

## TERMS AND CONDITIONS OF SALE

These are the entire Terms and Conditions ("**Terms and Conditions**") governing the supply of all products and services ("**Products**") by any of or any combination of **MINI-TANKERS AUSTRALIA PTY LTD ABN 81 050 220 016**, **MAXI-TANKERS PTY LTD ABN 22 117 406 934**, **IFUEL PTY LTD ABN 56 145 416 066** and their related bodies corporate within the meaning of section 50 of the Corporations Law ("**RFS**") to any person placing an order with RFS for the purchase of any Products or purchasing from RFS any Products, (each of and any combination of which are referred to as "**Customer**"). Except as otherwise expressly agreed upon in writing between a duly authorised officer of RFS and the Customer, these Terms and Conditions as amended by RFS from time to time apply despite any provisions to the contrary which may appear on any order form or other document issued by the Customer.

1. **General** – All orders placed with RFS are only accepted subject to these Terms and Conditions as amended by RFS from time to time. RFS may at any time and from time to time amend these Terms and Conditions and the amended Terms and Conditions will apply to all orders of Products accepted by RFS after the amended Terms and Conditions have been posted on the RFS website [www.rfs.com.au](http://www.rfs.com.au) ("**RFS website**"). The Customer will be bound by any amendments to these Terms and Conditions as contained in the RFS website. The Customer further agrees to be bound by the terms of the RFS Privacy Policy as amended from time to time as found on the RFS website.
2. **GST** – Unless otherwise expressly agreed in writing, if any supply made under or in connection with these Terms and Conditions (as amended from time to time) by RFS to the Customer, is subject to GST then the payment for that supply will be increased by the amount equal to the GST payable and RFS will issue a tax invoice to the Customer in respect of that supply.
3. **Prices, Fees and Tax**  
The Customer must pay the prices, fees and tax (including applicable GST) chargeable by RFS for the supply of Products at the date of delivery. The prices and fees chargeable to the Customer will be as notified by RFS from time to time. For the avoidance of doubt, and without limitation, RFS has the right to charge the Customer and the Customer must pay RFS for low volume deliveries, after hour deliveries, public holiday deliveries and exceptional circumstance deliveries in the amounts and on the terms as notified by RFS from time to time. The Customer must additionally pay to RFS all merchant and credit card fees and any and all duties, taxes, including GST, government charges, levies and other costs now or in the future being levied or charged by any government or regulatory authority on any of the Products or their price in the amounts and at the rates applicable from time to time.
4. **Terms of Payment**
  - a) Unless otherwise expressly agreed in advance of delivery of the relevant Products by RFS the Customer must make payment of all amounts set out on any Tax Invoice/Statement provided by RFS to the Customer strictly in accordance with the amounts and payment terms shown on the Tax Invoice/Statement. If no payment terms are agreed or specified payment must be paid immediately after delivery of the Products.
  - b) The Customer must not withhold payment of any amount by reason of any account query, dispute or claimed deduction or set off.
  - c) To the extent permitted by law all monies received by RFS from the Customer will be applied in the manner and order determined by RFS.
  - d) If the Customer fails to make payment in accordance with clause 3 or this clause 4, RFS may, without limitation to its rights, do any one or more of the following:
    - (i) suspend or terminate any credit provided to the Customer and require the payment of cash upon delivery of any further Products;
    - (ii) charge the Customer and the Customer must pay an interest charge to RFS calculated on a cumulative day to day basis, from the due date of the payment, at the rate of two percent over the Westpac Banking Corporation overdraft rate per annum on all monies due but unpaid, (including amounts other than the price). The parties agree that such interest charge is not a penalty but is a true measure of damages incurred by RFS. The Customer must pay all costs, expenses and charges incurred by RFS on any account whatsoever in respect of that failure to make payment including any action taken by RFS to recover monies or Products from the Customer including to any mercantile agents costs and legal costs and disbursements on a solicitor-client basis;
    - (iii) suspend or terminate further deliveries of Products to or for the Customer; and
    - (iv) terminate any agreement with the Customer for supply of Products or for the provision of credit in relation to Products.
5. **Credit Limits**
  - a) RFS may, in its absolute discretion, provide credit to or impose a credit limit on the Customer at any time on the terms it notifies to the Customer.
  - b) The credit limit and terms of credit provided to a Customer may be suspended, amended or terminated by RFS at any time in its absolute discretion
6. **Delivery** – Any date or time quoted for delivery is an estimate only. RFS will endeavour to make delivery at the time or times required by the Customer but failure to do so will not confer any right of cancellation or refusal of delivery on the Customer or render RFS liable for any loss or damages directly or indirectly sustained by the Customer as a result of the delay.
  - a) The Customer will not be relieved of any obligation to accept or pay for Products by reason of any delay in delivery or any strike, lockout, unavailability of materials, accidents to machinery, differences with workmen, breakdowns, shortages of supplies or labour, fires, floods, storm or tempest, transport delays, acts of God, restrictions or interventions imposed by any laws, regulations, governments or agencies thereof and any other cause beyond the control of RFS; and
  - b) RFS' obligation to deliver will be discharged on arrival of the Products at the Customer's destination, nominated agent or the address appearing on the invoice.

