



## **Checklist**

**To ensure the smooth and quick processing of your application please check the following areas have been completed.**

*To return the form please either scan and email to [info@kiwifuelcards.co.nz](mailto:info@kiwifuelcards.co.nz) or post original to Private Bag 1021, Kerikeri 0245*

***Please note we are unable to accept applications that have been photographed***

If you are an individual/non-commercial customer please complete the following sections

Section One

Section Two

Section Five

Section Six

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If you are a limited company, limited partnership, incorporated society or a trust please complete the following sections

Section One

Section Three

Section Four

Section Five

Section Six



## KIWI FUELCARDS APPLICATION FORM

### SECTION ONE

*Please print clearly*

FULL legal name of organisation or individual(s): \_\_\_\_\_

Trading Name (if relevant): \_\_\_\_\_

Physical Address: \_\_\_\_\_ Postal Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Postcode: \_\_\_\_\_ Postcode: \_\_\_\_\_

Phone: \_\_\_\_\_ Mobile: \_\_\_\_\_

Email: \_\_\_\_\_ Email for Accounts: \_\_\_\_\_

Payment Frequency: Fortnightly / Monthly (please circle)

Group Membership Name and/or Number

**SUPERGOLD**

Contact Details. For security purposes a contact name(s) and password is required for all account enquiries, new PIN's, new cards, any changes to the account and the release of any information.

Contact Name(s): \_\_\_\_\_

Password: \_\_\_\_\_

Password Reminder: \_\_\_\_\_

(A word or question that reminds you of your password)

### DECLARATION

The Customer hereby applies to open a credit account, accepts the Terms of Credit as detailed in this Agreement, verifies that the Application details are correct and authorises any person to provide Kiwi Fuelcards with any information Kiwi Fuelcards requires to consider this Application.

**Please note: For Partnership/Joint Applications, ALL parties must sign. If more than two, please photocopy this page and attach it to the Application.**

FULL Name: \_\_\_\_\_

Position (if applicable): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

FULL Name: \_\_\_\_\_

Position (if applicable): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## SECTION TWO

*For individual, non-commercial customers.*

**Please note: For Partnership/Joint Applications, ALL parties must complete this section. If more than two, please photocopy this page and attach it to the Application.**

FULL Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Drivers Licence Number: (5a) \_\_\_\_\_ Version Number: (5b) \_\_\_\_\_

FULL Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Drivers Licence Number: (5a) \_\_\_\_\_ Version Number: (5b) \_\_\_\_\_

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## SECTION THREE

*For limited companies, limited partnerships, incorporated societies and trusts.*

Company Number: \_\_\_\_\_ Type of Business: \_\_\_\_\_

Authorised Contact Person: \_\_\_\_\_

Position Held: \_\_\_\_\_ Phone: \_\_\_\_\_

Directors/Partners/Trustee Details

**Please note: If there are more than three directors, trustees, elected officials, please photocopy this page and attach it to the Application.**

FULL Name: \_\_\_\_\_

Residential Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Drivers Licence Number: (5a) \_\_\_\_\_ Version Number: (5b) \_\_\_\_\_

Home Phone: \_\_\_\_\_ Email: \_\_\_\_\_

FULL Name: \_\_\_\_\_

Residential Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Drivers Licence Number: (5a) \_\_\_\_\_ Version Number: (5b) \_\_\_\_\_

Home Phone: \_\_\_\_\_ Email: \_\_\_\_\_

FULL Name: \_\_\_\_\_

Residential Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Drivers Licence Number: (5a) \_\_\_\_\_ Version Number: (5b) \_\_\_\_\_

Home Phone: \_\_\_\_\_ Email: \_\_\_\_\_

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## SECTION FOUR

*For limited companies, limited partnerships, incorporated societies and trusts – PERSONAL GUARANTEE*

**Please note: If there is more than one Guarantor please photocopy this page and attach it to the Application**

### PERSONAL GUARANTEE

The Guarantor(s) named below ("Guarantor") acknowledge that they:

- a) are advised to seek independent legal advice before signing this Agreement;
- b) have either first obtained independent legal advice or have decided to waive the rights to do so;
- c) have read the provisions of the personal guarantee set out below and understand the nature and effect of the guarantee; and
- d) agree that they are bound by the guarantee.

