

SUBSCRIBER AGREEMENT: STANDARD TERMS AND CONDITIONS

entered into by and between:

TRACETEC (PTY) LTD
Registration Number 2001/021821/07

(hereinafter referred to as "Tracotec")

and

THE SUBSCRIBER

PREAMBLE

WHEREAS Tracotec is the operator of an identification system for the purpose of tracking, tracing and recovering lost and or stolen assets and a fleet management system for fleet management purposes only;

AND WHEREAS the Subscriber signed a certificate or other agreement in terms of which the Subscriber binds itself to the terms and conditions stipulated in this agreement below, namely:

1. INTERPRETATION AND DEFINITIONS

1.1 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:

- 1.1.1 "abuse of the Tracotec Service" and / or "abuse of the TracotecHelp service" includes, but is not limited to, the intentional raising of false alarms, instructions to Tracotec to recover an asset due to commercial causes such as non-payment, contractual default and the granting of judgements;
- 1.1.2 "Acquiring Bank" means the Bank at which Tracotec holds its bank account for the purpose of the debit order authorisation;
- 1.1.3 "approved installer" means a person who has been approved by Tracotec to install units in assets of Tracotec's customers or to deliver units not intended for installation to Tracotec's customers;
- 1.1.4 "asset" means any moveable property (including a vehicle) or moveable property which loses its identity as such when attached to immovable property;
- 1.1.5 "certificate" means Tracotec's standard certificate on which the Subscriber, asset and other details are described;
- 1.1.6 "cancellation date" means the date from which this agreement has been cancelled in terms of clauses 3.1, 6.2.1 or 19
- 1.1.7 "commencement date" means the date on which the party signing last in time signs the certificate or other agreement between Tracotec and the Subscriber;
- 1.1.8 "fleet management unit" means a device designed for Tracotec for the purpose of installation in an asset and for the purpose of tracing an asset via the internet by logging into Tracotec's fleet management web site with a unique username and password. It is, however, specifically recorded herein that a fleet management unit may be designed not for the purpose of installation in an asset, in which event the Subscriber simply tracks the movements of the said fleet management unit via the internet. The service relating to a fleet management unit is hereinafter referred to as "the fleet management service";
- 1.1.9 "Force majeure" means any and all acts, events, causes or circumstances that are beyond the reasonable control of Tracotec, including but not limited to any act of God, fire, theft, explosion, lightning, electrical storm, war, riot, revolution, strike or other industrial action, adverse governmental action, earthquake, tidal wave, essential supply difficulties (including, without limitation, any cessation or interruption (whether planned or not) of the supply of electricity or water and political turmoil;

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- 1.1.10 "inappropriate activation of the tag" means the raising of a false alarm by the Subscriber or its duly authorised representative, i.e. notifying Tracotec of a theft, hijack, personal emergency and the like in the event that such theft, hijack, personal emergency or the like has not actually occurred, and whether or not such raising of a false alarm is intentional or not;
- 1.1.11 "infrastructure" means Tracotec's network of receiving beacons which communicate signals from units to Tracotec;
- 1.1.12 "issue of payment instructions" means the issuing instructions by Tracotec to its own bank to draw amounts due in terms of the debit order authorisation against the bank account of the Subscriber. The said payment instruction is a computerised system provided by the South African Banks and the details of each payment instruction shall be printed on the Subscriber's bank statement or on an accompanying voucher;
- 1.1.13 "location based services" or "LBS" means the service which Tracotec renders to the Subscriber by tracking the Subscriber's cellular phone in which a SIM is inserted in the event of a personal emergency;
- 1.1.14 "SIM" means a Subscriber Identity Module intended to identify and authenticate users of mobile devices (i.e. cellular phones, computers and the like). Every SIM has a unique number and is intended for insertion in a cellular phone or other mobile device;
- 1.1.15 "tag" means a recovery device designed for Tracotec for the purpose of installation in an asset and for the purpose of tracking, tracing and recovering such asset in the event that it is lost, stolen or hijacked (hereinafter referred to as "the Tracotec Service");
- 1.1.16 "the originator" means Tracotec;
- 1.1.17 "the parties" means the parties to this agreement, namely Tracotec and the Subscriber;
- 1.1.18 "the Subscriber" means the subscriber to Tracotec's services as described on a duly completed certificate and / or other agreement;
- 1.1.19 "this agreement" means this Subscriber Agreement entered into between the parties;
- 1.1.20 "unit" means a tag or fleet management unit, which unit is approved by Tracotec; and
- 1.1.21 "vehicles" includes all types of vehicles, namely cars, trucks, jet skis, marine craft, off road vehicles, trailers, bikes, quads and the like.

