

CALTEX STARCARD CREDIT TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1 In addition to the terms defined in the Caltex STARCARD Application overleaf, as used herein, the following terms shall have the following meanings:
- "Account" means the account established by these Terms and Conditions between Caltex and the Cardholder for the STARCARD(s) issued.
- "Authorised Agent" means the Service Provider appointed by Caltex who would be responsible to collect and process STARCARD charges from the Authorised Retailer and to make payment to the Authorised Retailer on behalf of Caltex.
- "Authorised Retailers" means the Caltex petrol stations accepting the STARCARD for purchases of the Products and/or Services, as Caltex may designate from time to time and "Authorised Retailer" means any of them.
- "Authorised Signatory" means the person who is authorised to complete and sign the STARCARD Application Form and the STARCARD for and on behalf of the Cardholder.
- "Business Day" means any day (other than Saturday, Sunday or a public holiday) on which banks in Kuala Lumpur, Malaysia are open for business.
- "Caltex" means Chevron Malaysia Limited (Company No. 992309-U), a company incorporated in the Bahama Islands with its registered office in Malaysia at Level 3 Tower, Menara Milenium, 8 Jalan Damanlela, Bukit Damansara, 50490 Kuala Lumpur and shall include its successor, being a company within the Caltex Group to whom the rights and obligations of Caltex may be assigned under these Terms and Conditions.
- "Caltex Group" means Caltex, its holding companies, its holding companies' subsidiaries and Affiliates. "Affiliate" means in respect of Caltex, any other entity directly or indirectly controlled by Chevron Global Energy Inc. and/or its immediate and ultimate holding company(ies). "Control", with its correlative meanings, means either (i) the power to direct or cause the direction of the management and policies of another entity, whether directly or indirectly, and whether through the ownership of voting securities, by contract or otherwise, or (ii) the direct or indirect ownership of fifty percent (50%) or more of the voting stock, or limited liability company interest, general partnership interest or voting interest, in any other entity. "Entity" means any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, trust, estate, unincorporated organisation or government organisation (including a subdivision, agency or authority thereof), whether foreign or domestic.
- "Card Application Form" means the application form to be completed by the Cardholder for the application of the STARCARD.
- "CARD Centre" means that division or section of Caltex set up to deal with all transactions and matters in relation to or arising from the use of the STARCARD.
- "Cardholder" means the individual, business entity, partnership or sole proprietor for whom the Account has been established and to whom the STARCARD(s) is or are issued by Caltex under these Terms and Conditions and shall include (where applicable) its heirs, estate, legal and personal representatives and successors-in-title.
- "Charges" means all amounts payable to Caltex hereunder including without limitation, all amounts charged to each STARCARD and/or debited to each of the Accounts, the late payment charge imposed thereon and/or all other fees, charges, taxes, costs and/or expenses (including without limitation, reasonable legal fees) related to or in connection with the STARCARD or incurred by Caltex in the recovery of such Charges and interest.
- "Credit Period" means the period for full settlement of the Charges by the Cardholder, as endorsed by Caltex on the Cardholder's STARCARD Application, or such other period as Caltex may from time to time establish by written notice to the Cardholder, such period to commence from the date of each Statement of Account referred to in Condition 5 hereof.
- "Electronic Data Capture at Point-of-Sale" or "EDC POS" means any computerised electronic data capture terminal which is located at the Caltex petrol stations to facilitate purchases made using the STARCARD.
- "Electronic Data Capture Transaction" or "EDCT" means any purchase that is processed through the EDC POS.
- "Listed Vehicle" means a vehicle designated by the Cardholder on the Card Application Form or otherwise for the issuance of the STARCARD bearing the registration number and the make and model of the said vehicle which particulars appear in the Vehicle Data and includes all additional vehicles which the Cardholder may subsequently designate by forwarding to Caltex in writing the particulars thereof.
- "Monthly Diesel Subsidy Quota" means the approved monthly quota for purchases of subsidised diesel as set out in the Subsidy Letter. For the avoidance of doubt, any unused portion of the Monthly Diesel Subsidy Quota shall be deemed to be cancelled as at midnight on the last day of each calendar month and shall not be brought forward to and/or utilised in the following calendar month.
- "Notification of Loss" or "Notification" means the notice, whether verbally or in writing, given by the Cardholder to Caltex or its Authorised Agents of the loss or theft of a STARCARD pursuant to Condition 7 herein provided.
- "PIN" means a Personal Identification Number allocated by Caltex to the Cardholder to enable him to make purchases of Products and/or Services from the Authorised Retailer without having to sign or endorse the STARCARD Sales Voucher.

"Personal Information" means any personal information that the Cardholder supplies or provides to Caltex for the purpose of applying for the STARCARD.