7. **Authority to Refuel** – The Customer authorises RFS to refuel the Customer's plant and equipment at all times as may be necessary, despite the non-attendance of the Customer (or the person(s) signing these Terms and Conditions on behalf of the Customer) or the Customer's staff, other employees or agents at the time of fuel service. The reading and printout of the RFS micro-electronic totaliser or any other approved metering device or the digitized signature of any person having the apparent authority of the Customer will be prima facie evidence of the delivery and of the quantity of the Products delivered.
8. **Access and Safety** – The Customer:
- a) must make available to RFS and its subcontractors safe unrestricted access for delivery of Products at the Customer's nominated site or sites; and
  - b) is fully responsible for the condition, reliability and safety of its tanks and products storage equipment and must ensure that it complies with all relevant laws.
9. **Force Majeure** – RFS will not be liable for any failure or delay in supply or delivery of the Products where the failure or delay is wholly or partly due to any cause or circumstance outside the reasonable control of RFS including, war, strikes, lockouts, industrial disputes or unrest, government restrictions or interventions, transport delays, fire, act of God, breakdown of plant, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.
10. **Exclusion of Guarantees, Conditions and Warranties** – All guarantees, conditions and warranties on the part of RFS which might otherwise apply to these Terms and Conditions or arise out of the sale of the Products by RFS to the Customer are excluded, except to the extent that any law (including Schedule 2 of the Competition and Consumer Act 2010 known as the Australian Consumer Law) does not permit them to be excluded.
11. **Limitation of Remedy** - If any guarantee, warranty term or condition is implied or imposed in relation to these Terms and Conditions or the sale of the Products under the Australian Consumer Law or any other law and cannot be excluded, and RFS is lawfully able to limit the Customer's remedy for breach of such a provision, the liability of RFS for breach of the provision is limited to one or more of the following at RFS' option:
- a) replacement of the defective Products or supply of the equivalent products or services; or
  - b) payment of the cost of replacing the defective Products or of acquiring equivalent products or services.
12. **Exclusion of Liability** – To the maximum extent permitted by law and subject to RFS' obligations (if applicable) under clause 11, RFS will not be liable to the Customer and the Customer releases RFS from all liability and claims in contract, tort or otherwise at law or in equity and whether due to RFS' negligence, breach of contract, wilful act or omission or any cause of action arising out of these Terms and Conditions or the supply of Products by or on behalf of RFS to the Customer.
13. **Exclusion of Certain Damage** – To the maximum extent permitted by law and subject to RFS' obligations (if applicable) under clause 11, RFS will not be liable to the Customer and no damages will be able to be claimed by the Customer against RFS for:
- a) special, indirect, consequential, incidental, exemplary or punitive damages; or
  - b) loss of profits, loss of revenue, loss of goodwill or loss of anticipated savings whether or not such loss or damage was foreseeable.
14. **Passing of Risk** – Risk in the Products remains with RFS only to the time that the Customer receives delivery of the Products ("Point of Dispatch"). From the Point of Dispatch onwards, risk of damage, loss or deterioration of the Products from any cause passes to the Customer and RFS will not be liable for any damage, loss or deterioration of the Products after the Point of Dispatch. As a separate obligation the Customer indemnifies RFS and must keep RFS indemnified from all claims, suits, loss, liability, costs and expenses in respect of or arising out of the storage, use or on-sale of Products after their delivery to the Customer or the Customer's nominated delivery point by RFS or its subcontractors.
15. **Cancellation and Suspension of Supply** – RFS may in its absolute discretion cancel, ration, delay, suspend or refuse to accept any order (wholly or partially), for any reason, before the Products are delivered, in which case RFS will be under no obligation or have any liability to the Customer howsoever arising as a result of so doing. Without limitation to the above, in the event of a shortage of Products for any reason RFS may suspend, ration or apportion its available supplies among its customers (including the Customer) as RFS, in its absolute discretion, chooses.
16. **Disputes** – The Customer must notify RFS of any dispute of any amount invoiced by RFS to the Customer within fourteen (14) days from the date of the invoice. Unless the Customer disputes the amount within that fourteen (14) day period in writing to RFS the amount on the invoice must be irrevocably taken as accepted by the Customer as due and owing and the Customer waives any rights to dispute, claim a deduction or set-off in respect of or otherwise not pay, the amount.
17. **Partial Invalidity and Severable Portions** – In the event of one or more clauses of these Terms and Conditions being held by a Court of competent jurisdiction to be invalid or unenforceable, the remainder of these Terms and Conditions will be in no way affected.
18. **Notices** – Any notice given under these Terms and Conditions, must be given in writing and delivered, mailed, emailed or faxed to the respective parties at their address set out in any Application for Commercial Credit or at any other address either party may subsequently notify the other, by notice in writing, as being applicable for the receipt of notices.

