

# 1link Vehicle Network Supplier Terms and Conditions

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These terms and conditions apply to all services on the 1link Vehicle Network site found at [www.1link.co.uk](http://www.1link.co.uk)

## 1. Interpretation

In this contract unless the context otherwise requires:

**“Commencement Date”** means the day on which the Contract is signed by the Customer or the date upon which the Customer registers on-line;

**“Company”** means epyx Limited;

**“Contract”** means the agreement between the Company and the Customer incorporating these conditions, any registration form completed online or offline and the Fees charged;

**“Customer”** means the organisation the Company makes this Contract with;

**“Fees”** means the Registration Fees and the fees in respect of Units.;

**“Information”** means the visual, textual or other information published or otherwise made available (directly or indirectly) on the Internet via the Service;

**“Intellectual Property Rights”** means all the interests and rights of any nature whatsoever to and in any intellectual property, whether such rights and interests exist at the time of this Contract or come into existence afterwards, including without limitation: copyright (including copyright in software), database rights, designs, inventions, know-how, confidential information and any application for and registrations of them and the right to apply for any form of protection for any of these things and rights in every part of the world;

**“Internet”** means the global data network comprising interconnected networks using TCP/IP (“Transmission Control Protocol/Internet Protocol”);

**“Order and Registration Form”** – means the form completed and signed by the Customer as part of the Customer's agreement to subscribe to the Service, this includes where the Customers subscribe using the on-line process;

**“Registration Fees”** means the fees payable by the Customer to the Company as defined in clause 24;

**“Service”** means the electronic trading platform on website [www.1link.co.uk](http://www.1link.co.uk) relating to the automated vehicle procurement (“Vehicle Network”) solution and any other optional services, including any other computer applications, or interfaces as may be authorised by the Company to connect to 1link Vehicle Network;

**“Service Documentation”** means all documentation supplied by the Company in connection with the provision of the Service either in electronic or written form;

**“Software”** means the program(s) which will be made available by the Company to the Customer for use by the Customer to gain access to the Service;

**“Subscriber”** means a person or organisation licensed by the Company to use the Service under a contract;

**“Third Party Systems”** means any software program(s) used in or incorporated into the Software or the provision of the Service which is not owned by the Company;

**“Transaction”** means any event where the Customer receives and accepts a record via the Service from another Subscriber in relation to a vehicle order, for which the fee applicable is one Unit as detailed in clause 24;

**“Unit”** means the currency available within the Service that is used as payment in respect of Transactions as described in clause 7.3.

1.1 This Contract sets out the entire agreement between the Customer and the Company for the provision of the Service.

1.2 Any gender includes all genders and references to the singular shall include reference to the plural and vice versa.

1.3 Reference to either party shall include a reference to that party's employees, agents and sub-contractors.

## 2 Provision of a Licence to use the Service

2.1 The Company reserves the right to refuse the Customer provision of the Service.

2.2 Subject to clause 2.1 the Company agrees to provide the Customer with a licence (the “Licence”) to use the Service, on a non-exclusive basis and on the terms and conditions of this Contract, and only in the United Kingdom.

2.3 This Contract does not include the provision of telecommunication services necessary for connection to the Service. The Customer is responsible for arranging the appropriate telecommunications service and suitable hardware or communications equipment necessary to enable access to the Service.

## 3 Terms of Licence

3.1 The Customer must not transfer, assign or sub-licence the right to use the Software or Service or attempt to do so.

- 3.2 The Licence may not be transferred or assigned without the prior written agreement from the Company.
- 3.3 The Service must not be used:
- 3.3.1 fraudulently or in connection with a criminal offence;
  - 3.3.2 to send, receive, upload, download, use or re-use any material which is offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights;
  - 3.3.3 to cause annoyance, inconvenience or needless anxiety whether to the Company, any other Subscriber or any other person by any means including using the Service for persistently sending requests for information without a corresponding level of transaction or failing to monitor and respond to communications;
  - 3.3.4 to send unsolicited advertising or promotional material; or
  - 3.3.5 other than in accordance with the acceptable use policies of any connected networks;
  - 3.3.6 in a way, whether knowingly or otherwise, which would impair the operation of the Service or put it in jeopardy.
- 3.4 All Intellectual Property Rights in the Software and Service Documentation remains the property of the Company or its licensors.
- 3.5 Without written consent and without affecting any applicable statutory rights under the Copyright, Designs and Patents Act 1988 (as amended by the Copyright (Computer Program) Regulation 1992) the Customer must not and must not permit any other person to:
- 3.5.1 disassemble, reverse engineer, decompile or in any other way interfere with the Software;
  - 3.5.2 modify the Software;
  - 3.5.3 copy, reproduce, download or make the Software available online;
  - 3.5.4 create any new software partly or wholly based on the Software or otherwise commercially exploit the Software for any purpose.
- 3.6 The Customer must tell the Company immediately if any third party makes or threatens to make any claim or issue legal proceedings against the Customer or the Company relating to use of the Service and the Customer will, upon request, immediately stop the act or acts complained of. If the Company asks the Customer must confirm the details of the claim(s) in writing.
- 3.7 The Customer's use of the Service to respond to other Subscribers is solely at the Customer's risk. If the Customer uses the Service any contract resulting from an order made with another Subscriber deriving from Information obtained via the Service will be a binding contract with the appropriate Subscriber and not with the Company. It will be subject to such conditions as the Customer and that Subscriber agree. The Company does not monitor the content of Subscribers' terms and conditions or their websites and any links to third party websites provided via the Service are provided for convenience only.

