

# Terms & Conditions

## Terms and Conditions of Sale of Goods and Web Services On-Line

### 1. Applicable Terms

**1.1** All orders placed with the Seller using the Web Site shall be subject to these terms and conditions

**1.2** The Web Site is owned and operated by or on behalf of the Seller and any trademark, trade name or logo contained on the Web Site is the property of the Seller. Permission is granted by the Seller to the Buyer to copy electronically and print in hard copy portions of the Web Site for the sole purpose of placing an order with the Seller. Any other use including reproduction, republication or dissemination of any material from the Web Site is not permitted by the Seller

### 2. Definitions

**2.1** In these terms and conditions the following words and phrases shall bear the following meanings:-

**'Account'** The Seller's records of the Buyer's payments and outstanding charges plus the Buyer's personal details

**'Bar'** A block placed by the Seller on some or all of the Web Services the Buyer normally uses

**'Buyer'** The customer

**'Connection'** The process of giving the Buyer access to the Web Services. **"Disconnection"** and **"Re-connection"** have a corresponding meaning

**'Goods'** the Seller's in-vehicle telemetry unit and all associated accessories as set out in the Seller's [catalogue] from time to time [link]

**'Location data'** data processed in an electronic communications network indicating the geographical position of the terminal equipment of a Device including the latitude longitude or altitude of the Device, the direction of travel of the vehicle in which the Device is situated or the time the location information was recorded

**'Network'** The public telecommunications system by which the Seller makes Web Services available in the United Kingdom.

**'Registration'**. The Seller's acceptance of the Buyer's application for Web Services and the Seller's record of the Buyer prior to Connection. 'Register' has a corresponding meaning.

**'Seller'** Self track

**'SIM CARD'** A Card or other device which contains the Buyer's personal [telephone] number and which is programmed to allow the Buyer to access the Network

**'Suspension'** The temporary Disconnection of Services. 'Suspend' has a corresponding meaning.

**'traffic data'** Data processed for the conveyance of a communication on an electronic communication network

or for billing in respect of that Communication  
'Web Services' a collection of individual functions of the Web Site to include without limitation acquiring location data from a vehicle tracking unit or printing a report to screen or print [link?]

**'Web Site'** the Web Site owned and operated by or on behalf of the Seller.

### 3. Contract Formation

A contract shall be made between the Seller and the Buyer on acceptance by the Seller of the Buyer's order and in the case of an order for Goods payment of the whole of the price for the Goods and in the case of subscription for Web Services the putting in place of satisfactory arrangements for payment thereof in accordance with Clause 4. Once payment has been received or satisfactory payment arrangements put in place the Seller will confirm that the Buyer's order has been accepted by sending an email to the Buyer at the address provided by the Buyer in his order form. The Seller's acceptance of the Buyer's order brings into existence a legally binding contract between the Seller and the Buyer. The Contract shall be deemed to be concluded in England and the place of performance shall be England.

### 4. Prices and Payment

**4.1** The prices payable for Goods and Web Services ordered are as set out on the Seller's Web Site from time to time.

**4.2** Delivery of Goods is subject to a charge as set out on the Seller's Web Site. It may not be possible to deliver Goods to some areas or render the Web Services in some locations.

**4.3** To purchase Goods and Web Services it is necessary to register. The Seller reserves the right to refuse any registration application without reason. If a Buyer wishes to become an accountholder then it must apply and provide references [link]. Any personal information relating to the Buyer shall be encrypted by the Seller before it is transmitted over the Internet [link to privacy policy] A Buyer will be allocated a credit limit for purchasing Web Services on Registration [link]

**4.4** The price of all Goods ordered must be paid for by credit card, cheque or cash prior to acceptance by the Seller of the Buyer's order unless the Seller otherwise agreed [link to credit pages].

**4.5** Payment for Web Services shall, unless the Seller otherwise agrees, be paid monthly in arrears by credit card or if the Buyer is an accountholder monthly within 30

days of receipt of the Seller's invoice or if the Buyer's credit limit has been reached the Buyer shall make payment in full before any further Web Services are made available. In the event that payment is not received on time the Buyer shall cease to be entitled to use and will not be able to access the Web Services until receipt of payment in full. An

administration charge as set out on the Web Site will be chargeable for reconnecting the Buyer to the Web Services. Account payment is subject to a minimum charge as set out in the Web Site. Charges for facilities such as roaming may be charged several months in arrears.

