

FYX TERMS AND CONDITIONS

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1 GENERAL APPLICATION

1.1 PURPOSE

These *FYX Terms and Conditions* (the “**Terms and Conditions**”) set forth the terms and conditions pursuant to which FYX Fleet, LLC. (“**FYX**”) provides services to the customer named below or provided in the digital acceptance on the Website (“**Customer**”). The Terms and Conditions include, among other things, rules governing the Customer on-boarding process, account administration (including pricing and billing rules and logic) and the provision of Roadside Assistance.

1.2 APPLICATION AND COVERAGE

The Terms and Conditions apply to the provision of all Roadside Assistance requested by Customer.

1.3 MONETARY AMOUNTS

Unless otherwise noted, all monetary amounts referred to in these Terms and Conditions, and the Website shall be in U.S. Dollars.

2 CUSTOMER REQUIREMENTS

2.1 CUSTOMER REGISTRATION AND APPROVAL

To be eligible to receive Roadside Assistance hereunder, Customer must establish an account and be fully registered and approved. An account may be opened by completing the New Customer Form (available for download from the Website or by clicking on the following link: [New Customer Form](#)). Please contact the sales department by phone (at 877-484-2935) or via email (at sales@fyxfleet.com) for assistance.

In addition to providing any information requested in connection with its New Customer Form, Customer must also agree to these Terms and Conditions (either by signing the signature block provided below or checking the Accept checkbox and clicking the Send button on the Website). If Customer is seeking credit, it must complete FYX’s credit application (available for download from the Website or by clicking the following link: [Credit Application](#)). Following review and approval of all items requested, FYX shall provide an account number to Customer which should be used whenever Roadside Assistance is requested.

2.2 CREDIT

By agreeing to these Terms and Conditions, Customer hereby authorizes FYX to perform an initial and ongoing credit checks to evaluate Customer’s credit worthiness. Customer may request FYX to re-evaluate its credit worthiness no more than once per year.

2.3 ACCOUNT ACTIVATIONS, SUSPENSION, AND CANCELLATION

FYX reserves the right to cancel or suspend Customer’s account at any time, for any reason. Upon suspension of an account, Roadside Assistance will be refused until all outstanding Customer obligations are fully satisfied.

3 ROADSIDE ASSISTANCE

3.1 SERVICE OFFERED

FYX offers Roadside Assistance by Repair Vendors that covers, but is not limited to, the following trailer and tractor road services:

- Tire repair/replacement – new and retread
- Minor and major mechanical work
- FMCSA inspections
- Towing/Wrecker
- Load shifts
- Structural repair

3.2 REQUESTING ROADSIDE ASSISTANCE

To request Roadside Assistance, Customer shall instruct its drivers and dispatchers to:

- call (866) 220-0732;
- go to the [Website](#) and click on the [FYX Portal](#); or
- download the “FYX Driver” app from [App Store](#) or [Google Play](#) (links to which are also available on the [Website](#)).

4 CHARGES

4.1 RATES

The rates for Roadside Assistance hereunder are set forth in the tables on the following pages. In addition to the rates in this Section 4.1, Roadside Assistance is subject to the surcharges and other fees set out in Section 4.2. A handling fee may also apply to certain service calls.

All rates are subject to change, as well as temporary adjustments, in FYX’s sole determination. Rate changes shall be made via publication in these Terms and Conditions on the Website and shall take effect on the date specified therein (which shall in no event be earlier than five (5) days after the date of such publication) and shall apply to all of the Roadside Assistance services set forth in the notification.

All FYX rates set forth in this Section 4.1 are *exclusive* of all applicable sales and other taxes.

Mileage and hourly charges shall be calculated in accordance with “portal-to-portal” practice as follows:

1. The mileage calculation shall be based on the round-trip distance between the service facility and the repair sight.
2. The hourly charges calculation shall be equal to the total time elapsed from when the technician first leaves the service facility until the technician returns to the service facility following the service call (i.e., the hourly charges calculation shall include all travel time by the technician as well as actual time spent in service).

