

Terms and Conditions

These Terms and Conditions contain Fleetwise's Standard Terms (Part I) which include fleet management services, and any specific terms that govern Fleetwise's provision of Services to the Client (e.g Part II - Software and Hardware for PVBS, GPS Tracking and KeyBank, Part III - Fuelcard Services, Part IV – Disposal of Vehicles). These Terms and Conditions together with the Contract Cover Sheet form "the Agreement" which governs Fleetwise's provision of the Services to the Client.

Part I: Standard Terms

The terms set out in Part I of these Terms and Conditions are Fleetwise's Standard Terms that apply to Fleetwise's provision of the Services to the Client.

Introduction

- a. Fleetwise is a supplier of Services, including fleet management, Software and Hardware, Fuelcard Services, and disposal of vehicles.
- b. The Client requires the Services, as set out in the Contract Cover Sheet of this Agreement to enable it to carry out its business.
- c. The Client confirms the appointment of Fleetwise to supply the Services listed in the Contract Cover Sheet of the Agreement and Fleetwise agrees to provide the Services in accordance with the Terms and Conditions of this Agreement.

1. Fleetwise's Responsibilities

- 1.1 Fleetwise will use reasonable endeavours to competently carry out the Services with due care, skill and diligence, in a timely manner.

2. Client Responsibilities

2.1 The Client will:

- a. comply with any and all reasonable directions, requirements or specifications issued by Fleetwise;
- b. manage its own IT solutions and systems such that it meets the IT requirements published by Fleetwise from time to time; and
- c. not do any act or thing which may impair and damage Fleetwise's Intellectual Property rights.

3. Term

- 3.1 This Agreement will commence on the Commencement Date, as set out in the Contract Cover Sheet, and will continue as provided in this Agreement for the period of the Initial term.
- 3.2 After the Initial Term, this Agreement will automatically renew for successive 24-month periods (each Renewal Term), unless terminated in accordance with its provisions.

4. Payment

- 4.1 The Contract Cover Sheet specifies the Service Fees for the Services provided by Fleetwise.
- 4.2 The Service Fees for this Agreement are based on a specified Fleet Size as set out in the Contract Cover page. Should the Fleet Size be reduced for any other reason than Fleetwise's optimisation, Fleetwise may still charge for the agreed Service Fees till the end of the Initial Term or Renewal Term.
- 4.3 The Client will become liable to pay the Service Fees as set out in the Contract Cover Sheet or as otherwise notified in writing by Fleetwise, on the earlier of:
 - a. the date Fleetwise begins the Services; or
 - b. the date that is 90 days after the signing of this Agreement.
- 4.4 The Client will pay the Service Fees to Fleetwise by the twentieth (20th) day of each month following the date of receipt of Fleetwise's invoice.
- 4.5 The invoice will state:
 - a. the agreed Service Fees;
 - b. any third party on chargeable costs; and
 - c. any disbursements reasonably incurred by Fleetwise in carrying out the Services, provided that such disbursement have the prior written consent of the Client.
- 4.6 Unless expressly stated otherwise, all amounts payable under this Agreement are in New Zealand Dollars and are exclusive of GST or other value added tax.
- 4.7 If the Client does not pay in full by the invoice due date, Fleetwise reserves the right to charge interest on overdue accounts at the lesser rate of the Bank bill yields 90 days rate as published by the Reserve Bank of New Zealand on their website, plus 10 % per annum, or the maximum rate, if any, allowable under applicable local law. The interest will be calculated daily from the due date until Fleetwise receives full payment.
- 4.8 The Client must pay Fleetwise's reasonable costs incurred in enforcing payment of amounts owed by the Client under this Agreement (including legal costs and debt collection costs).
- 4.9 Fleetwise may apply any payment received from the Client, or any money received for the Client, to any outstanding amount owed by the Client under this Agreement or any other agreement with Fleetwise, as Fleetwise determines in its sole discretion, regardless of whether the payment is expressly stated to relate to a particular supply or invoice.
- 4.10 If any amount due by the Client to Fleetwise is not paid by the invoice due date, Fleetwise may, at its sole discretion, suspend provision of the Services until full payment is received. For the avoidance of doubt, suspension of Services will not affect the Client's obligation to pay the Service Fees or other amounts in respect of the Services that would have been provided during the period of suspension if not for the Client's failure to pay.
- 4.11 After the Initial Term and each subsequent Renewal Term, Fleetwise is entitled to increase the Service Fees by the greater of 2% or the cumulative CPI increase, as set by the New Zealand Reserve Bank, during that term.

4.12 After the Initial Term and each subsequent Renewal Term, Fleetwise reserves the right to change the Service Fees with written notice to the Client. Should the Service Fees increase and the Client not agree with the proposed changes, the Client may terminate this Agreement provided that written notice is given to Fleetwise 30 days before the beginning of the new Term.

5. Confidentiality

- 5.1 Each Party acknowledges that it has or may receive, and will or might receive, Confidential Information in strict confidence and agrees not to disclose that Confidential Information to any third party or use it for any purpose other than receiving the Services under this Agreement.
- 5.2 The Client must not use, copy, reverse-engineer, or modify Fleetwise's proprietary methods or any other Confidential Information, except to the extent reasonable necessary to receive and use the Services in accordance with this Agreement. The Client must not use any such information for the purpose of developing, supplying or assisting a competing product or service during or after the term of this Agreement.
- 5.3 If requested by Fleetwise, or upon termination or expiry of this Agreement, the Client must return or securely destroy all materials containing Confidential Information and confirm this in writing within 10 business days.
- 5.4 If disclosure of Confidential Information is required by law, that disclosure is permitted. However, where legally allowed, the disclosing Party must give prior written notice to the other Party before making the disclosure.
- 5.5 The obligations in Clause 5 – Part I of this Agreement will survive the expiry or termination of this Agreement.

6. Ownership of Intellectual Property

6.1 Fleetwise retains as its exclusive property:

- a. all Intellectual Property in the Created Materials and the Services; and
- b. works produced during this Agreement by Fleetwise including flowcharts, algorithms, work-product, source and object codes, documents, drawings, certifications, multimedia works and databases within the meanings given in the Copyright Act 1994, compilations of work, written works, trade names and marks and know-how; and
- c. all Intellectual Property in the Software together with all modifications, enhancements and other developments to the Software; and
- d. the worldwide ownership in perpetuity of all designs, techniques, inventions, improvements, innovations and all other intellectual and industrial property arising out of or in connection with the performance of the Services under this Agreement; and
- e. copyright, patents, designs, trademarks, trade names, goodwill rights, trade secrets, data, confidential information and any other intellectual proprietary right or form of intellectual property ("the Intellectual Property").

6.2 The Client must not:

- a. breach Fleetwise's Intellectual Property rights or use Fleetwise's Intellectual Property without Fleetwise's prior written consent;
- b. copy, adapt, modify, decompile, reverse engineer, disassemble, or otherwise attempt to derive the code, structure, or underlying ideas of any software in the Intellectual Property; or
- c. use the Intellectual Property in a way that infringes Fleetwise's rights or those of any third party.

6.3 The Parties agree to sign (and to procure the personnel to sign) any document reasonably required to give effect to this clause.

6.4 The Parties, at all times, agree to keep secret and strictly confidential all information relating to the Intellectual Property, except as required by law.

6.5 The obligations in Clause 6 – Part I of this Agreement will survive the expiry or termination of this Agreement.

7. Data

7.1 All data provided by, or on behalf of, the Client, or generated from the Client's use of the Services remains the property of the Client. Nothing in this Agreement transfers ownership of Client Data to Fleetwise.

7.2 The Client grants Fleetwise a non-exclusive licence to collect, hold, use, process and disclose Client Data to the extent reasonably necessary to provide the Services, comply with legal obligations, and enforce this Agreement.

7.3 The Client warrants that:

(a) Client data has been collected and provided in accordance with applicable laws, including the Privacy Act 2020; and

(b) Fleetwise may lawfully use the Client Data in accordance with this Agreement.

Fleetwise is not responsible for the accuracy or completeness of Client Data.

7.4 Fleetwise will take reasonable steps to protect Client Data against unauthorised access or disclosure, consistent with its obligations under the Privacy Act 2020.

7.5 Each Party must comply with the Privacy Act 2020 in relation to any personal information processed under this Agreement.

7.6 If Fleetwise becomes aware of a notifiable privacy breach affecting Client Data, Fleetwise will notify the Client as required by law.

