

# FleetNet America, Inc., General Terms and Conditions

## Effective August 25, 2014

1. **Services and Fees.** FleetNet America, Inc. ("FleetNet") will provide services to the Customer as set forth in the Service Document, or other written document signed by FleetNet's president. Said Service Document or other written document and these General Terms and Conditions shall constitute the entire agreement between the parties ("Agreement"). These General Terms and Conditions shall govern all services provided by FleetNet unless notified by separate written agreement executed by FleetNet's president. In the event of a conflict between the terms of the Service Document and related Addendums and these General Terms and Conditions, the terms of the applicable Service Document and related Addendums shall control. FleetNet rejects the inclusion of any different or additional terms proposed by the Customer unless signed by FleetNet's president. By executing a Service Document, Customer agrees to (i) comply with all terms of the Service Document and any Addendum thereto; (ii) comply with these General Terms and Conditions; (iii) pay such fees as may be noticed and modified by FleetNet in accordance with the Service Document; and (iv) pay to FleetNet the gross amount charged by any vendor(s)

2. **Payment of Vendors.** Upon completion of services by a vendor, FleetNet will pay vendor invoices for said services except such Vendor invoices charged to the Customer's national accounts and except when it is known by FleetNet at the time of the completion of the services that the vendor is being paid directly by the Customer. Customer acknowledges and consents to FleetNet receiving and retaining various discounts and rebates from third party vendors, which may include but not be limited to early-pay discounts negotiated under FleetNet's vendor specific purchasing arrangements. Such discounts offset (i) FleetNet's administrative cost; (ii) the cost to guarantee payment to the vendor; and (iii) the cost of money for early payment and other costs. Notwithstanding the above, FleetNet reserves the right to not pay a Vendor on behalf of the Customer and to demand payment before any services are performed.

3. **Payment and Terms.** FleetNet will invoice Customer for the total of (i) the FleetNet fees as set forth in the Service Document (ii) the gross amount of the vendor(s) invoices associated with the services; and (iii) the FleetNet Terms Fee (equivalent to the cash discount). Customer agrees to pay said invoice within 15 days from invoice date. If the Customer remits payment to FleetNet via check or wire transfer within 15 days from invoice date the Customer may, subject to the limitations described in this Section, deduct 2.5% of the invoice as a cash discount (equivalent to the Terms Fee). Said cash discount is eligible to be taken only at the time of payment and not accrued or claimed at a later date. Payments to FleetNet via a credit/debit card are not allowed the cash discount regardless of the timeliness of payment. FleetNet will make every reasonable effort to comply with Customer's pre-invoicing authorization requirements. However, if FleetNet has not received such authorization by the 10<sup>th</sup> calendar following FleetNet's request, Customer agrees to accept and pay FleetNet's invoice without such authorization.

4. **Sales and Use Tax.** Where FleetNet determines that it is required by law or regulation to do so, FleetNet will include sales tax in the gross amount invoiced to the Customer, unless Customer provides a valid exemption certificate or other evidence of exemption at the time of the service that will, in FleetNet's sole judgment, be acceptable to the applicable taxing authority. Any sales tax charged to the Customer will be separately stated on FleetNet's invoice. Customer agrees that it is solely responsible for determining the applicability of, and if applicable, the liability for and payment of, any use tax. In the event that Customer does not pay any required tax on purchases where it is subsequently determined by any taxing authority that taxes apply and a taxing authority subsequently requires FleetNet to pay sales or use taxes on any transaction with Customer, Customer will be billed by FleetNet for such taxes, inclusive of any penalties and interest, and Customer shall pay any such assessment, or reimburse FleetNet for any amount paid by FleetNet for such assessment.

5. **DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY.** FLEETNET MAKES NO WARRANTY OR REPRESENTATION WHATSOEVER, EXPRESSED OR IMPLIED, AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP PERTAINING TO ANY SERVICES, INCLUDING, BUT NOT LIMITED TO, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. In no event shall FleetNet be liable to the Customer, its employees, agents or contractors for any losses, expenses, cargo damage, injury to person(s), including injury resulting in death, damage to property (including, but not limited to, special, indirect or consequential damages), which may result from or arise out of: (a) any services under this Agreement; (b) any act or omission of FleetNet, its agents, employees or contractors; or (c) any act or omission of any Vendor which provide services under this Agreement to the Customer. This clause shall supersede any other clause of these General Terms and Conditions, Service Document and related Addendums or other written document that may be deemed inconsistent with it.

6. **Rights and Obligations of Customer.** Liability for all damages related to the services lies exclusively with the Vendor that actually performed work on Customer's equipment or other property. In the event Customer asserts that any work was improperly performed, Customer shall notify FleetNet immediately to obtain assistance in reaching an equitable resolution with the Vendor. FleetNet will exercise reasonable efforts to assist Customer and such Vendor in resolving any disputes, provided Customer notifies FleetNet within twelve (12) days of the date the invoice was mailed to Customer. Notwithstanding any such dispute, Customer agrees to pay FleetNet for any services paid by FleetNet on Customer's behalf, together with any fees specified in the Service Document and related Addendums.

7. **Miscellaneous Provisions.** (a) FleetNet shall not be considered in default should such default of its obligations hereunder arise out of a cause beyond its control, including, but are not limited to, acts of God or public enemy, acts of Government in its sovereign or contractual capacity, fires, floods, terrorist acts, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather conditions; (b) In the event it becomes necessary to institute litigation for enforcement of any term(s) herein, the court having jurisdiction may award all attorney fees, court costs and other court costs reasonably related to such litigation to the prevailing party. Venue of all such litigation shall be in the state of North Carolina and it's laws shall govern any dispute regarding the interpretation of this Agreement; (c) FleetNet may terminate any obligations to Customer in the event Customer violates any provision of the Service Document and related Addendums or these General Terms and Conditions; (d) no rights or obligations under the Service Document and related Addendums or these General Terms and Conditions are assignable without the prior written consent of FleetNet and Customer; (e) any notice to be given hereunder shall be in writing and sent to the address set out in the Service Document by certified or registered mail, return receipt requested; overnight courier or personal delivery; (f) neither the failure nor any delay on the part of FleetNet to exercise any right, power or privilege hereunder shall operate as a waiver thereof; and, (g) neither FleetNet nor Customer shall be deemed to be the employee or agent of the other. FleetNet shall not be deemed to be the agent or employee of any vendor. No vendor shall be deemed to be the agent of FleetNet.