

## FLEET OWNER PREPAID DATA PURCHASE TERMS AND CONDITIONS

These Fleet Owner Prepaid Data Purchase Terms and Conditions (“*Terms*”) of Toyota Motor Sales, U.S.A., Inc. (“*Toyota*”) govern Fleet Owner’s purchase of a Fleet Data Package in connection with Fleet Owner’s purchase of a new Fleet Vehicle (each as defined below).

**Capitalized terms used herein shall have the meanings ascribed to them in Section 1.0 below or the respective sections of these Terms.**

### **NOTICE REGARDING ACCESS TO AND RECEIPT OF PREPAID TELEMATICS DATA**

FLEET OWNER’S PURCHASE OF A FLEET DATA PACKAGE DOES NOT INCLUDE, AND THESE TERMS DO NOT GOVERN OR PROVIDE TO FLEET OWNER, ANY RIGHTS TO ACCESS OR RECEIVE ANY PREPAID TELEMATICS DATA.

TO ACCESS OR RECEIVE PREPAID TELEMATICS DATA, FLEET OWNER MUST ENTER INTO A SEPARATE DATA ACCESS AGREEMENT.

**FOR ADDITIONAL INFORMATION, SEE SECTION 2.0 BELOW.**

PLEASE ENSURE YOU HAVE THE NECESSARY AUTHORITY TO AGREE TO THESE TERMS ON BEHALF OF FLEET OWNER BEFORE PROCEEDING.

BY CLICKING A BUTTON OR CHECKING A BOX MARKED “I AGREE” (OR SOMETHING SIMILAR), OR BY PURCHASING A FLEET DATA PACKAGE, YOU SIGNIFY THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THESE TERMS (AS THEY MAY BE UPDATED FROM TIME TO TIME AS PROVIDED HEREIN), AND YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD THE CONNECTED SERVICES PRIVACY NOTICE LOCATED AT [WWW.TOYOTA.COM/PRIVACYVTS](http://WWW.TOYOTA.COM/PRIVACYVTS) (“*PRIVACY NOTICE*”). YOU MUST NOT PURCHASE A FLEET DATA PACKAGE IF YOU DO NOT ACCEPT THESE TERMS.

**1.0 CERTAIN DEFINITIONS.** As used herein, the following capitalized terms will have the meanings set forth below:

- 1.1 “*Approved Data Partner*” means a third party authorized by Toyota to make Prepaid Telematics Data available to Fleet Owner pursuant to a Data Access Agreement entered into by and between Fleet Owner and such third party. For a current list of Approved Data Partners, please see the Data Solutions Website at [www.toyotadatasolutions.com](http://www.toyotadatasolutions.com) or contact Toyota.
- 1.2 “*Data Access Agreement*” means a separate written agreement for the provisioning of Prepaid Telematics Data entered into between Fleet Owner and either (a) Toyota or (b) an Approved Data Partner.
- 1.3 “*Data Protection Laws*” means all applicable Laws in relation to data protection, safeguarding Personal Information, privacy, or the interception, tracking, recording, or monitoring of location, telematics data, or communications.
- 1.4 “*Data Solutions Website*” means [www.toyotadatasolutions.com](http://www.toyotadatasolutions.com).
- 1.5 “*Fleet Ordering Website*” means [www.fleet.toyota.com](http://www.fleet.toyota.com).
- 1.6 “*Fleet Data Package*” means, as applicable, the Fleet Standard Data Package or the Fleet Premium Data Package.
- 1.7 “*Fleet Owner*” means the owner or lessee of a vehicle for which a Fleet Data Package may be purchased on the Data Solutions Website.

