

## Terms and Conditions of Use of Electronic TamarTags

### 1. OUR AGREEMENT

- 1.1 These conditions apply to your application for and use of the TamarTag and are the sole agreement between us. These conditions supersede any terms and conditions which previously governed any agreement between us.
- 1.2 The Joint Committee must receive the initial payment for your account before your application can be accepted. Once your initial payment has been received the Joint Committee will confirm that your application has been accepted by sending a letter to you at the address you provide in your application. Our acceptance of your application constitutes a legally binding agreement between us on these conditions.
- 1.3 For the avoidance of doubt, persons eligible for an exemption from the payment of a Toll are not entitled to the exemption when using a TamarTag

### 2. DEFINITIONS AND INTERPRETATION

- 2.1 The following words and expressions shall have the following meanings: -

**“Acceptance”** means acceptance by the Joint Committee of your application to open a TamarTag account or to receive a TamarTag and open a TamarTag account (if you are a new customer), in accordance with Clause 1.2;

**“Electronic Statement”** means the on-line statement of your TamarTag account, which can be accessed using your TamarTag Account Details at the Joint Committee Web Site;

**“Equipment”** means all equipment used by the Joint Committee to operate the automatic vehicle identification system other than the TamarTag;

**“Event of Default”** means any act or omission on the part of the Joint Committee falling within Clause 14.1;

**“Joint Committee”** means the body established by the Tamar Bridge Act 1957 (including its successors and assigns) or, where appropriate, persons authorised by the body;

**“Joint Committee Address”** means the address Tamar Tag Administration, Tamar Bridge Office, St Budeaux, Plymouth, PL5 1LP.

**“Joint Committee E-mail”** means the Joint Committee e-mail address [tagenquiries@tamarcrossings.org.uk](mailto:tagenquiries@tamarcrossings.org.uk).

**“Joint Committee Fax”** means the Joint Committee facsimile number 01752 365048.

**“Method of Payment”** means a payment made by cash, Mastercard, Visa or such other methods of payment as the Joint Committee may accept from time to time.

**“Privacy Policy”** means the Joint Committee’s policy governing the provisions, use and protection of the information provided by you, a copy of which is contained in the Tag User Guide and which also appears on the Joint Committee’s Website;

**“TamarTag”** means the transponder to be affixed to your vehicle to operate the electronic collection system according to these conditions;

**“TamarTag Account Details”** means your personal TamarTag account login name and password;

**“TamarTag Administration Charge”** means the monthly charge payable by TamarTag account holders, in respect of the costs of the administration of the TamarTag account and

the individual Tag lease fee which may be levied by the Joint Committee (any such charges are set out on the Web Site or are available upon request);

**“TamarTag User Guide”** means the user manual provided, which includes instructions for installing the TamarTag, a guide to your use of the TamarTag, information about Toll Class and a copy of the Privacy Policy;

**“The Tamar Crossings”** means the facilities operated and maintained by the Joint Committee;

**“Tolls”** means the tolls leviable by the Joint Committee under the terms of the Tamar Bridge Act 1998 (or its successors and substitutes) which rates are set out on the Website or are available on request and include any and all relevant taxes and duties;

**“Toll Class”** means one of the different classes of vehicles a list of which is contained in the TamarTag User Guide and which is also set out on the Website:

**“us”** means the Joint Committee and you together;

**“Website”** means the Joint Committee’s web sites on the world wide web at URL [www.tamarcrossings.org.uk](http://www.tamarcrossings.org.uk) or such other URL as the Joint Committee may use from time to time;

**“Working Day”** means the normal days and hours that the TamarTag administration office is open, as shown on the Website; and

**“you” and “your”** means the person applying for or issued with the TamarTag by the Joint Committee under these conditions.

- 2.2 Reference to statutes or statutory provisions or rules include references to any orders, regulations or bye-laws made thereunder and references to any statute, statutory provision or rules or orders or regulations made thereunder include that statute, statutory provision, rules order or regulation as amended, modified, re-enacted or replaced from time to time.

