

**EAGLE PETROLEUM (WA) PTY LTD**  
AS THE TRUSTEE FOR EAGLE PETROLEUM (WA) UNIT TRUST  
ACN 140 957 231 | ABN 97 890 451 556

2 Brinsden Road, West Kalgoorlie WA 6430

PO Box 10358, Kalgoorlie WA 6433

(08) 9022 7711

admin@eaglepetroleum.com.au

www.eaglepetroleum.com.au



## APPLICATION FOR COMMERCIAL CREDIT

The applicant described in **Part 1: Customer Information** ("Customer," "you," "your") applies to Eagle Petroleum (WA) Pty Ltd ACN 140 957 231 as The Trustee for Eagle Petroleum (WA) Unit Trust ABN 97 890 451 556 ("Eagle Petroleum," "we," "us," "our") to supply Products and hire Equipment on credit on the terms of this Application for Commercial Credit ("Credit Application"), which incorporates the attached **Part 2: Privacy Statement**, **Part 3: Credit Facility Terms**, **Part 4: Terms of Trade**, and **Part 5: Deed Poll of Guarantee and Indemnity**.

Please ensure that all parts of this Credit Application have been completed prior to submitting your application to us. A failure to complete any part of this Credit Application may result in delays in processing your application or the rejection of your application.

Upon our acceptance of your application in writing, we may agree to supply Products and hire Equipment to you on credit on the terms contained in this Credit Application.

### PART 1: CUSTOMER INFORMATION

#### CUSTOMER DETAILS

Legal Entity:			
Business Type (please select):	<input type="checkbox"/> Pty. Ltd. Company	<input type="checkbox"/> Individual / Sole Trader	<input type="checkbox"/> Corporation as Trustee
	<input type="checkbox"/> Public Company	<input type="checkbox"/> Partnership	<input type="checkbox"/> Other (Please Specify):
Trading Name (if any):			
Name of Trust (if applicable):			
ACN (if applicable):		ABN:	
Registered Address:			
Business Address:			
Postal Address:			
Business Telephone:		Email Address:	
Date Business Commenced:		Nature of Business:	
Estimated Monthly Spend:	\$	Credit Limit Requested:	\$
PO Number Required?:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Email address for invoices:
Product Requirement: Please tick	<input type="checkbox"/> Bulk Fuel	<input type="checkbox"/> Eagle Card	<input type="checkbox"/> Tank Hire
		<input type="checkbox"/> Lubricants	
Purchasing Contact:			Telephone:
Email Address:			
Accounts Payable Contact:			Telephone:
Email Address:			

#### DETAILS OF DIRECTORS / PARTNERS / SOLE TRADER

Full Name:		Date of Birth:	
Title / Position:		Mobile:	
Residential Address:		Drivers Licence No.:	
Email Address:		Director ID (DIN) No.:	
Full Name:		Date of Birth:	
Title / Position:		Mobile:	
Residential Address:		Drivers Licence No.:	
Email Address:		Director ID (DIN) No.:	
Full Name:		Date of Birth:	
Title / Position:		Mobile:	
Residential Address:		Drivers Licence No.:	
Email Address:		Director ID (DIN) No.:	

<b>Full Name:</b>		<b>Date of Birth:</b>	
<b>Title / Position:</b>		<b>Mobile:</b>	
<b>Residential Address:</b>		<b>Drivers Licence No.:</b>	
<b>Email Address:</b>		<b>Director ID (DIN) No.:</b>	

**TRADE REFERENCES (PLEASE NOTE: WE REQUIRE THREE TRADE REFERENCES)**

<b>Business Name:</b>		<b>Telephone:</b>	
<b>Email Address:</b>			

<b>Business Name:</b>		<b>Telephone:</b>	
<b>Email Address:</b>			

<b>Business Name:</b>		<b>Telephone:</b>	
<b>Email Address:</b>			

**PART 2: PRIVACY STATEMENT**

- This privacy statement encompasses consents, notifications, and disclosures under or in relation to the *Privacy Act 1988* (Cth) ("**Act**").
- The terms of this statement operate concurrently with any pre-existing privacy statement, authorisation, or notification, whether contained in our Credit Application or otherwise, save to the extent of any inconsistency in which case the terms of this privacy statement will prevail.
- For the purpose of this statement, the terms "personal information", "sensitive information", "credit eligibility information", "credit information", "commercial credit purpose", "credit guarantee purpose", "consumer credit purpose", "credit reporting body", "credit provider", "credit reporting information", "credit reporting code" carry the same meaning as under the Act and the term "Information" means personal information, sensitive information, credit eligibility information, credit reporting information and credit information, both severally and collectively.
- We may collect personal information about you and the Guarantor(s) (if any) for our primary purposes, which include the assessment of a credit application, reviewing existing credit terms, assessing credit worthiness, collecting overdue payments, assessing credit guarantees (current and prospective), internal management purposes, marketing, sales and business development purposes, and direct marketing.
- You and the Guarantor(s) (if any) consent to us collecting, using, and disclosing personal information (including sensitive information) for both our primary purposes specified herein and purposes other than the primary purposes, including the purpose of direct marketing.
- We may collect, and may already have collected, Information from you and the Guarantor(s) (if any), other credit providers, credit reporting bodies, and other third parties for the purposes of our functions and activities including, but not limited to, credit, sales, marketing, and administration. If the Information was not collected by us, it may restrict or impede upon us trading with, extending credit to, continuing to extend credit to, or extending further credit to you.
- You and the Guarantor(s) (if any) consent to us obtaining and making disclosure of Information about you and the Guarantor(s) (if any) from and to a credit reporting body, and/or another credit provider for a commercial credit related purpose, and/or a credit guarantee purpose, and/or a consumer credit purpose, and/or another related purpose. We hereby notify you and Guarantor(s) that we may use and disclose credit eligibility information under section 21G of the Act.
- We may provide your and the Guarantor(s)' (if any) personal information to any or all of the credit reporting bodies nominated below. We intend to disclose default information to any or all of the credit reporting bodies listed below. You and the Guarantor(s) consent to such disclosure. Our credit reporting policy contains a statement of notifiable matters in accordance with s21C of the Act and items 4.1 and 4.2 of the Credit Reporting Code in respect of disclosure to credit reporting bodies including what the information may be used for, what we may disclose, and your and the Guarantor(s)' right to request limitations to the use of their information.

<b>Equifax Australia</b> Level 15, 100 Arthur Street NORTH SYDNEY NSW 2060 Tel: 1300 921 621	<b>Creditor Watch</b> Level 13, 109 Pitt Street SYDNEY NSW 2000 Tel: 1300 501 312	<b>NCI</b> Level 2, 165 Grenfell St ADELAIDE SA 5000 Tel: 1800 882 820	<b>Illion</b> Level 2, 143 Coronation Drive MILTON QLD 4064 Tel: (07) 3360 0600	<b>Experian</b> Level 6, 549 St Kilda Road MELBOURNE VIC 3004 Tel: (03) 9699 0100
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- We may disclose Information to, and about you, and you and the Guarantor(s) (if any) hereby acknowledge that you consent to the disclosure of such information to our subsidiaries, employees, agents and related bodies corporate, past, present, or prospective credit providers of yours and the Guarantor(s) or their related bodies corporate, including for the purpose of that person considering whether to offer to act as guarantor or offer security for that credit.
- A full copy of our privacy policy and credit reporting policy can be obtained from our website (details above) or by making a request in writing directed to our privacy officer. Our privacy policy and credit reporting policy contain information about how to access and seek correction of Information, or how to complain about a breach of the Act, APP, code(s) and how we will deal with any such complaint.
- You and the Guarantor(s) (if any) will be deemed to have acknowledged and accepted the terms of this privacy statement by either signing and returning this statement, failing to provide written notification to us within fourteen (14) days of receipt of this privacy statement that its terms are not accepted, continuing to trade with us after receipt of this privacy statement or, if the Guarantor(s) are directors of yours, by not taking steps to prevent you from continuing to trade with us after receipt of this privacy statement.

## PART 3: CREDIT FACILITY TERMS

### Term

1. This Credit Agreement commences on the date we accept your completed Credit Application and notify you of your Credit Limit and continues until such time as it is terminated in accordance with these Credit Facility Terms.
2. The decision to grant you a Credit Facility is solely at our discretion.

### Credit Facility

3. Where we have approved your Credit Application pursuant to clause 1, we will:
  - (a) provide you with a Credit Facility for the purpose of purchasing Products from us or our Authorised Suppliers or hiring Equipment from us; and
  - (b) establish an Account for you and debit your Account from time to time with:
    - (i) all amount due for purchases of Products;
    - (ii) interest payable under clause 25; and
    - (iii) costs, fees, and charges payable by you under these Credit Facility Terms.

### Credit Limit

4. Any Credit Limit noted in this Credit Agreement or on any Statement, form, or other document issued by us to you is for our convenience only and will not be read as a commitment, promise, or warranty by us to extend any level of credit to you.
5. You must not exceed your Credit Limit and are liable to pay all amounts due to us, regardless of whether you have exceeded your Credit Limit.
6. We may refuse to supply Products to you or any Cardholder, or to process a Transaction for Products, if doing so would result in your Credit Limit being exceeded.
7. Without derogating from clause 6, we reserve the right to refuse to supply you with Products on credit (even if you have not exceeded your Credit Limit), without having to provide reasons to you for doing so.

