

AGREEMENT: TERMS AND CONDITIONS OF USE

Trip TAG

1.0 INTERPRETATION

1.1 In the Agreement the following words and expressions shall have the following meanings unless the context otherwise requires:

"Agreement" the Agreement between the User and HIGHWAYS ENGLAND for the use of the TAG by the User on the terms and conditions set out herein.

"Card" any debit or credit Card that is accepted by HIGHWAYS ENGLAND.

"Deposit" £30.00 per TAG or such greater amount as HIGHWAYS ENGLAND shall decide is equivalent to the value of the TAG (*plus an amount equal to Value Added Tax thereon if applicable*).

"Equipment" all Equipment used by HIGHWAYS ENGLAND to operate the Automatic Vehicle Identification System other than the TAG.

"Event of Default" any breach of HIGHWAYS ENGLAND's contractual obligations arising under the Agreement and any tortious act or omission by HIGHWAYS ENGLAND including negligence (including negligent misrepresentation and negligent misstatement) arising under or in connection with the Agreement.

"Mandate" a Direct Debit.

"Method of Payment" a payment made by Mandate except for the first payment which will be by cheque or Card

"Other Method" a payment made by cheque or Card or BACS

"BACS" means the payment system operated by BACS Payment Schemes Limited.

"Overdrawn" means having a negative balance. That is the User owes money to HIGHWAYS ENGLAND.

"HIGHWAYS ENGLAND" (HIGHWAYS ENGLAND Company Limited), a Company incorporated in England with Registered Number 09346363 or, where appropriate, persons authorised by such Company.

"TAG" the transponder to be affixed to the Vehicle to operate the Automatic Vehicle Identification System on the terms of the Agreement.

"Charge" the Charge leviable by the Secretary of State for Transport under the terms of the Severn Bridges Act 1992.

"Toll Category" the Category of a Vehicle as defined in Section 8(1) of the Severn Bridges Act 1992.

"User" the person or legal entity issued with the TAG by HIGHWAYS ENGLAND.

"User Evidence Packs" photographic evidence of crossing requested by the User and provided to the User by HIGHWAYS ENGLAND.

"Vehicle" the registered Vehicle of the Vehicle Category for which the TAG was issued by HIGHWAYS ENGLAND.

"Vehicle Category" means the appropriate Vehicle Category as defined in the Severn Bridges Act 1992 which is specified on the TAG.

"Website" HIGHWAYS ENGLAND's Website at www.severnbridge.co.uk.

1.2 References to HIGHWAYS ENGLAND include its assignees and/or successors in title to substantially the whole of its undertaking.

1.3 References to statutes or statutory provisions or rules include references to any orders or regulations made thereunder and references to any statutes, statutory provisions or rules or orders or regulations made thereunder include the statute, statutory provision, rule, order or regulation as amended, modified, re-enacted or replaced from time to time.

1.4 References to persons shall include bodies corporate and unincorporated, associations partnerships and individuals. References to the singular shall, unless the context otherwise requires, include the plural and vice versa. References to the masculine gender shall, unless the context otherwise requires, include the female gender and vice-versa.

1.5 Headings to Clauses are for information only and shall not form part of the operative provisions of the Agreement and shall be ignored in construing the same.

2.0 NEW SERVICES

2.1 The User may request new accounts or TAG(s) or changes to their existing accounts or TAG(s) in accordance with the terms and conditions contained herein. HIGHWAYS ENGLAND shall be entitled to accept or reject any such requests.

3.0 PROVISION AND USE OF TAG

3.1 HIGHWAYS ENGLAND shall provide the User with the TAGs and the User shall:

(a) install the TAG on the Vehicles as directed by HIGHWAYS ENGLAND

(b) only use the TAG for the Vehicle Category subject to 3.1(g) below.

(c) not sell, dispose of, damage or tamper with the TAG or use the TAG fraudulently or illegally.

(d) exercise all possible care to ensure that the TAG is not lost, stolen or misused.

(e) give HIGHWAYS ENGLAND all information in the User's possession regarding any loss, theft or misuse of the TAG in accordance with Clause 4.0 and take all steps HIGHWAYS ENGLAND deems necessary to assist the recovery of the TAG.

(f) not use the TAG otherwise than in accordance with Agreement.

(g) only be permitted to transfer the TAG from the Vehicle to another Vehicle of the same Vehicle Category.

(h) note that each Vehicle arriving at the Toll booths must carry an individual TAG, i.e. two or more Vehicles arriving simultaneously at the Toll booths will not be permitted to use the same TAG.

