

CONTRACT FOR THE PROVISION OF DYNAFLEET ONLINE and FUEL ADVICE SERVICES

Background

Dynafleet Online Services are part of the telematic based services provided by Volvo Truck Corporation to support end customers with performance follow up on vehicles and drivers to optimize the fleet performance. It may also include services for positioning, tracking, messaging and integration with 3rd party applications depending on the service level chosen by the customer.

Fuel Advice is a back office based service provided to support end customers with advice and consultancy to improve fuel efficiency and keep it sustainable.

This Contract sets out the terms and conditions according to which such services are provided. Specific conditions for certain Services are set out separately in documents referred to herein.

Definitions of terms used herein are found in Appendix 1 below.

1. Parties

The Parties to this Contract are (1) Volvo Group UK Limited (company number 2190944), a company incorporated under the laws of England whose registered office is at Wedgnoek Lane, Warwick, CV34 5YA (“Volvo”) and (2) the Customer registered at the Dynafleet Online Web Site in respect of the Services and whose full corporate name and company number and/or registered address is as follows:

Name	
Company Number	
Registered Office Address	

2. Formation of Contract/Scope

- i. This Contract forms a contract between Volvo and the Customer in respect of the Services for the Vehicles registered on the Dynafleet Online Web Site and identified in **Appendix 2**.

3. Services

- i. The scope of the Services that are provided pursuant to this Contract cover the Services registered for the Customer pursuant to the Dynafleet Online/Fuel Advice registration process. A complete description of the Dynafleet Services is set out at the Dynafleet Online Web Site and for Fuel Advice at the Fuel Advice Toolbox.

- ii. The Services are inclusive of the relevant telecommunication subscriptions.
- iii. Volvo may make any change to the provision of the Services which is required to conform to any applicable safety, statutory or regulatory requirement or added functionality; or which does not materially affect the quality or performance of the Services.

4. Price and Payment

- i. The price for the Services will be the price set out in the pricelist on the Dynafleet Online Web Site/Fuel Advice Toolbox each time that any of the Services is activated and is exclusive of VAT and any other applicable sales tax or duty which will be added to the sum in question.
- ii. Volvo may change the price of the Services at any time by updating the said pricelist and publishing it on the Dynafleet Online Web Site/Fuel Advice Toolbox in which case the new prices shall take effect immediately upon publication.
- iii. The Customer shall pay the price for the Services, as agreed on a case by case basis,
 - either as a pre-payment for a pre-paid fixed period; or
 - monthly payments against invoice
- iv. All payments to be made by the Customer under the Contract will be made in full without any set-off, restriction or condition and without any deduction for or on account of any counterclaim.
- v. If any sum payable under the Contract is not paid when due then, without prejudice to Volvo's other rights under the Contract, that sum will bear interest from the due date until payment is made in full, both before and after any judgement, at the 4% per annum above the base lending rate of Barclays Bank plc.
- vi. Volvo has appointed Volvo Truck Corporation, a company incorporated pursuant to Swedish law, to invoice and collect payments on Volvo's behalf, which payment process shall apply if and to the extent Volvo has informed the Customer.

5. Specific conditions for pre-paid subscriptions

- i. For Services where there is an agreed pre-payment for a pre-paid fixed period, the following conditions apply:
- ii. The subscription period starts on the first day of the month after the vehicle is registered at the Dynafleet Online Web Site. During the pre-

paid subscription period, subscription charges will not be invoiced for the Vehicle to the Customer. Charges related to services or usage other than covered by the subscription fee (e.g. additional Dynafleet services and/or Fuel advice), will be charged and invoiced to the Customer, according to the Dynafleet Online price list. During the pre-paid period, no refunds will be made if the Customer discontinues the services. To take advantage of the pre-paid period, the Vehicle must be registered at the Dynafleet Online Web Site within one year from the day the pre-paid period was invoiced.

- iii. The above shall however not affect Volvo's obligation to pay a refund pursuant to Article 7 (iv) below.