**4.5** In the event that a contract is terminated part way through any year a proportionate sum shall be due in respect of the annual Web Site registration fee. **4.6** Each activated in-vehicle telemetry unit ("the Device") that is subject to an annual Web Site registration fee [link] as set out on the Web Site shall have the fee collected annually in arrears 12 months after the Device is activated and every 12 months thereafter. The fee will be deducted from the Buyer's credit balance for Web Services or in the case of an account holder invoiced to the Buyer for payment in 30 days and if these results in the Buyer's Credit limit are being exceeded then payment will be requested in accordance with clause.

**4.61** Each device that is subject to a monthly fee for subscription combined with payment for services shall be in force for the period agreed at the time of sale. This period will be specified on the invoice. Following this period the agreement will remain in place until cancelled by the customer or the supplier by giving 30 days notice. In the event of cancellation before the agreed period the customer will immediately be due to pay all of the fees that would have become due in the normal course of the contract.

**4.7** The Buyer's Credit balance and transaction history for all credit payments and Web Services function credits are available on line.

**4.8** The Seller reserves the right to vary its charges for Web Services by giving the Buyer 30 day's written notice. If the Seller does not receive notice within 30 days of giving notice of the change to the effect that the Buyer wishes to terminate the contract then the Buyer will be taken to have accepted the change.

**4.9** Charges for upgrading Devices or the level of Web Services to which the Buyer subscribes shall be set out on the Web Site.

## **5. Right for the Buyer to cancel the Contract**

**5.1** As regards Goods

**5.1.1** The Buyer may cancel the contract with the Seller for any Goods ordered at any time up to the end of seven full working days from the date of receipt of the Goods. The

Buyer does not need to give any reason for cancelling the contract nor does the Buyer have to pay a penalty. If the Goods have been made to the Buyer's specification or are personalised then the Buyer is not entitled to cancel.

**5.1.2** To cancel the contract the Buyer must notify the Seller in writing

**5.1.3** If the Buyer has received the Goods before cancelling the contract then unless there is no right to cancel the contract the Buyer must send the Goods back to the Seller's contact address at the Buyer's cost and risk. If the Buyer cancels the contract but the Seller has already processed the Goods for delivery the Buyer must not unpack the Goods when received and must send them back to the Seller at its contact address at the Buyer's own cost and risk.

**5.1.4** Once the Buyer has notified the Seller of cancellation of the contract any sum debited to the Buyer's credit card will be recredited to the Buyer's credit card as soon as possible and in any event within 30 days of the Buyer's order provided that the Goods in question are returned by the Buyer and received by the Seller in the condition they were when delivered. If the Buyer does not return the Goods to the Seller or pay the costs of delivery the Seller shall be entitled to deduct the direct costs of recovering the Goods from the amount to be recredited to the Seller.

**5.2** As regards Web Services

**5.2.1** The Buyer may cancel the contract as regards supply of Web Services at any time up to the end of seven full working days from the [date of activation of the device] and thereafter at any time on giving [ 30 ] days notice in writing. The Buyer does not need to give any reason for cancelling the contract nor does the Buyer have to pay any penalty but if the Buyer has used the Web Services prior to cancellation the Buyer must pay for all Web Services used.

**5.2.2** To cancel the contract the Buyer must notify the Seller in writing

**5.2.3** On cancellation of the contract the Buyer shall cease to use the Web Services

**5.2.4** Once the Buyer has notified the Seller of cancellation of the contract any sum debited to the Buyer's credit card or if the Buyer is an account holder the Buyer's Account (save in respect of Web Services used by the Buyer) will be recredited to the Buyer's credit card or the Buyer's Account (as the case may be) as soon as possible and in any event within 30 days of the Buyer's Order.