7.7 Fleetwise will make Client Data available to the Client through the Services during the term of the Agreement.

7.8 Fleetwise will not retain Client Data for longer than is reasonably necessary for the purposes set out in clause 7.2. Fleetwise may delete Client Data following termination or expiry of this Agreement, subject to any legal retention requirements.

7.9 Fleetwise is not required to retain backups of Client Data beyond its standard backup retention policies.

7.10 Fleetwise may use Client Data in aggregated and de-identified form for analytics, benchmarking, service improvement and product development, provided that such data does not identify the Client or any individual.

7.11 The Client acknowledges that data obtained or generated through third party services or providers may be subject to the rights of those third parties.

Fleetwise is not responsible for the availability, accuracy or integrity of such third party data, except to the extent required by law.

7.12 The Client acknowledges that data transmitted over wireless, cellular or internet networks may be subject to interruption or security risks.

Fleetwise will take reasonable steps to mitigate those risks but does not warrant uninterrupted, secure or error-free transmission.

8. Authorised Representative

8.1 The Client must appoint an Authorised Representative who will be Fleetwise's contact person.

8.2 The Authorised Representative will give all formal instructions from the Client to Fleetwise in writing to Fleetwise. Fleetwise will be available during Business Hours for the resolution of day to day issues over the phone.

8.3 The Authorised Representative and Fleetwise may appoint representatives from time to time with the agreement of the other Party.

9. Relationship of Parties

9.1 Nothing in this Agreement will create a partnership, agency, joint venture, fiduciary or employment relationship between the Parties.

10. Limitation of Liability

10.1 Neither Party will be liable under or in connection with this Agreement for any indirect, special, incidental, consequential or exemplary loss, or for any loss of profits, revenue, anticipated savings, business, goodwill, or data (including any loss, corruption or inaccuracy of data) to the maximum extent permitted by law, or for any loss arising from reliance on the Services, whether arising in contract, tort (including negligence), equity, indemnity or otherwise.

10.2 Subject to clause 10.3, the maximum aggregate liability of either Party under or in connection with this Agreement will not exceed an amount equal to the total Service Fees paid by the Client under this Agreement in the 12 months before the event giving rise to the claim.

10.3 Nothing in clause 10.1 or clause 10.2 - Part I limits or excludes either Party's liability for:

- a. fraud or wilful misconduct;
- b. any liability that cannot be excluded by law.

10.4 Nothing in clause 10.1 or clause 10.2 - Part I limits or excludes the Client's liability in respect of:

- a. payment of any Service Fees or other amounts owing under this Agreement;
- b. any breach of its obligations under clause 5 or clause 6 - Part I of this Agreement;

c. any liability arising under clause 11 - Part I of this Agreement.

10.5 The Client acknowledges and agrees that it is acquiring the Services from Fleetwise for business and therefore in trade and that the Parties are contracting out of the Consumer Guarantees Act 1993 to the maximum extent permitted by law.

10.6 Fleetwise makes no guarantees or warranties, express or implied, about the performance, quality, accuracy or uninterrupted availability of Software, Hardware or Services.

10.7 The Client must notify Fleetwise in writing of any claim as soon as reasonably practicable after becoming aware of the circumstances giving rise to the claim, and any legal proceedings must be commenced within 12 months after the date on which the Client first became aware, or ought reasonably to have become aware, of those circumstances.

10.8 The Client acknowledges that certain Services rely on third party hardware, software, networks, wireless carriers, mapping data, APIs, cloud platforms, installation services and other products or services not controlled by Fleetwise ("Third Party Services").

10.9 Fleetwise makes no warranty, representation, or guarantee regarding the availability, accuracy, reliability, continuity, security or performance of any Third Party Services, and will not be liable for any interruption, degradation, delay, or failure caused directly or indirectly by any Third Party Services.

10.10 All warranties, obligations, service levels or performance guarantees relating to Third Party Services are governed solely by the terms of the relevant third party provider and the Client's sole recourse for any performance issue, failure, or defect lies with that provider, and not Fleetwise.

10.11 Any recommendation, referral, or suggestion by Fleetwise regarding a third party provider, including but not limited to providers of hardware, fuel cards or other Third Party Services does not constitute an endorsement or warranty. Fleetwise is not liable for the delivery, quality, performance, or failure of any third party products or services obtained by the Client, whether or not recommended by Fleetwise.

11. Indemnity

11.1 The Client indemnifies Fleetwise, its directors, officers, employees, contractors and agents (together, the "Indemnified Parties") against all losses, liabilities, damages, costs and expenses (including reasonable legal costs) suffered or incurred by an Indemnified Party to the extent arising out of or in connection with:

- a. the Client's failure to comply with the terms of this Agreement;
- b. any negligence, fraud or wilful misconduct of the Client or any of its personnel, contractors or representatives;
- c. the Client's use of the Services, Software or Hardware in combination with any third party product, service or software not approved by Fleetwise, or otherwise in breach of this Agreement or Fleetwise's reasonable instructions; or

- d. any third party claim arising from any act or omission of the Client, its personnel, contractors, representatives, systems, data, instructions or use of the Services, Software or Hardware.

11.2 Without limiting clause 11.1 - Part I, the Client indemnifies the Indemnified Parties against all losses, liabilities, damages, costs and expenses (including reasonable legal costs) suffered or incurred by an Indemnified Party that arise out of or in connection with:

- a. any actual or alleged infringement, misappropriation or breach of any Intellectual Property rights (including Fleetwise's Intellectual Property rights) by the Client or any of its personnel, contractors or representatives;
- b. any breach by the Client of clause 5 - Part I (Confidentiality) or clause 6 - Part I (Intellectual Property) of this Agreement; or
- c. any breach of applicable privacy or data protection laws to the extent caused by the Client, its personnel, contractors, systems or Client data.

11.3 The indemnities in this clause 11 do not apply to the extent that any loss, liability, damage, cost or expense is caused by Fleetwise's fraud, wilful misconduct or negligence.

11.4 If an indemnity is triggered under this clause 11 - Part I:

- a. Either Party must give prompt written notice of the relevant claim;
- b. Fleetwise may, at its discretion, assume control of the defence and settlement of the claim, provided that Fleetwise must act reasonably and keep the Client informed of material developments and will not settle the claim without the Client's written consent which will not be unreasonably withheld or delayed; and
- c. the Client must provide all assistance reasonably requested by Fleetwise in relation to the claim, at the Client's cost.

11.5 The indemnities in clause 11 - Part I are not subject to Clause 10.2 - Part I.

12. No Claims

12.1 The Client agrees that it will not make any claim (including in negligence) against any employee, contractor, or third-party provider engaged by Fleetwise for any costs, loss, or damage suffered by the Client arising from or in connection with the Services, This clause does not limit the Client's rights against any third party provider to the extent expressly permitted under clause 10.9.

13. Termination

13.1 The Client acknowledges and agrees that it is committed to the Initial Term and any Renewal Term (as applicable) and may not terminate this Agreement for convenience prior to the expiry of the then current term except as expressly permitted under this Agreement.

13.2 Either Party may terminate this Agreement by providing the other Party written notice (which may be given by email to support@fleetwise.co.nz) no later than 60 days before the expiry of the Initial Term or any Renewal Term. Any such termination will take effect at the end of the then current term.

13.3 If the Client attempts to terminate this Agreement other than in accordance with clause 13.2, or any other express right of termination under this Agreement, the Client will remain liable for all Service Fees and other amounts that would have been payable for the remainder of the then current term. The Client acknowledges this is not a penalty but a genuine pre-estimate of Fleetwise's loss, including unrecovered upfront costs, personnel, committed third party costs and lost margin.

13.4 Should any of the following events of default occur, Fleetwise may cancel this Agreement immediately:

- a. the Client fails to make any payment due under this Agreement on the due date which includes the dishonour of any direct debit payment to be made by the Client;
- b. Fleetwise discovers a false statement or omission made by the Client in this Agreement or in any preceding application made by the Client or any statement or information supplied to Fleetwise by the Client;
- c. an application is made to adjudicate the Client bankrupt, or an application is made or resolution is passed for the Client's liquidation or the Client is otherwise wound up, dissolved or struck off the companies register;
- d. a receiver, liquidator, administrator or like person is appointed in respect of the Client;
- e. the Client ceases to carry on business;
- f. the Client breaches its obligations contained in Clause 5 or Clause 6 – Part I of this Agreement; or
- g. the Client breaches any other of their obligations under this Agreement and fails to remedy such breach within 5 business days of Fleetwise providing written notification to the Client requiring them to remedy such breach.

