

# BP Fuelcard Terms and Conditions

Effective 1 March 2025

## 1. DEFINITIONS

**1.1 "Account"** means a Fuelcard account opened for a Buyer pursuant to an Application.

**1.2 Account Credit Limit** means the limit to which the Buyer may purchase Products on its Account, as nominated by BP and communicated to the Buyer from time to time.

**1.3 "Applicable Anti-corruption Laws"** means any anti-corruption laws that are applicable to either the Buyer or this Agreement, including the US Foreign Corrupt Practices Act and the UK Bribery Act.

**1.4 "App"** means BP's mobile phone application which links payment of Products to the Fuelcard, which an Authorised User (defined below) can use to purchase Products.

**1.5 "Application"** means the Credit Application form or other application form issued by BP that a Buyer has completed and submitted to BP to apply to BP for the supply of Products on credit and/or the issue of a Fuelcard.

**1.6 "Authorised User"** means persons authorised by the Buyer to use its BP Fuelcard(s). Each Authorised User is deemed to be the Buyer's agent.

**1.7 "Amounts Owning"** means all amounts owing by the Buyer to BP at the relevant time.

**1.8 "BP"** means BP Oil New Zealand Limited.

**1.9 "BP Charge Network"** means BP's network of electric vehicle charging points across New Zealand.

**1.10 BP Fuelcard Online** means BP's online portal through which the Buyer can manage its Fuelcards.

**1.11 "BP Motor Fuels"** means motor fuels and lubricant products including BP Ultimate, BP Unleaded with up to 10% renewable ethanol, Opal, unleaded and premium unleaded petrol, automotive LPG and diesel purchased by the Buyer under BP trade marks and third party purchased automotive LPG and other fuel products nominated by BP from time to time.

**1.12 "Buyer"** means, in relation to the Application, each Business Buyer (if applicable) and each Consumer Buyer (if applicable) named in it, or any one of them, as the context requires.

**1.13 "Business Buyer"** means any applicant named in the Application: (a) that is not a natural person; or (b) who is a natural person for whom the Products are used or intended to be used wholly or predominantly for business purposes.

**1.14 "Business Day"** means a day (other than a Saturday, Sunday or public holiday observed in New Zealand) on which registered banks are opened for general banking business in New Zealand.

**1.15 "Charges"** means all applicable government and statutory costs, charges, duties, excise and taxes (excluding GST) at the rate prevailing at the time of supply.

**1.16 "Consumer Buyer"** means any applicant named in the Application who: (a) is a natural person and for whom the Products are used or intended to be used wholly or predominantly for personal, domestic or household purposes; or (b) acquires the Products for personal, domestic or household use and consumption.

**1.17 "EV Charging"** means access to and use of electric vehicle charging points on the BP Charge Network to charge an electric vehicle.

**1.18 "Force Majeure"** means any event beyond the reasonable control of BP and includes riot, civil commotion, war, acts of terrorism, accident, shortened hours of labour, strikes, lockouts and other labour disputes, compliance with a government request, storm, fire, natural disasters, national emergencies, pandemic, epidemic, Product shortage, or any discontinuance, whether total or partial, permanent or temporary, of any of BP's or BP's suppliers' sources of supply of crude petroleum or electricity or Product or the means of delivery of any Product or by any computer program or computer processor failure.

**1.19 "Fuelcard"** means a fuel card solution that is issued by BP pursuant to clause 8 of these Terms, which may include a physical card (which may be branded as BP Fuelcard or BP Plus) or other BP issued item(s) that can be used to purchase Products.

**1.20 "Guarantor"** means any person who executes a personal guarantee relating to the Buyer's obligations to BP or, if there is more than one Guarantor, any one of them.

**1.21 "GST"** has the meaning given in has the meaning given in the Goods and Services Tax Act 1985.

**1.22 "Insolvency Event"** occurs if: (a) BP reasonably believes that the Buyer or a Guarantor is unable to pay any Amounts Owning as they fall due or is bankrupt or insolvent; (b) the Buyer is placed under external administration; (c) a Guarantor disputes the legal effectiveness of the relevant guarantee; and/or (d) any person takes enforcement action against the Buyer's or a Guarantor's property.

**1.23 "Nominated Premises"** means premises nominated by BP, from time to time, as accepting Fuelcard and which may vary for any reason without notice to the Buyer.

**1.24 "Other Products and Services"** means products and services other than BP Motor Fuels and EV Charging nominated by BP as available on the Buyer's Fuelcard.