#### **4 The Company Obligations**

- 4.1 The Company warrants that use of the Software and Services will not infringe any third party rights.
- 4.2 The Company will take reasonable steps to ensure that the Software is free of any viruses, malware or unauthorised programming devices that might, or might be used to, access, modify, delete, damage, deactivate or disable the Service or data held within the Service, but the Company recommends that the Customer uses their own software to protect against such threats.
- 4.3 The Company will take reasonable steps to ensure that the Service is continuous and that no interruption in access to the Service relating to an event within the control of the Company is longer than 90 minutes.
- 4.4 The Company gives no guarantee that the Software and/or the Service will never be faulty but the Company agrees to use all reasonable endeavours to correct reported faults as soon as the Company reasonably can. Faults should be reported by telephone, electronic mail or in writing to the Customer Service Helpdesk details of which can be found at the Help section of the Service.
- 4.5 The Customer acknowledges that the Company may vary the technical specification of the Service from time to time and make updates or modifications to the Software.

#### **5 Suspension**

- 5.1 The Customer acknowledges that the Company may temporarily suspend the Service;
- 5.1.1 for contravention by the Customer of clauses 3, 6, 7 and 9 and in such instance the Company will not restore the Service until the Company receive an adequate assurance from the Customer that there will be no further contravention; and
  - 5.1.2 for operational reasons, in which instance the Company will give the Customer as much notice as is reasonably practical and shall use reasonable endeavours to restore the Service as soon as reasonably practical.

#### **6 The Customer Obligations**

- 6.1 The Customer warrants that all necessary licences and consents (including those from any third party licensors) have been obtained and that the Customer will comply with all legislation, instructions or guidelines issued by regulatory authorities, relevant licensors and any other codes of practice which relate to Information or are applicable or relevant to the Customer's business.
- 6.2 The Customer is expressly responsible for the creation, maintenance, design and configuration of all Information or other data the Customer transmits via the Service and the Customer must ensure that any appropriate approvals or authorities to use such data or information have been obtained where necessary. The Customer must also ensure that all contact details are included in a clear and legible form sufficient for receipt of any enquiries or complaints regarding Information and any other material which the Customer transmits via the Service. The Customer expressly acknowledges that the Company has the right to disclose such contact details to any person with an enquiry or complaint if they are unable to locate those details.

- 6.3 The Customer agrees to indemnify the Company and keep the Company indemnified fully and effectively against all actions, proceedings, claims, demand, damages and costs (including legal costs on a full indemnity basis) incurred as a result of any breach of the warranties set out in this clause 6.
- 6.4 The Customer agrees to notify the Company immediately of any changes to the information that is provided when registering to the Service and the Customer warrants that all information supplied at the time of registration to the Service and any changes notified to those details will be true, complete and accurate in all respects.
- 6.5 The Customer agrees to use best endeavours to respond to availability requests, orders or requests for information received via the Service within the agreed service level standard times described for the Service. Where it is necessary for the Company to contact the Customer due to any delay in response the Customer hereby agrees that the Company may levy a charge to the account of the Customer by way of recovering any costs incurred in such contact.
- 6.6 The Customer expressly agrees that access to Subscriber data is provided for the purpose of effecting Transactions through the Service and cannot be used by the Customer for any purposes other than for proper use of the Service.
- 6.7 The Customer agrees that, subject to the Service being made available by the Company, where it trades with another Subscriber in respect of an activity which can be the subject of a Transaction, then all such activity will be processed via the Service as Transactions.
- 6.8 The Customer agrees that they will not levy any increase in charges for any products or services supplied to any other Subscriber as a result of such products or services being transacted through the Service.
- 6.9 The Customer agrees that the Company may distribute any information related to the Service or any associated optional services or associated sales information to the Customer in the form of written or electronic communication, and the Customer further agrees to keep their contact details up to date within the Service in order to receive such communications.
- 6.10 The Customer agrees that where any customer satisfaction survey data is collated in relation to the use of the Service, such data may be displayed to other third parties as indicators of service performance of the Customer, and that any such views are views of individuals subject to services provided by the Customer, and in no way reflect or represent the views of the Company.
- 6.11 The Customer expressly confirms that they are registered for Value Added Tax ("VAT") in the United Kingdom and that the VAT registration number provided on-line or off-line on the registration form is correct. The Customer will notify the Company immediately if the VAT registration is cancelled or a new VAT Registration Number is issued.
- 6.12 It is the responsibility of the Customer to resolve any disputes in respect to Transactions with the relevant Subscriber although the Company shall, on request, and at the Customer's cost, provide such information from the Service as may be relevant in attempting to settle any dispute.

