

WESTLINK PETROLEUM CREDIT APPLICATION



APPLICANT DETAILS

Business' Legal Name:				
Contact Name:				
ABN/ ACN:		Date of Birth (Where Sole Trader or a Partnership without an ABN):		
Business Type:	Sole Trader <input type="checkbox"/>	Partnership <input type="checkbox"/>	Trust <input type="checkbox"/>	Company <input type="checkbox"/>
Business Address:				
Business Phone:		Email:		

CREDIT APPLICATION DETAILS

Goods and/ or Services Required:	Fuel Supply and Delivery <input type="checkbox"/>	Fuel Logistics <input type="checkbox"/>	Boom Hire <input type="checkbox"/>
Anticipated Monthly Limit Required:	\$	Years Trading:	
Have you ever been?	Bankrupt/ Insolvent?	Y / N	Convicted for breach of legislation?
			Y / N

TRADE REFERENCES (Must supply 3)

Major Supplier Name & ABN / ACN:	Phone:	Email:

AGREEMENT

1. This credit application (**Credit Application**) is submitted to Westlink Petroleum Pty Ltd ACN 143 514 274 (**Westlink**) for the purpose of the above stated applicant (**Applicant**) opening a trading account with Westlink on the terms and conditions detailed in the Credit Terms and Conditions set out overleaf.
2. The Applicant acknowledges and agrees that it has read and understood the Credit Terms and Conditions.
3. The Applicant represents and warrants to Westlink that it has the corporate power to enter into and perform its obligations contained in the Contract, that it has taken all necessary corporate action to authorise the entry into and the performance of the Contract and that the Contract is valid and binding upon it.
4. The Applicant acknowledges that this Credit Application is a deed poll in favour of Westlink and may be relied on and enforced by it in accordance with its terms, notwithstanding that Westlink is not a party to this deed.
5. This Credit Application and the Credit Terms and Conditions shall be governed by and construed in accordance with the laws of the State of Queensland and the Applicant irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of that State and of all Courts competent to hear appeals from them.

Executed as a Deed Poll in accordance with section 127 of the *Corporations Act 2001* (Cth):

Name:	Position:
Signature of Applicant (where signed on behalf of sole trader) or Director (where signed on behalf of Company):Dated:.....	
Name:	Position:
Signature of Additional Director or Company Secretary (where signed on behalf of Company):Dated:	
Name:	Position:
Signature of Witness (where signed on behalf of sole trader or by sole Director who is Company Secretary):Dated:	

¹ (Note Sole Traders and partners in a Partnership will also need to provide a copy of a current Australian driver's licence or a current passport).

