



## END USER LICENSE AGREEMENT

This End User License Agreement, including all exhibits, policies, and documents incorporated herein (the "Agreement") is entered into on the date in which the End User places an Order for ORBCOMM Equipment and/or Data Services ("Effective Date"), by and between ORBCOMM, LLC ("ORBCOMM"), and the individual or entity ultimately procuring and directly utilizing the Equipment and/or Data Services (the "End User"). ORBCOMM and the End User may each be referred to herein as a "Party" or collectively as the "Parties."

The terms of this Agreement apply to any Order placed by End User, although certain terms apply exclusively to Equipment or Data Services, if specified. In addition, some Equipment and Data Services are also subject to Product-Specific Terms.

1. **Definitions.** All terms defined in this Agreement shall have the same meaning when used in any policy, procedure, or document incorporated herein by reference, unless otherwise defined in such incorporated policy, procedure, or document.
  - a. **"Activation"** means, with respect to a unit of Equipment, the configuration of the Equipment to start transmitting messages to and/or from an ORBCOMM website. Activation occurs upon ORBCOMM's action in response to notice from the End User (or End User's customer if End User is not the purchaser of the Data Service) to ORBCOMM's customer service center of units, identified by ORBCOMM identification number (provided with the Equipment), to be activated. This notice may be given by any method authorized in ORBCOMM's customer service procedures in effect at the time and communicated to End User either directly in writing or by posting on ORBCOMM's website.
  - b. **"Affiliate"** means with respect to a specified entity, an entity that directly or indirectly through one or more intermediaries, is controlled by that entity, in each case where the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract interest or otherwise.
  - c. **"Data Service"** means the provision to the End User of processed data derived from Equipment installed on relevant mobile or fixed assets using ORBCOMM's proprietary software, websites, and/or an optional direct data feed from ORBCOMM's servers, all as more fully described in the Data Service Terms and Conditions. End User's use of the Data Service is subject to the Data Service Terms and Conditions attached as Exhibit B, which are incorporated herein by reference.
  - d. **"Equipment" and/or "Unit(s)"** means the telematics units or other hardware, Software Components incorporated into such hardware, and Peripheral Devices provided by ORBCOMM. End User's purchase and use of any Equipment is subject to the Equipment Terms and Conditions attached as Exhibit A, which are incorporated herein by reference.
  - e. **"Intellectual Property"** means all trademarks, copyrights, patents, trade secrets and other ideas, data, inventions, discoveries, developments, enhancements, works of authorship, programs, and technical, business, and other information.
  - f. **"Peripheral Devices"** means any Equipment furnished by ORBCOMM to End User hereunder that was not manufactured by or specifically for ORBCOMM and carrying the ORBCOMM brand, such as batteries, temperature probes, door sensors, fuel sensors, antennas, cargo sensors, cabling, and conduits.
  - g. **"Product-Specific Terms"** means the product-specific terms that apply only to certain Equipment or Data Services, available at [orbcomm.com/en/productspecifictersms](http://orbcomm.com/en/productspecifictersms) and incorporated herein by reference.
  - h. **"Order"** means a purchase request for ORBCOMM Equipment and/or Data Services placed by an end user through a reseller or other authorized third party and subsequently submitted by the reseller to ORBCOMM for fulfillment.
  - i. **"Training"** means the provision by ORBCOMM to End User of training on the installation of the Equipment when End User has chosen to perform the Equipment installation and/or operation of the Data Services.
2. **Purchases Through Authorized Resellers.** End User may purchase ORBCOMM Equipment through an authorized reseller. Regardless of any terms agreed upon between End User and the reseller, the Parties agree that: (i) this Agreement shall govern End User's use of the ORBCOMM Equipment and/or Data Services, and any conflicting or additional terms in a purchase order or similar document issued by End User shall be null and void and have no force or effect; and (ii) if an Order placed through a reseller does not expressly reference this Agreement, End User's use of the ORBCOMM Equipment and/or Data Services shall be deemed acceptance of these terms by default.
3. **Termination.** Either Party may terminate this Agreement, if the other Party is in material breach of this Agreement and fails to cure such breach within sixty (60) days after written notice thereof. Any such notice of material breach shall be

in writing, identified as a notice of material breach, and specifically setting forth the term(s) of this Agreement alleged to have been breached.