## **7 Fees**

- 7.1 Registration Fees are payable in advance, the first payment being due prior to the provision of the Service or optional service and thereafter as detailed in clause 24 for the continuance of the Contract. The Customer authorises the Company to charge the Registration Fees.
- 7.2 The Customer acknowledges and agrees that unless the specific terms of registration allow otherwise, Registration Fees reflect the Customer's use of the Service to process Transactions in relation to work being undertaken at a single physical location, and that the Company reserves the right to apply additional fees where the Customer accesses the Service on behalf of multiple sites.
- 7.3 Fees in respect of Transactions are payable in advance through Units purchased per account incorporated within the Service.
- 7.4 When the balance of Units is insufficient to allow the processing of a Transaction, the Customer must purchase additional Units from the range available on the Service in order to continue processing Transactions.
- 7.5 All Fees are exclusive of VAT which the Customer must also pay and under no circumstances shall any advance payments be refundable.
- 7.6 The Company reserves the right on giving the Customer 7 days notice to vary any of the Fees for the Service at any time such variations to take effect no earlier than on the expiry of the said 7 day notice period.
- 7.7 The Customer acknowledges that the Company has the right to instigate normal credit checks if the Company, in its sole discretion, deems this to be appropriate and to disclose details and this Contact to a credit reference agency for the purpose of assisting with credit decisions and fraud prevention. The Company reserves the right to refuse any payment method tendered without reason.
- 7.8 If the payee account holder refuses to make a payment, the Company may charge the Customer for the bank charges and extra administration costs the Company may incur.
- 7.9 The Customer acknowledges that where the Company provides optional services and where any such optional service attracts additional Fee(s) these may be charged to the Customer.

## **8 Security**

- 8.1 In order to access the Service the Customer will be issued with a set of access credentials. The Customer is responsible for the security and proper use of all such access credentials relating to the Service and must take all necessary steps to ensure that they are kept confidential, secure, used properly and not disclosed to other people. The Company may periodically require the Customer to change the access credentials and shall notify the Customer accordingly.
- 8.2 If the Customer forgets any access credentials, the Customer must contact the Customer Support Centre by telephoning the Help Desk number shown in clause 22 and upon satisfaction of such security checks as the Company may determine, the Customer will be given new access credentials to enable use of the Service.

8.3 The Customer must inform the Company immediately if there is any reason to believe that any access credentials have become known to someone not authorised to use them or if any access credentials are being or are likely to be used in an unauthorised way.

8.4 The issue and control of access credentials relating to use of the Service by employees or agents of the Customer is solely the responsibility of the Customer.

## 9 Data Protection

9.1 In this clause 9 the following expressions shall, unless the context otherwise requires, have the meanings given below:

**“Categories of Data Subject”** has the meaning as set out in the Data Protection Appendix;

**“Customer Default”** means any act or omission of the Customer or of the Customer's Personnel which directly or indirectly results in a breach of the duties and obligations imposed on the Customer under this clause 9 including any breach of Data Protection Legislation or of the Company's reasonable instructions;

**“Customer's Personnel”** means all employees, staff, other workers, agents and consultants of the Customer and of any Sub-Suppliers who are employed or engaged or who were at any time employed or engaged in the provision of the services or a relevant part of the services from time to time;

**“Data Controller”** has the meaning given in the Data Protection Legislation;

**“Data Processor”** has the meaning given in the Data Protection Legislation;

**“Data Protection Appendix”** means the data protection appendix which forms part of the Contract;

**“Data Protection Legislation”** means GDPR and the Privacy and Electronic Communication Regulations 2003, any amendment, consolidation or re enactment thereof, any legislation of equivalent purpose or effect enacted in the United Kingdom, or, where relevant, the European Union, and any orders and binding guidelines and instructions issued under any of the above by relevant national authorities, a judicial authority in England and Wales or, where relevant, a European Union judicial authority;

**“Data Subjects”** has the meaning given in the Data Protection Legislation and for the purposes of the Contract shall include the Categories of Data Subject;

**“Duration of Processing”** has the meaning as set out in the Data Protection Appendix;

**“EEA”** means the European Economic Area;

**“GDPR”** means the General Data Protection Regulation (EU) 2016/679 as in force from time to time;

**“Nature of Processing”** has the meaning as set out in the Data Protection Appendix;

**“Personal Data”** has the meaning given in the Data Protection Legislation and for the purposes of the Contract shall include the Types of Personal Data;

**“Purpose of Processing”** has the meaning as set out in the Data Protection Appendix;

services means any services provided by the Customer to another Subscriber via the Service;

**“Sub-Processing Contract”** any contract between the Customer and a third party pursuant to which the Customer agrees to sub-contract any element of the services which include any processing;

**“Sub-Supplier”** means Customer's Personnel and any third party with whom the Customer enters into a Sub-Processing Contract (and its servants or agents), and any sub-contractors of such third party (and its servants and agents);

**“Subject Matter of Processing”** has the meaning as set out in the Data Protection Appendix; and

**“Types of Personal Data”** has the meaning as set out in the Data Protection Appendix.

9.2 Except as set out on in clauses 9.3 and 9.27, to the extent that the provision of the services involves the processing of the Personal Data by the Customer acting as a sub-processor of the Company (who is acting as a Data Processor on behalf of a Subscriber which is a Data Controller), the parties have agreed to enter into the terms and conditions of this clause 9 for the purposes of ensuring compliance with the Data Protection Legislation.