4.0 NOTIFICATION OF FAULT, LOSS, THEFT OR MISUSE

4.1 The User must stop using the TAG and must notify HIGHWAYS ENGLAND immediately either by telephone on 0343 3530566 2 (during office hours) or via the Website if the TAG is lost, stolen becomes faulty or is likely to be misused for any reason.

4.2 If the User has notified HIGHWAYS ENGLAND by telephone the User must also give HIGHWAYS ENGLAND written notice of the loss, fault or possibility of misuse within 7 days in accordance Clause 9.0 and will be liable for any use or misuse of the TAG until HIGHWAYS ENGLAND receives telephone or written notification.

4.3 If the TAG is lost or stolen or is likely to be misused and is then recovered, the User must return the TAG to HIGHWAYS ENGLAND as required by Clause 7.1(b)

4.4 A faulty TAG without the identification label will be retained at the Toll plaza. A replacement TAG will be issued if applicable once the User has contacted the HIGHWAYS ENGLAND Severn TAG Office.

5.0 COLLECTION OF TOLLS

5.1 Upon the application to HIGHWAYS ENGLAND for an account, the User will:

(a) provide requested details relevant to the Method of Payment; and

(b) his application must be accompanied by a sum of money paid by cheque or Card to cover his proposed use of the TAG and the Deposit until his Mandate is processed.

5.2 The User acknowledges that:

(a) he is responsible for ensuring that his account is in credit. If the TAG or the Equipment is faulty or otherwise through no fault of the User, the Toll staff will enable passage through the plaza at no additional cost to the User.

(b) the Charge are authorised by the Secretary of State for Transport under the provisions of the Severn Bridges Act 1992 and any increase to Tolls arising from that Act shall become immediately binding upon the User and, if such increases amount to 10% or more per annum, HIGHWAYS ENGLAND may request the User to increase the amount paid by them each month.

(c) if he cancels or alters his Mandate or does not intend to continue making payments he shall forthwith notify HIGHWAYS ENGLAND of such cancellation, alteration or intention; and

(d) he is not entitled to interest on any sums received by HIGHWAYS ENGLAND pursuant to the terms hereof; and

(e) he must notify HIGHWAYS ENGLAND of any change in his name, bank details, address, registered office, Vehicle Category, Vehicle registration number, as the case may be.

(f) the User must have the TAG in the Vehicle at the time of each crossing and should the User arrive at the Toll booths without the TAG, the User must pay by cash or by CARD for that crossing and will not be entitled to a refund.

5.3 HIGHWAYS ENGLAND acknowledges that the User is entitled to change the amount of their Mandate at any time provided they give at least one month's prior notice to HIGHWAYS ENGLAND and, if necessary, completes an amended Mandate.

6.0 TERMINATION

6.1 The Agreement will terminate if the period of validity of the TAG expires and is not renewed.

6.2 Each party has the right to terminate the Agreement on giving the other at least one month's notice of termination in writing.

6.3 HIGHWAYS ENGLAND may also terminate the Agreement immediately on giving notice in writing to the User if:

(a) in the opinion of HIGHWAYS ENGLAND, the User has made any fraudulent, unauthorised or illegal use of the TAG or has used the TAG in a way which was not permitted under the terms of the Agreement including, without limitation, if the User uses the TAG for a Vehicle other than the Vehicle Category assigned to the TAG; or

(b) the User becomes bankrupt or is otherwise unable to pay their debts as they fall due or a receiver or administrative receiver is appointed or an encumbrancer takes possession of any of the User's property or assets or if an administration order is made in respect of the User or a resolution is passed or an order is made for the winding up of the User; or

(c) the User is in breach of any of the terms of the Agreement and, if the breach can be remedied, fails to remedy the breach within thirty (30) days after being given notice of the breach by HIGHWAYS ENGLAND; or

(d) the User fails to maintain the account in credit. If the event that the account goes Overdrawn for whatever reason and the User does not pay in sufficient monies to return the account to credit within three (3) calendar months of the account originally going Overdrawn HIGHWAYS ENGLAND has the right to close the account. The User forfeits any right to a refund of the TAG Deposit(s) in this event.

(e) HIGHWAYS ENGLAND shall have the right to close any account that has not incurred a credit or debit transaction for at least twelve (12) months.

(f) the User cancels or changes their Mandate other than in accordance with Clause 5; or

(g) the User wishes to pay by Card or cheque and fails to make a payment when HIGHWAYS ENGLAND requests the User to or the User's payment is returned unpaid; or

(h) the User notifies HIGHWAYS ENGLAND that they do not intend to make further payments, or this becomes apparent to HIGHWAYS ENGLAND;

6.4 The User must return the TAG to HIGHWAYS ENGLAND as soon as the Agreement terminates in accordance with clause 7.

6.5 On termination of the Agreement for any reason the User may not be entitled to a refund of any unused time within the month for which they have already been Charged.

