



PCS ProFleet and Fleet One Merchant Services Agreement

Legal Company Name of Merchant

Street Address

City, State, Zip

Federal Tax ID

Phone Number

Fax Number

Email Address

This AGREEMENT ("Agreement") is between FleetOne, L.L.C. (hereinafter referred to as Fleet One) and the company named above, (hereinafter referred to as Merchant), and defines the terms and conditions for Fleet One's purchase of services and merchandise from Merchant. This Agreement supersedes all previous agreements in place and any modifications shall be in writing and mutually agreed upon by the respective parties listed above.

STATEMENT OF BACKGROUND

Fleet One provides services to its fleet customers through a network of fuel, repair and maintenance merchants, including retail merchants such as convenience stores, travel centers and others, who accept the Fleet One payment devices. The business of Fleet One includes unique methods and techniques for the provision of fuel billing, financial settlement, transaction processing services, communications, and data delivery services, hereinafter comprehensively referred to as the "Fleet One System".

DEFINITIONS

Certain Defined Terms. The following terms, as used herein, shall have the following meanings:

"Business Day" means a day other than a Saturday, a Sunday or a day on which banking institutions located in the State of Tennessee are authorized or obligated by law or executive order to close.

"Cash Retail" or "Cash Price" means the cash retail price.

"Co-Branded Card" or "Co-Label Card" is a Private Label Card that bears the Fleet One Over The Road or Local logo and allows use at Fleet One Over The Road or Local locations in addition to the Merchant's Locations.

"Fleet One Card" means any proprietary fleet card issued by Fleet One, together with any replacement card thereto. For purposes of this Agreement, reference to the Fleet One Card includes the Fleet One Local Card, the Fleet One OTR Card and Private Label Cards.

"Losses" means all losses, liabilities, claims, obligations, demands, judgments, damages, dues, penalties, assessments, fines (civil or criminal), costs, liens, expenses, forfeitures, settlements, or fees, reasonable attorneys' fees and court costs, of any nature or kind, whether or not the same would properly be reflected on a balance sheet, and "Loss" means any of these.

"Party" means Fleet One or Merchant, as applicable. "Parties" means Fleet One and Merchant.

"Person" means an individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated association, any other entity, or a government or any department or agency or other unit thereof.

"PlusChek" means a Fleet One issued check that is a negotiable instrument and can be accepted by any business or financial institution.

"Purchase Transaction" means an authorized purchase at a Location through the use of a Fleet One Card.

"Private Label Card" is the card issued by Merchant to fleet customers, bearing the Merchant logo and/or name.

"Third Party Processor" or "Third Party Network" means a company or network engaged by Merchant to perform transaction routing from a point of sale device situated at a Merchant location to the Fleet One host authorization system.

AGREEMENTS

In consideration of the foregoing and the covenants and agreements set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Fleet One and Merchant agree as follows:

1. Confidentiality. During the course of the Parties' business relationship, each Party may provide the other with non-public information that is confidential and proprietary ("Confidential Information"), including, without limitation, information pertaining to Fleet One's fees, pricing, rates, operations, technical information, customized computer software, customer information, and trade secrets. Confidential Information shall not include (i) information which is or becomes generally available to the public other than as a result of any disclosure which is in violation of this Agreement or basis from a third party, if such third party was not subject to any confidentiality agreement or other prohibition against disclosure of such information. The Parties may provide Confidential Information in a variety of formats, including, without limitation, proposals, processing rates, contracts, operations manuals, operation computer software programs, letters, notes, notebooks, reports, memoranda, instructions, forms and files. The Party receiving Confidential Information will regard any and all Confidential Information, whether provided by the other Party hereto or possessed prior to the date of this Agreement, as confidential and proprietary and the sole property of the other Party. No Party will disclose, copy, duplicate, record or otherwise reveal to any other Person, or use for the benefit of itself or any other Person, any such Confidential Information unless compelled to do so pursuant to court order or upon the prior written consent of the owner of the Confidential Information. Furthermore, each Party agrees that, in the case of computer software that constitutes Confidential Information, it will not reverse engineer, reverse compile or otherwise translate such software. Each Party will advise its employees, agents and representatives that the Confidential Information is proprietary and confidential and shall use its best efforts to prevent disclosure of such information by each Party's employees, agents and representatives.

2. Acceptance of Cards. During the Term of this Agreement, Merchant agrees to honor, at each of its current and future locations, all valid, properly tendered Fleet One Cards and provide cardholders with a copy of the transaction receipt. The cards issued by Fleet One and accepted by Merchant may be cards of various brands, Fleet One Local, Fleet One Over the Road, TransPlatinum Plus and any cards with a Fleet One logo. All transactions will be processed by Fleet One approved and certified software and networks. Fleet One provides electronic authorization and retains all validation authority for the transaction. Merchant will not levy or assess any surcharge for the use of any Fleet One Card or product, nor will Merchant differentiate between any Fleet One Card cardholder and any other customer with respect to the sales price charged by the Merchant for the purchase of fuel and other items. Fleet One reserves the right to chargeback disputed items from Merchants settlement until disputed items are resolved. Fleet One will maintain a 24-hour Merchant service toll free hotline with a toll free number for touch-tone or live authorization. Merchant agrees to train its employees for proper processing procedures for the Fleet One financial instruments used at the Merchant's site. Fleet One will provide a Welcome Kit for each Merchant location, which may include decals, brochures, and terminal instructions. Fleet One will provide signage for Merchant locations. Merchant is committed to maintaining display of signage and assumes responsibility for all liability associated for hanging signage.





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3. **Payment.** Fleet One will pay Merchant for all merchandise and services purchased using Fleet One Cards in accordance with the Payment Terms set forth in Schedule A hereto.
4. **Receipts and Proof of Purchase.** Merchant will provide cardholders with a copy of the transaction receipt and will retain cash receipts signed by the cardholder of Fleet One Cards for a period of 12 months, and agrees to provide any such cash receipts to Fleet One, within 7 calendar days of receiving a written request.
5. **Advertising and Marketing.** Merchant agrees to apprise potential customers that the Fleet One Cards are honored at Merchant's locations. This responsibility includes the display of Fleet One advertising material, provided at the expense of Fleet One, including items such as, without limitation, door decals, street signs and materials at the point-of-sale pumps and/or doors. Fleet One provides fleets with electronic directories listing all acceptance locations at www.FleetOne.com and agrees to include Merchant's locations in such electronic directories.
6. **Modification of Fleet One System.** Merchant acknowledges and agrees that at any time and from time to time Fleet One may change or modify the Fleet One System, including the adoption and use of new or modified manuals or techniques. Merchant shall accept and use for purposes of this Agreement any such changes to the Fleet One System, as if they were part of this Agreement at the time of execution hereof, provided such changes or modifications do not adversely affect the profitability of Merchant's operations. Merchant shall accommodate such changes or modifications, within a reasonable time after notification thereof by Fleet One.
7. **Survival.** The compensation provisions contain herein, including Schedules, will survive any termination of this Agreement, but only to the extent necessary for each Party to fulfill its obligations to the other Party arising hereunder prior to such termination.
8. **Customer Service.** Merchant agrees to demonstrate a high degree of integrity and commitment to customer service by acting promptly to resolve disputes and process credits and refunds in connection with defective products and/or services purchased with any Fleet One affiliated card.
9. **Third Party Processor.** The following provisions will apply to the extent Merchant uses a Third Party Processor to route Fleet One Card transactions to Fleet One:
 - a. Upon the Third Party Processor's receipt of an authorization request transaction for the Fleet One Card, the Third Party Processor will immediately (i) reformat the data in the authorization request transaction and (ii) switch the reformatted data to Fleet One via a dedicated link; provided, however, that the data format and the telecommunications system and protocols used to accomplish the foregoing must be mutually acceptable to Fleet One and the Third Party Processor. Upon receipt of the reformatted data from the Third Party Processor, Fleet One shall provide the authorization response to the Third Party Processor. The Third Party Processor shall then immediately (i) reformat Fleet One's authorization response into the appropriate data format for Merchant, and (ii) transmit the correct authorization response to the equipment at the originating location.
 - b. Merchant will be responsible for any failure by the Third Party Processor to comply with the terms of this **Third Party Processor** section. Merchant will be solely responsible for compensating the Third Party Processor for any services provided by the Third Party Processor, whether such services are contemplated by this Agreement or otherwise.
 - c. In the event Merchant changes card processors, Merchant agrees to notify Fleet One at least ten (10) business days in advance of the effective date of such change.
10. **Non-solicitation.** Merchant acknowledges by accepting the Fleet One Card at its locations, it may become aware of Fleet One's customers and details concerning their purchase transactions and agree for the term of this agreement and for a period of one (1) year following termination of this agreement, Merchant will not solicit directly or through any affiliate of Merchant, the Fleet One customers for any competitive payment instrument. Merchant shall not be prohibited or otherwise restricted from entering into agreements with other commercial fleet card companies pursuant to which Merchant agrees to accept such companies' commercial fleet cards at any of its locations; provided, however, that Merchant shall not grant discounts, similar economic benefits or other rights and privileges to such other commercial fleet card companies that are not made available to Fleet One on the same terms and conditions.
11. **Indemnification.**
 - a. Fleet One will indemnify, defend and hold harmless Merchant, its affiliates and their respective directors, officers, employees and agents (in their capacities as such), from and against all Losses relating to, arising out of, or due to, directly or indirectly, (i) any breach by Fleet One of any of the provisions of this Agreement, or (ii) the acts or omissions of Fleet One or any of its employees, agents, or contractors in connection with the rendering of services by Fleet One hereunder, except where such Losses are caused by the gross negligence, violations of law, recklessness or willful misconduct of Merchant. Merchant agrees to reciprocate indemnification to Fleet One.
 - b. Should Merchant store a Fleet One Card on behalf of a Fleet One customer at any of its locations (An "in station" or "site card"), Merchant will indemnify, defend and hold harmless Fleet One for disputed charges and Losses.
 - c. **Survival.** The provisions set forth in this **Indemnification section** shall survive any termination of this Agreement.
12. **Default; Notice of Default.** In the event of a default by either Party of its covenants and obligations herein, the non-defaulting Party shall have the right, but not the obligation, to terminate this Agreement upon thirty (30) days prior written notice to the defaulting Party, specifying the nature of the default and giving the defaulting Party opportunity to cure the default during such 30-day period. Notwithstanding the foregoing, if the nature of the default (other than a payment default) is such that it cannot, despite the best efforts of the defaulting Party, be cured within such 30-day period, the defaulting Party may, upon request, be given such additional time as is reasonably necessary to cure the default.



