

**TRICORE SOLUTIONS GROUP  
MASTER SERVICE AGREEMENT  
TERMS AND CONDITIONS**

The terms “you” or “your” refer to Subscriber. These “Terms and Conditions” are part of a Master Service Agreement between the Parties consisting of a Contract Cover Page signed by the Subscriber and Tricore, these Terms and Conditions, and such additional Orders that are submitted by Subscriber and accepted by Tricore during the Term.

Your placement (and Tricore’s acceptance) of the initial Order as reflected on the Contract Cover Page or any subsequent Order, or renewal (including any automatic renewal) of the Agreement, constitutes your acceptance of these Terms and Conditions, and your agreement that these Terms and Conditions will govern the services and related products contained in all Orders under which you are entitled to receive active services, binding upon you unless otherwise agreed in writing by you and Tricore.

**1. SERVICE ORDERS.**

Service requires that you purchase Tricore device(s) and ancillary accessories (collectively, the “**Hardware**”) that directly interface with Tricore’s software application(s) and any and all Tricore data and content (collectively, the “**Application Services**”), as well as access to the Application Services and Licensed Technology (as defined below). It is your responsibility to order and install the Hardware. Once Tricore has accepted an Order for Service, the Order is binding and not subject to cancellation by Subscriber, regardless of whether or not you have received or installed the Hardware. “**Licensed Technology**” shall mean collectively (i) software and firmware, if any, embedded within the Hardware, and (ii) the access provided by Tricore to the cellular data network(s) to which the Hardware is connected (the “**Communication Network**”).

**2. GRANT OF RIGHTS.**

2.1 **Provision and Access.** Subject to the provisions of this Agreement, including the payment when due of all applicable Fees, Tricore agrees to provide Subscriber with the right to access and use the Application Services or Licensed Technology during the Term solely for Subscriber’s internal business use.

2.2 **License Grant.** Solely in furtherance of the access granted in Section 2.1 above, Tricore grants Subscriber a limited, non-transferable, non-sub-licensable, non-exclusive, royalty-free license to use the Licensed Technology during the Term in a fully assembled state and not separately as components, solely for Subscriber’s own internal business use.

2.3 **Restrictions.** Subscriber shall not with respect to the Application Services or Licensed Technology, or any component thereof, unless expressly permitted or required by law, directly or indirectly: (i) authorize or permit use by persons other than Authorized End Users (as defined below); (ii) modify, translate, reverse engineer, decompile, disassemble, or in any manner decode any object code in order to derive, obtain or perceive the source code; (iii) copy, reproduce or create derivative works; (iv) assign, sell, lease, license, transfer, encumber or pledge as security, permit liens against or otherwise convey any rights therein; (v) permit use for the development of new, or the modification of existing products or services, whether offered by Subscriber or a third party; or (vi) permit use for the benefit of any third parties or use other than in the intended manner.

2.4 **Intellectual Property Rights.** Tricore reserves to itself and without restriction all rights not expressly granted herein to Subscriber. Without limiting the foregoing, except as specifically set forth in this Agreement, Tricore and its third-party vendors own all right, title, and interest in and to the Tricore proprietary software, the Application Services, the Licensed Technology and all Tricore-owned domain names, trademarks and logos, and all intellectual property rights pertaining to the foregoing, including all improvements, modifications, and derivative works.

2.5 **Subscriber License Grant and Intellectual Property Rights.** Subscriber grants to Tricore a non-exclusive, royalty-free right and license to: (i) use all Subscriber’s information and data (including any third-party information and data in the possession or custody of Subscriber), collected or transmitted by the Application Services or stored on Tricore computer server(s) in accordance with this Agreement (collectively, the “**Subscriber Data**”), to provide the services, conduct internal testing and continued product development; and (ii) disclose, use, provide and sell the Subscriber Data for traffic forecasting and patterns and other business purposes, provided that any Subscriber Data disclosed is anonymous data without reference to or identification of the Subscriber or its customers.