6.6 The termination of the Agreement under the terms of Clause 6.0 shall not affect any other rights or remedies the parties have.

6.7 Unless terminated earlier this Agreement will terminate at midnight on 31 December 2018.

7.0 RETURN OF TAG AND TAG ACCOUNT CLOSURE

7.1 The TAG belongs to HIGHWAYS ENGLAND It must be returned to HIGHWAYS ENGLAND at Toll Administration Building, Bridge Access Road, Aust, Bristol BS35 4BE by registered post if:

(a) HIGHWAYS ENGLAND sends the User a replacement TAG; or

(b) the User recovers the TAG after reporting it lost, stolen, or likely to be misused; or

(c) the User reports that the TAG is faulty; or

(d) the Agreement terminates; or

(e) HIGHWAYS ENGLAND requests the TAG be returned following a period of at least twelve (12) consecutive months in which the TAG is not used.

7.2 HIGHWAYS ENGLAND may make the provision for collection of TAG devices available as an alternative means to return TAG units following the termination of the Agreement. Any such means of return will be communicated via the Website.

7.3 Each TAG has a £30 Deposit held against it, this will be refunded on account closure for valid TAGs only. No Deposit refund is payable if the Account is Overdrawn by an amount greater than the TAG Deposit(s).

7.4 Valid bank details must be provided to HIGHWAYS ENGLAND before any TAG Account can be closed or any refund processed. These details must be provided along with authority from the User to refund and close an account. HIGHWAYS ENGLAND will close an account and process any refund due to the User's bank account within sixty (60) days of receipt of this information (bank details and authority). Any errors on part of the User in the bank details provided will delay any refund due. Any additional time chasing and awaiting receipt of correct bank account details from the User is not included under the sixty-day period.

7.5 If the TAG is not returned within twenty-eight (28) days of being replaced, being reported lost, stolen, likely to be misused or faulty, or is returned damaged or tampered with, HIGHWAYS ENGLAND may retain the entire TAG Deposit.

7.6 If the TAG unit is not returned within six months of termination of this Agreement, in accordance with clause 6.0 herein, HIGHWAYS ENGLAND may retain the entire TAG Deposit.

8.0 COMPLIANCE

8.1 The User shall comply with the any instruction for the use of the TAG issued by HIGHWAYS ENGLAND from time to time and with all applicable laws including, without prejudice to the generality of the foregoing, the Severn Bridges Act 1992 and any bye-laws or regulations created thereunder.

9.0 COMMUNICATION

9.1 Where either party is required to notify the other according to the Agreement, or otherwise wishes to communicate with the other party, such notice or communication shall be served by email, or posting, in the case of notices or communications to HIGHWAYS ENGLAND, TAG@severnbridge.co.uk or to Severn Bridges Group, Toll Administration Building, Bridge Access Road, Aust, Bristol BS35 4BE. Telephone 0343 3530566 or in, the case of notices or communications to the User, to the email or postal address last notified to HIGHWAYS ENGLAND.

9.2 Any notice or other communication so served shall be deemed duly served seventy-two (72) working hours after posting if posted or at the time of transmission if sent by email.

9.3 If notification is by telephone it will only be effective if confirmed by notice served in accordance with this Clause 9 within seven (7) days.

10.0 CHANGES TO TERMS AND CONDITIONS

10.1 The terms and conditions of the Agreement may be changed by HIGHWAYS ENGLAND at any time and any such change will be published on the Website at least twenty-eight (28) days prior to coming into effect.

11.0 ASSIGNMENT

11.1 HIGHWAYS ENGLAND shall be, but the User shall not be, entitled to assign, transfer, Charge or otherwise deal with the TAG or HIGHWAYS ENGLAND's right, benefits and burdens hereunder.

12.0 DATA PROTECTION

12.1 HIGHWAYS ENGLAND may use any personal data as defined in the Data Protection Act 2018 and General Data Protection Regulations 2018 concerning the User for the purpose of administering the User's account and use of the TAGs.

Also, HIGHWAYS ENGLAND uses CCTV cameras, which may hold information concerning the User, for the purpose of monitoring traffic flows and safety and the prevention, investigation and prosecution of any criminal offence. A copy of HIGHWAYS ENGLAND'S use of CCTV code of practice is available upon request. HIGHWAYS ENGLAND may disclose the relevant information of the User when appropriate to;

(a) any person that performs HIGHWAYS ENGLAND's duties, rights and liabilities hereunder

(b) the police; and

(c) debt collectors and/or solicitors for the purpose of obtaining payment of any outstanding monies.