2. APPOINTMENT AND AUTHORITY

- 2.1 The Subscriber appoints Tracotec to render its services to the Subscriber, which appointment the Subscriber accepts, subject to the terms and conditions set out in this agreement.

3. COMMENCEMENT AND DURATION

- 3.1 This agreement shall commence on the commencement date and continue for an indefinite period thereafter subject to either party's right to terminate this agreement by giving 20 (twenty) business days' written notice to the other party, unless indicated otherwise in the certificate and / or other agreement between Tracotec and the Subscriber to which this agreement is incorporated.
- 3.2 It is specifically recorded herein that Tracotec shall not be required to inform the Subscriber of its acceptance of this agreement.

4. RECORDALS

- 4.1 It is specifically recorded herein that:
 - 4.1.1 Tracotec may enter into an agreement with the Subscriber for the sale and purchase, rental and / or installation of its units in exchange for consideration and this agreement shall apply to such agreement *mutatis mutandis* to such agreement as if specifically incorporated therein in the event that such agreement provides for this agreement to apply to such agreement;
 - 4.1.2 Notwithstanding the aforesaid, the Subscriber may purchase a unit directly from an approved installer at a purchase price and / or installation price agreed upon between the approved installer and the Subscriber; and
 - 4.1.3 The Subscriber may in certain circumstances be represented by an agent (usually referred to as a "Bordereaux") with respect to

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the rights and obligations of the Subscriber, in which case any notice given:

- 4.1.3.1 By Tracetec to such agent shall be deemed sufficient notice by Tracetec to the Subscriber; and
- 4.1.3.2 By the agent to Tracetec shall be deemed sufficient notice by the Subscriber to Tracetec.

5. TRACETEC'S SERVICES

5.1 Tracetec renders the following services to the Subscriber, namely:

- 5.1.1 The Tracetec Service in the event that a tag is installed in an asset;
- 5.1.2 The Fleet Management Service in the event that a fleet management unit is installed in an asset or in the event that a portable fleet management unit is delivered to the Subscriber. Data pertaining to the Subscriber's unit shall be stored for the preceding 30 (thirty) days on Tracetec's designated website or for the preceding 24 (twenty four) months, depending on the monthly subscription fee payable by the Subscriber to Tracetec;
- 5.1.3 The LBS. In the event of a personal emergency, Tracetec shall automatically render the LBS to the Subscriber and the Subscriber authorises Tracetec to render the LBS to the Subscriber as aforesaid; and
- 5.1.4 The TracetecHelp Service, *i.e.* the services of:
 - 5.1.4.1 Roadside Assistance: In the event of a roadside emergency such as mechanical breakdown, flat tyre, flat battery or any other roadside related emergency; and
 - 5.1.4.2 Medical Assistance: In the event of a medical emergency such as a heart attack, drowning, snakebite, gunshot, wound or motor accident injury,

TracetecHelp may be contacted 24 (twenty four) hours per day 7 (seven) days per week, subject however to the conditions that:

- (a) The Subscriber is able to provide Tracetec with the correct address and Tracetec is able to reach the Subscriber timeously; and
- (b) Tracetec may require the Subscriber to pay for expenses incurred by Tracetec in order to react in the event of a roadside or medical emergency.

