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**Carahsoft Rider to Manufacturer End User License Agreements
(for U.S. Government End Users)**

- 1. Scope.** This Carahsoft Rider and the Manufacturer End User License Agreement (EULA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").
- 2. Applicability.** The terms and conditions in the attached Manufacturer EULA (www._____/us.html) are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's EULA are inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's contract #GS-35F-0119Y, including, but not limited to the following:
 - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", "defined as an entity authorized to order under GSA contracts as set forth in GSA ORDER 4800.2G ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.
 - (b) Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 200 0) (Deviation I 2010) (AUG 1987), and 52.212 -4 (f) Excusable delays. (JUN 2010) regarding which the GSAR and the FAR provisions shall take precedence.
 - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - (d) Audit.** During the term of this Agreement: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this Agreement. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to

accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this Agreement.

- (e) **Termination.** Clauses in the Manufacturer EULA referencing termination or cancellation the Manufacturer's EULA are hereby deemed to be deleted. Termination shall be governed by the FAR 52.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:

Carahsoft may request cancellation or termination of the License Agreement on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section Q below or if such remedy is otherwise ordered by a United States Federal Court..

- (f) **Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by law, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted. All clauses in the Manufacturer EULA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.

- (g) **Force Majeure.** Subject to FAR 52.212 -4 (f) Excusable delays. (JUN 2010). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer EULA referencing unilateral termination rights of the Manufacturer are hereby deemed to be deleted.

- (h) **Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer EULA are hereby deemed to be deleted.

- (i) **Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (JUL. 2002), and all clauses governing waiver of jury trial in the Manufacturer EULA are hereby deemed to be deleted.

- (j) **Customer Indemnities.** All Manufacturer EULA clauses referencing Customer Indemnities are hereby deemed to be deleted.

- (k) **Contractor Indemnities.** All Manufacturer EULA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.

- (l) **Renewals.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all federal, state, local taxes and duties.
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer EULA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer EULA and to this Rider shall be resolved in accordance with the FAR, and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. The Ordering Activity expressly acknowledges that Carahsoft, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- (r) **Limitation of Liability: Subject to the following:**
- Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.
- (s) **Advertisements and Endorsements.** Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.
- (t) **Public Access to Information.** Manufacturer agrees that the EULA and this Rider contain no confidential or proprietary information and acknowledges the EULA and this Rider will be available to the public.
- (u) **Confidentiality.** Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court.

Omnilink Systems, Inc.
End User License Agreement for Omnilink Asset Tracker

IMPORTANT-READ CAREFULLY: BY CLICKING “I ACCEPT,” OR BY USING A DEVICE PURCHASED FROM OR DISTRIBUTED BY OMNILINK SYSTEMS, INC. (“OMNILINK”), “OMNILINK ASSET TRACKER” SERVICE, ANY FIRMWARE ON A DEVICE, OR THE SERVICES AS DEFINED BELOW, YOU (ON BEHALF OF YOURSELF OR AS AN AUTHORIZED REPRESENTATIVE ON BEHALF OF ANOTHER INDIVIDUAL) AGREE TO ALL THE TERMS OF THIS END USER LICENSE AGREEMENT (THE “AGREEMENT”) WITH OMNILINK REGARDING THE USE OF SUCH DEVICE, THE OMNILINK ASSET TRACKER SERVICE, ANY FIRMWARE ON SUCH DEVICE AND THE SERVICES.

IF YOU DO NOT AGREE WITH ALL OF THESE TERMS, DO NOT USE ANY SUCH DEVICE, THE OMNILINK ASSET TRACKER SERVICE, ANY FIRMWARE ON SUCH DEVICE, OR THE SERVICES AND CLICK ON THE "DO NOT ACCEPT" BUTTON BELOW. IF YOU DO NOT ACCEPT, PLEASE NOTE THAT YOU WILL NOT BE ABLE TO USE THE DEVICE, THE OMNILINK ASSET TRACKER SERVICE, ANY FIRMWARE ON THE DEVICE OR THE SERVICES.

