

## UK & Ireland Flex-E-Rent Rental Vehicle Supply Service Terms and Conditions

Where Company obtains specialist commercial and accessible Vehicle rental solutions ("**Flex-E-Rent Services**") from either Enterprise Rent-A-Car UK Limited, where the Rental commences in the United Kingdom, or ERAC Ireland Limited, where the Rental commences in the Republic of Ireland, (each referred to as "**ERAC**") the below terms and conditions shall apply. In respect of an Order for a committed, longer term, vehicle Rental, such terms and conditions below are subject to and subordinate to any conflicting or overriding terms stated in the Order Form, unless stated explicitly otherwise.

Each a "**Party**", together the "**Parties**"

### 1. Definitions

1.1. The following additional definitions shall apply:

**Affiliate** means a Group Undertaking of ERAC as such term is defined under the Companies Act 2006;

**Authorised Individual** means a person(s) authorised by the Company to accept handover and sign for condition of the vehicle at both the beginning and end of the Rental Period;

**BVRLA Guidelines** means the standards applicable to a specific type of Vehicle rental as set by the British Vehicle Rental and Leasing Association ("BVRLA"). The BVRLA Guidelines can be found on the BVRLA website;

**Chargeable Damage** means Damage assessed as chargeable in accordance with paragraph 12;

**Charge** means electric charge which is necessary for the Vehicle's operation;

**Compulsory Third Party Liability** means liability for Third Party Losses;

**Damage** means any loss of a Vehicle or change in a Vehicle's condition;

**Damage Evaluator** means the tool used for evaluating Damage to a Vehicle, a copy of which can be provided upon request;

**Damage Notification** means the notification sent by ERAC to Company confirming that there has been Damage to a Vehicle during the Rental Period;

**Damage Recovery Unit** or **DRU** means ERAC's department responsible for handling Vehicle Damage;

**Delivery Document** means the delivery document, including any Schedules thereto, an Authorised Individual is required to sign upon collection or delivery of a Vehicle;

**Driver** means the employee, contractor, consultant or agent of Company who is to be the driver of a Vehicle, and at all times as strictly authorised by Company;

**ERAC's Privacy Policy** means ERAC's current Privacy Policy which can be accessed at: [www.enterprise.co.uk](http://www.enterprise.co.uk).

**Excess Mileage Charge** means the charge set out in the Rates for exceeding any Individual Vehicle Distance Limit or the pro rata level of any Individual Vehicle Distance Limit, at any time, as the case may be;

**Excess Vehicle Usage Charge** means the charge set out in the Rates for exceeding any Vehicle Usage Limit or the pro rata level of any Vehicle Usage Limit, at any time, as the case may be;

**Fair Wear and Tear** means such Damage as is deemed acceptable under the BVRLA Guidelines for rentals commencing in the United Kingdom and Damage deemed as acceptable under the Damage Evaluator for rentals that commence in the Republic of Ireland ;

**Franchisee** means an independently-owned franchisee and/or licensee operating Enterprise and/or Flex-E-Rent branded vehicle rental locations;

**Fuel** means gasoline, petrol, diesel, hydrogen, or other similar products as defined in the Hydrocarbon Oil Duties Act 1979;

**HGV** shall mean a Vehicle which weighs 3.5 tonnes or more (or as the law requires from time to time);

**Individual Vehicle Distance Limit** means the distance limit, in mileage or kilometres, as applicable, in respect of any particular Vehicle over the period of time as set out in the Order Form or Rental Agreement, as appropriate;

**LOU** means loss of use;

**Mileage Limit** means the maximum number of miles/kilometres the Driver is permitted to drive the Vehicle during the Rental Period as set out in the Order Form or Rental Agreement, as appropriate;

**Minimum Rental Term** means any minimum term of rental agreed by the parties in relation to a Vehicle as set out in the Order Form or Rental Agreement or otherwise agreed in writing by authorised representatives of the Parties;

**Off the Road** means a Vehicle which is legally or practically not able to be driven, for example it does not meet the legal and safety requirements necessary for operation on public or private roads or may require maintenance or repair;

**Off-Hire** means the return of the Vehicle to ERAC and completion of the Vehicle's return inspection;

**Order** means an order for a committed, long term, vehicle Rental containing a Minimum Rental Term.

**Order Form** means the documentation relating to a specific Order agreed and executed between the parties.

**Operator's Licence** means, for rentals commencing in the United Kingdom, a licence as required under the Goods Vehicles

(Licensing of Operators) Act 1995 and any supplementary legislation or statutory instruments applicable from time to time, or for rentals commencing in the Republic of Ireland, as issued under the Road Traffic and Transport Act 2006, or as required or issued under any equivalent legislation in force in any jurisdiction in which Company operates the Vehicle;

**Rates** means the amounts payable for the hire of the different classes of Vehicles and ancillary products or services as specified in the Account Agreement, Order Form or otherwise agreed in writing between authorised representatives of the Parties;

**Rental** means the rental of a Vehicle by Company from ERAC under and in accordance with the terms of a Rental Agreement or Order Form, as appropriate;

**Rental Agreement** means ERAC's applicable rental agreement for flexible rental incorporating the Reservation, Delivery Document, these Terms and Conditions (including any Schedules thereto) and which is entered into between ERAC and Company for a Rental;

**Rental Period** means, in relation to a particular Rental, the total period of the Rental, as may be extended by prior agreement of ERAC, beginning from the Rental Start Date and ending on the later of: (i) the date set out in the relevant Rental Agreement or Order Form, as applicable; and (ii) the date ERAC collects the Vehicle from Company's premises, or Company/Driver delivers the Vehicle to ERAC's designated location (whichever is applicable) and completes the Vehicle's return inspection;

**Rental Start Date** means the earlier of (i) the date ERAC delivers the Vehicle to Company's premises, or Company/Driver collects the Vehicle from ERAC's designated location (whichever is applicable); or (ii) the date stated in the Rental Agreement or Order Form, as applicable.

**Replacement Vehicle** means a Vehicle provided by ERAC to replace a Vehicle where that Vehicle is temporarily Off the Road.

**Reservation** means a reservation for a Vehicle by Company placed with ERAC via the form agreed with ERAC;

**Return Conditions** means the terms detailing the condition in which the Vehicle is to be returned, as specified in clause 11 of these Terms & Conditions or otherwise by ERAC;

**Third Party Losses** means any potential third-party losses in relation to which, according to the law in force in any jurisdiction in which the Vehicle is operated, insurance must be in place before the Vehicle is operated as envisaged by the parties to the Rental Agreement or Order, as applicable.

**Total Loss** means the condition of the Vehicle when the cost of repairing the Vehicle would exceed the value of the Vehicle following such repair, or in the opinion of the insurers is uneconomic to repair, or if the Vehicle shall be irreparably damaged, destroyed or lost from whatever cause;

**Vehicle** means a vehicle provided by ERAC to Company or a Driver in accordance with the terms of the Rental Agreement or Order Form, as applicable;

**Vehicle Usage Limits** means the use of the Vehicle, including the hours of use, movement and overall operation of the vehicle as agreed by ERAC;

**Wattage** means a unit of power measured in kilowatts (kW) or megawatts (MW);

**Working Day** means a day between and including Monday and Friday which is not a bank holiday or public holiday in the United Kingdom;

**Working Hours** means 7.30 am to 5.30 pm Monday to Friday except where such day is a bank holiday or other public holiday in the United Kingdom.

## 2. Outsource Partners

- 2.1. Company acknowledges and agrees that ERAC may use an Affiliate, Franchisee or other outsource partner from time to time to fulfil its obligations under the Order Form or Rental Agreement, as appropriate (including the provision of a Vehicle, delivery/collection of a Vehicle etc...).

## 3. Vehicle Ordering

- 3.1. The reservation of a Vehicle by or on behalf of Company shall be conditional on the completion and submission to ERAC of a Reservation.
- 3.2. No Reservation shall be binding until it has been confirmed, in writing, by ERAC (which may include confirmation via email).
- 3.3. For flexible rental, ERAC will confirm the anticipated delivery and/or collection dates during the reservation process. For committed, longer term, rental or conversions that are agreed via the ERAC's Order Form, ERAC shall liaise with Company's nominated contact to arrange a delivery or collection date following confirmation of a Reservation.
- 3.4. Notwithstanding confirmation of a Reservation by ERAC:
  - 3.4.1. Vehicles are provided subject to availability and ERAC does not guarantee a particular model or specification of Vehicle will be available;
  - 3.4.2. if any particular Vehicle group ceases to be available within ERAC's rental fleet, ERAC shall be entitled to remove such Vehicle group from service by giving not less than 30 days' prior written notice to Company without any further liability to Company; and
  - 3.4.3. any equipment (such as fire extinguishers or first aid kits) ordered with the Vehicle are provided on an initial supply basis only. All periodic inspections of such equipment and any replacements required are the responsibility of the Company.