### Fuel Cards

8. We may, in our sole discretion, issue one or more Fuel Cards to you or any person nominated by you to be a Cardholder in our Card Request Form.
9. We may refuse to issue a Fuel Card to any person nominated by you to be a Cardholder in your Card Request Form without having to provide reasons to you for doing so.
10. A Cardholder may only use their Fuel Card:
  - (a) to purchase Products from us or any Authorised Supplier using your Credit Facility; and
  - (b) whilst it is valid, and subject to earlier suspension or termination, until the expiry date shown on the Fuel Card.
11. Each Cardholder is allocated a personal identification number (PIN). Each cardholder must use their PIN when using their Fuel Card to purchase Products from us or any Authorised Supplier and must not:
  - (a) disclose their PIN to any other person;
  - (b) record or write the PIN on the Fuel Card; or
  - (c) give the Fuel Card to any other person.
12. Upon completion of a Transaction, the Cardholder will be issued with a receipt or sales voucher, which will be deemed to be prima facie evidence of the Transaction. It is the responsibility of the Cardholder to ensure that the details of the Transaction are accurately recorded on the receipt or sales voucher.
13. We or any Authorised Supplier may require a Cardholder to sign a sales voucher or other document as evidence of purchase of the Products.
14. All Fuel Cards remain our sole property.
15. We reserve the right (provided we have a legitimate business reason to do so, or if you are in breach of these Credit Facility Terms) to cancel any Fuel Card at any time. If you no longer use a Fuel Card, or if we cancel a Fuel Card, you must immediately return the disused or cancelled Fuel Card (as they case may be) to us or destroy it, if directed to do so by us.
16. You acknowledge and agree that, unless otherwise agreed in writing, we will be at liberty to charge you, and you will be required to pay to us:
  - (a) a monthly fee for each Fuel Card supplied to you;
  - (b) a one-off fee for any Fuel Card we reissue to you; and
  - (c) any other fees listed in our list of scheduled fees (as updated from time to time).

### Liability for purchases

17. Subject to clause 19, you are liable for all purchases made using your Account. We are not responsible for confirming the authority, identity, or vehicle details of any person using a Fuel Card or other persons using your Account. You are solely responsible for ensuring there is no unauthorised use of your Account.
18. If you become aware of the loss, theft, or unauthorised use of a Fuel Card or your Account, you must:
  - (a) notify us in writing as soon as possible by email to [admin@eaglepetroleum.com.au](mailto:admin@eaglepetroleum.com.au) or in writing at the address of ours noted in this Credit Agreement; and
  - (b) provide us with any documents and information you might have regard the loss, theft, or unauthorised use of the Fuel Card or your Account.
19. Until we are notified in accordance with clause 18, you will be liable for any unauthorised use of any Fuel Card or your Account.

### Suspension and cancellation of your Credit Facility

20. We may, without prejudice to any other rights which may be conferred upon us by law or equity, suspend your Credit Facility by notifying you in writing if you fail to make payment of any monies due to us by the due date for payment or for any other reason in our sole discretion.
21. We reserve the right to close your Account without notice to you if you do not use your Credit Facility for a period of twelve (12) months.

### Payment terms

22. Until we notify you that you have been granted a Credit Facility with us, all Products and supplied by us must be paid for on a cash before delivery basis.
23. Where we have granted you a Credit Facility, the terms of payment are strictly twenty (21) days from the end of month of Statement (or such other period as nominated by us in writing).
24. You must check all Statements and advise us of any errors or omissions within seven (7) days of receipt. Failing advice from you that a Statements contains any errors or omissions, the Statement will be deemed accepted by you.
25. If you default in the payment of any money due to us pursuant to these Credit Facility Terms, then in addition to any other rights which may be conferred upon us by law or equity, we will be entitled to charge you interest on such money at the rate of 18% per annum, which interest will accrue and will be recoverable for each day (or part thereof), that the money remains outstanding until payment is received by us in full. For clarity, this rate of interest will also apply to any judgment debt owing by you.
26. Any sums owed to us by you under this Credit Agreement will be made free of any set-off or counterclaim whatsoever, and without deduction or withholding whatsoever.
27. We are entitled to deduct or set off against any monies owing to you by us on any account whatsoever.

### Direct debit arrangement

28. You acknowledge and agree that:
  - (a) as a condition of granting you a Credit Facility, we may require you to execute a direct debit authority; and
  - (b) we may from time to time debit the bank account or credit card nominated in the direct debit authority executed by you with all amounts owing by you (including any fees, costs, or interest payable) on or after the due date for payment of our Statement (or if the due date does not fall on a Business Day, then on the following Business Day).
29. If your nominated bank account has more than one (1) authorised signatory, then all authorised signatories must sign the direct debit authority.
30. If funds are not available for payment in accordance with clause 28(b), we reserve the right to charge you an unpaid direct debit fee (in addition to any other amounts owing by you).
31. You may:

- (a) terminate the direct debit arrangement at any time by giving us sixty (60) days' prior written notice;
  - (b) you may stop payment of a particular debit by giving us sixty (60) days' prior written notice; and
  - (c) you may request that changes be made to the frequency of debits by contacting us and advising us of the requested change no less than ten (10) Business Days prior to the due date of our Statement.
32. If you consider a debit has been made in error, you must notify us as soon as practicable in writing.

### Retention of title

33. Until such time as you have made payment in full for any Products supplied by us, and until such time as you have made payment in full of all other money owed to us by you (whether in respect of money payable under a specific contract or on any other account whatsoever):
  - (a) title in the Products does not pass to you;
  - (b) you agree that property and title in the Products will not pass to you and we retain the legal and equitable title in those Products supplied and not yet sold;
  - (c) you will hold the Products in a fiduciary capacity for us and agree to store the Products in such a manner that they can be identified as our property, and will not mix the Products with other similar goods; and
  - (d) you will be entitled to sell the Products in the ordinary course of your business but will sell as agent and bailee for us and the proceeds of sale of the Products will be held by you on trust for us absolutely.
34. Your liability to us will not be discharged by the operation of clause 33(d) (but your levels of indebtedness will be reduced by the extent of the funds so remitted to us).
35. You agree that whilst property and title in the Products remains with us, we have the right, with prior notice to you, to enter upon any premises occupied by you (or any receiver, receiver and manager, administrator, liquidator, or trustee in bankruptcy of yours) to inspect our Products and, when payment is overdue, to immediately enter the premises (as your invitee) to repossess the Products which may be in your possession, custody, or control when payment is overdue.
36. You will be responsible for our costs and expenses (including legal costs, on a full indemnity basis) in exercising our rights under clause 35 where you are otherwise in default of this Credit Agreement. Where we exercise any power to enter the premises, that entry will not give rise to any action of trespass or similar action on your part against us, or our employees, servants, or agents.
37. You agree that where the Products have been retaken into our possession, we have the absolute right to sell or deal with the Products, and if necessary, sell any Products bearing your name or trade mark, and you hereby grant us an irrevocable licence to do all things necessary to sell such Products.
38. For the avoidance of doubt, our interest constitutes a 'purchase money security interest' pursuant to the PPS Act.

### Personal Property Securities Law

39. You acknowledge that by assenting to this Credit Agreement, which constitutes a security agreement for the purposes of the PPS Act, you grant us a security interest in all Products and Equipment (and their proceeds) now or in the future supplied or hired by us to you (or to your account).
40. You undertake to do anything that is required by us:
  - (a) so that we can acquire and maintain one or more perfected security interests under the PPS Act in respect of the Products and the Equipment (and their proceeds);
  - (b) to register a financing statement or financing change statement; and
  - (c) to ensure that our security position, and rights and obligations, are not adversely affected by the PPS Act.
41. Unless you have obtained our prior written consent, you undertake not to:
  - (a) register a financing change statement in respect of a security interest contemplated or constituted by this Credit Agreement; and
  - (b) create, or purport to create, any security interest in the Products or Equipment, nor register, or permit to be registered, a financing statement or a financing change statement in relation to the Products or Equipment in favour of a third party.
42. You:
  - (a) waive your right under section 157 of the PPS Act to receive a copy of the verification statement relating to a security interest contemplated or constituted by this Credit Agreement;
  - (b) agree that to the extent permitted by the PPS Act, the following provisions of the PPS Act will not apply and are contracted out of: section 95 (to the extent that it requires the secured party to give notices to the grantor); section 96; section 118 (to the extent that it allows a secured party to give notices to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143; and
  - (c) agree that the following provisions of the PPS Act will not apply and you will have no rights under them: section 127; section 129(2) and (3); section 130(1); section 132; section 134(2); section 135; section 136(3), (4) and (5) and section 137.
43. You agree that you will, if requested by us, sign any documents, provide any information, or do anything else we request, to ensure that any security interest created in our favour by this Credit Agreement is, to the fullest extent possible under the PPS Act, perfected in accordance with Part 2.2 of the PPS Act.
44. Notwithstanding section 275 of the PPS Act, the Parties agree to keep confidential all information of the kind referred to in section 275 of the PPS Act, unless compelled by law to disclose such information.
45. You irrevocably grant to us the right to enter upon your property or premises, with notice, and without being in any way liable to you or to any third party, if we have cause to exercise any of our rights under sections 123 or 128 of the PPS Act, and you will be liable for and indemnify us from and against any claims made by any third party as a result of such exercise.
46. You will be responsible for our costs and expenses (including legal costs, on a full indemnity basis) in exercising our rights under clause 45 where you are otherwise in default of this Credit Agreement. Where we exercise any power to enter the premises, that entry will not give rise to any action of trespass or similar action on your part against us, or our employees, servants, or agents.
47. You agree to accept service of any document required to be served, including any notice under this Credit Agreement or the PPS Act or any originating process, by prepaid post at any address nominated in this Credit Agreement or any other address later notified to us by you or your authorised representative.
48. You further agree that where we have rights in addition to those under Part 4 of the PPS Act, those rights will continue to apply.

