

## 1. General

- 1.1. Daimler Truck Australia Pacific Pty Ltd ("DTAuP") provides to the vehicle owner ("you" or "Customer") certain Fleetboard services and information relating to your qualifying vehicles on which a qualifying Fleetboard telematics device is installed in accordance with these End User General terms and conditions and the Fleetboard Services Data Privacy Policy.
- 1.2. DTAuP may modify these terms and conditions. The Customer shall be notified of any changes to these general terms and conditions in writing. They shall be deemed to have been approved if the Customer does not object in writing within six weeks of notification of the changes. The attention of Customers will be drawn by DTAuP to this consequence when notification of the changes is given. In the event of an objection, the terms of the existing terms and conditions remain valid.
- 1.3. The Customer is deemed to have consented to these terms when they complete and sign the Fleetboard customer consent form and provide this to DTAuP. Fleetboard services will only be provided to the Customer once Daimler Truck AG, 70771 Leinfelden-Echterdingen ("DTAG") has approved the Customer's Fleetboard application in writing to DTAuP, which is expected to take up to 4 weeks from point of receipt.

## 2. Service requirements

- 2.1. Appropriate vehicle equipment is required in order to use the Fleetboard services. DTAG and DTAuP (collectively "Daimler") may also offer vehicle equipment as special equipment or as a retrofit suitable for the use of Fleetboard services when the vehicle is ordered.

The conclusion of the purchase contract or the order for the retrofitting of the necessary vehicle equipment and the customer consent form for the provision of Fleetboard services are legally separate transactions with the consequence that any invalidity or disruption of service in one of the contracts has no effect on the other contract. This may result in the Customer having to fulfil the purchase agreement not only for the vehicle, but also for the vehicle equipment, without being able to use the Fleetboard services offered by Daimler. In the contrary case, e.g. in the event of the cancellation of the purchase contract for the vehicle or the vehicle equipment, the contract for the provision of Fleetboard services for the vehicle in question can be terminated in accordance with clause 10.

- 2.2. The vehicle equipment required for the use of the services with the configuration recommended by DTAG is determined in accordance with the service description, which can be viewed in the Fleetboard portal after the customer login, or which can be accessed via technical support or the DTAuP representative. Appropriate IT equipment (computer, internet connection) must also be available at the Customer's premises in accordance with the minimum requirements communicated by DTAG. The minimum requirements can be viewed at <https://www.fleetboard.info/system-requirements/#/>.

## 3. Subject matter of the contract/ scope of services/software updates

- 3.1. Fleetboard services include the collection, storage and display of commercial vehicle-specific data and, if a SIM card is made available, its transmission; these are then billed at a flat rate for services. This flat rate contains the complete communication service for the provision of Fleetboard services. The flat rate is incorporated into the total vehicle price for the first four years from the date of warranty registration for the vehicle. After this period, the rate will be billed separately to the Customer, if the Customer and DTAuP agree in writing to continue with the service. A special DTAuP SIM card is used for data transmission, with which only data communication between the Customer's vehicles and the Fleetboard server is possible.

- 3.2. A detailed description of the respective Fleetboard services can be viewed in the Fleetboard portal after the Customer login, or it can be accessed via Technical Support or by the DTAuP representative. Due to further product developments, the service description may be subject to change. DTAG and/or DTAuP shall inform the customer in advance of the functional change.

- 3.3. The provision of the Fleetboard services may be subject to restrictions and inaccuracies that are beyond Daimler's control and for which Daimler is not liable. This applies in particular to the availability of mobile communications and internet access provided by third parties.

- 3.4. The communication service included in the Fleetboard services is spatially limited to a certain transmission and reception range. This transmission and reception range covers a large number of countries. The list of supported countries is subject to constant change; therefore, the Customer is not entitled to permanent support in certain countries. A list of the countries currently supported can be viewed via the Fleetboard portal [www.fleetboard.com](http://www.fleetboard.com) and can also be accessed via Technical Support or the DTAuP representative.

