

## 1. DEFINITIONS AND INTERPRETATIONS

1.1 In this agreement, unless inconsistent with the context, the following words shall have the meanings assigned to them hereunder

1.1.1 "agreement" – this agreement read with the preceding transaction schedule and the vehicle list;

1.1.2 "business days" – excludes weekends and public holidays;

1.1.3 "commencement date" – the date of signature of this agreement by the Subscriber;

1.1.4 "contact person" – the Subscriber's contact person(s) referred to in the transaction schedule or such substitute(s) as notified in writing to SAT by the Subscriber from time to time;

1.1.5 "fitment centre" – the fitment centre, duly approved and/or recommended by SAT for the installation of the SAT equipment, or SAT if it installs the SAT equipment itself;

1.1.6 "SAT" – SAT S.R.L.;

1.1.7 "SAT Control Centre" – the centre where signals are sent to the SAT equipment and where applicable signals are received back from the SAT equipment;

1.1.8 "SAT equipment" – the equipment specified in the transaction schedule;

1.1.9 "SAT services" – the SAT services referred to in clause 7 hereof;

1.1.10 "Service Providers" – includes the operator of the communications network utilised by SAT and the supplier of Mapping services utilised by SAT;

1.1.11 "Subscriber" – the contracting party as described in the preceding transaction schedule;

1.1.12 "territory" – Europe meaning the greater part of western and eastern Europe but excluding such areas or situations where the vehicles and/or the SAT equipment is not capable of or otherwise prevented from sending and receiving signals;

1.1.13 "transaction schedule" – the preceding portion of this agreement which identifies the Subscriber and SAT and in which provision is made for other particulars and terms applicable to this agreement to be completed including any additional vehicles and services added to the transaction schedule at the written request of the Subscriber;

1.1.14 "vehicle/s" – the vehicle/s referred to in the vehicle list;

1.1.15 "vehicle list" – the annexure to the transaction schedule which identifies the vehicles that are subject to this agreement;

1.1.16 "Rental" – the repayment of hardware only, or hardware plus subscription services and other monthly charges over the agreed Contract Period (Months).

1.2 Heading of clauses shall be deemed to have been included for purposes of convenience only and shall not affect the interpretation of the agreement;

1.3 Unless inconsistent with the context words relating to any gender shall include the other genders, words relating to the singular shall include the plural and vice versa and words relating to the natural persons shall include association of persons having corporate status by statute or common law.

## **2. APPOINTMENT AND HIRE**

2.1 The Subscriber hereby appoints SAT to provide the SAT services to the Subscriber in the territory and SAT agrees to do so upon the terms and conditions set out in this agreement.

2.2 Save in the event that the SAT equipment is purchased outright by the Subscriber, the Subscriber hereby hires the SAT equipment from SAT with effect from the commencement date for the individual pieces of SAT equipment set out in the transaction schedule on the terms and conditions set out in this agreement.

2.3 Insofar as it is necessary to enable SAT to provide the SAT Services, the Subscriber irrevocably authorises SAT to take control of and/or drive and/or otherwise secure the vehicles on the Subscriber's behalf.

## **3. DURATION OF CONTRACT**

3.1 Subject to the provisions of this agreement, this agreement shall take effect on the commencement date and shall continue for the period specified in the transaction schedule.

3.2 Either party may terminate this Agreement at the completion of the period specified in the transaction schedule by providing not less than 30 days' notice.

3.3 In the event neither party terminates in accordance with clause 3.2, the parties agree that this agreement is automatically renewed for the period specified in the transaction schedule.

3.4 Should the Subscriber terminate this agreement otherwise than envisaged in clause 3.2, or SAT terminates in accordance with clause 10, then SAT shall be entitled to claim from the Subscriber as a genuine pre-estimate of the damages suffered by SAT, an amount equal to the total monthly rental and other monthly charges due, for the unexpired period of this agreement. The said amount shall be paid to SAT within seven (7) days of the date of such termination or the date on which the Subscriber fell in arrears.