6. Term and Termination

- i. The term of this Contract commences on the date the Vehicle is registered by the Customer and will continue until it is terminated in accordance with this Clause.
- ii. Either Party may terminate this Contract by providing the other Party notice at least 60 days prior to the termination date. A notice shall be provided in accordance with Clause 14 below. In addition, the Customer may terminate this Contract at any time by de-registering the Vehicle at Volvo's Dynafleet Online Web Site, in which case the Contract shall terminate at the end of the calendar month in which the de-registration was effected.
- iii. Failure by the Customer to pay any sum due under this Contract is a breach of contract which entitles Volvo to terminate this Contract with immediate effect unless the Customer has paid the sum(s) within 15 days after the date of reminder having been sent to the Customer.
- iv. Volvo shall have a right to terminate this Contract if the Customer transfers the ownership of the Vehicle to a third party.
- v. Either party may by written notice according to Clause 14 below terminate the Contract immediately if the other is in material breach of the Contract or enters into insolvency, bankruptcy, any arrangement with its creditors or any other arrangement or situation which has a like effect.

7. Consequences of termination

- i. If this Contract expires or is terminated, the following shall apply after the date of expiry or termination.
- ii. The termination of the Contract howsoever arising is without prejudice to the rights, duties and liability of either the Customer or Volvo accrued prior to termination. The conditions which expressly or

impliedly are capable of having effect after termination will continue in force notwithstanding termination.

- iii. Upon termination of the Contract for whatever reason the Customer shall not be entitled to a refund of any sums paid under this Contract and the Customer shall forthwith pay Volvo any sums accrued due under this Contract.
- iv. Volvo shall, however, compensate the Customer in case of a pre-paid Contract for a fixed period of time if Volvo materially reduces the scope of the Services during that period of time. The compensation shall in such case be in proportion to the reduced use of the Services during the remaining period and shall exclude any other compensation to the Customer, such as costs, expenses and damages for lost business, and loss of profit.

8. Responsibilities and obligations of Volvo

- i. Upon the completion of this Contract, Volvo shall provide to the Customer the login credentials in order for the Customer to access the Dynafleet Online Web Site, register/accept vehicles to their Dynafleet Online fleet and start using the Services the Customer subscribes to.
- ii. Volvo shall use reasonable endeavours to keep the Data secure and use it only for the purposes that follow from or are permitted according to this Contract or otherwise stated the Dynafleet Online Web Site/The Fuel Advice Toolbox. At the same time, Volvo cannot guarantee that is possible to keep Data and/or communication completely secure and that there may be periods of time when the Dynafleet Online Web Site is not capable of being accessed. Nor can Volvo guarantee the accuracy from 3rd party services, e.g. map and navigation services. In addition, the Dynafleet Online Web Site may not be available due to scheduled maintenance work.
- iii. Volvo will do all what reasonable can be expected to secure quality and accuracy of the Data;
- iv. Volvo will provide the Services with care and skill.
- v. *Volvo will store the data and make it available according to the table below:*

Data type	Data available in DFOL	Granularity
Vehicle data	5 years	>2 years = day level < 2 years = month level
Driver data	5 years	> 1 year = activity level 1-2 year = day level < 2 years = month level

Tachograph Mass Memory Files	2 years after initial upload	2 years - Complete
Tracking & Position Data	3 months	3 months - Complete
Messages	1 year	1 year - Complete

9. General responsibilities and obligations of the Customer

- i. The Customer shall ensure that each employee or other person who operates the Vehicle, or uses the services, complies with this Contract and any instructions and recommendations set out on the Dynafleet Online Web Site/Fuel Advice Toolbox.
- ii. The Customer is responsible for any registration, deregistration or recording of Data in respect of each Vehicle effected by its personnel or other persons undertaking such activities on behalf of the Customer.
- iii. The Customer shall ensure and be responsible for compliance with Volvo's user guidelines in respect of each Service.

10. Specific conditions for the availability of the Services

- i. The Services will only be provided by Volvo in respect of the Vehicle if payment for the Service has been received by Volvo in accordance with this Contract and if the Customer has installed the Dynafleet Hardware according to the installation instructions and has acquired all the equipment required for the use of the Services.