### 3.5. Software updates

- 3.5.1. When activating the vehicles for Fleetboard services, an update of the software for the telematics unit and the infotainment system is downloaded and installed using a mobile data connection without the need for a workshop visit ("software update"). DTAuP reserves the right to carry out or provide further software updates for the activated vehicles during the term of the contract. Software updates are intended to ensure the functionality of the telematics unit and the infotainment system, to eliminate security and cybersecurity risks, to improve or expand functions of the Fleetboard services, to provide or enable new functions of the Fleetboard services, or to change or remove functions of the Fleetboard services. In principle, software updates are carried out automatically without the Customer's further consent. The Customer may always reject software updates provided that they do not work to the benefit of the Customer or are reasonable for the Customer taking into account Daimler's interests. After starting a software update, the Customer may not cancel the software update. The intervals between software updates vary. The Customer is not entitled to any software updates. Software updates are subject to availability or restrictions of the mobile network and vehicle features. This means that download and installation times can vary depending on the vehicle and may take anything from a couple of minutes to several hours.

3.5.2. Software updates to the telematics unit may be required for trouble-free implementation and operation of the services. If the Customer fails to install software updates provided by Daimler within a reasonable period of time, Daimler shall not be liable in accordance with Section 11 for a product defect or any resulting consequential damage if the product defect is solely due to the lack of a software update, provided that Daimler has informed the Customer of the availability of the software update and the consequences of not installing it, and that the fact that the Customer did not install the software update or installed it incorrectly was not due to a defective installation manual provided to the Customer.

3.5.3. The Customer is not entitled to receive software updates to the telematics unit via any other means (e.g. through the participating Mercedes-Benz Trucks Service Partner). During service visits to Mercedes-Benz Trucks Service Partners entrusted with the provision of maintenance services, further measures may be carried out as an alternative or in addition to software updates.

3.5.4. During the download and installation of software updates, Fleetboard services may be functionally restricted for a limited period of time. In the event of a disabling technical error during the installation of a software update, the functional limitation may persist and a repair may be necessary in the workshop.

3.5.5. Software updates to modules/units of the vehicle, other than the Fleetboard telematics unit, may occur through the Fleetboard platform and/or service partners.

## 4. Fleet/adding vehicles to the fleet

- 4.1. All vehicles in a Customer's fleet are grouped under one fleet name and, unless otherwise agreed, have access to the same scope of services.
- 4.2. Any new eligible vehicles will automatically be added to the Customer's Fleetboard portal within one (1) month of vehicle delivery, unless not approved by DTAuP and/or DTAG.

## 5. Availability of services

- 5.1. The Fleetboard Service Centre and thus Fleetboard services are available to the Customer during operating hours. The operating hours are twenty-four (24) hours a day, seven (7) days a week, with the exception of maintenance shutdowns. Operation may be restricted or unavailable during these times. Maintenance shutdowns are carried out as follows each calendar week:

Thursday 1 a.m. to Thursday 5 a.m. and  
Saturday 6 p.m. to Sunday 8 a.m.

All times are Central European Time (CET) and Central European Summer Time (CEST). DTAG may postpone these maintenance shutdowns due to operational conditions or in other exceptional cases. This will be communicated to the Customer as early as possible. The Christmas, Easter and Whitsun holidays as well as New Year's Eve/New Year might also be used for extraordinary maintenance shutdowns. The Customer shall also be informed of this as early as possible via the Fleetboard portal.

- 5.2. If and to the extent that the Customer can use Fleetboard services during maintenance shutdowns, no legal claim can arise from this. If the use of Fleetboard services during maintenance shutdowns results in a reduction or adjustment of performance, the Customer shall not be entitled to any guarantee or compensation.
- 5.3. DTAG guarantees an availability of the Fleetboard Service Centre of 98 % as a yearly average. This does not apply to times when the server cannot be accessed via the Internet due to technical or other problems beyond DTAG's control. Daimler is not liable for any interruptions to the Fleetboard services or portal.

