



## SPECIAL TERMS AND CONDITIONS – ISATDATA PRO

This document is attached to and forms a part of the Master Purchase Agreement (“Master Agreement”) between Customer and ORBCOMM. All capitalized terms not otherwise defined herein have the meanings assigned to them in the Master Agreement. These Special Terms and Conditions apply only with respect to IsatData Pro Service provided by SkyWave Mobile Communications, Inc. an ORBCOMM company, through ORBCOMM Networks LLC (“Company”) that are resold by Customer to its customers in connection with its Service Application(s) under the Master Agreement (“Isat Services”). The Isat Services are offered to Customer and/or Reseller by ORBCOMM and Customer acknowledges that it has no contractual relationship with Isat or any of its subsidiaries or affiliates as a result of entering into or performing under the Master Agreement. The Master Agreement, including without limitation these Special Terms and Conditions, sets forth the legal rights and obligations governing ORBCOMM's offer, provisioning and delivery of Isat Services and Products and Customer's receipt and resale thereof to its customers in connection with its Service Application(s).

### 1. Definitions

- a. **“Branding Guidelines”** means guidelines for the use of the SkyWave Marks under the Trademark License Schedule as issued from time to time by SkyWave and communicated to Customer by SkyWave or ORBCOMM.
  - b. **“Customer”** means the Customer and/or Reseller, as defined in the Master Agreement or the Reseller Agreement (as applicable) which this forms a part of.
  - c. **“Network Services”** has the meaning assigned in the preamble and is further defined by Annex 1, attached and incorporated by reference, entitled “Service Description.”
  - d. **“Products”** means modems, telematics units, electronic modules and other hardware manufactured by or for SkyWave and sold to Customer by ORBCOMM under an Equipment Exhibit to the Master Agreement.
  - e. **“SkyWave Marks”** means the trade names, trademarks, service marks and logos as set forth by SkyWave in the Trademark License Schedule and communicated to Customer by ORBCOMM from time to time.
  - f. **“Trademark License Schedule”** means the terms contained in Annex 2 hereto and incorporated by reference into these Special Terms and Conditions and the Master Agreement.
2. **SkyWave Marks.** Customer agrees not to, and shall procure that any Subscriber does not, use the SkyWave Marks. Customer acknowledges and agrees that SkyWave retains all the right, title and interest in the SkyWave Marks. Breach of the provisions of this Section 2 by Customer, its customers or any Subscriber shall be cause for immediate termination of Network Services to Customer or the offending Subscriber.
3. **Claims affecting SkyWave.** Upon a breach by Customer, its customers or Subscriber of its obligations under the Master Agreement or its customer Contract that results in a loss to SkyWave, Customer shall permit ORBCOMM to assign to SkyWave its rights under such agreement to recover such loss directly from Customer, its customers or Subscriber in question.

### 3. Indemnification.

- a. Customer will defend, indemnify, and hold the ORBCOMM and SkyWave harmless against any claims against any of them for loss, damage, liability, or expense (including reasonable attorneys' fees) arising out of or related to (i) any representations, acts, or omissions of Customer in connection with its activities under this Agreement, including without limitation the failure by Customer, its customer or a Subscriber to comply with applicable laws and regulations; (ii) any violation or breach by Customer or a Subscriber of the provisions of Section 2, above; (iii) any claims against the Customer by third parties related to this Agreement; and (iv) any claim, suit or proceeding brought against the Company or SkyWave claiming that the Network Services or Documentation to the extent based on the manner in which modified, altered or combined by Customer, with any equipment, device or software not supplied by ORBCOMM is likely to or

constitutes an infringement because of such modification, alteration or combination. Customer's liability to indemnify under this subsection a. be reduced to the extent that such loss, damage, liability, or expense was caused or contributed to by the negligence of SkyWave, ORBCOMM, or their respective employees, or agents.

