

## CONDITIONS OF SALE

These conditions apply to the sale and delivery of any goods or products ("the Products") by Prince Petroleum Limited ("the Seller") to a purchaser ("the Buyer") unless they are inconsistent with any other terms of agreement made between the Seller and the Buyer in writing before the Products are delivered.

### **1. PRICE, VAT, INTEREST AND SET-OFF**

1.1 The Products delivered to the Buyer will be invoiced at the Seller's price ruling on the day of delivery ("the Price").

1.2 The Price is exclusive of VAT which shall be due (where applicable) at the rate ruling on the date of the Seller's invoice.

1.3 Payment is due on the date specified in the invoice. The Seller reserves the right to charge interest on overdue accounts at the rate of 4% above National Westminster Bank plc base rate as published and varied from time to time as well as any cost as may be incurred by the Seller to any third party in relation to the recovery of any amount owed by the Buyer in respect of any such overdue account.

1.4 All amounts due and payable by the Buyer to the Seller shall be made without any deduction whatsoever whether by way of set-off, counterclaim or otherwise.

### **2. QUANTITY AND DELIVERY**

2.1 Delivery of the Product shall be in bulk by hose to the delivery address provided by the Buyer. The Buyer shall at all times give the Seller free right of access to the delivery address and installations for the purpose necessary and consequent to delivering the Products. The Buyer shall maintain any driveways or other means of access to the delivery address where the Products is stored so as to permit the Seller's vehicles and employees or those of its carrier safely to reach and deliver the Products into the delivery address so that there shall be no risk of injury or damage to any employee or property of the Seller or of its carrier. The Seller will use reasonable commercial endeavours to deliver the Products by any time or date agreed with the Buyer and in the quantities required by the Buyer, but time and delivery shall not be of the essence of any contract for the supply of the Products and in the event of the Seller's failure to meet such date for any reason, the Seller shall not be liable for any loss or damage suffered by the Buyer as a result, nor shall this constitute a breach or repudiation of any contract incorporating these Conditions.

2.2 Where the Products are delivered in bulk through hose the quantity shown by any measuring device the Seller employs shall be accepted by the Buyer.

2.3 In the event of a dispute arising between the Seller and the Buyer as to the quantity of Products delivered in terms of these Conditions, certification by the Seller as to measurement or quantification shall be conclusive and binding on the parties.

2.4 No responsibility is accepted by the Seller for the personal safety of the Buyer or his representative if he mounts any vehicle used by the Seller. This is done entirely at his own risk. The Buyer shall provide safe access for the vehicle of the Seller or his agents between the public highway and the actual delivery point. The Buyer shall be responsible for ensuring that the fuel is delivered into the correct feed on the Buyer's tank. The Seller shall not accept responsibility for dipping, checking or testing the Buyer's tanks.

2.5 In the absence of the Buyer or his representative the Seller may, at his discretion, make the delivery. The representative of the Seller will state the quantity delivered as shown by the Seller's measuring devices. Such quantity will be recorded on the delivery ticket left on the premises of the Buyer. Any dispute on the quantity so recorded as being delivered must be notified in writing within five working days of the said delivery.

2.6 The Buyer shall ensure that the vessel tank or container identified for the purpose of making delivery of the Products by the Seller to the Buyer shall be appropriately labeled for the purposes of such delivery.

2.7 The Buyer may request priority delivery of the Products subject to paying an additional charge (being the Seller's priority charge in force from time to time). If the Seller accepts the request for priority delivery it will use its reasonable commercial endeavours to deliver the Products on the agreed delivery date. If the Seller is unable to deliver the Products on the agreed delivery date then any priority charge will not be payable (or will be refunded if already paid) but the Seller shall have no further liability for its failure to deliver on such date.

2.8 The Buyer acknowledges that the price of the Products is determined with reference to the volume of Products ordered. If (acting reasonably) the Seller determines that the actual volume of Products able to be delivered is considerably lower than the volume ordered as a result of the Buyer over-ordering (for example, because the Buyer's fuel tank has insufficient capacity or is too full) the Seller shall be entitled to charge the Buyer for its reasonable costs of transporting the excess Products back to the Seller's depot or to another customer.

2.9 The Buyer is entitled to cancel any order of Products at any time prior to the agreed delivery date by calling, emailing or faxing the Seller. At its sole discretion the Seller may accept cancellation on

the agreed delivery date. If the Seller's delivery vehicle is on the way to the Buyer at the time of cancellation or if the Buyer refuses to accept any delivery of Products, the Seller shall be entitled to charge the Buyer for its reasonable costs of transporting the Products back to the Seller's depot or to another customer.

### **3 INDEMNITY**

The Buyer shall indemnify and keep indemnified the Seller against all loss, claims, demands or expenses arising out of or resulting from any damage to the property of the Buyer or of the Seller or of third persons or personal injury to the Buyer or to the Seller or third persons save where such injury results from the negligence of the Seller occasioned by the use of the Products by the Buyer or the existence of the Products on the Buyer's premises.

