

ZIPCASH USER AGREEMENT
(Effective 1-1-2014)

PLEASE CAREFULLY READ THIS ZIPCASH USER AGREEMENT (THIS “AGREEMENT”) WITH THE NORTH TEXAS TOLLWAY AUTHORITY (“NTTA”). THE USE OF NTTA TOLL FACILITIES (OR NON-NTTA TOLL FACILITIES FOR WHICH NTTA PROVIDES TOLLING SERVICES) BY A VEHICLE YOU OWN OR LEASE (“YOUR VEHICLE”) WITHOUT A TOLLTAG OR OTHER NTTA RECOGNIZED TRANSPONDER CONSTITUTES YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

1. RATES, FEES, AND CHARGES

a. Toll charges on NTTA toll facilities are assessed per tolling point based on the Toll Rate Schedule in effect at the time of the transaction, and whether the transaction constitutes a TollTag transaction (i.e., a vehicle with a TollTag or other NTTA recognized transponder passing through a tolling point with a sufficient balance in the applicable user account) or ZipCash transaction (i.e., a non-TollTag transaction). Toll rates for ZipCash transactions are higher than toll rates for TollTag transactions. The applicable toll will be charged to you each time your vehicle passes through a tolling point. Applicable fees and/or charges will be charged to you based on the Schedule of Charges in effect at the time of the charge. The Toll Rate Schedule and Schedule of Charges are available on the NTTA website at www.ntta.org or at any NTTA Customer Service Center (“CSC”). NTTA reserves the right to change its rates, fees, and charges at any time, and you agree to pay such rates, fees, and charges by your continued use of NTTA toll facilities. Failure to pay any toll, fee, or charge may result in additional fees, penalties, and fines.

b. Except as provided in Section 3, you are responsible for all tolls incurred by your vehicle, even if someone other than you uses your vehicle on an NTTA facility.

c. See Section 6 for the tolls, fees, and charges assessed when your vehicle uses non-NTTA facilities for which NTTA provides tolling services, such as managed lanes, express lanes, and TEXpress lanes.

2. ZIPCASH INVOICES

a. NTTA has established a ZipCash account number for your vehicle as a result of a ZipCash transaction involving your vehicle. Each time your vehicle passes through a tolling point a picture of your vehicle’s license plate is taken and retained for billing purposes. NTTA will invoice you for any ZipCash transactions associated with your vehicle. If you fail to timely pay any ZipCash invoice, you will be subject to additional fees and charges and you may be subject to civil and criminal penalties, including those described in Section 8(g), and NTTA may avail itself of certain statutory remedies, including, without limitation, publishing your name and amount of your unpaid tolls, placing a block on your vehicle’s registration, prohibiting you from further use of NTTA toll facilities, and impounding your vehicle.

b. You may pay any ZipCash invoice (or uninvoiced ZipCash transaction associated with your vehicle) (i) by authorizing a charge to your credit/debit card through the NTTA website (www.ntta.org), over the telephone (972-818-6882), or in person at any CSC or other

authorized payment center, (ii) by mailing a check or money order to NTTA at P.O. Box 660244, Dallas, TX 75266-0244 clearly identifying your invoice number or your vehicle's ZipCash identification number, (iii) by delivering a check, money order, or cash to any CSC or other authorized payment center, or (iv) through any other payment method established by NTTA. You will be responsible for a returned check fee on any check returned or rejected by your bank in the amount shown on the Schedule of Charges then in effect.

3. STOLEN, SOLD OR LEASED VEHICLE.

a. If your vehicle is sold, stolen, or leased, you must immediately notify any CSC in person or by calling (972) 818-NTTA (6882). Except as provided in Section 3(b), until you notify NTTA of such event, you will be liable for all tolls, fees, and/or charges that may be incurred by your vehicle.

b. Notwithstanding anything to the contrary in this Agreement, if your vehicle passes through a tolling point at a time when your vehicle was either (i) stolen and you have reported such theft to the appropriate law enforcement authority by the time required under Section 366.178(h) of the Texas Transportation Code, as amended, or (ii) leased to a third party and you have provided to NTTA the required information under Section 366.178(i) of the Texas Transportation Code, as amended, by the time required under such Section, then you will not be liable for any toll assessed to such transaction.

4. INQUIRIES/DISPUTES

If you have any questions about this Agreement or any ZipCash invoice or transaction, or wish to view your uninvoiced ZipCash transaction, please visit the NTTA website at www.ntta.org or contact any CSC. All disputes concerning any ZipCash invoice or transaction, including any claim for damages, must be submitted in writing to: NTTA Customer Service Center, P.O. Box 260928, Plano, TX 75026-0928 within one hundred twenty (120) days from the date the toll, fee, or charge was invoiced to you or your damage was incurred. Tolls, fees, and charges invoiced to you and not so disputed within such one hundred twenty (120) day period will be conclusively deemed valid. You may make informal inquiries in person at any CSC or by calling (972) 818-NTTA (6882).

5. NTTA WEBSITE AND MOBILE APP

a. As an alternative to telephoning or going to a CSC, you may use the NTTA website or mobile app Tollmate to, among other things, change or update information to the account ("Account") established for your vehicle, view your ZipCash invoices, view transactions posted to your Account, and make payments on your ZipCash invoices or transactions posted to your Account. The NTTA website address is www.ntta.org. The NTTA mobile app Tollmate is available for free for Apple and Android devices through the iTunes App store or Google Play. Your use of the NTTA website or mobile app Tollmate to make changes to your Account shall be deemed your consent to modify your information within the NTTA record system.

b. In order to protect the privacy of your information, NTTA may require you to provide verifying information to access your Account. NTTA may deny access to your Account if the requested verifying information is not provided.

6. USE OF VEHICLE AT NON-NTTA FACILITIES

a. NTTA has entered into tolling services agreements (each a “TSA”) with various operators of certain non-NTTA toll facilities (the “TSA Facilities”) to provide tolling services, including toll collection and enforcement and customer service (collectively “Tolling Services”). The LBJ (IH 635) Express Managed Lanes Project is an example of a TSA Facility.

b. If you use your vehicle at any TSA Facility, you acknowledge and agree that information about the applicable transaction will be shared between the operator of such TSA Facility and NTTA for purposes of billing and collecting the proper tolls, fees, and charges. In addition, you agree (i) to the tolls, fees, and charges established by such operator and/or NTTA for the use of such TSA Facility, (ii) that the applicable toll, fee, or charge for the use of such TSA Facility may be included in any ZipCash invoice, (iii) to be subject to the terms between NTTA and such operator relating to the Tolling Services provided by NTTA and to the rules and regulations of such operator.

c. You should first contact a CSC for assistance if you have any questions or disputes concerning any tolls, fees, or charges for use of any TSA Facility. If such CSC is unable to help, you will be directed to the operator of such TSA Facility.

d. You acknowledge and agree that with respect to the TSA Facilities (i) NTTA is simply a third-party provider of the Tolling Services acting on behalf of the operators of such TSA Facilities and (ii) the operators of such TSA Facilities, and not NTTA, are responsible for the operation and maintenance of such TSA Facilities, and you hereby release NTTA from any liability therefor.

7. LIMITATIONS OF LIABILITY

a. IN NO EVENT SHALL NTTA BE LIABLE TO YOU, OR SHALL YOU BE LIABLE TO NTTA, FOR ANY LOST PROFITS, INCOME OR GOODWILL OR FOR ANY SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH ANY MATTER ARISING UNDER OR RELATING TO THIS AGREEMENT OR THE COMMERCIAL OR ECONOMIC RELATIONSHIP OF NTTA AND YOU, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY, OR ANY OTHER THEORY, EVEN IF NTTA OR YOU HAVE BEEN ADVISED OF OR CONSIDERED THE POSSIBILITY OF SUCH DAMAGES.

b. Subject to Section 8(g), no arbitration, action, suit, proceeding, claim, counterclaim, or crossclaim (collectively, “Action”) arising under or relating to this Agreement or the commercial or economic relationship of NTTA and you may be brought more than two (2) years after the later of the first event giving rise thereto or the date when NTTA or you with reasonable diligence could have discovered the pertinent facts. If any applicable law does not allow the claims limitation period to be two (2) years, then the period for the filing of any claim shall be the shortest period or periods allowed by such law.

8. DISPUTE RESOLUTION, ARBITRATION PROVISION AND CLASS ACTION WAIVER

a. THIS AGREEMENT INCLUDES AN AGREEMENT TO ARBITRATE AND WAIVER OF CLASS ACTION. THIS AGREEMENT IS GOVERNED BY THE FEDERAL ARBITRATION ACT. PLEASE READ CAREFULLY.

b. Subject to Section 8(g), as a condition to bringing any Action arising under or relating to this Agreement or the commercial or economic relationship of NTTA and you, you must first submit your dispute, including any claim for damages, in writing to NTTA at the address set forth in Section 4 within one hundred twenty (120) days from the date the disputed toll, fee, or charge was charged to your Account or your damage was incurred, and use good faith efforts to resolve your dispute with NTTA through the procedures in this Section 8(b).

c. Subject to Section 8(g), any controversy or claim (whether based upon contract, tort, statute, constitutional provision, or otherwise), arising out of or relating to this Agreement, or the breach or alleged breach thereof, or the commercial or economic relationship of NTTA and you, which NTTA and you are unable to resolve in accordance with the administrative dispute resolution process set forth in Section 8(b) or otherwise within a reasonable time after written notice by NTTA or you to the other party of the existence of such controversy or dispute, shall be resolved by an arbitration administered by the American Arbitration Association (“AAA”) under and in accordance with its then-existing Rules, including, if applicable, its Rules applying to consumers, but excluding any Rules regarding Class Arbitrations in whatever form or under whatever title they may exist. Each of NTTA and you hereby agree to waive any right to participate in, be a member of, or to serve as a representative for a class action with regard to any claim(s) they may have or assert against one another. No arbitrator shall conduct a class arbitration or any other class proceeding. Neither NTTA nor you may act as private attorneys general or in any other representative capacity. NTTA and you also agree that each of NTTA and you waive any right to have NTTA’s or your claims consolidated with, joined with, or combined with any claims of any other party or parties. NTTA and you further agree that the enforceability and interpretation of this Section 8 (including its agreed-upon waiver of class action, consolidation, combination of claims in any manner, acting in any kind of representative capacity, and any other rights) will be reserved to a court, rather than to any arbitrator.

