

**Terms and Conditions of Sale: Vehicle and Asset Tracking Service Agreement
v1.1**

These terms and conditions apply to the sale and/or supply of goods and/or services (Goods) by Arvensis Consulting Limited (ACL) to a customer (the "Purchaser") to the exclusion of all other terms and conditions, unless otherwise agreed in writing by ACL and notwithstanding any qualification made by the Purchaser.

1. General Terms and Conditions:

- 1.1. Orders for supply of Goods may be made by telephone, in writing or in person by the Purchaser or the Purchaser's representative. ACL may accept or decline, in whole or in part, any order. Acceptance by ACL occurs only when ACL prepares an invoice in respect of the order, notwithstanding the time when the invoice is delivered to the Purchaser. Once an order is accepted by ACL, no changes may be made unless agreed in writing by ACL.
- 1.2. The Price of the Goods will be the price quoted to the Purchaser when the Purchaser places an order with ACL. All prices are payable in New Zealand Dollars unless otherwise specified. At ACL's option the price shall be increased without notice by the amount of any increase in the cost of any items effecting the cost of supply or delivery of the Goods, where circumstances are beyond the control of ACL between the date of the Order and the date of delivery.
- 1.3. Unless expressly included in any Order, GST and other taxes and duties relating to the supply of Goods to the Buyer are not included in the Price and shall be payable by the Buyer in addition to the Price at the rate(s) prevailing as at the date of supply of the Goods.
- 1.4. Orders should specify whether the Purchaser proposes to pick up the Goods from ACL's premises or whether ACL is requested to arrange delivery. Where ACL arranges delivery, all delivery charges will be payable by the Purchaser. ACL will use reasonable efforts to deliver Goods for accepted orders by the date requested for delivery but ACL does not warrant or represent that delivery will be made by that date and in no circumstances will there be liability by ACL on account of late delivery. Any claims for short deliveries must be made on the day of delivery. A delivery/docket signed by the Purchaser or Purchaser's representative will be deemed to be conclusive evidence of delivery of the goods in the order.
- 1.5. ACL is not obliged to supply Goods to a Purchaser who is:
 - a) in breach of these terms and conditions or any other terms and conditions governing the sale or supply of the Goods to which ACL has agreed (including any credit terms and conditions) or;
 - b) is likely to become insolvent or bankrupt or make an arrangement or compromise with its creditors;
 - c) has a receiver or manager appointed over all or any of its undertaking or assets or;
 - d) goes into liquidation or is served with a statutory demand under New Zealand Law.

The occurrence of any one of the above events is an essential breach of these terms and conditions of sale.
- 1.6. As an essential term of the rental of the Online service and Service provider connectivity, you must pay all rental payments, together with Goods and Services Tax and all other applicable duties and taxes as set out in clause 2 for the use of the Live Tracking service and connectivity service provided, by either direct debit or electronic funds transfer as directed by us.
- 1.7. The first service payment is due on signing the Service Agreement
- 1.8. Subsequent service fee payments are payable in advance between the 20th and last business day of the month
- 1.9. All payments must be made to us in full and free of any set-off, deduction or withholding whatsoever.
- 1.10. Your obligation to pay amounts under the Service Agreement is absolute and unconditional and continues despite any fault in, loss or theft of, or damage to the Equipment or any dispute between us.
 - 1.11. Overdue accounts of 30 days but less than 60 days overdue suspended from services.
 - 1.12. Overdue accounts of 60 days will result in the removal of tracking devices from the service portal and a reconnection fee of \$25.00 per device will be charged to re-provision each device.
 - 1.13. Interest is payable on any amounts owing by the Purchaser from the due date for payment until the amount owing is paid in full at the ASB Official Cash Rate plus 3% calculated daily and compounded monthly. This entitlement to interest for late payments is without prejudice to any other right of ACL in respect of any late payment by the Purchaser.
 - 1.14. The Purchaser may not return Goods to ACL unless ACL has authorized the return in writing. ACL will not authorize the return of Goods unless the Goods supplied are:
 - a) in excess of the invoice quantity, and only to the extent of the excess supplied;
 - b) not the Goods specified on the invoice; or
 - c) faulty in materials or workmanship
 - 1.15. and the Purchaser has requested in writing to return the Goods within 5 (five) business days of delivery. ACL is not obligated to accept any goods permitted to be returned under this clause 1.11 unless returned in the same condition as when first delivered to the Purchaser.
 - 1.16. The Purchaser's sole remedy for returned Goods under clause 8(b) will be the supply of correct Goods. The Purchaser's sole remedy for returned Goods under clause 11(c) will be, at ACL's option:
 - a) the replacement of the Goods or the supply of equivalent Goods; or
 - b) the repair of the Goods; or
 - c) the payment of the cost of repairing the Goods; or
 - d) the payment of the cost of replacing the Goods or acquiring equivalent Goods.
 - 1.17. Despite clauses 1.14 & 1.15, should the Purchaser notify ACL in writing within 5 (five) business days of delivery that the Purchaser wishes to return the Goods, ACL may at its absolute discretion agree to take back the Goods. If ACL agrees in writing to take back the Goods then:
 - a) the Purchaser must at its own cost immediately deliver the Goods to ACL in the same condition and original packaging in which they were shipped to the Purchaser in an undamaged condition free of any claims against the Goods by any other person or entity.
 - b) The Purchaser must pay to ACL at least 15% of the price of the Goods as consideration for ACL agreeing to take back the Goods.
 - c) If ACL has already sent an invoice to the Purchaser for the price of the Goods or charged the price of the Goods against the Purchaser's account, ACL will apply a credit to the invoice or account for 85%, or the corresponding difference of the price of the Goods.
 - d) Claims of late delivery are barred unless made prior to receipt of products and the receipt of any product shall constitute waiver of any claim that such items are delivered late.
 - e) A complete description regarding the nature of the defect must be included with all returned products.
 - 1.18. Risk in the Goods passes to the Purchaser when the earliest of the following occurs:
 - a) the Goods are delivered by ACL to a carrier for delivery to the Purchaser; or
 - b) the Goods are collected from ACL premises by the Purchaser or the Purchaser's representative; or

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- c) the Goods are otherwise delivered to the Purchaser.
- 1.19. Title in the goods will not pass to the Purchaser, and is expressly retained by ACL until all outstanding indebtedness is discharged.
- 1.20. ACL shall have the right to register a charge under the Personal Property Securities Act 1999 as against the goods supplied. This charge will be discharged upon payment in full for those goods over which the charge is registered
- 1.21. Until title passes to the Purchaser, the Purchaser is in possession of the Goods as Bailee for ACL. The Purchaser must keep the Goods identifiably separate from all other goods (until the time when the Goods are sold or mixed, processed, incorporated or otherwise combined with other goods as permitted by these terms and conditions) and must not remove any packaging, identifying marks or paper or other documentation from the Goods. ACL may at any reasonable time enter the Purchaser's premises to inspect the manner in which the Goods are stored.
- 1.22. The Purchaser grants ACL an irrevocable license to enter the Purchaser's premises immediately (or at any time thereafter) on the occurrence of an essential breach of these terms and conditions defined in clause 1.5 to repossess and remove from the Purchaser's premises all Goods for which title remains with ACL.
- 1.23. The Goods may be mixed or processed with attached to, incorporated in or otherwise combined with other goods in which the title is not held by ACL, subject to these terms and conditions including the following:
- a) where the Goods remain identifiable and can be separated from the other items, the Purchaser must effect the separation of the Goods at its own expense and restore the Goods to ACL whenever called upon to do so by ACL;
 - b) where the Goods, although still identifiable, cannot be separated from the other items without causing a total loss of the combined product or where the Goods are used to form all or part of a new product, when the combined product or the new product is created the property in such combined product or new product will belong to ACL or, if the other items include any items belonging to a third party, will belong to ACL and such third party jointly; and
 - c) the purchaser must ensure that every contract made by it with a third party which deals with the Goods in whole or in part contains a statement that the Goods are subject to a retention of title clause and contains a provision to the same effect as in clause 1.5(b) above.
- 1.24. The Purchaser may sell the Goods to a third party before title to the Goods has passed to the Purchaser on condition that the Purchaser holds such part of the proceeds of the sale equivalent to the price at which the Goods were supplied by ACL to the Purchaser ("Proceeds") in a separate bank account on trust for ACL. The Purchaser must not commingle the Proceeds with any other money and will not be entitled to withdraw the Proceeds from the bank account until title to the Goods in respect of which the Proceeds were received has passed to the Purchaser. The Purchaser must advise the bank that the money is held on trust for ACL pending the passing of title to the Goods in respect of which the money was received.
- 1.25. Subject to clause 1.19 below: ACL;
- a) excludes all conditions and warranties, express or implied, (including any representation or warranty as to the quality or fitness of the Goods for any purpose and any conditions or warranties in the Purchaser's order) in connection with the sale or supply of Goods to the Purchaser; and
 - b) disclaims any duty of care to the Purchaser or any person or entity to whom the Purchaser transfers the Goods and will not be liable for negligence; and
 - c) will not be liable for:
 - i. any claims for short deliveries made after the day of delivery;
 - ii. any delay in delivery of the Goods;
 - iii. any direct, indirect or consequential loss, damage, expense or injury relating to the performance, non-performance or any breach of these terms and conditions;
 - iv. any failure to perform its obligations to the extent the failure is caused by anything beyond ACL's immediate control, including without limitation strikes, employment difficulties and accidents.
- 1.26. Notwithstanding clause 1.21, these terms and conditions do not exclude or affect any condition, warranty; guarantee, right or remedy which is included in these terms and conditions of sale or conferred on the Purchaser by law and which by that law cannot be excluded or affected.
- 1.27. **Waiver.** A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 1.28. **Third party rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 1.29. Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by ACL.
- 1.30. These terms and conditions are governed by the laws of New Zealand.
- 1.31. The Buyer authorizes ACL to obtain opinions as to the creditworthiness of the Buyer from trade credit agencies, bankers and others and also authorises ACL to disclose any credit information it may hold on file to any such persons.
- 1.32. ACL may elect, at their best judgment, the best fit technology to use for connectivity if not stipulated by the Purchaser. This may be by way of:
- a) GSM Service (2G, 3G, 4G, LTE, LTE-CatM1, LTE-NB1, etc.)
 - b) Sigfox IoT (RCZ4)
 - c) LoRa WAN IoT
 - d) WiFi
 - e) Satellite
- 1.33. The Purchaser will be advised in writing of the technology to be used and any related fees or setup costs thereof.
- ## 2. Duties and taxes
- 2.1. Goods and Services Tax and any and all other taxes and duties that may be applicable in relation to the Equipment must be paid by you to us at the Time of Supply (as defined under the Goods & Services Tax Act 1985).
- 2.2. You must pay all duties and taxes (including Goods and Services Tax ("GST")) and any fees which in any way relate to the rental of the Equipment and Service provided, any supply made by us or any transaction contemplated by these terms.
- 2.3. Unless GST is expressly included, any payment for any supply

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made under on in connection with this Service does not include GST.

- a) If such supply is a taxable supply, then that payment is increased by an amount equal to the GST imposed in respect of the supply, and subject to receipt of an effective tax invoice is payable at the same time.
 - b) If a payment is by way of reimbursement or indemnity and is calculated by reference to the GST inclusive amount of a loss, cost of expense incurred, then the payment is to be reduced by the amount of any input tax credit in respect of that loss, cost or expense before any adjustment is made for GST.
- 2.4. All payments under clauses 2.1 and 2.2 must be made at the time that liability to pay such duty, taxes or fees arises.
- 2.5. The Purchaser undertakes to provide ACL with no less than 30 (thirty) day written notice in the event that the Purchaser no longer wishes to utilise the Service provided by ACL.
- 2.6. Where the Purchaser elects to cancel the Contract, and where such notice has been provided by the Purchaser prior to the Initial Period, the Purchaser must pay a reasonable cancellation fee together with any other amounts due and payable in terms of this Contract to ACL.

3. Insurance

- 3.1. The Purchaser is responsible to ensure the Equipment insured during the Term against:
- a) Loss or damage for the full insurable value of the Equipment;
 - b) Public liability for bodily injury or damage to property arising in connection with the Equipment for not less than the amount required by us; and
 - c) Any other risks as we require. Such insurance must note our interest as owner of the Equipment.
- 3.2. ACL does not guarantee that the GPS tracking will lead to a recovery of a stolen asset or vehicle. The Client acknowledges that the GPS Tracking is intended to reduce the risk of Loss, but will not eliminate such risk.

4. Force Majeure

- 4.1. Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lockouts or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, inability to supply replacement goods which are identical to or materially similar to any Goods previously supplied and returned or other default of suppliers or subcontractors

5. Substitute Vehicles And Additional Vehicles

- 5.1. The Purchaser may at any time add on a vehicle or substitute another vehicle for the Vehicle in respect of which the ACL Service is being provided, in the manner directed by ACL.
- 5.2. Where a Vehicle or Asset has been added or substituted for another Vehicle or Asset, the Purchaser will be liable to ACL any additional fees (if any) relating to the ACL Service, from the date of installation or substitution of the Equipment in the new or substituted Vehicle.
- 5.3. The terms set out in this Agreement will apply in all respects to the ACL Services in respect of any new or substituted Vehicle.

6. Notices.

- f) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier or e-mail.
- g) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

7. Privacy Information

- 7.1. Your privacy is important to us. To better protect your privacy we provide this Privacy Policy, which explains our online information practices and the choices you can make about the way your information is collected and used.
- 7.2. This Privacy Policy applies to all information collected or submitted on our website, email or in person. The types of personal information collected at these pages include:
 - a) Name
 - b) E-mail address
 - c) Phone number
 - d) Address
 - e) Vehicle and Asset Details
- 7.3. We do not share this information with outside parties except to the extent necessary to complete that order. We may use your e-mail address to communicate with you, for example, to notify you of special offers or programs you might find of interest.
- 7.4. We use return e-mail addresses to answer the e-mail we receive. We may also use these e-mail addresses to provide order status and order tracking information, and to respond to queries.
- 7.5. We will never sell your personal information to any 3rd parties.
- 7.6. In the event of a criminal investigation or a suspected illegal activity, we may be required by law enforcement agencies to share certain personal information.

8. DISCLAIMER

The international mobile APP and Website are not owned, managed or operated by ACL. ACL has arranged use of both to all purchasers of ACL Tracking products and services shown on this website. In times of high use worldwide, there can be delays in connecting or getting slow responses. This is either through delays via your mobile provider, international connections, high use of the APP and website - it is not a fault of the tracker. ACL has no control of how the APP or Website work or when it may be online or offline. The APP and website are always being updated so some features will change from time to time or not be applicable to your model of tracker.