

YORCARD GENERAL TERMS OF SERVICE

This agreement is made between you or the entity that you represent (hereinafter the 'Client') and Yorcard Limited (a company incorporated in England and Wales under company number 06135165) and whose registered office is at 11, Broad Street West, Sheffield, South Yorkshire, S1 2BQ (hereinafter 'Yorcard') for the provision of Yorcard Services.

1 Parts of this Agreement

1.1 This Agreement consists of the following terms and conditions (hereinafter the "General Terms") and terms and conditions, if any, specific to use of individual Services (hereinafter the "Service Specific Terms"). The General Terms and Service Specific Terms are collectively referred to as the "Agreement". In the event of a conflict between the General Terms and Service Specific Terms, the Service Specific Terms shall prevail.

2 Definitions

2.1 In this Agreement, the following words shall have the following meanings:

Boarding Transaction	means the usage of: a smart ENCTS pass, a Ticketing Product encoded in ITSO format on a Smartcard or other medium compliant with the ITSO specification, a Type 2, Type 4 or Type 5 IPE in exchange for a Ticketing Product;
Client Data	means electronic data and information submitted by or for the Client to the Services or collected and processed by or for the Client using the Services where the Client is the Ticketing Product Owner.
Commencement Date	means the date on the Order Form;
Customer Media	means an ITSO compliant Smartcard or other device;
Data	means shell and product creation, Boarding Transaction data and all information relating to routes, product usage and product pricing supplied to Yorcard for ITSO Ticketing Products used in the Client's area;
ENCTS	means the English National Concessionary Travel Scheme established under the Transport Act 2000;
Facilities	means the computer and other equipment, premises, facilities and staff of, or used by, Yorcard to provide the Services;
Fee	means the amount set out on the Order Form;
FOIA	means the Freedom of Information Act 2000;
Intellectual Property Rights	patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including without limitation all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;
ITSO	means the technical specification for Smartcards, Smartcard security, ticket product definition, transaction routing and transaction storage published by ITSO Ltd;
ITSO	means the multi-part technical specification that is formally issued and

Specification	maintained by ITSO under the document reference: 'ITSO TS 1000'. This specification can be found at: http://www.itso.org.uk/page49/Home/Itso-Specification ;
Order Form	means an ordering document specifying the Services to be provided hereunder that is entered into between Yorcard and the Client, including any addenda and supplements thereto.
Parties	means Yorcard and the Client, and 'Party' shall mean either one of them;
Services	means the Services as defined in the Service Specific Terms set out on the Order Form;
Service Levels	means the standards of performance which Yorcard shall reach or provide in performing the Services under this Agreement, as set out in the Service Level Agreement found at http://www.yorcard.co.uk/Media/Default/pdfs/Yorcard%20Service%20Level%20Agreement.pdf , and as amended from time to time by agreement of the Parties;
Software	means the computer programs used to deliver the Service as updated from time to time by new releases/updates.
Specification	means the description of the Services as set out in the Service Specific Terms;
Term	means the number of years from the Commencement Date specified on the Order Form and thereafter until terminated by either party on 60 days prior notice in writing;
Ticketing Product	means an entitlement to travel, sold by a transport operator or ticket retailer; ownership of a specific instance of a Ticketing Product is indicated by possession of a valid ticket which may be electronically encoded on Customer Media;
Ticketing Product Owner	means the organisation who paid the Product Registration Fee detailed on the Order Form.
VAT	means Valued Added Tax or any tax of a similar nature that may be substituted for it or levied in addition to it;
Working Day	any day other than a Saturday, Sunday or public holiday in England and Wales;
Yorcard Service Desk	a single point of contact for the Client to raise issues regarding the Service. The contact details and hours of operation for the Yorcard Service Desk are defined in the Service Level Agreement.