## **6. Cancellation by the Seller**

**6.1** The Seller may cancel the contract for the sale and purchase of Goods between the Buyer and Seller if:-

**6.1.1** the Seller has insufficient stock to deliver the Goods the Buyer has ordered; or

**6.1.2** The Seller does not deliver to the Buyer's area; or

**6.1.3** One or more of the Goods ordered by the Buyer was listed at an incorrect price due to a typographical order or error in the pricing information received by the Seller from its suppliers

**6.2** If the Seller cancels the contract the Seller will notify the Buyer by email and recredit the Buyer's account with any such sum deducted by the Seller from the Buyer's credit card or the Buyer's Account (as the case may be) as soon as possible but in any event within 30 days of the Buyer's order. The Seller shall not be obliged to offer the Buyer any additional compensation for disappointment suffered.

## **7. Delivery**

**7.1** The Goods shall be delivered to the Buyer's address as given at the time of the Buyer's order. Unless otherwise agreed the Seller shall deliver only within the United Kingdom of Great Britain and Northern Ireland.

**7.2** Delivery will be made as soon as possible after the Buyer's order is accepted and in any event within 30 days of the Buyer's order. Otherwise any delivery times quoted are based on current commitments and subject to review. The Seller shall not be liable for any delay in delivery of the Goods.

**7.3** The Buyer shall become the owner of the Goods once received by the Buyer. Thereafter the Goods are held at the Buyer's risk and the Seller is not liable for their loss or destruction.

## **8. Provision of Web Services**

**8.1** The Seller will take all reasonable steps to make all Web Services available to the Buyer at all times. The Web Services are only available within the range of the base stations that make up the Network. Nonetheless:-

**8.1.1** The quality and availability of Web Services may sometimes be affected by factors outside the Seller's control – such as local physical obstructions, atmospheric conditions, other causes of radio interference, and faults in other telecommunication networks to which the Network is connected.

**8.1.2** The quality of Web Services may not be at its best inside buildings or below ground.

**8.1.3** The Web Services operate using radio signals wire free and fixed line networks therefore the Buyer should never rely on the Web Services for critical services. The Buyer should ensure that it has appropriate contingency plans in place.

**8.2** The Network, the Web Services and the Web Site may from time to time require upgrading, modification, maintenance or other works. These may result in some or all of the Web Services becoming temporarily unavailable. In such cases, the Seller will do everything it can to provide alternative Web Services and to keep the period of non-availability to a minimum. However, some interruption

may be inevitable.

**8.3** The Seller may suspend some or all of the Web Services the Buyer uses, without giving the Buyer notice, if the Seller has good reason to believe that the Buyer has not complied with one or more of the terms of the Contract.

**8.4** If the Buyer does not pay his bill within the time stipulated in Clause 4, the Seller reserves the right to place a Bar on access to the Web Services. This Bar will remain in force until the Buyer has paid everything he owes the Seller. At the Seller's discretion, the Seller may charge the Buyer for Re-connection and removal of the Bar.

**8.5** The Seller also reserves the right to Suspend Services if a complaint has been made against the Buyer. The complaint will be thoroughly investigated, and Web Services will remain suspended until the Seller knows the results of that investigation. Any complaint the Buyer makes will similarly be thoroughly investigated.

**8.6** The Seller reserves the right to suspend, either temporarily or permanently, part or all of any Web Services on giving reasonable notice.

**8.7** The Buyer should be aware that the mapping details utilised on the Web Site are upgraded on an annual basis and may not therefore be fully up to date.

**8.8** The Seller in providing Web Services relies on Global [Positioning] Satellite ("GPS") over which it has no control and will not be held liable for any failure therein.

**8.9** For the purposes of good management and security, the Seller may need to monitor your use of the Web Services from time to time.

**8.10** Roaming relies on the telecommunications systems of foreign networks, over which the Seller has no control. The Seller cannot, therefore, offer any guarantees about roaming services.

**8.11** The Buyer agrees that the Seller's Network services provider may release to the Seller any personal data or information relating to the Buyer's credit status in performance of any contract and details of how the Buyer has performed in meeting its obligations [link to relevant consent section as order form]

## **9. Warranty and Liability**

**9.1** If the Goods the Seller delivers are not what the Buyer ordered or are damaged or defective or the delivery is of an incorrect quantity the Seller shall have no liability to the Buyer unless the Buyer notifies the Seller at the Seller's contact address of the problem within 10 working days of delivery of the Goods in question.