- 1.8 “***Fleet Premium Data Package***” means a bundle that includes all Telematics Data products in the Fleet Standard Data Package and certain additional Telematics Data products, as described on the Data Solutions Website. For a current description of Telematics Data products included in the Fleet Premium Data Package, please see the Data Solutions Website.
- 1.9 “***Fleet Standard Data Package***” means a bundle that includes the default set of Telematics Data products, as described on the Data Solutions Website. For a current description of Telematics Data products included in the Fleet Standard Data Package, please see the Data Solutions Website.
- 1.10 “***Fleet Vehicle***” means a vehicle for which Fleet Owner has purchased a Fleet Data Package.
- 1.11 “***Laws***” means all now existing or hereafter enacted or amended United States or international (a) federal, country, state, provincial, local or other law or statute, (b) rule or regulation issued by a regulatory body, (c) written or authoritative interpretation by a regulatory body of any such law, statute, rule or regulation, or (d) enforceable regulatory guidance, judicial, governmental, or administrative order, judgment, decree or ruling, or written and enforceable requirements of self-regulatory bodies and organizations.
- 1.12 “***Personal Information***” means any data or information that is subject to any applicable Data Protection Laws (including, but not limited to, names, addresses, telephone numbers, email addresses, dates of birth, social security and similar personal identification numbers, and all driver-related information including, but not limited to, driver location) that is included in the Prepaid Telematics Data.
- 1.13 “***Prepaid Telematics Data***” means the Telematics Data purchased by Fleet Owner as part of a Fleet Data Package.
- 1.14 “***Prepaid Telematics Data Term***” means the term of a Fleet Data Package set forth on the Data Solutions Website at the time of purchase of the applicable Fleet Vehicle.
- 1.15 “***Representatives***” means an entity’s officers, directors, employees, independent contractors, legal counsel, independent accountants, and auditors.
- 1.16 “***Telematics Data***” means the telematics data and related data collected from a Fleet Vehicle in the Territory.
- 1.17 “***Territory***” means the territory described in the applicable Data Access Agreement.
- 1.18 “***Toyota Affiliates***” means Toyota’s parent, subsidiaries, and affiliated entities.
- 1.19 “***Toyota Competitor***” means (a) any automotive manufacturer or affiliate thereof, (b) Apple Inc., Alphabet, Inc., Amazon.com, Inc., Samsung Electronics Ltd., and any affiliates of any of the foregoing, and (c) any other person or entity that competes with or has publicly expressed an intent to compete with the business of Toyota or any Toyota Affiliate, including, without limitation, competition in the manufacturing of vehicles that utilize telematics services.

2.0 **ACCESS TO PREPAID TELEMATICS DATA**. Notwithstanding Fleet Owner’s purchase of a Fleet Data Package, to access or receive Prepaid Telematics Data, Fleet Owner must enter into a Data Access Agreement. If Fleet Owner’s Data Access Agreement is with an Approved Data Partner, Toyota will (a) notify the Approved Data Partner that Fleet Owner has purchased a Fleet Data Package, and (b) not

charge such Approved Data Partner for the applicable Prepaid Telematics Data during the Prepaid Telematics Data Term.

**3.0 FLEET DATA PACKAGE PRICING.** The pricing for a Fleet Data Package will be the pricing that is made available to Fleet Owner on the Fleet Ordering Website at the time of purchase of the applicable Fleet Vehicle. Fees paid by Fleet Owner for a Fleet Data Package are non-refundable. Toyota reserves the right to modify Fleet Data Package pricing in its sole discretion. For clarity, any such modifications will not affect a previously purchased Fleet Data Package. Upon expiration of the Prepaid Telematics Data Term, the pricing for further Telematics Data for the applicable Fleet Vehicle will be as set forth in the applicable Data Access Agreement.