### Guarantee

In consideration of Kiwi Fuelcards entering into this Agreement with the Customer at the request of the Guarantor, the Guarantor guarantees to Kiwi Fuelcards the due and punctual payment by the Customer of all moneys payable and the due and punctual performance of all obligations, duties, liabilities and undertakings of the customer under this Agreement.

- a) Although as between the guarantor and the customer the liability of the guarantor may be that of a surety only, as between the Guarantor and Kiwi Fuelcards the Guarantor will be deemed to be a principal debtor;
- b) The Guarantor will not be released from liability under this Agreement despite:
  - (i) the bankruptcy or liquidation of the Customer or the guarantor;
  - (ii) the giving of time or any indulgence by Kiwi Fuelcards to the Customer of the Guarantor;
  - (iii) the exercise or non-exercise by Kiwi Fuelcards or any of its powers under this Agreement;
  - (iv) the release or partial release or variation of this Agreement or of any collateral Agreement of other security at any time held by Kiwi Fuelcards;
  - (v) any other dealing whatsoever by Kiwi Fuelcards with the Customer or the Guarantor;
  - (vi) any other act, omission, matter or thing whatever whereby the Guarantor would have been released if they were merely a surety.
- c) This guarantee is a continuous guarantee until all of the obligations of the Customer under this Agreement have been fully discharged.
- d) The Guarantor agrees to indemnify Kiwi Fuelcards from and against any liability, loss or damage which Kiwi Fuelcards might incur by reason of any breach by the Customer of the Customer's obligations under this Agreement or by reason of this Agreement being or becoming void or unenforceable.
- e) If there are two or more Guarantors the obligations and agreements on their part contained or implied in this Agreement shall bind them jointly and each of them severally.

FULL Name of Guarantor: \_\_\_\_\_

Residential Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Drivers Licence Number: (5a) \_\_\_\_\_ Version Number: (5b) \_\_\_\_\_

Home Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Signature of Guarantor: \_\_\_\_\_ Date: \_\_\_\_\_

SECTION FIVE

**FUEL CARDS**

Please complete one line per card

Card Details - Drivers Name or Vehicle Registration	Type of Fuelcard <b>MOBIL</b> <b>CALTEX</b> <b>BP</b>	ALL CARDS Purchase Codes (see below) required for all cards	MOBIL		CALTEX		BP		OFFICE USE ONLY
			4 Digit PIN	Monthly Credit Limit (Per Card)	PIN NOT REQUIRED	Monthly Credit Limit (Per Card)	4 Digit PIN	Limit per transaction (see below)	
			Discount off the PUMP price	Discount off the PUMP price	Discount off the PUMP price	Discount off the NATIONAL price			

**PURCHASE CODES**  
 Petrol/Oil only **001**  
 Diesel/Oil only **002**  
 Petrol/Diesel & Oil only **003**

**BP \$ LIMIT PER TRANSACTION**  
 Maximum \$100  
 Maximum \$150  
 Maximum \$200  
 Maximum \$250

**Kiwi Fuelcards**

Name of account to be debited:

**AUTHORITY TO ACCEPT DIRECT DEBITS**  
(Not to operate as an assignment or agreement)

Account details:

Bank	Branch	Account Number	Suffix
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To: The Manager, (Please Print Full Postal Address Clearly for Window Envelope)

Bank Branch .....

Address (P.O. Box) .....

Town/City .....

**AUTHORISATION CODE**

1	2	1	2	1	9	1
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DATE: \_\_\_\_\_

I/We authorise you until further notice in writing to debit my/our account with you all amounts which

**Kiwi Fuelcards**

(hereinafter referred to as the Initiator)

the registered Initiator of the above Authorisation Code may initiate by Direct Debit.

I/We acknowledge and accept that the bank accepts this authority only upon the conditions listed on the reverse of this form.