- b. The Customer will defend, indemnify, and hold SkyWave harmless against any claims against SkyWave for loss, damage, liability, or expense (including reasonable attorneys' fees) arising out of or related to any violation or breach by the Customer or Service Provider of the Trademark License Schedule.
  - c. ORBCOMM will defend or settle, at its own expense, any action brought against Customer to the extent that it is based on a claim that Network Services and Documentation infringe any patent, copyright, trade secret or any other intellectual or industrial property right. ORBCOMM will pay all costs and damages resulting from such claim which are finally awarded against Customer, or agreed to in settlement by ORBCOMM, PROVIDED THAT: (a) ORBCOMM is notified in writing by Customer within ten (10) days of the date on which Customer became aware of the claim; (b) ORBCOMM has sole control of the defense of any claim, and all negotiations for its settlement or compromise; (c) the claim does not result from: (i) modification of the Network Services or Documentation by any party other than ORBCOMM or SkyWave; (ii) combination, operation or use of Network Services or Documentation with products, services, hardware, software or processes not supplied by the ORBCOMM pursuant to this Agreement; or (iii) use of the Network Services other than in accordance with ORBCOMM's instructions; (d) Customer has not made and does not make any admissions in respect of such alleged infringement; (e) Customer executes all necessary documentation and provides all such assistance as ORBCOMM may reasonably require; and (f) ORBCOMM's liability under this Clause c. shall be limited to the extent that the ORBCOMM is indemnified by SkyWave against such costs and damages resulting from such claim. THE FOREGOING ARE ORBCOMM'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO ALLEGED OR PROVEN INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS.
  - d. If, in the event of any claim subject to this Section 3, the applicable law does not permit the indemnifying party to defend the claim as contemplated herein, then the indemnified party shall conduct its defense under instructions from the indemnifying party and shall not make any admissions, settlements or compromises without the prior written consent of the indemnifying party.
4. **Product Warranties.** Notwithstanding any other provision of the Master Agreement, these Special Terms and Conditions, or any Equipment Exhibit, Products are warranted by SkyWave and/or ORBCOMM only for use in connection with Network Services and any other use voids all warranty coverage
  5. **Flow-Down Terms.** Customer shall flow down all of the terms and conditions contained in Sections 6(h) of the Agreement, to its Subscribers in its Subscriber Contracts.
  6. **Changes to Pricing Rate Schedule.** ORBCOMM may change the applicable Pricing Rate Schedule for Network Services upon thirty (30) days advance written notice (which may be given by email) to Customer, unless a shorter notice period is provided in the Master Agreement.

**[End of Special Terms and Conditions – IsatData Pro – Annexes Follow]**

## Annex 1

### 1. *IsatData Pro*<sup>1</sup> Network Service Description

The Pricing and Market Segments set out in this Network Service Schedule apply only to the IsatData Pro Network Services and IDP terminal Products supplied by SkyWave to ORBCOMM Networks, LLC (“Company”) for resale to Customer.

### 2. **PRODUCT DEFINITIONS**

#### a. **Terminal**

A Company IsatData Pro Terminal (“Product”) is a satellite transceiver with integrated GPS, and optional cellular communications. All terminals purchased hereunder are warranted for use only with Network Services (as described below) supplied by Company or its Affiliate.

#### b. **Network Services**

1. The IsatData Pro network service is an Inmarsat branded messaging service developed and operated by Company that uses the Inmarsat network of geostationary communication satellites. Service coverage is provided on Inmarsat’s I4 satellites. In some areas overlapping traffic coverage may be provided on overlapping regional I3 spot beams.
2. “To-Mobile” messages are messages from Company’s gateway (“Gateway”) to a specific IsatData Pro terminal or modem (IsatData Pro terminal or modem hereinafter referred to as “Mobile”). Application Provider sends the To-Mobile message to the Gateway. The message is then passed to the land earth station (“LES”) for transmission, via the appropriate satellite to the Mobile. The Gateway may limit the number, size and priority of messages Customer can send to each Mobile. To-Mobile messages vary from 1 to 10,000 bytes with one byte resolution. The To-Mobile message has a minimum billing size.
3. “From-Mobile” messages are transmitted from the Mobile to the Gateway via the satellite and LES. The message is stored in the Gateway Account (as defined hereinafter) on the Gateway until retrieved by the Customer’s application server or until the message ages. From-Mobile messages vary from 1 to 6,400 bytes with one byte resolution. The From-Mobile message has a minimum billing size.
4. The Customer accesses the Gateway using a Company supplied, SOAP compliant protocol over HTTPS or HTTP. Company recommends using HTTPS for improved security.
5. “Gateway Account” is the logical mailbox on the Gateway. This mailbox stores From-Mobile messages and accepts To-Mobile messages for delivery. Multiple applications provided by a single Customer can connect to the same Gateway Account. Access authentication is an access number and password. The access number and password is assigned by Company support.
6. A “Mobile Activation” is the act of provisioning a Mobile to exchange messages with a Gateway Account. Such a Mobile is said to be “Subscribed”. A Mobile can only be Subscribed to one Gateway Account. A Mobile must be Subscribed to send and receive messages to the Customer application.
7. The Network Services include a support site that provides management tools such as activation and de-activation for Mobiles.
8. “Pricing Rate Schedule” means the schedule of prices for IsatData Pro services available to Customer that is attached to the applicable Carrier Exhibit to the Master Agreement, as amended from time to time per the Master Agreement and Special Terms and Conditions – IsatData Pro.
9. Company’s billing system provides billing records summarized by data plan level on a monthly basis for each Mobile activated on the Company Network. Multiple Gateway Accounts can be associated with a data plan.
10. All To-Mobile and From-Mobile messages (excluding broadcast messages) are acknowledged.
11. “Broadcast Messages” are unacknowledged messages sent from the Gateway addressed to a pre-selected list of terminals defined by a Broadcast ID. A Broadcast ID is a unique IsatData Pro identifier that can be

