



## RD PETROLEUM AIR FUELCARD – CREDIT APPLICATION

This application is to be completed in order to obtain a Fuelcard Account with RD Petroleum Limited ("RD Petroleum").

- Step 1:** Fill in all details in Section 1A and Section 1B (this page), and Section 3A and Section 3B (next page).
- Step 2:** Applicant, Guarantors and Witnesses to sign Section 3A and Section 3B (next page) and Applicant and Guarantors also to sign the attached Fuelcard Terms and return this with the completed application.
- Step 3:** Complete the attached Direct Debit Form and Fuelcard User Application Form(s). For RD Petroleum payment information, see Section 2 (this page).
- Step 4:** Post all of completed and signed forms to **RD Petroleum, PO Box 1487, Christchurch 8140.**

**If you have any questions, please contact RD Petroleum on 0800 44 00 14.**

SECTION 1A – ACCOUNT DETAILS		LIMITED LIABILITY COMPANIES / TRUSTS / INCORPORATED SOCIETY	
Full Legal Name of Entity:			
Postal Address:		Town / City and Postcode:	
Physical Address		Town / City and Postcode:	
Phone:		Cell Phone:	
Fax:		Email:	
Email Invoices: Yes <input type="checkbox"/> No <input type="checkbox"/>			
<b>Please attach a colour copy of Driver's License or Passport for ID purposes. (please tick) Driver's License <input type="checkbox"/> Passport <input type="checkbox"/></b>			
Details – Director/Trustee 1:		Details – Director/Trustee 2:	
Full Name:		Full Name:	
Postal Address:		Postal Address:	
Physical Address:		Physical Address:	
Date of Birth:	Phone:	Date of Birth:	Phone:
Details – Accountant: Full Name:		Business Name:	
Business Postal Address:		Phone:	
Details – Independent Contact Person: <i>(not living at same address as any of the above)</i>			
Full Name		Phone	
Postal Address			
Trade References:			
Trade 1:		Phone:	
Trade 2:		Phone:	

SECTION 1B – REFERRAL SOURCE	<i>How did you hear about us?</i> (please circle)
Word of mouth / RD Petroleum website / Sales Rep / Newspaper Advertising / Printed Flier / Radio / Other .....	

SECTION 2 – RD PETROLEUM INFORMATION FOR PAYMENTS	
RD Petroleum Payment Terms	20 <sup>th</sup> of the month following date of invoice

Office Use: Zone: ..... Tier: ..... Estimated Usage: ..... Comments: .....
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<b>SECTION 3A – DECLARATION and SIGNATORY DETAILS</b>	(* = Mandatory information)
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1. I / We confirm that all information supplied by me/us is true and complete and may be relied upon by RD Petroleum in considering this application.

2. I / We understand that RD Petroleum reserves the right to decline any application.

3. I / We have read and understood the Terms of this application (attached overleaf) and agree to be bound by them.

4. I / We authorise RD Petroleum to collect information from credit agencies and authorise credit agencies to disclose credit information to RD Petroleum. I / We understand that RD Petroleum requires personal information about me/us for credit checking purposes. I / We understand that:

- Credit agencies will give RD Petroleum information about me/us for that purpose.
- RD Petroleum will give my/our personal information to credit agencies, which will hold that information on their systems and use it to provide their credit reporting service.
- When other credit agency customers use that credit agency, the credit agency may give the information to those customers.
- RD Petroleum may use that credit agency's services in the future for purposes related to the provision of credit to me/us. This may include using the credit agency's monitoring services to receive updates if any of the information held about me/us changes.
- If I / we default in my/our payment obligations to RD Petroleum, information about that default may be given to RD Petroleum's credit agency, and that credit agency may give information about my/our default to its other customers.

* Name (Person authorised to sign on behalf of Company/Trust Applicant)	* Company/Trust Applicant Authorised Signature:
*Guarantor 1(Director/Trustee) Signature:	*Guarantor 2(Director/Trustee) Signature:
*Guarantor 1(Director/Trustee) Full Name:	*Guarantor 2(Director/Trustee) Full Name:
*Date	

<b>SECTION 3B – PERSONAL GUARANTEE &amp; INDEMNITY</b>	(* = Mandatory information)
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IN CONSIDERATION of RD Petroleum Limited agreeing to provide a Fuelcard Account and/or Bulk Fuel Deliveries

\* to: ..... (Name of Company/Trust Applicant)  
 at my / our request (which request is hereby acknowledged).