FYX ACCOUNT RATE STRUCTURE

Rates are based on the geographic region in which Roadside Assistance is provided, as identified in the following table (each, a “Region”):

Region	States
Gulf	AR, LA, MS, OK, TX
Midwest	IA, IL, IN, KS, KY, MI, MO, OH
North Central	MN, MT, ND, NE, SD, WI, WY
Northeast	CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV
Northwest	ID, OR, WA
Southeast	AL, FL, GA, NC, SC, TN
Southwest	AZ, CA, CO, NM, NV, UT

Within each Region, there is a two-tiered rate structure. “In-Market” rates apply to service calls within 40 miles of any city identified below as being within such Region. “Out-of-Market” rates apply to all other service calls within such Region.

Region	In-Market Areas (within 40 miles of any listed city)
Gulf	Austin, TX; Dallas, TX; El Paso, TX; Fort Worth, TX; Houston, TX; Little Rock, AR; New Orleans, LA; Oklahoma City, OK; San Antonio, TX
Midwest	Chicago, IL; Cincinnati, OH; Cleveland, OH; Columbus, OH; Dayton, OH; Detroit, MI; Indianapolis, IN; Kansas City, MO; Lexington, KY; Louisville, KY; Portage, MI; Remington, IN; Saint Louis, MO
North Central	Milwaukee, WI; Minneapolis, MN
Northeast	Baltimore, MD; Boston, MA; Harrisburg, PA; New York, NY; Newark, NJ; Philadelphia, PA; Pittsburgh, PA; Washington DC
Northwest	Portland, OR; Seattle, WA
Southeast	Atlanta, GA; Augusta, GA; Birmingham, AL; Cedar Grove, TN; Charlotte, NC; Chattanooga, TN; Greensboro, NC; Mobile, AL; Jacksonville, FL; Knoxville, TN; Memphis, TN; Montgomery, AL; Nashville, TN; Orlando, FL; Savannah, GA; Tampa, FL
Southwest	Albuquerque, NM; Denver, CO; Las Vegas, NV; Los Angeles, CA; Phoenix, AZ; Sacramento, CA; Salt Lake City, UT; San Diego, CA; San Francisco, CA; San Jose, CA; Stockton, CA

For the purposes of these Terms and Conditions, “business hours” shall be 8:00AM to 5:00PM, local time. Service calls placed between the hours of 5:00PM to 8:00AM of the following day shall be considered “after hours” and are subject to slightly higher rates as set forth in the rate tables that follow. All Roadside Assistance provided on weekends and holidays are subject to a two-hour minimum and are billed at evening service call rates (designated as “After Hours” rates in the tables below).

Tire Pricing	
Inventory Tire	\$229.00
Purchased Tire	Market Rate
Hourly Labor	Regional Rates
Service Call	\$100.00
Port to Port Mileage	Market Rate
Tire Disposal Fee	\$10.00

Tire Regional Labor Rates				
All Equipment	In-Market		Out-of-Market	
Region	Business Hours	After Hours	Business Hours	After Hours
Southeast	\$114.00	\$134.00	\$124.00	\$144.00
Gulf	\$114.00	\$134.00	\$124.00	\$144.00
Midwest	\$119.00	\$139.00	\$129.00	\$149.00
North Central	\$124.00	\$144.00	\$134.00	\$154.00
Northeast	\$124.00	\$144.00	\$134.00	\$154.00
Northwest	\$129.00	\$149.00	\$139.00	\$159.00
Southwest	\$129.00	\$149.00	\$139.00	\$159.00

Mechanical Pricing	
Parts	Market Rate
Hourly Labor	Regional Rates
Service Call	\$150.00
Port to Port Mileage	Market Rate

