

**TERMS AND CONDITIONS OF SALE**

The use of the Fuel Card Services Limited – Fast Fuel Card/Texaco is governed by the following Terms and Conditions:

**1. DEFINITIONS**

In these Terms and Conditions the following words have the following meanings, unless the context requires otherwise:-

- 1.1 **"Authorised Cardholder"** means any person to whom the Customer has provided a Card;
- 1.2 **"Card"** means the FastFuel/Texaco Card issued by the Company to the Cardholder for the purpose of purchasing Products from a Site;
- 1.3 **"Cardholder"** means the person, partnership or company in whose name the Card account is held and maintained and includes employees, sub-contractors or any other person acting on behalf of the Cardholder;
- 1.4 **"the Company"** means Fuel Card Services Limited (No 2107821) whose registered office address is situated at Alexandra House, Lawnswood Business Park, Redvers Close, Leeds, LS16 6QY and its successors and assigns;
- 1.5 **"Contract"** means a contract created by the acceptance of an order made by the Cardholder for a Card which incorporates these Terms and Conditions and any special conditions in the order;
- 1.6 **"Credit Limit"** means the maximum amount expressed in money terms which the Company may from time to time specify to a Cardholder as being the limit of purchases of Products on credit that may from time to time be made by the Cardholder with any Card;
- 1.7 **"Lost Card"** means any Card that is lost, stolen, mislaid, wilfully damaged, fraudulently reproduced or subject to such similar circumstances (as appropriate);
- 1.8 **"Products"** means stocks of diesel fuel, petrol, Liquid Petrol Gas (LPG), lubricant or gas oil available in some or all of the Sites;
- 1.9 **"Seller"** means the person, company or partnership that operates the Site and sells the Products;
- 1.10 **"Site"** means an authorised site, which appears in the Texaco/Fast Fuel site directory.
- 1.11 The headings in these Terms and Conditions are for convenience only and shall not affect the interpretation of these Terms and Conditions or the Contract.

**2. CHARGES**

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.

**3. ACCEPTANCE**

- 3.1 Signature of and/or use of a Card by the 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 Cardholder and any literature setting out the use of the Card provided by the Company.
- 3.2 All quotations or offers are made and all orders of the Card are accepted by the Cardholder subject to these Terms and Conditions.
- 3.3 These Terms and Conditions shall apply to all repeat orders made by the Cardholder unless the Company notifies the Cardholder otherwise.

**4. APPLICATIONS**

- 4.1 The granting of all applications made by the Cardholder for the issue of Cards shall be at the absolute discretion of the Company.
- 4.2 Each Card will be valid for use by the Cardholder to the extent of the Credit Limit for a period of up to twelve months from the date of issue.

All risk of loss will pass to and be borne by the Cardholder from the date the Card is issued. The Company will, on request, issue to the Cardholder, Cards, which will not be embossed the registration number of any vehicle or the name of any Authorised Cardholder (named as **"Wild Cards"**). In relation to such Wild Cards and notwithstanding any other provisions of these Terms and Conditions, the Cardholder will be liable in respect of all or any transactions made with the Wild Cards 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 the Company in respect of and in relation to all costs, expenses (including legal expenses and disbursements), claims and demands arising out of or in connection with the use of such Wild Cards whether by the Cardholder and/or a third party.

4.4 The Cardholder shall ensure that any person using a Card shall not tamper with or try to alter or interfere with the fuel monitoring device or fuel delivery equipment at any Site. In the event there appears to be a defect or fault in such monitoring or fuel delivery equipment the Cardholder shall forthwith report the same to the Seller of the Site.

4.5 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. PRICE**

5.1 The price for fuels shown on the first invoice from the Company will be the agreed price between the Cardholder and a duly authorised representative of the Company. Due to the volatility of the oil market and the impracticality of notifying each Cardholder, the Company may change the price from time to time without notice to the Cardholder.

5.2 Supplies of various shop goods or services other than Products purchased with the Card by the Cardholder shall be invoiced at the price shown on the Cardholder's receipt, plus a reasonable handling fee.

5.3 All prices are subject to all Government or other taxes, duties, levies, charges, surcharges, assessments or impositions where applicable at the appropriate rate and any variation of the same at any time for the account of the Cardholder.

**6. PAYMENT, INTEREST & FEES**

6.1 The Company or its agents will send the Cardholder a statement of charges for the Products drawn by the Cardholder on a twice monthly basis or on any alternative basis as may be agreed between the Company and the Cardholder from time to time.

6.2 The Customer may request the Company 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. The Company 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.

6.2.1 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

6.3 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:

6.3.1 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

6.3.2 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;

6.3.3 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.
- 6.4 In order to comply with the direct debit requirement the Cardholder shall at all times:
- 6.4.1 maintain a bank account capable of accepting direct debits;
- 6.4.2 keep the Company provided with a valid direct debiting mandate against such account; and
- 6.4.3 ensure that every direct debit properly instanced by the Company against such account is duly met.
- 6.5 If payments are not cleared by the Cardholder's bank on the first presentation the Company has the right to place a stop on the Card and the Cardholder's account will be closed and the Contract will terminate with immediate effect. If a Customer's payment by direct debit fails or a cheque is not honoured, the Company shall be entitled to charge the Customer a fee of £20.00 plus VAT to cover administration costs for each failed presentation.
- 6.6 If for any reason the Cardholder has not paid the full invoice value in cleared funds by the due date, the Company reserves the right to charge interest on the account of the Cardholder and/or reasonable debt recovery costs (notwithstanding and without prejudice to the Company's right to terminate the contract in such circumstances).
- 6.7 Interest shall be chargeable and payable in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, or at such lower rate as the Company may decide in its absolute discretion from time to time.
- 6.8 Reasonable debt recovery costs shall include all third party debt recovery costs, charges and other liabilities reasonably incurred by the Company including collection agency costs and any costs incurred in ascertaining the location of the Cardholder.
- 6.9 The Company 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.
- 6.10 All payments by the Cardholder or any credits or refunds due to the Cardholder will be applied first in settlement of any interest owed to the Company by the Cardholder and secondly in reduction of the Cardholder's other indebtedness to the Company. No claim by any Cardholder or Authorised Cardholder against any supplier shall entitle the Cardholder to set off or counterclaim against the amounts due to the Company.
- 6.11 Upon the Cardholder going into liquidation, whether compulsory or voluntary, or having a receiver or administrator or administrative receiver appointed over all or part of its property or business or being declared bankrupt (as appropriate), the total outstanding balance on the Cardholder's account shall immediately become due and payable in full and cleared funds and the right to use the Card shall automatically cease.
- 7. JOINT AND SEVERAL LIABILITY**
- 7.1 Where the Cardholder consists of two or more persons the use of "**the Cardholder**" throughout these Terms and Conditions shall mean and include such two or more persons and each or any of them. All obligations on the part of such Cardholder shall be joint and several obligations of such persons.
- 7.2 While the Company will endeavour to supply the required Products no warranty can be given that any or all of the Products are available at any particular Site.
- 8. CARD USAGE & CANCELLATION**
- 8.1 The Card may only be used by the Cardholder and the Cardholder is responsible for the safe keeping and security of the Card and the prevention of unauthorised use of the Card.
- 8.2 Prior to entering into any transaction in relation to the supply of Products the Cardholder shall present the Card at the Site.
- 8.3 The Card may only be used to obtain the Products at the Sites.
- 8.4 The Card remains the property of the Company at all times and may only be used up to the noted expiry date embossed on the Card.
- 8.5 The Company may in its sole discretion cancel a Card at any time without notice or refuse to issue a replacement Card to the Cardholder.
- 8.6 On cancellation or termination of the Contract, the Cardholder shall return all issued Cards cut in half to the Company within 7 days.
- 8.7 The Company will cancel a Card on the Customer's written request.
- 8.8 Cancellation of a Card will only prevent renewal of the Card on expiry. It will not prevent the Card from being used.
- 8.9 Possession of the Card does not confer any right on the Cardholder to receive the Products.
- 8.10 The Contract shall terminate with immediate effect in the event that the Company's agreement with Texaco for the supply of the Cards expires or terminates for any reason whatsoever.
- 8.11 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 the Company in accordance with 8.6 above.
- 9. PIN NUMBERS**
- 9.1 A 4 digit PIN Number will be allocated to each Card.
- 9.2 PIN Numbers will be treated as confidential information by the Cardholder and should at all times be kept entirely separate from the Card.
- 9.3 If a PIN Number is disclosed to an unauthorised person the Cardholder must immediately notify the Company as per Condition Error! Reference source not found..
- 9.4 The PIN Number is only for use at outdoor terminals at the Sites. An "outdoor terminal" is an automated unattended FastFuel Card payment facility located on or near the fuel pumps.
- 10. LOST OR STOLEN CARDS**
- 10.1 If a card is a Lost Card the Cardholder must immediately notify the Company by fax at such address as the Company may specify from time to time. Notice must be given to the Company before 2.30pm during the course of a working day (i.e. excluding weekends and bank holidays) for a Lost Card to be stopped. Any notice given outside such hours will be deemed to have given at the commencement of the next working day.
- 10.2 The Cardholder shall remain liable for all transactions made with such Lost Cards for a period expiring at the end of the second working day after the day on which notification is received in accordance with Condition 10.1, save that no such release from responsibility will be given to the Cardholder if it can be established in the Company's reasonable belief in all the circumstances that:
- 10.2.1 the Cardholder or the Cardholder's authorised representative gave the relevant Lost Card to an unauthorised person; or
- 10.2.2 the circumstances resulting in the Lost Card was due to the negligence of either the Cardholder or the Cardholder's authorised representative; or
- 10.2.3 the Cardholder or the Cardholder's authorised representative failed to adhere to a request made by the Company or its representative to destroy or return the Lost Card to the Company; or
- 10.2.4 the Cardholder was in breach in any of the terms and conditions of these Terms and Conditions.

- 10.3 The Cardholder shall indemnify and keep indemnified the Company from and against any and all losses, claims, costs, demands or expenses (including without limitation legal expenses and disbursements) which the Company may incur as a result of a Lost Card being used by a third party other than the Cardholder or its authorised representative or by reason of negligence of dishonest or criminal conduct relating to the use of the Lost Card by the Cardholder's employees, agents, representatives and/or sub-contractors. This indemnity shall continue in force notwithstanding the termination of the Contract.
11. **RESALE**
- Except where expressly agreed in writing by the Company with the Cardholder, Products purchased with any Card issued to the Cardholder shall not be used by the Cardholder for any purpose other than for fuel or lubricant (as appropriate) in the Cardholders own or contracted vehicles and shall not be resold or otherwise disposed of to any other persons.
12. **FORCE MAJEURE**
- 12.1 Any obligation of the Company to supply Products to the Cardholder shall be suspended in the event that directly or indirectly by any cause or circumstances whatsoever reasonably outside the Company's control (including without prejudice to the generality of the foregoing in the case of, industrial action, any action taken by the Company's own employees and in the case of Governmental action compliance by the Company with any request or instruction of the Government, fire flood, war, riot, insurrection, acts of God, acts of terrorism and fuel shortages) the Company is prevented or hindered;
- 12.1.1 from supplying the Cardholder with its requirements of Products; or
- 12.1.2 from obtaining from its usual sources of supply at the Sites all its requirements of crude oil and relevant petroleum products.
- 12.2 On the occurrence of any of the circumstances mentioned in Condition 12.1 above the Company shall determine (and may from time to time re-determine) the extent (if any) to which supplies of Products to the Cardholder are to be maintained whilst such circumstances continue, having regard to its ability to obtain process and to deliver supplies, the costs of doing so, the requirements of all its customer's local needs and any other consideration it considers relevant.
- 12.3 As soon as practicable after the circumstances of force majeure mentioned in Condition 12.1 above cease the Company shall inform the Cardholder of the resumption of supplies of the Products and the ability to purchase such Products from the Sites with the Cards.
13. **DATA PROTECTION ACT 1998**
- 13.1 The Company shall comply with the requirements of the Data Protection Act 1998 (as amended from time to time) and shall not disclose or allow access to any personal data provided by the Cardholder or acquired by the Company during the course of the Contract other than to a person employed or engaged by the Company, as required by law or as provided under Condition 13.2.
- 13.2 The Cardholder hereby expressly consents to the Company processing the Cardholder's personal data for the specific purpose of their Contract. The Company may request personal data from third parties for example, credit reference agencies. Where credit is granted, the Company may also disclose details about the Cardholder's account with the Company and the Cardholder's conduct of the account to such credit reference agencies or to other agencies or debt collection agencies. This information may be searched by credit granters and used and provided in assessing applications for future credit facilities and for debt collection, fraud prevention and other purposes.
- 13.3 Any use, disclosure or access to personal data allowed under Condition 13.1 shall be made in confidence and shall extend only so far as that which is specifically necessary for the purpose of the Contract.
- 13.4 The Company shall take appropriate technical and organisation measures against unauthorised or unlawful processing of personal data and against accident loss or destruction of, or damage to, personal data.
- 13.5 In Conditions 13.1 to 13.4 above, references to "**the Cardholder**" shall be deemed to include (without limitation) officers, employees, contractors and agents in relation to which the Company receives personal data arising out of or in connection with the Cardholder's dealings with the Company.
14. **LIABILITY OF THE COMPANY**
- 14.1 The Company accepts no liability and gives no warranty, express or implied, whether arising by common law or statute in relation to any transaction by or Product supplied to the Cardholder by virtue of entering into the Contract with the Cardholder.
- 14.2 The Company accepts no responsibility and shall not be liable to the Cardholder for a failure (for whatever reason) on the part of an automatic dispensing pump to dispense Products at any Site.
- 14.3 Subject to Condition 14.4 below, the Company shall not be liable for loss whether arising from breach of contract, tort (including without limitation, negligence), statutory duty or otherwise, and whether flowing naturally and directly or indirectly from such breach, tort, statutory duty or other cause; or not for the following:
- 14.3.1 loss of revenue;
- 14.3.2 loss of profit;
- 14.3.3 loss of anticipated savings;
- 14.3.4 loss of goodwill;
- 14.3.5 loss of reputation;
- 14.3.6 loss of anticipated contracts;
- 14.3.7 loss special to the particular circumstances of the Cardholder.
- The sub-clauses of this Clause 14 are intended by the parties to be severable.
- 14.4 Nothing in these Terms and Conditions shall exclude or limit the Company's liability for death or personal injury caused by its negligence or for fraudulent misrepresentation.
15. **ASSIGNMENT**
- The Contract is personal to the Cardholder and shall not be assigned in whole or in part by the Cardholder without prior written consent of the Company.
16. **GENERAL**
- 16.1 The Cardholder shall immediately notify the Company in writing of any change to the Cardholder's name, address, bank details or any change of control of the Cardholder, including any change of legal entity.
- 16.2 The Company may vary or add to the Terms and Conditions at any time provided that notice of such variation is served in writing. Any use of the Card by the Cardholder or the Cardholder's authorised representative after such notice has been served on the Cardholder shall be construed as acceptance by the Cardholder of such variation or addition.
- 16.3 Unless the Company expressly states otherwise in connection with any particular promotions, the Card does not entitle the Cardholder to participate in any of the Company's special offers that may be available from time to time.
- 16.4 Failure by the Company at any time to enforce any breach by the Cardholder of these Terms and Conditions or the Contract shall not be construed as a waiver by the Company of such Terms and Conditions or the Contract and the Company shall be entitled to enforce such breach at any time.
17. **NOTICE**
- Any notice required to be given under the Contract shall be in writing and determined 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.

18. **THIRD PARTY RIGHTS**

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

19. **SEVERANCE**

If any of these Terms and Conditions or the Contract shall be deemed void for any reason whatsoever, but would be valid if part of the wording were deleted any such terms or conditions shall apply with such modifications as may be necessary to make it valid and effective.

20. **GOVERNING LAW**

These Terms and Conditions are governed by the laws of England and the parties submit to the exclusive jurisdiction of the English Courts.

**October 2008**