

## CLEAR MEMBERSHIP TERMS AND CONDITIONS

By clicking the "I AGREE" button that follows these Terms and Conditions, or otherwise enrolling in any of the programs offered by Alclear, LLC ("CLEAR") ("Program") or participating in the Program, the enrolling or participating individual ("Member") agrees as follows:

### **1. ENROLLMENT; ACTIVATION; TERM OF MEMBERSHIP**

#### **1.1. Enrollment**

Members may enroll in a Program either on-line or in-person by visiting an authorized CLEAR enrollment location. Members who enroll on-line must also enroll in-person after submitting the online enrollment application in order to complete the process of establishing membership in the Program. At a minimum, in-person enrollment requires Member to (1) visit an authorized CLEAR enrollment location, and (2) provide identification documents, fingerprints, and any other form of authentication required as part of the CLEAR enrollment process, in CLEAR's sole discretion. If Member's application is not approved by CLEAR, CLEAR will refund the Charges (as defined in Section 2.1). Following the successful completion by Member of either the online or in-person enrollment processes described in this Section 1.1, CLEAR will use commercially reasonable efforts to mail one (1) CLEAR Card to Member within 5 to 7 business days. Member may begin using the CLEAR Card upon receipt.

#### **1.2. Term of Membership**

The term of Member's membership will vary based on the Program in which Member enrolls. The initial term of Member's membership in the Program will commence upon the earlier of the date Member submits his or her online enrollment application or enrolls in-person in the Program and will continue for the number of months specified in Member's online enrollment application, which is determined based on the Program selected by Member ("Initial Term"). The Initial Term shall automatically renew for the successive terms specified in Member's online enrollment application, which are determined based on the Program selected by Member (the Initial Term and any renewal terms shall collectively be referred to as the "Term"), unless terminated in accordance with Section 9 of these Terms and Conditions. Member authorizes CLEAR to automatically renew Member's membership in accordance with this Section 1.2. In the event that Member established membership using

a payment method that does not permit CLEAR to renew the membership by initiating the Charges, then Member agrees to notify CLEAR's customer service group of the intent to renew and will submit payment for the then-current Charges no later than five (5) days prior to the expiration of the then-current Term.

#### **1.3. Members of the Registered Traveler Program Formerly Operated by Verified Identity Pass, Inc.**

CLEAR will offer membership at no cost to Members who previously were enrolled in the Registered Traveler Program operated by Verified Identity Pass, Inc. for the term remaining on such Members' membership as of June 22, 2009 ("Remaining Term"). The Remaining Term will commence on the earlier of (1) the date on which CLEAR begins to offer the Program at the Member's home airport, as determined by CLEAR in its sole discretion, or (2) the date on which the Member uses his or her CLEAR Card in a CLEAR line. Members are required to provide to CLEAR their credit or debit card information, or other payment method, as appropriate, along with updated contact information, as a condition of commencing the Remaining Term; however, CLEAR will not bill Member until the Remaining Term expires. Upon expiration of the Remaining Term, CLEAR will bill Member for a new Term at the full Member rate by initiating Charges on Member's credit or debit card or accepting another payment method. CLEAR will automatically renew Member's membership in the Program in accordance with Section 1.2 of these Terms and Conditions.

#### **1.4. Family Plan**

Member may elect to participate in the CLEAR Family Plan. The CLEAR Family Plan is available to the Member and one (1) family member of the Member who is over eighteen (18) years of age and who resides in the same residence as Member ("Family Member"). The Family Member may participate in the Program pursuant to the Family Plan rate set forth in the online enrollment application; provided, however, that the Family Member will no longer qualify for participation in the CLEAR Family Plan in the event that the Member's membership is no longer active or if Family Member no longer resides at the same address as Member (each, a "Change in Family Status"). As of the date of the Change in Family Status, Family Member will be automatically converted to a full Member and will be responsible for a lump sum payment equal to the pro-rata portion of the difference between the Family

Plan rate and the full Member rate for the remaining months in the Term. The Family Member's membership Charges are non-refundable.

### **1.5. Corporate Rate Plans**

Member may participate in a CLEAR corporate rate plan pursuant to a bulk discount rate plan set forth in Member's online enrollment application; provided, however that Member will no longer qualify for participation in the bulk discount rate plan in the event that Member ceases to be employed by the organization under which Member qualified for such bulk discount rate plan (a "Change in Employment Status"). As of the date of the Change in Employment Status, Member will be responsible for a lump sum payment equal to the pro-rata portion of the difference between the bulk discount rate plan rate and the full Member rate for the remaining months in the Term.

