

# Fleet Scheme Terms and Conditions

These terms and conditions outline the operation of the Fleet Scheme and set out the standards to be observed by Transport for London (TfL) and the Fleet Operator undertaking activities in connection with central London Congestion Charging in their practice and procedures.

Fleet Operators wishing to register for the Fleet Scheme are required to sign the declaration of acceptance of the Fleet Scheme terms and conditions on the Fleet Auto Pay application form to confirm their acceptance of the Fleet Auto Pay Scheme terms and conditions.

The Fleet Scheme terms and conditions form a legally binding agreement between the Fleet Operator and TfL. They must be signed by a senior employee of the Fleet Operator (the Relationship Manager as defined in the glossary) who will act as the contact point between TfL and the Fleet Operator.

Adherence to the terms and conditions is key to maintaining the integrity of central London Congestion Charging.

## Glossary of Terms and Interpretation

### 1.1. Glossary of Terms

In these Terms and Conditions, the following defined meanings will be used:

**Access Levels** means the different levels of authorised access to Fleet Accounts via cclondon.com. These levels are designated by the Fleet Operator;

**Account Statement** means the monthly statement (invoice) of charges issued by TfL to the Fleet Operator which sets out the charges due to TfL in the next payment and the date that this payment will be claimed by TfL from the Fleet Operator by Direct Debit.

**Ad-hoc Congestion Charge** means a Congestion Charge notified by the Fleet Operator to TfL in relation to other Eligible Vehicles that are not Registered Vehicles on the Fleet Auto Pay Account. The Fleet Operator is only permitted to pay Ad-hoc Congestion Charges for non registered Eligible Vehicles.

**Administration Charge** means the annual payment required for each individual Registered Vehicle as defined in the Scheme Order.

**Administrator** means a senior representative of the Fleet Operator or an authorised agent responsible for the day-to-day administration of the Fleet Auto Pay Account, adding and removing Authorised Officers and setting Access Levels.

**Agreement** means the Terms and Conditions, including all Annexes, the Declaration and the notice of acceptance to the Fleet Operator by TfL, together setting out the contractual relationship and standards to be observed by TfL and the Fleet Operator.

**Authorised Officer** means an employee or authorised agent of the Fleet Operator who is responsible for maintaining the Registered Vehicle List and updating the Fleet Auto Pay Account when the Fleet Operator's vehicles change.

**Fleet Auto Pay Scheme** means the Fleet Scheme which is open to eligible Fleet Operators (as specified in clause 3) of Eligible Vehicles. TfL will automatically generate statements of charges for Registered Vehicles that have used the Congestion Charging zone on charging days during each month.

**Charges** means Administration charges, Ad-Hoc charges and Congestion Charges.

**Charging Day** means a day on which the charges apply within the Congestion Charging zone, as defined by the Scheme Order.

**Congestion Charge** means the Charge imposed by article 6 of the Congestion Charging Scheme Order.

**Congestion Charging Scheme Order** means the Greater London (Central Zone) Congestion Charging Order 2004, as confirmed by the Mayor of London on 27 October 2004 and subsequently varied.

**Congestion Charging Zone** means the geographical zone within which, on a Charging Day, Registered Keepers of Vehicles, unless Exempt, Discounted or Excluded, will be liable pursuant to the Congestion Charging Scheme Order to pay the Congestion Charge for their vehicles to be lawfully driven or parked.

**Confidential Information** means information relating to Congestion Charging or the business or affairs of either Party and its employees which is divulged to the other Party during the duration of the Agreement and which is by its very nature Confidential.

**Controlled and Managed** means that the Fleet Operator is able to direct when, by whom and for what purpose the vehicle is to be driven.

**Data Protection Requirements** means the requirement to comply with the Data Protection Act 1998 including, without limitation, the requirement to protect personal data from unauthorised or unlawful processing and accidental loss, damage or destruction.

**Eligible Vehicles** means vehicles of the Fleet Operator that are eligible to register on the Fleet Auto Pay Scheme. These vehicles must be Controlled and Managed by the Fleet Operator and used principally for the purposes of a business carried on by the Fleet Operator or by a person to whom the Fleet Operator is a contractor.

**European Economic Area (EEA)** means the EU member states plus Norway, Iceland & Liechtenstein.

**Fleet** means all Registered Vehicles registered by the Fleet Operator with TfL in relation to the Fleet Account.

**Fleet Account** means the account accessible by the Fleet Operator through which it manages its use of the Fleet Auto Pay Scheme in relation to the Agreement.

**Fleet Operator** means the organisation accepting these Terms and Conditions as stated in the Declaration.

**Fleet Auto Pay Scheme** means the Scheme by which eligible Fleet Operators shall be entitled to enter and use the Congestion Charging zone in consideration for payment of the charges and adherence to the Agreement.

**Freedom of Information Act** Means the Freedom of Information Act 2000 (FOIA), which gives the public a legal right of access to information held by public authorities.

TfL will be obliged by law under the FOIA to supply the public with information relating to all areas of its work and will be under a duty to operate with openness and transparency. TfL will be obliged by law to disclose such information unless an exemption applies.

**Group** means the Fleet Operator together with all its subsidiary undertakings and all of its parent undertakings from time to time and all subsidiary undertakings of its parent undertakings from time to time and subsidiary undertaking and parent undertaking shall have the same meaning as they have in section 258 of the Companies Act 1985 (as amended).

**Monthly Account Period** means the monthly period over which data, relating to the Fleet Auto Pay Account, is collected for statement and payment purposes.

**Operating Provisions** means the operating provisions of the Fleet Account that the Fleet Operator is required to comply with as part of the Agreement and as set out in Annex A.

