

AIRPORT ENERGY LIMITED

Terms and Conditions for the Supply of Goods and/or Services to Business Customers

Us/Our/We means Airport Energy Limited (company registration number 03875297) of Wessex House Cadland Road Southampton SO45 3NY. You are the person, firm or company who purchases any product or service from Us.

1.1 the following words and expressions shall have the following meanings unless otherwise stated:

Acknowledgment

of Order	an acknowledgment of order issued by Us.
Business Customer	a customer who is not a Consumer.
Consumer	a person who purchases Goods and/or Services for personal use and is not acting for the purposes of their business or profession.
Charges	the charges payable by you for the supply of the Goods and/or Services in accordance with clause 6.
Conditions	these terms and conditions as amended from time to time in accordance with clause 12.6.
Contract	the contract between Us and you for the supply of the Goods and/or Services in accordance with these Conditions, comprising these Conditions, the Acknowledgement of Order and the Credit Account Notification (if applicable).
Credit Account Notification	written confirmation from Us confirming any credit terms to apply to you.
Goods	the goods to be supplied by Us to you being those goods set out in the Acknowledgement of Order but specifically excluding mains gas, the supply of which is governed by separate terms and conditions.
Fuel	Road Diesel (also referred to as ULSD, Derv, White Diesel), Red Diesel (also referred to as Gas Oil), Marine Gas Oil, Kerosene, Petrol and all variations and additives relative to these products.
Order Services	your order for Goods and/or Services. the services to be supplied by Us to you as set out in the Acknowledgment of Order.

1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.3 A reference to a party includes its successors or permitted assigns.

1.4 A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.5 A reference to writing or written includes faxes and e-mails.

2. OUR CONTRACT WITH YOU

2.1 These are the terms and conditions on which We supply Goods, or Services or both Goods and Services, to you.

2.2 Please ensure that you read these Conditions carefully, and check that the details on the Acknowledgement of Order and in these Conditions are complete and accurate, before you sign the Acknowledgement of Order. If you think there is a mistake, please contact Us to discuss it.

3. BASIS OF CONTRACT

3.1 You agree that all Orders which you may place with Us or any acceptance by you of Our quotation constitutes an offer by you to purchase Goods and/or Services in accordance with these Conditions.

3.2 An Order shall only be deemed to be accepted when We issue an Acknowledgement of Order at which point and on which date the Contract shall come into existence. All Orders which are accepted are accepted subject to availability of the Goods. If the Contract is for a particular period of time, it shall continue for the period stated in the Acknowledgement of Order.

3.3 The Contract constitutes the entire agreement between you and Us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on Our behalf which is not set out in the Contract.

3.4 Any samples, drawings, descriptive matter or advertising issued by Us, and any descriptions or illustrations contained in Our catalogues or brochures or on Our website, are issued or published for illustrative purposes only. They shall not form part of the Contract or have any contractual force.

3.5 These Conditions, the Acknowledgement of Order and the Credit Account Notification apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3.6 Any quotation given by Us shall not constitute an offer, and shall be capable of amendment on notice at any stage.

3.7 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on Us unless it is in writing and is signed by Our duly authorised representative.

3.8 No Order in respect of which an Acknowledgement of Order has been issued may be cancelled by you, except with Our written agreement and provided that you indemnify Us in full against all loss (including without limitation loss of profit), costs (including without limitation the cost of all labour and materials used), damages, charges and expenses incurred by Us as a result of cancellation.

3.9 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, Acknowledgement of Order, Credit Account Notification, invoice or other document or information issued by Us shall be subject to correction without any liability on Our part.

3.10 Our employees, contractors and agents are not authorised to make any representations or contractually binding statements concerning the Goods and/or Services other than as set out in this agreement.

4. SUPPLY

4.1 We shall supply the Goods and/or Services to you in accordance with the Acknowledgment of Order in all material respects.

4.2 We shall use all reasonable endeavours to meet any delivery or performance dates specified in the Acknowledgement of Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services or delivery of the Goods.

4.3 If no date or dates are specified in the Acknowledgement of Order, We shall be entitled to deliver within a reasonable period following the Acknowledgement of Order.

4.4 For Fuel deliveries, We shall use Our reasonable endeavours to deliver an Order within 5 working days, but you agree that you will not be entitled to refuse a delivery by reason of any delay unless the delay is longer than 10 days.