### **3. WITHDRAWAL BY YOU FROM THE CONTRACT**

- 3.1 The terms of this Clause 3 shall apply to you only where you are dealing as a consumer (as such term is defined in Section 12 of the Unfair Contract Terms Act 1977) and are making an application for a TamarTag.
- 3.2 Subject to Clause 3.6 you may withdraw your application for the Tag account at any time up to the end of the eighth working day after Acceptance even if you have already received the TamarTag. You do not need to give the Joint Committee any reason for withdrawing your application nor will you have to pay any penalty.
- 3.3. To withdraw your application you must notify the Joint Committee in writing at the Joint Committee’s address.
- 3.4 If you are a new customer and you have received the TamarTag before you withdraw your application you must send it back to the Joint Committee Address at your own cost and risk. If you withdraw your application but the Joint Committee has already processed the TamarTag for delivery you must not unpack the TamarTag when it is received by you and you must send the Tag back to the Joint Committee at the Joint Committee Address at your own cost and risk as soon as possible.
- 3.5 Once you have notified the Joint Committee that you are withdrawing your application, any sum held by the Joint Committee to your credit shall be refunded to you as soon as possible and in any event within 30 days of your application **PROVIDED THAT** the TamarTag is returned by you and received by the Joint Committee in the condition it was in when delivered to you. If you do not return the TamarTag delivered to you in the condition it was in when delivered to you or you do not pay the costs of delivery, the Joint Committee shall be

entitled to deduct the direct costs of recovering the TamarTag from any amount to be refunded to you. The standard schedule of costs shall be published on the website.

- 3.6 You should be aware that once you use the TamarTag in any way, including, without limitation, on the Tamar Crossings unless we agree otherwise, you will no longer have the right under Clause 3.2 to withdraw your application within eight days of Acceptance.

#### **4. PROVISION AND USE OF TAG**

- 4.1 The Joint Committee will deliver the TamarTag ordered by you (being a new customer) to the address given on your application form as soon as possible after your application is accepted and in any event within 30 days of Acceptance. Delivery shall be free of charge.
- 4.2 The TamarTag shall remain the property of the Tamar Bridge and Torpoint Ferry Joint Committee.
- 4.3 Both new and existing TamarTag customers shall;
- (a) install the Tag on the vehicle as directed by the Joint Committee in the TamarTag User Guide;
  - (b) only use the TamarTag on and for the vehicle which registration number was quoted on your TamarTag application form;
  - (c) advise the Joint Committee immediately if the vehicle for which the TamarTag is linked is sold or otherwise disposed of and immediately advise the Joint Committee of the registration mark, class, colour, make and model of any replacement vehicle.
  - (c) not sell, dispose of, damage or tamper with the TamarTag or use the Tag fraudulently or illegally,
  - (d) exercise all possible care to ensure the TamarTag is not lost, stolen or misused;
  - (e) give the Joint Committee all information in your possession regarding any loss, theft or misuse of the TamarTag and take all steps the Joint Committee consider necessary to assist in the TamarTag's recovery; and
  - (f) not use the TamarTag otherwise than in accordance with these conditions.
- 4.3 While the Joint Committee endeavours to hold sufficient TamarTags to meet all applications, if the Joint Committee has insufficient stock to deliver a TamarTag ordered by you, it will refund to you funds held to your credit as soon as possible and in any event within 30 days of Acceptance. The Joint Committee will not be liable to you for any or any additional compensation by reason that it is unable to supply you with a TamarTag.
- 4.4 Certain light vehicles are equipped with metallised (also known as "re-radiating") windscreens. Instructions for the installation of a TamarTag in a vehicle with a re-radiating windscreen are contained in the Tag User Guide and further information may be obtained from the vehicle's user manual or authorised dealer. The Joint Committee will not be responsible for the operation of a TamarTag if it is not correctly fitted on a vehicle with a metallised windscreen.
- 4.5 If a vehicle is used with or without a trailer and thus the declared Toll Class is effectively modified, the Joint Committee will charge the corresponding Toll.
- 4.6 Where the TamarTag has been placed in a vehicle other than that which has been declared at the time of application or under paragraph 4.3 (c), the Joint Committee may, at its discretion charge the higher toll due of either the class declared at the time of application or under paragraph 4.3 (c), and the actual class of the vehicle identified by either electronic or manual means.

- 4.7 Each vehicle arriving at the toll booths or onboard the ferry must carry an individual TamarTag. Two or more vehicles arriving simultaneously shall not be permitted to use the same TamarTag.
- 4.8 In the case of a technical problem which prevents the automatic recognition of the TamarTag, the Joint Committee reserves the right to charge the relevant Toll based on the registration number of the vehicle.
- 4.9 The Joint Committee reserves the right to require the return of any TamarTag identified as unused during the previous six months. The Joint Committee reserves the right to impose the charges laid out in paragraph 8.2 (c) or suspend the account if the dormant TamarTag is remains unused during the 30 calendar days following notification or is not received at the Joint Committee Office within 30 calendar days of issue of the notification.

