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1. **DEFINITIONS**
The following expressions shall have the following meanings:
 - 1.1 **Agreement:** this agreement;
 - 1.2 **Bundle Plan:** a payment plan requiring the Subscriber to pay a service fee monthly in advance on or before the first day of each month via debit order, which amount includes the installation costs;
 - 1.3 **Cash Plan:** a payment plan requiring the Subscriber to pay for the Unit and its installation on the date of installation, plus payment of a service fee monthly in advance on or before the first day of each month via debit order; depending on the package offered, service fees may be paid monthly or bundled, either annually or into a single upfront cash payment covering one or more years;
 - 1.4 **CPA:** the Consumer Protection Act 68 of 2008 (as amended from time to time);
 - 1.5 **Day:** a business day (which excludes a public holiday, Saturday or Sunday);
 - 1.6 **Emergency Contact:** the person/s nominated by the Subscriber to be contacted in an emergency, should MiX be unable for any reason to reach the Subscriber;
 - 1.7 **Expiry Date:**
 - 1.7.1 For Cash Plan, there is no Expiry Date and this Agreement can be cancelled with 20 (twenty) Days written notice;
 - 1.7.2 For Bundle Plan, the Expiry Date is 36 (thirty six) months after commencement of this Agreement;
 - 1.8 **False Incident:** an incident where the Vehicle is not stolen or hi-jacked;
 - 1.9 **Fitment Centre:** a business which is approved by MiX for the purpose of installing and servicing Units;
 - 1.10 **Intermediary:** a third party authorised to collect payment from the Subscriber on behalf of MiX;
 - 1.11 **MiX:** MiX Telematics Africa Pty Ltd reg no. 2004/019797/07;
 - 1.12 **MiX Telematics Companies:** MiX and MiX Telematics Limited with reg no 1995/013858/06;
 - 1.13 **Network:** MiX's communications network supplier;
 - 1.14 **Other Protected Parties:** members, directors, officers, employees, representatives, agents and independent contractors of MiX Telematics Companies;
 - 1.15 **Party/ies:** either MiX or the Subscriber, or both;
 - 1.16 **Service:** recovery of the Vehicle when stolen or hi-jacked and does not include reacting to a False Incident;
 - 1.17 **SAPS:** the South African Police Service;
 - 1.18 **Subscriber:** the party entering into this Agreement with MiX, who can be either:
 - 1.18.1 **a Consumer:** a party who is defined as a "consumer" in terms of the CPA;
 - 1.18.2 **a Corporate Customer:** a Juristic Person whose asset value or annual turnover at the time of the conclusion of this Agreement, equals or exceeds the threshold determined by the CPA, thereby disqualifying them from the protection offered by the CPA;
 - 1.18.3 **an Individual:** a natural person; or
 - 1.18.4 **a Juristic Person:** a party who is defined as a "juristic person" in terms of the CPA, irrespective of their asset value or annual turnover;
 - 1.19 **Unit:** vehicle tracking unit/units and associated components;
 - 1.20 **Vehicle:** the vehicle covered in terms of this Agreement, which needs to have a valid number plate

which clearly displays the vehicle registration number.

2. COMMENCEMENT AND DURATION

2.1 This Agreement and the Service shall commence on the date that the Unit is installed and the Unit details downloaded successfully on the relevant MiX software and shall continue until terminated in terms of this Agreement.

