

Valero Energy Ltd (registered number 8566216)

Standard Terms & Conditions of Sale

1. Definitions

1.1 In these Terms and Conditions the following terms shall have the following meanings:

"**Affiliate**" means any entity which controls, is controlled by, or is under common control with another entity and, without prejudice thereto, an entity is deemed to control another if it owns directly or indirectly more than 50 per cent of (i) the shares entitled to vote at a general meeting of shareholders of such other entity, or (ii) the voting interest in such other entity if such entity does not have shares.

"**Applicable Law**" means: a) any directive, act, statute, licence, regulation, law, treaty, rule, code, ordinance, regulation, authorisation, interpretation, certificate or order in each case of any Competent Authority; or b) any judgement, decision, decree, injunction, order or like action of any court, arbitrator or Competent Authority.

"**Bank Rate**" means the Bank Rate of The Bank of England as quoted on the Bank of England's website at the date of demand;

"**Buyer**" means the person, firm or company purchasing Fuel.

"**Change in Law**" means any of the following events occurring after the effective date of the Contract:

- (a) repeal, modification or amendment of any Applicable Law (in whole or in part);
- (b) enactment, adoption, promulgation, bringing into effect or making of any Applicable Law;
- (c) cancellation, non-renewal, a materially adverse change in the conditions applicable to or modification to a licence or consent by a Competent Authority; or
- (d) change in the interpretation or application of any Applicable Law.

"**Company**" means Valero Energy Ltd (registered number 8566216).

"**Competent Authority**" means, to the extent it has jurisdiction in the United Kingdom relating to the Contract, any regional, national, federal, municipal, state or local government; any court of competent jurisdiction; any local, national or supra national agency, inspectorate, minister, official or public or statutory person or undertaker.

"Contract" means any contract (whether pursuant to an Offer Letter or otherwise) between the Company and the Buyer for the sale and purchase of Fuel, incorporating these Terms and Conditions.

"Controlling Affiliate" means any entity which from time to time controls directly or indirectly the Buyer and, without prejudice thereto, an entity is deemed to control the Buyer if it owns directly or indirectly more than 50 per cent of (i) the shares entitled to vote at a general meeting of shareholders of the Buyer, or (ii) the voting interest in the Buyer if the Buyer does not have shares.

"Credit Limit" means the credit limit notified to the Buyer by the Company in the Offer Letter as varied from time to time pursuant to condition 14.1.

"Exposure" means the aggregate value including VAT of (i) all outstanding unpaid invoices issued by the Company to the Buyer; (ii) the Contract price for all deliveries of Fuel to the Buyer which have not been invoiced and (iii) the Contract price for all the Buyer's outstanding orders for Fuel.

"Fuel" means fuel offered for sale by the Company to the Buyer as notified by the Company to the Buyer from time to time.

"Offer Letter" means a letter from the Company to the Buyer and/or any other document prepared by the Company setting out the price and other terms upon which the Company will supply Fuel to the Buyer.

"Personal Data" means any information that can be used directly or indirectly, alone or in combination with other information, to identify an individual.

"Processing" means any operation performed on Personal Data, including collecting, recording, using, accessing, storing, updating, retrieving, sharing, transmitting, or destroying data.

"Terminal Facility" means a supply/distribution terminal facility at which the Company provides lifting facilities from time to time in respect of Fuel.

"Working Day" means a day (other than a Saturday) on which banks in London are open for the transaction of normal business.

- 1.2 In any case where the Buyer consists of two or more persons all the undertakings and obligations on the part of the Buyer contained in the Contract shall be read and construed as joint and several undertakings.
- 1.3 Obligations and words importing the singular number and masculine gender and persons shall respectively include the plural number and feminine gender and corporations (and vice versa).

- 1.4 Any reference to a statute, statutory provisions or subordinate legislation ("**legislation**") shall be construed as referring to such legislation as currently in force from time to time including any replacement or amendment.
- 1.5 Any phrase introduced by the terms "**including**", "**include**", "**in particular**", "**for example**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.6 Any reference to "**indemnify**" or "**indemnifying**" any person against any circumstance includes indemnifying and keeping him harmless from all actions, claims and proceedings from time to time made against him and all loss or damage and all payments, costs or expenses (including legal expenses) made or incurred by that person as a consequence of or which would not have arisen but for that circumstance.
- 1.7 Except as expressly provided otherwise in the Contract, a reference to "**written**" or "**in writing**" shall mean a legible written document signed by the authorised representative of the relevant party or e-mail or fax but not text message, cable or other electronic transmission.
- 1.8 Unless stated otherwise a reference to a condition is to a condition number of these Terms and Conditions.

2. Governing Terms

- 2.1 Subject to conditions 2.3 and 2.4 these Terms and Conditions shall apply to all the Company's sales under each Contract to the exclusion of all other terms and conditions (in particular any terms and conditions contained in or delivered with the Buyer's purchase order, confirmation of order or other documents).
- 2.2 By accepting delivery of Fuel from the Company the Buyer shall be deemed to have notice of, and to have accepted, these Terms and Conditions.
- 2.3 No variation to these Terms and Conditions shall be valid unless made in writing and signed by an authorised signatory of the Company.
- 2.4 If there is a conflict between the provisions of any Offer Letter and these Terms and Conditions the Offer Letter shall prevail.

