable for all monies owing by the Purchaser to Liberty under the Application and any other agreement between Liberty and the Purchaser.

19. Each Guarantor acknowledges they have been given the opportunity to seek independent legal and financial advice before signing this Guarantee.

20. In this section:

- a. Application means the credit application for fuel supply terms of which this guarantee forms part.
- b. Guarantee means the guarantee and indemnity in this section. Guarantors means the parties signing this guarantee and indemnity and each of them jointly and severally.
- c. Purchaser means the Purchaser named in the Application.
- d. Liberty means Liberty Oil Australia Pty Ltd ACN 114 544 437 and its successors and assigns.
- e. Terms means the terms of supply included in the Application, and any changes or replacement of those terms.

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If the First Guarantor is an individual:

Signed, sealed and delivered by the First Guarantor in the presence of an independent adult witness

Signature of First Guarantor: \_\_\_\_\_ Print Name of First Guarantor:

Date:

Signature of Witness: \_\_\_\_\_ Print Name of Witness:

\_\_\_\_\_

If there is a Second Guarantor and that Second Guarantor is an individual:

Signed, sealed and delivered by the Second First Guarantor in the presence of an independent adult witness

Signature of Second Guarantor: \_\_\_\_\_ Print Name of Second Guarantor:

Date:

Signature of Witness: \_\_\_\_\_ Print Name of Witness:

## Direct Debit Request

Request and authority to debit the account below to pay Liberty Oil Australia Pty Ltd ACN 114 544 437 (user ID 314292)

You request and authorise Liberty to arrange, through its own financial institution, a debit to your nominated account any amount it deems payable by you.

This debit or charge will be made through the Bulk Electronic Clearing System (BECS) from your account nominated below and is subject to the terms and conditions of the direct debit request service agreement.

### *Your details*

Name:

Business ABN

### *Bank Account*

Account Name:

Bank:

BSB:

Account number:

### *Authorisation*

By signing and/or providing us with this valid instruction, you confirm you understand and agree to the terms and conditions governing the debit arrangements between you and Liberty as set out in this request and the direct debit request service agreement. Please ensure all necessary signatories sign, particularly for joint accounts.

Signature: \_\_\_\_\_

Capacity (e.g. Director):

Address:

Date:

## Direct debit request service agreement

This is your direct debit service agreement with us. It explains 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.

Please keep this agreement for future reference. It forms part of the terms and conditions of your direct debit request. The terms of this agreement are for the purpose of supply of fuel and related matters.

### 1. Definitions for this section:

- a. account means the account held at your financial institution from which we are authorised to arrange for funds to be debited.
- b. agreement means this direct debit request service agreement between you and us.
- c. banking day means a day other than a Saturday or a Sunday or a public holiday listed throughout Australia.
- d. debit day means the day that payment by you to us is due.
- e. debit payment means a particular transaction where a debit is made.
- f. direct debit request means the direct debit request between us and you.
- g. us or we means Liberty Oil Australia Pty Ltd ACN 114 544 437 (user ID 314292).
- h. you means the Purchaser who has signed or authorised by other means the direct debit request.
- i. your financial institution means the financial institution nominated by you on the direct debit request at which the account is maintained.

### 2. Debiting your account

- a. By signing a direct debit request or by providing us with a valid instruction, 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.
- b. We will only arrange for funds to be debited from your account as authorised in the direct debit request.
- c. 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.

### 3. Amendments by us

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.

### 4. Amendments by you

You may change, stop or defer a debit payment, or terminate this agreement by providing us with at least fourteen (14) days written notice.

### 5. Your obligations

- a. it is your responsibility to ensure that there are sufficient clear funds available in your account to allow a debit payment to be made in accordance with the direct debit request.
- b. If there are insufficient clear funds in your account to meet a debit payment:
- c. you may be charged a fee and/or interest by your financial institution;
- d. you may also incur fees or charges imposed or incurred by us; and
- e. you must arrange for the debit payment to be made by another method or arrange for sufficient clear funds to be in your account by an agreed time so that we can process the debit payment.
- f. You should check your account statement to verify that the amounts debited from your account are correct.

### 6. Dispute

- a. If you believe that there has been an error in debiting your account, you should notify us immediately and confirm that notice in writing with us as soon as possible so that we can resolve your query more quickly. Alternatively you can take it up directly with your financial institution.
- b. If we conclude as a result of our investigations that your account has been incorrectly debited we will respond to your query by arranging for your financial institution to adjust your account (including interest and charges) accordingly. We will also notify you in writing of the amount by which your account has been adjusted. If we conclude as a result of our investigations that your account has not been incorrectly debited we will respond to your query by providing you with reasons and any evidence for this finding in writing.



## 7. Accounts

You should check:

- a. with your financial institution whether direct debiting is available from your account as direct debiting is not available on all accounts offered by financial institutions.
- b. your account details which you have provided to us are correct by checking them against a recent account statement; and
- c. with your financial institution before completing the direct debit request if you have any queries about how to complete the direct debit request.

## 8. Confidentiality

- a. We will keep any information (including your account details) in your direct debit request confidential. We will make reasonable efforts to keep any such information that we have about you secure and to ensure that any of our employees or agents who have access to information about you do not make any unauthorised use, modification, reproduction or disclosure of that information.
- b. We will only disclose information that we have about you:
  - i. to the extent specifically required by law; or
  - ii. for the purposes of this agreement (including disclosing information in connection with any query or claim).

### c. Notice

If you wish to notify us in writing about anything relating to this agreement, you should:

- i. write to our address as specified in this document or subsequently notified by us; and
  - ii. email or phone our manager in your state.
- d. We will notify you by sending a notice in the ordinary post to the address you have given us in the direct debit request and/or by sending an email to your last-known email address.
  - e. Any notice will be deemed to have been received on the third banking day after posting.

## Privacy & Credit Collection notice

Liberty Oil Australia Pty Ltd ACN 114 344 437 (Liberty) respects your privacy. Liberty will only use personal information and credit information (Information) for the administration of the Affinity fuel card, for the supply of fuel and for related matters.

For these purposes, Liberty may also disclose Information to its related companies, to Viva Energy Australia Pty Ltd, to service providers (including credit reporting agencies), to security providers, to parties involved in any associated loyalty program and to others as required by law.

We authorise Liberty to make any enquires (including obtaining a credit report) concerning our creditworthiness or as to the accuracy of the information provided in this application. We consent to any credit report concerning us being made available to Liberty for the purposes of assessing this application for a Affinity Card. We authorise Liberty to use that report or any information derived from Penalty Interest Rate Act that report in assessing this application and for any purposes permitted under the Privacy Act 1988.

We agree that if we nominate an additional card holder we will first ensure that the card holder has seen this privacy declaration and agreed to their personal information being collected, used or disclosed by Liberty as above.

Liberty's privacy and credit reporting policies, available at [www.libertyoil.com.au](http://www.libertyoil.com.au), provide more details about how Liberty may deal with Information.

The policy explains:

- (a) how an individual can access or correct Information;
- (b) how an individual can make a complaint related to privacy or credit reporting;
- (c) how that complaint will be dealt with; and
- (d) the extent to which Information may be disclosed to overseas recipients (if at all).

If we have any queries about these matters or if we wish to correct any personal information held by Liberty, we can contact the Liberty privacy officer on (03) 8530 3500

The Purchaser should make its directors and other relevant individuals aware of this notice.

## Business purpose declaration

The Purchaser declares that the credit provided to it by Liberty is to be applied wholly or predominantly for either business or investment purposes. Importantly, it acknowledges that by signing this application, it may lose protection under the Consumer Credit Code.