"Period of Loss" means the period between the date of any alleged loss or theft of the STARCARD and the date of Caltex's receipt of the Notification of Loss whether by itself or its Authorised Agents pursuant to Condition 7 herein provided but in any event such period shall not extend beyond four (4) days prior to the date of Notification of Loss.

"Products" means available fuels and lubricants and any other products approved by Caltex from time to time and offered for sale by an Authorised Retailer for which purchases may be charged to the STARCARD.

"Purchase Limit" means the amount stipulated by the Cardholder as being the maximum amount chargeable at any one time for any one transaction to the STARCARD issued for a Listed Vehicle.

"Replacement STARCARD" means a STARCARD specifically issued to replace a STARCARD which has been lost, stolen or mutilated.

"Ringgit Malaysia" means the lawful currency of Malaysia.

"Service Provider" means any person, firm or company who/which has entered into a valid and subsisting agreement with Caltex and has been appointed by Caltex and authorised to collect and process the Charges from the Authorised Retailer and make payment to the Authorised Retailer on behalf of Caltex.

"Services" means those available services designated by Caltex relating to the maintenance and general servicing of the Listed Vehicles rendered by the Authorised Retailer, the cost of which may be charged to the STARCARD.

"STARCARD" means a card issued by Caltex pursuant to these Terms and Conditions for a Listed Vehicle, the registration number, make and model of which appear on the STARCARD and which may be used in connection with the purchase of Products and/or Services from the Authorised Retailer and where the context so requires, "STARCARD" shall also include any Replacement STARCARD. A PIN may or may not be associated with a STARCARD.

"STARCARD Receipt" means a machine and/or electronic print-out receipt issued by Caltex or by an Authorised Retailer at the time of the purchase and charge of the Products and/or Services to the STARCARD.

"STARCARD Sales Vouchers" means a STARCARD sales voucher manually issued by Caltex or by the Authorised Retailer at the time of the purchase and charge of the Products and/or Services to the STARCARD.

"Statement of Account" means Caltex's statement of account to the Cardholder showing the balance outstanding due to the Account for the Transaction Period and stipulating the amount of outstanding Charges (including without limitation, the service charge and accrued late payment charges referred to in Condition 5.4 hereof (where applicable) and the all taxes (where applicable) referred to in Condition 5.5 hereof).

"Subsidy Letter" means the original letter issued to the Cardholder by the Ministry of Domestic Trade, Co-operatives & Consumerism stating that the Cardholder qualifies for the purchase of subsidised diesel and setting out, inter alia, the details of the Monthly Diesel Subsidy Quota upon the terms and conditions therein.

"Terms and Conditions" means these Terms and Conditions.

"Transaction Period" means the month or other period during which purchase transactions are made under an Account commencing from and ending on such dates as may be determined by Caltex and set out in the Statement of Account.

"User" means a person who is in possession of the STARCARD and who uses the same in transactions involving the purchases of the Products and/or Services from the Authorised Retailer and who signs or endorses the STARCARD Sales Voucher or who uses the STARCARD in an Electronic Data Capture Transaction to obtain clearance and approval to charge purchases in respect of which no signature may be required. If the User is a person who is in possession of a PIN which is associated with the STARCARD he is not required to sign or endorse the STARCARD Sales Voucher.

"Vehicle Data" means the attachment and supplemental forms to the STARCARD Application Form completed by the Cardholder and containing the particulars of each of the Listed Vehicles to be issued with a STARCARD pursuant to this Agreement including particulars of additional vehicles which the Cardholder may forward to Caltex in writing.

1.2 In these Terms and Conditions, save where the context shall otherwise require:

- (a) words importing the masculine gender shall include the feminine and neutral genders;
- (b) words importing the singular number include the plural number and vice versa; and
- (c) headings to these Terms and Conditions are for convenience only and shall not be taken into account in the interpretation or construction of these Terms and Conditions.

2. ISSUE OF STARCARD

2.1 These Terms and Conditions govern the Account established in the name of the Cardholder and the use of the STARCARD(s) by the Cardholder and the Users.

2.2 Upon :

- (a) Caltex's acceptance of the Card Application Form; and
- (b) where applicable, Caltex's acceptance of the Subsidy Letter and the completion of the registration of the Cardholder by the Ministry of Domestic Trade, Co-operatives & Consumerism (including, without limitation, any website registration),

the Cardholder shall be issued with one STARCARD embossed with the registration number for each Listed Vehicle designated to it under the Card Application Form. From time to time, the Cardholder may in writing, request for additional number(s) of STARCARDs with Listed Vehicles designated thereto, to be issued under the same Account. Upon Caltex's acceptance of such request, the STARCARDs will be sent via courier service or by hand by Caltex to the Cardholder's address as stated in the Card Application Form or otherwise at the Cardholder's sole risk.