3. Regulations

- 3.1 The Buyer shall obtain any licences and consents required by any Competent Authority and shall strictly observe and conform to each and every condition of any such licence and/or consents and with all other statutory and other legal requirements imposed upon the Buyer in respect of the receipt, storage, use and sale of the Fuel.

- 3.2 The Buyer shall not permit smoking, naked lights, the use of mobile phones or any device capable of creating heat or ignition near to any tank or inlet pipe into which a delivery of Fuel is being made or to any vent pipe.
- 3.3 The Buyer shall indemnify the Company in respect of any breach by the Buyer of this condition 3.

4. Supply of Fuel

- 4.1 The Buyer shall be responsible for ensuring that the tank or storage receptacle into which the delivery will be made is appropriate for the relevant Fuel and will accommodate the full amount ordered, provided always that this condition 4.1 shall not apply at those premises where the Company undertakes driver controlled deliveries.
- 4.2 The Company is not responsible for the dipping, checking or testing of the Buyer's tanks other than at those premises agreed by the Company for driver controlled deliveries.
- 4.3 The Buyer is responsible for ensuring that the delivery tanker is properly connected to the correct feed on the Buyer's storage tanks other than at those premises agreed by the Company for driver controlled deliveries.
- 4.4 Where delivery is otherwise than at a Terminal Facility and the Company has agreed with the Buyer that driver controlled deliveries will be made, the Buyer shall ensure that all tanks are labelled clearly with the product name, the tank capacity(ies) and the location of the fill point, such fill point to be readily and safely accessible.
- 4.5 The Buyer shall ensure that its personnel (and where relevant, its contractor's and sub-contractor's personnel) have had all necessary training to enable them to safely and properly perform the Buyer's responsibilities.

5. Quantities

- 5.1 The Company's measurement of quantities delivered to the Buyer shall be deemed to be correct (save in the case of manifest error). For invoicing and all other purposes, quantities of Fuel purchased by the Buyer (however delivered) shall be measured by the Company in litres at the loading rack gantry meter at the time the Fuel to be delivered to the Buyer is loaded on to the delivery vehicle at the Terminal Facility either: a) calculated at the temperature at which it reaches the loading gantry meter ("**Ambient Standard**"); or b) it shall be converted to an equivalent volume at a temperature of 15°C ("**L15 Standard**"). The Company shall notify the Buyer from time to time which of these Standards shall from time to time apply to Fuel from the relevant Terminal Facility.
- 5.2 If the vehicle making a delivery (otherwise than at a Terminal Facility) attends (or attempts to attend) the premises at which the delivery is to be made, but for

any reason (other than due to the Company's or its contractor's or sub-contractor's default) the Company is unable to deliver any part of the Fuel ordered (whether due to the tank having insufficient capacity, the premises being blocked or inaccessible or otherwise) the Company may deliver such part of the Fuel as it is able or at its absolute discretion withhold delivery of the whole amount ordered. Any Fuel ordered which is not delivered shall be returned. The Buyer shall pay in addition to the price for any Fuel delivered the standard sum then charged by the Company (as notified to the Buyer from time to time) for each vehicle with returned Fuel even if no Fuel has actually been delivered.

6. Fuel Specification

- 6.1 The Fuel supplied by the Company will conform to the relevant British Standard current at the time of supply.
- 6.2 Any Fuel purchased from the Company shall only be mixed with fuel supplied by a third party if such fuel conforms to the same standards as the Company is required to meet pursuant to condition 6.1 and is of comparable quality to the Fuel supplied by the Company.
- 6.3 The Company may add, substitute or withdraw the supply of any Fuel at any time before the Buyer's order has been accepted by the Company and subject to condition 6.1 the Company may alter the specification of any Fuel at any time.

7. Prices

- 7.1 The price (exclusive of VAT) to be paid for each litre of Fuel purchased by the Buyer shall be the Company's sale price ruling on the day of delivery as calculated and notified to the Buyer in accordance with the Offer Letter or in the absence of any Offer Letter as notified to the Buyer by the Company at the time the Buyer orders the Fuel.
- 7.2 VAT shall be for the Buyer's account and all sums referred to in the Contract (except where already expressly included) shall, where required by law be subject to the addition of VAT at the rate applicable at the appropriate time.
- 7.3 The Company may terminate immediately by written notice any Contract (whether such Contract is one order or an ongoing supply contract) if the price that the Company can charge for the supply of the Fuel is restricted, limited or otherwise affected by any legislation or other regulation or order of any Competent Authority.

8. Other Taxes

- 8.1 Any tax, duty or other imposition or any other charge levied by HM Government or any other authority (including HMRC) in respect of any of the Fuel shall be for the Buyer's account and will be applied as set out in the Offer Letter. Duty

shall be charged on Fuel at the fossil excise duty rate for hydrocarbon oils applicable to the relevant Fuel current at the time of delivery without any reduction for any duty credit or other duty benefit or reduction whether for biofuels or otherwise.

9. Delivery

Delivery shall be deemed to take place:

- 9.1 in respect of delivery of Fuel at a Terminal Facility when the Fuel passes the outlet end of the loading arm at the Terminal Facility into the vehicle referred to in condition 11.1.1.
- 9.2 in respect of Fuel delivered otherwise than at a Terminal Facility when the Fuel passes the outlet end of the hose of the delivery vehicle into the receiving tank into which the Buyer has directed that such Fuel be delivered.