13.5 In the event of the Client being in default under this Agreement or Fleetwise terminating this Agreement the Client must immediately:

- a. pay any Service Fees payable under this Agreement;
- b. pay any costs, losses or damages Fleetwise incurs as a result of the breach of this Agreement; and
- c. pay all other amounts due under this Agreement.

13.6 Notwithstanding any other provisions of this Agreement, Fleetwise may terminate this Agreement with immediate effect if Fleetwise is unable to provide the Services due to circumstances beyond its reasonable control or any Service Provider is unable to provide any part of the Services and in such event Fleetwise will not be liable to compensate the Client for such termination. Fleetwise will refund any prepaid fees for Services not provided.

14. Entire Agreement

14.1 This Agreement (including the Contract Cover Sheet, this Part I of the Terms and Conditions and together with any other terms and conditions that apply to the Client's use of the Services including, Part II - Software and Hardware, Part III - Fuelcard Services and Part IV - Disposal of

Vehicles) sets out the entire Agreement between the Parties in relation to the Services. It replaces all earlier understandings, representations or agreements.

15. Credit and Security

15.1 Notwithstanding any other provision in this Agreement, if Fleetwise reasonably considers that the Client's or, if applicable, its guarantor's financial position has deteriorated or requires further assurance, Fleetwise may, on written notice, vary or withdraw any credit terms and may require:

- a. immediate payment for any Services already supplied; and
- b. prepayment or security for future Services, including but not limited to a personal guarantee or standby letter of credit acceptable to Fleetwise.

15.2 The Client must, on request, provide Fleetwise with financial statements and other relevant information reasonably required to assess the Client's financial position.

15.3 Without limiting the above, if requested by Fleetwise, the Client must within 14 days of the Commencement Date (or such other date notified in writing), provide Fleetwise with a personal guarantee in a form acceptable to Fleetwise, for an amount determined by Fleetwise. This guarantee must be maintained at all times during the term of this Agreement unless otherwise agreed in writing.

15.4 The Client acknowledges and agrees that Fleetwise may collect, use, store, and disclose information, including personal information, to:

- a. assess the Client's creditworthiness;
- b. provide the Services; and
- c. enforce its rights under this Agreement (including to register a security interest under the Personal Property Securities Act 1999).

15.5 Where the Client is a sole trader, partnership, trustee, or company, the Client confirms that it has obtained the consent of all relevant individuals (including directors and shareholders) for the collection and use of personal information in accordance with the Privacy Act 2020. The Client authorises Fleetwise to:

- a. obtain credit and other relevant information from any third party (including credit reporting agencies); and
- b. disclose such information to its agents, debt collectors, or other third parties for the purposes stated above.

15.6 If Fleetwise requires, the Client agrees that:

- a. this Agreement creates a security interest under the Personal Property Securities Act 1999 (PPSA);
- b. the Client grants to Fleetwise a security interest in all of the Client's present and after-acquired property, as security for all amounts owed now or at any time in the future, by the Client to Fleetwise;
- c. the Client must do all things and sign all documents to ensure that Fleetwise holds a perfected first-ranking security interest under the PPSA;

- d. Fleetwise may register a financing statement to protect its interest;
- e. the Client indemnifies Fleetwise for any costs associated with registering or maintaining its PPSA interest;
- f. the Client waives its rights to receive any verification statement and, to the extent permitted by law, agrees that sections 114(1)(a), 116, 117(1)(c), 119–121, 125–127, and 129–134 of the PPSA will not apply;
- g. Fleetwise's rights under this Agreement are in addition to its rights under the PPSA; and
- h. Fleetwise may take legal action to recover any unpaid amounts owing under this Agreement.

16. Force Majeure

16.1 Neither Party will be liable to the other for any failure or delay in complying with this Agreement if it is caused wholly or partly by some event or circumstance by reason of riot, earthquake, volcanic activity, fire, storm, operation of law, cyber attacks, pandemics or other like cause beyond the reasonable control of that Party.

16.2 Written notice must immediately be given to the other Party specifying:

- a. the event or circumstance which has partly or wholly caused the failure or delay; and
- b. the steps, which that Party, intend to take to minimise any loss or damage that could result from the failure or delay.

16.3 Each Party will immediately take all reasonable steps to minimise any loss or damage that might result from the failure or delay in the Party complying with its obligations under this Agreement.

16.4 Nothing in this Clause 16 limits the Client's obligation to pay Services Fees or any other amounts owing.

17. Disputes Resolution

17.1 The Parties agree that they will use good faith efforts to resolve any dispute regarding this Agreement or the Services by negotiation. If a dispute cannot be resolved by negotiation within 20 business days, either Party can refer the dispute to mediation in accordance with the Arbitrators' and Mediator's Institute of New Zealand (AMINZ) Mediation Protocol.

17.2 Each Party will pay its own costs of mediation or alternative dispute resolution.

17.3 Each Party will continue to perform its obligations under this Agreement as far as practical given the nature of the dispute.

17.4 Each Party agrees not to start any court action in relation to a dispute until it has complied with the process described in 17.1 unless that Party requires urgent relief from court.

17.5 This Clause 17 does not apply to Fleetwise's recovery of any undisputed amounts of unpaid invoices under this Agreement. Fleetwise may commence court proceedings or take any other debt recovery action at any time, without being required to follow the disputes process in this Clause.

17.6 Additional and specific claim provisions apply to Fuelcard Services supplied under Part III of these Terms and Conditions.

18. Privacy Requirements

18.1 In requiring, supplying and otherwise dealing with the information under this Agreement, each Party must comply with the provisions of the Privacy Act 2020 relating to the collection, provision, disclosure and use of that information. Fleetwise must notify the Client before any information disclosure, except where legally prohibited.

18.2 The Client is also bound to disclose information where required by law under the Official Information Act 1982. The Client maintains the right to check the credentials of all claimants before the disclosure takes place.

19. Health and Safety

19.1 Fleetwise takes all reasonably practicable steps to ensure Fleetwise's safety and the safety of any other persons on its worksite. Fleetwise must comply at all times with any legal requirements regarding health and safety including the Health and Safety at Work Act 2015 and any subsequent amendments. The Client must also comply with all applicable health and safety legislation while accessing Fleetwise's site or when using the Services.

20. General Conditions

20.1 The Client may not assign or transfer their rights or obligations under this Agreement. Fleetwise may assign or subcontract any part of the provision of the Services under this Agreement.

20.2 Fleetwise may from time to time update or amend the Terms & Conditions of this Agreement.

20.3 If, at any time, Fleetwise does not enforce any term of this Agreement or grant the Client time to comply with their obligations, Fleetwise will not be construed as having waived that term or Fleetwise's rights to later enforce that term or any other term. Any waiver of Fleetwise's rights under the Agreement must be in writing and signed by Fleetwise.

21. Notices

21.1 Notice given under this Agreement must be:

- a. delivered by hand; or
- b. sent by prepaid registered mail; or
- c. sent by courier (with signature receipt); or
- d. by email

to the other Party's address or email address as set out on the Contract Cover Sheet.

21.2 The notice will be regarded as having been received on the date it was delivered or when a notice is sent by post, on the third day after the day on which it was posted.

21.3 The notice will be regarded as having been received by email on the day it was sent, provided no bounce-back or error is received by the sender.

22. Severability

22.1 If any provision in this Agreement is invalid or unenforceable for some reason, it will not stop the other provisions of this Agreement from being valid and enforceable.

23. Jurisdiction

23.1 This Agreement will in all respects, be deemed to be an Agreement made in New Zealand and the construction, validity and performance of such Agreement will be governed by New Zealand law and come under the jurisdiction of New Zealand Courts.

24. Interpretations and Definitions

In this Agreement unless otherwise stated:

- a. the singular includes the plural and vice versa;
- b. "person" includes a company, government department, firm, society or association; and
- c. headings and sub-headings are used for convenience and do not affect the construction of this Agreement.

"Agreement" means the Contract Cover Sheet, Part I of the Terms and Conditions and any additional Parts (II,III,IV) of the Terms and Conditions that are applicable to the Client.

"Authorised Representative" means the person nominated by the Client as Fleetwise's primary contact.