## 6. Fees for Fleetboard services

- 6.1. For the initial term of four (4) years, the cost for the Fleetboard services will be built into the total vehicle price. After the four-year period, a fee for the Fleetboard service will be payable per Vehicle in a Customer's fleet, if the Customer and DTAuP agree in writing to continue with the service. This fee will be payable to DTAuP or the dealer from whom the Customer purchased the relevant vehicle on a monthly basis. The following costs for Fleetboard services are covered by the monthly Fleetboard fee:

- 6.1.1. Costs for the provision of data on the Internet
- 6.1.2. Costs for the bidirectional communication between the vehicle and Fleetboard server required to provide Fleetboard services (third-party transmission service)

- 6.2. Section 6 Clause 6.1 does not apply to the Customer's vehicles that do not include communication services as part of their Fleetboard services and to vehicles with Customer-owned SIM cards. In this case, the Fleetboard fee only covers the server-side costs for sending messages from the server to the vehicle.

- 6.3. All other fees shall be borne by the Customer.

- 6.4. After the four (4) year term, if the Customer and DTAuP agree in writing to continue with the service, the Customer will receive an invoice for the Fleetboard services used on a monthly basis. The Customer will also be charged the goods and services tax at the rate applicable at the time of invoicing.

- 6.5. In the event of price increases, the Customer may terminate its Fleetboard services within 1 month of receiving the new price list or information about its change and its content for the time at which the price increase is to take effect. If the Customer wants to continue with the Fleetboard services, he/she need not do anything and they will be charged accordingly under the new prices.

## 7. Cooperation by the customer/general customer obligations

- 7.1. The Customer is obliged to report immediately to technical support in writing any damage to the vehicle that impacts on the Fleetboard services, the loss or return of the vehicle, the loss or return of the SIM card, defects in the vehicle equipment required for the provision of the Fleetboard services, or, if applicable, defects in the SIM card. If de-registering the vehicle and using the vehicle off the road only, the Customer must observe the deactivation instructions.