#### **4. Start of Hire**

- 4.1. The Rental shall start on the Rental Start Date and shall continue for the Rental Period unless the Rental is terminated in accordance with the terms of the Company's Account Agreement, Order Form or Rental Agreement (as applicable).
- 4.2. If Company refuses to accept any Vehicle when delivery is made by ERAC for any reason (except where ERAC has failed to comply with its obligations under these Rental Terms, for example non-compliance with the specifications expressly stated and confirmed in the Reservation), ERAC may terminate the Reservation and Rental with immediate effect without any liability to Company.
- 4.3. ERAC shall use its reasonable endeavours to have the Vehicles delivered or available for collection on the date requested by Company and agreed in the Reservation.
- 4.4. On commencement of a Rental:
  - 4.4.1. all Vehicles will be provided by, or on behalf of, ERAC in a roadworthy condition;
  - 4.4.2. all relevant Vehicles shall comply with the direct vision standard (DVS) as such standard applies at the Rental Start Date and where such requirement has been agreed in writing with ERAC in advance of the Rental. Thereafter, any changes required to the Vehicle to account for any changes to the DVS following the Rental Start Date shall be at the Company's cost;
  - 4.4.3. The Authorised Individual taking delivery of, or collecting, a Vehicle on behalf of the Company will be required to indicate its adherence to (which may include wet ink or electronic signature) the Rental Agreement or Delivery Document on which any existing damage to the condition of the Vehicle other than Fair Wear and Tear will be recorded. It is the Authorised Individual's responsibility to ensure that all damage to the condition of the Vehicle has been noted on the applicable Rental Agreement or Delivery Document. On prior request, a copy may be emailed to the Company. Company will remain liable for the Vehicle and its condition, in accordance with the Order or Rental Agreement, whether or not such documentation is completed or signed. If no damage is recorded, the Vehicle will be deemed to have been in a new condition save for Fair Wear and Tear at the Rental Start Date.

#### **5. Delivery**

- 5.1. ERAC shall endeavour to deliver and collect Vehicles during Working Hours.
- 5.2. Delivery and collection charges will apply, as set out in the Rates.
- 5.3. Where Company fails to make an authorised person available for delivery or fails to make an authorised person along with a Vehicle available for collection, at the notified time, at the start or the end of the Rental Period, Company shall be charged an aborted delivery and/ or collection charge or such sum as set out in the Rates.
- 5.4. The Rental Agreement or Delivery Document shall specify the details of the Vehicle and include in particular the odometer reading on that Vehicle as at the commencement of the Rental.
- 5.5. If any Vehicle is delivered to Company before the agreed date for the commencement of the Rental, Company agrees that it shall hold, insure and otherwise deal with such Vehicle in all respects as if the Rental had already started.
- 5.6. By either signing the Rental Agreement or Delivery Document accepting each delivery, commencing use of a Vehicle or 1 hour following delivery (whichever is earliest), Company acknowledges that such Vehicle is roadworthy and accepts the condition of the Vehicle.

#### **6. Duties of Company**

- 6.1. Company shall ensure that:
  - 6.1.1. an Authorised Individual is made available on delivery and collection of each Vehicle;
  - 6.1.2. the Rental Agreement and Delivery Document is signed, which may include wet ink or digital signature, on delivery of each Vehicle. Company shall remain liable for the Vehicle and its condition for the Rental Period, whether or not the Rental Agreement and/or Delivery Document is completed or signed;
  - 6.1.3. all Drivers are at least 21 years of age and have a full and valid driving licence, which allows them to operate the class of Vehicle provided or such Driver is of sufficient age to be covered fully by the Company's own insurance;
  - 6.1.4. it and each Driver shall look after the Vehicle ensuring it is locked and secure (including ensuring the key is secure) when not in use and that any security device fitted to the Vehicle is used at all applicable times;
  - 6.1.5. if a warning light displays on the dashboard, Driver must stop driving as soon as it is safe to do so and contact ERAC for further advice.
  - 6.1.6. any Driver must remove all personal possessions from the Vehicle at the end of a Rental. ERAC does not accept any responsibility for any possessions that are left in a Vehicle.
  - 6.1.7. it has in place all operating or usage licences, consents or permissions necessary for the country in which it is being used. The Company shall be liable for any costs incurred by ERAC (e.g. in recovering an impounded Vehicle) where the Company does not have the correct licence, consent or permission.
  - 6.1.8. the Company shall comply with all applicable obligations, for Rentals commencing in the United Kingdom, under the

Goods Vehicles (Licensing Of Operators) Act 1995 and the Road Traffic Act 2000 or for Rentals commencing in the Republic of Ireland, under the Road Traffic and Transport Act 2006 and the Road Transport Act 2011 (as amended) and in particular ensure that:

- 6.1.8.1. that it has a valid Operator's Licence in place permitting operation of the relevant Vehicle(s) and that Company is not currently the subject of or awaiting any decision of a public enquiry into its Operator's Licence and it is not aware of any reason why it may be called to a public enquiry in the foreseeable future. Company shall maintain such Operator's Licence and comply with all the obligations and statutory requirements associated with its Operator's Licence. Company shall provide a copy of its Operator's Licence on demand and shall promptly notify ERAC of any changes to, revocation, suspension or termination of such licence.
- 6.1.8.2. the Vehicle is only used with a valid Operator's Licence for the traffic area or area(s) in which the Vehicle is used;
- 6.1.8.3. nothing is done to jeopardise the validity of the Operator's Licence including breaching the Operator's Licence;
- 6.1.8.4. a copy of any request to attend a public enquiry in relation to the Operator's Licence is promptly forwarded to ERAC and the outcome of the enquiry is promptly notified to ERAC in writing including whether any action is being taken by the Traffic Commissioner (in the United Kingdom) or the Minister for Transport, Tourism and Sport (in Ireland) to vary, revoke, amend, suspend or curtail the Operator's Licence;
- 6.1.8.5. the Operator's Licence is not surrendered without 14 days' written notice being given to ERAC;
- 6.1.9. where the Vehicle is a Public Services Vehicle, the Company shall comply with the applicable obligations in the Public Passengers Vehicles Act 1981 and Public Service Vehicles Regulations 1990, as amended in 2015, or, such other equivalent legislation as applicable in a jurisdiction in which the Vehicle is used, namely:
  - 6.1.9.1. having a valid PSV licence;
  - 6.1.9.2. possessing the necessary vehicle certifications;
  - 6.1.9.3. completion of statutory vehicle testing, as required; and
  - 6.1.9.4. compliance with vehicle accessibility requirements.
- 6.1.10. Only the correct type of Fuel is used in the Vehicle and it shall at all times follow the Vehicle manufacturer's recommendations regarding fuel, fuel blends, additives (such as Adblue) and lubricants. The use of red (rebated) diesel fuel, HVO or other biodiesel is not permitted without the prior written consent of ERAC. Company will reimburse ERAC in full for any costs incurred by ERAC (such as a call-out to attend a Vehicle) that is shown to be due to the failure to comply with such manufacturer's recommendation in respect of Fuel, resulting from the use of the incorrect Fuel in the Vehicle or from any other breach of this clause.
- 6.1.11. where the Vehicle is electric the Company shall ensure that the correct method of charge is used. Company will reimburse ERAC in full for any costs incurred by ERAC (such as a call-out to attend a Vehicle) that is shown to be due to the failure to charge or result from incorrect charging procedures;
- 6.1.12. the Vehicle is kept and operated properly and safely by Company's authorised Drivers who at all times shall hold valid and current driving licences in the appropriate classes for the Vehicle and only duly trained and qualified, competent, employees are allowed to operate any ancillary equipment supplied with the Vehicle;
- 6.1.13. the Vehicle and ancillary equipment is used in accordance with any work instructions, guidance, tutorial, training, familiarisation and/or operating manuals provided by the manufacturer, ERAC or other made available to the Company or published;
- 6.1.14. the Vehicle is operated legally and in accordance with the rules, regulations and best practices (including those set out in the Highway Code);
- 6.1.15. the Company follows environmental laws including related to waste disposal and holds any necessary waste transfer licences required;
- 6.1.16. it shall make available the Vehicle for inspection, repair, MOT and/or servicing as required;
- 6.1.17. it shall deliver and collect the Vehicle to and from any maintenance, or repairing agent, in a clean condition and free of all load. ERAC shall make the Vehicle available for unloading where the Vehicle has been recovered by ERAC or its breakdown assistance partner. Where a Vehicle hasn't been recovered through breakdown assistance, ERAC can provide a delivery and/or collection service where agreed in advance with ERAC. Where the requirements of paragraph 22.3 all apply, Company shall not be charged for such delivery and collection;
- 6.1.18. pay ERAC's costs incurred in unloading and/or disposal of any load which has not been removed from the Vehicle prior to the Vehicle being handed over to ERAC or its repairing agent, for servicing, maintenance and/or repair work. ERAC accepts no liability for any load that has not been removed and may require the Company to recover the Vehicle and re-book the work (and all associated costs) to facilitate the removal of any load before ERAC or its repairing agent carries out any work;
- 6.1.19. it shall pay for all Fuel, Charge, materials, oil, grease and lubricants for the proper running of the Vehicle and ensure that sufficient anti-freeze of a recommended type is at all material times maintained in the Vehicle's radiator;