#### **4. Confidentiality**

- a. "Confidential Information" means all documents, software, reports, data, records, forms and other materials obtained by one party (the "Receiving Party") from the other party (the "Disclosing Party") or at the request or direction of the Disclosing Party in the course of performing or proposing the applicable offering: (i) that have been marked as confidential; (ii) whose confidential nature has been made known by the Disclosing Party to the Receiving Party; or (iii) that due to their character and nature, a reasonable person under like circumstances would treat as confidential including, but not limited to, non-public information regarding a Disclosing Party's products, features, marketing, and promotions, as well as the terms of this Agreement and any pricing provided by ORBCOMM other than ORBCOMM's published list prices. Notwithstanding the foregoing, Confidential Information does not include information which: (1) is already known to the Receiving Party at the time of disclosure by the Disclosing Party; (2) is or becomes publicly known through no wrongful act of the Receiving Party; (3) is independently developed by the Receiving Party without benefit of the Disclosing Party's Confidential Information; (4) is received by the Receiving Party from a third party without restriction and without a breach of an obligation of confidentiality.
- b. The Receiving Party will deliver to the Disclosing Party or destroy all Confidential Information of the Disclosing Party and all copies thereof when the Disclosing Party requests the same, except for copies retained in work paper files or records, anything that may be stored in back up media or other electronic data storage systems, latent data, and metadata, the foregoing of which shall continue to be Confidential Information and subject to the restrictions herein. Except as otherwise set forth in this section 4, the Receiving Party shall not disclose to any person any Confidential Information of the Disclosing Party without the Disclosing Party's express, prior written permission; provided, that notwithstanding the foregoing, the Receiving Party may disclose Confidential Information to the extent that it is required or necessary to be disclosed pursuant to a statutory or regulatory provision or court or administrative order or to submit and process an insurance claim. In addition, the Receiving Party shall not decompile, disassemble, decode, reproduce, redesign, reverse engineer or create derivative works from any Confidential Information, samples or computer software containing Confidential Information or any part thereof.
- c. The Receiving Party may disclose the Disclosing Party's Confidential Information to its employees, contractors, consultants, advisors (collectively, "Representatives") subject to the confidentiality obligations imposed herein. Each Party shall exercise the same level of care to protect the other's information as it exercises to protect its own Confidential Information but in no event less than reasonable care. In the event of an actual or anticipated unauthorized disclosure, the Receiving Party will immediately notify the Disclosing Party upon discovery of any such unauthorized use or disclosure and will cooperate in any reasonable way to help the other Party regain possession of the Confidential Information and prevent further unauthorized use or disclosure.
- d. If the Receiving Party receives a subpoena or other validly issued administrative or judicial demand requiring it to disclose the Disclosing Party's Confidential Information, the Receiving Party shall, unless prohibited by law, provide prompt written notice to the Disclosing Party of such demand to permit it to seek a protective order. So long as the Receiving Party gives notice as provided herein, the Receiving Party shall be entitled to comply with such demand to the extent required by law, subject to any protective order or the like that may have been entered in the matter. In the event the Receiving Party is requested to testify or produce its documents relating to the Services hereunder pursuant to subpoena or other legal process in judicial or administrative proceedings to which it is not a party, or in connection with an informal inquiry or investigation with the consent of the Disclosing Party, the Disclosing Party shall reimburse the Receiving Party for its time and expenses, including reasonable attorney's fees, time and expense, incurred in responding to such requests.

#### **5. Intellectual Property.**

- a. All title and Intellectual Property rights in and to the Equipment, Data Service, Products, and Services are owned or licensed by ORBCOMM. Nothing in this Agreement grants End User any rights in and to any such Intellectual Property rights except for the limited rights expressly granted herein. End User will not copy, reproduce, reverse engineer, decompile, deconstruct or disassemble the Equipment or Data Service, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.
- b. End User is only granted a limited, personal, non-exclusive, non-transferable license to use the Software Components while resident on and in connection with the use of the Equipment for the sole purpose of obtaining and sending data

or commands in the operation of End User's (or End User's customer, if End User is not the purchaser of the Data Service) business over the internet or via direct linkage to End User's existing information systems through ORBCOMM's Data Service.

- i. "Software Components" means software and/or firmware programs or scripts embedded in the Equipment or otherwise furnished with or in connection to the Equipment by ORBCOMM but does not include ORBCOMM's Data Services. The Software Components are proprietary Intellectual Property owned by ORBCOMM or owned by a third-party provider and licensed to ORBCOMM. End User shall and shall not allow any third party to (i) make any copies; (ii) download; (iii) reverse engineer; (iv) decompile; or (vi) disclose, the Software Components to any third party. The Software Components are designed and licensed to End User solely for use in connection with ORBCOMM's Data Service. Any use or attempted use with any other data service whatsoever shall automatically terminate and cancel all of End Users rights and its license with respect to the Software Components.
- ii. End User shall have no rights in the Software Components except as expressly provided in this section.
- iii. To the extent that End User purchases, with ORBCOMM's approval, Equipment for installation on assets to be sold, rented, leased, or otherwise furnished by End User's customers, End User shall be permitted to sublicense the Software Components to its customers, but only on the same terms and subject to the same restrictions, stated in this section.