**Parties** means TfL and/ or the Fleet Operator.

**PCN** means a Penalty charge Notice issued by TfL in relation to Congestion Charging.

**Proof of Eligibility** means a statement signed on behalf of the Fleet Operator by a person having authority that the vehicles in the Fleet and/or any vehicle in respect of which the Fleet Operator has made an application for registration are used principally for the purpose of the Fleet Operator's business or the business of a third party to which the Fleet Operator is contracted; and one or more of the following: (1) a copy of the up to date vehicle registration documentation; and/or (2) a copy of any contract under which the vehicle(s) are leased or hired; and/or such further information or documentation as TfL may reasonably require.

**Registered Keeper** means the keeper of the vehicle as defined on the registration certificate issued by the Driver and Vehicle Licensing Agency.

**Registered Vehicle** means an Eligible Vehicle registered by the Fleet Operator with TfL in relation to the Fleet Auto Pay Account.

**Registered Vehicle List** means the list of all Registered Vehicles registered by the Fleet Operator with TfL in relation to the Fleet Auto Pay Account.

**Relationship Manager** means a senior employee of the Fleet Operator who will hold the necessary authorisation to accept these Terms and Conditions on behalf of the Fleet Operator. The Relationship Manager will also sign the Direct Debit mandate, enabling TfL to claim monthly payments for Congestion Charges. The Relationship Manager will also act as the senior contact point between TfL and the Fleet Operator, and will be responsible for issue resolution.

**Mobile phone text messaging service** This is a method of payment using a mobile phone. You can pay the charge on your day of travel by sending a simple text message from your mobile phone (you will need to register for this service, with your credit or debit card details).

**Terms and Conditions** means these terms and conditions for the establishment and operation of a Fleet Auto Pay Account, as amended from time to time in accordance with clause 13.

**TfL** means Transport for London, Surface Transport, Palestra, 4th Floor, 197 Blackfriars Road, Southwark, London, SE1 8NJ.

**TfL Web Site** means cclondon.com.

**Third Parties** means people or organisations other than TfL and the Fleet Operator or those acting on their behalf.

**Vehicle Licensing Agency** means the Driver and Vehicle Licensing Agency (DVLA) or Driver and Vehicle Licensing Northern Ireland (DVLNI) or an equivalent European Economic Area licensing agency.

**Working Days** means any day other than Saturday, Sunday or a public holiday in England.

## **1.2. Interpretation**

**1.2.1** Words in the singular include the plural and vice versa and words denoting one gender include any other gender.

**1.2.2** References to "persons" include natural persons, firms, partnerships, companies, corporations, associations, organisations, governments, states, foundations and trusts (in each case having a separate legal identity).

**1.2.3** Reference to a statute, statutory provision or subordinate legislation includes such legislation as amended and in force from time to time and any legislation which modifies, consolidates (with or without modification), re-enacts or supersedes it.

**1.2.4** References to clauses are those clauses in Part A or Part B of these Terms and Conditions. References to sections are references to sections in Annex A.

**1.2.5** In the event of any conflict between the Terms and Conditions (Part A and Part B) and Annex A, the conflict shall be resolved in favour of Part A and Part B of the Terms and Conditions.

## **Part A - Operative Clauses**

### **1. Effective Date**

1.1 The Agreement commences upon acceptance by TfL of the application by the Fleet Operator.

### **2. Eligibility**

2.1 In order to be eligible for a Fleet Auto Pay Account, the Fleet Operator must satisfy the following conditions:

(a) The Fleet Operator must register at least 10 Eligible Vehicles, which are Controlled and Managed by the Fleet Operator for the purposes of a business;

(b) The Fleet Operator must hold a sterling bank account from which TfL will be allowed to claim Direct Debit payments.

### **3. Payment of Charges**

3.1 The Fleet Operator will pay to TfL the Congestion Charges (and where applicable the Ad-hoc charges) as described in the Operating Provisions. After successful prepayment by the method described in the Operating Provisions, the Fleet Operator's Registered Vehicles will be able to travel in the Congestion Charging Zone without the need for individual drivers to make payments, and without the risk of incurring PCNs.

3.2 The Fleet Operator will pay to TfL the Administration Charge; in relation to each Registered Vehicle as described in the Operating Provisions (see Annex A6).

3.3 The Fleet Operator will comply with clauses 3.1 and 3.2 notwithstanding

any payment disputes between the Parties. If the dispute is determined by TfL (on the information before it) in the Fleet Operator's favour then a refund will be made by TfL to the Fleet Auto Pay Account. The determination of TfL is final.

#### **4. Requirement to comply with Operating Provisions**

4.1 The Fleet Operator will comply with the Operating Provisions.

#### **5. Termination**

5.1 TfL may terminate the Agreement should any of the following situations occur:

- In accordance with section A 6.16 of Annex A, if the Fleet Operator fails to make payment of any sums due following receipt of a written request for payment from TfL;
- In accordance with section A3.5 of Annex A, if TfL carries out validation check(s) and determines the vehicles in the Fleet are not Eligible Vehicles;
- If the Direct Debit collection fails on two successive attempts in relation to a Fleet Operator payment;
- If the number of Registered Vehicles falls below 10 for more than five (5) Working Days in any 90 day period;
- If TfL has reason to believe that the Fleet Operator has been acting fraudulently;
- If any of the criteria in clause 2.1 are no longer met; or
- In accordance with clause 12.5, where the Fleet Operator does not accept amendments to the Agreement.

5.2 TfL reserves the right at any time to withdraw Congestion Charging and/or the Fleet Scheme. In either circumstance, the Agreement will immediately terminate.

5.3 The Fleet Operator may object to the termination of the Agreement by TfL.

All objections must be:

- made in writing;
- received by TfL no later than one (1) week after the notice of termination was issued; and
- accompanied by a remittance covering any outstanding balance on the Fleet Auto Pay Account (if requested by TfL).