Mechanical Regional Labor Rates				
Power Units	In-Market		Out-of-Market	
Region	Business Hours	After Hours	Business Hours	After Hours
Southeast	\$129.00	\$149.00	\$139.00	\$159.00
Gulf	\$129.00	\$149.00	\$139.00	\$159.00
Midwest	\$134.00	\$154.00	\$144.00	\$164.00
North Central	\$139.00	\$159.00	\$149.00	\$169.00
Northeast	\$139.00	\$159.00	\$149.00	\$169.00
Northwest	\$144.00	\$164.00	\$154.00	\$174.00
Southwest	\$144.00	\$164.00	\$154.00	\$174.00

Mechanical Regional Labor Rates				
Trailing Units	In-Market		Out-of-Market	
Region	Business Hours	After Hours	Business Hours	After Hours
Southeast	\$119.00	\$139.00	\$129.00	\$149.00
Gulf	\$119.00	\$139.00	\$129.00	\$149.00
Midwest	\$124.00	\$144.00	\$134.00	\$154.00
North Central	\$129.00	\$149.00	\$139.00	\$159.00
Northeast	\$129.00	\$149.00	\$139.00	\$159.00
Northwest	\$134.00	\$154.00	\$144.00	\$164.00
Southwest	\$134.00	\$154.00	\$144.00	\$164.00

4.2 FUEL SURCHARGE, INCENTIVES, AND OTHER CHARGES

Fuel Surcharge: Customer shall also be responsible for the payment of a fuel surcharge based on the then current cost of diesel fuel, as provided in the table set forth below. The Diesel Fuel Cost is based on the data provided from the National U.S. Average On Highway Diesel Fuel Prices reported by the U.S. Department of Energy: https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_nus_m.htm

Diesel Fuel Cost	Fuel Surcharge
\$0.94 - \$1.38	\$ -
\$1.39 - \$1.82	\$ 1.50
\$1.83 - \$2.27	\$ 3.50
\$2.28 - \$3.63	\$ 5.50
\$3.64 - \$4.95	\$ 11.50
\$4.96 - \$6.28	\$ 17.50
\$6.29 - \$7.60	\$ 23.50

Towing/Wrecker: billed at cost *plus* 25%.

Reefer Repairs: billed at cost *plus* 25%.

Incentives: FYX may from time to time offer volume discounts or other incentives on such terms and conditions as it may determine, in its sole discretion.

Other Services: in addition to the rates specifically set forth in Section 4.1 and Section 4.2, FYX may charge for additional items outside of general road service charges, such as diagnostic testing, tolls, freight and disposal.

5 BILLING AND COLLECTIONS

5.1 INVOICING

FYX shall send all billing invoices to Customer at the email address on record or via other electronic means (e.g. web, EDI). Individual invoices are sent automatically via email upon completion of the repair or other Roadside Assistance service (the invoices are attached as a PDF file). Multiple invoices may be received in one day. FYX shall provide Customer with sufficient detail (e.g. Equipment number, date) to support the invoiced amounts. Except for any portion properly disputed under section 5.2, Customer shall pay all invoices, in full, within 30 days of invoice date.

5.2 DISPUTES

If Customer disputes an invoice it must notify FYX in writing within thirty (30) days of the invoice date via email at help@fyxfleet.com. FYX shall not review any disputes submitted after such 30-day period and the full amount of the invoice shall be due and payable per Section 5.1. FYX shall review all invoice disputes for which it receives proper and timely notice within fifteen (15) days of its receipt and shall credit Customer for any disputed charges that in FYX's reasonable judgment are not for Customer's account. Under no circumstances shall FYX be responsible for detention fees or any fees related to driver's down time.

5.3 REPAIR EXPECTATIONS

Approval Process: It shall be Customer's sole responsibility to provide FYX with any reference number, purchase order, pro number and/or any other special requirement (collectively, a "**Reference Number**") that it may require for invoicing or other purposes at the time Roadside Assistance is requested by Customer or its driver or other representative. Failure by Customer, its driver or other representative to timely provide a Reference Number shall not relieve Customer of the obligation to pay the Roadside Assistance provided.