## **6. Infringement Indemnity.**

- a. ORBCOMM shall defend End User against any claim brought against End User by an unaffiliated third party alleging that the Equipment or Data Services, as provided by ORBCOMM, infringes or misappropriates any third party Intellectual Property rights, including without limitation, infringement of U.S. patent or trade secrets under U.S. law ("Claim") and will indemnify and hold End User harmless from any damages, losses, liabilities, reasonable attorney's fees, expenses and costs finally awarded against End User as a result of a Claim. Notwithstanding the foregoing, ORBCOMM shall have no obligation or liability for a Claim to the extent that the alleged Intellectual Property infringement(s) arises from (i) the combination, operation, or use of the Equipment with products not supplied by ORBCOMM except as intended or approved by the ORBCOMM specifications or installation instructions; (ii) alterations to the Equipment, which were not made or authorized by ORBCOMM; (iii) use of the Equipment in a manner not in accordance with the specifications or ORBCOMM's express directions; or (iv) the End User's use of aversion of Software Components where a more current version that would have avoided the infringement was made available by ORBCOMM. In the event End User is enjoined from using the Equipment in a final judgment by a court of competent jurisdiction in a Claim covered by this section 6.a, ORBCOMM shall, at its option and expense, (a) procure for End User the right to continue to use the Equipment; (b) replace or modify the Equipment so that it becomes non-infringing without reducing or altering the functionality of the Equipment in any material respect; or (c) give End User a refund in an amount equal to the fees paid by End User to ORBCOMM for the enjoined Equipment under this Agreement depreciated on a pro rata basis from the date of shipment.
- b. If any claim for which indemnity is or may be sought hereunder is made, End User agrees (i) to promptly notify ORBCOMM in writing; (ii) to cooperate with ORBCOMM; and (iii) to allow ORBCOMM sole authority to control the defense and settlement of such Claim; provided, however, that if the End User is a governmental entity subject to laws or regulations prohibiting ORBCOMM from controlling the defense, then (x) End User shall retain control over the defense as required by applicable law, and (y) ORBCOMM shall reasonably cooperate with End User in the defense of such claim.
- c. Except to the extent that section 6.a., applies, End User shall indemnify and save ORBCOMM harmless from and against losses, damages, liabilities, fines, penalties, and expenses (including reasonable attorneys' fees) that arise out any third party claim alleging that the manner of installing, configuring or using the Equipment and/or Data Services not in accordance with ORBCOMM's specifications or installation instructions or methods employed by End User through combining or integrating the Equipment and/or Data Services with non-ORBCOMM products or services infringes its patent, copyright or trademark, including, but not limited to, improper, false, and/or invalid patent, trademark, and/or copyright markings, misappropriation of trade secrets or other rights occasioned thereby.
- d. **THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF ORBCOMM FOR INFRINGEMENT AND IS IN LIEU OF ANY AND ALL WARRANTIES, CONDITIONS AND REPRESENTATIONS, EXPRESS OR IMPLIED OR STATUTORY IN REGARD THERETO.**