4.5 We may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the applicable Contract. Each instalment shall be a separate Contract and no cancellation or termination by either party of any one Contract

relating to an instalment shall entitle you to repudiate or cancel any other Contract or instalment.

- 4.6 We shall have the right (but not the obligation) to make any changes to the Goods and/or Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Goods and/or Services, and We shall notify you in any such event.
- 4.7 We warrant to you that the Services will be provided using reasonable care and skill. In the case of Goods We shall pass on to you any warranty from Our supplier to the extent We are able.
- 4.8 The Goods may be delivered and/or installed by Us in advance of the quoted delivery date on giving reasonable notice to you.
- 4.9 Delivery shall be made during normal business hours (Monday to Friday 06:00 – 18:00, excluding bank or public holidays). We may levy additional charges for any deliveries made outside such hours at your request.
- 4.10 You shall be responsible (at your cost) for preparing the delivery location for the delivery and for the provision of all necessary access and facilities reasonably required by Us to deliver the Goods and install them (if applicable). If We are prevented from carrying out delivery or installation because no such preparation has been carried out, then We may levy additional charges.
- 4.11 You shall have 7 days to inspect the Goods following delivery and you shall be deemed to have accepted the Goods if you have not exercised in writing your right of rejection of the Goods.
- 4.12 We shall be responsible for any damage, shortage or loss in transit, provided that you notify Us (or Our carrier, if applicable) within three days of delivery or the proposed delivery date of the Goods. Any remedy under this clause 4.12 shall be limited, at Our option, to the replacement or repair of any Goods which are proven to Our satisfaction to have been lost or damaged in transit.
- 4.13 If installation of the Goods is included in the Acknowledgement of Order We shall install the Goods and you shall comply with any requirements notified by Us (or Our duly appointed subcontractors) to allow installation to take place. We reserve the right to appoint subcontractors to perform the installation of Goods on Our behalf.
- 4.14 Where the Goods are delivered in bulk through a hose, you accept that the quantity shown on Our calibrated meter shall be conclusive evidence of the quantity delivered. We cannot accept any responsibility for discrepancies between Our measuring device and any other measuring device used by you.
- 4.15 Where We are delivering Fuel We will attempt to deliver the quantity ordered and you are responsible for ensuring that there is room in your tank for that quantity. We shall not be in breach if less than the amount ordered is delivered or if up to 10% more than that amount is delivered and in such cases you shall pay for it at the pro rata contract rate.
- 4.16 If We deliver Fuel into an incorrect tank, We have the right during reasonable hours to enter any premises (with or without vehicles) where the Fuel is stored in order to recover it and you agree to facilitate Our entry upon the relevant premises for this purpose. If We deliver the Fuel into an incorrect tank either as a result of you failing to clearly identify the correct tank, or otherwise by reason of your fault We may levy a charge for the costs of recovering it which will include costs of the pumping out procedure.
- 4.17 We reserve the right to charge you and you agree to pay by way of liquidated damages the sum of £200 if you cancel a delivery on the day of delivery or where We have been unable to deliver the Goods because you have not complied with your obligations or failed to accept delivery when offered. You

and We agree that the sum of £200 represents a genuine pre-estimate of Our loss in such circumstances.

- 4.18 We have the right to resell the Goods if you refuse to take delivery of, or collect, the Goods. Such an action will not affect Our rights under clause 4.17.
- 4.19 If you are collecting the Goods you must do so at the date and time We notify.