6. CONDITIONS FOR THE RENDERING OF TRACETEC'S SERVICES TO THE SUBSCRIBER

6.1 Tracetec shall render its services to the Subscriber on the following conditions, namely:

- 6.1.1 Installation of the unit in the Subscriber's asset or delivery thereof to the Subscriber by an approved installer only in the event that such unit is not intended for installation. In the event that the Subscriber or a third party handles a unit which is intended for installation, Tracetec shall not have the obligation to render its services to the Subscriber;
- 6.1.2 Receipt of a valid certificate and / or other agreement duly completed and signed by the Subscriber from the Subscriber; and
- 6.1.3 All amounts due, owing and payable by the Subscriber to Tracetec is up to date, including purchase prices, rental amounts and / or installation costs in terms of an agreement in terms of which the Subscriber purchases or rents a unit from Tracetec.

6.2 In the event that the Subscriber wishes to cancel this agreement with Tracetec, it shall give 20 (twenty) business days' written notice to Tracetec to that effect by providing Tracetec with a cancellation form (*i.e.* Tracetec's standard cancellation form which contains the details of the Subscriber and the asset) or e-mail providing Tracetec with the Subscriber's identity number, tag or billing number and registration number of the vehicle (in the event that the asset is a vehicle)

6.3 It is specifically recorded herein that it is the Subscriber's responsibility to ensure that it contacts Tracetec within a period of 10 (ten) business days after sending the cancellation notice to Tracetec to ensure that Tracetec received the cancellation notice. Tracetec shall send confirmation of cancellation to the Subscriber by e-mail subsequent to cancellation. In the event that the Subscriber fails to contact Tracetec within a period of 10 (ten) business days after the cancellation notice as aforesaid, Tracetec shall not be liable for a refund of monthly subscription fees recovered from the Subscriber after the cancellation date.

7. SUSPENSION AND CANCELLATION OF TRACETEC'S SERVICES

7.1 In the event that the Subscriber falls in arrears with any amount (monthly subscription fees, purchase prices, rental amounts and / or installation prices) which becomes due, owing and payable to Tracetec, Tracetec shall be entitled to suspend its services to the Subscriber without giving written notice to the Subscriber.

7.2 In the event that Tracetec suspends its services to the Subscriber as aforesaid, and its asset is lost, stolen or hijacked, the Subscriber shall be required to pay to Tracetec:

- 7.2.1 All arrear amounts due, owing and payable to Tracetec; and
- 7.2.2 A deposit in the amount of not less than R15,000.00 (Fifteen Thousand Rand) to cover the actual expenses incurred by Tracetec in respect of a recovery or attempted recovery, irrespective of whether the attempt is successful or not. Tracetec shall be entitled to require the Subscriber to pay a higher deposit in the event that Tracetec is of the opinion that the estimated costs as aforesaid may exceed R15,000.00. In the event that the deposit exceeds the costs in respect of a recovery or attempted recovery, Tracetec shall refund the balance to the Subscriber, but in the event that the costs in respect of a recovery or attempted recovery exceeds the deposit, the Subscriber shall pay such excess amount upon demand from Tracetec. Any certificate by Tracetec stipulating the amount of the actual expenses incurred by Tracetec shall be *prima facie* proof of the said expenses.

7.3 Prior to Tracetec being required to attend to a recovery or attempted recovery, the Subscriber shall fax proof of payment of the amounts stipulated above to (011) 252 9099 or 086 554 7178 or e-mail it to stolen@tracetec.net.

7.4 In the event that Tracetec re-activates its services subsequent to a suspension as aforesaid, it shall be entitled to hold the Subscriber liable for the following costs, namely:

- 7.4.1 An administration fee of not less than R450.00 (Four Hundred and Fifty Rand); and / or
- 7.4.2 A re-activation fee in the amount of not less than R950.00 (Nine Hundred and Fifty Rand) for the re-activation of the fleet management service,

provided that Tracetec is entitled to utilise the deposit stipulated in clause 7.2.2 of this agreement for the administration fee and the re-activation fee as aforesaid.