9.3 In respect of Personal Data which comprises details of users, employees, agents and workers appointed by any relevant Subscriber who uses the services, the Company is acting as a Data Controller and the Customer is acting as a Data Processor. The parties have agreed to enter into the terms and conditions of this clause 9 for the purposes of ensuring compliance with the Data Protection Legislation.

9.4 In relation to the Personal Data, the Customer will comply with:

- (a) all applicable provisions or aspects of the Data Protection Legislation;
- (b) the Contract including the terms and conditions of this clause 9; and
- (c) the Company's reasonable written instructions from time to time.

9.5 To the extent that the provision of the services involves the processing of the Personal Data by the Customer acting as a sub-processor of the Company (who is acting as a Data Processor on behalf of a Subscriber which is a Data Controller) or as Data Processor, then for the purposes of the Data Protection Legislation the Customer and the Company agree that:

- (a) the subject matter of the processing is the Subject Matter of Processing;
- (b) the nature of the processing is the Nature of Processing;
- (c) the purpose of the processing by the Customer is the Purpose of Processing;
- (d) the duration of the processing is the Duration of Processing;
- (e) the type(s) of Personal Data to be processed are the Types of Personal Data; and
- (f) the categories of Data Subject are the Categories of Data Subject.

9.6 The Customer undertakes and warrants that:

- (a) it shall process the Personal Data solely on behalf of the Company and the relevant Data Controller of the Personal Data;
- (b) the Customer's processing of the Personal Data shall take place according to the terms of the Contract including this clause 9;

- (c) Personal Data shall only be processed by the Customer to the extent and in the manner that the Company has instructed the Customer to do so pursuant to the Contract and/or the Company's or relevant Data Controller's reasonable written instructions from time to time and in each case only for the purpose of the services (which for the avoidance of doubt shall include any written instructions by the Data Controller to the Customer to input any Personal Data into the Service on behalf of that Data Controller);
- (d) it shall ensure (and procure in the case of the Customer's Personnel) that the processing of the Personal Data shall take place exclusively in the EEA and that no transfer of or access to or other processing of the Personal Data to/from any jurisdiction or territory outside of the EEA and/or to an international organisation occurs or is permitted without the prior written and explicit consent of the Company and relevant Data Controller (in each case) and then only in a manner which is compliant with Data Protection Legislation applicable to the Company (unless the Customer is required to do so by applicable European Union or European Member State law to which the Customer is subject and in such a case, the Customer shall inform the Company of that legal requirement before such transfer or access occurs or is permitted, unless that law prohibits such information on important grounds of public interest); and
- (e) it shall comply with the obligations of a Data Processor under the Data Protection Legislation.

9.7 The Customer shall, unless otherwise directed by Company or the relevant Data Controller:

- (a) process the Personal Data (on behalf of the Company and the relevant Data Controller) exclusively for the provision of the services and only for the Purposes of the Processing;
- (b) ensure that the Customer's Personnel authorised to process the Personal Data are subject to appropriate confidentiality obligations and are trained as to, and informed of, the terms of this clause 9;
- (c) ensure that neither the Customer nor any of the Customer's Personnel publish, disclose or divulge Personal Data to any third party unless required by the Contract or as directed in writing to do so by the Company or the relevant Data Controller;
- (d) at the choice of the Company, permanently and fully delete or return all of the Personal Data (including all copies in whatsoever format) to the Company upon the expiry or termination (howsoever caused) of the Contract unless European Union or European Member State law requires storage of the Personal Data and in that case to the extent required by such laws only;
- (e) not alter, store, copy, disclose or use the Personal Data, except as necessary for the performance by the Customer of its obligations under the Contract, or as otherwise expressly authorised by the Contract or in accordance with the Company's or the relevant Data Controller's reasonable written instructions from time to time;
- (f) assist the Company in a timely manner where the Company or any relevant Data Controller conducts a data protection impact assessment;
- (g) assist the Company and any relevant Data Controller in ensuring their compliance with the Data Protection Legislation with respect to security and breach notifications; and
- (h) assist the Company in any consultations with or investigation or audits by any supervisory authority.

9.8 The Customer shall immediately inform the Company of any intention by the Customer to change or otherwise amend the services which may lead to new categories of processing or the processing of new types of data and the Company shall have the right to object to such changes or other amendments.

9.9 The Customer shall (and shall procure that the Customer's Personnel shall):

- (a) promptly notify the Company and the relevant Data Controller in relation to any legally binding request for disclosure of the Personal Data by a supervisory authority, law enforcement or other applicable authority unless otherwise prohibited by applicable law;
- (b) promptly notify the Company and the relevant Data Controller in relation to all requests received directly from the Data Subjects without responding to that request, unless required to do so by law or unless otherwise authorised by the Company to do so;
- (c) assist the Company (and the relevant Data Controller) in responding to any request from a Data Subject to exercise their rights under the Data Protection Legislation; and
- (d) assist the Company (and any relevant Data Controller) in taking any actions deemed necessary or appropriate to deal with complaints or allegations of or in connection with a failure to comply with the Data Protection Legislation.