Cancellation: After submitting a service request, any cancellation must be reported immediately to FYX by phone (866-220-0732) or via the FYX portal. Customer shall be responsible for all dry run charges in the event it fails to communicate the cancellation to FYX within 15 minutes of requesting Roadside Assistance.

Changes: To avoid service delays and/or dry run charges, Customer shall promptly report all changes from the originally documented service request (i.e., changes to the equipment numbers, equipment type, component detail requiring repair, tire size, location) to FYX via phone (866-220-0732) or the FYX portal.

Dry Run: In the event a Repair Vendor arrives at the break down location and is not able to locate the Equipment or determines there is no problem with the Equipment, FYX shall contact the Customer's representative who initially requested the Roadside Assistance. If FYX is not able to reach the representative or the Customer's designated contact, FYX shall advise the Repair Vendor to make another attempt at locating the Equipment or identifying the problem, as the case may be. If the Repair Vendor is still unable to locate the Equipment or again determines there to be no underlying problem with the Equipment, FYX shall invoice Customer for the service call fee and all other related charges.

ETA: In the event Customer has not received Repair Vendor's estimated time of arrival ("**ETA**") within thirty minutes of a service request, Customer should contact FYX via phone (866-220-0732) or the FYX portal.

Removed Parts: When requested by Customer, FYX shall instruct the Repair Vendor to provide parts and/or tires removed from the Equipment during the service call to the driver. However, FYX shall not be held liable for any such parts and tires not kept by the driver or not provided by the driver to Customer. It shall be solely the responsibility of Customer to retain any parts or tires removed from the Equipment during a service call. If there is an issue with the release of the parts/tires by the Repair Vendor, Customer should contact FYX immediately by phone (866-220-0732).

Repair Vendor: FYX shall pay the Repair Vendor directly for all Roadside Assistance provided to Customer hereunder. Under no circumstances shall Customer pay the Repair Vendor directly. Customer shall contact FYX immediately by phone (866-220-0732) if either the Repair Vendor and/or shop requests payment for services from the Customer or its driver. FYX shall not be liable for any



payments made by the Customer directly to the Repair Vendor and/or shop and no such payment shall relieve Customer of its obligation to pay for services hereunder. Further, a \$250 management fee may be applied in such instances and billed to the Customer.

5.4 PAYMENT METHODS

Customer shall pay for service via ACH, Check, Comcheck, or Credit Card:

- Payment by ACH:

Truist
111 Lookout Farm Drive
Crestview Hills, KY 41017
ABA Routing#: 083900680
Account#: 5188072811
Remit email address: arremit@fyxfleet.com

- Payment by Check:

FYX Fleet, LLC.
PO Box 791661
Baltimore, MD 21279-1661

- Payment by credit card or virtual check:

Please Call 866-935-8473

5.5 INVALID PAYMENT INFORMATION

FYX shall assess a fee against Customer in the event of a returned check or failure of an electronic payment (whether one-time or scheduled) authorized by Customer (e.g. credit card, ACH, etc.).

6 OTHER TERMS AND CONDITIONS

6.1 FYX'S RESPONSIBILITY FOR ROADSIDE ASSISTANCE

FYX shall require the Repair Vendor to provide Roadside Assistance in a safe, efficient and workmanlike manner in accordance with the requirements of these Terms and Conditions. It is understood and agreed that Repair Vendors are independent businesses (not employees or agents of FYX). Although FYX selects Repair Vendors for their ability to provide Roadside Assistance, FYX does not warrant the Repair Vendors' workmanship or represent that they will have the parts or be able to provide the repairs requested. Notwithstanding anything contained herein to the contrary, responsibility for any loss or damage suffered by the Customer relating to unsatisfactory workmanship in the performance of Roadside Assistance, including without limitation, equipment downtime, detention and lost business, remains solely with the Repair Vendor. However, FYX shall attempt to assist the Customer in resolving any complaints it may have regarding a Repair Vendor, provided that Customer notifies FYX of any such complaints as soon as possible and before any additional repairs to the Equipment are made. To report a complaint about any Roadside Assistance provided by a Repair Vendor, Customer shall email FYX at help@fyxfleet.com and include the following information:

- Date of Roadside Assistance
- Equipment breakdown location

- Unit number of Equipment
- Type of repair(s) and/or part(s) provided and
- Details of Customer's complaint

It is understood and agreed that failure to report a complaint in such timely manner may limit FYX's ability to assist Customer.