2.6 **Authorized End Users.** Subscriber may permit any individual employee or contractor of Subscriber (an “**Authorized End User**”) to access or use the Application Services and Licensed Technology solely for the benefit of Subscriber. All such access shall be in compliance with the terms of this Agreement. Subscriber shall be liable for all acts and omissions of, and any breach of this Agreement caused by, its Authorized End Users.

**3. PERFORMANCE; THIRD PARTY SERVICES; TERMS OF USE.**

3.1 **Performance.** Tricore may utilize agents and independent subcontractors in the performance of this Agreement.

3.2 **Network Service:** Subscriber acknowledges that (i) access to, transmission speed and quality of the Data Network, Global Positioning System (“**GPS**”) network, and the Internet are dependent upon network infrastructures owned by, operated by, or under the control of third parties, and made available to Subscriber subject to availability, limitations and conditions over which Tricore assumes no control or responsibility; and (ii) connectivity, functionality and performance of these networks are dependent upon, and limited by a variety of factors including network technology, equipment, coverage and calling areas, cell site availability, inherent capacity and other system limitations, interference and failures, and network user congestion, environmental variables due to weather and atmospheric conditions, topography, locations of buildings and other structures, as well as periodic software and equipment updates and maintenance, and other internal factors determined solely by each network provider.

3.3 **Subscriber Acknowledgements.** Subscriber acknowledges and agrees that Tricore shall not be liable for any delays, loss or damage including loss of data or compromised data security. Subscriber also acknowledges that the Application Services have not been designed and are not effective as a security system or to provide security or emergency response for person (including remote medical monitoring) or property, including driver/passengers, vehicle and its contents, whether alone or in conjunction with any other security or emergency system (e.g. a vehicle security/alarm system), and any use of the features or functionality of the Application Services for such purpose is unauthorized and at Subscriber’s sole risk and liability. Subscriber agrees, and agrees to communicate to its customers, that the Hardware and Application Services are not intended for use (a) in safety-critical or military applications (such as life support) where a failure of the Hardware or Application Service would reasonably be expected to cause personal injury or death, or (b) in a vehicle along with any other OBD II device. Subscriber understands

that certain GPS and/or starter disablement technology may not now, or in the future, be permitted by law in certain states. Subscriber bears exclusive responsibility for verifying that the Hardware and/or Application Services may be used in any particular installation or location.

- 3.4 **Third-party Application and Interface acknowledgements.** Tricore Application Services specifications may allow for an interface with certain third-party workforce and service management applications (“**Third-party Applications**”). Tricore has no responsibility for such Third-party Applications and availability of an interface is not guaranteed by Tricore.
- 3.5 **Disclosure of Relationship with Service Providers.** Subscriber understands and will communicate to each of its Authorized End Users, that the Application Services furnished by Tricore depend upon services provided by third parties (“**Service Providers**”) pursuant to agreements between such Service Providers and Tricore and are subject to certain terms, conditions and limitations in such agreements. Subscriber understands and agrees that it and its Authorized End Users have no contractual relationship with the Service Providers and that Subscriber and its Authorized End Users are not a third-party beneficiary of any agreement between Tricore and such Service Providers. The agreements and terms in this Section 3.5 shall survive the termination of this Agreement. **Subscriber expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless telecommunications Service Provider or its affiliates or contractors.** Subscriber understands that Tricore and Service Provider cannot guaranty the security of data transmissions and will not be liable for any lack of security relating to the use of the Application Services or the transmission of data. Subscriber further acknowledges that the Service Providers disclaim all liability of any nature to Subscriber, whether direct, indirect, incidental or consequential, arising out of use of the Application Services, and Subscriber agrees that it shall have no claims against the Service Providers of any kind with respect thereto.
- 3.6 **Prohibited Uses.** Subscriber shall not use the wireless service provided hereunder in any manner that (a) infringes the intellectual property, publicity, privacy or other proprietary rights of others, (b) violates any applicable laws, including those related to export, spamming, privacy, consumer and child protection, obscenity or defamation, or (c) is harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, or otherwise inappropriate. Subscriber shall not violate or attempt to violate the security of the Service Provider, including (a) accessing data not intended for Subscriber, (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization, (c) attempting to interfere with, disrupt or disable service to any user, host or network, including via means of overloading, “flooding”, “mail-bombing” or “crashing,” (d) forging any TCP/IP packet header or any part of the header information in any e-mail, (e) taking any action in order to obtain services to which Subscriber is not entitled or (f) sending any virus, worm, Trojan horse or other harmful code or attachment. Violations may result in civil or criminal liability. Subscriber consents to the processing of information necessary to provide the service from Service Providers’ data centers in the United States or elsewhere in the world.