9.10 The Customer shall appoint a data protection officer where required by the Data Protection Legislation.

9.11 If the Customer cannot provide compliance or foresees that it cannot comply with its obligations under the Contract including this clause 9, it shall promptly inform the Company of its inability to comply, in which case the Company may suspend the Customer's entitlement to process the Personal Data in any way that the Company (at its discretion) decides by notice in writing to the Customer.

9.12 In the event that the Customer breaches any of the written instructions of the Company and any relevant Data Controller or the Data Protection Legislation by determining the purposes and means of processing, the Customer may be considered to be a Data Controller in respect of that processing.

9.13 The Company agrees that it will comply with its obligations as a Data Processor under the Data Protection Legislation.

9.14 The Company (or any relevant Data Controller) may, upon giving the Customer reasonable notice, carry out an audit in relation to the services to satisfy itself that the Customer is complying with the Data Protection Legislation in respect of the processing of the Personal Data and the Customer shall (and shall ensure that Customer's Personnel shall) if requested by the Company or the relevant Data Controller, promptly provide a detailed, written description of the security, technical and organisational measures implemented.

9.15 The Customer shall immediately within 1 business day and at the latest within 24 hours of becoming aware,

inform the Company and any relevant Data Controller of any breach of the Data Protection Legislation committed, or suspected to have been committed, by the Customer which affects or may affect the Personal Data. In such circumstances, the Customer shall implement measures necessary to secure Personal Data and to mitigate potential adverse effects on the Data Subjects and shall agree the same with the Company and any relevant Data Controller without undue delay.

9.16 The Customer shall promptly inform the Company if, in its opinion, a written instruction of the Company is not in compliance with Data Protection Legislation.

9.17 The Customer agrees that, having regard to the state of the art and the costs of implementation and the nature, scope context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of the Data Subjects, the Customer shall implement appropriate security, technical and organisational measures to ensure a level of security appropriate to the then current risk, including inter alia:

- (a) the pseudonymisation and encryption of the Personal Data;
- (b) the ability to ensure ongoing confidentiality, integrity, availability and resilience of processing systems and the services;
- (c) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;
- (d) the prevention of the use of the Personal Data without prior written authorisation;
- (e) the prevention of the reading, copying, modification, or removal of the Personal Data without the authorisation of the Company during processing;
- (f) a process for ensuring that it is possible to check and establish whether and by whom Personal Data has been accessed;
- (g) a process for preventing unauthorised persons from gaining access to the Personal Data and ensuring that only appropriately trained Customer Personnel have access to the Personal Data;
- (h) a process for preserving, so far as possible, the integrity of Personal Data and prevent any loss, unauthorised disclosure, theft, manipulation or interception of or degradation in the Personal Data;
- (i) a process for making secure back-up copies of the Personal Data on such regular basis as is reasonable for the particular data concerned as required by the Customer's disaster recovery and business continuity plan to ensure that availability and access to the Personal Data can be restored in a timely manner in the event of a physical or technical incident;
- (j) within 1 business day of becoming aware immediately notifying the Company and the relevant Data Controller if any of the Personal Data is lost, is disclosed without authorisation, becomes corrupted, is damaged or is deleted accidentally, or if the Customer reasonably suspects that any of the same has occurred; and
- (k) a process for ensuring that appropriate physical access controls, system access controls, data access controls, input controls, order controls to Personal Data are in place.

9.18 In the event that the Personal Data is corrupted or lost or sufficiently degraded as to be unusable due to an act or omission of the Customer or any third party for whom the Customer is responsible after its receipt or creation by the Customer or during any collection, processing, storage and transmission of the Personal Data or otherwise as a result of any Customer Default, in addition to any other remedies that may be available to the Company under the Contract or otherwise the Company shall have the option to require the Customer, at the Customer's own expense, to restore or procure the restoration of the Personal Data to the Company's satisfaction that Customer has made good such corruption, loss or degradation of the Personal Data.

9.19 In the event that the Personal Data is corrupted or lost or sufficiently degraded as to be unusable otherwise than due to an act or omission of the Customer, or a Customer Default or any action or inaction of a third party for whom the Customer is responsible, the Customer shall (if required by the Company) nevertheless carry out such remedial actions as may be necessary to restore the Personal Data as the Company may require and the reasonable cost of the said remedial actions shall be borne by the Customer.

9.20 The Customer shall not sub-contract any of its processing obligations performed on behalf of the Company under this clause 9 to a Sub-Supplier without the prior written consent of the Company.

9.21 The Customer shall inform the Company of its intention to engage a Sub-Supplier for any of its processing and the Company shall have the right to oppose the appointment of a new Sub-Supplier and shall notify the Customer of any objections in writing as soon as possible after receipt of the Customer's notice relating to such Sub-Supplier.