3 Services

- 3.1 In consideration of the Client paying the Fee, Yorcard shall provide the Services in accordance with the Specification to the Client from the Commencement Date for the Term.
- 3.2 Yorcard shall use reasonable endeavours to provide the Services in accordance with the Service Levels and the Specification.
- 3.3 Where Yorcard fails to meet one or more Service Levels then Yorcard shall use all reasonable endeavours to:
 - 3.3.1 establish the cause or reason for the failure to meet that or those Service Level(s); and
 - 3.3.2 report the cause or reason for the failure to the Client;

- 3.3.3 discuss the cause or reason for the failure with the Client; and
- 3.3.4 undertake such actions as are necessary so that Yorcard begins to meet the Service Level(s); and
- 3.3.5 inform the Client what has been done to overcome the cause or reason of the failure to meet the Service Levels;
- 3.4 Yorcard shall not be deemed to have failed to meet any Service Level where failure is as a result of or caused by:
 - 3.4.1 a breach by the Client to perform or meet any of its obligations under this Agreement which prevent, hinder or restrict Yorcard from performing some or all of the Services;
 - 3.4.2 a force majeure event including the actions of a third party.
- 3.5 Yorcard shall have sufficient resources to ensure any interruption or reduction on the performance of the Services is kept to a minimum.

4 Auditing and inspection

- 4.1 During the term of this Agreement and for a period of 6 months after termination of this Agreement the Client shall be entitled during normal business hours and upon reasonable prior notice, to inspect all of the Facilities (except for the third party secure data centre) for the purpose of ascertaining and investigating whether Yorcard is:
 - 4.1.1 meeting the requirements of the Data Protection Act 1998;
 - 4.1.2 providing the Services in accordance with the provisions of this Agreement.(*'Inspection'*)
- 4.2 An Inspection may include the inspection (and making copies of) all financial and other business records of Yorcard concerning the provision of the Services specifically to the Client with the exception of records which are exempt under the FOIA.

5 Data Governance

- 5.1 Yorcard shall:
 - 5.1.1 ensure that it, and its staff and its agents and representatives comply with the obligations of the Data Protection Act 1998 and the FOI Act 2000;
 - 5.1.2 have in place sufficient and appropriate technical resources and organisational practices to ensure that the Data is processed only for the purpose of providing the Services;
 - 5.1.3 ensure that it has technical and security procedures and resources sufficient that any Data is not lost, destroyed, deleted, damaged or corrupted whether accidentally or deliberately.

6 Obligations on the Client

- 6.1 During the performance of the Services the Client shall:

- 6.1.1 co-operate with and ensure the Client's staff and agents co-operate with Yorcard as Yorcard reasonably requires;
 - 6.1.2 pay the Fees in accordance with the schedule of Fees on the Order Form;
 - 6.1.3 be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, server, software, operating system, networking, web servers, web services, long distance and local telephone service (collectively, "Equipment"). The Client shall be responsible for ensuring that such Equipment and services are compatible with the Services (and, to the extent applicable, the Software) and complies with all configurations and specifications specified by Yorcard. The Client shall also be responsible for maintaining the security of the Equipment, the Client's account, ancillary services, licence keys and certificates (including but not limited to authentication details) and files, and for all uses of the Client account, Services or the Equipment with or without the Client's knowledge or consent.
- 6.2 The Client agrees that it will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services, software, documentation or data related to the Services ("Software"); modify, translate, or create new applications based on the Services or any Software; or copy (except for archival purposes), rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Services or any Software; or remove any proprietary notices or labels.
- 6.3 The Client agrees not to engage in any of the following prohibited activities:
- 6.3.1 copying, distributing, or disclosing any part of the Service in any medium by any automated or non-automated "scraping";
 - 6.3.2 using any automated system, including without limitation "robots", "spiders" and "offline readers" to access the Service in a manner that sends more request messages to Yorcard's servers than a human can reasonably produce in the same period of time by using a conventional on-line web browser (except that Yorcard grants the operators of public search engines revocable permission to use spiders to copy any materials (which includes but shall not be limited to logos, text and data) from yorcard.co.uk for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials);
 - 6.3.3 transmitting spam, chain letters, or other unsolicited email;
 - 6.3.4 attempting to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Service;
 - 6.3.5 taking any action that imposes, or may impose at Yorcard's sole discretion an unreasonable or disproportionately large load on Yorcard's infrastructure;
 - 6.3.6 uploading viruses, worms, or other software agents through the Service;
 - 6.3.7 collecting or harvesting any personally identifiable information, including account names, from the Service;
 - 6.3.8 using the Service for any commercial solicitation purposes;

