



**SOGO Mobility Limited - TERMS AND CONDITIONS**  
**Unregulated Consumer Hire Agreement**

These Terms apply to the leasing of all vehicles by SOGO Mobility Limited (“**SOGO**”) to any Customer (SOGO and the Customer together being “**the Parties**”).

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

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement the following words shall mean:

- 1.1.1 “**Account Activation**” means the Account Activation Form entered into by you and us, setting out your details;
- 1.1.2 “**Additional Charges**” means the charges set out at Clause 21 and such other additional charges specified in any Schedule or Special Terms and such other charges as may be agreed in writing by us;
- 1.1.3 “**Additional Equipment**” has the meaning given in Clause 17.1;
- 1.1.4 “**Administration Fee**” means any charges identified as such in the Lease Agreement and associated documentation which are required to cover the cost of certain administration actions/items in connection with the Lease Agreement;
- 1.1.5 “**Agreement**” means the agreement entered into between you and us which governs the hiring of all Vehicles by you including the Account Activation Form, Lease Agreement and Proposal Form (as applicable), these Terms and any Schedules or Special Terms document;
- 1.1.6 “**Application Form**” means a request by you to hire vehicles from us;
- 1.1.7 “**Business Day**” means any day (other than a Saturday or Sunday) on which banks are open to the public for business in the City of London;
- 1.1.8 “**Business Hours**” means the hours in which our offices are open for business as set out from time to time at the following URL: [www.sogomobility.co.uk](http://www.sogomobility.co.uk);
- 1.1.9 “**Business User**” means any person, body corporate, partnership or unincorporated body of persons that is not an Individual as defined in this Agreement;
- 1.1.10 “**BVRLA**” means the British Vehicle Rental & Leasing Association;
- 1.1.11 “**Charges**” has the meaning given to it in Clause 20;
- 1.1.12 “**Collection Fee**” means a fee charged by SOGO to contribute towards the costs of collecting your vehicle at the end of your Lease agreement;
- 1.1.13 “**Congestion Charge Law**” means the Transport Act 2000 and the Greater London Authority Act 1999 and/or any other laws, codes of practice, circulars and guidance notes in relation to any road or traffic related charging scheme;
- 1.1.14 “**Customer**” means the person or entity whose details are set out in the Account Activation Form or Lease Agreement or Proposal Form (as applicable), or any representative, agent, officer or employee of Customer (“**you**” “**your**”);
- 1.1.15 “**Damage**” means any and all damage to a Vehicle of any nature whatsoever, excluding a mechanical fault or failure (which is not caused, or contributed to by you), and any damage identified in the Vehicle Condition Report;
- 1.1.16 “**Data Protection Legislation**” means: all applicable laws relating to privacy including the Data Protection Act 2018, the UK General Data Protection Regulation, (where applicable) the EU General Data Protection Regulation (Regulation (EU) 2016/679), and the Privacy and Electronic Communications (EC Directive) Regulations; and any guidance or codes of practice issued by the Information Commissioner from time to time (all as amended, updated or re-enacted from time to time);
- 1.1.17 “**Delivery Fee**” means a fee charged by us to contribute towards the costs of delivering your chosen vehicle;
- 1.1.18 “**Deposit**” means a deposit, as set out on the Leasing Agreement or Proposal Form, which may be required by us in accordance with Clause 20.2. If no deposit amount is specified in the Leasing Agreement or in the Proposal Form signed by you no deposit is required to be paid in respect of the Vehicles on lease;
- 1.1.19 “**DVLA**” means the Driver and Vehicle Licensing Agency;
- 1.1.20 “**Excess Mileage**” means the surplus mileage by which the Actual Mileage exceeds (on a pro rata basis) the Estimated Annual Mileage;
- 1.1.21 “**Force Majeure Event**” means an act of God or any other event beyond a Party’s reasonable control, including lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial dispute (including an industrial dispute involving that Party’s own employees where that industrial dispute is beyond the reasonable control of that Party), terrorist act, act of Government, a refusal or delay by a third party in supplying vehicles or vehicle services to us in circumstances where there is no alternative service available at reasonable cost or restrictions of a

legislative or regulatory nature (whether anticipated on the date of this Agreement, or not), the consequences of which such Party can neither prevent nor avoid.

- 1.1.22 **"Group"** means in relation to any person, a subsidiary of that person or a holding company of that person or any other subsidiary of that holding company;
- 1.1.23 **"Individual"** means –
- (a) an individual person;
  - (b) a partnership consisting of 2 or 3 partners not all of whom are bodies corporate; or
  - (c) an unincorporated body of persons which does not consist entirely of bodies corporate and which is not a partnership;
- 1.1.24 **"Insolvency Event"** means each and any of the following in relation to a party: (a) any action (corporate or otherwise), legal proceedings or other procedure or step is taken by any person in any jurisdiction in relation to or with a view to: (i) the winding up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of a party; (ii) the appointment of a liquidator, trustee in bankruptcy, receiver, administrative receiver, administrator, nominee, supervisor or similar officer in respect of a party or any of its assets; (iii) the enforcement of any security over any assets of a party; or (iv) the attachment, sequestration, distraining upon or execution over or affecting any material asset of a party, which in any case is not withdrawn or dismissed as soon as reasonably practicable; (b) the party is unable to pay its debts as they fall due or is insolvent, or the other party perceives (acting reasonably) that to be the case; (c) the party enters into a composition or arrangement with any creditor, or its creditors or any class of them; and (d) a party ceases to trade in respect of all or a substantial part of its business whether due to insolvency or otherwise;
- 1.1.25 **"Lease Agreement"** means the Lease Agreement detailing the vehicle and other terms of hire that you are hiring under these Terms and Conditions;
- 1.1.26 **"Lease Charges"** means the charges for the Lease Period calculated in accordance with the Proposal, or such other rate confirmed by us in writing, as may be amended in accordance with this Agreement;
- 1.1.27 **"Lease Day"** means the twenty-four (24) hour period commencing at the time of On-Lease and each subsequent twenty-four (24) hour period;
- 1.1.28 **"Lease Period"** means the period from the Start Date to the end date on which the Vehicle is returned to us;
- 1.1.29 **"Losses"** means damages, losses, liabilities, claims, actions, penalties, costs (on a full indemnity basis) including the cost of legal and other professional services (legal costs being on an agent/client paying basis) and expenses and out of pocket disbursements properly incurred), proceedings, demands and charges whether arising under statute, contract or at common law or otherwise and including any tax thereon, in each case of whatever nature and Loss shall be construed accordingly;
- 1.1.30 **"Market Value"** shall mean, in respect of a Vehicle, the amount equal to 80% of the Vehicle manufacturer's published retail price for the model and specification of the Vehicle, published as at the date of calculation of the Market Value (or if such Vehicle is no longer produced by the manufacturer, the Market Value shall be calculated by reference to an equivalent size and specification of vehicle produced by the same or equivalent manufacturer);
- 1.1.31 **"On-Lease"** means the delivery of a Vehicle by us to you on or around the Start Date (as specified in the Lease Agreement and Proposal Form) and **"On-Leasing"** and **"On-Leased"** shall be interpreted accordingly;
- 1.1.32 **"Off-Leasing"** has the meaning given to it in Clause 7.4 and **"Off-Lease"** and **"Off-Leased"** shall be interpreted accordingly;
- 1.1.33 **"Privacy Policy"** means our privacy policy (which may be updated from time to time) found at <http://www.sogomobility.co.uk>;
- 1.1.34 **"Proposal"** means our offer to hire a vehicle or vehicles to you with details of the pricing;
- 1.1.35 **"Proposal Form"** means a Private Proposal Form or Business Proposal Form as applicable providing your details;
- 1.1.36 **"Policy"** shall have the meaning given to it in Clause 16.1.1;
- 1.1.37 **"Regulations"** means applicable legislation and legally binding rules or regulations of any kind (including orders, instructions or directions of a competent authority);
- 1.1.38 **"Return Date"** means the date on which the Vehicle is returned to us, in accordance with the Off-Leasing procedure set out in Clause 7 or otherwise, with the due date for return being as set out in the Proposal or if no such date is specified, such date as is agreed in writing between you and us;
- 1.1.39 **"RPI"** means Retail Price Index or any official index replacing it;
- 1.1.40 **"Schedule"** means any separate schedule agreed between you and us which is expressly stated to form part of this Agreement;
- 1.1.41 **"SOGO Mobility Limited"** means the Supplier with a registered office at Dorcan Way, Swindon, Wiltshire SN3 3RA (company number 12934041) (**"Supplier"**, **"we"**, **"us"** or **"our"**);
- 1.1.42 **"SOGO Flexi"** has the meaning given in Clause 5.2 and may be referred to as **"Flexible Lease"**;
- 1.1.43 **"Software"** means the proprietary software in machine readable object code form, provided as part of the Telematics Services;
- 1.1.44 **"Special Terms"** means any terms and conditions agreed between you and us which expressly are stated to vary the terms and conditions set out in these Terms;
- 1.1.45 **"Start Date"** means the date of On-Lease set out in the Proposal or such other date as we may agree with you prior to the date of On-Lease set out in the Proposal;

