



Mobilcard Customer Agreement

This Agreement sets out the terms of the creation and operation of an account (the "Account") by Mobil Oil New Zealand Limited ("Company") to be used for purchases of Products and Other Goods, from Authorised Dealers

1. DEFINITIONS AND INTERPRETATION

In this Agreement the words and phrases referred to below are defined as follows:

"Account Holder" means whoever has applied for a Mobilcard account and thereby holds themselves out as having primary obligations to comply with this Agreement and who is granted a Mobilcard account subject to these terms and conditions including by way of example, a person or company or trustee or partner of a partnership or any representative of any of these.

"Authorised Dealers" means outlets in New Zealand as notified by Mobil from time to time, that accept the Mobilcard for purchases of Products and Other Goods.

"Cardholder" means the Account Holder or any person authorised by the Account Holder to use a Mobilcard.

Card Limits means each of the following limits collectively:

"Transaction Limit" is the maximum dollar amount available per purchase, per card as set by the Account Holder, or a default of \$1500

"Daily Limit" is the maximum dollar amount available per day, per card as set by the Account Holder, or a default of \$2000

"Monthly limit" is the maximum dollar amount available per month, per card as set by the Account Holder, or a default of \$5000

"Credit Limit" means the maximum amount of credit which Company will extend to the Account Holder for Mobilcard Purchases.

"Mobilcard" means any card issued by Mobil to the Account Holder for use by Cardholder, or any replacement card issued from time to time.

"Mobilcard Price" means Mobil's price for Products as amended by Mobil from time to time.

"Mobil" means both the Company and its Mobilcard service providers

"Other Goods" means those goods which are not Products and, subject to the terms the Mobilcard is issued on, are permitted to be purchased by the Cardholder by presentation of the Mobilcard.

"PIN" stands for the Personal Identification Number issued by Mobil to, or selected by, the Cardholder in relation to a Mobilcard.

"Products" means Company petroleum products supplied to the Authorised Dealer either directly or through Company's authorised distributor.

1.2 In this Agreement, unless the context otherwise requires or specifically otherwise states:

- a) if the Account Holder comprises more than one person, each of those person's liability is joint and several;
- b) reference to a party or person includes any form of entity whether incorporated or not, and their respective successors, assignees and representatives;
- c) amounts are in New Zealand dollars and New Zealand law applies;
- d) the singular includes the plural and vice versa;
- e) time is of the essence.

2. OWNERSHIP OF CARD

2.1 Company retains ownership of any Mobilcard issued to an Account Holder.

3. THE CARD

3.1 The Cardholder must sign the Mobilcard with the Cardholder's usual signature immediately upon receipt of it for identification and to assist with prevention of unauthorised or fraudulent use by any other person.

3.2 The Cardholder must keep the Mobilcard in a safe place at all times and ensure no-one else uses it.

3.3 The Cardholder must not disclose the PIN to any unauthorised users, must keep the PIN in a safe place at all times, and ensure no-one else uses it.

3.4 The Account Holder and Cardholder cannot assign or pass on the obligations under this Agreement to any other person.

3.5 The Account Holder is responsible for the ensuring the Mobilcard and PIN is protected against being lost, stolen or mislaid or subject to unauthorised or fraudulent use and shall procure the Cardholder to undertake the Cardholder responsibilities and obligations set out in this Agreement.

4. USING THE CARD

4.1 The Account Holder agrees that they will use the Mobilcard only in accordance with this Agreement and will guarantee the observance of the terms and conditions of this Agreement by all its Cardholders and indemnify Mobil for any loss caused by any of its Cardholders as a result of breach of the terms and conditions of this Agreement.

4.2 Any Cardholder may use the Mobilcard for the purchase of Products and Other Goods from Authorised Dealers, subject to the validity of the Mobilcard, purchase restrictions and clause 4.7

4.3 Mobilcard purchases are charged at either Mobilcard Price or those which are charged at the relevant Authorised Dealer. Company may, at its discretion, discount the Mobilcard Price to the Account Holder and may vary such discount, from time to time.