**1.25 "PIN"** means personal identification number.

**1.26 "Products"** means BP Motor Fuels, EV Charging and Other Products and Services purchased on a Fuelcard.

**1.27 "Terms"** means these terms and conditions as amended from time to time under clause 28.

## 2. APPLICATION OF TERMS

**2.1** These Terms apply to the supply of Fuelcards to the Buyer only for use by the Buyer and its Authorised Users in the Buyer's business.



**2.2** For the avoidance of doubt, the Buyer must not re-sell to any third party any Fuelcards supplied by BP pursuant to these Terms. BP requires that any person engaged in re-selling BP's Fuelcards enters into a written agreement with BP which contains provisions dealing with resale.

### 3. ACCEPTANCE OF APPLICATION

**3.1** All applications must be submitted by the Buyer to BP on an Application, which may include an electronic form. BP will use reasonable endeavours to accept or decline an Application (at its sole discretion) by written notice to the Buyer within 21 days of receipt of the Application.

**3.2** The Buyer acknowledges that, by submitting the Application or first using or attempting to use a Fuelcard, the Buyer agrees to be bound by these Terms and will ensure that it and its Authorised Users comply with them until all the Buyer's Fuelcards expire, are cancelled or otherwise cease to be valid. In the event of such expiry, cancellation or invalidity, the Buyer continues to be bound by all obligations and liabilities incurred by it before such expiry, cancellation or invalidity.

**3.3** The Buyer represents and warrants that all information it supplies to BP in, or in connection with, the Application is accurate, up to date and not, whether by omission or otherwise, misleading and that the Buyer has not withheld from BP any fact material to BP's decision to provide credit to the Buyer.

### 4. ACCOUNT CREDIT LIMIT

**4.1** BP may charge all Amounts Owing under or in connection with these Terms to the Buyer's Account and all Amounts Owing will count towards the Account Credit Limit.

**4.2** Following approval of the Buyer's Application, BP may, at any time grant credit to the Buyer, and without limiting BP's rights under clause 4.3, BP may, acting reasonably, and on reasonable notice vary the terms on which such credit will be granted, including changing the payment of invoice terms or changing the Account Credit Limit from time to time.

**4.3** BP may withdraw any credit granted to the Buyer without notice if the Buyer exceeds the Account Credit Limit or suffers an Insolvency Event.

**4.4** A Buyer must not exceed its Account Credit Limit. The Buyer is able to see all transactions made on its Account, its Account Credit Limit and its Account balance via BP Fuelcard Online. The Buyer is responsible for monitoring the Amounts Owing on the Buyer's Account to ensure that the Buyer does not exceed the Account Credit Limit. Any excess is immediately payable to BP as a debt due and owing on demand. BP reserves the right to suspend all of the Buyer's Fuelcards, without notice, until such time as any excess is paid and the Account is within its Account Credit Limit.

### 5. PRICE

**5.1** Unless otherwise agreed with BP and notwithstanding details that may appear on a receipt, BP Fuelcard docket or sales voucher, if any, BP will debit the Buyer's Account with:

- (a) the value of BP Motor Fuels and EV Charging obtained on the Buyer's Fuelcard, being the retail price charged at the Nominated Premises at the time of purchase;
- (b) the value of Other Products and Services obtained on the Buyer's Fuelcard, at the retail price charged at the Nominated Premises at the time of purchase;
- (c) for Accounts held by Business Buyers only, Fuelcard transaction fees or other applicable fees as set out in the

current Schedule of Fees available at [www.bpfuelcard.co.nz](http://www.bpfuelcard.co.nz), as updated by BP from time to time (in accordance with these Terms); and

- (d) applicable Charges and GST at the rate prevailing at the time of the taxable supply.

**5.2** The Buyer acknowledges the prices charged by BP for Products may be varied by BP from time to time, including as a result of changes in wholesale crude oil or electricity prices, currency or exchange rates, the oil and electricity markets generally or the volume of Products purchased by the Buyer.

**5.3** The Buyer acknowledges that:

- (a) the unit price for EV Charging may not be displayed on the EV Charging point and may vary from time to time across the BP Charge Network; and
- (b) for EV Charging, any reference to "litres," on a BP invoice shall be read as "kWh."