#### 4. **HARDWARE.**

- 4.1 **Hardware.** Services are to be used only in accordance with Tricore approved Hardware and only in accordance with Tricore Hardware installation and operating instructions. Use of any other hardware, use of Tricore Hardware other than as approved by Tricore, or modification of the Hardware constitutes a breach of this Agreement and may result in termination of Services.
- 4.2 **Limited Hardware Warranty.** Subject to Section 8 below, for a period of twelve (12) from date of shipment, Tricore warrants that the Hardware shall be free from material defects in material or workmanship and shall conform to Tricore’s published specifications for such Hardware. Subscriber shall not be liable for any defects that are caused by neglect or mistreatment, including improper installation or testing, or for any Hardware that has been altered, misused, abused, damaged, repaired, or modified in any way by an entity other than Tricore. Tricore shall not be liable for any defects that result from Subscriber’s design, specifications or instructions for such Hardware, or combination of such Hardware with accessories or devices not approved by Subscriber as being compatible, or acts of God. If any Hardware fails to conform to the warranty set forth in this Section 4.2, Tricore’s sole liability shall be, at its discretion, to repair or replace such Hardware, or credit Subscriber’s account for such Hardware. Tricore’s liability under this warranty shall be limited to Products that are returned during the warranty period to the address designated by Tricore, using Tricore’s then current Returned Materials Authorization (“RMA”) process, and that are determined by Tricore not to conform to such warranty. Repaired or replaced Hardware shall be warranted for the remainder of the original warranty period. Subscriber shall pay the shipping costs for the return of Hardware to Tricore and Tricore shall pay the costs of shipping repaired or replacement Hardware back to Subscriber. The foregoing is Subscriber’s sole remedy and Tricore’s sole liability for a breach of this limited warranty.
- 4.3 **Hardware Malfunction.** If a Hardware malfunction impacts Service performance as a result of a Hardware failure, improper installation, use of Tricore Services with unauthorized hardware or software or any other reason, Tricore may terminate Services until the malfunction is corrected. Tricore will notify Subscriber in the event of any such termination of Services. It is Subscriber’s responsibility to make sure that the Hardware malfunctions are promptly addressed and do not impact the Services.

#### 5. **SUPPORT; UPDATES.**

- 5.1 **Customer Support.** Customer Support is available by telephone or email to Subscriber twenty-four (24) hours a day, seven (7) days a week. On-site support or service, or other professional services, are not available unless separately purchased and included in an Order and if applicable, a statement of work.
- 5.2 **Updates.** Updates and upgrades to the Application Services or the Licensed Technology will be made available when offered to Tricore’s entire subscriber base. Licensed Technology updates or upgrades will be installed by “over the air programming.”

#### 6. **FEES AND PAYMENT.**

- 6.1 **Fees and Expenses.** Subscriber shall pay the fees and charges set forth in the applicable Order (“**Fees**”), which will include monthly Subscriber fees per Hardware unit, and any additional fees and charges set forth in such Order or elsewhere in this Agreement. All Fees are in U.S. dollars. Monthly Subscriber Fees under each Order will commence **fourteen (14) days** following the date that the first Hardware unit(s) is shipped under such Order. Monthly Subscriber Fees will continue throughout the Term. Subscriber shall be responsible for all data transmissions associated with the SIM card or ESN number embedded within the Hardware. Subscriber may not abate, reduce, or set-off any Fees or other amounts due.
- 6.2 **Invoices and Payment.** All Fees will be invoiced. Monthly Subscriber Fees are invoiced in advance. Fees for additional services, charges and any incidental expenses will be invoiced in arrears unless advance payment is required by Tricore. All amounts due will be paid concurrent with the invoice if an Electronic Funds Transfer authorization or credit card authorization has been provided by Subscriber, and otherwise are payable within thirty (30) days of the invoice date except payment of certain charges that Tricore may require to be paid in advance. Subscriber agrees that time is of the essence. Tricore reserves the right to charge a late payment calculated daily as a percentage of the unpaid invoice balance from the date due, at the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted under applicable law. Subscriber agrees to indemnify and hold Tricore harmless against any and all losses, liabilities, claims, damages, costs or