3.5 Notwithstanding anything to the contrary contained in this agreement, SAT reserves the right to recover any and/or all damages suffered by SAT arising from such early termination of this agreement by the Subscriber.

## **4. THE INSTALLATION AND OPERATION OF EQUIPMENT**

4.1 The Subscriber undertakes to use the SAT equipment and the SAT services in a careful and proper manner and strictly in accordance with the provisions of this agreement and with any other literature disseminated by SAT from time to time. If there is any conflict between the provisions of this agreement and the aforementioned literature, the provisions of this agreement shall prevail.

4.2 The Subscriber shall not alter or modify or otherwise interfere with the SAT equipment or any part thereof in any way whatsoever. The Subscriber shall keep the SAT equipment free of any lien or charge and not sell, donate or pledge or in any other manner encumber or dispose of same.

4.3 The Subscriber hereby acknowledges that SAT shall not be responsible for any loss or damage or expense suffered by the Subscriber or any third party resulting from any misuse or unauthorized use of the SAT equipment and/or the SAT services.

4.4 The Subscriber shall have the installed SAT equipment tested by the fitment centre within 72 hours after having been advised by SAT that such SAT equipment needs to be tested, but in any event, at intervals of not less than 12 months.

## **6. RENTAL AND OTHER MONTHLY CHARGES**

6.1 The Subscriber shall pay the rental and other monthly charges set out in the transaction schedule, free of demand, deduction or set-off of any nature, free of exchange, bank costs and other charges monthly in advance to SAT. The first monthly rental and other monthly charges shall be payable on the commencement date and thereafter on or before the day specified in the transaction schedule by way of debit order authorisation on the Subscriber's bank account referred to in the transaction schedule, or, if SAT consents in writing, in accordance with such other terms. If the commencement date falls on a day other than the first of a month, the first monthly rental and other monthly charges shall be an amount equal to a proportionate share of the monthly rental and other monthly charges in the ratio which the monthly rental and other monthly charges bear to the number of days calculated from the commencement date to the end of the relevant month.

6.2 After the expiry of the initial period referred to in the transaction schedule, SAT may increase the monthly rental and other monthly charges upon one calendar month's written notice to the Subscriber. During the initial period referred to in the transaction schedule, the monthly rental and other monthly charges shall escalate as set out in the transaction schedule.

6.3 In the event of the SAT equipment being hired by the Subscriber, neither the Subscriber, nor any person on the Subscriber's behalf, shall during the course of this agreement, or upon its termination, acquire ownership of the SAT equipment and ownership thereof shall always remain with SAT. Upon termination of this agreement the Subscriber shall be obliged to take the vehicles with the SAT equipment installed in them to a fitment centre for removal within 14 (fourteen) days of termination. The Subscriber shall pay all the costs incurred or associated with such removal.

6.4 In the event the Subscriber fails to take the vehicles to the fitment centre for removal of the SAT equipment, the Subscriber shall continue to pay the rentals and other monthly charges whilst it is in possession of the SAT equipment, as if the agreement was not terminated.

6.5 If SAT cancels this agreement due to default by the Subscriber and the Subscriber disputes SAT's rights to do so, the Subscriber shall nevertheless continue to pay the rentals and other monthly charges whilst it remains in possession of the SAT equipment and SAT shall be entitled to accept such payments without prejudice to the claim for cancellation then in dispute.