- 7.2. Some vehicle equipment components required for the provision of Fleetboard services have an integrated SIM card. The SIM card is the property of DTAuP and may only be used for Fleetboard services. The Customer must immediately report the loss or technical defects of the SIM card to technical support.
- 7.3. Daimler reserves the right to temporarily suspend Fleetboard services or to block and replace the SIM card
- if a significant deviation from the contractually agreed use (Section 3 (2)) is registered.
  - if the system has technical faults and requires modifications or maintenance.
  - in the event of a breach by the Customer of contractual or legal regulations.
- Insofar as the Customer is responsible for the above circumstances, its obligation to pay the service charges shall remain in force.
- 7.4. In the event that the Customer uses Fleetboard services contrary to these terms or has an impermissible effect on the network accessible to the Customer on the basis of this e.g. third-party activations, the Customer is obliged to inform DTAuP of this immediately.
- 7.5. DTAuP will set up initial user logins to the Fleetboard portal for a Customer. Users must not share login details with any other person or entity. Customer fleet administrator will have rights to create additional users after the initial user set up by DTAuP.
- 7.6. The Fleetboard portal may contain links to third-party websites or resources. You agree that neither DTAuP, nor DTAG, nor their service providers are responsible or liable for: (a) the availability or accuracy of such websites or resources; or (b) the content, products, or services on or available from such websites or resources. Links to such websites or resources do not imply any endorsement by DTAuP, DTAG, or their service providers of such websites or resources or the content, products, or services available from such websites or resources. You acknowledge you have sole responsibility for, and you assume all risk arising from, your access, use and reliance upon the content or services available from any such websites or resources.
8. **Confidentiality**
- 8.1. Daimler shall treat all technical and commercial information, including usage data, that is made available to it by the Customer in connection with this agreement during the term of this agreement as confidential. This data will be made accessible to third parties by DTAuP if it serves the fulfilment of the contract (subcontractor) or if it has been agreed between the contracting parties. In addition, DTAuP may provide the data to third party providers of telematics services to which you have subscribed pursuant to the terms and conditions of your agreement with that third party services provider. Daimler also reserves the right to use the data obtained for the purposes of further developing the Fleetboard systems.
- 8.2. Information not regarded as confidential as defined in this section include information and documents which:
- are generally known or were made known without violation of the obligations contained in this agreement;
  - DTAuP has demonstrably created or acquired during the course of its own work;
  - DTAuP has demonstrably and legitimately received from third parties; or
  - must be disclosed on the basis of a court order or regulatory mandate.
9. **Liability/limitation period**
- 9.1. If, on the basis of the legal provisions, DTAuP and/or DTAG is responsible for damage caused by ordinary negligence, their respective liability is limited:
- Liability only exists in the event of an infringement of essential contractual obligations in these terms, or which must be fulfilled for the proper implementation of this agreement and upon the compliance with which the Customer regularly relies and is able to rely. Liability is limited to typical damage foreseeable at the time of conclusion of this agreement, to the exclusion of liability for indirect and consequential damage. If the damage is covered by an insurance policy taken out by the Customer (excluding fixed-sum insurance), DTAuP and DTAG (as applicable) shall only be liable for any associated disadvantage suffered by the Customer, e.g. higher insurance premiums or interest rate disadvantages up to claims settlement by the insurance company.
- 9.2. Irrespective of whether DTAuP or DTAG is at fault, any liability on the part of either entity in the event of fraudulent concealment of a defect, the assumption of a guarantee or a procurement risk remains unaffected.
- 9.3. Personal liability on the part of any legal representatives, vicarious agents, or employees of Daimler for damage caused by them due to minor negligence is excluded. The limitation of liability regulated for Daimler in Section 9, Clause 1 applies accordingly to damage caused by you, with the exception of the legal representatives and management employees, due to gross negligence.
- 9.4. This limitation additionally does not apply in the case of loss of life, physical injury, or health.
- 9.5. Irrespective of the intervention of a limitation of liability, Daimler shall be liable for financial losses to the amount of only the typical damage foreseeable at the time of conclusion of the contract, under the exclusion of liability for indirect and consequential damage.
- 9.6. Claims for damage against Daimler shall expire by limitation in one year, to the extent they are not caused by intentional conduct on the part of Daimler. The limitation period begins at the end of the calendar year in which the customer became aware, or barring gross negligence on their part ought to have become aware, of the damage and of the underlying circumstances. However, the aforementioned right of the Customer to assert a claim against Daimler shall expire by limitation at the latest after three years from the date of the damaging event, irrespective of this awareness.
- 9.7. Daimler shall in particular not be liable for damage caused by service disruptions that are not caused by Daimler. This would be the case if Fleetboard services are spatially limited to the reception and transmission range of the mobile data transmission facilities operated by the respective mobile network operator. They may also be affected by atmospheric and topographical conditions or by obstacles (bridges, tunnels, buildings, etc.).