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13. **Damages.** In the event of a default hereunder, regardless of whether the non-defaulting Party exercises its right to terminate this Agreement, the defaulting Party will pay all damages, reasonable costs and expenses, including attorneys' fees, incurred by the non-defaulting Party by reason of the default, whether or not such are incurred prior to or subsequent to any termination of this Agreement, and said sums shall include all costs and expenses, including reasonable attorneys' fees, incurred by the non-defaulting Party in obtaining injunctive or other relief to enforce the provisions of this Agreement.
14. **Notices.** Merchant will provide Fleet One in writing any changes in ownership, name, address and phone number. All notices hereunder shall be in writing and shall be given by registered or certified mail, return receipt requested, postage prepaid, by facsimile or by national overnight delivery service, and addressed to the intended recipient: If to Fleet One: FleetOne, L.L.C., Attn: President, 5042 Linbar Drive, Nashville, TN 37211 Facsimile: (615) 315-4010. If to PCS: Petroleum Card Services, Attn: Vice President, 1512 Highway 395, Suite 3, Gardnerville, NV 89410, Facsimile: (775)782-7572. Fees may be changed by Fleet One on not less than 30 days written notice to Merchant. Continued use of Fleet One's services after the 30 days written notification constitutes acknowledgement and acceptance of the change.
15. **Entire Agreement.** As of and upon the Effective Date, this Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior written and oral and all contemporaneous oral agreements and understandings with respect to the subject matter hereof. All applicable Schedules incorporated into and made a part of this Agreement are listed below:
Schedule A – Services and Fees, Settlement and ACH Authorization
16. **Billing Errors; Discrepancies.** For settlement, billing errors or any fees owed by or to Merchant to or from Fleet One, Fleet One will initiate electronic funds transfers via Automated Clearing House (ACH) per National Automated Clearing House Association (NACHA) operating rules which govern ACH payments.
17. **Amendment.** No change or amendment will be made to this Agreement or to any Schedule hereto except by instrument in writing signed on behalf of each of the parties to be bound by such changes or amendment.
18. **Authority.** Each Party represents, warrants and covenants to the other that (a) it has the corporate or other requisite power and authority to execute, deliver and perform this Agreement, (b) the execution, delivery and performance of this Agreement by it have been duly authorized by all necessary corporate or other action, (c) it has duly and validly executed and delivered this Agreement, (d) the execution, delivery and performance of this Agreement (1) do not and will not violate or conflict with any law, statute, regulation, judgment, order, writ, decree or injunction currently applicable to such party and (2) will not violate or conflict with any contract or agreement to which such party is a party or by which it is bound, and (e) this Agreement is a legal, valid and binding obligation, enforceable against it in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general equity principles.
19. **Force Majeure.** Merchant and Fleet One shall be excused for failure to perform under this Agreement where such failure results from circumstances beyond the affected party's control including, without limitation, such circumstances as fire, storm, flood, earthquake, strikes, work stoppages or slow downs, delay or failure of transportation or supplies, acts of war or terrorism, acts of God, or act, regulations, priorities or actions of the United States, a state or any local government or agents or instrumentalities thereof.
20. **Governing Law.** This Agreement shall be governed by and construed in accordance with the domestic laws of the state of Tennessee, without giving effect to any choice or conflict of law provision (whether the state of Tennessee or other jurisdiction).
21. **Term.**
- All payments and transactions for this period will be fulfilled according to the terms stated above and on Schedules A - D. This Agreement shall be for an initial term of three (3) years and be automatically renewed for one (1) year periods thereafter, subject to termination by either party on sixty (60) days written notice. In no event shall Merchant cease to honor valid, properly tendered Fleet One Cards prior to the expiration of the sixty (60) day notice period.
 - This Agreement may be terminated by either party at any time during its term upon ten (10) days prior written notice to the other party and without prejudice to any other remedy to which the party giving notice of termination may be entitled if the other party should:
 - be adjudicated a voluntary or involuntary bankruptcy;
 - institute bankruptcy or insolvency proceedings or file a petition for arrangement under the federal bankruptcy laws;
 - suffer to be instituted against it a bankruptcy or insolvency proceeding or a petition for arrangement under the federal bankruptcy laws which is not dismissed within (60) days;
 - make an assignment for the benefit of creditors; or
 - become insolvent or have a receiver of its assets or property appointed.
22. **Assignment.** Neither Party may assign this Agreement, whether in whole or in part, without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, that Merchant and Fleet One may assign this Agreement to any transferee of that part of their respective businesses and operations to which this Agreement pertains.
23. **Disclaimer of Liability.** The Merchant acknowledges and agrees that Fleet One is not responsible for and shall be held harmless for any damages resulting from accidental misprints in Fleet One's directories, hard copy and/or via the Internet. In addition, Fleet One is not responsible for payment if false information is intentionally given to obtain authorization.