\* I / We: ..... (Full Names of Directors/Trustees)

**UNCONDITIONALLY AND IRREVOCABLY:**

1. **GUARANTEE** the due and punctual payment to RD Petroleum of all moneys which are now owing to RD Petroleum by the Customer (as defined in the attached Terms overleaf) and all further sums of money from time to time owing to RD Petroleum by the Customer in respect of products, goods and/or services supplied or to be supplied by RD Petroleum to the Customer or any other liability of the Customer to RD Petroleum, and the due observance and performance by the Customer of all its obligations contained or implied in a contract with RD Petroleum. If for any reason the Customer does not pay any amount owing to RD Petroleum, the Guarantor will immediately on demand pay the relevant amount to RD Petroleum.
2. **HOLD HARMLESS AND INDEMNIFY** RD Petroleum on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees (as defined hereunder in paragraph hereof)) incurred by or assessed against RD Petroleum in connection with:
  - (a) the Fuelcard Account, any Fuelcard use, and/or the supply of goods and/or services to the Customer;
  - (b) the recovery of moneys owing to RD Petroleum by the Customer including the enforcement of this guarantee, and including but not limited to collection agency costs or collection and legal costs calculated on a solicitor and own client bases; or
  - (c) moneys paid by RD Petroleum with the Customer's consent in settlement of a dispute that arises or results from a dispute between RD Petroleum, the Customer, and a third party or any combination thereof, over the supply of goods and/or services by RD Petroleum to the Customer.

**I / WE FURTHER ACKNOWLEDGE AND AGREE THAT**

3. This Guarantee and Indemnity shall constitute an unconditional and continuing guarantee and indemnity and accordingly shall be irrevocable and remaining in full force and effect until the whole of moneys owing to RD Petroleum by the Customer and all obligations herein have been fully paid, satisfied and performed.
4. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on RD Petroleum's part (whether in respect of the Customer or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity or any variation, amendment or addition to any agreement in respect of the supply of goods or services shall impair or limit the liability of me/us as Guarantor(s) under this Guarantee and Indemnity. Without affecting the Customer's obligations to RD Petroleum, each Guarantor shall be a principal debtor and liable to RD Petroleum accordingly and no Guarantor is released from their obligations under this Guarantee and Indemnity by reason of any act, matter or thing which would release a surety only.
5. If any payment received or recovered by RD Petroleum is avoided by law, such payment shall be deemed not to have discharged the liability of the Guarantor and the Guarantor and RD Petroleum shall each be restored to the position in which they would have been had no such payment been made.
6. This Guarantee and Indemnity shall bind each of the signatories notwithstanding that one or more of the persons named as a "Guarantor" may never execute this Guarantee and Indemnity.
7. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and both of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor continued in this Guarantee and Indemnity shall bind them jointly and severally.
8. I / We have been advised to obtain independent legal advice before executing this Guarantee but have either waived or declined to take independent legal advice. I / We understand that I am / we are liable for all amounts owing (both now and in the future) by the Customer to RD Petroleum.
9. The above information may be used by RD Petroleum for all purposes in connection with it considering this guarantee and the subsequent enforcement of the same.
10. I / We irrevocably authorise RD Petroleum to obtain from any person or company any information which RD Petroleum may require for credit reference purposes. I / We further irrevocably authorise RD Petroleum to provide to any third party, in response to credit reference and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I / we may have with RD Petroleum as a result of this guarantee being actioned by RD Petroleum.

**The following is to be dated and signed by the Guarantor/s (who acknowledge receipt of a copy of this document).**

\* Dated: ..... (day) ..... (month) ..... (year)

<b>GUARANTOR/S DETAILS</b>	
*Guarantor 1(Director/Trustee) Signature:	*Guarantor 2(Director/Trustee) Signature:
*Guarantor 1(Director/Trustee) Full Name:	*Guarantor 2(Director/Trustee) Full Name:

<b>WITNESS DETAILS</b>	
Guarantor signatures signed in the presence of:	
*Signature of Witness 1:	*Signature of Witness 2:
* Full Name of Witness 1:	* Full Name of Witness 2:
* Occupation:	* Occupation:
* Address:	* Address:
* Address:	* Address:

# RD PETROLEUM AIR FUELCARD TERMS

Please read the following terms ("**Terms**") carefully. Unless otherwise expressly agreed in writing by RD Petroleum Limited ("**RD Petroleum**"), these Terms apply to all Air Fuelcard Accounts, all Air Fuelcard use, and all transactions involving or related to any RD Petroleum Air Fuelcard ("**Air Fuelcard**") and shall apply together with RD Petroleum's standard terms of trade (for the sale and supply of products, goods and services from RD Petroleum). By completing the Air Fuelcard Credit Application attached to these Terms or otherwise acquiring or using an Air Fuelcard Account and/or Air Fuelcard pursuant to these Terms, you are deemed to have accepted these Terms to the exclusion of your own terms which might otherwise be applicable (if any).

