

## TERMS AND CONDITIONS FOR CLIENTS

### **FlexAuto - TERMS AND CONDITIONS Unregulated Consumer Hire Agreement**

These Terms apply to the leasing of all Vehicles by FlexAuto ("FlexAuto," "us," or "we") to any Customer ("Customer," "you," or "your"). (FlexAuto and the Customer together being "the Parties".)

By signing a Lease Agreement or Proposal Form or allowing us to Lease a Vehicle to you, you acknowledge and agree that you shall be bound by these Terms.

#### **1. DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement the following words shall mean:

- 1.1.1 **"Additional Charges"** means the charges set out at Clause 22 and such other additional charges specified in any Schedule or Special Terms and such other charges as may be agreed in writing by us;
- 1.1.2 **"Additional Equipment"** has the meaning given in Clause 18.1;
- 1.1.3 **"Administration Fee"** means any charges identified as such in the Lease Agreement and associated documentation which are required to cover the cost of certain administration actions or items in connection with the Lease Agreement;
- 1.1.4 **"Agreement"** means the Lease Agreement entered into between you and us which governs the hiring of all Vehicles by you including these Terms and any Schedules or Special Terms document;
- 1.1.5 **"Business Day"** means any day (other than a Saturday or Sunday) on which banks are open to the public for business in the City of London;
- 1.1.6 **"Business User"** means any person, body corporate, partnership or unincorporated body of persons that is not an Individual as defined in this Agreement;
- 1.1.7 **"Charges"** has the meaning given to it in Clause 21;
- 1.1.8 **"Collection Fee"** means a fee charged by us to contribute towards the costs of collecting your Vehicle at the end of your Lease agreement;
- 1.1.9 **"Congestion Charge Law"** means the Transport Act 2000 and the Greater London Authority Act 1999 or any other laws, codes of practice, circulars and guidance notes in relation to any road or traffic related charging scheme;
- 1.1.10 **"Customer"** means the person or entity whose details are set out in Lease Agreement or Proposal Form (as applicable), or any representative, agent, officer or employee of Customer ("you" "your");
- 1.1.11 **"Damage"** means any and all damage to a Vehicle of any nature whatsoever, excluding a mechanical fault or failure (which is not caused, or contributed to by you), and any damage identified in the Vehicle Condition Report;
- 1.1.12 **"Data Protection Legislation"** means: all applicable laws relating to privacy including the Data Protection Act 2018, the UK General Data Protection Regulation, (where applicable) the EU General Data Protection Regulation (Regulation (EU) 2016/679), and the Privacy and Electronic Communications (EC Directive) Regulations; and any guidance or codes of practice issued by the Information Commissioner from time to time (all as amended, updated or re-enacted from time to time);
- 1.1.13 **"Delivery Fee"** means a fee charged by us to contribute towards the costs of delivering your chosen Vehicle;
- 1.1.14 **"Deposit"** means a deposit, as set out on the Leasing Agreement or Proposal Form, which may be required by us in accordance with Clause 21.2. If no deposit amount is specified in the Leasing Agreement or in the Proposal Form, no deposit is required;
- 1.1.15 **"Excess Mileage"** means the surplus mileage by which the Actual Mileage exceeds (on a pro rata basis) the Estimated Annual Mileage;
- 1.1.16 **"Force Majeure Event"** means an act of God or any other event beyond a Party's reasonable control, including lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, public health crisis, industrial dispute (including an industrial dispute involving that Party's own employees where that industrial dispute is beyond the reasonable control of that Party), terrorist act, act of Government, a refusal or delay by a third party in supplying Vehicles or Vehicle services to us in circumstances where there is no alternative service available at reasonable cost or restrictions of a legislative or regulatory nature (whether anticipated on the date of this Agreement, or not), the consequences of which such Party can neither prevent nor avoid.
- 1.1.17 **"Group"** means in relation to any person, a subsidiary of that person or a holding company of that person or any other subsidiary of that holding company;
- 1.1.18 **"Individual"** means –
  - (a) an individual person;
  - (b) a partnership consisting of 2 or 3 partners not all of whom are bodies corporate; or
  - (c) an unincorporated body of persons which does not consist entirely of bodies corporate and which is not a partnership;
- 1.1.19 **"Insolvency Event"** refers to any of the following situations affecting a party: any action, legal proceeding, or step taken in any jurisdiction that involves the winding up, dissolution, administration, or reorganisation of a party, whether through a voluntary arrangement, scheme of arrangement, or otherwise; the appointment of a liquidator, trustee in bankruptcy, receiver, administrative receiver, administrator, nominee, supervisor, or similar officer in relation to the party or its assets; the enforcement of security over the party's assets; or the attachment, sequestration, distraint upon, or execution against any significant asset of the party, provided that such action is not withdrawn or dismissed within a reasonable time. It also includes situations where the party is unable to pay its debts as they fall due, is insolvent, or where the other party reasonably perceives this to be the case. Further, an insolvency event occurs if the party enters into a composition or arrangement with its creditors, whether generally or with a specific class of creditors, or ceases to trade in respect of all or a substantial part of its business, whether due to insolvency or any other reason.
- 1.1.20 **"Lease Agreement"** means the Lease Agreement detailing the Vehicle you are hiring. The Lease Agreement together with these Terms and any Schedules or Special Terms document comprise the Agreement;
- 1.1.21 **"Lease Charges"** means the charges for the Lease Period calculated in accordance with the Proposal, or such other rate confirmed by us in writing, as may be amended in accordance with the Agreement;
- 1.1.22 **"Lease Day"** means the twenty-four (24) hour period commencing at the time of On-Lease and each subsequent twenty-four (24) hour period;
- 1.1.23 **"Lease Period"** means the period from the Start Date to the end date on which the Vehicle is returned to us;
- 1.1.24 **"Losses"** means damages, losses, liabilities, claims, actions, penalties, costs (on a full indemnity basis) including the cost of legal and other professional services (legal costs being on an agent/client paying basis) and expenses and out of pocket disbursements properly incurred), proceedings, demands and charges whether arising under statute, contract or at common law or otherwise and including any tax thereon, in each case of whatever nature and Loss shall be construed accordingly;
- 1.1.25 **"Market Value"** shall mean, in respect of a Vehicle, the CAP clean value, published as at the date of calculation of the Market Value;