### Charge over property

49. You charge in our favour all of your estate and interest in any real property, whether held in your own right or as capacity as trustee, you own at present and in the future with payment of all monies which are now owing or in the future become owing to us whether pursuant to this Credit Agreement or otherwise until all such monies are paid in full by you.
50. You charge in our favour all of your estate and interest in any personal property, whether held in your own right or as capacity as trustee, you own at present and in the future with payment of all monies which are now owing or in the future become owing to us whether pursuant to this Credit Agreement or otherwise until all such monies are paid in full by you.
51. As security for the payment of the amount of your indebtedness to us from time to time, you irrevocably appoint as your duly constituted attorney our company secretary from time to time to execute in your name and as your act and deed any real property mortgage, bill of sale or consent to any caveat we may choose to lodge against real property that you may own in any Land Titles Office in any state or territory of Australia (even though you may not have

- defaulted in carrying out your obligations hereunder) upon written notice and demand to you (in the event that there is no default by you in carrying out its obligations hereunder).
52. Where you have previously entered into an agreement with us by which you have granted a charge, mortgage, or other security interest (including a security interest as defined in the PPS Act) over or in respect of real or personal property, those charges, mortgages, or other security interests and the terms which directly or indirectly create rights, powers, or obligations in respect thereto will continue and co-exist with the obligations and security interests created in this Credit Agreement and will secure all of your indebtedness and obligations hereunder. We may, at our election and upon the provision of written notice, vary the terms of such previous charges, mortgages, or other securities to reflect the terms herein.
- Provision of further information**
53. You undertake to comply with any reasonable written requests made by us from time to time to provide us with further documents and information we may require for the purpose of assessing your creditworthiness.
54. If you are a corporation (with the exception of a public listed company), you must advise us of any alteration to your corporate structure (for example, by changing directors, shareholders, or your constitution). In the case of a change of directors or shareholders, we may ask for your directors to sign a guarantee and indemnity.
- Corporations**
55. If you are a corporation, you warrant and represent to us that all of your directors have signed this Credit Agreement.
- Partnerships**
56. If you enter into this Credit Agreement in your capacity as a partnership, you warrant and represent to us that all partners have signed this Credit Agreement.
57. If you are a partnership, you must not alter your partnership (for example, adding or removing partners or altering its partnership agreement) without notifying us in writing.
- Trustees**
58. If you are the trustee of a trust (whether disclosed to us or not), you warrant to us that:
- you enter into this Credit Agreement in both your capacity as trustee and in your personal capacity;
  - you have the right to be reasonably indemnified out of trust assets;
  - you have the power under the trust deed to sign this Credit Agreement; and
  - you will not retire as trustee of the trust or appoint any new or additional trustee without advising us and having the new or additional trustee sign an agreement on substantially the same terms as this Credit Agreement.
59. You must give us a copy of the trust deed upon request.
- Insolvency**
60. If you become insolvent, to the extent permitted by law, you remain liable under this Credit Agreement for payment of all liabilities incurred hereunder. You remain liable under this Credit Agreement even if we receive a dividend or payment as a result of you being insolvent.
- Indemnity**
61. You are liable for and indemnify us from and against any liability, claims, damages, losses, costs, and expenses whatsoever (including collection costs, debt recovery fees, and legal costs on an indemnity basis) that we may suffer or incur at any time, directly or indirectly, arising out of, or in connection with, any default by you in the performance or observance of your obligations under this Credit Agreement.
62. Your liability to indemnify us is a continuing obligation separate and independent from your other obligations and survives termination of this Credit Agreement.
63. It is not necessary for us to incur any expense or make any payment before enforcing our rights of indemnity conferred upon us by this Credit Agreement.
- Costs**
64. You are responsible for your own legal, accounting, and business costs in connection with the execution of this Credit Agreement. You must also pay for all stamp duty and other taxes payable on this Credit Agreement (if any).
65. You will pay our costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against you, including collection costs, debt recovery fees, bank dishonour fees, and legal costs on a full indemnity basis.
- Application of payments**
66. Subject to clauses 67 and 68, payments by, or on behalf of, you will be applied by us as follows:
- Firstly, in payment of any and all collection costs and legal costs in accordance with clauses 36, 46, 61, and 65.
  - Secondly, in payment of any interest incurred in accordance with clause 25.
  - Thirdly, in payment of any outstanding Tax Invoices (or part thereof) in an order determined by us in our sole discretion.
67. To the extent that payments have been allocated to Tax Invoices by us in our business records, we may allocate or retrospectively reallocate payments in any manner whatsoever at our absolute discretion, including in a manner inconsistent with clause 66 herein.
68. Payments allocated (or reallocated) under clause 66 or 67 will be treated as though they were allocated (or reallocated) in the manner determined by us on the date of receipt of payment.
- Notices**
69. A notice or other communication connected with this Credit Agreement has no legal effect unless it is in writing. In addition to any other method of service provided by law, a notice or other communication may be sent by pre-paid post to the address of the addressee as set out in this Credit Agreement, or sent by email or fax to the email address or fax number of the addressee.
- Termination**
70. If:
- a Party commits a material breach of this Credit Agreement and fails to remedy that breach within seven (7) days of receiving notice from the other Party requiring it to do so; or
  - an Insolvency Event occurs in relation to a Party, then the other Party may terminate this Credit Agreement by written notice to that Party, in which case this Credit Agreement will terminate immediately.
71. Each Party expressly waives any rights it may have to terminate this Credit Agreement other than as contemplated by clause 70.
72. Each Party acknowledges that the other Party may terminate this Credit Agreement under clause 70 without considering the impact of the termination on the other Party.
73. On termination of this Credit Agreement, accrued rights of a Party are not affected.
- Assignment**
74. Neither Party may assign, transfer, or novate its rights or obligations under this Credit Agreement without the prior written and fully informed consent of the other (which consent must not be unreasonably withheld).
- Waiver**
75. A waiver of any provision or breach of these Credit Facility Terms will only be effective if made by the affected Party in writing. If a Party elects not to enforce its rights arising as a result of a breach of these Credit Facility Terms, that will not constitute a waiver of any rights in relation to any subsequent or other breach.
- Severance**
76. If any provision of these Credit Facility Terms is illegal, invalid, or unenforceable, it will be read down so far as necessary to give it a valid and enforceable operation or, if that is not possible, it will be severed from these Credit Facility Terms. Other provisions which are self-sustaining are, and will continue to be, enforceable in accordance with their terms.
- Variation of Credit Facility Terms**
77. Any proposed variation to these Credit Facility Terms by you must be requested in writing and we may refuse any such request without providing reasons to you for doing so.
78. For clarity, no proposed variation of these Credit Facility Terms will be binding upon us, unless varied in writing and agreed by an authorised officer of ours. Clerical errors (such as spelling mistakes, grammatical errors, or numerical errors) may be subject to correction by us without notification
79. You agree that these Credit Facility Terms may be amended by an authorised officer of ours at any time by written notice to you. Subject to clause 80, after fourteen (14) days of receipt of the written notice of the amendments, the amendments will be deemed agreed by you.
80. If you do not agree with the amendments proposed by us, you must notify us in writing, within fourteen (14) days from receipt of the written notice, that the amendments are not agreed to. We will then be at liberty to suspend your credit facility until such time as an agreement can be reached.
- Governing law**
81. You acknowledge and agree that this Credit Agreement will be governed by the laws of Western Australia, and the laws of the Commonwealth of Australia which are in force in Western Australia.
82. The Parties to this Credit Agreement submit to the non-exclusive jurisdiction of the courts of Western Australia, and the relevant federal courts and courts competent to hear appeals from those courts.
- Entire agreement**
83. This Credit Agreement constitutes the entire agreement and understanding between the Parties in relation to its subject matter. All previous negotiations, understandings, representations, warranties, memoranda, or commitments about the subject matter of this Credit Agreement are merged in this Credit Agreement and are of no further effect. No oral explanation or information provided by a Party to another affects the meaning or interpretation of this Credit Agreement or constitutes any collateral agreement, warranty, or understanding.
84. Notwithstanding clause 83, in circumstances where there is a pre-existing written credit agreement ("**Original Agreement**") between the Parties, this Credit Agreement will constitute a variation of the Original Agreement whereby the terms and conditions of the Original Agreement are deleted and replaced with this Credit Agreement, unless the terms of the Original Agreement are otherwise expressly or implicitly preserved by this Credit Agreement, in which case they will co-exist with this Credit Agreement, and, to the extent of any inconsistency, this Credit Agreement will prevail.
- Definitions**
85. Unless the contrary intention appears, in these Credit Facility Terms:
- "**Account**" means the commercial credit account established by us for you pursuant to this Credit Agreement for the purpose of operating the Credit Facility.
- "**Authorised Supplier**" means a supplier authorised by us to supply some or all of the Products and who may accept Fuel Cards.
- "**Card Request Form**" means the application form entitled "Eagle Card Request Form" (or such other form as nominated by us from time to time).
- "**Cardholder**" means a person authorised by you to use a Fuel Card issued to you, as named by you in the Card Request Form (or subsequently nominated by you in writing).
- "**Credit Agreement**" means the Application for Commercial Credit, the Privacy Statement, these Credit Facility Terms, and the Terms of Trade.
- "**Credit Facility**" means the commercial credit facility provided by us to you to purchase Products or hire Equipment on commercial credit (whether using a Fuel Card or otherwise).
- "**Credit Facility Terms**" means these credit facility terms.
- "**Credit Limit**" means the amount notified by us to you from time to time as being the maximum amount allowed for purchases of Products or the hire of Equipment using your Account.
- "**Customer**," "**you**," "**your**" means the person acquiring Products or Equipment from us, as described in Part 1 of this Credit Agreement.
- "**Eagle Petroleum**," "**we**," "**us**," "**our**" means Eagle Petroleum (WA) Pty Ltd ACN 140 957 231 as The Trustee for Eagle Petroleum (WA) Unit Trust ABN 97 890 451 556.
- "**Equipment**" has the meaning give to this term in our Terms of Trade.
- "**Fuel Card**" means a fuel card issued to you by us (including an Eagle Card, Motorpass Card, or Shell/Liberty Card) to enable a Cardholder to purchase Products on credit in accordance with these Credit Facility Terms.
- "**Government Authority**" means:
- a government or government department or other body;
  - a governmental, semi-governmental, or judicial person; or
  - a person (whether autonomous or not) who is charged with the administration of a law
- "**GST**" has the meaning given to it by the GST Act.
- "**GST Act**" means *A New Tax System (Products and Services Tax) Act 1999* (Cth).
- "**Insolvency Event**" means any of the following events concerning a Party, unless the events take place as part of a solvent reconstruction, amalgamation, merger, or consolidation on terms approved by the other Party before it takes place and the implementation of the reconstruction, amalgamation, merger, or consolidation complies with the terms of the approval:
- if an administrator, liquidator, receiver, receiver and manager or other controller (as defined in the *Corporations Act 2001* (Cth)) is appointed to, or over, any of the property or undertaking of the Party;
  - if the Party becomes bankrupt;
  - if a controlling trustee is appointed to, or over, any of the property or undertaking of the Party;
  - if the Party's property or undertaking becomes subject to a personal insolvency arrangement under part X of the *Bankruptcy Act 1966* (Cth) or a debt agreement under part IX of the *Bankruptcy Act 1966* (Cth);
  - the Party is unable to pay its debts when they become due and payable;
  - if the Party ceases to carry on business; or
  - if any event happens in Australia or any other country or territory in respect of a Party that is similar to any of the events or circumstances referred to in this definition.
- "**Parties**" means Eagle Petroleum and the Customer, and "**Party**" means either one of them.
- "**PPS Act**" means the *Personal Property Securities Act 2009* (Cth).
- "**Products**" has the meaning give to this term in our Terms of Trade.
- "**Statement**" means a monthly statement, together with a Tax Invoice, issued by us to you and the end of each month in respect of your Transactions during that month.
- "**Tax Invoice**" has the meaning given to this expression by the GST Act.
- "**Terms of Trade**" means our terms of trade.
- "**Transaction**" means a purchase transaction using your Account or for which a Fuel Card is used by a Cardholder to purchase Products.
- Interpretation**
86. If there is any conflict or inconsistency between any of the documents which comprise this Credit Agreement, it is expressly agreed the order of precedence will be (in descending order of precedence):
- these Credit Facility Terms; and
  - our Terms of Trade.
87. Unless the contrary intention appears, a reference to:
- this Credit Agreement or another document includes any variation or replacement of it, notwithstanding any change in the identity of the Parties;
  - the singular includes the plural and vice versa;
  - "right" includes a benefit, remedy, authority, discretion, or power;
  - "information" is to information of any kind in any form or medium, whether formal or informal, written or unwritten (e.g. computer software or programs, concepts, data, plans, reports, drawings, specifications, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets);
  - "person" includes a natural person, partnership, body corporate, association, joint venture, Government Authority, or other entity;
  - a person includes the person's successors, executors, administrators, substitutes (including a person who becomes a party by novation) and assigns; and
  - any statute, ordinance, code, or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments, or replacement of any of them.
88. Headings are for convenience only and will not affect the interpretation of these Credit Facility Terms.

