

# Agreement for the provision of Data Access for Fleet Management Systems

## 1. Parties and definitions

1.1. Volvo Truck Corporation (“Volvo”), and the Customer registered at the Data Access Administration Tool in respect of the Services and whose full corporate name and company number and/or registered address is as follows:

Company name: \_\_\_\_\_

Company Number: \_\_\_\_\_

Registered Office Address: \_\_\_\_\_

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

## 2. Scope of Agreement

2.1. This agreement (the “Agreement”) sets out the terms and conditions according to which Volvo delivers Vehicle telematics Data to Customer.

## 3. Services

3.1. By registering on the Data Access Administration Tool, the Customer instructs Volvo to provide the Data to the Customer according to the “rFMS standard”.

## 4. Price and Payment

4.1. The price for the Services will be the price set out in the pricelist on the Data Access Administration Tool 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.

4.2. Volvo may change the price of the Services at any time by updating the pricelist and publishing it on the Data Access Administration Tool in which case the new prices shall take effect immediately upon publication.

4.3. All payments to be made by the Customer under the Agreement will be made in full without any set-off, restriction or condition and without any deduction for or on account of any counterclaim.

4.4. If any sum payable under the Agreement is not paid when due then, without prejudice to Volvo’s other rights under the Agreement, that sum will bear interest from the due date until payment is made in full, both before and after any judgment, at a rate that is equal to the Stockholm Interbank Offered Rate (STIBOR) 3 month interest rate.

4.5. **[Remove if not applicable: 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. Term and Termination

5.1. The term of this Agreement commences on the date the Vehicle is registered by the Customer and will continue until it is terminated in accordance with this Article 5.

5.2. Either Party may terminate this Agreement by providing the other Party notice at least sixty (60) days prior to the termination date. A notice shall be provided in accordance with Article 13 below. In addition, the Customer may terminate this Agreement at any time by de-registering the Vehicle at the

Data Access Administration Tool, in which case the Agreement shall terminate at the end of the calendar month in which the de-registration was effected.

5.3. Failure by the Customer to pay any sum due under this Agreement is a fundamental breach which entitles Volvo to terminate this Agreement 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.

5.4. Volvo shall have a right to terminate this Agreement if the Customer transfers the ownership of the Vehicle(s) to a third party.

5.5. Either Party may by written notice according to Article 13 below terminate the Agreement immediately if the other is in material breach of the Agreement or enters into insolvency, bankruptcy, any arrangement with its creditors or any other arrangement or situation which has a like effect.

## **6. Consequences of termination**

6.1. Upon termination of the Agreement for whatever reason the Customer shall not be entitled to a refund of any sums paid under this Agreement and the Customer shall forthwith pay Volvo any sums accrued due under this Agreement.

## **7. Responsibilities and obligations of Volvo**

7.1. Data will be stored by Volvo and made available to the Customer for 14 days.

7.2. Volvo shall use reasonable endeavors to keep the Data secure and use it only for the purposes that follow from or are permitted according to this Agreement or otherwise stated in the rFMS standard.

7.3. Volvo does not guarantee that it is possible to keep Data and/or communication completely secure. The Customer is aware that there may be periods of time when the Data Access Administration Tool is not capable of being accessed. Nor can Volvo guarantee the accuracy from third party services. In addition, the Data Access Administration Tool may not be available due to scheduled maintenance work.

## **8. Data Protection**

8.1. The Customer acknowledges that the Data Management Agreement, current version available on the following website: <http://tsadp.volvotrucks.com/>, is an integral part of this Agreement and agrees that the terms of that agreement apply to any data processing under this Agreement.

## **9. General responsibilities and obligations of the Customer**

9.1. The Customer shall ensure that each of its employees, or other persons who uses the Services, complies with this Agreement.

9.2. The Customer guarantees that it owns or otherwise has the right of disposition of the Vehicle(s).

## **10. Specific conditions for the availability of the Services**

10.1. The Services will be provided by Volvo in respect of the Vehicle when the Customer has created an API Account and assigned a Vehicle to such account, if payment for the Service has been received by Volvo in accordance with this Agreement.

## **11. Limitations of liability**

11.1. The following provisions of this Article reflect the scope of the Agreement and the price for the Services.

(i) Volvo's total maximum liability under this Agreement 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 Agreement in the calendar quarter in which the claim arose.

(ii) 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.

(iii) Volvo hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Agreement) or implied,

statutory, customary or otherwise which, but for such exclusion, would or might subsist in favor of the Customer.

## **12. Force Majeure**

12.1. 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 Agreement, 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.

## **13. Notices**

13.1. Any notice in connection with the Agreement by the Customer shall be in writing addressed to the contact address set out on the Data Access Administration Tool for notices or change of address and will be delivered by hand, or first class or special delivery post.

13.2. A notice for termination of this Agreement by Volvo will be made to the address entered by the Customer when registering for the Services. Any other notice in connection with this Agreement will be deemed to be considered duly served when published on the Data Access Administration Tool.

## **14. Miscellaneous**

14.1. Time for performance of all obligations of Volvo is not of the essence.

14.2. If any condition or part of the Agreement 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 Agreement and will be ineffective, without, as far as is possible, modifying any other provision or part of the Agreement and this will not affect any other provisions of the Agreement which will remain in full force and effect.

14.3. 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.

14.4. Volvo may vary or amend the terms and conditions of this Agreement with three months' prior written notice to the Customer.

14.5. The Agreement 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 Agreement without Volvo's prior written consent.

14.6. The Agreement 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.

## **15. Applicable law and dispute resolution**

15.1. This Agreement shall be governed by and construed in accordance with Swedish law, without regard to its conflict of laws principles.

15.2. The Swedish courts will have exclusive jurisdiction to settle any dispute which may arise out of, or in connection with the Agreement. The parties agree to submit to that jurisdiction

For and on behalf of

Customer

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Place

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Place

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[Name, title]

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[Name, title]

**List of Appendices**

Appendix 1	Defined Terms
Appendix 2	Data Management Agreement



**Appendix 1**

“Agreement”	This document including the appendices hereto and other documents referred to herein.
“API Account”	A user account created by the Customer on the Data Access Administration Tool.
“Customer”	A business which has completed the online registration form to subscribe to the Services.
“Data”	The data transmitted from the Vehicle to the Data Access Administration Tool.
“Data Access Administration Tool”	The administration tool hosted by Volvo where the customer can enable and/or disable the collection of data for the Vehicles, and where the customer can assign Vehicle data to API user. The Data Access Administration Tool is available at <a href="http://www.dynafleet.com">www.dynafleet.com</a> .
“Party”	Shall mean Volvo and the Customer.
“rFMS standard”	The rFMS standard is set by ACEA (European Automobile Manufacturers Association, <a href="http://www.acea.be">www.acea.be</a> ). Information about the rFMS standard can be found on <a href="http://www.fms-standard.com/Truck/index.htm">http://www.fms-standard.com/Truck/index.htm</a> .
“Services”	Services covered by this Agreement pursuant to Article 3 above.
“Vehicle”	The Vehicle(s) registered by Customer, to which this Contract applies.

**VOLVO TRUCKS**