expenses, including costs of collection, attorneys' fees, court costs and expenses incurred by Tricore by reason of or arising out of or relating to any failure by Subscriber to make any payments under this Agreement as and when due.

- 6.3 **Taxes and Other Fees.** All prices and rates on an Order, or for any additional charges due or for services to be provided, do not include present and future personal property, sales, use, excise, GST, Universal Service Charge, value-added, franchise, license, gross receipts or other foreign, federal, state or local fees, taxes, duties or similar taxes or charges (collectively "**Taxes**"), which shall be paid by Subscriber (except for taxes based on the net income of Tricore). Taxes associated with the Communication Network are included in the initial Sales Order but increases in Taxes from the wireless telecommunications service provider during the Term may be passed on and charged to Subscriber.

## 7. TERM AND TERMINATION.

- 7.1 **Term.** The Term of this Agreement will commence on the Effective Date. The Term of this Agreement will continue in effect for the minimum number of months specified on the Contract Cover Page as the Initial Term (the "**Initial Term**") which is the minimum Term of this Agreement. The Term for each subsequent Order will be equal to the minimum number of months specified on the Contract Cover Page as the Initial Term unless the Order specifies a longer period. The Term of this Agreement and the Term of all Orders not previously terminated will be automatically extended to coincide with the latest expiration date for Application Services purchased under any subsequent Order, and otherwise such Term will be automatically renewed upon its scheduled expiration, for successive one- (1) year periods. The Term will include all such automatic extensions or renewals of the Term, the latest expiration of which together with the Initial Term will constitute the "**Term.**" Each subsequent Order (once accepted by Tricore) and automatic renewals are binding and Subscriber's obligations for the Term and all renewal periods are irrevocable, non-cancellable and unconditional, and are independent of any other agreement entered into between Subscriber and any third party. Notwithstanding the foregoing, either Party may give written notice of intent not to renew this Agreement (or any specific Order) at least ninety (90) days prior to the scheduled expiration of the then current Term, however, Subscriber agrees that its failure to maintain a service renewal rate on at least eighty-five percent (85%) of all Hardware units previously activated under this Agreement (determined on a cumulative basis during the Term), may result in Tricore's upward adjustment of the monthly Subscriber Fees for the remaining active units for the balance of the Term.

- 7.2 **Termination for Cause.** (i) Tricore may terminate this Agreement or any Order upon written notice if Subscriber breaches any of its payment obligations under this Agreement or applicable Order and fails to cure such breach within five (5) days of written notice thereof. (ii) Either Party may terminate this Agreement or any Order hereunder upon written notice if the other Party: (a) materially breaches this Agreement or the applicable Order and fails to cure such breach within thirty (30) days following receipt of written notice of such breach; (b) becomes insolvent, files a petition in bankruptcy or becomes subject to a petition in bankruptcy filed against it that is not dismissed within thirty days of its filing; (c) is placed under the control of a receiver, liquidator or committee of creditors; or (d) dissolves, ceases to function as a going concern, makes or attempts a general assignment for the benefit of creditors, or otherwise fails to conduct its business in the normal course.

- 7.3 **Termination Other Than For Cause.** Subscriber may for its convenience terminate this Agreement or any Order, or deactivate any Hardware unit(s) hereunder, prior to the end of the Term by providing not less than thirty (30) days prior written notice to Tricore and by complying with Section 7.4 below. In the event that Tricore is prevented from performing all or any part of this Agreement by any (i) law, regulation, requirement or ruling from any judicial, governmental or other authority, including, without limitation, the FCC (and nothing herein shall require Tricore to pursue any legal or other recourse), or (ii) inability to procure from third party vendors through commercially reasonable means any rights, technology or Hardware components, then Tricore may in its sole discretion immediately cease performance without liability, and may immediately terminate this Agreement or any Order.