9.22 Where the Customer enters into a Sub-Processing Contract with the consent of the Company, it shall do so only by way of a Sub-Processing Contract with the Sub-Supplier which imposes the same obligations on the Sub-Supplier as are imposed on the Customer under the Contract and shall be imposed on the Sub-Supplier by way of a contract or other legal act under Union or Member State law, in particular, providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the Data Protection Legislation.

9.23 The Company (and the relevant Data Controller) shall be granted control and examination rights of the processing of the Sub-Supplier according to the Contract and the Data Protection Legislation. This will include the right of the Company to obtain information from the Customer, upon written request, on the substance of the Sub-Processing Contract and the implementation of the processing obligations within the Sub-Processing relationship, where necessary by inspecting the relevant Sub-Processing Contract.

9.24 Where the Sub-Supplier fails to fulfil its obligations under a Sub-Processing Contract, the Customer shall remain fully liable to the Company for the performance of the Sub-Supplier's obligations under such written Sub-Processing Contract.

9.25 The provisions of this clause 9 shall apply to any sub-sub-supplier engaged by the Sub-Supplier.

9.26 The Customer agrees to indemnify and keep indemnified the Company fully and effectively against all actions, proceedings, claims demands and losses (including legal costs on a full indemnity basis) which the Company may sustain or incur as a result of any breach of the provisions of this clause 9 in respect of the Customer's

undertakings as a Data Processor (including as a sub-processor) of Personal Data.

9.27 The parties acknowledge that for the purposes of the Data Protection Legislation, and in respect of business contact details of the Customer's employees, agents and sub-contractors the Company will act as Data Controller and shall process such Personal Data only for the purposes of contract administration, providing the Service and for marketing. In order to provide the Service and to allow the Customer to provide the services and enter into a Transaction the Company may disclose such Personal Data to other Subscribers and to other members of the Company's group of companies.

## **10 Termination and Suspension**

10.1 Unless otherwise agreed in writing, this Contract and the provision of the Service, or any element thereof, including any optional service, may be terminated at any time, in accordance with clause 15, by:

10.1.1 the Company giving 3 months written notice to the Customer; or

10.1.2 the Customer giving 3 months written notice to the Company.

10.2 The Company can suspend the provision of the Service to the Customer or end this Contract (or both) with immediate effect on giving notice if:

10.2.1 the Customer commits any breach of any provision of this Contract;

10.2.2 the Company believes the Service is being used in a manner prohibited under clause 3 or 6;

10.2.3 the Customer fails to pay any sum due under this Contract or any payment method tendered is rejected;

10.2.4 bankruptcy or insolvency proceedings are brought against the Customer or if the Customer does not make any payment under a judgement of a Court on time, or the Customer makes an arrangement with creditors, or a receiver or administrator is appointed over, any of the assets or the Customer goes into liquidation.

10.3 If the Customer gives notice to the Company pursuant to clause 10.1.2 the Customer agrees to pay the Fees for the Service up to the expiry of the next anniversary of the Commencement Date following the expiry of the written notice referred to in clause 10.1.2 and the Customer hereby agrees to pay such Fees at the time of serving the written notice referred to in clause 10.1.2.

10.4 If the Company gives notice to the Customer pursuant to clause 10.1.1 or 10.2, the Customer shall pay all Fees which are due for the Service, including any unpaid fees for the remainder of the Service and Fees paid in advance shall not be refundable.

10.5 For the avoidance of doubt the Customer will continue to be liable to pay all Fees due for the Service during any period in which the Customer fails to comply with this Contract including for any period when the Service is suspended pursuant to clause 5.1.1.

10.6 No delay, forbearance or indulgence in acting upon a breach of this Contract by the Customer, will be regarded as a waiver of the Company's rights in respect of that or any subsequent breach.

10.7 Where the Customer subscribes to use any additional optional services via the Service then any termination of such additional services must also be received by the Company in writing in accordance with clause 10.1.

## **11 Dispute Resolution**

11.1 Any dispute arising under this Contract shall in the first instance be reported to senior management representatives of both Parties who will endeavour to resolve such dispute to the mutual satisfaction of both Parties. In the first instance and within 7 days following a written request from either the Customer or the Company in relation to a dispute or the failure of a Party to perform its obligations as defined, a senior representative of both Parties shall meet to attempt to agree a resolution. If the dispute is not resolved within 14 days of the meeting described above, then directors of both Parties shall meet in an attempt to agree a resolution. Should this fail to result in a mutually agreeable resolution within 14 days of this meeting, either Party shall be entitled to issue legal proceedings in order to resolve the dispute.

## **12 Liability**

12.1 Except as expressly provided in these terms and conditions, all warranties, statements, terms and conditions or undertakings which may be implied by statute, common law, custom or trade or otherwise are hereby excluded and this clause 12 specifies the entire liability of the Company including liability for negligence.