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<sup>1</sup> IsatData Pro is an Inmarsat trademark. A separate agreement needs to be signed to use the trademark IsatData Pro.

programmed into any number of Mobiles within the same Gateway Account which may be operating in different satellite beams. For billing purposes, when a Broadcast Message is sent, the data transmitted in the message will be multiplied by each satellite beam in which the message is transmitted. The Customer is

12. responsible for understanding the beam configuration of the IsatData Pro network, the geographic location of its mobiles and selecting the satellite beam(s) for each Broadcast Message.
13. A "Broadcast ID activation" is the act of provisioning the Gateway to allow it to transmit Broadcast Messages to a group of Mobiles.
14. IsatData Pro and the Lua environment make special use of two bytes of user payload in each message.
15. In some jurisdictions, Company may be required to provide the Network Services indirectly through an independent licensed party to conform to local laws and regulations. Network Services pricing in this Product Schedule applies only to Network Services provided directly by Company.
16. IsatData Pro Network Services are subject to availability. IsatData Pro Network Services may not be available for reasons including but not limited to:
  - a) a blockage of satellite coverage by man-made or natural structures;
  - b) satellite or other communications facilities failures, limitations, equipment outages or scheduled maintenance;
  - c) regulatory requirements or notification of harmful interference; or
  - d) failure of Company's service providers to provide such service for any reason.

#### **4. PRICING**

The following IsatData Pro Network Services are available from Company, for resale at the suggested prices below:

All Pricing is in US dollars.

#### **5. Network Services**

ORBCOMM provides the Network Services to its customers under arrangements with Company.

Company offers a number of data plans. Each plan is associated with a Solution Provider Identification Number (SPID). SPID account numbers are assigned by Company. Inmarsat is responsible to ensure that Mobiles are subscribed to the correct SPID.

Company generates a monthly invoice for each SPID. The invoice is for Network Services in the calendar month. The calendar month is based on the Coordinated Universal Time (UTC) time standard.

#### **6. Activation Fees**

Activation Fees for Gateway Accounts, Mobile and Broadcast ID are listed in the Pricing Rate Schedule. A Gateway Account Activation is the act of creating a Gateway Account to send and receive messages. Once a Gateway Account is created, Mobiles and Broadcast IDs may be activated, associated with a Gateway Account.

## **7. Data Plans**

Company offers three data plan types

- Individual Plans
- Pooled Plans
- Broadcast Data Plans

All plans have a Subscription Fee, Data Inclusion and an Overage Fee. For Individual Plans, the Data Inclusion and Data Overage are calculated for each Mobile. For Pooled Plans, the Data Inclusion and Data Overage are shared amongst all Mobiles in the pool and calculated based on the totals from all Mobiles. Each data plan requires at least one Gateway Account.

The following rules are applied when calculating invoiced charges for all data plans:

- a) Minimum billable message size is fifteen (15) bytes with one (1) byte increments;
- b) Data Consumption is rounded up to nearest ten (10) bytes on a per Mobile and per Broadcast ID basis;
- c) Data Overage is only applicable if Data Consumption exceeds Data Inclusion;
- d) Data Overage Fee is applied on a per byte basis;
- e) There is no carry-forward of unused Monthly Data Inclusion; and
- f) Broadcast inclusions cannot be mixed with Individual or Pooled inclusions

### ***Individual Plans***

CDR product codes and pricing for Individual Plans are set out in the Pricing Rate Schedule to the extent available to Customer. Each Mobile is charged a monthly Subscription Fee, corresponding to the Per Mobile Subscription Fee, which allocates a Per Mobile Data Inclusion to each Mobile. Each Mobile's Data Consumption is calculated by summing the Mobile's data transmitted and received. Once each Mobile's Data Consumption is calculated, its Data Overage is calculated as the difference between its Data Consumption and its Per Mobile Data Inclusion. The Mobile's Data Overage Fee is the Mobile's Data Overage multiplied by the Overage Fee. Each Mobile is invoiced for its Subscription Fee and its Data Overage Fee.

### ***Pooled Plans***

Prices for the various Pooled Plans, to the extent available to Customer, are also set out in the Pricing Rate Schedule. A Pooled Plan's monthly Subscription Fee is equal to the Per Mobile Subscription Fee times the number of Subscribed Mobiles. The Subscription Fee allocates a Data Inclusion to the pool. The Data Inclusion is equal to the Per Mobile Data Inclusion times the number of Subscribed Mobiles. Data Consumption is calculated by summing the total user data transmitted and received by all Mobiles. Once a Pooled Plan's Data Consumption is calculated, the Data Overage is calculated as the difference between the Data Consumption and the Data Inclusion. The Data Overage Fee is the Data Overage multiplied by the Overage Fee. The Pooled Plan's invoice is the sum of its Subscription Fee and its Data Overage Fee.

### ***Broadcast Data Plans***

Broadcast Data Plans are optional plans that can be assigned to a SPID. A SPID can only have one Broadcast Data Plan. The Pricing Rate Schedule lists the Broadcast Data Plans, if any, available to Customer. All Broadcast Data Plans are pooled plans; there are no individual broadcast plans.

A Broadcast Data Plan's monthly Subscription Fee is equal to the Per Broadcast ID Subscription Fee multiplied by the number of Subscribed Broadcast IDs. The Subscription Fee allocates a Data Inclusion to the broadcast pool. The Data Inclusion is equal to the Per Broadcast Data Inclusion multiplied by the number of Subscribed Broadcast IDs. Data Consumption is calculated by summing the total user data transmitted by all Broadcast IDs. The Data Consumption is calculated by multiplying the message size by the number of IsatData Pro beams the message is being transmitted and by the number of repeats selected when submitting the message for transmission.

Once the plan's Data Consumption for Subscribed Broadcast IDs is calculated, the Data Overage for the Subscribed Broadcast IDs is calculated as the difference between the Subscribed Broadcast ID's Data Consumption and Data Inclusion. The Data Overage Fee for the Subscribed Broadcast IDs is the Subscribed Broadcast IDs Data Overage multiplied by the Overage Fee. The Broadcast Data Plan's invoice is the sum of its Subscription Fee and its Data Overage Fee.

**8. Termination Move Fee**

A Mobile or Broadcast ID move between Gateway Accounts in the same SPID is free of charge.

**9. Terminal Transfer Fee**

Moving a Mobile or Broadcast ID between SPIDs is called "Transfer". The Transfer-In Fee (IDPTTI) is invoiced to the destination data plan for each Transfer.

| Transfer Fees                 | Product Code | Fee MSPP |
|-------------------------------|--------------|----------|
| Production Test Plan (Note 1) | IDPTTI       | \$20.00  |
| 0.5k Individual Plan          | IDPTTI       | \$20.00  |
| 10k Individual/Pooled Plan    | IDPTTI       | \$20.00  |
| 25k Individual/Pooled Plan    | IDPTTI       | \$12.00  |
| 100k Individual/Pool Plan     | IDPTTI       | \$5.00   |

**10. Activation and Terminal Transfer Fees (applicable to all data plans)**

| Product Code | Account Transfer Fees                                  | Fee MSRP |
|--------------|--|----------|
| ADR010       | IDP Gateway Account Activation                         | \$200.00 |
| IDPACT       | IDP Mobile Activation and / or Broadcast ID Activation | \$20.00  |
| IDPDCT       | IDP Mobile De-Activation                               | \$0      |
| IDPTTI       | IDP Transfer In  | \$20.00  |
| IDPTTO       | IDP Transfer Out                                       | \$0      |

**11. Terminal Release Fee**

Upon termination, expiration, or other termination arrangement, Terminals may be "released" for operation on alternate network service providers. The following fee table applies to the release of a Product to an alternative network service provider:

| Product Code | Terminal Release Fee                  | Fee                   |
|--------------|---------------------------------------|-----------------------|
| MSBR         | Terminal Release to competing network | \$260.00 per terminal |

## 12. Mid-Month Changes (Proration)

Company CDR reflects a monthly prorated Subscription Fee, and provides a corresponding prorated Per Mobile Data Inclusion, based on the number of days a Mobile is in each Data Plan (rounded to the nearest hundredth decimal). The day a terminal is transferred from one plan to another is charged in both plans. A Mobile's consumed data is attributed to the Data Plan the Mobile was in at time data was sent or received.