"Business Hours" means the hours of work between 8.00 am and 5.00 pm Monday to Friday during NZST or NZDT, but excludes New Zealand public holidays.

"Commencement Date" means the date Fleetwise will commence the Services as listed in Contract Cover Sheet.

"Confidential Information" means all information disclosed by or on behalf of either Party, whether written, oral, electronic or otherwise, relating to that Party or its business operations, or in connection with the provision of the Services, whether before or after the date of this Agreement and all non-public, proprietary information shared by Fleetwise with the Client, such as Fleetwise's methods, processes, software, and business strategies.

"Contract Cover Sheet" means the front pages that the Client signs concerning Fleetwise's provision of Services that contains such information as the Services, Service Fees and Commencement Date.

"Created Materials" means any documents, data, information created or developed by Fleetwise as a result of this Agreement.

"Fleet Size" means the amount of cars the Client wants this Agreement to cover as set out on the Contract Cover Sheet.

"Fuelcard Services" means supply of Fuelcards, access to Fuelcard products and a credit arrangement that is subject to usage policies.

"Hardware" means the lockbox, tracking devices, in vehicle telematics devices, communications devices, accessory devices, or virtual devices.

“Initial Term” means the period of time that Fleetwise will supply the Services to the Client as set out in the Contract Cover Sheet.

“Intellectual Property” means all forms of intellectual property as set out in Clause 6.1 - Part I of this Agreement.

“Party” means either the Client or Fleetwise as set out in the Contract Cover Sheet.

“Renewal Term” means any subsequent terms after the Initial Term.

“Services” means the Services to be provided by Fleetwise to the Client as listed in the Contract Cover Sheet of this Agreement including but not limited to Fleet Management and related services, Licensing of Software, renting or providing Hardware, Fuelcard Services and Disposal of Vehicles.

“Service Fees” means the fees payable by the Client under this Agreement for the Services as set out in the Contract Cover Sheet of this Agreement.

“Service Provider” means any person, persons or company contracted by Fleetwise to provide Services for the Client.

“Software” means Fleetwise’s proprietary software, including but not limited to, PVBS (Pool Vehicle Booking Software) and FIS (Fleet Intelligence System) and any software designed and maintained by Fleetwise, as well as any firmware or software installed on or in connection with the Hardware, including telematics.

Part II: Software and Hardware

The terms set out in Part II of these Terms and Conditions outline the additional terms that apply to Fleetwise's provision of the Services to the Client that relate to Software and Hardware and must be read in conjunction with Part I (Standard Terms).

1. Scope and Licensing of Software

1.1 Subject to the terms of this Agreement, Fleetwise grants the Client a non-exclusive, non-transferable licence to access and use the Software during the Initial Term and any Renewal Term, solely for the Client's internal business purposes and in connection with the Services.

1.2 The Client must:

- a. use the Software only in accordance with this Agreement;
- b. use the Software solely for the purposes of accessing and using the Services; and
- c. maintain the confidentiality and security of all usernames, passwords, and access credentials associated with the Software, and ensure that only authorised personnel access the Software.

1.3 The Client must not:

- a. copy, distribute, sublicense, sell, transfer, lease, or assign the Software;
- b. reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code or underlying algorithms of the Software;
- c. create any derivative works based on the Software;
- d. allow any unauthorised third party to access or use the Software or use the Software to provide services to, or for the benefit of, any third party;
- e. knowingly interfere with, disrupt, or attempt to gain unauthorised access to the Software, its related systems, or networks; or
- f. overload, abuse, or interfere with the Software, API, infrastructure, including through excessive API calls, automated requests, or attempts to bypass rate limits.

1.4 The Client acknowledges and agrees that:

- a. Fleetwise will use commercially reasonable efforts to ensure the Software meets generally accepted software development standards, but does not warrant that the Software will be error-free or operate without interruption;
- b. the Client is solely responsible for acquiring, maintaining, and securing all computer hardware, software, telecommunications, and internet services required to access and use the Software, and for any data loss or system damage resulting from such use;
- c. the Client is solely responsible for maintaining the confidentiality and security of all login credentials, passwords, API keys, and access authorisations for Software or Hardware;
- d. certain Software and Hardware may be automatically updated, patched, or modified by Fleetwise or third party providers without notice; and

- e. Fleetwise is not responsible for any temporary interruption, functional change, or impact arising from automatic updates.
- 1.5 The Client indemnifies Fleetwise for any loss or damage arising from unauthorised access caused by weak credential management, password sharing, or failure to follow reasonable security practises.
- 1.6 Fleetwise reserves the right to monitor the Client's use of the Software to ensure compliance with this Agreement. Upon reasonable notice, Fleetwise may audit the Client's systems and records relating to the use of the Software, provided such audit is conducted during normal business hours and in a manner that does not unreasonably interfere with the Client's business operations. The Client must provide all reasonably required assistance to help any such audit.
- 1.7 Fleetwise may suspend the Client's access to the Software, in whole or in part, without liability:
- a. if Fleetwise reasonably believes that the Client has breached this Agreement;
 - b. if fraudulent, compromised, or unauthorised activity is suspected;
 - c. if required by law or a government authority; or
 - d. to prevent harm to the Software, Fleetwise's systems, or other users.
- 1.8 Fleetwise will use reasonable efforts to notify the Client in advance of any suspension and to reinstate access promptly once the issue is resolved.
- 1.9 The Client acknowledges that the use of certain Hardware and Software supplied under this Agreement requires compliance with third party end user licence agreements ("Third Party EULAs") and the Client:
- a. agrees to review, accept and comply with all applicable Third Party EULAs. Continued use of the Hardware or Software constitutes acceptance of such terms; and
 - b. indemnifies Fleetwise from any loss, claim, liability or cost arising from the Client's breach of any Third Party EULA.
2. Fleetwise's Obligations
- 2.1 Fleetwise will use its commercially reasonable endeavours to provide the Services, and to repair or replace the Hardware or correct any defect in the Hardware during the applicable warranty period. Fleetwise will not be liable for any fault, outage, or impairment in the Software and/or Hardware where such issue:
- a. does not materially adversely affect the Client's use of the Services;
 - b. results from atmospheric conditions, physical obstructions, radio interference, or interference caused by services provided by third parties;
 - c. is due to Fleetwise being unable to access the Asset or site as reasonably required;
 - d. results from any act or omission by the Client or any person under the Client's control (except where such act or omission was expressly instructed by Fleetwise in writing); or
 - e. arises due to circumstances beyond Fleetwise's reasonable control, including but not limited to failures of Service Providers or other third parties on which Fleetwise relies in delivering the Services.

- 2.2 For the avoidance of doubt, Fleetwise may interrupt or suspend the Services for operational, maintenance, upgrades, outages, third party failures or emergency reasons. Fleetwise will use reasonable endeavours to ensure that any such interruption or suspension is for the shortest duration reasonably practicable.
- 2.3 Fleetwise's obligations under this clause are subject to the Client not being in arrears with any payment due under this Agreement and not otherwise being in material breach of this Agreement.

3. Client Obligations

3.1 The Client must:

- a. comply with all reasonable directions, requirements, and specifications issued by Fleetwise from time to time, including those relating to site access and Hardware installation;
- b. ensure that its IT systems and infrastructure meet the minimum technical requirements notified or published by Fleetwise from time to time;
- c. report any required maintenance or repairs to the Hardware to Fleetwise as soon as reasonably practicable, and allow such maintenance or repairs to be carried out by Fleetwise or its authorised Service Providers; and
- d. immediately notify Fleetwise of any loss of or damage to the Hardware.

3.2 The Client must not use Hardware or Software:

- a. in fail safe, life support, emergency or hazardous environments;
- b. for control of dangerous equipment or materials;
- c. in breach of any export control or sanctions regulations;
- d. with unauthorised SIM cards or modified firmware;
- e. for surveillance or monitoring that breaches legal or privacy rules.

3.3 The Client agrees to pay, upon invoice, the costs incurred by Fleetwise in repairing or replacing the Hardware, regardless of whether the loss or damage was caused by the Client. Fleetwise will determine, in its sole discretion, whether to repair or replace the Hardware.

3.4 The Client and its personnel must undertake any training, upskilling, or familiarisation in the use of the Software as Fleetwise reasonably considers necessary.

3.5 Where Fleetwise supplies the Client with third-party hardware or software, the Client must use such third-party items strictly in accordance with the applicable licence terms or terms of supply.