Information to appear in my/our bank statement:

PAYER PARTICULARS	PAYER CODE	PAYER REFERENCE
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NAME OF ACCOUNT

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AUTHORISED SIGNATURE(S)

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<p><b>For Bank Use Only</b></p> <p><b>Approved</b> 1219 03/12</p>	<p><b>Date Received:</b></p>	<p><b>Recorded By:</b></p>	<p><b>Checked By:</b></p>	<p><b>BANK STAMP</b></p>
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**Conditions of Authority to Accept Direct Debits**

- The Initiator:**

  - Will provide notice either:
    - in writing; or
    - by electronic mail where the Customer has provided prior written consent to the Initiator.
  - Has agreed to give advance Notice of the net amount of each Direct Debit and the due date of the debiting at least 10 calendar days (but not more than 2 calendar months) before the date when the Direct Debit will be initiated.
    - The advance notice will include the following message:  
Unless advice to the contrary is received from you by (date\*), the amount of \$..... will be directly debited to your Bank account on (initiating date\*).\*  
\*This date will be at least two (2) days prior to the initiating date to allow for amendment of Direct Debits.
  - Alternatively, the Initiator undertakes to give notice to the Acceptor of the commencement date, frequency and amount at least 10 calendar days before the first Direct Debit is drawn (but no more than 2 calendar months).
    - Where the Direct Debit System is used for the collection of payments which are regular as to frequency, but variable as to amounts, the Initiator undertakes to provide the Acceptor with a schedule detailing each payment amount and each payment date.
    - In the event of any subsequent change to the frequency or amount of the Direct Debits, the Initiator has agreed to give advance notice of at least 30 days before the changes comes into effect. This notice must be provided either:
      - in writing; or
      - by electronic mail where the Customer has provided prior written consent to the Initiator.
  - May initiate a Direct Debit on my/our account when authorisation is received from me/us in accordance with the terms and conditions agreed between me/us and the Initiator of each amount to be debited from my/our account.
    - Notice will be sent of the net amount of each Direct Debit and the due date of debiting after receiving authorisation from me/us under clause 1.4 but no later than the date the Direct Debit will be initiated. This notice must be provided either:
      - in writing; or
      - by any other means which provides a verifiable record of the initiated transaction and where the Customer has provided prior written consent to the Initiator.
    - Where the notice is in writing it must include the following message:  
"The amount \$..... was directly debited to your Bank account on (initiating date)."
    - Where the notice is provided by other means:
      - the Initiator should hold prior written consent of those means of providing notice; and
      - the notice should provide a verifiable record of the initiated transaction and include the amount and initiating date of that transaction.
  - May, upon the relationship which gave rise to this Instruction being terminated, give notice to the Bank that no further Direct Debits are to be initiated under the Instruction. Upon receipt of such notice the Bank may terminate this Instruction as to future payments by notice in writing to me/us.
  - May rely on this authority to debit a different bank account upon receipt of instructions from the customer via a bank to which their account has been transferred.

**The Customer may:**

  - At any time, terminate this Instruction as to future payments by giving written (or by the means previously agreed in writing) notice of termination to the Bank and to the Initiator.
  - Stop payment of any Direct Debit to be initiated under this Instruction by the Initiator by giving written notice to the Bank prior to the Direct Debit being paid by the Bank.
  - Where no advance notice is provided under clause 1.4 a variation to the amount agreed between the Initiator and the Customer from time to time to be Direct Debited had been made without notice being given in terms of clause 1.4 above, request the Bank to reverse or alter any such Direct Debit initiated by the Initiator by debiting the amount of the reversal or alteration of Direct Debit back to the Initiator through the Initiator's Bank PROVIDED such request is made not more than 120 days from the date when the Direct Debit was debited to my/our account.