**7. LIMITATION OF LIABILITY.**

- a. IN NO EVENT SHALL ORBCOMM OR ITS THIRD-PARTY SERVICE PROVIDERS, INCLUDING THIRD PARTY TELECOMMUNICATION PROVIDERS AND MICROSOFT, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF PRODUCT, LOSS OF SERVICE, LOSS OF LOAD, COLLATERAL DAMAGE TO PROPERTY, BUSINESS INTERRUPTION, LOSS OF OR INCORRECT BUSINESS INFORMATION, LOSS OF DATA AND THE LIKE SUFFERED OR INCURRED BY END USER OR ANY THIRD PARTY. THIS LIMITATION APPLIES TO DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT, THE USE, PERFORMANCE, OR NON-PERFORMANCE OF ANY EQUIPMENT, SERVICES, OR FUNCTIONALITY PROVIDED HEREUNDER, OR ANY OTHER OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF WHETHER SUCH DAMAGES ARE STATUTORY, WERE FORESEEABLE OR ORBCOMM WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
  - b. ORBCOMM'S TOTAL LIABILITY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING THE EQUIPMENT, SERVICES, FUNCTIONALITY, OR USE OF ORBCOMM'S WEBSITES OR DATA FEEDS, SHALL NOT EXCEED THE LESSER OF: (A) THE AMOUNT PAID BY END USER FOR DATA SERVICES DURING THE SIX (6) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM, OR (B) IF THE CLAIM ARISES FROM EQUIPMENT, THE PRICE PAID BY END USER FOR THE EQUIPMENT THAT IS THE SUBJECT OF THE DAMAGE CLAIM. THE PARTIES ACKNOWLEDGE THAT NO OTHER RIGHTS OR REMEDIES (EXPRESS OR IMPLIED), INCLUDING BUT NOT LIMITED TO THOSE SET FORTH IN THE UNIFORM COMMERCIAL CODE, APPLY TO THIS AGREEMENT. THESE LIMITATIONS OF LIABILITY REFLECT THE ALLOCATION OF RISK AGREED UPON BY THE PARTIES AS A MATERIAL COMPONENT OF THE ECONOMIC BARGAIN.
- 8. Force Majeure.** Neither Party shall be held responsible for failure or delay in performance or delivery if such failure or delay is the result of an act of God, the public enemy, denial of service attack, embargo, governmental act (other than the failure to obtain permits from a governmental authority), fire, accident, war, riot, strikes, inclement weather or other cause of a similar nature that is beyond the control of the Parties. In the event of such occurrence, this Agreement shall be amended by mutual agreement to reflect an extension in the period of performance and/or time of delivery. Failure to agree on an equitable extension shall be considered a claim or controversy and resolved in accordance with section 17.
- 9. No Joint Venture.** The Parties hereunder are independent contractors, and nothing in this Agreement will be construed as creating a partnership, franchise, joint venture, employer-employee, or agency relationship. Neither Party shall have the right to and neither Party shall control the means or methods by which the other Party carries out its obligations under this Agreement or any Order.
- 10. No Third-Party Beneficiaries.** The provisions of this Agreement are for the benefit of the Parties and not for any other person or entity. In particular, a cross-reference in an Order to another person or entity who may be purchasing equipment or services to be used in conjunction with those purchased by the End User is not intended to, and shall not, constitute the referenced person or entity a party to or beneficiary of this Agreement or the referencing Order.
- 11. Network Changes.** ORBCOMM disclaims all liability including, but not limited to, Equipment functionality, in the event of technical, satellite or network changes made by a telecommunications carrier, satellite or government regulator to a telecommunications network that result in a End User's inability to continue to use, or the degradation of performance, of either the Equipment or Data Service. ORBCOMM will use commercially reasonable efforts to provide notice of such changes once notification by the applicable carrier has been received so that End User may plan for the transition.
- 12. Severability.** If any provision of this Agreement or any Order hereunder is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions will remain in full force and effect. The Parties intend that the provisions of this Agreement and Orders be enforced to the fullest extent permitted by applicable law. Accordingly, the Parties agree that if any provision is deemed not enforceable, it will be deemed modified to the extent necessary to make it enforceable.
- 13. Assignment.** This Agreement and any Order is binding on the Parties and their respective successors and assigns. Neither this Agreement nor any interests or obligations of End User shall be assigned or transferred (by operation of law or otherwise) without the prior written consent of ORBCOMM. ORBCOMM may, without the consent of End User, assign or delegate any of its interest or obligations hereunder.

- 14. Notices.** All notices between the Parties must be in English and in writing and will be deemed given as of the day they are received either by messenger, delivery service, or three (3) days after being deposited with a government run postage service, postage prepaid, addressed to the Party as specified above, or to such other addresses as the Party to receive the notice or request so designates by written notice to the other Party.
- 15. Marketing.** Each Party is prohibited from using in advertising, publicity, promotion, marketing, or other similar activity, any name, trade name, trademark, or other designation, including any abbreviation, contraction, or simulation, of the other Party without the prior written permission of the other Party. Notwithstanding the foregoing, ORBCOMM may identify End User by name on its customer list or similar marketing presentation.
- 16. Amendment.** This Agreement may not be amended or modified except in a signed writing by the Parties referencing this Agreement by name and Execution Date.
- 17. Governing Law and Venue.** The construction, interpretation, and performance of this Agreement, as well as the legal relations of the Parties arising hereunder, shall be governed by, and construed in accordance with the laws of the State of New York, without giving effect to the conflict or choice of law provisions thereof. Jurisdiction and venue for all proceedings relating to this Agreement or the subject matter hereof shall be proper and maintained in the courts of the borough of Manhattan in the state of New York, located in New York County, New York, New York, or the United States District Court for the Southern District of New York located in New York, New York, which courts shall have exclusive jurisdiction for such purposes. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Neither Party may bring any action for a claim under this Agreement later than one year after the termination of this Agreement; provided that claims under any provision of this Agreement that survive termination of this Agreement may be brought within one (1) year of the later of the occurrence of the event giving rise to the claim and actual knowledge thereof by the Party asserting such claim.
- 18. Compliance with Laws**
- a. Each Party will comply in all material respects with all applicable laws, rules, and regulations of any country or governmental authority with jurisdiction over the performance of its obligations under this Agreement. Additionally, each Party and its respective agents, Affiliates and subsidiaries shall at their own expense, and shall cause their respective employees to, comply with all applicable local, national, regional and international laws, ordinances, regulations, codes, standards, directives and international conventions and agreements to the extent that any of the foregoing have the force of law by being directly enforceable by a governmental authority, a court or other proper tribunal, (collectively "Laws"), including, as applicable, but not limited to all such requirements relating to: (a) data privacy; (b) information security; and (c) anti-bribery and records keeping laws, conventions and/or directives of each country in which such Party conducts business as it relates to this Agreement including, but not limited to, the U.S. Foreign Corrupt Practices Act ("FCPA"), the UK Bribery Act regarding offering of bribes or gratuities to any person, whether or not a government official, the Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials ("OECD") and the Organization of American States ("OAS") convention bilateral anti-corruption treaty (also known as the Inter-American Convention Against Corruption), including but not limited to offering of payment or transfer of anything of value as defined in the FCPA and other laws implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
  - b. End User agrees that in carrying out its duties and responsibilities under this Agreement, it will neither undertake nor cause nor permit to be undertaken, any activity which either (i) is illegal under any laws, decrees, rules, or regulations in effect in any applicable countries; or (ii) would have the effect of causing ORBCOMM to be in violation of any laws, decrees, rules, or regulations in effect in applicable countries.
  - c. End User acknowledges and agrees that, in some countries, End User's acquisition, utilization, or provision to a third party of Data Services or Equipment may constitute a regulated telecommunication undertaking. Accordingly, End User, its respective agents, Affiliates, and subsidiaries shall at their own expense, and shall cause their respective employees to obtain and/or maintain any required authorization where the proposed activity to be undertaken by End User hereunder would otherwise be prohibited or restricted by applicable law or regulation.
  - d. End User agrees at all times to comply with all applicable laws or regulations, as they may exist from time to time, regarding export licenses or the control or regulation of exportation or re-exportation of products or technical data sold or supplied to End User. In the case of an international sale, that is, one in which End User has designated a destination address for Equipment or technical data that is outside the United States, ORBCOMM shall be responsible for obtaining any required export licenses from the United States Government to cover such sale to such designated