- 2.3 The Cardholder agrees to be bound by these Terms and Conditions. The Cardholder shall be solely and fully responsible for the STARCARD(s) issued hereunder by Caltex at the Cardholder's request and liable for all Charges incurred in connection with the use of all the STARCARDs, whether used by the Cardholder or the Users. The Cardholder shall also ensure that the Users comply with these Terms and Conditions. Neither Caltex nor the Authorised Retailer shall be bound to verify the identity and/or authority of the User to use the STARCARD. If the Cardholder is a partnership, every person who is a partner at the date of issue of the STARCARD shall be jointly and severally liable with the other partners comprising the Cardholder for all liabilities incurred under such STARCARD. The instructions of any partner shall be binding on the other partners comprising the Cardholder.
- 2.4 The Cardholder or the Authorised Signatory, as the case may be, shall immediately upon receipt of the STARCARDs from Caltex:-
 - (i) sign the STARCARDs;
 - (ii) return the duly signed acknowledgement slips in respect thereof to Caltex within ten (10) Business Days. If during the said ten (10) Business Day period any of the STARCARDs are used for the purchase of Products and/or Services then in any such case, the Cardholder shall be deemed to have accepted and acknowledged receipt of the STARCARDs, notwithstanding that the acknowledgement slips were not returned to Caltex. In such cases the Cardholder shall be liable for all charges to the said STARCARDs and no complaints or enquiries shall be entertained;
 - (iii) cause each User to destroy the slip advising him of his PIN (if Caltex allocates a PIN in respect of each STARCARD) and keep any record of it separate from the STARCARD.
- 2.5 These Terms and Conditions shall be deemed to have been accepted by the Cardholder on the date of Caltex's endorsement of the Cardholder's Card Application Form OR the first use of the STARCARD (whichever is the earliest) and shall continue until terminated in accordance with the provisions of these Terms and Conditions, notwithstanding that the Cardholder may have failed to notify Caltex of the receipt of the STARCARD under Condition 2.4.
- 2.6 The duration of the validity of the STARCARD and the PIN associated with it shall be determined by Caltex at its absolute discretion. Caltex may at its absolute discretion renew the validity of the STARCARD upon expiry of the date indicated on the STARCARD and these Terms and Conditions shall continue to be valid and binding on the Cardholder.
- 2.7 The Cardholder shall ensure that all expired STARCARDs are cut into 2 halves.

3. USE OF STARCARD

- 3.1 The STARCARD enables the Users to:
 - (a) purchase any of the Products and/or Services from any Authorised Retailers and to charge such purchases to the STARCARD; and
 - (b) where applicable, purchase diesel at the subsidised price from any Authorised Retailers and to charge such purchases to the STARCARD up to the Monthly Diesel Subsidy Quota,

PROVIDED ALWAYS THAT Caltex shall not, under any circumstances or in any way whatsoever, be bound to ensure the availability or provision of the Products and/or Services or be liable in the event of any non-availability or non-provision thereof (including, without limitation, any non-utilisation of the Monthly Diesel Subsidy Quota).

- 3.2 The Cardholder and/or the Users will be required to sign a STARCARD Receipt acknowledging receipt of the quantity and Ringgit Malaysia value of the Products and/or Services for each purchase thereof and the Cardholder shall be solely responsible for the accuracy of all details printed on each STARCARD Receipt. Subject only to Condition 7, the Cardholder shall be responsible for and liable to Caltex for any use of the STARCARD, including any unauthorised use thereof.
- 3.3 The aggregate amount chargeable at any one time or in any one transaction to the STARCARD shall not exceed the Purchase Limit applicable to the use of the STARCARD. Notwithstanding any Purchase Limits that may be set or imposed, Caltex may at its absolute discretion, refuse to accept, authorise or approve any purchase transaction under the STARCARD(s) which exceeds the Purchase Limit or would as a consequence exceed the Purchase Limit. Notwithstanding the foregoing, neither Caltex nor any Authorised Retailer shall be under any liability to the Cardholder by reason of any purchases having been charged to a STARCARD in excess of the Purchase Limit (or such other Purchase Limit as may apply from time to time). The Cardholder shall be fully responsible and liable for all Charges incurred for any purchases charged to the STARCARD(s) which exceeds the Purchase Limit.