- 6.1.20. it shall wash down and clean any winter maintenance Vehicle, in accordance with manufacturer guidance, to avoid any deterioration of the bodywork. If, due to failure to wash down the Vehicle on a regular basis, damage is caused to the Vehicle, which requires remedial work, the Company will be recharged for the remedial works;
- 6.1.21. collect from and return to ERAC, or from and to such ERAC's depot as ERAC shall advise, any Replacement Vehicle made available to Company. Company shall return the Replacement Vehicle within 2 Working Days after Company has been informed by ERAC that the original Vehicle is ready for collection, failing which Company may be required to pay additional charges for the Replacement Vehicle at the rate reasonably determined by ERAC for the period during which the Replacement Vehicle is retained by Company. ERAC can provide a delivery and/or collection service where agreed in advance with ERAC. Where the requirements of paragraph 22.3 all apply, Company shall not be charged for such delivery and collection;
- 6.1.22. take all necessary steps at its own expense to retain and recover possession and control of any Vehicle of which Company loses possession or control and/or permit ERAC to take such steps, as ERAC requires, to recover possession and control of any Vehicle;
- 6.1.23. permit ERAC or its authorised representatives at all reasonable times and on reasonable notice to enter upon the premises where any Vehicle may from time to time be garaged or parked to inspect and test the condition of the Vehicle or, if necessary, recover the Vehicle;
- 6.1.24. notify ERAC of any change to Company's address and, upon request by ERAC, promptly inform ERAC of the whereabouts of the Vehicle; and without prejudice to the generality of the foregoing provisions not to use or permit the Vehicle to be used or operated in a manner contrary to any statutory provision or regulation or in any way contrary to law, having regard in particular to the regulations affecting maintenance and usage of tyres;
- 6.1.25. inspect and, where necessary, replace any equipment (such as fire extinguishers or first aid kits) provided with a Vehicle;
- 6.1.26. it shall be responsible for the replacement of any consumables attached to a Vehicle (such as brushes on a sweeper), at the Company's own cost
- 6.1.27. notify ERAC if the Vehicle is being used outside of the mainland United Kingdom in the case of a Rental originating in the United Kingdom or outside of the Republic of Ireland for a Rental originating in the Republic of Ireland (including where it is being used cross border between Northern Ireland and the Republic of Ireland or for Rentals originating in the United Kingdom when being used in Northern Ireland). The Company shall be liable for any costs ERAC incurs due to the Company's failure to notify ERAC.
- 6.1.28. provide adequate insurance (such as public liability cover) for ERAC's, or its sub-contractor's, personnel, attending the Company's premises (for example to transport a Vehicle or to service, maintain or repair a Vehicle or ancillary equipment on such Vehicle).

## **7. Payment**

- 7.1. Company shall pay ERAC upon demand the applicable Rates for all Rentals, ERAC's charges in respect of Chargeable Damage and all other amounts owed under the Order Form or Rental Agreement, as applicable, including without limitation where applicable, amounts arising from traffic violations, tolls, parking fines and fees, optional equipment, etc. ERAC may, from time to time, and upon notice to Company, offset any amounts that are owed to ERAC by Company against amounts owed by ERAC to Company.
- 7.2. The Company shall be liable for payment notwithstanding the Company's use of the Vehicle. The Company shall not be entitled to any credits for periods of non-use/inactivity (including weekends and public holidays). If the non-use/inactivity is a result of all the circumstances described paragraph 22.3 and ERAC is unable to provide a reasonable replacement vehicle then the Company shall not be charged for such unused/inactive Vehicle.
- 7.3. Company shall pay all amounts due by Company in full without any set-off, restriction or condition unless required by law to make any deduction or withholding.
- 7.4. For amounts not paid by Company within thirty days after the date due, Company shall pay a rate of five percent over the Bank of England base rate (SONIA) for the time being in force and compounded monthly, not to exceed the maximum rate allowable by law. Company shall raise invoice queries no later than 21 days from the date of the relevant invoice; failure to do so constitutes acceptance of such invoiced amounts.
- 7.5. The Company acknowledges and agrees that it may not refuse to make payment due to an action or omission on the Company's part (for example the absence or non-use of a purchase order number shall not absolve the Company of its obligation to make payment for any order which is placed with ERAC if Company has not provided such Purchase Order or has provided an incorrect Purchase Order). For the avoidance of doubt, the Company shall be liable for all invoices related to the Reservations placed, regardless of whether a Purchase Order number was provided or not.
- 7.6. ERAC may, in its sole discretion, conduct checks at any time during the Rental Period (e.g. to review Customer's ongoing creditworthiness). On such request, Customer shall provide, financial statements, balance sheets, management accounts, and any other financial document or reports. ERAC shall at all times exercise its confidentiality obligations with respect to such information.



- 7.7. If the Company (i) fails any credit/security checks; (ii) fails to make payment as in accordance with clause 7.4; (iii) acts in a manner which causes, or is likely to cause, reputational damage or be detrimental to ERAC; or (iv) fails to file any required accounting information within the specified time period in accordance with Companies House; it shall be considered a material breach of the Account Agreement, Order Form and the Rental Agreement, as applicable. ERAC, in its sole discretion, may: (a) reduce the invoicing and payment terms; (b) request, as in accordance with clause 7.5, additional financial information of the Company; (c) require that the Company provides an assurance, guarantee or advance deposit; and/or (d) terminate the Company's Account Agreement, Order(s) and/or the Rental Agreement(s) and invoice the Company for any and all outstanding amounts and require the return of all Vehicles in the Company's possession. Under such circumstances, Company shall make available the affected Vehicle(s) for ERAC to recover and ERAC may take any steps necessary to recover the Vehicle. Termination under this clause shall not relieve the Company of any obligations or liabilities prior to the termination date, including but not limited to payment for Rentals and services provided up to date of return of the Vehicle(s).

## 8. Use of the Vehicle

- 8.1. Company warrants, undertakes and represents that it shall not cause or allow:
- 8.1.1. the Vehicle to be driven in a reckless manner;
  - 8.1.2. the Vehicle to be driven by any other Driver who has not been first authorised by Company;
  - 8.1.3. the Vehicle to be used while any Driver is under the influence of alcohol, drugs, or any other substance impairing their consciousness or ability to react;
  - 8.1.4. the Vehicle for any illegal, wilful or deliberate purpose causing injury, loss or damage to property or person;
  - 8.1.5. a Driver and/or all passengers to not smoke in the Vehicles. The use of e-cigarettes in Vehicle is also prohibited;
  - 8.1.6. the Vehicle to be used in or on that part of any aerodrome, airfield, airport or military installation designed for the take-off, landing, taxiing or parking of aircraft and aerial devices, including any associated service roads, fuel supply areas, ground equipment parking areas, aprons, maintenance zones and hangars ("Airfield Use");
  - 8.1.7. the Vehicle to be used for racing, pacemaking, testing the Vehicle's reliability and speed or teaching someone to drive;
  - 8.1.8. the Vehicle to be used to propel or tow any other vehicle or a tow truck, except, subject to an additional charge, vehicles specifically fitted with a tow bar for such purpose and provided always that the Driver complies with all correct licence and weight restrictions;
  - 8.1.9. the Vehicle to be used for motor trade use;
  - 8.1.10. the Vehicle to be used for the transportation of explosives, chemicals, corrosives or other hazardous materials or pollutants of any kind or nature except as allowable under law to transport dangerous or noxious substances;
  - 8.1.11. the Vehicle to be overloaded with more passengers than seatbelts or to transport children without the legally required car seats;
  - 8.1.12. the Vehicle to be used for the carriage of loads in excess of the legal carrying capacity of the Vehicle, or distribute loads unevenly;
  - 8.1.13. the Vehicle to be used in a manner that exceeds any of the manufacturer's recommendations in the use of a Vehicle;
  - 8.1.14. the use of incorrect Fuel or any Fuel, Fuel blends, additives (such as Adblue), lubricants or form of battery charging (if electric or hybrid), that is contrary to the manufacturer's recommendations or would otherwise invalidate such manufacturer's warranty.
  - 8.1.15. Red (rebated) diesel, HVO or other biodiesel fuel to be used without the prior written consent of ERAC.
  - 8.1.16. the Vehicle to be used in any manner which would infringe any statutory regulation or order relating to the driving and parking of the Vehicle or so as to cause danger to the public or persons in the Vehicle or risk damage to the Vehicle;
  - 8.1.17. the Vehicle to be used to carry in or on a Vehicle any goods, materials or produce which may damage the Vehicle or render it unfit to carry any other type of merchandise, or such other goods, materials or produce which may be hazardous or harmful to humans or other living beings;
  - 8.1.18. the Vehicle, without the prior written consent of ERAC, to be repaired, maintained, altered, added to or adapted or for any mechanical or other modification to the Vehicle to be made (including but not limited to the fitting of any towing equipment or other accessories or non-standard tyres). Any additions, alterations or modified parts which may be made or incorporated (whether with or without consent) shall become part of the Vehicle and shall belong to ERAC if not removed prior to Off-Hire of the Vehicle;
  - 8.1.19. the removal or interference with any identification marks or plates affixed to a Vehicle nor attempt or purport to do so nor permit the same without prior written consent of ERAC;
  - 8.1.20. the paintwork or bodywork of a Vehicle to be defaced, nor add or erect any painting, sign-writing, lettering or advertising to be added to or on the Vehicle without the prior written consent of ERAC; and
  - 8.1.21. the Company or any other person to sell, assign, mortgage, let on hire or otherwise dispose of or part with possession of any Vehicle or part thereof or charge the benefit of the Order Form or Rental Agreement, as