7.5 Furthermore, in the event that the Subscriber falls in arrears with any payment towards Tracetec and Tracetec attends to a successful recovery, Tracetec shall be entitled to impound such asset (after the release thereof by the SAPS to Tracetec) until such time as that the Subscriber has made payment of all the arrear amounts to Tracetec.

8. ABUSE OF THE TRACETEC SERVICE, ABUSE OF THE LBS, ABUSE OF THE TRACETECHHELP SERVICE, INAPPROPRIATE ACTIVATION OF THE TAG AND PENALTIES

8.1 In the event that Tracetec dispatches a response team in terms of this agreement and it subsequently turns out that the Subscriber or any third party abused the Tracetec Service or abused the TracetecHelp service by contacting the Tracetec Control Centre without any danger to the life and / or safety of the Subscriber or the authorised user of the asset, that there was no case of personal emergency or other emergency, that the asset was not lost or stolen, that there was an inappropriate activation of the tag, then Tracetec may, in its sole and unfettered discretion, levy a penalty of not less than R2 500,00 (Two Thousand Five Hundred Rand) in respect of the said dispatch, which penalty shall be paid to Tracetec by the Subscriber on demand. In addition to the said penalty, Tracetec shall also be entitled to recover

from the Subscriber all its expenses incurred in respect of the said dispatch, which expenses shall likewise be payable by the Subscriber to Tracetec on demand. In the event that the Subscriber abuses the LBS (i.e. the Subscriber informs Tracetec that it experiences a personal emergency and it subsequently turns out that there was no personal emergency for the Subscriber), the same conditions and penalties which applies to the abuse of the Tracetec Service, abuse of the TracetecHelp Service and / or inappropriate activation of the tag shall apply to the abuse of the LBS by the Subscriber.

- 8.2 Tracetec shall be entitled to unilaterally increase the amount of the penalty as aforesaid by giving written notice to the Subscriber and such increase shall be valid with immediate effect.

9. WARRANTIES

9.1 Tracetec warrants:

- 9.1.1 Each tag to the Subscriber for a period of 3 (three) years from first installation in the Subscriber's asset; and
- 9.1.2 Each fleet management unit for a period of 1 (one) years from first installation in the Subscriber's asset, or in the event that the fleet management unit is not intended for installation, Tracetec warrants such fleet management unit for a period of 1 (one) year after delivery to the Subscriber, during which period Tracetec shall either repair or replace such unit free of charge to the Subscriber.
- 9.2 The provisions of clause 9.1 above shall not apply in the following circumstances, namely:
- 9.2.1 In the event that the Subscriber handles a unit intended for installation or allows a third party (except an approved installer) to handle a unit intended for installation, the warranty in the aforesaid clause shall be void;
- 9.2.2 In terms of an agreement between Tracetec and the subscriber, Tracetec may warrant the unit for another warranty period in the said other agreement shall be the correct warranty period;
- 9.2.3 In the event that the Subscriber pays an additional monthly subscription fee for an indefinite warranty period (i.e. Tracesure Infinity), Tracetec shall repair or replace such unit for the duration of this agreement;
- 9.2.4 In the event that the Subscriber falls in arrears with any monthly subscription fees, purchase prices, rental amounts and / or installation costs which become due, owing and payable to Tracetec.
- 9.3 Nothing in this clause 9 shall be interpreted so as to excluded any warranties prescribed by the Consumer Protection Act, No. 68 of 2008.