3. SUBSCRIBER'S OBLIGATIONS AND ACKNOWLEDGEMENTS THE SUBSCRIBER AGREES:

- 3.1 That MiX does not guarantee the safety of the Subscriber or that of any occupants in the Vehicle;
- 3.2 That there are instances where a Vehicle cannot be recovered due to, amongst others, the Service or a non-communicating Unit and the Subscriber acknowledges this fact, therefore agreeing that MiX will not be held liable if the Vehicle is not recovered;
- 3.3 That MiX is hereby authorised to recover the Vehicle and agrees that MiX shall not be liable for any damage to the Vehicle caused for any reason other than the result of a proven Unit defect;
- 3.4 That since the recovery teams are armed, the recovery Service could, due to its nature, pose a risk and could result in personal injury, death or damage to property;
- 3.5 To avoid reporting False Incidents or raising false alarms (which false alarms could be raised by, amongst others, contravening clause 3.11);
- 3.6 That the Unit's functioning, and as a result, the Service, is dependent on the Network and its availability and as such the Subscriber agrees that the Unit might not be communicating and the Service might as a result not be available for certain undeterminable periods of time within certain undeterminable locations. Due to the fact that this is beyond MiX's control and the fact that MiX does not make any representation to the contrary, MiX shall not be liable for any loss or damage arising as a result thereof. Subject strictly and at all times to such claims as the Subscriber may have against the Network under the CPA from time to time, the Network is not a party to this Agreement and as such shall not be liable for any loss or damage arising from this Agreement;
- 3.7 That MiX will not accept any alterations made to this Agreement by the Subscriber;
- 3.8 To notify MiX as soon as possible after the theft of the Vehicle;
- 3.9 To, in circumstances where MiX has reason to believe that a False Incident has been reported, provide MiX with the relevant case number obtained from the SAPS;
- 3.10 To ensure that the Unit is working after installation, after repairs, and to test the Unit at least every 30 (thirty) days by calling the dedicated interactive voice response telephonic system and following the prompts;
- 3.11 Not to modify or tamper with the Unit and only use the Service for its intended purpose;
- 3.12 To, subject to the warranty as referred to in 8, arrange replacement of the Unit, by taking the Vehicle to a Fitment Centre, as soon as reasonably possible after being notified by MiX, which notification will be in the manner specified in 13.10. Failure to comply with this 3.12 will constitute a breach of the material obligations of the Subscriber in terms of the Agreement;
- 3.13 To, if applicable, be notified by MiX with regards to a possible non-communicating Unit (which notification service may be offered, depending on the type of Unit) in the manner specified in 13.10 and accepts full responsibility to contact MiX thereafter and give a Fitment Centre as soon as reasonably possible, the opportunity to inspect the Unit and/or Vehicle in order to determine why the Unit may not be communicating;

I, the undersigned, hereby confirm that I have read and understood MiX's terms and conditions and agree thereto. I, also acknowledge that the fact, nature and effect of all the clauses that pertain to risk or liability and to the nature and limitations of the Unit and the Service, as indicated above in bold, have been drawn to my attention and that I have had adequate opportunity to read and comprehend the terms and conditions and that I understand and hereby agree thereto.

Signature
Name in print

Signed for and on behalf of the Subscriber (who warrants his / her authority hereto)

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- 3.14 That MiX is hereby indemnified against any loss, injury, death, claim, loss of profit or any other damage suffered as a result of:
 - 3.14.1 The Subscriber not reacting as per the notification (as referred to in 3.12 or 3.13); or
 - 3.14.2 The notification (as referred to in 3.12 or 3.13) not reaching the Subscriber, due to:
 - 3.14.2.1 The risk as mentioned in 13.10; or
 - 3.14.2.2 The Subscriber's omission to provide MiX with its contact information or its latest contact information;
- 3.15 To pay MiX all monies due in terms of this Agreement;
- 3.16 That the Subscriber is aware of the type of Unit that this Agreement relates to, that the Subscriber is familiar with the described features and Services related to the specified Unit and acknowledges that these features and Services sufficiently meet the Subscriber's requirements.
- 3.17 To ensure that MiX at all times has accurate and up-to-date information about the Subscriber and the Vehicle;
- 3.18 To timeously read all correspondence from MiX and immediately notify MiX of any errors or incorrect or outdated information;
- 3.19 That the Unit communications may include its location and status and the details of other MiX devices;
- 3.20 That MiX may use any information communicated by the Unit without restriction, provided the Subscriber's confidentiality is maintained;
- 3.21 That if applicable:
 - 3.21.1 The Intermediary will collect the service fees due to MiX on behalf of MiX;
 - 3.21.2 MiX will collect the service fees monthly via debit order and obtain the Subscriber's banking details from the Intermediary, should:
 - 3.21.2.1 Payment from the Subscriber to the Intermediary, for any reason, not occur; or
 - 3.21.2.2 Payment of the collected service fee from the Intermediary to MiX, for any reason, not occur; or
 - 3.21.2.3 The agreement or relationship between the Subscriber and the Intermediary cease to exist, for any reason; or
 - 3.21.2.4 The Vehicle be written off; or
 - 3.21.2.5 The agreement or relationship between the Intermediary and MiX cease to exist, for any reason;
 - 3.21.3 To immediately notify MiX, should any of the events mentioned in 3.21.2.1 or 3.21.2.3 or 3.21.2.4 occur;
 - 3.21.4 MiX is hereby authorised to disclose any of its information as deemed necessary by MiX to the Intermediary, as needed for MiX to perform its duties in terms of this Agreement or the agreement between MiX and the Intermediary;
- 3.22 To comply with all reasonable requests from MiX in order to comply with any current legislation;
- 3.23 To, at its own cost, take the Vehicle to a Fitment Centre whenever any work needs to be conducted on the Unit, which includes but is not limited to: installation, removal, repair or replacement of the Unit (whether or not it falls within a warranty period);
- 3.24 That, in the case of a Juristic Person, due to the fact that MiX might not possess the relevant information and where the Juristic Person, after being requested, failed to provide MiX with proof to the contrary, MiX will be compelled to assume that the Juristic Person is a Corporate Customer and as such does not qualify for the protection afforded in terms of the CPA;
- 3.25 That MiX is hereby authorised to disclose Subscriber information deemed necessary by MiX, to the Emergency Contact when it is in the Subscriber's best interest (e.g. the

position of the Subscriber's Vehicle).

4. MIX'S OBLIGATIONS

- 4.1 If the Subscriber, the Emergency Contact or the SAPS reports the Vehicle to MiX as stolen, under circumstances where MiX is of the opinion that the Vehicle has been stolen or hi-jacked, MiX will endeavour to recover the Vehicle.
- 4.2 Where MiX has reason to suspect that a False Incident has been reported (irrespective of whether MiX has been supplied with a case number as mentioned in 3.9) MiX is under no obligation whatsoever to deliver the Service or any other service.
- 4.3 As a mere example it is stipulated that a False Incident could include but is not limited to a situation where a Vehicle has not been stolen or hi-jacked, but MiX receives a request for recovery of the Vehicle:
 - 4.3.1 by the Subscriber since the Subscriber is unable to contact the driver of the Vehicle or since the location of the driver of the Vehicle is unknown;
 - 4.3.2 by the Subscriber, since the Vehicle has been impounded or repossessed for any reason;
 - 4.3.3 by the Emergency Contact in the event where either MiX or the Emergency Contact is unable to make contact with the Subscriber or driver of the Vehicle;
 - 4.3.4 by the Subscriber or the Emergency Contact in the event where a civil dispute exists.
- 4.4 The Service is only available within the area covered by the Network within the Republic of South Africa.
- 4.5 MiX will not, at any stage provide the Subscriber with the Unit's or Vehicle's position. MiX will only, when the Subscriber dials into the dedicated interactive voice response telephone system, be able to confirm whether the Unit is active.
- 4.6 Upon recovery, MiX will act to secure the Vehicle and then make it available to be claimed by the Subscriber. However, if required by the SAPS or any other legitimate authority, MiX will hand the Vehicle over to such authority.
- 4.7 MiX shall not be obliged to supply the Service or replace the Unit if the Subscriber is in default of any obligation to MiX.
- 5. COSTS**
- 5.1 **Service fee escalation**
 - 5.1.1 MiX may increase its service fee annually on each anniversary of the installation date.
 - 5.1.2 MiX will keep annual escalations at 8% (eight percent) or the consumer price index, whichever is the greater.
 - 5.1.3 MiX will give the Subscriber written notice of any escalation which exceeds 8% (eight percent).
- 5.2 **Possible additional costs**
 - 5.2.1 Should any act or omission by the Subscriber result in excessive requests for a recovery of a Vehicle involved in a False Incident, **MiX may charge R30 (thirty rand) per False Incident responded to telephonically by MiX, which amount may be recovered via the Subscriber's debit order.**
 - 5.2.2 Should MiX, in their sole discretion, act in accordance with a request from the Subscriber or the Emergency Contact to recover the Vehicle, in the event where the Vehicle was involved in a False Incident, **the Subscriber accepts liability for any consequences of such False Incident, including the cost associated with a recovery.** This cost is typically about R5,000.00 (five thousand rand) per attempted recovery and may be recovered via the Subscriber's debit order (irrespective of whether the recovery was successful or not).
 - 5.2.3 **MiX may charge the Subscriber a reasonable fee should the Subscriber require testing more frequently than once per week. Such fee may be recovered via the Subscriber's debit order.**
 - 5.2.4 If MiX provides the Service in spite of the Subscriber's failure to pay monies owing to MiX, the Subscriber shall be liable for the cost of providing the Service. Should this result in the recovery of the Vehicle, MiX shall be entitled to retain the Vehicle until the Subscriber has met all its outstanding obligations.

I, the undersigned, hereby confirm that I have read and understood MiX's terms and conditions and agree thereto. I, also acknowledge that the fact, nature and effect of all the clauses that pertain to risk or liability and to the nature and limitations of the Unit and the Service, as indicated above in bold, have been drawn to my attention and that I have had adequate opportunity to read and comprehend the terms and conditions and that I understand and hereby agree thereto.

Signature
Name in print

Signed for and on behalf of the Subscriber (who warrants his / her authority hereto)

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- 5.2.5 If, before the Expiry Date, the Subscriber cancels this Agreement or MiX cancels the Agreement due to the Subscriber being in breach:
 - 5.2.5.1 if the Subscriber is a Juristic Person, the Juristic Person shall be liable for the sum of the service fees due up to the Expiry Date;
 - 5.2.5.2 if the Subscriber is an Individual, the Individual shall be liable for a reasonable cancellation penalty, subject to the maximum as determined by the CPA.
- 5.2.6 In the event where the Vehicle is not mobile for any period of time due to any reason (for example: the Vehicle was involved in an accident, the Vehicle is not being used, etc.) and whether or not the Unit has been damaged as a result thereof, this Agreement is still valid and the Subscriber needs to comply with all obligations (financial and other) in terms of this Agreement.

6. TERMINATION

- 6.1 Either Party may terminate this Agreement by giving the other 20 (twenty) Days written notice, however, **should such termination occur before the Expiry Date, the fees mentioned in 5.2.5 will be payable by the Subscriber to MiX.**
- 6.2 If the Subscriber is an Individual on a Bundle Plan, MiX will send the Individual notification, as per the CPA, of the pending Expiry Date before the Expiry Date. Since this Agreement is directly linked to personal safety and may be a prerequisite of the Individual's insurance agreement, this Agreement will continue on a month-to-month basis after the Expiry Date, until the Individual has, in writing, in response to the notification, requested MiX to either terminate the Agreement or agreed to the renewal of the Agreement for a further fixed term. This clause 6.2 only applies to Individuals and not to Juristic Persons.
- 6.3 The Subscriber is entitled to cancel this Agreement, in writing, 7 (seven) Days after the day on which this Agreement was concluded or the Unit was installed (whichever is the later) if:
 - 6.3.1 this Agreement is an electronic transaction as contemplated in the Electronic Communications and Transactions Act, 2002; or
 - 6.3.2 the Subscriber, being a Consumer, entered into this Agreement as a result of direct marketing (as defined in the CPA).
- 6.4 If the event mentioned in 6.3 occurs, the Subscriber will be liable for the payment of the initial installation.

7. OWNERSHIP OF THE UNIT

- 7.1 Under the Bundle Plan, MiX retains ownership of the Unit and may, at their sole discretion, should the Agreement be terminated before the Expiry Date, charge a fee as per 5.2.5.1 for a Juristic Person or 5.2.5.2 for an Individual.

8. WARRANTY OF THE UNIT

- 8.1 If, after the relevant inspection of the Unit and/or the Vehicle by MiX or a Fitment Centre, a Consumer's Unit is found, in the sole discretion of MiX, to be defective, MiX will:
 - 8.1.1 during the first 6 (six) months after installation, at the Consumer's choice:
 - 8.1.1.1 replace the Unit free of charge, in which case the Consumer needs to make their Vehicle available to MiX or a Fitment Centre; or
 - 8.1.1.2 refund the Consumer with the price paid for the Unit, if applicable, which refund will not include any service fees;
 - 8.1.2 thereafter replace the Unit free of charge, in which case the Consumer needs to make their Vehicle available to MiX or a Fitment Centre.
- 8.2 If, after the relevant inspection of the Unit and/or the Vehicle by MiX or a Fitment Centre, a Corporate Customer's Unit is found, in the sole discretion of MiX, to be defective, MiX will replace the Unit free of charge, in which case the Corporate Customer needs to make their Vehicle available to MiX or a Fitment Centre.

The warranty referred to in 8.1 and 8.2 only applies to the extent that:

- 8.3.1 The Unit is located in the Vehicle into which it was originally installed, for the original Subscriber;
- 8.3.2 The installation, as referred to in 8.3.1, was a certified installation performed by a Fitment Centre;
- 8.3.3 The Subscriber continuously and uninterrupted paid its monthly service fees from inception of this Agreement;
- 8.3.4 The Unit was not used for reasons other than its intended purpose;
- 8.3.5 The Unit was not tampered with or damaged by the Subscriber or any third party, which includes but is not limited to theft or attempted theft or negligence by the Subscriber or a third party;
- 8.3.6 The Unit was not damaged, intentionally or unintentionally, in any way, which includes but is not limited to damage caused by fluids or fire;
- 8.3.7 The Subscriber complied with all its obligations under this Agreement.

9. LIMITATION OF LIABILITY and INDEMNIFICATION

If the Subscriber is:

- 9.1.1 A Consumer, the Consumer agrees that MiX Telematics Companies and Other Protected Parties shall not (under any circumstances) be liable for any damages or loss, including consequential loss arising out of death, bodily injury, loss of health, illness or trauma suffered by the Subscriber or the loss, destruction of or damage to any property belonging to the Subscriber (collectively "damages") including arising due to the negligence of MiX or any Other Protected Parties, unless MiX was grossly negligent.
- 9.1.2 A Consumer, the Consumer indemnifies each of the MiX Telematics Companies and the Other Protected Parties against any claim for damages brought by any person, including in respect of negligence, unless MiX was grossly negligent.
- 9.1.3 A Corporate Customer, the Corporate Customer agrees that MiX Telematics Companies and Other Protected Parties shall not (under any circumstances) be liable for any damages or damages suffered by a third party, including arising due to the negligence of MiX or any Other Protected Parties, unless MiX was grossly negligent.
- 9.1.4 A Corporate Customer, the Corporate Customer indemnifies each of the MiX Telematics Companies and Other Protected Parties against any claim for damages brought by any person, including in respect of negligence, unless MiX was grossly negligent.

9.2 The Subscriber acknowledges that the Fitment Centre is not an agent of MiX and is independently operated and MiX will not be held liable for any misrepresentation, act or omission by the Fitment Centre, save for those representations, which MiX verified and the Subscriber indemnifies and holds MiX harmless against all claims or losses arising directly or indirectly from any action by the Fitment Centre.

10. SUSPENSION

MiX shall be entitled to suspend the Service if:

- 10.1.1 the Network is no longer available or of no practical use;
- 10.1.2 an event beyond MiX's control makes it impossible to render the Service; and/or
- 10.1.3 the Subscriber is in breach of any obligation towards MiX.

11. BREACH

If either Party:

- 11.1.1 fails to pay any amount due in terms of this Agreement; or
- 11.1.2 abuse the Service; or

I, the undersigned, hereby confirm that I have read and understood MiX's terms and conditions and agree thereto. I, also acknowledge that the fact, nature and effect of all the clauses that pertain to risk or liability and to the nature and limitations of the Unit and the Service, as indicated above in bold, have been drawn to my attention and that I have had adequate opportunity to read and comprehend the terms and conditions and that I understand and hereby agree thereto.

Signature
Name in print

Signed for and on behalf of the Subscriber (who warrants his / her authority hereto)

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- 11.1.3 commits any breach of their warranties and/or representations and/or undertakings in terms of this Agreement; or
- 11.1.4 defaults on any obligation in terms of this Agreement,
- 11.2 **Then either Party shall be entitled to, without prejudice of any of its rights, including the right to claim damages:**
 - 11.2.1 **Cancel this Agreement 20 (twenty) Days after providing notice thereof and act in terms of clauses 5.2.5 and 7; or**
 - 11.2.2 **Enforce this Agreement by legal action, which costs will be for the account of the defaulting Party and be either collection fees or legal fees at attorney-client rates, or both.**

12. INFORMATION CONSENT

The Subscriber authorises MiX to use its information to:

- 12.1.1 provide the Service;
- 12.1.2 assess its ability to meet its obligation under this Agreement
- 12.1.3 share with a credit bureau;
- 12.1.4 protect MiX's interest.

MiX undertakes to protect said information.

12.2 **If this Agreement is the result of an insurance company or an insurance broker referral, then the Subscriber agrees that MiX may, as soon as reasonably possible after the installation of the Unit, provide that insurance company or insurance broker with notification of said installation. The Subscriber acknowledges that this notification will contain certain relevant Subscriber information necessary to indicate that the Unit was successfully installed into the Vehicle.**

13. GENERAL

13.1 This Agreement reflects the full agreement between the Parties and any amendments or cancellation must be in writing and signed by the Parties. No indulgences given shall constitute a waiver of any rights.

13.2 If any part of this Agreement is invalid, the balance remains enforceable.

13.3 This Agreement is governed by the laws of the Republic of South Africa.

13.4 The Subscriber warrants that it has legal capacity and authority to conclude this Agreement.

13.5 MiX shall be entitled to cede all or any of its rights and/or obligations in terms of this Agreement without the Subscriber's consent.

13.6 If the Subscriber wishes to cede any of its rights and/or obligations in terms of this Agreement, it must obtain MiX's prior written consent which MiX shall not withhold without reasonable cause.

13.7 The Subscriber's address for all purposes relating to this Agreement is the physical address, facsimile number and e-mail address given with this Agreement. MiX's address is as follows:

Physical address: Matrix Corner, Howick Close, Waterfall Park, Midrand, 1685.

Fax no: (011) 654-8122 Tel no: (011) 654-8000

13.8 Addresses may be changed by giving the other Party written notice of the new physical address or facsimile number, both of which must be within the Republic of South Africa.

13.9 All notices must be in writing and notices to MiX should be marked for the attention of the Customer Care Manager.

13.10 The Subscriber agrees to electronic media, which includes but is not limited to e-mail, voice recorded telephone calls and SMS's, for all communications, notifications and agreements between the Parties. **The Subscriber accepts the risks associated with electronic communications** and both Parties shall take reasonable steps to reduce these risks. The Subscriber may notify MiX, in writing that it would rather communicate by printed media, in which case **the Subscriber accepts all the risks associated with sending communication via the postal service, including the risk of possible exposure of the Subscriber's confidential information.**

13.11 Any intellectual property rights, including but not limited to

copyright and trademarks, relating to the Unit and/or the Service and/or the MiX website and/or the Agreement, shall vest in MiX and the Subscriber shall not have any right thereto and as such will not reproduce, store, modify, adapt, publish, sell, distribute or in any other way unlawfully use, in any form and by any means, in whole or in part, the intellectual property of MiX.

I, the undersigned, hereby confirm that I have read and understood MiX's terms and conditions and agree thereto. I, also acknowledge that the fact, nature and effect of all the clauses that pertain to risk or liability and to the nature and limitations of the Unit and the Service, as indicated above in bold, have been drawn to my attention and that I have had adequate opportunity to read and comprehend the terms and conditions and that I understand and hereby agree thereto.

Signature
Name in print

Signed for and on behalf of the Subscriber (who warrants his / her authority hereto)