- 3.4 The Cardholder, may, at any time and from time to time, by giving at least three (3) Business Days prior written notice, request Caltex to amend the Purchase Limit. Such amendments shall take effect on the Business Day immediately following the date of Caltex's approval of such amended Purchase Limit, which Caltex may give or withhold at its sole discretion.
- 3.5 The STARCARD with a Listed Vehicle's registration details embossed on it may only be used in relation to such Listed Vehicle. Caltex and any Authorised Retailer shall not be bound to accept any purchase to be made under the STARCARD which does not relate to such Listed Vehicle. Notwithstanding the foregoing, neither Caltex nor any Authorised Retailer shall be under any liability to the Cardholder for any purchase charged to the STARCARD, whether or not such purchase relates to or is for the benefit of the relevant Listed Vehicle whose registration details are embossed thereon and/or the identity and/or the authority of a person purporting or holding himself out to be the Cardholder and/or a User and the Cardholder shall be solely liable for all such purchases charged to the STARCARD.
- 3.6 The Cardholder shall be responsible for and shall ensure that the STARCARD Sales Voucher or the STARCARD Receipt, as the case may be, accurately reflects any and all purchases charged to the STARCARD. In the absence of manifest error, each STARCARD Sales Voucher or STARCARD Receipt, as the case may be, shall be deemed as conclusive and binding upon the Cardholder and the User for all purposes of these Terms and Conditions. The Cardholder shall also be responsible for safely retaining the STARCARD Sales Vouchers and/or the STARCARD Receipts and in the event the STARCARD Sales Vouchers and/or the STARCARD Receipts are misplaced, damaged and/or lost, no request made to Caltex for any reason whatsoever for copies thereof shall be entertained.

4. OBLIGATIONS OF CARDHOLDER

- 4.1 The Cardholder represents the truth and accuracy of the details furnished in the Card Application Form, the Subsidy Letter (where applicable), notices and other information furnished or required to be furnished to Caltex hereunder, including the particulars of the Listed Vehicles and the Users and shall promptly notify Caltex within twenty four (24) hours in writing of any changes thereto (including, without limitation, any changes to the Monthly Diesel Subsidy Quota and any revocation and/or suspension of the Subsidy Letter).
- 4.2 The Cardholder shall be responsible and shall pay for any and all purchases of Products and/or Services charged to all STARCARDs (including, without limitation, any Charges incurred in connection with any purchases of diesel in excess of the Monthly Diesel Subsidy Quota) notwithstanding that a vehicle is no longer a Listed Vehicle or a User is no longer so authorised or that any purchases with the STARCARD and the Charges were incurred in respect of purchases made in relation to a particular Listed Vehicle, any Listed Vehicle or any vehicle.
- 4.3 The Cardholder shall provide any information Caltex may request about any User's use of a STARCARD and supply Caltex with any documentation or supporting documents related to that User or his use.
- 4.4 Where the Cardholder is a company, the Cardholder warrants that it has full corporate power and authority to complete, authorise and sign the Card Application Form and to consummate the transactions contemplated in these Terms and Conditions.
- 4.5 The Cardholder shall be responsible for complying with and continuing to comply with the terms and conditions set out in the Subsidy Letter and any additional terms and conditions, directives, regulations and communications issued by the Ministry of Domestic Trade, Co-operatives & Consumerism and/or any other governmental authority with regards the purchase of subsidised diesel.

5. PAYMENT

- 5.1 A Statement of Account will be sent by post or via email (where the Cardholder has specified an email address) to the Cardholder at the end of each Transaction Period. All Charges are due for payment in full on or before the expiry of the relevant Credit Period unless prior written approval has been obtained from Caltex. Any query regarding the Statement of Account must be made by the Cardholder in writing to the CARD Centre within five (5) Business Days of the date thereof, failing which the amount(s) set out in the Statement of Account shall be deemed to be conclusive evidence of the liability of the Cardholder and all Users to Caltex.
- 5.2 Where the Cardholder is a company, sole proprietor or partnership, payment of the Charges may be made by the Cardholder by way of cheque or bank draft or such other mode(s) of payment as Caltex may determine from time to time.
- 5.3 In all circumstances, the Cardholder shall pay in full the amount stated in the Statement of Account without any set-off, deduction or withholding for any reason whatsoever. Any credits which are determined by Caltex to be due to the Cardholder will be credited to the Account.
- 5.4 A late payment charge of one and one-half per centum (1.5%) per month calculated at monthly rests may at Caltex's absolute discretion be levied on any Charges (or part thereof) remaining unpaid after the Credit Period. In addition and without prejudice to Caltex's right to levy a late payment charge as aforesaid, in the event that any cheque or bank draft received by Caltex for the purpose or purportedly for the purpose of payment of the Charges or any part of the Charges is dishonoured by non-payment, Caltex may at Caltex's absolute discretion levy a service charge of Ringgit Malaysia Twenty (RM20.00) for each and every cheque or bank draft so dishonoured. The amount of the late payment charge and/or the service charge will be debited to the Account. Caltex shall further at its absolute discretion be entitled at any time and from time to time by giving written notice to the Cardholder to vary the rate of the late payment charge and/or the amount of the service charge for each dishonoured cheque or draft. The amended rate and/or amount, as the case may be, shall be payable by the Cardholder from the date specified in the said notice.