### **1.6. Notices**

All notices from CLEAR intended for receipt by Member shall be deemed delivered and effective when sent to the email address provided by Member during the enrollment process ("Notice"). If Member changes the email address he or she provided in connection with participation in the Program, Member must update the email address on the "Your Account" page of [www.clearme.com](http://www.clearme.com).

## **2. CHARGES**

### **2.1. Charges and Payment**

Member agrees to pay to CLEAR the fees, costs, expenses and other charges specified during the enrollment process (including any such fees, costs, expenses and other charges applicable to the Family Member) and in these Terms and Conditions (collectively, the "Charges") and acknowledges that CLEAR may increase the Charges applicable to any renewal term upon Notice to Member. Member acknowledges and agrees that the Charges will be billed to Member's credit or debit card, or will be paid by Member using another payment method approved by CLEAR, in each case as specified during Member's online enrollment process. In the event that Member loses the CLEAR Card or requires a replacement of the CLEAR Card for any reason, Member acknowledges and agrees that CLEAR may charge a fee to replace the CLEAR Card. Member hereby authorizes CLEAR to bill each of the payment transactions described in these Terms and Conditions to Member's credit or debit card, or to seek payment through another payment method approved by CLEAR. CLEAR may suspend or terminate

membership in the Program in the event that there are insufficient funds in Member's credit or debit card account or other payment method used by Member, as applicable, to pay the Charges in full. Member agrees to pay the cost of any returned check or other fees charged to CLEAR as a result of Member's insufficient funds.

### **2.2. Debit Cards / Electronic Funds Transfer**

Members who pay the Charges with debit cards or other forms of payment involving electronic funds transfers have the right to receive prior Notice of any increases to the Charges.

## **3. MODIFICATIONS TO THE PROGRAM**

### **3.1. Modifications to the Program**

Member acknowledges and agrees that CLEAR may, in its sole discretion, modify the Program (including the Charges applicable to the Program) and these Terms and Conditions at any time and in any manner. CLEAR will provide Notice to Members of material changes to the Program. Member may not amend or modify these Terms and Conditions under any circumstances.

## **4. REPRESENTATIONS, COVENANTS AND WARRANTIES**

### **4.1. Representations, Covenants and Warranties of Member**

Member represents, covenants and warrants to CLEAR that (1) these Terms and Conditions have been executed and delivered by Member and constitute a valid and binding agreement of Member, enforceable against Member in accordance with their terms; (2) Member will not use the Program, including any CLEAR Cards issued pursuant to the Program, except as expressly permitted by these Terms and Conditions and applicable Law (as defined in Section 5.1); (3) Member has not previously been, nor is Member currently, prohibited by any local, state, federal or foreign agency from taking part in the Program; and (5) all of the information, data and other materials provided by Member in support of Member's application for the Program are accurate and truthful in all respects.

### **4.2. Disclaimer**

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THESE TERMS AND CONDITIONS, THE CLEAR GROUP (AS DEFINED IN SECTION 10.1) MAKES NO REPRESENTATIONS, COVENANTS OR WARRANTIES AND OFFERS NO OTHER

CONDITIONS, EXPRESS OR IMPLIED, REGARDING ANY MATTER, INCLUDING (1) THE MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, NON-INFRINGEMENT OR RESULTS TO BE DERIVED FROM THE USE OF THE PROGRAM, OR ANY SERVICE, SOFTWARE, HARDWARE, DELIVERABLES, WORK PRODUCT OR OTHER MATERIALS RELATED TO THE PROGRAM (INCLUDING, WITHOUT LIMITATION, ANY CLEAR CARD); OR (2) WHETHER ANY AIRPORT AUTHORITY WILL ACCEPT OR OTHERWISE HONOR THE PROGRAM, INCLUDING ANY CLEAR CARDS ISSUED PURSUANT TO THE PROGRAM.

## **5. COMPLIANCE**

### **5.1. Generally**

Member shall use the Program, including the CLEAR Card, in strict compliance with (1) these Terms and Conditions; (2) any additional instructions issued in writing by CLEAR; and (3) all applicable laws, rules and regulations (collectively, "Laws").

## **6. CONTRACTORS**

### **6.1. Use of Contractors**

CLEAR may engage any third party (including CLEAR's affiliates) to perform, or support the performance of, all or any portion of the Program.

## **7. INTELLECTUAL PROPERTY RIGHTS; RESTRICTIONS ON USE**

### **7.1. Ownership of the Program and Related Data**

As between CLEAR and Members (collectively, "Parties"), CLEAR owns and will retain ownership of all rights, title and interest in and to the Program, including (1) any derivative works of the Program (including the CLEAR Card); (2) any CLEAR Cards issued in connection with the Program; and (iii) any intellectual property or other proprietary rights comprising either of the foregoing (collectively, "CLEAR IP"). Neither these Terms and Conditions nor any disclosure made hereunder grant any license to Member under any CLEAR IP.

