

Teletrac Inc. TERMS AND CONDITIONS (Satellite Communications Telematics Device and Service)

These Terms and Conditions ("Terms") govern the Teletrac Subscriber Agreement or Sales Order (the "Agreement") between Teletrac Inc ("Teletrac") and the Customer named in the Agreement ("Customer") both collectively be referred to as "the Agreement".

1. DEFINITIONS

The following definitions shall be used throughout these Terms:

- ~ **"Alert"** means the service whereby alerts are directly sent to a Client's designated mobile phone, pager or email;
- ~ **"Associated Components"** means those components used in conjunction with the TD such as antennae, interconnecting cables, touchscreens, batteries, casings, cables, coverings and other non-electrical components;
- ~ **"Business Hours"** means Monday through Friday, 8:00 a.m. to 5:00 p.m., USA Pacific Time, excluding New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day;
- ~ **"Coverage Area"** means the United States of America (and additional countries if detailed in the Plan);
- ~ **"Enhancements"** means Updates, changes or improvements to the Software;
- ~ **"Fleet Director"** and/or **"Fleet Central"** means Teletrac's fleet and Vehicle management and messaging service as detailed on the Website from time to time;
- ~ **"GPS"** means Global Positioning System;
- ~ **"IPR"** means any patents, trademarks, service marks, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, trade or business names and other similar rights or obligations whether registerable or not in any country;
- ~ **"License"** means the license to use the Telematics Devices and the Software granted by Teletrac to the Customer as set out in Paragraphs 4.1 and 1.7.2 herein;
- ~ **"Map Engine"** means mapping software licensed to Teletrac;
- ~ **"Map Suppliers"** means the suppliers of the Map Engine and Mapbase which together enable the Software to process location data and represent the locations of TD on computers;
- ~ **"Mapbase"** means map databases licensed to Teletrac;
- ~ **"OEM"** means Original Equipment Manufacturer (vehicles);
- ~ **"Overage Charges"** means any and all extra data charges incurred by Teletrac resulting from the Customer's data usage above the levels allowed for in the Plan as provided for in Paragraph 6.3;
- ~ **"Plan"** means the Sales Order including monthly Services/communications/maintenance plan selected by the Customer and detailed in the Agreement;
- ~ **"Provisioning"** means activation of a TD to receive and transmit messages via Satellite;
- ~ **"RMA"** means Returned Materials Authorization;
- ~ **Satellite** means Iridium Satellite LLC ("Iridium") satellite communication services or as otherwise detailed in the Plan;
- ~ **"Services"** means the provision of TDs, location and data communication services, the Software, as well as any ancillary support or maintenance services provided by Teletrac to the Customer together more commonly known as **"Fleet Director"** and/or **"Fleet Central"** and as detailed in the Plan and any other service detailed on the Website;
- ~ **"Shipping Date"** means the date Teletrac ships a TD to the Customer;
- ~ **"Site"** means the location specified by the Customer for installation of the TD and listed in the Agreement;
- ~ **"Software"** means Teletrac's Fleet Director/Fleet Central web based software applications as detailed on the Website, the software installed on TD and all third party licensed software used by Teletrac including the Mapbase and Map Engines and Updates in addition to the look and feel of web applications forming part of the Software;
- ~ **"Support Hours"** means 24 hours a day, 365 days a year, excluding New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day in the USA ;
- ~ **"Telematics Device(s)"** or **"TD(s)"** means the mobile tracking and communications device(s) detailed in the Agreement and Associated Components and installed software provided by Teletrac or a 3rd party to the Customer for installation on Vehicles or trailers to enable the provision of Services;
- ~ **"Term"** means for the number of years or months detailed in the Agreement commencing 14 days after Provisioning, in addition to the period from the Shipping Date to Provisioning (if any) and any renewal periods thereafter;
- ~ **Third Party** mean any third party that provides services to the Customer using information derived from the Services and **"Third Party Services"** means the services provided by Third Parties;
- ~ **"Updates"** means updates to Software, such as bug fixes, patches, enhanced functions, missing plug-ins or new versions;
- ~ **"VAR Agreement"** means a Commercial Value Added Reseller Agreement between Teletrac and a third party;
- ~ **"Vehicle"** means a vehicle, asset or trailer owned or controlled by the Customer and designated in the Agreement (or otherwise agreed by the parties in writing) for installation with a TD; and

~ **"Website"** means the Teletrac website at www.teletrac.com and all other associated websites including www.fmsgps.com.

2. ACCEPTANCE

- 2.1. The provision by Teletrac to the Customer of Services shall be subject to these Terms and Paragraph 19.3 applies. The signing of the Agreement by the Customer and/or use of Services having had the opportunity to read these Terms shall be deemed conclusive evidence of the Customer's acceptance of the Terms of the Agreement. Customer authorizes Teletrac to insert any missing information onto the Agreement and to correct any misspelling or other such minor errors.
- 2.2. The technology related to the Services and the Software is constantly changing and being developed. As a result of this, Teletrac reserves the right to make reasonable changes to the terms of the Agreement at any time during the Term, but will only do so when it has good reason. In the case of a change Teletrac will publish the updated terms at <http://www.teletrac.com/terms-of-service-satellite>. The updated terms will apply from the date the updated terms are published on the Website. The Customer should visit the Website regularly to identify any changes.

3. DELIVERY, SHIPPING AND HANDLING

- 3.1. Unless otherwise stated in the Agreement Customer is responsible for all shipping and handling charges. Teletrac is not obliged to provide the Customer with copies of freight bills. Unless otherwise stated on the Plan, all deliveries are FOB Teletrac's Californian warehouses. Customer shall be the importer of record and will provide Teletrac with all necessary documentation to recover any taxes withheld from payment.
- 3.2. Shipping or delivery dates of TD are best estimates only. Teletrac reserves the right to make deliveries of TD in installments. Delivery delay or default of any installment shall not relieve the Customer of its obligation to pay for Services provided by Teletrac or accept remaining deliveries of TD. Customer shall receive shipments of TDs specified in the Plan within 14 days of notification by Teletrac of the readiness of such shipments.