Where payments are disputed or in cases relating to an outstanding debt, the Fleet Operator must still make a payment to cover all the outstanding balance. If the dispute is determined by TfL (on the information before it) in the Fleet Operator's favour then a refund will be made to the Fleet Auto Pay Account. The determination of TfL is final.

5.4 TfL will provide the Fleet Operator with two (2) weeks notice of terminating the Agreement (though in circumstance of termination due to fraud, TfL will terminate the Agreement immediately).

5.5 Should TfL take the decision to terminate the Agreement in accordance with clause 5.1, then TfL may (in its absolute discretion), close any or all other Fleet Auto Pay Accounts (and terminate the relevant Agreements) held by the Fleet Operator or any member of the Group. The Fleet Operator and any of the Group may then be excluded from the Fleet Auto Pay Scheme and may be barred from the Fleet Auto Pay Scheme for 12 months from the date of closure of the Fleet Auto Pay Account.

The Fleet Operator may be allowed to participate in the Fleet Scheme within this time only at the discretion of TfL. In circumstances of fraud, TfL may permanently ban the Fleet Operator or any member of the Group from the Fleet Auto Pay Scheme.

5.6 The Fleet Operator may request closure of its Fleet Auto Pay Account at any

time subject to the Fleet Operator providing one month's notice of termination to TfL in writing. The Agreement will terminate and the Fleet Auto Pay Account will be closed on the date specified by the Fleet Operator or on expiry of the notice period, whichever is the later. Receipt of a written request from the Fleet Operator to close the Fleet Auto Pay Account will be considered as notice of termination of the Agreement.

## **6. Effects of Termination**

6.1 Upon termination of the Agreement, TfL will proceed to close the Fleet Auto Pay Account. On closure of the Fleet Auto Pay Account, TfL will provide a closing statement. As appropriate, the Fleet Operator will either pay any outstanding monies to TfL, or TfL will credit the Fleet Operator with any outstanding monies within the next Monthly Account Period.

6.2 In the event of outstanding debt or fraud of the Fleet Operator, TfL may disclose relevant details to law enforcement or debt collection agencies, to assist in collecting debts or tracing those committing fraud.

6.3 Fleet Account records will be retained by TfL in full for 13 months after closure (for whatever reason). After that period, summary data only will be retained. In cases where the Fleet Auto Pay Account has been closed due to Fleet Operator fraud or where the Fleet Operator has a debt outstanding in respect of the Fleet Auto Pay Account, then the Fleet Operator's data may be held indefinitely.

6.4 Those terms which either expressly or by implication are intended by the Parties to survive termination of the Agreement shall do so.

## **7. Disclaimer of Liability**

7.1 TfL will not be liable for any loss or damage incurred by the Fleet Operator in relation to the Fleet Auto Pay Scheme, except for direct loss or damage caused by the negligent acts or omissions of, or a breach by TfL of its obligations under the Agreement.

7.2 TfL's total liability to the Fleet Operator in respect of all claims under the Agreement shall not exceed £1,000.

7.3 Nothing in this clause limits TfL's liability in respect of death or personal injury caused by the negligence of TfL.

7.4 In no circumstances will TfL be liable to the Fleet Operator for indirect or consequential loss or damage, or for loss of revenue, savings, profits or goodwill.

## **8. Warranty**

8.1 TfL warrants that it will perform its obligations under the Agreement with reasonable care and skill.

## **9. Availability of Service**

9.1 Due to the inherent unreliability of the internet, TfL makes no warranties that our web site will have 100% availability.

9.2 The Fleet Operator understands and acknowledges that in circumstances where the website is unavailable, the Fleet Operator will use alternative payment methods in relation to Ad-hoc Congestion Charges. This in no way affects the liability of the Fleet Operator to pay the Ad-hoc Congestion Charges in relation to non-Registered Vehicles.

9.3 Lack of availability of the website in no way affects the Fleet Operator's liability to pay PCNs if and when incurred.

9.4 If the website is not available to notify TfL of Ad-hoc Congestion Charges then the Fleet Operator may call the Fleet Help Line on 0207 649 9860 for help or use the

channels available to the general public to pay any Congestion Charges due. The options available are:

- Mobile phone text messaging – you can register to pay by text message through our web site at [cclondon.com](http://cclondon.com) or by phone on 0845 900 1234
- Call centre – telephone 0845 900 1234; or you can use the automated telephone service, which allows you to make your payment without speaking to an operator.
- Selected petrol stations within the Greater London area;
- Selected retail outlets situated throughout the Greater London area, Home Counties and nationwide.
- The Fleet Operator should not use these channels to pay Congestion Charges due in relation to Registered Vehicles.

## **10. Fraud**

10.1 If any suspected fraudulent activity comes to the attention of either Party in relation to the Fleet Auto Pay Account or the Fleet Operator's participation in the Fleet Auto Pay Scheme, that Party shall immediately notify the other by the most appropriate means available. Both Parties shall then co-operate in the investigation of such fraudulent activity and shall implement any necessary changes to the procedures or working practices of the Parties as soon as reasonably practical as may be necessary to ensure that the likelihood or opportunity for a recurrence of such fraud is minimised.

10.2 In the event that any fraudulent activity on the part of the Fleet Operator, its agents, contractors or employees is shown to have resulted in TfL incurring direct financial loss, then the Fleet Operator will be liable to reimburse TfL for all such losses so incurred, and to reimburse reasonable costs for recovering this loss.

10.3 The Fleet Operator will be liable for any fraudulent transactions made on the Fleet Auto Pay Account that have occurred as a result of security breaches (as described in clause 10.1) on the part of the Fleet Operator. This will include but not be limited to transactions made by Third Parties as a result of the customer number or PIN being divulged by the Fleet Operator to Third Parties.