- 6.3.9 impersonating another person or otherwise misrepresenting the Customer's affiliation with a person or entity, conducting fraud, hiding or attempting to hide the Customer's identity;
 - 6.3.10 interfering with the proper working of the Service;
 - 6.3.11 accessing any content on the Service through any technology or means other than those provided or authorised by the Service; or
 - 6.3.12 bypassing the measures Yorcard may use to prevent or restrict access to the Service, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Service or the content therein.
- 6.4 If Yorcard's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Client or the Client's agents, sub-contractors or employees, the Client shall in all circumstances be liable to pay to Yorcard on demand all reasonable costs, charges or losses sustained or incurred by it (including, without limitation, any direct or indirect consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere), subject to Yorcard confirming such costs, charges and losses to the Client in writing.

7 Intellectual Property

- 7.1 All Intellectual Property Rights and all other rights in the Services shall be owned by Yorcard.
- 7.2 Yorcard acknowledges and agrees that:
- 7.2.1 except to the extent explicitly expressed elsewhere in this Agreement the Client owns the Intellectual Property Rights in the Client Data;
 - 7.2.2 it has a licence to the Intellectual Property Rights in the Client Data only to the extent necessary for it to provide the Services under this Agreement and for no other purpose.
- 7.3 The Client acknowledges and agrees that the Service and any necessary software used in connection with the Service contain proprietary and confidential information that is protected by applicable Intellectual Property Rights and other laws. The Customer further acknowledges and agrees that content or information presented to the Customer through the Service may be protected by copyrights, trademarks, patents or other proprietary rights and laws.
- 7.4 Each party retains all right, title and interest in its Data, information and Intellectual Property Rights, and nothing in this Agreement is intended to transfer or diminish such rights. The parties further acknowledge and agree that as between the parties, Yorcard owns all right, title, and interest in the Service and underlying software and proprietary and intellectual property rights therein. The use, by the Client as licensee, of any of these rights is authorised only for the purposes set forth herein and upon expiration or termination of this Agreement for any reason such authorisation will cease.

8 Use of sub-contractors

- 8.1 Yorcard is permitted to sub-contract some or all of the Services.

8.2 Yorcard shall be responsible for ensuring that the work of a sub-contractor is to the same standard as that stated in this Agreement and the Specification.

9 Warranties, liability and indemnities

9.1 Yorcard warrants that it will use reasonable care and skill in performing the Services.

9.2 The following provisions set out the entire financial liability of Yorcard (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:

9.2.1 any breach of the Agreement howsoever arising;

9.2.2 any use made by the Client of the Services or any part of them; and

9.2.3 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising under or in connection with the Agreement.

9.3 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.

9.4 Nothing in these conditions excludes the liability of Yorcard:

9.4.1 for death or personal injury caused by Yorcard negligence; or

9.4.2 for fraud or fraudulent misrepresentation.

9.5 Subject to condition 9.3 and condition 9.4:

9.5.1 Yorcard shall not in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:

(1) loss of profits; or

(2) loss of business; or

(3) depletion of goodwill or similar losses; or

(4) loss of anticipated savings; or

(5) loss of goods; or

(6) loss of contract; or

(7) loss of use; or

(8) loss or corruption of data or information; or

(9) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

9.5.2 Yorcard's total liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in

connection with the performance or contemplated performance of the Agreement shall be limited to the Fees paid by the Client under this Agreement in the 12 month period up to the date of the breach of Agreement.

- 9.6 Each of the Parties acknowledges that, in entering into this Agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Agreement, and any conditions, warranties or other terms implied by statute or common law are excluded from this Agreement to the fullest extent permitted by law. Nothing in this Agreement excludes liability for fraud.
- 9.7 Nothing in this Agreement excludes liability for fraud.

10 VAT

- 10.1 All sums payable under this Agreement shall be paid together with the addition of such VAT as is legally payable on those sums.
- 10.2 VAT will be charged at the rate in force from time to time.

