AUTOTRAK (MU) TRACKING SERVICES LTD TERMS AND CONDITIONS OF SALE

1 SUBSCRIBER AGREEMENT FORM

In this Agreement, unless the context clearly indicates a contrary intention, the words defined below shall have the following meanings assigned to them, and similar expressions shall bear corresponding meanings:

1.1 Hereafter the AUTOTRAK MAURITIUS LTD will be referred to as AUTOTRAK.

1.2 “Activation” means the enabling of a SIM Card by AUTOTRAK at AUTOTRAK’s premises to operate on the Network in terms of this Agreement;

1.3 "Agreement” means the application from overleaf and the terms and conditions in Part I and where applicable, Part II of the subscriber Agreement, and any addendum duly authorised by AUTOTRAK and signed by the subscriber or an authorised representative of the subscriber,

1.4 “the Application Form means the order or application form section of this Agreement, to which these terms and conditions are attached or printed overleaf;

1.5 "Charges” means the connection charges, Monthly Services Charges, Usage Charges and any other charges pertaining to the provider of the Network Services, SIM Cards and any other services howsoever described, by AUTOTRAK to the subscriber, as detailed in the Price List from time to time;

1.6 "Connection Charge” means the charges levied by AUTOTRAK on the subscriber in consideration for activating the subscriber’s SIM Card for use on the Network;

1.7 "GSM” means Global System for Mobile communications as defined in the European Technical Standards institute structure of specifications;

1.8 "Initial Period” means a period of 36 (THIRTY SIX) successive months commencing from the date of Activation, which date shall be set out in the first bill sent to the subscriber after Activation;

1.9 "a Month“ means a period which commences at 0h00 on a particular date(determined by AUTOTRAK from time to time) of a calendar month and shall endure until 23h59.59 on the day before that particular date in the following calendar month;

1.10 "Monthly Service Charges” means the monthly charge/s levied by AUTOTRAK in consideration for the subscriber’s access to and use of the Network Services, as detailed in the price List from time to time; AUTOTRAK premises are currently 1st Floor, Building B, Nautica Commercial, Royal Road, Black River, Mauritius.

1.11 AUTOTRAK Premises” means the offices of AUTOTRAK at the address set out in clause 1.10 but specifically excludes the branch offices of AUTOTRAK and the offices of any agent or intermediaries acting on behalf of AUTOTRAK or any other party;

1.12 "Mobile Number” means the mobile telephone number programmed into each SIM Card;

1.13 "Network" means the cellular telephony system operated by the Operator;

1.14 "Network Services" means the GSM telecommunications network services, including, inter alia, Value Added Services, made accessible to the Subscriber by AUTOTRAK in terms of this Agreement;

1.15 "Operator" means AUTOTRAK, its successors in title or assignees or any other licensed cellular operator in South Africa which has granted AUTOTRAK a sub-license to make the Network Services available to the Subscriber;

1.16 "Order" means an order placed by a Subscriber on AUTOTRAK, as per the Application Form, or in any other form approved by AUTOTRAK, for the provision of Terminal Equipment, SIM Cards and/or use of the Network Services;

1.17 “Package Option" means any one of the tariff plans under which the Network Services are made accessible to Subscribers, which tariff plans are set out in the Price List and vary according to the rate of Usage Charges, Value Added Services included and other variables determined by AUTOTRAK or the Operator from time to time, but subject to the requirements, conditions and/or approvals of the relevant regulatory authority, where applicable;

"Price List" means that schedule on which the Charges levied by AUTOTRAK, as approved by the Operator and/or any relevant authority, are recorded, which Price List may be amended by AUTOTRAK, from time to time and which is available on request from AUTOTRAK.

1.18 "Prime Rate" means a rate of interest per annum which is equal to the AfrAsia Bank Limited published minimum lending overdraft rate of interest per annum plus 3% (three percent), compounded monthly in arrears and charged by such bank on the unsecured overdrawn current accounts of its most favoured corporate clients in the private sector from time to time. In the case of a dispute as to the rate so payable the rate shall be certified by any manager or assistant manager of the said bank, whose decision shall be final and binding on the parties;

1.19 “Regulatory Authority” means the party referred to in clause 7.4.

1.20 "Renewal Period" means a period of 36 (THIRTY-SIX) successive Months commencing on the day immediately following:

1.20.1 the expiration of the Initial Period; or

1.20.2 an anniversary of the expiration of the Initial Period; as the case may be;

1.21 "SIM Card" means a Subscriber Identity Module which, when activated by AUTOTRAK, provides a Subscriber using compatible Terminal Equipment with access to the Network Services;

1.22 "Subscriber" means that party whose particulars appear on the Application Form or their successors or authorised assignees;

1.23 "Terminal Equipment" means an AUTOTRAK related unit and the accompanying AUTOTRAK Base Station, if required.

1.24 "Usage Charges" means the Charges charged by AUTOTRAK to the Subscriber for recorded usage of the Network Services, at the rates published in the Price List from time to time;

1.25 "Value Added Services" means the services designated as such by AUTOTRAK from time to time, which services are subject to the charges, terms and conditions applicable to certain Package Options, as determined by AUTOTRAK in its discretion from time to time. AUTOTRAK may vary the charges payable, and the terms and conditions applicable in respect of such Value Added Services. Such Charges and terms and conditions are available on request from AUTOTRAK.

2 COMMENCEMENT AND TERMINATION

2.1 This Agreement shall commence on the date of Activation of a SIM Card issued to the Subscriber by AUTOTRAK ("commencement date") and shall, subject to the provisions of clause 7, continue for the Initial Period, and thereafter continue automatically for an unlimited number of Renewal Periods unless terminated:

2.1.1 By the Subscriber, on expiration of the Initial Period or a Renewal Period, as the case may be, by giving to AUTOTRAK a written notice of termination not less than 30 (thirty) and not more than 90 (ninety) days before the expiration of the Initial Period or Renewal Period, as the case may be; and/or

2.1.2 By AUTOTRAK, forthwith on written notice to the Subscriber, in the event that the sub-license issued by the Operator in terms of which AUTOTRAK is authorised and empowered to give the Subscriber access to the Network Services, is terminated for whatsoever reason.

2.2 Notwithstanding the use of agents or other intermediaries by AUTOTRAK, the Order by the Subscriber is an offer made by the Subscriber to AUTOTRAK and will be considered once received by AUTOTRAK at AUTOTRAK Premises. AUTOTRAK acceptance of the offer (if it does accept) shall consist of the Activation of the SIM Card as contemplated in 2.1. The parties agree that, for the purposes of acceptance and conclusion of this Agreement, Activation shall always be deemed to take place at AUTOTRAK premises, as defined above. Upon such Activation, this Agreement shall become binding between AUTOTRAK and the Subscriber whether or not the Subscriber was notified of the acceptance of the offer. The Subscriber herewith expressly dispenses with any need to receive notification of acceptance or rejection of the offer from AUTOTRAK.

2.3 If any SIM Card is supplied to the Subscriber and activated at any time pursuant to the execution of a further Agreement between AUTOTRAK and the Subscriber, which execution occurred subsequent to the execution of this Agreement, then such SIM Card shall be governed by the terms and conditions of such later Agreement. The terms and conditions of this Agreement shall, however, continue to apply to the SIM Cards, Network Services, etc. supplied under this Agreement.

3 SUPPLY OF SIM CARDS AND NETWORK SERVICES

3.1 The Order placed by the Subscriber on AUTOTRAK is subject to AUTOTRAK approval in its sole discretion. If AUTOTRAK does not accept the Order, it shall not be under any obligation to the Subscriber to give reasons for its decision.

3.2 AUTOTRAK shall utilise its best endeavours to promptly comply with any supply and/or delivery requirements recorded in the Order, but shall not be liable to the Subscriber in the event that such supply and/or delivery is delayed or cancelled, for whatsoever reason.

3.3 The Subscriber shall be responsible for obtaining all necessary approvals and authorities imposed by any competent authority and required for the purpose of any such supply and/or delivery of an Order, and the Subscriber hereby indemnifies AUTOTRAK against any claim or liability suffered by AUTOTRAK by reason of such approvals and authorities not having been obtained.

3.4 All risk in and to SIM Cards supplied and delivered by AUTOTRAK to the Subscriber shall pass to the Subscriber on delivery thereof to the Subscriber or a party nominated by the Subscriber to accept receipt of such SIM Card.

3.5 By law, if a SIM Card is lost, stolen or damaged, the Subscriber is required to immediately notify the South African Police Services of this in writing. The Subscriber shall also immediately notify AUTOTRAK of such loss, theft or damage, and until such notification is received by AUTOTRAK, the Subscriber shall remain liable for all costs and Charges pertaining to such SIM Card. AUTOTRAK shall as soon as reasonably possible, issue to the Subscriber a replacement SIM Card, and may in its discretion, require the Subscriber to effect payment of a reasonable charge in respect of issuing such replacement SIM Card. Such loss, theft or damage and/or the issue of a replacement SIM Card and/or the allocation of a new Mobile Number for any reason, shall in no way be deemed to constitute a termination of this Agreement which shall continue to be of full force and effect.

3.6 The Subscriber hereby warrants and undertakes in favour of AUTOTRAK that the Subscriber:

3.6.1 Shall not use nor allow the Network Services to be used for any improper, immoral or unlawful purpose, nor in any way which may cause injury or damage to persons or property or an impairment or interruption to the Network Services;

3.6.2 Shall only use Terminal Equipment approved by AUTOTRAK in conjunction with the SIM Card, on the Network, and comply with all relevant legislation and regulations imposed by any competent authority and all directives issued by AUTOTRAK relating to the use of Terminal Equipment, Network Services and/or SIM Cards;

3.6.3 Recognises that no right, title or interest in the software or the Mobile Number contained in each SIM Card issued to the Subscriber, vests in the Subscriber;

3.6.4 Shall not, and shall not permit any third party to reverse engineer, decompile, modify or tamper with the software contained in, or pertaining to, any SIM Card.

3.7 The availability of Value Added Services, whether for free or in circumstances where a Monthly Service Charge is charged, is subject to the discretion of AUTOTRAK and may be charged for or withdrawn at any time by AUTOTRAK in its sole discretion. In the event that AUTOTRAK withdraws any Value Added Service for which a Monthly Service Charge is charged, no further Monthly Service Charge will be charged for the period after the withdrawal of the Value Added Service concerned. Where the Subscriber subscribes to a Package Option that includes the provision of Value Added Services free of charge, AUTOTRAK shall be entitled, in its sole discretion and without notice to the Subscriber, to vary, discontinue or substitute any such Value Added Service, without reducing any of the Monthly Service Charges or providing any refund, unless it determines in its sole discretion to do so.

4 **CHARGES**

4.1 In consideration for the provision of the Network Services, SIM Cards and any other products and/or services supplied by AUTOTRAK to the Subscriber, the Subscriber shall effect payment to AUTOTRAK of the applicable Charges, as detailed in the Price List, and whether or not the Network Services have been, or are being utilised by the Subscriber.

4.2 Without derogating from the provisions of this Agreement, AUTOTRAK may, on written notice to
the Subscriber, vary any Charges, either in whole or in part, with effect from the date specified in such notice.

4.3 Unless otherwise agreed to by AUTOTRAK in writing, the Subscriber shall effect payment to AUTOTRAK:

4.3.1 For the supply and delivery of Terminal Equipment, and SIM Cards in full, on presentation of an invoice and against such delivery;

4.3.2 Of Monthly Service Charges and Insurance Charges, if applicable, monthly in advance, and of all other Charges, monthly in arrears, in either event in full, within 21 (twenty-one) days from date of the relevant bill referred to in 4.5;

4.3.3 At the bankers of AUTOTRAK. Where payment is made by the Subscriber via a debit order, the Subscriber's bankers or other intermediaries shall act as the Subscriber's agents and the Subscriber shall have discharged its obligations only upon payment being received by AUTOTRAK by the bankers of AUTOTRAK and such payment has been identified by AUTOTRAK as the Subscriber's payment for the relevant Subscriber's Account.

4.4 Notwithstanding the provisions of Clause 4.2, AUTOTRAK may at any time on reasonable written notice to the Subscriber vary its invoicing and payment procedures and requirements.

4.5 In the event that AUTOTRAK requires payment for the services provided to the Subscriber to be made by debit order, the Subscriber will commit a breach of this Agreement if the Subscriber:

4.5.1 Cancels such debit order without the prior written consent of AUTOTRAK;

4.5.2 Changes his banking details upon which the debit order relies, without giving AUTOTRAK prior written notification of such change and providing with the Subscriber's new banking details. Notwithstanding the banking details contained in the Application Form, the Subscriber hereby authorises AUTOTRAK to debit any bank account held by the subscriber for any amounts owed by the subscriber to AUTOTRAK.

AUTOTRAK shall send a monthly statement (“bill”) to the subscriber at the address supplied by the subscriber in the Application Form or in writing to AUTOTRAK. It shall be the duty of the subscriber to check the bill in order to ensure that the contents thereof are correct. Unless a query is raised in respect of the contents of a bill within 30(thirty) days from the date thereof, the contents thereof shall be deemed to be correct.

4.7 AUTOTRAK shall, in its sole discretion, determine the commencement date of the Month during which the inclusive minutes may be utilised;

4.7.1 In the event that the commencement date of this Agreement falls on a day other than the first day of a Month, then the inclusive minutes shall be pro-rated for the remaining portion of that Month. In the event that the inclusive minutes may only be utilised on the weekend and the Agreement commences after the last weekend in any month, the Subscriber shall not be entitled to any inclusive minutes during that Month;

5 **SUSPENSION OF ACCESS TO NETWORK SERVICES**

5.1 AUTOTRAK may at any time, without notice to the Subscriber, and in any manner whatsoever, suspend the Subscriber's access to the Network Services in the event that:

5.1.1 Any modification, maintenance or remedial work is required to be undertaken pertaining in any manner whatsoever, to the Network Services or the Network;

5.1.2 The Subscriber fails to perform any of his obligations, or breaches any terms of this Agreement, including a failure to submit to AUTOTRAK all necessary documentation specified on the Application Form overleaf;

5.1.3 The Subscriber at any time exceeds the credit limit which AUTOTRAK in its absolute discretion may set and notify the Subscriber of, from time to time.

5.2 AUTOTRAK reserves the right to require the Subscriber to effect payment of any applicable reconnection Charge pursuant to the restoration of Network Services suspended in the circumstances contemplated in Clauses 5.1.2. and 5.1.3.

5.3 Unless otherwise agreed to by AUTOTRAK in writing, in the event that the Subscriber's access to the Network is suspended, the Subscriber shall still be liable for the Monthly Service Charges during any such period of suspension.

6 **LIMITATION OF LIABILITY**

Without detracting from any of the other provisions of this Agreement, AUTOTRAK shall not be liable to the Subscriber for any loss or damage suffered by the Subscriber, and whether same is direct or consequential, in the event that:

6.1 AUTOTRAK fails for any reason whatsoever to supply and/or deliver any Terminal Equipment or SIM Cards, either on the required date, or at all; and/or

6.2 The Network Services are interrupted, suspended or terminated, for whatsoever reason; and/or

6.3 AUTOTRAK fails to suspend the provision of the Network Services to the Subscriber in terms of an arrangement between AUTOTRAK and the Subscriber, or after the Subscriber has specifically requested AUTOTRAK to do so in order to, inter alia, limit the Usage Charges; and/or

6.4 Such loss or damage was caused by any negligent act or omission on the part of AUTOTRAK, its employees or its agents.

7 **BREACH**

7.1 In the event that the Subscriber breaches any term of this Agreement, or any warranty given by him hereunder, or fails to fulfil any obligation resting upon him, including a failure to pay any amount owing to AUTOTRAK on due date, then without prejudice to AUTOTRAK rights, AUTOTRAK may forthwith and without notice to the Subscriber, either terminate this Agreement, or call for specific performance of all the Subscriber's obligations and immediate payment of all sums of money owing by the Subscriber, in either event, without prejudice to AUTOTRAK right to seek such damages as it may have suffered by reason of such breach or failure. Notwithstanding the foregoing, and pending AUTOTRAK election in terms of this clause, AUTOTRAK shall not be obliged to perform any of its obligations under this Agreement and the Subscriber shall remain liable for the payment of all amounts owing by the subscriber in terms of this Agreement. Whether or not such amounts are then due.

7.2 AUTOTRAK shall be entitled forthwith without notice, to terminate this Agreement in the event that the Subscriber is sequestrated, liquidated, or placed under business rescue, whether provisionally or finally, and whether voluntarily or compulsory.

7.3 Without detracting from any of the other provisions of this Clause 7, in the event of the Subscriber breaching any provisions of this Agreement or the Subscriber prematurely terminating this Agreement and AUTOTRAK electing to cancel same, the Subscriber shall be liable to effect payment to AUTOTRAK of all Monthly Service Charges which would have been payable to AUTOTRAK in respect of the remainder of the Initial Period or Renewal Period (whichever is applicable) of this Agreement.

7.4 The Subscriber will be entitled to refer any dispute between the Subscriber and AUTOTRAK relating to the availability of the Network Services, to any Telecommunications Representative who may be appointed as such by Information and Communication Technologies Authority (ICTA, or any successor thereof.

8. GENERAL

8.1 In the event of the Subscriber failing to effect payment of any amount owing by him to AUTOTRAK on due date, then, without derogating from AUTOTRAK rights in terms of Clause 7, the Subscriber shall be liable to effect payment of interest to AUTOTRAK on the amount so owing, at the Prime Rate, from due date to date of payment.

8.2 Unless otherwise stipulated, all prices and Charges set out in this Agreement and any Price List, are exclusive of Value Added Tax ("VAT") and any other applicable tax or duty, the liability for which shall vest with the Subscriber.

8.3 The rights and obligations of the Subscriber in terms of this Agreement may not be ceded or delegated to any third party without AUTOTRAK prior written consent. The rights and obligations of AUTOTRAK in terms of this Agreement, may be ceded, assigned and/or delegated by it to any other party on written notice to the Subscriber.

8.4 AUTOTRAK may change the terms and conditions of this Agreement as a result of changes in taxes, laws, regulations, terms and conditions of the licence issued to the Operator, terms and conditions of any agreement between the Operator and AUTOTRAK, or any circumstances or events similar to the aforesaid. AUTOTRAK shall notify the Subscriber of any changes as contemplated herein in writing.

8.5 This Agreement contains the entire agreement between the Parties regarding the matters contained herein, and no other warranties, undertakings and/or representations have been made by AUTOTRAK or any dealer or purported agent of AUTOTRAK.

8.6 No indulgence, leniency or extension of time, which AUTOTRAK may show to the Subscriber, shall in any way prejudice AUTOTRAK or preclude AUTOTRAK from exercising any of its rights in the future.

8.7 This Agreement and all matters or disputes arising there from or incidental thereto shall be governed and construed in accordance with the laws of the Republic of Mauritius

8.8 The Subscriber, by his signature hereto and in terms of the provisions of the District and Intermediate Courts (Criminal Jurisdiction) Act, as amended, consents to the jurisdiction of the Magistrate's Court in relation to any actions or proceedings instituted against the Subscriber in terms of, or arising out of the provisions of this Agreement, provided that AUTOTRAK, in its sole and absolute discretion shall be entitled to institute any such actions or proceedings, in any division of the Supreme Court of Mauritius with competent jurisdiction.

8.9 A certificate under the hand of any manager of AUTOTRAK certifying the sum of any Terminal Equipment subsidy or any amount owing by the Subscriber to AUTOTRAK, shall be prima facie proof of its contents and sufficient proof for the purposes of enabling AUTOTRAK to obtain any judgment or order against the Subscriber.

8.10 If any term, condition, requirement or provision contained in this Agreement is held by any court having jurisdiction to be unenforceable, illegal, void or contrary to public policy, such term, condition, requirement or provision, shall be of no effect whatsoever upon the binding force or effectiveness of the remainder of this Agreement, it being the intention and declaration of the parties that had they or either of them known of such unenforceability, illegality, invalidity or that the provision was contrary to public policy, they would have entered into a contract, containing all other terms and conditions set out in this Agreement.

8.11 The Subscriber hereby authorises AUTOTRAK to disclose the Subscriber's name, address, and personal details to any party, whenever it is reasonably necessary for AUTOTRAK to properly perform its functions or protect its interests, or for the purpose of enabling the Operator to provide emergency Network Services to the Subscriber, or directory or repair services and information to Network users generally or such information has been requested by any competent regulatory or legislative body.

8.12 Each of the Parties choose domicilium citandi et executandi ("domicilium") for the purposes of the giving of any notice, the serving of any process and for any purposes arising from this Agreement at their respective addresses set forth and/or the Application Form overleaf.

8.13 Each of the Parties shall be entitled from time to time, by written notice to the other to vary its domicilium to any other address within the Republic of Mauritius, which is not a post office box or poste restante. Such address shall become the domicilium of that party within 30 (thirty) days of the other party receiving such notification.

8.14 No alteration, cancellation or variation which the Subscriber may be entitled to make to, inter alia, the various options and/or services set out in the Application Form, shall be of any force or effect unless 20 (twenty) days' written notice of such alteration, cancellation or variation is given to AUTOTRAK.

8.15 Any notice given and any payment made by a Party to the other ("the addressee") which:

8.15.1 Is delivered by hand during the normal business hours of the addressee at the addressee's domicilium physical address for the time being, shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee at the time of delivery: provided that if the delivery is effected by or on behalf of the Subscriber at AUTOTRAK domicilium, the presumption shall only apply as regards AUTOTRAK if proof of receipt is obtained by the party effecting such delivery and duly produced as may be required to prove such delivery;

8.15.2 Is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicilium postal address for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee on the 7 (seventh) day after the date of posting.

8.16 Where, in terms of this Agreement any communication is required to be in writing, the term "writing" may include communications by facsimile. Communication by facsimile shall, unless the contrary Is proved by the addressee, be deemed to have been received by the addressee 48 (Forty-eight) hours after the time of transmission.

8.17 In the event of AUTOTRAK instituting legal proceedings against the Subscriber to recover amounts due to AUTOTRAK or taking any other legal steps pursuant to this Agreement, the Subscriber shall be liable for legal costs on the scale as between attorney and own client and/or any collection costs.

8.18 AUTOTRAK shall be entitled to charge the Subscriber for any banking, and/or internal administration fees incurred by it in the event of the Subscriber defaulting in its payment or any other of its obligations as set out in this Agreement.

9. SEPARATE AGREEMENTS

Given the foregoing provisions of this Agreement, the Network Services made accessible by AUTOTRAK to the Subscriber on the one hand, and the sale or lease of the Terminal Equipment(s) on the other hand under this Agreement, shall constitute separate and divisible agreements, each one capable of standing on its own.