- 5.5 Any and all taxes which may from time to time be levied by the government or any governmental or regulatory authority in relation to a STARCARD will be chargeable to and payable by the Cardholder and will be debited to the Account. There will not be any refund (whether in whole or in part) of any such taxes for any reason whatsoever.
- 5.6 Any dispute or claim which the Cardholder and/or User may have with or against the Authorised Retailer shall not affect the payment obligations of the Cardholder under these Terms and Conditions and the Cardholder shall not be entitled to make any deduction or set-off or withhold payment of any amount payable to Caltex, by reason of any such dispute or claim.
- 5.7 Caltex may, by giving at least one (1) month's prior written notice, impose a charge on the use of STARCARDs.
- 5.8 Caltex may charge and debit the Cardholder's Account relating to any STARCARD :
- (i) an annual service fee for the issue or renewal of the STARCARD(s) at such rate as Caltex may prescribe from time to time without notice and such fee shall not be refundable in any event;
 - (ii) a processing fee of such amount as Caltex may prescribe from time to time without notice for any bill or cheque tendered in payment to a bank or financial institution which is dishonoured for any reason whatever;
 - (iii) an administrative fee of such amount as Caltex may prescribe from time to time without notice for the replacement of the STARCARD(s) or for the provision of any records, statements, STARCARD Sales Vouchers, STARCARD Receipts or other documents relating to the use of the STARCARD(s) or Account and copies thereof at the request of any Cardholder;
 - (iv) a charge for each reservation of Products, Services or facilities made or paid through the use of the STARCARD which is subsequently cancelled or not taken up and such charge shall be at the rate prescribed by Caltex with or through whom the reservation was made or at such rate as Caltex may prescribe from time to time without notice;
 - (v) where by any arrangement between any Cardholder and any financial institution, any payment is to be made to Caltex for the credit of any Account by any interbank system or otherwise, whether at regular intervals or otherwise, a fee of such amount as Caltex may prescribe from time to time without notice for each occasion when any payment to Caltex is not effected (for any reason whatsoever, including the insufficiency of funds or balance on any account) at the time when such payment should have been effected in accordance with such arrangement; and
 - (vi) any charges incurred by Caltex (or its agent or collection agency or consumer credit bureaus) in recovering any monies due to any delay in payment or non-payment of any Statement of Account or the enforcement or attempted enforcement of any of these Terms and Conditions (including payment obligations).

6. COMPLIANCE

- 6.1 The Cardholder undertakes and agrees with Caltex that it shall at all times during the continuance of this Agreement fully observe and perform, and cause the Users to fully observe and perform these Terms and Conditions, including without limitation, the following:
- (i) to take all reasonable care and precaution to prevent the loss, theft, damage or mutilation of any STARCARD;
 - (ii) to reimburse to Caltex all costs and expenses (including without limitation legal fees) Caltex may pay, incur or sustain in relation to any action taken to enforce these Terms and Conditions;
 - (iii) to immediately inform Caltex if the Cardholder suspects that a STARCARD is being used without its authority or of any loss or theft under Condition 7 provided that the Cardholder shall remain liable throughout for any Charges incurred on the STARCARD;
 - (iv) to promptly inform Caltex of any changes of its address or its constitution;
 - (v) not to disclose his PIN to any other person including employees of Caltex and/or any Authorised Retailer;
 - (iv) if he has any reason to suspect that his PIN may have been discovered by any unauthorised person to immediately notify the CARD Centre thereof; and
 - (v) to comply with all applicable laws, rules and regulations.

7. LOSS OF STARCARD

- 7.1 The Cardholder shall immediately notify the CARD Centre or its Authorised Agents of the loss or theft of any STARCARD or the discovery of his PIN by any unauthorised person and the Cardholder's liability for all purchases obtained through the use of and charged to the said STARCARD shall be as follows:
- (i) The Cardholder shall be fully liable for Charges incurred or accrued prior to the Period of Loss.
 - (ii) In the event the Cardholder gives verbal Notification of Loss to the CARD Centre or its Authorised Agent the Cardholder shall confirm the loss or theft by completing and returning the Caltex customer services form to the CARD Centre within two (2) Business Days after giving such verbal Notification of Loss failing which the

Cardholder shall be liable for all purchases obtained through the use of and charged to the said STARCARD notwithstanding the verbal Notification of Loss.