## **5. NOTIFICATION OF FAULT, LOSS, THEFT OR MISUSE**

- 5.1 If the TamarTag is faulty, lost, stolen or is otherwise in any way liable to misuse, you must immediately notify the Joint Committee by telephone on tel no. 01752 361577 or by the Joint Committee Fax (lines open office hours) or by the Joint Committee's E-mail, and telephone notification must be confirmed in writing in accordance with Clause 10.3. Until the Joint Committee receives such confirmed notification you will remain liable for any use of the TamarTag.
- 5.2 Once the TamarTag is notified faulty, lost, stolen or liable to misuse you shall make no further use of the TamarTag. If the TamarTag is retrieved, the provisions of Clause 8 apply.
- 5.3 The Joint Committee reserves the right to charge an administration fee for the replacement of a TamarTag which has been stolen, lost, damaged or mislaid.
- 5.4 If you discover that a TamarTag has been ordered or money has been credited to your TamarTag account by someone using your credit or debit card who is not authorised to do so, the Joint Committee will refund to you the money it received provided that:
- (a) you inform your credit card company or bank and the Joint Committee of the unauthorised order or credit as soon as you discover it; and
  - (b) you co-operate with your credit card company or bank, the Joint Committee and, if necessary, the police in relation to the unauthorised use; and
  - (c) you give the Joint Committee all information in your possession regarding any loss, theft or misuse and take all steps the Joint Committee may consider necessary to assist in the recovery of the tag in addition to 5.4(a) and (b) above.

## **6. COLLECTION OF TOLLS**

- 6.1 Upon application to the Joint Committee for an account, you must fully complete the Application Form. The completed and signed form must be accompanied by cash, cheque or credit/debit card payment and:
- (a) provide requested details relevant to your proposed Method of ongoing Payment;
  - (b) if the proposed form of payment is by mandate, your application must be accompanied by a sum of money by any of the other methods to cover the initial charges for providing the TamarTag until your mandate is processed.
- 6.2 Any payment made to your TamarTag account will, in the first instance, discharge any negative balance that exists within your TamarTag account.
- 6.3 The Joint Committee shall be entitled to deduct Tolls, any TamarTag Administration Charge and other charges and sums due to it pursuant to these conditions from the funds received from you from time to time, as they are incurred.

- 6.4 All TamarTag users will receive automatic discounts to the Tolls at the time of crossing or in the form of a monthly credit to their accounts in accordance with the prevailing discount structure. Details of the discounts, which vary according to Toll Class, are available at the Website.
- 6.5 The Joint Committee shall make available to you on the Joint Committee Website an Electronic Statement showing the amounts received from you, the amount of Tolls, charges and other sums charged by the Joint Committee and such other information as the Joint Committee deems appropriate to indicate the entries that have been made on your Tag account. The Electronic Statement, which is updated every working day can be accessed on the Joint Committee's Website using your TamarTag Account details.
- 6.6 At your written request (such notification to be confirmed in writing in accordance with Clause 10.3), or if specified on your TamarTag application form, the Joint Committee shall monthly, for a small administrative fee, provide you with a hard copy of the Electronic Statement at the address you last notified to the Joint Committee. The charges for this service shall be published on the websites.
- 6.7 You may request a duplicate statement related to transactions arising in any of the previous 12 months. The Joint Committee will charge for this service and the level of this charge will be published on the website.
- 6.8 You: -
- (a) must ensure that the Joint Committee is made aware of any changes to your credit or debit card details.
  - (b) acknowledge that the Tolls may be subject to increase and discounts subject to reduction by the Joint Committee in accordance with Clause 11;
  - (c) shall immediately notify the Joint Committee if you do not intend to continue making payments on your account;
  - (d) are not entitled to interest on any sums you pay; and
  - (e) must notify the Joint Committee of any change in your name, address or registered office and vehicle registration number(s).
- 6.9 The Joint Committee acknowledges that if, on receipt of the statement referred to in Clause 6.5 or Clause 6.6, and subject to Clause 6.7(a), more than twice the minimum top up amount paid by you to the Joint Committee is held by the Joint Committee to your credit, you shall be entitled to notify the Joint Committee that you wish to receive by cheque a refund equal to the difference between the amount held to your credit and your top up payment.
- 6.10 The Joint Committee reserves the right to refund any credit held on the TamarTag account it regards as excessive in relation to use during the previous six months. Such refund shall be made by cheque.