10. Orders

- 10.1 The Buyer shall place orders for Fuel to be delivered otherwise than at a Terminal Facility in such quantities as will fill the largest available delivery vehicle to its maximum legal gross weight as advised by the Company at the time the order is placed. If the Buyer places an order below such quantities the Buyer shall pay the Company's then current small load surcharges for each litre delivered as notified to the Buyer from time to time.
- 10.2 If specified in the Offer Letter, the Buyer shall:
 - 10.2.1 buy from the Company not less than the minimum volume of each Fuel set out in the Offer Letter;
 - 10.2.2 place orders for Fuel not exceeding the maximum quantities set out in the Offer Letter.
- 10.3 All orders shall be complete and accurate and placed in accordance with the ordering instructions (including ordering and delivery times and order centre opening times) most recently notified by the Company to the Buyer.
- 10.4 An order number must be obtained by the Buyer before collecting Fuel for delivery at a Terminal Facility.
- 10.5 For Fuel to be delivered otherwise than at the Terminal Facility the Buyer shall give the Company not less than three Working Days' notice of its requirements for Fuel. In respect of orders for Fuel received by the Company before 10am on a Working Day the Company will endeavour (but without any contractual obligation) to make delivery the following Working Day (except in the case of deliveries to be made by non-articulated vehicles when the Company shall endeavour (but without contractual obligation) to make delivery within 48 hours

of the order being placed) during the usual opening times of the relevant site. Any date specified for delivery of Fuel shall be an estimate only and time for delivery cannot be made of the essence by notice. If no dates are specified delivery shall be within a reasonable time.

11. Delivery Procedures

11.1 Where delivery of any Fuel is to be effected at a Terminal Facility:

11.1.1 the Fuel shall be delivered to the Buyer into its own vehicles (or those of its authorised haulage contractor which shall be deemed to be acting as the Buyer's agent) at the relevant Terminal Facility;

11.1.2 the Buyer shall procure that any vehicle taking delivery of the Fuel shall be safe and fit in all respects to receive and carry the Fuel, and that any such vehicle and the personnel in charge of the vehicle shall at all times comply with all safety and other regulations which may from time to time be imposed or recommended by any competent authority or by the Company or the Terminal Facility operator.

11.2 The Buyer shall indemnify and hold harmless each of the Company, its Affiliates, contractors and sub-contractors in respect of any breach by the Buyer of its obligations under conditions 3 or 11.1 and/or in respect of any injury, loss or damage caused by the Buyer (or by any of its authorised haulage contractors or customers) during the course of taking delivery.

12. Risk

12.1 Risk in the Fuel supplied shall pass to the Buyer upon delivery.

13. Title; termination

13.1 Title in the Fuel which is the subject of a particular order of the Buyer shall, notwithstanding any credit period, Credit Limit or any other provision in the Contract relating to such Fuel or rule of law, remain with the Company, regardless of delivery to the Buyer, until: (a) the time that: (i) all sums due to the Company in respect of such Fuel; (ii) all sums due to the Company in respect of the Contract relating to such Fuel, (iii) all sums due to the Company in respect of Fuel otherwise supplied to the Buyer by the Company, whether under the terms of that Contract or otherwise; and (iv) all sums otherwise due and payable to the Company under any other agreement between the Company and the Buyer; have been paid in full together with VAT thereon unconditionally in cleared funds; or if earlier (b) the time that the Buyer resells such Fuel in accordance with condition 13.3, in which case title to such Fuel shall pass to the Buyer immediately before the time at which such resale by the Buyer occurs. The Company may attribute any sums received by it from the Buyer against its invoices issued to the Buyer in any sequence as the Company

in its absolute discretion sees fit regardless of when such sums have been received or what the Buyer may have represented that the sums relate to.

13.2 Until title in the Fuel has passed from the Company, the Buyer shall:

13.2.1 hold the Fuel on a fiduciary basis as the Company's bailee or a depository, as the case may be;

13.2.2 store the Fuel in a satisfactory condition in accordance with the Contract and, if practicable, separate from any fuel or other goods of the Buyer or any third party;

13.2.3 insure with a reputable insurer to the Company's reasonable satisfaction the Fuel as the Company's property (with an endorsement in the insurance policy recording the Company as the owner of the Fuel) to the replacement value of the Fuel, and hold the proceeds of such insurance on trust for the Company;

13.2.4 not pledge or allow any encumbrance, lien, charge or other interest to arise or be created over the Fuel; and

13.2.5 not dispose of or deal with the Fuel or any documents of title relating to the Fuel or any interest in the Fuel, except as provided below.

13.3 Subject to the following provisions of this condition 13.3, and the provisions of condition 13.4, the Buyer shall nevertheless be entitled to resell and deliver the Fuel (with the title to it) only in the ordinary course of trade to customers in its normal manner at full market value (save to the extent that the Company agrees otherwise in writing) via its (i) retail dispensing pumps, (ii) tanks and (iii) other usual dispensing means, and such resale shall be made by the Buyer acting as principal (subject to the other provisions of this condition 13), provided that the Buyer's right to so resell and deliver the Fuel shall **automatically cease** upon the occurrence of any of the following events:

13.3.1 the Buyer or a Controlling Affiliate has a receiver or manager, or an administrative receiver appointed over its assets, undertaking or property or any part thereof, or an encumbrancer takes possession of all or any part of the property of the Buyer or a Controlling Affiliate or any step is taken with a view to the foregoing;