- (iii) In respect of all Charges accrued during the Period of Loss, the Cardholder's liability shall be limited to the Purchase Limit applicable to the Listed Vehicle in question PROVIDED ALWAYS that the Cardholder shall only be responsible for and bear fifty percent (50%) of the Charges incurred or accrued between the time verbal Notification of Loss is given by the Cardholder and written confirmation of the same is received by the CARD Centre.
- (iv) The Cardholder shall have no further liability in respect of all Charges accrued after the date of Caltex's receipt of the written Notification of Loss.

PROVIDED ALWAYS THAT if the loss or theft of the STARCARD is the result of any fraud or breach or default of these Terms and Conditions by the Cardholder or the User, the Cardholder shall be fully liable for all Charges incurred or accrued against the said STARCARD.

- 7.2 If any STARCARD reported lost or stolen is subsequently recovered, it shall not be issued by the Cardholder and/or User. The original STARCARD cannot be used. A Replacement STARCARD shall instead be issued. The Cardholder shall immediately notify Caltex in writing of the recovery of the original STARCARD and upon Caltex's instructions, shall either cut the original STARCARD into 2 halves and return both halves to the CARD Centre or return the same to Caltex.

8. LIMITATION OF LIABILITY

- 8.1 Caltex and all Caltex Group companies, including their directors, employees, agents, advisors, suppliers, licensors, advertisers and affiliates, will not be liable for any damages of any kind arising from the use of the STARCARD or any of the Services or features provided thereon, including but not limited to direct, indirect, incidental, exemplary, special, punitive and consequential damages. Without limiting any of the foregoing, this Condition shall apply to the use, inability to use, or the results of use of the STARCARD whether based on warranty, contract, tort or any other legal theory and whether or not a party was advised of the possibility of such damages.

- 8.2 Notwithstanding any provisions in these Terms and Conditions, Caltex shall not be responsible or liable to any and all Cardholders or Users for any loss, damage or liability incurred or suffered as a consequence of any one or more of the following events or occurrences:

- (i) the refusal of any Authorised Retailer to honour or accept any STARCARD or to extend or confer any privilege or benefit under the STARCARD for any reason whatsoever including, but not limited to, the negligent act or omission of Caltex or its servants or agents;
- (ii) any failure of or malfunction, defect or error in any EDC POS or any other machine or system (whether or not belonging to or operated by Caltex), howsoever caused, including the rejection of any STARCARD or PIN by any EDC POS, machine or system or the failure to effect or complete any STARCARD transaction or the inability of any EDC POS machine or system to accurately, properly or promptly transmit, process or store any data;
- (iii) any rejection of any STARCARD or any PIN by any EDC POS or any failure to effect or complete any STARCARD transaction or PIN transaction, howsoever caused;
- (iv) any mechanical, data processing or telecommunication failure, howsoever caused;
- (v) any fire, flood, lightning, riots, civil disturbance, acts of war or insurgency or any event, the occurrence of which is beyond the reasonable control or power of Caltex to prevent;
- (vi) any fraud or forgery perpetrated on Caltex or any Authorised Retailer;
- (vii) any damage to or loss of or inability to retrieve any data or information that may be stored in any STARCARD or any microchip or circuit or device in any STARCARD or the corruption of any such data or information, howsoever caused;
- (viii) the interception by or disclosure to any person (whether unlawful or otherwise) of any data or information relating to any transaction, Account or Cardholder transmitted through or stored in any electronic system or medium, howsoever caused; and/ or
- (ix) any delay, inability or failure of Caltex to perform any of its obligations under or pursuant to these Terms and Conditions caused or contributed in any way by any one or more of the events or occurrences set out in the foregoing sub-paragraphs of this Condition 8.2.

9. INDEMNIFICATION

- 9.1 Cardholder agrees to indemnify, defend and hold Caltex, the Caltex Group companies and any of their directors, employees, agents, advisors, licensors, suppliers, advertisers and affiliates harmless from and against any and all claims, damages, Charges, losses, costs (including reasonable legal fees) or other expenses that arise directly or indirectly out of or from (i) any breach or wrongful termination by Cardholder of these Terms and Conditions; (ii) the issue of the STARCARD to the Cardholder; (iii) the use of the STARCARD whether or not by the User or in connection with any Product or Service or any Listed Vehicle; (iv) the cancellation of the STARCARD; (v) the loss or theft of the

STARCARD (subject to Condition 7 above); (vi) delay in payment or any non-payment of any Statement of Account; and/or (vii) the enforcement or attempted enforcement of any of these Terms and Conditions or the rights of Caltex with respect to the Cardholder or the STARCARD.

10. TERMINATION OF USE OF STARCARD AND ACCOUNT

10.1 The use of any or all STARCARDS or the Account may be terminated by Caltex :

- (a) at any time without prior notice in the event of any breach of these Terms and Conditions by the Cardholder and/or User(s); or
- (b) by giving the Cardholder, ten (10) Business Days' prior written notice of termination and/or cancellation, without assigning any reason for such termination.