- 1.1.26 **“On-Lease”** means the delivery of a Vehicle by us to you on or around the Start Date (as specified in the Lease Agreement and Proposal Form) and **“On-Leasing”** and **“On-Leased”** shall be interpreted accordingly;
- 1.1.27 **“Off-Leasing”** has the meaning given to it in Clause 7.4 and **“Off-Lease”** and **“Off-Leased”** shall be interpreted accordingly;
- 1.1.28 **“Privacy Policy”** means our privacy policy (which may be updated from time to time) found at [www.petervardy.com/customer-services/cookies-and-privacy](http://www.petervardy.com/customer-services/cookies-and-privacy)
- 1.1.29 **“Proposal”** or **“Proposal Form”** refers to our non-binding quotation for hiring a Vehicle or Vehicles to you. Importantly, the Proposal is not a binding offer and no contract for lease is created by you signing the Proposal Form;
- 1.1.30 **“Policy”** shall have the meaning given to it in Clause 17.1.1;
- 1.1.31 **“Pricing Schedule”** means a schedule included with the Lease Agreement that defines the prices of the Vehicle or Vehicles that you wish to lease. These prices are valid for the period specified or, if no period is specified, for one calendar month.
- 1.1.32 **“Regulations”** means applicable legislation and legally binding rules or regulations of any kind (including orders, instructions or directions of a competent authority);
- 1.1.33 **“Return Date”** means the date on which the Vehicle is returned to us, in accordance with the Off-Leasing procedure set out in Clause 7, with the due date for return being as set out in the Lease Agreement or if no such date is specified, such date as is agreed in writing between you and us;
- 1.1.34 **“Schedule”** means any separate schedule agreed between you and us which is expressly stated to form part of this Agreement;
- 1.1.35 **“FlexAuto”** means the Supplier with a registered office at (**“Supplier”**, **“we”**, **“us”** or **“our”**)
- 1.1.36 **“Flexible Lease”** has the meaning given in Clause 5.2 and may be referred to as **“Flexi Lease”**;
- 1.1.37 **“Special Terms”** means any terms and conditions agreed between you and us which expressly are stated to vary the terms and conditions set out in these Terms;
- 1.1.38 **“Start Date”** means the date of On-Lease set out in the Proposal or such other date as we may agree with you prior to the date of On-Lease set out in the Proposal;
- 1.1.39 **“Telematics Charges”** When applicable, means the charges payable by you for the Telematics Device and the Telematics Services as set out in the Proposal, or as is otherwise determined in writing by us;
- 1.1.40 **“Telematics Device”** means a telematics device supplied in order to provide the Telematics Services;
- 1.1.41 **“Telematics Services”** means the provision of telematics services via a software delivery model in which software and associated data are centrally hosted and described in Clause 20;
- 1.1.42 **“Terms”** means these terms and conditions set out in this document as amended from time to time;
- 1.1.43 **“Vehicle”** means a Vehicle described in any Proposal and all other accessories provided with the Vehicle including the spare wheel, tyre inflation kit, electrical charging leads tools and other accessories supplied with the Vehicle, and the Additional Equipment (if applicable); and
- 1.1.44 **“Vehicle Condition Report”** has the meaning given to it in Clause 6.2.

## 2. APPLICATION

- 2.1 A contract for the lease of a Vehicle is created when we accept a completed Lease Agreement signed by you. The Lease Agreement, coupled with these Terms and Schedules or Special Terms document comprise the Agreement between the Parties for the lease of a Vehicle. No other terms or conditions contained in or referred to by any documentation submitted by you, correspondence between the parties, or implied by custom, practice, or course of dealing form any part of the Agreement.
- 2.2 These Terms are also incorporated into every Proposal. For avoidance of doubt, however, the Proposal is a non-binding quotation.
- 2.3 From time to time the Parties may enter separate Schedules which set out additional terms agreed between you and us in relation to the Agreement or Special Terms which set out any variation agreed between you and us to these Terms. Schedules and Special Terms will only be valid if they are in writing and signed by a director or authorised representative of you and us.
- 2.4 Subject to clause 2.5, in the event of a conflict between the documents comprising this Agreement, the following order of precedence shall prevail:
  - 2.4.1 Schedules;
  - 2.4.2 Special Terms;
  - 2.4.3 Lease Agreement;
  - 2.4.4 these Terms.
- 2.5 In relation to an Agreement entered into with an Individual, clause 4.1.2 of these Terms shall prevail over any provision of a Lease Agreement, a Schedule, or any Special Term, which would lead to the Lease Period exceeding 85 days.

## 3. BECOMING A CUSTOMER

- 3.1 To become a Customer of ours you must first complete a Proposal Form and a Lease Agreement.
- 3.2 You understand and agree that the information provided to us in the Proposal Form will be used by us to assess your credit rating for our internal purposes. You also understand that your completion of the Proposal Form does not bind us in any way to enter into a Lease Agreement with you.
- 3.3 On receipt of a signed copy of the Lease Agreement from you, we may accept the Lease Agreement and, if accepted by us, an Agreement is formed. We will then provide you with the requested Vehicles. We reserve the sole discretion to accept or decline any submitted Lease Agreement.

## 4. SERVICES

- 4.1 You will have the Vehicle for the rental period shown in your Lease Agreement. Vehicles will be hired to you On-Lease in one of the following ways (**“Flexible Lease”**):



- 4.1.1 for a Business User, a Lease for the Vehicle for a defined period as set out in the Lease Agreement (with a set end date to the lease, being the Return Date of the Vehicle) or as otherwise agreed between us in writing.
- 4.1.2 for Individuals, sole traders, and partnerships, a minimum Lease Period of 28 days, to a maximum Lease Period of 85 days (with a set end date to the lease, being the Return Date of the Vehicle) as set out in the Lease Agreement or as otherwise agreed between us in writing. In no event can a Lease Period with an Individual ever exceed 85 Days.
- 4.2 If you have entered into a Flexible Lease, we will contact you no less than 10 working days prior to the Return Date as set out in the Lease Agreement at which time you will be required to:
- 4.2.1 return the Vehicle by the Return Date pursuant to Clause 7;
- 4.2.2 complete an exchange by returning the Vehicle pursuant to Clause 7 and entering into a new Lease Agreement for a new Vehicle; or
- 4.2.3 enter into a new Lease Agreement for the same Vehicle (which may have different Lease Charges, or other terms, to the previous Agreement based on matters including the condition and mileage of the Vehicle). Notwithstanding the provisions of this clause, we may, in our absolute discretion, exercise our rights under Clause 9, or may require you to follow the process in clauses 4.2.1 or 4.2.2. If a new Lease Agreement is being entered into for the same Vehicle, then an Off-lease and On-lease process will be followed to include:
- (a) Recording the mileage of the Vehicle and adhering to the requirements of Clause 10.4;
- (b) Stating the condition of the car and adhering to the requirements of Clause 6.2; and
- (c) Providing a copy of your Insurance certificate in adherence with the requirements of Clause 17.2.
- 4.3 If you do not confirm collection of your Vehicle on or by the Return Date or enter into a new Lease Agreement pursuant to clauses 4.2.2 or 4.2.3, you are in breach of the conditions of this Agreement.
- 5. PRICING**
- 5.1 We will supply to you a Pricing Schedule for the Vehicles you have indicated to us in the Lease Agreement(s) that you wish to take On-Lease.
- 5.2 The Pricing Schedule will set a timeframe during which the prices stated will be valid. If the Pricing Schedule does not expressly contain a timeframe during which the prices stated are valid, the prices stated shall be valid for a period of one calendar month.
- 5.3 All prices provided to you are excluding VAT and are subject to VAT at the prevailing rate.
- 5.4 We shall review our prices from time to time and will inform you in advance of any resulting price changes and the date from which they shall take effect.
- 5.5 If you take a Vehicle On-Lease under our Flexible Lease, you may be liable to pay an initial set-up fee or deposit for the lease, as set out in the Lease Agreement (such fee payable on a per Vehicle basis).
- 5.6 If we, with your consent, order a Vehicle from a manufacturer in order to fulfil a specific or bespoke request made by you, the Lease Charges shall commence the later of (i) the date specified on the Proposal (or otherwise agreed between us) and (ii) the date on which the Vehicle is made available to you (not the On-Lease date). Any variation must be in accordance with clause 30.1.
- 5.7 At any point during the Lease Period we reserve the right to:
- 5.7.1 adjust the Charges where such changes are enforced on us by regulatory authorities; and
- 5.7.2 vary the Charges with effect to reflect any rises in supplier or manufacturer rates or costs arising from or in connection with any change in our circumstance, whether reasonably anticipated or not.
- 5.8 If we adjust Charges under Clause 5.7, we will endeavour to provide you with as much advance notice as is practicable.
- 5.9 Without prejudice to any other clauses contained within this agreement referencing additional charges we reserve the right to charge you any costs incurred directly or indirectly by us as a result of any direct debit bounces or failed payments, Vehicle collection or delivery delays, aborted delivery, or any debt recovery costs.
- 6. VEHICLE ON-HIRE/DELIVERY**
- 6.1 You shall be entitled to On-Lease of the Vehicle from the Start Date.
- 6.2 At the time at which the Vehicle is On-Leased to you, you or your representative will be asked to sign a document confirming the condition of the Vehicle as at the Start Date (the "**Vehicle Condition Report**"). You acknowledge and agree to provide documentation specified by us that verifies Proof of Identity for yourself or any of your employees who are authorised to sign a Vehicle Condition Report on your behalf.
- 6.3 If at the On-Leasing we leave with the Vehicle a Vehicle Condition Report for you to check (or provide such Vehicle Condition Report to you by email), you shall check it and contact us if there is anything that you do not agree with either before you use the Vehicle or by 9.00 am on the day after delivery (whichever is soonest). If we have not been notified by 9.00 am on the day after delivery you are deemed to have agreed to and accepted the Vehicle Condition Report.
- 6.4 If we attempt as part of the On-Leasing to deliver a Vehicle to a location specified by you on the Start Date (or on a date as otherwise agreed between us and set out in the Lease Agreement) and you or your nominated representative are not available to receive the Vehicle, we reserve the right to charge you for all costs incurred by us in any failed delivery attempt and you will be liable to pay all Lease Charges from the Start Date of the Lease Period even though you have not taken physical delivery of the Vehicle. We will use reasonable endeavours to contact you and arrange an alternative suitable delivery date. If you fail to take delivery of the Vehicle within a period of ten (10) working days from the Start Date, we shall be entitled to terminate this Agreement and charge you for the sums set out in Clause 5.5.
- 7. VEHICLE RETURN**
- 7.1 You will remain liable for any loss of or damage to the Vehicle from the time at which the Vehicle is On Leased to you on the Start Date until the Vehicle is Off Leased. Off Leasing is only completed when all of the steps of this Clause are completed.