4. LICENSE, RISK OF LOSS, TITLE AND SECURITY INTEREST

- 4.1. The Customer assumes the risk of any loss, fire, damage, and theft of TD after delivery to the Customer.
- 4.2. If the Plan provides for the Customer to purchase TD, the legal and beneficial ownership of TD shall pass to the Customer after payment in full to Teletrac of the price of TD (including any interest and other costs as set out in the Agreement) and until such time TD remains the property of Teletrac. However, despite payment in full to Teletrac, the Customer hereby grants to Teletrac a security interest in TD to secure payment in full of all other amounts due under the Agreement.
- 4.3. The Customer hereby acknowledges that any IPR relating to the TD shall remain Teletrac's exclusive property and that despite ownership of the TD it undertakes not to use any TD with any location related technology services provided by any company other than Teletrac during or after the Term.
- 4.4. If a Vehicle is repossessed and a TD remains in the Vehicle, the Customer obligations under the Agreement continue and Teletrac will not be liable to pay any refund of any payments made by the Customer.
- 4.5. TD may only be removed from a Vehicle upon receipt of written notification to Teletrac. The Customer may not sublicense, assign, rent, lease or otherwise transfer or market a TD.
- 4.6. Teletrac may reasonably inspect TD during the Term.

5. INSTALLATION OF TD AND WARRANTY

- 5.1. Teletrac shall install TD using a qualified person or agency. Teletrac shall have the right to subcontract the installation in whole or part and shall notify Customer of the details of the subcontractor appointed on request. The parties may agree to Customer installation of TDs after training and certification, but Teletrac may charge for the same. The installation of TD shall be completed within a reasonable period of time. Teletrac may charge the Customer a surcharge for waiting time and other delays associated with installation caused by the Customer's failure to have the Site or Vehicles available as specified in the Plan or otherwise agreed with Teletrac. The Customer acknowledges that it is aware that in order to install TD it might be necessary for Teletrac or one of Teletrac's subcontractors to drill holes in either the exterior or interior of Vehicles and agrees that Teletrac shall not be liable for any costs, expenses or damages arising in any way from such work. Teletrac warrants the installation of TD for 90 days. All warranty claims must be in writing to Teletrac.
- 5.2. Installation of TD and any warranty or maintenance services shall take place at the Site. If the Site is not a Teletrac service center then the Customer shall provide a Site which meets the following standards:
 - 5.2.1. The Site shall be safe and present no hazards;
 - 5.2.2. All necessary utilities (including plumbing, lighting, electrical power) shall be easily accessible and provided without charge to Teletrac;

- 5.2.3. The Customer shall, at its expense, obtain and maintain during the period of installation a policy of general liability insurance covering any liability arising out of Teletrac's use or occupancy of the Site and all appurtenant areas;
- 5.2.4. Customer shall indemnify and hold harmless Teletrac from and against any and all liabilities, including reasonable attorney's fees arising from Teletrac's use of the Site or the condition of the Site; and
- 5.2.5. Customer shall allow Teletrac, its authorized agents, and subcontractors full and free access to the Site at agreed and scheduled installation times during Business Hours and shall not require that Teletrac waive any claim arising from its use of the Site or impose any other restrictions as a requirement of access to the Site. Teletrac shall attempt to honor any Customer requests for installation during non-Business hours, but may charge the Customer a surcharge for such installation.
- 5.3. Subject to Paragraphs 8 and 18, Teletrac warrants TD against defects in materials and workmanship for a period of 12 months from installation, or as otherwise detailed in the Plan, save that the warranty does not cover Associated Components. To obtain a warranty or maintenance service, Customer must contact the Teletrac Help Desk as specified from time to time. Teletrac may at its discretion:
- 5.3.1. advise the Customer to (a) obtain a RMA; (b) adequately package the defective TD; (c) ship the defective TD to the address provided by Teletrac; and (d) mark the RMA number prominently on the outside of the carton. TD received without an RMA number will be returned Freight Collect to Customer. Teletrac will return the repaired or replacement TD to the Customer Freight Prepaid and fully insured if the warranty claim or request for maintenance is valid, but may charge for repaired or replaced Associated Components; and
- 5.3.2. Repair, remove and/or reinstall the TD at a location and time agreed between the parties in which case Teletrac shall be entitled to charge for travel costs, Associated Components, travel time and labor.
- 5.4. In the event that a warranty claim or request for maintenance is not pursuant to the Agreement, Teletrac may agree to repair or replace TD in accordance with the same process as outlined in 5.3 and Teletrac shall be entitled to charge for travel costs, Associated Components and labor and freight charges.
- 5.5. Under no circumstances will Teletrac be liable for any costs and expenses incurred by a Customer (through a third party or otherwise), such as repair costs to a TD and/or a Vehicle, in the event that the Customer does not first comply with its obligations under the warranties detailed in 5.1 and 5.3 above to give Teletrac the opportunity to verify any claim under the warranties and where appropriate either arrange remedial work or replacement either to be carried out by Teletrac (or its sub-contractors), or by the Customer (or its sub-contractors) on terms agreed in writing with Teletrac. Therefore, any costs and expenses incurred by a Customer, whether a warranty claim is valid or not, before notification, verification by and agreement with Teletrac in terms of the validity of the warranty claim, repair or replacement, by Teletrac or another, are costs and expenses that shall be borne by the Customer.
- 5.6. The TD is an electronic assembly that consume electrical current. They are designed to draw low amounts of current when the Vehicle is not being operated and therefore there is a small drain on the Vehicle battery that may adversely affect Vehicles that are not in regular operation. Teletrac is not liable for any consequences of the battery drain associated with use of TD and recommends that the Vehicle battery should be recharged periodically to ensure maximum performance.
- 5.7. TD installed on trailers and other heavy machinery are often subject to harsher conditions and treatment than those installed inside Vehicles. Teletrac is not liable for the consequences of damage to TD as a result of exposure to external conditions such as, but not exclusively, weather and contact with physical objects.
- 5.8. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH 5, Teletrac MAKES AND CUSTOMER RECEIVES NO OTHER WARRANTY WITH RESEPECT TO TD, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, EFFECTIVENESS, COMPLETENESS, ACCURACY, TITLE AND NON-INFRINGEMENT ARE EXPRESSLY EXCLUDED, EXCEPT WHERE PROHIBITED BY LAW, AND WHERE PROHIBITED, ANY SUCH WARRANTY IS LIMITED TO THE MINIMUM WARRANTY AND PERIOD PROVIDED BY LAW. NO EMPLOYEE OR AGENT OF TELETRAC HAS THE AUTHORITY TO GRANT ANY OTHER WARRANTY TO CUSTOMER, WRITTEN OR ORAL.
- 5.9. The above warranties shall be null and void in the event that there has been any alteration, modification, or special configuration made by the Customer or its contractor to a TD or de-installation or installation of a TD unless Teletrac has approved in writing such contractor or approved the work undertaken by the Customer or its contractor and accordingly in such circumstances Teletrac shall be entitled to charge for repairs and/or replacements and a reasonable fee for a visit to a Site.
- 6. LOCATION AND DATA COMMUNICATION SERVICES**
- 6.1. The Services are intended only for routine messaging and ascertaining of location, Vehicle status and business information (i.e. not emergency or prevention of crime).