## 1. Definitions and Interpretation

- 1.1 In these Terms, the following terms have the following meanings:
  - (a) "**Account Holder**" means the Applicant(s) named on the front page who has been or will be issued with a Air Fuelcard Account by RD Petroleum.
  - (b) "**Authorised User**" means any person authorised by the Air Fuelcard Account Holder or Cardholder to use a Air Fuelcard.
  - (c) "**BP**" means BP Oil New Zealand Limited.
  - (d) "**Business Day**" means a day (other than a Saturday, Sunday or statutory public holiday) on which registered banks are open for general business in Christchurch, New Zealand
  - (e) "**Cardholder**" means the person named on a Air Fuelcard.
  - (f) "**Customer**" means the Air Fuelcard Account Holder, and where the context permits, includes each Cardholder and Authorised User of any Air Fuelcard issued in respect of the Account Holder's Air Fuelcard Account.
  - (g) "**Air Fuelcard**" means a RD Petroleum Air Fuelcard issued by BP to an Air Fuelcard Account Holder for use by persons or aircrafts nominated by the Air Fuelcard Account Holder.
  - (h) "**Air Fuelcard Account**" means all accounts (however titled) provided by RD Petroleum to record transactions made by the Account Holder or on behalf of the Account Holder by any Cardholder or Authorised User.
  - (i) "**Goods**" means any products, goods and/or services acquired using the Air Fuelcard or Air Fuelcard Account.
  - (j) "**Guarantor**" means any guarantor of an Account Holder from time to time having signed any guarantee in favour of RD Petroleum. Where there is more than one guarantor of the Account Holder, the term "Guarantor" shall mean and refer to each of the Guarantors individually and both of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantors shall bind each of them jointly and severally.
  - (k) "**PPSA**" means the Personal Property Securities Act 1999.
  - (l) "**RD Petroleum**" means RD Petroleum Limited.
  - (m) "**Terms**" means these RD Petroleum Air Fuelcard Terms, as amended by RD Petroleum from time to time.
  - (n) "**You**" means the Account Holder, and where the context permits, includes each Cardholder and Authorised User for the relevant Air Fuelcard Account.

1.2 The rule of construction known as the contra proferentem rule does not apply to these Terms.

1.3 Words importing the singular include the plural and vice versa.

1.4 Headings are for convenience only and do not form part of, or affect the interpretation of, these Terms.

1.5 References to a party include that party's successors, personal representatives, executors, administrators and permitted assigns.

1.6 If the Customer, Account Holder or other party referred to in these Terms comprises more than one person, each of those person's liability shall be joint and several.

1.7 References to a statute include references to:

- (a) regulations, orders, rules or notices made pursuant to that statute;
- (b) all amendments to that statute and those regulations, orders, rules or notices, whether by subsequent statute or otherwise; and
- (c) any statute passed in substitution of that statute.

## 2. The RD Petroleum Air Fuelcard

2.1 The Air Fuelcard(s) is issued by BP for person(s) or aircraft(s) nominated by the Account Holder. The Account Holder is responsible for all use of Air Fuelcard(s) by each Cardholder and Authorised User, and for ensuring each Cardholder and Authorised User understands and complies with these Terms. Where applicable, references to "you" will be taken as including each Cardholder and Authorised User.

2.2 When a physical Air Fuelcard is received, it must immediately be endorsed with the signature of Cardholder, or the registration number of the aircraft identified on the card, in the space provided. An Air Fuelcard must not be used before it has been endorsed. By endorsing the card or using it you agree to be bound by these Terms.

2.3 Each Air Fuelcard must be kept secure and confidential at all times and should not be supplied to any unauthorised persons. It is the Account Holder's responsibility to safeguard the Air Fuelcard(s). You must notify RD Petroleum immediately if the Air Fuelcard is lost or stolen. You will be liable for any unauthorised use of the Air Fuelcard until such time as RD Petroleum has received and given written acknowledgement of such notification and cancelled or deregistered the Air Fuelcard in accordance with these Terms.