**The Customer acknowledges that:**

  - This Instruction will remain in full force and effect in respect of all Direct Debits passed to my/our account in good faith notwithstanding my/our death, bankruptcy or other revocation of this Instruction until actual notice of such event is received by the Bank.
  - In any event this Instruction is subject to any arrangement now or hereafter existing between me/us and the Bank in relation to my/our account.
  - Any dispute as to the correctness or validity of an amount debited to my/our account shall not be the concern of the Bank except in so far as the Direct Debit has not been paid in accordance with this Instruction. Any other disputes lie between me/us and the Initiator.
  - Where the Bank has used reasonable care and skill in acting in accordance with this Instruction, the Bank accepts no responsibility or liability in respect of:
    - the accuracy of information about Direct Debits on Bank statements; and
    - any variations between notices given by the Initiator and the amounts of Direct Debits.
  - The Bank is not responsible for, or under any liability in respect of the Initiator's failure to give notice in accordance with clauses 1.1 to 1.4, nor for the non-receipt or late receipt of notice by me/us for any reason whatsoever. In any such situation the dispute lies between me/us and the Initiator.
  - Where notice given by the Initiator in terms of clause 1.4 to the debtor responsible for the payment shall be effective. Any communication necessary because the debtor responsible for payment is a person other than me/us is a matter between me/us and the debtor concerned.

**The Bank may:**

  - In its absolute discretion conclusively determine the order of priority of payment by it of any monies pursuant to this or any other Instruction, cheque or draft properly signed by me/us and given to or drawn on the Bank.
  - At any time terminate this Instruction as to future payments by notice in writing to me/us.
  - Charge its current fees for this service in force from time to time.
  - Upon receipt of an "authority to transfer form" signed by me/us from a bank to which my/our account has been transferred, transfer to that bank this Authority to Accept Direct Debits.

**Note: Under no circumstances may these Terms & Conditions be altered in any way.**

## Terms of Credit

This Agreement sets out the terms of:

- (a) credit granted by Kiwi Fuelcards to the Customer; and
- (b) the creation and operation of the Customer's Account with Kiwi Fuelcards for the purchase of Products from the Outlets by the Customer. Use of the Account is to constitute acceptance of these terms and conditions even if this Agreement has not been signed by the Customer.

## 1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement Kiwi Fuelcards Limited is trading as Kiwi Fuelcards.
- (a) "Account" means the Customer's account with Kiwi Fuelcards for the purchase of Products, and for which Cards are to be issued in accordance with this Agreement.
  - (b) "Card" means the credit card(s) issued by Kiwi Fuelcards to the Cardholder(s) for use at, and the purchase from, the Outlets.
  - (c) "Cardholder" means the person whose name is imprinted by Kiwi Fuelcards on the Card or, in the case of a Card issued in respect of a vehicle, the driver of the vehicle, the registration number of which is imprinted by Kiwi Fuelcards on the Card;
  - (d) "Credit Voucher" means a voucher, or the procedure in the case of an Electronic Transaction, prescribed by Kiwi Fuelcards to enable credit to be granted to the Cardholder.
  - (e) "ECM Network" means the electronic transfer at point of sales network used by applicable fuel companies at the Outlets.
  - (f) "Electronic Transfer" means a Card transaction effected through the ECM Network.
  - (g) "Kiwi Fuelcards" means Kiwi Fuelcards Limited and includes its successors and assigns and, where not repugnant to the context, the contractors, consultants, employees and agents of Kiwi Fuelcards.
  - (h) "Floor Limit" means \$100.00 or any other amount notified by Kiwi Fuelcards from time to time.
  - (i) "Outlets" means the service stations, dealerships, depots and fuel dispensing facilities owned or operated by applicable fuel companies and/or their agents or franchises where the Card can be used.
  - (j) Applicable Fuel Companies means Mobil Oil New Zealand Limited, BP Oil New Zealand Limited, Chevron New Zealand Limited or any other fuel supplier and includes their successors and assigns.
  - (k) "PIN" stands for the personal identification number selected by the Cardholder in relation to a Card.
  - (l) "Products" means applicable fuel companies petrol and diesel.
  - (m) "Sales Voucher" means a voucher in the form prescribed by Kiwi Fuelcards or applicable fuel companies for use in connection with purchases by the Cardholder.
- 1.2 In this Agreement, unless the context otherwise requires or specifically otherwise states:
- (a) if any party comprises more than one person, each of those persons' liability is joint and several;
  - (b) reference to a party or person includes any form of entity and their respective successors, assignees and representatives;
  - (c) amounts are in New Zealand dollars and New Zealand law applies;
  - (d) the singular includes the plural and vice versa;
  - (e) time is of the essence.
- 1.3 These terms prevail over any other terms and conditions, or other form of contract, despite any indication to the contrary by any person acting or apparently acting on behalf of Kiwi Fuelcards, unless agreed in writing by a duly authorised officer of Kiwi Fuelcards.