13.3.2 a petition is presented to wind-up the Buyer or a Controlling Affiliate or any meeting is convened for the purpose of considering any resolution for (or to petition for) its winding-up or any notice is given or any action is taken for its winding-up, striking-off or dissolution or an order for the winding-up striking-off or dissolution of the Buyer or a Controlling Affiliate is made or a resolution for voluntary winding-up of the Buyer or a Controlling Affiliate (except for the sole purpose of a solvent

amalgamation or reconstruction) is passed or proposed or any step is taken towards any of the foregoing;

13.3.3 the Buyer or a Controlling Affiliate commences negotiations with all or any creditor or group or class of its creditors with a view to rescheduling any of its debts or makes a proposal for or enters into any compromise or arrangement with any of its creditors except for the sole purpose of a scheme or a solvent amalgamation of the Buyer/Controlling Affiliate with one or more other companies or the solvent reconstruction of the Buyer and/or a Controlling Affiliate;

13.3.4 a notice is given of a meeting of creditors of the Buyer or a Controlling Affiliate under the Insolvency Act 1986 or the Buyer or a Controlling Affiliate proposes or makes any arrangement or composition with its creditors or any step is taken towards any of the foregoing;

13.3.5 documents are filed at court for the appointment of an administrator of the Buyer or a Controlling Affiliate or a notice is filed of intention to appoint an administrator of the Buyer or a Controlling Affiliate, or any meeting of the Buyer or its board of directors or a Controlling Affiliate or its board of directors is convened for the purpose of considering any resolution to present an application for an administration order or an administration order is made in relation to the Buyer or a Controlling Affiliate or any step is taken towards any of the foregoing;

13.3.6 the Buyer (being an individual) is the subject of a bankruptcy petition, the subject of a bankruptcy order or is the subject of a voluntary arrangement or composition with his creditors, or is the subject of a debt relief order, or otherwise the Buyer takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or any step is taken towards any of the foregoing;

13.3.7 the Buyer or a Controlling Affiliate suspends, ceases or threatens to suspend or cease to carry on all or any major part of its business then currently carried on;

13.3.8 a creditor or encumbrancer of the Buyer or a Controlling Affiliate attaches or takes possession of, or a distress or execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the property of the Buyer or a Controlling Affiliate which is not discharged or paid out in full within three Working Days;

13.3.9 the Buyer or a Controlling Affiliate suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not

appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay his debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership, Limited Partnership or Limited Liability Partnership) has any partner or member to whom any of the foregoing applies;

13.3.10 the directors of the Buyer or of a Controlling Affiliate file, or threaten or resolve to file or otherwise take any steps to file, the relevant documents with the court to seek or obtain a moratorium pursuant to the Insolvency Act 1986;

13.3.11 a compromise or arrangement is proposed between the Buyer or a Controlling Affiliate and any of its creditors or members pursuant to Part 26A of the Companies Act 2006; or the Buyer or a Controlling Affiliate or a creditor or member or liquidator or administrator of the Buyer or a Controlling Affiliate makes, threatens or resolves to make an application under section 901C (1) of the Companies Act 2006 in respect of the Buyer or a Controlling Affiliate; or Condition A in section 901A(2) of the Companies Act 2006 is met in respect of the Buyer or a Controlling Affiliate; or

13.3.12 any event occurs or proceeding is taken, with respect to the Buyer or a Controlling Affiliate in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in conditions 13.3.1 to 13.3.11 (inclusive).

13.4 The Company shall be entitled, without affecting any other rights and remedies it might have, upon demand by service of written notice (such notice specifying that the Company intends to exercise rights under this condition 13.4) upon the Buyer, to: (a) suspend or terminate the Buyer's right (if still subsisting) to possess and so resell the Fuel in respect of which title has not passed from the Company, or obtain immediate recovery of the Fuel in respect of which title has not passed from the Company which remains in the possession of the Buyer, and any documentation relating to it, or both so suspend or terminate and obtain recovery; or (b) terminate the Contract; or both (a) and (b) in any of the following circumstances:

13.4.1 payment for any Fuel supplied by the Company to the Buyer or any other sums due under any other agreement between the Company and the Buyer or a Controlling Affiliate is not discharged on the due date for payment;

13.4.2 the Buyer commits a material breach of the Contract or any other agreement between it and the Company;

- 13.4.3 the Buyer or a Controlling Affiliate has a receiver or manager or an administrative receiver or manager appointed over its assets, undertaking or property or any part thereof, or an encumbrancer takes possession of all or any part of the property of the Buyer or a Controlling Affiliate, or any step is taken with a view to the foregoing;
- 13.4.4 a petition is presented to wind-up the Buyer or a Controlling Affiliate or any meeting is convened for the purpose of considering any resolution for (or to petition for) its winding-up, a notice is given or any action is taken for its winding-up, striking-off or dissolution or an order for the winding-up, striking-off or dissolution of the Buyer or a Controlling Affiliate is made or a resolution for voluntary winding-up of the Buyer or a Controlling Affiliate (except for the sole purpose of a solvent amalgamation or reconstruction) is passed or proposed or any step is taken towards any of the foregoing;
- 13.4.5 the Buyer or a Controlling Affiliate commences negotiations with all or any creditor or group or class of its creditors with a view to rescheduling any of its debts or makes a proposal for or enters into any compromise or arrangement with any of its creditors except for the sole purpose of a scheme or a solvent amalgamation of the Buyer/Controlling Affiliate with one or more other companies or the solvent reconstruction of the Buyer and/or a Controlling Affiliate;
- 13.4.6 a notice is given of a meeting of creditors of the Buyer or a Controlling Affiliate under the Insolvency Act 1986 or the Buyer or a Controlling Affiliate proposes or makes any arrangement or composition with its creditors or any step is taken towards any of the foregoing;
- 13.4.7 documents are filed at court for the appointment of an administrator of the Buyer or a Controlling Affiliate or a notice is filed of intention to appoint an administrator of the Buyer or a Controlling Affiliate, or any meeting of the Buyer or its board of directors or a Controlling Affiliate or its board of directors is convened for the purpose of considering any resolution to present an application for an administration order or an administration order is made in relation to the Buyer or a Controlling Affiliate or any step is taken towards any of the foregoing;
- 13.4.8 the Buyer (being an individual) is the subject of a bankruptcy petition, the subject of a bankruptcy order, or is subject to a voluntary arrangement or composition with his creditors, or is the subject of a debt relief order, or otherwise the Buyer takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors or any step is taken towards any of the foregoing;