10.4 The Fleet Operator acknowledges that TfL may disclose information relating to the Fleet Operator to law enforcement agencies where required to do so by law.

## **11. Responsibility for Security**

11.1 The Fleet Operator will comply with the security requirements as detailed in the Operating Provisions. The Fleet Operator shall ensure that its Administrator is responsible for managing the Fleet Auto Pay Account's PIN details for all personnel requiring access to the Account on line and for ensuring that these security details are not divulged to unauthorised persons.

11.2 The Fleet Operator accepts liability for any erroneous transactions due to data submitted by the Fleet Operator on the Fleet Auto Pay Account (or any other Fleet Operator's Fleet Auto Pay Account or Group Fleet Account) accessing the Account on line. Erroneous transactions will include but not be limited to transactions made while accessing the Fleet Auto Pay Account on line using a Customer Account Number and PIN relating to the Fleet Auto Pay Account, vehicle additions and deletions to the Registered Vehicle List and the payment of Ad-hoc Congestion Charges for Eligible Vehicles.

## **12. Future Amendments**

12.1 TfL may change the terms of these Terms and Conditions from time to time.

12.2 Minor changes made by TfL to these Terms and Conditions will be notified to the Administrator and Authorised Officers when logging into the Account on line.

When minor changes are made, the Administrator and Authorised Officers will be required to acknowledge acceptance of the changes by post, in the case of postal notification, or in the case of notification during login. TfL will notify the Relationship Manager of any changes TfL considers to be fundamental changes to these Terms and Conditions (such as changes to charges or pre-payments). TfL will endeavour to give the Fleet Operator 30 calendar days notice of any such fundamental changes.

12.3 For postal accounts, TfL will notify the Fleet Operator in writing of any changes to the Terms and Conditions.

12.4 Continued use of the Fleet Scheme (after notification of changes pursuant to clauses 12.2 or 12.3) shall constitute acceptance of the changed Terms and Conditions.

12.5 Should the Fleet Operator not accept the new Terms and Conditions (in accordance with clauses 12.2 and 12.3), then TfL may terminate the Agreement.

12.6 On acceptance, as described in this clause 12, by the Fleet Operator of the amended Terms and Conditions, the Agreement will be deemed varied accordingly.

## **Part B - Miscellaneous**

### **13. Relationship**

13.1 TfL and the Fleet Operator acknowledge and agree that nothing in the Agreement will constitute, create or give effect to a joint venture, pooling arrangement, Principal/agency relationship, partnership or formal business organisation of any kind and neither the Fleet Operator nor TfL will have the right to bind the other without the other's express prior written consent. Neither the Fleet Operator nor its employees, agents or contractors will at any time hold itself or themselves out to be the employee of TfL.

13.2 The Fleet Operator will conduct itself in such a manner as not to bring itself, other stakeholders or Congestion Charging into disrepute and will maintain high standards of business ethics and practices.

13.3 The Parties shall make reasonable efforts to be cooperative and collaborative and to work together with each other to facilitate the efficient operation of Congestion Charging and the effective delivery of the Fleet Auto Pay Scheme.

13.4 The Fleet Operator will immediately notify TfL in writing if and when it is aware of any conflicts of interests in relation to its participation in the Fleet Auto Pay Scheme.

13.5 The Fleet Operator will immediately notify TfL in writing of any change of Relationship Manager. This letter must confirm the name of the new Relationship Manager and must contain signatures of the new Relationship Manager and a witness to the signature. The witness must be a senior member of the Fleet Operator, of at least the equivalent position to the Relationship Manager, and must verify the validity of the new Relationship Manager.

13.6 The Fleet Operator will immediately notify TfL in writing of any change of Administrator.

13.7 The Administrator will immediately notify TfL in writing of any change of Authorised Officer.

### **14. Contracts (Rights of Third Parties) Act**

14.1 A person who is not a Party to the Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of the Agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

## **15. Confidentiality**

15.1 The Parties undertake to each other that they will not (except as required by law or permitted by the Agreement) divulge or communicate to any person any Confidential Information within or coming into their knowledge to the extent and so long as that information is confidential and not in the public domain or subsequently comes into the possession of such Party from a Third Party. TfL is subject to the Freedom of Information Act 2000 and therefore may be required to disclose information relating to this agreement that does not fall under the Act's exemption for confidential information, subject to any other exemptions applying.

## **16. Data Protection and Freedom of Information**

16.1 The Fleet Operator will ensure that it is fully aware of and will comply with all the Data Protection Requirements.

16.2 The data requirements of Congestion Charging mean that the Fleet Operator will be required to provide data on individuals or organisations to TfL, such as Registered Keeper information. In order to meet the fair processing requirements of the Data Protection Act 1998, where the Eligible Vehicle's Registered Keeper is not the Fleet Operator, e.g. an individual, the Fleet Operator shall ensure that these individuals consent to their data being disclosed to TfL, and the purposes for which it will be used (including disclosures under clause 17.6), including the fact that it may be checked with the Driver and Vehicle Licensing Agency.

16.3 The Fleet Operator will ensure that it has checked and satisfied the legal grounds as specified in Schedule 2 (conditions for the processing of any personal data) and, if relevant Schedule 3 (conditions for the processing of sensitive personal data) of the Data Protection Act 1998 before disclosing the data to TfL.

16.4 The Fleet Operator will also ensure that the disclosure to TfL is covered in its data protection notification to the Information Commissioner.

16.5 Images of fleet vehicles captured by TfL will be deleted 60 days after the successful payment of the monthly account. If there is a query on the monthly account, the images will be retained pending resolution of the query.