89. Words such as "includes", "including", and "for example" are not words of limitation and are to be construed as though followed by the words "without limitation".
90. The expressions "in writing" or "written" means any expression of information in words, numbers, or other symbols, which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.
91. Where two or more persons are defined as a Party in these Credit Facility Terms, that term means each of the persons jointly, each of them severally, and any two or more of them jointly.
92. An agreement, covenant, obligation, representation, or warranty on the part of two or more persons binds them jointly and severally and an agreement, covenant, obligation, representation, or warranty in favour of two or more persons is for the benefit of them jointly and severally.
93. Unless specified otherwise, all reference to sums of money is in terms of Australian currency (AUD), and all documents and correspondence between the Parties must be in the English language.

## ACKNOWLEDGEMENT AND CUSTOMER SIGNATURE

You hereby apply for the opening of an account and provide the information set out in **Part 1 of this Credit Application** in support of your application.

By signing this Credit Application, you warrant and represent to us that:

- all information provided by you in support of your application is true and correct;
- you agree to the terms of the **Privacy Statement** contained in **Part 2 of this Credit Application**;
- you have read and understood the **Credit Facility Terms** contained in **Part 3 of this Credit Application**;
- you have read and understood the **Terms of Trade** contained in **Part 4 of this Credit Application**;
- (if the Customer is a corporation) you understand the granting of a credit facility may, at our sole discretion, be conditional upon the Customer's directors executing the **Deed Poll of Guarantee and Indemnity** contained in **Part 5 of this Credit Application**.

### BUSINESS PURPOSE DECLARATION

The Customer declares that the credit to be provided to it by Eagle Petroleum (WA) Pty Ltd is to be applied wholly or predominantly for:

- business purposes; or
- investment purposes other than investment in residential property.

#### IMPORTANT

You should **only** sign this declaration if this credit is wholly or predominantly for:

- business purposes; or
- investment purposes other than investment in residential property.

By signing this declaration you may **lose** your protection under the National Credit Code

- you understand that if your application is accepted, all parts of this Credit Application will apply to any provision of Products and hire of Equipment to you; and
- you have obtained, or had the opportunity to obtain, independent legal advice prior to signing this Credit Application.

By signing this Credit Application, you accept, and agree to be bound by, all parts of this Credit Application.

I/We, the below named persons, are authorised to sign this Credit Application on behalf of the Customer.

Signature:		Witness Signature:	
Full Name (please print):		Witness Name (please print):	
Title / Position:		Date:	

Signature:		Witness Signature:	
Full Name (please print):		Witness Name (please print):	
Title / Position:		Date:	

## OFFICE USE ONLY – FOR COMPLETION BY EAGLE PETROLEUM

The Customer's application is accepted. Signed on behalf of Eagle Petroleum (WA) Pty Ltd.

Signature:		Title / Position:	Chief Executive Officer
Full Name (please print):	Jessica Wilson	Date:	
Credit Limit Approved:			

## PART 4: TERMS OF TRADE

### Application of Terms

1. These Terms set out the contractual basis upon which we agree to supply you with Products and/or Equipment and apply whenever:
  - (a) Products are quoted for, sold, or supplied by us to you; and
  - (b) Equipment is hired by us to you.
2. Any terms or conditions included in, attached to, or referenced in your Order, or any other document provided by you (including any purchase order terms subsequently given to us by you) deviating from, or inconsistent with, these Terms, are expressly rejected by us and will not vary or supplement these Terms.
3. Each supply which we make following our acceptance of an Order will be regarded as a separate Contract, which is subject to these Terms.
4. Where we have granted you a Credit Facility, our Credit Facility Terms apply. In the event of any conflict or inconsistency between these Terms and our Credit Facility Terms, our Credit Facility Terms prevail to the extent of the conflict or inconsistency.

### Quotations

5. Quotations made by us are estimates only and will not be construed as an offer or obligation to supply any Products or hire any Equipment to you.
6. Unless stated otherwise, quotations made by us:
  - (a) may be made orally or in writing;
  - (b) are exclusive of GST;
  - (c) are exclusive of the costs of delivery; and
  - (d) will remain valid for a period of one (1) day from the date of quotation.
7. You acknowledge and agree that quotations made by us may include additional terms or conditions, which will supplement (and are intended to be read in conjunction with) these Terms.
8. We reserve the right to withdraw, vary, or extend the time for acceptance in respect of any quotation made by us at any time prior to the formation of a Contract in accordance with clause 11.

### Formation of Contract

9. You may accept these Terms (and you will be deemed to accept these Terms) if you, following receipt of a copy of these Terms:
  - (a) confirm your acceptance of these Terms; or
  - (b) place an Order with us.
10. We reserve the right to not accept your Order, without having to provide reasons to you for doing so. For clarity, nothing in these Terms obliges us to supply you with any Products or hire any Equipment to you at any time.
11. Any Order placed by you, or the submission of a Hire Request Form, will be construed as an offer. A binding Contract will only come into existence, if:
  - (a) we communicate our acceptance of your Order or Hire Request Form, whether in writing or by electronic means; or
  - (b) we:
    - (i) supply you with any Products following receipt of your Order; or
    - (ii) hire any Equipment to you following receipt of your Hire Request Form.
12. For clarity, a Contract is formed at the location of ours where your Order is accepted by us.

### Price and payment terms

13. Subject to clause 14, the Price payable for the Products will be in accordance with our then prevailing price as applicable as at the date of delivery (as notified by us to you from time to time).
14. Where we have issued you a quotation, the Price will be our quoted price (subject to clauses 6 and 23 to 25) which will be binding on us provided you accept our quotation in writing within the period it is valid for acceptance.
15. Unless we have granted you a credit facility, the terms of payment are strictly cash before delivery, or such other terms as agreed by us in writing.
16. Payment may be made by cash, Electronic Funds Transfer (EFT), Visa, MasterCard, and Amex credit cards. We reserve the right to change the payment methods that we accept at any time.
17. You acknowledge that we will be at liberty to charge a payment surcharge for applicable transactions equal to our reasonable cost of acceptance.
18. We reserve the right to require payment of a non-refundable deposit. The amount of the deposit will be specified in our quotation or will be advised by us and will immediately become due and payable upon the formation of a Contract in accordance with clause 11, unless otherwise agreed in writing. For clarity:
  - (a) where we require payment of a deposit, we are under no obligation to supply any Products or hire any Equipment to you until the deposit has been received by us in cleared funds; and
  - (b) the deposit will be refundable in circumstances where:
    - (i) you are entitled to a refund under the Australian Consumer Law; or
    - (ii) you terminate a Contract because of our breach.
19. If GST is imposed on a Taxable Supply made by us to you under any Contract of which these Terms form part, the price of the Taxable Supply will be equal to the GST-exclusive consideration that you must pay to us for the Taxable Supply under the Contract increased by an amount (the "**GST Amount**") equal to the amount of GST payable on that Taxable Supply. The GST Amount is, subject to us issuing a Tax Invoice to you, payable at the same time and in the same manner as the consideration to which it relates. If we become liable to pay any tax, duty, excise, or levy in connection with any Contract of which these Terms form part, you must pay us these additional amounts upon written demand.
20. Any sums owed to us by you will be made free of any set-off or counterclaim whatsoever, and without deduction or withholding whatsoever.
21. We are entitled to deduct or set off against any monies owing to you by us on any account whatsoever.

