

NORTHGATE VEHICLE HIRE LIMITED - TERMS AND CONDITIONS OF HIRE – 18th February 2019

These Terms apply to the hire of all vehicles by **Northgate Vehicle Hire Limited** (with a registered office at Northgate Centre, Lingfield Way, Darlington, Durham, DL1 4PZ (company number 01434157) (“we”, “us” or “our”) to any customer whose details are set out on the Account Application Form or Hire Agreement or Booking Form (as applicable) (“you” or “your”). By signing an Account Application Form, Hire Agreement or Booking/Reservation Form (as applicable) and/or allowing us to hire 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: “**Account Application**” means the account application form entered into by you and us, setting out your details;

“**Additional Charges**” means the charges set out at Clause 20 and such other additional charges specified in any Schedule or Special Terms and such other charges as may be agreed in writing by us;

“**Additional Equipment**” has the meaning given in Clause 16.1;

“**Administration Fee**” means an administration fee of £25 charged by us in certain circumstances to cover our administrative costs of dealing with an issue or circumstances;

“**Agreement**” means the agreement entered into between you and us which governs the hire of all Vehicles by you including the Account Application Form, Hire Agreement and Booking Form (as applicable), these Terms and any Schedules or Special Terms document;

“**Booking**” means a booking form/reservation form which has been accepted by us in accordance with Clause 3 and these Terms;

“**Booking Form**” means the booking/reservation form entered into by you and us, setting out details of the Booking, or alternatively the relevant information being set out by email, telephone, by visiting a branch or via a third party booking platform;

“**Branch**” means any Northgate Vehicle Hire branch in the United Kingdom;

“**Business Hours**” means the hours in which the relevant Branch premises are open for business as set out from time to time at the following URL: northgatevehiclehire.co.uk;

“**Charges**” has the meaning given to it in Clause 19;

“**Congestion Charge Law**” means the Transport Act 2000 and the Greater London Authority Act 1999 and/or any other laws, codes of practice, circulars and guidance notes in relation to any road or traffic related charging scheme;

“**Damage**” means any and all damage to a Vehicle, excluding a mechanical fault or failure (which is not caused, or contributed to by you), and any damage identified in the Vehicle Condition Report, and “**Damaged**” shall be construed accordingly;

“**Data Protection Legislation**” means: all applicable laws relating to privacy including the Data Protection Act 1998, from the date on which it comes into force and for so long as it is in force, the General Data Protection Regulation (Regulation (EU) 2016/679) and the Privacy and Electronic Communications (EC Directive) Regulations; any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK in respect of any of the foregoing; and any guidance or codes of practice issued by Working Party 29, the European Data Protection Board or the Information Commissioner from time to time (all as amended, updated or re-enacted from time to time);

“**Deposit**” means a deposit, as set out on the Booking Form, payable by you in accordance with Clause 19.2 and which may be used by us in accordance with Clause 19.2;

“**DVLA**” means the Driver and Vehicle Licensing Agency;

“**12 Months+**” has the meaning given in Clause 4.1;

“**Flexible Hire**” has the meaning given in Clause 4.2;

“**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, 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.

“**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;

“**Hire Agreement**” means the Hire Agreement regulated by the Consumer Credit Act 1974 which we will enter into with you (instead of the Account Application Form) when you are a Regulated Customer and which sets out details of the Booking;

“**Insolvency Event**” means each and any of the following in relation to a party:

a) any action (corporate or otherwise), legal proceedings or other procedure or step is taken by any person in any jurisdiction in relation to or with a view to: (i) the winding up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of a party; (ii) the appointment of a liquidator, trustee in bankruptcy, receiver, administrative receiver, administrator, nominee, supervisor or similar officer in respect of a party or any of its assets; (iii) the enforcement of any security over any assets of a party; or (iv) the attachment, sequestration, distraining upon or execution over or affecting any material asset of a party, which in any case is not withdrawn or dismissed as soon as reasonably practicable;

b) the party is unable to pay its debts as they fall due or is insolvent, or the other party perceives (acting reasonably) that to be the case;

c) the party enters into a composition or arrangement with any creditor, or its creditors or any class of them; and

d) a party ceases to trade in respect of all or a substantial part of its business whether due to insolvency or otherwise;

“**Licence Term**” has the meaning given in Clause 18.8;

“**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;

“**On-hire**” means the collection of a Vehicle by you from us or the delivery of a Vehicle by us to you on or around the Start Date (as specified in the Booking);

“**Off-hire**” means the return of a Vehicle to us in accordance with Clause 6.2 and “**Off-hiring**” and “**Off-hired**” shall be interpreted accordingly; “**Privacy Policy**” means our privacy policy (which may be updated from time to time) found at <http://www.northgatevehiclehire.co.uk/useful-information/privacy-policy>;

“**Policy**” shall have the meaning given to it in Clause 15.1.1;

“**Regulated Customer**” means: (i) an individual, (ii) a partnership of two or three not all of whom as bodies corporate, or (iii) an unincorporated body that does not exist entirely of bodies corporate and is not a partnership;

“**Regulations**” means applicable legislation and legally binding rules or regulations of any kind (including orders, instructions or directions of a competent authority);

“**Rental Charges**” means the hire charges for the Rental Period calculated in accordance with the Booking, or such other rate confirmed by us in writing, as may be amended in accordance with this Agreement;

“**Rental Day**” means the twenty-four (24) hour period commencing at the time of On-hire and each subsequent twenty four (24) hour period;

“**Rental Period**” means the period from the Start Date to the Return Date (or Off-hire, if later);

“**Return Date**” means the date on which the Vehicle is returned, with the due date for return being as set out in the Booking or if no such date is specified, such date as is agreed between you and us;

“**RPI**” means Retail Price Index or any official index replacing it;

“**Schedule**” means any separate schedule agreed between you and us which is expressly stated to form part of this Agreement;

“**Set-Up Fee**” means a charge set out in the Pricing Schedule or such other sum confirmed by us in writing from time to time.