- 13.4.9 the Buyer or a Controlling Affiliate suspends, ceases or threatens to suspend or cease to carry on all or any major part of its business then currently carried on;
- 13.4.10 a creditor or encumbrancer of the Buyer or a Controlling Affiliate attaches or takes possession of or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the property of the Buyer or a Controlling Affiliate which is not discharged or paid out in full within three Working Days;
- 13.4.11 the Buyer or a Controlling Affiliate suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay his debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership, Limited Partnership or Limited Liability Partnership) has any partner or member to whom any of the foregoing applies;
- 13.4.12 the directors of the Buyer or of a Controlling Affiliate file, or threaten or resolve to file or otherwise take any steps to file, the relevant documents with the court to seek or obtain a moratorium pursuant to the Insolvency Act 1986;
- 13.4.13 a compromise or arrangement is proposed between the Buyer or a Controlling Affiliate and any of its creditors or members pursuant to Part 26A of the Companies Act 2006; or the Buyer or a Controlling Affiliate or a creditor or member or liquidator or administrator of the Buyer or a Controlling Affiliate makes, threatens or resolves to make an application under section 901C (1) of the Companies Act 2006 in respect of the Buyer or a Controlling Affiliate; or Condition A in section 901A(2) of the Companies Act 2006 is met or reasonably considered by the Company to be met in respect of the Buyer or a Controlling Affiliate;
- 13.4.14 any event occurs or proceeding is taken, with respect to the Buyer or a Controlling Affiliate in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in conditions 13.4.3 to 13.4.13 (inclusive);
- 13.4.15 the Buyer, being an individual, dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation or being a, partnership, Limited Partnership or Limited Liability Partnership, a

respectively partner, general partner or member suffers any of the foregoing;

- 13.4.16 the Buyer or a Controlling Affiliate or any of its senior officers or managers do anything or fail to do anything which in the absolute opinion of the Company brings or is likely to bring the name, image or reputation of the Company or Chevron Intellectual Property LLC (or their respective Affiliates) or any of their respective intellectual property or goodwill into disrepute or damage or is likely to damage the same;
- 13.4.17 there is a change in control of the Buyer or a Controlling Affiliate (including a direct or indirect change in the majority voting power in the Buyer or a Controlling Affiliate whether through changes in shareholdings, directors or otherwise) or any step is taken towards any of the foregoing;
- 13.4.18 the Buyer encumbers or in any way charges any of the Fuel;
- 13.4.19 the Buyer allows, without the Company's prior written consent (in the Company's absolute discretion) the Fuel to become "mixed goods" in the circumstances set out in condition 13.8 below; or
- 13.4.20 the Company reasonably apprehends that any of the foregoing circumstances is imminent.
- 13.5 In the event that any one or more of the events or circumstances listed in condition 13.3 or 13.4 above occurs, all the price (including VAT) for all the Fuel shall become immediately due and payable to the Company notwithstanding any credit period, Credit Limit or other provision in the Contract.
- 13.6 The Buyer grants the Company, its agents and employees an irrevocable licence at any time, with or without prior notice to the Buyer, to enter any premises where the Fuel is or may be stored to inspect the Fuel and to take samples of the Fuel at such premises to check compliance with these Terms and Conditions and, in particular, condition 6.2 or condition 13.2.2 above or pursuant to condition 15.1 below) or, where the Buyer's right to possession of any of the Fuel has terminated, to recover that Fuel, in which case, the Buyer shall use its best endeavours to assist the Company in recovering the Fuel.
- 13.7 In the event that the Buyer's right to resell the Fuel is suspended or ceases, the Company shall, in its absolute discretion, be entitled (with or without the Buyer's request) to reinstate, with or without conditions, the aforementioned right for the Buyer to resell all or part of the Fuel.
- 13.8 If the Fuel becomes mixed with other products of the Buyer or of a third party without the Company's prior written consent (in the Company's absolute discretion) such that it is impracticable (economically or otherwise) to separate

the Fuel from the other products of the Buyer or a third party (the result of such mixing being called "**mixed goods**"):

13.8.1 conditions 13.3 and 13.3 shall, so far as permitted by law, apply to the proportion of the mixed goods supplied by the Company (on the same terms so far as possible as if the same were the Fuel) such proportion to be identified by the Company (acting reasonably) by reference to the capacity of the Buyer's tanks in which the mixed goods are stored, the volumes of Fuel supplied by the Company and such other relevant information available to the Company at the time including the quality of the Fuel supplied by the Company;

13.8.2 title to such proportion, as determined by the Company (in its reasonable discretion) shall not pass to the Buyer or any third party; and

13.8.3 in that case, the mixed goods identified by the Company shall be deemed to be Fuel so far as the context admits for the purposes of condition 13.9 below.