3.6 The Client must not alter, tamper with, or modify the Hardware or its installation in any way.

4. Provisioning of Assets, Hardware and Services

4.1 Fleetwise agrees to either sell or rent the Hardware to the Client, and the Client agrees to either purchase or rent such Hardware from Fleetwise, as specified in the Contract Cover Sheet.

4.2 The Client must make the relevant Asset(s) available during Business Hours for the installation of Hardware:

- a. within 90 days of the signing of this Agreement; or

- b. in the case of additional Hardware added to the scope of this Agreement after signing, within 90 days of Fleetwise's written confirmation to supply that Hardware.
- 4.3 Where the Client purchases or rents additional Hardware and/or Software from Fleetwise after the Commencement Date, such Hardware, Software and/or Services will be governed by the terms of this Agreement. The Client will be liable to pay for the additional Hardware, Software and associated Services on the earlier of:
 - a. the date of installation, dispatch or use; or
 - b. 90 days after the Client's written request for such Hardware, Software and/or Services.
- 4.4 The Client must provide Fleetwise with a minimum of 24 hours' written notice to cancel or postpone a scheduled installation, warranty repair, additional support or any other Service. If notice is not received within this timeframe or the Asset is not available at the agreed booking time, Fleetwise may charge the Client the full amount of the Service Fees attributable to the applicable service, including travel time. Notice must be sent to support@fleetwise.co.nz.
- 5. Hardware Warranty, Maintenance & Decommissioning
 - 5.1 All Hardware supplied by Fleetwise is covered by a one-year warranty, provided that the Client is not in arrears and all payments due under this Agreement are up to date.
 - 5.2 Fleetwise makes no warranty that any third party will continue to operate any cellular or telecommunications network or infrastructure required for the operation of the Hardware.
 - 5.3 Warranty repairs will be carried out as directed by Fleetwise or its authorised Service Providers.
 - 5.4 This warranty does not cover:
 - a. general wear and tear;
 - b. damage caused by moisture, vandalism, weather, physical damage, tampering, or electrical damage;
 - c. any misuse of the Hardware;
 - d. freight; or
 - e. travel expenses.
 - 5.5 Hardware not supplied by Fleetwise is subject to any warranties provided by the manufacturer or third-party supplier, and Fleetwise makes no representations or warranties in respect of such hardware.
 - 5.6 All installation, removal, wiring, device configuration, or servicing of Hardware must be performed only by Fleetwise or by a Service Provider expressly authorised in writing by Fleetwise.
 - 5.7 Fleetwise accepts no responsibility or liability for any damage, malfunction, personal injury, or operational issue arising from:
 - a) Installation or servicing performed by an unauthorised party;
 - b) Installation performed contrary to Fleetwise or third party manufacturer instructions; or

- c) Any Client modifications or interference with the Hardware, SIM card, wiring, mounting, or configuration.
- 5.8 The Client indemnifies Fleetwise for all claims, loss, or damage arising from any unauthorised installation, modification, or interference.
- 5.9 Fleetwise does not guarantee, and is not liable for, any components of the Asset to which Fleetwise Hardware is installed or fitted, including the Asset's wiring or batteries.
- 5.10 If Fleetwise investigates an issue and determines it is not a system-wide fault or Hardware fault, the Client may be charged for the investigation, including in cases involving tampering, misuse, or intentional interference. Fleetwise will notify the Client of such charges from time to time.
- 5.11 If the Client asks that Fleetwise cease Services in relation to a specific Asset, this will not affect Fleetwise's right to continue charging the applicable Service Fees until the end of the Initial Term or Renewal Term. If the Client nominates a replacement Asset, new Hardware may be installed and a decommissioning fee and the standard installation fee will apply.
- 5.12 Fleetwise will not be liable for any damage, loss, or injury arising from the use, failure, or malfunction of any Hardware, unless directly caused by Fleetwise's gross negligence. The Client is solely responsible for:
- a. ensuring that the Hardware is operated in accordance with Fleetwise's instructions and industry standards;
 - b. preventing unauthorised interference or tampering with the Hardware; and
 - c. maintaining a safe environment around the Hardware, including any Asset to which it is affixed.
- 5.13 Fleetwise will not be liable for any damage, loss, or failure of Hardware caused by installation, maintenance, or servicing undertaken by a third party, unless that third party was expressly authorised in writing by Fleetwise to carry out such work.
- 5.14 Fleetwise may charge a callout or repair fee for any Services required as a result of tampering, user-caused faults, or issues falling outside the scope of this warranty.
6. Additional Support
- 6.1 If the Client requests support that falls outside the scope of standard installation services (as described in Clause 4 – Part II of this Agreement) or Warranty repairs (as described by Clause 5 – Part II of this Agreement), Fleetwise may charge the Client for such support at its then current rates, including charges for:
- a. travel;
 - b. time spent onsite by Fleetwise or its authorised Service Providers;
 - c. any replacement parts, consumables, or materials used during the service visit; and
 - d. freight.

- 6.2 Fleetwise will use reasonable efforts to notify the Client in advance of the applicable charges and obtain confirmation from the Client before dispatching a Service Provider for non-warranty or non-emergency support.

7. Ownership

- 7.1 If rented, ownership of all Hardware (including any replacements or components) remains with Fleetwise and does not pass to the Client upon delivery.
- 7.2 Whether the Hardware is rented or owned, the Client acknowledges that the Hardware may include a SIM card, which remains the property of Fleetwise. The Client must not remove, tamper with, or use the SIM card for any purpose other than the operation of the Hardware as supplied by Fleetwise. If the Client breaches this Clause 7 – Part II, Fleetwise may, at its discretion, recover from the Client any charges incurred through such misuse, cancel the Agreement, and repossess the SIM card. The Client remains liable for all charges payable under this Agreement or any associated rental agreement.
- 7.3 Intellectual Property rights in the Hardware, Software, and any developments arising from the provision of Services under this Agreement will be governed by Clause 6 – Part I of this Agreement. For clarity, all such rights remain the exclusive property of Fleetwise (or its licensors), and the Client must not copy, alter, interfere with, or make the Software or Hardware available to any third party.
- 7.4 The Client must notify Fleetwise of any actual, threatened, or suspected infringement of any Intellectual Property right and of any claim by any third party that any use of the Software infringes any rights of any other person, as soon as that infringement or claim comes to the Client's notice. The Client must do all such things as may reasonably be required by Fleetwise to assist Fleetwise in pursuing or defending any proceedings in relation to any such infringement or claim.
- 7.5 The Client acknowledges that the indemnities relating to Intellectual Property rights and other liabilities are governed by Clause 11 - Part I of this Agreement.

8. End of Term

- 8.1 At the end of the Initial Term or Renewal Term, the Client must arrange for all Hardware to be removed by a Fleetwise approved Service Provider and returned to Fleetwise in good working order (fair wear and tear excepted).
- 8.2 The Client is responsible for all costs associated with the removal, packaging, and return of the Hardware, which will be charged at Fleetwise's then current rates.
- 8.3 If any Hardware is not returned, is returned damaged, or is not in working order (other than due to fair wear and tear), Fleetwise may charge the Client for the cost of repair or replacement.

9. Technical Clauses

- 9.1 Fleetwise's public and paid services, including its websites and applications, use cookies. By using the Services, the Client consents to Fleetwise's use of cookies in accordance with applicable privacy laws and Fleetwise's privacy policy.
- 9.2 Fleetwise offers access to a REST API for integration purposes. Fleetwise may provide limited, no-cost support for direct technical questions regarding the REST API but makes no guarantee of resolution or turnaround time.
- 9.3 Use of the Fleetwise REST API is subject to a fair use policy. Clients must not exceed 10 requests per second. Fleetwise reserves the right to modify this limit at any time without notice and may suspend or restrict access for breach of this policy.
- 9.4 Administrator users of Fleetwise Services are solely responsible for managing their own users, including sending invitations, setting appropriate permissions, and ensuring user details are accurate and up to date. All users must be assigned to a valid and operational email address capable of receiving messages.
- 9.5 Fleetwise may, from time to time, release new features and system upgrades. Fleetwise is under no obligation to provide the Client with access to any new features, upgrades, or versions of the Software unless expressly agreed.
- 9.6 Fleetwise may, at its sole discretion, modify, discontinue, or remove any feature of the Software. Fleetwise will have no obligation to rebuild, replace, or compensate the Client for any discontinued feature.