12.2 If the Company fails to comply with any term of the Contract, or is negligent, the Customer may be entitled to recover compensation for any costs suffered. However, whilst the Customer acknowledges that the Company accepts liability for death and personal injury, or fraudulent misrepresentation the Company shall not be required to compensate the Customer for loss caused by anything beyond our reasonable control and therefore:

12.2.1 as the Company has no control over the information which can be transmitted by Subscribers using the Service and that the Company does not examine the use to which the Customer or other Subscribers put the Service or the nature of the Information the Customer or they are sending or uploading, the Company therefore excludes all liability of any kind for:

a. the transmission or reception of any Information via the Service or accuracy or quality of any such Information;

b. any Information or any other material published or otherwise made available by the Customer or any other person on the Site; and

c. the terms of any contract or other agreement concluded between the Customer and any other Subscriber;

12.2.2 the Company shall not be liable whether in contract, tort or otherwise for the acts or omissions of other providers of telecommunications services or for faults in or failures of their or the Customer's apparatus.

12.3 The Company shall not be liable in contract, tort or otherwise for special, indirect or consequential loss (including loss of profit) or loss of data, costs or other expenses whatsoever even if such loss was reasonably foreseeable or the Company had been advised of the possibility of the Customer incurring the same.

12.4 Subject to clauses 12.2 and 12.3 the Company's liability in contract, tort or otherwise (including liability for

negligence) under or in connection with this Contract shall not exceed in aggregate the total sums payable by the Customer to the Company pursuant to this Contract.

12.5 Subject to clause 12.3 the Company shall indemnify the Customer against any damages (including costs) that may be awarded or agreed to be paid to any third party in respect of any claim or action that the normal operation, possession or use of the Service (excluding any Third Party Systems) by the Customer during the currency of this Contract infringes the Intellectual Property Rights of the said third party ("Intellectual Property Infringement") provided that:

12.5.1 the Customer gives notice to the Company of any Intellectual Property Infringement forthwith of becoming aware of the same;

12.5.2 the Customer gives the Company the sole conduct of the defence, claim or action in respect of any Intellectual Property Infringement and not at any time admit liability or otherwise attempt to settle or compromise the said claim or action except upon the Company's express instructions; and

12.5.3 the Customer acts in accordance with the Company's reasonable instructions and gives the Company such assistance that the Company shall reasonably require in respect of conduct of the said defence.

12.6 The Company shall have no liability to the Customer in respect of any Intellectual Property Infringement to the extent the same is due to any unauthorised alterations, modification or adjustment to the Software without the Company's consent.

12.7 Each provision of this clause 12 operates separately in itself and survives independently of the others.

### **13 Variation**

13.1 The Company may change the terms and conditions of the Contract at any time upon giving the Customer 14 days' notice of such changes before they take effect or immediately if required to do so by law.

### **14 Force Majeure**

14.1 The Company shall not be liable for any delay or failure to perform its obligations if such delay and failure is due to something beyond its reasonable control.

14.2 Where any event beyond the reasonable control of the Company causes the entire Service to be completely unavailable for a period exceeding 5 consecutive days (the "Outage Period"), the Company will extend the Customer's then current period of registration by the Outage Period at no additional cost to the Customer.

### **15 Notice**

15.1 Notices given under a Contract must be in writing (excluding email and facsimile) to the addressee as described in clause 15.3.

15.2 Notices given under a Contract in respect of the termination of the Contract, or any optional services under the Contract to which the Customer subscribes, must be in writing (excluding email and facsimile) and delivered by a licensed postal operator using a recorded delivery method, to the addressee as described in clause 15.3, and the receiving party reserves the right to request from the other party evidence of such notice having been sent.

15.3 Notices given under a Contract should be sent:

15.3.1 to epyx Limited at Heath Farm, Hampton Lane, Meriden, CV7 7LL or any alternative address which the Company notifies to the Customer at any time.

15.3.2 to the Customer at the address specified when registering for the Service or any alternative address which is notified to the Company at any time or, to its registered office.

### **16 Confidentiality**

16.1 All information supplied to the Company by the Customer in connection with the Contract which may reasonably be considered as commercially sensitive shall not be disclosed to any third party unless required by the laws of any competent jurisdiction or by any national or international regulatory authority or is necessary for the proper performance of either party's respective obligations under this Contract. This obligation of confidentiality will not apply to any information which is in the public domain or was known by the recipient prior to disclosure pursuant to the Contract, or is designed to be distributed or displayed in relation to the intended use of the Service as defined by the Company.

16.2 The Customer may not undertake any marketing or public relations activity in connection with its subscription to the Service without the Company's prior approval.

### **17 Bribery**

17.1 The Customer and the Company agree to adhere to the provisions of the Bribery Act 2010 (the "Relevant Requirements") and in particular warrant that no financial or other advantage that would contravene the Relevant Requirements has been offered either directly or indirectly from one party to the other party in exchange for the arrangement or performance of any part of the Contract.

17.2 Both Parties shall maintain in place their own policies and procedures to ensure compliance with the Relevant Requirements and shall promptly report to the other party any request or demand for any undue financial or other advantage that would contravene the Relevant Requirements received in performance of their obligations under the Contract.



## **18 Third Party Rights**

18.1 No term of the Contract is intended to confer a benefit on, or be enforceable by, any person other than the Customer and the Company.