13.9 Suspension or cessation of the said right of the Buyer to resell the Fuel or recovery by the Company of the Fuel or any of it shall not of itself cancel the Buyer's liability to pay the whole or balance of the price for the Fuel or any other rights of the Company under the Contract, provided that the Company shall in its absolute discretion give the Buyer a fair reduction in the amount of the price, by way of a credit against the original price due, to reflect the value of the amount of any Fuel recovered in good condition after making allowance for the additional costs and losses thereby suffered by the Company and interest due on overdue payment by the Buyer, provided further that the Company shall pay to the Buyer the amount, if any, of the value it receives for the recovered Fuel in excess of the price of the Fuel or balance due after making allowance for the additional costs and losses thereby suffered by the Company and interest due on overdue payment by the Buyer.

13.10 Without prejudice to the proviso to condition 13.3 (automatic cessation of Buyer's right to resell), it shall be at the Company's absolute discretion (subject to its acting reasonably as provided in conditions 13.2.3, 13.4.20, 13.8.1 and 13.8.2) the extent to which it exercises its rights pursuant to this condition 13.

14 Payment

14.1 The Buyer shall pay for the Fuel in such manner or on such terms as set out in the Offer Letter. If there is no Offer Letter payment shall be by direct debit on or before delivery of Fuel. The Company may alter such payment terms and/or the Credit Limit in its absolute discretion at any time by oral or written communication to the Buyer.

- 14.2 The Buyer shall provide to the Company such financial information about the Buyer and Controlling Affiliates and security as the Company requires from time to time to support any credit period or Credit Limit.
- 14.3 If the terms of payment pursuant to condition 14.1 permit payment by cheque or involve the giving of credit such terms will immediately and without notice cease to have effect if the Buyer shall exceed or otherwise commit a breach of terms of credit or if any cheque given by the Buyer is returned unpaid to the Company and subsequently payment shall be made in cleared funds before delivery.
- 14.4 At the request of the Company the Buyer shall furnish to the Buyer's bank a signed and completed direct debiting mandate in such form as shall be approved by the Company authorising the Buyer's bank to charge to the Buyer's account from time to time such amounts as the Company may debit thereto by direct debit whether in respect of Fuel supplied or otherwise and the Buyer will not amend or cancel such mandate. The acceptance by the Company of such an arrangement shall be deemed to be in substitution of a cheque but be actionable as a cheque in the event a direct debit is not met. In the event that any direct debit is returned by the bank unpaid, the Buyer shall, on request, pay to the Company (in addition to all other sums due and without prejudice to the Company's other rights and remedies) the standard sum then charged by the Company in relation to each returned unpaid direct debit.
- 14.5 In the event any payment due to the Company is not made by the Buyer by its due date for payment, the Company shall be entitled to charge interest on any such overdue amount during the period from the due date for payment until the date of receipt thereof by the Company in cleared funds at the rate of 2% per annum above the Bank Rate over the overdue period accruing on a daily basis from the due date to the date of payment.
- 14.6 If the Buyer fails to pay any amount due to the Company on or by the payment date, the Company may forthwith suspend deliveries of Fuel ordered by the Buyer and/or terminate any Contract.
- 14.7 The Buyer shall not other than as required by law be entitled by reason of any set-off, counter-claim, abatement, or other similar deduction to withhold payment of any amount due to the Company.
- 14.8 The Buyer shall ensure that the Exposure does not at any time exceed the then current Credit Limit and the Company shall not be obliged to accept orders for Fuel if the Credit Limit has been exceeded, or if the Exposure would exceed the Credit Limit if the order were accepted. In the event that the Exposure does exceed the Credit Limit, the Company may at its absolute discretion automatically initiate early payment, by direct debit, of unpaid invoice(s) issued to the Buyer in such sequence as may be chosen by the Company in its

absolute discretion in sufficient value to reduce the Exposure below the Credit Limit. Such payment will be of complete invoices, not part of invoices.

- 14.9 Without prejudice to any other right or remedy it may have, the Company will be entitled to set-off any amount owing to it by the Buyer in any currency and whether liquidated or unliquidated, actual or contingent, against any amount due and payable to the Buyer by the Company under the Contract or otherwise.
- 14.10 Without prejudice to condition 14.9 above, the Company will be entitled to set-off any amount owing to it by any Controlling Affiliate in any currency and whether liquidated or unliquidated, actual or contingent, against any amount due and payable to the Buyer by the Company under the Contract or otherwise.

15 Notice of Claims

- 15.1 Notice of any claim of damage, defect, variance of quality or description, or shortage in quantity of Fuel shall be given orally by the Buyer to the Company at the contact point normally used for placing order requirements within 24 hours of delivery having taken place. Such notice shall be confirmed in writing to the Company, at the address shown on the relevant invoice or delivery note within three Working Days after the Fuel is delivered or, in the case of non-delivery of the whole consignment, within three days of receipt of the relevant invoice. Where appropriate such notice shall state the location at which the Fuel may be inspected by the Company within normal business hours. The receipt by the Company of such a notice shall be a condition precedent to any such claim, and in default of such notice the Company shall not be liable in respect of such damage, defect, variance or shortage, and the Buyer shall be liable to pay for the full quantity of the Fuel to which the relevant invoice relates.

16 Exclusion of Warranties and Representations

- 16.1 The Company warrants that it has good title to the Fuel supplied to the Buyer and that the Fuel is in satisfactory condition and in accordance with condition 6.1. All other warranties and representations whether express or implied by statute or otherwise are to the fullest extent permitted by law excluded.
- 16.2 The Company shall not be liable to the Buyer or any other third party for any indirect or consequential losses of whatsoever nature, irrespective of any negligence, defect, misconduct or breach of duty (statutory or otherwise), arising from or in connection with the supply of Fuel or the performance of its obligations hereunder.
- 16.3 Nothing in the Contract excludes or limits the liability of the Company:
- 16.3.1 for death or personal injury caused by the Company's negligence;
- 16.3.2 for fraud or fraudulent misrepresentation; or

16.3.3 for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability.

17 Hazardous Material

17.1 The Fuel contains or may contain materials or substances which are or could be detrimental or injurious to health. The Buyer is required to handle, store, use and deliver the Fuel strictly in accordance with the Safety Data Sheets and any other advice or instructions from time to time supplied by the Company and/or in accordance with best practice and industry standards. In particular, the Buyer must ensure that proper precautions are taken by all those who have contact with the Fuel and the Buyer must take medical and other technical advice to protect such persons. In particular the Fuel may only be used as fuel in motor engines or heating systems (as the case may be) and every caution must be taken to avoid spillages. The Fuel is highly flammable. Physical contact with the Fuel may cause irritation to the skin, eyes and respiratory system or more serious skin disorders.

18 Force Majeure

18.1 The Company shall not be liable to the Buyer for any failure to supply the full quantities of the Fuel ordered by the Buyer hereunder or any other failure to fulfil its obligations if such failure is due to any circumstance of whatsoever nature which is not within the reasonable control of the Company including non-availability of adequate supplies of a Fuel whether at the relevant Terminal Facility or otherwise, strikes or the threat thereof or compliance with any order or request of any international, national, provincial, port or other authority or person purporting to act for such authority (including rationing allocation or priority orders, regulations or requests) or cessation or curtailment of or interference with the Company's existing or future sources of supply. Any such cause shall be referred to as "**Force Majeure**".

18.2 If by reason of Force Majeure the Company is delayed or prevented from delivering the full quantities which it is contracted to supply to the Buyer or if at any time the Company shall determine that its supply of the Fuel is insufficient to enable it to supply to the Buyer the quantities ordered by the Buyer the Company may withhold, suspend or reduce deliveries to the Buyer to such extent as the Company in its absolute discretion thinks fit.

18.3 Notwithstanding anything to the contrary herein contained if the Company shall in its absolute discretion determine that for any reason whether or not amounting to Force Majeure there is or is likely to be such a shortage of any of the Fuel available to it from any of its present or future sources of regular supply that it is or is likely to be unable to meet in full the requirements of its customers whether under contract or not, the Company may allocate such of the Fuel as is available to it among its customers including the Buyer on such basis as the Company shall in its absolute discretion determine.

- 18.4 If the Company restricts deliveries to the Buyer pursuant to the foregoing provisions but has purchased additional quantities of any of the Fuel from another source the Buyer shall not participate in any allocation thereof unless the Company and the Buyer shall first have agreed upon the price to be paid therefor by the Buyer.
- 18.5 The Buyer has no priority of supply in relation to any product as against the Company's other customers.

19 Change in Law

- 19.1 If there is any Change in Law which applies to the Contract and which makes any part of it illegal or unenforceable or which materially and adversely affects the value of the Contract to the Company, the Company may vary the terms of the Contract as the Company deems reasonably necessary to reflect said changes. The Company shall notify the Buyer in writing of any such changes and the Buyer agrees that it shall accept such changes.

20 Conflict of Interest

- 20.1 Conflicts of interest relating to these Terms and Conditions and any Contract are strictly prohibited. No director, employee or agent of the Buyer or of any subcontractor or vendor of the Buyer of any tier shall give to or receive from any director, employee or agent of the Company (or of any Company Affiliate) any commission, fee, rebate, gift or entertainment of significant cost or value in connection with any Contract or enter into any business arrangement with any director, employee or agent of the Company (or any Company Affiliate) other than as a representative of the Company or its Affiliate, without prior written notification thereof to the Company. The Buyer shall promptly notify the Company of any violation of this Conflict of Interest condition 20 and any consideration received as a result of such violation shall be paid over or credited to the Company.
- 20.2 Neither the Buyer nor the Buyer's employees, agents or subcontractors of any tier, nor their employees or agents, shall make any payment or give anything of value to any official of any government or public international organisation (including any officer or employee of any government department, agency or instrumentality) to influence his or its decision, or to gain any other advantage for the Company or the Buyer in connection with any Contract or its subject matter. The Buyer shall immediately notify the Company of any violation of this condition and shall immediately reimburse the Company out of any and all monies paid by the Company to the Buyer, an amount equal to the amount of the payment or the value of the gift to a governmental official which gives rise to such violation. The Buyer shall defend and indemnify the Company from and against all losses arising out of such violation.
- 20.3 The Buyer shall ensure that any subcontractor retained by the Buyer under or in connection with any Contract is informed of and complies with all the terms

and provisions of the Contract including this condition 20 of these Terms and Conditions of Sale.