#### **4.0 PREPAID TELEMATICS DATA**

- 4.1 Permitted Use of Prepaid Telematics Data.** Subject to Fleet Owner's compliance with these Terms and the applicable Data Access Agreement, Fleet Owner may use Prepaid Telematics Data solely as necessary for Fleet Owner's internal business purposes in managing its fleet in the Territory and shall not use Prepaid Telematics Data for any other commercial use, including without limitation any sale, lease, or license of Prepaid Telematics Data to a third party (the "*Permitted Use*"). Without limiting the foregoing, in no event shall Fleet Owner directly or indirectly disclose or otherwise make available any Prepaid Telematics Data to a Toyota Competitor. Fleet Owner agrees to use Prepaid Telematics Data strictly in accordance with any documentation or instructions provided by Toyota.
- 4.2 Data Security.** Fleet Owner agrees to (a) implement and maintain reasonable security measures and practices to safeguard Prepaid Telematics Data from unauthorized access and (b) maintain and monitor its systems in compliance with all applicable Data Protection Laws.
- 4.3 Data Retention.** Fleet Owner shall ensure that it and its Representatives do not (a) retain Prepaid Telematics Data longer than needed for the Permitted Use or (b) retain Personal Information except as otherwise required by Law, in which case Fleet Owner and/or the applicable Representatives of Fleet Owner shall archive the Personal Information and implement reasonable measures to prevent any further use of the Personal Information.
- 4.4 Use and Disclosure of Personal Information.** Fleet Owner shall ensure that it and its Representatives do not use or disclose Personal Information relating to lessees, drivers or passengers of Fleet Vehicles except in accordance with these Terms, Fleet Owner's privacy policies, the applicable Data Access Agreement, and applicable Data Protection Laws, and such use or disclosure shall be solely as necessary for the Permitted Use and for no other purposes, unless Toyota otherwise agrees in advance in writing.
- 4.5 Personal Information Breach.** Fleet Owner shall notify Toyota without undue delay, and in any case in accordance with applicable Data Protection Laws and, notwithstanding any longer period that may be permitted under any applicable Data Protection Laws, within twenty-four (24) hours, upon Fleet Owner's reasonable belief that there has been an accidental, unauthorized, or unlawful destruction, loss, alteration, disclosure of, or access to Personal Information.
- 4.6 Claims.** Where Toyota faces an actual or potential claim arising out of or related to violation of any Data Protection Law concerning Fleet Owner's use of Prepaid Telematics Data, Fleet Owner shall promptly provide all materials and information requested by Toyota that is relevant to the defense of such claim and the underlying circumstances concerning the claim.

4.7 No Export. Fleet Owner shall ensure that all Prepaid Telematics Data is stored and processed only within the United States, unless otherwise agreed by Toyota in writing in advance.

4.8 Privacy Notice. The Privacy Notice sets forth information regarding Toyota's and Toyota Affiliates' collection, processing, use, storage, sharing, or securing of Prepaid Telematics Data.

5.0 **FEEDBACK**. To the extent that Fleet Owner provides or discloses to Toyota any recommendations, suggestions for improvement, or ideas related to the Data Solutions Website or Telematics Data (including, for clarity, any Fleet Data Package) (collectively, "***Fleet Owner Feedback***"), Fleet Owner hereby grants to Toyota a perpetual, irrevocable, worldwide, royalty free license to use and exploit such Fleet Owner Feedback for any and all purposes.

## 6.0 **REPRESENTATIONS, WARRANTIES, AND COVENANTS**

6.1 Fleet Owner Representations and Warranties. Fleet Owner represents, warrants, and covenants that it and each of its Representatives shall (a) comply with all Laws (including without limitation all Data Protection Laws) applicable to the activities contemplated in these Terms and not use or disclose any Prepaid Telematics Data in any manner in violation of any applicable Law, these Terms, any agreement between Fleet Owner and a lessee, driver, or passenger of a Fleet Vehicle, or in aid of any unlawful act or undertaking, and (b) comply with industry best practices for transparency with respect to data collection and use.