IN THIS AGREEMENT, YOU (OR “CUSTOMER”) AND OMNILINK ARE SOMETIMES REFERRED TO INDIVIDUALLY AS A “**PARTY**” AND COLLECTIVELY AS THE “**PARTIES**.” UNLESS OTHERWISE DEFINED IN THIS AGREEMENT, ALL CAPITALIZED TERMS WILL HAVE THE MEANING GIVEN TO THEM IN SECTION 1.

THE EFFECTIVE DATE OF THIS AGREEMENT IS THE DATE THAT YOU ACCEPT THIS AGREEMENT BY CLICKING ON THE “I AGREE” BUTTON.

1. DEFINITIONS

In addition to the terms defined in the body of this Agreement, the following terms have the following meanings:

“**Confidential Information**” means non-public information that a Party provides and reasonably considers to be of a confidential, proprietary or trade secret nature, including marketing, engineering and other plans, financial statements and projections, customer and supplier information, research, designs, plans, compilations, methods, techniques, processes, procedures, and know-how, whether in tangible or intangible form, and whether or not stored, compiled or memorialized physically, electronically, graphically, photographically, or in writing. Confidential Information shall not include Non-Confidential Information.

“**Customer**” or “**You**” or “**Your**” means the individual or corporate account holder who: 1) has full legal authority to enter into this agreement, and has entered into this agreement and 2) purchase a Device and/or Services in accordance with the terms and conditions set forth in this Agreement.

“**Device**” means a mobile device purchased from or distributed by Omnilink to be used by Customer to Track and/or Monitor objects, animals, and/or Monitored Assets.

“**Internet**” means the global computer network comprised of interconnected networks using standard protocols including TCP/IP.

“Location Data” means location history and transaction activity generated by use of the Omnilink Asset Tracker service.

“Monitored Asset” means an asset that is tracked by the Customer’s Monitored Asset

“Non-Confidential Information” means information which: (i) is, as of the time of its disclosure or thereafter becomes part of the public domain through no fault of the receiving party; (ii) can be demonstrated by credible evidence: (a) as rightfully known to the receiving party prior to the time of its disclosure, or (b) to have been independently developed by the receiving party; (iii) is subsequently learned from a third party not under a confidentiality obligation to the disclosing party; or, (iv) is required to be disclosed pursuant to a duly authorized subpoena, court order, or government authority, provided that the receiving party has provided prompt written notice and assistance to the disclosing party prior to such disclosure, so that such party may seek a protective order or other appropriate remedy to protect against disclosure.

“Omnilink Trademarks” means any name, logo and trademark of Omnilink used by Omnilink to identify itself or any Omnilink products or services, including but not limited to Omnilink Asset Tracker, that Omnilink licenses to You under this Agreement.

“Personal Information” means any information that can be used to identify an individual and is not otherwise publicly available. Such information may include, for example, an individual’s first and last name combined with his or her email address, mobile telephone number or credit card account information.

“Omnilink Asset Tracker” is a comprehensive location management program offered by Omnilink which uses a Web-based software application, powered and owned by Omnilink. The application, together with Devices, collects and stores certain data (including Location Data) on Omnilink computer servers. This data is made available to You via the Internet using a Web browser. The Omnilink Asset Tracker program provides 24/7 Monitoring capabilities of Devices.

“Server” means the server or servers as designated by Omnilink from time to time through which Omnilink provides the Services in accordance with this Agreement.

“Services” shall mean all services associated with Omnilink Asset Tracker, including but not limited to the hosting and maintenance of the Omnilink Asset Tracker application on Omnilink Servers pursuant to the terms and conditions of this Agreement and any additional services or add-on options You choose.

“Territory” means the United States of America.

“Track(ed/ing)” or “Monitor(ed/ing)” shall mean the use of Omnilink Asset Tracker to acquire data from each Device and to view or monitor the location of such Device(s).