- 1.1.46 **“Telematics Charges”** When applicable, means the charges payable by you for the Telematics Device and the Telematics Services as set out in the Proposal, or as is otherwise determined in writing by us;
- 1.1.47 **“Telematics Device”** means a telematics device supplied in order to provide the Telematics Services;
- 1.1.48 **“Telematics Services”** means the provision of telematics services via a software delivery model in which software and associated data are centrally hosted and described in Clause 19;
- 1.1.49 **“Terms”** means these terms and conditions set out in this document as amended from time to time;
- 1.1.50 **“United Kingdom”** means England, Scotland, Wales and Northern Ireland;
- 1.1.51 **“Vehicle”** means a vehicle described in any Proposal and all other accessories provided with the vehicle including the spare wheel, tyre inflation kit, electrical charging leads tools and other accessories supplied with the vehicle, and the Additional Equipment (if applicable); and
- 1.1.52 **“Vehicle Condition Report”** has the meaning given to it in Clause 6.2

## 2. APPLICATION

- 2.1 The terms and conditions set out in this Agreement alone shall govern and be incorporated in every Proposal for the hire of Vehicles made by or on behalf of us. They shall apply in place of and prevail over any terms or conditions contained or referred to in any documentation submitted by you, in correspondence or elsewhere, or implied by trade custom, practice or course of dealing.
- 2.2 From time to time we and you may enter into separate Schedules which set out additional terms agreed between you and us in relation to this Agreement and/or Special Terms which set out any variation agreed between you and us to these Terms. Schedules, Special Terms and any other variation of this Agreement will only be valid if they are in writing and signed by a director or authorised representative of you and us.
- 2.3 Subject to clause 2.4, in the event of a conflict between the documents comprising this Agreement, the following order of precedence shall prevail:
  - 2.3.1 Schedules;
  - 2.3.2 Special Terms;
  - 2.3.3 the Terms.
- 2.4 In relation to an agreement entered into with an Individual, clause 4.1.2 of these Terms shall prevail over any provision of a Lease Agreement, a Schedule, or any Special Term, which would lead to the Lease Period exceeding 89 days.

## 3. BECOMING A CUSTOMER

- 3.1 To become a Customer of ours you must first accurately complete an Account Activation/ Proposal Form and/or Lease Agreement (as applicable). The Lease Agreement will provide you with the pricing details for the vehicles you may wish to lease from us.
- 3.2 You understand and agree that the information provided to us in the Account Activation and Proposal Form will be used by us to assess your credit rating for our internal purposes.
- 3.3 On receipt of an Account Activation Form and a signed copy of the Lease Agreement from you, we may accept the Application Form and signed Lease Agreement and, if accepted by us, we will provide you with the requested Vehicles. Nothing in this Agreement obliges us to accept any Account Activation/Proposal Form or Lease Agreement.

## 4. SERVICES

- 4.1 You will have the Vehicle for the rental period shown in your Lease Agreement. Vehicles will be hired to you On-Lease in one of the following ways (**“SOGO Flexi”**):
  - 4.1.1 for a Business User, a Lease for the vehicle for a defined period as set out in the Lease Agreement (with a set end date to the lease, being the Return Date of the Vehicle) or as otherwise agreed between us in writing.
  - 4.1.2 for Individuals, a minimum Lease Period of 28 days, to a maximum Lease Period of 89 days, meaning that there is a short-defined period for the lease of the Vehicle (and a set end date to the lease, being the Return Date of the Vehicle) as set out in the Lease Agreement or as otherwise agreed between us in writing, provided in such case that the Lease Period shall not exceed 89 Days.
- 4.2 If you have entered into a SOGO Flexi Lease, SOGO will contact you no less than 5 days prior to the Return Date as set out in the Lease Agreement at which time you will be required to:
  - 4.2.1 return the Vehicle on or by the Return Date;
  - 4.2.2 complete an exchange of vehicle and enter into a new Lease Agreement in respect of the new vehicle (on the terms set out therein), or;
  - 4.2.3 enter into a new Lease Agreement in respect of the Vehicle (on the terms set out therein which may have different Lease Charges, or other terms, to the previous Agreement based on matters including the condition and mileage of the vehicle). Notwithstanding the provisions of this clause 4.2.3, we may, in our absolute discretion, exercise our rights under Clause 8, and/or may require you to follow the process in clause 4.2.1 or 4.2.2. If a new agreement is being entered into for the vehicle, then an Off-lease and On-lease process will be followed to include:
    - (a) Recording the mileage of the vehicle and adhering to the requirements of Clause 9.4;
    - (b) Stating the condition of the car and adhering to the requirements of Clause 6.2; and
    - (c) Providing a copy of your Insurance certificate in adherence with the requirements of Clause 16.2.

- 4.3 If you do not confirm collection of your vehicle on or by the Return Date, respond to our communications pursuant to clause 4.2 or alternatively contact us prior to the Return Date and enter into a new Lease Agreement, you are in breach of the conditions of this Agreement.