## **19 Severable Conduct**

19.1 In the event of any of the provisions set out in the Contract being unenforceable or void for any reason, each term and condition shall be deemed to be severable from the remaining terms and conditions and such remaining terms and conditions shall remain in full force and effect.

## **20 Law/Jurisdiction**

20.1 The Service is targeted at United Kingdom residents only and any Customer who is not a resident of the United Kingdom should not use the Service.

20.2 This Contract is governed by the laws of England and Wales and the Customer and the Company submit to the exclusive jurisdiction of the courts of England and Wales.

## **21 Use of Data**

21.1 The Company will collect specific data about the Customer when they register for the Service and when the Customer transmits or receives Information via the Service and the Customer expressly acknowledges that the Company and any member of the group of companies of which the Company is a member may use such data or Information (excluding any Personal Data) for publicity purposes or for the purposes of encouraging other Subscribers to transact via the Service or as otherwise permitted through proper use of the Service.

21.2 The Customer agrees that the Company may collate data (excluding any Personal Data) from the Service in order to provide analysis and reports for the benefit of the Company, the Customer, other Subscribers and third parties.

21.3 The Company and other Subscribers may use "cookies" to collect information. A cookie is a small data file that is written into a visitor's hard drive for the purposes of record keeping and to make improvements.

21.4 For the avoidance of doubt it is the Customer's responsibility to maintain a full and accurate record of all data (including Personal Data and invoices) transmitted through the Service. The Company reserves the right to delete any such data in accordance with its retention policy, a copy of which is available on request from the Company.

## **22 Support**

Helpline Support Services: Call 08700 11 88 00

## **23 Slavery**

23.1 The Customer and the Company agree to adhere to the provisions of the Modern Slavery Act 2015 (the "Relevant Requirements") and shall promptly report to the other party if in breach, or likely to breach, the Modern Slavery Act 2015 ("the MSA"), or if it receives a communication from any person alleging breach of the MSA in the arrangement or performance of any part of the Services set out in the Contract.

23.2 Both Parties shall maintain in place their own policies and procedures to ensure compliance with the Relevant Requirements.

23.3 Both Parties shall ensure that all sub-contractors shall be bound in writing by terms equivalent in all respects to those set out in this clause. Both Parties shall provide evidence in writing of their compliance with this clause promptly on request.

23.4 Both Parties shall provide on written request a statement setting out the steps that have been taken during the previous year to ensure that the activities prohibited by the MSA are not taking place in their business or in their supply chain, such statement to include, as a minimum, information on the following:

23.4.1 details of its supply chain;

23.4.2 confirmation of whether it is required (independently of this Contract) to comply with Section 54 of the MSA;

23.4.3 any policies that it has relating to compliance with the MSA;

23.4.4 the parts of the business and supply chain where there is a risk of the activities prohibited by the MSA taking place and the steps it has taken to assess and manage that risk;

23.4.5 its effectiveness in ensuring that the activities prohibited by the MSA are not taking place in business or the Supply Chain measured against such performance indicators as it has set for itself; and

23.4.6 details of the training about the activities prohibited by the MSA that are provided to its staff.

23.5 Breach of this clause shall be deemed to be a material breach of the Contract.

## **24 Fee Types**

Registration Fee – an annual Fee charged in advance in relation to each of the Customer's Passenger Car, LCV and HGV franchise entries registered to the Service.

Unit - is the mechanism for charging for Transactions and additional Units are available to advance purchase in Unit packs as described in the Order and Registration Form.

Vehicle Delivery App – an annual Fee charged in advance for the delivery inspection application, available on Android and IOS, for the inspection of vehicles, as identified on each Order and Registration Form.

## **Data Protection Appendix for 1link Vehicle Network**

### **1. Processing by the Customer as data sub-processor**

#### **1.1 Subject Matter of Processing**

The processing of Personal Data is required for the Customer to receive the benefit of the Service and for the Customer to be able to supply the services to other Subscribers.

#### **1.2 Nature of Processing**

The Customer will process Personal Data on behalf of the Company in order for the Customer to provide the services to other Subscribers.

#### **1.3 Purpose of Processing**

The Customer processes Personal Data on behalf of the Company in order that the Subscribers may obtain the benefit of the services via the Service.

The Customer may process Personal Data for the purpose of managing and improving the services conducted by members of its group.

#### **1.4 Duration of the Processing**

The Customer will process Personal Data on behalf of the Company for the duration of the Contract.

### **2. Types of Personal Data**

The following list comprises the types of Personal Data that the Customer will process on behalf of the Company:

- Full name
- Telephone number(s) (including mobile telephone number(s))
- Email address(es)
- Address(es)
- Details of employer
- Job title
- Any other Personal Data which the relevant Subscriber inputs into the Service or which the relevant Subscriber requests the Customer to input into the Service on its behalf.

### **3. Categories of Data Subject**

The following list comprises the categories of Data Subject to which the Types of Personal Data relates:

- Drivers of vehicles for which the relevant Subscriber is responsible;
- Details of users, employees, agents and workers appointed by the relevant Subscriber to use the services and the Service and who are authorised to approve and enter into Transactions