- 20.4 If any violation of this Conflict of Interest condition 20 occurring prior to the effective date of any Contract resulted directly or indirectly in the Company's consent to enter into any Contract with the Buyer, the Company may, at the Company's sole option, terminate any Contract at any time and, notwithstanding any other provision of the Contract, pay no compensation or reimbursement to the Buyer whatsoever for performance after the date of termination.
- 20.5 The Buyer shall release, defend, indemnify in full and hold harmless the Company and its Affiliates from and against all losses arising out of a violation of this Conflict of Interest condition 20.
- 20.6 Any representative(s) authorised by the Company may audit any and all records of the Buyer or any subcontractor or vendor of any tier relating to any Contract or its subject matter for the sole purpose of determining whether there has been compliance with the provisions of any Contract including this Conflict of Interest condition 20 and condition 21. The Buyer shall assist the Company in making any such audit.

21 Records

The Buyer and its subcontractors and vendors of any tier shall maintain true and correct records in connection with the performance of any Contract, the supply of Fuel and all transactions related thereto and shall retain all such records for at least 24 months after termination of any Contract or for such longer period as may be required by law.

22 Personal Data

The Buyer will comply with all reasonable requests of the Company with respect to protecting Personal Data about the Company's employees, customers and suppliers and the Buyer's, customers, suppliers, and others the Buyer receives in connection with its performance of any Contract including but not limited to: restricting employee and agent/subcontractor access to such Personal Data, following the Company's instructions in connection with Processing Personal Data, not disclosing Personal Data to any third party without the Company's written permission, applying appropriate security measures to protect the Personal Data, deleting any Personal Data in its possession or control at the expiry or termination of any Contract unless otherwise agreed between the parties, and complying with all applicable data protection laws. In the event of any unauthorised, unlawful, and/or unintended Processing, access, disclosure, exposure, alteration, loss, and destruction of such Personal Data, the Buyer will immediately notify the Company and cooperate with the Company's reasonable requests to investigate and remediate such incident and provide appropriate response and redress.

23 Rights of Third Parties

No term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not party to it.

24 General

- 24.1 Failure to exercise, or any delay in exercising, any right or remedy provided under the Contract or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy. For the avoidance of doubt the parties agree that any failure or delay to exercise any right or remedy by the Company is not intended to and shall not amount to affirmation of the Contract by election and the Company reserves its rights under the Contract unless otherwise notified to the Buyer.
- 24.2 Each right or remedy of the Company is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 24.3 Any right of the Company to terminate the Contract shall be without prejudice to the rights and duties of the parties accrued prior to termination.
- 24.4 A waiver of any right or remedy provided under the Contract or by law shall only be effective if it is in writing and shall apply only to the party it is addressed to for the specific circumstances it is given and may be given subject to conditions.
- 24.5 Each party shall keep secret at all times (and shall procure that its directors, employees, Affiliates and agents do the same) the contents of the Contract and any other information of a confidential nature (in whatever form) obtained (directly or indirectly) from the other by reason of the Contract except if the information is already in the public domain, must be disclosed by law or which the receiving party can show was in its possession before disclosure by the other. Neither party shall use, copy or reproduce confidential information except for the purpose for which it was disclosed. The provisions of this condition 24.4 shall continue to apply for a period of 2 years after termination of the Contract.
- 24.6 In the event that any one or more of the provisions contained in the Contract shall for any reason be held to be unenforceable, illegal or otherwise invalid in any respect, the remaining provisions of the Contract shall not be affected or impaired in any way.
- 24.7 Any notice required to be given to the Buyer or the Company shall (unless expressly otherwise agreed) be given by personal delivery or pre-paid mail:
- 24.7.1 to the Company at 27th Floor, 1 Canada Square, Canary Wharf, London, E14 5AA marked for the attention of The Manager, Business Support or

such person as from time to time notified to the Buyer by the Company;
and

24.7.2 to the Buyer at its registered office (if it is a company) or to any address of the Buyer set out in any document which forms part of the Contract or such address as shall be notified to the Company by the Buyer

and shall be deemed to have been received if delivered personally, on the day of delivery and if sent by pre-paid mail, 3 Working Days after posting (exclusive of the day of posting).

24.8 The Buyer shall not assign or sub-contract or sub-licence, all or any of its benefits, rights or obligations under the Contract in whole or in part without the prior written consent of the Company.

24.9 The Company may assign, sub-contract or sub-licence, all or any of its benefits, rights or obligations under the Contract in whole or in part.

24.10 The Company may, by notice in writing to the Buyer novate all (but not part only) of its rights and obligations (such novation releasing the Company from its obligations) relating to the Contract to an Affiliate of the Company provided always that such notice shall contain:

24.10.1 the transferee's irrevocable and unconditional undertaking to the Buyer to observe, perform, discharge and be bound by all liabilities of the Company in respect of the Contract in place of the Company whether actual, contingent or otherwise arising on or after the date specified in such notice as the novation date as if the transferee Affiliate had at all times been a party to the Contract in place of the Company; and

24.10.2 the Company's confirmation that there is no then current intention to subsequently dispose of the transferee Affiliate.

24.11 The Contract (including (for the avoidance of doubt) any relevant Offer Letter) forms the entire agreement between the parties with respect to its subject matter and expressly supersedes any previous oral or written representations, agreements or understandings in relation thereto.

24.12 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed and construed in accordance with the laws of England and the parties hereby irrevocably submit to the exclusive jurisdiction of the English courts in relation to all such matters.