## 5. PRICING

- 5.1 We will supply to you a schedule with prices ("**Pricing Schedule**") in respect of the Vehicles you have indicated to us in the Lease Agreement(s) that you wish to take On-Lease.
- 5.2 The Pricing Schedule will set a timeframe during which the prices stated will be valid. If the Pricing Schedule does not expressly contain a timeframe during which the prices stated are valid, the prices stated shall be valid for a period of 28 days;
- 5.3 All prices provided to you are excluding VAT and are subject to VAT at the prevailing rate.
- 5.4 We shall review our prices from time to time and will inform you in advance of any resulting price changes and the date from which they shall take effect.
- 5.5 If you take a Vehicle On-Lease under our SOGO Flexi Lease product you may be liable to pay an initial set-up fee in respect of the lease, as set out in the Lease Agreement (such fee payable on a per Vehicle basis).
- 5.6 If we, with your consent, order a vehicle from a manufacturer in order to fulfil a specific/bespoke request made by you, the Lease Charges shall commence the later of (i) the date specified on the Proposal (or otherwise agreed between us) and (ii) the date on which the vehicle is made available to you (not the On-Lease date). Any variation must be in accordance with clause 29.1.
- 5.7 At any point during the Lease Period we reserve the right to:
- 5.7.1 adjust the Charges where such changes are enforced on us by regulatory authorities; and
- 5.7.2 vary the Charges with effect to reflect any rises in, supplier and/or manufacturer rates or costs arising from or in connection with any change in our circumstance, whether reasonably anticipated or not.
- 5.8 In the event we exercise Clause 5.7 we will use reasonable endeavours to provide you with a reasonable amount of notice. Further any increase shall be passed directly from the regulatory authority, supplier and/or manufacturer rates or cost and/or change in our circumstance.

## 6. VEHICLE ON-HIRE/DELIVERY

- 6.1 In accordance with the terms of the Proposal, you shall be entitled to On-Lease of the Vehicle from the Start Date.
- 6.2 At the time at which the Vehicle is On-Leased to you, you or your representative will be asked to sign an electronic device or document confirming the condition of the Vehicle as at the Start Date (the "**Vehicle Condition Report**"). You acknowledge and agree to provide documentation specified by us that verify Proof of Identity for yourself or any of your employees who are authorised to sign a Vehicle Condition Report on your behalf.
- 6.3 If at the On-Leasing we leave with the Vehicle a Vehicle Condition Report for you to check (or provide such Vehicle Condition Report to you by email), you shall check it and contact us if there is anything that you do not agree with either before you use the Vehicle or by 9.00 am on the day after delivery (whichever is soonest). If we have not been notified by 9.00 am on the day after delivery you are deemed to have agreed to and accepted the Vehicle Condition Report.
- 6.4 If we attempt as part of the On-Leasing to deliver a Vehicle to a location specified by you on the Start Date (or on a date as otherwise agreed between us and set out in the Proposal) and you or your nominated representative are not available to receive the Vehicle, we reserve the right to charge you for all costs incurred by us in any failed delivery attempt and you will be liable to pay all Lease Charges from the Start Date of the Lease Period even though you have not taken physical delivery of the Vehicle. We will use reasonable endeavours to contact you and arrange an alternative suitable delivery date. If you fail to take delivery of the Vehicle within a period of ten (10) working days from the Start Date, we shall be entitled to terminate this Agreement and charge you for the sums set out in Clause 5.5.

## 7. VEHICLE RETURN

- 7.1 You will remain liable for any loss of or damage to the Vehicle from the time at which the Vehicle is On Leased to you on the Start Date until the Vehicle is Off Leased and are obliged to comply with the terms of this Agreement until the procedure for Off Leasing the Vehicle (as set out in this Clause 7) has been completed.
- 7.2 Where the Vehicle is on a SOGO Flexi Lease you must Off-Lease the Vehicle on or before the Return Date.
- 7.3 If you Off-Lease a Vehicle on a SOGO Flexi Lease prior to the agreed Return Date you will remain liable for Lease Charges up to the Return Date as identified in the Agreement.
- 7.4 To take the Vehicle off-lease you must contact us to arrange for us to collect the Vehicle on the Return Date (or such other date as may be agreed between us) providing no less than 5 working days notice and you shall ensure that such Vehicle is available for collection on the Return Date (or such date as otherwise agreed between us), or make an alternative arrangement in respect of the Vehicle pursuant to Clause 4.2 of this Agreement ("**Off-Leasing**"). In each case, the Off-Lease will be effective as at the time SOGO communicates this to you, and will most usually be the time at which the keys for the Vehicle have been handed to us or our representative (except that this shall not be required if Clause 4.2.3 applies) and an applicable Off-Lease form and/or Vehicle Condition Report have been signed by you or your representative (except that the Off-lease form and a Vehicle Condition Report do not need to be signed if Clause 7.5 applies).
- 7.5 If we attempt to collect a Vehicle from you at a location specified by you on the Return Date or as otherwise at the end of the Lease Period and you are not available (or are otherwise unable) to return the Vehicle for any reason whatsoever (a "**Failed Collection Attempt**"), we reserve the right to charge you for all costs incurred by us in connection with the Failed Collection Attempt. In the case of a Failed Collection Attempt you will continue to incur charges for each Lease Day on which you retain possession of the Vehicle after the date of the Failed Collection Attempt until such Vehicle is successfully returned to us. We will use reasonable endeavours to arrange another suitable collection date.

- 7.6 At the Off-Lease of the Vehicle, the Vehicle shall be in the same condition as was identified in the Vehicle Condition Report, except that we will allow for normal wear and tear taking into account the distance travelled in the Vehicle and the duration of the Lease Period (please refer to the BVRLA Fair Wear & Tear Guide as published by the BVRLA from time to time and available to view via our website for further details).
- 7.7 If you fail to return the Vehicle in accordance with the provisions of Clause 7.6 and the Vehicle is (in our reasonable opinion) economical to repair, the Lease Charges payable shall be recalculated to include charges in connection with the time taken to repair and the time to obtain authorisation for such repair as well as the cost of repairing such damage calculated on the basis of the below:
- 7.7.1 the cost of the repair is under three thousand pounds (£3,000) the charge shall be calculated based on the Lease Charge for the estimated number of labour days the repairs will take; or
- 7.7.2 the cost of repair is over three thousand pounds £3,000 the charge shall be calculated as set out in Clause 7.7.1 with the addition of the Lease Charges for the number of days you take to authorise the repair in accordance with Clause 12, and in any event, the charges set out in Clause 7.8 shall not exceed the Lease Charges for twenty eight (28) days. For the avoidance of doubt, where the cost of repair is less than any applicable Damage Allowance, no refund on any allowance balance will be payable.
- 7.8 If you fail to return the Vehicle in accordance with Clause 7.6 and the Vehicle is (in our reasonable opinion) beyond economic repair you will be liable to pay both the Market Value of replacement of the Vehicle /less the sum of any salvage value where applicable (notified to you by us) and the Lease Charge, which shall be payable from the date of return of the Vehicle until the earlier of (i) the date we receive from you payment of the Market Value; and (ii) twenty eight (28) days after the Return Date of the Vehicle by you to us.
- 7.9 If you fail to return the Vehicle on the Return Date due to theft of the Vehicle and the Vehicle is not recovered you will be liable to pay us the Lease Charge until settlement in full is received from you for the replacement cost (calculated as the Market Value of the Vehicle) up to a maximum of twenty eight (28) days.
- 7.10 If at Off-Lease we are required to remove materials or equipment from a Vehicle you shall be responsible for the costs associated with this removal (including the Lease Charge for any days or part thereof on which the Vehicle cannot reasonably be hired to a third party due to the materials or equipment needing to be removed) and any subsequent cleaning of the Vehicle.
- 7.11 If, upon return of a Vehicle, any evidence of smoking is found or the Vehicle is otherwise in an unacceptably dirty or unusable condition, we reserve the right to pass on the charge to valet the Vehicle, any other associated charges including an Administration Fee.