## 2. OWNERSHIP OF CARD

- 2.1 Kiwi Fuelcards retains ownership of any Card issued to a Cardholder.

## 3. THE CARD

- 3.1 The Cardholder must sign the Card with the Cardholder's usual signature immediately upon receipt of it for identification and prevention of unauthorised or fraudulent use by any other person.
- 3.2 The Cardholder must keep the Card in a safe place at all times and ensure no-one else uses it.
- 3.3 The Cardholder is to keep their PIN confidential and must not allow, intentionally or unintentionally, it to be disclosed to any other person.
- 3.4 Upon the cancellation, termination or expiry of an individual card by the customer or Kiwi Fuelcards, the customer or cardholder will immediately destroy the card. All amounts outstanding and owing to Kiwi Fuelcards by the customer shall become due and payable to Kiwi Fuelcards immediately whether or not demand is made. The card shall not be used for any purchases after its cancellation, termination or expiry. The customer shall remain liable for any use of the card after its cancellation, termination or expiry.

## 4. USING THE CARD

- 4.1 Any Cardholder who is authorised by Kiwi Fuelcards may use the Card for the purchase of Products from the Outlets.

- 4.2 No purchase with a Card is complete until the Cardholder has properly completed either a Sales Voucher or an Electronic Transaction.
- 4.3 The Card may not be used to obtain cash from an Outlet or to purchase fuel company Vouchers or any other gift or petrol vouchers which may be available at the Outlet.
- 4.4 No single transaction on a Card may exceed the Floor Limit as set from time to time by Kiwi Fuelcards.
- 4.5 The Cardholder may not complete a purchase of Products (by Sales Voucher or Electronic Transaction) if they fail, after three attempts, to properly enter their PIN and have it accepted by the ECM Network.
- 4.6 The Customer and/or Cardholder shall immediately notify Kiwi Fuelcards upon their change of address (if any) during the term of this Agreement.

## 5. PRICE

- 5.1 The price of the Products shall be the price set by Kiwi Fuelcards as at the date of supply.
- 5.2 Kiwi Fuelcards reserves the right to adjust its prices at any time and from time to time.
- 5.3 No discounts or concessionary rates shall apply to accounts in respect of which there is any overdue money.

## 6. COSTS

- 6.1 The Customer will pay to Kiwi Fuelcards:
- (a) an account establishment fee of \$10.00
  - (b) an initial card fee of \$6.00 per card
  - (c) an additional/replacement/renewal card fee of \$6.00 per card
  - (d) a transaction fee of \$0.0050 cents per litre of diesel/petrol purchased;
  - (e) a \$0.50 cents per transaction fee on the purchase of non fuel items;
  - (f) any government charges, taxes, duties or levies, including GST which may be applicable from time to time;
  - (g) any penalty interest payable under clause 9.1;
  - (h) any other fees charged by Kiwi Fuelcards;
  - (i) any debt collection costs and legal costs (including solicitor and client costs) incurred by Kiwi Fuelcards in seeking to recover any amount owing by the Customer under this Agreement.

## 7. LOSS AND UNAUTHORISED USE OF CARD

- 7.1 If a Card is lost, stolen, mislaid or the PIN number disclosed or the Customer and/or Cardholder knows the Card is in the possession of another person ("Unauthorised Use"), the Customer or Cardholder shall:
- (a) immediately notify the applicable fuel company of the Unauthorised Use by ringing Mobil customer service on 0800-732-277, BP customer service on 0800-800-027, Caltex Customer service on 0800-733-835 (or such number as notified from time to time); and
  - (b) as soon as possible thereafter (and, in any event, no later than one working day after the Unauthorised Use) notify Kiwi Fuelcards of the Unauthorised Use and give Kiwi Fuelcards all relevant information.
- 7.2 If the Customer and/or Cardholder has not complied with clause 3 and/or clause 7.1 and there has been Unauthorised Use of the Card, the Customer shall be liable for the lesser of:
- (a) the actual loss at the time the Customer and/or the Card holder notified the applicable fuel company;
  - (b) a sum equivalent to the maximum amount of Products the Cardholder would have been able to purchase with the Card from the time the Unauthorised Use commenced to the time the applicable fuel company was notified under clause 7.1;
  - (c) the total credit available from the Account.