4.4 The Cardholder must comply with all Card Limits for all purchases at all times. The Cardholder must not directly or indirectly do or permit (by act or omission) anything to avoid the application of any Card Limit. By way of example, a Cardholder shall not use the Card for multiple transactions associated with a single purchase which would otherwise breach a Card Limit nor allow any Authorised Dealer to transact multiple transactions associated with a single purchase which would otherwise breach a Card Limit. For the avoidance of doubt a single purchase is a purchase by Cardholder of one or more Products or Other Goods which if completed in aggregate in one transaction, are within the Card Limits.

4.5 Where the Cardholder, in any transaction, fails after three attempts to properly enter the PIN and gain online authorisation, no purchase will be made by that Cardholder with that card.

4.6 Customer Card Limits apply to all transactions. Transactions that are processed manually are subject to additional authorisation from Mobil.

4.7 It is the Account Holder's responsibility to advise all their Cardholders of the Products and Other Goods and any purchase restrictions which Mobil and Account Holder have agreed may be purchased on the Mobilcard.

4.8 It is the Cardholder's responsibility to check that all details on the Authorised Dealer receipt are correct and retain the receipt for the purposes of the Account Holder's own record and reconciliation requirements.

4.9 Upon the cancellation, termination or expiry of individual Mobilcards or the Mobilcard Account by the Account Holder or Company, the Account Holder will immediately destroy all issued Mobilcards and all amounts outstanding and owing to the Company by the Account Holder shall become immediately due and payable to Company whether or not demand is made. No purchases shall be made using a Mobilcard after its cancellation, expiry or termination.

5. ACCOUNT QUERIES

5.1 All Mobilcard queries relating to individual purchases, replacement Mobilcards, or requests for new Mobilcards should be directed to either the Mobilcard website or to the Mobilcard support centre.

5.2 Company shall not be required to consider any question or dispute on the Account Holder's account notified more than 30 days after the receipt of the relevant statement or invoice.

6. COSTS

6.1 The Account Holder will pay to Mobil:

- (a) Taxes and Duties - any government charges, taxes duties or levies, including GST, which may be applicable from time to time;
- (b) The current fees charged by Mobil for
 - (i) Transaction Fees;
 - (ii) Account Fees;
 - (iii) Card Fees; and
 - (iv) any additional fees as determined by Mobil from time to time
- (c) Any debt collection costs and legal costs including solicitor and client costs incurred by Mobil in seeking to recover any amount owing.

6.2 Mobil reserves the right to vary these costs within reason and with written notice to the Account Holder.

6.3 The current schedule of fees maybe requested by the Account Holder via email.

7. LOSS AND UNAUTHORISED USE OF THE MOBILCARD

7.1 If the Account Holder or Cardholder knows or has reason to believe the Mobilcard is in the possession of another person or that the Mobilcard is lost, stolen, mislaid or being misused, or the PIN number has been disclosed, the Account Holder or Cardholder shall immediately notify Mobil of the loss, via either the Mobilcard Website or the Mobilcard support centre, and give Mobil all relevant information.

7.2 Until Mobil has received initial notice for the purposes of clause 7.1, the Account Holder shall be liable for any unauthorised use of the Mobilcard. Any delay in giving notice will make the Account Holder liable for unauthorised transactions processed on the Mobilcard prior to notice being given.

7.3 If the Cardholder's actions were unintentional but thereby result in any of the consequences described in clause 7.1, the Account Holder still may be liable at Mobil's discretion for the loss if the Cardholder has not complied with these terms.

8. REPLACEMENT MOBILCARD

8.1 Mobil will replace any lost, stolen or damaged Mobilcard, at the Account Holder's request and on payment of any applicable fees, provided the Account Holder is not otherwise in breach of this Agreement. Any replacement Mobilcard will be subject to the terms and conditions of this Agreement as if it were the original Mobilcard. Mobil may charge a fee for a replacement Mobilcard.

9. DEFAULT BY ACCOUNT HOLDER

9.1 If the Account Holder is late in payment or any payment by the Account Holder is dishonored, then the Account Holder will pay to Mobil the current dishonor fee. The current fee maybe requested by the Account Holder via email.



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10. PAYMENT OF ACCOUNT

10.1 The Account Holder accepts the terms contained in this Agreement and will make payment in full within the credit period unless prior written approval has been obtained from Mobil.