2. ORDERS

2.1 The terms and conditions of this Agreement will control all orders for Devices. Subject to the terms and conditions of this Agreement, Omnilink agrees to provide Devices and access to Omnilink Asset Tracker in accordance with the first order you submit via Omnilink’s e-commerce shopping cart, telephone, in person or other channels, on the Effective Date.

3. ACCESS TO OMNILINK ASSET TRACKER; RESTRICTIONS ON USE AND LICENSES

3.1 *Access to Omnilink Asset Tracker.* During the term of Customer's Agreement for Omnilink Asset Tracker, and subject to the terms and conditions herein and in accordance with Customer's Agreement to utilize Omnilink Asset Tracker, Omnilink hereby grants You a limited, non-exclusive, non-transferable, royalty-bearing license to access Omnilink Asset Tracker through the Internet solely for the purpose of Tracking and Monitoring Devices. Omnilink Asset Tracker shall be made available to You on-line www. .com/ (or such other website as may be designated by Omnilink from time to time) from a third party hosted facility and/or other systems used by Omnilink to host the Services.

3.2 *Restrictions on Use; No Modification.* You shall not engage in any of the following acts (individually, a "**Prohibited Act**", and collectively, "**Prohibited Acts**"): (i) wilfully tamper with the security of any Omnilink devices or services; (ii) access data not associated with your account via Omnilink Devices or Services; (iii) log into an unauthorized server or another Omnilink account without authorization; (iv) attempt to probe, scan or test the vulnerability of any Omnilink services or to breach Omnilink's security or authentication measures without proper authorization; (v) wilfully render any part of Omnilink's devices or services unusable; (vi) reverse engineer, de-compile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of any Omnilink services; (vii) modify, translate, or create derivative works based on any Omnilink services; (viii) rent, lease, distribute, license, sublicense, sell, resell, assign, or otherwise commercially exploit any Omnilink services or make any Omnilink services available to a third party other than as contemplated in this Agreement; (ix) use any Omnilink services for timesharing or service bureau purposes or otherwise for the benefit of a third party; (x) publish or disclose to third parties any evaluation of Omnilink services without Omnilink's prior written consent; (xi) remove, modify, obscure any copyright, trademark, patent or other proprietary notice that appears on Omnilink's website(s) or in association with its services; (xii) create any link to Omnilink's website(s) or frame or mirror any content contained or accessible from Omnilink's website(s); or (xiii) use any data or information obtained through the use of Omnilink's devices for any unlawful purpose or in violation of any applicable law (including, without limitation, data protection and privacy laws). Except as expressly provided in this Agreement, no right or license is granted hereunder, by implication, estoppel or otherwise.

3.3 *Firmware License.* Each Device provided by Omnilink may contain firmware developed and owned by Omnilink. For firmware developed and owned by Omnilink, Omnilink hereby grants you a limited, non-exclusive, non-transferable, royalty-free license, for the Term, to use the firmware on each Device. Omnilink shall retain all rights to the firmware contained on each Device. The license granted herein shall be deemed to be in effect upon delivery of each Device.

3.4 *Ownership.* You acknowledge that, as between You and Omnilink, all right, title and interest in the Omnilink Asset Tracker service, any software, Devices, or firmware provided under this Agreement, and all modifications and enhancements thereof, including all rights under copyright and patent and other intellectual property rights, belong to Omnilink. This Agreement does not provide you with title or ownership of Omnilink Asset Tracker Service, any software, Devices, or firmware provided under this Agreement, but only the rights specified in this Agreement.

4. SERVICES

4.1 *Availability of Services.* Subject to the terms and conditions of this Agreement, Omnilink shall use commercially reasonable efforts to make the Services available for twenty-four (24) hours a day, seven (7) days a week. You agree that from time to time the Services may be inaccessible or inoperable for reasons beyond the control of Omnilink, including, but not limited to: (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which Omnilink may undertake; or, (iii) interruption or failure of telecommunication or digital transmission links, hostile network attacks, network congestion or other failures.