## **7. FEES AND CHARGES, PAYMENT AND INTEREST**

7.1 In addition to the rental and other monthly charges referred to in clause 6, the Subscriber shall be liable for and pay to SAT all charges and costs plus government sales or value added taxes thereon actually expended and/or incurred by SAT arising from-

7.1.1 the breakage, misuse or replacement of any SAT equipment; and/or

7.1.2 any rendering or use of the SAT services knowingly made or caused by the Subscriber or any representative of the Subscriber or any authorised persons or users or drivers of the vehicles, in a manner which the SAT equipment to malfunction thereby rendering the SAT services useless or non-servicable;

7.1.3 the transporting, removal, driving and/or securing of the vehicles (including but not limited to towing charges and similar carriage charges) pursuant to the SAT services to a safe location so determined by SAT in its reasonable discretion, where, in the sole discretion of SAT, the vehicles are not capable of being driven.

7.2 The Subscriber shall be responsible for a reconnection fee as determined by SAT from time to time and communicated to the Subscriber in advance of any changes, plus government sales or value added taxes, in the event of the reinstatement of any SAT services previously suspended by SAT in accordance with the provisions of clause 11 below.

7.3 Payment of all costs and fees in terms of this agreement shall be made by the Subscriber without demand, deduction or set off of any nature, free of exchange, bank costs and other charges. Payment of the additional costs set out in 7.1 shall be made within seven (7) days of receipt by the Subscriber of an invoice in respect of same from SAT.

7.4 The Subscriber shall be responsible for payment of any stamp duties in respect of this agreement and for the payment of all legal costs incurred by SAT arising out of a breach of this agreement on a "solicitor and own client" basis.

7.5 The monthly rental and other monthly charges have been determined, inter alia with reference to the information provided by the Subscriber from time to time, which the Subscriber warrants is true and correct. The Subscriber shall forthwith notify SAT in writing of any changes or additions to such information. If such information is found to be incorrect, inadequate or insufficient, SAT may cancel this agreement in accordance with the provisions of clause 11, or, without notice to the Subscriber, adjust the monthly rentals and other charges in accordance with its standard charges from time to time to such rentals and other charges as would have applied if SAT had been furnished with the correct information. Such adjustment may be made retrospectively with effect from the date of the giving of the incorrect and/or inadequate and/or insufficient information and any additional amounts which become so payable shall be paid by the Subscriber to SAT on demand.

7.6 The Subscriber shall affect all payments in terms of or arising from this agreement in such manner as determined from time to time by SAT. The Subscriber shall at all times ensure that SAT is advised of a bank account from which it may withdraw amounts due by the Subscriber under this agreement.

7.7 For as long as this agreement remains in force the Subscriber shall not be entitled to withhold payment of any amounts due to SAT hereunder for any reason whatsoever.

7.8 SAT shall be entitled, in its sole discretion, to appropriate or allocate any payments received from or on behalf of the Subscriber to any indebtedness of the Subscriber to SAT from whatsoever cause arising.

7.9 Should the Subscriber fail to pay any amount due in terms of or arising from this agreement on due date then such overdue amount shall bear interest at 2% above the marginal lending rate as determined by the European Central Bank from time to time, calculated from the due date for payment of such amount until the date of payment thereof both days inclusive.

7.10 SAT shall be entitled to make any enquiries deemed necessary in any application for credit facilities or continuation thereof. If a credit facility is approved for the Subscriber, SAT is further entitled to register details about the conduct of the Subscriber's account with any National Credit Bureau.

## **8. NOTICES TO SUBSCRIBER**

Where SAT is required to notify the Subscriber of any matter arising from this agreement, (except for the service of legal documents) such notice shall be effected by SMS to the Subscriber or its contact person, as the case may be, at such mobile telephone number as notified in writing by

the Subscriber to SAT from time to time. Where SAT cannot reach the Subscriber or its contact person at the given mobile telephone number, SAT shall be relieved of the duty to provide such notice.