“**Software**” means the proprietary software in machine readable object code form, provided to you as part of the Telematics Services;

“**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; “**Start Date**” means the date of On-hire set out in the Booking or such other date as we may agree with you prior to the date of On-hire set out in the Booking;

“**Telematics Charges**” means the charges payable by you for the Telematics Device and the Telematics Services as set out in the Booking, or as is otherwise determined in writing by us;

“**Telematics Device**” means a telematics device supplied by us to you in order to provide the Telematics Services;

“**Telematics Services**” means the provision of telematics services via a software delivery model in which software and associated data are centrally hosted and accessible to you via an internet interface more particularly described in Clause 18;

“**Terms**” means these terms and conditions set out in this document as amended from time to time;

“**United Kingdom**” means England, Scotland, Wales and Northern Ireland;

“**Vehicle**” means a vehicle described in any Booking and all other accessories provided with the vehicle including the spare wheel, tools and other accessories supplied with the vehicle, and the Additional Equipment (if applicable); and

“**Vehicle Condition Report**” has the meaning given to it in Clause 5.2.1.2 In this Agreement:

each reference to “include” or “including” or “for example” shall be construed without limitation;

“subsidiary” and “holding company” shall have the meanings given to them by section 1159 of the Companies Act 2006;

a statutory provision includes a reference to any modification, consolidation or re-enactment of the provision from time to time in force and all subordinate instruments, orders or regulations made under it except that, as between the parties, no modification, consolidation or re-enactment shall apply for the purposes of this Agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, either party;

“Personal Data”, “data subject”, “process”, “processing”, “data controller” and “data processor” shall have the meaning given to them in the Data Protection Legislation;

a reference to “indemnify” or “indemnifies” means to indemnify and keep indemnified, and hold harmless, the party to be indemnified on demand on an after tax basis;

a reference to a “party” shall mean either you or us as the context requires and “parties” shall mean you and us;

all clause and paragraph headings and references to them in this Agreement are for identification and indexing purposes only. They shall be deemed not to be part of this Agreement and they shall not affect the construction or interpretation of this Agreement;

where the context otherwise requires, words importing the singular meaning shall include the plural meaning and vice versa and words denoting the masculine gender shall include the feminine and neuter genders; where the context so admits, words denoting persons shall include natural persons, companies, corporations, firms, partnerships, limited liability partnerships, joint ventures, trusts, voluntary associations and other incorporated and/or unincorporated bodies or other entities (in each case, whether or not having separate legal personality) and all such words shall be construed interchangeably in that manner;

a reference to a "working day" shall mean any day on which banks are generally open for business in the City of London (other than Saturdays, Sundays or public holidays); and
a reference to the doing of any act includes any attempt to do so, or to cause or permit any third party to do so, or attempt, the act in question.

2. APPLICATION

2.1 The terms and conditions set out in this Agreement alone shall govern and be incorporated in every Booking for the hire of Vehicles made by or on behalf of us. They shall apply in place of and prevail over any terms or conditions contained or referred to in any documentation submitted by you, in correspondence or elsewhere, or implied by trade custom, practice or course of dealing.

2.2 Collection of, or acceptance by you of delivery of the Vehicle shall be deemed to constitute unqualified acceptance of this Agreement.

2.3 From time to time we and you may enter into separate Schedules which set out additional terms agreed between you and us in relation to this Agreement and/or Special Terms which set out any variation agreed between you and us to these Terms. Schedules, Special Terms and any other variation of this Agreement will only be valid if they are in writing and signed by a director or authorised representative of you and us.

2.4 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 the Terms.

3. MAKING A BOOKING

3.1 To become a customer of us you must first accurately complete an Account Application Form or Hire Agreement (as applicable). The Account Application Form will provide you with the pricing details for the vehicles you may wish to rent from us.

3.2 You understand and agree that the Account Application Form or Hire Agreement (as applicable) will be used by us to assess your credit rating for our internal purposes.

3.3 Once the Account Application Form or Hire Agreement (as applicable) has been duly completed and accepted by us you will be able to make any number of subsequent Bookings by completing the Booking Form.

3.4 On receipt of a Booking Form from you, we may accept the Booking Form and if accepted we will provide you with the requested Vehicles subject to nothing in this Agreement obliges us to accept any Account Application Form, Hire Agreement or Booking Form.

4. 12 MONTHS+ AND FLEXIBLE HIRE & PRICE

Vehicles will be hired to you in one of the two following ways:

4.1 for a minimum Rental Period, meaning that there is a defined period for hire of the Vehicle (and a set Return Date of the Vehicle) as set out in the Booking Form ("12 Months+"); and

4.2 for a flexible Rental Period, meaning that although a Return Date might be specified on the Booking Form, you may return the Vehicle to us before the Return Date or after the Return Date ("Flexible Hire").

PRICING

4.3 We will supply to you a schedule with prices regarding the Vehicles you have indicated to us you wish to take On-Hire ("Pricing Schedule"), any Vehicles not listed on the Pricing Schedule, but you wish to On-Hire will be subject to our standard tariff rates.

4.4 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 the following periods: a) for Flexible Hire the prices stated shall be valid for a period of 28 days; b) for 12 Months+ the prices shall be valid for a period of 90 days from the date the prices were generated. Accordingly, any vehicles placed On-Hire after the 28 day or 90 day period may be subject to a different Pricing Schedule with increased or decreased prices.

