



DRIVERS TERMS AND CONDITIONS

PART 1 – INTRODUCTION

INFORMATION ABOUT US AND HOW TO CONTACT US

Who we are. Smartzi Limited is a private company registered in England and Wales with company number 09261921 and whose registered office is at 14 Elm Road, Chessington, KT9 1AW (“Smartzi”).

Why you should read these Terms and Conditions. Please read these terms and conditions (the “**Terms and Conditions**”) carefully before you use the Agency Services, the Booking Services or the Platform Services. These Terms and Conditions tell you how Smartzi will provide such services, how Smartzi may change or end the contract, what to do if there is a problem and other important information. In addition, these Terms and Conditions include certain limitations and exclusions of liability in favour of Smartzi.

How to contact Smartzi. You can contact Smartzi by emailing the customer service team at info@smartzi.com. This email address can be used for all general enquiries, including (for example) any payment enquiries, feedback or complaints.

How Smartzi may contact you. If Smartzi has to contact you it will do so by the email and/or telephone number you have provided to Smartzi when registering to use the Platform Services.

These Terms and Conditions are split into four Parts.

Part 1 is an Introduction Section.

Part 2 sets out details of the Agency Services.

Part 3 sets out Terms and Conditions for your use of the Smartzi Driver Platform

Part 4 sets out other important Terms and Conditions that apply to the Agency Services and your use of the Smartzi Driver Platform.

A reference to a clause number within a given Part of these Terms and Conditions is a reference to the relevant clause within that Part (unless expressly stated otherwise).

In these Terms and Conditions the following definitions shall apply:

“Account” has the meaning given to that term in Clause 3.1 of Part 2 of these Terms and Conditions.

“Agency Services” has the meaning given to that term in Clause 1.1 of Part 2 of these Terms and Conditions.

“Availability Period” has the meaning given to that term in Clause 5.3 of Part 2 of these Terms and Conditions.

“Booking” has the meaning given to that term in Clause 1.1 of Part 2 of these Terms and Conditions.

“Contributions” has the meaning given to that term in clause 4.1 of Part 3 of these Terms and Conditions.

“Credit Card Charges” has the meaning given to that term in clause 5.7 of Part 2 of these Terms and Conditions.

“Driver” means a driver licensed to carry out private hire bookings in accordance with the Private Hire Vehicles (London) Act 1998 or the Local Government (Miscellaneous Provisions) 1976 Act (Part II), as the case may be, for whom Smartzi provides Agency Services.

“Identification Information” has the meaning given to that term in clause 3.2(b) of Part 2 of these Terms and Conditions.

“Licence” has the meaning given to that term in clause 2.1 of Part 3 of these Terms and Conditions.

“Licensing Authority” means any relevant Local Government Authorities outside the Greater London Area from which Smartzi holds an operator’s licence.

“Minimum Price per Mile” has the meaning given to that term in clause 5.3 of Part 2 of these Terms and Conditions.

“Promotions” has the meaning given to that term in Clause 4.1 of Part 4 of these Terms and Conditions.

“Receipts” has the meaning given to that term in clause 5.17 of Part 2 of these Terms and Conditions.

“Smartzi” has the meaning given to that term in Part 1 of these Terms and Conditions.

“Smartzi Client Platform” means the mobile phone application and part of the website www.smartzi.com through which a User may request that Smartzi, as disclosed agent on behalf of a Driver as principal, offers to provide a Booking in respect of a given journey.

“Smartzi Client and Driver Platforms” means the Smartzi Client Platform and/ or the Smartzi Driver Platform.

“Smartzi Driver Platform” has the meaning given to that term in Clause 1.1 of Part 3 of these Terms and Conditions.

“TFL” has the meaning given to that term in clause 3.2(b) of Part 2 of these Terms and Conditions.

“User” has the meaning given to that term in clause 1.1 of Part 2 of these Terms and Conditions.

“Vehicle” has the meaning given to that term in Clause 3.2(c) of Part 2 of these Terms and Conditions.