applicable, nor attempt or purport to do any of these things.

8.1.22. the Vehicle to be delayed in its return to ERAC and/or to be not returned to ERAC, when requested for maintenance or repair.

- 8.2. If Company or Driver continues to operate the Vehicle after the right to do so is terminated, ERAC reserves the right to notify the police that the Vehicle has been stolen.
- 8.3. If the Company wishes to use the Vehicle for the carriage of hazardous goods or materials, it shall obtain prior written consent from ERAC and ensure it obtains and maintains an appropriate valid licence for the carriage of such goods or materials for the remaining duration of the Rental Period (or such shorter period as is agreed in writing with ERAC) and shall be responsible for all additional safety measures necessary or reasonably required for the protection of the Vehicle, its occupants and third parties (including but not limited to the fitting of any required hazard warning plate). Consent shall not be granted unless the Vehicle is of an appropriate specification for the goods or materials in transit. Any authorisation by ERAC may be subject to certain conditions and surcharges which will be invoiced to Company. ERAC may require an additional charge at Off-Hire in respect of valeting, specialist cleaning and/or and decontamination of the Vehicle.
- 8.4. During the Rental Period, the Company shall keep the Vehicle and its accessories in its possession free from legal process or lien, and adequately and appropriately protected and secured.
- 8.5. Company shall use the Vehicle only for the purposes of its business and shall not use, or permit the Vehicle to be used, for any purposes for which the Vehicle is not expressly designed.
- 8.6. Vehicles shall only be driven within the United Kingdom or Ireland, for rentals commencing in the United Kingdom or Ireland (as applicable) unless otherwise authorised by ERAC. Any authorisation by ERAC may be subject to certain conditions and surcharges which will be invoiced to Company. If the Vehicle is operated outside the United Kingdom and Ireland, ERAC makes no representation that the Vehicle complies with traffic or vehicle regulations in any such country and Company hereby agrees that it is Company's responsibility to make sure that the Vehicle complies with the regulations of the country concerned.
- 8.7. ERAC may make changes to the Flex-E-Rent Services from time to time as required to conform to any applicable safety or other statutory or regulatory requirements.

## **9. Property, Risk and Insurance**

- 9.1. Title in the Vehicles remains at all times with ERAC and shall at no time pass to Company or the Drivers.
- 9.2. Risk in the Vehicle shall pass to Company from the Rental Start Date until the end of the Rental Period. Company accepts all liability in relation to all risk in the Vehicles during each Rental Period.
- 9.3. Company shall, prior to the Rental Start Date, obtain insurance to cover any Damage and Compulsory Third Party Liability for every jurisdiction in which the Vehicle is used and for the full duration of the Rental Period. Company shall reimburse ERAC in respect of any such Damage and Third Party Liability. Company shall maintain such insurance in full force and effect for the Rental Period, and shall ensure that such insurance is primary to any policy of insurance purchased by ERAC and ensure no right of subrogation against, and no policy purchased by ERAC will be called upon in contribution for any liability accepted by Company under or in relation to the Order or Rental Agreement.
- 9.4. Company grants its authorisation for ERAC or its insurance provider or broker to verify Company's insurance referred to in paragraph 9.3 above and Company shall disclose any information ERAC may request to verify insurance coverage or matters in connection with such insurance coverage. Company shall annually, within 30 days of policy renewal, provide ERAC with a copy of the policy of insurance, the premium receipts and insurance certificate and shall procure that its insurance provider notify ERAC in writing should Company fail to pay any premium in respect of the insurance.
- 9.5. In all cases, Company shall reimburse in respect of all claims and demands against, and all losses, expenses and liabilities of, ERAC, its Affiliates, Franchisees, and its and their respective insurers, arising out of or in connection with the Rental or use of (whether authorised or not), Vehicle during the Rental Period.
- 9.6. Where ERAC permits, in writing, that a Vehicle(s) may be used for Airfield Use then that said Airfield Use shall not be considered a so-called "prohibited use" of a Vehicle for the purposes of clause 8.1.6 and the Parties hereby agree that:
  - a) ERAC will not provide any third-party liability coverage with respect to any Vehicle during such Airfield Use.
  - b) Company shall insure the Vehicle against third-party liability during such Airfield Use, and shall provide evidence in the form of a letter (or similar) from its broker or insurer confirming such Vehicle(s) have such coverage.
  - c) Company shall provide evidence of the renewal of such policy, meeting the requirements of paragraph 9.6(b), prior to the expiration of the current insurance policy; and
  - d) Company shall indemnify ERAC without limitation and in in respect of all claims and demands against, and all losses, expenses and liabilities of, ERAC, its Affiliates, Franchisees, and its and their respective insurers, arising out of or in connection with such Airfield Use (whether authorised or not), of any Vehicle during the Rental Period.

## **10. Termination of Hire**

- 10.1. Where no Minimum Rental Term is specified for a Vehicle (for example this does not apply to a specific Order for committed, long term, hire), Company may at any time Off-Hire the Vehicle. On receipt of notification of Off-Hire by

Company or on physical return of the Vehicle (or on receipt of the prior notification required under a relevant Order Form for contracted vehicle hire), ERAC will provide Company with an Off-Hire reference which must be used to raise any future queries in relation to the Vehicle which has been Off-Hired.