10. MONTHLY SUBSCRIPTION FEES

- 10.1 In exchange for Tracetec rendering its services to the Subscriber, the Subscriber shall be liable to pay to Tracetec the monthly subscription fees stipulated in the certificate and / or other agreement between Tracetec and the Subscriber from the commencement date to the cancellation date:
- 10.1.1 Monthly in advance on the 25th day of the month in respect of the following month;
- 10.1.2 The *pro rata* share of the monthly subscription fees upon date of signing of the certificate and / or other agreement with Tracetec; and / or
- 10.1.3 The Subscriber shall pay to Tracetec its standard fees in respect of each time that Tracetec tracks the location of the Subscriber's SIM as well as all expenses related to Tracetec assisting the Subscriber in the event of a personal emergency.
- 10.2 The Subscriber shall provide Tracetec with the proof of payment.
- 10.3 Tracetec shall be entitled to increase the monthly subscription fees by giving written notice to the Subscriber and such increased monthly subscription fees shall be valid with immediate effect. Notice of increased monthly subscription fees *via* sms or e-mail to the subscriber shall be deemed sufficient notice to the Subscriber.
- 10.4 In the event that the Subscriber entered into this agreement for a fixed term and the Subscriber cancels the agreement prior to the lapse of the fixed term, Tracetec shall, subject however to the terms of any other written agreement between Tracetec and the Subscriber, be

entitled to hold the Subscriber liable for the monthly subscription fees for the rest of the duration of the fixed term.

11. DEBIT ORDER AUTHORISATION

- 11.1 In the event that the Subscriber completed the debit order authorisation on the certificate:
- 11.1.1 Tracetec shall be entitled to issue the first payment instruction for the monthly subscription fees or portion thereof, whichever the case may be, and all other amounts due, owing and payable to Tracetec on the commencement date and thereafter regularly on the 25th (twenty fifth) day of each subsequent month or such earlier date specified in the debit order authorisation;
- 11.1.2 In the event that the date of the payment instruction falls on Saturday, Sunday or public holiday, Tracetec shall be entitled to issue the payment instruction on or before the following business day;
- 11.1.3 In the event that Tracetec does not issue a payment instruction on the following business day as aforesaid, then Tracetec shall be entitled to issue subsequent payment instructions until the Subscriber has met its obligations in terms of this agreement;
- 11.1.4 Tracetec shall continue to issue payment instructions in terms of this agreement until a period of 20 (twenty) business days after the Subscriber gives written notice to Tracetec by prepaid registered post that it cancels its debit order authorisation;
- 11.1.5 In the event that the Subscriber cancels its debit order authorisation as aforesaid, the Subscriber does not *per se* cancel this agreement;
- 11.1.6 In the event that the Subscriber cancels its debit order authorisation as envisaged in clause 11.1.4 without cancelling this agreement, Tracetec shall cease issuing payment instructions from the date on which the notice period has lapsed, but the Subscriber shall remain liable towards Tracetec for all subscription fees in terms of this agreement;
- 11.1.7 All payment instructions issued by Tracetec shall be treated by the Subscriber and its bank as if the said payment instructions have been issued by the Subscriber personally;
- 11.1.8 In the event that Tracetec issues payment instructions for the recovery of the amounts due, owing and payable to Tracetec in terms of the debit order authorisation, then the Subscriber shall not be entitled to re-claim from Tracetec such amounts, provided the said amounts are due, owing and payable in terms of this agreement;
- 11.1.9 The Subscriber agrees to allow for tracking of dates to match with the flow of Credit at no additional cost to the Subscriber. The Subscriber authorises "the Originator" (i.e. Tracetec) to make use of the tracking facility as provided for in "the EDO" or "Early Debit Order system" system (i.e. the electronic system in terms of which Tracetec instructs the Originator to debit the Subscriber's bank account with the monthly subscription fees. This means that:
- 11.1.9.1 the Originator shall be entitled to track the Subscriber's bank account to establish when there is a credit in the Subscriber's bank account for the purpose of debiting the Subscriber's bank account with all amounts due, owing and payable to Tracetec in terms of this agreement; and
- 11.1.9.2 in the event that Tracetec issues payment instructions to the Originator for the recovery of the aforesaid amounts in respect of a specific month, and the Subscriber's debit order is declined subsequent thereto, Tracetec shall be entitled to, during the subsequent month or at any such time as funds become available in the Subscriber's bank account, issue payment instructions to the Originator for the recovery of the arrear amounts and the current amounts without notifying the Subscriber thereof.
- 1.1.10 It is specifically recorded herein that it is the Subscriber's responsibility to ensure that sufficient funds are available in its bank account for the issuing of payment instructions as aforesaid;
- 1.1.11 The Subscriber shall pay any bank charges relating to the debit order authorisation;
- 1.2 In the event that the Subscriber inserted its credit card number on the certificate, Tracetec has the right to deduct all amount due, owing and payable in terms of this agreement from the Subscriber's credit card.

