

TERMS OF AGREEMENT

1. DEFINITIONS

- 'Account Holder' means the holder of the Fast Tag Account.
'Application' means the formal application for a Fast Tag completed by you.
'Account' means the account set up for the operation of your Fast Tag.
'Fast Tag' means the Mersey Tunnels Fast Tag device on board unit
'Merseytravel' means Merseytravel (the operators of the Mersey Tunnel) of No 1 Mann Island Liverpool L3 1BP as well as its employees agents subcontractors and assignees
'Toll Barrier' means the Mersey Tunnels toll barrier at the toll plaza which the Fast Tag is used
'User' means you the user of the Fast Tag

2. GENERAL CONDITIONS

- (a) This Agreement should be read in conjunction with the information contained within the Fast Tag Application pack.
- (b) This Agreement together with the Application shall form a binding legal Agreement between you and Merseytravel which shall take effect upon receipt of your Application by Merseytravel.
- (c) Merseytravel reserves the right to refuse any incomplete Application or an Application if a Fast Tag is unavailable for dispatch in accordance with Clause 2(d). If we are unable to accept your Application, we will inform you of this in writing.
- (d) Merseytravel shall use its all reasonable endeavours to dispatch a Fast Tag within 30 days of receipt of an Application.
- (e) It is the User's responsibility to ensure that they do not proceed through the Toll Barrier on another vehicles toll payment.
- (f) It is the Account Holder's responsibility to ensure their Account has appropriate funds in the account to operate the Fast Tag system at the Toll Barrier
- (g) The Fast Tag shall at all times remain the property of Merseytravel and must be returned upon request. The User shall not sell, tamper with or wilfully damage the Fast Tag.
- (h) The User shall ensure that the Fast Tag is not used fraudulently or illegally, or for any fraudulent or illegal purposes.
- (i) Any images of the Fast Tag we may provide are for illustrative purposes only. Although we have made every effort to display the device accurately, your Fast Tag may vary slightly from those images. This is because the device is manufactured by a third party.
- (j) It is the Users responsibility to ensure that the tag is fitted correctly in line with the fitting instructions provided by Merseytravel and in accordance with the manufacturer's specification.

3. MERSEYTRAVELS OBLIGATIONS

- (a) Merseytravel will create an Account and issue the Fast Tag within 5 days of accepting your Application. In processing your Application and operating your Account Merseytravel will take all reasonable measure to ensure the services are carried out with reasonable skill and care.
- (b) There may be occasions that we have to suspend your Account or Fast Tag to:
 - (i) deal with technical problems or make minor technical changes;
 - (ii) update the product to reflect changes in relevant laws and regulatory requirements
 - (iii) comply with any legal requirements placed upon Merseytravel.
- (c) We will contact you in advance to tell you we will be suspending supply of the product, unless the problem is urgent or an emergency. You may contact us to end the contract if we suspend it, or tell you we are going to suspend it, in each case for a period of more than 7 days and we will refund any sums you have paid in advance.

4. PAYMENT

- (a) Upon commencement of this Agreement by the Account Holder shall pay an initial payment to ensure that the Account has a credit balance when the Fast Tag will be activated
- (b) The Account Holder shall make payments to their account by Direct Debit or online top-up via the Mersey Tunnels website.
- (c) We accept payment with all major Debit/Credit Cards (excluding Amex).
- (d) In the event a payment is unsuccessful, your Account will not be topped up which may result in your Account having insufficient funds. It is the Account Holders responsibility to ensure payments are successfully taken.
- (e) If there is insufficient funds in your Account your Fast Tag will cease to work at the Toll Barrier until funds are added. It is the Users responsibility to ensure your Account has the required funds to operate the Toll Barrier. If the tag credit is exhausted alternative payment will be required.

5. CHANGES

- (a) Merseytravel may at any time make minor changes (unlikely to affect your use of them) to the Fast Tag, Account, Toll Barrier and these terms:
 - (i) to reflect changes in the law or regulatory requirements; and
 - (ii) to implement minor technical adjustments and improvements (for example to address a security issue).
- (b) Merseytravel may at any time make more significant changes to the Fast Tag, Account, Toll Barrier and these terms, but if we do so we will notify you and you may then contact us to end the contract before the changes take effect and receive a refund from your Account.

6. DEFAULT

- (a) In the unlikely event that there is any defect with the Fast Tag, Account or any the aspect of the service provided under this Agreement:
 - (i) please contact us and tell us as soon as reasonably possible;
 - (ii) please give us a reasonable opportunity to repair or fix any defect.
- (b) We will use every effort to repair or fix the defect, or issue a replacement as soon as reasonably practicable and, in any event, within five to seven days.
- (c) You will not have to pay for Merseytravel to repair or fix a defect with the Account or Fast Tag under this clause, unless arising from a breach of the clauses of this Agreement on the part of the Account Holder or User(s) or a failure to fit the Fast Tag correctly in accordance with Clause 2(j).
- (d) If you have any questions or complaints about the Fast Tag scheme, please contact us. You can telephone our customer service team at 0151 330 1702 or write to us at Merseytravel, PO Box 1976, Liverpool, L69 3HN or email tag@merseytravel.gov.uk.
- (e) As a consumer, you have legal rights in relation to this Agreement where it is not carried out with reasonable skill and care, or if the materials Merseytravel use are faulty or not as described. Advice about your legal rights is available from your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Terms will affect these legal rights.