- 6.2. *All Services may not be available to Customer now or in the future. Availability and scope of Services will be in accordance with the Plan.*
- 6.3. *The cost of communications associated with the use of the Services is included in the fees specified in the Plan, unless specified as a separate and additional cost in the Plan. If the Customer's data communications usage materially exceeds any maximum amounts specified in the Plan, Teletrac may at its sole discretion charge the Customer Overage Charges.*
- 6.4. *Customer acknowledges that Teletrac may, for its internal test and quality control purposes, without charge to the Customer, locate or communicate with TD used by the Customer.*
- 6.5. *The Services provided by Teletrac to Customer hereunder are solely for Customer's internal business use as set forth in the Agreement allowing the Customer to locate and communicate with TD and the data or output from the Services may not be resold or otherwise offered to or used by third parties and the Customer shall not use the Software to operate as a value added reseller or for any other use involving using the Services to process the data of other persons and/or entities, unless it has signed a VAR Agreement.*

7. SOFTWARE

- 7.1. *The Software includes software components and the Mapbase and Map Engine licensed to Teletrac by various entities (collectively, "Teletrac's Licensors") and is provided with RESTRICTED RIGHTS. The Software is a proprietary product of, and constitutes copyright ©1991-2013 by Teletrac and Teletrac's Licensors. ALL RIGHTS RESERVED UNDER THE COPYRIGHT LAWS OF THE UNITED STATES and international treaty. For purposes of any public disclosure provision under any federal state, or local law, it is agreed that the Software is a trade secret and a proprietary commercial product and not subject to disclosure. All right, title and interest in and to the Software and all copies and duplicates thereof, and all related copyrights, trademarks, trade names, trade secrets rights and other intellectual property and proprietary rights and interests, are vested and remain in Teletrac and Teletrac's Licensors. The Software is licensed, not sold, to the Customer for use only under the terms of the Agreement. Teletrac is NOT transferring title or any ownership rights in the Software to the Customer and Teletrac and Teletrac's Licensors reserve all rights not expressly granted to the Customer. The Customer may not damage or compromise Teletrac's or Teletrac's Licensors' copyrights, trademarks, trade names, trade secrets or other proprietary interests in the Software. If the Customer breaches the Agreement, monetary damages will not suffice to compensate Teletrac and/or Teletrac's Licensors and Teletrac and/or Teletrac's Licensors will be entitled to equitable remedies, including, without limitation, temporary restraining orders and temporary and permanent injunctions, without being required to post any bonds or security or prove special damages.*
- 7.2. *Teletrac grants the Customer a limited nonexclusive, non-transferable license to use the Software for the Term and for purposes of the Agreement.*
- 7.3. *The Customer must use the Software on computers with minimum processing capabilities as designated by Teletrac and with access to an internet connection, preferably a high speed dedicated connection.*
- 7.4. *The Customer may not sublicense, assign, rent, lease or otherwise transfer or market the Software, Agreement or License.*
- 7.5. *The Customer may not derive or attempt to derive the source code or structure of all or any portion of the Software by reverse engineering, disassembly, decompilation, or any other means. The Customer may not decompile, disassemble, reverse engineer, port, translate, modify, copy, transfer, make derivative works of, or otherwise use the Software, except as expressly authorized by the Agreement. The Software and all materials and knowledge related thereto is obtained by the Customer and its employees, agents and representatives in confidence and shall not be duplicated or disclosed or published by any such persons in any form, or reproduced, transcribed, imitated or simulated in whole or in part. The Customer must take all reasonable steps to ensure it does not transmit worms or viruses or any code of a destructive nature that may affect the Software or Services or use the Software or Services for inappropriate and/or illegal purposes. The Customer may disclose relevant aspects of the Software to employees, agents and representatives to the extent that such disclosure is reasonably necessary to use the Software in accordance with the Agreement; provided however, that the Customer shall take all reasonable steps to ensure that the Software is not disclosed or duplicated in contravention of the Agreement by such employees, agents and representatives.*
- 7.6. *If there is any violation or suspected violation of any provision of Paragraph 7.5, the Customer shall immediately notify Teletrac and shall, at its expense, assist Teletrac in the enforcement of Paragraph 7.5 against any of its current or former employees, agents, or representatives. Regardless of any right to enforce its rights directly, Teletrac shall not be obligated to do so, and the obligation to enforce shall remain with the Customer whether or not Teletrac takes such action. The Customer agrees to indemnify and hold Teletrac harmless from any claim, liability, damage or expense, including reasonable attorney's fees, suffered by Teletrac as a result of any violation of Paragraph 7.5 by it or its current or former employees, agents or representatives.*

- 7.7. Teletrac warrants that the Software will perform in substantial compliance with the written materials provided to the Customer by Teletrac or as detailed on the Website. No oral advice or information provided by Teletrac or any of its agents or employees, whether given before or after first use of the Software shall create a warranty or in any way increase the scope of this limited warranty, and the Customer is not entitled to rely on any such information. This warranty shall not be applicable if there has been any alteration, modification, or special configuration made to the Software by the Customer.
- 7.8. Only the current version of the Software and the immediately preceding version will be supported by Teletrac. The Customer will be advised of changes to the Software (which may be implemented at Teletrac's discretion from time to time) and the Customer shall diligently follow any such instructions as soon as reasonably possible. Customers may be required to pay Teletrac a current license upgrade fee. Teletrac shall have no liability to the Customer should it fail to upgrade the Software after having received notice of changes.
- 7.9. The Software utilizes a Mapbase owned and maintained by the Map Suppliers. The Customer's use of these Services is subject to the terms of the Map Suppliers.
- 7.10. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SOFTWARE IS PROVIDED AS IS. THE EXPRESS WARRANTIES PROVIDED IN PARAGRAPH 7.7 ARE LIMITED WARRANTIES AND ARE THE ONLY WARRANTIES MADE BY Teletrac. Teletrac AND Teletrac's LICENSORS MAKE AND CUSTOMER RECEIVES NO OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, EFFECTIVENESS, COMPLETENESS, ACCURACY, TITLE AND NON-INFRINGEMENT ARE EXPRESSLY EXCLUDED, EXCEPT WHERE PROHIBITED BY LAW, AND WHERE PROHIBITED, ANY SUCH WARRANTY IS LIMITED TO THE MINIMUM WARRANTY AND PERIOD PROVIDED BY LAW. NO EMPLOYEE OR AGENT OF Teletrac HAS THE AUTHORITY TO GRANT ANY OTHER WARRANTY TO CUSTOMER, WRITTEN OR ORAL.
- 7.11. Teletrac does not warrant, represent or guarantee that Alert will work 100% of the time for the reasons including but not limited to those detailed in Paragraphs 9.4-9.6 herein and because the operation of Alert depends on the Customer's configuration of the Software and whether or not the computers and/or mobile phones used by the Customer to receive messages are operational or not.
- 7.12. The Customer acknowledges that if, speed data, vehicle analytics, battery life, fuel data form part of the Services in the Plan it may contain inaccurate or incomplete information due to changing circumstances, sources used and the nature of collecting such data, any of which may lead to incorrect results.
- 7.13. Subject to Paragraphs 10 and 18, Teletrac shall provide the services described below without additional charge (unless specified) during each period for which Customer has purchased Services:
- 7.13.1. Defects in the Software. During the Term, if the Customer reports a defect in the Software, Teletrac shall use reasonable endeavors to resolve such defect as part of an Update. In the event of each notification to Teletrac, Teletrac may request that the Customer first submit to Teletrac a written description of the apparent defect, a complete copy of all output, including, when possible, screen shots of print outs of the apparent defect and sufficient information to reproduce the defect;
- 7.13.2. Material Defects in the Software: If the Customer reports in writing, a material defect in the Software to Teletrac within 90 days of the defect first becoming apparent, and Teletrac is unable to reasonably correct it within 90 days of the date of the report, Teletrac will refund to the Customer a proportion of fees paid for those parts of the Services that were inoperative for the period from when the defect first became apparent to when the defect was corrected. In the event of each notification, Teletrac may request that the Customer first submit to Teletrac a written description of the apparent defect, a complete copy of all output, including, when possible, screen shots or print outs of the apparent defect and sufficient information to reproduce the defect. The Customer agrees that its only remedy under this limited warranty is to receive a refund of the amount paid for the inoperative Services in the said period;
- 7.13.3. Telephone Consultation/On-Line Diagnostic Support. Teletrac provides telephone support by its representatives during Support Hours. In addition, Teletrac offers on-line diagnostic support through the use of remote access software of Teletrac's designation, or other connectivity software where available; and
- 7.13.4. On-Site Troubleshooting and training. When necessary, Teletrac may offer the Customer on-site troubleshooting support. Teletrac retains the right to charge the Customer for such support. Any additional support requested by the Customer, including general maintenance, installation of Upgrades, which requires support by Teletrac representatives at Customer's site, shall be provided and charged to the Customer at Teletrac's standard support rates as specified by Teletrac from time to time plus the cost of travel of Teletrac representatives (including meals and overnight lodging, if necessary).

8. FURTHER LIMITATION TO WARRANTIES

The warranties specified in these Terms (TD, installation and Software) shall be null and void in the event that there has been:

- 8.1. use of TD and/or Software that is not in the ordinary course of business or has not been approved in writing by Teletrac;*
- 8.2. accidents, misuse, abuse, neglect, damage and tampering with TD and/or the Software;*
- 8.3. improper installation, maintenance, or repair (not provided or authorized by Teletrac) of TD and/or the Software;*
- 8.4. connection of TD to an improper voltage supply, reception or transmission problems caused by inadequate or improper antenna (not provided by Teletrac);*
- 8.5. water, weather or physical damage to TD or exposure to the elements;*
- 8.6. use of TD with accessories or devices not approved by Teletrac; or*
- 8.7. use of the Services other than in the normal and customary manner.*

9. TELECOMMUNICATION CARRIERS & GPS

The Customer acknowledges that communication services (such as Satellite) used in the provision of the Services are provided by third party communications providers and the Customer specifically acknowledges and agrees the following:

- 9.1. Customer acknowledges that the Services may be temporarily refused, interrupted, curtailed or limited because of atmospheric, terrain, or other natural or artificial conditions and may be temporarily interrupted or curtailed due to usage concentrations, modifications, upgrades, relocation and repairs of the transmission networks. Customer agrees that Teletrac shall not be responsible for such interruptions of Services or the inability to use the Services within the Coverage Area.*
- 9.2. Teletrac does not guarantee the security of wireless transmissions and the Customer agrees that it shall not be liable for any lack of security relating to the use of the Services;*
- 9.3. Teletrac may temporarily suspend or permanently terminate the provision of some or all of the Services upon little or no notice in the event that Teletrac's agreement with its Satellite provider is terminated or in the event the Customer violates their acceptable use policy or other network rules and policies.*
- 9.4. Teletrac will use all reasonable endeavors to give notice to the Customer in the event of notification that a Satellite provider intends to discontinue or suspend its provision of Satellite services. However in such circumstances where provision of all or part of the Services is no longer possible without changes to the Services, Teletrac shall be entitled to temporarily suspend or permanently terminate the provision of some or all of the Services upon little or no notice to the Customer. On request by the Customer, Teletrac agrees to offer suitable alternative Services using alternative communications on commercial terms;*
- 9.5. The TDs utilize GPS technology in order to establish geographic location information. While GPS can provide worldwide, three-dimensional positions, 24 hours a day, in any type of weather there are some limitations inherent to GPS technology. There must be a relatively clear "line of sight" between the GPS antenna and 4 or more satellites. Objects, such as buildings, overpasses, and other obstructions (such as parking in garages or underground structures) that shield the antenna from a satellite can potentially weaken a satellite's signal such that it becomes too difficult to ensure reliable and/or accurate positioning. These difficulties are particularly prevalent in densely urban areas;*
- 9.6. The Customer acknowledges that it is improbable that the communication services used and GPS will have 100% coverage or functionality in any area at all times. Any deviations from any coverage representations made or from any coverage map shown to the Customer shall not constitute default by Teletrac. Any surveys, if provided, are to indicate general parameters of expected coverage, subject to previously mentioned conditions, and are not binding as an exact representation of coverage; and*
- 9.7. In the event that the Customer's use of TD either intentionally or unintentionally results in abnormal and/or excessive communications usage, Teletrac shall be at liberty to suspend Services in relation to the relevant TD, for a reasonable amount of time, on written notice to the Customer, until Teletrac is able to assess the cause and implement a solution.*

10. INTERRUPTION OF SERVICES; FORCE MAJEURE

Teletrac shall have no liability for a failure to provide or for delay in providing TD, installation of TD or Services due directly or indirectly to causes beyond the control of Teletrac or its subcontractors, including, without limitation, acts of God, or governmental entities, or of the public enemy, termination of Services due to actions of a TC, including, but not limited to, deactivation/dismantling of a TC's GPRS network, acts of the Customer, strikes, unusually severe weather conditions, interruptions of transportation, political instability or inability to obtain necessary labor, materials or facilities, default of any supplier, or delays in Federal Communications Commission ("FCC") frequency authorization or license grant. Delivery schedules of TD shall be considered extended by a period of time equal to the time lost because of any such delay. If Teletrac is unable to wholly or partially provide TD or perform the Services for more than 30 days because of any cause beyond its control, Teletrac may terminate the Agreement without any liability to Customer, other than refund any amounts paid for TD, Software or Services which have not been provided and all deposits and advance payments made by the Customer will be retained by Teletrac as compensation for documentation, processing and other expenses.

11. REVISION OF FEES AND SERVICES

Before the end of the Term Teletrac may, upon 60 days' notice revise the monthly rates for Services set forth in the Plan, such changes to take effect immediately after the Term finishes. If the Customer terminates the Agreement other than as herein provided, all accrued and unpaid charges shall be immediately due and payable.

12. AUTOMATIC RENEWAL & TERMINATION

- 12.1. At the expiration of the Term, the Agreement shall automatically renew for successive 12 month periods unless express written notice is received by either party from the other at least 30 days, but not more than 90 days, prior to the expiration date.*
- 12.2. The Customer shall pay Teletrac the unpaid aggregate price and fees for all Services listed in the Plan for the remaining term of the Agreement if the Customer cancels the Agreement otherwise in accordance with 12.1 above.*
- 12.3. The Agreement shall terminate immediately without liability if either the Satellite or GPS networks are shut down.*
- 12.4. The Agreement may be terminated by Customer on 90 days written notice if Teletrac is in breach of any of the material terms of the Agreement, and such breach is not cured within the 90-day notice period.*
- 12.5. The Customer is not entitled to terminate the Agreement pursuant to 12.4 above for any alleged breach of warranty under Paragraphs 5.1, 5.3 or 7.7 herein unless such warranty claim is in writing and follows the procedures set out in Paragraphs 5.1, 5.3 or 7.13 and Teletrac fails to meet its obligations under Paragraphs 5.1, 5.3, 7.7 or 7.13 herein and after 90 days written notice of breach as prescribed in 12.4 above.*
- 12.6. Upon termination of the Agreement for whatever reason the Customer shall not use the Software for any and return to Teletrac or destroy all related documentation if requested by Teletrac. The enforceability of the Agreement which by its nature shall survive the termination of the Agreement.*
- 12.7. In the event that the Agreement relates to a Customer's trial or evaluation of the Services ("a Trial"), and in the event that the Agreement does not continue after a Trial, Teletrac shall be entitled to charge the Customer a handling and administration fee per Unit at Teletrac's then current rates in addition to de-installation charges and take any and all steps as provided for in Paragraph 13.2 in the event that the Customer does not return TD (save that in the event of a Trial Teletrac will pay the shipping costs of returning TD to Teletrac). Otherwise these Terms apply to the Agreement until its termination or expiry.*