16.6 Data provided to TfL will be used only for the purposes set out in the Agreement. TfL and its agents will process the data for the operation of Congestion Charging. Processing will include the use of cameras to record data. The Fleet Operator's information may be disclosed to, or requested from, the Driver and Vehicle Licensing Agency, local authorities, law enforcement agencies and other organisations for the operation and enforcement of Congestion Charging, the prevention and detection of crime and the protection of public funds. Subject to clause 16, TfL will not disclose any information provided by Fleet Operators to Third Parties unless pursuant to clause 7.2 or required to do so by law.

16.7 The Fleet Operator should be aware that TfL is subject to the Freedom of Information Act 2000 (FOIA), which introduces a public right of access to information held by a public authority. TfL will be obliged by law, if requested under the FOIA, to supply the public with information relating to all areas of its work and will be under a duty to operate with openness and transparency. TfL will be obliged by law to disclose such information unless an exemption applies.

## **17. Notices**

17.1 Any notice or other communication to be given under the Agreement must be in writing and may be delivered or sent by pre-paid first class post to the Party to be served at that Party's last known address. Any notice or document shall be deemed served: if delivered, at the time of delivery; if posted, 48 hours after posting; and if by

email, at the time of receipt. All notices to TfL must refer to the Fleet Operator's unique Fleet Auto Pay Account Number. Notwithstanding this clause, the Parties may engage in general correspondence via email.

17.2 In the case of changes to the Agreement, notice will be given as described in clause 13.

17.3 The address of the Parties for the purposes of notices are:

For TfL:

Congestion Charging, PO Box 2983,  
Coventry, CV7 8XR

For the Fleet Operator:

As per details submitted by the Fleet

Operator on the registration, Or such other address as may be notified in writing from time to time by the relevant Party to the other Party.

17.4 English shall be the language for all communications between the Parties.

## **18. Entire Agreement**

18.1 The Agreement shall constitute the entire agreement between the Parties in connection with its subject matter and (save for any misrepresentation or breach of warranty which constitutes fraud) supersedes and extinguishes all previous agreements between the Parties relating to the Fleet Auto Pay Account and any other representations and warranties previously given or made or any implied terms other than those included in the Agreement. Each of the Parties acknowledges and confirms that it does not enter into the Agreement in reliance upon any representation or warranty or other undertaking not fully reflected in the Agreement and neither of the Parties will have any liabilities in respect of any representation, warranty or other undertaking made prior to the date hereof unless such representation, warranty or other undertaking was made fraudulently.

## **19. Severability**

19.1 In the event that any term, condition or provision of the Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall to that extent possible be omitted from the Agreement, and the rest of the Agreement shall remain in full force and effect.

## **20. Assignment**

20.1 TfL may assign the Agreement to any other government organisation or successor body, and shall give the Fleet Operator written notice of such assignment.

20.2 The Fleet Operator may not assign the Agreement without the consent of TfL, such consent not to be unreasonably withheld or delayed.

## **21. Governing Law and Jurisdiction**

21.1 The Agreement shall be governed by and construed in accordance with English law. The Agreement shall be subject to the exclusive jurisdiction of the English Courts.

## **Annex A Operating Provisions**

### **A1 Introduction**

A1.1 TfL will make available a secure access to the Fleet Auto Pay Account on line for the administration of the Account, provided that the Fleet Operator complies with these Operating Provisions. These Operating Provisions describe the procedures to be adopted by TfL and the Fleet Operator for the set-up and operation of a Fleet Auto Pay Account.

### **A2 Company Registration Requirements**

A2.1 In order to register for the Fleet Auto Pay Scheme, the Fleet Operator will submit a registration form for a Fleet Auto Pay Account. This is available online via the TfL Web Site, or paper forms can be provided on request to TfL if the Fleet Operator does not have web access.

**Online Registration:**

A2.2 For online registration, the Fleet Operator will input its details via an online registration form. These include:

- The total number of Congestion Charges the Fleet Operator initially estimates to pay per month, based on anticipated Registered Vehicle usage of the Congestion Charging zone;
- Company details including a billing address;
- Name and contact details for the Administrator;

A2.3 TfL will then send details to the Administrator on how to access their Account online, together with the Fleet Auto Pay Account number.

The following must be returned to TfL:

- Company headed paper which shows the registered company number; or
- A copy of the company's Certificate of Incorporation (issued by Companies House or the equivalent within an EEA state) or
- Headed notepaper including organisation name and registered charity number for charities.
- Names and contact details for the Relationship Manager and the Authorised Officers;

Vehicle details for the vehicles it wishes to register on the Fleet Auto Pay Account (Registered Vehicles) as described in section A2.9.

**Postal Registration:**

A2.6 If the Fleet Operator does not have web access then the Fleet Operator may apply for a Fleet Auto Pay Account using a postal registration form which can be obtained by phoning the Congestion Charging call centre. The Fleet Operator is required to provide the following information as part of the postal registration:

- The total number of Congestion Charges the Fleet Operator estimates to pay per month, based on anticipated Registered Vehicle usage of the Congestion Charging zone;
- Fleet Operator details including a billing address;
- Names and contact details for Administrators, Authorised Officers and Relationship Manager.
- Vehicle details for the vehicles it wishes to register on the Fleet Auto Pay Account (Registered Vehicles) as described in section A2.9.

A2.7 The Fleet Operator will submit the registration form together with a completed Direct Debit mandate, and company headed paper which shows the registered company number OR a copy of the company's Certificate of Incorporation (issued by Companies House or the equivalent in an EEA state) OR headed notepaper, including organisation name for organisations that are not registered companies.

A2.8 TfL accepts no liability for data lost in transit, or for the risk of data corruption during transit. The Fleet Operator is responsible for the security of submitted data until it is received by TfL. Vehicle registration details submission:

A2.9 The Fleet Operator will provide the following information for each Registered Vehicle:

- Vehicle registration number; and
- Registered Keeper name.

[and, at TfL's request]

- Proof of Eligibility.

A2.10 The Fleet Operator may apply to register only Eligible Vehicles

A2.11 The Fleet Operator will submit this data via their on line Fleet Account (as individual records, or as a file), or on CD, or (only if neither of these options is available), on paper. The Fleet Operator will follow the guidelines for data submission described on our web site [cclondon.com](http://cclondon.com), and in the Fleet Scheme User Guide. These guidelines require the data to be in a format prescribed by TfL.

A2.12 Vehicles which are eligible for or in receipt of a discount from Congestion Charging as described in the scheme order can be registered on a Fleet Account subject to the discounted vehicle being eligible for the Fleet Auto Pay scheme. Vehicles which are exempt from the Congestion Charge should not be registered on a Fleet Auto Pay Account. If such vehicles are registered to the Fleet Auto Pay Account, they will be liable for the charges as provided for in these Terms and Conditions. Details for those vehicles eligible for a discount or exemption, including how to register, if required, are described on the TfL Web Site.

### **A3 Validation of Data**

A3.1 At any time following the receipt by TfL of an application for registration as a Fleet Operator (including after registration), TfL may:

- Undertake DVLA validation checks against the vehicle details submitted by the Fleet Operator; and/or
- Require from the Fleet Operator Proof of Eligibility in respect of any or all vehicles in the Fleet (including any vehicles in respect of which the Fleet Operator has made an application for registration), such Proof of Eligibility to be submitted by such date as TfL may specify.

A3.2 Without prejudice to section A3.1, when the Fleet Operator makes changes or additions to the Registered Vehicle List TfL will undertake DVLA validation checks against the vehicle details submitted by the Fleet Operator. Any DVLA validation check will normally be carried out within three (3) Working Days of the change being made.

A3.3 In respect of any discrepancies disclosed by a DVLA validation check, TfL will not disclose Vehicle Licensing Agency data or other data to the Fleet Operator, but will simply state what kind of discrepancy has been found.

A3.4 If as a result of any validation checks carried out under sections 3.1 and/or 3.2, TfL determines that any vehicle is not an Eligible Vehicle, (including where the Fleet Operator fails to provide Proof of Eligibility to TfL's reasonable satisfaction), then:

- in relation to any vehicles in respect of which the Fleet Operator has made an application for registration, TfL will notify the Fleet Operator of the rejection thereof; and/or
- in respect of any Registered Vehicle(s) that are not (or are no longer) Eligible Vehicles, whether or not as a result of any changes made, TfL will notify the Fleet Operator thereof and such Vehicle(s) will be removed from the Registered Vehicle list from such date as TfL may specify.

A3.5 TfL may terminate the Agreement if:

- as a result of any validation checks carried out by TfL under section 3.1 and/or 3.2, TfL determines that 5% or more of the vehicles in the Fleet are not Eligible Vehicles; or

- as a result of any validation checks carried out by TfL, TfL determines that any vehicles in the Fleet are not Eligible Vehicles, and such termination will take effect immediately upon notice in writing (or on such date as TfL may specify).

#### **A4 Roles, Responsibilities and Access Levels**

A4.1 The Fleet Operator will assign roles to individuals as stated below  
The Fleet Auto Pay Account will be accessed only by these individuals.

##### **Role Responsibility**

**Administrator** - Senior representative of the Fleet Operator responsible for managing the Fleet Auto Pay Account. This includes the ability to add or remove Authorised Officers and manage the registered vehicle list.

**Authorised Officer(s)** - Responsible for managing the Registered Vehicle List **Read only Access** to the Fleet Account, but with no ability to make any amendments to the Fleet Account.

**Relationship Manager** - Senior contact, (Director, Company Secretary or equivalent) responsible for the relationship between TfL and Fleet Operator and for issue resolution.

The Administrator, Authorised Officer and Relationship Manager may be the same person.

A4.2 Submission by the Administrator or Authorised Officers of vehicle data to TfL for the purpose of adding a vehicle to the Registered Vehicle List will be taken as a declaration that the vehicle is an Eligible Vehicle.

A4.3 The Fleet Operator will assign Access Levels to the Fleet Auto Pay Account for each of the nominated personnel, by following the guidelines contained in the Fleet Scheme User Guide.

A4.4 The Fleet Operator should limit the Authorised Officer status to only those employees or authorised agents who need frequent access to the Fleet Account.

#### **A5 Operation of a Fleet Operator Account**

##### **Amendment of Fleet Account profile**

A5.1 The Fleet Operator may make amendments to the Fleet Auto Pay Account profile, such as change of address, via their on line Account. Changes to bank details must be made in writing by the Relationship Manager and must be accompanied by a corresponding Direct Debit mandate, signed by the Relationship Manager.

##### **Amendment of Registered Vehicle Details**

A5.2 The Fleet Operator is solely responsible for providing accurate and up-to-date vehicle data to TfL. The Fleet Operator may manage its Fleet Auto Pay Account on line. The Fleet Operator will follow the guidelines for data amendments described in the Fleet Scheme User Guide.

These guidelines require the data to be in a format prescribed by TfL.

A5.3 If the Fleet Operator operates its Fleet Auto Pay Account via post (e.g. if the Fleet Operator does not have web access) it will verify the accuracy of the Registered Vehicle List after requests for changes are submitted to TfL. TfL accepts no liability for data lost in transit, or for the risk of data corruption during transit. The Fleet Operator is responsible for the security of submitted data until it is received by TfL.