d. If any of NTTA’s and your agreements to waive any of the matters listed in Section 8(c) (including class action, consolidation, combination of claims in any manner, acting in any kind of representative capacity, or any other rights) are determined to be void, unenforceable, unconscionable, invalid, or inapplicable for any reason, then the foregoing arbitration provision in its entirety shall be severed from this Agreement and this Agreement shall be treated as if the foregoing arbitration clause in its entirety had never been a part of this Agreement. In this event, and if any claims between NTTA and you are filed or presented in a court or in some other forum, each of NTTA and you hereby agree to waive any right to participate in, be a member of, or to serve as a representative for a class action with regard to any claim(s) they may have or assert against one another. No class action or other class proceeding shall be conducted either in a court or in any other forum or proceeding. Neither NTTA nor you may act as private attorneys general or in any other representative capacity. NTTA and you also agree that each of NTTA and you waive any right to have NTTA’s or your claims consolidated with, joined with, or combined with any claims of any other party or parties.

e. NTTA and you agree that the arbitration contemplated herein shall be conducted by one arbitrator, who shall be selected according to the procedures of the AAA. The arbitration shall be filed with and administered by the Dallas, Texas office of the AAA. The arbitration shall take place in Collin County, Texas, unless NTTA and you specifically agree to another place in writing. The arbitrator shall have the authority to act upon motions for summary judgment, and to grant any remedy or relief that the arbitrator finds just and equitable within the scope of this Agreement, provided that no such remedy or relief shall be inconsistent with the disclaimers of warranties, limitations of liability, indemnifications, restrictions on arbitration proceedings, and other provisions of this Agreement or available to NTTA under common law or statute. The decision of the arbitrator shall be binding and final upon both NTTA and you and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

f. Subject to Section 8(g), if the arbitration provision is severed from this Agreement, any claim or dispute that has arisen or may arise between you and NTTA must be resolved exclusively by the courts located in Collin County, Texas. You and NTTA agree to submit to the personal jurisdiction of the courts located in Collin County, Texas for the purpose of litigating all such claims or disputes.

g. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, INCLUDING SECTION 7 AND THIS SECTION 8, NTTA MAY AVAIL ITSELF OF ALL APPLICABLE RIGHTS AND REMEDIES PROVIDED BY SECTION 366.178 AND CHAPTER 372 OF THE TEXAS TRANSPORTATION CODE, AS AMENDED, AND ANY STATUTES REFERENCED THEREIN OR CONFERRING SPECIFIC RIGHTS AND REMEDIES FOR TEXAS TOLL AUTHORITIES AND, IN SUCH INSTANCES, YOU WILL HAVE ALL OF THE RIGHTS PROVIDED THEREUNDER AND YOU UNDERSTAND AND AGREE THAT THE COURTS EMPOWERED TO HEAR SUCH MATTERS SHALL ADJUDICATE SUCH MATTERS AND SUCH MATTERS WILL NOT BE ARBITRATED.

h. If NTTA exercises its rights and remedies under Section 366.178 or Chapter 372 of the Texas Transportation Code, as amended, or any statutes referenced therein or conferring specific rights and remedies for Texas toll authorities, each of NTTA and you hereby agree to waive any right to participate in, be a member of, or to serve as a representative for a class action with regard to any claim(s) they may have or assert against one another, and further agree that each of NTTA and you waive any right to have NTTA's or your claims consolidated with, joined with, or combined with any claims of any other party or parties.

i. You and NTTA acknowledge and agree that nothing in this Agreement shall bind the operator of any TSA Facility to the dispute resolution process set forth in this Section 8.

j. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

9. GENERAL PROVISIONS

a. NTTA may terminate this Agreement or amend the terms of this Agreement at any time by posting notice of the termination or amendment on ZipCash invoices, at the NTTA

website or at any CSC or by any other reasonable means. The termination or new terms will be effective thirty (30) days after the notice is sent to you or posted as provided in the preceding sentence. You must maintain a current mailing address and other contact information with NTTA, and you must keep yourself apprised of any notices posted as provided above. Continued use of NTTA toll facilities or TSA Facilities by your vehicle will constitute acceptance of each such amendment. If you do not accept any such amendment, you must cease use of NTTA toll facilities and TSA Facilities by your vehicle.

b. This Agreement binds and benefits you and NTTA and its successors and assigns. You may not assign your rights or obligations under this Agreement.

c. Except as provided in Section 8(d), if any part of this Agreement is held to be invalid or unenforceable, all other parts shall remain in full force and effect.