

**MASTER TERMS AND CONDITIONS FOR THE PROVISION OF  
ASSET TRACKING DEVICES AND RELATED PRODUCTS AND SERVICES**

**1. RECORDAL**

- 1.1 OKgo provides the Services.
- 1.2 The Client wishes to receive the Services from OKgo and OKgo wishes to provide the Services to the Client on the terms and conditions set out in this Agreement.
- 1.3 The Parties accordingly enter into this Agreement on the terms and conditions set out herein.

**2. DEFINITIONS AND INTERPRETATION**

- 2.1 In this Agreement, the following words and expressions shall, unless otherwise stated or inconsistent with the context in which they appear, bear the following meanings and cognate words and expressions shall bear corresponding meanings:
  - 2.1.1 "Additional Services" means the services provided in addition to the Services and as more fully set out in the appendices to this Agreement.
  - 2.1.2 "Affiliate" means any member of the OKgo group of companies, including any entity or person that is a subsidiary or holding company of OKgo, or which is a subsidiary of OKgo's holding company;
  - 2.1.3 "Anonymised Data" means Personal Information and Usage Data in a form which does not identify any particular living natural person or any existing juristic person, and from which the identity of a particular living natural person or any particular existing juristic person cannot be determined;
  - 2.1.4 "Agreement" means the Application and this document titled 'Master terms and conditions for the provision of asset tracking Devices and related products and services' as amended from time to time in the way set out in this document. For purposes of each Order accepted by OKgo, a reference to this "Agreement", means that Order incorporating the terms of the Application and this document titled 'Master terms and conditions for the provision of asset tracking Devices and related products and services';
  - 2.1.5 "Agreement Commencement Date" means the date of delivery of the Device;
  - 2.1.6 "Application" means the document titled 'Business Application for the provision of asset tracking Devices and other related products and services' signed by or on behalf of the Client, and the annexures to that document;

- 2.1.7 "Asset" means stock, vehicle or similar item which the Client wishes to monitor, to which a Device is physically connected;
- 2.1.8 "Authorised User" means a person identified in the Application as an 'Authorised User' and, from time to time after the completion of the Application, such other persons as notified by the Client in writing to OKgo in the manner required by OKgo, and who is authorised to perform the task/s as indicated in the Application Form or as notified by the Client in writing to OKgo in the manner required by OKgo;
- 2.1.9 "Business Rescue" shall be as defined in section 128(1)(b) of the Companies Act;
- 2.1.10 "Companies Act" means the Companies Act, 71 of 2008;
- 2.1.11 "Claim" means a claim, action, demand, suit or proceeding;
- 2.1.12 "Client" means the entity described as the "Client" on the Application;
- 2.1.13 "Commissioned" means the activation of a Device by OKgo such that the Device is actively transmitting signals to OKgo on OKgo's communications network;
- 2.1.14 "Confidential Information" means *inter alia*, Corporate Information (all and any information, whether or not recorded in documentary form or on computer disk or tape, relating to the business, business methods, corporate plans, management systems, finances, customer details, maturing new business opportunities or research and development projects of the Disclosing Party), Data (any and all data relating to customers, telematics data and any other data that may from its nature be deemed confidential); Intellectual Property Information (all intellectual property pertaining to all software, firmware, algorithms, trademarks, patents, design rights, copyrights, trade names, trade secrets, proprietary information, technology, rights and licenses, proprietary rights and processes, whether registered or not, know-how, research and development in progress and any and all other intellectual property, including, without limitation, all things authored, discovered, developed, made, perfected, improved, designed, engineered, devised, acquired, produced, conceived and first reckoned to practice by the disclosing party as a result of or in connection with its business), Marketing Information (all and any information, whether recorded in documentary form or on computer disk or tape, relating to the marketing of any past, present or future product or service including, without limitation, targets and statistics, market share statistics, marketing surveys and plans, market research reports, advertising and promotional material, the names, addresses, telephone numbers, contact names and identities of customers (existing and future), the nature of its business operations and requirements) and other information, whether or not recorded in documentary form or on computer disk or tape, to which attaches an equivalent level of confidentiality, and any other information which is identified as confidential and not specifically included herein.

2.1.15 "Device" means the disposable or non-disposable specialised communication and positioning equipment provided to the Client in order to enable OKgo to provide the Services and/or the Stolen Asset Services (if applicable), as well as any SIM card that may accompany or be used with such equipment (if applicable);

2.1.16 "ECTA" means the Electronic Communications and Transactions Act No 25 of 2002;

2.1.17 "Fees" means all fees, charges (including Subscription Charges), expenses, costs, duties, taxes, disbursements, commissions, levies and other amounts;

2.1.18 "Force Majeure" has the meaning assigned to it in clause 20;

2.1.19 "Financially Distressed" shall be as defined in terms of section 128(1)(f) of the Companies Act, and "Financial Distress" shall have a corresponding meaning;

2.1.20 "Improvements" means, in relation to any Materials, all new or enhanced functionality, changes, modifications, improvements, developments, customisations, or adaptations; and "Improve" shall have a corresponding meaning;

2.1.21 "Indemnified Parties" means OKgo, its Affiliates, and the Third-Party Business Partners and an "Indemnified Party" shall mean any of them.

2.1.22 "Intellectual Property Rights" includes all current and future intellectual property rights of any kind whatsoever and however embodied which may subsist or be capable of protection wherever in the world, including (without limitation) patents, trademarks, present and future rights of copyright, rights in and to designs, rights in and to inventions, topography rights, rights in and to trade secrets, rights in and to: trade names, business names, domain names and logos, the right to keep information confidential and private, rights in and to know-how, rights in and to databases (including rights of extraction), and all rights and forms of protection of a similar nature or having equivalent effect to any of them which may subsist or be capable of protection as at the Agreement Commencement Date or thereafter wherever in the world, whether or not any of these is registered and including applications for any such rights or registration thereof and any goodwill related to or arising from such rights;

2.1.23 "Laws" means all laws, regulations, by-laws, rules, directives, orders and other requirements of any government or any government agency, body or authority, including any regulator or court;

2.1.24 "Loss" means liability, loss, expenses, fines, costs, penalties and damages (including legal fees on an attorney and own client scale as published in the Government Gazette from time-to-time;

2.1.25 "Materials" means all products, goods, software, software documentation, documentation, literature, materials, tools, data, information, databases, modules, components, compilations of data, methodologies, processes, policies, procedures, techniques, models, configurations, protocols, routines, interfaces (including API interfaces), reports, plans, notes, files, diagrams, manuals, templates, schematics, correspondence, designs, circuit designs, algorithms, specifications, records, equipment, hardware, servers, computers, platforms, computer code, derivative works, and works of authorship, and irrespective of the form and format of the foregoing and whether tangible or intangible, and any improvements from time to time;

2.1.26 "Network Service Provider" means the relevant provider of cellular telecommunications network services and connections thereto;