## **7. TERMINATION**

- 7.1 The Joint Committee may terminate this agreement at any time by notice if you: -
- (a)(i) provided the Joint Committee with a completed direct debit mandate, and have cancelled your direct debit mandate for whatever reason; or
  - (ii) confirmed that you would make payments by any Method of Payment and the Joint Committee's request for funds is not accepted or you notify or it becomes apparent to the Joint Committee that you do not intend to continue making payments by any Method of Payment;

- (b) have in the opinion of the Joint Committee made fraudulent or any other unauthorised or illegal use of the TamarTag or other use not in accordance with these conditions;
- (c) become bankrupt or are otherwise unable to pay your debts as they fall due or, as appropriate, an encumbrancer lawfully takes possession (and does not relinquish possession within thirty days) or an administrative receiver or receivers are validly appointed in respect of your assets or an administration order is made or an order or an effective resolution is passed for winding-up; or
- (d) are in breach of any of these conditions if such breach is incapable of remedy or, if capable of remedy, such default continues unremedied for one calendar month after notice of it has been given by the Joint Committee to you.

7.2 Either party may terminate this agreement on one month's written notice to the other party in accordance with Clause 10.

7.3 Immediately upon termination of this agreement:

- (a) you will return the TamarTag to the Joint Committee;
- (b) and within 56 days of termination, the Joint Committee shall prepare and submit a statement showing the total amount received from you, the total amount of Tolls, charges or other sums deducted by the Joint Committee and such other information the Joint Committee deems appropriate to indicate the entries that have been made on your account since the last statement was issued to you; and
- (c) if the said statement indicates that the Joint Committee holds funds to your credit, the Joint Committee shall, at the same time as forwarding the statement, send a cheque made payable to you for the sum equivalent to the funds so held.

7.4 Any termination of this agreement is without prejudice to any accrued rights or remedies.

## **8. RETURN OF TAG**

8.1 The TamarTag is the property of the Joint Committee. The TamarTag must be returned to the Joint Committee by post or delivered to the Joint Committee if:

- (a) the Joint Committee notifies you that it intends to replace the TamarTag;
- (b) under Clause 5 the TamarTag is notified lost, stolen or liable to be misused and it is then retrieved, or is notified faulty; and
- (c) this agreement is terminated under Clause 7.

8.2 The Joint Committee will charge you for the TamarTag if it is returned damaged or tampered with or is not returned to the Joint Committee within twenty-eight days of:-

- (a) in the case of Clause 8.1(a), the Joint Committee notifying you; or
- (b) in the case of Clause 8.1(b), you notifying the Joint Committee; or
- (c) in the case of Clause 8.1(c), the date of termination,

such charge to be £20 per TamarTag inclusive of VAT or such greater amount as the Joint Committee shall decide is equivalent to the value of the TamarTag and any administration costs incurred and may be deducted from funds received from you from time to time.

## **9. COMPLIANCE**

9.1 You shall comply with any instructions for use of the TamarTag issued by the Joint Committee from time to time and with all applicable regulations and legislation.

## **10. COMMUNICATION**

- 10.1 Where either party is required to notify the other or otherwise wishes to communicate with the other party such notice or communication may be served by posting by first class post, delivering or sending it by fax or by e-mail, in the case of the Joint Committee, to the Joint Committee address, the Joint Committee fax or the Joint Committee e-mail or, in your case, to the address last notified to the Joint Committee.
- 10.2 Such notice or other communication shall be deemed duly served forty-eight hours after posting, or upon transmission if it was sent by fax or by e-mail.
- 10.3 If notification is by telephone or in person it will only be effective if confirmed by notice served in accordance with this Clause 10 within seven days.
- 10.4 You will notify the Joint Committee of any amendments to your personal details and ensure that these are kept up to date either by contacting the Joint Committee direct, in accordance with this Clause 10, or by using your TamarTag Account Details to access and update your personal details yourself on-line at the Joint Committee website.

## **11. CHANGES TO CONDITIONS AND TOLLS**

- 11.1 These conditions may be changed by the Joint Committee at any time and any such change will be notified to you as soon as possible.
- 11.2 The Joint Committee reserves the right to revise the Tolls, discount structure and/or any Tag or other administration charge at any time in accordance with applicable Regulations. Any proposed increases will, at minimum be published on the Website not less than one month in advance. Your right to terminate this agreement shall then apply, as set out in Clause 7.2.

## **12. ASSIGNMENT**

The Joint Committee shall be, but you shall not be, entitled to assign transfer, charge, declare a trust over or otherwise deal with this agreement or the rights, benefits and burdens hereunder.

## **13. PRIVACY POLICY AND DATA PROTECTION CONSENT**

- 13.1 We and you both acknowledge and agree to be bound by the terms of the Joint Committee Privacy Policy.
- 13.2 By submitting your application for a TamarTag you give your unconditional consent to the use of your information in such application as set out in the Joint Committee Privacy Policy. Where in any case you provide information about individuals other than yourself you warrant that you have obtained that person's consent to the use of such information.

## **14. LIABILITY**

- 14.1 The following provisions set out the Joint Committee's entire liability to you under this agreement in respect of:-
  - (a) any breach of its contractual obligations; and
  - (b) any representation, statement or tortuous act or omission including negligence.

**AND YOUR ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF THIS CLAUSE 14.**

- 14.2 The Joint Committee's liability to you for death or personal injury resulting from the Joint Committee's negligence shall not be limited.

- 14.3 Subject to the limit set out in Clause 14.4 the Joint Committee shall accept liability to you in respect of direct damage to your tangible property resulting from the negligence of the Joint Committee.
- 14.4 Subject to the provisions of Clause 14.2, the Joint Committee's entire liability shall be limited to damages of an amount equal to £50,000 in the case of negligent acts and omissions falling within Clause 14.3.
- 14.5 Subject to Clauses 14.2 and 14.3, the Joint Committee shall not be liable to you in respect of any negligent act or omission for direct loss including, without limitation, loss of profits or goodwill or for any type of special, indirect or consequential loss however caused (including, without limitation), loss or damage suffered by as a result of an action brought by a third party) even if such loss was reasonable foreseeable or in the contemplation of the Joint Committee or if the Joint Committee had been advised of the possibility of you incurring it.
- 14.6 If a number of negligent act or omission give rise substantially to the same loss they shall be regarded as giving rise to only one claim under this agreement.
- 14.7 You shall afford the Joint Committee not less than 30 days in which to remedy any negligent act or omission.
- 14.8 Except in the case of a negligent act or omission arising under Clause 14.2, the Joint Committee shall have no liability to you in respect of any negligent act or omission unless you have served notice of it upon the Joint Committee within 12 months of the date you became aware of the circumstances giving rise to the negligent act or omission or the date when you ought reasonably to have become so aware.
- 14.9 Nothing in this Clause 14 shall confer any right or remedy upon you to which you would not otherwise be legally entitled.
- 14.10 Where you are dealing as a consumer (as such term is defined in Section 12 of the Unfair Contract Terms Act 1977), the Joint Committee's liability in respect of the TamarTag facility in relation to description, quality or fitness for purpose shall not be excluded or restricted by these conditions.
- 14.11 Except as expressly stated herein, all conditions, warranties, representations and/or undertakings, express or implied, statutory or otherwise are excluded.
- 14.12 All orders for TamarTags are subject to availability and the Joint Committee reserves the right to refuse to supply to any individual or company for whatever reason.
- 14.13 The Joint Committee shall not accept liability whatsoever for any loss arising as a result of any delays howsoever caused to vehicles using the Tamar Crossings.

## **15. INVALIDITY**

If any part of these conditions is unenforceable (including any provision in which the Joint Committee excludes its liability to you) the enforceability of any other part of these conditions will not be affected.

## **16. ENTIRE AGREEMENT**

These conditions (together with any documents referred to in them) constitute all the terms of this agreement. These conditions cannot be varied or waived except in writing signed by an authorised Officer of the Joint Committee. In particular nothing said by any Officer on behalf of the Joint Committee should be understood as a variation of these conditions or as an authorised representation about the nature or quality of the TamarTag of the service the Joint Committee offers. The Joint Committee shall have no liability for any such representation being untrue or misleading. You acknowledge that you have not relied upon any representation save for any set out above (or in any document referred to).

## **17. THIRD PARTY RIGHTS**



Except for a person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

**18. FORCE MAJEURE**

If delivery and use of the TamarTag is prevented or hindered by any matter beyond the control of the Joint Committee including but not limited to acts of God, acts of government, strikes, lockouts, fire, lightning, aircraft, explosion, flooding, drought, riots, civil commotions, acts of war, malicious mischief or theft then the performance of this agreement shall be suspended until such prevention or hindrance comes to an end.

**19. GOVERNING LAW**

This agreement shall be governed by and interpreted in accordance with English Law and the English Courts shall have exclusive jurisdiction to resolve any disputes between us.