2.4 You acknowledge that all Air Fuelcards are owned by and remain the sole property of BP at all times. BP or RD Petroleum may, at any time, require the return of a physical Air Fuelcard for any reason.

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

2.6 The Customer agrees to comply with all guidelines and manuals issued by BP or RD Petroleum relating to the use of Air Fuelcards.

2.7 Any Terms that are for the benefit of BP can be used for the benefit of BP as if it was a party to this application. Such Terms are intended to be enforceable by BP for the purposes of the Contracts (Privity) Act 1992.

### Use

2.8 An Air Fuelcard may be used to purchase RD Petroleum specified products (including services) at participating air fuel retailers and automatic facilities provided by RD Petroleum. It cannot be used to obtain cash, for the refund of a

product or otherwise. It is your responsibility to ensure that you do not exceed any purchase limitation. Any purchase is strictly personal and not for resale.

2.9 By signing the sales docket provided by the retailer or using the Air Fuelcard, you will be deemed to have authorised the product purchase and any costs to be charged by RD Petroleum to your Air Fuelcard Account. It is your responsibility as Customer to ensure that the sales docket correctly records the quantity of product and other details.

## 3. Ownership and Security Interest

3.1 Ownership and title in the Goods shall not pass upon delivery, but shall remain with RD Petroleum until full payment for all monies owing by the Customer to RD Petroleum has been made. RD Petroleum shall retain title to all Goods supplied until such Goods have been paid for in full and the Customer has performed all of its other obligations under these Terms.

3.2 Until all monies owing by the Customer to RD Petroleum have been paid:

- (a) the Customer holds the Goods supplied as fiduciary for RD Petroleum and will deal with them as agent for and on behalf of RD Petroleum (but will not hold themselves out as agent of RD Petroleum to any third parties);
- (b) the Customer shall store the Goods separately consistent with the Goods being RD Petroleum's property, and shall ensure that such Goods are at all times able to be separately identified;
- (c) if the Customer resells the Goods supplied, the proceeds of any resale will belong to RD Petroleum, and the Customer will pay the same into a separate account for which separate records are kept, and all claims which the Customer holds against third parties will be handed over to RD Petroleum;
- (d) the Customer irrevocably gives RD Petroleum and its agents the right to enter the Customer's premises or upon any third party's premises where Goods are located, to remove any of the Goods supplied and resell them, and RD Petroleum shall not be responsible nor liable in any manner whatsoever from any damage caused or any loss that results from such action;
- (e) if any of the Goods become part of a product or mass (through, or by whatever process) such that the identity of those Goods is lost in the product or mass, the security interest created by this clause continues in the product or mass in accordance with the PPSA; and
- (f) if any of the Goods are installed in, or affixed to, and become an accession to, other goods, the security interest continues in the accession in accordance with the PPSA.

## 4. Personal Property Securities Act 1999 (PPSA)

### Security:

- 4.1 The Customer acknowledges and agrees that:
  - (a) by assenting to these Terms, the Customer grants a security interest (by virtue of the retention of title at clause 3.1 of these Terms) to RD Petroleum in all Goods previously supplied by RD Petroleum to the Customer (if any) and all after acquired Goods supplied by RD Petroleum to the Customer (or for the Customer's account);
  - (b) by assenting to these Terms, the Customer grants RD Petroleum security in all its present and after acquired property, on the terms set out in Auckland District Law Society General Security Agreement (REF: 6301 version 3); and
  - (c) these Terms shall apply notwithstanding anything, express or implied, to the contrary contained in a Customer's purchase order.
- 4.2 The Customer agrees to give any further securities as RD Petroleum may from time to time require, in the form required by RD Petroleum, and to comply with all of the Customer's obligations under those securities.
- 4.3 The Customer shall not grant any other person with any security interest or lien over Goods that RD Petroleum has a security interest in.

### Financing Statement:

- 4.4 The Customer undertakes to:
  - (a) promptly sign any further documents and/or provide any further information (which information the Customer warrants to be complete, accurate and up-to-date in all respects) which RD Petroleum may reasonably require to enable registration of a financing statement or financing change statement on the Personal Property Securities Register;
  - (b) do anything else required by RD Petroleum to ensure its security interest constitutes a first ranking perfected security interest in the Goods;
  - (c) not register a financing change statement or a change demand in respect of the Goods (as those terms are defined in the PPSA) without RD Petroleum's prior written consent; and
  - (d) give RD Petroleum not less than 14 Business Days prior written notice of any proposed change in the Customer's name and/or any other change in the Customer's details (including, but not limited to, changes in the Customer's address, facsimile number, trading name or business practice).
- 4.5 The Customer shall pay all costs, expenses and other charges incurred by RD Petroleum in relation to:
  - (a) the filing of a financing statement or financing change statement; and
  - (b) any disputes or negotiations with third parties claiming an interest in the Goods.

