

CALTEX SUBSIDY CASHCARD TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1 In addition to the terms defined in the Caltex SUBSIDY CASHCARD Application overleaf, as used herein, the following terms shall have the following meanings:
- "Authorised Retailers" means the Caltex petrol stations accepting the SUBSIDY CASHCARD for purchases of the Products, 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 SUBSIDY CASHCARD Application Form and the SUBSIDY CASHCARD for and on behalf of the Cardholder.
- "Available Balance" means the credit subsidy balance from time to time remaining in respect of any SUBSIDY CASHCARD.
- "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 SUBSIDY CASHCARD.
- "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 SUBSIDY CASHCARD.
- "Cardholder" means the individual, business entity, partnership or sole proprietor to whom the SUBSIDY CASHCARD(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.
- "Declined Transaction" has the meaning specified in Clause 3.6.
- "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 which facilitates the use of the SUBSIDY CASHCARD.
- "Electronic Data Capture Transaction" or "EDCT" means any transaction 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 SUBSIDY CASHCARD 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 of the loss or theft of a SUBSIDY CASHCARD pursuant to Condition 7 herein provided.
- "Personal Information" means any personal information that the Cardholder supplies or provides to Caltex for the purpose of applying for the SUBSIDY CASHCARD.
- "Period of Loss" means the period between the date of any alleged loss or theft of the SUBSIDY CASHCARD and the date of Caltex's receipt of the Notification of Loss whether by itself 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 diesel offered for sale by an Authorised Retailer for which the SUBSIDY CASHCARD may be used.
- "Pump Price" means the amount calculated based on the volume of the Products purchased and the price posted at the pump for the Products.
- "Purchase Limit" means the amount stipulated by the Cardholder as being the maximum amount of the Monthly Diesel Subsidy Quota allocated to the SUBSIDY CASHCARD issued for a Listed Vehicle and the aggregate Purchase Limit for the Cardholder shall in any event not exceed the Ringgit Malaysia value of the Monthly Diesel Subsidy Quota.
- "Reimbursed Amount" has the meaning specified in Clause 3.6(c).
- "Replacement SUBSIDY CASHCARD" means a SUBSIDY CASHCARD specifically issued to replace a SUBSIDY CASHCARD which has been lost, stolen or mutilated.
- "Ringgit Malaysia" means the lawful currency of Malaysia.
- "Subsidised Price" means the difference between the Pump Price and the Subsidy Amount.
- "Subsidy Amount" means the amount calculated based on the volume of the Products purchased and the diesel subsidy announced by the government from time to time.
- "SUBSIDY CASHCARD" 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 SUBSIDY CASHCARD and which may be used in connection with the purchase of Products from the Authorised Retailer and where the context so requires, "SUBSIDY CASHCARD" shall also include any Replacement SUBSIDY CASHCARD.
- "SUBSIDY CASHCARD Print Out" means a machine and/or electronic print-out issued by Caltex or by an Authorised Retailer when the SUBSIDY CASHCARD is used in connection with the purchase of Products, which shall set out the Pump Price, the Subsidy Amount and the Subsidised Price.
- "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 Declined Form" means such form as shall from time to time, be provided by Caltex to the Authorised Retailers for completion by Users in the event of any Declined Transaction.

"Transaction Period" means the month or other period during which purchase transactions are made by Users commencing from and ending on such dates as may be determined by Caltex.

"User" means a person who is in possession of the SUBSIDY CASHCARD and who uses the same in an Electronic Data Capture Transaction in connection with the purchases of the Products from the Authorised Retailer

"Vehicle Data" means the attachment and supplemental forms to the SUBSIDY CASHCARD Application Form completed by the Cardholder and containing the particulars of each of the Listed Vehicles to be issued with a SUBSIDY CASHCARD 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 SUBSIDY CASHCARD

2.1 These Terms and Conditions govern the use of the SUBSIDY CASHCARD by the Cardholder and the Users.

2.2 Upon :

- (a) Caltex's acceptance of the Card Application Form; and
- (b) 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 SUBSIDY CASHCARD 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 SUBSIDY CASHCARD with Listed Vehicles designated thereto, to be issued. Upon Caltex's acceptance of such request, the SUBSIDY CASHCARD 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 SUBSIDY CASHCARD issued hereunder by Caltex at the Cardholder's request and liable for all Charges incurred in connection with the use of all the SUBSIDY CASHCARD, 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 SUBSIDY CASHCARD. If the Cardholder is a partnership, every person who is a partner at the date of issue of the SUBSIDY CASHCARD shall be jointly and severally liable with the other partners comprising the Cardholder for all liabilities incurred under such SUBSIDY CASHCARD. 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 SUBSIDY CASHCARD from Caltex:-

- (i) sign the SUBSIDY CASHCARD;
- (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 SUBSIDY CASHCARD is used in connection with the purchase of Products then in any such case, the Cardholder shall be deemed to have accepted and acknowledged receipt of the SUBSIDY CASHCARD, notwithstanding that the acknowledgement slips were not returned to Caltex. In such cases the Cardholder shall be liable for all usage of the SUBSIDY CASHCARD and no complaints or enquiries shall be entertained.