4.5 All prices provided to you are excluding VAT and are subject to VAT at the prevailing rate.

4.6 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.

4.7 If you take a vehicle On-Hire under our 12 Month+ product you will be liable to pay the Set-Up Fee per vehicle.

4.8 If we, with your consent, order a vehicle from the manufacturer in order to fulfil a specific/bespoke request made by you, the Rental Charges shall commence the later of the date specified on the Booking Form (or otherwise agreed between us) and the date the vehicle is made available to you (not the date of On-Hire). Any variation must be in accordance with 29.1.

4.9 At any point during the Rental Period we reserve the right to:

4.9.1 adjust the Charges where such changes are enforced on us by regulatory authorities; and

4.9.2 vary the Charges with effect to reflect any rises in, supplier and/or manufacturer rates or costs arising from or in connection with any change in our circumstance, whether reasonably anticipated or not.

4.10 In the event we exercise clause 4.9 we will use reasonable endeavours to provide you with a reasonable amount of notice. Further any increase shall be passed directly from the regulatory authority, supplier and/or manufacturer rates or cost and/or change in our circumstance.

5. VEHICLE ON-HIRE/DELIVERY

5.1 You shall in accordance with the Booking, take the Vehicle On-hire on the Start Date.

5.2 Before On-hire, you or your representative may be asked to sign an electronic device or document to confirm the condition of the Vehicle at the Start Date (the "Vehicle Condition Report"). You acknowledge and agree that any of your employees are authorised to sign a Vehicle Condition Report on your behalf.

5.3 If we leave a Vehicle Condition Report for you to check (or email it to you), 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 9.00am on the day after delivery (whichever is soonest). If we have not been notified by 9am on the day after delivery you are deemed to have agreed to and accepted the Vehicle Condition Report.

5.4 If we attempt to deliver a Vehicle to a location specified by you at the start of the Rental Period or if you fail to collect the Vehicle on the Start Date (as applicable) and you are not available to receive the Vehicle or do not collect the Vehicle, we reserve the right to charge you for all costs incurred in any failed delivery and (if it is a 12 Months+) you will be liable to pay the Rental Charges from the start of the Rental Period even though you have not taken delivery of, or collected, the Vehicle. We will use reasonable endeavours to arrange another suitable delivery date or to offer to make available the Vehicle for collection for you, but if you fail to take delivery of, or collect 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 this Clause 5.4.

6. Vehicle Return

6.1 You will remain liable for any loss of or damage to the Vehicle and are obliged to comply with the terms of this Agreement until the procedure for Off-hiring the Vehicle set out in this Clause 6 has been completed.

6.2 Where the Vehicle is on 12 Months+, you must return the Vehicle to a Branch on or before the Return Date. Where the Vehicle is for a Flexible Hire period, you may return the Vehicle to a Branch on the Return Date, or before or after the Return Date.

6.3 If you return a Vehicle on 12 Months+ before the Return Date the following charges apply:

6.3.1 If the Rental Period is less than 12 months you will remain liable for Rental Charges for the entire 12-month period;

6.3.2 If the Rental Period is more than 12 months you will be liable for Rental Charges up to the Return Date calculated by reference to the difference in price between the Rental Charges you have paid, and the pricing band of the rental charge for next level of 12Month+, i.e. if you contract for 24 months and off hire after 18 months you will be required to pay the difference between the 24 month price band and the 12 month price band for the 18 months' of hire. The price bands are set out in the Pricing Schedule.

6.4 If you fail to return the Vehicle at the agreed time on the Return Date, and the Vehicle is on Flexible Hire the Rental Charges payable shall be recalculated to include an additional charge in respect of the number

of Rental Days between the Return Date and the actual date that the Vehicle is returned.

6.5 To take the Vehicle Off-hire you must either:

6.5.1 return the Vehicle on the Return Date during Business Hours to the Branch identified in the Booking or otherwise agreed by us; or

6.5.2 contact us to arrange for us to collect the Vehicle on the Return Date and make such Vehicle available for collection.

In each case the Off-hire will be effected when the keys for the Vehicle have been handed to our representative and the individual returning the Vehicle signs the Off-hire form and a Vehicle Condition Report (except that the Off-hire form and a Vehicle Condition Report do not need to be signed if Clause 6.6 applies).

6.6 If you wish to return a Vehicle to any Branch outside Business Hours you should arrange this with the manager of the Branch and the Vehicle will be your responsibility (and therefore your obligation to insure the Vehicle continues) until the time at which the Branch opens for business and you shall be liable to us for any and all Losses we suffer during this time (including any Damage to the Vehicle). If this Clause applies you shall leave the keys for the relevant Vehicle in such location as is approved by the manager of the Branch in advance (although such Vehicle remains at your risk notwithstanding our agreement to the location of the keys of the Vehicle).

6.7 If we attempt to collect a Vehicle from you at a location specified by you at the end of the Rental Period and you are not available (or are otherwise unable) to return the Vehicle we reserve the right to charge you for all costs incurred in the failed collection and any Rental Charges for each Rental Day (or part day) on which you retain possession of the Vehicle after the date we attempted to collect the Vehicle at the end of the Rental Period. We will use reasonable endeavours to arrange another suitable collection date, or you can deliver the Vehicle to a Branch.

6.8 At Off-hire, you shall return the Vehicle in the same condition as was identified in the Vehicle Condition Report (fair wear and tear excepted).