10.2 The use of any or all STARCARDS or the Account may be terminated by the Cardholder by giving at least ten (10) Business Days' written notice thereof to Caltex.

10.3 Immediately upon termination of the use of any or all STARCARD(s) (whether by Caltex or any Cardholder) or the Account:

- (i) the Cardholder shall return such STARCARD(s) to Caltex or destroy the same in accordance with instructions of Caltex and notwithstanding such termination, any use of the STARCARD or the PIN of a STARCARD (whether or not by the Cardholder) before it is returned to Caltex or destroyed shall be deemed to be use of the Cardholder or the PIN by the Cardholder to whom the STARCARD was issued, as the case may be; and
- (ii) the Cardholder shall settle in full all purchases and Charges incurred on all STARCARD(s) (relating to the Account) up to and including the date without need for any demand from Caltex.

10.4 No termination or cancellation in accordance with these Terms and Conditions shall affect the Cardholder's obligations and liability to effect full payment for any purchases of Products and/or Services charged to any STARCARD(s) or otherwise prescribed in these Terms and Conditions; nor shall it prejudice Caltex's rights in respect of any antecedent breach of these Terms and Conditions and stipulations herein contained.

10.5 In the event of any termination or cancellation in accordance with these Terms and Conditions, the Cardholder shall be responsible for obtaining each cancelled STARCARD from the User(s) and returning each cancelled STARCARD, duly cut into 2 halves, to Caltex.

11. PROPERTY OF STARCARD

11.1 All STARCARD(s) issued pursuant to these Terms and Conditions are and shall remain the property of Caltex.

12. AMENDMENT

12.1 Caltex reserves the right, and shall be entitled, to vary or amend these Terms and Conditions at any time from time to time by notice to the Cardholder. Such amendments shall take immediate effect from the date specified by Caltex. The Cardholder shall be deemed to have accepted and agreed to such amendments without reservation unless Caltex shall have received the Cardholder's written notice of termination of the use of the STARCARD(s) or Account within five (5) Business Days of such date.

13. ASSIGNMENT

13.1 The Cardholder shall not have the right to assign, transfer or delegate any or all of its rights or obligations hereunder. Caltex may assign any or all of its rights, title and interests (including any claims or right to receive payment of any monies hereunder) in or contemplated under these Terms and Conditions to any party (including a Caltex Group company) on notice to but without the prior consent of the Cardholder.

14. SEVERABILITY & WAIVER

14.1 In the event any of these Terms and Conditions or any part thereof is determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable or shall become invalid, illegal or unenforceable in any respect under any law, such invalidity, illegality or unenforceability shall not in any way affect or impair the other Terms and Conditions and such provision shall be deemed to have been deleted from these Terms and Conditions, while the remainder of these Terms and Conditions shall operate as a waiver thereof and these Terms and Conditions shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

14.2 Caltex may, from time to time and at any time, at its sole discretion, waive either unconditionally or on such terms as it may deem fit to impose, any breach by the Cardholder and/or the Users of any of these Terms and Conditions without prejudice to its powers, rights and remedies for enforcement thereof PROVIDED ALWAYS THAT :

- (a) no neglect or forbearance of Caltex to require and enforce payment of any monies hereunder or of the performance and observance of these Terms and Conditions nor any time which may be given to the

Cardholder, shall in any way prejudice or affect any of the rights, powers or remedies of Caltex at any time afterwards to act strictly in accordance with the provisions hereof; and

- (b) no such waiver of any such breach shall prejudice the rights of Caltex in respect of any other or subsequent breach of these Terms and Conditions; and
- (c) no single or partial exercise of or failure to exercise any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy by Caltex under these Terms and Conditions.

15. NOTICES

- 15.1 Any notice referred to in these Terms and Conditions shall be deemed to have been received by the Cardholder on the date falling five (5) Business Days after its posting if by pre-paid A.R. Registered post or on the same day, if by electronic communication made by Caltex. Unless otherwise provided in these Terms and Conditions, any request, notice or communication from the Cardholder to Caltex shall be in writing and signed by the Cardholder and shall only be effective upon actual receipt by Caltex.

16. PRIVACY OF PERSONAL DATA

- 16.1 The Privacy Statement as set out in the Caltex website at www.caltex.com/my is expressly incorporated into these Terms and Conditions.