PART 2 – AGENCY SERVICES PROVIDED BY SMARTZI

1. AGENCY SERVICES

- 1.1. **Agency Services.** Smartzi offers a service to Drivers whereby, when requested to do so by a User through the Smartzi Client Platform in respect of a given journey, Smartzi will (as disclosed agent for and on behalf of a Driver as principal) and subject to these Terms and Conditions, offer to provide a Booking to that User in respect of the journey (the “Agency Services”). Smartzi acts as a disclosed agent for drivers licensed

to carry out private hire bookings in accordance with the Private Hire Vehicles (London) Act 1998 or Local Government (Miscellaneous Provisions) 1976 Act (Part II) as the case may be. These Terms and Conditions apply to Drivers only. When requested by a user of the Smartzi Client Platform (a “**User**”) to do so, Smartzi will on your behalf as your disclosed agent, and in accordance with these Terms and Conditions, make an offer to such User to enter into a private hire booking for the journey requested by the User. If accepted by the User, a binding contract will then be created between you as a Driver and the User (referred to in these Terms and Conditions as a “**Booking**”). Smartzi is not a party to any Booking and such Booking will be made between you as Driver and the relevant User only. These services are known as the Agency Services. Smartzi will provide certain additional services to you in connection with any Booking made, such as recording the details of that Booking and assisting with any queries you may have in connection with that Booking. Such services form part of the Agency Services.

- 1.2. Smartzi provides the Agency Services in connection with journeys made in London within the scope of the Private Hire Vehicles (London) Act 1998. In accordance with that Act, in order to make an offer to provide a private hire booking to a User as agent for you as a Driver, Smartzi is required to hold an operator’s licence. For certain areas outside Greater London Smartzi holds an operator’s licence in each case from the relevant Licensing Authority and provides the Agency Services in the area of operation of such operator’s licence within the scope of the Local Government (Miscellaneous Provisions) 1976 Act (Part II).
- 1.3. Smartzi offers to make a private hire booking acting as your disclosed agent at its registered office and/ or operating centres. You (as Driver) are Smartzi’s principal in respect of that Booking. When a User accepts a Booking, a contract is formed between you as Driver and the relevant User in respect of the Booking. By continuing to use the Agency Services or the Driver Platform Services you acknowledge that:
 - a) Smartzi does not provide any transportation services to the User as part of the Smartzi Platform and instead acts as an intermediary between you as Driver and the relevant User in connection with a given Booking;

- b) You are an independent contractor and you are not an employee of Smartzi or any of its associated companies;
- c) If, in accordance with these Terms and Conditions, Smartzi has made an offer on your behalf as agent to a User to provide a Booking, and that User accepts such offer:
 - (i) a contract is formed between you as Driver with the relevant User in respect of the Booking, and Smartzi is not a party to that contract; and
 - (ii) you will be legally obliged to perform that Booking.
 - (iii) Smartzi does not provide any warranty or representation regarding any User with whom a Booking is made, including in particular (but not limited to) any representations as to the ability of any User to meet any charges incurred as part of that Booking; and
 - (iv) You, as principal in relation to a given Booking, bear the risk of any non-payment of charges due to you from the relevant User in respect of that Booking.

1.4. **Booking services.** Smartzi provides the following services to you as part of the Agency Services:

- a) Recording any Booking;
- b) Where a user has elected to pay for a given Booking by credit card, collecting any charges due in respect of that Booking and paying such charges to you in accordance with these Terms and Conditions;
- c) Assisting you with any lost property enquiries in relation to any Booking (and for information on lost property, please see www.smartzi.com);
- d) Receiving any feedback, suggestions or complaints that you may have in respect of a given Booking; and
- e) Issuing Receipts on your behalf in accordance with clause 5.17

2. AGENCY SERVICES AND SMARTZI DRIVER PLATFORM LIMITED IN AREA

The Agency Services and the Smartzi Driver Platform are limited to private hire bookings in respect of the Greater London Area or, only for Drivers holding a relevant licence, in areas where Smartzi holds an operator's licence from the relevant Licensing Authority.

3. SMARTZI ACCOUNT

3.1. **Registration for a Smartzi Account.** Access to the Agency Services is only permitted where you have registered and maintained an Account. In order to register for and maintain an Account:

- a) you must be at least 21 years old (or the requisite age of majority in the jurisdiction in which you are based, if older);
- b) you must hold a full DVLA, Northern Ireland, or other EEA stated driving licence that is at least three years old;
- c) you must have the right to live and work in the UK;
- d) you must hold a private hire driver licence; and
- e) you must own a vehicle with an appropriate private hire vehicle licence.

3.2. Registration for an Account may be carried out using the Smartzi Driver Platform and requires you to provide:

- a) Accurate and up to date personal information, including but not limited to your name, date of birth, address, telephone number and email address;
- b) A pdf copy of:
 - (i) your passport;
 - (ii) a bank statement dated within the past three months identifying both your primary residential address and the account details to which any payments will be made by you as part of the Agency Services;
 - (iii) your private hire driver licence issued by Transport for London (“TFL”) or other relevant Licensing Authority;
 - (iv) a full DVLA, Northern Ireland, or other EEA stated driving licence that is at least three years old;
 - (v) appropriate documentation confirming your right to live and work in the UK; and
 - (vi) such other identification information that Smartzi may require from time to time
(together, the “Identification Information”);

- c) accurate and up to date information regarding the vehicle to be used by you in respect of any Booking (a “**Vehicle**”) including any applicable private hire vehicle licence and documentation to Smartzi’s reasonable satisfaction confirming that the Vehicle is properly and adequately insured; and
- d) such other information that Smartzi may require from time to time.