**9.2** If the Buyer does not receive Goods ordered by the Buyer within 30 days of the date on which the Buyer ordered them, the Seller shall have no liability to the Buyer unless the Buyer notifies the Seller in writing at the Seller's contact address of the problem within 40 days of the date

on which the Buyer ordered the Goods. If the Buyer notifies the Seller of a problem under this clause the Seller's only obligation will be, at the Buyer's option:-

**9.1.1** to make good any shortage or non-delivery; or

**9.1.2** to replace or repair any Goods that are damaged or defective; or

**9.1.3** to refund to the Buyer the amount paid by the Buyer for the Goods in question in whatever way the Seller chooses

**9.3** The Seller warrants that for a period of 12 months the Goods will substantially accord with the specification contained on the Web Site or otherwise agreed in writing with the Buyer PROVIDED THAT the Seller shall not be liable for normal wear and tear or accidental damage, misuse, failure by the Buyer to comply with the user manual or failure to use the latest database or to use the appropriate power supply.

**9.4** The Seller warrants that the Web Site is capable of communicating with a Device in order to download location data for interpretation and display in a variety of formats.

**9.5** Save as precluded by law, the Seller shall not be liable to the Buyer for any indirect or consequential loss damage or expenses (including loss of profits business or goodwill) howsoever arising out of any problem notified by the Buyer to the Seller under this Clause and the Seller shall have no liability to pay any money to the Buyer by way of compensation other than to refund to the Buyer the amount paid by the Buyer for the Goods in question under Clause 9.2.3 above

**9.6** The Buyer must comply with all applicable regulations and legislation including obtaining all necessary customs import or other permits to purchase Goods from the Web Site.

**9.7** Notwithstanding the foregoing nothing in these terms and conditions is intended to limit any rights the Buyer might have as a consumer or under applicable local law or other statutory rights that may not be excluded nor in any way to exclude the Seller's liability to the Buyer for any death or personal injury resulting from the Seller's negligence.

**9.8** If the Buyer is an employer purchasing Goods and/or Web Services for use in connection with its business it is the Buyer's responsibility to ensure that it complies with all relevant legislation in relation to the use thereof and the Seller shall not be liable for any cost claim or liability arising in connection with any failure by the Buyer in this respect.

## **10. Improvements**

The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EU requirements or where the Goods are to be supplied to the Seller's specification

which do not materially affect their quality or performance. The Seller reserves the right to make any changes in the Web Services available.

## **11. The Buyers Responsibilities**

**11.1** The Buyer shall

**11.1.1** keep confidential, and not disclose to any third party, the Buyer's account password or any personal identification code, number or name issued by the Seller or its Network services provider permitting access to the Web Services;

**11.1.2** not use the Web Services for any improper, immoral, fraudulent or unlawful purposes or for the sending of any communication which is of an offensive, abusive, indecent, obscene or menacing nature;

**11.1.3** not cause, nor knowingly allow others to cause, any nuisance, annoyance or inconvenience, whether to the Seller or to any of the Seller's customers or its Network services provider, by any means including the use of the Network;

**11.1.4** not act in a way, whether knowingly or otherwise, which will impair the operation of the Network or the Web Services or any part of them, or put them in jeopardy;

**11.1.5** use only Goods approved for use with the Network or the Web Services, and comply with all relevant legislation or regulation relating to their use.

**11.1.6** Comply with any reasonable instructions issued by the Seller or its Network services provider which concern the Buyer's use of the Web Services, and co-operate with the Seller in its reasonable security and other checks (which may include the Seller or its Network services provider making phone calls to the Buyer).

**11.2** If the Seller or its Network Services provider has reasonable grounds for believing that a Buyer is in breach of Clauses 11.1 it may suspend the Buyer's Sim Card. In such circumstances the Seller or its Network Services provider shall give the Buyer written notice of the breach. If the Buyer fails to correct the breach within 7 days connection of the Sim Card may be terminated forthwith.

## **12. Traffic Data and Location Data**

**12.1** The Seller's policy as regards traffic data and location data is set out in the Seller's privacy policy.

**12.2** Location data will be stored on-line for a maximum period of 3 months where after the location data will be deleted. Location data remains the property of the Seller until purchased to be downloaded to a local PC. Upon download, the location data will be deleted on-line.