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24. Communications. Merchant understands and confirms that by providing signature on this agreement, on behalf of the company/organization specified, the person signing is authorized to and hereby consents for the company/organization to receive communications via telephone, regular mail, fax and email sent by or on behalf of FleetOne, L.L.C., TransPlatinum Services Corp. or any respective affiliate or partner.

Your signature below indicates your acceptance of the terms and conditions of the Fleet One Merchant Services Agreement.

IN WITNESS THEREOF, the Parties have executed on this agreement effective as of the later of the two execution dates indicated below.

MERCHANT

FleetOne, L.L.C.

Signature: _____

Signature: _____

Print Name: _____

Print Name: Michael Thompson

Title: _____

Title: Senior Vice President of Sales and Marketing

Date: _____

Address: 5042 Linbar Drive, Nashville, TN 37211

Date: _____

Internal Use Only

Received by PCS on: ___/___/___

Name: _____

Signature: _____



PROFLEET
C • A • R • D



Consultant: _____

Check if New Merchant:

Corporate Chain Information

Merchant Information

Please complete information below once per chain.

Corporate Name: _____

Contact Name: _____

Marketing Contact: _____

Street Address: _____

City/St/Zip: _____

Mailing Address:
(For Checks)

City/St/Zip: _____

Phone #: _____

Fax #: _____

Email: _____

Is Merchant a Corporation? Y or N

Federal ID #: _____

Complete information below. NOTE: **If more than one merchant site/location**, copy blank form below and complete for each.

Name of Location: _____

Contact Name: _____

Street Address: _____

City/St/Zip: _____

County: _____

Phone #: _____

Fax #: _____

Email: _____

Fuel Types Available. Circle all that apply:
 (UL, 87) (UL+, 89) (Prem, 92/93) (DSL)
 (Bio-Dsl) (E-85) Others _____

Rack City: _____ Brand: _____

Freight Per Gallon: **Gas:** _____ **Diesel:** _____

Time Zone: _____ Daylight savings recognized? Y or N

Current Network Processor: _____

Current POS: _____

Current POS Version: _____

Mapping Information

Services Available. Circle all that apply:
 (Full) (Self) (Mini) (Restaurant) (Deli)
 (Showers) (ATM) (Repair/Maintenance) (Scales)

Hours of Operation: _____

18 Wheel Truck Access: Y or N

Located Near Interstate Exit? Y or N

Exit #: _____ Hwy: _____

NOTES: This form must be filled out completely and correctly.
 Lack of doing so will result in a delay in processing.
 Please attach this completed form to merchant agreement.