### Default

22. If you default in the payment of any money due to us pursuant to any Contract of which these Terms form part by the date specified in our Tax Invoice (including any deposit required by us under clause 18), we are entitled to, without prejudice to any other rights which may be conferred upon us by law or equity, do any or all of the following:
  - (a) charge you interest on the outstanding amount at the rate of 18% per annum, which interest will accrue and will be recoverable for each day (or part thereof), that the money remains outstanding until payment is received by us in full;
  - (b) require you to pay, in advance, for any Products (or any part of the Products) which have not yet been supplied; and
  - (c) suspend or cease the supply of any further Products to you.

### Variations

23. If you request or direct that any Products or Equipment be supplied that are not strictly in accordance with our quotation or your Order or Hire Request Form, then such Products or Equipment will constitute a variation.
24. You understand and agree that:
  - (a) all variations must be agreed in writing prior to the Products or Equipment that are the subject of the variation being supplied; and
  - (b) all variations will be, in our discretion, invoiced at the rates specified in our quotation, as specifically quoted, or in accordance with our then prevailing price list/rates.
25. Notwithstanding clauses 23 to 24, and subject to any rights you might have under the *Competition and Consumer Act 2010* (Cth) or any other legislation, we reserve the right to vary the quoted Price, if:
  - (a) the Products or Equipment specified in your Order are varied from the Products or Equipment specified in our quotation (or are otherwise varied following the formation of a Contract); or
  - (b) otherwise as provided for in these Terms.

### Order cancellations

26. You may not cancel an Order (or any part of an Order) once a Contract has been formed, and delivery of the Products or Equipment (once mobilisation has commenced) cannot be deferred.
27. You must indemnify us against any damage or loss we have suffered or incurred or may incur as a result of the cancellation, deferral, or return, including demobilisation costs, third-party supplier restocking fees, cartage, bank charges, other incidental expenses incurred on any part of your Order, and loss of profits.

### Delivery of Products and Equipment

28. Unless our quotation states otherwise, you will be liable for all costs associated with delivery, including cartage/freight, handling, and other charges.
29. You must make all arrangements necessary to take delivery of the Products or Equipment whenever they are tendered for delivery.
30. You acknowledge and accept that any period or date for delivery stated by us is intended as an estimate only and is not a contractual commitment. We will not in any circumstances be liable for any loss or damage suffered by you or any third party for failure to meet any estimated delivery date.
31. Delivery will be made within Business Hours on Business Days, unless otherwise agreed in writing.
32. Delivery is deemed to occur at the time:
  - (a) you, or any third party on your behalf, collects the Products or Equipment from us;
  - (b) the Products are delivered to the delivery location specified in your Order (or to such other location as otherwise agreed in writing) or the Equipment is delivered to the Site;
  - (c) your nominated carrier takes possession of the Products or Equipment, in which event the carrier will be deemed to be your agent.
33. If requested by us, you or your duly authorised representative must sign our delivery docket as confirmation that the Products ordered by you, or the Equipment hired by you, have been received by you in apparent good order and condition.
34. If delivery of the Products or Equipment is deferred:
  - (a) at your request; or
  - (b) due to you being unable to accept delivery (for whatever reason), when:
    - (c) (where no date for delivery has been specified by you) we are ready to effect delivery;
    - (d) (where a delivery date has been specified by you or a Hire Term has been agreed) the Products or Equipment are due to be delivered,then we will be entitled to charge you, and you must pay to us:
  - (e) reasonable storage charges (which will accrue daily until such time as delivery is effected); and
  - (f) a charge to reattempt delivery (where delivery has previously been attempted).
35. You acknowledge and accept that:
  - (a) we may deliver Products or Equipment by instalments and reserve the right to require payment for each separate instalment in accordance with these Terms; and
  - (b) you are not relieved from any obligation arising under these Terms, or any Contract of which these Terms form part, by reason of any delay in delivery, and delay in delivery will not entitle you to rescind the Contract.

### Risk in Products

36. Risk of loss or damage to the Products passes to you upon delivery to you or to your agent or to a carrier commissioned by you in accordance with clause 32.
37. You must insure the Products for their full replacement value on or before delivery against all losses which may be sustained as a result of the loss, damage, or destruction of the Products (or any part thereof) by accident, theft, fire, explosion, flood, negligence, and such other insurable causes as may be available and must include us as co-insured.
38. If you request that Products are to be delivered either to an unattended location, you acknowledge that we may, in our sole discretion and subject to any laws relating to the transport or storage of Products, deliver the Products as requested at your sole risk.

### Title to Products

39. Until such time as you have made payment in full for the Products and until such time as you have made payment in full of all other money owing by you to us (whether in respect of money payable under a specific Contract or on any other account whatsoever) title in the Products does not pass to you, and you agree that property and title in the Products will not pass to you, and we retain the legal and equitable title in those Products supplied and not yet sold.

### Claims in respect of Products

40. You must, within seven (7) days of the date of delivery:
  - (a) give us written notice, with particulars, of any claim that the Products delivered are not in accordance with your Order (including any claim for shortfall, incorrect supply, or damage to the Products); and
  - (b) provide us with photographic evidence (to our satisfaction) of any alleged damage to the Products.
41. If you fail to provide us with notice under clause 40, then to the extent permitted by law, the Products must be treated as having been accepted by you and you must pay for the Products in accordance with the Contract.
42. Unless otherwise agreed in writing, you must pay all costs associated with the return of any Products (either to us or from us to you or any third party) including freight, insurance, handling, and other charges.
43. Products cannot be returned to us without our prior written consent. To the extent permitted by law, Products that have been specifically produced or procured at your request cannot be returned in any circumstances.
44. Any return (except for Products deemed by us to be incorrectly supplied or deemed by us to be defective) will incur a handling and administration charge of 20% of the purchase Price of the returned Products, unless otherwise agreed in writing.
45. Products to be returned to us must be in a saleable condition, unsoiled, and undamaged.
46. We accept no liability for any damage that occurs to any Products in return transit.

### Comply with laws

47. You must:
  - (a) provide suitable and safe facilities for receiving Petroleum Products; and
  - (b) comply with all laws (including all environmental laws); and
  - (c) the safety of its employees, agents, contractors, and invitees and must provide and ensure that all persons engaged in the collection, transport, and storage of Products observe at all times a safe system of work that complies with all relevant laws.

### Hire of Equipment

48. Where we have been engaged to hire Equipment to you, the Hire Term will commence on the Commencement Date and will continue thereafter until the conclusion of the Hire Term, unless:
  - (a) the Term is extended in accordance with clause 50 hereof; or
  - (b) the Term is terminated earlier in accordance with these Terms.
49. Upon delivery of the Equipment in accordance with clause 34, you must inspect the Equipment and must immediately notify us if the Equipment is unsuitable for the purpose of hire or is not in good order. If you fail to provide us with such notice, then, to the extent permitted by law, you will be deemed to have inspected the Equipment, accepted the Equipment in the condition it was provided, and satisfied yourself as to the suitability of the Equipment for the purpose of hire.
50. At any time up until the conclusion of the Hire Term, you may request that the Hire Term be extended. We may, in our sole discretion, agree to such an extension and will specify the period by which we agree to extend the Hire Term ("**Extended Hire Term**").
51. If we agree to an extension of the Hire Term pursuant to clause 50, and you will be liable to pay to us additional charges to hire the Equipment in accordance with the rates set out in the Contract or as otherwise agreed in writing.

52. Upon the conclusion or earlier termination of the Hire Term (or Extended Hire Term, as the case may be), you will be liable to pay to us additional charges at the applicable daily rate (and if a daily rate is not specified for the relevant Equipment, it will be calculated by reference to the relevant Hire Charge paid by you) for each day (or part thereof) until such time as the Equipment is either:
- collected by us; or
  - returned to our premises (or such other location nominated by us).
53. Upon the conclusion or earlier termination of the Hire Term (or Extended Term, as the case may be):
- if it is agreed that the Equipment is to be collected by us, you must ensure that the Equipment is ready for collection by us at the time and place agreed between the Parties in the same state of cleanliness and condition that it was in at the time you took possession of it (Fair Wear and Tear excepted); or
  - if it is agreed that the Equipment is to be returned to our premises (or such other location nominated by us) by you, then you must return the Equipment to our premises (or such other location nominated by us) by the time and date required in the same state of cleanliness and condition that it was in at the time you took possession of it (Fair Wear and Tear excepted).

#### Hire of Equipment – Additional Charges

54. In consideration of us hiring the Equipment to you, you agree to pay to us the Hire Charge.
55. Unless specified otherwise in writing, the Hire Charge does not make allowance for the following items (“**Additional Charges**”):
- delivery;
  - mobilisation;
  - demobilisation;
  - installation;
  - insurance;
  - scheduled services;
  - repairs (minor and major);
  - consumables;
  - cleaning fees;
  - decontamination costs; and
  - all other costs and expenses incurred or paid by us in connection with the hire of Equipment to you or your use of the same.
56. Subject to clause 57, if any Additional Charges arise, they will be payable by you as an extra charge in addition to the Hire Charge.
57. The right to payment for Additional Charges will be valued in the following order of precedence:
- any applicable rates or prices or other value methods as provided by the Contract;
  - by agreement between the Parties;
  - reasonable rates and prices; and
  - costs incurred by us plus a reasonable margin for profit and overheads.

#### Hire of Equipment – Title and risk

58. You acknowledge that we own the Equipment and in all circumstances we retain title to the Equipment (even if you go into liquidation or become bankrupt during the Hire Term). Your rights to use the Equipment are as a bailee only.
59. Risk of damage to or loss of the Equipment passes to your on delivery in accordance with clause 32, and you acknowledge that the Equipment will remain at your sole risk during the Hire Term and during any further period in which you have possession, custody, or control of the Equipment (“**Risk Period**”) until such time as the Equipment is repossessed by us.
60. You must:
- keep the Equipment insured for no less than its full replacement value (noting our interest as owner of the Equipment), against fire, theft, and damage and the other usual risks which a prudent owner or hirer would insure and any other risks specified by us, acting reasonably; and
  - take out and maintain during the Risk Period public risk and liability insurance for an amount of not less than \$15 million per any one occurrence.
61. You:
- must provide to us on request a copy of all insurance policies and certificates of insurance in respect of such policies;
  - must pay each insurance premium for the insurance required to be held under this Agreement before the due date and, upon request from us, produce receipts for the payment;
  - must not do or permit anything which prejudices any insurance required to be held under this clause;
  - must not, without our prior written and fully informed consent:
    - insure the Equipment only in your name;
    - vary, cancel, or allow to lapse insurance in connection with the Equipment during the Risk Period;
    - immediately rectify anything which might prejudice any insurance required to be held under this clause and reinstate the insurance if it lapses; and
    - notify us immediately when an event occurs which gives rise or might give rise to a claim under a policy of insurance required by clause 60.
62. If the Equipment is damaged, destroyed, or stolen during the Risk Period due to any act or omission of yours, your servants, agents, employees, invitees, or any third party, including through failure to comply with these Terms, you must:
- pay to us all money past due in relation to the Hire Charge plus the cost of repair and/or replacement of the Equipment; and
  - repair the Equipment if reasonably directed to do so by us (a direction to repair will be at our sole discretion); and
  - indemnify us in respect of any loss and/or damage we may suffer or incur, including any consequential losses associated with the loss and/or damage of the Equipment.
63. Notwithstanding clause 62, if the Equipment is damaged, destroyed, or stolen during the Risk Period, we are entitled to receive all insurance proceeds payable in respect of the Equipment. The production of these Terms by us is sufficient evidence of our rights to receive the insurance proceeds without the need for any person dealing with us to make further enquires.

#### Hire of Equipment – Your obligations

64. You acknowledge and agree that you must:
- prior to hiring the Equipment, apply for and obtain all Approvals required by law in respect of your use of the Equipment (and provide a copy of the same to us, if requested to do so by us);
  - keep the Equipment in good working order and condition and provide us with reports on the condition of the Equipment whenever reasonably requested to do so;
  - protect the Equipment against acts of theft and vandalism, and store the Equipment safely and securely (at your own cost);
  - keep the Equipment in your possession, in a suitable place, and not part with possession of any Equipment or enter into any sub-lease agreement in respect of the Equipment without our prior written and fully informed consent;
  - not sell, pledge, assign, or otherwise deal with the Equipment in a manner inconsistent with our rights and interest in the Equipment;
  - not remove the Equipment from the Site without our prior written and fully informed consent;
  - maintain the Equipment as required by us (using only products, parts, and consumables approved by us);
  - not alter, tamper with, modify, repair (or attempt to alter, tamper with, modify, or repair) any Equipment without our prior written and fully informed consent;
  - not alter, remove, deface, or cover up any label, plates, or marks on the Equipment which bear the name of us, or any other entity, or any trade marks or trade names used in relation to the Equipment;

- not allow any person to operate the Equipment except strictly in accordance with the law and in line with the Equipment's intended purpose;
- not allow any person to operate (or attempt to operate) the Equipment under the influence of drugs and/or alcohol;
- observe warranties and maintenance guidelines given by us and the manufacturer of the Equipment;
- use best endeavours to use the Equipment in a manner that will minimise damage to the Equipment;
- ensure that we can, and allow us to, enter at all reasonable times, land or buildings owned or occupied by you to inspect the condition of, to monitor, and otherwise enforce our rights and carry out our obligations in respect of the Equipment;
- comply on time with all of its obligations in connection with the Equipment, including statutes and requirements and orders of any Government Authority (include any Approvals), including, for the removal of doubt, all environmental laws;
- immediately give to us any notice or order received from any Government Authority about the use or condition of the Equipment;
- use best endeavours to ensure that the Equipment is not contaminated with any noxious or hazardous substances;
- promptly notify us in writing of any breakdown or loss of, material damage to, or contamination of the Equipment (however so caused) and take all reasonable steps to secure and safeguard the Equipment from any potential damage or injury to any person and/or property (including further damage to the Equipment); and
- indemnify us for all injury and/or damage caused to persons and property in relation to the Equipment and its operation and have adequate insurance to cover all liabilities incurred as a result of the use of the Equipment.

#### Indemnity

65. You are liable for and indemnify us in respect of all liability, claims, damage, loss, costs, and expenses (including collection costs, debt recovery fees, and legal costs on an indemnity basis) that we may suffer or incur at any time, directly or indirectly, as a result of:
- any default by you in the performance or observance of your obligations under any Contract of which these Terms form part;
  - loss of, or damage to, the Equipment by any cause (including lawful confiscation) during the Risk Period;
  - damage to property or death of, or injury to, any person caused directly or indirectly by the Equipment during the Risk Period;
  - any claim against us in relation to any incident concerning the Equipment or its use, operation, transportation, or storage where such incident occurs during the Risk Period;
  - any other thing in relation to which you have assumed the risk or liability under these Terms; or
  - any contamination or breach of any environmental law occurring at the Site or any other place as a consequence of the custody, transfer, storage, or use of the Products or Equipment.
66. Your liability to indemnify us will be reduced proportionally only to the extent that:
- any negligent act or omission by us or a breach of our obligations under any Contract of which these Terms form part has contributed to the liability, claim, damage, loss, cost, or expense which is the subject of the indemnity; or
  - these Terms make us specifically liable for any cost or expense or rectifying or repairing any defect in, or damage to the Products or the Equipment.
67. Your liability to indemnify us is a continuing obligation separate and independent from your other obligations and survives the performance or termination of any Contract of which these Terms form part.
68. It is not necessary for us to incur any expense or make any payment before enforcing our rights of indemnity conferred by these Terms.

#### Nature of relationship

69. For the removal of doubt, nothing in these Terms, or any Contract of which these Terms form part, is to be construed as giving rise to a relationship of agency, partnership, joint venture, trust, or other relationship with duties or incidents different from those of parties to an arm's-length contract.

#### Limitation of liability

70. We will not be liable for any loss or damage, however caused (including by our negligence), suffered or incurred by you in connection with any incorrect information contained in an Order or otherwise provided by or on behalf of you to us from time to time.
71. Subject to clauses 70, 72, 73, and 75, our liability for any loss or damage, however caused (including by our negligence), suffered or incurred by you in connection with any Contract of which these Terms form part is limited to the sum paid to us by you in respect of that Contract prior to the date you first suffered loss or damage in connection with that Contract. The limitation contemplated in clause 71 is an aggregate limit for all claims, whenever made.
72. Subject to clause 75, we are not liable for any Excluded Loss, however caused (including by our negligence), suffered or incurred by you in connection with any Contract of which these Terms form part.
73. For clarity, and without limiting clauses 70 to 73, the Parties agree that clauses 70 to 73 are to apply in connection with a breach of a Contract, anticipated breach of a Contract, and other conduct regardless of the seriousness or nature of that breach, anticipated breach, or other conduct.
74. If the *Competition and Consumer Act 2010* (Cth) or any other legislation provides that there is a guarantee in respect of any Products or Services supplied or Equipment hired in connection with any Contract of which these Terms form part and our liability for failing to comply with that guarantee cannot be excluded but may be limited, clauses 70 to 73 do not apply to that liability and instead our liability for such failure is limited to:
- in the case of a supply of Products, us replacing the Products or supplying equivalent Products;
  - in the case of the hire of Equipment, us repairing the Equipment or supplying equivalent Equipment; or
  - in the case of a supply of Services, us supplying the Services again or paying the cost of having the Services supplied again.

#### Termination of Contract

76. We may, with immediate effect, terminate any Contract of which these Terms form part by written notice to you, if:
- you fail to make payment of any money due to us pursuant to any Contract of which these Terms form part by the date specified in our Tax Invoice (including any deposit required by us under clause 18);
  - you commit a material or persistent breach of these Terms and do not remedy the breach within seven (7) days of receipt of a notice identifying the breach and requiring its remedy; or
  - we are no longer able to, for whatever reason, supply the Products or Equipment (or any part of the Products or Equipment).
77. For clarity, termination of any Contract of which these Terms form part will not affect the rights which have already accrued to a Party at the time of termination, whether under that Contract or otherwise.

#### Costs

78. You will pay our costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against you, including collection costs, debt recovery fees, bank dishonour fees, and legal costs on a full indemnity basis.

#### Force majeure

79. We are not liable to you for any delay or failure to perform any obligation under any Contract of which these Terms form part if such delay or failure to perform is due to a Force Majeure Event.

#### Variation of Terms

80. No variation of these Terms, or any Contract of which these Terms form part, requested by you will be effective, unless varied in writing and agreed between the Parties. Clerical errors (such as spelling mistakes, grammatical errors, or numerical errors) may be subject to correction by us without notification.

81. We may amend these Terms by notifying you in writing. The amended Terms will apply to any Order placed by you following us notifying you of the amendments.

#### Assignment

82. Neither Party may assign, transfer, or novate its rights or obligations under any Contract of which these Terms form part without the prior written and fully informed consent of the other (which consent must not be unreasonably withheld).

#### Waiver

83. A waiver of any provision or breach of these Terms, or any Contract of which these Terms form part, will only be effective if made by the affected Party in writing. If a Party elects not to enforce its rights arising as a result of a breach of a Contract, that will not constitute a waiver of any rights in relation to any subsequent or other breach.

#### Severance

84. If any provision of these Terms, or any Contract of which these Terms form part, is illegal, invalid, or unenforceable, it will be read down so far as necessary to give it a valid and enforceable operation or, if that is not possible, it will be severed from the Contract. Other provisions which are self-sustaining are, and will continue to be, enforceable in accordance with their terms.

#### Entire agreement

85. Subject to clause 4, the Contract constitutes the entire agreement and understanding between the Parties. All previous negotiations, understandings, representations, warranties, memoranda, or commitments about the subject matter of the Contract are merged in the Contract and are of no further effect. No oral explanation or information provided by a Party to another Party affects the meaning or interpretation of the Contract, or constitutes any collateral agreement, warranty, or understanding.