10.2 Company reserves the right to

a) recover from the Account Holder all amounts for purchases on the Mobilcard which appear on the Account Holder's invoice and/or statement.

b) set-off any outstanding debts owed to Company by the Account Holder against any moneys payable to the Account Holder by Company.

c) Without prejudice to the other rights of the Company, if the Account Holder does not pay in full by the due date, then the Company reserves the right to charge interest on the outstanding amount at the lesser rate of the Bank bill yields 90 days rate as published by the Reserve Bank of New Zealand on their website at <http://www.rb-nz.govt.nz/statistics/tables/b2> (Reference Rate) plus 10 percent per annum, or the maximum rate, if any, allowable under applicable local law. The interest charge will be calculated daily from the due date until the Company receives full payment. The Reference Rate used will be the effective rate on June 1 (or first working day) of each year and may be adjusted annually. The Company reserves the right to adjust the Reference Rate more frequently when there is material change in local market conditions.

11. CREDIT LIMIT

11.1 The amount outstanding on the Account Holders Mobilcard Account including current month purchases must not exceed the Credit Limit. If the Account Holder fails to comply with this condition, then any amount charged to the account that is in excess of the Credit Limit shall be immediately payable by the Account Holder to Company upon demand. Company may, at its discretion, withdraw credit or refuse to supply Product and Other Goods if the Account Holder exceeds its Credit Limit or fails to make minimum payments.

11.2 Notwithstanding anything to the contrary herein, if Mobil in its reasonable opinion, determines that the financial responsibility of the Account Holder Reseller or its guarantor (if applicable) has become impaired, or that financial assurances are necessary, Mobil shall have the right to modify or terminate any credit arrangements upon notice to the Account Holder, and require immediate payment for Mobilcard Product and Other Goods already delivered and/or require prepayment or furnishing of other financial security or collateral acceptable to Mobil for further Mobilcard transactions. Such financial security or collateral shall include but is not limited to a bank guarantee or a standby letter of credit.

12. TERM OF AGREEMENT

12.1 The terms and conditions of this agreement will apply from the date this Agreement is signed by the Account Holder. The Account Holder may terminate this Agreement by giving Mobil 14 days' written notice of such termination and upon immediate payment of any outstanding moneys owing to Mobil.

12.2 Company may take steps to prevent further use of any Mobilcard issued to an Account Holder or Cardholder at any time with or without notice and with or without providing a reason for the suspension or termination.

13. AMENDMENTS AND ERRORS

13.1 Company may with reasonable notice vary any or all of the terms of this Agreement at any time and will give the Account Holder 21 days' notice in writing if the change affects the Account Holder's maximum liability for losses or adjusts any card limits.

13.2 Mobil will publish and keep current a copy of the latest and applicable terms of the Mobilcard Customer Agreement on the Mobilcard Website, www.mobilcard.co.nz. Customer shall ensure it reviews the website and terms from time to time so that it remains informed and up-to-date.

13.3 Mobil may at any time correct any error relating to a transaction on Mobilcard, whether or not the correction is in the Account Holder's favour.

14. LIABILITY

14.1 Any difficulties the Cardholder may experience with Products or Other Goods purchased on Mobilcard remain the sole responsibility of the Authorised Dealer from which they were purchased without recourse to Mobil.

14.2 Where the Cardholder has been unable to complete a transaction for whatever reason, including the refusal by the Authorised Dealer to allow purchases to be made by using a Mobilcard, Mobil shall not be liable for any losses or costs incurred by the Account Holder or Cardholder.

15. NOTICE

15.1 The Account Holder shall keep Mobil advised of any change of the Account Holder's account details, including any change of address, during the use of the Mobilcard and the operation of the Account.

15.2 Any notice given:

(a) by the Account Holder must be marked to the attention of the Mobilcard support centre and received by Mobil either by e-mail or post; b) by Mobil, must be given by writing to the Account Holder at the registered office if the Account Holder is a company, or otherwise at the Account Holder's last known email or post address notified to Mobil pursuant to clause 15.1, and shall be deemed received by the Account Holder when left at that address or 3 business days after being emailed or posted to that address.