3.3. **Submission of original Identification Information.** Following creation of your Account, and before you are able to make use of any of the Agency Services, you must either attend Smartzi’s offices or book an appointment with a Smartzi field agent so that you can submit your original Identification Information for Smartzi’s approval. You hereby undertake and confirm to Smartzi that your Identification Information is correct and up to date, and that you will from time to time when requested by Smartzi provide up to date versions of the documents set out in paragraph 3.2 above.

4. INDEPENDENT CONTRACTOR

4.1. The relationship between you and Smartzi will be that of principal and agent and nothing in this agreement shall render you an employee, worker or partner of Smartzi and you shall not hold yourself out as such.

4.2. Smartzi does not, and shall not be deemed to, direct or control you as Driver. In particular, the parties hereby confirm and acknowledge that:

- a) You as Driver shall determine when and if you wish to use the Agency Services;
- b) Smartzi does not control whether or not you as Driver wish to make an offer for a given Booking; and
- c) You as Driver are free to enter into agreements for the provision of services and other business relationships.

4.3. This agreement constitutes an agency agreement and not a contract of employment and accordingly you shall be fully responsible for and shall indemnify Smartzi for and in respect of:

- a) Any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made

in connection with the provision of the Agency Services to you and any Booking made between you and any User, where the recovery is not prohibited by law. You shall further indemnify Smartzi against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by Smartzi in connection with or in consequence of any such liability, deduction, contribution, assessment or claim; and

- b) Any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by you against Smartzi arising out of or in connection with the provision of the Agency Services.

4.4. Smartzi may at its option satisfy the indemnity set out in clause 4.3 (in whole or in part) by way of deduction from any payments due to you.

4.5. You hereby agree and undertake that you will not hold yourself out as being connected with Smartzi otherwise than pursuant to the Agency Services.

5. USE OF THE AGENCY SERVICES

5.1. By continuing to access the Agency Services, you agree that:

- a) You will keep all information provided to Smartzi up to date including, but not limited to, your Identification Information, the details of the private hire driver licence issued to you by TFL and your contact email address and telephone number (and you hereby indemnify Smartzi in respect of any loss or damage suffered by Smartzi as a result of your failure to do so);
- b) You will keep all username and password information in relation to your Account confidential;
- c) You will not permit any other person to access your Account or to provide any private hire booking using your Account, and you are responsible for any unauthorised use of your Account by third parties (and you hereby indemnify Smartzi in respect of any loss or damage suffered by Smartzi as a result of such unauthorised use);
- d) You are not permitted to assign or otherwise transfer your Account to any party;
- e) You are permitted to have only one Account; and

- f) You will comply with all applicable laws and regulations when using the Agency Services and the Smartzi Driver Platform, and will not cause any nuisance, damage, disruption or other loss or damage to any party or road user (including, but not limited to, any User to whom you are providing transportation services as an independent contractor).
- 5.2. **Unauthorised Account Access.** Smartzi has the right to disable any user identification code or password, whether chosen by you or allocated by Smartzi, at any time, if in Smartzi's reasonable opinion you have failed to comply with any of the provisions of these Terms and Conditions. If you know or suspect that anyone other than you knows your user identification code or password, you must promptly notify Smartzi using the email address set out in Part 1 above.
- 5.3. **Indicating your availability and minimum price per mile.** A Driver wishing to use the Agency Services is required to, using the Smartzi Driver Platform, indicate and keep up to date:
- a) The times during which he will be available in respect of any Bookings ("**Availability Period**"); and
 - b) The minimum price per mile at which he is willing to make an offer to any User in respect of a Booking ("**Minimum Price per Mile**").
- 5.4. Where a User requests Smartzi to make an offer to provide a Booking during the Availability Period specified by you, you irrevocably request that Smartzi, on your behalf as agent for you as principal, and in accordance with these Terms and Conditions, make an offer to that User to carry out a Booking. You hereby confirm and acknowledge that:
- a) Smartzi shall, in respect of a request for a Booking made by a User, make one or more offers to that User on behalf of any available Drivers;
 - b) Smartzi shall, in determining which available Driver(s) should make an offer to the User in respect of the relevant journey, take into account the Minimum Price per Mile stated by each Driver and each Driver's physical location compared with the start point requested by the relevant User; and

- c) Smartzi shall have absolute discretion to determine which Drivers make an offer to the relevant User (if any).

