

### CLIENT DETAILS

Title	Surname/Co. Name		First Name	
Physical Address				
Postal Address				
ID/Co. Reg. No.				Code
Tel. No. (W)			Tel. No. (H)	
Cell. No.	Fax No.		E - Mail	
Fleet Size	<10	>10	Demo Period: 4 weeks	Product:

### VEHICLE DETAILS

Vehicle Reg. Number	Engine Number
Make & Model	VIN Number
Year of Manufacture	Colour

### ALTERNATE CONTACT PERSON IN CASE OF EMERGENCY

First Name & Surname	Relationship	Cell. No.	Office No.	Home No.

### ACKNOWLEDGEMENT BY CLIENT

To protect your own interests please read the Terms and Conditions below carefully. If you are uncertain as to the contents of this document please request advice from your sales person, alternatively contact us as follows: by email to infor@cartrack.co.tz, or phone our Customer Care Centre on +255 22 277 2434 . By signing this Agreement you accept that you have read, understood and agree to be bound by the Terms and Conditions on this Application Form.

Name \_\_\_\_\_ Surname \_\_\_\_\_

Designation \_\_\_\_\_

Authorised Signature \_\_\_\_\_ Date \_\_\_\_\_

## 1. Definitions

"this/the agreement" - this sale and service agreement or rental and service agreement (as selected in the Application Form or as deemed in terms of 4.3), the Application Form and any appendices attached; "Application Form" - the face of this agreement and the vehicle schedules (if any) attached, containing, amongst others, the details of the Client and the vehicle/s; "the Client" - the party whose details appear on the Application Form and who will be bound by the terms of this agreement upon the Client's signature of the Application Form and receipt of the Fee by Cartrack Engineering Technologies as such there will be no contract between the parties and the documents will only be viewed as an offer made by Cartrack Engineering Technologies to the client until both the aforementioned conditions have been fulfilled; Unless the context otherwise requires, the expressions herein below shall have the meanings assigned to them herein below: "day; week; month - calendar day, week or month, respectively; "the Fee" - the collective fees for the rendering of the service, and Rent (if applicable), payable monthly or annually in advance by the Client to Cartrack Engineering Technologies, together with any other charges (specified on the Application Form and/or which Cartrack Engineering Technologies is entitled to levy) under this agreement. The Fee shall escalate at 10%, effective the month after each anniversary of the signature date; "loss" - the hi-jacking and/or theft of a vehicle, of which event the Client undertakes immediately to notify Cartrack Engineering Technologies; "initial period" - where this is a sale and service agreement, from and including the date of installation to 00:00 on the last day of the 3rd month thereafter; where this is a rental and service agreement, from and including the date of installation to 00:00 on the last day of the 36th month thereafter; "Installation Centre" - a Cartrack Engineering Technologies approved centre whose business includes the installation of Units; "install/installed/installation" - installation of a Unit by an Installation Centre or by Cartrack Engineering Technologies; "Manual" - the document that explains, amongst others, the specifications and usage requirements relating to the Unit, which document the Client warrants that the Client has read and understood; "Monitoring Message" - a message generated by a Unit (pursuant to, amongst others, a Monitoring Request) and providing information to Cartrack Engineering Technologies regarding the ignition status and/or position of a vehicle if and when applicable; "Monitoring Request" - any request made (whether deliberately or by mistake) regarding the Ignition status and/or position of a vehicle; "Monitoring Service" - the provision of information of the vehicle's ignition status and/or position; "the parties" - Cartrack Engineering Technologies and the Client; "party" - one of them; "Purchase Price" - where this is a sale and service agreement, the amount specified on and paid per the Application Form for the purchase of the Unit; "recover" - after notification to Cartrack Engineering Technologies of a loss, to secure, hold and deliver the vehicle to the Client or, at Cartrack Engineering Technologies' discretion, to the relevant authorities; "recovery" - has the related meaning; "Rent" - where this is a rental and service agreement, the amount specified on the Application Form for the rental of the Unit, having been paid monthly or annually in advance to Cartrack Engineering Technologies up to the end of the initial period; "the service" - the recovery and Monitoring Service to be provided to the Client and performed by Cartrack Engineering Technologies, regarding the vehicle/s, in accordance with this agreement; "Service Provider" - Cartrack Engineering Technologies or an entity appointed by Cartrack Engineering Technologies to perform the services and to which this agreement will apply and be read with the necessary changes; "signature date" - the date upon which the last party signs this agreement; "the Territory" Nigeria and any country where Cartrack Engineering Technologies has representation; "Unit" - the electronic device and ancillary equipment approved by Cartrack Engineering Technologies, to be installed in a vehicle by an Installation Centre or by Cartrack Engineering Technologies; "vehicle" - any vehicle the details of which appear either on the Application Form or on any vehicle schedule attached, in which vehicle a Unit is installed and which vehicle is, or will become, the subject of this agreement.