### 6. PAYMENT

**6.1** The Buyer must not deduct, withhold or set-off any sum from any Amounts Owing to BP.

**6.2** The Buyer may effect payment of Amounts Owing by either direct debit from the Buyer's nominated bank account in accordance with the direct debit form in the Application or by Visa, MasterCard or American Express credit card. Service fees, as legally permitted, apply to payments made using credit cards, as set out in the current Schedule of Fees available at [www.bpfuelcard.co.nz](http://www.bpfuelcard.co.nz) (as may be updated by BP from time to time). Unless agreed otherwise in writing between BP and the Buyer or a different date is specified on an invoice, the payment of invoices must be made on the 10th day of the month after the month in which the relevant Products are supplied. Payment is deemed to have occurred once the amounts indicated on the invoice have been received into BP's bank account. Some methods of payment may take 3 or more days before the payment is received by BP and, as such, the Buyer is responsible for ensuring that it makes payment to BP so that payment is received by BP on or before the specified due date.

**6.3** The Buyer must notify BP immediately of any change to the Buyer's banking details.

**6.4** The Buyer must ensure that there are sufficient funds available in its nominated bank account to meet its direct debit deductions.

**6.5** If the Buyer exceeds its Account Credit Limit and/or fails to make payment in accordance with this clause, BP may at its option (acting reasonably): (a) refuse to extend further credit to the Buyer; (b) suspend all of the Buyer's Fuelcards, without notice; and if after reasonable notice (which shall be no more than 14 days) the Buyer has still failed to make payment, BP may cancel the Buyer's Fuelcards; and/or (c) exercise its termination rights pursuant to clause 19. The Buyer remains liable for all Amounts Owing to BP, even if BP takes any of the actions referred to in this clause.



**6.6** Without limiting BP's other rights under these Terms, if the Buyer exceeds its Account Credit Limit and/or fails to make payment in accordance with this clause, then the Buyer must: (a) Pay BP all Amounts Owed; (b) if the Buyer is a Business Buyer, pay BP simple interest on the unpaid amount calculated at a rate of 1.5% per month calculated daily from the due date until actual payment on all unpaid amounts; and (c) indemnify BP for any and all expenses reasonably incurred by BP in relation to any enforcement of these Terms, or the exercise, preservation or consideration of any rights, powers or remedies under this Agreement and including in each case, reasonably incurred legal costs and expenses and the costs of any agents or contractors acting on BP's behalf in respect of any recovery or attempted recovery of any amount due by the Buyer, except to the extent that such costs or expenses are caused or contributed to by BP's breach of these Terms, or BP's negligence or wilful misconduct. 6.7 To the extent permitted by law, all money received by BP from the Buyer will be applied in the following order: interest; enforcement and legal expenses; applicable Charges; and amounts due for Fuelcard transactions.

**6.8** Payment by any person other than the Buyer does not imply BP's consent to the assignment of the Account by the Buyer to such person.

**6.9** If the Buyer disputes any amount appearing on an invoice, it must notify BP in writing no later than 30 days after the date the invoice is made available to the Buyer and must provide details of the disputed amount and the reasons for the dispute. The Buyer is deemed to have accepted any invoice if it has not notified BP of a dispute within 30 days after the invoice was made available to the Buyer. Where the Buyer has lodged such a dispute with BP, BP may conduct an investigation into the dispute and the Buyer must provide to BP such evidence as BP reasonably requests in relation to the dispute, including a statutory declaration, if so required by BP. Within a reasonable time thereafter, BP will notify the Buyer in writing of its findings and outcome. If BP accepts the disputed transaction, BP will promptly credit the Buyer's Account via a credit note on the Buyer's next invoice. Without affecting the Buyer's rights under this clause, where disputes cannot be resolved prior to the account payment being due, the Buyer must pay the full amount by the due date.

## 7. CREDIT AND SECURITY

**7.1** If requested by BP, the Buyer must provide security for the performance of its obligations under these Terms in a form and on terms and conditions reasonably acceptable to BP. If the Buyer fails to provide the requested security, BP may exercise its rights under these Terms to vary the terms of, or withdraw, any credit granted to the Buyer.

**7.2** If requested by BP, the Buyer must provide BP with: (a) information in the form and for the period reasonably requested by BP relating to the Buyer's financial position. This information may include a balance sheet, profit and loss statement, and cash flow statement; and (b) information in the form and for the period requested by BP in relation to the financial position of any prospective Guarantor. 7.3 The Buyer must give BP written notice of any change in its contact details, ownership, legal identity or directors within 7 days of the change.