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 SUBSIDY CASHCARD (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 SUBSIDY CASHCARD under Condition 2.4.

2.6 The duration of the validity of the SUBSIDY CASHCARD shall be determined by Caltex at its absolute discretion. Caltex may at its absolute discretion renew the validity of the SUBSIDY CASHCARD upon expiry of the date indicated on the SUBSIDY CASHCARD and these Terms and Conditions shall continue to be valid and binding on the Cardholder.

2.7 The Cardholder shall ensure that all expired SUBSIDY CASHCARD are cut into 2 halves.

3. USE OF SUBSIDY CASHCARD

3.1 The SUBSIDY CASHCARD shall be used as follows :

- (a) The User may present the SUBSIDY CASHCARD to the Authorised Retailer.
- (b) The Authorised Retailer shall swipe the SUBSIDY CASHCARD at the EDC POS :
- (i) where the purchase transaction is accepted (that is if the Available Balance for the SUBSIDY CASHCARD is equal to or exceeds the amount of the purchase transaction), then the EDC POS will produce a SUBSIDY CASHCARD Print Out. The User should then pay the Subsidised Price as set out in the SUBSIDY CASHCARD Print Out to the Authorised Retailer in respect of the purchase transaction;

- (ii) where the purchase transaction is declined (including, without limitation, where the Available Balance for the SUBSIDY CASHCARD is less than the amount of the purchase transaction and/or the EDC POS is not functioning and/or the wrong Product has been entered and/or the daily SUBSIDY CASHCARD limits have been exceeded and/or the SUBSIDY CASHCARD has expired and/or the SUBSIDY CASHCARD has been damaged) the provisions of Clause 3.6 will apply,

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 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 shall be responsible for and liable to Caltex for any use of the SUBSIDY CASHCARD, including any unauthorised use thereof.
- 3.3 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.
- 3.4 The SUBSIDY CASHCARD 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 the use of the SUBSIDY CASHCARD in connection with any purchase transaction 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 usage of the SUBSIDY CASHCARD, whether or not such usage 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 any such usage the SUBSIDY CASHCARD.
- 3.5 The Cardholder shall be responsible for and shall ensure that the SUBSIDY CASHCARD Print Out accurately reflects any and all purchases charged to the SUBSIDY CASHCARD. In the absence of manifest error, each SUBSIDY CASHCARD Print Out 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 SUBSIDY CASHCARD Print Outs and in the event the SUBSIDY CASHCARD Print Outs are misplaced, damaged and/or lost, no request made to Caltex or the Authorised Retailers for any reason whatsoever for copies thereof shall be entertained.
- 3.6 Where the SUBSIDY CASHCARD is declined in respect of any purchase transaction ("Declined Transaction") :
- (a) The User should then pay the Pump Price to the Authorised Retailer in respect of the Declined Transaction.
- (b) The User may complete the Transaction Declined Form providing, the SUBSIDY CASHCARD details (card number, User name, Cardholder name, expiry date) and purchase details (amount, litres and Product) of the Declined Transaction and submit (to the Authorised Retailer in question), the Transaction Declined Form on the day of the Declined Transaction. For the avoidance of doubt, Caltex shall not be under any obligation to review any Declined Transaction nor entertain any correspondence or queries with regards any Declined Transaction if the relevant Transaction Declined Form has not been completed and submitted in accordance with these Terms and Conditions.
- (c) Where the Declined Transaction is determined to be valid by Caltex at its sole and absolute discretion, the Subsidy Amount relating to the Declined Transaction ("Reimbursed Amount") shall be reimbursed to the Cardholder in such manner as Caltex deems fit PROVIDED THAT the Cardholder shall not be entitled to receive the Reimbursed Amount if the Cardholder has fully utilised the Monthly Diesel Subsidy Quota for the calendar month in which the Declined Transaction occurred.

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, 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 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 inform Caltex in writing of the Purchase Limit to be assigned to each Listed Vehicle Provided Always that the monthly aggregate of the duly assigned Purchase Limit(s) shall not exceed the Monthly Diesel Subsidy Quota.
- 4.3 The Cardholder shall provide any information Caltex may request about any User's use of a SUBSIDY CASHCARD 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 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 SUBSIDY CASHCARD will be chargeable to and payable by the Cardholder. There will not be any refund (whether in whole or in part) of any such taxes for any reason whatsoever.