- 7.2 Where the Vehicle is on a Flexible Lease you must Off-Lease the Vehicle by providing at least 10 days' notice prior to the Return Date.
- 7.3 If you Off-Lease a Vehicle on a Flexible Lease prior to the agreed Return Date you will remain liable for Lease Charges up to the Return Date as identified in the Agreement. For avoidance of doubt, as payments are made one month in advance, you will not be refunded any pro rata share of Lease Charges if you return a Vehicle prior to the Return Date.
- 7.4 To take the Vehicle off lease you must contact us to arrange for us to collect the Vehicle on the Return Date (or such other date as may be agreed between us) and you shall ensure that such Vehicle is available for collection on the Return Date (or such date as otherwise agreed between us), or make an alternative arrangement in respect of the Vehicle pursuant to Clause 4.2 of this Agreement. In each case, the Off Lease will be effective on our acknowledgement, which will usually be the time at which the keys for the Vehicle have been handed to us or our representative and an applicable Final Vehicle Condition Report has been signed by you or your representative. Off-Lease acknowledgment may occur without key handoff or a signed Final Vehicle Condition Report under Clauses 4.2.3 or 7.5.
- 7.5 If we attempt to collect a Vehicle from you at a location specified by you on the Return Date or as otherwise at the end of the Lease Period and you are not available (or are otherwise unable) to return the Vehicle for any reason whatsoever (a "**Failed Collection Attempt**"), we reserve the right to charge you for all costs incurred by us in connection with the Failed Collection Attempt. In the case of a Failed Collection Attempt you will continue to incur charges for each Lease Day on which you retain possession of the Vehicle after the date of the Failed Collection Attempt until such Vehicle is successfully returned to us. We will use reasonable endeavours to arrange another suitable collection date.
- 7.6 At the Off-Lease of the Vehicle, the Vehicle shall be in the same condition as was identified in the Vehicle Condition Report, except that we will allow for normal wear and tear taking into account the distance travelled in the Vehicle and the duration of the Lease Period (please refer to the BVRLA Fair Wear & Tear Guide as published by the British Vehicle Rental & Leasing Association from time to time and available to view via our website [www.FlexAuto.co.uk](http://www.FlexAuto.co.uk)).
- 7.7 If you fail to return the Vehicle in accordance with the provisions of Clause 7.6, and the Vehicle is (in our reasonable opinion) economical to repair, the Lease Charges payable shall be recalculated to include charges in connection with the time taken to repair and the time to obtain authorisation for such repair as well as the cost of repairing such damage calculated on the basis of the below:
- 7.7.1 the cost of the repair is under ten thousand pounds (£10,000) the charge shall be calculated based on the Lease Charge for the estimated number of labour days the repairs will take; or
  - 7.7.2 the cost of repair is over ten thousand pounds £10,000 the charge shall be calculated as set out in Clause 7.7.1 with the addition of the Lease Charges for the number of days you take to authorise the repair in accordance with Clause 13, and in any event, the charges set out in Clause 7.8 shall not exceed the Lease Charges for three (3) calendar months. For the avoidance of doubt, where the cost of repair is less than any applicable Damage Allowance, no refund on any allowance balance will be payable.
- 7.8 If you fail to return the Vehicle in the condition specified in Clause 7.6, and the Vehicle is (in our reasonable opinion) beyond economic repair, you will be liable to pay both the Market Value of replacement of the Vehicle less the sum of any salvage value where applicable (notified to you by us) and the Lease Charge, which shall be payable from the Return Date of the Vehicle until the earlier of (i) the date we receive from you payment of the Market Value; and (ii) twelve (12) months.
- 7.9 If you fail to return the Vehicle on the Return Date due to theft of the Vehicle and the Vehicle is not recovered, you will be liable to pay us the Lease Charge until settlement in full is received from you for the replacement cost (calculated as the Market Value of the Vehicle) up to a maximum of twelve (12) months.
- 7.10 If at Off-Lease we are required to remove materials or equipment from a Vehicle you shall be responsible for the costs associated with this removal (including the Lease Charge for any days the Vehicle cannot reasonably be hired to a third party due to the materials or equipment needing to be removed) and any subsequent cleaning of the Vehicle.
- 7.11 If, upon return of a Vehicle, any evidence of smoking is found or the Vehicle is otherwise in an unacceptably dirty, in our reasonable opinion, we reserve the right to pass on the charge to valet the Vehicle, any other associated charges including an Administration Fee.
- 7.12 We have the right to repossess the Vehicle without notice and at all material times if you have failed to make any payments due to us under the Lease Agreement.
- 8. EXTENSION OF YOUR LEASE AGREEMENT**
- 8.1 If you wish extend the Lease Agreement, please contact us by phone or email as soon as possible, and with no less than 10 working days' notice before the Return Date specified in your Lease Agreement.
- 8.2 We will confirm any authorised Extension in writing.
- 8.3 You agree that, if a Lease Agreement is extended beyond your Return Date, you will still be bound by all Terms agreed to as part of your original Agreement up until the point that the Vehicle is returned. Vehicle Return must be arranged in accordance with clause 7 of these Terms.
- 8.4 Where the Lease Agreement has expired, you have not returned the Vehicle to us within 24 hours of the Return Date, and no Extension has been agreed, we may repossess the Vehicle. If we repossess the Vehicle you must pay any reasonable expenses we incur in the process of repossession. If we have the right to repossess the Vehicle you give us permission to access your premises to do so, consistent with clause 12.4.
- 8.5 Please note that your obligations in relation to the Vehicle continue until you return the Vehicle to us, notwithstanding that the Lease Agreement may have come to an end.
- 8.6 For Individuals there is a maximum Lease Period of 85 days and an Agreement will not be extended beyond this.
- 9. CHANGE OF VEHICLE**
- We may require that we exchange any Vehicle On-Lease to you at any time during the Lease Period for any reason. In such an event, we shall change the Vehicle for a like-for-like Vehicle. If you fail to comply with any written demand by us to change a Vehicle, we shall be entitled to terminate this Agreement and repossess the Vehicle(s) in accordance with Clause 12.
- 10. FUEL / RANGE AND MILEAGE CHARGES**
- 10.1 When the Vehicle is returned to us in order to Off-Lease the Vehicle, you shall return the Vehicle with a minimum of a quarter tank of fuel, or in the case of Electric Vehicles a minimum of 100 miles of range. The fuel level will be recorded at the point of Off-Leasing.
- 10.2 If you fail to comply with the requirements of Clause 10.1, you shall pay the cost of replacement fuel or electric charge to the level of a quarter-tank or 100-mile range.
- 10.3 The Lease Charge is calculated (among other things) in accordance with your estimated annual mileage ("**Estimated Annual Mileage**"). You must ensure that the Estimated Annual Mileage you give us at the time of Proposal is accurate to the best of your knowledge and belief. You shall promptly inform us in writing if you have reasonable cause to believe that you have or are likely to exceed the Estimated Annual Mileage on any Vehicle.
- 10.4 We reserve the right to monitor throughout the Lease Period your actual mileage ("**Actual Mileage**"), including through use of a Telematics Device, and compare this against your Estimated Annual Mileage. If your Actual Mileage exceeds or is likely to exceed (on a pro rata basis) the Estimated Annual Mileage, we reserve the right to:
- 10.4.1 invoice you for the Excess Mileage retrospectively at the end of the Lease Period the sum as set out in the Pricing Schedule for every mile the Actual Mileage exceeds the Estimated Annual Mileage (on a pro rata basis);



- 10.4.2 invoice you for the Excess Mileage during the Lease Period the sum as set out in the Pricing Schedule for every mile the Actual Mileage exceeds the Estimated Annual Mileage (on a pro rata basis); or
- 10.4.3 adjust your Estimated Annual Mileage for the remainder of the Lease Period to reflect your Actual Mileage and therefore adjust the Lease charge accordingly for the remainder of the Lease Period.

## 11. CUSTOMERS GENERAL OBLIGATIONS

- 11.1 During the Lease Period you shall:
  - 11.1.1 keep the Vehicle free from legal processes or liens;
  - 11.1.2 keep the Vehicle reasonably protected and secured;
  - 11.1.3 if applicable, register and pay for any days the Vehicle will operate in any congestion zone and incur a fee associated with a Congestion Charge Law;
  - 11.1.4 check on a daily basis the engine oil level, water level in radiator, washers and wipers, lights, wheel nuts and brake fluid level, tread depth and inflation on all tyres;
  - 11.1.5 ensure the Vehicle is driven using reasonable skill and care and in accordance with any applicable road use rules (including the Highway Code and other applicable laws);
  - 11.1.6 ensure that no smoking is carried out in the Vehicle; and
  - 11.1.7 if requested by us on reasonable notice make the Vehicle available for inspection, service, or repair work.
- 11.2 During the Lease Period you shall not use the Vehicle:
  - 11.2.1 for the carriage of passengers for hire or reward;
  - 11.2.2 for any illegal purpose or in contravention of any Regulations affecting the Vehicle, its use, or construction;
  - 11.2.3 if the Vehicle exceeds 3.5 tonnes gross Vehicle weight, unless you have obtained a valid Operator's Licence in accordance with the Goods Vehicles (Licensing of Operators) Act 1995, and supplied a copy of the same to us;
  - 11.2.4 for any off-road driving;
  - 11.2.5 for competitive racing of any nature;
  - 11.2.6 to propel or tow any other vehicle or trailer unless the Vehicle is properly equipped to tow in which case towage weights must be adhered to at all times. It is your responsibility to ensure any such towing is appropriate and undertaken with due skill and care to ensure no damage is caused to the Vehicle or to the trailer being towed. We shall have no liability for the insurance of, or any damage to, any towed trailer howsoever caused; and
  - 11.2.7 outside of the United Kingdom without our prior written consent.
- 11.3 You shall ensure the Vehicle is not driven by any driver who:
  - 11.3.1 does not hold a valid driving licence for the class of Vehicle to which the Vehicle belongs; and
  - 11.3.2 is not covered fully by a comprehensive insurance policy.
- 11.4 You shall not modify or alter the Vehicle in any way without our prior written consent and you shall be liable for any and all costs incurred by us to reverse such modifications (including rectifying any damage caused by modifications or their reversal and any servicing and safety checks following such reversal).
- 11.5 Upon collection of the Vehicle, we will ensure that inspection will take place and where appropriate photographs shall be taken and a document of the condition of the Vehicle will be offered for signature. You confirm that you will use all reasonable endeavours to assist with these collection obligations.

## 12. RISK AND TITLE

- 12.1 The Vehicle is at your risk from the time of On-Leasing, including any Additional Equipment contained or installed in or upon the Vehicle.
- 12.2 Notwithstanding delivery and passing of risk, ownership of the Vehicle shall not pass to you at any time during the Lease Period (or otherwise), unless we and you expressly agree in writing that we will sell the Vehicle to you (in which case ownership will pass in accordance with the terms of such sale).
- 12.3 We reserve the right to repossess any or all Vehicles On-lease to you:
  - 12.3.1 upon the happening of any Insolvency Event; or
  - 12.3.2 upon termination of this Agreement.
- 12.4 You grant to us, our agents, and our employees an irrevocable right and licence to enter your premises with or without Vehicles during normal business hours for the purpose of inspecting or repossessing Vehicles to which we have retained title. This right and licence shall continue to subsist notwithstanding the termination for any reason of an Agreement and is without prejudice to any or our accrued rights under an Agreement or otherwise.

## 13. ROUTINE MAINTENANCE

- 13.1 Every Vehicle has a sticker in the window detailing when the next service for the Vehicle is due.
- 13.2 If during the Lease Period a service of the Vehicle becomes due, you shall contact us to arrange a service of the Vehicle.
- 13.3 If you fail to contact us to arrange a service under Clause 13.2, we reserve the right to recover any Losses we incur which are caused by the failure to carry out the service at the time it was due.
- 13.4 In addition to the service requirements set out above, you shall be required to notify us in relation to the additional maintenance events set out below:
  - 13.4.1 An MoT becomes due during the Lease Period;
  - 13.4.2 Any damage (including, body, glass, tyres, electronic, mechanical fault or failure or otherwise) is incurred during the Lease Period;
  - 13.4.3 The tyres become worn tyres during the Lease Period;
  - 13.4.4 Any fault or breakdown of the Odometer during the Lease Period;
  - 13.4.5 Any other issue that would impair the roadworthiness of the Vehicle during the Lease Period.



#### 14. DAMAGE, FAULT AND THEFT

14.1 As promptly as reasonably possible (and no more than 24 hours after you become aware of any issue) you will:

- 14.1.1 inform us if any Vehicle is Damaged, a fault develops in any Vehicle or a Vehicle is otherwise lost or stolen and inform your insurance company;
- 14.1.2 supply us with a police crime reference number if a Vehicle is stolen or otherwise involved in a criminal act;
- 14.1.3 at our request:
  - (a) carry out all acts and things as may be reasonably required by us for the purpose of repairing or recovering a Vehicle;
  - (b) enforce any rights or remedies against or obtain relief from other parties; including any claim for damages or loss of use of the Vehicle
  - (c) deliver to us every document of any kind received by you relating to any claim involving the Vehicle where an accident or theft has occurred;
  - (d) provide all assistance as is reasonably required by us in relation to the defence or investigation of any claim involving the Vehicle where an accident or theft has occurred including not aiding or abetting any claim against us; and
  - (e) ensure all information you provide is accurate, complete and not misleading.

14.2 You shall be responsible for the cost of repairing any Damage and hereby authorise us to carry out any repairs and invoice you for the same up to a maximum of five thousand pounds (£5,000) excluding VAT per occurrence of Damage. Damage Allowance cannot be used against damage caused during the Lease Period.

14.3 If the cost of repairing any Damage exceeds ten thousand pounds (£10,000) excluding VAT we will notify you (including providing a claim pack which includes all relevant information) and you shall have seven (7) days from the point of receipt of the notice to involve your insurers (if applicable) and give us approval to proceed before we commence repairs. If we do not receive a response within seven (7) days, you will be deemed to have consented to the repairs and we will instruct repairs and invoice you for these costs.

14.4 We may, at our sole option, elect not to repair Damage, but if we elect not to carry out such repairs at that time we reserve the right to charge you an amount equal to the cost of the repair works that would otherwise be required and which we may carry out in the future.

14.5 You acknowledge and agree that you:

- 14.5.1 shall not without our prior consent incur any liability for repairs to the Vehicle in excess of £25;
- 14.5.2 shall not without our prior written approval carry out yourself or engage any third party to carry out repairs on a Vehicle which we have not approved in writing;
- 14.5.3 are not our servant or agent for any purpose and shall not hold yourself out as such;
- 14.5.4 are not entitled to make any claim against us for loss of or damage to any property left stored or transported in or upon the Vehicle at any time during the Lease Period; and
- 14.5.5 agree that we reserve the right to seek recompense from you for any substandard repairs that you authorise or make and that we can contact the repairers in any event.

14.6 If any act or omission or failure to comply with this Agreement by you causes or contributes to the invalidation of the manufacturer's warranty of the Vehicle, you will be responsible for any and all costs incurred by us that are associated with this invalidation.

14.7 If the keys to any Vehicle are lost during the Lease Period, we may need to replace the full lock set in the Vehicle for security reasons. In such circumstances you will be responsible for any cost in connection with doing so (including obtaining spare keys) and the Administration Fee.

14.8 If we are required to attend an event relating to a Vehicle (including if a misfuelling happens, the Vehicle lights are left on, a puncture occurs, a Vehicle is damaged, or an accident occurs) we may make a reasonable charge for doing so.

#### 15. LOSS OF USE

15.1 In addition to the cost of repairing any Damage as set out in this Agreement, you will also be liable to pay the Lease Charges for the period during which the Vehicle is being repaired or the period between a Vehicle being stolen and, if applicable, returned to us, to reflect the loss of use of the Vehicle (up to a maximum of the Lease Charges for a period of twelve (12) months) in accordance with Clause 7. This includes any such repairs carried out on your behalf by an insurance company or their agent because of any claim being made.

15.2 If you require a replacement Vehicle from us during any period in which a Vehicle is being repaired or the period during which a Vehicle is stolen, you shall be responsible for the Rental Charges in respect of that replacement Vehicle, in addition to the charges identified at Clauses 7, 14, and 15.

#### 16. FINES, PENALTIES AND CHARGES

16.1 You shall be liable (as though you were the "owner" of the Vehicle) for any charges, penalties, offences or fines incurred during the Lease Period due to your acts or omissions (or those of any driver of the Vehicle) under any applicable laws or Regulations including in relation to any driving, parking, lighting, loading or unloading offence and including fixed penalty charge notices, parking fines, bus lane fines, fines relating to toll charges and charges under Congestion Charge Law.

16.2 If we receive notice of any penalty charges from the relevant issuing authority (which shall include private parking companies), we will pay any penalty charges that are notified to us or transfer liability to you if applicable. We will not query any such penalty charges, nor will we notify you prior to payment or transfer of liability.

16.3 You agree to pay to us upon demand any fines, penalties and charges we pay in accordance with this Clause 16 plus the Administration Fee of £30 for processing the same and we reserve the right to collect the Vehicle if any fines remain unpaid.

16.4 If we are notified of any penalty charges or other offences which require driver details, we will supply your details to the issuing authority who will contact you directly in relation to the fine or notice. We will charge the Administration Fee in respect of the processing of these penalty charge notices.

16.5 If you register the Vehicle on any account for the payment of congestion charges or toll roads, it is your sole responsibility to remove the Vehicle from your account at the end of the Lease Period.

16.6 Certain Fine Types cannot be transferred for liability, due to the issuing authority. For these charges we also pay any penalty charges that are notified to us. We will not query any such penalty charges, nor will we notify you prior to any payment. All costs incurred will be passed to you in line with clause 16.3.

16.7 If any charges, penalties, offences, or fines incurred are passed to Debt Recovery for any reason, we will pay any penalty charges that are notified to us to avoid further escalation. We will not query any such penalty charges, nor will we notify you prior to any payment. All costs incurred will be passed to you in line with clause 16.3

#### 17. INSURANCE

Should you choose to accept a FlexAuto Lease Agreement, the following applies:

17.1 You shall ensure during the relevant Lease Period that:



- 17.1.1 all Vehicles hired to you including any replacement Vehicles are covered by you with a fully comprehensive insurance policy (the "Policy") for the Lease Period and until completion of the Off-Lease process in accordance with Clause 7 and you shall provide a copy of the policy to us on signing of the Lease Agreement;
- 17.1.2 you notify your insurers that you are neither the registered owner nor keeper of the Vehicle;
- 17.1.3 the Vehicle is added to the Motor Insurance Bureau's database;
- 17.1.4 you comply with the requirements of the Policy and procure that any drivers you permit to use a Vehicle also comply with the terms of the Policy;
- 17.1.5 any driver using a Vehicle(s) will hold and will not have been disqualified from holding or obtaining a driving licence valid for the relevant Vehicle(s); and
- 17.1.6 you will notify us in writing as soon as reasonably practicable of any change to your Policy including providing us with updated certificates reflecting changes in terms, excesses, or insurance company.
- 17.2 Prior to us accepting the Lease Agreement, you shall supply to us a copy of the relevant certificate of motor insurance covering the Vehicle being leased and supply us with copies of the renewal certificates as appropriate. We shall not be under any obligation to supply a Vehicle to you unless and until we have received copies of the relevant certificate of motor insurance covering the Vehicle being leased. If, in our sole discretion, we accept a Lease Agreement without you having provided us with a relevant certificate of motor insurance, you will supply such a certificate as quickly as practicable. If you fail to do so, we may terminate the Agreement.
- 17.3 If your insurers fail to provide cover or grant an indemnity under the Policy in respect of any claim made under the Policy by you, a third party or any official organisation concerned in settlement procedures under the Road Traffic Act, in respect of any loss or damage to the Vehicle or other parties costs, you shall indemnify us against all Losses suffered by us arising out of or in connection with any and all loss and Damage to any Vehicle leased by you (including replacement Vehicles), up to a maximum amount equal to the value of such Vehicle (as determined by us, acting reasonably).

## 18. ADDITIONAL EQUIPMENT

This Clause 18 shall only apply if we agree, in a Schedule or Special Terms, to provide you with Additional Equipment or we agree to allow personalised or cherished Vehicle registration plates to be applied to the Vehicle.