5. YOUR OBLIGATIONS

- 5.1 You shall:
 - 5.1.1 ensure that the terms of the Order and any information you provide are complete and accurate;
 - 5.1.2 co-operate with Us in all matters relating to the Contract;
 - 5.1.3 provide Us, Our employees, agents, consultants and subcontractors, with access to your premises and other facilities as We reasonably require;
 - 5.1.4 provide Us with such information and materials as We may reasonably require in order to supply the Goods and/or Services, and ensure that such information is accurate in all material respects;
 - 5.1.5 obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start or the Goods supplied; and
 - 5.1.6 comply with Our reasonable and lawful instructions which We may communicate to you and which are relevant to the Goods, the delivery of the Goods and / or the use of any equipment supplied by Us.
- 5.2 In the case of Fuel you agree to ensure that:
 - 5.2.1 you provide Us with clear and unambiguous instructions as to the location of the fuel tank to be used to deliver the Fuel to and specifically to update your instructions should the fuel tank be relocated;
 - 5.2.2 any special delivery instructions or hazards are clearly and concisely notified at the time of the Order;
 - 5.2.3 you provide safe access for Our or Our agent's vehicles between the public highway and the actual point of delivery;
 - 5.2.4 if, to effect delivery, Our vehicle is required to leave the public highway, the surface of any drive, access road or similar (and any man-lids or ducts) is capable of accepting heavy goods vehicles;
 - 5.2.5 each oil storage tank is safe and in good working order and will (on delivery) hold the volume ordered and, in the case of a site with more than one tank, the tank or tanks to be filled are correctly marked with the grade of fuel contained or to be contained in each;
 - 5.2.6 each oil storage tank is properly vented and has a working tank contents gauge visible to the delivery driver;
 - 5.2.7 reasonable and safe access is provided to Us;
 - 5.2.8 where electric or other forms of controlled gates are present, they do not close on Our delivery vehicle or its equipment;
 - 5.2.9 you observe all the conditions of any applicable petroleum storage licence;
 - 5.2.10 you shall not allow any smoking or naked lights, nor permit any stoves, electric or gas fires or radiators to function in the vicinity of the point of delivery; and
 - 5.2.11 no gas oil and/or kerosene sold to you by Us will be used in, or used as a fuel in, non-road mobile machinery (NRMM) in accordance with the latest EU Directive as published by the Department for Transport.
- 5.3 We may, by written agreement, hire or place on loan with you equipment (including but not limited to LPG cylinders, oil tank monitoring equipment, oil storage tanks, delivery pumps etc.), such equipment being owned by Us. Such equipment is

supplied in good and safe condition and is used by you entirely at your own risk. If such equipment is damaged or destroyed for any reason other than Our negligence, or not made available to Us to disconnect or remove at Our request, We will charge you for the repair of such equipment in the case of damage if it can be economically repaired or the full replacement cost of such equipment in all other cases. You will be advised in writing prior to the supply of such equipment of any special terms and conditions applicable to it, which shall be in addition to these Conditions. You agree to hold Us fully and effectively indemnified against all and any loss, damage, cost or liability (including any environmental loss or damage or liability) which may arise out of your negligent or improper use of the equipment.

5.4 If the performance of any of Our obligations under the Contract is prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation ("Your Default"):

5.4.1 We shall without limiting Our other rights or remedies have the right to suspend performance of the Services and/or delivery of the Goods until you remedy Your Default, and to rely on Your Default to relieve Us from the performance of any of Our obligations to the extent Your Default prevents or delays Our performance of any of Our obligations;

5.4.2 We shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from Our failure or delay to perform any of Our obligations as set out in this clause 5.4; and

5.4.3 you shall reimburse Us on written demand for any costs or losses sustained or incurred by Us arising directly or indirectly from Your Default.

6. CHARGES AND PAYMENT

6.1 The Charges and methods of payment of the Charges shall be as set out in the Acknowledgement of Order, or, in the absence of any specific agreement on Charges, the prevailing charge set out by Us at any time. The certificate of Our Company Secretary as to the prevailing Charge shall be conclusive evidence of the facts certified therein.

6.2 All Charges are exclusive of delivery, packaging, packing, shipping, carriage, insurance, credit card charges and other charges and duties unless otherwise stated on the Acknowledgement of Order.

6.3 Details of any applicable credit card charges will be as set out in the Acknowledgment of Order.

6.4 You shall pay the Charges in advance in cleared funds before collection or delivery of the Goods or the performance of Services unless you have an approved credit account as evidenced by a Credit Account Notification. We shall be under no obligation to grant you a credit account. Any agreement for the granting of credit shall be subject to Our credit terms which shall be communicated to you and agreed with you at the time of granting the credit. If you have an approved credit account then payment of Our Charges will be due on the agreed settlement date (which We will advise you of in writing in the Credit Account Notification). Time for payment shall be of the essence of the Contract.

6.5 All amounts payable by you are exclusive of value added tax (VAT) which shall be payable in addition at the same time as payment is due for the Goods and/or Services. We shall also charge VAT on delivery, packaging, packing, shipping, carriage, insurance and credit card charges.

6.6 We reserve the right to increase Our Charges to reflect any changes in costs (such as VAT and excise duty) and you agree to pay such increased Charges.

6.7 We reserve the right to cancel any Contract in circumstances where the cost price for the Goods or Services increases as a consequence of circumstances falling outside of Our control. In such circumstances We will provide you with as much

notice of cancellation as is possible and We will provide you with a fresh price for the Goods / Services should you wish to place a fresh order.

6.8 Without limiting any other right or remedy We may have, if you fail to make any payment due to Us under the Contract by the due date for payment, We shall have the right to:

6.8.1 charge interest on the overdue amount at the rate of 8% per annum above the Bank of England's then recommended bank base rate accruing on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly;

6.8.2 terminate the Contract or suspend any further deliveries or performance;

6.8.3 appropriate any payment made by you to such Goods and/or Services (whether supplied under the Contract or another contract between Us) as We think fit (despite any purported appropriation by you);

6.8.4 make a storage charge for any undelivered Goods at Our current rates from time to time;

6.8.5 stop any Goods in transit; and

6.8.6 a general lien on all the Goods and property belonging to you, exercisable in respect of all sums due by you to Us. We shall be entitled, on the expiry of 14 days' notice in writing, to dispose of such Goods or property in such manner and at such price as We think fit and to apply the proceeds towards the amount outstanding.

6.9 All sums payable by you under the Contract shall become due immediately on its termination, despite any other provision of the Contract. This clause 6.9 is without prejudice to any right to claim for interest under the law, or any right under the Contract.

6.10 You shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and you shall not be entitled to assert any credit, set-off or counterclaim in order to justify withholding payment of any such amount in whole or in part. We may, without limiting Our other rights or remedies, set off any amount owing to Us by you against any amount payable by Us to you.

6.11 You shall indemnify Us against and shall reimburse Us on demand for all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, debt collection costs and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Us and which may arise out of or in connection with your breach or non-performance of Your obligations under this Contract (including but not limited to Your duty to pay all amounts due under the Contract) and Our enforcement of this Contract.

7. CONFIDENTIALITY

7.1 You agree to keep in strict confidence these Conditions and any Contract between Us, as well as technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and which We have disclosed to you, your employees, agents or subcontractors, and any other confidential information concerning Our business or its products or its Services which you may obtain. You shall restrict disclosure of such confidential information to such of your employees, agents or subcontractors as need to know it for the purpose of discharging your obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind you. This clause 7 shall survive termination of the Contract.

8. RISK AND PROPERTY

8.1 The Goods shall be at Our risk until delivery to you at the place of delivery specified in the Acknowledgement of Order.

We shall off-load the Goods at your risk. Where the Goods are delivered in bulk through a hose, delivery shall be deemed to take place when the Goods pass from Our vehicle's permanent or temporary hose pipe connection or where you collect when the Goods pass from Our storage into your vehicle's permanent or temporary hose pipe connection. In all other cases, delivery shall be deemed to take place on transfer of possession of Our products, or delivery of Our Service, to you, or where so requested by you, to any third party on your behalf.

8.2 Legal and beneficial ownership of the Goods supplied by Us to you shall remain with Us until We have received payment in full of all Our invoices to you outstanding at the date of delivery or arising from the delivery.

8.3 During such time We retain title to any Goods supplied by Us, you acknowledge that you hold the Goods in a fiduciary relationship as Our bailee, that you will keep the Goods properly stored and separate from your property and that of any third party and protected and insured on Our behalf. At any time whilst We retain legal and beneficial ownership We may retake possession of the Goods (or, in the event of the Goods being indistinguishable, to take possession of goods of a like quality and quantity) and may enter upon your premises for this purpose (and such action shall be without prejudice to any other right We may have and without liability for loss suffered by you) and you shall accept in respect of any Goods repossessed any credit note raised or issued by Us. We shall be entitled to recover payment for the Goods notwithstanding that ownership of the Goods has not passed from Us.

8.4 On termination of the Contract for any reason, Our (but not your) rights in this clause 8 shall remain in effect.

9. LIMITATION OF LIABILITY

9.1 Nothing in these Conditions shall limit or exclude Our liability for death or personal injury caused by Our negligence, or the negligence of Our employees, agents or subcontractors or fraud or fraudulent misrepresentation.

9.2 All warranties, conditions and other terms implied by statute or common law are excluded from the Contract to the fullest extent permitted by law.