### **7.2. Use of the Program**

Member may use the Program, including any CLEAR Cards issued pursuant to the Program, only on its own behalf and for lawful and appropriate purposes. Member shall not use the Program, or any CLEAR Card issued pursuant to the Program, for any commercial purpose other than as expressly permitted herein. For purposes of clarity, use of the

CLEAR Card in connection with Member's business travel will not be considered a prohibited commercial purpose. Member will notify CLEAR immediately of (1) any unauthorized use of the Program, including the unauthorized use of any CLEAR Card, whether by Member or a third party; (2) theft or misplacement of the CLEAR Card; (3) a Change in Family Status; or (4) a Change in Employment Status.

## **8. PRIVACY POLICY**

### **8.1. Privacy Policy**

A copy of CLEAR's policy that applies to the collection, use, disclosure and other processing of personal information (as that term is used in the Privacy Policy) is located at <http://www.clearme.com/Content.aspx?content=ClearPrivacyPolicy> ("Privacy Policy"). CLEAR may update the Privacy Policy from time to time, in its sole discretion, and post an updated version of the same at the website address provided above.

## **9. TERMINATION**

### **9.1. Non-Renewal**

Member may elect not to renew his or her membership by calling CLEAR's customer service group prior to the expiration of the then-current Term and informing the customer service group that Member intends not to renew his or her membership for a subsequent renewal term.

### **9.2. Termination by Member**

Member may cancel his or her CLEAR membership by contacting CLEAR's customer service group. Upon cancellation, CLEAR will refund Member's Charges on a pro rata basis, based on the remaining Term of the membership, subject to a \$30 cancellation fee. Notwithstanding the foregoing, Family Members who cancel membership in connection with a Change in Family Status will not be subject to the \$30 cancellation fee. CLEAR may modify the cancellation fee from time to time and without notice to Member; provided, however, that CLEAR will post information about modifications to the cancellation fee on [www.clearme.com](http://www.clearme.com).

### **9.3. Termination by CLEAR**

CLEAR may terminate Member's membership in the Program and use of any CLEAR Cards issued pursuant to the Program, in whole or in part, as follows:

(a) For Cause. Immediately (1) in order to comply with applicable Law or instructions

from any governmental agency or authority; (2) if CLEAR suspects that Member is using the Program in a manner not permitted by these Terms and Conditions; (3) if CLEAR suspects that Member or any third party is using any CLEAR Card issued to the Member in a manner not permitted by these Terms and Conditions; or (4) upon any breach of these Terms and Conditions by Member.

(b) For Convenience. For convenience, upon Notice by CLEAR to Member. In the event of termination for convenience, CLEAR will refund Member's Charges on a pro rata basis, based on the remaining Term of the membership.

#### **9.4. Effect of Termination/Survival of Selected Provisions**

Notwithstanding the expiration or earlier termination of Member's membership in the Program, the following sections of the Terms and Conditions shall survive any such expiration or termination: Sections 1.6, 4.2, 5.1, 7.1, 9.4(a) and 10 - 13. Upon the expiration or earlier termination of Member's membership, all rights and obligations of the Parties under these Terms and Conditions shall expire, except those rights and obligations under those sections specifically designated in this Section 9.4.

### **10. LIABILITY**

#### **10.1. Limitation of Liability**

THE LIABILITY TO MEMBER OF CLEAR OR CLEAR'S AFFILIATES (INCLUDING CLEAR'S HOLDING COMPANY), OR THEIR RESPECTIVE CONTRACTORS OR CURRENT, FUTURE OR FORMER OFFICERS, DIRECTORS, EQUITY OR UNIT HOLDERS, EMPLOYEES, AGENTS, SUCCESSORS OR ASSIGNS (COLLECTIVELY, THE "CLEAR GROUP"), ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR NON-PERFORMANCE BY THE CLEAR GROUP OF THE PROGRAM (INCLUDING THE CLEAR CARD) AND ITS OBLIGATIONS UNDER THESE TERMS AND CONDITIONS SHALL BE LIMITED TO ACTUAL, DIRECT DAMAGES INCURRED BY MEMBER FOR EACH EVENT THAT IS THE SUBJECT MATTER OF A CLAIM OR CAUSE OF ACTION. IN SUCH AN EVENT, THE AGGREGATE LIABILITY OF THE CLEAR GROUP FOR DIRECT DAMAGES FOR ALL SUCH CLAIMS SHALL NOT EXCEED THE AMOUNT PAID BY MEMBER TO CLEAR DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING SUCH CLAIM. THE CLEAR GROUP SHALL NOT, IN ANY

EVENT, BE LIABLE FOR DAMAGES THAT CONSTITUTE (1) LOSS OF INTEREST, PROFIT OR REVENUE OF THE CLAIMING PARTY, OR (2) INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, MULTIPLE OR INDIRECT DAMAGES SUFFERED BY THE CLAIMING PARTY, EVEN IF ANY MEMBER OF THE CLEAR GROUP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES.

#### **10.2. Remedies**

At its option, any member of the CLEAR Group may seek all remedies available to it under law and in equity, including injunctive relief in the form of specific performance to enforce these Terms and Conditions and/or actions for damages.

### **11. INDEMNITIES**

#### **11.1. Indemnity by Member**

Member will indemnify and hold harmless the CLEAR Group on demand, from and against any and all fines, penalties, liabilities, losses and other damages of any kind whatsoever (including attorneys' and experts' fees), incurred by any of the members of the CLEAR Group, and shall defend the CLEAR Group against (1) all claims that any information, data or other materials provided by Member in connection with the Program (including Member's application for the Program) or these Terms and Conditions, or use thereof by any member of the CLEAR Group, infringes, misappropriates or otherwise violates any Intellectual Property right of a third party; (2) all claims arising from fraud committed by, or the intentional misconduct or gross negligence of, Member; and (3) all claims otherwise arising due to a failure to comply or breach by Member of any term or condition of these Terms and Conditions.

### **12. DISPUTE RESOLUTION**

#### **12.1. Disputes**

If a dispute arises under these Terms and Conditions between Member and any member of the CLEAR Group, such dispute shall be resolved, at the filing party's election, in either a small claims court or by final and binding arbitration administered by the National Arbitration Forum or the American Arbitration Association, under their rules for consumer arbitrations. All disputes in arbitration will be handled solely between the named parties, and not on any representative or class basis. ACCORDINGLY, MEMBER ACKNOWLEDGES THAT IT MAY NOT HAVE ACCESS TO A

COURT (OTHER THAN A SMALL CLAIMS COURT) OR JURY. Notwithstanding any other provision of these Terms and Conditions, any member of the CLEAR Group may resort to court action for injunctive relief at any time if, in its good faith belief, the dispute resolution procedures described in this Section 12.1 would permit or cause irreparable injury to such member of the CLEAR Group or any third party claiming against a member of the CLEAR Group, due to delay arising out of such dispute resolution procedures.

**12.2. Governing Law**

All rights and obligations of Members or the CLEAR Group relating to these Terms and Conditions shall be governed by and construed in accordance with the Law of the State of New York without giving effect to any choice-of-law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the Laws of any other jurisdiction.

**13. GENERAL**

**13.1. Taxes**

Member shall be responsible for federal, state, local and foreign taxes imposed on any consideration for any provision of services (including, without limitation, the Program) or transfer of property by CLEAR to Member.

**13.2. Entire Agreement, Amendments and Modifications**

These Terms and Conditions constitute the entire agreement of the Parties with regard to the Program and all matters addressed herein, and all prior agreements, letters, proposals, discussions and other documents regarding the Program and the matters herein are superseded and merged into these Terms and Conditions.

**13.3. Force Majeure**

CLEAR will be excused from performance under these Terms and Conditions for any period that it is prevented from or delayed in performing any obligations pursuant to these Terms and Conditions, in whole or in part, as a result of a Force Majeure Event. For purposes of this Section 13.3, "Force Majeure Event" means an event or series of events caused by or resulting from any of the following: (1) weather conditions or other elements of nature or acts of God; (2) acts of war, acts of terrorism, insurrection, riots, civil disorders or rebellion; (3)

quarantines or embargoes, (4) labor strikes; or (5) other causes beyond the reasonable control of CLEAR.

**13.4. Severability**

If any provision of these Terms and Conditions shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and such provision shall be deemed to be restated to reflect the Parties' original intentions as nearly as possible in accordance with applicable Law(s).

**13.5. Assignment**

Member may not assign these Terms and Condition (or any rights, benefits or obligations hereunder) by operation of law or otherwise without the prior written consent of CLEAR, which may be withheld at CLEAR's sole discretion. Any attempted assignment by Member that does not comply with the terms of this Section 13.5 shall be null and void. CLEAR may assign these Terms and Conditions, in whole or in part, to any third party in its sole discretion.