- 1.1.12 All payment instructions issued by Tracetec must carry the Contract Reference Number, which Contract Reference Number is the same as the certificate number; and
- 1.1.13 In the event that Tracetec cedes or assigns this agreement to a third party, Tracetec shall have the right to cede or assign the debit order authorisation to a third party.

12. MONTHLY INVOICES

- 12.1 Tracetec shall only provide the Subscriber with monthly invoices in the event that the Subscriber specifically requests such monthly invoices from Tracetec.

13. TESTING OF THE UNIT

- 13.1 It is specifically recorded herein that the testing of the unit is the Subscriber's responsibility, especially in the event that the asset is involved in an accident, structural modification or any part of the asset is removed (in which event the Subscriber shall require an approved installer to test the unit within a period of seven days after such accident or structural modification). The Subscriber shall further ensure that it informs Tracetec of such accident, structural modification or removal.
- 13.2 The Subscriber is entitled to:
 - 13.2.1 Request Tracetec to test the unit in its asset 6 (six) times per year, i.e. once every two months – the Subscriber shall contact Tracetec and request Tracetec to confirm telephonically whether the unit functions properly according to Tracetec's system; and
 - 13.2.2 Request Tracetec to send an approved installer to it to test the aforesaid unit when the Subscriber is informed by Tracetec that the said unit is listed on Tracetec's low signal report ("LSR") and that Tracetec hence receives a low signal from the said unit.

14. INDEMNITIES

- 14.1 The Subscriber indemnifies Tracetec against any losses or damages which the Subscriber may suffer as a result of:
 - 14.1.1 Any damage to its asset due to the installation of a unit, poor workmanship and / or failure of the approved installer to comply with Tracetec's standards and specifications with respect to installations in the event that the approved installer is not an employee of Tracetec. The Subscriber acknowledges that such approved installer is not an agent of Tracetec and Tracetec does not warrant such approved installer's workmanship;
 - 14.1.2 Failure of the Subscriber to inform Tracetec timeously of any changes to its contact details, physical and / or postal addresses, fax numbers, e-mail addresses or any other details;
 - 14.1.3 Failure of Tracetec's infrastructure, a GSM failure or a network failure of the Subscriber's internet service provider;
 - 14.1.4 The unintentional or inappropriate activation of the tag on the Tracetec system by the Subscriber or any other third party, which losses or damages include, but is not limited to, wrongful arrests by Tracetec, its employees or contractors, or wrongful arrests by the South African Police Services, as a result of the unintentional or inappropriate activation of the tag on the Tracetec system. Nothing in this clause 14.1.4 shall be construed to mean that the Subscriber is under any obligation to indemnify or compensate Tracetec in respect of any malicious, intentional, fraudulent, reckless or grossly negligent activation of the tag by a person for whose conduct the Subscriber is not responsible in law;
 - 14.1.5 any breach or non-performance of any of Tracetec's obligations under this agreement;
 - 14.1.6 any negligent act or omission by Tracetec, its employees, contractors or assignees;
 - 14.1.7 any damage caused to an asset as a result of Tracetec's tracking, tracing or recovery or attempted tracking, tracing or recovery of the asset;
 - 14.1.8 any interference of the unit or its frequency with any other device/s (other than a unit) installed in the asset;
 - 14.1.9 Tracetec recovering a vehicle or asset without the permission or against the wishes of the Subscriber or an authorised user of an asset as a result of a possible personal emergency (i.e. an accident, hijacking, armed robbery, attempted