- 5.2 Any dispute or claim which the Cardholder and/or User may have with or against the Authorised Retailer shall not affect the 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.
- 5.3 Caltex may, by giving at least one (1) month's prior written notice, impose a charge on the use of SUBSIDY CASHCARDS.
- 5.4 Caltex may, by giving at least one (1) month's prior written notice, impose the following additional charges relating to the use of SUBSIDY CASHCARD :
- (i) an annual service fee for the issue or renewal of the SUBSIDY CASHCARD(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 SUBSIDY CASHCARD(s) or for the provision of any records, statements, SUBSIDY CASHCARD Print Outs or other documents relating to the use of the SUBSIDY CASHCARD(s) and copies thereof at the request of any Cardholder;
 - (iv) where by any arrangement between any Cardholder and any financial institution, any payment is to be made to Caltex 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
 - (v) 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 SUBSIDY CASHCARD;
- (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 SUBSIDY CASHCARD 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 usage of the SUBSIDY CASHCARD; and
- (iv) to promptly inform Caltex of any changes of its address or its constitution.
- (v) to comply with all applicable laws, rules and regulations.

7. LOSS OF SUBSIDY CASHCARD

7.1 The Cardholder shall immediately notify the CARD Centre of the loss or theft of any SUBSIDY CASHCARD 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 any usage of the SUBSIDY CASHCARD prior to the Period of Loss.
- (ii) In the event the Cardholder gives verbal Notification of Loss to the CARD Centre 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 usage of the said SUBSIDY CASHCARD notwithstanding the verbal Notification of Loss.

PROVIDED ALWAYS THAT if the loss or theft of the SUBSIDY CASHCARD 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 SUBSIDY CASHCARD.

7.2 If any SUBSIDY CASHCARD reported lost or stolen is subsequently recovered, it shall not be retained by the Cardholder and/or User. The original SUBSIDY CASHCARD cannot be used. A Replacement SUBSIDY CASHCARD shall instead be issued. The Cardholder shall immediately notify Caltex in writing of the recovery of the original SUBSIDY CASHCARD and upon Caltex's instructions, shall either cut the original SUBSIDY CASHCARD 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 SUBSIDY CASHCARD 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 SUBSIDY CASHCARD 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 extend or confer any privilege or benefit under the SUBSIDY CASHCARD 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 SUBSIDY CASHCARD by any EDC POS, machine or system or the failure to effect or complete any SUBSIDY CASHCARD 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 SUBSIDY CASHCARD by any EDC POS or any failure to effect or complete any SUBSIDY CASHCARD 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 SUBSIDY CASHCARD or any microchip or circuit or device in any SUBSIDY CASHCARD 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 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 SUBSIDY CASHCARD to the Cardholder; (iii) the use of the SUBSIDY CASHCARD whether or not by the User or in connection with any Product or any Listed Vehicle; (iv) the cancellation of the SUBSIDY CASHCARD ; (v) the loss or theft of the SUBSIDY CASHCARD (subject to Condition 7 above); (vi) the enforcement or attempted enforcement of any of these Terms and Conditions or the rights of Caltex with respect to the Cardholder or the SUBSIDY CASHCARD.

10. TERMINATION OF USE OF SUBSIDY CASHCARD

10.1 The use of any or all SUBSIDY CASHCARDS 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 SUBSIDY CASHCARD 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 SUBSIDY CASHCARD(s) (whether by Caltex or any Cardholder) the Cardholder shall return such SUBSIDY CASHCARD(s) to Caltex or destroy the same in accordance with instructions of Caltex and notwithstanding such termination, any use of the SUBSIDY CASHCARD (whether or not by the Cardholder) before it is returned to Caltex or destroyed shall be deemed to be use of the SUBSIDY CASHCARD by the Cardholder to whom the SUBSIDY CASHCARD was issued, as the case may be.

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 in relation to the usage of any SUBSIDY CASHCARD(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 SUBSIDY CASHCARD from the User(s) and returning each cancelled SUBSIDY CASHCARD, duly cut into 2 halves, to Caltex.

11. PROPERTY OF SUBSIDY CASHCARD

11.1 All SUBSIDY CASHCARD(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 SUBSIDY CASHCARD(s) 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 SUBSIDY CASHCARDS, 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 SUBSIDY CASHCARDS 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 or Caltex in connection with the SUBSIDY CASHCARDS. 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 SUBSIDY CASHCARDS 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 SUBSIDY CASHCARD and all related transactions and retain all such records for at least 24 months after termination of use of any or all the SUBSIDY CASHCARD for any reason; and
- (ii) permit and assist Representative of Caltex (at any time during the validity of the SUBSIDY CASHCARD and for a period of 24 months following termination of use of any or all SUBSIDY CASHCARD 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 SUBSIDY CASHCARD, 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 SUBSIDY CASHCARD until such collateral or security is received.