You shall not be entitled to any setoff, discount, refund or other credit as a result of unavailability of the Services. You agree that Omnilink has no control of availability of Services on a continuous or uninterrupted basis. Omnilink does not guarantee any specific response rate (bandwidth). Any unavailability of the Services will be relayed to you as soon as possible.

4.2 *Security.* Omnilink shall use commercially reasonable efforts to prevent unauthorized access to restricted areas of Omnilink Asset Tracker and any databases or other sensitive material; and, Omnilink shall notify You of any known security breaches to its systems that are reasonably likely to adversely affect You or your account, in accordance with applicable law.

4.3 *Uninterrupted Power Supply (UPS).* Omnilink will implement a high-availability architecture at the data center to ensure, as much as possible, continued availability of access to the Services even when there is power failure and/or hardware malfunction.

4.4 *Omnalink Asset Tracker Support.* Customer technical support for problems with the Omnilink Asset Tracker software application or Devices, as well as Billing and any other general questions, will be provided between the hours of 9:00 A.M.-10:00 P.M. Eastern, Monday-Friday (excluding U.S. federal holidays). Support hours and contact numbers are listed at www.omnilink.com/.

5. CUSTOMER DATA.

5.1 *Omnalink's Use of Customer Data.* Omnilink collects Personal Information and non-personal information about its Customers (collectively, "**Customer Data**") in order to: (i) provide the Services; (ii) provide customer and technical support; and, (iii) for other business-related purposes, such as billing or marketing. Omnilink may remove from your data any personal or location-based information and combine such anonymized data with that of others in order to create "Aggregate Information." Omnilink may use Aggregate Data to analyze how Customers use the Services and determine ways in which Omnilink can improve the Services. If You have provided your contact information, Omnilink may contact You for marketing purposes by various means, including but not limited to regular mail, email or telephone. When You activate an Omnilink account, You expressly consent to receive marketing communications via direct mail, email (at the email address you provided when activating your account), telephone (at the number you provided when activating your account), text messages (if you provided a wireless telephone number), instant messages or other communications methods. You may opt out of receiving one or more of these types of marketing communications at any time by sending an email to optout@omnilink.com or by following the opt-out instructions set forth in our Privacy Policy.

5.2 *Disclosures of Customer Data.* If You purchased the Services as a result of the marketing efforts of an Omnilink marketing partner, You agree that Omnilink may disclose your Customer Data to such marketing partner.

5.3 *Retention of Customer Data.* Customer Data will be retained as long as there exists a legitimate business need to do so. For example, Omnilink may retain Customer Data for the duration of a dispute with our company. Location Data will be retained for each Customer for a period that Omnilink will decide in its sole discretion, and shall be made available to law enforcement and other government agencies pursuant to legally valid requests for such information.

6. CUSTOMER RESPONSIBILITIES

6.1 *Use of Services.* You acknowledge and agree that You will not use the Services to: (i) Track and/or Monitor any individual without such individual's prior express permission unless such individual is a minor

with whom You have a lawful guardian relationship; (ii) send spam or otherwise unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortuous material, including material harmful to children or violative of third party privacy rights; (iii) send messages to any email lists, distribution lists, newsgroups, or spam email addresses; (iv) send or store material containing malicious code, including, without limitation, software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; or, (v) perform any illegal or unlawful actions or purpose. You agree to report immediately to Omnilink, and to use best efforts to stop immediately, any violation of the terms and conditions set forth in this Section 6 (collectively, “*Policies*”), including but not limited to the Omnilink Privacy Policy located at www. .com/, which are incorporated herein by reference. In the event of any suspected violation of the terms, conditions and restrictions set forth in this Section __ or the Omnilink Privacy Policy located at www. .com/, Omnilink may immediately disable your access to the Services and suspend its provision of such Services.

6.2 *Access To Hosted Services.* Omnilink will provide You with a user name, password and other information necessary to access the Omnilink Asset Tracker service. You are responsible for keeping the respective user names and passwords confidential and for any communications or transactions made using user name and password. You are responsible for changing the respective user names and password if it is believed that the same has been stolen or might otherwise be misused.

6.3 *Equipment and Utilities.* You are responsible and shall bear the costs associated with providing and maintaining Internet access and all necessary telecommunications equipment, software and other materials necessary for accessing the Omnilink Asset Tracker service.

6.4 *Consents.* You shall obtain the necessary consent(s) from those Monitored Assets who are being Tracked and/or Monitored by Your use of the Device(s) and shall authorize the Tracking and/or Monitoring of such Device(s) by Omnilink and its subcontractors. You agree to indemnify and hold Omnilink its agents and subcontractors harmless from any and all costs and expenses regarding any claim(s) arising from the unauthorized Tracking and/or Monitoring of the Device(s) by you.

6.5 *Credit.* You shall cooperate with the timely completion of the credit application provided by Omnilink for purposes of establishing a credit limit for outstanding invoices. You agree to notify Omnilink of any changes in credit status during the course of this Agreement and may request a review of the credit limit at any time. You understand that a credit limit may be established by Omnilink prior to shipment of Devices and/or initiation of Services.

7. FEES AND INVOICES

7.1 *Fees.* You shall pay to Omnilink all of the Device fees (collectively, the “*Fees*”) based on your selection in Omnilink’s e-commerce shopping cart. Omnilink’s Fees are as set forth at www. .com/ (or such other website as may be designated by Omnilink from time to time). Except as otherwise provided in this Agreement, Fees are non-refundable.

7.2 *Additional Fees.* If any sales tax, use tax, excise tax, import duty, export duty, or other similar tax or duty is imposed as a result of any transaction contemplated by this Agreement, You shall either bear such tax or duty by a direct payment to the taxing authority or shall reimburse Omnilink for such tax or duty paid by Omnilink. If You wish to claim exemption from any sales taxes being imposed on the fees invoiced hereunder, it is your obligation to provide Omnilink with the applicable valid sales tax exemption certificate(s)

in a timely manner. You shall provide Omnilink with all applicable tax forms and certificates necessary to recuperate taxes paid on the fees.

8. DEVICES AND SHIPMENT

8.1 *Carrier.* Omnilink shall select the method of shipment for any Devices and the carrier for such Devices, consistent with the nature of the Devices and the hazards of transportation, upon receiving a purchase order.

8.2 *Delivery Address.* Omnilink, or one of its agents, vendors or subcontractors, shall ship Devices to the address you specify on the purchase order. If You fail to specify a destination for delivery, Omnilink shall deliver the Devices to the address listed in this Agreement.

8.3 *Standard Shipping.* Unless you otherwise request, Omnilink will ship all Devices via ground delivery. Omnilink will invoice You the actual cost of shipment, handling and shipping insurance.

9. WARRANTIES

9.1 *Omnilink Asset Tracker Services.* Omnilink warrants that Omnilink Asset Tracker services will operate in substantial conformity with the applicable documentation provided by Omnilink. For any breach of this warranty, your sole and exclusive remedy and Omnilink's sole and exclusive liability, shall be for Omnilink to correct any reported failure in the Omnilink Asset Tracker services and, if applicable, the Monitoring Center Services causing a breach of this warranty.

9.2 *Manufacturer's Warranty and Limitations.* To the extent Omnilink has the right to do so, Omnilink shall pass through to You such warranties as are provided to Omnilink for any Devices You purchase pursuant to this Agreement.

9.3 *No Other Warranties.* EXCEPT AS EXPRESSLY SET FORTH IN SECTION 9.1 AND 9.2, OMNILINK MAKES NO OTHER WARRANTIES AND DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. OMNILINK SHALL HAVE NO LIABILITY WHATSOEVER AS A RESULT OF THE DEVICE(S) BEING LOCATED IN AN AREA NOT COVERED BY APPROPRIATE WIRELESS COVERAGE, OR IF THE DEVICE FAILS TO ESTABLISH A CONNECTION WITH OMNILINK ASSET TRACKER SERVICES, OR SERVICES ARE DISABLED DUE TO ANY NETWORK RELATED ISSUES.