## **9. EXCLUSIONS OF LIABILITY**

9.1 The Subscriber acknowledges and agrees that notwithstanding anything to the contrary contained in this agreement –

9.1.1 the SAT services are intended to reduce the risk of loss but not of eliminating such risk and are not intended to be life-saving but to provide the best efforts in early warnings of fatigue;

9.1.2 SAT shall not be liable for any loss or damage of whatsoever nature (whether direct or consequential) or expenses or cost of any nature whatsoever which may be suffered by the Subscriber or any third party in consequence of, or attributable directly or indirectly to, any act or omission by SAT or any failure by SAT to provide the SAT services pursuant to this agreement, notwithstanding any negligence on the part of SAT and/or its employees and/or its agents; or directly or indirectly arising pursuant to or in connection with the provision of services to SAT or the Subscriber by any wireless telephone network operator (“the Service Provider”) or which makes such wireless telephone network services (“the Network Services”) available to Subscribers or arising out of or in connection with any system down time or delay, malfunction or breakdown of equipment or the Network Services or unavailability of the Network Services, or the activation, deactivation, suspension, cancellation or reactivation of any SIM card by the Service Provider, or the reliance on any information received from the Service Provider via the Network Services.

9.2 The Subscriber hereby indemnifies and holds SAT harmless against all and any claims of whatsoever nature including all claims for loss, damage, expenses and costs, which may be brought against SAT by any person arising directly or indirectly or in connection with any act or omission by SAT in providing the SAT services or otherwise, notwithstanding any negligence on the part of SAT and/or its employees and/or its agents, or arising directly or indirectly or in connection with any act or omission by the Service Providers, SAT’s or the Subscriber’s use or accessing of the Network Services, or the reliance on information provided by the Service Providers.

9.3 Notwithstanding anything to the contrary contained herein, any liability whatsoever that may be attributable to SAT (which is denied) shall be limited to and shall not exceed 12 months revenue received by SAT under and in terms of this agreement.

## **10. BREACH**

10.1 If the Subscriber breaches any term or condition of this agreement SAT may, notwithstanding anything to the contrary contained herein, immediately suspend its obligations under this agreement without notice, and/or cancel this agreement without notice and without any liability to the Subscriber.

10.2 Any such suspension or cancellation shall be without prejudice to any other rights which SAT may then have against the Subscriber at law.

10.3 Upon termination of this agreement for whatsoever reason all amounts payable by the Subscriber to SAT shall immediately become due and payable.

## **11. CERTIFICATE OF INDEBTEDNESS**

A certificate signed by any director or manager for the time being of SAT (whose appointment need not be proved) in respect of any indebtedness of the Subscriber to SAT under the agreement or otherwise or in respect of any other fact shall be prima facie evidence of the Subscriber's indebtedness to SAT and/or such other fact.

## **12. INSTALLATION INTO NEW VEHICLES**

The Subscriber shall not transfer the SAT equipment to new vehicles without SAT's prior written consent, which SAT may give or withhold in its sole discretion and which SAT may give subject to such conditions as SAT may determine in its sole discretion. If SAT gives its prior written consent, the Subscriber shall ensure that the SAT equipment is removed from the vehicles and installed in the new vehicles by the fitment centre. The Subscriber shall pay all the fitment centre's charges for such removal and installation and advise SAT immediately of the details of the new vehicles. The Subscriber acknowledges that SAT may adjust the monthly rental fee in accordance with the provisions of clause 7.5 as a result of the transfer of the SAT equipment to the new vehicles. In such an event, the parties shall jointly draw up a new updated vehicle list. The parties shall initial and date the vehicle list for identification purposes and shall append the new vehicle list to this agreement.

## **13. WARRANTY**

13.1 The SAT equipment has a warranty of 12 months and the workmanship in installing the equipment, where SAT is the fitment centre, is warranted for 3 months. The terms and conditions of such warranties are set out in SAT's Warranty Document. A copy of the Warranty Document is available on request.

13.2 In the event of the Subscriber electing the extended warranty option in the transaction schedule, then such extended warranty shall apply to the equipment.

## **14. CONSENT**

14.1 The Subscriber consents to information relating to the Subscriber contained in the transaction schedule, or as otherwise provided, being disclosed to the Service Provider and/or to any party where such disclosure is necessary for the performance of SAT's obligations under this agreement.