- suicide, possible loss of life and the like);
- 14.1.10 Tracetec not being able to recover an asset after having received a call requesting Tracetec to recover an asset due to personal emergency; or
- 14.1.11 Any injury to or loss of life of the Subscriber or authorised user as a result of an emergency or due to an attempt to recover the asset subsequent to an attempted suicide;
- 14.1.12 Tracetec not being able to establish the location of the Subscriber via the LBS system;
- 14.1.13 Tracetec establishing the location of the Subscriber and taking reasonable steps to assist the Subscriber, notwithstanding the fact that it appears afterwards that no actual personal emergency existed at the time when such personal emergency was reported to Tracetec; and / or
- 14.1.14 The disclosure of any of the Subscriber's personal information to a third party who may be able to assist the Subscriber in the event of a personal emergency.
- 14.2 The Subscriber acknowledges that:
 - 14.2.1 Tracetec's services are intended to reduce the risk of loss of asset, but that the said services do not eliminate such risk;
 - 14.2.2 Tracetec does not guarantee successful recoveries;
 - 14.2.3 Tracetec does not attend to recoveries for commercial purposes, such as the attachment of assets for the purpose of satisfying judgments against any third party; and
 - 14.2.4 Tracetec's services are only available in the areas in the Republic of South Africa where Tracetec has an infrastructure.
- 14.3 The Subscriber furthermore acknowledges that it was notified of the indemnities stipulated in this clause 14 in a conspicuous manner and that it was afforded an adequate opportunity to comprehend the aforesaid indemnities.

15. FORCE MAJEURE

- 15.1 Tracetec shall be relieved from its obligations under this Agreement for the duration of the *Force Majeure* and shall not be in breach of this Agreement nor otherwise liable to the Subscriber as a result of any inability to perform in accordance with this Agreement or as a result of any delay or failure in the - performance of any of its obligations in terms of this Agreement if and to the extent that such inability, delay or failure is caused by *Force Majeure*, provided that:
 - 15.1.1 Tracetec must notify the Subscriber in writing of the event of *Force Majeure* if it renders performance under this Agreement by Tracetec impossible; and
 - 15.1.2 The Subscriber may terminate this Agreement by giving written notice to Tracetec to that effect if Tracetec's inability to perform in accordance with this Agreement as a result of that event of *Force Majeure* continues for an uninterrupted period of more than 6 (Six) months.

16. VALIDATION PROCESS

- 16.1 In the event that the Subscriber contacts Tracetec and requires it to dispatch a response team, Tracetec shall be entitled to ask the Subscriber to answer security questions in order to verify the identity of the Subscriber or its duly authorised representative.

17. CESSION AND ASSIGNMENT

- 17.1 The Subscriber shall not cede and/or assign any of its rights and/or obligations in terms of this agreement to a third party without the prior written consent of Tracetec.
- 17.2 Tracetec shall be entitled to cede any right, title or interest which Tracetec may have in terms of this agreement to a third party (hereinafter referred to as "the cessionary") without the prior written consent of the Subscriber, provided that:
 - 17.2.1 Tracetec shall not sign any agreement on behalf the Subscriber which binds itself directly towards the cessionary;
 - 17.2.3 Tracetec shall be entitled, but not obligated, (at its sole and unfettered discretion) to require the Subscriber to make payments directly to the cessionary or to recover the payments from the Subscriber and pay it over to the cessionary; and

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17.2.4 Tracetec shall be entitled to provide the cessionary with all financial and other information available to it to the cessionary.