- The use of the Internet may also be restricted (e.g. due to a network overload). Disruptions may result from force majeure, including strikes, lockouts and regulatory mandates, as well as from technical and other measures (e.g. repair, maintenance, software updates, extensions) required on the Fleetboard systems or the upstream and downstream service providers and network operators for a proper or improved telematics and communication service. This also applies to short-term capacity bottlenecks due to peak loads in the telematics and communication service, mobile and landline networks, as well as the Internet.
10. **Term/termination/end of activation**
- 10.1. The Fleetboard services agreement commences for any vehicle in the Customer's fleet from the date of warranty registration for the vehicle and continues for a period of four (4) years, unless otherwise terminated in accordance with these terms ("Initial Term"). Customer access to the Fleetboard services will be created and Customer's login credentials will be provided within a commercially reasonable time after internal registration processes are completed by DTAuP. Upon expiry of the Initial Period, Daimler will not continue to provide the Fleetboard services to the Customer unless agreed by the parties in writing.
- 10.2. If you purchase additional vehicles from one of our product distributors or dealers, unless you notify the product distributor or dealer that you do not wish to have access to the Services for the additional vehicle(s), any additional Fleetboard enabled vehicles you purchase will be automatically added to your Fleet account.
- 10.3. Either party may terminate this agreement with a notice period of three (3) months to the end of the month. The activation of the Fleetboard services for all vehicles in the affected fleet shall also end with the effective date of termination of this agreement. If DTAuP and the Customer agree to reactivate vehicles after termination of this agreement, this shall take place in a new agreement and vehicles can be transferred back into the fleet without loss of old data set.
- 10.4. The above provisions do not apply to the withdrawal of individual vehicles from this agreement. The agreement will be terminated and shall no longer apply to those vehicles removed from this agreement, and will continue to apply unchanged with regard to the other assigned vehicles not affected by the Fleetboard service termination. DTAuP will provide Customer instructions on the form to complete to remove vehicles from their fleet on the Fleetboard portal.
- 10.5. Both contracting parties are also entitled to terminate this agreement (in its entirety or with regard to individual vehicles) for good cause without observing a period of notice. Such a good cause shall be deemed to exist in particular if the Customer has provided incorrect information about his/her assets, which is of significant importance for DTAuP's decision on the conclusion of the agreement and on other transactions associated with risks for DTAuP (e.g. inclusion of vehicles in a fleet), or if a significant deterioration in the Customer's asset situation occurs or threatens to occur and the fulfilment of obligations to DTAuP is thereby jeopardised. Even in the event of the rescission of the purchase contract for a vehicle, the repurchase or other return of the vehicle to DTAuP, the termination of a leasing contract, the sale of the vehicle to a third party, theft, as well as in the event of total loss, each party is entitled to an extraordinary termination of this agreement with regard to the affected vehicle. The Customer is obliged to provide evidence of one of the aforementioned grounds for termination to DTAuP without delay. Unless the parties agree otherwise, the termination shall take effect upon receipt of the termination and the aforementioned corresponding proof by the party.
- 10.6. Termination must always be made in writing and sent via email to dtau\_connect@daimlertruck.com.
- 10.7. If you sell or transfer a vehicle that receives or has received Fleetboard services, you will notify DTAuP in writing the VIN number of the vehicle and the date of transfer, and agree that DTAuP will no longer provide Fleetboard services to the vehicle unless the new owner or transferee accepts these terms.
- 10.8. DTAuP is entitled to prevent the use of its services in whole or in part (block) if the Customer is in default with the payment obligations to the amount of at least AUD\$500 or if any security provided has been used up. However, DTAuP will not exercise this right until at least two weeks after DTAuP has notified the Customer of the upcoming block. Furthermore, DTAuP is entitled to block the connection without notice and without observing the aforementioned 14-day waiting period if:
- The Customer has provided good cause for termination of the contractual relationship without notice; or
  - there is a risk of damage to the landline network or a threat to public safety due to the retroactive effect of the terminal equipment used.
11. **Delegation of contract to third parties/surrendering of rights**
- 11.1. DTAuP is entitled, with a notice period of 6 weeks, to transfer its rights and obligations from this contractual relationship in whole or in part to another service provider or network operator. In this case, however, the Customer is entitled to terminate the contractual relationship at the time of the intended transfer of the Agreement to the company replacing DTAuP in the agreement within one (1) month of receiving written notice of the change.
- 11.2. Customers may only transfer their rights and obligations under the agreement to third parties with the prior written consent of DTAuP. Contractual obligations of the Customer, in particular payment obligations, shall not expire until the unrestricted entry of the third party into the contract, even after agreement by DTAuP.
12. **Jurisdiction/applicable law**
- 12.1. The exclusive place of jurisdiction for all present and future claims arising from or in connection with this contractual relationship is Victoria, Australia.
- 12.2. The laws of Victoria, Australia shall apply to this contractual relationship to the exclusion of any other laws.