14.2 The Subscriber consents to SAT performing such credit checks relating to the Subscriber as SAT deems necessary from time to time.

## **15. FORCE MAJEURE**

15.1 Subject to the following provisions of this clause 15, neither party shall be responsible to the other for its failure to perform or any delay in performing any obligation under this agreement in the event and to the extent that such failure or delay is caused by force majeure.

15.2 For the purposes of this agreement, force majeure shall mean any circumstance which :

15.2.1 is beyond the reasonable control of the party giving notice of force majeure ("the affected party") and for which it is not responsible; and

15.2.2 is not a circumstance which the affected party could, by the exercise of a standard of care and skill which could reasonably be expected of that party, have avoided.

15.3 Subject to the above, force majeure includes but is not limited to war (whether declared or not), terrorism, revolution, invasion, insurrection, riot, civil, commotion, mob violence, sabotage,

blockade, embargo, boycott, the exercise of military or usurped power, fire, explosion, theft, storm, flood, drought, wind, lightning, or other adverse weather condition, pandemic, epidemic, quarantine, accident, breakdown of machinery or facilities, strike, lockout or labour dispute, acts or restraints of government imposition, or restrictions of or embargoes on imports or exports.

15.4 Notwithstanding the provisions of 15.2 :

15.4.1 a labour dispute, strike or lockout which could be resolved by the affected party acceding to the demands made of it shall be deemed to be an event of force majeure; and

15.4.2 inability to comply with this agreement because of a lack of funds shall in no circumstances be treated as an event of force majeure.

15.5 The affected party shall give notice thereof to the other immediately upon the occurrence of an event of force majeure.

## **16. GENERAL**

16.1 This agreement contains all of the express provisions agreed upon by the parties with regard to the subject matter hereof. No agreement varying, adding to, deleting from or cancelling this agreement and no waiver of any right under this agreement shall be effective unless reduced to writing and signed by or on behalf of the parties.

16.2 No relaxation by a party of any of its rights in terms of this agreement at any time shall prejudice or be a waiver of its rights (unless it is a written waiver in terms of the previous clause) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.

16.3 The Subscriber shall not be entitled to assign or delegate its rights or obligations under this agreement without the prior written consent of SAT, such consent not to be unreasonably withheld. If the SAT equipment is rented or hired, the Subscriber agrees that should SAT assign all or any of its rights under this agreement or transfer ownership of the SAT equipment to any third party, it shall hold the goods on behalf of the assignee and/or transferee.

16.4 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the agreement.

16.5 When any number of days is prescribed in this agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day is not a business day in which case the last day shall be the next succeeding business day.

16.6 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.

16.7 The rule of construction that the contract shall be interpreted against the party responsible for the drafting or preparation of the agreement, shall not apply unless the interpretation against the drafter would be unreasonable or unfair.

## **17. ADDRESSES FOR NOTICES**

17.1 The parties choose for all purposes under this agreement, whether in respect of court processes, notices or other documents or communications of whatsoever nature, the following addresses:

17.1.1 SAT: Corso Vizaglio 12 bis, 10121 Torino (TO), Italy;

17.1.2 Subscriber: As set out in the transaction schedule

17.2 Any notice required or permitted to be given in terms of this agreement shall be valid and effective only if in writing.

17.3 Any notice to a party:-

17.3.1 sent by prepaid registered post (by airmail if appropriate) shall be deemed to have been received on the 2nd business day after posting (unless the contrary is proved); or

17.3.2 notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered in accordance with clause 17.1.

## 18. GUARANTEE AND INDEMNITY & CHARGE

18.1 The signatories (as directors or otherwise) on the transaction schedule for and on behalf of the Subscriber do hereby personally jointly and severally **guarantee** in favour of SAT the payment of all monies and the performance of all obligations by the Subscriber or any of them arising from any dealing with SAT whatsoever, provided that the obligations of the signatories shall not exceed the total amount of the Subscriber's obligations under this agreement.