16. VALIDITY OF TERMS

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

17. SUPPLY AGREEMENT

17.1 These conditions of use are to be read in conjunction with the terms and conditions of any supply agreement between Company and the Account Holder. Account Holder acknowledges that its default under this Agreement constitutes a default under any supply or other agreement it has with Company.

18. WAIVER and NON EXCLUSIVITY OF REMEDIES

18.1 Neither any failure nor any delay on the part of Mobil in exercising any right, power or privilege hereunder or as a result of the Account Holders non-compliance of any provision hereunder shall operate as a waiver or acquiescence thereof. The waiver by Mobil of any instance of the Account Holder's non-compliance with any obligation herein shall not be deemed a waiver of other instances, regardless of the nature and timing of such instances, or of Mobil's remedies for such non-compliance. A breach of any term or provision of this Agreement by the Account Holder shall be waived only by written instrument of Mobil. No waiver by Mobil of any breach shall affect or alter this Agreement, but each and every term and provision of this Agreement shall continue in full force and effect with respect to any other then existing or prior or subsequent breach thereof.

Mobil's exercise of any right provided by this Agreement shall be without prejudice to any claim for damages or any other right of Mobil under this Agreement or applicable law.

19. PRIVACY ACT 2020

19.1 Mobil will ensure that any information received by it is held securely and will not use it or disclose it to any other person, except for the purposes below, or as authorised by the Account Holder or when required or authorised by law.

19.2 Any information received and held by Mobil in respect of individuals is available to the Account Holder to see and correct if necessary under the provisions of the Privacy Act 2020 upon request to Mobil.

19.3 By entering into this Agreement, the Account Holder also authorises Mobil to:

(a) use the information for the general purpose of establishing and maintaining a relationship between the Account Holder and Mobil, including the provision of any products or services which Mobil considers may be of interest to the Account Holder;

(b) collect such information as it may require for the normal and proper operation of the account the Account Holder holds with Mobil from any source including credit information agencies. Any party requested by Mobil to provide such information is authorised to disclose that information;

(c) disclose the information to other persons only in the following circumstances:

(i) Where disclosure is required or permitted by law;

(ii) Where disclosure to a reputable market research organisation subject to a confidentiality agreement, to assist Mobil in seeking its customers' views on the existing and proposed services;

(iii) Where disclosure is to a reputable credit or other agency in response to a request regarding the Account Holder's creditworthiness;

20. CONSUMER GUARANTEES ACT

20.1 Account Holder acknowledges and agrees that the acquisition of Products and/or Other Goods pursuant to these Terms and Conditions is for the purposes of a business and therefore the provisions of the Consumer Guarantees Act 1993 do not apply.

21. MOBILCARD WEBSITE

21.1 Mobil provides an online service, via the Mobilcard website, to enable the Account Holder's nominated persons/service providers to administer the Mobilcard. The Account Holder agrees by their nominated persons using any login ID and password, to be bound by the current Terms and Conditions on the Mobilcard website in addition to these Terms and Conditions

22. COUNTERPARTS AND ELECTRONIC TRANSACTIONS

22.1 If this Contract consists of a number of signed counterparts, each as an original and all of the counterparts together constitute the signed document;

22.2 The relevant laws applying to electronic transactions shall apply to this Contract in full. To the extent permitted by law, the parties agree that any matter set out in this agreement may be evidenced through electronic communication and all records relating to this agreement including this Contract itself, maybe retained in electronic form which, in the absence of manifest error on the face of the document, shall be conclusive and binding on the parties.

22.3 No liability shall result to Mobil as a result of diminishment or failure of power, telecommunications, data systems, or networks or any other act or omission by any person or entity which curtails or prevents Mobil meeting its obligations hereunder. In such circumstances Mobil will give notice to Account Holder as soon as reasonably practicable. If such an event delays Account Holder or Cardholder in performance in whole or in part of its obligations hereunder Account Holder will (i) notify Mobil as soon as reasonably practicable, (ii) make commercially reasonable efforts to mitigate the impact of the cause of non-performance and remedy the same, and (iii) resume performance under this Agreement as soon as this cause has gone, Mobil being released from its contractual obligations until such time. Nothing in this clause will release Account Holder or Cardholder from making payments due to Mobil hereunder.