6.2 DISCLAIMER OF WARRANTIES

Other than as expressly provided in these Terms and Conditions, FYX MAKES NO EXPRESS OR IMPLIED WARRANTY OF QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE OR OTHERWISE WITH RESPECT TO ANY REPAIRS, MATERIALS OR PARTS PROVIDED IN CONNECTION WITH THESE TERMS AND CONDITIONS AND HAS NOT MADE, AND SHALL NOT BE BOUND BY, ANY STATEMENT, CONTRACT OR REPRESENTATION NOT SPECIFICALLY SET OUT IN WRITING AND SIGNED BY FYX.

6.3 CUSTOMER INDEMNITY

Customer shall defend, indemnify and hold harmless FYX and its parent, subsidiaries and other affiliates (each, an "Indemnified Party") from all claims (including, without limitation, claims for personal injury or death or property damage), causes of action, liabilities, damages, losses and expenses (including, without limitation, attorney's fees) arising out of Customer's failure to comply with its obligations under these Terms and Conditions or any attempt by any third party (whether private or governmental) to impose upon an Indemnified Party liability for Customer's acts or omissions. The obligations of Customer under this Section 6.3 shall survive the termination of these Terms and Conditions.

6.4 TERMINATION AND SUSPENSION; NOTICES

FYX may terminate these Terms and Conditions upon thirty (30) days prior written notice to Customer. In addition, FYX may suspend service or terminate these Terms and Conditions at any time if Customer fails to pay any amount due hereunder that is not being properly disputed pursuant to Section 5.2, above, within five (5) days of its due date, fails to observe any other material term or condition hereunder, becomes insolvent, or seeks relief or protection under any law relating to bankruptcy. In addition to and without limiting FYX's suspension of services or termination rights hereunder, FYX shall have all rights and remedies provided hereunder and/or under applicable law arising from any breach or default by Customer hereunder. Any notice required by these Terms and Conditions shall be in writing addressed to the party at the email address provided along with the digital acceptance on the Website or last known to FYX.

6.5 FORCE MAJEURE; LIMITATION OF LIABILITY

FYX shall not be liable to Customer or any other person for any failure or delay in the performance of any obligation due to events beyond its reasonable control, including without limitation, fire, storm, flood, earthquake, explosion, accidents, sabotage, riots, civil disorder, strikes, lockouts, labor disputes, labor shortages, work stoppages, transportation embargoes or delays, and acts of God.

Under no circumstances shall FYX be liable, and Customer hereby waives all claims against FYX, for any lost profits or for special, consequential or exemplary damages, including, without limitation, damages to cargo and Equipment, downtime, detention and lost business, even if FYX has been advised of the possibility of such damage.

6.6 ASSIGNMENT; MODIFICATION; WAIVER

Customer may not assign these Terms and Conditions or any of the services to be performed hereunder (including without limitation, Roadside Assistance), without the prior written consent of FYX. FYX may, without the consent of Customer, (i) assign these Terms and Conditions, (ii) grant a security interest in these Terms and Conditions and/or the proceeds to

be paid hereunder to a lender or lenders and (iii) delegate the performance of Roadside Assistance or other services to be performed hereunder to one or more Repair Vendors. Subject to the foregoing restrictions, these Terms and Conditions shall inure to the benefit of and be binding upon all successors and assigns.