#### Governing law

86. These Terms, and any Contract of which these Terms form part, will be governed by and construed in accordance with the laws of Western Australia, and the laws of the Commonwealth of Australia in force in Western Australia.
87. The Parties submit to the non-exclusive jurisdiction of the courts of Western Australia, and the relevant federal courts and courts competent to hear appeals from those courts.

#### Definitions

88. Unless the contrary intention appears, in these Terms:

**"Approval"** means any licence, permit, consent, approval, determination, certificate, or permission from any Government Authority, or any other person, or any requirement made under or issued in accordance with any law, which must be obtained or satisfied (as the case may be) with respect to your use of the Equipment.

**"Australian Consumer Law"** means the Australian Consumer Law as set out in Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

**"Authorised Supplier"** means a supplier authorised by us to supply some or all of the Products and who may accept Fuel Cards.

**"Business Day"** means a day that is not a Saturday, Sunday, or public holiday in Perth, Australia.

**"Business Hours"** means 07:30am to 5:00pm.

**"Commencement Date"** means the earlier of:

- the on-hire date stated in the Hire Request Form;
- the date of delivery of the Equipment to you; or
- upon you collecting the Equipment from us.

**"Contract"** means a contract for the supply of Products or the hire of Equipment (as the context requires), as constituted by our quotation (if any), your Order or Hire Request Form, and these Terms.

**"Credit Facility"** means the commercial credit facility provided by us to you to purchase Products or hire Equipment on commercial credit (whether using a Fuel Card or otherwise) (where applicable).

**"Credit Facility Terms"** means our credit facility terms, as set out in the credit agreement executed by you (where applicable).

**"Customer," "you," "your"** means the corporation, partnership, person, or other entity acquiring Products or hiring Equipment from us.

**"Eagle Petroleum," "we," "us," "our"** means Eagle Petroleum (WA) Pty Ltd ACN 140 957 231 as The Trustee for Eagle Petroleum (WA) Unit Trust ABN 97 890 451 556.

**"Equipment"** means any equipment including, storage tanks and pumps (including associated or attached tools, parts, and accessories), hired or leased by you from us.

**"Excluded Loss"** means any:

- consequential loss;
- loss of revenues;
- loss of reputation;
- loss of goodwill;
- loss of profits;
- loss of bargain;
- indirect loss;
- special loss;
- lost opportunities, including opportunities to enter into arrangements with third parties;
- loss or damage in connection with claims against you by third parties; or
- loss or corruption of data.

**"Fair Wear and Tear"** means wear and tear which would be normal for similar Equipment operating in usual conditions, but excludes:

- damage from collision or abuse;
- damage to instrumentation; and
- damage caused by moving the Equipment (when done not under our direct supervision).

**"Force Majeure Event"** means any act of God, acts, decrees, or regulations of Government Authorities, casualty, fire, explosion, storm, flood, frost or snow, earthquake, embargo, industrial action, strike, lockout, civil commotion, riot, insurrection, war, epidemic or pandemic, damage to or destruction of facilities, equipment or mechanical breakdown, failure of a third-party supplier or service provider, or any other cause beyond our reasonable control.

**"Fuel Card"** has the meaning given to this term in our Credit Facility Terms.

**"Government Authority"** means:

- a government or government department or other body;
- a governmental, semi-governmental, or judicial person; or
- a person (whether autonomous or not) who is charged with the administration of a law

**"GST"** has the meaning given to it by the GST Act.

**"GST Act"** means *A New Tax System (Products and Services Tax) Act 1999* (Cth).

**"Hire Charge"** means, in relation to the hire Equipment, the amount, or amounts, payable by you to us to hire the Equipment for the Hire Term (and any further period during which you have possession, custody, or control of the Equipment), being the amount, or amounts, specified in our quotation, hire schedule, Statement, or any other form or document as provided by us, or, if not specified, based on our then current rates.

**"Hire Request Form"** means the application form entitled "Eagle Petroleum Hire Request Form" (as amended from time to time) and signed by the Parties, or any other Order detailing the particulars of the agreement between the Parties for the hire of Equipment.

**"Hire Term"** means where we have been engaged to hire Equipment to you, the period the Equipment is hired by you, as agreed between the Parties (and includes any period by which the Hire Term is to be extended, as contemplated by clause 50).

**"Lubricants"** means lubricating oils, greases, brake fluids, coolants, fuel performance additives, degreasers and any other similar goods.

**"Order"** means a written or oral order placed by you offering to acquire Products or hire Equipment from us.

**"Parties"** means Eagle Petroleum and the Customer, and **"Party"** means either one of them.

**"Petroleum Products"** means unleaded petrol, premium petrol, diesel, solvents, and any other products which may be used in combustion engines or propelling motor vehicles.

**"Price"** means the price payable for the Products, as notified by us to you from time to time.

**"Products"** means all goods supplied by us (or any Authorised Supplier of ours) to you and includes Petroleum Products and Lubricants (and where the context so permits includes any performance of Services) and as are described on our Tax Invoices, quotation, or any other forms as provided by us to you, but does not include Equipment.

**"Services"** means all services performed by us (and where the context so permits includes any supply of Products), but does not include the hire of any Equipment.

**"Site"** means the location where the Equipment is to be situated during the Hire Period as specified in the Hire Request Form or as otherwise agreed between the Parties in writing.

**"Tax Invoice"** and **"Taxable Supply"** have the same meaning as in the GST Act.

**"Terms"** means these terms of trade.

#### Interpretation

89. If there is any conflict or inconsistency between any of the documents which comprise a Contract, it is expressly agreed the order of precedence will be (in descending order of precedence):

- any additional terms or conditions contained in our quotation (where applicable);
- our Credit Facility Terms (where applicable);
- these Terms; and
- any other documents issued by us.

90. Unless the contrary intention appears, a reference to:

- these Terms or another document includes any variation or replacement of them notwithstanding any change in the identity of the Parties;
- a reference to a clause is a reference to a clause contained in these Terms;
- the singular includes the plural and vice versa;
- "right" includes a benefit, remedy, authority, discretion, or power;
- "information" is to information of any kind in any form or medium, whether formal or informal, written or unwritten (e.g. computer software or programs, concepts, data, plans, reports, drawings, specifications, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets);
- "person" includes a natural person, partnership, body corporate, association, joint venture, Government Authority, or other entity;
- a person includes the person's successors, executors, administrators, substitutes (including a person who becomes a Party by novation), and assigns; and
- any statute, ordinance, code, or other law includes regulations and other statutory instruments under any of them and consolidations, amendments, re-enactments, or replacement of any of them.

91. Headings are for convenience only and will not affect the interpretation of these Terms.

92. Words such as "includes", "including", and "for example" are not words of limitation and are to be construed as though followed by the words "without limitation".

93. The expressions "in writing" or "written" means any expression of information in words, numbers, or other symbols, which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

94. Where two or more persons are defined as a Party in these Terms, that term means each of the persons jointly, each of them severally, and any two or more of them jointly.

95. An agreement, covenant, obligation, representation, or warranty on the part of two or more persons binds them jointly and severally and an agreement, covenant, obligation, representation, or warranty in favour of two or more persons is for the benefit of them jointly and severally.

96. Unless specified otherwise, all reference to sums of money is in terms of Australian currency (AUD), and all documents and correspondence between the Parties will be in the English language.

97. Nothing in these Terms is to be read or construed to purport to exclude, restrict, or modify or have the effect of excluding, restricting, or modifying the application in relation to the supply of Products or Services all or any of the provisions the *Competition and Consumer Act 2010* (Cth) or any other law which cannot be excluded, restricted, or modified.



## PART 5: DEED POLL OF GUARANTEE AND INDEMNITY

To: Eagle Petroleum (WA) Pty Ltd ACN 140 957 231 as The Trustee for Eagle Petroleum (WA) Unit Trust ABN 97 890 451 556 ("Eagle Petroleum")

Each of the below named persons ("Guarantors") hereby covenant and undertake and if more than one, jointly and severally, as follows.

### Consideration

1. In consideration of Eagle Petroleum extending or agreeing to extend credit or further credit to the Customer at the Guarantors' request (testified by the Guarantors' execution of this Credit Agreement) for Products sold or to be sold from time to time or Services provided or to be provided, the Guarantors guarantee payment to Eagle Petroleum of all money which is now or at any time in the future becomes due and payable to Eagle Petroleum by the Customer on any account or accounts whether now existing or which may in the future be opened or in any manner whatsoever, including but not limited to amounts payable by the Customer to Eagle Petroleum arising out of a relationship of trustee and beneficiary.