9.4 *DISCLAIMER OF WARRANTIES.* THE MANUFACTURER'S WARRANTY PASSED ON BY OMNILINK TO YOU, IF ANY, SHALL BE IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT OF THIRD PARTY RIGHTS OR FITNESS FOR A PARTICULAR PURPOSE.

10. INDEMNITY

10.1 *Indemnity.* Omnilink agrees, at its own expense, to defend or, at its option, to settle, any claim or action brought against You to the extent it is based on a claim that the Devices and/or Omnilink Asset Tracker services directly infringe any United States patent, copyright or trademark of a third party, and Omnilink will indemnify and hold You harmless from and against any losses, damages, and expenses (including reasonable attorneys' fees) that are attributable to such claim or action and are assessed against You in a final judgment.

Omnilink shall have the foregoing obligation only if You provide Omnilink with: (i) a prompt written request for indemnification and defense in such claim or action; (ii) sole control and authority over the defense and settlement thereof; and, (iii) all available information, assistance, and authority reasonably necessary to settle and defend any such claim or action. Omnilink shall not be responsible and shall not compensate You for any attorneys' fees or other expenses or costs that you incur before your request for indemnification and defense.

10.2 Limited Remedies. If any Device and/or the Omnilink Asset Tracker service becomes, or in Omnilink's opinion are likely to become, the subject of an infringement claim or action, Omnilink may, at its option and in its sole discretion: (i) procure, at no cost to you, the right for you to continue using the Device and/or the Omnilink Asset Tracker service; (ii) replace or modify the Device and/or the Omnilink Asset Tracker service to render them non-infringing, provided there is no material loss of functionality; or, (iii) if, in Omnilink's reasonable opinion, neither (i) nor (ii) above is commercially feasible, terminate the Agreement. The foregoing provisions of this Section 10.2 state Omnilink's sole obligation and your exclusive remedy in the event any claim or action for infringement is commenced or is likely to be commenced.

10.3 Exclusions; Customer Indemnification. Omnilink will have no obligation or liability under this Section 10 for any claim or action: (i) relating to modifications to the Device and/or the Omnilink Asset Tracker service by a person or entity other than Omnilink or its third-party licensors; (ii) relating to the combination or use of the Device and/or the Omnilink Asset Tracker service with other products, processes, or materials not supplied by Omnilink hereunder; (iii) where you continue allegedly infringing activities after being notified thereof or after being provided with modifications that would have avoided the alleged infringement; or, (iv) where use of the Device and/or the Omnilink Asset Tracker service is not in accordance with the terms of this Agreement. You agree to indemnify and hold Omnilink harmless from and against all losses, damages and expenses, including reasonable attorneys' fees, in connection with any claims brought against Omnilink arising out of any of the conditions described in clauses (i) through (iv) above.

10.4 Customer Indemnification. Except for claims covered by Omnilink's indemnification obligation in Section 10.3, You agree to defend, indemnify and hold Omnilink and its officers, directors, shareholders, employees (collectively, the "**Indemnified Parties**") harmless from and against all losses, damages and expenses, including reasonable attorneys' fees, in connection with any claims against the Indemnified Parties in any way arising out of or related to: (i) Your use of a Device or the Omnilink Asset Tracker service, including claims based on Your acts or omissions. In addition, You agree to indemnify and hold the Indemnified Parties harmless from and against all losses, damages and expenses, including reasonable attorneys' fees, in connection with any claims brought by Monitored Assets against the Indemnified Parties, individually or together. You shall have the foregoing obligation only if one of all of the Indemnified Parties provides You with: (i) a prompt written request for indemnification and defense in such claim or action; (ii) sole control of the defense and settlement thereof; and, (iii) all available information, assistance and authority reasonably necessary to settle and defend any such claim or action.