### **4. TITLE AND RISK**

4.1 The risk in the products shall pass to the Buyer on delivery to the Buyer or the Buyer's authorised nominee.

4.2 The Products shall remain the sole and absolute property of the Seller as legal and equitable owner until such time as the Buyer shall have paid the Seller the agreed price, together with the full price of any other products the subject of any other contract with the Seller. The said price or prices shall not be treated as received until a bank account of the Seller has been credited therewith in cleared funds.

4.3 The Buyer acknowledges that he is in possession of the Products solely as a bailee for the Seller until such time as he becomes the owner of the Products and the Buyer shall insure the Products for the agreed price upon delivery to the Buyer or the Buyer's authorised nominee.

4.4 If payment is overdue in whole or in part, or if there is a commencement of any act or proceeding in which the Buyer's solvency is involved, the Seller shall be entitled to the immediate return of the Products referred to in all contracts between the Buyer and Seller (without prejudice to any of the Seller's other rights) and the Buyer hereby authorises the Seller to recover possession of goods to the extent of the Buyer's total indebtedness and to enter on the Buyer's premises by its servants or agents for that purpose. The Seller may, for the purpose of recovery of its Products, enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.

4.5 If the Products the property of the Seller are admixed with any products the property of the Buyer the product thereof shall become and/or shall be deemed to be the sole and exclusive property of the Seller limited to the value of the Products supplied by the said Seller to the Buyer under any contract

between the Seller and the Buyer. If any products the property of the Seller are admixed with any products of any person other than the Buyer the product thereof shall become or shall be deemed to be owned in common with that other person. Notwithstanding these provisions, the Buyer shall have the right to dispose of the Products in its ordinary course of business before becoming the owner of the Products but the proceeds of such sale shall belong to the Seller and where there has been any mixture of the Products with other products, the proceeds of the sale or disposal of such products shall belong to the Seller in common with that other person.

## **5. WARRANTIES**

The Seller warrants that the Products will at the time of delivery correspond to the description given by the Seller. Except where the Buyer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 Section 12) all other warranties, conditions or terms relating to fitness for purpose, merchantability or condition of the Products and whether implied by statute or common law or otherwise are excluded.

## **6. LIABILITY**

6.1 The following provisions set out the Seller's entire liability (including any liability for the acts and omissions of its employees, agents or sub-contractors) to the Buyer in respect of:

6.1.1 any breach of its contractual obligations arising under these Conditions; and

6.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with these Conditions.

AND THE BUYER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF THIS CLAUSE 6.

6.2 Any act or omission on the part of the Seller or its employees, agents or sub-contractors falling within Clause 6.1 above shall for the purposes of this Clause 6 be known as an "Event of Default".

6.3 The Seller's liability to the Buyer for death or injury resulting from its own or that of its employees', agents' or sub-contractors' negligence shall not be limited.

6.4 Subject to any exclusion specifically provided for in these Conditions and to the limit set out in Clause 6.5 below the Seller shall accept liability to the Buyer in respect of damage to the tangible property of the Buyer resulting from the negligence of the Seller or its employees, agents or sub-contractors.

6.5 Subject to the provisions of Clause 6.3 above the Seller's entire liability in respect of any Event of Default shall be limited to damages of a maximum amount being the extent that such Event of Default is the subject of insurance cover effected by the Seller and in existence at the date of such Event of Default but otherwise the Seller's entire liability shall not exceed the amount of the Price.

6.6 Subject to Clause 6.3 above the Seller shall not be liable to the Buyer in respect of any Event of Default for loss of profits, goodwill or any type of special indirect or consequential loss (including loss or damage suffered by the Buyer as a result of an action brought by a third party) even if such loss was reasonably foreseeable or the Seller had been advised of the possibility of the Buyer incurring the same.

6.7 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under these Conditions.

## **7. ACCEPTANCE OF THE PRODUCTS**

7.1 The Buyer shall be deemed to have accepted the Products 48 hours after delivery to the Buyer.

7.2 After acceptance the Buyer shall not be entitled to reject the Products which is not in accordance with the contract.

## **8. BUYER'S RESPONSIBILITIES**

Where the Seller delivers in bulk it is the Buyer's responsibility:

- (a) To provide safe and suitable bulk storage which complies in all respects with the relevant requirements of and/or regulations made by H.M. Government or other competent authorities.
- (b) To ensure that the storage into which delivery has to be made will accommodate the full quantity ordered and delivered and in the case of Petroleum Spirit to procure certification to this effect and also to the fact that the connecting hose is properly connected to the correct filling point. The Buyer is referred to The Road Traffic (Carriage of Dangerous Substances in Road Tankers and Tank Containers) Regulations 1992 and any regulations amending or replacing the same and where such regulations apply the Buyer shall ensure that such regulations are complied with before and during delivery.
- (c) In the case of Petroleum Spirit the Buyer will observe all the conditions of his Petroleum Spirit Storage Licence and will not allow any smoking, naked lights, fires, stoves or heating appliances of any description in the vicinity of the storage and the fill, dip and vent pipes connected thereto.

**9. FORCE MAJEURE**

Neither party shall be liable for any default due to any act of God, war, strike, black-out, industrial action, fire, flood, drought, tempest or other event beyond the reasonable control of either party.