18.2 The said signatories further jointly and severally **indemnify** SAT and hold it harmless against all and any losses and expenses that it may sustain as a result of any dealings with the Subscriber or any of them including, but not limited to, legal costs incurred by SAT, on a full indemnity basis.

18.3 The said signatories jointly and severally agree to pay to SAT any amount certified as payable and that this Guarantee shall remain effective notwithstanding any conduct or event which, but for this clause may have the effect of releasing the Subscriber or any of them and this Guarantee is signed by the signatories in their personal capacities and as Trustees of each and every trust of which they are Trustees or directors of a Trustee company.

18.4 The said signatories jointly and severally jointly and severally **charge** in favour of SAT all of their estate and interest in any property in which they now or later may have any interest in respect of any monies that may be owing to SAT pursuant to its trading terms, the Subscriber's application, this Guarantee, Indemnity and Charge or otherwise. The signatories hereby appoint SAT, its directors and solicitors as their attorney to sign on their behalf any document which is required to register a mortgage or caveat over any real property owned by the Subscriber, the signatories and or its directors (as applicable) at any time, or to register any Security Interests over the assets of the Subscriber, the signatories or its directors (as applicable). All costs, including but not limited to all legal costs on a full indemnity basis, stamp duty and any applicable fees or charges shall be payable by the Subscriber, the signatories or its directors (as applicable).

18.5 The said signatories jointly and severally charge in favour of SAT, or grant SAT any applicable Security Interest in, all of their respective estate and interest in any asset or trust asset in which they now or later have or acquire any interest with payment of all monies owed to SAT by the Subscriber or any of them, and all legal costs incurred by SAT, on a full indemnity basis, in the enforcement or attempted enforcement of the terms of this Guarantee, Indemnity and Charge, including the costs of registration and withdrawal of same.

18.6 The Subscriber agrees that this Guarantee, Indemnity and Charge and any claim and /or dispute between SAT and the Subscriber or any of the signatories shall be governed by the laws referred to in clause 19 and is subject to the jurisdiction referred to in clause 20.



## 19. GOVERNING LAW

This agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of the European Union and the applicable laws of the Member States.

## 20. JURISDICTION

The parties irrevocably agree that the courts of the European Union Member States shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

## 21. DISPUTE RESOLUTION

21.1 Any dispute, controversy, or claim arising out of or in connection with this agreement, including any question regarding its existence, validity, or termination, shall be resolved through amicable negotiation between the parties within thirty (30) days from the date such dispute arises. If the dispute cannot be resolved by negotiation within this period, the parties agree to submit the dispute to arbitration under the Rules of Arbitration of the International Chamber of Commerce. The arbitration shall take place in the country within the European Union where SAT is domiciled, and the language of the arbitration shall be English.

21.2 The arbitration tribunal shall consist of three arbitrators, one appointed by each party, and the third, who shall act as the presiding arbitrator, appointed by the two arbitrators selected by the parties. If either party fails to appoint its arbitrator within fifteen (15) days after the initiation of the arbitration process, the appointment shall be made by the International Chamber of Commerce.

21.3 The decision of the arbitration tribunal shall be final and binding upon both parties, and the parties agree to implement the arbitration award without delay. The arbitration costs, including the fees and expenses of the arbitrators, shall be borne as determined by the arbitration tribunal.

21.4 Notwithstanding the arbitration clause, SAT reserves the right to seek preliminary injunctive relief from a court of competent jurisdiction in the event of a breach by the Subscriber to prevent immediate and irreparable harm, loss, or damage on a temporary basis pending the outcome of the arbitration.

**SUBSCRIBER SERVICE AGREEMENT  
& TRANSACTION SCHEDULE**

**SAT**