- 18.1 You may request that any Vehicle you hire from us is customised with additional equipment or branding (for example, tow bars & company branding) ("**Additional Equipment**") or the replacement of the existing Vehicle registration plates with a personalised or cherished Vehicle registration plate.
- 18.2 You acknowledge and agree that the charges for the Additional Equipment and any associated administration charges for the processing of the change of the original Vehicle registration plate to a personal or cherished Vehicle registration plate are in addition to the Lease Charges for the relevant Vehicle and will be invoiced and paid for separately from the Lease Agreement.
- 18.3 You will be liable for and will indemnify us against any Losses we incur because of your use of any intellectual property as Additional Equipment on the Vehicle (including any claims that the branding applied to a Vehicle infringes the intellectual property rights of a third party)
- 18.4 If a cherished or personalised Vehicle registration plate is applied, you will retain the original registration plate and re-instate the original Vehicle registration plate on return of the Vehicle once it is Off-Leased. Should you fail to complete this requirement you will be liable for all associated costs for re-instatement of the original Vehicle registration plate including an Administration Fee.

## 19. TRAVEL OUTSIDE THE UNITED KINGDOM

- 19.1 In the event you wish to take any Vehicle outside the United Kingdom, you must agree this with us in writing in advance and comply with certain additional insurance requirements as notified by us. If we consent, we will charge
  - 19.1.1 the Administration Fee for completing the additional paperwork required by us to permit you to take the Vehicle outside the United Kingdom; and
  - 19.1.2 any Additional Charges which will be advised to you at the time of your request.

## 20. TELEMATICS

All Vehicles are supplied with Telematics devices and all costs, including the installation and operation of the Telematics unit, is included in the Vehicle Lease charges.

- 20.1 You may not postpone or cancel performance of the Telematics Services except with our prior written consent.
- 20.2 We are entitled to determine the manner in which the Telematics Services are performed.
- 20.3 All Telematics Devices must be in full working order upon Off-Lease of the Vehicle.
- 20.4 The Parties acknowledge and agree that, providing there is not a change to the Telematics Services which has a material detrimental impact on the features or functionality of the Telematics Services, we may at our discretion change the functionality of the Telematics Services as currently set out in this Clause 20.
- 20.5 All aspects of the Telematics Services will be delivered remotely.
- 20.6 Any new feature, improvement or modification implemented by us into the Telematics Services which are more generally available to all of our Customers shall be included in the Telematics Services.
- 20.7 You shall not (except to the extent permitted by applicable law):
  - 20.7.1 access all or any part of the Telematics Services in order to build a product or service which competes with the Telematics Services;
  - 20.7.2 attempt to obtain or assist third parties in obtaining, access to the Telematics Services;
  - 20.7.3 copy the software used in the Telematics Device in whole or in part;
  - 20.7.4 introduce any virus, code or software into the Telematics Device or its software; or
  - 20.7.5 use the Telematics software otherwise than in accordance with this Agreement.
- 20.8 You shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Telematics Services and notify us promptly of any such unauthorised access or use.
- 20.9 We give no guarantee or warranty as to the availability of the Telematics Services.
- 20.10 Ownership of the Telematics Devices shall remain with us at all times.
- 20.11 You shall not remove or tamper with or attempt to remove or tamper with the Telematics Devices.
- 20.12 If the Telematics Device is damaged beyond repair or destroyed or where its repair would be uneconomic, we shall provide you with a replacement Telematics Device.



- 20.13 We reserve the right to suspend the Telematics Services by reasonable notice to you in order to undertake maintenance work.
- 20.14 You acknowledge and agree that you will lose access to telematics data relating to a specific Vehicle at the time that Vehicle is Off-Lease.
- 20.15 You acknowledge and agree that the Telematics Device records and transmits data during the Lease Period. This data may include, but is not limited to, information regarding driving behaviour (such as speed, braking, and acceleration), locations visited, routes taken, and the condition, care, and maintenance of the Vehicle. By entering into this Agreement, you consent to our collection, use, and storage of this data for purposes including but not limited to monitoring Vehicle performance, ensuring compliance with this Agreement, and for safety, security, and analytical purposes. We will handle all collected data in accordance with applicable data protection laws and our Privacy Policy, which forms part of this Agreement.

## 21. CHARGES AND PAYMENT

- 21.1 You shall pay to us in accordance with this Agreement:
  - 21.1.1 the Lease Charges;
  - 21.1.2 any Administration Fees;
  - 21.1.3 an Account Activation charge (if applicable, as set out in the Lease Agreement);
  - 21.1.4 any Additional Charges;
  - 21.1.5 the set-up fee in respect of each Vehicle (if applicable);
  - 21.1.6 any other amount due to us by you under this Agreement, (together the "Charges")
- 21.2 Where applicable and as set out in the Lease Agreement, you agree to pay any required Deposit to us on the Start Date. The Deposit is a payment against default by you of payment of the Lease Charges, any Additional Charges due in accordance with Clause 22 or any other charges which fall due under this Agreement and any loss or Damage to the Vehicle while in your possession. If you fail to pay any sums due in accordance with this Agreement, we shall be entitled to apply the Deposit against such default. You agree to pay to us any sums deducted from the Deposit within one calendar month of a demand for the same. Subject to us setting off the Deposit against any outstanding sums owed to us upon termination or expiry of this Agreement or, we will refund the Deposit (or balance thereof) to you within one calendar month of the Return Date.
- 21.3 Subject to Clause 21.4, all Lease Charges will be invoiced and paid by you one calendar month in advance by either debit or credit card payment or direct debit. Any Additional Charges which may be invoiced (as and when they arise) and payment shall be due payable by you by debit or credit card payment or direct debit.
- 21.4 For the avoidance of doubt, where we are not satisfied with any credit checks which we undertake, we will notify you of the payment terms that shall apply in writing, such payment terms to apply in place of those set out in Clause 21.3.
- 21.5 We shall have a right of set off against any amount due from you to us or any member of our Group, any sum or sums which at the date of set off are due and owing to you from us or any member of our Group.
- 21.6 Notwithstanding any agreed period of credit, or the remedies available to us under Clause 21.4, if any invoice is overdue for payment the balance of your account becomes immediately due and payable.
- 21.7 All sums stated or referred to in this Agreement are exclusive of VAT which (if applicable) shall be added to our invoice at the appropriate rate.
- 21.8 For each Lease Agreement, we shall be entitled to periodically increase the Charges by providing 1-month's notice (Notice Period) in writing to you in accordance with Clause 21.9 below, or at such time as a new Lease Agreement is entered into in respect of the Vehicles On-Leased to you, or in the event of a change of Vehicle in accordance with Clause 9 above.
- 21.9 We are entitled to increase Charges as indicated by a percentage increase in Retail Price Index ("RPI") during the Lease Period by providing 1 month's notice (Notice Period). In the event that our increase to the Charges exceed RPI, you shall have the right to return any Vehicle within the Notice Period. Such return will constitute return of the Vehicle prior to the Return Date and you will remain liable for Lease Charges (at the original Charge rate as set out in the Lease Agreement) up to the Return Date as identified in the Lease Agreement. You will also remain liable for any Charges relating to Additional Equipment (if any). If Vehicles are still On-Lease to you on expiration of the Notice Period, you shall be deemed to have accepted the adjustment to the Charges and shall be bound by the revised terms and will be charged at the increased rate from expiration of the Notice Period.
- 21.10 Nothing within Clause 21 shall prejudice any other rights or obligations contained in this Agreement, save that Clause 21.9 takes precedence over Clause 7.3.
- 21.11 No payment shall be considered paid until it is received by us in pound sterling, in cleared funds, in full to such bank account as nominated by us from time to time. Subject to Clause 21.13, payment shall be made by you in full without any set-off, deduction, or withholding whatsoever.
- 21.12 If you dispute an invoice, you must notify us promptly and at least seven (7) working days before payment is due. We will investigate and notify you of any amendments to the disputed invoice. Our decision regarding the dispute will be final.
- 21.13 Subject to Clause 21.13, if we have not received payment by the due date, and without prejudice to any other rights and remedies we have, we may:
  - 21.13.1 without liability to you, suspend the performance of this Agreement until payment in full has been made;
  - 21.13.2 charge interest on a daily basis on such due amounts at an annual rate equal to 5% over the then current base lending rate of Barclays Bank plc from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment; and
  - 21.13.3 immediately terminate this Agreement without further liability to you or any obligation to refund any sums already paid.
- 21.14 We reserve the right to charge for any debt recovery fees.