19. **Governing Law** – These Terms and Conditions will be governed by the laws of New South Wales. Proceedings in respect of or arising out of this agreement may be instituted and maintained by RFS in its absolute discretion in any Australian State or Territory and the parties submit to the non-exclusive jurisdiction of those courts in those circumstances.
20. **Statement of Debt** – A certificate signed by a Director, Secretary, Group Commercial Manager or Credit Manager of RFS will be prima facie evidence of the amount of indebtedness of the Customer to RFS at that time.
21. **Security Interest** –
- a) For the purpose of securing payment to RFS of all monies now payable or which may become payable by the Customer to RFS in the future or contingently whether pursuant to these Terms and Conditions or otherwise ("**Money Secured**"), the Customer:
    - (i) creates a security interest in all its present and after acquired Property ("**Collateral**") (including anything in respect of which the Customer has a sufficient right or interest under the Personal Properties Securities Act 2009 (Cth) (the "**PPSA**") in favour of RFS;
    - (ii) as a further and separate obligation charges to RFS all the Customer's present and future right, title and interest in relation to any real property and any other Property other than personal property to which the PPSA applies, whether or not a demand has been made on the Customer;
    - (iii) agrees for any Property of the Customer which is an interest in real property, to deliver to RFS within seven (7) days of written demand a Memorandum of Mortgage in registrable form incorporating the provisions contained in Memorandum No. Q860000 registered at the Land Titles Office of New South Wales as amended by RFS to comply with and reflect any appropriate laws in the jurisdiction(s) where that real property is located and as further amended appropriately to comply with any formal requirements of registration along with any documents required to register the mortgage on title; and
    - (iv) authorises and consents to RFS taking all actions necessary to give effect to RFS' security interests and charges, including the lodgement of Caveats upon Title in respect of the Customer's real property and registration of its security interest on the Personal Property Security Register (the "**PPSR**"). The Customer irrevocably appoints RFS and any person nominated by RFS severally the attorney of the Customer with power to execute, sign, seal and deliver the mortgage or other documents to give effect to the terms set out in this clause 21.
  - b) The security interests created by these Terms and Conditions extend not only to the Collateral but also to all and any proceeds arising from any dealings with the Collateral.
  - c) Even though the Customer has granted a security interest over the Collateral to RFS, the Customer may keep possession of the Collateral subject to these Terms and Conditions.
  - d) If the Customer parts with possession of the Collateral or deals in any way with the Collateral in breach of these Terms and Conditions, the Customer acknowledges that RFS has not authorised the dealing or agreed that the dealing would extinguish the security interest created by these Terms and Conditions and the security interest continues in the Collateral, despite the dealing.
  - e) Despite anything referred to in this clause 21, RFS does not agree to subordinate any security interest it has in the Collateral.
  - f) RFS does not need to give the Customer any notice under the PPSA (including a notice of a verification statement or financing statement) unless the notice is required by the PPSA and that requirement cannot be excluded.
22. **Indemnity** – The Customer indemnifies RFS, and will keep RFS indemnified, now and at all times in the future, from and against all claims, damages, liabilities, costs (including legal costs on a solicitor/client basis), losses and expenses of any nature whatsoever which RFS incurs at any time as a result of or arising out of the Customer breaching these Terms and Conditions or failing to make payment of the Money Secured.
23. **Definitions and Interpretation** –
- a) in these Terms and Conditions:
    - "includes and including" are not words of limitation;
    - (i) the singular includes the plural and vice versa;
    - (ii) a person includes an individual, a company, a body corporate, a partnership, a Trust or Trustee or any unincorporated association and includes their legal personal representatives (including executors), administrators, successors, substitutes (including by way of novation) and permitted assigns;
    - (iii) a group of persons is a reference to any two or more of them taken together and to each of them individually;
    - (iv) a reference to a clause is a reference to a clause of these Terms and Conditions;
    - (v) a statute, ordinance, code or other law includes subordinate legislation (including regulations) and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
    - (vi) a provision of these Terms and Conditions must not be construed to the disadvantage of RFS merely because RFS was responsible for its preparation.
    - (vii) an obligation, agreement, release, indemnity, covenant, representation or warranty in favour of RFS is for the benefit of RFS jointly and severally;
    - (viii) an obligation, agreement, release, indemnity, covenant, representation or warranty on the part of a Customer comprising two or more persons binds them jointly and severally; and
    - (ix) a reference to any agreement includes the agreement as amended.
  - b) in these Terms and Conditions unless the context otherwise requires:
    - (i) a reference to **GST** has the meaning given in the *A New Tax System (Goods and Services Tax) Act (Cth) 1999*;
    - (ii) "**Property**" means all present and after acquired property of the Customer, wherever situated and of whatever nature, including all legal and equitable interests in real and personal property, business and trading assets, stock, choses in action, goodwill and capital.