6.9 If you fail to return the Vehicle in accordance with Clause 6.8 and the Vehicle is (in our reasonable opinion) economical to repair, the Rental Charges payable shall be recalculated to include the time of repair and the time to obtain authorisation for such repair and where:

6.9.1 the cost of the repair is under £2,000 the charge shall be calculated based on the Rental Charge for the estimated number of labour days the repairs will take; or

6.9.2 the cost of repair is over £2,000 the charge shall be calculated as set out in Clause 6.9.1 with the addition of the Rental Charges for the number of days you take to authorise the repair in accordance with Clause 12,

and in any event, the charges set out in this Clause 6.9 shall not exceed the Rental Charges for twenty eight (28) days.

6.10 If you fail to return the Vehicle in accordance with Clause 6.8 and the Vehicle is (in our reasonable opinion) beyond economic repair you will be liable to pay the market value of replacement of the Vehicle less any salvage value where applicable (notified to you by us) (the "Market Value"), and the Rental Charge, which shall be payable from the date of return of the Vehicle until the earlier of (i) the date we receive from you payment of the Market Value; and (ii) twenty eight (28) days after the date of return of the Vehicle by you to us.

6.11 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 Rental Charge until settlement in full is received from you for the replacement cost (calculated in accordance with market value using CAP index) up to a maximum of twenty eight (28) days.

6.12 If at Off-hire we are required to remove materials or equipment from a Vehicle you shall be responsible for the costs associated with this removal (including the Rental Charge for any days or part thereof on which 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.

6.13 If, upon return of a Vehicle, any evidence of smoking is found or the Vehicle is otherwise in an unacceptably dirty or unusable condition, we reserve the right to pass on the charge to valet the Vehicle, any other associated charges and the Administration Fee.

7. 12 MONTH+ CHANGING A VEHICLE

7.1 If you hired the Vehicle under 12 Months+ agreement you may request to change the Vehicle once during the Rental Period. Such change can be for a same or different vehicle. We will use our reasonable endeavours to accommodate any such request subject to availability, changes to the Rental Charges depending on the Vehicle and other charges may be applicable (for example, for Additional Equipment), as well as payment of the Administration Fee, Damage or for Excess Mileage calculated on a pro-rata basis).

7.2 We may require that we change any Vehicle On-hire to you at any time during the Rental Period for any reason. Where we do so, we shall change the Vehicle for a like-for-like Vehicle without any change to the Rental Charges. If you fail to comply with any demand by us to change a Vehicle, we shall be entitled to terminate this Agreement and/or any Booking and repossess the Vehicle(s) in accordance with Clause 10.

8. FUEL AND MILEAGE CHARGES

8.1 Upon Off-hire you shall return the Vehicle with a full fuel tank. The fuel level will be recorded at the point you return the Vehicle to our Branch, or the point the Vehicle is collected by us (as applicable).

8.2 You shall pay the cost of replacement fuel where the Vehicle is returned without a full tank at our prevailing rate.

8.3 The Rental 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 Booking is accurate to the best of your knowledge and belief. You shall promptly inform us if you have reasonable cause to believe that you have or are likely to exceed the Estimated Annual Mileage on any Vehicle.

8.4 We reserve the right to monitor throughout the Rental Period your actual mileage ("**Actual Mileage**") (whether this is via information given by or requested from you or at any time we have contact with the Vehicle, for example for a service or repair or collected via a Telematics Device) and compare this against your Estimated Annual Mileage. In the event that your Actual Mileage exceeds or is likely to exceed (on a pro rata basis) the Estimated Annual Mileage, we reserve the right to:

8.4.1 invoice you for the Excess Mileage retrospectively over the Rental Period already expired (being 11 pence **£0.11**) for every mile the Actual Mileage exceeds the Estimated Annual Mileage (on a pro rata basis); adjust your Estimated Annual Mileage for the remainder of the Service Period to reflect your Actual Mileage and therefore adjust the Rental Charge accordingly for the remainder of the Service Period.

9. YOUR GENERAL OBLIGATIONS

9.1 During the Rental Period you shall:

9.1.1 keep the Vehicle free from legal process or lien, fully protected and secured;

9.1.2 if applicable, register and pay for any days the Vehicle will operate in the congestion zone in London or any other congestion zone which may apply in accordance with Congestion Charge Law;

9.1.3 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;

9.1.4 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);

9.1.5 ensure that no smoking is carried out in the Vehicle; and

9.1.6 if requested by us on reasonable notice make the Vehicle available for inspection, service or repair work.

9.2 During the Rental Period you shall not use the Vehicle:

9.2.1 for the carriage of passengers for hire or reward;

9.2.2 for any illegal purpose or in contravention of any Regulations affecting the Vehicle, its use or construction;

9.2.3 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;

9.2.4 for any off-road driving;

9.2.5 for competitive racing of any nature;

9.2.6 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

9.2.7 outside of the United Kingdom without our prior written consent.

9.3 You shall ensure the Vehicle is not driven by any driver who:

9.3.1 does not hold a valid driving licence for the class of vehicle to which the Vehicle belongs;

9.3.2 is not covered fully by a comprehensive insurance policy.

9.4 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).

10. RISK AND TITLE

10.1 The Vehicle is at your risk from the time of delivery or collection (as applicable), including any Additional Equipment contained or installed in or upon the Vehicle.

10.2 Notwithstanding delivery and passing of risk, ownership of the Vehicle shall not pass to you at any time during the Rental 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).

10.3 We reserve the right to repossess any or all Vehicles On-hire to you:

10.3.1 upon the happening of any Insolvency Event;

10.3.2 upon termination of this Agreement or Booking; you grant to us, our agents and employees an irrevocable right and licence to enter your premises with or without vehicles during normal business hours for the purpose of inspecting and/or repossessing Vehicles to which we have retained title. This right and licence shall continue to subsist notwithstanding the termination for any reason of a Booking or this Agreement and is without prejudice to any or our accrued rights under this Agreement or otherwise.