**Initial Here:**

#### **Waiver and Contracting Out:**

- 4.6 Unless otherwise agreed to in writing by RD Petroleum, the Customer waives their right to receive a copy of any verification statement in respect of RD Petroleum's security interests under the PPSA.
- 4.7 The Customer waives their rights and, with RD Petroleum's agreement, contracts out of their rights under the sections referred to in sections 107(2)(c) to (e) and (g) to (i) of the PPSA.
- 4.8 The Customer waives, contracts out of and agrees that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these Terms.
- 4.9 The Customer and RD Petroleum agree that section 109(1) of the PPSA is contracted out of in respect of particular Goods if and only for so long as RD Petroleum is not the secured party with priority over all other secured parties in respect of those particular Goods.

#### **5. Agreement To Mortgage**

- 5.1 Whether or not any collateral security is given by the Customer and/or the Guarantor to RD Petroleum, the Customer and any Guarantor acknowledge and agree that RD Petroleum shall be entitled at any time to require the Customer and/or Guarantor to execute a registrable mortgage or charge, or further mortgage or charge as the case may be, over any interest in land or other property whether real or personal as may be required by RD Petroleum to secure all sums owed by the Customer to RD Petroleum. Any mortgage or charge required under this clause shall be prepared and registered by RD Petroleum at the cost of the Customer and/or Guarantor and shall contain such terms and conditions and have such priority as may reasonably be required by RD Petroleum.
- 5.2 The Customer and the Guarantor irrevocably appoint RD Petroleum (including the person or persons for the time being entitled to give receipt or discharge for the moneys hereby secured) the true and lawful attorney or attorneys of the Customer and/or Guarantor for the purpose of executing and registering a mortgage or a charge under these Terms. Without limiting this clause 5, "charge" shall include any security registered under the Personal Property Securities Act 1999.

#### **6. Payment and Charges**

- 6.1 The price payable for the Goods is as set by RD Petroleum from time to time and may be obtained by contacting RD Petroleum.
- 6.2 RD Petroleum will debit your nominated bank account with the amount payable under the Air Fuelcard Account, not earlier than the 20th day of each month. The amount payable will include all purchases made with a Air Fuelcard on your Air Fuelcard Account. It may also include GST and any other taxes, duties and levies payable in respect of the Goods. Please ensure that your nominated bank account has sufficient funds.
- 6.3 If any debit from your Bank Account is dishonoured, RD Petroleum reserves the right to suspend the use of your card until all monies owing are received in full. All payments made to RD Petroleum are to be made in full without any withholding, deduction or set off. Where the Customer has more than one account with RD Petroleum, RD Petroleum may apportion payments to outstanding accounts as it thinks fit.
- 6.4 RD Petroleum may at its sole discretion charge default interest on overdue accounts at the rate of 2.5% per month calculated daily from the due date until payment has been received in full. RD Petroleum may also charge the Account Holder for any legal fees or collection costs incurred to recover the full amount owing in respect of the Air Fuelcard Account.
- 6.5 Unless you notify RD Petroleum in writing within 20 Business Days, any amount debited by RD Petroleum is accepted as correct. You cannot dispute any debit because of a fault in a product purchased using the Air Fuelcard. Such a complaint must be raised with the participating retailer or under the procedure below.
- 6.6 RD Petroleum will provide you with a monthly report on the Air Fuelcard(s) transactions
- 6.7 If you return any defective products to the participating air fuel retailer with the sales docket, and it is accepted, the air fuel retailer will give you a credit voucher which will be recorded against your Air Fuelcard account.

#### **7. Liability**

- 7.1 RD Petroleum is not liable for the actions of any participating air fuel retailer or any product sold by the retailer. RD Petroleum is also not liable for any loss or liability that you incur directly or indirectly due to fault in the Air Fuelcard or any automatic facility. If you notify RD Petroleum of any defective products from an automatic facility within 48 hours of delivery, RD Petroleum may issue a credit to you which will be recorded against your Air Fuelcard Account, or replace the product.
- 7.2 The Customer agrees that RD Petroleum will not be liable to the Customer for any actions, damages, claims, liabilities, costs, expenses, or losses whether in contract, statute, tort (including, without limitation, negligence) or otherwise arising in relation to these Terms that in aggregate exceed an amount equal to the cost of the Goods concerned.