10. Interpretation and Relationship to Part I

- 10.1 These Software and Hardware Terms (Part II) are to be read in conjunction with Part I (Standard Terms) of this Agreement. Where this Part II addresses the same subject matter as any clause in Part I, the provisions of Part I apply unless expressly modified in this Part II. The Client acknowledges that any default under these Software and Hardware Terms constitutes a default under the Agreement as a whole.

- 10.2 Terms defined in Part I apply in Part II. Additional definitions for Part II are set out below:

"Asset" means the vehicle, equipment or asset to which the Hardware is installed, fitted or attached.

Part III: Fuelcard Services

The terms set out in this Part III of these Terms and Conditions outline the additional terms that apply to Fleetwise's provision of the Services to the Client that relate to Fuelcard Services and must be read in conjunction with Part I (Standard Terms).

1. Supply of Fuelcard Products

- 1.1 Fleetwise agrees to supply Fuelcard Services to the Client.
- 1.2 The Client agrees that Cardholders may use Fuelcards to obtain Fuelcard Products from authorised Fuelcard Acceptor Sites.
- 1.3 Fleetwise may update or vary the list of authorised Fuelcard Acceptor Sites at any time without prior notice to the Client.

2. Fuelcard

- 2.1 Fleetwise may issue Fuelcards to the Client for use in obtaining Fuelcard Products, subject to the following:
 - a. Fleetwise may, in its sole discretion, issue or refuse to issue any Fuelcard, and is not required to provide reasons for that decision; and
 - b. use of the Fuelcards is subject to the terms set out in this Agreement, and any additional Fuelcard terms notified by Fleetwise from time to time. These Terms and Conditions may be amended by Fleetwise without prior notice.
- 2.2 The Client remains liable to Fleetwise for all charges incurred using the Fuelcards, whether or not such use was authorised by the Client or any Cardholder.

3. Quantity of Fuelcard Products Purchased

- 3.1 For each supply of Fuelcard Products at a Fuelcard Acceptor Site, a transaction receipt may, if asked for, be issued by the Fuelcard Acceptor Site. The quantity recorded on the transaction receipt will be the quantity of the Fuelcard Products supplied to the Client under this Agreement.

4. Title and Risk in the Fuelcard Products

- 4.1 Title to, and risk in, the Fuelcard Products passes to the Client:
 - a. in respect of Fuel, at the moment the Cardholder uplifts the nozzle at the Fuelcard Acceptor Site for dispensing into the Client's vehicle; and
 - b. in respect of all Other Items or services, upon the Cardholder taking possession.

5. Fuel Discounts

- 5.1 Where applicable, the Client may receive a Discount on Fuel pricing, either off the National Price or Pump Price, as agreed. Any applicable Discount will be reflected in the Client's invoice.
- 5.2 Fuel pricing and any applicable Discounts will apply to purchases made at Fuelcard Acceptor Sites and any other sites notified by Fleetwise from time to time, subject to the following:

- a. Discounts do not apply to purchases from Convenience Merchants and Fuel will be invoiced at Pump Price;
- b. Discounts may not be used in conjunction with any other promotional or discount scheme;
- c. Discounts are subject to the volume of Fuel purchased and may be amended from time to time; and
- d. Discounts are subject to change without notice.

5.3 Nothing in this Agreement obliges Fleetwise to supply, or the Client to purchase, any minimum quantity, volume, or value of Fuelcard Products.

6. Cancellation of Cards

6.1 The Client is responsible for cancelling any Fuelcards it no longer requires. Fleetwise will only cancel specific Fuelcards upon receiving clear written instructions from the Client identifying the card(s) to be cancelled. The Client remains liable for all transactions up to the time the cancellation is processed.

7. Payment and Credit Terms

7.1 Fleetwise will include all purchases of Fuelcard Products made using a Fuelcard in the monthly invoice issued to the Client.

7.2 The Client must ensure that all amounts payable to Fleetwise, including those in respect of Fuelcard Products, are paid in accordance with Part I (Standard Terms) of this Agreement. All invoicing, payment, interest, and enforcement provisions in Part I apply to amounts payable under this Part III.

7.3 Any Credit Limits provided to the Client are at Fleetwise's sole discretion and may be varied, suspended, or withdrawn at any time by notice, including where:

- a. the Client has not provided required security or guarantees to Fleetwise;
- b. any security or guarantee provided is, in Fleetwise's reasonable opinion, inadequate; or
- c. the Client fails to make payment of any amount owing under this Agreement when due.

7.4 In addition to its other rights under this Agreement, Fleetwise may, at its sole discretion and without prior notice, suspend or refuse the supply of Fuelcard Products if:

- a. any amount payable remains overdue beyond its due date; or
- b. Fleetwise reasonably determines that the Client's account activity or payment history raises concerns about its ability to meet ongoing payment obligations.

7.5 Fleetwise may, by written notice, vary the Client's credit terms at any time, including by:

- a. requiring prepayment for Fuelcard Products; or
- b. asking for financial security acceptable to Fleetwise, such as a bank guarantee or standby letter of credit, as a condition for continued supply.

8. Taxes and Duties

8.1 If there is any change in taxes, duties, levies, or other charges imposed by any government or regulatory authority in connection with the Fuelcard Products or their supply, Fleetwise may adjust the pricing of the Fuelcard Products to reflect such changes. The Client must pay or reimburse Fleetwise for any such taxes, duties, or charges that apply to the Fuelcard Products or their supply, whether imposed at the time of supply or subsequently.

9. Claims

9.1 The Client must notify Fleetwise in writing of any claim relating to the Fuelcard Products, including claims about quantity, quality, or pricing, as soon as reasonably possible after becoming aware of the issue, and in any event no later than three (3) days after the date of the relevant purchase. If no such notice is received within that period, the Client is deemed to have accepted the Fuelcard Products and waives any related claims.

9.2 All claims must be supported by relevant documentation, as reasonably required by Fleetwise.

9.3 Fleetwise, after consultation with the Client, will in its sole discretion determine the validity of any claim submitted in accordance with this clause, and, if valid, how the claim will be resolved. Receipt of a claim does not of itself constitute acceptance of liability by Fleetwise.

9.4 If a claim is not resolved to the Client's satisfaction, any related legal proceedings must be commenced within three (3) months after Fleetwise provides a written response under clause 9.3. Failing this, the claim is time-barred.

9.5 The Client must take all reasonable steps to mitigate any loss or damage it suffers in connection with a claim. Fleetwise will not be liable for any losses resulting from the Client's failure to mitigate.

9.6 Fleetwise will not be liable for any quality issues arising from the mixing or commingling of Fuelcard Products with other substances by the Client, whether on board the Client's vehicle or by any other means.

9.7 The Client assumes all risk and liability for the use of Fuelcard Products, whether used alone or in combination with other substances or processes.

10. Ownership of Fuelcard

10.1 All Fuelcards issued to the Client or any Cardholder remain the property of Fleetwise at all times and must be returned immediately upon request.

11. Security of Fuelcard

11.1 The Cardholder must sign the Fuelcard immediately upon receipt, using their usual signature, for identification purposes and to assist in preventing unauthorised or fraudulent use.

11.2 The Cardholder must keep the Fuelcard secure at all times and must not permit any other person to use it.

11.3 The Cardholder must keep the associated PIN confidential, must not disclose it to any unauthorised person, and must take all reasonable steps to prevent its loss, theft, or misuse.

11.4 Neither the Client nor any Cardholder may assign or transfer any rights or obligations under this Agreement without the prior written consent of Fleetwise.

11.5 The Client is responsible for ensuring that the Fuelcard and PIN are protected against loss, theft, or unauthorised use and must ensure that all Cardholders comply with the obligations in this Agreement relating to the use and security of Fuelcards.

12. Use of the Fuelcard

12.1 The Client must ensure that all Fuelcards are used strictly in accordance with this Agreement and will be liable for, and indemnify Fleetwise against, any loss or damage resulting from any breach of this Agreement by any Cardholder.

12.2 Fuelcards may be used by authorised Cardholders to purchase Fuelcard Products from Fuelcard Acceptor Sites, subject to any applicable restrictions and Card Limits.

12.3 Fuelcard Products will be charged either:

- a. at the Fuelcard Price set by Fleetwise; or
- b. at the price charged by the Fuelcard Acceptor Site, as applicable.