## 22. ADDITIONAL CHARGES

- 22.1 In addition to the Lease Charges (and without prejudice to any other rights or remedies or other Losses recoverable by us under this Agreement or under law), you may also be liable for the following additional charges under this Agreement:
- 22.2 failed delivery or collection in accordance with Clause 6.4;
- 22.3 Vehicle return charges in accordance with Clause 7;
- 22.4 fuel charges (including electricity for Electric Vehicles) and excess mileage in accordance with Clause 10;
- 22.5 unauthorised modifications in accordance with Clause 11.4;
- 22.6 failed servicing in accordance with Clause 15;
- 22.7 damage, fault and theft charges in accordance with Clause 14;
- 22.8 loss of use in accordance with Clause 15;
- 22.9 fines, penalties and charges in accordance with Clause 16;



- 22.10 any Additional Equipment charges in accordance with Clause 18;
- 22.11 any charges for using the Vehicle outside the United Kingdom in accordance with Clause 19;
- 22.12 any charges set out in any Schedule or Special Terms; and
- 22.13 any Administration Fees, as set out in this Agreement; (together, the “Additional Charges”).

### 23. ASSIGNMENT

- 23.1 We may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over, or deal in any other manner with any or all of its rights and obligations under the Agreement.
- 23.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over, or deal in any other manner with any of its rights and obligations under the Agreement without the prior written consent of the Supplier.

### 24. LIABILITY

- 24.1 Subject to the provisions of Clauses 7.8, 15, and 24.4, we shall not be liable to you and you shall not be liable to us for any indirect, special, or consequential loss of any nature whatsoever, whether or not such losses were reasonably foreseeable or the party in default or its agents had been advised of the possibility of the other incurring such losses.
- 24.2 We shall not be liable to you for any loss of or damage to property left, stored, or transported in or upon a Vehicle.
- 24.3 Subject to Clause 24.4, our total aggregate liability for all claims arising in any twelve (12) month period arising out of or in connection with an Agreement, whether such liability arises in contract, tort (including negligence), or otherwise shall not exceed one hundred thousand pounds sterling (£100,000).
- 24.4 Nothing in this Agreement shall operate to exclude or limit the liability of either party for:
  - 24.4.1 death or personal injury resulting from negligence;
  - 24.4.2 fraud or fraudulent misrepresentation; and
  - 24.4.3 any other liability which cannot, as a matter of law, be excluded.

### 25. INDEMNITY

- Subject to Clause 24.1, you shall, to the fullest extent permitted by law, indemnify, defend and hold us and our Group harmless against and from all Losses suffered or incurred by us due to:
  - 25.1 the loss of or damage to any property (whether yours or a third party's) left, stored or transported in or upon a Vehicle;
  - 25.2 improper use and/or operation by you of the Vehicles during the Leased Period;
  - 25.3 any error, omission or inaccuracies in any of the information provided to us under or in connection with this Agreement, the lease of the Vehicle, the Proposal, or any other information or documentation required from you by us and upon which we rely in providing the Vehicle to you; or
  - 25.4 any claims brought against us by any third party arising out of, or in connection with, this Agreement or any claims in respect of loss, injury or damage sustained as a result of the use of the Vehicle by you or as a result of any defect in the Vehicle (to the extent only that such loss, injury or damage is an excluded item from the insurance policy in respect of such Vehicle and therefore an uninsured item).

### 26. REMEDIES

- If a Vehicle breaks down through no fault of yours, your exclusive and sole remedy shall be for us to repair or replace the Vehicle at our option as soon as reasonably practicable.

### 27. TERMINATION

- 27.1 Either party may terminate an Agreement immediately if an Insolvency Event occurs in relation to the other party.
- 27.2 Either party may terminate an Agreement if the other party commits a material breach of the Agreement and, if the breach is capable of remedy, such breach is not remedied within one calendar month of the non-breaching party notifying the other of the breach.
- 27.3 For the purposes of Clause 27.2, the following shall be treated as a material breach not capable of remedy:
  - 27.3.1 a failure by you over the Lease Period to pass a credit check or identity check, as may be routinely carried out by us from time to time;
  - 27.3.2 a failure by you to pay us any Charges when they fall due in accordance with the terms of this Agreement;
  - 27.3.3 any breach of Clauses, 11.2, 17.2, 19, 28, or 29;
  - 27.3.4 if it is reasonably suspected that any illegal or unlawful activity is being carried out in the Vehicle or Vehicles, regardless of whether such activity is actually taking place.
- 27.4 We may terminate an Agreement without cause on not less than ten working days' notice to you.
- 27.5 Upon termination of an Agreement you shall immediately:
  - 27.5.1 return the Vehicle or Vehicles to us or our duly authorised agent at such place as we may appoint;
  - 27.5.2 pay to us, on demand, all Charges due;
  - 27.5.3 return all Telematics Devices;
- 27.6 Termination of this Agreement does not affect:
  - 27.6.1 the rights or liabilities of the Parties under this Clause 27 (Termination) or which have accrued on or before termination; and
  - 27.6.2 the continuance in force of Clauses 7 (Vehicle Return), 10 (Fuel and Mileage Charges), 12 (Risk and Title), 14 (Damage, Fault and Theft), 16 (Fines, Penalties and Charges), 21 (Charges and Payment), 22 (Additional Charges), 24 (Liability), 25 (Indemnity), 26 (Remedies), 28 (Confidentiality), 29 (Data Protection), 30 (Entire Agreement), and 31 (General), which survive termination of this Agreement.



## 28. CONFIDENTIALITY

- 28.1 We each undertake to the other that we shall not at any time disclose to any person any confidential information (including as to the level of charges paid for a Vehicle) concerning the business, affairs, customers, clients, or suppliers of the other, except as permitted by Clause 28.2.
- 28.2 We may each disclose the other's confidential information:
- 28.2.1 to our employees, officers, representatives, or advisers who need to know such information for the purposes of carrying out our obligations under this agreement. We shall each ensure that our employees, officers, representatives or advisers to whom we disclose the other's confidential information comply with this Clause 28; and
- 28.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 28.3 Neither you nor we shall use the other's confidential information for any purpose other than to perform our respective obligations under this Agreement.