5.5. **Requirement to carry out any Booking accepted by a User.** If Smartzi (acting as agent on your behalf) makes an offer to a User in respect of a Booking, and that Offer is accepted by the User resulting in a Booking being made between you as principal and the User, then:

- a) Smartzi shall provide such of your personal information to the relevant User that Smartzi (acting reasonably) considers is necessary in connection with the Booking, including (but not limited to) your first name, your geographical location, your photograph, your contact information and the make, model, registration number and colour of your Vehicle;
- b) You are required to proceed to the pick up point for the relevant Booking immediately or at the appointed pick-up time for scheduled bookings and take the User to the relevant requested drop off point without any interruptions or intermediate stops (unless specifically authorised by the relevant User); and
- c) You may not, unless specifically authorised by the relevant User, permit any other person to enter or remain in the Vehicle whilst the private hire booking is being carried out.

5.6. **Fees due to Smartzi in connection with the Agency Services.** Smartzi's fee for the Agency Services is payable for every Booking made between you as Driver and a User (the "**Smartzi Fee**"). The amount of such fee will be notified to you by Smartzi by email from time to time (and, for the avoidance of doubt, Smartzi may elect to change the Smartzi Fee at its absolute discretion from time to time). The amount of the Smartzi Fee notified to you from time to time shall be inclusive of any VAT or other sales tax applicable thereon. Each Smartzi Fee shall become payable immediately upon a Booking being accepted by a User and is not dependent upon completion of the Booking (or payment by the User of any charges due to you) in any way. The Smartzi Fee shall be due and payable by you regardless of the payment method the User has requested to pay for the Booking.

- 5.7. **Collection of fee as disclosed payment collection agent.** Where a User has indicated that he or she wishes to pay for a given Booking using a credit card registered to their Smartzi account, Smartzi will act as a disclosed payment collection agent on your behalf and collect any applicable charges on your behalf through the Smartzi Client Platform. Smartzi shall hold any charges collected on your behalf and such charges shall be paid to you within two weeks of the relevant Booking taking place in accordance with Smartzi's policy of payments to Drivers in place from time to time. Any credit card charges or other similar charges or expenses ("**Credit Card Charges**") incurred by Smartzi in acting as disclosed payment agent shall be payable by you and you hereby irrevocably authorise Smartzi to deduct any such charges or expenses from any amounts collected by Smartzi on your behalf.
- 5.8. **Set off of fees collected on your behalf against payments due to Smartzi.** You hereby expressly permit Smartzi to deduct any Smartzi Fees due to Smartzi (including, but not limited to, any Smartzi fees due to Smartzi in respect of Bookings where the User has elected to pay for that Booking in cash) from any charges collected by Smartzi from time to time on your behalf as disclosed payment agent.
- 5.9. **Payment of Smartzi Fees in respect of cash bookings.** Where a User has indicated that he or she wishes to pay for a given Booking using cash, you must account to Smartzi for the Smartzi Fee due for that Booking within two weeks of the Booking taking place by way of bank transfer to such bank account as Smartzi may notify you from time to time. However, to the extent that Smartzi has acted as disclosed payment agent on your behalf in respect of a Booking paid for by a User by credit card, in accordance with paragraph 5.8 Smartzi may (in its absolute discretion) instead deduct from the monies collected on your behalf any Smartzi Fees due in respect of cash bookings. In no circumstances will you be required to pay the Smartzi Fee for a given journey more than once.
- 5.10. **Cancellation of Bookings.** Smartzi recognises that, in exceptional circumstances, Drivers may need to cancel a Booking made with a User. If a Booking has been made, you may indicate to Smartzi that you wish to cancel such Booking using the Smartzi Driver Platform at any time prior to the scheduled pick up time for that Booking .

Smartzi will then cancel such Booking as your agent by notifying the relevant User. However, because cancellation of Bookings in this way is harmful to relationships between Drivers and Users wishing to enter into Bookings through the Smartzi Client and Driver Platforms, you therefore hereby acknowledge and agree that in the event of repeated cancellation of Bookings by you Smartzi may, where it considers it reasonable to do so, terminate any services provided by Smartzi to you (including, but not limited to, the Agency Services).

5.11. **Substitution Booking.** By using the Agency Services, you hereby acknowledge and confirm that Smartzi may, from time to time, and as your agent for and on your behalf as principal, enter into a Booking for less than the Minimum price per Mile specified by you (a “**Substitution Booking**”) provided that:

- a) The relevant User had entered into a private hire booking with another Driver and that booking has been cancelled; and
- b) The price per mile for the Substitution Booking is not less than 90% of the Minimum Price per Mile specified by you.

5.12. **Vehicle condition.** You hereby undertake and confirm to Smartzi that, whilst you are using the Agency Services (and in respect of each Booking accepted by any User in connection therewith) you will at all times ensure that your Vehicle is in a road worthy and safe condition and that you will comply with all legal and statutory requirements applicable in respect of your Vehicle (including, but not limited to, the requirements to obtain any MOT test certificates or any necessary private hire vehicle licence).

5.13. **Insurance.** You hereby undertake and confirm to Smartzi that, whilst you are using the Agency Services (and in respect of each Booking accepted by any User in connection therewith):

- a) You will at all times maintain a valid insurance policy (covering industry-standard levels of cover) which complies with all legal requirements (including, but not limited to, the Road Traffic Act 1998); and
- b) You will notify Smartzi of any event giving rise to insurance claim within 15 days of such event having taken place.

You hereby agree that Smartzi may, without your consent, provide details of your insurance policy and your contact information to any User where Smartzi considers (acting reasonably) that the provision of such information is necessary in relation to any accident or other incident taking place as part of a Booking.

5.14. **Driving standards.** You hereby undertake and confirm to Smartzi that whilst you are using the Agency Services (and in respect of each Booking accepted by any User in connection therewith) you will at all times:

- a) Carry out all services to a high standard of skill and care and in a professional and courteous manner;
- b) Maintain such training and other qualifications as may be necessary in order to carry out any services to a high standard of skill and care; and
- c) Comply with all licences and other legal requirements to which you are subject when carrying out a private hire booking (and in particular, in relation to any legal requirements that may apply in respect of the use of mobile phones whilst driving and the terms of any licence granted to you by TFL or other relevant Licensing Authority).

5.15. **Background checks.** You hereby agree and acknowledge that, in order to use the Agency Services, you may be subject to background and driving record checks carried out by or on behalf of Smartzi from time to time.

5.16. **Gratuities.** Smartzi shall not collect any gratuities or tips on behalf of any Driver and the Smartzi Client and Driver Platforms do not permit gratuities or tips to be collected on behalf of Drivers. You hereby confirm and undertake to Smartzi that you will, if asked or prompted by any User, confirm that gratuities are entirely optional and at that User's discretion and that Smartzi does not collect any gratuities on your behalf as disclosed collection agent.

5.17. **Receipts.** As part of the Agency Services, Smartzi will provide a system for the delivery of receipts to Users on your behalf by email and/ or through the Smartzi Client Platform in respect of credit card bookings where Smartzi has acted as a disclosed payment agent ("Receipts"). If you wish to correct any Receipt issued by Smartzi to a

User on your behalf, you must notify Smartzi within 3 business days from and including the date on which Smartzi issued the relevant Receipt to the relevant User. In the absence of any such notification, you will be deemed to have accepted such Receipt and, subject to clause 6.6 of Part 4, Smartzi shall not be liable for any errors or corrections to the Receipt or for recalculation of the charges due in respect of the Booking to which the Receipt relates.

PART 3 – USE OF THE SMARTZI DRIVER PLATFORM

1. THE SMARTZI DRIVER PLATFORM

- 1.1. **What these terms cover.** Smartzi provides Drivers with access to a mobile phone application and website (such application and website as amended from time to time, the “**Smartzi Driver Platform**”) through which Drivers may access the Agency Services. Use of the Smartzi Driver Platform requires an Account.
- 1.2. Part 3 of these Terms and Conditions detail access or use by you of the Smartzi Driver Platform.
- 1.3. Smartzi will not be responsible for any data access charges, or SMS charges, payable by you in connection with the Smartzi Driver Platform. You may be charged fees for using the Smartzi Driver Platform on your mobile phone and you acknowledge that such fees will be your responsibility. You are also responsible for obtaining and setting up your mobile phone and any other hardware or equipment required to access the Smartzi Driver Platform

2. LICENCE TO USE THE SMARTZI DRIVER PLATFORM

- 2.1. Subject to your compliance with these Terms and Conditions (including, but not limited to, the remaining terms of this clause 2), Smartzi hereby grants to you a non-exclusive, non-transferable, revocable licence to use the Smartzi Driver Platform (the “**Licence**”).
- 2.2. You may download, install and use the Smartzi Driver Platform on your personal device(s) for the sole purpose of accessing the Agency Services.

2.3. You undertake:

- a) Not to copy the Smartzi Driver Platform in any way;
- b) Not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Smartzi Driver Platform;
- c) Not to make alterations to, or modifications of, the whole or any part of the Smartzi Driver Platform, nor permit the Smartzi Driver Platform or any part of it to be combined with, or become incorporated in, any other programs; and
- d) Not to disassemble, decompile, reverse-engineer, modify, adapt or create derivative works based on the whole or any part of the Smartzi Driver Platform nor attempt to do any such thing.

2.4. You acknowledge that you have no right to have access to the Smartzi Driver Platform in source code form.

2.5. Smartzi may terminate this Licence at any time without your consent.

3. INTELLECTUAL PROPERTY

You acknowledge that all intellectual property rights in the Smartzi Driver Platform (and any part thereof) anywhere in the world belong to Smartzi, that rights in the Smartzi Driver Platform are licensed (not sold) to you, and that you have no rights in, or to, the Smartzi Driver Platform (or any part thereof) other than the right to use it in accordance with the terms of the Licence.

4. CONTRIBUTIONS TO THE SMARTZI DRIVER PLATFORM

4.1. **Content Standards.** These content standards apply to any and all material which you contribute using the Smartzi Driver Platform (“Contributions”), and to any interactive services associated with the Smartzi Driver Platform. In particular, Drivers may be asked from time to time to provide reviews regarding Users with whom they have made Bookings. You must comply with the spirit and the letter of the following standards. The standards apply to each part of any Contribution as well as to its whole.

4.2. Contributions must:

- a) Be accurate (where they state facts).
- b) Be genuinely held (where they state opinions).
- c) Comply with applicable law in the UK and in any country from which they are posted.
- d) Not promote violence;
- e) Not promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
- f) Not infringe any copyright, database right or trade mark of any other person, or infringe any third party's intellectual property rights;
- g) Not be likely to deceive any person;
- h) Not be made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
- i) Not promote any illegal activity;
- j) Not be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety;
- k) Not be likely to harass, upset, embarrass, alarm or annoy any other person;
- l) Not be used to impersonate any person, or to misrepresent your identity or affiliation with any person;
- m) Not give the impression that they emanate from Smartzi, if this is not the case; and
- n) Not advocate, promote or assist any unlawful act such as (by way of example only) copyright infringement or computer misuse.

4.3. You acknowledge that any Contributions made using the Smartzi Driver Platform may be uploaded by Smartzi to the Smartzi Client Platform, and you hereby consent thereto.

4.4. Smartzi, acting at in its sole discretion, may determine whether any of the content standards applying to any Contributions have been breached and, if Smartzi does determine that such standards have been breached, Smartzi may immediately and without notice to you remove or amend any such Contributions to remedy such breach. However, Smartzi shall not be obligated to actively review or monitor any Contributions.

4.5. **User Generated Content not approved by Smartzi.** The Smartzi Client and Driver Platforms may include information and materials uploaded by other users of the Smartzi Client and Driver Platforms, including but not limited to bulletin boards and chat rooms. This information and these materials have not been verified or approved by Smartzi. Smartzi does not provide any warranty whatsoever that such information and materials are up to date, accurate, correct or otherwise, nor does Smartzi give any warranty that the intellectual property in any such information and material belongs to the user of the Smartzi Client or Driver Platform that uploaded the relevant information and/ or materials. The views expressed by other users on our site do not represent Smartzi's views or values. If you wish to complain about information and materials uploaded by other users please contact Smartzi using the email address set out in Part 1 above.

4.6. **Uploading Content to the Smartzi Driver Platform.** Whenever you make use of a feature that allows you to upload content to the Smartzi Driver Platform, or to make contact with other users of the Smartzi Driver Platform, you must comply with the content standards set out above.

You hereby warrant to Smartzi that any Contribution will comply with those standards, and you will be liable to Smartzi and indemnify Smartzi for any breach of this warranty. This means you will be responsible for any loss or damage Smartzi suffers as a result of your breach of warranty.

Any content you upload will be considered non-confidential and non-proprietary. You retain all of your ownership rights in your content, but you hereby grant Smartzi and other users of the Smartzi Client and Driver Platforms a limited licence to use, store and copy that content and to distribute and make it available to third parties. The rights you license to Smartzi are described in rights you are giving Smartzi to use material you upload set out in clause 4.8 below.

4.7. **Rights you are giving Smartzi to use your Contributions.** When you upload or post Contributions to the Smartzi Driver Platform, you grant Smartzi a perpetual, worldwide, non-exclusive, royalty-free, transferable licence to use, reproduce, distribute, prepare derivative works of, display, and perform the Contributions in

connection with the services provided by the Smartzi Client and Driver Platforms and across different media. Smartzi may also wish to use the Contributions to promote the Smartzi Client and Driver Platforms, which shall be permitted. Smartzi also has the right to disclose your identity to any third party who is claiming that any content posted or uploaded by you to the Smartzi Client or Driver Platforms constitutes a violation of their intellectual property rights, or of their right to privacy. You are solely responsible for securing and backing up any Contributions you may make.

5. VIRUSES AND OTHER MALICIOUS SOFTWARE

- 5.1. Smartzi does not guarantee that the Smartzi Driver Platform will be secure or free from bugs or viruses. You are responsible for configuring your mobile phone, tablet, computer or other information technology that you use to access the Smartzi Driver Platform. You should use your own virus protection software.
- 5.2. You must not misuse the Smartzi Driver Platform by knowingly introducing viruses, trojans, worms, logic bombs or other material that is malicious or technologically harmful. You must not attempt to gain unauthorised access to the Smartzi Driver Platform, the server(s) on which the Smartzi Driver Platform is stored or any server, computer or database connected to the Smartzi Driver Platform. You must not attack the Smartzi Driver Platform via a denial-of-service attack or a distributed denial-of service attack. By breaching this provision, you would commit a criminal offence under the Computer Misuse Act 1990. Smartzi will report any such breach to the relevant law enforcement authorities and Smartzi will co-operate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use the Smartzi Driver Platform will cease immediately.

PART 4 – OTHER IMPORTANT TERMS

1. AMENDMENTS TO THESE TERMS AND CONDITIONS AND TERMINATION

- 1.1. **Amendments to these Terms and Conditions.** Every time you use the Agency Services or the Smartzi Driver Platform, the Terms and Conditions in force at the time of your order will apply to the contract between you and Smartzi. Please see the date of these

Terms and Conditions set out at the beginning hereof. Smartzi may revise these Terms and Conditions from time to time. If these terms and conditions are so revised, Smartzi will notify you of the changes using the Smartzi Driver Platform. By continuing to use the Smartzi Driver Platform after such notification, you will be deemed to have accepted such changes and such amended Terms and Conditions will apply to both the Agency Services and your use of the Smartzi Driver Platform going forward. If you do not accept such changes, you must immediately stop using the Agency Services and the Smartzi Driver Platform.

1.2. **Termination of the Services.** Smartzi expressly reserves the right to terminate your access to the Agency Services and your access to the Smartzi Driver Platform without notice if:

- a) You are in breach of any these Terms and Conditions; or
- b) Smartzi otherwise determines, in its absolute discretion, that it is advisable or necessary to do so.

You may cease to use the Agency Services and the Smartzi Driver Platform at any time and are not obliged to use the Agency Services or the Smartzi Driver Platform.

2. THIRD PARTY SERVICES

Third party services (“**Third Party Services**”) may be used by Smartzi in providing the Agency Services, the Smartzi Driver Platform and other services to you. You hereby agree and acknowledge that you have no ownership rights (including, but not limited to, intellectual property rights) over any Third Party Services whatsoever.

3. PROMOTIONS

3.1. From time to time Smartzi may offer you access to promotional offers as part of the Agency Services (“**Promotions**”). Such Promotions are subject to these Terms and Conditions and any additional terms and conditions set out in or attached to the relevant Promotion (“**Additional Terms**”). In the event of conflict between these Terms and Conditions and the Additional Terms, the Additional Terms shall prevail in relation to the relevant Promotion.

- 3.2. You may not use any Promotion more than once. Promotions cannot be exchanged for cash or used by any person other than the person to whom the Promotion was originally issued by Smartzi. You hereby undertake to Smartzi:
- a) To comply with all terms and conditions (including, but not limited to, any applicable Additional Terms) relating to the Promotions;
 - b) Not to sell or otherwise attempt to transfer any Promotion issued to you to any other person; and
 - c) To use any Promotion only for its intended purpose.
- 3.3. You acknowledge that any Promotion may have an expiry date following which you will have no right to use such Promotion.
- 3.4. Smartzi may at any time withdraw or cancel any Promotion issued to you without your consent.

4. HOW SMARTZI MAY USE YOUR PERSONAL INFORMATION

- 4.1. Smartzi will use the personal information you provide to Smartzi:
- a) To carry out the Agency Services;
 - b) To assist with resolution of any dispute that may have taken place as part of a private hire booking made between you and a User (including, for the avoidance of doubt, the disclosure of your personal information to any insurance loss adjuster or claims handler in the event of a car accident taking place);
 - c) As required as part of the Agency Services in Smartzi's capacity as an operator under the Private Hire Vehicles (London) Act 1998 or Local Government (Miscellaneous Provisions) 1976 Act (Part II) as appropriate (and in particular, but not limited to, Smartzi's requirement to provide information to TFL or other relevant Licensing Authority in relation to any private hire bookings booked using the Smartzi Client and Driver Platforms);
 - d) As and when it is legally obliged to do so under any applicable law or regulation; and

e) If you agreed to this as part of your Account, to give you information about similar products that Smartzi provides, but you may stop receiving this at any time by contacting Smartzi.

4.2. In particular, Smartzi will use your geographical location data (“Location Data”) as part of the Agency Services and you hereby confirm and acknowledge that:

- a) Your Location Data will be tracked by Smartzi as part of the Agency Services;
- b) Your Location Data may be made available to users of the Smartzi Client Platform (regardless of whether or not they have at that point entered into a Booking with you); and
- c) Smartzi may monitor your Location Data for security, safety, technical and commercial purposes,

and by using the Agency Services you thereby consent to such use of your Location Data.

4.3. Please see Smartzi’s privacy policy at www.smartzi.com in relation to use of your personal data.

4.4. Smartzi may pass your personal information to credit reference agencies. Where Smartzi extends credit to you for the products Smartzi may pass your personal information to credit reference agencies and they may keep a record of any search that they do.

4.5. Smartzi will only give your personal information to other third parties where the law either requires or allows Smartzi to do so.

5. CONFIDENTIALITY

5.1. Each party undertakes that it shall not at any time during this agreement, and for a period of three years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 5.2.

- 5.2. Each party may disclose the other party's confidential information:
- a) To its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 5;
 - b) As may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; and
 - c) To the extent expressly permitted elsewhere in these Terms and Conditions.
- 5.3. Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

6. LIMITATION OF LIABILITY

- 6.1. You are asked to read this clause carefully.
- 6.2. This clause 6 sets out the entire financial liability of Smartzi (including any liability for the acts or omissions of its employees, agents and sub-contractors) to you:
- a) Arising under or in connection with these Terms and Conditions;
 - b) In respect of any use by you of the Agency Services or the Smartzi Driver Platform or any part of them; and
 - c) In respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with these Terms and Conditions.
- 6.3. The Agency Services and the Smartzi Driver Platform are provided to you on an "as is" basis and all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms and Conditions. In particular, Smartzi does not provide any warranty, representation or guarantee that:

- a) The Smartzi Driver Platform will be provided error free and without interruptions;
or
- b) Any User engaged by you through the Smartzi Driver Platform and the Smartzi Client Platform will pay (whether promptly or otherwise) any charges due to you.

6.4. Subject to clause 6.6:

- a) Smartzi shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these Terms and Conditions; and
- b) Smartzi's total aggregate liability for any claim (whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise) arising in connection with the performance or contemplated performance of these Terms and Conditions shall be limited to the greater of:
 - (i) £1,000; and
 - (ii) the total aggregate amount of Smartzi Fees payable by the Driver to Smartzi in the 12 month period immediately preceding the event giving rise to the relevant claim for liability.

6.5. The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

6.6. Nothing in these Terms and Conditions excludes the liability of Smartzi:

- a) for death or personal injury caused by Smartzi's negligence;
- b) for fraud or fraudulent misrepresentation; or
- c) in respect of any liability where it would be unlawful to limit or exclude such liability.

7. OTHER IMPORTANT TERMS

- 7.1. Smartzi may transfer its rights and obligations agreement to someone else. Smartzi may transfer its rights and obligations under these Terms and Conditions to another organisation without your consent. Smartzi will always notify you through the Smartzi Driver Platform if this happens.
- 7.2. You need Smartzi's consent to transfer your rights to someone else. You may only transfer your rights or your obligations under these terms to another person if Smartzi agrees to this in writing.
- 7.3. Nobody else has any rights under these Terms and Conditions. These Terms and Conditions are between you and Smartzi and no other person shall have any rights to enforce any of their terms. Neither you nor Smartzi will need to get the agreement of any third party in order to end the contract or make any changes to these terms.
- 7.4. If a court finds part of this contract illegal, the rest will continue in force. Each of the clauses of these Terms and Conditions operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining clauses will remain in full force and effect.
- 7.5. Even if Smartzi delays in enforcing these Terms and Conditions, Smartzi can still enforce the Terms and Conditions later. If Smartzi does not insist immediately that you do anything you are required to do under these Terms and Conditions, or if Smartzi delays in taking steps against you in respect of your breaking these Terms and Conditions, that will not mean that you do not have to do those things and it will not prevent Smartzi taking steps against you at a later date.
- 7.6. Which laws apply to this contract and where you may bring legal proceedings. These Terms and Conditions are governed by English law, and Smartzi and you can bring legal proceedings in respect of the subject matter of these Terms and Conditions in the English courts.
- 7.7. Entire Agreement. These Terms and Conditions constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements,

promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to their subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms and Conditions. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in these Terms and Conditions.