FYX may amend and modify the terms and conditions hereof (including without limitation, the terms and conditions of the Appendices, Pricing Schedules or any rates and fees contained therein or herein) at any time and from time to time by modifying the appropriate section of these Terms and Conditions and publishing such modified version of these Terms and Conditions on the Website. Any such modifications shall become effective on the effective date indicated on such publication and shall be applicable to any Roadside Assistance and other services hereunder requested or provided on or after such effective date. For the avoidance of doubt, such amendments and modifications may include, without limitation, annual Consumer Price Index adjustments and quarterly fuel surcharge adjustments to the Fuel Surcharge Schedule set out in Section 4.2, above.

The waiver by FYX of any breach of any of the terms and conditions hereof shall be limited to the act or acts constituting such breach and shall not be construed as a continuing or permanent waiver of any such terms and conditions, all of which shall be and remain in full force and effect as to future acts or happenings notwithstanding such waiver.

6.7 AUTHORITY; EFFECTIVENESS

By its execution of these Terms and Conditions, the Customer acknowledges and agrees that (i) it consents to entering into these Terms and Conditions (by electronic means, if applicable), (ii) it executes these Terms and Conditions (whether by signing below, electronically or otherwise, or by checking the Accept checkbox and clicking the Send button on the Website) with the intent to be bound, (iii) it will be bound by the terms and conditions hereof and subsequent amendments and modifications hereto, and (iv) the person signing these Terms and Conditions (whether by signing below, electronically or otherwise, or by checking the Accept checkbox and clicking the Send button on the Website) has the necessary power and authority to bind Customer to the terms and conditions hereof.

These Terms and Conditions shall become effective, and FYX shall be bound hereby, on the date (the “Effective Date”) that FYX is satisfied that Customer has complied with all of the conditions for obtaining services hereunder that are set out herein and on the New Customer Form and, if applicable, the Credit Application Form, and has signed these Terms and Conditions in the signature space provided at the end of these Terms and Conditions (electronically or otherwise) or has provided a digital acceptance on the Website.

The request for Roadside Assistance or the utilization of any of FYX’s Roadside Assistance services by any individual or entity shall be deemed to be an acceptance of these Terms and Conditions by such individual or entity, even if these Terms and Conditions have not been signed as provided above.

6.8 VENUE; WAIVER OF JURY TRIAL; GOVERNING LAW

Each of the parties hereto (i) agrees that any claim or controversy, directly or indirectly arising out of or relating to these Terms and Conditions, may be litigated in the state or federal courts located in the State of Kentucky, USA, and consents to submit itself to the personal jurisdiction of any such court, (ii) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court and (iii) agrees that any action relating to these Terms and Conditions or the transactions contemplated hereunder shall be brought exclusively in such courts. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY.** The internal laws of the State of Kentucky shall govern the construction and interpretation of these Terms and Conditions and all rights and obligations of the parties hereunder, without regard to such state’s conflict of laws rules.



IN WITNESS WHEREOF, the parties hereto have caused these Terms and Conditions to be executed by their duly authorized representatives.

CUSTOMER

By: _____

Name: _____

Title: _____

FYX

FYX Fleet, LLC.

By: _____

Name: _____

Title: _____

Effective Date: _____

APPENDIX A – DEFINITION OF TERMS

“**ACH**” – Automatic Clearing House.

“**Day**” – any day regardless of weekends or holidays.

“**DOT**” – Department of Transportation.

“**EDI**” – Electronic Data Interchange.

“**Effective Date**” – the date that all the conditions of the Terms and Conditions have been met.

“**Equipment**” – any trailers, tractors and trucks operated by the Customer.

“**Pricing Schedule**” – the schedule of prices for the repairs, services and parts set out under Sections 4.1 and 4.2.

“**Repair Vendor**” – an independent business (that is not an employee or agent of FYX) that FYX has contracted with to provide Roadside Assistance to its customers.

“**Roadside Assistance**” – a Repair Vendor’s inspection of Equipment located on the roadside anywhere in the continental United States or Canada (but excluding Mexico) at the request of Customer, and the Repair Vendor’s related repair, replacement of parts and/or performance of other services.

“**Website**” – www.FYXFleet.com.