CREDIT TERMS AND CONDITIONS

1. The Applicant hereby applies for a trading account with Westlink on the terms and conditions set out in this Contract.
2. The Applicant acknowledges and agrees that Westlink may:
 - (a) in its sole and absolute discretion, choose to accept or decline this Credit Application or accept and agree to provide goods and/or services to the Applicant subject to such conditions as it may see fit, including, but not limited to, the Applicant procuring that one or more third parties provide Westlink with a deed of guarantee and indemnity in the form contained in Annexure A to this Credit Application (**Deed of Indemnity**); and
 - (b) by written notice to the Applicant, withdraw the provision of credit and/or the goods and/or services to the Applicant at any time, effective immediately from the date of that notice.
3. For the purposes of the *Privacy Act 1988* (Cth), the Applicant, acknowledges and agrees to:
 - (a) any personal information contained in, or accompanying, this Credit Application or obtained from other credit providers or its agents being used by Westlink and any of its associated entities, employees, directors, officers or agents (**Associates**), for the purposes of (i) assessing the Credit Application and/or the Applicant's credit worthiness; (ii) notifying other credit providers of the Applicant's default (should such a default occur); (iii) assessing the Applicant's capacity to meet its credit obligations and/or (iv) assessing the Applicant's position if it fails to make payments;
 - (b) Westlink disclosing to any credit-reporting agency information concerning the Applicant, including, but not limited to, details identifying the Applicant, the amount of credit applied for, the fact that Westlink is a current credit provider to the Applicant, payments which may become more than 60 days overdue, advice that payments are no longer overdue, notice of any infringement which Westlink believes the Applicant has committed and/ or notice of the discharge of the Applicant's trading account; or
 - (c) Westlink seeking from any credit-reporting agency a credit report containing personal credit information about the Applicant, including in the event that the Applicant subsequently requests an increased credit limit, and providing or obtaining information from any credit providers named in any such credit reports about the Applicant's personal or commercial credit arrangements including, but not limited to, the Applicant's credit worthiness, credit standing, credit history or credit capacity.
4. Where the Applicant provides personal information concerning one or more third parties, the Applicant represents and warrants that it has disclosed to those persons the fact that it has provided that information to Westlink and the matters outlined above in clause 3.
5. The Applicant acknowledges and agrees that in the event that Westlink accepts the Credit Application and/ or agrees to provide goods and/or services to the Applicant on credit, that those goods and/or services will be provided on the terms and conditions contained in (i) these Credit Terms and Conditions and (ii) the terms and conditions governing the provision of the goods and/or services by Westlink to the Applicant (as amended from time to time) (**Service Terms and Conditions**) (together, these comprise the **Contract**).
6. The Applicant acknowledges and agrees:
 - (a) that it has provided Westlink with its email address in the Credit Application for the purpose of notifying the Applicant by email of the introduction of any amendment to the Contract after the date of executing the Credit Application; and
 - (b) that it will be deemed to have received notice of, and to have seen, read and understood, the details of any amendment to the Credit Terms and Conditions introduced after the date of this Credit Application on the earlier of (i) the date that Westlink provides a copy of the amended Credit Terms and Conditions to the Applicant, (ii) the Applicant has received notice of such amendments by email as contemplated by clause 6(a) or (iii) where the Applicant has not provided its email or any changes to its email address, when such amendments are uploaded onto the website at www.westlinkpetroleum.com.au.
7. The Applicant acknowledges and agrees that, notwithstanding any other clause, Westlink may at any time cease to provide credit and/or goods and/or services on credit to the Applicant, and/ or require that the Applicant submit a new credit application, including, but not limited to:
 - (a) where the Applicant's nominated payment method is invalid, has expired or where there are insufficient funds to satisfy an amount due and owing for more than 15 days after a Debit Date has arisen;
 - (b) where the Applicant does not place a request for goods and/or services with Westlink for 3 months or more; or
 - (c) where, in the reasonable opinion of Westlink, there is any change in the ownership, control or management of the Applicant.
8. The Applicant must notify Westlink in writing as soon as practicable and, in any event, within 7 days of a change described in clause 7(c) occurring.
9. Each calendar month shall represent a separate "**Billing Period**". Westlink must provide (if applicable) after the end of each Billing Period a statement of all transactions pursuant to any Service Terms and Conditions and which the Applicant has paid on credit.
10. The Applicant agrees that it will pay any funds which have been made on credit in a Billing Period by the seventh (7th) calendar day after Westlink has issued an invoice (**Debit Date**), unless Westlink agrees to such other date.
11. Westlink is not obliged to create a trading account for the Applicant unless the Applicant nominates a payment method (which may be by direct debit, cheque, cash or other method of payment accepted by Westlink) and provides all information or documentation required to allow Westlink to debit funds on behalf of the Applicant in satisfaction of the amounts owed pursuant to the Credit Application. The Applicant may change its nominated payment method at any time by giving written notice to Westlink, and the change will take effect from the next Debit Date provided the notice has been given more than 5 days in advance of the Debit Date.
12. By applying for a trading account with Westlink, the Applicant:
 - (a) irrevocably authorises Westlink or one of its agents to deduct funds in satisfaction of the terms of this Contract from the Applicant's nominated payment method; and
 - (b) represents and warrants to Westlink, in favour of Westlink

CREDIT TERMS AND CONDITIONS

and each of its agents, that the Applicant has all necessary authorities to make or authorise payment,

from an account nominated by the Applicant pursuant to clause 11.

13. The Applicant represents and warrants to Westlink, for the benefit of Westlink and each of its Associates, that:

- (a) the information contained in the Credit Application, together with any other information provided by, or on behalf of, the Applicant in support of its Credit Application is true and correct and not misleading in any way; and
- (b) there is no other material circumstance or event that is known by the applicant which if known by Westlink would be likely to affect Westlink's assessment as to whether or not to grant any credit facilities.

14. The Applicant acknowledges and agrees that the above warranties will be deemed to be repeated each time a request for goods and/or services is provided to Westlink by, or on behalf of, the Applicant, and on each such occasion Westlink will be relying upon the representations and warranties contained in this Contract in determining whether to continue to provide goods and/or services to the Applicant.

15. The Applicant agrees to indemnify, and keep indemnified, and hold harmless Westlink (for itself and as agent for each of its Associates) against (and must pay Westlink (and its Associates) on demand) the amount of any claims, damages, expenses (including legal costs on a full indemnity basis), losses or liabilities which Westlink (or its Associates) suffers or incurs arising out of any breach by the Applicant of the Contract, including, but not limited to, any costs or expenses incurred by Westlink (or its Associates) as a result of any failure by the Applicant to pay any fees as and when they fall due, including any debt collection costs or expenses.

16. In clauses 16 to 22, words and phrases that have defined meanings in the *Personal Property Securities Act 2009* (Cth) (**PPSA**) have the same meaning as in the PPSA unless the context indicates otherwise and a reference to a section shall be a reference to a section in the PPSA.

17. In part consideration for Westlink agreeing to provide goods and/or services to the Applicant, the Applicant grants Westlink a security interest in all of the Applicant's present and after-acquired property (with no exceptions) or such other form of security interest as Westlink may register on the Personal Property Securities Register, as security for the performance of the Applicant's obligations in accordance with this Contract.

18. The Applicant agrees to sign any further documents and/or provide such further information (which information the Applicant warrants to be complete, accurate and up-to-date in all respects) which Westlink may reasonably require to enable the registration of a financing statement or financing change statement (as defined in the PPSA) on the Personal Property Securities Register in Australia.

19. The Applicant must notify Westlink at least 14 days before it does any of the following:

- (a) changes its name;
- (b) changes its place of registration or incorporation; or
- (c) changes or applies for an ACN, ABN, ARBN or ARSN under which an interest in any of the collateral is or will be held.

20. If any goods (as defined in the relevant Service Terms and Conditions) supplied to the Applicant become part of a product or

mass or are otherwise dealt with or disposed of, then:

- (a) the Applicant agrees and acknowledges that any dealings or disposals in the collateral giving rise to proceeds does not extinguish Westlink's security interest;
- (b) Westlink's security interest continues in the other property, product or mass; and
- (a) references to the goods supplied to the Applicant shall include the other property, product or mass.

21. The parties agree that, pursuant to section 275(6), neither party will request or be obliged to disclose information of the kind mentioned in section 275(1).

22. The Applicant irrevocably agrees:

- (a) to use its best efforts to do anything which Westlink asks and considers necessary for the purposes of Westlink exercising its rights in connection with its security interest;
- (b) not to make an amendment demand under the PPSA;
- (c) as a grantor under the PPSA, it has waived its rights to receive any notice required by any provision of the PPSA (including a notice of a verification statement) to the extent that such a right can be excluded; and
- (d) to the extent the law permits, section 143 is excluded, and that Westlink, as the secured party under the PPSA, need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4).

ANNEXURE A – DEED OF GUARANTEE AND INDEMNITY

Deed Poll by: of (Guarantor)
(insert name) (insert address)

in favour of Westlink Petroleum Pty Ltd ACN 143 514 274 (Westlink)

Introduction

- A. This deed poll is provided in relation to the credit application form lodged by (Applicant) with Westlink (**Credit Application**).
(insert name of applicant)
- B. In consideration for Westlink agreeing to provide the Applicant with goods and/or services on credit at the request of the Applicant, the Guarantor has agreed to guarantee the performance of all of the Applicant's obligations contained in, or arising from, the Contract.

Operative clauses

1. Capitalised terms used but not defined in this deed have the meaning given to them in the Credit Application and/ or the Introduction section of this deed (and vice versa).
2. The Guarantor acknowledges that this deed is a deed poll in favour of Westlink and may be relied on and enforced by it in accordance with its terms, notwithstanding that it is not a party to this deed.
3. The Guarantor confirms that it has been supplied with a copy of the Credit Application, the Credit Terms and Conditions and the Service Terms and Conditions as at the date of this deed, and that it is aware that the Contract (which comprises the Credit Application, the Service Terms and Conditions and the Credit Terms and Conditions) may be amended from time to time in accordance with their terms, and covenants in favour of, and irrevocably guarantees to, Westlink the:
 - (a) payment when due of any money payable to Westlink in accordance with the Contract (including for breach of warranty and under any indemnity); and
 - (b) performance of all of the Applicant's obligations, including payment, contained in, arising from or implied by, the Contract.
4. As a separate obligation, the Guarantor indemnifies Westlink, and agrees to always keep Westlink indemnified, and hold Westlink harmless against any and all damage, loss, cost, liability or expense that Westlink suffers or incurs arising out of any breach or failure by the Applicant to adhere to the terms of the Contract, including, but not limited to, failing to pay when due, all the money payable to Westlink under the Contract (including for breach of warranty and under any indemnity).
5. The Guarantor's liability is not discharged or reduced by:
 - (a) a consent, concession, release, agreement not to sue, waiver of default, or extension of time by Westlink to the Applicant, the Guarantor or other person, or any an arrangement, composition or compromise between Westlink and the Applicant, the Guarantor or other person;
 - (a) a failure or delay by Westlink in making demand on the Applicant, or in enforcing the Contract against the Applicant or the Guarantor;
 - (b) a merger, amalgamation, reconstruction or alteration in the nature or composition of Westlink or the Applicant;
 - (c) the occurrence of any bankruptcy or insolvency event in relation to the Applicant, the Guarantor or any other person (whether or not Westlink assents to it or receives a benefit from it); or
 - (d) the Applicant's lack of capacity or authority to enter into or perform the Contract, even if Westlink knew or ought to have known about that lack of capacity, or any disclaimer of the Credit Application or the Contract.
6. Clause 5 of this deed applies even if it imposes additional obligations on the Guarantor and the Guarantor agrees that Westlink does not have to take any action or steps to enforce the Contract before enforcing the terms of this deed.
7. The Guarantor represents and warrants that it is able to pay its or the Applicant's debts as and when they fall due and that it has the corporate power to enter into and perform the obligations under this deed, that this deed constitutes valid and binding obligations on it, and it has taken all necessary corporate action to authorise the entry into this deed.
8. The Guarantor acknowledges that it will not directly or indirectly prove in or receive the benefit of any distribution, dividend or payment because of the bankruptcy or insolvency of the Applicant, without Westlink's prior written consent.
9. The Guarantor acknowledges and agrees that this deed is irrevocable and that its obligations will remain in full force and effect until Westlink provides express written notice to the Guarantor releasing it of its obligations contained herein.
10. This deed shall be governed by and construed in accordance with the laws of the State of Queensland and the Guarantor irrevocably submits unconditionally to the non-exclusive jurisdiction of the Courts of that State and of all Courts competent to hear appeals from them, in relation to any legal action, suit or proceeding arising out of or with respect to this deed.

Executed as a Deed Poll:

Signature of Guarantor: Dated:

Name: Position:

Signature of Witness: Dated:

Name: Position: