

TRACKER Network (UK) Limited

Conditions of Purchase – Fleet Tracking – April 2010

1. DEFINITIONS

1.1 The following words and phrases shall have the following meanings:

Annual Maintenance Charge – the charges payable annually in respect of Maintenance upon the expiry of the 12 month period from the date of installation as such charges are decided by TRACKER in its sole discretion from time to time.

Charges – the charges payable by the SUBSCRIBER to TRACKER for the Equipment and subscription to the Services, as set out on the Form, and thereafter as notified by TRACKER to SUBSCRIBER.

Entitlement Period – the period set out on the Form during which the SUBSCRIBER is entitled, to access and use, the Services.

Equipment - the equipment referred to in the Form, together with any additions or replacements made by TRACKER.

Form - the printed form overleaf and includes any debit or credit card mandate or authority.

Maintenance – maintenance services provided by TRACKER to SUBSCRIBERS in respect of the Equipment in accordance with Condition 6.

Maintenance Charge – the charges payable in respect of each specific request for Maintenance made by Subscriber to TRACKER, as such charges are decided by TRACKER in its sole discretion from time to time.

Services - processing and communication, via the GPS navigational network and the GSM data network and the Equipment, of information about the positioning, speed and other information of Vehicles.

SUBSCRIBER - the customer referred to in the Form.

TRACKER - TRACKER Network (UK) Ltd, its successors, assigns or sub-licensees.

Vehicle(s) - the vehicle(s) and other objects in which the Equipment is to be installed and in respect of which the Services are to be provided, as agreed separately in writing between the parties.

1.2 Reference to the singular includes a reference to the plural and vice versa. Headings are included for ease of reference and shall not affect the interpretation of this Agreement.

2. AGREEMENT

2.1 In consideration of the Charges, TRACKER agrees to sell the Equipment and provide the Services to SUBSCRIBER, on the terms set out herein.

2.2 This agreement consists of the Form and these conditions of purchase ("Agreement"), and together they constitute the entire agreement between the parties. In the event of any inconsistency between them, the Form shall take precedence.

2.3 Where the Services incorporate internet based services on the TRACKER website, SUBSCRIBER must comply with the terms and conditions of use of that website. The terms and conditions can be found once logged in at www.TRACKER.co.uk.

3. INSTALLATION

3.1 Upon execution of this Agreement, TRACKER and SUBSCRIBER will agree a time and a place for installation of the Equipment in the Vehicle(s). TRACKER will carry out the installation in accordance with its normal procedures or any agreed installation programme, subject to Condition 3.3 below.

3.2 SUBSCRIBER will undertake such preparatory work and provide such access, facilities and assistance during normal business hours as TRACKER may reasonably require to enable it to install the Equipment. If installation cannot be effected because of SUBSCRIBER'S failure to provide reasonable access, facilities or assistance, TRACKER may still invoice SUBSCRIBER for the Equipment, and any other charges normally payable.

3.3 Prior to installation, TRACKER will, if required, carry out pre-installation surveys in conjunction with SUBSCRIBER following which the parties will agree an installation programme. TRACKER reserves the right to make further charges where such installation is materially more complex or time consuming than its standard.

4. PROPERTY AND RISK

4.1 Subject to Condition 4.3, the Equipment other than the SIM card shall become the property of SUBSCRIBER on payment in full of the Charges.

4.2 SUBSCRIBER shall indemnify TRACKER against any theft, loss of or damage (fair wear and tear excepted) to any property or tools of TRACKER while on the Vehicle or at the relevant premises, howsoever caused, other than directly attributable to the fault of TRACKER.

4.3 Title to all software and all other intellectual property used in, or in connection with the Equipment remains at all times with TRACKER (or relevant third party). TRACKER hereby grants a non-exclusive, non-transferable, non-subliceable, royalty free licence to SUBSCRIBER of the foregoing, for the purpose only of enabling it to make full use of the Equipment and Services.

4.4 Following any sale or other disposal of the Vehicle(s) on which the Equipment is fitted, SUBSCRIBER shall inform TRACKER in writing of such event within fourteen (14) days.

5. PAYMENT

5.1 Except as indicated on the Form, the Charges for each Entitlement Period are payable in advance. The Maintenance Charges or the Annual Maintenance Charges (as applicable) will be payable on the date(s) agreed between the parties in writing. Where any payment from SUBSCRIBER hereunder is not made within five (5) working days of becoming due, SUBSCRIBER shall, in addition to the sum outstanding, be liable (without prejudice to any other right or remedy TRACKER may have) to pay interest on a daily basis from the due date until the date payment is received, such interest to accrue before as well as after judgement at the rate of 2% per annum above the base rate of the Royal Bank of Scotland plc from time to time, and SUBSCRIBER shall indemnify TRACKER against any costs or expenses incurred in TRACKER obtaining payment of such arrears.

5.2 Subject to providing SUBSCRIBER 60 days written notice, TRACKER may in its sole discretion increase or decrease the Charges. Should SUBSCRIBER not agree to the change to the Charges, it may terminate this Agreement under clause 9.3.

5.3 If SUBSCRIBER wishes to move the location of any of the Equipment to a new Vehicle, a charge at TRACKER's then current rate will be made to SUBSCRIBER to cover the cost of removal and re-installation of such Equipment.

6. WARRANTY & MAINTENANCE

6.1 TRACKER warrants that the Equipment, when operated properly, will enable SUBSCRIBER to make use of the Services, for 12 months from the date of installation. SUBSCRIBER shall also be entitled to Maintenance in accordance with (and subject to) the rest of this Condition 6, for such twelve month period without charge.

6.2 Maintenance shall continue to be provided thereafter (until such time as either party terminates this Agreement), so long as the Maintenance Charges or Annual Maintenance Charges (as applicable) are paid in full. Any failure or delay in paying the Maintenance Charges or Annual Maintenance Charges will entitle TRACKER to withdraw the provision of Maintenance.

6.3 Where Maintenance is provided, SUBSCRIBER may obtain support by ringing TRACKER's support helpdesk (01895 455777), which is operational between 9.00am and 5.30pm weekdays (bank and other public holidays excepted). All diagnosis and fault correction shall, where possible, be done remotely, failing which TRACKER will send suitable engineers to the Vehicle(s). If so, SUBSCRIBER will allow the service engineers and other TRACKER representatives access to the Equipment at a reasonably convenient location at all reasonable times to carry out such repair and maintenance.

6.4 Should it turn out that the problem either was due to incorrect operation of properly functioning Equipment, or otherwise caused by SUBSCRIBER, TRACKER may make a reasonable charge for travel to, and attendance at, the Vehicle(s).

7. CONFIDENTIALITY, IPR & SECURITY

7.1 SUBSCRIBER will, and will ensure that its employees and agents do, hold and cause to be held confidential any information received pursuant to this Agreement, including (without prejudice to the generality of the foregoing) trade secrets, know-how, intellectual property, designs, software technology and inventions created or operated by TRACKER. No copies or unlicensed use of any intellectual property in any Equipment or any other materials licensed or provided hereunder, may be made without the prior written permission of TRACKER.

7.2 SUBSCRIBER acknowledges that, in order to safeguard TRACKER's property rights, certain receivers have been fitted with a security device which will corrupt the software information contained in the Equipment if such units are tampered with. SUBSCRIBER accepts that it is under an obligation to ensure that the units are not so tampered with and that it has no claim against TRACKER in such a contingency. SUBSCRIBER further agrees to indemnify TRACKER against any consequential loss (including but not limited to loss of profits, loss of use and loss of revenue) which it may suffer as a result of such tampering.

8. LIABILITY AND INDEMNITY

8.1 SUBSCRIBER will indemnify TRACKER against all liability arising out of the possession or use of the Equipment, other than liability for death or personal injury which is caused directly by TRACKER's negligence.

8.2 Neither TRACKER nor its employees or agents shall be liable for any loss or damage arising or resulting from:

- (a) any defect in or operational failure of the Equipment, however caused;
- (b) any delay in carrying out its obligations under this Agreement howsoever caused, or any event of Force Majeure as defined in Condition 10;
- (c) any act, neglect or default (whether wilful, negligent or otherwise) of TRACKER its employees or agents in the manufacture, installation, inspection, maintenance, repair, extension, or modification, transfer or removal of the Equipment or otherwise howsoever caused PROVIDED always that this Condition shall not operate to exclude TRACKER's liability for death or personal injury caused by the negligence of TRACKER its employees or agents.

8.3 TRACKER shall not in any circumstances be liable for any loss of business or profits, or any consequential or indirect loss, arising under or in connection with this Agreement as a result of the use or breakdown of the Equipment or the provision of the Services.

9. TERMINATION

9.1 TRACKER may terminate this Agreement, or suspend the provision of the Services, immediately upon the occurrence of any of the following events:

- (a) the Equipment is destroyed or so substantially damaged that TRACKER is unable to continue to provide the Services;
- (b) any process of execution, distress or seizure shall be levied on or due against any of SUBSCRIBER'S property;
- (c) all Vehicles have been sold or otherwise disposed of by SUBSCRIBER;
- (d) SUBSCRIBER shall become bankrupt or enter into any arrangement with its creditors;
- (e) SUBSCRIBER shall enter into liquidation, whether voluntary or compulsory, or shall have an administrative receiver or manager appointed over the whole or part of its business or undertaking;
- (f) SUBSCRIBER is in arrears with any payment due hereunder for a period of 10 working days or more;
- (g) SUBSCRIBER is in breach of this Agreement and, where capable of remedy, such breach remains unremedied after 30 days' written notice requiring remedy;
- (h) TRACKER is unable to retain the connections or privileges necessary for the provision of the Services, and in this case TRACKER shall not be under any liability to SUBSCRIBER by reason of such termination.

9.2 The termination of this Agreement howsoever caused shall be without prejudice to any rights accrued by the parties up to the date of termination.

9.3 This Agreement shall commence on the date the Equipment is installed in the Vehicle and shall continue for the Entitlement Period, after which time it shall continue for successive Entitlement Periods unless and until terminated by written notice. Termination shall be effective from the date of receipt of the notice of termination and all Charges (and Annual Maintenance Charges or Maintenance Charges (as applicable)) levied by TRACKER prior to that date remain due and payable by SUBSCRIBER.

9.4 On the date of notification of termination, SUBSCRIBER will cease to have access to all vehicle data provided and collated under the Services for the Vehicle.

9.5 Should the SUBSCRIBER terminate this Agreement then subsequently wish to reconnect the Equipment to receive the Services, it should notify TRACKER in writing. On receipt of such notification and subject to TRACKER confirming that the Equipment remains in satisfactory working condition and the SUBSCRIBER paying the Charges (including any reconnection charges), TRACKER may agree to again provide the Services for further Entitlement Periods commencing on the reinstallation or inspection date.

10. FORCE MAJEURE

TRACKER shall not be liable to SUBSCRIBER for any failure or delay in performing its obligations hereunder if such failure arises from any act of God, war, strike, lockout or other labour dispute, riot, civil commotion, fire, flood, drought, legislation, system/network failure or interruption or other causes beyond TRACKER'S reasonable control. For the avoidance of doubt, SUBSCRIBER accepts that the functioning and coverage of the GPS/GSM networks and the internet are matters beyond TRACKER's reasonable control. TRACKER will not be liable for any rebates on payments in the event of such failure or delay occurring.

11. ASSIGNMENT

11.1 SUBSCRIBER may not assign or sub-contract any of its rights or obligations under this Agreement without TRACKER's prior written consent.

11.2 TRACKER may assign this Agreement or any part of it.

12. NOTICES

Any notice which is to be given hereunder by either party to the other must be sent by prepaid post addressed to the other party, in the case of TRACKER at its registered office or in the case of SUBSCRIBER at SUBSCRIBER'S premises specified in the Form or as subsequently notified to TRACKER. Any notice so sent shall be deemed to be served on the date of posting and in providing such service it shall be sufficient to show that the letter containing the same was properly addressed and posted.

13. LAW

This Agreement shall be governed by English Law and is subject to the jurisdiction of the English Courts.

14. RIGHT TO VARY

Subject to providing SUBSCRIBER 60 days written notice, TRACKER may in its sole discretion vary this Agreement. Should SUBSCRIBER not agree to the variation it may terminate this Agreement under clause 9.3. TRACKER will display the most recent version of this Agreement at www.TRACKER.co.uk.

15. SEVERABILITY

If any provision of this Agreement is held to be unenforceable to any extent, it shall be enforced to the fullest extent allowed by law and the validity of the remainder of this Agreement shall not be affected.

16. STATUTORY RIGHTS

THESE CONDITIONS SHALL NOT AFFECT ANY STATUTORY CONSUMER RIGHTS.

Your Information

Who We are

You are giving your information to TRACKER who is a member of the Royal Bank of Scotland Group (The Group). For information about the Group please visit www.rbs.com and click on 'About Us', or for similar enquiries please telephone 0131 556 8555 or Textphone 0845 900 5960. Where we refer to 'you' in this data protection notice we mean the SUBSCRIBER and any employees or agents of the SUBSCRIBER who receive the Services on behalf of the Subscriber in accordance with the Agreement.

Your electronic information

If you contact us electronically, we may collect your electronic identifier e.g. Internet Protocol (IP) address or telephone number supplied by your service provider.

How we use your information and who we share it with

We will use your information to manage your TRACKER product, which may include disclosing it to insurers and re-insurers. Your information includes data about your transactions. We may use and share your information with other members of the Group to help us and them assess financial and insurance risks; recover debt; prevent and detect crime; understand our customers' requirements; develop and test products and services. We do not disclose your information to anyone outside the Group except where we have your permission; where we are required or permitted to do so by law; to other companies who provide a service to us or you; or where we may transfer rights and obligations under this Agreement. We may transfer your information to other countries. If we do this we will ensure that anyone to whom we pass it provides an adequate level of protection. From time to time we may change the way we use your information. Where we believe you may not reasonably expect such a change we shall write to you. If you do not object to the change within 60 days, you consent to that change.

Call monitoring and recording

We may monitor and record telephone calls in order to improve our service and to prevent and detect fraud.

Keeping you informed

We and other companies in the Group would like to keep you informed by letter, phone and electronic means (including e-mail and mobile messaging) about products, services and additional benefits that we believe may be of interest to you. If you don't want us to do this, please tell us next time you call.

Further information

If you would like a copy of the information we hold about you, please contact the Data Protection Officer, Regulatory Risk (Compliance) Department, Mailpoint 38, Churchill Court, Westmoreland Road, Bromley, Kent BR1 1DP, quoting reference TRACKER. A fee may be payable.