17. GOVERNING LAW AND JURISDICTION; DISPUTE RESOLUTION

- 17.1 This Agreement shall be governed by and construed in accordance with the laws of Malaysia and the parties hereby agree to submit to the exclusive jurisdiction of the courts of Malaysia.
- 17.2 For disputes falling within the scope of the Financial Ombudsman Scheme, the Cardholder is entitled to refer the dispute to the Ombudsman for Financial Services for resolution. Further details are available at www.ofs.org.my.

18. CHANGE IN CONSTITUTION

- 18.1 These Terms and Conditions shall remain valid and binding notwithstanding any change by amalgamation, reconstruction or otherwise which may be made in the constitution of Caltex or of any company by which the business of Caltex may for the time being be carried on and similarly the liabilities and/or obligations of the Cardholder shall continue to be valid and binding for all purposes notwithstanding any change by amalgamation, reconstruction or otherwise however in the constitution of the Cardholder provided always that the Cardholder shall give written notice to Caltex of any change in its constitution at any time and from time to time.

19. NO DEFAULT

- 19.1 Notwithstanding anything provided to the contrary herein, Caltex shall not be in default by reason of any failure or delay in the performance of any obligation under these Terms and Conditions where the failure or delay arises out of any cause beyond the control and without the fault or negligence of Caltex. Such cause may include but is not restricted to strikes, riots, storms, floods, unusually severe weather, fires, explosion, war, applicable Government action or regulation which prohibits Caltex from performing any of its obligations as set out in these Terms and Conditions.

20. CONFLICTS OF INTERESTS

- 20.1 Neither the Cardholder nor any of its Representatives (i.e., any director, officer, employee, agent or subcontractor of the Cardholder) shall give to, or receive from, any Representative (i.e., any director, officer, employee, agent or subcontractor of Caltex) of Caltex (or any of its Affiliates) any commission, fee, rebate, or any gift or entertainment of value in connection with the STARCARDs and/or the Account, or enter into any other business arrangement with any Representative of Caltex (or any of its Affiliates) without the prior consent of Caltex. The Cardholder shall (i) promptly notify Caltex of any violation of this Condition 20; and (ii) repay or credit to Caltex any consideration received as a result of such violation. In addition to the rights Caltex has under this Condition 20, if any violation of this Condition 20 occurring prior to the date of Caltex's acceptance of the Cardholder's Card Application Form resulted directly or indirectly in Caltex's acceptance of the Cardholder's Card Application Form, Caltex may at its option terminate the use of any or all STARCARDs or the Account at any time and (despite any other provision of these Terms and Conditions) pay no compensation or reimbursement to the Cardholder whatsoever after the date of termination.

21. PAYMENTS TO GOVERNMENT OFFICIALS

- 21.1 Neither the Cardholder nor its employees, agents or subcontractors, or their employees or agents, shall make any payment or give anything of value to any official of any government or public international organization (including any officer or employee of any government department, agency or instrumentality) to influence his or its decision, or to gain any other advantage for the Cardholder in connection with the STARCARDs and/or the Account. The Cardholder shall immediately notify Caltex of any violation of this Condition 21 and shall immediately reimburse Caltex an amount equal to the amount of the payment or the value of the gift to such an official which gives rise to such violation. Also, the Cardholder shall hold Caltex harmless for all losses and expenses arising out of such violation. In the event of any violation of this Condition 21, Caltex may, at its sole option, terminate the use of any or all STARCARDs or the Account at any time and notwithstanding any other provision of these Terms and Conditions, pay no compensation or

reimbursement to the Cardholder whatsoever for any claim after the date of such violation.

22. RECORDS

22.1 The Cardholder shall ensure that it and its Representatives (i.e., any director, officer, employee, agent or subcontractor of the Cardholder):

- (i) maintain true and correct records in connection with the STARCARDs and the Account and all related transactions and retain all such records for at least 24 months after termination of use of any or all the STARCARDs or the Account for any reason; and
- (ii) permit and assist Representative of Caltex (at any time during the validity of the STARCARDs and for a period of 24 months following termination of use of any or all STARCARDs or the Account for any reason) to audit any and all records of the Cardholder and its Representatives for the purpose of determining whether there has been compliance with these Terms and Conditions.

23. INFORMATION & COLLATERAL

23.1 The Cardholder shall for the duration of the validity of the STARCARDs, provide to Caltex within fourteen (14) days of Caltex's request and in any event, on a six monthly basis without being requested therefore, information in respect of the financial condition, business or activities of the Cardholder (and/or its related companies) and in particular, but without limitation, such information as may be necessary to support the extension of any or further credit to the Cardholder. If so required by Caltex, from time to time, the Cardholder shall within the period specified by Caltex for this purpose, provide to Caltex, such new, additional and/or replacement collateral or other security as Caltex shall in its absolute discretion determine and Caltex shall be entitled to suspend the use of any or all STARCARDs or the Account until such collateral or security is received.