destination. End User shall be responsible for obtaining from all necessary governmental authorization to import the Equipment or technical data to such designated destination. End User shall not violate the terms of any applicable export authorization, divert or suffer the diversion of any shipment of Equipment or technical data from its designated destination and shall not otherwise export (as the term is defined in applicable United States laws), re-export, re-import, or forward any Equipment or technical data without first obtaining all necessary prior authorization from the United States Government and/or any other government with jurisdiction over such transaction. To the extent that End User purchases, with ORBCOMM's approval, Equipment for installation on assets to be sold, rented, leased, or otherwise furnished by End User's customers, End User shall use commercially reasonable efforts to ensure that such end users shall comply with the obligations set forth herein, including this section 18.

- 19. No Waiver.** The waiver by either party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any other breach by that party, whether prior or subsequent. Any waiver of any provision of this Agreement must be expressly authorized in writing by the Party whom the waiver is being enforced against.
- 20. Survival.** Sections 4, 5, 7, and 17, together with any other provisions of this Agreement which by their nature are intended to survive termination or expiration, shall survive and remain in full force and effect following the termination or expiration of this Agreement.
- 21. Integration.** THIS AGREEMENT, INCLUDING ALL RELATED EXHIBITS, TERMS AND CONDITIONS, OR POLICIES INCORPORATED HEREIN REPRESENTS THE PARTIES' ENTIRE AGREEMENT AND CANNOT BE MODIFIED EXCEPT BY A WRITING SIGNED BY A DULY AUTHORIZED REPRESENTATIVES OF BOTH PARTIES.

## EXHIBIT A

### EQUIPMENT SALE TERMS AND CONDITIONS

#### 1. Limitations of Technology/Equipment Limitations

- a. End User acknowledges the following inherent technical limitations relating to Equipment use. The existence of unfavorable conditions, such as weather and geographical factors and other atmospheric conditions can interrupt Equipment functionality and interfere with complete service area coverage at all times. Other environmental issues including, but not limited to service interruptions, poor coverage areas, network congestion, roaming and other wireless access issues may affect Equipment performance. Moreover, if Equipment is moved out of an available service area, communication with that Equipment will be unavailable until it returns to the available service area. In addition, the GPS antenna in Equipment must have a radio frequency link to the GPS satellites in order to function properly. The Equipment has many complex elements and are not guaranteed against eavesdroppers, hackers, service attacks, viruses, or interception. End User agrees to inform all users of Equipment, that ORBCOMM shall not be liable for any lack of privacy or security resulting from use of the Equipment.
- b. The Equipment is based on technology which may become obsolete in the future as a result of changes in wireless technology or actions by telecom regulators. In such event, ORBCOMM shall have no obligation to issue a refund or furnish replacement Equipment.

#### 2. Limited Warranty and Disclaimers

- a. ORBCOMM warrants to End User that on the date each unit of Equipment is shipped, it shall comply with the applicable ORBCOMM SKU description and be free from defects in material or workmanship, subject to the terms and conditions set forth in the remainder of this section (the "Warranty"). This Warranty, subject to the Warranty Policy attached as Exhibit C, which may be amended from time to time, shall apply only to defects which appear within twelve (12) months from the earlier of the date of Activation or ninety (90) days from date of shipment (in each case, the "Initial Warranty Period"), and of which End User notifies ORBCOMM in writing within thirty (30) calendar days after End User's discovery of the defect. At End User's option and expense, End User may purchase an extended warranty from ORBCOMM with respect to a particular unit of Equipment (the "Extended Warranty"). The terms, conditions, and procedures of the Extended Warranty are otherwise the same as those of the Warranty. The End User's purchase of an Extended Warranty will be indicated in the applicable Order.
- b. ORBCOMM MAKES NO WARRANTIES OTHER THAN THAT EXPRESSLY STATED IN THIS SECTION. ORBCOMM DISCLAIMS ALL OTHER WARRANTIES AND STATUTORY OR OTHER IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR TITLE; IMPLIED WARRANTIES AGAINST CLAIMS OF PATENT INFRINGEMENT OR THE LIKE; AND ANY IMPLIED WARRANTY OR VARIANCE FROM THE TERMS OF THE EXPRESS WARRANTY STATED HEREIN ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. TO THE EXTENT THAT APPLICABLE LAW DOES NOT PERMIT ORBCOMM TO DISCLAIM ANY PARTICULAR IMPLIED WARRANTY, THE TERM OF SUCH IMPLIED WARRANTY IS LIMITED TO THE TERM OF THE EXPRESS WARRANTY STATED HEREIN AND CLAIMS UNDER SUCH IMPLIED WARRANTY ARE SUBJECT TO THE PROCEDURES STATED HEREIN FOR CLAIMS UNDER THE EXPRESS WARRANTY.

**EXHIBIT B****DATA SERVICE TERMS AND CONDITIONS****1. Nature of the Data Service**

- a. ORBCOMM's Data Service gathers data from Equipment installed on End User's assets, processes that data, and makes it available to the End User in useful form through proprietary software and computer hardware resources, ORBCOMM's websites, and/or, if ordered, optional direct feed to End User's existing information systems, subject to the payment of additional fees. It also may permit the End User to send data and/or commands to certain types of End User asset on a machine-to-machine basis. The Data Service includes data query, mapping, and other analytic functionalities and is not offered as a raw data feed from the Equipment.
- b. Although pricing for the Data Service is sometimes stated in terms of data or message volumes, the Data Service is not "airtime" or a simple telecommunications service. ORBCOMM consumes telecommunications service in order to collect the data from the Equipment so that ORBCOMM can provide the Data Service, but End User is not a purchaser of that telecommunications service, which is entirely arranged and paid for by ORBCOMM as a part of its costs of service. End User acknowledges that End User has no contractual relationship or right with respect to the carrier providing the telecommunications service between its Equipment and ORBCOMM or to the telephone numbers assigned to facilitate that service, that the carrier is in no event liable to End User with respect to the performance or nonperformance of such telecommunications services, and that ORBCOMM is not a provider of telecommunications services and does not control the network over which the data passes from the Equipment to ORBCOMM's computers. For international service, some countries will not recognize ORBCOMM as the consumer of the telecommunications service and may consider any provision of the Data Service by End User to its local customers or end users to be a regulated resale of telecommunications services. In such countries, End User will be responsible at its sole expense to obtain and maintain or cause its local dealer or affiliate to obtain and maintain, the necessary telecommunications license for provision of the Data Service to its local customers or end users.
- c. Data Service is only provided for assets belonging to End User or its affiliates and furnished with Equipment. It is not designed to be or offered as compatible with any other data source and any attempt to connect any other data source to the Data Service is a violation of these license terms and is cause for immediate termination of all Data Service to the End User without refund of amounts previously paid.

**2. Access to the Data Service**

- a. Subject to the terms of this Agreement, ORBCOMM will provide End User with access to the Data Service on a limited, non-exclusive, revocable basis, for use solely for End User's internal business purposes and those of End User's affiliates under End User's ownership or under common ownership or control with End User.
- b. ORBCOMM will provide End User with unique access credentials to: (a) enable the End User's application users to access the Data Service; and (b) provide End User access to an administrative customer service site (collectively, "Access Credentials"). End User will not make its Access Credentials available to any third party other than a third party authorized to act on its behalf and agrees to safeguard the secrecy of its Access Credentials including making password changes periodically or upon material personnel changes. End User is fully and primarily responsible for all use of the Data Service through its Access Credentials.
- c. End User shall be solely responsible for providing, at its own cost and expense, all equipment and telecommunications service necessary to use the Data Service including computers, modems, and Internet access. End User assumes the responsibility to make sure that its computers and related systems have the capacity to receive the Data Service through the ORBCOMM websites and to correct promptly any problems with such computers and related systems that interfere with or prevent the use of the same.

**3. Use of the Data Service**

- a. End User does not have the right to resell the Data Service or act as a service bureau with respect to the Data Service or any component thereof. All rights, including rights of use, not specifically granted under this Agreement are reserved by ORBCOMM and its suppliers. End User must clearly display the following message: "ORBCOMM Network Information Services" in a clearly visible location on any End User derivative work, or application that uses ORBCOMM Data Service

for content or information. The End User shall not re-sell ORBCOMM Data Service data or information content, in any derivative work or application, accessible to anyone not directly employed by End User or its affiliates.

- b. End User will not use the Data Service: (i) in connection with the transmission, sale, license or delivery of any infringing, defamatory, offensive, or illegal products, services or materials; (ii) in any manner that threatens the integrity, performance, or availability of the Service, including, without limitation, knowing transmission of any virus, worm, Trojan, or other harmful code, attempting to gain unauthorized access to any ORBCOMM systems or data, or engaging in any type of denial-of-service or other cyber-attack on the ORBCOMM systems; or (iii) in violation of local, state, federal or equivalent privacy or other regulations.
- c. To the extent that any data derived from Equipment installed on End User assets is considered personal data subject to privacy laws or regulations by any country in which the Equipment is used, End User represents and warrants that it: (a) will comply with the provisions of such data privacy laws and regulations, including but not limited to having a sufficient legal basis for processing personal data; and (b) has obtained and will continue to obtain, update, and maintain adequate consent from the individuals to whom such data relates for ORBCOMM to receive, process, and make such data available through the Data Service.
- d. End User's use of the Data Service will be subject to the data practices set forth in the ORBCOMM Privacy Policy as posted from time to time on ORBCOMM's website <http://www.orbcomm.com/en/privacy-policy> (the "Privacy Policy"). ORBCOMM reserves the right to use the information and data to improve its Equipment, Data Services, products, and solutions, and for other industry purposes, provided that ORBCOMM ensures that the origin of such data is and remains anonymous, unless otherwise agreed to by the End User. End User's responsibilities as a data controller and ORBCOMM's responsibilities as a data processor under the General Data Protection Regulation (GDPR) are detailed in the Data Privacy Addendum ("DPA"), available at <https://www.orbcomm.com/uploads/files/pdf/data-privacy-addendum.pdf>. The DPA, incorporated into this Agreement by reference, governs ORBCOMM's processing of data as part of the Data Service.
- e. ORBCOMM may, in its sole discretion, make feature or functionality updates to the Data Service from time to time. ORBCOMM will provide advance notice of such Data Service updates and will make commercially reasonable efforts to identify Data Service updates that may require modifications to End User's applications that interface with it. For those types of updates (such as a major version release, e.g., v1.0 to v2.0) that ORBCOMM reasonably believes will necessitate significant modification of interfacing applications of all users of the Data Service, ORBCOMM will maintain the immediately previous version (one version back) of the Service for no less than twelve (12) consecutive months starting from the date of release of the new version. End User's failure to upgrade its interfacing applications to be compatible with the latest version of the Data Service during this time may result in an interruption or termination of End User's access to the Data Service without liability on the part of ORBCOMM.
- f. Data Retention. Until Equipment/Unit is removed from the Data Services, or this Agreement is cancelled, terminated, or expires, ORBCOMM will make End User's data available to End User through online access for a period of twelve (12) months from the date that the relevant data is generated. Thereafter ORBCOMM will archive and retain such data for twelve (12) months and, upon End User's request, will retrieve and make available such data, if End User pays ORBCOMM's then-standard, applicable retrieval service rates.

#### **4. Term and Termination of Data Service**

- a. The term of Data Service is determined on a unit-by-unit basis. Each unit of Equipment for which the End User desires Data Service must be listed on an Order accepted by ORBCOMM.
- b. For each unit of Equipment within an Order, the term of Data Service commences upon the earlier of Activation or thirty (30) days from the date of shipment. End User will not have access to the Data Service until the applicable Device is activated. Notwithstanding the above, for advance annual payment terms the term of the Data Service begins upon shipment. Data Service fees begin on the first day of the month in which Activation occurs and ends on the last day of the month in which deactivation occurs, without proration.
- c. Service may be suspended immediately to all of End User's units upon notice if the End User is in material breach of 3.b or 3.c. of these Data Service Terms and Conditions. End User may terminate any Order for Data Service hereunder within thirty (30) days following any material revision by ORBCOMM of the Privacy Policy referenced in sections 3.d. of these Data Service Terms and Conditions, if such revision is materially inconsistent with the previous version of ORBCOMM's

Privacy Policy. Upon termination of this Agreement for breach, all rights granted to End User under any Order will immediately terminate and End User shall cease to use the Data Service and all Intellectual Property of ORBCOMM. Notwithstanding the foregoing, the terms of this Agreement will apply to continued use of the Data Service by End User following the termination or expiration of any Order for Data Service.

**5. Disclaimer of Warranties**

ORBCOMM AND ITS THIRD PARTY SERVICE PROVIDERS, INCLUDING BUT NOT LIMITED TO MICROSOFT, MAKES NO WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE DATA SERVICE AND DISCLAIM ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR AGAINST CLAIMS OF PATENT INFRINGEMENT OR THE LIKE AND ACCESS TO AND USE OF THE ORBCOMM DATA SERVICES, ARE PROVIDED "AS IS." ORBCOMM AND ITS LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES THAT THE OPERATION OF THE DATA SERVICE WILL BE UNINTERRUPTED OR ERROR FREE AND ORBCOMM AND ITS LICENSORS MAKES NO WARRANTY THAT THE DATA SERVICE WILL OPERATE PROPERLY AS INTEGRATED WITH END USER'S SYSTEMS AND APPLICATIONS. END USER ACKNOWLEDGES THAT TEMPORARY INTERRUPTIONS OF THE DATA SERVICES AVAILABLE THROUGH THE ORBCOMM WEBSITES OR OTHERWISE TO END USER MAY OCCUR AS NORMAL EVENTS.



## EXHIBIT C

### WARRANTY POLICY

- a. This Warranty does not cover defects or nonconformity caused by abuse, tampering, mishandling, accident, improper storage, installation, application, operation, maintenance, temperature, humidity or other environmental condition, or the malfunction of another component or part (including any software or firmware) of any device in which the Equipment is installed or with which the Equipment interfaces, nor does it extend to Equipment which has been modified or repaired by anyone except ORBCOMM or its authorized service representative, or whose serial numbers or identification marks have been altered or removed, or defects or nonconformity resulting from the withdrawal or discontinuation of cellular service, communication standards, or technologies by major carriers.
- b. Repaired or replaced Equipment shall be warranted for the longer of either (i) the remainder of the original warranty period, or (ii) ninety (90) days from the date of shipment of the repaired or replaced Equipment.
- c. ORBCOMM's sole obligation, and End User's sole and exclusive remedy for defective or nonconforming Equipment is repair, replacement, or credit in an amount equal to the fees paid by End User to ORBCOMM for the Equipment under the applicable Order depreciated on a pro rata basis from the original date of shipment (not including any shipping or service charges associated therewith) at ORBCOMM's option under the terms of this Warranty, and such repair, replacement, or credit shall satisfy ORBCOMM's entire obligation to End User for defective or nonconforming Equipment and liability to or through End User, whether in contract, tort, negligence, strict liability or otherwise.
- d. Prior to returning Equipment for warranty adjustment, End User shall contact ORBCOMM customer support who will troubleshoot and attempt remote repair of Equipment. In the event that remote repair is not possible ORBCOMM customer support will request a return authorization number on behalf of End User. ORBCOMM will issue an RMA number and return shipping instructions to End User by email. The return authorization number shall be placed by End User conspicuously on the outer package shipping label and the returned Equipment shall be shipped to the warranty administrator at the address designated by ORBCOMM in the return authorization. ORBCOMM will provide End User with a return order form, a copy of which must be placed inside the packaging and included with the returned Equipment. Provided that the Equipment is non-operational for reasons covered by this Warranty, ORBCOMM will ship the replacement Equipment at no cost to the End User as soon as practicable after the RMA is issued. ORBCOMM may replace the original Equipment with a different model, as long as the replacement Equipment is capable of delivering End User's data in accordance with this Agreement. End User acknowledges that ORBCOMM agrees to ship replacement Equipment in advance of receiving the allegedly non-operational Equipment for the convenience of the End User, and that receipt of the allegedly non-operational Equipment by ORBCOMM is a requirement. If ORBCOMM does not receive the original allegedly non-operational Equipment for which the RMA was issued within thirty (30) days of the shipment of the replacement Equipment, End User shall be invoiced for and shall pay the then-current cost of the replacement Equipment and shipping costs for the Equipment.
- e. End User is responsible for any costs and risks of de-installation of the Equipment and End User shall return allegedly defective Equipment for which a return authorization number has been obtained to ORBCOMM's designated warranty administration facility with shipping charges prepaid by End User. ORBCOMM shall reimburse End User for those shipping charges (but not the costs or risks of de-installation) if the returned Equipment is found to be defective or nonconforming and the defects or nonconformities are covered by this Warranty.
- f. If returned Equipment is found to be conforming and not defective, then ORBCOMM shall ship the Equipment back to End User and shall invoice End User and End User shall pay the costs of testing as set forth in the Agreement or applicable SOA and return shipment.
- g. If returned Equipment is found to contain a defect which is not covered by this Warranty, then ORBCOMM shall provide a written quotation showing the estimated costs of repair or the price of a replacement. If End User does not provide instructions as to disposition of the Equipment within thirty (30) days from receipt of the quotation, then ORBCOMM shall ship the Equipment back to End User and invoice End User and End User shall pay the costs of testing and return shipment.
- h. If returned Equipment is found to be defective or nonconforming and the defect or nonconformity is covered by this Warranty, then ORBCOMM shall, at its option and at no charge to End User, repair or replace the Equipment or offer End

User the choice of a credit in an amount equal to the fees paid by End User to ORBCOMM for the Equipment under this Agreement depreciated on a pro rata basis from the original date of shipment, exclusive of any associated shipping or service charges. Following the repair or replacement, ORBCOMM shall ship the Equipment back to End User at ORBCOMM's expense. End User is responsible for all costs and risks of installation of the repaired or replaced Equipment.