- 10.2. If the Company returns the Vehicle before the intended date of Off Hire, unless stated otherwise in an Order Form, it shall pay the Rate for the actual Rental Period, which may differ from the per day charge applicable to the original intended period of hire. Where a Minimum Rental Term is specified for a Vehicle (e.g. in an Order Form), Company may only Off-Hire a Vehicle if it pays the specified early termination charge, or, if none is specified, all Rates for the remainder of the original Minimum Rental Term.
- 10.3. On Off-Hire, expiry or termination of the Rental (for any reason), Company will be liable for ERAC's cost in returning the Vehicle to its original specification (e.g. repair of any new damage and removal of any up-fitting installed by or on behalf of the Company).
- 10.4. Company will remain liable for all charges relating to the Vehicle that has been Off-Hired until the earlier of:
  - 10.4.1.3 (three) Working Days after the Off-Hire confirmation has been received from ERAC; or
  - 10.4.2. the Vehicle being assessed for Chargeable Damage.
- 10.5. Where Company terminates any Rental, it must (in addition to any other charges set out in the Order Form or Rental Agreement, as applicable) pay:
  - 10.5.1. all rental charges up to the date of such termination;
  - 10.5.2. any outstanding balance in respect of charges for ancillary equipment, upfitting and livery;
  - 10.5.3. the cost of removal of any ancillary equipment, upfitting and livery;
  - 10.5.4. for any Chargeable Damage; and
  - 10.5.5. daily LOU if the Vehicle requires repair or unscheduled maintenance until the Vehicle is no longer Off the Road.
- 10.6. Notwithstanding any Minimum Rental Term, set out in a Rental Agreement or Order Form, ERAC may, on 30 days' notice, terminate without cause any Rental, in which case Company must pay:
  - 10.6.1. all rental charges up to the date of such termination;
  - 10.6.2. any outstanding balance in respect of charges for ancillary equipment, upfitting and livery, provided such amounts are due and payable at the date of such termination. For the avoidance of doubt if charges for ancillary equipment, upfitting and livery were invoiced in instalments, ERAC will not be entitled to be paid those instalments which are due after the date of termination;
  - 10.6.3. the cost of removal of any ancillary equipment, upfitting and livery
  - 10.6.4. for any Chargeable Damage; and
  - 10.6.5. daily LOU if the Vehicle requires repair or unscheduled maintenance until the Vehicle is no longer Off the Road, subject to ERAC acting reasonably in respect of any unreasonable delays in the repair/maintenance process.
- 10.7. In accordance with clause 9.1 above, if the Company becomes insolvent, bankrupt, or the Company enters, or looks like it may enter, into any form of financial distress proceedings, which shall include but not be limited to insolvency, liquidation, administration, receivership, or voluntary/involuntary arrangement (collectively the "Financial Distress Proceedings"), the Company agrees and acknowledges that: (a) any such Vehicles in the Company's possession shall not be included in any such Insolvency Proceedings and ERAC shall remain with full unencumbered title to such Vehicles; (b) the Company shall provide, on ERAC's request, details regarding the Company's ongoing financial viability (which may include copies of the Company's management or trading accounts); (c) the Company shall provide advance payment of charges and fees payable to ERAC in respect of all Vehicles on rent to the Company; and (d) the Company shall procure a group company guarantee or bank guarantee in respect of all future payments, on request from ERAC, in respect of the ongoing hire of Vehicles.
- 10.8. ERAC may terminate the Order Form or Rental Agreement, as applicable, immediately and without prior notice in the event: (i) the Customer breaches any part of the Order Form or Rental Agreement (including any failure to make a payment in respect of any vehicle on hire to the Customer); or (ii) the Company, any associated affiliate or person of the Company, is placed on any national or international sanctions list during the term of the Order or Rental Agreement. Under such circumstances, Company shall make available the affected Vehicle(s) for ERAC to recover and ERAC may take any steps necessary to recover the Vehicle. Termination under this clause shall not relieve the Company of any obligations or liabilities prior to the termination date, including but not limited to payment for Rentals and services provided up to date of return of the Vehicle(s).

## 11. Vehicle Off-Hire

- 11.1. Company shall return the Vehicle and its accessories to ERAC in the condition required by the Return Conditions or in the same original condition as supplied to Company, subject to Fair Wear and Tear.
- 11.2. The Vehicle shall, if required by ERAC, be returned to the ERAC depot from where the Vehicle was obtained (or to such other ERAC depot as may be notified in writing by ERAC from time to time) at or before the end of the Rental Period or such other date as may be notified by ERAC. ERAC offers and Company may opt to use ERAC's chargeable delivery



and collection service. Charges vary depending on location, distance and vehicle type and ERAC shall provide a quotation, in advance, on request.

**11.3. On Return of the Vehicle:**

11.3.1. the Vehicle's condition will be assessed for Chargeable Damage either: (i) by use of the Damage Evaluator, where Company have been responsible for the Vehicle for 12 months or less; or (ii) by use of the Damage Evaluator and according to the BVRLA Guidelines if Company have been responsible for the Vehicle for more than 12 months.

11.3.2. Chargeable Damage will be charged to Company at ERAC's discretion.

11.3.3. Company will ensure the Vehicle is returned with:

11.3.3.1. full Vehicle records such as service manuals, handbooks, certificates, safety inspections, defect rectifications, etc.;

11.3.3.2. a current MOT (if applicable) with 90 valid days remaining before it's expiry;

11.3.3.3. current certificates for applicable ancillary items (such as LOLER, calibration, tank tests, etc...) with 30 valid days remaining before their expiry;

11.3.3.4. for applicable Vehicles, a current PMI report that has no less than 14 days remaining at the date of return of the Vehicle;

11.3.3.5. tyres with 3mm minimum tread depth, unless otherwise stated in the Order Form and with the same or another premium manufacturer tyre brand, remoulds should not be fitted.

**12. Damage to the Vehicle**

**12.1. Company shall:**

12.1.1. report any accident, theft or loss of a Vehicle to ERAC's applicable depot immediately;

12.1.2. not admit responsibility for any accident to any third-party other than Company, ERAC and Company's own insurer;

12.1.3. provide ERAC with all relevant details of the circumstances of the incident, including details of all involved third parties (including names, registrations numbers, contact numbers, insurance details, policy number and claim number), witnesses, and police incident number within 3 working days of ERAC's request; and

12.1.4. provide all necessary assistance to and fully cooperate with ERAC and the relevant insurers in matters arising from any incident, including providing ERAC and the relevant insurers with any documents or legal proceedings which it receives.

12.2. If the Vehicle is detained by the DVSA, HSE, Road Safety Authority (RSA), the Health Services Executive or any government body as a result of an incident or otherwise whilst in the Company's control, then the Company shall remain liable for the ongoing charges and costs (including for recovering and restoring the Vehicle) until ERAC is able to re-rent such Vehicle. If the Vehicle is written off due to any such investigation the Company shall pay ERAC's Loss of Use and the replacement value of the Vehicle, which, amongst other variables, takes into account the market value of the Vehicle and the salvage value.

12.3. Company shall ensure that an authorised individual is present on delivery or collection of a Vehicle at the commencement of the Rental Period to verify the condition of a Vehicle. If Company fails to ensure that an authorised individual is present on delivery or collection of a Vehicle, any pre-existing Damage to the Vehicle identified by Company shall be communicated to ERAC within 1 hour of delivery or collection, and in any event prior to use of the Vehicle. If the Vehicle is delivered outside of Working Hours, then Company shall communicate any pre-existing Damage to ERAC by 9.00 am on the next Working Day and prior to use of the Vehicle. If Company fails to do so it shall be deemed to have accepted the condition as verified by ERAC.

12.4. Save with ERAC's prior written consent, Company shall not repair or attempt to repair, either directly or via a third-party, any Vehicle (including the replacement of any tyres). Company shall indemnify ERAC against all liabilities, costs, expenses, damages and losses and all other reasonable professional costs and expenses suffered or incurred by ERAC arising out of or in connection with breach of this paragraph 12.

12.5. Company shall ensure that an authorised individual is present during the receipt or collection of a Vehicle by ERAC at the end of the Rental Period.

12.6. At the end of each Rental Period or otherwise in the event of Damage to a Vehicle, ERAC shall inspect the Vehicle in accordance with paragraph 11.3.

12.7. Where new Damage to a Vehicle is found, Company's authorised individual shall sign a form to acknowledge a change of condition to the Vehicle. ERAC shall write a claim for any Chargeable Damage, including Damage found on a Vehicle in circumstances where Company fails to ensure that an authorised individual is present.

12.8. Where new Damage to a Vehicle has occurred during the Rental Period, ERAC will send a Damage Notification to Company.

12.9. On receipt of a Damage Notification, if Company has reasonable grounds to dispute such Damage, Company shall submit details of the dispute to ERAC in writing within 30 days of the date of the Damage Notification. On receipt of such details, ERAC shall provide a written response to Company and ERAC and Company shall work together to reach a resolution.

12.10. If no resolution is reached between the parties within a reasonable period of time, ERAC shall be entitled to

refer the matter to a third party (such as an independent specialist engineer or the British Vehicle Rental and Leasing Association, who operate an independent mediation scheme) or otherwise in accordance with the terms of the Order Form or Rental Agreement, as applicable.

- 12.11. If no dispute is raised in accordance with paragraph 12.8 the Damage Notification shall be deemed accepted by Company.

### **13. Total Loss**

- 13.1. ERAC reserves the right to categorise a total loss on the Motor Insurance Anti-Fraud and Theft Register.
- 13.2. In the event of a total loss, Company will be charged the following:
- 13.2.1. the replacement value of the Vehicle, which, amongst other variables, takes into account the market value of the Vehicle and the salvage value; and
  - 13.2.2. Loss of Use ("LOU") until the final settlement figure is agreed.

### **14. Windscreens**

- 14.1. Windscreen repairs or replacements must only be carried out through ERAC, and under no circumstances be carried out by Company or a third party not authorised by ERAC.
- 14.2. Damaged windscreens will be replaced or repaired in accordance with ERAC's standard charges, as set out in the Rates or as otherwise notified by ERAC.