Office Use Only by Fleet One

Corporate Chain #	Merchant #
Ingenico	TID #
Tranz 380	Fingerprint #
Pin Pad 201	Check Digit #
Printer 900	



Schedule A-2 to Merchant Services Agreement

Fleet One Local and PCS ProFleet - Fuel Services and Fees Settlement and ACH Authorization

Legal Name of Merchant

I. Local Platform

A. Fleet One Local Card

1. Payment Terms. Fees to Merchant

- a. Fees to Merchant for purchases made at Merchant's Locations for Fleet One Local and PCS ProFleet Cards: (i) Fuel Rate*: 2.70% of the total Fleet One Sales Price. (ii) Transaction Fee*: \$0.10 per transaction for authorization and settlement. (iii) Items Other Than Fuel*: Same as above. (iv) Voice Authorization: a. Call Center Representative \$1.50 per authorization request b. Touch Tone \$0.30 per authorization request

* All fees are rates are for transactions processed directly through Fleet One. Transactions processed through a major oil network will be charged at rates defined by merchant's agreement with the major oil company.

- b. Merchant Set-Up Fee (new merchants only) \$125.00 per corporate entity
c. Fuel Sales Tax: For States with Fuel Sales Tax, Fleet One will reimburse Merchant the Fuel Sales Taxes, for those States that allow us to do so.
d. Prime Rate Adjustment: Should the Prime Lending Rate be equal to or greater than 9.5%, Fleet One will increase the Fuel Rate by 22 basis points (.22%) due to additional costs in receivable management. The reimbursement rate will return to the rate specified above when the Prime Lending Rate returns below 9.5%.

B. Settlement Method and Frequency. With respect to Purchase Transactions using the Fleet One Local Card, Fleet One will settle with Merchant on a weekly basis via Automated Clearing House ("ACH") credit. Fleet One will initiate the settlement transaction no later than 5 p.m. (prevailing Central Time) on Thursday (or, if Thursday is not a Business Day, then the immediate next Business Day) of each week with respect to Purchase Transactions effected in the immediate preceding week measured as Monday through Sunday. For reconciliation purposes, Fleet One will provide Merchant an electronic file setting forth all Purchase Transactions for which payment is made pursuant to the settlement transaction. Merchant agrees to reconcile the Fleet One statement weekly and notify Fleet One of any discrepancies within ten (10) working days. All figures are subject to audit by Fleet One.

C. Reports.

Merchant prefers to receive settlement reports via:

- checkbox Email. Email reports to the following address:
checkbox FTP Reports. All FTP reports will be accessed from the Fleet One FTP site only. A representative of Fleet One will contact Merchant with download instructions.

II. Fuel Purchase

Fleet One will purchase motor fuels from Merchant, and title to such fuels shall pass to Fleet One as such fuels pass from the nozzle of the retail fuel dispenser into the tank of the Fleet One customer's vehicle at Merchant's establishment. Pursuant to this Agreement, Merchant is deemed a Fleet One fuel supplier, and all payments to Merchant for such fuel shall include applicable taxes, including federal and state excise taxes, superfund tax and state environmental fees. "Fleet One Sales Price" means the price actually charged by Fleet One to the fleet for the purchase of fuel or other items, as applicable. For fuel purchases, financial settlement to the merchant will be based on one of the following pricing methods to the fleet: cash retail price, cost plus, cash retail less. Merchant will obtain an authorization number from Fleet One on all purchases. Merchant will provide Fleet One in writing any changes in fuel terminal, fuel/branded rack and common carrier freight rates.



Schedule A-2 to Merchant Services Agreement

Fleet One Local and PCS ProFleet - Fuel Services and Fees Settlement and ACH Authorization

Legal Name of Merchant

III. ACH Settlement Authorization

Merchant hereby authorizes Fleet One to initiate electronic funds transfer debits and credits via the Automated Clearing House (ACH) for settlement and any fees via the bank account number listed on this form. Merchant authorizes its financial institution named below to credit or debit such entries directly to/from Merchant's account. Merchant understands any changes to the bank account information or ownership must be reported to Fleet One, in writing, at least 7 business days prior to change.

Bank Name: Bank Phone #:()

Routing / ABA#: Account Number: (ABA# is your bank's 9 digit routing number located at the bottom of your checks.)

City: State: Zip:

OR Attached is a copy of a voided check.

MERCHANT

FleetOne, L.L.C.

Signature:

Signature:

Print Name:

Print Name: Michael Thompson

Title:

Title: Senior Vice President of Sales and Marketing

Date:

Address: 5042 Linbar Drive, Nashville, TN 37211 Date:



Internal Use Only

Received by PCS on: / /

Name:

Signature: