

TERMS AND CONDITIONS

1. INTERPRETATION

In this agreement:

- 1.1 Clause headings are for convenience and shall not be used in the interpretation of this agreement.
- 1.2 Unless the context clearly indicates a contrary intention, an expression which denotes any gender includes the other genders, a natural person includes an artificial person and vice versa, the singular includes the plural and vice versa and the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings:
- 1.2.1 **"Agreement"** means this agreement, including the front page, as well as any other annexure from time to time incorporated by reference to this agreement.
- 1.2.2 **"Authorised users"** means those who may be authorised by the Customer to obtain all services offered by the product from the CSC or on the internet.
- 1.2.3 **"Commencement date"** means the date of signature of the installation certificate.
- 1.2.4 **"CTSA"** means C TRACK South Africa (Pty) Limited (Registration No 1997/016952/07)
- 1.2.5 **"Customer"** means the subscriber who is the person and/or company whose full details are set out on the face of the document, paragraph 1 hereof.
- 1.2.6 **"CSC"** means C-Track Support Centre.
- 1.2.7 **"False alarm"** means an alarm message sent to a CSC in respect of a panic alarm, area violation or battery tampering where such a condition is not an actual emergency and the Customer/ authorised user has not notified the CSC in respect thereof.
- 1.2.8 **"GSM Service"** is the service rendered by a cellular service provider for transmitting location and speed data from the product to an authorised user's cell phone and the CSC.
- 1.2.9 **"GPRS"** means General Packet Radio Service.
- 1.2.10 **"Installation certificate"** means the certificate issued by a CTSA installer certifying that the product has been successfully installed in the vehicle.
- 1.2.11 **"Occurrence"** means the happening of an event which initiates the recovery process or some other action for which the product is designed.
- 1.2.12 **"Prime rate"** means the prime rate charged by ABSA Bank of South Africa Limited from time to time to its most favoured customers on unsecured overdraft accounts in which regard a certificate signed by an official of the said bank stating the interest rate applicable from time to time shall be prima facie proof of such interest rate.
- 1.2.13 **"Product"** means the CTSA secure range of products to be installed in the Customer's vehicle.
- 1.2.14 **"Service"** means the services detailed in the price list and Stolen Vehicle Recovery service as listed on the website.
- 1.2.15 **"SMS"** means Short Message Service.
- 1.2.16 **"Subscription charge"** means the monthly amount (inclusive of VAT) payable by the Customer for the service as set out on the face hereof.
- 1.2.17 **"Territory"** means the Republic of South Africa.
- 1.2.18 **"User manual"** means the user manual in respect of the product to be installed for the Customer on the installation of the product.
- 1.2.19 **"VAT"** means Value Added Tax payable in terms of the Value Added Tax Act No 39 of 1991 (as amended).
- 1.2.20 **"Vehicle"** means the vehicle in which the product will be installed.

2. DURATION

This agreement shall commence on the commencement date and shall endure for a fixed period of 36 (THIRTY SIX) months from the commencement date where after it shall continue indefinitely unless and until it is terminated by either party on the giving of 1 (one) month's written notice to the other party. The subscriptions payable shall escalate at 10%, effective the month after each anniversary of the signature date.

3. SUBSCRIPTIONS:

- 3.1 The Customer shall pay the monthly subscriptions in advance by way of direct bank debit order to CTSA from time to time.
- 3.2 Any amounts not paid timeously shall become payable, together with interest thereon and the penalties charged to CTSA, by the bank, from the date when the amount became due and payable until the date of payment at 2% (TWO PERCENT) above the prime rate.
- 3.3 In the event that a third party is paying the Customer's subscription, this shall in no way limit the customer's subscription, and shall in no way limit the Customer's obligation to pay such subscription in the event of the third party failing to do so.
- 3.4 The Customer agrees that the amount contained in a Tax Invoice issued by CTSA shall be due and payable unconditionally in cash on installation or, if the Customer is a credit approved Customer, within 30 (THIRTY) days from the end of the month in which the Tax Invoice has been issued by CTSA.
- 3.5 No extension of time for payment of subscriptions, or any other amounts due to CTSA, shall be binding unless agreed to in writing and signed on behalf of CTSA.
- 3.6 The Customer may not withhold payment of any amount due in terms of this contract or any reason whatsoever and no extension of time for payment of any amount shall be binding unless agreed to in writing by CTSA.
- 3.7 The Customer is not entitled to set off any amount due to the Customer by CTSA against this debt.
- 3.8 The Customer agrees that a certificate issued and signed by any Director or Manager of CTSA or its duly appointed auditors from time to time, whose authority need not be proved, shall be prima facie proof of the indebtedness of the customer at the date of such certificate.
- 3.9 Any printout of computer evidence tendered by any party shall be admissible evidence and no party shall object to the admissibility of such evidence purely on the grounds that such evidence is computer evidence or that the requirements of the Electronic Communications and Transactions Act 25 of 2002 have not been met.

4. LIMITATION OF LIABILITY, ACKNOWLEDGMENT BY CONSUMER

- 4.1 Insofar as CTSA supplies and/or installs the products and/or SIM card the customer is notified of the fact that aforesaid products and/or SIM cards and/or services provided may result in damage to the customer's vehicles and/or system failure of the vehicle/s electronic components
- 4.2 Whilst CTSA shall take every care to ensure that all reasonable efforts are made regarding the product and the service, such product and service can be affected by factors outside CTSA's control. CTSA does not, accordingly, provide any warranty nor accept any liability arising in respect of any failure in the provision of the service arising from any negligence on the part of CTSA or any damage, including any loss of profits, business or revenue, or any consequential loss suffered by the Customer as a result of any failure of the product.
- 4.3 Whilst every care will be taken by CTSA in the installation of the product, no liability shall be assumed of any nature whatsoever by CTSA in respect of there being any damage to the vehicle as a result of such installation of the product in the vehicle, prior to or after installation, unless noted on the installation certificate.
- 4.4 It is, further, recorded that the indemnity relates to any damage, of whatsoever nature, arising from the services rendered by CTSA, being its patrimonial damages and/or personal injury. Insofar as CTSA may be deemed to be a supplier of the products and/or SIM cards used in the operation thereof CTSA is exempted from liability in relation to any damage to property and/or economic loss that may occur as a result of any failure and/or defect in the goods and/or services provided.

- 4.5 Where the Customer has selected the immobilisation option, he acknowledges that neither CTSA, its subsidiaries or affiliates accepts or shall have liability of whatever nature and howsoever arising in respect of any claim, damages, loss, expense, which may occur directly or indirectly as a result of the immobilisation function functioning, not functioning or malfunctioning.
- 4.6 Where the consumer has activated the stolen vehicle recovery services he acknowledges that CTSA do not guarantee that in the event of an incident that the vehicle will be located but CTSA warrant they will utilize their best efforts. The Customer acknowledges that a recovery is dependent upon numerous factors outside the influence of CTSA.
- 4.7 It is recorded that the customer is notified of the fact that aforesaid clauses 4.1 to 4.6 are aimed at limiting the risk of CTSA and/or constitutes an assumption of risk and/or liability by the customer and that the content of these clauses were drawn to the attention of the customer. It is, further, recorded that the customer was afforded opportunity to consider the applicable notification, considered same and is prepared to conclude the agreement with CTSA subject to said conditions. The consumer agrees to the provisions and/or notices contained in clause 4.1 to 4.7 .

5. CUSTOMER'S RESPONSIBILITY

- 5.1 Whilst CTSA shall through its best endeavours ensure that the customer is informed via sms of any fault detected by CTSA on the customer's unit, the customer shall be liable to ensure that the product is properly functioning by performing a test of the product and/or panic alarm status on the product (where a panic button was installed), no less than every 3 months and at no additional cost to the customer, by implementation of the following procedures:
- 5.1.1 customer shall telephonically notify the CTSA's CSC that a test of the product and/or panic alarm status on the product is to be performed by the customer;
- 5.1.2 CTSA shall, within 24 hours, notify the customer via sms of the product and/or panic alarm status of the product; and
- 5.1.3 Should the outcome of the test as aforementioned indicate that the product and/or panic alarm is in any way not properly functioning, and/or possibly faulty, it shall remain the responsibility of the customer to ensure and arrange with CTSA that the vehicle in which the product is installed is made available for repair by CTSA, which repairs shall be done in accordance with CTSA's standard policies.
- 5.2 The customer is also liable to ensure that should it receive an sms from CTSA, advising that a fault has been detected on the unit, that the customer shall as soon as possible upon receipt of such sms contact CTSA to schedule a repair on the unit.
- 5.3 In the event of an occurrence and the Customer's vehicle being recovered, should the Customer elect not to collect the vehicle at the scene, he hereby duly authorises the recovery service provider to tow the said vehicle away from the scene at the Customer's risk, that such vehicle will be stored at the Customer's risk and that he/she/it will be liable to the recovery service provider for any storage costs which become payable in respect of the storage of the said vehicle commencing from 24 (TWENTY FOUR) hours after the vehicle has been delivered to the recovery service provider's premises. All costs incurred in this regard shall be for the account of the Customer. It is agreed that said costs shall not exceed R2,000.00 for the towing of the vehicle and R100 per day in relation to storage costs.
- 5.4 The Customer shall inform the vehicle manufacturer of the fitment of the product where the vehicle manufacturer requires such notification, in order not to invalidate any manufacturer warranty.
- 5.5 The Customer shall provide access to the vehicle for removal of the product unit at the termination hereof failing which the Customer shall be liable to pay an amount equivalent to the cost of the product unit.
- 5.5 The Customer undertakes not to tamper or remove the product during the currency of this agreement.

6. CTSA'S RESPONSIBILITY

- 6.1 CTSA shall be responsible for the repair and/or replacement, in its sole discretion, of the product or any parts thereof at no call out charge within 60 (SIXTY) kilometer radius of the nearest CTSA Fitment Centre to the Customer during the full 36 (THIRTY SIX) months from the date of installation, on condition that the subscriptions are paid up to date and where the product is found to be defective due to faulty components, workmanship or design, but excluding any tampering, modification, collision and/or other damage sustained by the product outside the control of CTSA.

7. SUSPENSION AND TERMINATION OF SERVICE

- CTSA may, at any time, and without incurring any liability whatsoever, suspend the service either in whole or in part in the event of any one or more or all of the following occurring:
- 7.1 Technical failure of the GSM network and/or its reporting structures, modifications and/or maintenance to the GSM network by the GSM service provider and/or
- 7.2 due to any Government and/or regulatory authority requirement and/or
- 7.3 the GSM provider ceasing to make the network available to CTSA or if it stops trading for any reason whatever and/or
- 7.4 the Customer defaults in terms of the operation instructions in the user manual or fails to make any payment of any installment on the due date thereof and/or
- 7.5 CTSA is prevented from rendering the service due to force majeure and/or
- 7.6 Any cancellation of the contract by either party after the initial period of the contract and/or
- 7.7 automatically and without prior notice and without liability on the part of CTSA, in the event of the customer utilizing the service in any manner deemed by CTSA in its sole and absolute discretion to be inappropriate (and the Customer hereby indemnifies and holds CTSA harmless against any claim that may arise against CTSA as a result of such improper use of the service
- 7.8 automatically, further, if the customer or authorized user miss-uses the system.
- 7.9 the Customer, failing to inform CTSA in writing within 7 (SEVEN) days after the change of any Director, Member, Shareholder, Owner or Partner or address or the alienation by the Customer of its business, and failure to give such notice shall constitute a material breach of this Agreement by the Customer to which CTSA shall have the right at its sole discretion to cancel the Agreement, alternatively, to withdraw any credit facility advanced to the Customer and demand payment of any amount then outstanding by the Customer in full.

Any cancellation of this agreement by either party in terms of this clause or otherwise prior to termination by effluxion of time by the Customer shall result in the Customer becoming liable to pay as re-estimated damages the balance outstanding calculated by multiplying the monthly amount due by the number of months remaining.

8. ADDITIONAL CHARGES

- 8.1 The Customer shall be liable for all additional charges in respect of the de/re-installation of the product, any false alarms, incident reports, etc. as listed in the current CTSA price list available on request, from time to time, and available on the website.
- 8.2 In the event that the Customer utilizes the international roaming facility, he will be liable for the additional costs incurred by SMS/GPRS transmissions made while outside of the territory (as charged by the service provider to CTSA).
- 8.3 In the event that repairs and/or services are affected and/or products delivered, the customer may be held liable for charges additional to the standard warranty terms and conditions if the customer is duly informed of such additional charges and, after being informed of such charges, authorises the work to continue and/or products to be installed. For purposes hereof it will be deemed that the customer authorised the work to be proceeded with and/or products installed if the customer, or a representative of the customer signed CTSA's job card and/or any other document presented for signature upon the rendering of services and/or installation of products.

- 8.4 The customer shall be entitled to request the number of reports, the number of transmit SMS's and have a maximum data transfer per month as set out in the contract or user manual as the case may be. Any usage in excess to the allowable amount per month will be charged as per Standard Rates of CTSA for such excess, as published by CTSA on its website from time to time.
- 8.5 Installations are to be performed at CTSA branches or approved fitment centres. Where on site installations are agreed upon, a call out charge and travelling in excess of a 60km round trip will be charged at the published rates of the Automobile Association.
- 8.6 All additional charges shall be payable by the Customer in terms of the Standard Rates of CTSA for any goods and services rendered then charged by it to its usual customers, which rates are furnished herewith, and obtainable from its website.
- 8.7 The Customer shall be entitled to an agreed number of SMS/ GPRS's in order to obtain information per month. In respect of a secure test and emergency, polls shall be charged at the usual rate charged by CTSA. In the event that a Customer exceeds the allowable monthly usage, then such Customer shall be charged for such extra usage as provided for in Clause 8.8.
- 8.8 All voice calls made on this contact are excluded. The customer will be charged for all voice calls made on the sim cards used on these contracts.
- 9. CESSION AND DELEGATION**
- The Customer may not delegate, cede and/or in any other way deal with the product and/or this contract without CTSA's prior written approval.
- 10. OPERATION IN TERRITORY**
- The Customer acknowledges that the product will only operate in the territory in the event that a GSM network of the GSM service provider is available and obtaining a signal in the area where the vehicle is being operated.
- 11. OWNERSHIP**
- Ownership in the Sim card and connected GSM subscription shall always vest in CTSA.
- 12. GENERAL**
- 12.1 This document contains the entire agreement between the parties and neither of them shall be bound by any undertakings, representations, warranties, promises and the like not provided herein and no alteration or addition to this agreement shall be valid unless agreed to by both parties, reduced to writing and signed by the Customer and a duly authorized representative of CTSA.
- 12.2 Any document shall be deemed duly presented to and accepted by the Customer (i) within 5 (FIVE) days of prepaid registered mail to the Customer's business or postal addresses or to the personal address of any director, member or owner of the Customer (ii) within 24 (TWENTY FOUR) hours of being faxed to any of the Customers fax numbers or any director, member or owner's fax numbers, or (iii) on being delivered by hand to the Customer or any director, member or owner of the Customer or (iv) within 48 hours if sent by overnight courier, or (v) within 7 days of being sent by surface mail, or (vi) within 24 hours of being e-mailed to any e-mail address provided by the Customer.
- 12.3 The Customer chooses its business address as address for any notification or service of legal documents or processes as of any Director (in the case of a company), Member (in the case of a close corporation) or of the Owner(s) or Partner(s), as set out on the face of this document
- 12.4 The Customer hereby consents to the storage and use by CTSA of the personal information that it has provided to CTSA for establishing its credit rating and to CTSA disclosing such information to credit control companies, banks and other institutions involved in rating credit. The Customer agrees that CTSA will not be held liable for the good faith disclosure of any of his information to such third parties and that no further specific consent needs to be obtained for the transfer of such information to a specific third party.
- 12.5 Any order is subject to cancellation by CTSA due to acts of God or any circumstance beyond the control of CTSA, including (without restricting this clause to these instances): inability to secure labour, power, materials or supplies, war, civil disturbance, riot, state of emergency, strike, lock out, or other labour disputes, fire, flood, drought or legislation.
- 12.6 Any order is subject to cancellation by CTSA if the Customer breaches any material term of this Agreement or makes any attempt of compromise, liquidation, sequestration, termination or judgment or applies in terms Section 129 of the Companies Act 2008 for business rescue proceedings.
- 12.7 Ownership in all products sold remains the property of CTSA until they are paid for in full.
- 12.8 The Product shall remain the property of CTSA and nothing in this Agreement shall be construed as conferring on the Customer any title, right or interest in the Product at any stage before or after expiry of this Agreement on the initial 36 months, other than in terms of this Agreement. The Customer may elect to extend the Agreement by a further 36 months whereafter all the terms and conditions of this Agreement shall continue to prevail, alternatively, the Customer may request de-installation of the Product, upon acceptance of a quotation from CTSA for such de-installation. This clause shall be applicable to all Products rented by the Customer from CTSA and shall include Products available on the Insure Cash option.
- 12.9 Installations are to be performed during normal office hours, Monday to Friday 08:00 to 17:00. Any arrangements after these hours will be charged for overtime as an additional charge
- 12.10 The Customer consents to the information generated by the product, and in an anonymous format, being used for purposes of C-Track product development and improvement, academic research, traffic flow analysis and prediction. C-Track in the use of the data shall remove all vehicle or client identification and thereby render it impossible to identify any vehicle data as belonging to either the specific vehicle or owner.
- 12.11 Each provision of this agreement is separable from the other provisions. Should any provision be found to be invalid or unenforceable for any reason whatsoever, the remaining provisions and clauses of this agreement shall nevertheless remain binding and continue to be of full force and effect upon the parties.
- 13. BREACH**
- In the event that the customer fails to pay any amount due in terms of this Agreement, or is in breach of any other term of this Agreement and after having received due notice thereof from CTSA and failing to remedy such breach within 7 (SEVEN) days thereof, then and in that event CTSA shall be entitled:
- 13.1 to immediately institute action against the Customer claiming from the Customer the full balance outstanding in respect of any uncompleted portion of the initial period of 36 (THIRTY SIX) months, or
- 13.2 to cancel the Agreement terminate the services and take possession of any goods delivered to the Customer and claim any damages suffered. These remedies are without prejudice to any other right CTSA may be entitled to in terms of this Agreement, or in Law.
- 14. MAINTENANCE**
- CTSA shall maintain and repair the unit for the entire period of the agreement at no extra cost, unless circumstances as set out in Clause 8.3 occur. In said instance the customer will be charged in accordance with the provisions of clauses 8.3 to 8.5.
- 15. SOFTWARE**
- CTSA shall install and maintain the standard C-track ONLINE software for one client user, unless chosen differently on this document. In addition CTSA will train one software user. All software is licensed by DigiCore and the use of all the software is regulated by the DigiCore software license agreement, available on request from DigiCore Technology Department or on the DigiCore website. Any additional software installation will be quoted for separately.

16. COOLING OFF

It is recorded that the agreement does not result from any direct marketing and that CTSA did not approach the customer directly by mail or electronic communication for the direct or indirect purpose of supplying the goods and services that form the subject matter of this agreement. As a result, the services rendered and products supplied in terms of this agreement are not subject to any cooling off period and the agreement remains binding until it expires through effluxion of time or is cancelled by one of the parties is as per the provisions of this agreement.

17. INSPECTION OF GOODS

The consumer has agreed to purchase the goods and/or have same installed solely on the basis of the description thereof and it is recorded that said goods in all material respects and characteristics correspond to the description and/or sample thereof.

18. ARBITRATION

- 18.1 It is agreed that any dispute in relation to any party's obligations arising from this agreement may be referred to arbitration at the election of CTSA or the customer.
- 18.2 Arbitration shall be proceeded with once a party has given written notice to the effect to the other party.
- 18.3 The arbitration shall be held in Pretoria in terms of the Arbitration Act, Act 42 of 1965, as amended, and shall be held and completed as soon as possible.
- 18.4 The arbitrator shall be an advocate or attorney of Pretoria of at least ten (10) years standing.
- 18.5 Should the parties fail to agree on an arbitrator within fourteen (14) days after a party gave notice to arbitrate, as referred to herein above, the arbitrator shall be appointed at the request of either party to the dispute by the chairman of the association of arbitrators of South Africa.
- 18.6 The arbitration shall be conducted in accordance with the summary procedure rules, being Rules 42 to 46 of the Rules for the Conduct of Arbitrations, Sixth Edition, published by the Association of Arbitrators (Southern Africa).
- 18.7 It is recorded that aforesaid provisions are aimed at resolving disputes in an expedient and cost effective manner and is not aimed at excluding or hindering the consumer's right to take any legal action or exercise any other legal remedy provided for in The Consumer Protection Act, Act 68 of 2008 ("the CPA") and/or any other applicable jurisdiction and the consumer may refer any dispute to an arbud and/or a court if the consumer elects to do so and the Court's jurisdiction is not excluded.
- 18.8 In the event that any dispute is referred to arbitration, being it at the election of CTSA or the customer, the customer may raise any defence available in terms of the provisions of the CPA and the arbitrator may consider said defences.

19. THE CTSA REPLACEMENT INSURANCE

If the Subscriber accepts this option, CTSA will keep this unit insured against all risks of theft or damage from collision and/or other damage sustained by the product for the duration of the contract, save unless such damage results due to tampering of the product by the Customer or the unauthorised repair to the unit by a non approved distributor of CTSA. If this option is not taken the Customer remains responsible for ensuring that the product is comprehensively insured at all times.

20. SURETYSHIP

By my/our signature/s hereto I hereby/we hereby jointly and severally bind myself/ourselves to the company as surety/ies for and co-principal debtor/s in solidum with each of the other of us and the customer for the due and punctual payment and performance by the customer in favour of CTSA of all debts and obligations of whatsoever nature and howsoever arising, including the payment to CTSA of all and any amounts which may at any time be owing to it by the customer from whatsoever cause arising. As part of my/ our liability in terms hereof I/we bind myself/ourselves as aforesaid to pay the amount of all costs, charges and expenses of whatsoever nature including, but without derogating from the generality of the foregoing, legal costs, as well as tracing fees and collection commission which the company may incur in securing or endeavouring to secure the fulfilment by me/us of any of my/our obligations hereunder. This surety ship shall remain in full force and effect and binding upon me/us notwithstanding that it may not have been signed by all of us and not notwithstanding any exceptions of order, excussion, division, cession of action and all and or any exceptions which could or might be pleaded to any claim by the company against me/us with the meaning, force and effect of all which I/we declare myself/ourselves to be fully acquainted. I/we furthermore agree that CTSA shall be entitled to institute action against me/us in any court. As further security for discharge of the customers indebtedness, I/we hereby cede, assign, transfer and make over unto and in favour of the company, in securitatem debiti, or my/our right title and interest to claim payment of all and or any amounts which are now or may in the future become owing to me/us by the customer from any cause of indebtedness of whatsoever nature and howsoever arising.

21. CREDIT ASSESSMENT

- 21.1 The Customer acknowledges that CTSA has taken steps to assess:
- 21.1.1 The customer's general understanding and appreciation of the costs and risks associated with this contract;
- 21.1.2 The customer's debt repayment history;
- 21.1.3 The customer's existing financial means, prospects and obligations;
- 21.2 And CTSA pursuant to the information supplied and representations made by the customers, in connection with the matters set out in this agreement has satisfied themselves that the customer is capable of performing his financial obligations in terms of this agreement and understands and appreciates the costs and risks associated therewith.
- 21.3 The customer records that CTSA has entered into this contract on the strength of the financial representations made by the customer.

CUSTOMER SIGNATURE

DATE