12.4 Fleetwise may, in its sole discretion, apply Discounts to the Fuel and may vary any such Discount from time to time, in accordance with Clause 5 - Part III of this Agreement.

12.5 Cardholders must strictly comply with all applicable Card Limits. Cardholders must not, directly or indirectly, take any action, including through repeated transactions that circumvents or attempts to circumvent those limits. For clarity, a Cardholder may not split a single purchase into multiple transactions to avoid a Card Limit, or permit any Fuelcard Acceptor Site to do so.

12.6 If a Cardholder fails to enter a valid PIN and obtain online authorisation after three (3) attempts during a single transaction, the Fuelcard will be declined and no purchase will be authorised.

12.7 All transactions are subject to the applicable Card Limits set for the Client. Manually processed transactions require additional authorisation from Fleetwise and may be refused at Fleetwise's discretion.

12.8 The Client is responsible for informing its Cardholders of the permitted Fuelcard Products and any purchase restrictions that apply.

12.9 It is the Cardholder's responsibility to verify that all transaction details on the Fuelcard Acceptor Site's receipt are accurate and to retain the receipt for the Client's reconciliation and record-keeping purposes.

12.10 Upon cancellation, termination or expiry of any Fuelcard, the Client must:

- a. immediately destroy the affected Fuelcard; and
- b. ensure no further purchases are made using the Fuelcard.

12.11 All outstanding amounts owing to Fleetwise as at the date of cancellation, termination, or expiry will become immediately due and payable, without the need for further demand.

13. Account Queries

13.1 All queries relating to individual Fuelcard purchases, lost or damaged Fuelcards, or requests for replacement or additional Fuelcards must be directed to the Fleetwise support centre.

13.2 The Client must notify Fleetwise of any query or dispute relating to an account within thirty (30) days of the date of the relevant statement or invoice. Fleetwise will not be obliged to consider any query or dispute raised after this period.

14. Costs

14.1 The Client must pay all applicable taxes, transaction fees, account fees, card fees, and recovery costs relating to Fuelcard usage, in accordance with the terms set out in Part I of this Agreement.

14.2 Fleetwise reserves the right to vary these costs with written notice to the Client.

15. Loss and Unauthorised Use of the Fuelcard

15.1 If the Client or any Cardholder becomes aware or has reason to suspect that a Fuelcard is lost, stolen, misused, or that the PIN has been disclosed or compromised, the Client must immediately notify Fleetwise and provide all relevant details.

15.2 The Client remains liable for all transactions made with the Fuelcard until Fleetwise receives such notice. Any delay in notification may increase the Client's liability for unauthorised transactions.

15.3 If the Fuelcard or PIN is misused as a result of the Cardholder's failure to comply with the terms of this Agreement, whether or not intentional, the Client may be held liable at Fleetwise's discretion for any resulting loss.

16. Replacement Fuelcard

16.1 Fleetwise will issue a replacement Fuelcard if asked by the Client, subject to payment of any applicable fees and provided the Client is not in breach of this Agreement. The replacement Fuelcard will be subject to the terms of this Agreement as if it were the original Fuelcard. Fleetwise may charge a fee for issuing a replacement.

17. Liability in Relation to Fuelcard Transactions

17.1 Fleetwise is not a supplier of Fuelcard Products. Any issues, including disputes or complaints, relating to the quality, quantity, or suitability of Fuelcard Products purchased using a Fuelcard are solely the responsibility of the Fuelcard Acceptor Site from which those Fuelcard Products were obtained. The Client acknowledges and agrees that such matters must be resolved directly with the Fuelcard Acceptor Site, and not with Fleetwise.

17.2 Fleetwise will not be liable for any loss, damage, or expense incurred by the Client or any Cardholder arising from a failed or declined transaction, including, but not limited to, any refusal by a Fuelcard Acceptor Site to honour or accept the Fuelcard, for any reason whatsoever.

18. Waiver and Non Exclusivity of Remedies

18.1 The rights and remedies provided under this Agreement are cumulative and not exclusive of any rights or remedies provided by law or equity.

19. Interpretation and Relationship to Part I

19.1 These Fuelcard Terms (Part III) are to be read in conjunction with Part I (Standard Terms) of this Agreement. Where this Part III addresses the same subject matter as any clause in Part I, the provisions of Part I apply unless expressly modified in this Part III. The Client acknowledges that any default under these Fuelcard Terms constitutes a default under the Agreement as a whole.

19.2 Terms defined in Part I apply in this Part III. Additional definitions for Part III are set out below.

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

“Cardholder” means any person authorised by the Client to use a Fuelcard.

“Convenience Merchant” means a merchant who sells Fuel but no Fuel Discount is offered to the Client.

“Card Limits” means each of the following limits collectively:

“Transaction Limit” is the maximum dollar amount available per purchase, per card as set by the Client.

“Daily Limit” is the maximum dollar amount available per day, per card as set by the Client.

“Monthly Limit” is the maximum dollar amount available per month, per card as set by the Client.

“Credit Limit” means the maximum amount of credit which Fleetwise will extend to the Client for Fuelcard Purchases.

“Discount” means discount in cents per litre either off the National Price or Pump Price available to the Client.

“Fuel” means all grades of petrol and diesel.

“Fuelcard” means any card issued by Fleetwise to the Client for use by the Cardholder, or any replacement card issued from time to time.

“Fuelcard Acceptor Sites” includes sites selling Fuel that are authorised by Fleetwise to accept Fuelcards including truckstops, selected distributor supplied locations and Convenience Merchants (sites may change without prior notice).

“Fuelcard Price” means Fleetwise’s price for Fuelcard Products as amended by Fleetwise from time to time.

“Fuelcard Products” means all Fuel and Other Items purchased with a Fuelcard in accordance with its terms of use.

“Fuelcard Services” means the supply of Fuelcards, facilitation of access to Fuelcard Products, and related credit arrangements.

“Other Items” means goods and any other petroleum products which are not Fuel and, subject to the terms the Fuelcard is issued on, are permitted to be purchased by the Cardholder by presentation of the Fuelcard.

“PIN” stands for the Personal Identification Number issued by Fleetwise to, or selected by, the Cardholder in relation to a Fuelcard.

“National Price” means price on the Fuelcard National Price list and may change from time to time without prior notification.

“Pump Price” means price displayed at the pump for Fuel at the time of purchase at the Fuelcard Acceptor Site.

Part IV: Disposal of Vehicles

The terms set out in this Part IV of these Terms and Conditions outline the additional terms that apply to Fleetwise's provision of the Services to the Client that relate to the Disposal of Vehicles and must be read in conjunction with Part I (Standard Terms).

1. Scope of Authority

- 1.1 The Client authorises Fleetwise, as part of the Services, to act on the Client's behalf in relation to the marketing, sale, and transfer of title to the Goods. This authority includes, without limitation, the ability to:
 - a. store, inspect, and market the Goods for sale using the Services;
 - b. publish and/or announce, at any time before offering the Goods for sale:
 - i. information concerning the nature of the Client and the context in which the Client offers to supply the Goods; and
 - ii. the results of the Vehicle Condition Report and the condition of the Goods, including any defects or damage;
 - c. sell the Goods on the Client's behalf via the Fleetwise Trade Me store or any other sales channel, at Fleetwise's discretion;
 - d. collect the proceeds from the sale of the Goods, apply those proceeds to pay any settlement amount required to discharge a Security Interest, deduct any Service Fees due to Fleetwise, and transfer ownership of the Goods to the buyer; and
 - e. respond to, negotiate, and settle any buyer claim on the Client's behalf.
- 1.2 Each sale of Goods constitutes an agreement directly between the Client and the buyer.
- 1.3 Fleetwise is not responsible for enforcing any agreement between the Client and the buyer and will not be required to take action in the event of buyer default.

2. Reserve Price and Manner of Sale

- 2.1 The Client acknowledges and agrees that the Start/Reserve Price has been set by the Client in reliance on its own judgment and not in reliance on any statements, warranties, or representations made by or on behalf of Fleetwise. To the maximum extent permitted by law, all express or implied representations or warranties made by Fleetwise in relation to the Start/Reserve Price are expressly excluded.
- 2.2 Where a Start/Reserve Price is specified for any Goods, the Client authorises Fleetwise to offer the Goods for sale by listing the Goods on Fleetwise Trade Me Store, or offering the Goods through any other sales channel, at any price equal to or greater than the Start/Reserve Price.
- 2.3 Fleetwise may, at its sole discretion:
 - a. carry out a Vehicle Condition Report on the Goods; and
 - b. display the results of the Vehicle Condition Report in connection with the sale of the Goods.