11. ROUTINE MAINTENANCE

11.1 If during the Rental Period a service of the Vehicle becomes due because either the date for service is in less than two (2) weeks or the Vehicle mileage at which a service is required is within 1,000 miles (each of which is identified in the window of the Vehicle) you shall contact us to arrange a service of the Vehicle.

11.2 If you fail to contact us to arrange a service under Clause 11.1 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.

11.3 In addition to the service requirements set out above each party shall be required to notify the other in relation to the additional maintenance elements set out below:

	We will contact you	You need to contact us
Service due based on miles	-	Yes
Service due based on time	Yes	-
MOT due	Yes	-
Tail lift inspection due	Yes	-
Tachograph inspection due	Yes	-
HGV Compliance	Yes	Yes
Any Damage (Body, tyres, glass)	-	Yes
Worn Tyres	-	Yes

12. DAMAGE, FAULT AND THEFT

12.1 You shall promptly:

12.1.1 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;

12.1.2 supply us with a police crime reference number if a Vehicle is stolen or otherwise involved in a criminal act;

12.1.3 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 and/or obtain relief from other parties;

(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.

12.2 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 two thousand pounds (£2,000) excluding VAT per occurrence of Damage.

12.3 If the cost of repairing any Damage exceeds two thousand pounds (£2,000) 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.

12.4 We may, at our 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.

12.5 You acknowledge and agree that you:

12.5.1 shall not without our prior consent incur any liability for repairs to the Vehicle in excess of £25;

12.5.2 shall not without our prior written approval carry out yourself and/or engage any third party to carry out repairs on a Vehicle which we have not approved in writing;

12.5.3 are not our servant or agent for any purpose and shall not hold yourself out as such; and

12.5.4 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.

12.6 Where applicable, the protection of data held in the Vehicle's tachograph is your sole responsibility and we shall not be liable in any way whatsoever if you have not taken the necessary steps to protect and back-up the data.

12.7 If any act or omission or failure to comply with these 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.

12.8 If the keys to any Vehicle are lost whilst the Vehicle is in your care, we may need to replace the full lock set in the Vehicle for security reasons. In such circumstances you will be responsible for the cost of doing so (including spare keys) and the Administration Fee.

12.9 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.

13. LOSS OF USE

13.1 In addition to the cost of repairing any Damage as set out in this Agreement, you will also be liable to pay the Rental 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 Rental Charges for a period of twenty eight (28) days) in accordance with Clause 6.9.1 and 6.9.2.

13.2 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 6.9.1, 6.9.2, 12.2, 12.3 and 12.4, and 13.1.

14. FINES, PENALTIES AND CHARGES

14.1 You shall be liable (where applicable as "owner") for any charges, penalties, offences or fines incurred during the Rental 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.

14.2 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. We will not query any such penalty charges nor will we notify you prior to payment.

14.3 You agree to pay to us upon demand any fines, penalties and charges we pay in accordance with Clause 14.2 plus the Administration Fee for processing the same.

14.4 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.

14.5 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 Rental Period.

15. **INSURANCE**

15.1 You shall ensure during the relevant Rental Period that:

15.1.1 all Vehicles hired to you including any replacement vehicles are covered by you with a fully comprehensive insurance policy (the "Policy") for the Rental Period and until completion of the Off-hire process in accordance with Clause 6;

15.1.2 you notify your insurers that you are neither the registered owner nor keeper of the Vehicle;

15.1.3 the Vehicle is added to the Motor Insurance Bureau's database;

15.1.4 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;

15.1.5 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

15.1.6 you will notify us in writing as soon as reasonably practicable of any change to your Policy including changes in terms, excesses or insurance company.

15.2 As soon as reasonably practicable after the date of the Booking you shall supply to us a copy of the relevant certificate of motor insurance covering the Vehicle being hired 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 hired and the renewal certificates as applicable as soon as reasonably practicable after the relevant renewal date.

15.3 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 hired by you (including replacement vehicles), up to a maximum amount equal to the value of such Vehicle (as determined by us, acting reasonably).

16. **ADDITIONAL EQUIPMENT**

This Clause 16 shall only apply if we agree to provide you with Additional Equipment (as set out on the Booking Form, or as otherwise agreed in writing).

16.1 You may request that any Vehicle you hire from us is customised with additional equipment and/or branding (for example van racking, roof racks, tow bars, company branding, air conditioning, specific colour of vehicle) ("**Additional Equipment**").

16.2 You acknowledge and agree that the charges for the Additional Equipment are in addition to the Rental Charges for the relevant Vehicle. If the Vehicle is subject to a 12 Months+ Rental Period the charges will be split over the term of that Rental Period. If the Vehicle is subject to a Flexible Hire Rental Period then we will split the charge for the Additional Equipment over the estimated Rental Period or period mutually agreed. If you continue to hire the Vehicle after the estimated Rental Period we will reduce the Rental Charge to take account that the charges for the Additional Equipment have been paid.

16.3 If any Vehicle is Off-hired before the charges for the Additional Equipment have been paid in full, we reserve the right to invoice you for the Additional Equipment charges. We reserve the right to recharge the outstanding percentage of the total cost of the specific item or items and invoice you accordingly.

16.4 You will be liable for and will indemnify us against any Losses we incur as a result 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).

17. **TRAVEL OUTSIDE THE UNITED KINGDOM**

17.1 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 the Administration Fee for completing the additional paperwork required by us to permit you to take the Vehicle outside the United Kingdom.