## **8. CHANGE OF VEHICLE**

We may require that we change any Vehicle On-Lease to you at any time during the Lease Period for any reason. In this event, we shall change the Vehicle for a like-for-like Vehicle without any change to the Lease Charges. If you fail to comply with any written demand by us to change a Vehicle, we shall be entitled to terminate this Agreement and/or any Proposal and repossess the Vehicle(s) in accordance with Clause 11.

## **9. FUEL AND MILEAGE CHARGES**

- 9.1 If the vehicle is returned to SOGO on or by the Return Date in order to Off-Lease the Vehicle, you shall return the Vehicle with a minimum of a quarter tank of fuel. The fuel level will be recorded at the point of Off-Leasing.
- 9.2 You shall pay the cost of replacement fuel to the level of a quarter-tank where the Vehicle is returned with less than required quarter tank of fuel at our prevailing rate.
- 9.3 The Lease Charge is calculated (among other things) in accordance with your estimated annual mileage ("**Estimated Annual Mileage**"). You must ensure that the Estimated Annual Mileage you give us at the time of Proposal is accurate to the best of your knowledge and belief. You shall promptly inform us in writing if you have reasonable cause to believe that you have or are likely to exceed the Estimated Annual Mileage on any Vehicle.
- 9.4 We reserve the right to monitor throughout the Lease Period your actual mileage ("**Actual Mileage**") (whether this is via information given by or requested from you or at any time we have contact with the Vehicle, for example for a service or repair or collected via a Telematics Device) and compare this against your Estimated Annual Mileage. In the event that your Actual Mileage exceeds or is likely to exceed (on a pro rata basis) the Estimated Annual Mileage, we reserve the right to:
- 9.4.1 invoice you for the Excess Mileage retrospectively at the end of the Lease Period already expired, such sum as set out in the Pricing Schedule for every mile the Actual Mileage exceeds the Estimated Annual Mileage (on a pro rata basis); or
- 9.4.2 adjust your Estimated Annual Mileage for the remainder of the Service Period to reflect your Actual Mileage and therefore adjust the Lease charge accordingly for the remainder of the Service Period.

## **10. CUSTOMERS GENERAL OBLIGATIONS**

- 10.1 During the Lease Period you shall:
- 10.1.1 keep the Vehicle free from legal process or lien, fully protected and secured;
- 10.1.2 if applicable, register and pay for any days the Vehicle will operate in the congestion zone (including any additional ultra-low emission zone "**ULEZ**" charges) in London or any other congestion zone which may apply in accordance with Congestion Charge Law;
- 10.1.3 check on a daily basis the engine oil level, water level in radiator, washers and wipers, lights, wheel nuts and brake fluid level, tread depth and inflation on all tyres;
- 10.1.4 ensure the Vehicle is driven using reasonable skill and care and in accordance with any applicable road use rules (including the Highway Code and other applicable laws);

- 10.1.5 ensure that no smoking is carried out in the Vehicle; and
- 10.1.6 if requested by us on reasonable notice make the Vehicle available for inspection, service or repair work.
- 10.2 During the Lease Period you shall not use the Vehicle:
  - 10.2.1 for the carriage of passengers for hire or reward;
  - 10.2.2 for any illegal purpose or in contravention of any Regulations affecting the Vehicle, its use or construction;
  - 10.2.3 if the Vehicle exceeds 3.5 tonnes gross vehicle weight unless you have obtained a valid Operator's Licence in accordance with the Goods Vehicles (Licensing of Operators) Act 1995, and supplied a copy of the same to us;
  - 10.2.4 for any off-road driving;
  - 10.2.5 for competitive racing of any nature;
  - 10.2.6 to propel or tow any other vehicle or trailer unless the Vehicle is properly equipped to tow in which case towage weights must be adhered to at all times. It is your responsibility to ensure any such towing is appropriate and undertaken with due skill and care to ensure no damage is caused to the Vehicle or to the trailer being towed. We shall have no liability for the insurance of, or any damage to, any towed trailer howsoever caused; and
  - 10.2.7 outside of the United Kingdom without our prior written consent.
- 10.3 You shall ensure the Vehicle is not driven by any driver who:
  - 10.3.1 does not hold a valid driving licence for the class of vehicle to which the Vehicle belongs; and
  - 10.3.2 is not covered fully by a comprehensive insurance policy.
- 10.4 You shall not modify or alter the Vehicle in any way without our prior written consent and you shall be liable for any and all costs incurred by us to reverse such modifications (including rectifying any damage caused by modifications or their reversal and any servicing and safety checks following such reversal).

**11. RISK AND TITLE**

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

**12. ROUTINE MAINTENANCE**

- 12.1 If during the Lease Period a service of the Vehicle becomes due because either the date for service is in less than two (2) weeks or the Vehicle mileage at which a service is required is within 1,000 miles (each of which is identified in the window of the Vehicle) you shall contact us to arrange a service of the Vehicle.
- 12.2 If you fail to contact us to arrange a service under Clause 12.1, we reserve the right to recover any Losses we incur which are caused by the failure to carry out the service at the time it was due.
- 12.3 In addition to the service requirements set out above each party shall be required to notify the other in relation to the additional maintenance elements set out below:
  - 12.3.1 Service due based on miles – you need to contact us
  - 12.3.2 Service due based on time – we will contact you
  - 12.3.3 MoT due – we will contact you
  - 12.3.4 Any damage (including, body, glass, tyres, electronic, mechanical fault or failure or otherwise) – you need to contact us
  - 12.3.5 Worn tyres – you need to contact us.

**13. DAMAGE, FAULT AND THEFT**

- 13.1 You shall promptly, and in all cases within 24 hours of becoming aware of any such event:
  - 13.1.1 inform us if any Vehicle is Damaged, a fault develops in any Vehicle or a Vehicle is otherwise lost or stolen and inform your insurance company;
  - 13.1.2 supply us with a police crime reference number if a Vehicle is stolen or otherwise involved in a criminal act;
  - 13.1.3 at our request:
    - (a) carry out all acts and things as may be reasonably required by us for the purpose of repairing or recovering a Vehicle;
    - (b) enforce any rights or remedies against and/or obtain relief from other parties;
    - (c) deliver to us every document of any kind received by you relating to any claim involving the Vehicle where an accident or theft has occurred;
    - (d) provide all assistance as is reasonably required by us in relation to the defence or investigation of any claim involving the Vehicle where an accident or theft has occurred including not aiding or abetting any claim against us; and
    - (e) ensure all information you provide is accurate, complete and not misleading.