13. CUSTOMER DEFAULT AND TELETRAC REMEDIES

- 13.1. Customer shall be deemed to be in default in the event of any of the following (each an "Event of Default"):*
 - 13.1.1. Customer does not pay any amount due within 10 days of when it first becomes due;*
 - 13.1.2. Customer is in breach of any of the material terms of the Agreement, or any other obligation with Teletrac, and does not cure such breach within 90 days of receipt of notice of such breach;*
 - 13.1.3. Customer transfers or attempts to transfer any TD to another party; or*
 - 13.1.4. Customer gives Teletrac reasonable cause to be insecure with Customer's willingness or ability to make required payments, such as Customer is unable to pay its debts as they fall due or Customer becomes insolvent or makes a general assignment for the benefit of creditors, if a petition in bankruptcy is filed by the Customer, or such a petition is filed against and consented to by the Customer or not dismissed within sixty (60) days of filing, or if a bill in equity or other proceeding for the appointment of a receiver of the Customer or other custodian for the Customer's business or assets is filed and consented to by the Customer, or if a receiver or other custodian (permanent or temporary) of the Customer's assets or property, or any part of the Customer's assets or property, is appointed.*
- 13.2. In the event of the Event of Default Teletrac may, in addition to the other rights set forth elsewhere in the Agreement take all or any of the following steps:*
 - 13.2.1. Suspend any or all Services;*
 - 13.2.2. Charge the Customer a \$5 per TD administration charge and a late fee and interest at the rate of one and one-half percent (1 1/2%) per month (or the highest rate permitted by law, if such rate exceeds the highest rate permitted by law) to compensate Teletrac for the extra administrative expenses incurred by it;*
 - 13.2.3. Accelerate all sums due or to become due (future amounts discounted to present value on the date of computation at 5% per year) in connection with the Agreement as liquidated damages for breach of the Agreement and not as a penalty;*
 - 13.2.4. Exercise any remedy at law or equity, for which Customer expressly waives any required notice;*
 - 13.2.5. Refer the Agreement to an attorney for legal action, in which case, Customer agrees to pay Teletrac's reasonable attorney's fees and actual costs, including our travel costs to any deposition or court appearance. Customer*

further agrees that a reasonable attorney fee is not less than the greater of \$300.00 or 25% of the total amount in collection as a liquidated damage and not a penalty; and/or

- 13.2.6. Charge the Customer a reactivation fee for each TD should Teletrac suspend Services and then re-activate the Services at Teletrac's then current rates.

14. MICROSOFT Corporation (a Map Supplier) End User Terms (applicable to Services that use Microsoft mapping)

The Microsoft Terms of Use and Online Privacy Statements are available at <http://go.microsoft.com/fwlink/?LinkId=21969> and <http://privacy.microsoft.com/en-us/fullnotice.aspx> and Microsoft may change their terms from time to time.

15. ADDITIONAL THIRD PARTY SERVICES

- 15.1. Third Party Services are only available to Customers which have the Third Party Service included in the Plan and who have paid for the relevant Subscription for these services and the provisions of this Paragraph 17 shall apply.
- 15.2. The Customer and Authorized users of the Vehicle remain at all times responsible for observing all relevant laws and regulations in addition to codes of safe driving and Teletrac will not in any event be liable for any fine, penalty, or punishment imposed.
- 15.3. Teletrac will make all reasonable efforts to procure the accuracy and completeness of information and reports supplied directly by Third Parties, but does not warrant the accuracy or completeness of them at all times.
- 15.4. The format and content of Third Party reports to the Customer may be changed by the Third Parties, from time to time.

16. PAYMENT/TAXES

Customer shall make payments to Teletrac in accordance with the Agreement, at such place and/or by such means as Teletrac designates from time to time. Specifically:

- 16.1. Payment for TDs in addition to shipping, installation and Provisioning costs and charges for Services from 14 days post Provisioning to the end of the following calendar month, shall be made in advance by electronic transfer or credit card payment unless otherwise specified in the Plan.
- 16.2. Thereafter charges for the Services are due to be paid by electronic transfer in advance at the beginning of each calendar month or quarter or year as detailed in the Plan, from the start of the next calendar month to the expiry of the Term, or as otherwise detailed in the Plan, and are not refundable.
- 16.3. Incremental charges and other service charges, including, without limitation, training, further installation costs, Overage Charges and warranty charges are billed in arrears and shall also be paid on 30 days terms;
- 16.4. Except for the amount, if any, of any tax or fee included in the Agreement, the prices set forth therein are exclusive of and the Customer agrees to pay when due any amount for federal, state, local or foreign excise, sales, use, personal property tax, retailer's occupation, telecommunication or similar taxes, or any duties, customs or similar charges or any fines or penalties or fees relating to this Agreement or TD ("Impositions"). If any such Imposition is determined to be applicable to the Agreement or Teletrac is required to pay or bear the burden thereof or if any Imposition included in the Agreement is incorrect, the prices set forth in the Plan shall be increased by the amount of the Imposition, and Customer shall pay to Teletrac the full amount of any such increase no later than 10 days after receipt of a bill thereof.
- 16.5. Unless otherwise detailed in the Plan the Customer further agrees to pay Teletrac a document fee on or before the date the first payment by it to Teletrac is due.
- 16.6. Save for Paragraphs 10 and 7.13.2, no advance payments made by the Customer for the Services and/or TD are refundable.

17. INFORMATION

- 17.1. The Customer warrants that it will advise any employee or other authorized user of a Vehicle that the:
- 17.1.1. Vehicle may be tracked;
- 17.1.2. The Customer and employees will be able to view details relating to Vehicle(s) using the Software; and
- 17.1.3. The Customer will be able to produce historical reporting of Vehicle(s) for a period of up to 6 months prior to the date on which the report is requested or for the period from when the Services were active if less.
- 17.2. The Customer acknowledges that for quality control, security reasons and training, telephone calls between Teletrac and the Customer and/or its employees may be recorded.
- 17.3. The Customer consents to Teletrac tracking and tracing the location, time and speed of Vehicles via the TD for the purposes of the Agreement.
- 17.4. The data produced by use of the Services is the property of the Customer however, Teletrac reserves the right to use and to allow third parties to use anonymised location, time, speed and other information obtained from Vehicles for traffic information, journey data analysis, mapping, fleet benchmarking or other related purposes. Teletrac will retain such data for

3 years save that access by the Customer without charge may be shorter if detailed in the Plan or if otherwise advised to the Customer. Customers which have OEM lease and maintenance and/or insurance or leasing related services detailed in the Agreement (or otherwise agreed in writing) consent to the provision by Teletrac during the Term of data produced by the use of the Services, or access to said data, identified as the Customer's data, to the OEM, insurance and/or leasing company designated in the Agreement.