18. **TELEMATICS**

This Clause 18 shall only apply if we agree to provide you with Telematics Devices and Telematics Services (as set out on the Booking, or as otherwise agreed in writing).

18.1 Subject to the payment of the Telematics Charges when due, we shall supply, and you shall accept and pay for, the Telematics Services.

18.2 We shall supply the Telematics Services:

18.2.1 in accordance with this Agreement; and

18.2.2 using reasonable care and skill.

18.3 Unless otherwise agreed in writing by us, all dates or other times for delivery of the Telematics Services agreed in writing by us are estimates only, except that we shall use our reasonable endeavours to perform the Telematics Services no later than the date or time stated, and in default of a date or time being agreed in writing, the Telematics Services shall be delivered from the Start Date.

18.4 You may not postpone or cancel performance of the Telematics Services or part thereof except with our prior written consent.

18.5 We are entitled to determine the manner in which the Telematics Services are performed.

18.6 We are discharged from performing our obligations under this Clause 18 where, to the extent, and for so long as the following circumstances affect performance:

18.6.1 we have been provided with inaccurate, incomplete or misleading information; or

18.6.2 you are in breach of this Agreement.

18.7 Where Clause 18.6 applies:

18.7.1 we shall notify you as soon as reasonably practicable, and shall use our reasonable endeavours to continue to perform this Agreement but shall not be liable for any failure to do so (including any delayed or defective performance); and

18.7.2 you shall reimburse us on demand in respect of all Losses incurred by us in performing our obligations under this Agreement as a result.

18.8 The supply of the Telematics Services shall begin on the Start Date for the relevant Vehicle(s) and, subject to earlier termination in accordance with its terms, shall continue until Off-hire (the "**Licence Term**"). We grant you the right to use the Telematics Devices for the Licence Term. You must return all Telematics Devices in full working order to us upon Off-hire of the Vehicle.

18.9 If you can demonstrate that the Telematics Services do not comply with the requirements of Clause 18.2, we shall re-perform the Telematics Services within a reasonable period of time, but this is your only remedy in respect of a breach of Clause 18.2 or otherwise in respect of the provision of the Telematics Services by us.

18.10 We may terminate the supply of the Telematics Services on one (1) months' notice to you in writing.

18.11 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 18.

18.12 We shall not be required to provide any aspect of the Telematics Services at your premises. All aspects of the Telematics Services will be delivered remotely.

18.13 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.

18.14 You shall not (except to the extent permitted by applicable law):

18.14.1 access all or any part of the Telematics Services in order to build a product or service which competes with the Telematics Services;

18.14.2 attempt to obtain or assist third parties in obtaining, access to the Telematics Services;

18.14.3 copy the Software in whole or in part;

18.14.4 introduce any virus, code or software into the Software; or

18.14.5 use the Software otherwise than in accordance with this Agreement.

18.15 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.

18.16 You shall not cause or permit the Telematics Services to be used by any person who is not your employee unless expressly authorised to do so under this Agreement.

18.17 We give no guarantee or warranty as to the availability of the Telematics Services.

18.18 Ownership of the Telematics Devices shall remain with us at all times.

18.19 You shall comply with our instructions from time to time regarding use, storage, maintenance and repair of the Telematics Devices and shall not remove or tamper with or attempt to remove or tamper with the Telematics Devices.

18.20 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.

18.21 You shall pay the Telematics Charges in accordance with Clause 19 or as otherwise agreed in writing by us.

18.22 We will provide you with up to five log in accounts for the website through which the Telematics Services are provided. If you require more than five (5) log in accounts, an additional charge per log-in shall be levied, which shall be payable in accordance with Clause 19.

18.23 The website will provide in an online and downloadable format the following information about the Vehicles to which the Telematics Services apply (depending on which level of Telematics Services have been taken):

18.23.1 Vehicle monitoring - provides Vehicle mileage and location data; and

18.23.2 Driver behaviour - provides information on driver behaviour, including the way a Vehicle is driven.

18.24 If there is a fault with the website through which the Telematics Services are provided we will endeavour to rectify the fault as soon as possible but we expressly exclude any responsibility for rectifying such faults or liability in request thereof where the fault arises out of or in connection with:

18.24.1 a problem with the mobile network through which the information is transmitted; or

18.24.2 the hosting of the website by a third party on our behalf.

18.25 We reserve the right to suspend the Telematics Services by reasonable notice to you in order to undertake maintenance work.

18.26 You acknowledge and agree that you will lose access to telematics data relating to a specific Vehicle at the time that Vehicle is Off-hired.

19. **CHARGES AND PAYMENT**

19.1 You shall pay to us in accordance with this Agreement:

19.1.1 the Rental Charges;

19.1.2 any Additional Charges;

19.1.3 the Set-Up Fee (if applicable)

19.1.4 the Telematics Charges (if applicable); and

19.1.5 any other amount due to us by you under this Agreement,

(together the "**Charges**").

19.2 You agree to pay the Deposit to us on the Start Date. The Deposit is a payment against default by you of payment of the Rental Charges, any Additional Charges due in accordance with Clause 20 or any other charges which fall due under this Agreement and/or any loss or Damage to the Vehicle whilst 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 ten (10) working days 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 the Booking, we will refund the Deposit (or balance thereof) to you within ten (10) working days of the end of the Return Date.

19.3 Subject to Clause 19.4, we shall be entitled to issue invoices in respect of all Charges incurred in a month before the last day of the relevant month (apart from certain Additional Charges which may be invoiced as and when they arise) and payment shall be due by you by direct debit on the last working day of the month after the month in which the invoice is dated.

19.4 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 19.3.

19.5 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.