12.2 The User hereby consents to the use of HIGHWAYS ENGLAND of the User's information for the purpose set out above.

13.0 LIABILITY

13.1 HIGHWAYS ENGLAND will not be liable for any Event of Default except to the extent set out in this Clause 13.

13.2 HIGHWAYS ENGLAND shall have unlimited liability to the User for death or personal injury resulting from HIGHWAYS ENGLAND's negligence.

13.3 HIGHWAYS ENGLAND shall be liable for direct damages to the tangible property of the User resulting from HIGHWAYS ENGLAND's negligence up to a maximum limit of £50,000 for each claim. If more than one Event of Default causes substantially the same loss they shall be regarded as giving rise to one claim only under the Agreement.

13.4 HIGHWAYS ENGLAND shall not be liable for loss of profits, goodwill or any type of special, indirect or consequential loss however caused (including loss or damage incurred by the User as a result of legal action brought by a third party) resulting from an Event of Default, even if the loss or damage was reasonably foreseeable or HIGHWAYS ENGLAND was aware of the possibility of the loss or damage occurring. This shall not, however, apply to HIGHWAYS ENGLAND's liability for death or personal injury resulting from HIGHWAYS ENGLAND'S negligence.

13.5 The User agrees to give HIGHWAYS ENGLAND at least thirty (30) days to remedy an Event of Default after HIGHWAYS ENGLAND has been notified of it.

13.6 Nothing in this Clause 13 gives the User any rights or remedies to which they would not otherwise be entitled.

13.7 The liability of HIGHWAYS ENGLAND in respect of the TAG's correspondence with description, quality or fitness for purpose shall not be excluded or restricted by this Agreement. Nor shall this Agreement affect the statutory rights of the consumer where the User is dealing as a consumer.

13.8 Unless expressly set out in the Agreement, all conditions, warranties, representations and undertakings, whether they are express or implied and whether or not they are statutory are excluded from the Agreement.

14.0 WAIVER

14.1 There shall be no waiver of any terms or conditions of this Agreement unless such waiver is evidenced in writing and signed by the waiving party.

14.2 No omission or delay on the part of either party in exercising any right, power or privilege hereunder shall operate as a waiver, nor shall any single or partial exercise of any such right, power or privilege, preclude any other or further exercise thereof or any other right power or privilege.

14.3 The rights and remedies herein are cumulative with and not exclusive of any rights or remedies provided by law.

15.0 ENTIRE AGREEMENT

The terms and conditions set out herein (together with any documents referred to herein) constitute all the terms and conditions of the Agreement. The User acknowledges that they have not relied upon any representation save for any set out herein (or any document referred to herein).

16.0 GOVERNING LAW

The Interpretation of the Agreement shall be governed and construed in accordance with the law of England.

17.0 FORCE MAJEURE

If the use of the TAG or the Equipment is prevented or hindered by any matter beyond the control of HIGHWAYS ENGLAND including but not limited to acts of God, acts of Government, strikes, lock outs, fire, lightning, aircraft, explosion, flooding, droughts, riots, civil commotion, acts of war, malicious mischief or theft then the performance of the Agreement shall be suspended until such prevention or hindrance comes to an end.

18.0 CHARGES

18.1 HIGHWAYS ENGLAND reserves the right to levy Charges for administering the User's Account at the rate of £10 + VAT per request for duplicate or previous statements and a minimum Charge of £25 + VAT for the following services:

a) Placing a stop on a TAG at the User's request;

b) Re-posting confiscated TAGs due to negative balance accounts;

c) Resolving TAG misuse by the User or TAG misuse which is the fault of the User;

d) Handling dishonoured payments;

- e) Vehicle changes not in accordance with 3.1(g);
- f) Provision of User Evidence Packs;
- g) Failure of the User to notify HIGHWAYS ENGLAND of Vehicle changes;
- h) In establishing a new address for the User, if the User fails to notify HIGHWAYS ENGLAND of any change of address;
- i) In ensuring that any balance outstanding on the Account is paid when due.
- j) Any administrative activity relating to an account that has been closed, including but not limited to, duplicate statements, invoices, refunds and correspondence.

18.2 HIGHWAYS ENGLAND is entitled to use any monies to the credit of the User to recover any debt owed by the User to HIGHWAYS ENGLAND whether under this Agreement or as part of HIGHWAYS ENGLAND's general business. HIGHWAYS ENGLAND may vary the periodic direct debit or process additional direct debits in order to recover debts.

19.0 RIGHTS

19.1 Any rights granted to a third party under the Contract (Rights of Third Parties Act, 1999) are hereby excluded.

HIGHWAYS ENGLAND

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Fax: 01 454633763

Email: TAG@severnbridge.co.uk

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