- 17.5. Teletrac and its agents, its business partners and/or carefully selected companies may use the Customer's information to keep the Customer informed by post, telephone, facsimile, e-mail, SMS or other means about Teletrac products and services. By providing Teletrac with contact details, the Customer consents to being contacted by these parties for these purposes. If the Customer does not wish to receive marketing information, the Customer must state this in writing to Teletrac at 7391 Lincoln Way, Garden Grove, CA 92841-1428 or in a message by email to marketing@teletrac.com or another email address specified by Teletrac from time to time.

18. LIMITATION OF LIABILITY AND DISCLAIMER OF WARRANTIES

The liability obligations of Teletrac to the Customer or any 3rd party under the Agreement are strictly controlled and limited by the laws, rules and regulations of the FCC and other governmental authorities which from time to time have jurisdiction. In any event, the Customer acknowledges and agrees that:

- 18.1. Teletrac shall have no liability for any single isolated failure of the Services, or delay that does not exceed 48 hours;
- 18.2. The liability and obligations of Teletrac or a Teletrac Agent to the Customer herein may be strictly controlled and limited by the laws, rules and regulations of the Federal Communications Commission and other United States or foreign governmental authorities which from time to time have jurisdiction. In any event, regardless of the form of action, whether for breach of contract, warranty, negligence, strict liability in tort or otherwise, the Customer's exclusive remedy and the total liability of Teletrac to Customer arising in any way in connection with the Agreement, for any cause whatsoever, including, but not limited to, any failure or disruption of Services provided, shall be limited to the right of repair or replacement of defective TD (depending on warranty conditions and adherence by the Customer thereto) and payment by Teletrac of damages in an amount equal to the amount charged to Customer for undelivered Services provided under the Agreement and in no event shall Teletrac's liability exceed the amount paid by the Customer for the Services in question in the 12 months preceding the beginning of such failure or disruption to the Services, nor shall any action be brought for any breach more than one year after the accrual of such cause of action or for any breach where Teletrac was not first afforded the opportunity to investigate and/or verify any defect relating to installation, TDs and/or the Software in accordance with the warranty provisions herein. Teletrac shall not be liable for property damage or any damages or losses of any kind, whether increased costs, lost profits or goodwill, lost revenues or data or incidental, special, punitive, indirect, incidental, exemplary or consequential damages, arising from the use of the Services even if Teletrac has been advised of the possibility of such damages;
- 18.3. Teletrac and its suppliers shall not be liable to any other person or entity or third party for any loss or damages caused by any interruption of Services, regardless of cause;
- 18.4. Customer agrees to indemnify, defend and hold Teletrac and its licensors harmless from and against any liability, loss, injury (including injuries resulting in death), demand, action, cost, expense or claim of any fees (including reasonable attorney's fees) arising out of or in connection with any use or possession by Customer of the data produced by the Services and/or the improper or unauthorized or improper use of the Services or the failure to use the same properly or as directed by Teletrac from time to time;
- 18.5. If the Customer becomes aware of any matter which might give rise to a claim against Teletrac or the Customer concerning the potential infringement by Teletrac, and/or the Services of any patent, copyright or other intellectual property rights of any third party or the potential misappropriation or unlawful disclosure or use of a third-party's trade secrets (an "Infringement Claim"); or any infringement or suspected infringement of Teletrac's IPR and/or the IPR relating to the Services by a third party, the following provisions shall apply:
- 18.5.1. The Customer shall immediately give written notice to Teletrac of the matter (stating in reasonable detail the nature of the matter). If the matter has become the subject of any court proceedings the Customer shall deliver the notice of such proceedings within sufficient time to enable Teletrac to contest the proceedings before any material time limits have passed;
- 18.5.2. The Customer shall provide Teletrac and its professional advisers reasonable access to premises and personnel and to any relevant assets, documents and records within its possession or control (and at Teletrac's expense take copies of any of the documents or records, and photograph any premises or assets) for the purposes of investigating the matter; and
- 18.5.3. Customer shall:

- 18.5.3.1. *take such action and institute such proceedings, and give such information and assistance, as Teletrac may reasonably request to:*
 - 18.5.3.1.1. *dispute, resist, appeal, compromise, defend, remedy or mitigate the matter; or*
 - 18.5.3.1.2. *enforce against any person (other than Teletrac) the rights of the Customer in relation to the matter; and*
- 18.5.3.2. *in connection with any proceedings related to the matter (other than against Teletrac) use professional advisers nominated by Teletrac and, if Teletrac so requests, allow Teletrac the exclusive conduct of the proceedings;*
- 18.5.4. *The Customer shall not admit liability in respect of or settle any matter without the prior written consent of Teletrac, such consent not to be unreasonably withheld or delayed; and*
- 18.5.5. *In addition, if any of the Services provided by Teletrac hereunder are, or in Teletrac's reasonable judgment are likely to become, the subject of an Infringement Claim, whether or not due to notification by Customer, Teletrac shall be at liberty to immediately cease providing those elements of the Services that are subject to the actual or potential Infringement Claim and at its expense will use commercially reasonable efforts to: (A) procure for Customer the right to use and continue using the Services; or (B) replace the Services with a non-infringing equivalent; or (C) modify the Services to make its use hereunder non-infringing; provided however, in the event that Teletrac agrees to commercial terms with the relevant third party to obtain for the Customer the right to use the Services, the Customer will pay, in addition to the fees for the Services listed in the Plan, a monthly amount equal to the Customers proportionate share of the amounts payable to such third party for the use of the Services during such month. If none of (A), (B), or (C) of the preceding sentence are available on commercially reasonable terms in Teletrac's good faith judgment, Teletrac will so notify the Customer, whereupon: (A) the Customer will cease use of the Services, if requested by Teletrac, return to Teletrac the TDs and Associated Devices containing the allegedly infringing technology in accordance with the terms hereof; and (B) Teletrac will equitably adjust the charges to reflect the discontinuation of the applicable portion of the Services. In such event, the Teletrac and Customer will seek to establish mutually acceptable alternative arrangements and to make any appropriate adjustments to their respective obligations under this Agreement though the execution of an amendment; and*
- 18.5.6. *Nothing in this Paragraph 18.5 shall in any way restrict or limit the general obligation at law of the Customer to mitigate any loss which it may incur as a result of any matter related to this Paragraph 18.5.*
- 18.6. *The provisions of this Paragraph limiting and excluding the liability of Teletrac are reasonable given the complex nature of the technology involved in the provision of Services and the many other factors affecting the Services outside Teletrac's reasonable control.*