A5.4 Addition of a vehicle to the Registered Vehicle List made via the Fleet on line Account will be active from the time of the addition. If the vehicle is removed from the Registered Vehicle List as a result of a failed validation check (as defined in

section A3.3), the Fleet Operator will still be liable for any Congestion Charges due during the period that the vehicle was on the Fleet Auto Pay Account.

A5.5 Fleet Operator requests to remove a vehicle from the Registered Vehicle List submitted using the Fleet Account on line will take effect at midnight on the day of the request. The Fleet Operator will be liable for the Congestion Charge on the day of removal of the vehicle should a Congestion Charge be due.

A5.6 Fleet Operator requests for changes to the Registered Vehicle List submitted through the postal channel will, if approved by TfL, take effect on the Fleet Auto Pay Account within 10 Working Days of receipt by TfL of such request.

A5.7 The Fleet Operator will maintain the number of Registered Vehicles at a minimum of 10 vehicles. If the removal of vehicles from a Fleet Auto Pay Account causes the number of Registered Vehicles to fall below 10, TfL will notify the Fleet Operator that the minimum number must be restored. If the Fleet Operator allows the number of Registered Vehicles to fall below 10, TfL may close the Fleet Auto Pay Account in accordance with clause 6.1.

A5.8 If the Fleet Operator wishes to add newly purchased vehicles to the Registered Vehicle List, the Fleet Operator will send TfL a copy of the vehicle purchase documents or invoice. This is to enable TfL to validate the vehicles as the new vehicle data may not yet have been added to the Driver Vehicle Licensing Agency database. TfL may require the Fleet Operator to submit a copy of the V5C within 3 months of the vehicle being registered to the Fleet Auto Pay Account. TfL reserve the right to remove a vehicle from an operator's Fleet Auto Pay Account if supporting documentation is not provided.

#### **A6 Congestion Charges and Payments**

A6.1 The Fleet Operator will pay the charges by the payment mechanisms described in this section A6.

A6.2 For convenience and ease of operation, charges will be detailed in an Account Statement at the end of each Monthly Account Period and notified to the Fleet Operator. The Fleet Operator is required to make payments for the charges by monthly Direct Debit as described in section A6.10.

#### **Congestion Charges for Registered Vehicles**

A6.3 The Fleet Operator will pay a daily charge per Registered Vehicle for every day of driving within the Congestion Charging zone on a charging day during charging hours as captured by the camera network in the Congestion Charging zone.

#### **Ad-hoc Congestion Charges (payment of Congestion Charges for non- Registered Vehicles)**

A6.4 The Fleet Operator may use the Fleet Auto Pay Account to pay the standard daily Congestion Charge for non- Registered Vehicles via their Fleet Account. The Fleet Operator will provide the vehicle registration number for each vehicle for which it wishes to pay Ad-hoc Congestion Charges by midnight at the latest on the day of travel. The number of Adhoc Congestion Charges that the Fleet Operator may pay each Monthly Account Period is limited to the number of Registered Vehicles on the Fleet Account, e.g. if the Fleet Operator has 50 Registered Vehicles, then 50 Ad-hoc Congestion Charges may be made in any Monthly Account Period for non-Registered Vehicles. These Congestion Charges may be paid in advance up to 10 consecutive charging days, e.g. a limit of 50 Adhoc Congestion Charges could be reached through the payment of 10 weekly Congestion Charges.

A6.5 The Fleet Operator may request further ad-hoc charges above the maximum limit. TfL will consider the request and confirm acceptance up to a maximum period

of 3 months.

### **Registration Administration Charges**

A6.7 The Fleet Operator will make an annual payment of £10 to register each Registered Vehicle (Administration Charge). 9 plus seat vehicles eligible for a 100% discount from the Congestion Charge do not incur an Administration Charge.

Administration Charges will appear on the monthly Account Statement relating to the Monthly Account Period when they were added to the Registered Vehicle List.

A6.8 On registration of a vehicle and payment of the £10 Administration Charge, the vehicle will be identified on the Registered Vehicle List for one year from the date of registration. Administration Charges are non refundable. Each monthly account period, within the Account Statement TfL will list the Registered Vehicles which are due for re-registration in the following Monthly Account Period. Unless the Registered Vehicles are removed from the Registered Vehicle List, the Administration Charge for a further year will be deducted by Direct Debit as part of the monthly payment and the vehicles will continue to be registered for a further year.

### **PAYMENT METHOD**

#### **Payments General**

A6.9 The Fleet Operator will pay monthly in advance by Direct Debit. At the end of each Monthly Account Period an Account Statement of Charges will be issued. Account Statements will be issued and Direct Debits collected on regular dates each Monthly Account Period e.g. a Fleet Auto Pay Account which becomes operational from the 15th May would be invoiced for the period of 15th May to 14th June and then 15th June to 14th July. There will be a minimum period of 14 days between issue of the Account Statement and claiming of the payment by Direct Debit. The Account Statement will include the date the payment will be claimed by Direct Debit.

A6.10 Account Statements will be accessible via the Fleet Account on line or, if the Fleet Operator does not have web access, Account Statements will be provided by post.

#### **First payment**

A6.11 The first Direct Debit payment will include the initial Administration Charge for the Registered Vehicles (£10 for each chargeable vehicle) as well as the pre-payment for the first month of estimated usage.

Congestion Charge usage for the Registered Vehicles notified by the Fleet Operator is estimated as part of the Fleet Auto Pay Account registration process. 9 plus seat discounted vehicles do not incur an Administration Charge.

The first payment will be calculated as follows: (advance payment for estimated monthly Congestion Charges for Registered Vehicles x daily charge) + (Number of Registered Vehicles x £10 Administration Charge) The first payment will be taken to cover the estimated Congestion Charges due until the second Direct Debit is claimed.