## 2. The Service

2.1 Cartrack Engineering Technologies will respond to each notification of a loss and use its reasonable endeavours to effect a recovery. The Client authorises Cartrack Engineering Technologies to recover the vehicle and holds Cartrack Engineering Technologies harmless against any damage arising therefrom or at any time thereafter and/or whilst the vehicle is at any time in Cartrack Engineering Technologies' possession. No risk in the vehicle shall, at any time, pass to Cartrack Engineering Technologies. The recovery will, save where otherwise provided, be rendered free of additional charge within the Territory.

2.2 The Client may use the Monitoring Service and will be liable to Cartrack Engineering Technologies for the fee for every fleet Monitoring Message generated as a result thereof (whether deliberately or by mistake), and the same will apply for any other monitoring service used by the client (if and when these might be or become available).

2.3 Due to the numerous variables involved, Cartrack Engineering Technologies does not guarantee that the service will lead to a recovery. The Client acknowledges that the service is intended to reduce the risk of loss, but will not eliminate such risk.

2.4 Cartrack Engineering Technologies provides its Clients with a free, 24-hour Unit testing service. However, the onus is on the Client to contact the Cartrack Engineering Technologies control centre for a Unit test to be initiated. The Client must take all reasonable steps to ensure that the Unit is in proper working order and must immediately report any Unit faults and/or failures to Cartrack Engineering Technologies.

## 3. Term

This agreement shall commence on the commencement date and continue for the duration of the trial period being the maximum of 4 (four) weeks.

## 4. Fee

4.1 As consideration for Cartrack Engineering Technologies undertaking to provide the service, the Client shall pay Cartrack Engineering Technologies, the annual subscription, payable in advance, on production of an invoice.

4.2 If, as a result of a Monitoring Request, Cartrack Engineering Technologies renders any service not otherwise required of it in terms of this agreement, the Client shall pay Cartrack Engineering Technologies an amount determined in accordance with Cartrack Engineering Technologies then applicable standard rates for any such service rendered.

4.3 Where the Fee is, by direct or indirect agreement between the

Client and any other person ("the intermediary"), agreed to be paid to Cartrack Engineering Technologies by the intermediary (in which event this agreement shall become a rental and service agreement) and the intermediary fails for any reason whatsoever, to pay the Fee, the Client undertakes forthwith to pay such Fee in any event within seven (7) days after notification by Cartrack Engineering Technologies.

## 5. Hardware & Warranty

5.1 Notwithstanding the provisions of clause 3 above, the parties agree that the service cannot be provided unless the Unit is installed in a vehicle and the Unit is programmed, enabled and functioning to its manufacturer's specifications. The Client undertakes to use the Unit and the service strictly in accordance with the provisions of the Manual and/or other literature disseminated, from time to time, by Cartrack Engineering Technologies, provided always that in the event of a conflict between the provisions of this agreement and those of the said Manual or other literature, the provisions of the former will prevail. The Client undertakes and warrants to Cartrack Engineering Technologies that it shall not, either by itself/himself, in any way alter, or tamper with the Unit, and the Client shall indemnify Cartrack Engineering Technologies for any direct or indirect loss or liability arising from such tampering or alteration.

5.2 Subject to compliance with 5.1, the Unit (excluding consumables, such as backup batteries) and the installation thereof carries a 12-month warranty, fair wear and tear excepted. Any maintenance and/or repairs must be carried out at an Installation Centre or by a Cartrack Engineering Technologies accredited person. Cartrack Engineering Technologies gives no other warranty regarding the Unit or the service. All the implied terms and conditions contained in the Sale of Goods Act shall not apply to this agreement unless otherwise stated.

5.3 All risk of loss and damage in and to the Unit shall, from the date of installation, pass to the Client, but ownership of the Unit shall remain with Cartrack Engineering Technologies until payment therefor has been made in full and/or, if the Unit is rented, until the end of the initial period. If the Unit has not been paid for in full, or the Unit is rented, and this agreement is terminated in accordance with either clause 3 or 12, Cartrack Engineering Technologies may at its expense remove the Unit and the Client shall, within 5 days of receipt of any written or verbal request therefor, deliver the vehicle to an Installation Centre or make the vehicle available to Cartrack Engineering Technologies (at Cartrack Engineering Technologies' sole discretion) for such removal.

## 6. False Alarms

The Client shall immediately notify Cartrack Engineering Technologies of any Monitoring Request accidentally or unintentionally generated ("false alarm"). The Client accepts liability for the consequences of any false alarm, acknowledging that such false alarm may lead to the relevant authorities or Cartrack Engineering Technologies responding thereto and making wrongful arrests. Accordingly, the Client undertakes to repay all costs incurred by Cartrack Engineering Technologies (at Cartrack Engineering Technologies' then applicable standard rates), and hereby indemnifies the Service Provider against all claims or damages whatsoever, arising out of a false alarm.

## 7. Furnishing of Information

7.1 The Client warrants the correctness and accuracy of all the information on the Application Form or otherwise furnished by or on behalf of the Client to Cartrack Engineering Technologies.

7.2 The Client shall immediately notify Cartrack Engineering Technologies in writing of any changes in the information on the Application Form or furnished to Cartrack Engineering Technologies from time to time in accordance with the standard practice or procedures of Cartrack Engineering Technologies.

## 8. Insurance

8.1 If the Client rents the Unit, then the Client must insure the Unit (with a registered insurer of the Client's choice under a separate insurance policy) against such risks of loss, damage, destruction or mechanical breakdown customarily insured for, for the duration of this agreement and the interest of Cartrack Engineering Technologies, shall be noted in such insurance policy.

8.2 If any insurance policy referred to in 8.1 becomes invalid, for any reason whatsoever, or if the Client fails to produce proof of insurance or fails to pay same, Cartrack Engineering Technologies may (but is not obliged to) insure and keep the Unit insured for at least its current market value for the remainder of this agreement, and the costs of such insurance shall be borne by the Client and will be payable upon demand in writing by Cartrack Engineering Technologies.

8.3 The Client hereby assigns and cedes to Cartrack Engineering Technologies, as security for the due performance of the Client's obligations in terms of this agreement, all of the Client's right, title and interest in and to any insurance policy effected in terms of this agreement and undertakes to deliver such policy to Cartrack Engineering Technologies on demand.

## 9. Client's General Obligations

The Client must ensure that:

9.1 the Client keeps the Cartrack Engineering Technologies emergency numbers handy and contacts Cartrack Engineering Technologies as soon as possible after a loss;

9.2 if the Client becomes aware or is made aware by Cartrack Engineering Technologies that the Unit in a vehicle is not operational, the vehicle is immediately taken to an Installation Centre. If the Client fails to do so, Cartrack Engineering Technologies may, at its option, suspend the service;

9.3 the Client keeps false alarms to a minimum. Cartrack Engineering Technologies reserves the right to respond only once positive confirmation of a loss can be obtained; and

9.4 prior to conducting a test, Cartrack Engineering Technologies is notified to expect a test.

## 10. Exclusion of Liability

10.1 For the purposes of clause 10.2 all references to Cartrack Engineering Technologies shall include references to Cartrack Engineering Technologies' employees, agents, sub-contractors, any independent contractors, the Service Provider, the Service Provider's employees, agents and independent contractors, sub-contractors, employees and agents.

10.2 In addition to any other indemnities contained in this agreement, Cartrack Engineering Technologies shall not be liable for any loss or damage of whatsoever nature caused to the Client in consequence of any act or omission by Cartrack Engineering Technologies, notwithstanding any negligence on the part of Cartrack Engineering Technologies (except in the event of wilful neglect or fraud).

## 11. General

11.1 If Cartrack Engineering Technologies is directly or indirectly

prevented or restricted from carrying out all or any of its obligations under this agreement by a cause beyond its control (including, without limitation, the failure by any person to provide a service to Cartrack Engineering Technologies or the failure of the Unit), then Cartrack Engineering Technologies shall be relieved of its obligations under this agreement during the period that such event continues, but only to the extent so prevented, and shall not be liable for any delay or failure in performance of its obligations hereunder. The existence of such event shall not preclude the Client from terminating this agreement in accordance with the provisions hereof.

11.2 This agreement sets out the entire agreement and understanding between the parties and supersedes all prior agreements, written or oral, in connection with the subject matter hereof.

11.3 No addition to variation or consensual cancellation of this agreement shall be of any force or effect unless in writing and signed by or on behalf of the parties.

11.4 No indulgence which any of the parties ("the grantor") may grant to any other or others of them ("the grantee(s)") shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee(s) which might have arisen in the past or which might arise in the future.

11.5 Words importing the singular shall include the plural and vice versa and words importing one gender shall include the other genders; any reference to an actual person shall include a body corporate, firm or association and vice versa.

11.6 In this agreement, the headings to the clauses are included for reference purposes only and will not in any way affect or govern the interpretation or construction of this agreement.

11.7 Where appropriate in this agreement, meanings ascribed to defined words and expressions will impose substantive obligations on the parties.

11.8 When any number of days or other period is prescribed for the doing of any act or for any other purpose, same will be calculated exclusively of the first and inclusively of the last day.

11.9 In the interpretation of this agreement, the contra proferentem rule of construction will not apply (this agreement being the product of negotiations between the parties) and this agreement will not be construed in favour of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this agreement.

11.10 Each party undertakes to do all such things, perform, take all such steps and procure the doing of all such things as may be necessary and requisite to give effect to the terms, conditions, obligations and import of this agreement read with its annexures.

11.11 If Cartrack Engineering Technologies instructs attorneys, or any third party, to take any action against the Client or the intermediary to enforce obligations under this agreement, the Client shall be liable for all costs incurred by Cartrack Engineering Technologies to Cartrack Engineering Technologies' attorneys, calculated on the attorney and own client scale, collection commission of 10% of all amounts collected by the said attorneys and counsel's fees as per brief. The Client shall be liable for such costs once Cartrack Engineering Technologies has instructed attorneys and incurred the costs, whether proceedings are actually instituted or not.

11.12 The nature and amount of any indebtedness of the Client to Cartrack Engineering Technologies shall at any time be determined and proved by a document purporting to have been signed by a manager or accountant for the time being of Cartrack Engineering Technologies, whose capacity or authority it shall not be necessary to prove, which certificate shall, upon the mere production thereof, be binding on the Client as prima facie proof of the contents of the document and of the fact that the amount stated therein is due and payable in any legal proceedings against the Client, and will be valid as a liquid document against the Client in any competent court.

11.13 If any provision of this agreement is rendered unlawful (retrospectively or otherwise), then only that unlawful provision shall be deemed to be modified to the extent, and in the manner, necessary to render it consistent with the enactment rendering it unlawful or, if such modification is impossible, be deemed to be severable from the remaining provisions hereof and pro non scripto. In either such event, notwithstanding anything to the contrary in this agreement, Cartrack Engineering Technologies and the Client respectively shall have all the rights conferred on them by the law rendering such provision unlawful.

11.14 The Client may not cede or delegate the Client's rights or obligations in terms of this agreement without the prior written consent of Cartrack Engineering Technologies, which consent shall not unreasonably be withheld. Cartrack Engineering Technologies may, at any time and without the consent of the Client, cede or delegate Cartrack Engineering Technologies' rights and/or obligations under this agreement.

11.15 The laws of the Republic of Nigeria shall govern this agreement, and all disputes, actions and other matters in connection with this agreement shall be determined in accordance with such laws.

## 12. Default

12.1 If the Client (or the intermediary on the Client's behalf) fails timeously to pay any amount due in terms of this agreement or (in Cartrack Engineering Technologies reasonable opinion) the Client abuses or misuses the service, then, notwithstanding anything to the contrary in this agreement:

12.1.1 all amounts payable for the remaining term of this agreement will become immediately due and payable; and

12.1.2 Cartrack Engineering Technologies may, at its election, cancel this agreement forthwith or claim specific performance, without any prejudice to Cartrack Engineering Technologies right to claim damages.

12.2 The default by the Client of any of the Client's obligations under this agreement will, for the duration of such default and of the option of Cartrack Engineering Technologies, suspend all of the obligations of Cartrack Engineering Technologies. If Cartrack Engineering Technologies provides the service while the Client is in default, then the Client is liable for (and hereby indemnifies Cartrack Engineering Technologies against) any costs thereby incurred. Cartrack Engineering Technologies may retain possession of any vehicle recovered by it until all payment obligations have been fulfilled.

Revision date: 27 February 2014