19.6 Notwithstanding any agreed period of credit, or the remedies available to us under Clause 19.15 if any invoice is overdue for payment the balance of your account becomes immediately due and payable.

19.7 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.

19.8 In respect of Flexible Hire, we shall be entitled to increase the Charges, from the anniversary of each Start Date upon thirty (28) days' prior notice to you. In respect of 12 Months+, we shall be entitled to periodically increase the Charges upon 28 days prior notice (**Notice Period**) in writing to you in accordance with clause 19.9 below.

19.9 We are entitled to increase Charges as indicated by the percentage increase in RPI during the Rental Period without recourse to yourself. In the event that our increase to the Charges exceed RPI, you shall have the right to return any Vehicle taken under a 12 Month+ product within the Notice Period and the following Rental Charges shall apply:

19.9.1 if the Rental Period is less than 12 months you will remain liable for the Rental Charges to the date of Off-Hire and *not* the entire 12-month period;

19.9.2 if the Rental Period is more than 12 months you will be liable for the Rental Charges based on the original agreed price band stated on the Pricing Schedule at the time the Vehicle was taken On-Hire.

19.9.3 any Charges relating to Additional Equipment (if any) that have been spread over the Rental Period shall cease at the date of Off-Hire.

19.10 If in the event that the Vehicles are still On-Hire 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.

19.11 Nothing within clause 19 shall prejudice any other rights or obligations contained in this Agreement, save that clause 19.9 takes precedence over clause 6.3

19.12 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 19.13, payment shall be made by you in full without any set-off, deduction or withholding whatsoever.

19.14 In the event you reasonably and genuinely dispute any invoice, you shall notify us as soon as possible after receipt of the invoice (and in any event at least seven (7) working days before payment is due) and we shall investigate the dispute and shall notify you of any amendments to the disputed element of the invoice. Our decision in respect of a disputed invoice shall be final.

19.15 Subject to Clause 19.16, if we have not received payment by the due date, and without prejudice to any other rights and remedies we have, we may:

19.16.1 without liability to you, suspend the performance of this Agreement until payment in full has been made;

19.16.2 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/or

19.16.3 immediately terminate this Agreement without further liability to you or any obligation to refund any sums already paid.

20. **ADDITIONAL CHARGES**

20.1 In addition to the Rental 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:

20.2 failed delivery or collection in accordance with Clause 5.4;

20.3 vehicle return charges in accordance with Clause 6;

20.4 fuel charges and excess mileage in accordance with Clause 8;

20.5 unauthorised modifications in accordance with Clause 9.4;

20.6 failed servicing in accordance with Clause 13;

20.7 damage, fault and theft charges in accordance with Clause 12;

20.8 loss of use in accordance with Clause 13;

20.9 fines, penalties and charges in accordance with Clause 14;

20.10 any Additional Equipment charges in accordance with Clause 16;

20.11 any charges for using the Vehicle outside the United Kingdom in accordance with Clause 17;

20.12 any charges set out in any Schedule or Special Terms; and

20.13 any Administration Fees, as set out in this Agreement;

(together, the "**Additional Charges**")

21. **LIABILITY**

21.1 Subject to the provisions of Clauses 6.9 and 13 and Clause 21.4 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.

21.2 We shall not be liable to you for any loss of or damage to property left, stored or transported in or upon a Vehicle.

21.3 Subject to Clause 21.4 our total aggregate liability arising out of or in connection with:

21.3.1 a Booking (if applicable) (whether such liability arises in contract, tort (including negligence) or otherwise) shall not exceed fifty thousand pounds sterling (£50,000);

21.3.2 the supply of Telematics Services (if applicable) (whether such liability arises in contract, tort or negligence) or otherwise) shall not exceed five thousand pounds sterling (£5,000) per Booking; and

21.3.3 (notwithstanding Clauses 21.3.1 and 21.3.2) this Agreement shall not exceed one hundred and fifty thousand pounds sterling (£150,000) for all claims in any twelve (12) month period.

21.4 Nothing in this Agreement shall operate to exclude or limit the liability of either party for:

21.4.1 death or personal injury resulting from negligence;

21.4.2 fraud or fraudulent misrepresentation; and

21.4.3 any other liability which cannot, as a matter of law, be excluded.

22. **INDEMNITY**

Subject to Clause 21.1, you shall indemnify us against all Losses suffered or incurred by us due to:

22.1 the loss of or damage to any property (whether yours or a third party's) left, stored or transported in or upon a Vehicle;

22.2 any circumstances described in clause 21.1; or

22.3 any claims brought against us by any third party arising out of, or in connection with, this Agreement.

23. **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.

24. **CANCELLING A BOOKING**

24.1 You may cancel any Booking on or before the Start Date.

24.2 Where you cancel any Booking you will not be charged in respect of that Booking unless:

24.2.1 the Vehicle was subject to Special Terms agreed between you and us which involved us incurring costs in relation to the Vehicle before the Start Date (including any agreement to install Additional Equipment on the Vehicle); or

24.2.2 we were en route to deliver the Vehicle to you or had already attempted to deliver the Vehicle to you at the time of cancellation,

in which case we may charge you in respect of the services we have performed and/or costs we have incurred in relation to the Booking prior to cancellation

(including failed delivery charges and the Administration Fee).

25. **TERMINATION**

25.1 Either party may terminate this Agreement or any Booking immediately if an Insolvency Event occurs in relation to the other party.

25.2 Either party may terminate this Agreement or a Booking if the other party commits a material breach of this Agreement or Booking and if capable of remedy, such breach is not remedied within thirty (30) days of the non-breaching party notifying the other of the breach. For the purposes of this Clause 25.2 the following shall be treated as a material breach not capable of remedy:

25.2.1 a failure by you to pay us any Charges when they fall due in accordance with the terms of this Agreement or a Booking;

25.2.2 any breach of Clauses 15, 17, 26 or 27.