## **13. Termination of Web Services**

**13.1** Either party may terminate the contract for the provision of Web Services between the Buyer and Seller at any time without penalty if the other party is in breach of a material term of the contract by giving written notice requiring the breach to be remedied. If the breach is not remedied within 21 days of the date of the notice then the contract shall end on expiry of the 21 day notice period.

**13.2** If the Seller's contract with its Network Services provider is terminated or if it no longer has access to GPS or it is unable to obtain adequate mapping services and reporting postcode data and the Seller is unable to make alternative arrangements then the Seller shall be entitled to terminate any contract between the Buyer and the Seller for the Web Services by giving [30] days written notice.

**13.3** If the Seller wishes to vary any of the terms and conditions of a contract between the Seller and the Buyer and such variation will be to the detriment of the Buyer the Buyer may give the Seller 30 days written notice to terminate the Contract.

**13.4** If the Buyer withdraws its consent to the Seller to enable to process traffic data or location data for the purpose of providing a value added service then the Seller may terminate the contract by giving the Buyer written notice

#### **14. SIM CARD**

**14.1** Any SIM Card the Seller supplies to the Buyer remains the Seller's or its Network Services provider's property, but it is the Buyer's responsibility to keep it safe. SIM Cards are easily damaged and should be handled with care. The Seller will replace free of charge any SIM Card found to be defective through faulty design or workmanship. In any other circumstances, however, the Seller may charge for replacing it. The Seller reserves the right to recall any SIM Card from the Buyer at any time to enhance or maintain the quality of the Web Services.

**14.2** The Buyer must inform the Seller immediately if the SIM Card supplied to the Buyer is lost, stolen or damaged. The Buyer will remain liable for all charges incurred until the Buyer does so. The Seller will send the Buyer a replacement SIM Card as soon as reasonably practicable, but the Seller reserves the right to charge the Buyer for doing so.

**14.3** The SIM Card supplied enables the Device to work on the Network only – with the exception of Devices which can access Roaming Services.

#### **15. Force Majeure**

If performance of a contract is delayed or prevented by any cause or causes beyond the Seller's control the Seller shall be entitled to terminate the contract or suspend its duty to perform for as long as the circumstances amounting to force majeure continue. Force majeure

circumstances shall include but without limitation adverse weather conditions, industrial action, war, fire, accidents, delay by supplier, difficulties in transport, breakdown in machinery or plant and shortage of materials or labour. The Seller shall not be liable for any costs arising out of termination of the contract or suspension of its duty to perform under this clause.

#### **16. Data Protection and Related Issues**

**16.1** Where the Buyer orders Goods or sends an email to the Seller or uses the Goods the Buyer's personal data will be recorded and retained by the Seller in accordance with the Data Protection Act 1998. The Buyer has the option on the order form to indicate whether or not its data may be used by the Seller for further email or other direct marketing purposes for the goods or services of the Seller in which the Buyer may be interested [link]. The Buyer shall have the right to be removed from all mailing lists to which it has previously agreed its name may be added by notifying the Seller. The Seller shall not sell on personal data of the Buyer to third parties but by submitting information the Buyer consents to the use of that information as set out in this Clause. If the Buyer does not wish its data to be used as set out in this Clause it should indicate this on its order form [link].

**16.2** The Seller's privacy policy sets out the Seller's position as regards traffic data and location data. The Buyer has the option on the order form to indicate whether or not it agrees to this and may at any time thereafter withdraw any consent. If the Buyer does not wish the Seller to use traffic data and location data as set out in the Seller's privacy policy it should indicate this on the form but should be aware the Seller will therefore be unable to provide the Web Services as use of traffic data and location data is an integral part of the Web Services.

**16.3** The Buyer acknowledges and agrees to be bound by the Seller's privacy policy.

#### **17. General**

**17.1** Third party rights. A person who is not a party to this agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of a contract but this shall not affect any remedy of a third party which exists or is available apart from such Act.

**17.2** Age restriction. No orders shall be accepted on the Seller's Web Site from any person under the age of 18 years or the age of majority in the country in which they are resident.

**17.3** Assignment. The Buyer shall not be entitled to assign a contract or any part of it without the prior written consent of the Seller.

**17.4** The Seller may assign a contract or any part of it to

any person, firm or company.

**Notices.** Any formal legal notices shall be sent by the Buyer to the Seller and by the Seller to the Buyer by email and confirmed by post.