### **15. Tyres**

- 15.1. It is Company's responsibility to ensure that the tread depth of each tyre on a Vehicle is checked regularly. Tyres must be replaced when tread levels reach 3mm.
- 15.2. Tyres which have been properly maintained but require replacement due to general wear and tear will be replaced by ERAC without charges.
- 15.3. Subject to clause 15.5, repair or replacement of punctured or damaged tyres will be charged to Company in accordance with ERAC's standard charges, as set out in the Rates or as otherwise notified by ERAC.
- 15.4. Where Company arranges tyre repair or replacement, Company must use one of ERAC's approved tyre suppliers as notified by ERAC.
- 15.5. ERAC may consider betterment on some damaged tyres if set out in the Rates or otherwise agreed with ERAC.
- 15.6. All agreed reimbursements to be made by ERAC for any replacement tyre installed whilst the Vehicle was outside the United Kingdom mainland shall be subject to receipt by ERAC of the original receipted invoices (as evidence that the work has been carried out) and, where relevant, either receipt of certified copy records or the return of the original tyre casing to ERAC's depot. ERAC shall reimburse to Company a sum no greater than the equivalent cost of a replacement tyre if the replacement had been carried out in the United Kingdom.

### **16. Servicing and Scheduled Maintenance**

- 16.1. Unless agreed in an Order Form for a Vehicle, servicing and scheduled maintenance must only be carried out through ERAC and should under no circumstances be carried out by Company or any third party not authorised by ERAC.
- 16.2. In respect of the condition and maintenance of the Vehicle and while the Vehicle is in the Company's custody or control, Company shall be responsible, at its own cost, for:
- 16.2.1. delivering the Vehicle to ERAC at such times as requested by ERAC and/or is necessary to comply with the manufacturer's recommendations, and, in the case of HGVs, at the required periodic intervals for inspection - ERAC can provide a delivery and/or collection service where agreed in advance with ERAC and where the requirements of paragraph 22.3 all apply, Company shall not be charged for such delivery and collection;
  - 16.2.2. regularly checking and maintaining correct tyre pressures, wheel nuts, torques and lights;
  - 16.2.3. regularly checking and adjusting as necessary engine oil levels, battery fluid levels, screen wash levels, coolant levels and automatic transmission oil levels (as appropriate);
  - 16.2.4. regularly cleaning the exterior, interior and upholstery of the Vehicle; and
  - 16.2.5. promptly reporting Damage (subject to inspection by ERAC).
- 16.3. Company shall make the Vehicle available to ERAC for the purpose of arranging a MOT, CVRT or other required test prior to the date on which a Vehicle test certificate is first required or (as the case may be) on or before the expiry date of the last such certificate.
- 16.4. Provided that Company is not in breach of any of its obligations under the Order Form or Rental Agreement, ERAC shall obtain and pay for the vehicle excise licence and pay for any MOT, CVRT or other annual test certificate for the Vehicle.
- 16.5. Provided that Company is not in breach of any of its obligations to ERAC under the Order Form or Rental Agreement, ERAC shall carry out or procure at its own cost:
- 16.5.1. the agreed scheduled service and maintenance of the Vehicle, which includes: (i) periodic PMI inspections and maintenance carried out in an ERAC depot or using its mobile technicians or third-party network, as determined by ERAC; and (ii) Roller Brake Testing, if applicable, conducted in accordance with intervals determined by ERAC in accordance with industry best practice or otherwise agreed with Company in the Order Form, or as may be changed

by written agreement later. Company shall not carry out servicing or scheduled maintenance other than through ERAC. All Vehicles are required to be serviced as and when indicated on the dashboard of the Vehicle or in line with the manufacturer's timeframes as indicated in their published guidance and/or Vehicle handbook. It is Company's responsibility to contact ERAC when a Vehicle requires routine maintenance or servicing in accordance with the Order Form or Rental Agreement. ERAC shall advise Company of the appointment details and location of such maintenance or servicing which, dependent on location, ERAC shall endeavour to provide on-site. If the Vehicle is not made available for such appointment Company shall be liable, in full, for ERAC's costs;

16.5.2. the scheduled periodic agreed inspections of the Vehicle. Company shall at all times maintain the Vehicles in a road worthy condition. This should be done by carrying out routine daily checks and alerting ERAC immediately of any defects or problems that may arise;

16.5.3. all repairs and replacements to the Vehicle necessary as a result of Fair Wear and Tear which occur on the United Kingdom mainland and are:

16.5.3.1. caused by mechanical breakdown; or

16.5.3.2. may be required during the course of regular service and maintenance.

16.6. Standard servicing and maintenance does not include: (i) damage beyond fair wear and tear, deliberate damage, damage from negligence or misuse, extraordinary or unusual maintenance requirements or maintenance resulting from excessive or significant use; (ii) windscreens and glass (except small chips determined in accordance with Enterprise's damage evaluator tool); (iii) consumables such as fuel, oil, water, screen wash, AdBlue, sweeping brushes & skirts, spray hoses & nozzles; and (iv) cleaning of the Diesel Particulate Filter (DPF).

16.7. In certain circumstances, at its sole discretion ERAC may allow Company to arrange any particular repairs or replacements to a Vehicle. Company may only use a garage or repairer which has been pre-approved by ERAC, in writing, in accordance with ERAC's designated process. Where a repair or replacement to a Vehicle is carried out pursuant to this paragraph 16.6, Company shall on each occasion provide full details of any such repairs or replacements to ERAC in writing no later than 7 days following completion of the relevant repair or replacement. Company acknowledges and agrees that it shall be responsible and liable for all costs, losses and liabilities arising from or in connection with any poor repair or replacement carried out to a Vehicle.

16.8. If there is a change in legislation or use of the Vehicles by Company which requires a more frequent inspection regime or alteration to the maintenance or other services to be provided to Company, ERAC shall notify Company as soon as practicable of the variation to the Rates and such variation shall take effect 30 days from such notice. ERAC shall not in any circumstances be obliged to meet the costs of servicing or repairing any accessories fitted to the Vehicle after delivery (and Company agrees only to fit such accessories with the prior written consent of ERAC). Where failure to maintain such accessories might adversely affect the condition of the Vehicle (which expression shall in this context exclude the accessories themselves), Company, at its own cost, shall arrange for regular maintenance of, and any necessary repairs to, such accessories.

16.9. If the Vehicle suffers a mechanical breakdown due to Fair Wear and Tear while outside the United Kingdom mainland, ERAC shall, subject to having given prior written consent to Company for the necessary repairs and receiving original receipted invoices, reimburse to Company a sum equal to the equivalent cost of repairs had the repairs been carried out in the United Kingdom mainland. ERAC shall not be liable for any other costs incurred by Company in such circumstances, including the replacement of the Vehicle and the recovery of the Vehicle to the United Kingdom mainland or loss of any goods.

16.10. If a Vehicle suffers damage as a result of any breach of paragraphs 14, 15 or 16, Company shall indemnify ERAC against all liabilities, costs, expenses, damages and losses and all other reasonable professional costs and expenses suffered or incurred by ERAC arising out of or in connection with such breach by Company plus an administrative charge as set out in Rates.

## **17. Fuel**

17.1. At the Rental Start Date, the Fuel level or electric Charge level shall be noted in the Delivery Document (as appropriate). Thereafter, a re-fuelling or re-charging service fee applies if Company does not return the Vehicle to ERAC with the same level of Fuel/electric Charge as at the start of the Rental Period (such level as indicated on the Delivery Document or Rental Agreement). Such re-fuelling/re-charging fee will be determined in accordance with ERAC's standard fuel policy or as otherwise set out in the Rates. Company shall not receive a refund if the Vehicle is returned with more fuel than when it was received. Where agreed in advance, a Vehicle may be delivered with full tank of fuel or full level of electric charge, which shall be payable at first invoice (see current fuel/e-charge policy for the applicable rate(s)).

## **18. Electric Charge**

18.1. The Company shall Charge an electric Vehicle using charging equipment that meets the minimum Wattage requirement specified in the Vehicle handbook.

18.2. The Company shall ensure that the charging equipment is capable of providing continuous power output of the minimum Wattage.

18.3. As in accordance with clause 6.1.11, the Company acknowledges that using incorrect charging equipment (e.g. a Wattage

above or below the specified requirement) may result in damage to the Vehicle. In the event of any damage to the Vehicle due to the incorrect charging equipment having been used, the Company shall be liable for any such damage and/or loss which ERAC may incur and shall re-imburse ERAC accordingly.

#### **19. Theft**

- 19.1. If a Vehicle is stolen, Company shall immediately: (a) report the Vehicle as stolen and obtain a crime reference number; and (b) notify ERAC and Company's insurance provider of the theft and provide details (including the crime reference number).
- 19.2. Company shall immediately return to ERAC any remaining keys to a stolen Vehicle.
- 19.3. Company must inform ERAC immediately if the Vehicle is found or recovered.

#### **20. Traffic Violations**

- 20.1. Company shall be solely responsible for the payment of all costs and fines relating to traffic offences and/or violations (including speeding, parking, toll road/bridge/tunnel, bus lane and congestion charges) incurred whilst a Vehicle is in the Company's possession or otherwise arising out of or in connection with the Rental or use of (whether authorised or not) of the Vehicle during the Rental Period, whether incurred in the United Kingdom or overseas.
- 20.2. Company shall indemnify and keep indemnified ERAC against any losses, liabilities, costs and expenses (including any associated legal fees, costs and expenses reasonably incurred in connection with such losses, liabilities, costs and expenses) which ERAC suffers or incurs as a result of such traffic offences and/or violations incurred during the Rental Period (whether or not use of the Vehicle was authorised) or whilst a Vehicle is in Company's possession, whether incurred in the United Kingdom, Ireland or overseas.
- 20.3. Company also agrees to pay an administrative charge for each such traffic offence and/or violation, handled by ERAC, at ERAC's standard charge or as otherwise set out in the Rates.

#### **21. Overseas Travel**

- 21.1. Subject to ERAC's explicit prior written approval, and any other conditions it imposes, Vehicles may be taken overseas.

#### **22. Breakdown Assistance**

- 22.1. If a fault with the Vehicle becomes apparent, Company shall ensure that use of the Vehicle ceases immediately and Company shall request breakdown assistance.
- 22.2. Should a breakdown occur in the United Kingdom such breakdown assistance must only be obtained through ERAC or via ERAC's designated breakdown service partner using the contact details provided by ERAC.
- 22.3. ERAC provides 24/7 breakdown assistance through its breakdown service partner. Breakdown assistance is free of charge provided that:
  - 22.3.1. the breakdown has been caused by mechanical failure;
  - 22.3.2. the Vehicle has been serviced and maintained in accordance with the Order Form or Rental Agreement;
  - 22.3.3. the breakdown is not the result of accident, malicious intent or Driver fault; and
  - 22.3.4. Company is not otherwise in breach of any of the terms of the Company's Account Agreement, Order Form or the Rental Agreement.
- 22.4. If the requirements in paragraph 22.3 are not met, the Company shall pay to ERAC: (i) the breakdown call out charge; (ii) the cost of the repairs; and (iii) the damage administration charge; all of which are at ERAC's standard charges or as otherwise set out in the Rates.
- 22.5. Unless ERAC agrees otherwise, ERAC shall be under no obligation to replace the whole or any part of the Vehicle nor be liable for any loss, including loss of earnings or profits, suffered by Company if the Vehicle is or becomes Off the Road, and Company shall not be entitled to any remission of Rates or any other sum payable in respect of any period during which the Vehicle or any part are Off the Road.
- 22.6. Subject as set out in the Order Form or Rental Agreement, breakdown assistance includes:
  - 22.6.1. trans-shipment of loads; and
  - 22.6.2. recovery to an appropriate approved repairer.
- 22.7. Where breakdown assistance is included in the Rates and the Vehicle remains Off the Road, a Replacement Vehicle may be provided in accordance with paragraph 23.

#### **23. Replacement Vehicle**

- 23.1. Where a Vehicle is Off the Road for 24 hours or more, a Replacement Vehicle may be provided on request. Company accepts that specialist Vehicles may not be replaceable temporarily. Where a Vehicle is replaceable temporarily the Company accepts that the Replacement Vehicle may not be of the same specification as the Vehicle which is Off the Road.
- 23.2. Company shall be responsible for ensuring that the Replacement Vehicle is fully insured in accordance with the requirements of paragraph 9 above, the terms of the Company's Account Agreement, Order Form and the Rental Agreement.

- 23.3. Even where a Replacement Vehicle is provided, Company shall continue to pay the charges, as set out in the Rental Agreement, Order Form or the Rates, relating to the Off the Road Vehicle. Where the requirements of paragraph 22.3 all apply, Company shall not be charged for the Replacement Vehicle whilst the original Vehicle remains Off the Road. Otherwise, ERAC may charge Company for any Replacement Vehicle at ERAC's standard charge for such vehicle type or at the Rate otherwise agreed between the Parties for such vehicle type.
- 23.4. Any Replacement Vehicle supplied pursuant to paragraph 22.1 shall be treated as an original Vehicle for the purposes of the Agreement and the Order Form or Rental Agreement (as applicable).
- 23.5. Where Company has not elected to pay Replacement Vehicle cover, it shall have no entitlement to a Replacement Vehicle and shall continue to pay the charge for the Off the Road Vehicle, as set out in the Rates, during the period in which the Vehicle is Off the Road.

#### **24. Loss of Use (LOU)**

- 24.1. Subject to clause 23.1, LOU will be charged for the period during which a Vehicle is Off the Road as a result of an accident, chargeable repair or maintenance (i.e. repair or maintenance that is not covered by ERAC under paragraph 16.5) or other loss of the Vehicle.
- 24.2. Even where a Replacement Vehicle is provided, Company will continue to pay all charges relating to the Vehicle which is Off the Road and LOU in respect of such Vehicle may be payable in addition.
- 24.3. Where LOU is payable, one day's LOU will be payable by the Company for each day (or part thereof) the Vehicle is Off the Road. ERAC shall issue an invoice for the equivalent of the daily rental charge for the Replacement Vehicle for the full duration that the original Vehicle remains Off the Road.

#### **25. Mileage**

- 25.1. Company acknowledges and agrees that the Rates have been agreed based upon Vehicle Usage Limits or Individual Vehicle Distance Limits per Vehicle. Where the actual mileage or Vehicle usage exceeds that Individual Vehicle Distance Limit or Vehicle Usage Limit (or the pro rata amount of the Individual Vehicle Distance Limit or Vehicle Usage Limit as the case may be) then Company shall pay the Excess Mileage Charge or Excess Vehicle Usage Charge, as applicable. Any miles travelled by a Replacement Vehicle for the Vehicle shall be included in determining whether the Vehicle has exceeded such Vehicle's Usage Limit or Individual Vehicle Distance Limit (or the pro rata amount of such Vehicle's Usage Limit or Individual Vehicle Distance Limit as the case may be). Where any Rental is terminated early, such Vehicle's Usage Limit or Individual Vehicle Distance Limit shall be reduced proportionately for each month remaining of the unexpired term.
- 25.2. Company shall not receive any credit or rebate following expiry or earlier termination of the Company's Account Agreement or any Rental for having used less than the Vehicle Usage Limit or Mileage Limit for any Vehicle.
- 25.3. It is Customer's responsibility to check the Vehicle's mileage travelled and calculate any excess/under mileage against the Individual Vehicle's Distance Limit. Enterprise will not be able to advise Customer's in respect of actual or forecasted excess mileage or under mileage during the Rental Period unless explicitly requested, in writing. Company shall report accurate odometer mileage readings to ERAC's relevant branch for each Vehicle, on request, and on each anniversary of the Rental Start Date (and on the date of termination or expiry of the Rental Period), which reading ERAC shall be entitled to verify, or obtain for itself, from time to time by inspection of the Vehicle(s).
- 25.4. An appropriate method of reporting shall be agreed between ERAC and Company. Company shall ensure that all Drivers are aware of the obligation to report the mileage to Company.
- 25.5. If Company fails to report accurate odometer mileage in a timely manner, it shall be responsible for any resulting costs (including loss in residual value of the vehicle, costs associated with the non-warranty service or any repair issues).
- 25.6. If the odometer on any Vehicle ceases to function properly or if ERAC's or the manufacturer's seals on the odometer of any Vehicle is or has been interfered with, ERAC shall be entitled to estimate the distance travelled by that Vehicle for the period for which the odometer has failed to function properly. If the odometer of the Vehicle shall fail, Company shall immediately deliver the Vehicle to Company for repair and shall inform Company of the dates upon which the odometer was not working.

#### **26. Data Protection Notice and Provision of Telematics Rental Services**

- 26.1. Data Protection Notice
  - 26.1.1. Company acknowledges and shall ensure that all Drivers are made aware of the contents of this clause 26.
  - 26.1.2. ERAC, as data controller, will use any Driver's personal data collected in connection with the Rental or any related agreement or service, and disclose it, in accordance with applicable data protection laws and for the purposes described in and in accordance with ERAC's current Privacy Policy which can be accessed at the following website, [www.enterprise.co.uk](http://www.enterprise.co.uk) for Rentals originating in the UK and [www.enterprise.ie](http://www.enterprise.ie) for Rentals originating in Ireland.
  - 26.1.3. Company confirms and confirms on behalf of all Drivers their acknowledgement and understanding of details provided in relation to the use of Personal Data the use of Telematics Systems in a Vehicle described under ERAC's current Privacy Policy.
  - 26.1.4. Company shall indemnify ERAC against all liabilities, costs, expenses, damages and losses and all other reasonable



professional costs and expenses suffered or incurred by ERAC arising out of or in connection with a failure of the Buyer to fulfil its obligations under 26.1 to 26.3.