25.3 Upon termination of a Booking you shall immediately:

25.3.1 return the Vehicle or Vehicles to which the Booking relates to us or our duly authorised agent at such place as we may appoint;

25.3.2 pay to us, on demand, all Charges due in relation to that Booking; and

25.3.3 return all Telematics Devices in relation to the Vehicle or Vehicles to which the Booking relates.

25.4 Upon termination of this Agreement you shall immediately:

25.4.1 return all Vehicles and keys to us or our duly authorised agent at such place as we may appoint;

25.4.2 pay to us, on demand, all Charges due under this Agreement; and

25.4.3 return all Telematics Devices to us.

25.5 Termination of this Agreement or a Booking does not affect:

25.5.1 the rights or liabilities of the parties under this Clause 25 (Termination) or which have accrued on or before termination; and

25.5.2 the continuance in force of Clauses 6 (Vehicle Return), 8 (Fuel and Mileage Charges), 10 (Risk and Title), 12 (Damage, Fault and Theft), 14 (Fines, Penalties and Charges), 19 (Charges and Payment), 20 (Additional Charges), 21 (Liability), 22 (Indemnity), 23 (Remedies), 26 (Confidentiality), 27 (Data Protection), 28 (Entire Agreement) and 29 (General) which survive termination of this Agreement or any Booking.

26. **CONFIDENTIALITY**

26.1 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 26.2.

26.2 We may each disclose the other's confidential information:

26.2.1 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 26; and

26.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

26.3 Neither you nor we shall use the other's confidential information for any purpose other than to perform our respective obligations under this Agreement.

27. **DATA PROTECTION**

27.1 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.

27.2 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:

27.2.1 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;

27.2.2 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 27.2.1) as required by all applicable Data Protection Legislation;

27.2.3 we shall process the Personal Data transferred by you pursuant to this clause 27.2 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 any member of the European Union, or by the laws of the European Union applicable to us, to process Personal Data ("Applicable Laws"). Where we rely on laws of a member 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;

27.2.4 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);

27.2.5 we shall not transfer any Personal Data outside of the European Economic Area 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."

27.2.6 you consent to us appointing third party processors where required to carry out our obligations in this Agreement (including the Telematics Services);

27.2.7 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;

27.2.8 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;

27.2.9 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 27.2;

27.2.10 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

27.2.11 we shall maintain complete and accurate records and information to demonstrate our compliance with this clause 27 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.

27.3 Notwithstanding the generality of Clause 27.2, in circumstances where a Telematics Device is fitted in a Vehicle, you shall:

27.3.1 notify the driver(s) of the Vehicle that such Telematics Device is installed in the Vehicle;

27.3.2 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);

27.3.3 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);

27.3.4 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;

27.3.5 immediately notifying us in writing of:

27.3.5(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;

27.2.5(b) if the Personal Data collected via the Telematics Devices is disclosed or used in breach of this Agreement; and/or

27.3.5(c) provide us with such co-operation and assistance as we may require with respect to any of the foregoing events; and

27.3.6 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.

27.4 You warrant to us that, in respect of any Personal Data which you share with us pursuant to this Agreement:

27.4.1 you have complied in all respects with your obligations under the Data Protection Legislation and under this Clause 27; and

27.4.2 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 27 or the Data Protection Legislation by you (including any claim by a data subject).

28. ENTIRE AGREEMENT

28.1 Except as may be otherwise agreed in writing with respect to a particular Vehicle, this Agreement and the documents referred to in it constitutes the entire agreement and understanding of you and us and supersedes any previous agreement between you and us relating to the subject matter of this Agreement and any prior promises, representations and misrepresentations (whether oral or written) relating to the subject matter of this Agreement.

28.2 You acknowledge and agree that no representations were made prior to the entering into of 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.

28.3 Nothing in this Agreement shall operate to limit or exclude any liability for fraud or fraudulent misrepresentation, or shall exclude (but this Agreement does not limit) our liability for fundamental misrepresentation (including misrepresentation as to a matter fundamental to our ability to perform our obligations under this Agreement, on our part).

28.4 Without prejudice to the provisions of this Clause 28, the only remedy available to you for breach of this Agreement shall be for breach of contract under the terms of this Agreement.

29. GENERAL

29.1 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.

29.2 Neither party shall be in breach of this Agreement or a Booking or liable for delay in performing, or failure to perform, any of its obligations under this Agreement or a Booking (other than payment obligations) if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been so delayed or failed to be performed. If the period of delay or non-performance continues for three (3) months the party not affected may terminate this Agreement or a Booking by giving thirty (30) days' written notice to the affected party.

29.3 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.

29.4 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.

29.5 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.

29.6 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 effected 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.

29.7 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.

29.8 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.

29.9 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.

29.10 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.

29.11 This Agreement shall be governed by and construed in accordance with English law.

29.12 The courts of England and Wales shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Agreement and, for such purposes, you and we each irrevocably submit to the exclusive jurisdiction of the courts of England and Wales. You and we each irrevocably waive any objection which we might at any time have to the courts referred to in this Clause being nominated as a forum to hear, determine and settle any proceedings and agree not to claim that any such courts are not a convenient or appropriate forum.

29.13 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.

29.14 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.

30. CONTACT US

Our website at URL:
www.northgatevehiclehire.co.uk sets out how

you may contact us if you have a query or complaint.

Registered Office: Northgate Centre, Lingfield Way,
Darlington, DL1 4PZ