11 Fee Indexation

- 11.1 The Fees may be varied from those quoted on the Order Form on the first anniversary of the Commencement Date and yearly thereafter.
- 11.2 The Fees will be varied up to a maximum of the following calculation:

$$N = F + (F \times A)$$

Where:

- N= the revised Fee payable after variation
F = amount of the Fee payable immediately before the date of the variation
A= the percentage change in the Consumer Price Index published by the United Kingdom's Office of National Statistics measured over the 12 months prior to the relevant anniversary date.

12 Interest

- 12.1 If any fees, costs or charges payable by the Client pursuant to this Agreement shall not be paid when due the Client shall pay to Yorcard interest on them calculated on a daily basis and compounded quarterly from the due date until payment at the rate of 5% per annum over the base rate from time to time of Barclays Bank Plc.
- 12.2 The Client shall pay each invoice submitted to it by Yorcard in full, and in cleared funds, within 30 days of receipt. Time for payment shall be of the essence of the Contract.

13 Confidentiality

- 13.1 Each Party undertakes that it shall not at any time and for a period of six 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 excluding Data except as permitted by this clause 13.
- 13.2 Each party may disclose the other Party's confidential information excluding Data:

- 13.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the Party's obligations under 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 13; and
- 13.2.2 as may be required by law, court order or any governmental or regulatory authority
- 13.3 No Party shall use any other Party's confidential information for any purpose other than to perform its obligations under this Agreement.
- 13.4 The Client acknowledges that Yorcard is subject to the provisions of the Freedom of Information Act 2000 and that any information provided by either Yorcard to the other under this Agreement may need to be disclosed to third parties under the provisions of such legislation (and/or any accompanying codes of practice issued under the Freedom of Information Act 2000).
- 13.5 The obligations of Confidentiality shall not apply to any information which:
- 13.5.1 is, or becomes, publicly available through no fault of the Parties;
- 13.5.2 is provided without restriction or disclosed by a third party, who did not breach any confidentiality obligations by making such a disclosure;
- 13.5.3 was unknown to be confidential; or
- 13.5.4 is required to be disclosed by order of a court of competent jurisdiction.
- 13.6 Where Yorcard receives a Request for Information relating to the Client:
- 13.6.1 Yorcard shall notify the Client in writing of the Request for Information as soon as reasonably practicable after receipt and in any event within 10 Working Days of receiving a Request for Information;
- 13.6.2 Yorcard shall keep the Client fully informed of the progress of the request; and
- 13.6.3 the Client shall provide all necessary assistance reasonably requested by Yorcard to enable Yorcard, as the case may be, to respond to a Request for Information in accordance with Section 10 of the FOIA.
- 13.7 Notwithstanding the provisions of this clause 13, if Yorcard is bound by the FOIA to disclose any Client Data in response to a Request for Information Yorcard shall not be liable to the Client for any damages or breach of contract.

14 Termination

- 14.1 This Agreement shall commence on the Commencement Date and shall continue for the Term or until terminated as provided for under this clause 14.
- 14.2 Following the expiration of the Term of the Agreement either Party may terminate this Agreement by giving no less than 60 days' prior written notice to the other Party.
- 14.3 If the Client enters into an upgraded service agreement with Yorcard, this Agreement shall terminate on commencement of the new service agreement.

14.4 Without prejudice to the other remedies or rights Yorcard may have, Yorcard may terminate this Agreement, at any time, on written notice to the Client:

14.4.1 If the Client fails to pay when due any of the Fee or any part thereof or other sums agreed to be paid by the Client to Yorcard under this agreement;

14.4.2 If the Client is in material breach of its obligations under this Agreement and (in the case of a breach capable of remedy) fails to remedy the same within 30 working days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied; or

14.4.3 If the Client becomes insolvent or if an order is made or a resolution is passed for the winding up of the Client (other than voluntarily for the purpose of solvent amalgamation or re-construction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Client's assets or business, or if the Client makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.

15 Consequences of Termination

15.1 On termination of this Agreement, the Client shall pay for all Services provided up to the date of termination, and for all expenditure falling due for payment after the date of termination from commitments reasonably and necessarily incurred by Yorcard for the performance of the Services prior to the date of termination.