- 7.4 **Termination Fee.** In order to exercise its right to terminate under Section 7.3, Subscriber shall pay an early termination fee ("**Termination Fee**") to Tricore in lieu of actual damages. The Termination Fee shall be determined by multiplying the number of Hardware units deactivated or terminated times the sum of (i) One Hundred Seventy-Five Dollars (\$175.00) plus (ii) the additional sum of Twenty-Five Dollars (\$25) per each such Hardware unit for which the minimum activation term has not been completed as of the Termination Date. The Termination Fee shall be in addition to all sums due or which become due under this Agreement or the applicable Order up to the Termination Date. The Termination Fee is due and payable to Tricore within ten (10) days of the Termination Date. Subscriber and Tricore acknowledge and agree that this formula represents a fair and reasonable means to permit Subscriber to terminate this Agreement or a particular Order or deactivate specific Hardware earlier than the scheduled expiration of the Term, and to compensate Tricore for its losses associated with such early termination.

## 8. WARRANTY DISCLAIMER.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE APPLICATION SERVICES AND LICENSED TECHNOLOGY AND ANY OTHER MATERIALS, SOFTWARE, CONTENT, DATA AND/OR SERVICES PROVIDED BY TRICORE ARE PROVIDED "AS IS" AND "WITH ALL FAULTS," AND SUBSCRIBER ASSUMES ALL RISK AND LIABILITY ASSOCIATED WITH THE PERFORMANCE, USE AND RESULTS THEREOF. TRICORE EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED OR OTHER WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUALITY OR NON-INFRINGEMENT. NO WARRANTY IS MADE BY TRICORE ON THE BASIS OF TRADE USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE. NO EMPLOYEE OR CONTRACTOR OF TRICORE (INCLUDING ANY SALESPERSON OR INSTALLER) IS AUTHORIZED TO CREATE ANY WARRANTY OR PROMISE, OR MODIFY ANY PROVISION OF THIS AGREEMENT.

## 9. LIMITATION OF LIABILITY.

- 9.1 **Limitation of Liability.** TRICORE SHALL NOT BE LIABLE TO SUBSCRIBER OR TO ANY OTHER PERSON FOR ANY LOSS OR DAMAGE CAUSED BY THE USE OF THE APPLICATION SERVICES OR LICENSED TECHNOLOGY OR FOR ANY INTERRUPTION OF THE SERVICES, REGARDLESS OF CAUSE. IN NO EVENT SHALL TRICORE'S LIABILITY TO SUBSCRIBER EXCEED THE AMOUNT PAID BY SUBSCRIBER FOR THE SERVICES IN QUESTION. TRICORE SHALL NOT BE LIABLE TO SUBSCRIBER OR ANY THIRD PARTY FOR CONSEQUENTIAL, INCIDENTAL, GENERAL, SPECIAL OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, COST OF REMOVAL OR REINSTALLATION OF HARDWARE, COSTS TO PROCURE SUBSTITUTE PRODUCTS AND/OR SERVICES, OUTSIDE COMPUTER TIME, LOSS OF GOODWILL, LOSS OF PROFITS, LOSS OF DATA, OR BUSINESS INTERRUPTION. WITH RESPECT TO WIRELESS SERVICES, IN NO EVENT WILL TRICORE BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO, SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR ANY SERVICE ERROR OR INTERRUPTION, INCLUDING INTERRUPTIONS OR ERRORS IN ROUTING OR COMPLETING ANY 911 OR OTHER EMERGENCY RESPONSE CALLS OR ANY OTHER CALLS OR TRANSMISSIONS, LOST OR ALTERED MESSAGES OR TRANSMISSIONS, OR UNAUTHORIZED ACCESS LOSS OF OR DAMAGE TO SUBSCRIBER'S VEHICLES OR ASSETS, EVEN IF TRICORE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CERTAIN OF THE ABOVE

LIMITATIONS MAY NOT APPLY IN SOME STATES. TO THE EXTENT THAT ANY SUCH LIMITATIONS ARE PRECLUDED IN A GIVEN STATE, SUCH PRECLUSION SHALL NOT AFFECT ANY OTHER LIMITATIONS NOT SO PROHIBITED OR PRECLUDED.