2.1.27 "OKgo" means OKgo, a division of Tracker Connect Proprietary Limited, Registration No. 2011/003946/07, a private company registered in the Republic of South Africa with its business address situated at Stonemill Office Park, 340 Republic Road, Darrenwood; 2194;

2.1.28 "OKgo Materials" means any and all (i) Materials that are owned or acquired by OKgo before or after the Agreement Commencement Date; (ii) Materials that are licensed to OKgo by a third party, and (iii) Materials that are used by OKgo or the Third-Party Business Partner in providing the Services. The OKgo Materials shall include the SIM Card, software, middleware and firmware that may be included or placed in the Device or used together with the Device;

2.1.29 "OKgo Website" means the website at the address [www.ok-go.co.za](http://www.ok-go.co.za);

2.1.30 "Order" means (i) in clauses 4 and 5, a request by the Client for a particular Service to be provided, as set out in the Application or Schedule which has been completed and signed by the Client and delivered to OKgo; and (ii) in all provisions of this Agreement other than in clauses 4 and 5, a request by the Client for a particular Service to be provided, as set out in an Application which has been completed and signed by the Client and delivered to OKgo and which has also been accepted by OKgo in the manner set out in clause 4;

2.1.31 "Order Commencement Date" means the Agreement Commencement Date;

2.1.32 "Parties" means OKgo and the Client collectively, and "Party" shall refer to either of them, as the case may be;

2.1.33 "Personal Information" means information relating to any person, including but not limited to: (i) information relating to the race, gender, sex, marital status, national, ethnic or social origin, colour, age, disability, language and birth of the person; (ii) information relating to the education or the medical, financial, criminal or employment history of the person; (iii) information relating to the financial affairs of the person; (iv) card details and transactional data; (v) any identifying number, symbol, e-mail address, physical address, telephone number or other particular assignment to the person; (vi) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; (vii) the

views or opinions of another individual about the person; (viii) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person; and (ix) any other information which may be treated or defined as "personal information" in terms of any applicable Laws;

2.1.34 "Privacy Policy" means the privacy policy of OKgo, of which OKgo is a division, accessible at <https://www.OKgo.co.za/support/privacy-policy>, as may be amended from time to time;

2.1.35 "Process" means collect, receive, record, organise, collate, store, develop, update, modify, retrieve, alter, consult, use, disseminate or perform any other act or action, including any other act or action which may be treated or defined as "process" or "processing" in terms of any applicable Laws. The word "Processed" shall have a corresponding meaning;

2.1.36 "RICA" means the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002;

2.1.37 "Schedule" means the form annexed to the Application, marked Annexure "B", which is required to be completed and signed by the Client and sent to OKgo as part of each new or additional Order;

2.1.38 "Services" means the services set out in Order Addendum Form to the Application. Stolen Asset Recovery is excluded from the Services unless otherwise agreed in writing between the Parties, and which Stolen Asset Recovery will be subject to additional terms and conditions as more fully described in "Additional Services" hereinabove;

2.1.39 "Subscription Charge" means the monthly fee payable by the Client to OKgo for the Services in respect of each Order, set out in Annexure "A" to the Application, as varied in accordance with the further provisions of this Agreement;

2.1.40 "Third Party Business Partners" means OKgo's suppliers, agents, representatives and service providers and third parties that are involved in the provision of the Services;

2.1.41 "Usage Data" means information which is Processed during the course of providing the Services, or in the Client using the Services or the OKgo Website, or through the use, operation and functioning of the Device detailed in an Order, including the information referred to in clause 10.3;

2.1.42 "VAT" means Value Added Tax charged and levied in terms of the Value Added Tax Act No 89 of 1989, as amended from time to time, at the prevailing rate, and any other indirect tax additionally imposed; and

2.1.43 "Website Use Terms" means the terms and conditions of use of the OKgo Website (as amended by OKgo from time to time) which are accessible at the following link: [www.okgo.co.za](http://www.okgo.co.za) and, to the extent that the Client utilises the website or platform of any Third Party Business Partners when using the Services, the website terms and conditions which appear on the website of such Third Party Business Partners.

2.2 In this Agreement, clause headings are inserted for convenience only and shall not be used to interpret this Agreement, and unless stated otherwise or inconsistent with the context, the following rules of interpretation will apply:

2.2.1 references to a statute or statutory provision include any subordinate legislation made from time to time under that statute or provision and include that statute or provision as amended, modified or re-enacted from time to time;

2.2.2 words importing the masculine gender include the feminine and neuter genders and vice versa; the singular includes the plural and vice versa; and natural persons include artificial persons and vice versa;

2.2.3 references to a "person", "entity", "third party" or "party" shall include a natural person, company, close corporation or any other juristic person or other corporate entity, a charity, trust, partnership, joint venture, syndicate, or any other association of persons and their successors-in-title;

2.2.4 if a definition imposes substantive rights and obligations on a Party, such rights and obligations shall be given effect to and shall be enforceable, notwithstanding that they are contained in a definition;

2.2.5 any definition, wherever it appears in this Agreement, shall bear the same meaning and apply throughout this Agreement;

2.2.6 where any number of days is prescribed, those days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which event the last day shall be the next succeeding Business Day;

2.2.7 where the day upon or by which any act is required to be performed is not a Business Day, the Parties shall be deemed to have intended such act to be performed upon or by no later than the next succeeding Business Day;

2.2.8 to the extent allowed by law, the rule of construction that if general words or terms are used in association with specific words or terms which are a species of a particular genus or class, the meaning of the general words or terms shall be restricted to that same class (i.e. the *eiusdem generis* rule) shall not apply, and whenever the word "include", "includes" or "including" is used, this shall mean "include but not limited to", "includes but is not limited to" and "including but not limited to" respectively;

- 2.2.9 the terms "holding company", "subsidiary" and "group of companies" shall bear the meanings assigned to them in the Companies Act, 71 of 2008, as amended from time to time;
- 2.2.10 in the event of any conflict or inconsistency between this document, the Application or an Order, then (i) this document will prevail over the Application and the Order, to the extent of such conflict or inconsistency;
- 2.2.11 to the extent allowed by law, the rule of construction that the contract shall be interpreted against or to the disadvantage of the Party responsible for the drafting or preparation of this Agreement (i.e. the *contra proferentem* rule), shall not apply; and
- 2.2.12 the expiration or termination of this Agreement or an Order shall not affect such of the provisions of this Agreement or such Order which are expressly provided to operate after any such expiration or termination, or which implicitly or of necessity must continue to have effect after such expiration or termination, despite that the relevant provisions themselves do not provide for this.

### 3. DURATION

- 3.1 This Agreement will be deemed to have commenced on the Agreement Commencement Date and will continue for as long as an Order remains in effect.
- 3.2 Each Order will be deemed to have commenced on the Order Commencement Date and continue for the period agreed by the Client in the Application, where after the Client may terminate it on 1 (one) calendar month's written notice.
- 3.3 Any termination or expiry of this Agreement shall not result in the termination of any Orders currently in force, except to the extent that such Orders are terminated pursuant to the terms of this Agreement or to the extent this Agreement provides otherwise. The termination or expiry of an Order shall not result in the termination of any other Orders currently in force, except to the extent that such Orders are terminated pursuant to the terms of this Agreement.

### 4. ORDERS

- 4.1 From time to time during the term of this Agreement, the Client may submit an Order to OKgo for one or more type of Service by completing and signing a Schedule for such Services and providing the Schedule to OKgo. The submission of an Order to OKgo, or the receipt of an Order by OKgo, does not mean that the Order has been accepted by OKgo and OKgo may choose to subsequently reject or accept the Order.
- 4.2 Where OKgo accepts an Order, OKgo will confirm such acceptance with the Client. Until OKgo confirms such acceptance, OKgo will not have any obligations to deliver the Services

requested in the Order or any other obligations arising as a result of that Order. OKgo may confirm such acceptance by way of SMS or e-mail sent to the Client.

- 4.3 An Order must be submitted to OKgo by e-mail addressed to [sales@ok-go.co.za](mailto:sales@ok-go.co.za) or such other e-mail address which OKgo may notify the Client of from time to time.
- 4.4 Each Order:
  - 4.4.1 which is accepted by OKgo shall constitute a separate agreement between the Parties and shall be separate and independent to any other Orders;
  - 4.4.2 shall be subject to the terms and conditions of this Agreement and the terms and conditions of this Agreement shall, unless otherwise stated or where inconsistent with the context, be deemed to be incorporated into each Order.
- 4.5 In each Schedule, the Client will be required to select which of the Services are to be provided.
- 4.6 Terms and conditions contained in any document issued or provided by the Client shall not apply and shall not be binding on OKgo.

### 5. DEVICES

If OKgo receives an Order from the Client for Devices, and wishes to accept the Order, subject to the further provisions of this clause 5, OKgo shall provide such Devices to the Client, for provision of the Service, the ownership of which will remain with OKgo.

### 6. PROVISION OF THE SERVICES

- 6.1 Subject to clause 6.2, the Services shall commence, in respect of each Order, on the Order Commencement Date.
- 6.2 Subject to clause 20, OKgo shall use its reasonable commercial endeavours to maintain the availability of the Services to the Client.
- 6.3 The Fees charged by OKgo include communication Fees from the Devices provided by OKgo to the OKgo platform. If the Client uses their own Devices (such as mobile phones or Devices not provided by OKgo) the Client will be liable for any and all telecommunications Fees and international roaming Fees incurred, which costs may be allocated to the Client's account at any time up to 3 months after such Fees are incurred;
- 6.4 The Services can only be provided for so long as the Device is located in a geographic area where there is adequate GPS, GSM and UMTS (2G and 3G) network coverage, depending on which kind of network the particular Device requires to operate.

6.5 Each Authorised User will be deemed to have full power and authority to represent the Client and to make all decisions and provide all information, directions and instructions for and on behalf of the Client. Without limiting the foregoing, OKgo will be entitled to send notifications and communications for the Client to the Authorised Users and the Authorised Users will, subject to the further provisions of this Agreement, be entitled on behalf of the Client to access the Website.

## 7. PRICING

7.1 In consideration for the Services to be rendered by OKgo to the Client in terms of each Order, the Client shall pay to OKgo the Fees specified in Annexure "A" to the Application. To the extent that the Fees are not specified in Annexure "A" to the Application, then the then standard rates and Fees in respect of such Services at the time that the Fees are charged, will apply.

7.2 The Fees payable by the Client in terms of existing Orders may be increased by OKgo. OKgo will notify the Client of any increases by giving no less than 30 days prior written notice of such increases. Such increases and adjusted Fees will be applicable to all existing Orders after the increase becomes effective, save to the extent that the Fees were fixed in accordance with Annexure "A".

7.3 In the event that the USD/ZAR exchange rate fluctuates by more than 5% (either increase or decrease) from the base exchange rate as at the Effective Date of this Agreement, and such fluctuation is sustained for a continuous period of 30 (thirty) calendar days or more, OKgo reserves the right to adjust the Fees accordingly. The base exchange rate shall be the rate published by South African Reserve Bank as at the Effective Date. Any such adjustment shall be communicated to the Client in writing with no less than 30 (thirty) days' prior notice and shall apply to all existing and future Orders, irrespective of whether the Fees were fixed as provided or in 7.2 hereinabove.

## 8. PAYMENT AND INVOICING

8.1 OKgo shall invoice the Client for the Fees and shall ensure that its tax invoices comply with Section 20(4) of the Value Added Tax Act.

8.2 OKgo will raise invoices on a monthly basis, provided that OKgo is entitled to include any Fees omitted from a particular invoice in any subsequent invoice.

8.3 Subscription Charges for the Services are payable monthly in advance.

8.4 The Client is responsible for and will bear the cost of installing the Devices in their environment. On request by the Client, OKgo can provide a quotation for the installation.

8.5 In addition, and without prejudice to the further rights and remedies of OKgo in this Agreement or in law:

8.5.1 OKgo shall be entitled to charge the Client any or all of the following:

8.5.1.1 interest on all overdue or unpaid amounts, which interest shall be applied at the rate of 2% above the prime lending rate of First National Bank Limited;

8.5.1.2 legal costs, on an attorney and own client scale, related to the demand and recovery of the outstanding or overdue amounts; and

8.5.1.3 other collection charges and commissions incurred by OKgo in recovering any outstanding or overdue amounts.

8.5.2 The Client shall be obliged to pay OKgo all charges and amounts referred to in clause 8.5.1, which charges and amounts shall be payable on demand.

8.6 If an Order commences during a particular month:

8.6.1 the Fees for the Services payable for the relevant month will be charged on a pro-rata basis and may be recovered and invoiced in a subsequent month. The Client will be required to pay these amounts when invoiced by OKgo; and

8.6.2 all other Fees incurred in the relevant month may be recovered and invoiced in a subsequent month. The Client will be required to pay these amounts when invoiced by OKgo.

8.7 The monthly Subscription Charges for the Services payable for each Device shall be charged from the date Order Commencement Date.

8.8 Where the Client does not make payment by way of debit order pursuant to 8.9 all payments by the Client to OKgo must be made into the following bank account:

Account Name	:	OKgo Connect Corporate
Bank	:	First National Bank Cresta
Account No.	:	58860026261
Branch Code	:	255005
Reference:		Client contract number

8.9 If the Client elects to pay via debit order on the Application, the Client authorises OKgo to debit the monthly Fees and all other amounts due and payable to OKgo from the bank account specified in the Application.