6.2 Toyota Disclaimer of Warranties.

**6.2.1 Disclaimer of Warranties. PREPAID TELEMATICS DATA IS MADE AVAILABLE BY TOYOTA AND TOYOTA AFFILIATES "AS IS," "AS AVAILABLE," "WITH ALL FAULTS," AND WITHOUT ANY WARRANTY, AND (A) TOYOTA AND TOYOTA AFFILIATES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, COURSE OF DEALING, OR USAGE OF TRADE; (B) TOYOTA MAKES NO WARRANTY OR REPRESENTATION REGARDING ANY DATA OR OTHER INFORMATION, MATERIALS, GOODS, OR SERVICES OBTAINED THROUGH TOYOTA'S REPRESENTATIVES, SYSTEMS, OR WEBSITES; (C) TOYOTA MAKES NO WARRANTY OR REPRESENTATION THAT TOYOTA'S PRODUCTS AND SERVICES (INCLUDING, BUT NOT LIMITED TO, THE DATA SOLUTIONS WEBSITE AND THE PREPAID TELEMATICS DATA) WILL MEET ANY OF FLEET OWNER'S OR ANY OF ITS CUSTOMERS' REQUIREMENTS OR BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; AND (D) USE OF THE PREPAID TELEMATICS DATA IS AT FLEET OWNER'S SOLE RISK.**

**6.2.2 Disclaimers Subject to Law. SECTION 6.2.1 WILL NOT AFFECT: (A) ANY WARRANTIES THAT CANNOT BE DISCLAIMED, EXCLUDED, OR LIMITED UNDER APPLICABLE LAWS OR (B) ANY LIABILITY THAT CANNOT BE DISCLAIMED, EXCLUDED, OR LIMITED UNDER APPLICABLE LAWS.**

7.0 **INDEMNIFICATION**. Fleet Owner shall defend, indemnify, and hold harmless Toyota, Toyota Affiliates, and its and their Representatives from and against any and all damages, liabilities, losses, costs, and expenses ("***Damages***") (whether arising in strict liability, negligence, or otherwise)

arising out of third-party claims (including, for clarity, claims by any lessee, driver, or passenger of a Fleet Vehicle) arising out of or relating to any of the following, whether actual or alleged:

- 7.1 infringement of any U.S. patent, trademark, copyright, trade secret, or other intellectual property right by any products or services of Fleet Owner (including any applications, sites, or systems where any such products or services are offered) or any use of Prepaid Telematics Data by Fleet Owner or any of its Representatives;
- 7.2 breach of these Terms by Fleet Owner or any of its Representatives;
- 7.3 any claims by any lessee, driver, or passenger of a Fleet Vehicle arising out of or relating to Toyota's collection, use, or disclosure to Fleet Owner of Prepaid Telematics Data as contemplated hereunder;
- 7.4 Fleet Owner's or any of its Representatives' use or disclosure of any Prepaid Telematics Data (including any data derived therefrom), including any physical injury to or illness, death, or emotional distress of any person or loss of, damage to, or destruction of any tangible property arising out of Fleet Owner's or any of its Representatives' use or disclosure of any Prepaid Telematics Data (including any data derived therefrom);
- 7.5 failure by Fleet Owner to comply with applicable Laws (including applicable Data Protection Laws) in connection with the collection, processing, use, and/or retention of Prepaid Telematics Data or any activities contemplated under these Terms; or
- 7.6 any fraudulent, criminal, or grossly negligent acts or omissions by, or the willful misconduct of, Fleet Owner or any of its Representatives in connection with the Prepaid Telematics Data or any activities contemplated under these Terms.

## 8.0 **LIMITATION OF LIABILITIES; REMEDIES.**

- 8.1 Limitation of Liability for Consequential Damages. In no event shall Toyota (or any Toyota Affiliate) be liable to Fleet Owner or any third party in connection with these Terms, any Prepaid Telematics Data or use thereof, or the activities contemplated hereunder for any loss of use, loss of goodwill, lost profits, lost data, interruption of business, indirect, incidental, punitive, special, or consequential damages of any kind, including interruption of business, cost of substituted facilities, equipment or service, down-time costs, or claims of customers, or third party service providers, irrespective of how such damages may be caused, whether arising in contract or in tort (including breach of warranty, negligence, and strict liability), even if such party had been advised of the possibility of such damages.
- 8.2 Limitation on Remedies. Toyota's and the Toyota Affiliates' aggregate liability in connection with these Terms, any Prepaid Telematics Data or use thereof, or any activities contemplated hereunder, whether based on an action or claim in contract, equity, negligence, tort, or otherwise, shall in no event exceed the fees actually paid by Fleet Owner to Toyota for the applicable Prepaid Data Package(s) to which the claims relate.
- 8.3 Remedies Provided by Toyota. Without limitation of **Section 2.0**, with respect to any defect in the Prepaid Telematics Data, the sole remedy is a repair of such Prepaid Telematics Data by Toyota (to the extent reasonably possible and commercially reasonable).

## 9.0 **GENERAL PROVISIONS**

- 9.1 Modification of Terms. Toyota may, in its sole discretion, modify or update these Terms from time to time. If Toyota makes a material change to these Terms, Toyota will update the 'last modified' date at the top of these Terms and notify Fleet Owner that material changes have been made. If Fleet Owner purchases a Fleet Data Package after any change

to these Terms, that purchase will constitute Fleet Owner's acceptance of any revised terms and conditions.

**9.2** Conflict. Solely with respect to any Prepaid Telematics Data, in the event of any conflicts or inconsistencies between these Terms and the applicable Data Access Agreement, these Terms will prevail.

**9.3** Successors and Assigns. These Terms are binding upon and inure to the benefit of Toyota and Fleet Owner and their permitted respective successors and assigns.

**9.4** Governing Law; Interpretation. These Terms shall be governed by and construed in accordance with the laws of the state of Texas, without regard to conflicts of law principles thereunder. Whenever used herein, the term "including" shall be deemed to be followed by the words "without limitation."

**9.5** Dispute Resolution.

**9.5.1** Alternative Dispute Resolution. Any dispute arising out of or relating to these Terms (including any alleged violation of these Terms, any controversy relating to the interpretation or enforceability of these Terms, the arbitrability of any dispute, or any claim that these Terms (or any part thereof) is invalid, illegal or otherwise voidable (or void)) (collectively, "**Disputes**") shall be resolved in accordance with the procedures specified in this **Section 9.5**, as follows, which shall be the sole and exclusive procedures for the resolution of any such Disputes:

a. Negotiation. Toyota and Fleet Owner shall attempt promptly and in good faith to resolve any Dispute arising out of or relating to these Terms by negotiation within ten (10) business days after notice of such Dispute is given by either party.

b. Arbitration. Notwithstanding the foregoing, in case no satisfactory settlement is reached by Toyota and Fleet Owner within the ten (10)-business-day period set forth in **Section 9.5.1(a)**, the dispute shall be finally settled by arbitration in Dallas, Texas, in accordance with the rules of the Judicial Arbitration and Mediation Service ("**JAMS**") in effect at the time of arbitration. Any arbitration shall be administered by JAMS and Dallas, Texas, shall be the seat of the arbitration. The language of the arbitration shall be English. The tribunal shall consist of three arbitrators, one to be appointed by Fleet Owner, one to be appointed by Toyota, and one to be appointed by the two arbitrators within thirty (30) days after the nomination of the second arbitrator. The third arbitrator shall act as the chair of the tribunal. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

**9.5.2** JURY TRIAL WAIVER. TOYOTA AND FLEET OWNER KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE (TO THE EXTENT PERMITTED BY APPLICABLE LAW) ANY RIGHT THAT EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY DISPUTE ARISING UNDER OR RELATING TO THESE TERMS.

**9.5.3** Equitable Relief. Each of Toyota and Fleet Owner agree that the only circumstance in which Disputes shall not be subject to mediation or arbitration pursuant to this **Section 9.5** is where either party makes a good faith determination that a breach or threatened breach of these Terms by the other party is such that equitable relief is the only appropriate and adequate remedy.

**9.5.4** Confidentiality. All negotiations and proceedings pursuant to this **Section 9.5** are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable Laws.