- 13.2 You shall be responsible for the cost of repairing any Damage and hereby authorise us to carry out any repairs and invoice you for the same up to a maximum of three thousand pounds (£3,000) excluding VAT per occurrence of Damage. Damage Allowance cannot be used against damage caused during the Lease Period.
- 13.3 If the cost of repairing any Damage exceeds three thousand pounds (£3,000) excluding VAT we will notify you (including providing a claim pack which includes all relevant information) and you shall have seven (7) days from the point of receipt of the notice to involve your insurers (if applicable) and give us approval to proceed before we commence repairs. If we do not receive a response within seven (7) days, you will be deemed to have consented to the repairs and we will instruct repairs and invoice you for these costs.
- 13.4 We may, at our sole option, elect not to repair Damage, but if we elect not to carry out such repairs at that time we reserve the right to charge you an amount equal to the cost of the repair works that would otherwise be required and which we may carry out in the future.
- 13.5 You acknowledge and agree that you:
- 13.5.1 shall not without our prior consent incur any liability for repairs to the Vehicle in excess of £25;
  - 13.5.2 shall not without our prior written approval carry out yourself and/or engage any third party to carry out repairs on a Vehicle which we have not approved in writing;
  - 13.5.3 are not our servant or agent for any purpose and shall not hold yourself out as such; and
  - 13.5.4 are not entitled to make any claim against us for loss of or damage to any property left stored or transported in or upon the Vehicle at any time during the Lease Period.
- 13.6 If any act or omission or failure to comply with these this Agreement by you causes or contributes to the invalidation of the manufacturer's warranty of the Vehicle you will be responsible for any and all costs incurred by us that are associated with this invalidation.
- 13.7 If the keys to any Vehicle are lost during the Lease Period, we may need to replace the full lock set in the Vehicle for security reasons. In such circumstances you will be responsible for any cost in connection with doing so (including obtaining spare keys) and the Administration Fee.
- 13.8 If we are required to attend an event relating to a Vehicle (including if a misfuelling happens, the Vehicle lights are left on, a puncture occurs, a Vehicle is damaged, or an accident occurs) we may make a reasonable charge for doing so.

#### **14. LOSS OF USE**

- 14.1 In addition to the cost of repairing any Damage as set out in this Agreement, you will also be liable to pay the Lease Charges for the period during which the Vehicle is being repaired or the period between a Vehicle being stolen and, if applicable, returned to us, to reflect the loss of use of the Vehicle (up to a maximum of the Lease Charges for a period of twenty eight (28) days) in accordance with Clause 7.7.1 and 7.7.2
- 14.2 If you require a replacement Vehicle from us during any period in which a Vehicle is being repaired or the period during which a Vehicle is stolen, you shall be responsible for the Rental Charges in respect of that replacement Vehicle, in addition to the charges identified at Clauses 7.7.1, 7.7.2, 13.2, 13.3 and 13.4, and 14.1.

#### **15. FINES, PENALTIES AND CHARGES**

- 15.1 You shall be liable (where applicable as "owner") for any charges, penalties, offences or fines incurred during the Lease Period due to your acts or omissions (or those of any driver of the Vehicle) under any applicable laws or Regulations including in relation to any driving, parking, lighting, loading or unloading offence and including fixed penalty charge notices, parking fines, bus lane fines, fines relating to toll charges and charges under Congestion Charge Law.
- 15.2 If we receive notice of any penalty charges from the relevant issuing authority (which shall include private parking companies), we will pay any penalty charges that are notified to us or transfer liability to you if applicable. We will not query any such penalty charges, nor will we notify you prior to payment or transfer of liability.
- 15.3 You agree to pay to us upon demand any fines, penalties and charges we pay in accordance with Clause 15.2 plus the Administration Fee for processing the same.
- 15.4 If we are notified of any penalty charges or other offences which require driver details, we will supply your details to the issuing authority who will contact you directly in relation to the fine or notice. We will charge the Administration Fee in respect of the processing of these penalty charge notices.
- 15.5 If you register the Vehicle on any account for the payment of congestion charges or toll roads, it is your sole responsibility to remove the Vehicle from your account at the end of the Lease Period.

#### **16. INSURANCE**

- Should you choose not to accept the SOGO Insurance offer the following applies:
- 16.1 You shall ensure during the relevant Lease Period that:
- 16.1.1 all Vehicles hired to you including any replacement vehicles are covered by you with a fully comprehensive insurance policy (the "Policy") for the Lease Period and until completion of the Off-Lease process in accordance with Clause 7;
  - 16.1.2 you notify your insurers that you are neither the registered owner nor keeper of the Vehicle;
  - 16.1.3 the Vehicle is added to the Motor Insurance Bureau's database;
  - 16.1.4 you comply with the requirements of the Policy and procure that any drivers you permit to use a Vehicle also comply with the terms of the Policy;
  - 16.1.5 any driver using a Vehicle(s) will hold and will not have been disqualified from holding or obtaining a driving licence valid for the relevant Vehicle(s); and
  - 16.1.6 you will notify us in writing as soon as reasonably practicable of any change to your Policy including changes in terms, excesses or insurance company.

- 16.2 As soon as reasonably practicable after the date of the acceptance of the Proposal you shall supply to us a copy of the relevant certificate of motor insurance covering the Vehicle being leased and supply us with copies of the renewal certificates as appropriate. We shall not be under any obligation to supply a Vehicle to you unless and until we have received copies of the relevant certificate of motor insurance covering the Vehicle being leased and the renewal certificates as applicable as soon as reasonably practicable after the relevant renewal date.
- 16.3 If your insurers fail to provide cover or grant an indemnity under the Policy in respect of any claim made under the Policy by you, a third party or any official organisation concerned in settlement procedures under the Road Traffic Act, in respect of any loss or damage to the Vehicle or other parties costs, you shall indemnify us against all Losses suffered by us arising out of or in connection with any and all loss and Damage to any Vehicle leased by you (including replacement vehicles), up to a maximum amount equal to the value of such Vehicle (as determined by us, acting reasonably).

## **17. ADDITIONAL EQUIPMENT**

This Clause 17 shall only apply if we agree to provide you with Additional Equipment (as set out on the Proposal, or as otherwise agreed in writing) or we agree to allow personalised or cherished vehicle registration plates to be applied to the vehicle which must be confirmed and agreed in writing with ourselves.

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

## **18. TRAVEL OUTSIDE THE UNITED KINGDOM**

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

## **19. TELEMATICS**

- All vehicles are supplied with Telematics devices and all costs for including the installation and operation of the Telematics unit is included in the Vehicle Lease charges
- 19.1 You may not postpone or cancel performance of the Telematics Services or part thereof except with our prior written consent.
- 19.2 We are entitled to determine the manner in which the Telematics Services are performed.
- 19.3 All Telematics Devices must be in full working order upon Off-Lease of the Vehicle.
- 19.4 The Parties acknowledge and agree that providing there is not a change to the Telematics Services which has a material detrimental impact on the features or functionality of the Telematics Services, we may at our discretion change the functionality of the Telematics Services as currently set out in this Clause 19.
- 19.5 All aspects of the Telematics Services will be delivered remotely.
- 19.6 Any new feature, improvement or modification implemented by us into the Telematics Services which are more generally available to all of our Customers shall be included in the Telematics Services.
- 19.7 You shall not (except to the extent permitted by applicable law):
- 19.7.1 access all or any part of the Telematics Services in order to build a product or service which competes with the Telematics Services;
- 19.7.2 attempt to obtain or assist third parties in obtaining, access to the Telematics Services;
- 19.7.3 copy the Software in whole or in part;
- 19.7.4 introduce any virus, code or software into the Software; or
- 19.7.5 use the Software otherwise than in accordance with this Agreement.
- 19.8 You shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Telematics Services and notify us promptly of any such unauthorised access or use.
- 19.9 We give no guarantee or warranty as to the availability of the Telematics Services.
- 19.10 Ownership of the Telematics Devices shall remain with us at all times.
- 19.11 You shall not remove or tamper with or attempt to remove or tamper with the Telematics Devices.