11. LIMITATION OF LIABILITY

IN NO EVENT WILL OMNILINK'S TOTAL, AGGREGATE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT (INCLUDING FOR NEGLIGENCE, STRICT LIABILITY, BREACH OF CONTRACT, MISREPRESENTATION, AND OTHER CONTRACT OR TORT CLAIMS), EXCEED THE AMOUNT OF DIRECT DAMAGES ACTUALLY INCURRED BY CUSTOMER, UP TO THE AMOUNT OF FEES PAID TO OMNILINK DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE EARLIEST EVENT GIVING RISE TO THE DAMAGES.

UNDER NO CIRCUMSTANCES SHALL OMNILINK OR ITS SUPPLIERS OR LICENSORS BE LIABLE FOR ANY OF THE FOLLOWING: (I) THIRD PARTY CLAIMS OTHER THAN THOSE IDENTIFIED IN SECTION 10.1; (II) LOSS OR DAMAGE TO ANY RECORDS OR DATA; (III) INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR COVER DAMAGES (INCLUDING LOST PROFITS AND LOST SAVINGS), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; (IV) THE LOSS OF SIGNALS FROM ANY GPS SATELLITE, THE LOSS OF SIGNALS FROM ANY MOBILE NETWORK CELL OR PROVIDER, THE LOSS OF TELEPHONE SYSTEM SIGNALS, THE LOSS OF INTERNET CONNECTIVITY OR (V) ANY OTHER FACTORS OUTSIDE THE CONTROL OF OMNILINK.

12. CONFIDENTIALITY

Each Party will use commercially reasonable efforts to maintain the other Party's Confidential Information in confidence and to not use or disclose any portion of the other Party's Confidential Information to third parties, except as reasonably necessary to perform this Agreement and as expressly authorized in this Agreement.

13. TERM AND TERMINATION

13.1 *Term and Cancellation.* The term of this Agreement shall commence on the Effective Date and shall continue on a month to month basis.

13.2 *Cancellation Request.* You can terminate this Agreement at any time, and stop receiving Services, by calling the Omnilink and requesting that we deactivate Services. The Services will terminate on the date specified in 14.2.

14. EFFECT OF TERMINATION

14.1 *Survival.* Termination or expiration of this Agreement shall not relieve either Party of obligations that by their nature or term survive termination or expiration; such as, by way of example and without limitation, the obligation to make all payments that have or will become due under this Agreement.

You shall be liable for reasonable attorney fees and other costs and expenses resulting from any default, or the exercise of Omnilink's remedies.

15. GENERAL

15.1 *Notice.* All notices, requests, demand or other communications shall be given in writing and shall be effective when either served by personal delivery or upon receipt via United States mail, return receipt requested, postage prepaid, or sent by facsimile transmission, if to Omnilink, at the addresses first set forth below and if to Customer, at the address set forth in Customer's order submitted through Omnilink's e-commerce shopping cart.

Omnilink Systems Inc.
6120 Windward Parkway, Suite 100
Alpharetta, GA 30005
ATTN: CFO
Phone: 678 624 5900
Fax: 678 624 5928

15.2 *Assignment and Delegation.* You may not assign, transfer, or sell any of Your rights, or delegate any of Your responsibilities under this Agreement without Omnilink's prior written consent. All assignments of rights are prohibited by this Section 15.2, whether they are voluntary or involuntary, by merger, consolidation, dissolution, operation of law, or any other manner. For purposes of this Section 15.2, a "change of control" is deemed an assignment of rights and a "merger" refers to any merger in which you participate, regardless of whether it is the surviving or disappearing corporation. You may not delegate any performance under this Agreement. Any purported assignment of rights or delegation of performance in violation of this Section 15.2 is void.

15.3 *Governing Law.* The laws of the State of Georgia (without giving effect to its conflicts of laws principles) govern all matters arising out of or relating to this Agreement. Any action at law or in equity arising out of or relating to this Agreement shall be filed only in the state or federal courts in the State of Georgia. The parties hereby consent and submit to the personal jurisdiction of such courts for the purposes of litigating any such action.

15.4 *Waivers.* The Parties may waive this Agreement only by a writing executed by the Party against whom the waiver is sought to be enforced. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no act, omission or course of dealing between the Parties operates as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purposes stated.

15.5 *Severability.* If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential provisions of this Agreement for each Party remain valid, legal and enforceable.

15.6 *Entire Agreement.* This Agreement, along with the documents referenced herein, constitutes the entire agreement between the Parties concerning the subject matter hereof, superseding all previous agreements, proposals, representations, or understandings, whether oral or written.

15.7 *No Agency.* Each of the Parties is an independent contractor and will have no right, power or authority to assume or create any obligation or responsibility on behalf of the other. This Agreement will not create or imply any partnership, association, agency, fiduciary relationship, joint venture or several liability between the Parties.

15.8 *Material Changes.* Omnilink reserves the right to change, modify, or delete portions of this Agreement. Your continued use of the Services following the posting of such changes to the Agreement means that you accept and agree to such changes. Omnilink will obtain your consent for any material changes to this Agreement.

15.9 *Compliance with Laws.* You and Omnilink shall comply with all applicable federal, state, and local laws and regulations.

15.10 *Validity.* This Agreement shall not be valid or effective unless and until it is executed by both Omnilink and You. This Agreement may be executed in counterparts and by exchanging signed copies by fax machine or if You click "I Accept".

15.11 *Interpretation.* Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. The terms "including" and "include" shall be

deemed to mean “including without limitation” and “including but not limited to” (or “includes without limitation” and “includes but is not limited to”) regardless of whether the words “without limitation” or “but not limited to” actually follow the term. The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement and its documents incorporated herein, as a whole and not to any particular provision hereof or thereof, as the case may be. References in this Agreement to and the definition of any document shall be deemed a reference to such document as it may be amended, supplemented, revised, or modified, in writing, from time to time. References in this Agreement to any law shall be construed as a reference to such law as re-enacted, re-designated, amended or extended from time to time.

15.12 Remedies Cumulative. Unless expressly provided otherwise herein: (i) all rights and remedies granted to each Party under this Agreement are cumulative and in addition to, and not in lieu of, any other rights or remedies otherwise available to such Party in this Agreement, at law or in equity; and (ii) termination or expiration of this Agreement will not limit either Party from pursuing any other remedies available to it, including injunctive relief, in connection with any of its rights accrued or otherwise existing up to the date of such termination or expiration.

16. CONSENT TO USE OF ELECTRONIC SIGNATURES AND RECORDS

As a convenience and courtesy to You, Omnilink provides access to its Services online which may require You to enter into agreements or receive notices electronically. Accordingly, You acknowledge and agree that by clicking "I Agree" or "I Accept" anywhere on an Omnilink website:

16.1 You agree to conduct electronically the particular transaction into which You thereby enter including, without limitation, entering into this Agreement;

16.2 You have read and understand the electronic copy of electronic contracts, notices and records, including, without limitation, this Agreement, the Policies and any amendments hereto or thereto;

16.3 You agree to, and intend to be bound by, the terms of the particular transaction into which You thereby enter;

16.4 You are capable of printing or storing a copy of electronic records of transactions into which You enter including, without limitation, this Agreement and any amendments hereto; and,

16.5 You agree to receive electronically information about the Services and other electronic records into which You thereby enter including, without limitation, this Agreement.

IF YOU WISH TO WITHDRAW THIS CONSENT, PLEASE CONTACT US AT OPTOUT@OMNILINK.COM, IN WHICH CASE OMNILINK SHALL HAVE THE RIGHT TO TERMINATE YOUR USE OF THE SERVICES.

BY CLICKING ON THE “I ACCEPT” BUTTON BELOW, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND THE PROVISIONS OF THE AGREEMENT AND THAT YOU AGREE TO BE BOUND TO AND BY THE TERMS AND CONDITIONS OF THE AGREEMENT.