## 29. DATA PROTECTION

- 29.1 In relation to all Personal Data, the parties shall at all times comply with the Data Protection Legislation as a data processor or data controller (as appropriate), including if necessary, maintaining a valid and up to date notification under the Data Protection Legislation covering the data processing to be performed in connection with this Agreement and the Privacy Policy. Please read the Privacy Policy for further information about how we may use your Personal Data.
- 29.2 To the extent that we process any Personal Data on your behalf when performing our obligations under this Agreement, you shall be the data controller and we shall be a data processor and in any such case:
- 29.2.1 you shall ensure that you are entitled to transfer the relevant Personal Data to us so that we may lawfully use, process and transfer the Personal Data in accordance with this Agreement and, to the extent applicable, the Privacy Policy on your behalf;
- 29.2.2 you shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer (including as referred to in Clause 29.2.1) as required by all applicable Data Protection Legislation;
- 29.2.3 we shall process the Personal Data transferred by you pursuant to this Clause 29.2 only in accordance with the terms of this Agreement and, to the extent applicable, the Privacy Policy, and any lawful written instructions reasonably given by you from time to time unless we are required by the laws of the United Kingdom, any member state of the European Union, or by any laws of the European Union applicable to us, to process Personal Data ("Applicable Laws"). Where we rely on laws of the United Kingdom, a member state of the European Union or European Union law as the basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit us from so notifying you;
- 29.2.4 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the Personal Data or its accidental loss, destruction or damage, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 29.2.5 we shall not transfer any Personal Data outside of the United Kingdom unless you have given your prior written consent and the following conditions are fulfilled: (i) you or we have provided appropriate safeguards in relation to the transfer; (ii) the data subject has enforceable rights and effective legal remedies; (iii) we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
- 29.2.6 you consent to us appointing third party processors where required to carry out our obligations in this Agreement (including the Telematics Services);
- 29.2.7 we will ensure that all personnel (including, without limitation, employees) who have access to and/or process Personal Data are legally obliged to keep the Personal Data confidential;
- 29.2.8 we will assist you, at your cost, in responding to any request from a data subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators; and otherwise to comply with your obligations under the Data Protection Legislation to respond to requests from data subjects or exercise of the rights of data subjects or information mandated to be provided to data subjects;
- 29.2.9 we will notify you without undue delay and in any event within 48 hours of the point at which we become aware of any Personal Data breach or other security incident affecting or relating to Personal Data provided by you to us under this Clause 29.2;
- 29.2.10 at your written direction, we will delete or return Personal Data and all copies thereof to you on termination of the Agreement unless required by Applicable Law to store the Personal Data; and
- 29.2.11 we shall maintain complete and accurate records and information to demonstrate our compliance with this Clause and relevant provisions of the Data Protection Legislation and allow for and cooperate with reasonable audits including, without limitation, inspections by you or your designated auditor.
- 29.3 Notwithstanding the generality of Clause 29.2, in circumstances where a Telematics Device is fitted in a Vehicle, you shall:
- 29.3.1 notify the driver(s) of the Vehicle that such Telematics Device is installed in the Vehicle;
- 29.3.2 provide the driver(s) with information relating to the purposes for which you may use any Personal Data collected using the Telematics Devices (if any);
- 29.3.3 provide the driver(s) with information relating to the purposes for which we may use any Personal Data collected using the Telematics Device including providing or otherwise making available a copy of the Privacy Policy (as amended from time to time);
- 29.3.4 obtain all necessary consents in accordance with the requirements of the Data Protection Legislation from the driver(s) to the processing of Personal Data collected via the Telematics Devices by us;
- 29.3.5 immediately notifying us in writing of:
- (a) any complaint, notice, request (including a subject access request) or communication which relates directly or indirectly to the processing of the Personal Data collected via the Telematics Devices or to either party's compliance with the Data Protection Legislation;
- (b) if the Personal Data collected via the Telematics Devices is disclosed or used in breach of this Agreement, and/or
- (c) provide us with such co-operation and assistance as we may require with respect to any of the foregoing events; and
- (d) take such other steps as we may require from time to time in order to enable us to comply with our obligations under the Data Protection Legislation.
- 29.4 You warrant to us that, in respect of any Personal Data which you share with us pursuant to this Agreement:
- 29.4.1 you have complied in all respects with your obligations under the Data Protection Legislation and under this Clause; and



- 29.4.2 you have all necessary consents and permissions to share such Personal Data with us, and you will indemnify (and keep indemnified) and defend us against all Losses incurred by us arising out of or in connection with any proceedings, claims, demands or actions in consequence of any breach or alleged breach of this Clause 29 or the Data Protection Legislation by you (including any claim by a data subject).

### 30. ENTIRE AGREEMENT

- 30.1 Except as may be otherwise agreed in writing with respect to a particular Vehicle, the Lease Agreement, any Schedules or Special Terms, and these Terms constitute the entire agreement and understanding between the Parties and supersede any previous agreement between you and us relating to the subject matter of the Agreement and any prior promises or representations (whether oral or written) relating to the subject matter of this Agreement.
- 30.2 You acknowledge and agree that you are not relying on any representations that may have been made prior to entering into this Agreement and that, in entering into this Agreement, you do not rely on, and shall have no remedy in respect of, any statement, representation, warranty, or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out or referred to in this Agreement.
- 30.3 Nothing in this Agreement shall operate to limit or exclude any liability for fraud or fraudulent misrepresentation.
- 30.4 Without prejudice to the provisions of this Clause 29, the only remedy available to you for breach of this Agreement shall be for breach of contract under the terms of this Agreement.

### 31. GOVERNING LAW & JURISDICTION

- 31.1 The Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 31.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

### 32. GENERAL

- 32.1 We reserve the right to change or amend these Terms by providing reasonable notice to you, any updates to Terms will be published on our website. An amendment made by you to this Agreement is ineffective unless it is in writing, expressly purports to amend this Agreement and is executed by both you and us.
- 32.2 Neither party shall be in breach of this Agreement or liable for delay in performing, or failure to perform, any of its obligations under this Agreement (other than payment obligations) if such delay or failure results from a Force Majeure Event.
- 32.3 Except as provided in this Agreement, this Agreement does not create, confer, or purport to confer any benefit or right enforceable by any person except you and us.
- 32.4 A member of our Group may in its own right enforce the provisions of this Agreement in accordance with the Contracts (Rights of Third Parties) Act 1999, except that we may rescind or vary this Agreement without the consent of any members of our Group.
- 32.5 We shall each, at the request of the other, execute all deeds and other documents and do all things that the other may require (acting reasonably) in order to give effect to the terms of this Agreement.
- 32.6 Any notice to be given by either you or us to the other under this Agreement must be in writing (which shall for this purpose include e-mail) and addressed to that other party at its registered office or principal place of business or such other address or electronic mail address as may have been notified for these purposes. Notices shall be delivered personally, sent by first class post or by e-mail. A notice is deemed to have been received if sent by prepaid first-class post, on the second working day after posting (excluding the day of posting). Any notice sent by e-mail will be effective only when actually received in readable form and service shall be deemed to be affected on the same day it is sent. In proving service of the notice, it shall be sufficient to show that delivery by hand was made, that the envelope containing the notice was properly addressed and posted as a first-class pre-paid letter or to prove that the e-mail was correctly addressed.
- 32.7 Any failure or neglect by either you or us to enforce any of the provisions of this Agreement shall not be construed nor deemed to be a waiver of that party's rights and does not affect the validity of the whole or part of this Agreement nor prejudice that party's rights; any waiver by either you or us of our respective rights under this Agreement does not operate as a waiver in respect of any subsequent breach.
- 32.8 If any provision of this Agreement is held to be illegal, invalid or unenforceable in whole or part, that provision shall to that extent be deemed not to form part of this Agreement and the legality, validity and enforceability of the remainder of this Agreement shall be unaffected.
- 32.9 You shall not without our prior written consent assign, transfer, charge, dispose of, deal with or subcontract your rights or obligations under this Agreement. For the avoidance of doubt, you will remain liable to us under this Agreement in respect of the use of any Vehicles by any employees, agents, contractors, third parties or other drivers as though such use were by you.
- 32.10 Nothing in this Agreement or any arrangement contemplated by it shall constitute either you or us as a partner, agent, fiduciary or employee of the other party.
- 32.11 Neither Party will be liable, except as specified in this Clause, for any failure to perform, delay in performing or imperfect performance of any obligation under this Agreement, except for failure to pay the Charges, to the extent that such failure, delay or imperfect performance is caused by a Force Majeure Event.
- 32.12 If either Party is affected by a Force Majeure Event it shall promptly notify the other Party of the nature of the Force Majeure Event, the nature of any actual or anticipated failure, delay or imperfect performance and the anticipated consequence and length of such failure, delay or imperfect performance.