9.3 Subject to clause 9.1:

9.3.1 We shall under no circumstances whatsoever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise, for any loss of profit, loss of business, loss of goodwill, loss or corruption to data or information, or any special, indirect or consequential or pure economic loss, costs, damages, charges or expenses arising under or in connection with the Contract or its non-performance;

9.3.2 We accept liability to you for damage to your tangible property resulting from Our negligence not exceeding £1,000,000 or the extent of Our insurance cover for that damage (whichever is the lesser) for any one incident or series of incidents arising from a common cause;

9.3.3 Unless arising from Our driver's negligence, We shall not be liable for any damages whatsoever caused by any vehicle which is required to leave the public highway to effect delivery or to gain access to effect delivery of any Goods or Services; and

9.3.4 Our total liability to you in respect of all other losses arising under or in connection with the Contract, its performance or non-performance whether in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise, shall in no circumstances exceed the amount paid by you to Us under the Contract.

9.4 This clause 9 shall survive termination of the Contract.

10. TERMINATION

10.1 We may terminate the Contract with immediate effect by giving written notice to you if you commit a material breach of the Contract and (if such a breach is remediable) you fail to remedy that breach within 28 days of that party being notified in writing of the breach.

10.2 If you have made any payments in advance for Services that have not been provided to you, We will refund these amounts to you.

10.3 If you become insolvent (including without limitation) if you compound or make any arrangement with your creditors or you have any distress levied against any of your assets or you have an administrator, receiver or liquidator appointed or We believe you may become insolvent or you breach the Contract, We shall have the right to suspend delivery or terminate the Contract with immediate effect by giving notice to you.

11. CONSEQUENCES OF TERMINATION

11.1 On termination of the Contract for any reason:

11.1.1 you shall immediately pay to Us all of Our outstanding unpaid invoices and interest. In respect of Services and/or Goods supplied but for which no invoice has been submitted, We shall submit an invoice, which shall be payable by you immediately on receipt;

11.1.2 you shall return any of Our property in your possession. If you fail to do so, then We may enter your premises and take possession of such property. Until such property has been returned, you shall be solely responsible for its safe keeping and will not use such property for any purpose not connected with this Contract;

11.1.3 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

11.1.4 conditions which expressly or by implication have effect after termination shall continue in full force and effect.

12. GENERAL

12.1 Force majeure

12.1.1 For the purposes of this Contract, "Force Majeure Event" means an event beyond a party's reasonable control including but not limited to strikes, lock-outs or other industrial disputes (whether involving that party's workforce or any other party), failure of a utility service (including IT and telecommunications) or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, snow, bad weather or default of suppliers or subcontractors.

12.1.2 Neither party shall be liable to the other as a result of any delay or failure to perform any obligation under the Contract as a result of a Force Majeure Event.

12.1.3 Where normal delivery schedules can't be met due to an act of Force Majeure, We will take all reasonable steps to inform you of delays.

12.1.4 If the Force Majeure Event prevents Us from providing any of the Goods and/or Services for more than five days, either party shall have the right to terminate this Contract by giving 5 days' written notice to the other.

12.2 Assignment and subcontracting

12.2.1 We may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of Our rights under the Contract and may subcontract

or delegate in any manner any or all of Our obligations under the Contract to any third party or agent.

12.2.2 You shall not, without Our prior written consent assign, transfer, charge, subcontract or deal in any other manner with all or any of Our rights or obligations under the Contract.

12.3 Waiver

12.3.1 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. 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.

12.3.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

12.4 Severance

12.4.1 If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

12.4.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

12.5 Third parties

12.5.1 A person who is not a party to the Contract shall not have any rights under or in connection with it.

12.5.2 You will fully and effectively indemnify Us on demand against any loss that We suffer because of Our entry into this Contract with you, whether directly or as a result of a claim against Us by any third party.

12.6 Variation

Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by Us.

12.7 Governing law and jurisdiction

This 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 by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

12.8 Contact

12.8.1 Our registered office contact details are: Airport Energy Limited, Wessex House, Cadland Rd, Hardley, Hythe, Southampton, SO45 3NY. If you have any questions, complaints or are required to contact us in writing, please use Our office address, which is: Airport Energy Services Limited, Griffin House, Staines Road, Feltham TW14 0HS.

12.8.2 If you have any questions, complaints or are required to contact Us in writing, please use Our address shown in clause 12.8.1 above or alternatively refer to www.airportenergy.com.

12.8.3 If We have to contact you or give you notice in writing, We will do so by email, by hand or pre-paid post to the address you provided to Us in the Order.