The second Direct Debit will be claimed after the second Account Statement is produced and due to the requirement to notify Direct Debits a minimum of 14 days before payment, the first payment will cover estimated Congestion Charges for up to eight (8) weeks. The estimated Congestion Charge payment will be calculated by applying a pro-rata calculation to the estimated monthly Congestion Charges notified by the Fleet Operator as part of the Fleet Auto Pay Account registration process.

#### **A6.12 On-going monthly payments**

The Fleet Operator will make an advance payment every month for the use of the Congestion Charging zone by the Registered Vehicles in the following Monthly

Account Period. The amount of the advance payment will be the average of the Congestion Charges incurred by Registered Vehicles during the previous three Monthly Account Periods.

Details of Registered Vehicle Congestion Charging zone usage will be captured by the camera network during the Monthly Account Period.

These details will be used to determine the actual number of Congestion Charges relating to Registered Vehicles for the Monthly Account Period. Monthly payments will take into account any difference between the estimated Congestion Charges for Registered Vehicles paid the previous month and the actual Congestion Charges incurred in the Monthly Account Period. The monthly payment will be calculated as follows: (advance payment for Congestion Charges for Registered Vehicles next month x daily charge) + (actual number of Congestion Charges for Registered Vehicles this month x daily charge) - (advance payment for Congestion Charges for Registered Vehicle paid last month) + (number of Ad-hoc Congestion Charges notified this month x daily charge) + (number of Administration Charges due x £10)

As the on-going advance monthly payments are calculated from Registered Vehicle Congestion Charging zone usage in the three previous months, in the absence of the historical data it is not possible to calculate the second and third monthly payments in this way. The second and third monthly payments will be calculated from a combination of actual usage and estimated usage provided by the Fleet Operator.

The formulas used to calculate the second and third monthly payments are available from TfL on request.

**Worked example of an on-going monthly payment**

Number of vehicles added to the Registered Vehicle List during the Monthly Account Period	10
Number of Ad-hoc Congestion Charges notified to TfL during the Monthly Account Period	20
Number of estimated Congestion Charges due for Registered Vehicles during the Monthly Account Period based on previous usage	120
Number of Congestion Charges incurred by Registered Vehicles during the Monthly Account Period	100
Number of estimated Congestion Charges due for Registered Vehicles during the	130

next Monthly Account Period based on previous usage	
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For this worked example, the monthly payment will be as follows (£7 used as an example of the daily charge): Monthly payment = (£7.00 x 130 charges) + [(£7.00 x 100 charges) - (£7.00 x 120 charges)] + (20 Ad-Hoc charges x £7.00) + (£10 x 10 vehicles) = £1010

A6.13 TfL reserves the right to vary monthly pre-payments from time to time as described in clause 13.2.

A6.14 The Fleet Operator has 14 days from issue of an Account Statement in which it may contest charges before the Direct Debit is claimed.

A6.15 Where the Fleet Operator queries individual Registered Vehicle Congestion Charging Zone usage, discrepancies will be investigated and resolved with the Fleet Operator. Adjustments will be debited or credited to the Fleet Account as appropriate.

#### **Failure to make payment**

A6.16 This section A6.16 is without prejudice to any of TfL's other rights and remedies under this Agreement, the Congestion Charging scheme or otherwise in relation to unpaid Congestion Charges. If the Fleet Operator fails to make payment by direct debit of any sums due under this Agreement, TfL may make up to one further attempt to obtain payment, following which TfL may notify the Fleet Operator in writing of its failure to make payment and request that the Fleet Operator make payment of the outstanding sums within [14 days] of the notice. If the Fleet Operator fails to make payment upon notice within the 14 days under this section A6.16, TfL may terminate this Agreement immediately upon notice in writing.

#### **Payment of Congestion Charges for Vehicles not registered on the Fleet Auto Pay scheme**

A6.17 In respect of any vehicles owned or managed by the Fleet Owner that are not approved onto the Fleet Auto Pay Scheme, the Fleet Operator shall be responsible for the payment of the Congestion Charge in the usual way in accordance with the Congestion Charging scheme, details of which are available from TfL on request.

#### **A7 Queries**

A7.1 TfL will provide customer service facilities to address general queries and issues relating to the operation of the Fleet Auto Pay Account. These will include a list of questions and answers on the TfL Web Site, and the ability to ask questions through their online Account. The Fleet Help Line will be available for issues relating to the operation of your Fleet Auto Pay Account. The Fleet Help Line can be contacted on 0207 649 9860 and is operational between 8:00am - 6:00pm, Monday - Friday.

A7.2 Responses to queries will normally be sent back within two (2) Working Days from the date of receipt, and TfL will aim for resolution of 100% of queries within 10 Working Days from the date of receipt. If resolution is not achieved in this time, escalation procedures will be available as notified by TfL from time to time.

#### **A8 Security Requirements**

A8.1 The Fleet Operator will ensure that the Fleet Account security details (such as the Fleet Account number, PIN, Password), are only divulged to personnel who are authorised to use them. The Fleet Operator will alert TfL immediately if these security details are lost or compromised in any way.

A8.2 The Fleet Operator will ensure that data is securely protected during transit, for example if sending data files by post, these should be sent via registered post. It is recommended that the Fleet Operator should verify that submissions made by post have been processed, and the Fleet Operator should verify the accuracy of its details after the Fleet Auto Pay Account has been updated. TfL takes no liability for data lost in transit, or for the risk of data corruption during transit or loading onto the Fleet Auto Pay Account, when details are submitted by post. The Fleet Operator is responsible for the security of submitted data until it is received by TfL.

A8.3 TfL has implemented reasonable measures to ensure that the Fleet Auto Pay Account data is secure, and Congestion Charging has been developed in accordance with the principles of BS7799 Information Security Management. Further details are available on request to TfL.