19. GENERAL

- 19.1. *Teletrac (or its associated companies) is the proprietor of the "Teletrac", "Fleet Director", "Fleet Central" names, derivatives, associated symbols and trademarks and all documentation relating thereto and any use is specifically prohibited unless under the Agreement or by separate written agreement with Teletrac.*
- 19.2. *If any provision of the Agreement shall be unlawful, void, or unenforceable, then that provision shall be deemed limited to the extent required to make it enforceable, or, if necessary, severed from the Agreement. Such a provision shall not affect the validity and enforceability of the remaining provisions of the Agreement.*
- 19.3. *The Agreement (and for the avoidance of doubt including these Terms) constitutes the entire agreement and understanding between the parties as to the subject matter of the Agreement and supersede all previous and contemporaneous communications, representations or agreements, written or oral relating to the Services purchased under the Agreement. Any amendments to these Terms must be in writing and authorized and signed by a Vice President of Teletrac or its Chief Financial Officer or General Counsel and are not otherwise binding.*
- 19.4. *Any waiver of a breach of the Agreement shall not be a continuing waiver and shall not prevent any claim of a breach of the same terms or any other term of the Agreement.*
- 19.5. *In these Terms, words incorporating the masculine gender only include the feminine and neuter genders and words incorporating the singular number only include the plural and vice versa.*
- 19.6. *If the Services are being acquired by or on behalf of the United States government or any other entity seeking or applying rights similar to those customarily claimed by the United States government use, duplication, or disclosure by that party is subject to restrictions as set forth in subparagraph (b) of The Rights in Technical Data and Computer Software clause at DFARS 252.227 - 7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software--Restricted Rights at 48 CFR 52.227-19 as applicable.*

- 19.7. *The Customer agrees to observe and abide by all applicable laws, ordinances, rules and regulations of the federal, state, local or foreign government and any agency or public authority thereof, and to hold Teletrac harmless from liability or loss by reason of any asserted or established violation of the same by Customer, its employees, agents or representatives.*
- 19.8. *The Customer acknowledges and agrees that the Services must not be used in any way which would or may affect the ability of any driver of the Vehicle to drive safely and in accordance with local laws and regulations. The Customer or its employees or other authorized users are ultimately responsible for the Vehicle under his/her control and they should be aware of their surroundings at all times. In certain geographic areas one way streets, turn restrictions and entry prohibitions (e.g. pedestrian zones) are not recorded or displayed. Teletrac is not liable for any loss or damage caused by the acts or omissions of the driver of the Vehicle. Users of the Vehicle remain at all times responsible for observing all relevant laws and codes of safe driving and Teletrac is not liable for any fine, penalty, or punishment issued to the Customer or any user of the Vehicle.*
- 19.9. *The Agreement is fully assignable and transferable by Teletrac to any person or entity and shall inure to the benefit of such assignee or successor including Fleet Management Solutions Inc and all references herein to Teletrac shall be deemed to include Fleet Management Solutions Inc. Customer may not assign the Agreement without the prior written consent of Teletrac, except that Customer may, without Teletrac's consent, assign the Agreement: (a) to Customer's parent company, a subsidiary, or an affiliate; (b) to any successor corporation by consolidation or merger; or (c) to any corporation with the authority to carry on a business of a nature transacted by Customer and to which Customer has sold all or substantially all of its assets, provided that Customer has advised Teletrac in writing of such assignment and Customer remains liable for any obligations or liabilities arising under the Agreement.*
- 19.10. *The headings used herein are for convenience only and are not to be used in the interpretation of the Agreement.*
- 19.11. *All notices and other communications required or permitted to be given under the Agreement shall be in writing and shall be delivered or transmitted by the Customer to Teletrac addressed to the Vice President Operations at the address specified on the Agreement or such other address as Teletrac may notify to the Customer for this purpose from time to time. Notices by Teletrac to the Customer shall be to the customer address listed on the Agreement or as provided by the Customer to Teletrac from time to time and it is the responsibility of the Customer to advise Teletrac of any change of address expeditiously. Any notice shall be treated as having been served on delivery if delivered by hand or email, 4 working Days after posting if sent by pre-paid registered mail, 2 working Days after dispatch if sent by courier and on confirmation of transmission if sent by facsimile.*
- 19.12. *The Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware without giving effect to (i) its conflict of laws provisions, or (ii) the United Nations Convention for Contracts for the International Sale of Goods, which are explicitly excluded. The parties agree to submit to the jurisdiction of Delaware and that any and all disputes, claims, proceedings or actions arising from or in connection with this Agreement shall be brought in the State or Federal courts having within their jurisdiction in Delaware.*
- 19.13. *Each signatory is duly authorized and has the necessary power and authority to execute and deliver this Agreement on behalf of the applicable party and to bind such party, and each party has the necessary power and authority to deliver this Agreement, to perform its obligations hereunder, and to consummate the transactions contemplated hereby.*

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Customer's Signature

Name: (Print)

Date: