

## MiX TELEMATICS MASTER SERVICE AGREEMENT

Entered into between

**MiX TELEMATICS AFRICA (PTY) LTD (REG. NO. 2004/019797/07)**  
 ("MiX Telematics")

and

Name of Individual, Company or CC		
ID / Registration Number		
VAT Number		
Postal Address		
Physical Address		
Telephone Number	Fax Number	
Email Address		
Contact Person		

("Customer")

### RECORDAL

- A. The Customer owns a Vehicle/Asset(s) and wants to subscribe to the service offered by MiX Telematics.  
 B. MiX Telematics agrees to provide services to the Customer and the Customer agrees to take services from MiX Telematics in each case subject to and in accordance with the terms and conditions of this Agreement.

### AGREEMENT

- Services**  
MiX Telematics will provide the Customer the Services selected by the Customer.
- Unit**  
To enable MiX Telematics to provide the service to the Customer, the Customer must have a Unit, comprising of specified hardware and software supporting the services to be rendered by MiX Telematics, installed in each of its vehicle/s that MiX Telematics will render services to the Customer in terms of this Agreement. The Customer can either acquire outright ownership of a Unit, or alternatively, and where applicable, the Customer can subscribe to a Bundled Service from MiX Telematics.
- Price**  
The Customer must pay MiX Telematics the fees based on the Service selected by the Customer.
- Duration**  
4.1. This Agreement will commence on the Effective Date and continue for an indefinite period, unless terminated by either party giving the other at least one calendar months' written notice, provided that the Customer may not give such notice within the initial 36 (thirty-six) months from the Effective Date.
- Terms and Conditions**  
MiX Telematics' terms and conditions as set out in this Schedule "A". In the event of a conflict between Schedule A and the Mix Recovery Protect terms and conditions the Mix Recovery Protect terms and conditions shall prevail.
- Debit Order Authorisation**  
The Customer undertakes to sign a Debit Order Authorisation in respect of the Service Fees on request from MiX Telematics.
- Scope**  
This Agreement shall accommodate the fluid nature of the Customer's vehicle/s/assets in that:
  - it shall remain in force irrespective of changes to the number of vehicles/assets the Customer owns and for which the Services are required;
  - it shall accommodate the removal of a Unit from one vehicle to be used in another vehicle of the Customer;
  - allow for the addition of further Units to be installed in other vehicles of the Customer;
  - notwithstanding the fact that only one Agreement has been executed by the Parties, the terms and conditions set out in this Agreement will come into force and effect for each additional Unit installed.
- Schedules to this Agreement**

Schedule "A"	Terms and Conditions
Schedule "B"	Pricing Schedule
Schedule "C"	Vehicle List
Schedule "D"	Debit Order Authorisation and Deed of Suretyship

### ACCEPTANCE

SIGNATURE ..... NAME IN PRINT ..... DATE .....  
 Signed for and on behalf of the Customer (who warrants his/her authority hereto)

SIGNATURE ..... NAME IN PRINT ..... DATE .....  
 Signed for and on behalf of MiX Telematics (for final acceptance)

# SCHEDULE A - TERMS AND CONDITIONS

## I. INTERPRETATION

- 1.1 In this Agreement, clause headings are for convenience only and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention;
- 1.2 An expression which denotes any gender includes the other genders; a natural person includes an artificial person and vice versa; the singular includes the plural and vice versa;
- 1.3 The following expressions shall bear the meanings assigned to them below:
- 1.3.1 "Agreement" means the document titled MiX TELEMATICS MASTER SERVICE AGREEMENT to which this Schedule "A" is a schedule and includes all such other schedules or annexures referred to in such document together with any other documents incorporated by reference into such documents on or after the Effective Date ;
- 1.3.2 "Authorised Fitment Partner" means any company, other legal entity or individual conducting business on its own behalf and independently from MiX Telematics and authorised in writing by MiX Telematics to install and maintain the Unit;
- 1.3.3 "Asset & Driver Schedule" means Schedule "C" attached hereto as agreed upon between MiX Telematics and the Customer for installation or inspection of a Unit in terms of clause 4 below;
- 1.3.4 "Customer" means the party indicated as such in the pre-amble to this Agreement;
- 1.3.5 "Effective Date" means the date the unit is installed and is successfully tested and functioning
- 1.3.6 "Emergency Contact" means the person/s nominated by the Customer to be contacted in an emergency, should MiX Telematics be unable for any reason to reach the Customer;
- 1.3.7 "False Incident" means an incident where the Vehicle/Asset is not lost, stolen or hi-jacked;
- 1.3.8 "Intellectual Property" means all present and future rights in the Unit and Software and other rights which may in the future be based thereon, including but not limited to:
- 1.3.8.1 Copyright;
- 1.3.8.2 Trade Marks;
- 1.3.8.3 MiX Telematics Data;
- 1.3.8.4 the Know-How; and
- 1.3.8.5 all other rights of whatever nature in and to the Unit and Software;
- 1.3.9 "Know-How" means all confidential information of whatever nature relating to the Intellectual Property, the Unit, and its exploitation, including but not limited to technical information, techniques, designs, specifications, formulae, systems, processes, ideas, marketing and business methods;
- 1.3.10 "MiX Telematics" means MiX Telematics Africa (Pty) Ltd, a company duly registered and incorporated according to the Company Laws of the Republic of South Africa with registration number 2004/019797/07
- 1.3.11 "MiX Telematics Data" means all data and information of whatsoever nature stored or retrieved from a Unit;
- 1.3.12 "Network Operator" means MiX Telematics' communications network supplier;
- 1.3.13 "Parties" means MiX Telematics and the Customer;
- 1.3.14 "Personal Data" information relating to identifiable individuals and/or entities and includes, but is not limited to, all information relating to individuals and/or entities that is/are protected by privacy laws or data protection laws in the country where:
- 1.3.14.1 the individuals and/or entities are located; or
- 1.3.14.2 the data relating to those identifiable individuals and/or entities referred to above, is processed;
- 1.3.15 "Prime rate" means the prime bank overdraft rates as charged by The Standard Bank South Africa from time to time to its corporate customers in respect of overdraft facilities in which regard a certificate signed by an official of the said bank stating the rate applicable from time to time shall be prima facie proof of such rate;
- 1.3.16 **Product option means:**  
**Bundled option** (rent) means the Customer rents the Unit and pay a monthly service fee. The Unit remains property of MiX Telematics  
**Cash Option** the Unit cost and installation cost is paid for in full and Customer owns the Unit and the Customer pay a monthly Service fee  
**Cash-upfront option** means the Unit cost, installation cost and Service fee is paid in full for the entire contract period and the Customer owns the Unit
- 1.3.17 "Recovery" means the recovery of the Vehicle/Asset;
- 1.3.18 "Service Fee" means the fee payable for the Service;
- 1.3.19 "Service" means the tracking and recovery of the Asset
- 1.3.20 "Signature Date" means the date of signature of this Agreement by the signatory which signs it last;
- 1.3.21 "Software" means the embedded application Software developed by or for MiX Telematics and used in or in conjunction with a Unit including, without limitation, presently available and future upgrades, modifications, and enhancements thereto and the documentation associated therewith, whether incorporated in humanly intelligible media or not;
- 1.3.22 "Unit" means the Unit installed in the Vehicle/Asset

- 1.4 Where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day.

## 2. COMMENCEMENT, DURATION, CANCELLATION

- 2.1 This Agreement will commence on the Effective Date and endure indefinitely until it is cancelled as provided for in this clause 2, or otherwise provided in this Agreement
- 2.2 **Cash Option**
- 2.2.1 Either you or MiX Telematics may terminate this Agreement by giving at least one calendar months written notice
- 2.2.2 In the event that you cancel prior to the expiry date, a settlement amount will be due and payable calculated as the amount owing to MiX Telematics for the remaining period of the Agreement
- 2.3 **Cash-upfront Option**
- 2.3.1 You may terminate this Agreement by giving at least one calendar month's written notice, but you will receive no refund should you do so.
- 2.4 **Bundled Option**
- 2.4.1 Either you or MiX Telematics may cancel this Agreement either on the Expiry Date or on at least one calendar months written notice at any time prior to the Expiry Date,
- 2.4.2 If you cancel the Agreement prior to the Expiry Date or MiX Telematics cancels the Agreement due to breach, the Customer will remain liable for all amounts owing up to the date of cancellation
- 2.4.3 In the event that you cancel prior to the expiry date, a settlement amount will be due and payable calculated as the amount owing to MiX Telematics for the remaining period of the Agreement
- 2.5 A different settlement amount may apply in the event that there exists a tripartite agreement between the Customer, MiX Telematics and a separate service provider or where the Parties agree otherwise in writing.

- 2.4 If the Agreement is not cancelled by the Customer, or by us prior to or on the Expiry Date, it will automatically continue and constitute a month to month Agreement terminable on at least one calendar months' notice, which termination will take effect on the first day of the month immediately following the end of the applicable notice period.
- 2.5 The Customer is not entitled to cancel the Agreement unless the Consumer Protection Act is applicable to the Customer.

## 3. SERVICES

- 3.1 MiX Telematics will render the Services to the Customer for the duration of this Agreement.
- 3.2 MiX Telematics shall be entitled to suspend all or any of the Service, with notice where it is practically possible, if any of the following circumstances occur:
- 3.2.1 where any Network Operator on whom MiX Telematics depends on to render the Services is unable to render such services to MiX Telematics, for whatever reason;
- 3.2.2 if MiX Telematics has reason to believe that the Service and/or a Unit is used in a fraudulent manner;
- 3.2.3 in the event of the Customer failing to make any payments or part thereof due in terms of the Agreement;
- 3.2.4 Customer is in breach of the Agreement
- 3.2.5 In the event of a force majeure
- 3.2.6 if the Customer informs MiX Telematics that the Unit has been lost, mislaid, stolen, or removed from the Vehicle;
- 3.2.7 the Customer infringes the Intellectual Property or conducts itself in a manner which is prejudicial to the Intellectual Property.
- 3.3 In the event of the Network Operator referred to in clause 3.2.1 above being unable to render such services to MiX Telematics then MiX Telematics undertakes to use its best endeavours to find an alternative supplier of services.

## 4. INTELLECTUAL PROPERTY

- 4.1 The Customer shall not copy the whole or any part of the Software and/or Unit, save as otherwise provided herein; reverse engineer, disassemble, translate, adapt, modify, alter or in any way decode the whole or any part of the Software and/or Unit; convert the whole or any part of the Software from object code to source code; merge or combine the whole or any part of the Software with any other computer software or documentation; part with possession of, lend, assign, lease, sub-licence, transfer or otherwise provide electronically any part of the Software and/or Unit or any copy or part thereof to any other person; use any of the MiX Telematics Data or other confidential information of MiX Telematics contained in or derived from the Software and/or Unit or to develop or market any software which is substantially similar in its function or expression to any part of the Software; or use the Software for the business needs of another person or entity.
- 4.2 The Customer acknowledges that any and all of the Intellectual Property used or embodied in or in connection with the Software and/or Unit are and will remain the sole property of MiX Telematics. The Customer shall not question or dispute the ownership of such rights at any time during the term of the Agreement or thereafter.
- 4.3 The Customer shall notify MiX Telematics as soon as practicable after it becomes aware of:
- 4.3.1 any actual, threatened or suspected infringement of the Intellectual Property;
- 4.3.2 any claim brought against the Customer alleging that its use of the Software infringes the Copyright or any other Intellectual Property belonging to or alleged to belong to the claimant.
- 4.4 If any such claim as mentioned is brought against the Customer, MiX Telematics reserves the right to defend any such action and / or to replace or change all or any part of the Software and/or Unit in order to avoid infringement or alleged infringement of any third party's rights.
- 4.5 The Customer acknowledges that the Software and/or Unit contains confidential information or otherwise proprietary information to MiX Telematics and undertakes to hold in confidence such information and not divulge such information to any person, including any of its employees, save for employees directly involved with the execution of this Agreement. Within 3 (three) months after the termination of this Agreement, for whatever reason, the Customer shall return MiX Telematics Data or other confidential information received in terms of this Agreement or at the discretion of MiX Telematics destroy such information and shall not retain copies, samples or excerpts thereof.

## 5. INSTALLATION OR INSPECTION OF UNIT

- 5.1 MiX Telematics or its Authorised Dealer shall install and may inspect the Unit in a Vehicle/Asset as soon as possible after the Signature Date in accordance with the Commissioning Schedule.
- 5.2 The Customer may be required to pay the wasted costs when the Vehicle/Asset is not made available by the Customer for installation on the agreed day and time.
- 5.3 MiX Telematics shall not be responsible for secure fitment of the Unit if the Vehicle/Asset is subsequently modified after installation that results in the Unit being tampered with or moved by an unauthorised technician.

## 6. TRANSFER OF UNIT

- If the Customer requires a Unit to be transferred to another Vehicle/Asset, the Customer shall be liable for all costs relating to the removal and re-installation of the Unit.

## 7. PAYMENT

- 7.1 The Customer shall pay the Service Fee in advance on the first day of every month. Unless a different date is agreed, the first payment will be payable on the 1<sup>st</sup> (first) day of the month following the Effective date. The Customer will pay simultaneously with the first payment a *pro rata* share of the Service Fee in respect of the period from the date the Unit started downloading during the preceding month.
- 7.2 MiX Telematics shall provide the Customer with a monthly invoice(s) by electronic mail reflecting the Service Fees payable in advance.
- 7.3 The Service Fee will increase annually, however, MiX Telematics will endeavour to keep the annual escalations below 8%.
- 7.4 All Service Fees payable shall be made by debit order and shall be paid without deduction or set-off of any kind and free of all exchange, bank charges and/or other charges.
- 7.5 All amounts not paid by the Customer on due date shall accrue interest at a rate equal to the prime rate plus 2% (two percent), from the due date until date of final payment, both days inclusive.
- 7.6 A certificate by any financial manager of MiX Telematics or its nominee, whose authority and appointment shall not be necessary to prove, in respect of any amounts outstanding by the Customer to MiX Telematics or its nominee, shall constitute a liquid document and *prima facie* proof of the Customer's indebtedness and/or any other fact, for the purpose of obtaining summary judgement, provisional sentence and / or any other judgement or order against the Customer by any competent court.
- 7.7 The Customer shall be obliged to pay the Service Fee, notwithstanding the fact that all or part of the Service has not been rendered to it on a continuous basis at any time during the duration of this Agreement due to the Unit not being within network coverage.
- 7.8 All amounts set out in this Agreement excludes VAT.

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## 8. OWNERSHIP OF THE BUNDLED UNIT

- 8.1 Ownership of the Bundled Unit will remain with MiX Telematics and no provision contained in this Agreement confers on the Customer any right or interest in the Bundled Unit other than to use the Bundled Unit to receive the Services
- 8.2 In the event that the Vehicle/Asset is subject to a hire purchase Agreement, lease, rent or any other encumbrance, then the Customer will, within 7 (seven) days after the date of occurrence of the encumbrance or after the Signature Date, notify:
- 8.2.1 the third party holding any rights to the Vehicle/Asset of the Bundled Unit in the Vehicle/Asset as well as MiX Telematics' rights to the Bundled Unit; and
- 8.2.2 MiX Telematics of the hire purchase, lease, rental or other encumbrance and the identity of the third party holding such rights in respect of the Vehicle/Asset.
- 8.3 All risk of loss or damage in and to a Bundled Unit shall pass to the Customer at the point in time that the Bundled Unit has been installed in any of the Customer's Assets/Vehicle or physically delivered to the Customer, whichever comes first.
- 8.4 Upon termination of this Agreement, the Customer shall return a Bundled Unit to MiX Telematics in the same condition in which it was received by the Customer, fair wear and tear excepted, failing which the Customer shall be liable to pay MiX Telematics an amount equal to the replacement cost of such Unit, as determined by MiX Telematics.
- 8.5 The Bundled Unit is interchangeable and MiX Telematics reserves the right to use alternative Units which provide the same service quality and functionality as those referred to in the relevant Bundled Service selected by the Customer.

## 9. USE, MAINTENANCE AND UNIT WARRANTY

- 9.1 The Customer undertakes to use the Unit only for the purpose of receiving the Service and further undertakes not to alter, modify or tamper with the Unit and shall use the Unit strictly in accordance with MiX Telematics' literature and user documentation supplied from time to time.
- 9.2 Monthly testing of the Unit must be carried out. In the event of an error/malfunctioning is detected, the Vehicle/Asset must be made available MiX Telematics and/or the Authorised Dealer within 3 (three) Business Days for inspection.
- 9.3 If, in the sole but reasonably exercised discretion of MiX Telematics, the Unit is damaged or is malfunctioning due to unauthorised alterations or modifications, abuse, misuse or through an accident and is capable of repair then MiX Telematics shall effect, alternatively, MiX Telematics shall procure that an Authorised Dealer effects the necessary repairs to the Unit within 3 (three) days becoming aware of the damage or malfunctioning of a Unit, the costs thereof to be for the account of the Customer and which will be payable on demand.
- 9.4 The maintenance provided for in the Agreement shall take place during business hours being 8 am to 5 pm, Monday to Friday, but excluding any such day that may be a public holiday.
- 9.5 The Customer shall be held responsible for any additional charges levied as a result of any misuse of any component of the Unit, including the cellular telephony SIM card.
- 9.6 The Customer is to make the Vehicle/Asset available at the agreed time and may be required to pay the wasted costs when the Vehicle/Asset is not made available by the Customer for maintenance on the agreed day and time.

## 10. DAMAGE AND LOSS

- 10.1 The Customer shall notify MiX Telematics within 24 (twenty-four) hours after the Unit and/or Vehicle/Asset or any part of the Unit is lost or stolen, irrespective of the cause.
- 10.2 If a Unit is stolen or lost, the Customer shall remain liable for all costs for the Service for the duration of this Agreement.
- 10.3 If the Customer sells or relinquishes control over the Vehicle/Asset, then the Customer will remain liable to perform all its obligations to MiX Telematics for the duration of the Agreement.

## 11. RECOVERY (only applicable in the Republic of South Africa)

- 11.1 If MiX Telematics is notified of a loss, theft or hijacking of a Vehicle within the boundaries of the Republic of South Africa, MiX Telematics will use its reasonable endeavours to track and recover such Vehicle/Asset.
- 11.2 MiX Telematics shall have no obligation to deliver the Service should the Customer be in default of any of its obligations in terms of this Agreement or in the case where MiX Telematics has reason to suspect a false alarm as to the loss, theft or hijacking of a Vehicle/Asset.
- 11.3 The Customer will be held liable for all costs incurred by MiX Telematics in respect of False Incidents as to the loss, theft or hijacking of a Vehicle/Asset.
- 11.4 Should the Customer insist on air support in the tracking and recovery of the Vehicle, all costs incurred in that respect will be for the Customer's account.
- 11.5 The recovered Vehicle/Asset will be delivered to a venue nominated by MiX Telematics and the Customer shall be informed of this venue as soon as possible. All costs incurred in this regard will be payable by the Customer. Collection of the recovered Vehicle/Asset from the designated venue will be the Customer's responsibility and at the Customer's cost. However, if required by the SAPS or any other legitimate authority, MiX Telematics will hand the Vehicle/Asset over to such authority.
- 11.6 Where MiX Telematics has reason to suspect that a False Incident was reported (irrespective of whether MiX Telematics has been supplied with a case number) MiX Telematics is under no obligation whatsoever to deliver the Service.
- 11.7 False Incident could include but is not limited to a situation where a Vehicle has not been stolen or hi-jacked, but MiX Telematics receives a request for recovery of the Vehicle:
- 11.7.1 by the Customer since the Customer is unable to contact the driver of the Vehicle or since the location of the driver of the Vehicle is unknown;
- 11.7.2 by the Customer, since the Vehicle/Asset has been impounded or repossessed for any reason;
- 11.7.3 by the Emergency Contact in the event where either MiX Telematics or the Emergency Contact is unable to make contact with the Customer or driver of the Vehicle/Asset;
- 11.7.4 by the Customer or the Emergency Contact in the event where a civil dispute exists.
- 11.8 Depending on the type of Unit installed in the Vehicle/Asset, MiX Telematics will not, at any stage provide the Customer with the Unit's or Vehicle's/Asset's position. MiX Telematics will only, when the Customer dials into the dedicated interactive voice response telephone system, be able to confirm whether the recovery Unit is active.

The Customer agrees:

- 11.9 To avoid reporting False Incidents or raising false alarms;
- 11.10 To notify MiX Telematics within 60 minutes after the loss, theft, or hijacking of the Vehicle/Asset;
- 11.11 To, in circumstances where MiX Telematics has reason to believe that a False Incident has been reported, provide MiX Telematics with the relevant case number obtained from the SAPS;
- 11.12 Not to modify or tamper with the Unit and only use the Recovery for its intended purpose;
- 11.13 To ensure uninterrupted Recovery arrange replacement within 3 (three) business days of a faulty Unit by promptly contacting MiX Telematics. Failure to comply with this

clause will constitute a breach of the material obligations of the Customer in terms of the Agreement;

- 11.14 To provide MiX Telematics with its contact information and to advise MiX Telematics of any changes to its contact information to ensure uninterrupted Recovery; and
- 11.15 Acknowledges that excessive use of the active tracking function on a wireless Unit can lead to a reduction in the battery life of the Unit and compromise its sustained operation.

## 12. DATA PROTECTION

- 12.1 The MiX Telematics Notice forms part of this Agreement and it governs the way in which we use and share Personal Information, details and/or other information we obtain. The current version of the MiX Telematics Notice can be found on the MiX Telematics website: <https://mixtelematics.co.za/>. This clause 15 should be read with the MiX Telematics Notice and to the extent that this Agreement conflicts with it, the MiX Telematics Notice will take precedence.
- 12.2 Each party agrees to comply with its obligations under all applicable laws relating to privacy and protection of Personal Data, including the Protection of Personal Information Act, No. 4 of 2013, in respect of Personal Data obtained by or provided to them under this Agreement.
- 12.3 The Customer shall obtain the specific and informed consent of data subjects (including the Customer's employees, agents or customers) for MiX Telematics to process their Personal Information for the purposes of performing its obligations in terms of this Agreement. Such informed consent should refer to the MiX Telematics Notice and meet its requirements. Where required the Customer shall be able to furnish verifiable proof of consent from the data subject and/or otherwise ensure that, without MiX Telematics being responsible for obtaining any consent, MiX Telematics is lawfully entitled to process such Personal Information under any other applicable laws or regulations.
- 12.4 The Customer agrees to promptly and without any charge to MiX Telematics, take all such steps as MiX Telematics may from time to time require before and after the processing of any data to enable MiX Telematics to comply with the rights of the person whose data is processed and to enable or facilitate the lawful and fair processing of the data by MiX Telematics.
- 12.5 The Customer shall indemnify and keep MiX Telematics indemnified against all claims, damages, losses, fines, penalties, costs (including legal costs) and expenses of whatever nature and however arising in relation to any failure by the Customer to comply with any of the obligations of the Customer set out in clauses 12.1 to 12.2(inclusive).
- 12.6 MiX Telematics shall not collect or process any Personal Data of the Customer (which includes, where appropriate, for the purpose of this clause, Personal Data of the Customer's employees, agents or customers) other than for the purpose of delivering the Services as in accordance with the terms of this Agreement. Any Personal Data of the Customer which the Customer provides to MiX Telematics or which is collected by MiX Telematics, will be treated and dealt with in accordance with applicable legislation.
- 12.7 MiX Telematics shall be entitled to process Personal Data of the Customer and Vehicle/Asset information for the purposes described in this Agreement, which purposes include:
- 12.7.1 providing MiX Telematics' services to the Customer;
- 12.7.2 auditing, research and/or analysis in order to maintain, protect, and/or improve MiX Telematics' services;
- 12.7.3 ensuring the technical functioning of the MiX Telematics network; and
- 12.7.4 researching, developing and providing new services.
- 12.8 The Customer agrees that MiX Telematics shall have the right to consolidate, disclose and use aggregated fleet data, including but not limited to, Personal Data of the Customer and its employees and/or information for benchmarking, research and, subject to maintaining the data subject, Customer confidentiality and anonymity and complying with any privacy legislation in relation to Personal Data, for commercial purposes generally.
- 12.9 MiX Telematics will maintain Vehicle/Asset and related data on the MiX Telematics SaaS platform for a period of 6 (six) months, where after it may be deleted or destroyed.
- 12.10 In the event that the Customer requests MiX Telematics to store the data for a further agreed period of time, an additional fee will be payable by the Customer.
- 12.11 If the Customer requires the use of MiX Telematics' software development kit in order to access the data, it will attract an additional cost to be paid by the Customer, which will be determined on a case by case basis.

## 13. LIMITATION OF LIABILITY

- 13.1 MiX Telematics will not be held liable if the Vehicle/Asset is not recovered due to, amongst others, a non-communicating Unit.
- 13.2 That since the recovery teams are armed, the Recovery could, due to its nature, pose a risk and could result in personal injury, death or damage to property and that the safety of the Customer or that of any occupants cannot be guaranteed and that MiX Telematics shall not be liable.
- 13.3 MiX Telematics shall not be liable for any damage to the Vehicle/Asset caused as a result of a Recovery.
- 13.4 MiX Telematics shall not be liable if the Customer does not react to a notification sent by MiX Telematics or a notification not reaching the Customer due to the Customer's conduct, fault or omission.
- 13.5 The Customer hereby indemnifies and holds MiX Telematics harmless against any and all claims, losses, fines, demands, and liabilities arising directly or indirectly from the Customer's possession and/or use of the Unit and/or the provision of the Services
- 13.6 MiX Telematics shall not be bound by any warranty, condition, undertaking or term, express or implied, as to the condition, quality, performance, or fitness for a particular purpose of the Unit and/or the Software and the Services including Recovery, or any part thereof, not expressly provided for in this Agreement.
- 13.7 It is specifically recorded that MiX Telematics does not warrant that the Software is free from defects or error.
- 13.8 The Customer shall have no claim against MiX Telematics for any direct, incidental, special, indirect or consequential loss of whatever nature, including but not limited to loss of use and/or loss of profits and/or loss, spoiling or recovery of data, arising from the misuse of the Software and/or Unit or the malfunctioning of the Software and/or Unit or any other cause, whether occurring in contract, delict or otherwise.
- 13.9 MiX Telematics total liability arising under or in connection with Agreement whether arising in Contract, delict or otherwise shall be limited to the sum not greater than the aggregate of the Service fee received by MiX Telematics in the twelve months preceding the date of the notification of the claim

## 14. FORCE MAJEURE

- 14.1 If MiX Telematics is prevented from carrying out any of its obligations as a result of an act of God, strikes, fire, riot, war (whether declared or not) embargoes, export control, international restrictions, shortage of transport facilities, any order of any international authority, any court order, any requirements of any authority or other competent local authority, or of the provider of network services to MiX Telematics, or any other circumstances whatsoever which are not within the reasonable control of MiX Telematics, MiX Telematics shall be deemed to have been released from its obligations to perform under this Agreement to the extent that so long as it is so prevented from performing and to such extent, this Agreement will be deemed to have been suspended for the period concerned.
- 14.2 As soon as MiX Telematics becomes aware that an act of *force majeure* is likely to cause a suspension of this Agreement, it shall give notice in writing to the Customer, estimating

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the approximate duration of such suspension. The estimate shall not be binding, and MiX Telematics shall give notice to the Customer as soon as *force majeure* ceases to operate.

21.4 If a provision of this Agreement is or becomes illegal, invalid or unenforceable that shall not affect the validity or enforceability of any other provision in this Agreement.

- 14.3 Should the *force majeure* continue for a period longer than sixty days MiX Telematics shall be entitled to forthwith terminate this Agreement by giving written notice to the Customer, without any liability whatsoever.

### 15. ANTI-BRIBERY

- 15.1 Each party hereby warrants to the other that it has not, at the date of the entering into force of the Agreement, itself, and its directors, officers or employees have not themselves, offered, promised, given, authorised, solicited or accepted any undue pecuniary or other advantage of any kind (or implied that they will or might do any such thing at any time in the future) in any way connected with any such Agreement and that it has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so.
- 15.2 The parties agree that, at all times in connection with and throughout the course of the Agreement, they will comply with and that they will take reasonable measures to ensure that their subcontractors, agents or other third parties, subject to their control or determining influence, will comply with the South African Prevention and Combating of Corrupt Activities Act which is hereby incorporated by reference into the Agreement in full and any other applicable bribery, fraud, kickback, or other similar anti-corruption law or regulation of another country that may be applicable.
- 15.3 Any breach by the Customer of any provision in this clause 15 will be deemed to be a material breach by the Customer as contemplated in clause 19.1.

### 16. EXPORT CONTROLS & SANCTIONS

- 16.1 MiX Telematics shall not have any obligation to deliver a Service, the (Bundled) Unit and/or the Software under this Agreement or perform any other obligations under this Agreement if such performance is or might be hindered by or be unlawful under the applicable export laws and regulations of, the national authorities, the European Community, the United States of America (USA) or of any other relevant country.
- 16.2 The Customer shall not participate in or facilitate any sale or import or provision of the (Bundled) Units, the Software and/or the Service into any countries or regions in which the (Bundled) Units, the Software and/or the Service Packages (or any of them) have not received relevant national or supranational regulatory approvals that are required by any law in force in such a country or region. The Customer hereby indemnifies and agrees to keep indemnified and hold MiX Telematics, its employees, subcontractors and agents harmless from and against any and all claims, losses, fines, demands and/or any liabilities suffered or incurred by MiX Telematics arising directly or indirectly out of any breach by the Customer of any of its obligations under this clause 16.
- 16.3 Furthermore, the Customer shall not engage in any business or dealings with any embargoed countries, blocked or sanctioned persons, or individuals or entities listed as a sanctions target by the USA (for example, the USA Department of the Treasury's Office of Foreign Assets Control (OFAC)), by the United Kingdom, European Union or any other relevant country's legislation (including facilitating transactions with third parties that involve embargoed countries, blocked or sanctioned persons or entities).
- 16.4 Any breach by the Customer of any provision in this clause 16 will be deemed to be a material breach by the Customer.

### 17. CESSION AND ASSIGNMENT

- 17.1 MiX Telematics will be allowed to cede or assign all or any of its rights and obligations under this Agreement without written consent from the Customer.
- 17.2 The Customer must obtain MiX Telematics' consent should it wish to cede or assign all or any of its rights and obligations under this Agreement, which consent will not be unreasonably withheld.

### 18. GOVERNING LAW AND JURISDICTION

- 18.1 This Agreement shall be governed and shall be construed in accordance with the law of the Republic of South Africa.
- 18.2 The Customer hereby consents to the jurisdiction of the Magistrate's Court in terms of Section 45 of the Magistrate's Court Act of 1944, as amended, in respect of any proceedings which may be instituted by MiX Telematics against the Customer. Notwithstanding the foregoing, MiX Telematics shall be entitled to institute any proceedings against the Customer in any division of the High Court which has jurisdiction.
- 18.3 In the event of any legal action being taken by MiX Telematics for the recovery of amounts due by the Customer, the Customer shall be liable for all legal costs, including collection charges and tracing fees, on the scale as between attorney and own client.

### 19. TERMINATION AND BREACH

- 19.1 Should either party materially breach any provision of this Agreement and fail to remedy such breach within 14 (fourteen) days after receiving written notice requiring such remedy, then the other party shall be entitled without prejudice to its other rights in law including any right to claim damages, to cancel this Agreement.
- 19.2 MiX Telematics shall furthermore be entitled to terminate this Agreement forthwith by giving written notice if the Customer: -
- 19.2.1 is dissolved, deregistered or merges with any other entity for any reason; is placed under liquidation, judicial management, or similar disability in each event whether provisionally or finally and whether voluntarily or compulsorily;
- 19.2.2 commits any act which, if committed by a natural person, would constitute an act of insolvency;
- 19.2.3 is a natural person and dies.
- 19.3 In the event that the Customer terminates this Agreement, MiX Telematics shall be entitled to claim immediate performance by the Customer of all its obligations outstanding under this Agreement, which shall include but not limit, all Service Fees that would otherwise have become due and payable during the term of this Agreement.

### 20. DOMICILIUM AND NOTICES

- 20.1 The parties choose *domicilium citandi et executandi* ("domicilium") for all purposes relating to this Agreement, including the giving of any notice or the serving of any process at the addresses specified in the pre-amble to this Agreement.
- 20.2 Either party shall be entitled from time to time, by giving written notice to the other, to vary its physical domicilium to any other physical address (not being a post office box or poste restante), to vary its postal domicilium to any other postal address and to vary its facsimile domicilium to any other facsimile number.

### 21. GENERAL

- 21.1 This Agreement constitutes the sole record of the Agreement between the parties in relation to the subject matter hereof.
- 21.2 No addition to, variation, novation or agreed cancellation of any provision of this Agreement shall be binding upon the parties unless reduced to writing and signed by or on behalf of the parties.
- 21.3 No indulgence or extension of time which either party may grant to the other shall constitute a waiver of or, whether by estoppel or otherwise, limit any of the existing or future rights of the grantor in terms hereof, save in the event and to the extent that the grantor has signed a written document expressly waiving or limiting such right.

**SCHEDULE B – PRICING SCHEDULE**

	Product / Service	Quantity	Price (Excl. VAT)	Price (Incl. VAT)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

INITIAL

**SCHEDULE C – VEHICLE LIST**

	Vehicle Registration:	Vehicle Chassis	Engine Number	Driver Name	Contact: 1	Contact: 2	Contact: 3
1							
2							
3							
4							
5							
6							
7							
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22							
23							
24							
25							

INITIAL

### DEBIT ORDER AUTHORISATION AND DEED OF SURETYSHIP

#### DEBIT ORDER AUTHORISATION

ACCOUNT IN THE NAME OF .....	ACCOUNT NUMBER .....
BANK NAME .....	BRANCH .....
ACCOUNT TYPE .....	BRANCH CODE .....

I/We hereby authorise you to draw against my/our account with the above mentioned bank or branch the amount necessary for payment of the **Service Fee** applicable with respect to the services to be rendered in terms of the **Service Agreement** concluded between **MIX Telematics Africa (Pty) Ltd ("MIX Telematics")** and .....(name of **Customer**) dated ..... I am duly authorised to sign this debit order on behalf of the **Customer**.

Signed at ..... on this ..... day of .....

SIGNATURE USED FOR SIGNING CHEQUES ..... NAME IN PRINT .....

#### DEED OF SURETYSHIP

I, the undersigned, do hereby bind myself jointly and severally as surety and co-principal debtor in solidum for all amounts which are now or might in the future become payable by ..... to **MIX Telematics Africa (Pty) Ltd ("MIX Telematics")** arising out of or incidental to the **Service Agreement** signed on the ..... day of .....20.....

**I hereby expressly renounce the benefit arising from the legal exceptions of excussion and division and be duobus vel pluribus reis debendi, no value received and cession of actions and declare that I am fully acquainted with the meaning and effect thereof.**

I agree that I will be liable for all legal costs as between attorney and own client which **MIX Telematics** may incur as a result of my failure to discharge my indebtedness in terms of this deed of suretyship and I consent to the jurisdiction of the Magistrate's Court having jurisdiction over my person in respect of all proceedings connected with this suretyship. Notwithstanding the foregoing, **MIX Telematics** shall be entitled to institute any proceedings against me in any division of the High Court which has jurisdiction. For the purposes hereof I choose domicilium citandi et executandi for all notices and processes to be given and served in pursuance hereof, at the address mentioned below.

FULL NAME(S) .....

IDENTITY NUMBER .....

ADDRESS .....

SIGNATURE ..... DESIGNATION ..... DATE .....

INITIAL