## 8. REPLACEMENT CARD

- 8.1 Kiwi Fuelcards will replace any lost, stolen or damaged Card, at the Customer's request and on payment of any applicable fees. Any replacement Card will be subject to the terms and conditions of this Agreement as if it were the original Card. Kiwi Fuelcards may, at any time, charge a fee for a replacement Card.

## 9. DEFAULT BY CUSTOMER

- 9.1 If the customer is late in payment or any payment by the Customer is dishonoured, then the Customer will pay to Kiwi Fuelcards interest at a rate of 2% per month (calculated and compounded daily) from the date the amount is due until full payment is received by Kiwi Fuelcards.
- 9.2 All credit and any other amounts payable under this Agreement shall become immediately due and payable to Kiwi Fuelcards (even if the due date has not yet arrived):
- (a) if the Customer fails to make payment of any money on the due date for payment or is otherwise in breach of this Agreement; or
  - (b) if the Customer (in the case of an individual) commits an act of bankruptcy or on the appointment of a liquidator or receiver of the Customer (in the case of a company) ("Event of Default"); or
  - (c) upon the termination of this Agreement by either party.
- 9.3 If an Event of Default occurs, Kiwi Fuelcards may terminate this agreement.

## 10. PAYMENT OF ACCOUNT

- 10.1 Kiwi Fuelcards will render invoices to the Customer for the amount outstanding on the Card and any other costs payable under clause 6. Invoices will be rendered in accordance with the terms specified on the Cardholder Application Form. The balance shown in the invoice is to be paid to Kiwi Fuelcards by direct debit from the Customer's bank account. In the case of a fortnightly customer, the direct debit is to occur on the nearest 14th & 28th calendar day following the date of the invoice. In the case of a monthly customer, the direct debit is to occur on the 20th calendar day of the month following the date of the invoice.
- 10.2 Payments by the Customer will be applied first in reduction of any interest and costs due, and the balance in reduction of other amounts due.
- 10.3 Kiwi Fuelcards reserves the right to unilaterally change the credit terms from time to time.

## 11. TERM OF AGREEMENT

- 11.1 This Agreement shall commence when the Cardholder is notified by Kiwi Fuelcards that they have authority to use the Card and end upon termination by either party in accordance with this Agreement.
- 11.2 The Customer may terminate this Agreement by giving Kiwi Fuelcards 14 days' prior written notice of such termination PROVIDED it is not in breach of this Agreement.
- 11.3 Kiwi Fuelcards may terminate this Agreement at any time without notice to the Cardholder.
- 11.4 On termination of this Agreement, the Cardholder will cut the Card in two and return both pieces of the Card to Kiwi Fuelcards.
- 11.5 The customer will remain liable for any transaction made using the Account and any other liability or obligation under this agreement.

## 12. AMENDMENTS AND ERRORS

- 12.1 Kiwi Fuelcards may vary any or all of the terms of this Agreement at any time. If the variation affects the Customer's maximum liability for losses or adjusts any transaction limits, Kiwi Fuelcards is to give the Customer 5 days' prior written notice of such variation.
- 12.2 Kiwi Fuelcards may at any time correct any error relating to a transaction on a Card, whether or not the correction is in the Customer's favour.