11. Data Protection

The Parties have separately entered into an Agreement Regarding the Commissioning of Data Processing and thereto related consent documentation.

12. Limitations of liability

- i. The following provisions of this Clause reflect the scope of the Contract and the price for the Services.
- ii. Volvo's total maximum liability under this Contract for claims arising in each calendar quarter (whether in contract, tort, negligence, statute, restitution, or otherwise) shall not exceed 100% of the sum paid under the Contract in the calendar quarter in which the claim arose.
- iii. Volvo will not be liable (whether in contract, tort, negligence, statute or otherwise) for any loss of profits, loss of business, wasted management time or costs of data reconstruction or recovery whether such loss arises

directly or indirectly and whether Volvo was aware of its possibility or not or for any consequential or indirect losses.

- iv. Volvo hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.

13. Force Majeure

- i. Volvo will not be liable to the Customer for any failure or delay or for the consequences of any failure or delay in performance of the Contract, if it is due to any event beyond the reasonable control and contemplation of Volvo including, without limitation, third party service providers (including but not limited to GSM data operators), acts of God, war, industrial disputes, protests, fire, tempest, explosion, an act of terrorism and national emergencies and Volvo will be entitled to a reasonable extension of time for performing such obligations.

14. Notices

- i. Any notice in connection with the Contract will be in writing addressed to the other party at its registered office, or principal place of business and will be delivered by hand, or first class or special delivery post. The address entered when registering for the Services shall be deemed to be considered the relevant address for the Customer for notices hereunder. The notice to the Customer will always be deemed to have been duly served, if delivered by hand, when left at the proper address for service or if made by pre-paid, first class post or special delivery post, 48 hours after being posted.
- ii. The Customer shall use the contact address set out on the Dynafleet Online Web Site for notices or change of address hereunder.

15. Miscellaneous

- i. Time for performance of all obligations of Volvo is not of the essence.
- ii. If any condition or part of the Contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Contract and will be ineffective, without, as far as is possible, modifying any other provision or part of the Contract and this will not affect any other provisions of the Contract which will remain in full force and effect.

- iii. No failure or delay by Volvo to exercise any right, power or remedy will operate as a waiver of it, nor will any partial exercise preclude any further exercise of the same, or of any other right, power or remedy.
- iv. Volvo may vary or amend the terms and conditions of this Contract with three months' prior written notice to the Customer.
- v. The Contract is personal to the Customer who may not assign, delegate, license, hold on trust or sub-contract all or any of its rights or obligations under the Contract without Volvo's prior written consent.
- vi. The Contract contains all the terms which Volvo and the Customer have agreed in relation to the Services and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Services.

16. Applicable law and dispute resolution

- i. The formation, existence, construction, performance, validity and all aspects whatsoever of the Contract or of any term of the Contract will be governed by English law.
- ii. The English courts, will have exclusive jurisdiction to settle any dispute which may arise out of, or in connection with the Contract. The parties agree to submit to that jurisdiction

Date

Place

Volvo Group UK Limited

Name of customer:

Appendix 1

“Authorised User”	An authorised Dynafleet user with a valid login and password.
“Customer”	A business which has completed the online registration form to subscribe to the Services.
“Contract”	Any contract between Volvo and the Customer for the supply of the Services formed in accordance with Article 2.
“Data”	The data transmitted from the Vehicle to Volvo’s Dynafleet Online server.
“Dynafleet Hardware”	Dynafleet Vehicle equipment and other supported devices.
“Services”	Services covered by this Contract pursuant to Clause 3 above
“Contract ”	This document including the appendices hereto and other documents referred to herein.
“Vehicle”	The Vehicle registered by Customer to which this Contract applies.
“Dynafleet Online Web Site”	Volvo’s web site setting out the Volvo Dynafleet Online services located at www.dynafleetonline.com
”Fuel Advice Toolbox”	Volvo’s web site setting out the Volvo Fuel Advice services located at Customer Portal via www.volvotrucks.com

2013-03-22

Appendix 2

Vehicle(s)