## 8. GENERAL USE OF FUEL CARDS

**8.1** If BP accepts an Application, BP will open an Account in the Buyer's name. Upon opening the Account BP will, at BP's discretion, issue the Fuelcards the Buyer applied for and make reasonable additional quantities of Fuelcards available (if requested) for the Buyer and its Authorised Users to obtain

Product at Nominated Premises. Reasonable quantities of additional and replacement Fuelcards may be available. If the Buyer requires a card solution for purchasing EV Charging, the Buyer may need to be issued with a new Fuelcard, for which fees may apply.

**8.2** The Buyer, as the Account holder, is responsible for all Fuelcards issued to it and any purchases made either directly or indirectly with the Fuelcards issued to it (subject to clause 11). This includes purchases via the App. The Buyer must ensure all Fuelcards are valid at the time of use, are in good physical working condition and any details embossed on the Fuelcards are correct at the time of purchase. The Buyer must monitor the use of all Fuelcards issued to it and ensure they are stored in a safe place.

**8.3** If the Fuelcard bears an Authorised User's name and a signature panel, the Fuelcard must be immediately endorsed with such Authorised User's signature. Such Fuelcards must only be used by such Authorised User. At the Nominated Premises, the Authorised User presenting the Fuelcard may be required to sign the BP Fuelcard docket or sales voucher and/or enter their PIN. If the Product or value of the Product that the Authorised User is purchasing does not require a PIN or a signature, the Buyer acknowledges and agrees that it is still responsible for all transactions made using its Fuelcards.

**8.4** The Fuelcard may be embossed with the registration number of the vehicle identified on the Fuelcard, in the relevant space, if any. The Buyer and its Authorised Users must only use the Fuelcard in respect of that nominated vehicle. If requested, at the Nominated Premises, the Authorised User presenting a vehicle specific Fuelcard must enter the appropriate PIN, state the registration number, provide a description of the vehicle and sign the BP Fuelcard docket or sales voucher. Supply of BP Motor Fuel on a Fuelcard must be into the running tank of the vehicle. BP is not responsible for nor liable for verifying the vehicle's registration number and description embossed on the Fuelcard, if any, with the vehicle at the time of purchase. If the Product or value of the Product that the Authorised User is purchasing does not require a PIN or signature, the Buyer acknowledges and agrees that it is still responsible for all transactions made using its Fuelcards.

**8.5** A PIN may be assigned to a Fuelcard. For electronic transactions using a Fuelcard the Buyer or Authorised User must enter a PIN, where required. The PIN must not be written on the Fuelcard or be kept as a written record with the Fuelcard. It is solely the Buyer's responsibility to ensure that only they and the Authorised User(s) use the Fuelcard and, if issued, the PIN. The Buyer acknowledges that a PIN may not be required for purchases using a Fuelcard via the App or for purchases of EV Charging using the Fuelcard.

**8.6** The Fuelcard cannot be used to obtain BP gift cards, cash, any cash equivalent, or cash for the refund of a Product.



**8.7** When purchasing Products, it is the Buyer's responsibility to ensure any sales voucher or EFTPOS receipt, where issued, correctly records the quantity, price and other details of the purchase. By entering the PIN or signing the sales voucher or EFTPOS receipt, the Buyer authorises the purchase of the Products and any costs to be charged by BP to the Buyer's Account. The Buyer agrees that entry of the PIN or signature of the person using the Fuelcard on the sales voucher or EFTPOS receipt, may be relied on by BP as valid authority from the Buyer for the purchase of the Products and the costs of such purchases shall be charged by BP to the Buyer's Account. The Buyer acknowledges and agrees that this process is not required for purchases using a Fuelcard via the App. The Buyer agrees that once an Authorised User has been approved to use the App, this may be relied on by BP as valid authority from the Buyer for the purchase of all Products and the costs of such purchases via the App.

**8.8** Notwithstanding the foregoing, the Buyer acknowledges and agrees to the following in respect of all purchases of EV Charging using a Fuelcard:

- (a) no PIN, signature or odometer reading are required; and
- (b) no receipt will be issued at the time of the transaction.

**8.9** BP may refuse to supply any of the Products in situations where: a Fuelcard produced at the time of purchase is invalid or damaged; an incorrect PIN or different signature is provided; or the vehicle does not match the registration number and description embossed on the Fuelcard. However, the Buyer acknowledges and agrees that BP is not responsible nor liable for verifying the signature of the person named or the registration number or description of the vehicle identified on a Fuelcard, if any, at the time of Product purchase and the Buyer is responsible for all transactions made on the Buyer's Fuelcard(s).