- 19.12 If the Telematics Device is damaged beyond repair or destroyed or where its repair would be uneconomic, we shall provide you with a replacement Telematics Device.
- 19.13 We reserve the right to suspend the Telematics Services by reasonable notice to you in order to undertake maintenance work.
- 19.14 You acknowledge and agree that you will lose access to telematics data relating to a specific Vehicle at the time that Vehicle is Off-Lease.

**20. CHARGES AND PAYMENT**

- 20.1 You shall pay to us in accordance with this Agreement:
- 20.1.1 the Lease Charges;
  - 20.1.2 any Administration Fees;
  - 20.1.3 an Account Activation charge (if applicable, as set out in the Lease Agreement);
  - 20.1.4 any Additional Charges;
  - 20.1.5 the set-up fee in respect of each Vehicle (if applicable)
  - 20.1.6 any other amount due to us by you under this Agreement, (together the “Charges”)
- 20.2 Where applicable and as set out in the Lease Agreement, you agree to pay any required Deposit to us on the Start Date. The Deposit is a payment against default by you of payment of the Lease Charges, any Additional Charges due in accordance with Clause 21 or any other charges which fall due under this Agreement and/or any loss or Damage to the Vehicle whilst in your possession. If you fail to pay any sums due in accordance with this Agreement, we shall be entitled to apply the Deposit against such default. You agree to pay to us any sums deducted from the Deposit within ten (10) working days of a demand for the same. Subject to us setting off the Deposit against any outstanding sums owed to us upon termination or expiry of this Agreement or, we will refund the Deposit (or balance thereof) to you within ten (10) working days of the end of the Return Date.
- 20.3 Subject to Clause 20.4, all Lease Charges will be invoiced and paid by you 1 month in advance by either debit / credit card payment or direct debit. Any Additional Charges which may be invoiced (as and when they arise) and payment shall be due payable by you by debit / credit card payment or direct debit.
- 20.4 For the avoidance of doubt, where we are not satisfied with any credit checks which we undertake, we will notify you of the payment terms that shall apply in writing, such payment terms to apply in place of those set out in Clause 20.3.
- 20.5 We shall have a right of set off against any amount due from you to us or any member of our Group, any sum or sums which at the date of set off are due and owing to you from us or any member of our Group.
- 20.6 Notwithstanding any agreed period of credit, or the remedies available to us under Clause 20.14 if any invoice is overdue for payment the balance of your account becomes immediately due and payable.
- 20.7 All sums stated or referred to in this Agreement are exclusive of VAT which (if applicable) shall be added to our invoice at the appropriate rate.
- 20.8 In respect of each of the SOGO Flexi Lease, we shall be entitled to periodically increase the Charges upon 28 days prior notice (Notice Period) in writing to you in accordance with Clause 20.9 below, or at such time as a new Lease Agreement is entered into in respect of the Vehicles On-Leased to you.
- 20.9 We are entitled to increase Charges as indicated by the percentage increase in RPI during the Lease Period without recourse to yourself. In the event that our increase to the Charges exceed RPI, you shall have the right to return any Vehicle within the Notice Period. Such return will constitute return of the Vehicle prior to the Return Date and you will remain liable for Lease Charges (at the original Charge rate as set out in the Lease Agreement) up to the Return Date as identified in the Lease Agreement. You will also remain liable for any Charges relating to Additional Equipment (if any).
- 20.10 If in the event that the Vehicles are still On-Lease to you on expiration of the Notice Period, you shall be deemed to have accepted the adjustment to the Charges and shall be bound by the revised terms and will be charged at the increased rate from expiration of the Notice Period.
- 20.11 Nothing within Clause 20 shall prejudice any other rights or obligations contained in this Agreement, save that Clause 20.9 takes precedence over Clause 7.3.
- 20.12 No payment shall be considered paid until it is received by us in pound sterling, in cleared funds in full to such bank account as nominated by us from time to time. Subject to Clause 20.13, payment shall be made by you in full without any set-off, deduction or withholding whatsoever.
- 20.13 In the event you reasonably and genuinely dispute any invoice, you shall notify us as soon as possible after receipt of the invoice (and in any event at least seven (7) working days before payment is due) and we shall investigate the dispute and shall notify you of any amendments to the disputed element of the invoice. Our decision in respect of a disputed invoice shall be final.
- 20.14 Subject to Clause 20.13, if we have not received payment by the due date, and without prejudice to any other rights and remedies we have, we may:
- 20.14.1 without liability to you, suspend the performance of this Agreement until payment in full has been made;
  - 20.14.2 charge interest on a daily basis on such due amounts at an annual rate equal to 5% over the then current base lending rate of Barclays Bank plc from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment; and/or
  - 20.14.3 immediately terminate this Agreement without further liability to you or any obligation to refund any sums already paid.

**21. ADDITIONAL CHARGES**

- 21.1 In addition to the Lease Charges (and without prejudice to any other rights or remedies or other Losses recoverable by us under this Agreement or under law), you may also be liable for the following additional charges under this Agreement:

- 21.2 failed delivery or collection in accordance with Clause 6.4;
- 21.3 vehicle return charges in accordance with Clause 7;
- 21.4 fuel charges and excess mileage in accordance with Clause 9;
- 21.5 unauthorised modifications in accordance with Clause 10.4;
- 21.6 failed servicing in accordance with Clause 14;
- 21.7 damage, fault and theft charges in accordance with Clause 13;
- 21.8 loss of use in accordance with Clause 14;
- 21.9 fines, penalties and charges in accordance with Clause 15;
- 21.10 any Additional Equipment charges in accordance with Clause 17;
- 21.11 any charges for using the Vehicle outside the United Kingdom in accordance with Clause 18;
- 21.12 any charges set out in any Schedule or Special Terms; and
- 21.13 any Administration Fees, as set out in this Agreement; (together, the “Additional Charges”).

**22. ASSIGNMENT**

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

**23. LIABILITY**

- 23.1 Subject to the provisions of Clauses 7.8 and 14 and Clause 23.4 we shall not be liable to you and you shall not be liable to us for any indirect, special or consequential loss of any nature whatsoever, whether or not such losses were reasonably foreseeable or the party in default or its agents had been advised of the possibility of the other incurring such losses.
- 23.2 We shall not be liable to you for any loss of or damage to property left, stored or transported in or upon a Vehicle.
- 23.3 Subject to Clause 23.4 our total aggregate liability arising out of or in connection with:
  - 23.3.1 an accepted Proposal (if applicable) (whether such liability arises in contract, tort (including negligence) or otherwise) shall not exceed fifty thousand pounds sterling (£50,000);
  - 23.3.2 (notwithstanding Clause 23.3.1) this Agreement shall not exceed one hundred and fifty thousand pounds sterling (£150,000) for all claims in any twelve (12) month period.
- 23.4 Nothing in this Agreement shall operate to exclude or limit the liability of either party for:
  - 23.4.1 death or personal injury resulting from negligence;
  - 23.4.2 fraud or fraudulent misrepresentation; and
  - 23.4.3 any other liability which cannot, as a matter of law, be excluded.

**24. INDEMNITY**

- Subject to Clause 23.1, you shall, to the fullest extent permitted by law, indemnify, defend and hold us and our Group harmless against and from all Losses suffered or incurred by us due to:
  - 24.1 the loss of or damage to any property (whether yours or a third party's) left, stored or transported in or upon a Vehicle;
  - 24.2 improper use and/or operation by you of the Vehicles during the Leased Period;
  - 24.3 any error, omission or inaccuracies in any of the information provided to us under or in connection with this Agreement, the lease of the Vehicle, the Proposal, or any other information or documentation required from you by us and upon which we rely in providing the Vehicle to you; or
  - 24.4 any claims brought against us by any third party arising out of, or in connection with, this Agreement or any claims in respect of loss, injury or damage sustained as a result of the use of the Vehicle by you or as a result of any defect in the Vehicle (to the extent only that such loss, injury or damage is an excluded item from the insurance policy in respect of such Vehicle and therefore an uninsured item).

**25. REMEDIES**

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

**26. TERMINATION**

- 26.1 Either party may terminate this Agreement or any accepted Proposal immediately if an Insolvency Event occurs in relation to the other party.
- 26.2 Either party may terminate this Agreement or a Proposal if the other party commits a material breach of this Agreement or Proposal and if capable of remedy, such breach is not remedied within thirty (30) days of the non-breaching party notifying the other of the breach.
- 26.3 For the purposes of this Clause 26.2 the following shall be treated as a material breach not capable of remedy:
  - 26.3.1 a failure by you over the Lease Period to pass a credit check or identity check, as may be routinely carried out by us from time to time;
  - 26.3.2 a failure by you to pay us any Charges when they fall due in accordance with the terms of this Agreement;
  - 26.3.3 any breach of Clauses 16, 18, 27 or 28.
- 26.4 Upon termination of a Proposal you shall immediately:

- 26.4.1 return the Vehicle or Vehicles to which the Proposal relates to us or our duly authorised agent at such place as we may appoint;
- 26.4.2 pay to us, on demand, all Charges due in relation to that Proposal; and
- 26.4.3 return all Telematics Devices in relation to the Vehicle or Vehicles to which the Agreement relates.
- 26.5 Upon termination of this Agreement you shall immediately:
  - 26.5.1 (at our sole option) return, or make available for collection by us, all Vehicles and keys to us or our duly authorised agent at such place as we may appoint;
  - 26.5.2 pay to us, on demand, all Charges due under this Agreement and the Lease Agreement.
- 26.6 Termination of this Agreement does not affect:
  - 26.6.1 the rights or liabilities of the Parties under this Clause 26 (Termination) or which have accrued on or before termination; and
  - 26.6.2 the continuance in force of Clauses 7 (Vehicle Return), 9 (Fuel and Mileage Charges), 11 (Risk and Title), 13 (Damage, Fault and Theft), 15 (Fines, Penalties and Charges), 20 (Charges and Payment), 21 (Additional Charges), 23 (Liability), 24 (Indemnity), 25 (Remedies), 27 (Confidentiality), 28 (Data Protection), 29 (Entire Agreement) and 30 (General) which survive termination of this Agreement or any Booking.

**27. CONFIDENTIALITY**

- 27.1 We each undertake to the other that we shall not at any time disclose to any person any confidential information (including as to the level of charges paid for a Vehicle) concerning the business, affairs, Customers, clients or suppliers of the other, except as permitted by Clause 27.2.
- 27.2 We may each disclose the other's confidential information:
  - 27.2.1 to our employees, officers, representatives or advisers who need to know such information for the purposes of carrying out our obligations under this agreement. We shall each ensure that our employees, officers, representatives or advisers to whom we disclose the other's confidential information comply with this Clause 27; and
  - 27.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 27.3 Neither you nor we shall use the other's confidential information for any purpose other than to perform our respective obligations under this Agreement.

**28. DATA PROTECTION**

- 28.1 In relation to all Personal Data, the parties shall at all times comply with the Data Protection Legislation as a data processor or data controller (as appropriate), including if necessary, maintaining a valid and up to date notification under the Data Protection Legislation covering the data processing to be performed in connection with this Agreement and the Privacy Policy. Please read the Privacy Policy for further information about how we may use your Personal Data.
- 28.2 To the extent that we process any Personal Data on your behalf when performing our obligations under this Agreement, you shall be the data controller and we shall be a data processor and in any such case:
  - 28.2.1 you shall ensure that you are entitled to transfer the relevant Personal Data to us so that we may lawfully use, process and transfer the Personal Data in accordance with this Agreement and, to the extent applicable, the Privacy Policy on your behalf;
  - 28.2.2 you shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer (including as referred to in Clause 28.2.1) as required by all applicable Data Protection Legislation;
  - 28.2.3 we shall process the Personal Data transferred by you pursuant to this Clause 28.2 only in accordance with the terms of this Agreement and, to the extent applicable, the Privacy Policy, and any lawful written instructions reasonably given by you from time to time unless we are required by the laws of the United Kingdom, any member state of the European Union, or by any laws of the European Union applicable to us, to process Personal Data ("Applicable Laws"). Where we rely on laws of the United Kingdom, a member state of the European Union or European Union law as the basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit us from so notifying you;
  - 28.2.4 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the Personal Data or its accidental loss, destruction or damage, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - 28.2.5 we shall not transfer any Personal Data outside of the United Kingdom unless you have given your prior written consent and the following conditions are fulfilled: (i) you or we have provided appropriate safeguards in relation to the transfer; (ii) the data subject has enforceable rights and effective legal remedies; (iii) we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
  - 28.2.6 you consent to us appointing third party processors where required to carry out our obligations in this Agreement (including the Telematics Services);

- 28.2.7 we will ensure that all personnel (including, without limitation, employees) who have access to and/or process Personal Data are legally obliged to keep the Personal Data confidential;
  - 28.2.8 we will assist you, at your cost, in responding to any request from a data subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators; and otherwise to comply with your obligations under the Data Protection Legislation to respond to requests from data subjects or exercise of the rights of data subjects or information mandated to be provided to data subjects;
  - 28.2.9 we will notify you without undue delay and in any event within 48 hours of the point at which we become aware of any Personal Data breach or other security incident affecting or relating to Personal Data provided by you to us under this Clause 28.2;
  - 28.2.10 at your written direction, we will delete or return Personal Data and all copies thereof to you on termination of the Agreement unless required by Applicable Law to store the Personal Data; and
  - 28.2.11 we shall maintain complete and accurate records and information to demonstrate our compliance with this Clause 28 and relevant provisions of the Data Protection Legislation and allow for and cooperate with reasonable audits including, without limitation, inspections by you or your designated auditor.
- 28.3 Notwithstanding the generality of Clause 28.2, in circumstances where a Telematics Device is fitted in a Vehicle, you shall:
- 28.3.1 notify the driver(s) of the Vehicle that such Telematics Device is installed in the Vehicle;
  - 28.3.2 provide the driver(s) with information relating to the purposes for which you may use any Personal Data collected using the Telematics Devices (if any);
  - 28.3.3 provide the driver(s) with information relating to the purposes for which we may use any Personal Data collected using the Telematics Device including providing or otherwise making available a copy of the Privacy Policy (as amended from time to time);
  - 28.3.4 obtain all necessary consents in accordance with the requirements of the Data Protection Legislation from the driver(s) to the processing of Personal Data collected via the Telematics Devices by us;
  - 28.3.5 immediately notifying us in writing of:
    - (a) any complaint, notice, request (including a subject access request) or communication which relates directly or indirectly to the processing of the Personal Data collected via the Telematics Devices or to either party's compliance with the Data Protection Legislation;
    - (b) if the Personal Data collected via the Telematics Devices is disclosed or used in breach of this Agreement, and/or
    - (c) provide us with such co-operation and assistance as we may require with respect to any of the foregoing events; and
    - (d) take such other steps as we may require from time to time in order to enable us to comply with our obligations under the Data Protection Legislation.
- 28.4 You warrant to us that, in respect of any Personal Data which you share with us pursuant to this Agreement:
- 28.4.1 you have complied in all respects with your obligations under the Data Protection Legislation and under this Clause 28; and
  - 28.4.2 you have all necessary consents and permissions to share such Personal Data with us, and you will indemnify (and keep indemnified) and defend us against all Losses incurred by us arising out of or in connection with any proceedings, claims, demands or actions in consequence of any breach or alleged breach of this Clause 28 or the Data Protection Legislation by you (including any claim by a data subject).