### Guarantee and indemnity

2. The Guarantors agree to guarantee and indemnify Eagle Petroleum against all losses damages or expenses that Eagle Petroleum may suffer as a result, either directly or indirectly, of any failure by the Customer to make due payment of any money owing to Eagle Petroleum (including, for the removal of doubt, any interest) whether for Products sold, Services provided or otherwise or to observe the terms of any agreement between the Customer and Eagle Petroleum, including costs on a full indemnity basis of any attempt or attempts to recover from the Customer or any Guarantor and whether successful or not or whether frustrated by the Customer or Guarantor or by operation of law and including costs ordered by a court to be paid by Eagle Petroleum to the Customer or to any Guarantor including the costs of lodging and withdrawing caveats and/or obtaining injunctions and enforcing any security over real and personal property given to Eagle Petroleum.
3. This guarantee and indemnity is a continuing guarantee and indemnity and will not be considered as wholly or partially satisfied or discharged by any money which may at any time or times in the future be received or applied by Eagle Petroleum to the credit of any account of the Customer or the Guarantors, or deemed to be held on trust by the Customer for Eagle Petroleum, and will be available as a Guarantee and Indemnity for the whole of the sums referred to in clauses 1 and 2 of this guarantee and indemnity.
4. Where two or more persons execute this guarantee and indemnity, the guarantees, covenants and obligations in this guarantee and indemnity given or undertaken by the Guarantors will be deemed to bind the Guarantors jointly and each of the Guarantors severally and Eagle Petroleum will be entitled to seek payment in full from any one or more of the Guarantors without seeking payment from the other Guarantors.
5. Eagle Petroleum will have the right to enforce this guarantee and indemnity, irrespective of whether Eagle Petroleum has sought to recover the amounts guaranteed from the Customer and with or without notice to the Customer, as if the primary liability for any money owing was the Guarantors' own. Further, Eagle Petroleum may proceed against the Guarantors (or any one of them) notwithstanding any other rights it may have in relation to the recovery of the amounts hereby guaranteed.
6. This guarantee and indemnity will continue in force until such time as Eagle Petroleum releases all of the Guarantors in writing, and notwithstanding the fact that the Guarantors are no longer directors, shareholders, or owners of the Customer.
7. This guarantee and indemnity is without prejudice to and will not be affected by nor will the rights or remedies of Eagle Petroleum against the Guarantors or any of the Guarantors be in any way prejudiced or affected by:
- (a) any other security taken by Eagle Petroleum from the Customer or from any other person;
  - (b) any waiver or indulgence, whether as to time or otherwise, given to the Customer or to the Guarantors or any one or more of the Guarantors;
  - (c) by any other act, matter, or thing which under the law relating to sureties would or might but for this provision release the Guarantors or any of the Guarantors from all or any part of the Guarantors obligations contained in this guarantee and indemnity; or
  - (d) any person named in this guarantee and indemnity as Guarantor failing to execute this guarantee and indemnity or failing or ceasing to be bound by the terms of this guarantee and indemnity.

### Right of subrogation

8. In the event of a Guarantor making any payment in respect to an obligation of the Customer whether under a guarantee or indemnity or otherwise, the Guarantors will not exercise any rights of subrogation against any other Guarantors or the Customer unless and until Eagle Petroleum has been paid in full.
9. In the event of the Customer going into liquidation, the Guarantors will be prohibited from proving in competition with the Customer unless and until Eagle Petroleum has been paid in full.

### Insolvency of Customer

10. No sum of money which the Customer pays to Eagle Petroleum and Eagle Petroleum later pays, is obliged to pay, allows in account or is obliged to allow in account to a liquidator, administrator, receiver or trustee in bankruptcy of the Customer by reason of the *Corporations Act 2001* (Cth), *Bankruptcy Act 1966* (Cth), or otherwise will, for the purpose of this guarantee and indemnity, be considered as discharging or diminishing the Guarantors' liability and this guarantee and indemnity will continue to apply as if the said sum(s) had at all times remained owing by the Customer.

### Costs

11. Eagle Petroleum is at liberty from time to time to charge the account of the Customer with all costs, charges, and expenses, legal or otherwise that Eagle Petroleum incurs in connection with:
- (a) the account of the Customer;
  - (b) this guarantee and indemnity;
  - (c) any other security in respect of the indebtedness of the Customer to Eagle Petroleum;
  - (d) the preparation, completion and stamping of this deed poll; or
  - (e) the exercise or attempted exercise of any right, power or remedy conferred on Eagle Petroleum under or by virtue of this deed;
- and the same will be part of the monies secured by this deed poll.
12. The Guarantors agree to pay Eagle Petroleum's costs and disbursements incurred in recovering monies secured by this guarantee and indemnity, including debt recovery agency fees and legal costs on a full indemnity basis.

### Security/charge

13. The Guarantors charge in favour of Eagle Petroleum all of their estate and interest in any real property, whether held in its own right or as capacity as trustee, the Guarantors own at present and in the future with all monies which are now or in the future become owing by the Guarantors to Eagle Petroleum, including all amounts referred to in clauses 1 and 2.
14. The Guarantors charge in favour of Eagle Petroleum all of their estate and interest in any personal property, whether held in its own right or as capacity as trustee, the Guarantors own at present and in the future with all monies which are now or in the future become owing by the Guarantors to Eagle Petroleum, including all amounts referred to in clauses 1 and 2.
15. As security for the payment of the amount of the indebtedness to Eagle Petroleum from time to time, the Guarantors irrevocably appoint as their duly constituted attorney Eagle Petroleum's company secretary from time to time to execute in the Guarantors' names and as the Guarantors' act and deed any real property mortgage, bill of sale or consent to any caveat Eagle Petroleum may choose to lodge against real property that the Guarantors may own in any Land Titles Office in any state or territory of Australia, even though the Guarantors may not have defaulted in carrying out their obligations hereunder.
16. This guarantee and indemnity secures the repayment of all monies owed by the Customer whatsoever, and this deed poll constitutes the entire guarantee.
17. Where the Guarantors have previously entered into an agreement with Eagle Petroleum by which the Guarantors have granted a charge, mortgage, or other security over real or personal property, those charges, mortgages, or other security interests will continue and co-exist with the obligations and security interests created in this deed poll and will secure all indebtedness and obligations of the Guarantors under this guarantee and indemnity. Eagle Petroleum may, at its election, vary the terms of such previous charges, mortgages, or other securities to reflect the terms herein.

### Variation

18. The Guarantors authorise Eagle Petroleum to give time or any other indulgence or consideration to the Customer in respect of compliance with its obligations to Eagle Petroleum, even if giving time or any other indulgence or consideration has the effect of increasing the Guarantors' liability under this guarantee and indemnity.
19. The Guarantors agree that this guarantee and indemnity will not be avoided, released, or affected by Eagle Petroleum making any variation or alteration in the terms of its agreement(s) with the Customer, even if such variation or alteration has the effect of increasing the Guarantors' liability under this guarantee and indemnity.

### Severance

20. If any provision of this guarantee and indemnity is not enforceable in accordance with its terms, other provisions which are self-sustaining are and continue to be enforceable in accordance with their terms.

### Personal Property Securities Act

21. For the avoidance of any doubt, the security interest(s) created by this instrument in favour of Eagle Petroleum constitutes security interests pursuant to the PPS Act.
22. The Guarantors waive any right or entitlement to receive notice of the registration of any security interest(s) created by this instrument on the Personal Property Securities Register.

### Notices

23. The Guarantors agree to accept service of any document required to be served, including any notice under this agreement or the PPS Act or any originating process, by prepaid post at any address nominated in the Credit Agreement or any other address later notified to Eagle Petroleum by the Guarantors or the Guarantors' authorised representative.

### Jurisdiction

24. The Guarantors acknowledge and agree that this guarantee and indemnity is governed by the laws of Western Australia, and the laws of the Commonwealth of Australia which are in force in Western Australia.
25. The parties to this guarantee and indemnity submit to the non-exclusive jurisdiction of the courts of Western Australia, and the relevant federal courts and courts competent to hear appeals from those courts.

### Privacy Act

26. The Guarantors agree to the terms of the Privacy Statement pursuant to the *Privacy Act 1988* (Cth) contained in Part 2 of the Credit Agreement.

### Definitions

27. Capitalised terms which have not been defined in this guarantee and indemnity have the meaning given to those terms in the Credit Facility Terms.

<b>Executed as a Deed Poll on (Date):</b>		
<b>Signed, Sealed, and Delivered by the Guarantor</b>	<b>Signature:</b>	
	<b>Full Name (please print):</b>	
	<b>Title / Position:</b>	
	<b>Witness Signature:</b>	
	<b>Witness Name (please print):</b>	
<b>Signed, Sealed, and Delivered by the Guarantor</b>	<b>Signature:</b>	
	<b>Full Name (please print):</b>	
	<b>Title / Position:</b>	
	<b>Witness Signature:</b>	
	<b>Witness Name (please print):</b>	

## DIRECT DEBIT REQUEST

Request and Authority to debit the account name to pay: Eagle Petroleum (WA) Pty Ltd

Insert your Name in full:

I/We (Surname or Company Business Name):

Given Name or ARBN/ABN:

Request and authorise Eagle Petroleum to arrange, through its own financial institution, a debit to my nominated account any amount Eagle Petroleum, has deemed payable by me.

**Note:** 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 clause 6 and this Agreement generally.

Name of Financial Institution where Account is held:

Address of Financial Institution where Account is held:

Post Code:

### Option 1: Request for Direct Debiting Bank Accounts

Name of Account which is to be debited:

BSB Number:

Account Number:

By signing and/or providing us with a valid instruction in respect to your Direct Debit Request, you have understood and agreed to the terms and conditions governing the debit arrangements between you and Eagle Petroleum (WA) Pty Ltd as set out in this Request and in the terms and conditions of clause 6 and this Agreement generally.

Customer Signature(s) (if joint account all signatures will be required)

Signature

If signing for a company, sign and print full name and capacity for signing.  
eg: Director

Address

Date: / /

Signature

If signing for a company, sign and print full name and capacity for signing. eg:  
Director

Address

Date: / /

**Note:** Direct debiting is not available on the full range of accounts, if in doubt, please refer to your Financial Institution.

### Option 2: Request for Direct Debiting Credit Cards

Type of Credit Card:

☐ Visa

☐ MasterCard

☐ American Express

Credit Card Number:

Expiry Date:

CCV:

Name on Credit Card:

I, \_\_\_\_\_, hereby authorise Eagle Petroleum (WA) Pty Ltd, to charge my credit card for the amounts invoiced.

Your completion of this authorisation form helps us to protect you, our valued customers, from credit card fraud. Eagle Petroleum (WA) Pty Ltd will keep all information entered on this form strictly confidential.

By signing and/or providing us with a valid instruction in respect to your Direct Debit Request, you have understood and agreed to the terms and conditions governing the debit arrangements between you and Eagle Petroleum (WA) Pty Ltd as set out in this Request and in the terms and conditions of clause 6 and this Agreement generally.

Customer Signature(s) (if joint account all signatures will be required)

Signature

If signing for a company, sign and print full name and capacity for signing. eg: Director

Address

Date: / /

Signature

If signing for a company, sign and print full name and capacity for signing. eg: Director

Address

Date: / /

**Note:** Direct debiting is not available on the full range of accounts, if in doubt, please refer to your Financial Institution.