

## Fuel Card Services Limited

### TERMS AND CONDITIONS OF SALE

The following Terms and Conditions govern the use of the Fuel Card Services Ltd/BP Cards. Fuel Card Services Ltd reserves the right to amend the following Terms and Conditions without prior notification.

#### 1. DEFINITIONS

In these Terms and Conditions the following words, terms or expressions will have the following meanings:

**"Authorised Cardholder"** means any person to whom the Customer has provided a Card

**"BP Oil"** means BP Oil UK Limited (CRN: 446915) and its successor, assigns and appointed agents

#### **"BP Oil & FCS Agreement"**

means an agreement between BP Oil and FCS which, inter alia, sets out the terms on which BP Oil, subject to the BP Oil & FCS Agreement, have authorised FCS to issue Cards to Customers. FCS are only entitled to provide such Cards subject to these Terms and Conditions and the BP Oil & FCS Agreement

**"Card"** means all BP Oil cards issued to the Customer by FCS

**"Customer"** means a body corporate, partnership or individual which is a business and is for the time being a customer of FCS

**"FCS"** means Fuel Card Services Limited (CRN: 2755435) whose registered office is Alexandra House, Lawnswood Business Park, Redvers Close, Leeds, LS16 6QY.

#### 2. ACCEPTANCE

2.1 Signature of and/or use of a Card by the Customer or an Authorised Cardholder constitutes acceptance of these Terms and Conditions which supersede and shall be taken to override any Terms and Conditions proposed or stipulated by the Customer and any literature setting out the use of the Card provided by FCS and/or BP Oil.

2.2 All quotations, offers or tenders are made and all orders of the Card are accepted by the Customer subject to these Terms and Conditions. All prices quoted are subject to alteration or withdrawal by FCS from time to time without notice.

2.3 No binding contract is created between FCS and the Customer until confirmed in writing by FCS and all prior correspondence or oral communications are to be regarded as superseded and not forming part of the contract.

2.4 All drawings, brochures, descriptive matter, price lists or advertisements whether or not supplied with the quotation or tender are approximate only and intend merely to give a general idea of the services described therein and shall not form part of the contract.

#### 3. OWNERSHIP OF THE CARDS

3.1 The Cards remain the property of BP Oil under the BP Oil & FCS Agreement at all times and shall be returned by the Customer promptly at FCS's request.

3.2 The issue to the Customer of Cards shall authorise the Customer to use the Cards to obtain from authorised Suppliers ("Suppliers") fuels, lubricants, anti-freeze and such other goods and/or services ("Goods and/or Services") from Suppliers. The Cards are to be used in the manner indicated by each Supplier.

3.3 The Customer acknowledges that use of a Card for the purchase of Goods and/or Services constitutes a purchase of such Goods and/or Services from FCS through the agency of BP Oil and the relevant Supplier of such Goods and/or Services.

3.4 Neither FCS nor BP Oil shall be liable in any way if the Supplier refuses to supply Goods and/or Services for any reason whatsoever.

#### 4. ISSUE OF THE CARDS

4.1 The Customer may provide a Card to such Authorised Cardholders as the Customer shall determine. The Customer will determine (subject to clause 5.3 below) whether or not the Card will bear the registration number of the vehicle to which the Card relates or whether it will bear the name of the Authorised Cardholder. Such information shall be provided to FCS. The provision of a Card to an Authorised Cardholder shall be deemed as giving such Authorised Cardholder authority to use the Card for the purchase of the Goods and/or Services from the Supplier, as a duly authorised representative of the Customer. The Customer will ensure that the Authorised Cardholder complies with all these Terms and Conditions. No Card will be valid unless the signature strip on the reverse of the Card has been completed in accordance, with instructions issued by BP Oil from time to time.

4.2 The Customer shall be solely responsible for the safe keeping and security of any Cards issued to it and for their correct use in accordance with these Terms and Conditions, whether by its Authorised Cardholder or by the Customer.

4.3 The embossing of a vehicle registration number on a card is for administration purposes only. It is not intended as a security measure and is not verified when the card is used.

#### 5. USE OF THE CARDS

5.1 The Card may only be used:-

5.1.1 if it is a current Card and during the period of validity embossed on the Card;

5.1.2 by an Authorised Cardholder to obtain Goods and/or Services from a Supplier thereof which accepts the Card,

5.1.3 to obtain Goods and/or Services of a specified nature depending and in accordance with any restrictions relating to such Goods and/or Services embossed on the Card.

5.2 The right is reserved by FCS to unilaterally withdraw at any time any entitlement to purchase the Goods and/or Services for which the Card can be used and to issue to the Customer a new Card indicating the appropriate Goods and/or Services in replacement of the previous Card.

5.3 FCS will, on request issue to the Customer, Cards which will not be embossed with either the registration number of any vehicle or the name of any Authorised Cardholder (known as **"Wild Cards"**). In relation to such Cards and notwithstanding any other provisions of these Terms and Conditions, the Customer will be liable in respect of all or any transactions made with the Cards referred to above notwithstanding the fact that they may be or may have been reported to be lost or stolen or fraudulently reproduced and will indemnify and keep indemnified FCS in respect of and in relation to all costs, claims and demands arising out of or in connection with the use of such Cards whether by the Customer Authorised Cardholders and/or a third party.

5.4 The Customer and Authorised Cardholder shall use the PIN if so required by a supplier or BP.

5.5 The PIN shall only be used by the Customer and Authorised Cardholder to whom it is supplied and shall not be:

5.5.1 disclosed by the Customer and/or the Authorised Cardholder to any other person;

5.5.2 written in such a manner as may be understood by someone else on any Card or sales voucher or on anything kept with the card or compromised in any other way; and

5.6 The PIN advice should be destroyed immediately after receipt.

5.7 If the PIN is compromised in any way, the Customer must immediately notify the Agent of that fact in accordance with clause 13.1 and return the relevant Card to the Agent with the right hand corner cut off for security purposes.

5.8 A new Card and PIN can only be issued upon receipt of a written request from the Customer and will be despatched to the Customer separately by the Agent.

5.9 The customer may request FCS to provide a replacement PIN for their card. FCS shall be entitled to charge a fee of £5.00 plus VAT per PIN for this service.

5.10 If the customer requests a universal PIN for their fleet, the customer undertakes to indemnify FCS from and against any and all losses, claims, costs, demands and expenses that FCS may incur as a result of the PIN being compromised by the customer and/or its authorised cardholder.

## 6. PURCHASE OF GOODS AND/OR SERVICES

6.1 Prior to agreeing to purchase or take delivery of Goods and/or Services, the Authorised Cardholder shall present or show his Card to the relevant Supplier.

6.2 Neither FCS nor BP Oil give any terms, conditions or warranties whether express or implied and whether arising by common law or statute in relation to any Goods and/or Services supplied to the Customer.

6.3 Whenever making purchases of Goods and/or Services, the Authorised Cardholder shall comply with all procedural requirements of the Supplier in respect of the relevant Card transaction and shall be liable to pay FCS for all amounts due to FCS pursuant to the relevant Card transaction.

6.4 When BP Plus (Pump and Schedule Price) transactions take place at BP site, the transaction will be processed subject to a variable handling fee in addition to the pump price or schedule price prevailing at the time of the transaction.

6.5 When BP Plus (Pump and Schedule Price) Card transactions take place outside the BP owned/operated site network, the transaction will be processed with a 1ppl surcharge (including VAT) in addition to the Pump or Schedule price prevailing at the time the transaction took place.

6.6 When BP Bunker (Bunker Price) Card transactions take place outside the nominated core bunker network, the transaction will be processed with an appropriate handling fee on top of the pump price at the time of the transaction.

6.7 Supplies of Goods and/or Services, other than Motor fuel, acquired with the Card by the Customer shall be invoiced at the price shown on the Customer's receipt plus a reasonable handling fee, details of which are available on request.

## 7. INVOICES AND VOUCHERS

7.1 An invoice will be sent to the Customer once or twice (as appropriate) monthly in arrears, or weekly in arrears, detailing all purchases on the Customer's account processed to the date of the raising of the relevant invoice. No invoice will be sent if no purchases have been made in a relevant period. Supplies of lubricants, anti-freeze, and various shop goods or services purchased with the Card by the Customer shall be invoiced at the price shown on the Customer's receipt plus a reasonable handling fee, details of which are available on request. The price for fuel shown on the first invoice from FCS will be the price agreed between the Customer and a duly authorised representative of FCS. Due to the volatility of the oil market and the impracticality of notifying each Customer, FCS may change the price from time to time without notice to the Customer.

7.2 The Customer may request FCS to provide copies of sales vouchers for transactions made on their Card provided that the transaction took place not more than 3 months prior to the date of the request. FCS shall be entitled to charge a fee of £10.00 plus VAT for each copy voucher. The above fee may be waived if the transaction is found not to be valid against the Customer's account.

7.3 The customer may request FCS to provide copies of sales invoices. FCS shall be entitled to charge a fee of £10.00 plus VAT. This fee covers up to 5 copy invoices in any 1

request; a request for more than 5 copy invoices would incur a charge of £20.00

## 8. PAYMENT

8.1 Payment of the invoice by the Customer in full and cleared funds will be made by one payment in each of the following specified periods:

8.1.1 drawings made on the Cards within the first 2 weeks of each calendar month are due to be paid on the 30th of each calendar month; and

8.1.2 drawings made on the Cards during the remainder of each calendar month are due to be paid on the 15th of each calendar month following the invoice date;

8.1.3 drawings made on a weekly basis and subject to weekly invoices are due to be paid within 7 days of the date of the invoice;

by direct debit to such account as is notified by FCS to the Customer, unless agreed otherwise in writing by FCS and the Customer. Any such agreement shall provide that payments of the whole amount of credit shall be payable within specified periods and the number of repayments for the whole amount of the credit shall not exceed one. For the avoidance of doubt, if the direct debit payment due date falls on a Saturday, payment will be taken on the preceding Friday. If the direct debit payment due date falls on a Sunday, payment will be taken on the following Monday.

8.2 If the Customer falls to pay their amount by the due date in Clause 8.1 FCS may (a) invalidate the Customer's Card and/or (b) terminate the Contract forthwith without notice at which point all amounts due to FCS, (whether invoiced or not) shall become immediately due and payable in full.

8.3 If a Customer's payment by direct debit fails or a cheque is not honoured, FCS shall be entitled to charge the Customer a fee of £20.00 plus VAT to cover administration costs for each failed presentation.

## 9. INTEREST AND CHARGES

9.1 FCS reserve the right to charge interest and/or reasonable debt recovery costs in the event that any amounts payable by the Customer to FCS under these Terms and Conditions are not paid by the due date (notwithstanding and without prejudice to FCS's right to terminate the contract in such circumstances).

9.2 Interest shall be chargeable and payable in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, or at such lower rate as FCS may decide in its absolute discretion from time to time.

9.3 Reasonable debt recovery costs shall include all third party debt recovery costs, charges and other liabilities reasonably incurred by FCS including collection agency costs and any costs incurred in ascertaining the location of the Customer.

9.4 FCS reserves the right in the alternative to claim interest and reasonable recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998 as amended.

9.5 All payments by the Customer or any credits or refunds due to the Customer will be applied first in settlement of any interest owed to FCS by the Customer and secondly in reduction of the Customer's other indebtedness to FCS. No claim by any Customer or Authorised Cardholder against any supplier shall entitle the Customer to set off or counterclaim against the amounts due to FCS.

9.6 The Company may charge a fee to the Cardholder for issue of the Card either on setting up of the Cardholder's account or upon replacement or renewal of the Card depending on particular circumstances. Card charges are payable in advance at the prevailing rates which are reviewed periodically, and may be subject to increase.

## 10. TERMINATION

- 10.1 Unless agreed in writing the contract may be terminated by either party at any time by giving not less than 30 working days prior written notice to the other party.
- 10.2 FCS shall be entitled to treat the contract as terminated with immediate effect and without notice in the event that:-
- 10.2.1 the Customer is in breach of any of these Terms and Conditions;
- 10.2.2 If the Customer (as applicable) goes into, or is perceived by FCS as likely to enter into receivership, administration, bankruptcy, liquidation or similar proceedings or makes any arrangement with its creditors against the Customer or any other event occurs which in the opinion of FCS may affect the ability of the Customer to comply with any or all of its obligations or meet any of its liabilities under these Terms and Conditions.
- 10.3 The contract shall automatically terminate upon the termination for any reason whatever of the BP Oil & FCS Agreement and such termination will be confirmed by written notice to the Customer by BP Oil or FCS.
11. **CONSEQUENCES OF TERMINATION**
- In the event of termination the Customer shall cut in half Cards supplied and return them to FCS and the whole outstanding balance of the Customer's account shall (at FCS's discretion) become due and payable in full to FCS and the right to use the Card shall terminate (but without prejudice to the Customer's liability for the use of the Card after termination or to the rights of FCS already accrued at the date of such termination).
12. **CANCELLATION**
- 12.1 Cancellation of a Card will only prevent renewal of the Card on expiry. It will not prevent the Card from being used.
- 12.2 FCS will cancel a Card on the Customer's written request. The Customer must immediately return the cancelled Card to FCS with the right hand corner cut off for security purposes.
- 12.3 FCS may cancel or suspend any or all Cards at any time without notice and reserves the right to refuse to reissue, renew or replace any Card.
- 12.4 Notwithstanding any other provisions of this Agreement, the Customer will remain liable in respect of any transactions made with the Card after its cancellation but prior to its return to FCS in accordance with 12.2 above.
13. **LOST OR STOLEN CARDS**
- 13.1 If the Card is lost, stolen, mislaid, damaged, fraudulently reproduced or subject to such other similar circumstances or not received by the Customer when due or if the PIN number has been compromised the Customer must immediately notify FCS, Alexandra House, Lawnswood Business Park, Redvers Close, Leeds, LS16 6QY and FCS may, at its sole discretion either (a) terminate the contract forthwith or (b) provide the Customer with a replacement Card.
- 13.2 The Customer will provide FCS with all information in its possession as to the circumstances of any loss, theft or misuse as detailed above in clause 13.1 of obligations hereunder.
- 13.3 The Customer shall be liable for payment for any Goods or Services acquired from Suppliers by the use of a Card issued to it at any time during the period from the time of issue until one working day from the notification of the circumstances mentioned in clause 13.1.
- 13.4 If any Card which has been reported missing, lost or stolen is subsequently retrieved it shall not be used and it shall be returned forthwith to FCS at the address shown above in clause 13.1.
14. **LIABILITY**
- 14.1 Neither FCS nor any employee, representative, sub-contractor or agent of FCS shall be liable to the Customer in respect of any inaccurate information about purchases of Goods and/or Services made by use of the Cards when such inaccuracy is caused by incorrect information provided by an Authorised Cardholder or Supplier.
- 14.2 The Customer undertakes to indemnify FCS from and against any and all losses, claims, costs, demands or expenses which FCS may incur as a result of a Card being used by a third party other than the Customer and/or its Authorised Cardholders or by reason of any negligence or dishonest or criminal conduct relating to the use of the Card by the Customer's employees, agents, representatives and/or sub-contractors. This indemnity shall continue in force notwithstanding the termination of the contract.
15. **EXCLUSION OF LIABILITY**
- 15.1 Nothing in these Terms and Conditions shall exclude or limit FCS's liability for death or personal injury caused by its negligence or for fraudulent misrepresentation.
- 15.2 Subject to clause 15.1 FCS shall not be liable for loss whether arising from breach of contract, tort or negligence or otherwise, and whether flowing naturally and directly or indirectly from such breach, tort, negligence or other cause; or not for the following:
- 15.2.1 Loss of revenue;
- 15.2.2 Loss of profit;
- 15.2.3 Loss of anticipated savings;
- 15.2.4 Loss special to the particular circumstances of the Customer;
- 15.2.5 Loss resulting from the conditions, quality or sufficiency of any fuel or other Goods and/or Services supplied under these Terms and Conditions;
- The sub-clauses of this Clause 15 are intended by the parties to be severable.
16. **DATA PROTECTION ACT 1998**
- 16.1 The FCS shall comply with the requirements of the Data Protection Act 1998 and shall not disclose or allow access to any personal data provided by the Customer or acquired by FCS during the course of the contract other than to a person employed or engaged by FCS or as required by law.
- 16.2 The Customer hereby consents to FCS processing the Customer's personal data for the specific purpose of this contract. FCS may request personal data from third parties with the Customer's consent, for example, credit reference agencies.
- 16.3 Any use, disclosure or access to personal data allowed under Clause 16.1 shall be made in confidence and shall extend only so far as that which is specifically necessary for the purposes of the contract.
- 16.4 FCS shall take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
17. **GENERAL**
- 17.1 The Customer shall forthwith notify FCS in writing of any changes in the Customer's name, address, bank details or any change of legal entity of the Customer.
- 17.2 When the Customer consists of two or more persons such expression throughout shall mean and include such two persons and each or any of them. All obligations on the part of such Customer shall be joint and several obligations.
- 17.3 Without prejudice to the provision of clause 15 above all monies due and owing by the Customer to FCS shall become due and payable forthwith if FCS discovers that any of the information provided by the Customer to FCS is inaccurate or the Customer is in breach of any of these Terms and Conditions.
- 17.4 The contract is personal to the Customer and the Customer shall not be entitled to assign or transfer all or any of its rights, interests or obligations hereunder.

18. **FORCE MAJEURE**

If the performance of the contract by FCS shall be delayed by any circumstance or conditions beyond the reasonable control of FCS, FCS shall have the right at its option (a) to suspend further performance of the contract until such time as the cause of the delay shall not longer be present or (b) to be discharged from further performance of and liability under the contract.

19. **NOTICE**

Any notice required to be given under the contract shall be in writing and delivered personally or sent by facsimile, or by first class post to the registered office of the other party or such other address as notified by the parties in writing. Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, 48 hours after posting or if sent by facsimile, 12 hours after proper transmission.

20. **THIRD PARTY RIGHTS**

A person who is not a party to the contract shall have no rights pursuant to the Contract (Rights of Third Parties) Act 1999 to enforce any term of these Terms and Conditions.

21. **SEVERANCE**

If any condition hereto shall be deemed void for any reason whatsoever, but would be valid if part of the wording were deleted any such condition shall apply with such modifications as may be necessary to make it valid and effective.

22. **"DEALS AS CONSUMER"**

Nothing in these Terms and Conditions shall affect the statutory rights of a customer who in relation to the Company "deals as consumer" as defined in Section 12 of the Unfair Contract Terms Act 1977 or any amendment or modification thereof.

23. **LEGAL CONSTRUCTION**

These Terms and Conditions shall be construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts.

**May 2009**