**8.10** BP may from time to time issue a duplicate or replacement Fuelcard (including in circumstances where the Buyer requests a replacement for a damaged Fuelcard or shortly prior to the expiry of an existing Fuelcard). The destruction of the old Fuelcard is the responsibility of the Buyer and the Buyer will remain liable for any use of the old Fuelcard, notwithstanding the issue of a duplicate or replacement.

## 9. REPORTS

BP will provide the Buyer with a consolidated monthly tax invoice detailing the Fuelcard transactions for the previous month. With respect to EV Charging, BP cannot provide the Buyer with usage reporting or other detailed reporting as may be provided by BP to the Buyer for the purchase of BP Motor Fuels.

## 10. PURCHASE OF FUELCARD PRODUCTS

The Buyer is deemed to purchase (a) BP Motor Fuels and/or EV Charging from BP; and (b) all Other Products and Services from the operator of the relevant site. To the fullest extent permitted by law, BP shall in no way be held liable in respect of any product which is not deemed to have been purchased from BP under this clause.

## 11. LOSS AND UNAUTHORISED USE OF FUELCARD

Every Fuelcard remains the sole property of BP at all times. Except as expressly provided in this clause, the Buyer responsible for and BP is not liable for any unauthorised use whatsoever of any Fuelcard, including purchases via the App. If the Buyer suspects or becomes aware that any Fuelcard (including the PIN, if any) is lost, not received

when due, stolen or subject to possible unauthorised use (including unauthorised use of a Fuelcard via the App) or if the Buyer notices any irregular or unknown transactions on its Account, the Buyer must notify BP immediately, requesting cancellation of that Fuelcard, by phone or via BP Fuelcard Online. BP will take responsibility for unauthorised use of a Fuelcard occurring after such BP Fuelcard has been reported to BP as being lost, stolen, not received when due, or subject to possible unauthorised use, and receipt of such report has been confirmed by BP in writing. The Buyer is responsible for all transactions on its Fuelcard before the time it notifies BP, except to the extent that any unauthorised use is caused or contributed to by BP's breach of these Terms, or BP's negligence or wilful misconduct. Subject to the foregoing, BP will not be liable for any transactions on a Fuelcard made prior to the time that BP confirms, in writing, receipt of notification from the Buyer requesting cancellation of a Fuelcard. In addition to where the Buyer has notified BP in accordance with this clause 11, if BP reasonably considers that a Fuelcard has been used other than as permitted or contemplated by these Terms, BP may at any time retain and/or suspend that Fuelcard and cancel all privileges attached to that Fuelcard and/or the Account to which it relates.

## 12. CANCELLATION OF FUELCARDS

**12.1** The Buyer may request cancellation of a Fuelcard where it is no longer required by contacting BP by phone or via BP Fuelcard Online.

**12.2** Acting reasonably, BP may cancel any or all of the Buyer's Fuelcards at any time and will promptly notify the Buyer if it does so. BP may cancel any or all of the Buyer's Fuelcards if it breaches these Terms; or BP reasonably suspects the Buyer's insolvency or fraud or that a suspicious transaction has been made on its Fuelcard.

**12.3** The Buyer must destroy any cancelled Fuelcard. For avoidance of doubt, the Account will remain active for all other Fuelcards issued to the Buyer (if any).

**12.4** On cancellation of all the Buyer's Fuelcards, the debit balance of the Buyer's Account becomes immediately due and payable to BP.

## 13. CONSUMER GUARANTEES ACT AND FAIR TRADING ACT

**13.1** For the purposes of section 5D of the Fair Trading Act 1986 (FTA) and section 43 of the Consumer Guarantees Act 1993 (CGA), the parties acknowledge and agree that, if the Buyer is acquiring, or holds itself out as acquiring, the Products in trade, to the extent permitted by law:

- (a) they are contracting out of the CGA (to the extent that the CGA would otherwise apply to any matters covered by these Terms);
- (b) it is fair and reasonable for the parties to be bound by this clause 13.1; and
- (c) they have received legal advice in relation to these Terms (or had the opportunity to seek such advice but decided not to).





**13.2** Nothing in these Terms will affect any right any person may have under the CGA if they are a consumer (as defined in the CGA) and are not acquiring, or holding themselves out as acquiring, the Products in trade.

## **14. SUPPLY OF THE PRODUCTS**

**14.1** On presentation of a valid Fuelcard, supplies of the Products will be made available to the Buyer and Authorised Users, subject to hours of business at the Nominated Premises and availability of supplies. EV Charging may not become available to the Buyer until written confirmation is provided to the Buyer by BP. EV Charging will not be available at all BP branded or BP partner sites in New Zealand. BP does not guarantee the performance nor continuous availability, reliability or fault-free operation of any EV Charging point on the BP Charge Network. Upon reasonable written notice to the Buyer, BP may, at any time, withdraw EV Charging as a Product available to the Buyer.

## **15. FORCE MAJEURE**

If BP is subject to an event of Force Majeure which prevents or delays the performance of its obligations under these Terms, then BP's obligations are suspended for the duration of the event of Force Majeure. BP will to the extent reasonably practicable, promptly notify the Buyer if an event of Force Majeure arises. BP is not liable for any non-performance of or delay in performing its obligations under these Terms if such delay or non-performance arises out of or is in connection with an event of Force Majeure. BP will use its best commercial endeavours to resume fulfilling its obligations under these Terms as soon as reasonably practicable following cessation of a Force Majeure event.

## **16. LIABILITY**

**16.1** If the Buyer is a Consumer Buyer, the Buyer must give BP written notice of any claims that BP's conduct has breached these Terms within 10 Business Days. Claims brought after this period are absolutely barred. BP will investigate and may, at BP's sole discretion, replace the Products purchased from BP or an unmanned facility or credit the Buyer's Account with the cost of such Products.

**16.2** Other than as described in clause 16.1, to the fullest extent permitted by law, BP is not liable in respect of any loss, damage or cost arising in connection with the quantity or quality of Products supplied under these Terms or the failure to supply Products under these Terms and, in respect of any liability which cannot be so excluded, BP's liability will be fully discharged by BP either (in its sole discretion): (a) supplying the Product; (b) resupplying that Product; or (c) supplying equivalent product or services.

**16.3** The limitation of liability nominated in clause 16.2 above does not apply where any such loss, damage or cost under or in connection with these Terms is caused by the negligence of BP or its directors, officers, employees, agents, contractors or subcontractors.

**16.4** Except where required by law, in no circumstances shall either party be liable under or in connection with these Terms in contract, under any indemnity or warranty, tort (including negligence), by statute or otherwise for any indirect losses or expenses or consequential loss, including any loss of profit, loss of production, loss of financial opportunity, loss of access to markets, loss of business opportunity, loss of goodwill, loss of business reputation, damage to credit rating and direct or indirect financing costs whether or not in the reasonable contemplation of the parties at the time of entering into

these Terms.

**16.5** This clause 16 can only be varied by a subsequent written agreement signed by BP and the Buyer.

## **17. SAFETY, HEALTH AND ENVIRONMENT**

The Buyer agrees to use its best endeavours to minimise all material health, safety and environmental risks and to avoid adverse health, safety or environmental incidents whilst on the Nominated Premises. The Buyer must ensure its Authorised Users comply with this clause. If in BP's reasonable opinion the Buyer and/or Authorised User fails to comply with such requirements and/or endangers or threatens any site operator, property or operation of the site, BP has the right to refuse supply of any Products and/or entry of the offending party on its Nominated Premises.

## **18. BP CONTACTS AND ENQUIRIES**

The Buyer should use BP Fuelcard Online or contact BP customer support on 0800 800 027 (during business hours) for:

- (a) notification of lost or stolen BP Fuelcards or unauthorised use;
- (b) notification of unusual activity or transactions on its Fuelcard or Account;
- (c) general queries;
- (d) requests for new or replacement Fuelcards; and
- (e) notification of any change in its contact details, bank account details, ownership, directors or legal identity details.

## **19. BREACH AND TERMINATION**

**19.1** Unless otherwise agreed with BP, the Buyer may terminate its Account on 14 days' written notice to BP.

**19.2** Without prejudice to BP's other rights under these Terms, BP may immediately suspend or terminate the Buyer's Account by giving written notice to the Buyer if: (a) the Buyer breaches these Terms and does not remedy that breach within fourteen (14) days after receiving written notice of that breach from BP; (b) an Insolvency Event occurs; (c) an event of Force Majeure continues for 30 days; or (d) the Buyer sells, transfers or disposes of its business or there is a change of control of the Buyer, without BP's prior written consent.

**19.3** In the event of any breach of these Terms by the Buyer, BP may take such action as it is entitled to take by law.