8.10 OKgo may from time to time change the banking details referred to in clause 8.8 and shall notify the Client thereof in advance, or simultaneously with the delivery of any invoice.

8.11 The Client shall be liable for payment of Value Added Tax.

8.12 OKgo shall use its reasonable commercial endeavours to ensure that invoices and payment amounts are correct. However, there is a legal responsibility on the Client to ensure that invoices and bank statements are in order. In the event that an incorrect fee had been charged, the Client has to inform OKgo thereof immediately, but no later than 12 (twelve) months from date thereof. OKgo will not entertain claims for incorrect billing or payments made for periods in excess of 12 (twelve) months and will only refund such claims if the Client can prove that the amount charged was not according to the Agreement or any other payment arrangement between the Client and OKgo. For purposes of clarity, the most OKgo will refund the Client is for a maximum of 12 (twelve) months incorrect charges.

## 9. WARRANTIES

9.1 OKgo shall, at its sole discretion, either repair or replace a Device free of charge if the Device becomes inoperative or develops faults by reason of defective components, workmanship or design which is reported to OKgo. This undertaking is not applicable if the Device has been tampered with, modified, repaired or the battery is depleted due to excessive communication, or the Device has otherwise been subject to water damage, misuse or a collision, in which case the Client will be liable to replace the battery or the Device at the then prevailing cost.

9.2 OKgo shall, at its sole discretion, from time to time replace non-disposable Device batteries, if applicable. The replacement will be done free of charge bar any shipping or call-out fees. It is at OKgo's sole discretion whether battery replacement will be on-site or needs to be done at the OKgo technical support centre. Where a call-out fee is applicable, it will be subject to a quote to be provided by OKgo. Where shipping is applicable, the Client can arrange shipping at their own cost or ask OKgo for a quotation. Replacement of batteries will be done either by swapping the Device or replacing the Device's batteries at the sole discretion of OKgo.

9.3 OKgo undertakes to the Client that the Services shall be rendered in a professional manner with such diligence and skill as may be reasonably expected of OKgo having regard to the nature of the Services. The Client shall be responsible for contacting OKgo to report a faulty Device and arranging for OKgo to investigate the fault and either fix the fault or replace the Device. Until OKgo investigates and fixes the fault, or replaces the Device, OKgo shall not be obliged to render any Services to the extent that it is prevented from doing so because of such fault and the Client will remain obliged to pay all Fees, including the Subscription Charges.

9.4 Save for the undertakings as set out in this clause, OKgo provides the Materials and the Services "as is" without warranties of any kind, including without limitation any warranties of merchantability, fitness for purpose or non-infringement of intellectual property rights.

## 10. PERSONAL INFORMATION AND PRIVACY

10.1 The Client acknowledges and agrees that OKgo and its Third-Party Business Partners will require certain information, including Personal Information, in order to provide the Services and perform their obligations in this Agreement. The Client undertakes to provide such information to OKgo and its Third-Party Business Partners when it is requested.

10.2 OKgo will use and Process Personal Information in accordance with the Privacy Policy. The Client agrees to the Privacy Policy and agrees that OKgo may use and Process Personal Information in accordance with the Privacy Policy.

10.3 The Client acknowledges and agrees that OKgo and certain of its Third-Party Business Partners will Process various Usage Data. This Usage Data will be Processed during the course of providing the Services, or in the Client using the Services or the OKgo Website, or through the use, operation and functioning of the Device detailed in an Order. The Usage Data may include information relating to:

10.3.1 the way the Services are used;

10.3.2 the manner in which the OKgo Website is used;

10.3.3 the manner in which the portal is used; and

10.3.4 the use, operation and functioning of the Device.

10.4 The Client warrants and agrees that:

10.4.1 it has read and understood the Privacy Policy;

10.4.2 all Personal Information which the Client provides or makes available to OKgo ("Client Personal Information") is complete and accurate;

10.4.3 the Client is duly authorised and permitted to provide and make the Client Personal Information available to OKgo;

10.4.4 OKgo is entitled to use and Process the Client Personal Information in the way set out in the Privacy Policy and in this Agreement, including for the purposes of Processing the Usage Data and the Anonymised Data;

10.4.5 it shall promptly notify OKgo in writing, or by contacting OKgo at 0860 60 50 40, whenever there is any change or update to any of the Client Personal information; and

10.4.6 all rights, title and interests in and to the Anonymised Data which is Processed by or on behalf of OKgo will be the property of OKgo and OKgo may deal with Anonymised Data in

its sole and absolute discretion (including selling or licensing Anonymised Data). OKgo is entitled to create and publish analyses, databases and reports containing Anonymised Data, whether for commercial gain or as a public service, and the Client disclaims and waives any rights, title or interest in or to the Anonymised Data or to such analyses, databases and reports.

## 11. WARRANTIES AND UNDERTAKINGS BY THE CLIENT

- 11.1 The Client warrants and undertakes that the information supplied in the Application and each Order is true and correct and hereby undertakes to update the said information as soon as any changes occur.
- 11.2 The Client warrants that it has examined solutions similar to OKgo's and is satisfied that the Services are suitable for the Client's purposes. The Client is not relying on any warranty, representation or undertaking given by or on behalf of OKgo (written or otherwise) other than as contained in this Agreement.
- 11.3 The Client represents and warrants that it has obtained all consents from, and made all required disclosures to, all relevant people or entities:
  - 11.3.1 relating to the use of the Device;
  - 11.3.2 for the Services to be provided by OKgo in respect of that Device; and
  - 11.3.3 for OKgo to use and Process Personal Information, Usage Data and Anonymised Data in accordance with the privacy Policy and this Agreement.

## 12. SUSPENSION AND TERMINATION OF SERVICE

- 12.1 OKgo may, without incurring any liability, at any time and from time to time, interrupt or suspend the Services in whole or in part if:
  - 12.1.1 a technical failure affects the provision of the Services, including any unavailability, interruption or suspension of any radio or communications networks or services utilised by OKgo to provide any of the Services or on which OKgo is reliant;
  - 12.1.2 such interruption or suspension is caused directly or indirectly by any circumstances outside of OKgo's control, including an "act of God" or any event referred to in clause 20;
  - 12.1.3 there are strikes or other industrial action; or
  - 12.1.4 changes to, suspension or termination of the Services are required by any governmental or regulatory authority.

- 12.2 OKgo shall use commercially reasonable endeavours to restore any interruption in the Services. In the event that the suspension of the Service as a result of the above is incapable of being restored within a period of 30 (thirty) days, OKgo shall notify the Client thereof in writing upon which the Orders in respect of which the Services are interrupted or suspended which are directly affected by the suspension of the Services may be terminated by the Client immediately in writing to OKgo.
- 12.3 In addition, and without prejudice to the further rights and remedies of OKgo in this Agreement or in law, should the Client be in default of payment of any Fees, OKgo shall be entitled to suspend the Services in respect of any or all Orders until such time as payment is received in full, alternatively OKgo may terminate this Agreement and/or any Order as provided for in clause 17.
- 12.4 In order for OKgo to provide the Services, it is the responsibility of the Client to ensure that battery in the Device has sufficient charge.
- 12.5 During the period that the Services are suspended for any reason, the Client shall not be entitled to any refund or abatement of any Fees or amounts and all Fees and other amounts (including the Subscription Charge) will remain payable.

## 13. LIMITATION OF LIABILITY AND INDEMNITY

### 13.1 Liability

- 13.1.1 To the fullest extent permitted by law and subject to the provisions herein, the cumulative maximum liability of OKgo to the Client, whether in contract or delict or otherwise (including negligence) for all breaches of this Agreement or any Orders and all other events, acts, Claims, omissions and causes of action, relating to or arising directly or indirectly from this Agreement or any Orders, shall be limited in the aggregate to the total value of the Fees paid or payable to OKgo in terms of this Agreement in the first 12 months after the Agreement Commencement Date.
- 13.1.2 To the fullest extent permitted by law, OKgo shall not be liable to the Client for any Claim or any Loss suffered by the Client or any third party as a result of:
  - 13.1.2.1 any suspension of, or delay, defect, or other failure in the provision of the Services, or in any cellular telecommunications networks;
  - 13.1.2.2 non-recovery of or inability to locate any Asset;
  - 13.1.2.3 any delay, breakdown, failure or Loss that the Client may suffer (including to the Client's other programs and equipment) as a consequence of any defect or deficiency in the OKgo Materials;

- 13.1.2.4 any failure, delay or interruption in the Client's use of the OKgo Website or its use by Authorised Users, including without limitation: system and server crashes; computer malfunctions; Device or software faults; system errors; security breaches; theft; incompatibility issues; fire, flood, civil disturbance, international restrictions, embargoes, war or any other event commonly referred to as an "Act of God" or referred to in 20;
- 13.1.2.5 any lost, corrupted or undelivered data or information, regardless of the cause; or
- 13.1.2.6 any negligence on the part of OKgo or any of the Third-Party Business Partners, except for gross negligence or wilful misconduct on the part of OKgo.

13.1.3 Notwithstanding anything to the contrary contained in this clause 13 and subject to clauses 13.1.4 and 31, neither Party will be liable for damages for loss of business, profits, revenue, data, use or other economic advantage or for any indirect, special, exemplary or consequential Losses incurred by the other Party or any third party, arising out of or relating to this Agreement or an Order. If a Loss arises out of or in connection with any Claim which is the subject of an indemnity given by a Party in this Agreement, such a Loss will be treated as a direct Loss.

13.1.4 Clause 13.1.3 shall not apply to or limit or exclude, the obligation of the Client to pay all Fees and other amounts (including the Subscription Charges) which it is required to pay in terms of this Agreement.

## 13.2 **Indemnity**

- 13.2.1 The Client irrevocably agrees to indemnify and hold harmless the Indemnified Parties, and to keep the Indemnified Parties indemnified and held harmless, from and against all Loss arising out of or in connection with any Claim made or instituted against any of the Indemnified Parties for the infringement or misappropriation of any rights (including Intellectual Property Rights), where such Claim arises in relation to, or as a result of:
  - 13.2.1.1 a breach of the warranties or undertakings by the Client or an Authorised User pursuant to clauses 10 or 11 of the Agreement;
  - 13.2.1.2 improper use by the Client or an Authorised User of any of the Services;
  - 13.2.1.3 the Client or an Authorised User's use of the OKgo Materials;
  - 13.2.1.4 any breach by the Client of its obligations under this Agreement;
  - 13.2.1.5 the provision of false, incomplete or inaccurate information by or on behalf of the Client or an Authorised User; or
  - 13.2.1.6 any wilful or unlawful act or omission of the Client or an Authorised User.

- 13.3 Without derogating from or limiting the further provisions of this clause 13, Client shall procure and maintain public liability insurance.
- 13.4 The obligations set forth in this clause 13 shall survive the termination or expiry of this Agreement or an Order.

## 14. **OWNERSHIP AND RISK**

- 14.1 Except for disposable Devices, OKgo shall retain ownership of the Device, SIM Card, software, middleware and firmware that may be included or placed in the Device or used together with the Device.
- 14.2 The Client shall be responsible for all damage to a Device except if a Device becomes inoperative or develops faults by reason of defective components, workmanship or design. The Client is entitled to insure against this risk.

## 15. **CONFIDENTIALITY**

- 15.1 For the duration of this Agreement and a period of 2 (two) years thereafter, except as otherwise provided herein or in the Privacy Policy, each Party hereby undertakes to the other:
  - 15.1.1 to keep confidential all information (written or oral) concerning the business and affairs of the other, the customers or any sub-contractor appointed by OKgo, that it shall have obtained or received because of the discussions leading up to or entering into or performance of this Agreement ("the Information");
  - 15.1.2 not without the other's written consent, to disclose the information in whole or in part to any other person save those of its employees, agents and representatives involved in the implementation of this Agreement and who have a need to know such information. In addition to the foregoing, OKgo shall also be entitled to share such information with the Police to the extent that the Police are involved in assisting OKgo with providing the Services; and
  - 15.1.3 to use the information solely in connection with the implementation of this Agreement and not for its own or the benefit of any third party.
- 15.2 The provisions of clause 15.1 shall not apply to the whole or any part of the information to the extent that it is:
  - 15.2.1 already in the other's possession other than because of a breach of this clause; or
  - 15.2.2 independently developed by one Party prior to the execution of this Agreement; or

- 15.2.3 in the public domain through no fault of the receiving Party; or
- 15.2.4 required by law or by any regulatory or governmental authority of South Africa.
- 15.2.5 Each Party hereby undertakes to the other to make all relevant employees, agents and sub-contractors aware of the confidentiality of the information.
- 15.3 The obligations set forth in this clause shall survive the termination of this Agreement or an Order.

## 16. INTELLECTUAL PROPERTY AND USE OF THE OKGO WEBSITE

- 16.1 The Client acknowledges that certain aspects of the Services are provided or accessible through the use of the OKgo Website. The use of the OKgo Website and the provision and use of any part of the Services through the OKgo Website is also subject to the Website Use Terms and the Client will be required to comply with the Website Use Terms.
- 16.2 The Client acknowledges that all right, title and interest, including Intellectual Property Rights, in and to the OKgo Materials vest in OKgo and/or its licensors, and that it has no claim of any nature in and to the OKgo Materials. The Client shall not at any time during or after termination or cancellation of this Agreement dispute the validity or enforceability of such rights, title or interest or cause to be done any act or thing contesting or in any way impairing or intending to impair any part of that right, title and interest in and to the OKgo Materials.
- 16.3 The Client agrees not to directly or indirectly:
  - 16.3.1 reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the OKgo Materials;
  - 16.3.2 Improve the OKgo Materials;
  - 16.3.3 translate, or create derivative works based on the OKgo Materials;
  - 16.3.4 rent, lease, distribute, sell, re-sell, assign, or otherwise transfer rights, title or interest to the OKgo Materials;
  - 16.3.5 use the OKgo Materials for timesharing or service bureau purposes or otherwise for the benefit of a third party; or
  - 16.3.6 remove any proprietary notices or labels on the OKgo Materials.
- 16.4 OKgo may Improve the OKgo Materials at any time without notice, subject to the understanding that this will not adversely affect Services rendered to the Client.

- 16.5 The Client agrees not to publish or disclose to third parties any evaluation of the OKgo Materials without OKgo's prior written consent.

## 17. TERMINATION AND BREACH

### 17.1 Termination of the Agreement or an Order by the Client

The Client shall be entitled to terminate an Order immediately on written notice to OKgo if OKgo is in material breach of any of its material obligations under the Order and OKgo has failed to remedy that breach within 14 days after receiving written notice from the Client requiring it to remedy that breach, provided that the Client shall not be entitled to terminate the Order unless the breach cannot be adequately compensated by the payment of damages.

OKgo shall be in default if:

- 17.1.1.1 OKgo commits an act of insolvency as defined in the Insolvency Act 24 of 1936, or, being a corporate body, commits an act which would be such an act of insolvency if committed by a natural person;
- 17.1.1.2 OKgo becomes insolvent or is declared bankrupt or takes steps to place itself or is placed in provisional or final liquidation or under provisional or final receivership or judicial management or administration, or enters into or attempts to enter into any scheme similar to or in the nature of a composition, compromise or scheme of arrangement, release or novation with any or all of its creditors;
- 17.1.1.3 OKgo takes steps to de-register itself or is de-registered;
- 17.1.1.4 The Client becomes aware (i) that OKgo is Financially Distressed; or (ii) that OKgo is contemplating, considering, discusses or agrees to any Business Rescue of OKgo or proposes to do any of these things; or (iii) that any person is proposing to take, or taking, any step to apply to court or actually applies to court for the Business Rescue of OKgo;
- 17.1.1.5 OKgo ceases trading or conducting business in the ordinary course thereof;
- 17.1.1.6 OKgo breaches any warranty given by it in an Order or this Agreement;

### 17.2 Termination of the Agreement or an Order by OKgo

- 17.2.1 The Client shall be in default if:

- 17.2.1.1 the Client commits an act of insolvency as defined in the Insolvency Act 24 of 1936, or, being a corporate body, commits an act which would be such an act of insolvency if committed by a natural person;
- 17.2.1.2 the Client becomes insolvent or is declared bankrupt or takes steps to place itself or is placed in provisional or final liquidation or under provisional or final receivership or judicial management or administration, or enters into or attempts to enter into any scheme similar to or in the nature of a composition, compromise or scheme of arrangement, release or novation with any or all of its creditors;
- 17.2.1.3 the Client is in breach of any of its obligations under an Order or this Agreement and either that breach is incapable of remedy or the Client has failed to remedy that breach within 14 days (or such shorter period as may be reasonable in the circumstances) after receiving written notice requiring it to remedy that breach;
- 17.2.1.4 the Client commits a fourth or subsequent breach of any of its obligations under an Order or this Agreement and which is the same or similar to a previous breach in respect of which the Client has previously been given notice by OKgo requiring it to remedy that previous breach;
- 17.2.1.5 the Client takes steps to de-register itself or is de-registered;
- 17.2.1.6 OKgo becomes aware (i) that the Client is Financially Distressed; or (ii) that the Client is contemplating, considering, discusses or agrees to any Business Rescue of the Client or proposes to do any of these things; or (iii) that any person is proposing to take, or taking, any step to apply to court or actually applies to court for the Business Rescue of the Client;
- 17.2.1.7 the Client ceases trading or conducting business in the ordinary course thereof; or
- 17.2.1.8 the Client breaches any warranty given by it in an Order or this Agreement.

17.2.2 If the Client is in default, and in addition and without prejudice to OKgo's further rights and remedies in this Agreement or in law, OKgo may:

- 17.2.2.1 terminate any or all Orders; or
- 17.2.2.2 terminate this Agreement.

17.3 Should either Party terminate an Order (in whole or part) or any Services under an Order, the Parties agree that all other Orders shall continue in full force and effect and the termination of an Order (in whole or part) or any Services under an Order, shall not affect or terminate any other Orders pursuant to this Agreement.

- 17.4 Where OKgo terminates this Agreement, all Orders concluded pursuant to this Agreement shall simultaneously also terminate.
- 17.5 Should OKgo terminate an Order (in whole or part), or any Services under an Order, or the Agreement pursuant to this clause 17, OKgo shall be entitled to charge and the Client shall be required to pay OKgo the balance of the Subscription Charges which would have been payable under such Orders or this Agreement had such termination not occurred.
- 17.6 Should the Client terminate an Order (in whole or part), or any Services under an Order, or the Agreement pursuant to this clause, the Client shall not be liable to pay OKgo the balance of the Subscription Charges which would have been payable in accordance with the terms of such Orders or this Agreement had such termination not occurred.
- 17.7 Any termination of this Agreement or an Order (in whole or part), or any Services under an Order, by either Party in terms hereof shall be without prejudice to any Claim such Party may have in respect of any prior breach by the defaulting Party of the provisions of this Agreement.
- 17.8 The Parties undertake in good faith that in the event of termination of this Agreement for any cause whatsoever they will use all commercially reasonable endeavours to end their business relationship in an amicable way.
- 17.9 This Agreement or an Order shall not terminate automatically in the event of the loss, theft or damage to the Device. The Client shall remain liable for the payment of all Fees (including Subscription Charges) for the remainder of the applicable Order to which the Device applies.

## 18. SUB-CONTRACTING

- 18.1 OKgo reserves the right, in its sole discretion, to sub-contract various components of the Services or of the operational, technical and administrative activities and functions utilised by it in the conduct of its operations, to its Affiliates or Third-Party Business Partners.
- 18.2 With the specific exclusion of activities performed by the Police, any appointment of sub-contractors shall not relieve OKgo from any liability or obligations under this Agreement.

## 19. DISPUTE RESOLUTION

- 19.1 If a dispute or difference arises out of this Agreement, the Parties shall use their best efforts to negotiate and settle amicably such dispute or difference. If after 20 business days of it arising any such dispute or difference cannot be settled amicably through ordinary negotiations by the appropriate representatives of the Parties (the dispute having been escalated to suitably senior management of each Party), the dispute or difference may be referred by either Party by notice in writing to the other Party specifying the nature of the dispute or difference and the point at issue to either a technical advisor (Adjudicator), who shall act as an expert and not as an arbitrator, or alternatively to the Arbitration Foundation

of Southern Africa ("AFSA") to be adjudicated by an arbitrator or arbitrators appointed by AFSA in accordance with the expedited rules of AFSA and whose decision shall be final and binding on the Parties, save for manifest errors.

19.2 The costs of appointing and retaining the Adjudicator or arbitrator and any replacement appointed under this clause shall be borne equally between the Parties. All arbitration proceedings shall be held at a venue in Johannesburg in accordance with the expedited rules of AFSA.

19.3 The Parties may agree that performance of the Services shall continue during the adjudication by the Adjudicator/arbitrator of the dispute or difference, and such performance may include the execution (or not) of any part of the Services which is subject to dispute.

19.4 It is acknowledged that the Adjudicator's/arbitrator's decision shall be final and binding upon the Parties unless Party objects to such decision within 60 (sixty) days of the Adjudicator/arbitrator advising the Parties of its decision. The adjudication procedure set out in this clause shall be without prejudice to the rights and remedies available to either Party under this Agreement or at law in respect of the resolution of disputes or differences and the enforcement of this Agreement.

19.5 This clause shall not preclude either Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

19.6 The commencement of legal proceedings shall not prevent further initiatives by either Party to settle the dispute or difference.

**20. FORCE MAJEURE**

If either Party is prevented from carrying out any of its obligations (but excluding any payment obligations) as a result of an act of God, strikes, fire, riot, war, embargoes, international restrictions, any order of any international authority or court, any requirements of any authority or other competent local authority, foreign exchange restrictions, interruptions in electricity supply, or any other circumstances whatsoever which are not within the reasonable control of such Party, such Party will be deemed to have been released from its obligations (but excluding its payment obligations) to perform under this Agreement or an Order to the extent that for so long as it is so prevented from performing and only to such extent, this Agreement or the Order (as applicable) will be deemed to have been suspended for the period concerned, provided that written notice of such inability to perform shall be given in writing by such Party to the other within 5 business days of such Force Majeure having commenced. The Party claiming Force Majeure shall give notice to the other Party as soon as the Force Majeure ceases to operate. Should the Force Majeure continue for a period of more than 90 (ninety) days, then either Party shall be entitled forthwith to terminate this Agreement by giving written notice to the other Party to that effect.

**21. DOMICILIUM AND NOTICES**

21.1 The Parties elect the following addresses as their respective *domicilium citandi et executandi*:

OKgo at:	Stonemill Office Park, 340 Republic Road, Darrenwood P O Box 2492, Cresta, 2118 e-mail: <a href="mailto:info@OKgo.co.za">info@OKgo.co.za</a>
	Marked for the attention of: Head: Business Solutions
The Client at:	any of the contact details set out in the Application Form.

21.2 The notice shall be deemed to have been duly given:

21.2.1 on delivery, if delivered to the other Party's physical address between 08h30 and 17h00 on a Business Day (or on the first Business Day after that if delivered outside such hours); and

21.2.2 on transmission, if sent to the Party's then email address between 08h30 and 17h00 on a Business Day (or on the first Business Day after that if despatched outside such hours).

21.3 A Party may change that Party's address or email address for this purpose by notice in writing to the other Party, such change to be effective only on and with effect from the 7<sup>th</sup> Business Day after the giving of such notice.

21.4 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Party shall be an adequate written notice or communication to that Party notwithstanding that it was not sent to or delivered at that Party's chosen addresses.

21.5 Notwithstanding the provisions of this clause 21, OKgo shall be entitled to send communications and notices regarding the following issues to the Authorised Users by way of SMS or e-mail:

- 21.5.1.1 Increases to the Fees;
- 21.5.1.2 Faulty Devices or Devices not reporting;
- 21.5.1.3 Non-payments; and
- 21.5.1.4 Suspension notices.

## 22. NON-WAIVER

No waiver by a Party of any breach, failure or default in performance by the other Party, and no failure, refusal or neglect by a Party to exercise any right hereunder or to insist upon strict compliance with or performance of the other Party's obligations under this Agreement, shall constitute a waiver of the provisions of this Agreement and a Party may at any time require strict compliance with the provisions of this Agreement.

## 23. RELAXATION

No indulgence, leniency or extension of a right, which either of the Parties may have in terms of this Agreement, and which either Party ("the grantor") may grant or show to the other Party, shall in any way prejudice the grantor, or preclude the grantor from exercising any of the rights that it has derived from this Agreement, or be construed as a waiver by the grantor of that right.

## 24. GOVERNING LAW AND JURISDICTION

This Agreement is exclusively governed by and construed in accordance with the laws of the Republic of South Africa and is subject to the jurisdiction of the courts of the Republic of South Africa.

## 25. SEVERABILITY

- 25.1 Each of the provisions of this Agreement, and each part of any provision, is separate and separable from the others.
- 25.2 To the extent that any provision of this Agreement or any part of a provision of this Agreement ("severed provision or part") is, becomes or is declared by a court of competent jurisdiction or other competent authority to be unlawful, invalid or unenforceable for any reason or in any jurisdiction, then it will, to the extent that it is unlawful, invalid or unenforceable, be severed from this Agreement and treated as if it had not been written, without invalidating or affecting the enforceability of the remaining provisions of this Agreement or affecting the validity or enforceability of the remainder of such provision or the remainder of this Agreement.
- 25.3 The Parties will, however, enter into negotiations in good faith for a period of 30 days if any Party notifies the other to commence such negotiations ("Negotiation Period") to determine whether an alternative provision or part of a provision can be formulated and incorporated by agreement into this Agreement to achieve the same objectives as the severed provision or part but without being unlawful, invalid or unenforceable. The Parties undertake to apply all reasonable speed and co-operation in achieving this result. If the Parties fail to reach this result within the Negotiation Period, and OKgo determines that the absence of the severed provision or part materially adversely affects or is reasonably likely to materially adversely affect its rights under this Agreement or an Order, OKgo shall be entitled, on 30 days written

notice to the Client (or such longer period as OKgo may determine) to suspend all or parts of the Services or terminate this Agreement or any or all Orders..

## 26. ASSIGNMENT, CESSION AND DELEGATION

- 26.1 Unless specifically regulated in terms of this Agreement, the Client is not entitled to cede, delegate, assign or in any other manner dispose of any of its rights or obligations in terms of this Agreement, without the prior written consent of OKgo, which consent shall not unreasonably be withheld or delayed.
- 26.2 OKgo shall be entitled to cede, delegate and/or assign any or all of its rights or obligations in terms of this Agreement without restriction and without the Client's consent, save that it shall afford the Client 30 days' notice. For the avoidance of doubt, a change in control pursuant to a sale of shares agreement or which occurs on account of an internal restructure, shall not be deemed a cession or assignment as envisaged herein.

## 27. LEGAL COSTS

- 27.1 Each Party shall bear and pay its own costs of or incidental to the drafting, preparation and execution of this Agreement.
- 27.2 All legal fees, costs, charges and disbursements on a scale as between attorney and own client incurred by either Party in enforcing any of the provisions of this Agreement, tracing the Client and/or in collecting or endeavouring to collect all or any amounts payable by the Client to OKgo in terms of this Agreement or otherwise, and all collection commissions and fees and charges of a like nature, will be for the account of the defaulting party and will be payable forthwith on demand.

## 28. HEALTH AND SAFETY

- 28.1 OKgo shall observe and comply as far as reasonably possible with health and safety standards set forth in any applicable legislation;
- 28.2 Without prejudice to the generality of the above OKgo shall ensure that it gives priority to safety in the execution of the Services in order to protect life, health, property and the environment.

## 29. RELATIONSHIP

Save as expressly provided in this Agreement, nothing contained in this Agreement shall create any relationship of partnership, joint venture or agency between the Parties and neither Party shall hold itself out as the partner or agent of, or a being in a joint venture with, the other.

### 30. THIRD PARTY BENEFICIARIES

Save as is expressly provided for in this Agreement, no provision of this Agreement constitutes a stipulation for the benefit of a third person (i.e. a *stipulatio alteri*) which, if accepted by the person, would bind any Party in favour of that person. For the avoidance of doubt:

- 30.1 the provisions of clause 13 are also expressed for the benefit of the Indemnified Parties;
- 30.2 the Indemnified Parties shall be entitled to accept the benefits of this Agreement and the rights granted to them in this Agreement at any time and without notifying or informing the Client of such acceptance. The Indemnified Parties will not, however, be entitled to enforce the provisions of this Agreement or institute any action pursuant to, or arising from, this Agreement, without obtaining the consent of OKgo;
- 30.3 OKgo and the Client may by agreement vary or amend this Agreement without obtaining the consent of the other Indemnified Parties, notwithstanding that any such variation or amendment may relate to any rights or benefits conferred on the Indemnified Parties. Furthermore, OKgo shall be entitled to terminate this Agreement or any Orders, enforce the provisions of this Agreement and exercise any rights, powers and remedies in this Agreement, in equity or in law without the requirement of obtaining the consent of any of the Indemnified Parties and notwithstanding that any of the foregoing may relate to any rights or benefits conferred on any Indemnified Parties.

### 31. CONSUMER PROTECTION ACT

- 31.1 If this Agreement and/or any goods or services provided by OKgo is regulated by or subject to the Consumer Protection Act, 2008 (the "CPA"), it is not intended that any provision of this Agreement contravenes any provision of the CPA. All provisions of this Agreement must be treated as being qualified, to the extent necessary, to ensure that the provisions of the CPA are complied with.
- 31.2 It is the responsibility of the Client to show that this Agreement and/or any goods or services provided by OKgo to the Client is regulated by or subject to the CPA, as provided in Section 5 thereof.

### 32. WHOLE AGREEMENT

- 32.1 This Agreement constitutes the whole agreement between the Parties and supersedes all prior verbal or written agreements or understandings or representations by or between the Parties regarding the subject matter of this Agreement, and the Parties will not be entitled to rely, in any dispute regarding this Agreement, on any terms, conditions or representations not expressly contained in this Agreement.

- 32.2 No variation of or addition to this Agreement will be of any force or effect unless reduced to writing and signed by or on behalf of the Parties. OKgo shall be entitled to publish from time-to-time amended and/or updated terms and conditions on its website.
- 32.3 The Client acknowledges and agrees that OKgo may from time-to-time incorporate certain provisions in this Agreement to provide for changing legislation. The Client will be notified in writing of any such changes.
- 32.4 Neither Party to this Agreement has given any warranty or made any representation to the other Party, other than any warranty or representation which may be expressly set out in this Agreement.

SIGNED at \_\_\_\_\_ on \_\_\_\_\_

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For and on behalf of:  
Duly authorised

Appendices:

**Stolen Asset Recovery (if applicable)**

- 1) If the Asset is stolen in the Territory during the term of the applicable Order, OKgo shall use its best commercial endeavours to locate the Asset provided that the Service subscribed to by the Client includes the Stolen Asset Recovery Services and provided further that:-
  - i. OKgo shall notify the Client once any stolen Asset has been located, but it shall be the sole responsibility of the Client to report any recovery of the stolen Asset by the Client to the Police and OKgo as soon as possible;
  - ii. OKgo does not undertake or warrant that the Stolen Asset Recovery Services, or any part thereof, will lead to the location or recovery of the stolen Asset;
  - iii. The Client shall be responsible to make the necessary arrangements with the Police for the return of an Asset, unless otherwise agreed between the Parties;
  - iv. Except as set out in clause iv, OKgo shall not be liable to render any Stolen Asset Recovery Services outside the Territory.
- 2) OKgo will endeavour to provide the Stolen Asset Recovery Services outside of the Territory, provided that:
  - i. such Services will be limited to only identifying the general location of the Asset;
  - ii. if a stolen or lost Asset has been located and recovered outside the Territory, the Client will be liable for any and all costs and Fees incurred in returning the Asset to the Client. Where such costs and Fees are incurred by OKgo, such costs and Fees can be allocated to the Client's account at any time up to 3 months after such costs and Fees are incurred by OKgo; and
  - iii. the Stolen Asset Recovery Services may only be provided for so long as the Asset is located in geographic areas where there is adequate network, radio frequency or satellite network coverage, depending on which kind of network the particular Device in the Asset requires to operate.
- 3) For purposes of clarity, the Client acknowledges that the Devices do not operate exclusively via GSM, but may be dependent on an alternate radio frequency network, satellite tracking and/or triangulation. The Client acknowledges that the placement of the Device may adversely affect its ability to communicate, and therefore impact OKgo's ability to perform the Stolen Asset Recovery Services.
- 4) Where the Client requests Tracker to locate any Asset that is reported stolen, the Client acknowledges and agrees that it and an Authorised User:
  - i. must answer such questions as OKgo may ask for purposes of assessing whether the request is legitimate or is properly authorised or for security purposes. The Client agrees that OKgo may refuse or decline to locate an Asset where OKgo is not satisfied with the responses to its questions;

- ii. must follow the instructions given by OKgo and provide such assistance as may be requested by OKgo, for purposes of locating the Asset or assisting in the location of the Asset.

- 5) Each Authorised User will be deemed to have full power and authority to represent the Client and to make all decisions and provide all information, directions and instructions for and on behalf of the Client. Without limiting the foregoing, OKgo will be entitled to send notifications and communications for the Client to the Authorised Users and the Authorised Users will, subject to the further provisions of this Agreement, be entitled on behalf of the Client to access the Website, confirm the de-installation and re-installation of Devices, notify OKgo of any updates, changes in ownership, lost or stolen Assets, and changes to banking details.