3. Risk, Storage and Vehicle Use

- 3.1 Where Fleetwise has accepted Goods for sale but those Goods are not located on Fleetwise premises, all risk in the Goods remains with the Client.
- 3.2 Subject to clause 3.3, if Goods are damaged or destroyed while located on Fleetwise premises, Fleetwise may, at its sole discretion, either:
 - a. repair the Goods; or
 - b. compensate the Client for any loss in value directly attributable to the damage.Fleetwise will not be liable for any consequential loss, including loss of profit, arising from such damage.
- 3.3 Fleetwise may, in its sole discretion, store any Goods indoors or outdoors. Fleetwise is not liable for any additional cleaning required as a result of how or where the Goods are stored.
- 3.4 The Client acknowledges and agrees that Fleetwise may:
 - a. allow potential buyers to inspect and/or test drive the Goods;
 - b. store the Goods alongside other goods and relocate it within the premises as needed; and
 - c. use the Goods for any other reasonable purpose related to the sale of the Goods.

4. Fleetwise Announcements at Sale

- 4.1 The Client acknowledges that Fleetwise sells Goods via the Fleetwise Trade Me store, or through any other sales channel, under an "In Trade" status. As a result, any sale of Goods through this platform may be subject to the Consumer Guarantees Act 1993, depending on the nature of the Goods and the buyer.

5. Fees

- 5.1 Where Goods are accepted by Fleetwise and offered for sale using any of the Services, the Client must pay Fleetwise the Service Fees specified in the Contract Cover Sheet, which may also include charges for commission, Trademe fees, change of ownership, grooming, sign writing removal and transport.
- 5.2 Fleetwise may perform additional services if asked by the Client, subject to the terms and pricing set out in the Contract Cover Sheet.
- 5.3 The Client must pay all Service Fees at the time specified in the Contract Cover Sheet and in accordance with Part I of this Agreement. Where any Service Fees remain unpaid, Fleetwise may deduct such amounts from the proceeds of sale before remitting any balance to the Client.
- 5.4 If any Goods are not sold, the Client must pay all Service Fees due to Fleetwise in full prior to collecting the Goods.

6. Client Covenants and Warranties

6.1 The Client represents and warrants to Fleetwise that the Client has disclosed to Fleetwise all information concerning the nature of the Client and the context in which the Client supplies the Goods, for example whether the Client has used the Goods and how the Goods have been used.

6.2 The Client represents and warrants to Fleetwise that:

- a. the Client is the legal owner of the Goods or has the authority of the legal owner to sell the Goods;
- b. the Goods are not liable to be seized or forfeited to any person and that all securities, monies owing and registered or unregistered Security Interests over the Goods have been discharged in full;
- c. all details of the Goods provided by the Client are true and correct and where the Goods are a vehicle, that the information provided to Fleetwise for the purpose of display on the vehicle consumer information notice is true and correct and that the odometer reading on the vehicle is accurate;
- d. the Client has disclosed to Fleetwise all information concerning the Goods which might be relevant to a buyer. Where the Goods are a vehicle, relevant information to a buyer which the Client must disclose to Fleetwise includes ownership records, details of any mechanical fault in the vehicle, details of any accident, water or other damage to the vehicle notwithstanding the repair or replacement of the damaged part of the vehicle, any chassis repair and/or whether the vehicle has ever been an insurance write off; and
- e. if the Goods are subject to road user charges, that all charges are paid up to date at time of sale.

6.3 The Client covenants with Fleetwise:

- a. not to place any bid on Goods or to encourage or procure any other person to bid on the Client's behalf on Goods in which the Client has a material interest; and
- b. to pay any GST charged on the sale of Goods to the Inland Revenue Department when due.

6.4 The Client is deemed to repeat the warranties, representations and covenants in clause 6 at the time the Goods are unconditionally sold.

7. Sale Proceeds

7.1 The Client irrevocably authorises and directs Fleetwise to pay the proceeds of the sale in the following order:

- a. Service Fees invoiced by Fleetwise and any costs which Fleetwise are authorised to charge the Client under this Agreement as listed in clause 5.1;
- b. outstanding road user charges, if any, and any tax, including GST, which Fleetwise is required to account for to any authorised person;
- c. any other monies owing by the Client to Fleetwise;
- d. any claims relating to the Goods of the type referred to in clause 7.4; and
- e. subject to clause 7.3, the balance to the Client or as the Client directs in writing.

- 7.2 Subject to clause 7.3, Fleetwise will deliver to the Client a statement setting out the amounts referred to in clause 7.1 and pay to the Client the balance of proceeds of sale referred to in clause 7.1(e) after the 20th day of the month following the month of sale.
- 7.3 The Client agrees that Fleetwise may withhold payment of any proceeds of sale until Fleetwise reasonably considers that no amounts are due or likely to be due under clauses 7.1(a) to 7.1(d).
- 7.4 Where Fleetwise receives or reasonably anticipates a claim from a buyer, or any other claim in relation to the sale of the Goods, the Client irrevocably appoints Fleetwise as its attorney to do any of the following, at Fleetwise's sole discretion:
- a. hold all or part of the sale proceeds until Fleetwise is reasonably satisfied the claim is resolved or no longer likely;
 - b. disclose the Client's name, address, and contact details to the buyer or claimant, to enable them to pursue the claim directly against the Client, if Fleetwise considers it appropriate;
 - c. consider, negotiate, settle, or otherwise resolve any such claim on the Client's behalf; and
 - d. resell the Goods and apply the resale proceeds towards any amount paid or liability incurred by Fleetwise in connection with the claim, without limiting the Client's continuing obligations under this Agreement.
- 7.5 Fleetwise may notify the Client of all buyer claims and while Fleetwise may involve the Client in the resolution of any buyer claim, Fleetwise will have the absolute right to resolve any claim in any manner Fleetwise sees fit. If Fleetwise incurs any third party cost in resolving a claim, including the cost of purchasing goods or services to resolve or remedy any claim, or incurs legal costs which relate to a claim, Fleetwise will provide the Client with full details of those costs and the Client must immediately pay the costs to Fleetwise or Fleetwise will deduct those costs from proceeds held for the Client.

8. Indemnity and Exclusion of Liability

- 8.1 The Client indemnifies Fleetwise against all losses, liabilities, penalties, damages, costs, and expenses, including legal costs, suffered or incurred by Fleetwise arising out of or in connection with:
- a. any claim made by a buyer or other third party in relation to the Services provided under this Part IV or the sale of any Goods;
 - b. any actual or alleged breach of the Consumer Guarantees Act 1993, Fair Trading Act 1986, Motor Vehicle Sales Act 2003, or any other applicable law or consumer protection standard;
 - c. the Client's failure to provide complete or accurate information to Fleetwise in connection with the Goods or the Services; and
 - d. any breach of warranty - statutory or otherwise - relating to the Goods, including any representations made by the Client or its agents.
- 8.2 Fleetwise is not responsible for any act or omission by a buyer, including delay, breach, or failure to complete a purchase.

8.3 To the fullest extent permitted by law, Fleetwise excludes all liability to the Client for any indirect, consequential, or special loss (including loss of profit, business, or opportunity), any loss arising from the Goods not being sold, and any liability relating to Fleetwise's marketing of the Goods or settlement of any buyer claim.

9. Interpretation and Relationship to Part I

9.1 These Disposal Terms (Part IV)) are to be read in conjunction with Part I (Standard Terms) of this Agreement. Where this Part IV addresses the same subject matter as any clause in Part I, the provisions of Part I apply unless expressly modified in this Part IV. The Client acknowledges that any default under these Disposals Terms constitutes a default under the Agreement as a whole.

9.2 Terms defined in Part I apply in this Part IV. Additional definitions for Part IV are set out below:

"Disposal" means the sale of the Goods by Fleetwise on behalf of the client.

"Goods" means property which the Client has authorised Fleetwise to sell in accordance with these terms, including but not limited to vehicles.

"Security Interest(s)" means a security interest which is registered on the Personal Property Securities Register under the Personal Property Securities Act 1999.

"Vehicle Condition Report" means the vehicle inspection undertaken by Fleetwise.