18. DOMICILIUM CITANDI ET EXECUTANDI

18.1 Tracetec chooses the following address as its *domicilium citandi et executandi*, namely:

18.1.1 Physical address: **Unit 1A, Lifestyle Riverfront Office Park, Bosbok Rd, Boskruin**

18.1.2 Fax number: **011 252 9099**

18.1.3 E-mail address: **info@tracetec.net**

18.2 The Subscriber chooses the following address as its *domicilium citandi et executandi*, namely: its physical address, fax number and / or e-mail address stipulated in the certificate and / or any other written agreement with Tracetec.

19. BREACH OF CONTRACT

19.1 In the event that any party to this agreement ("the defaulting party") breaches any one of the terms of this agreement, then the other party ("the aggrieved party") shall give notice to the defaulting party to rectify the breach within a period of 20 (twenty) business days from receipt of such notice.

19.2 Should the defaulting party fail to rectify such breach within a period of 20 (twenty) business days from receipt of such notice, the aggrieved party shall be entitled (without limiting its rights) to either:

19.2.1 Cancel this agreement, with or without a claim for damages; or

19.2.2 Claim specific performance, with or without a claim for damages.

20. JURISDICTION OF THE MAGISTRATES COURT

20.1 The Subscriber consents to the jurisdiction of the Magistrates Court having jurisdiction over any dispute arising from this agreement, irrespective of the amount of the claim.

21. COSTS

21.1 All legal costs (including costs on the scale as between attorney and own client, alternatively on the scale as between attorney and client), charges and disbursements incurred by any party in successfully enforcing any of the provisions of this agreement or in collecting or endeavouring to collect all or any amounts payable to it hereunder, shall be for the account of the other party and shall be payable on demand.

22. SEVERABILITY

22.1 Any provision in this agreement which is or may become illegal, invalid or unenforceable shall be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this agreement, without invalidating the remaining provisions of this agreement.

23. WARRANTIES

23.1 The persons affixing their signatures on the certificate warrant that they are duly authorised to enter into this agreement on behalf of the parties to this agreement.

24. GENERAL

24.1 This agreement constitutes the whole agreement between the parties relating to the subject matter hereof and no amendment thereof shall be valid unless reduced to writing and signed by both parties, save that Tracetec shall be entitled to amend the terms of this agreement by way of publication of the amended terms and conditions on Tracetec's official web site, namely www.tracetec.net.

24.2 It is specifically recorded herein that some of the certificates may still refer to the following options, which options are defined below and which are incorporated herein, namely:

<u>Name of service in terms of old agreement</u>	<u>Name of service in terms of this agreement</u>	<u>Product installed or delivered</u>
Diamond	Tracetec Service	1 Tag
Diamond Dual	Tracetec Service	2 Tags in one asset
Diamond Support	Tracetec Service + TracetecHelp	1 Tag
Diamond Supreme	Tracetec Service + TracetecHelp + Indefinite warranty	1 Tag
Diamond Sure	Tracetec Service + Indefinite warranty	1 Tag
Diamond Exclusive	Tracetec Service + Indefinite warranty in terms of clause 9.2.4 hereof	1 Tag
Diamond Dual Sure	Tracetec Service + Indefinite warranty	2 Tags in one asset
Diamond Dual Support	Tracetec Service + Tracetec Help	2 Tags in one asset
Diamond Dual Supreme	Tracetec Service + Indefinite warranty + TracetecHelp	2 Tags in one asset
Fleet Advanced	Data storage in respect of the preceding 30 (thirty) days	1 Fleet management unit
Fleet Extreme	Data storage in respect of the preceding 24 (twenty four) months	1 Fleet management unit
Fleet portable	Not intended for installation	1 Fleet management unit
Mobiguard	Not intended for installation	1 Fleet management unit
Drivers ID	Identification tag: Data validated by tag reader on fleet management unit when scanned by tag reader	1 Fleet management unit

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