## **27. Rates and Additional Charges**

- 27.1. Company shall pay for the Rental based on the agreed Rates.
- 27.2. Company expressly acknowledges that ERAC shall be entitled to vary the Rates (including amending any charges for ancillary products or services or introducing any additional charges for new or varied products or services) as specified in the Company's Account Agreement and from time to time, for example:
  - 27.2.1. to incorporate any movements in vehicle excise duties or any relevant charges imposed by legislation or HM Revenue and Customs in the UK or Revenue Irish Tax & Customs in Ireland and
  - 27.2.2. to take account of ERAC's cost increases (such as manufacturer supply charges and inflation);in each case, upon 30 days' written notice from ERAC and provided that if the Company does not agree to such increase, Company may terminate its Account Agreement forthwith by written notice.
- 27.3. If the Company returns the Vehicle after the intended date of Off-Hire, it shall pay the per day Rate related to the original intended period of hire for full duration of the actual Rental Period, which may differ from the per day charge for the same period had the Company requested that duration of Rental Period at the date of On-Hire.
- 27.4. In respect of any extension to a Rental, the Rate shall only be changed during the Rental Period where (i) the extension is requested by Company and granted formally by ERAC; and (ii) with prospective effect (i.e. no Rate reduction shall apply to the period prior to the formal agreement of an extension, the Rates due for such period prior to the extension shall remain to be paid at the original agreed Rate).
- 27.5. Where it is necessary to cancel a Reservation, Company shall provide a minimum notice to ERAC before the Rental Period is scheduled to commence. Where less than the minimum notice is provided to ERAC before the Rental Period is scheduled to commence, ERAC shall have the right to: (a) enforce the original delivery/collection charge; and (b) apply an abortive charge(s) at ERAC's standard rate or as otherwise set out in the Rates. Where upfitting, livery or ancillary equipment is ordered or fitted by ERAC and notwithstanding such minimum notice being provided, Company may still be required to pay the reasonable costs incurred for any such upfitting, livery or ancillary equipment ordered and/or fitted. The minimum notice is: (i) 3 Working Hours for car and light commercial vehicles; and (ii) 1 Working Day for specialist, accessible, refrigerated and heavy goods vehicles.
- 27.6. Where the Company requires a Vehicle outside of Working Hours, any out of hours charges, at ERAC's standard charge or as otherwise set out in the Rates, shall apply.
- 27.7. Company agrees to pay the cost for the replacement of any keys lost during any Rental Period in addition to an administrative charge at ERAC's standard rate or as otherwise set out in the Rates.
- 27.8. Company agrees reasonable cleaning where it fails to return the Vehicle in a good condition and such charge shall be the additional cost to ERAC reasonably incurred and based on time spent as a result of such failure in addition to an administrative charge at ERAC's standard rate or as otherwise set out in the Rates.
- 27.9. If any Vehicle is not made available to ERAC for collection or otherwise returned to ERAC within 14 days of the end of the Rental Period or otherwise following termination of the Order or Rental Agreement or the Company's Account Agreement, then ERAC shall be entitled to levy a charge to Company for an amount equal to the market value of the Vehicle in addition to an administrative charge at ERAC's standard rate or as otherwise set out in the Rates. This shall not preclude ERAC from continuing to seek to recover the Vehicle and from recovering the ongoing rental (and other) costs and charges at ERAC's standard rates or as otherwise set out in the Rates.
- 27.10. During a period of low supply or high demand, ERAC may limit the availability of certain Vehicles within its fleet and/or adjust the rental Rates of certain impacted Vehicles.

## **28. Specific Virus-related Requirements**

- 28.1. The following clause 28 applies where Customer is notified by ERAC that government guidance or restrictions related to an epidemic, pandemic, contagion, virus or infectious disease is in place.
- 28.2. Where ERAC provides Vehicles which are either modified for epidemic, pandemic, contagion, virus or infectious disease related uses (including but not limited to the inclusion of vehicle dividers) or where Company is aware that a Vehicle has been used to move or otherwise transfer persons who either has, or has symptoms of such epidemic, pandemic, contagion, virus or infectious disease then:
  - 28.2.1. ERAC makes no warranty, representation or guarantees as to:
    - 28.2.1.1. the efficacy of the modification or the Vehicle to stop or prevent cross contamination or spread of any contagion, virus or infectious diseases or any other airborne contaminants (e.g. a divider may house an air vent with a removeable non classified filter, which is necessary as a safety feature to prevent air compression in the cab area and must not be blocked); and
    - 28.2.1.2. how any item and/or combination of any items ERAC supply will perform if the Vehicle is involved in a road traffic incident, nor that any item will provide complete protection against items, persons, contaminants or

chemicals moving around the Vehicle.

28.2.2. It remains the Driver's responsibility to ensure that any divider or other adaptation does not become an obstruction and that the Driver has and maintains a full field of vision before, and while, driving the Vehicle.

28.2.3. In the event of a Vehicle requiring maintenance during the Rental Period, it shall be carried out by an appointed service agent and the Company will be required to confirm to such service agent what the Vehicle has been used for and that the Company has carried out the appropriate isolation process and cleaning process as detailed below.

28.2.4. Company shall clean Vehicles to the standard set by relevant government guidelines at the time of such maintenance or at the time of Off-Hire.

28.2.5. Unless otherwise instructed or confirmed in writing by ERAC, all Vehicles shall be isolated for 3 days prior to any maintenance checks or work being undertaken or where the Vehicle is being made available for collection by ERAC. The Vehicle will remain on hire for this period and must be cleaned prior to such period in accordance with clause 28.2.4.

28.2.6. Any maintenance checks and work shall be undertaken on the Company's premises.

28.2.7. All Vehicles must have a picture taken of the odometer at the start of the isolation process.

28.2.8. Company is required to email ERAC to confirm the date of cleaning and that isolation has been completed stating the Vehicle is now ready to access or collect.

28.2.9. In addition to the cleaning procedure required under clause 28.2.4, all Vehicles shall be subject to an end of hire forensic cleaning process, arranged by ERAC and charged to Company at cost price to ERAC.

## **29. Force Majeure**

29.1. ERAC shall not be deemed to be in breach of the Order Form or Rental Agreement by reason of any delay in its performance, or any failure to perform, its obligations to provide services if such delay or failure is beyond the reasonable control of ERAC or such delay or failure is caused by the Company.

29.2. If such a cause occurs for a period longer than thirty (30) days, ERAC, its Affiliates, or Franchisees may restrict or limit rentals to Customer for a period of time until normal operations are able to be resumed as determined by ERAC or the applicable Affiliate or Franchisee.

## **30. Miscellaneous**

30.1. No failure or delay by either party in exercising any right or remedy under an Order Form or Rental Agreement, as applicable, shall be construed as a waiver of that right or remedy nor shall any single or partial exercise of any right or remedy preclude further exercise of that right or remedy. No delay in enforcing, or failure to enforce, a term of an Order Form or Rental Agreement, as applicable, shall be considered a waiver of such term or prevent a Party from enforcing such term in the future unless such waiver is agreed to writing and signed by an authorised representative of such party.

30.2. The Order Form or Rental Agreement, as applicable, and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual and contractual disputes or claims) shall be governed by and construed in accordance with the laws of England.

30.3. Each party agrees that the laws of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Order Form or Rental Agreement, as applicable, or its subject matter or formation (including non-contractual and contractual disputes or claims).

30.4. The terms of the Order Form or Rental Agreement, as applicable, represents the entire agreement between the parties in respect of a Vehicle and supersedes any prior agreements, understandings or representations.

30.5. Any amendment to the Order Form or Rental Agreement shall be made in writing and signed by a duly authorized representative of each party.

30.6. If a provision in the Rental Agreement or Order Form, as applicable, is held by a court of a competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be severed from the Rental Agreement or Order Form, as applicable, and the remaining provisions will remain in full force and effect to the extent permitted by law.

30.7. The Company is prohibited from assigning or transferring, in any manner, the Order Form or Rental Agreement, as applicable, to any third party, without the prior written consent of ERAC. ERAC shall, on notice to the Company, be able to assign the Order Form or Rental Agreement, as applicable, to an Affiliate.