9.2 **Open-Source Applications.** Subscriber acknowledges that Tricore embeds some Open-Source Applications in some of its Hardware. These Open-Source Applications are not licensed by Tricore to Subscriber pursuant to the provisions of this Agreement and this Agreement may not be construed to grant any such right and/or license. Subscriber shall have only such limited rights and/or licenses, if any, to use the Open Source Applications as are set forth in the relevant agreements, available to Subscriber upon request during the Term, solely as embedded in the Hardware in a fully assembled state and not separately as components.

10. **SECURITY; PERSONAL INFORMATION AND PRIVACY.** Subscriber agrees and understands that it is responsible for maintaining the confidentiality of passwords associated with any account it uses to access the Services. Accordingly, Subscriber agrees that it will be solely responsible to Tricore for all activities that occur under its account. Subscriber agrees that, in order to perform its obligations under this Agreement, Tricore may collect personal information about it or, if applicable, Subscriber's customers, and when the Services are used, and about Subscriber or, if applicable, Subscriber customers' assets. Subscriber understands and agrees that Tricore and/or its agents or service providers may monitor the activities and location of Subscriber or, if applicable, Subscriber customers' assets and the usage of the Tricore system. Further, Subscriber understands that privacy cannot be guaranteed on the Tricore system or other systems such as those used in order to provide the Services, and Tricore shall not be liable to Subscriber or any other third party for any claims, loss, damages or costs which may result from a lack of privacy or violation of privacy rights, and Subscriber agrees to indemnify, defend and hold Tricore harmless from and against any such claims or causes of action, and damages, losses or costs related thereto. Subscriber consents to Tricore using information about Subscriber and Subscriber assets to (i) administer the services, (ii) electronically locate Subscriber or, if applicable, Subscriber customers' assets equipped with a unit in conjunction with providing the services, (iii) provide information to third party service providers, wireless carriers or other persons for the purpose of providing the services, or in response to a subpoena or other legal process, (iv) enforce the terms of this Agreement, (v) prevent fraud and respond to regulatory and legal requirements, or in conjunction with a government inquiry, or in litigation or dispute resolution, and (vi) share information with Tricore affiliates in conjunction with the services and for the purpose of providing Subscriber with any promotional offers and marketing materials. **Subscriber shall advise all occupants or users of Subscriber's or, if applicable, Subscriber's customers' assets equipped with a unit about how information about them may be collected, used and disclosed by Tricore.**

## 11. GENERAL.

11.1 **Force Majeure.** Notwithstanding any other provision of this Agreement, neither party shall be deemed in default of this Agreement for delay, failure in performance, loss or damage due to any of the following force majeure events: fire, strike, embargo, explosion, interruptions or irregularities in power or connectivity, earthquake, nuclear accident, terrorism, volcanic action, flood, war, water, the elements, labor disputes, civil disturbances, the requirements of any government, civil or military authority, acts of God or public enemy, inability to obtain or secure products or transportation facilities, acts or omissions of common carriers or other causes beyond a Party's reasonable control, whether or not similar to the foregoing. Force majeure may not be asserted by Subscriber to excuse or suspend Subscriber's payment obligations.

11.2 **Assignment.** Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, provided consent is not required in conjunction with the merger, transfer or sale of a majority of a Party's outstanding voting capital stock or substantially all of its assets, or other transaction effecting a change of control, nor is consent required for Tricore's sale of assets primarily pertaining to or required for the performance of its obligations under this Agreement, or its sale or assignment of accounts receivable or subcontracting any of its performance obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties' successors and permitted assigns.