**19.4** Upon termination:

- (a) all Amounts Owed must be paid to BP within seven (7) days of termination;
- (b) the Buyer must pay BP interest under clause 6.6(b) and recovery costs under clause 6.6(c), as applicable, within seven (7) days of termination; and
- (c) all of the Buyer's Fuelcards will be immediately cancelled.

**19.5** Termination will not affect any provisions of these Terms which expressly or by implication are intended to survive termination.



## 20. DISPUTE RESOLUTION

**20.1** If a dispute arises out of or relates to these Terms, the parties must in the first instance, endeavour to settle the dispute in good faith within thirty (30) days of the dispute arising.

**20.2** Where a dispute cannot be settled in accordance with clause 20.1 above, both parties will endeavour to settle the matter with the assistance of a mediator appointed by the Resolution Institute before having recourse to litigation. Either party may request the appointment of a mediator to the dispute and must, at the time of making that request, provide a copy of that request to the other party.

**20.3** Nothing in this clause 20 is intended to restrict a party's access to the courts (provided the parties comply with clauses 20.1 and 20.2) or to urgent, interlocutory relief.

## 21. GST

Amounts set out in these Terms are exclusive of GST unless otherwise specified. If any supply under these Terms is a taxable supply, then subject to the supplier issuing a valid tax invoice to the recipient, the supplier may, in addition to the amount payable recover from the recipient an additional amount on account of GST, equal to the consideration in respect of the taxable supply (exclusive of GST) multiplied by the rate of goods and services tax. Payment of this amount must be made at the same time as payment for the taxable supply is required to be made in accordance with these Terms.

## 22. ANTI-BRIBERY AND CORRUPTION

The parties, in performing these Terms, must comply with any Applicable Anti-corruption Law and must not give or offer to give, receive, or agree to accept, any payment gift or other advantage which violates an Applicable Anti-corruption Law.

## 23. PRIVACY

**23.1** The Buyer authorises BP to collect, store, use and disclose personal information (as defined in the Privacy Act 2020) provided by the Buyer and/or collected by BP from third parties ("Personal Information") in accordance with the Privacy Act and BP's Privacy Statement, as updated from time to time.

**23.2** In addition, the Buyer authorises BP to collect, store, use and disclose Personal Information for: (a) the purposes described in clause 24 and (b) the purposes of assessing the Buyer's creditworthiness from time to time. The Buyer agrees that this may include BP sharing Personal Information with credit reporting and debt collection agencies (including credit default information, if applicable) who may collect and retain such Personal Information and use it to provide their credit reporting and debt collection services.

**23.3** The Buyer acknowledges and agrees that BP may use the Buyer's Personal Information in connection with its marketing activities with respect to the Products.

**23.4** The Buyer acknowledges and agrees that prior to BP accepting any Application for Fuelcards, BP may at its sole discretion require owners, officers or partners of the Buyer to undertake a credit check. In order to undertake a credit check, BP requires each person to provide BP with their consent for BP to undertake the credit check.

**23.5** The Buyer has a right to access and request correction of Personal Information held by any BP entity by contacting the relevant BP entity at the details set out in BP's Privacy Statement.

## 24. INFORMATION EXCHANGE WITH THIRD PARTIES

**24.1** The Buyer acknowledges and agrees that BP may exchange the information described in clause 24.2 below about the Buyer with third parties, including with (i) industry associations, who may then share this information with their representatives and (ii) third-party software solution suppliers to support the provision of Fuelcards, Apps and the Products. Where a Buyer is a member of an industry association or customer of another organization, such third parties may use that Buyer information and contact the Buyer directly for the purposes of calculating rebates, commissions, or other payments, or to determine whether that Buyer is taking up an industry association or other organisation offer and to market any industry association or other organisation offers to that Buyer.

**24.2** The type of Buyer information that BP may exchange with third parties under clause 24.1 includes: personal information about the Buyer, contact details (including phone number, email and address), the fact that the Buyer is a Fuelcard customer, volumes of petroleum and/or electricity products that the Buyer has purchased from BP in a given period, the Buyer's Fuelcard membership number and industry association or other organisation membership number (if applicable), and the Buyer's NZBN and business name.

## 25. NOTICES

**25.1** Subject to clause 25.2, a notice or other communication will be deemed to have been duly received: (a) if delivered by hand, at the time of delivery; (b) if sent by pre-paid post, 2 Business Days after posting; (c) if sent by email or other electronic notice, at the time of sending, except that if a notice or other communication is delivered by hand, or received by mail, email or other electronic means, on a day which is not a Business Day or after 5pm on a Business Day, then the notices or other communication will be deemed to have been received on the next Business Day.