**29. ENTIRE AGREEMENT**

- 29.1 Except as may be otherwise agreed in writing with respect to a particular Vehicle, this Agreement and the documents referred to in it constitutes the entire agreement and understanding between the Parties and supersedes any previous agreement between you and us relating to the subject matter of this Agreement and any prior promises, representations and misrepresentations (whether oral or written) relating to the subject matter of this Agreement.
- 29.2 You acknowledge and agree that no representations were made prior to the entering into of this Agreement and that, in entering into this Agreement, you do not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out or referred to in this Agreement.
- 29.3 Nothing in this Agreement shall operate to limit or exclude any liability for fraud or fraudulent misrepresentation, or shall exclude (but this Agreement does not limit) our liability for fundamental misrepresentation (including misrepresentation as to a matter fundamental to our ability to perform our obligations under this Agreement, on our part).
- 29.4 Without prejudice to the provisions of this Clause 28, the only remedy available to you for breach of this Agreement shall be for breach of contract under the terms of this Agreement.

**30. GOVERNING LAW & JURISDICTION**

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

**31. GENERAL**

- 31.1 An amendment made by you to this Agreement is ineffective unless it is in writing, expressly purports to amend this Agreement and is executed by both you and us.
- 31.2 Neither party shall be in breach of this Agreement or liable for delay in performing, or failure to perform, any of its obligations under this Agreement or a Booking (other than payment obligations) if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been so delayed or failed to be performed. If the period of delay or non-performance continues for three (3) months the party not affected may terminate this Agreement or a Booking by giving thirty (30) days' written notice to the affected party.
- 31.3 Except as provided in this Agreement, this Agreement does not create, confer or purport to confer any benefit or right enforceable by any person except you and us.
- 31.4 A member of our Group may in its own right enforce the provisions of this Agreement in accordance with the Contracts (Rights of Third Parties) Act 1999, except that we may rescind or vary this Agreement without the consent of any members of our Group.
- 31.5 We shall each, at the request of the other, execute all deeds and other documents and do all things that the other may require (acting reasonably) in order to give effect to the terms of this Agreement.
- 31.6 Any notice to be given by either you or us to the other under this Agreement must be in writing (which shall for this purpose include e-mail) and addressed to that other party at its registered office or principal place of business or such other address or electronic mail address as may have been notified for these purposes. Notices shall be delivered personally, sent by first class post or by e-mail. A notice is deemed to have been received if sent by prepaid first-class post, on the second working day after posting (excluding the day of posting). Any notice sent by e-mail will be effective only when actually received in readable form and service shall be deemed to be affected on the same day it is sent. In proving service of the notice, it shall be sufficient to show that delivery by hand was made, that the envelope containing the notice was properly addressed and posted as a first-class pre-paid letter or to prove that the e-mail was correctly addressed.
- 31.7 Any failure or neglect by either you or us to enforce any of the provisions of this Agreement shall not be construed nor deemed to be a waiver of that party's rights and does not affect the validity of the whole or part of this Agreement nor prejudice that party's rights; any waiver by either you or us of our respective rights under this Agreement does not operate as a waiver in respect of any subsequent breach.
- 31.8 If any provision of this Agreement is held to be illegal, invalid or unenforceable in whole or part, that provision shall to that extent be deemed not to form part of this Agreement and the legality, validity and enforceability of the remainder of this Agreement shall be unaffected.
- 31.9 You shall not without our prior written consent assign, transfer, charge, dispose of, deal with or subcontract your rights or obligations under this Agreement. For the avoidance of doubt, you will remain liable to us under this Agreement in respect of the use of any Vehicles by any employees, agents, contractors, third parties or other drivers as though such use were by you.
- 31.10 Nothing in this Agreement or any arrangement contemplated by it shall constitute either you or us as a partner, agent, fiduciary or employee of the other party.
- 31.11 Neither Party will be liable, except as specified in this Clause, for any failure to perform, delay in performing or imperfect performance of any obligation under this Agreement, except for failure to pay the Charges, to the extent that such failure, delay or imperfect performance is caused by a Force Majeure Event.
- 31.12 If either Party is affected by a Force Majeure Event it shall promptly notify the other Party of the nature of the Force Majeure Event, the nature of any actual or anticipated failure, delay or imperfect performance and the anticipated consequence and length of such failure, delay or imperfect performance.
- 31.13 This Agreement:
- 31.13.1 each reference to "include", "includes" or "including" or "for example" shall be construed without limitation;
- 31.13.2 "subsidiary" and "holding company" shall have the meanings given to them by section 1159 of the Companies Act 2006;
- 31.13.3 a statutory provision includes a reference to any modification, consolidation or re-enactment of the provision from time to time in force and all subordinate instruments, orders or regulations made under it except that, as between the Parties, no modification, consolidation or re-enactment shall apply for the purposes of this Agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, either party;
- 31.13.4 "Personal Data", "data subject", "process", "processing", "data controller" and "data processor" shall have the meaning given to them in the Data Protection Legislation;
- 31.13.5 a reference to "indemnify" or "indemnifies" means to indemnify and keep indemnified, and hold harmless, the party to be indemnified on demand on an after tax basis;
- 31.13.6 a reference to a "party" shall mean either you or us as the context requires and "parties" shall mean you and us;
- 31.13.7 all Clauses and paragraph headings and references to them in this Agreement are for identification and indexing purposes only. They shall be deemed not to be part of this Agreement and they shall not affect the construction or interpretation of this Agreement;
- 31.13.8 where the context otherwise requires, words importing the singular meaning shall include the plural meaning and vice versa and words denoting the masculine gender shall include the feminine and neuter genders;
- 31.13.9 where the context so admits, words denoting persons shall include natural persons, companies, corporations, firms, partnerships, limited liability partnerships, joint ventures, trusts, voluntary associations and other incorporated and/or unincorporated bodies or other entities (in each case, whether or not having separate legal personality) and all such words shall be construed interchangeably in that manner;

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

**32. CONTACT US**

32.1 Our website at URL: [www.sogomobility.co.uk](http://www.sogomobility.co.uk) sets out how you may contact us if you have a query or complaint. Registered Office: Dorcan Way, Swindon, Wiltshire SN3 3RA

32.2 Trading Office: Unit 31 Cranfield Innovation Centre, Cranfield University Technology Park, University Way, Cranfield, Bedfordshire.