## 13. LIABILITY

- 13.1 Any difficulties the Customer may experience with Products purchased with the Card remain the sole responsibility of the Outlet from which they were purchased, without recourse to Kiwi Fuelcards.
- 13.2 The Customer acknowledges that the Products are applicable fuel company brand petroleum products and that the fuel companies claim these meet standards set out on "Product Data Sheets". The Customer further acknowledges, however, that Kiwi Fuelcards is not to be liable for any loss, damage or injury of any kind whatsoever suffered by the Customer (arising directly or indirectly):
  - (a) if the Products do not meet such standards;
  - (b) from any negligence on the part of Kiwi Fuelcards; or
  - (c) for any loss, damage or injury caused to the Customer's servants, agents, contractors, customers, tenants, trespassers or other persons due to the reasons set out in paragraphs (a) and (b). Without limiting this, Kiwi Fuelcards will not be liable for any claim for loss or compensation or other remedy (of any nature, including under contract or in negligence) by the Customer or any other person including without limitation any claim relating to or arising from:
    - (i) any condition, warranty, description, representation, condition as to fitness or suitability for any purpose, merchantability or otherwise, whether express or implied by law, trade custom or otherwise; or
    - (ii) any representation, warranty, or agreement made by any agent or representative which is not expressly confirmed by Kiwi Fuelcards in writing.
- 13.3 If, despite this clause 13, Kiwi Fuelcards is held to be liable to the Customer under these terms for loss of any nature (including under any contract and in negligence) Kiwi Fuelcards's total liability will not exceed the price of the Products in relation to which that liability was incurred.
- 13.4 The Customer is to procure all its Cardholders to comply with this Agreement. Any action or inaction by any Cardholder is deemed to be the action or inaction of the Customer. Accordingly, the Customer is responsible for any failure by any Cardholder to comply with this Agreement. The Customer indemnifies, and agrees to keep indemnified, Kiwi Fuelcards for any loss, action, damage, costs suffered or incurred whatsoever as a result (directly or indirectly) of such breach by any Cardholder.

## 14. NOTICES

- 14.1 Any notice given:
  - (a) by the Cardholder must be received by Kiwi Fuelcards either by facsimile, post or email as per the details indicated on the Credit Application Form;
  - (b) by Kiwi Fuelcards is deemed to be served if delivered either to the Customer's registered office (if the Customer is a company) or to the Customer's address as stated on the front page of this Agreement (or as otherwise notified to Kiwi Fuelcards in writing).

## 15. VALIDITY OF TERMS

- 15.1 The illegality, invalidity or unenforceability of any term of this Agreement shall not affect the legality, validity or enforceability of any other term.

## 16. NO ASSIGNMENT

- 16.1 The Customer must not transfer its interest in this Agreement to any other person without Kiwi Fuelcards prior written consent.

## 17. NO AGENCY

- 17.1 The Customer acknowledges that Kiwi Fuelcards is not an agent of any fuel company and no acts or omissions by the fuel companies are to be treated as acts or omissions by Kiwi Fuelcards, or vice versa.

## 18. PRIVACY ACT 1993

- 18.1 Kiwi Fuelcards will ensure that any information received by it is held securely and will not use it or disclose it to the public except for the purposes below, as authorised by the Customer or when required or authorised by law.
- 18.2 Any information received and held by Kiwi Fuelcards is available to the Customer to see and correct if necessary under the provisions of the Privacy Act 1993, upon written request to Kiwi Fuelcards.
- 18.3 By entering into this Agreement, the Cardholder also authorises Kiwi Fuelcards to:
  - (a) use the information for the general purpose of establishing and maintaining a relationship between the Customer, Cardholder, Kiwi Fuelcards and the applicable fuel companies, including the provision of any products or services which Kiwi Fuelcards considers may be of interest to the Customer;
  - (b) disclose the information to other persons only in the following circumstances:
    - (i) where disclosure is required or permitted by law;
    - (ii) where disclosure is to a reputable market research organisation subject to a strict confidentiality agreement, to assist Kiwi Fuelcards in seeking its customers' views on its existing and proposed services;
    - (iii) where disclosure is to a reputable credit or other agency in response to a request regarding the Customer's creditworthiness; or
    - (iv) where disclosure in any other circumstances is authorised by the Customer.
- 18.4 Any party requested by Kiwi Fuelcards to provide such information is authorised to disclose that information.

## 19. WAIVER

- 19.1 If Kiwi Fuelcards exercises or fails to exercise any right or remedy available to it, this will not prejudice its rights in exercising that or any other right or remedy.
- 19.2 Any waiver of any term of this Agreement into which these terms are incorporated must be specified in writing and signed by an authorised officer of Kiwi Fuelcards.