11.3 **Compliance with Laws; Indemnity.** Subscriber agrees that with respect to the Application Services and Licensed Technology, Subscriber's use will comply with all applicable laws, statutes, regulations, ordinances, and rules of governmental authority, and Subscriber shall indemnify, defend and hold Tricore harmless from and against any claims, liability or loss (including reasonable attorney's fees) arising out of any (i) breach by Subscriber of this Agreement, (ii) the acts or omissions of Subscriber or Subscriber's Authorized End Users, or (iii) asserted or established violation of laws, statutes, regulations, ordinances or rules by Subscriber or anyone Subscriber authorizes to use a vehicle equipped with the Application Services or Licensed Technology. Tricore is not liable for any claims or damages that may arise out of the fact that GPS technologies are not permitted, or are not being used in compliance with applicable law, in a particular jurisdiction. Subscriber will not directly or indirectly export, re-export or transmit in violation of any export laws, rules or regulations of the United States. Where applicable, Subscriber will advise its authorized drivers, employees and contractors that vehicles are tracked and detailed operating information is collected, stored and reported. **If Subscriber has authorized a third-party to receive data and information from Tricore related to Subscriber's account, including data pertaining to vehicle location and driver operating behavior, then to the extent Tricore agrees to provide such data and information, Subscriber agrees that such third party (and not Tricore) is solely responsible for the handling of that shared data and information, including responsibility for compliance with all laws (including the laws of privacy) pertaining to the sharing, use and retention thereof.**

11.4 **Notices.** Except as otherwise provided in this Agreement, all notices or other communications hereunder to be effective shall be in writing and either delivered in person by a nationally recognized overnight delivery service (with delivery confirmed), or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, and addressed to Subscriber or to Tricore at the addresses specified in this Agreement. Notices shall be effective upon receipt (or first attempted delivery, if refused or unclaimed). Either Party may send a notice changing its address for receipt of notices under this Section.

11.5 **No Third-Party Beneficiaries.** This Agreement is intended solely for the benefit of the Parties, their successors and permitted assigns. There are no express, implied, legal or equitable rights or benefits conferred upon any third party.

11.6 **Independent Contractors.** Each Party is an independent contractor and not a partner, joint venturer, or agent of the other, and will have no authority to bind the other to any contract or commitment of any type.

11.7 **Promotion.** Tricore may use Subscriber's name and logo in connection with websites, advertisements, client proposals and other communications sent to existing and potential customers and others, to the extent necessary to indicate the relationship of the Parties. Tricore may also document a business case for the technology solution deployed for Subscriber.

11.8 **Order of Precedence.** These Terms and Conditions take precedence over those contained in any Order. Any additional or different terms contained in a Subscriber purchase order whether or not such terms would materially alter this Agreement, shall be deemed objected to by Tricore and of no force or effect unless the Parties expressly amend this Agreement in writing. Execution of an Order shall not operate as an amendment to this Agreement.

11.9 **Waivers of Default.** A Party's waiver of any breach or default shall not be deemed a waiver or modification of any term or condition of this Agreement, a continuing waiver of such breach or default or a waiver of any other breach or default.

- 11.10 **Survival.** The expiration or termination of this Agreement shall not terminate vested rights of either Party unless this Agreement expressly specifies otherwise, or release either Party from any liabilities or obligations incurred prior to expiration or termination, or from obligations which by their express terms or by their nature are intended to survive expiration or termination in order to achieve the intent of the Parties.
- 11.11 **Governing Law; Jurisdiction.** This Agreement will be governed by and interpreted in accordance with the laws of the State of California, without regard to conflicts of law principles. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods. All disputes regarding this Agreement shall be brought exclusively in the Ventura County Superior Court and the parties consent to the jurisdiction of such court.
- 11.12 **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by a court or other forum of competent jurisdiction, such invalidity or unenforceability shall not invalidate or render unenforceable the entirety of this Agreement. Unless a failure of consideration would result, the invalid or unenforceable provision will be deemed revised to the minimum extent necessary in order to make this Agreement valid and enforceable (provided this Agreement as revised continues to substantially reflect its original intent).
- 11.13 **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. This Agreement may be executed by the exchange of scanned or electronic signatures.
- 11.14 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior oral or written proposals, negotiations and agreements between the Parties relating to the subject matter hereof. No modifications to this Agreement or waivers will be enforceable unless evidenced in writing and signed by both Parties.