15.2 Upon termination of this Agreement for any reason:

15.2.1 Yorcard shall immediately on termination cease to use, process or deal with any Data with the exception of any obligations required by the ITSO Specification;

15.2.2 Yorcard shall return any commercially sensitive documents, materials or other information in its possession or control which contain or record any of the confidential information of the Client, or at the request of the Client Yorcard shall destroy such documents, materials or other information (and if recorded or stored electronically, permanently erase from any electronic media on which it is stored); and

15.2.3 subject as provided in this clause and except in respect of any accrued rights, neither Party shall be under any further obligation to the other.

16 Force majeure

16.1 Neither Party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that Party. The Party affected by such circumstances shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 6 months, either Party may terminate this Agreement by written notice to the other Party.

17 Amendments

17.1 Yorcard may modify the terms of this Agreement upon notice to you at any time. You will be provided notice of any such modification by electronic mail or by publishing the changes on the website <http://www.yorcard.com/legal>. You may terminate your use of the Services if the terms are modified in a manner that substantially affects your

rights in connection with use of the Services. Your continued use of the Service after notice of any change to the terms will be deemed to be your agreement to the amended terms.

- 17.2 Any amendments to the Order Form must be agreed in writing. Only amendments to the Order Form signed by both parties shall be accepted as a variation to Yorcard's General Terms.

18 Assignment

- 18.1 Subject to provisions of this clause 18, the Client may not assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this Agreement without the prior written agreement of Yorcard. The Client may, however, assign and transfer all its rights and obligations under this Agreement to any person to which it transfers all of its business, provided that the assignee undertakes in writing to Yorcard to be bound by the obligations of the assignor under this Agreement.

19 Waiver

- 19.1 No failure or delay by Yorcard in exercising any right, power or privilege under this Agreement shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

20 Agency, partnership, etc.

- 20.1 This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

21 Further assurance

- 21.1 Each Party to this Agreement shall at the request and expense of the other or any of them execute and do any deeds and other things reasonably necessary to carry out the provisions of this Agreement or to make it easier to enforce.

22 Severance

- 22.1 If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

23 Announcements

- 23.1 No Party shall issue or make any public announcement or disclose any information regarding this Agreement unless prior to such public announcement or disclosure it furnishes all the Parties with a copy of such announcement or information and obtains the approval of such persons to its terms. However, no Party shall be prohibited from issuing or making any such public announcement or disclosing such information if it is necessary to do so to comply with any applicable law or the regulations of a recognised stock exchange.

24 Interpretation

- 24.1 In this Agreement unless the context otherwise requires:
- 24.1.1 words importing any gender include every gender;
 - 24.1.2 words importing the singular number include the plural number and vice versa;
 - 24.1.3 words importing persons include firms, companies and corporations and vice versa;
 - 24.1.4 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule;
 - 24.1.5 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
 - 24.1.6 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
 - 24.1.7 where the word 'including' is used in this Agreement, it shall be understood as meaning 'including without limitation'.
- 24.2 These conditions prevail over any inconsistent terms or conditions contained in, or referred to in, the purchase order, confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.

25 Notices

- 25.1 Any notice to be given under this Agreement shall be in writing and shall be sent by first class mail or air mail or e-mail (confirmed by first class mail or air mail), to the address of the relevant Party set out at the head of this Agreement, on the Order Form or to the relevant email address set out below, or such other address or facsimile number as that Party may from time to time notify to the other Party in accordance with this clause. The relevant contact information for the Parties is as follows:

Mr Stephen Davenport, Company Secretary, Yorcard Limited, 11 Broad Street West, Sheffield, S1 2BQ.

Steve.Davenport@SYPTTE.co.uk

The contact information for the Client is found on the Order Form.

- 25.2 Notices sent as above shall be deemed to have been received 3 working days after the day of posting (in the case of inland first class mail), or 7 working days after the date of posting (in the case of air mail), or on the next working day after transmission (in the case of email messages).
- 25.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left, or that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication was addressed and despatched and despatch of the transmission was confirmed and/or acknowledged as the case may be.

26 Jurisdiction

26.1 The validity, construction and performance of this Agreement shall be governed by English Law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

27 The Contracts (Rights of Third Parties) Act 1999

27.1 For the purposes of the Contracts (Rights of Third Parties) Act 1999 and notwithstanding any other provision of this Agreement this Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.