7. LIABILITY

- (a) Merseytravel is responsible to you for foreseeable loss and damage caused by our default or negligence. If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen.
- (b) Merseytravel does not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the Fast Tag as detailed within the Consumer Rights Act 2015.
- (c) Merseytravel accepts no liability or responsibility for an incorrectly fitted Fast Tag or a Fast Tag not installed in accordance with the manufacturer's specification or fitting instructions, which is the responsibility of the User.
- (d) Merseytravel is responsible for making good any damage to your property directly caused by us under this Agreement which arises from our default or negligence; however Merseytravel accepts no liability for any loss or damage to property howsoever arising from the use of the Fast Tag unless the loss or damage is caused by the default of negligence of Merseytravel.
- (e) Merseytravel accepts no liability for business losses and we shall have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity or any indirect or consequential loss arising from this Agreement.

8. TERMINATING OR ENDING THIS AGREEMENT

- (a) You may contact us at any time to end the contract for the Fast Tag and close your account, but in some circumstances we may charge you certain sums for doing so, as described below
- (b) If you are ending the Agreement for a reason set out at (i) to (v) below the Agreement will end immediately and we will refund you in full for any balance still on your Account. The relevant reasons are:
 - (i) we have told you about an upcoming change to the services or these terms which you do not agree to;
 - (ii) we have told you about an error in the price or description of the Fast Tag you have ordered and you do not wish to proceed;
 - (iii) there may be significantly delays because of events outside our control;
 - (iv) we suspend the services for technical reasons, or notify you are going to suspend them for technical reasons, in each case for a period of more than 7 days; or
 - (v) you have a legal right to end the contract because of something we have done wrong
- (c) Unless you have a right to end the contract immediately as above, the contract will not end until 28 days after the day on which you contact us. We will refund any payments you have made to your Account, less a sum as detailed below. If Merseytravel requests it, you must return the Fast Tag within 28 days of the closure of your Account.
- (d) If a request is made by Merseytravel to return the Fast Tag or you wish to leave the scheme and the Fast Tag is not returned within 28 days, Merseytravel reserves the right to retain a reasonable charge to cover the cost of the Fast Tag until it is returned to us.
- (e) Merseytravel may end the Agreement at any time by writing to you if:
 - (i) you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the services; or
 - (ii) we discover the Fast Tag is being misused in contravention of the terms of this Agreement; or
 - (iii) any other material breach of the terms of this Agreement.
- (f) We may stop providing the Fast Tag Scheme at any time. We will write to you to let you know that we are going to stop providing the Fast Tag scheme. We will let you know at least 14 days in advance of our stopping the services and will refund any sums you have paid into your Account.

9. ASSIGNMENT

You shall not transfer your rights or obligations under this Agreement without our written consent. We may not agree to this and in most cases we are unable to transfer or assign the Fast Tag to another person or third party.

We may transfer our rights and obligations to another organisation if required (such as a requirement due to a change in law or governance) however we will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the Agreement.

10. WAIVER

Even if we delay in enforcing any terms of this Agreement it shall not prevent us from enforcing the terms at a later time and shall not be deemed to mean those terms will cease to have effect nor be a waiver of any subsequent breach

11. DATA PROTECTION

- (a) Merseytravel shall use the personal information you provide us to:
 - (i) to supply the Fast Tags to you
 - (ii) to process payments for the Fast Tag account
 - (iii) if you agreed to this in your Application, to give you information about other products and services we may provide, but you may stop this at any time by contacting us.
- (b) Merseytravel shall duly observe all their obligations under the Data Protection Act 1998 which arise in connection with the agreement and will not disclose your information to third parties without your consent, unless we are allowed or required by law to do so.
- (c) For the avoidance of doubt, Merseytravel shall only discuss details of an Account with the Account Holder, unless we have prior express written consent of the Account Holder to discuss an Account with a third party.

12. FORCE MAJEURE

Merseytravel shall not be liable for failure to perform its obligations under this Agreement if such failure results from circumstances beyond Merseytravel's reasonable control

13. SEVERABILITY

Each of the paragraphs within this Agreement operates separately. If any part of this Agreement is or becomes illegal void or invalid that shall not affect the other provisions of this Agreement which shall remain in full force and effect.

14. THIRD PARTY RIGHTS

This Agreement is between you and Merseytravel. Nothing in this Agreement shall allow any other person or third party any benefit of any kind or any right to enforce the terms of this Agreement

15. LAW

- (a) This Agreement shall be governed by English Law and you can bring proceedings in respect of this Agreement in the Courts of England breach of your legal rights in relation to the Fast Tag as detailed within the Consumer Rights Act 2015.
- (b) Merseytravel accepts no liability or responsibility for an incorrectly fitted Fast Tag which is the responsibility of the User.
- (c) Merseytravel is responsible for making good any damage to your property caused by us under this Agreement which arises from our default or negligence; however Merseytravel accepts no liability for any loss or damage to property howsoever arising from the use of the Fast Tag unless the loss or damage is caused by the default of negligence of Merseytravel.
- (d) Merseytravel accepts no liability for business losses. Fast Tags are supplied for domestic and private use and we shall have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.