**25.2** Clause 25.1 does not apply to a notice given under clause 11 of these Terms. Notice under clause 11 is given when BP confirms that it has received the relevant notice.

**25.3** If there is more than one Buyer named in an Application, notice to one Buyer will be deemed to be notice to all Buyers.

**25.4** All communications directed to BP should be made to Buyer Services, BP Oil New Zealand Limited, PO Box 99873, Newmarket, Auckland 1149.

**25.5** The Buyer consents to BP sending all communications including invoices by electronic means.

## 26. ENTIRE AGREEMENT

**26.1** These Terms will apply to the purchase of Products using a Fuelcard (except to the extent they are inconsistent with the terms of any written supply agreement between the Buyer and the relevant BP entity for the provision of specific Products to the Buyer by that BP entity). In the event of such inconsistency the terms of the supply agreement will prevail.



**26.2** Other than any written supply agreement (as specified in clause 26.1) or any letter or other written notice which sets out the applicable price and/or payment terms: (a) these Terms supersede and replace any previous or existing negotiations, letters, offers, representations either verbal or in writing, between BP and the Buyer in relation to the supply of Products; and (b) any other terms and conditions proposed or issued by the Buyer shall have no effect.

## **27. MISCELLANEOUS**

**27.1** Failure or delay by either party in exercising, or partial exercise of, any right, power or remedy under or in connection with these Terms does not constitute a waiver of that right, power or remedy. A waiver, to be effective, must be in writing.

**27.2** Where there is more than one Business Buyer, the liability of the Buyers is joint and several.

**27.3** Should any part or provision of these Terms be held invalid or unenforceable, such invalid or unenforceable part or provision will be deemed severed from these Terms and will not affect the validity or enforceability of the remainder of these Terms.

**27.4** Unless otherwise specified, each party will, at its own expense and when requested by the other, promptly do, sign and deliver everything reasonably required to give full effect to these Terms and the transactions contemplated by these Terms and will take all practical steps to ensure relevant third parties, including the Guarantor, do the same.

**27.5** Time is of the essence for the performance of the Buyer's obligations.

## **28. ASSIGNMENT AND CHANGES TO THESE TERMS**

**28.1** The Buyer's ability to purchase Products on credit terms is personal to the Buyer and may not be assigned.

**28.2** If the Buyer is a Business Buyer, BP may assign the Buyer's Account, or any of BP's rights in connection with the Buyer's Account, to any third party.

**28.3** BP may unilaterally change any of these Terms by posting amended Terms on its website [www.bp.co.nz](http://www.bp.co.nz), and/or notifying the Buyer of the updated Terms, from time to time: (a) at least 30 days prior to the changes taking effect; or (b) without notice if the changes do not cause detriment (financial or otherwise) to the Buyer or are required by applicable law.

**28.4** A Buyer may terminate its Account in accordance with clause 19.1 if it does not accept any changes BP makes to these Terms.

## **29. GOVERNING LAW AND JURISDICTION**

These Terms are governed by the laws of New Zealand. Each party irrevocably submits to the exclusive jurisdiction of the courts of Auckland, New Zealand.

## **30. GENERAL**

**30.1** In these terms a reference to: (a) "in writing" includes by email or any other electronic means that creates a permanent record; (b) a statute includes amendments to that statute and any statute to the extent passed in substitution for that statute; (c) a clause is to a clause in these Terms; (d) "including" shall be construed as "including without limitation"; and (e) any agreement or document includes that agreement or document as amended at any time.

**30.2** In these Terms: (a) headings are for convenience only and do not affect interpretation; (b) the word person includes an individual, a body corporate, an association of persons (whether corporate or not), a trust or government agency, in each case, whether or not having a separate legal personality; and (c) all rights and remedies provided in these Terms are cumulative and not exclusive of any other rights or remedies that may be available to the parties; (d) the singular includes the plural and vice versa; (e) examples are descriptive only and are not exhaustive; and (f) if the day on or by which anything must be done is not a Business Day, then the thing must be done on or by the next Business Day.

**30.3** Any BP entity can exercise its rights and enforce its obligations under these Terms even if it has not signed these Terms. These Terms may be executed in any number of counterparts (including by electronic signature) all of which, when taken together, will be treated as one document. These Terms must not be construed adversely to BP on the basis BP prepared them.