#### **8. Cancellation and Termination**

- 8.1 You may cancel any physical Air Fuelcard that you no longer require by returning it to RD Petroleum. Your Air Fuelcard Account will be charged with any goods purchased up to the time that RD Petroleum receives such card and processes the cancellation request. Your Air Fuelcard Account will remain active for any other Air Fuelcards.
- 8.2 You may close your Air Fuelcard Account by giving RD Petroleum 14 Business Days' written notice and returning all Air Fuelcards issued to you. Before returning any physical Air Fuelcards, please cut them in half.
- 8.3 RD Petroleum may close your Air Fuelcard Account without notice if you fail to comply with these Terms, or if you fail to pay your debit to RD Petroleum. In other cases, RD Petroleum may close your Air Fuelcard Account by giving you 14 Business Days' written notice. When your Air Fuelcard Account is closed, the full amount outstanding in your Air Fuelcard Account and any additional charge or interest becomes payable immediately. Interest will accrue until the Air Fuelcard Account is settled in full.

#### **9. Loss of Card**

- 9.1 If any Air Fuelcard is lost, stolen or misused, you must notify RD Petroleum immediately and confirm the notification in writing within 24 hours. RD Petroleum

shall not be liable for any unauthorised use or a Air Fuelcard until RD has given written acknowledgment of this notification. You will not be liable for any unauthorised transaction on the Air Fuelcard that is made after RD Petroleum receives and has given acknowledgement of such notification.

#### **10. Changes and Notices**

- 10.1 RD Petroleum may amend all or any part of these Terms without obtaining the consent of its Customers. RD Petroleum may at its discretion advise when changes to these Terms are to take effect by giving 14 Business Days' written notice. Any notices will be sent to your last known postal address.

#### **11. Collection of Information**

- 11.1 The Customer, noting the requirements under the Privacy Act 1993, acknowledges, authorises and directs that RD Petroleum can seek and obtain from, and supply any information concerning the credit or business standing of the Customer to, any other trader, merchant, firm, organisation, company or other agency or source whatsoever including any credit agency or association. The Customer further directs any such person / entity to supply and receive and record such information to and from RD Petroleum.

#### **12. General Terms**

- 12.1 In the case of any conflict between these Terms and any other document provided by RD Petroleum (including RD Petroleum's standard terms of trade for the sale and supply of products, goods and services from RD Petroleum), these Terms shall prevail. These Terms can be amended by RD Petroleum at any time by giving notice in writing of such amendment to the Customer in accordance with clause 10.1. These Terms shall not be modified or varied by the Customer unless expressed in writing and signed by RD Petroleum.
- 12.2 Where RD Petroleum fails to enforce any terms or fails in any way to exercise its rights under these terms, RD Petroleum shall not be deemed to have waived those rights with respect to any breach or subsequent breach of any term(s). A waiver by RD Petroleum will not be effective unless it is in writing. A waiver of any particular breach will not be a waiver of any other breach
- 12.3 The Customer acknowledges that all Goods purchased by the Customer using Air Fuelcard or otherwise are for the purpose of a business, as defined in the Consumers Guarantees Act 1993, and that the Consumers Guarantees Act 1993 does not apply to the supply of Goods to the Customer to the extent permitted by that Act.
- 12.4 The Customer will not directly or indirectly transfer or assign any of its rights, interests or obligations under this Agreement without RD Petroleum's prior written consent. To avoid any doubt, any change in the Customer's effective ownership or control will be deemed to be an assignment for the purpose of this clause.
- 12.5 Nothing in these Terms will be deemed to create a partnership, joint venture, employment or agency between the RD Petroleum and the Customer. The Customer does not have any authority to bind RD Petroleum in any way.
- 12.6 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.
- 12.7 This Agreement is governed by New Zealand laws and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.
- 12.8 RD Petroleum shall not be liable for any delay or failure to perform its obligations under these Terms if the cause of delay or failure is beyond its reasonable control. RD Petroleum shall not be liable for any occurrences beyond its reasonable control where an Air Fuelcard is unable to be used.

**Signed (in acknowledgement and acceptance of these Terms) by:**