Transfers are intended to be used infrequently. Company shall restrict or deny a transfer if Mobiles and/or Broadcast IDs are moved excessively between plans.

### Example:

- 1) DP has 1 Mobile in a 25k Pooled Plan. The Per Mobile Subscription Fee is \$21.00 and the Per Mobile Data Inclusion is 25,000 bytes. The Terminal Activation of an IDP-680 is done on March 11<sup>th</sup>, 2012.
  - o March Per Mobile Subscription Fee - IDPGMF =  $\$21.00 * 21 \text{ days} / 31 \text{ days} = \$21.00 * 0.68 = \$14.28$
  - o March Per Mobile Data Inclusion =  $25,000 \text{ bytes} * 21 \text{ days} / 31 \text{ days} = 25,000 \text{ bytes} * 0.68 = 17,000 \text{ bytes}$
  - o April Per Mobile Subscription Fee – IDPGMF =  $\$21.00 * 30 \text{ days} / 30 \text{ days} = \$21.00$
  - o April Per Mobile Data Inclusions =  $25,000 \text{ bytes} * 30 \text{ days} / 30 \text{ days} = 25,000 \text{ bytes}$

## 13. Active and Not Subscribed Mobiles

Customer must disable a Mobile from sending messages before it is de-activated. Company may disable Mobiles that are transmitting and not Subscribed and then invoice the Inmarsat an administration fee of twenty-five dollars (\$25) for each disabled Mobile. To re-activate a Mobile that was disabled by Company, Customer may need to contact Company support for assistance.

## 14. Market Segment

Market segment(s) that the Inmarsat and its customers are restricted from reselling the Products or Network Services in:

## 15. PRODUCT/EQUIPMENT SPECIAL TERMS AND CONDITIONS

### a. PAYMENT

Payment with respect to Product shall be in U.S. Dollars and due in full within 30 days following the invoice date. Invoiced amounts are not subject to reduction, by set-off or otherwise, without the express prior written consent of ORBCOMM.

### b. DELIVERY AND ACCEPTANCE

- i. Delivery of the Product shall be Ex Works (INCOTERMS 2011) the location of ORBCOMM's contract manufacturer or distribution facility. Title and risk of loss of or damage to Product pass to the Customer upon delivery to the carrier for shipping.
- ii. ORBCOMM will, without additional charge to Application Provider, package and, unless Application Provider instructs otherwise in writing, arrange for shipping the Product by ORBCOMM's choice of carrier according to customary standards.
- iii. Application Provider is responsible and will be invoiced for the costs of shipping and any special packaging specified by Application Provider. Application Provider is responsible for insuring the Product in

transit, if desired. If Application Provider desires ORBCOMM to arrange insurance in transit, Application Provider must so specify in writing. Application Provider is responsible and will be invoiced for costs of insurance arranged by ORBCOMM at Application Provider's request. For international shipments, customs clearance is the responsibility of the Application Provider and duties and any customs clearance or customs brokerage fees or charges are to be paid directly by the Application Provider.

- iv. ORBCOMM may make partial and advance deliveries in its sole discretion without penalty.
- v. Delivery dates are approximate, but ORBCOMM will make commercially reasonable efforts to deliver on time and will notify Customer if a scheduled delivery is expected to be delayed. If Customer requests, ORBCOMM will arrange for shipment by premium transportation, provided that Customer will pay the additional shipping cost.

**c. Product Warranties.**

i. ORBCOMM warrants to Application Provider that the Product as provided to Application Provider will be free from defects in material and workmanship under intended use with the Network Services as described in Exhibit A of the Master Agreement for a period of fifteen (15) months from date of shipment to Application Provider.

ii. The Product are warranted only for use with Network Services acquired from ORBCOMM. Further, it is expressly understood that the Product warranty does not apply to any accessories including but not limited to external cables, batteries or hardware brackets, which are considered consumable items.

iii. ORBCOMM's sole obligation under this warranty shall be, at ORBCOMM's option, either (a) the repair or replacement of any Product which prove to be defective in workmanship or material or fail to meet ORBCOMM's specifications; or (b) refund the purchase price of the defective Product.

iv. ORBCOMM shall incur no liability under the foregoing warranty if (a) ORBCOMM tests disclose that the Product is opened or that (b) the alleged defect is attributable to misuse, installation that is not in accordance with ORBCOMM recommended standards, alteration, accident or mishandling while in the possession of someone other than ORBCOMM; or (c) if the Product or Network Services having been distributed, or used, in breach of any terms of these Special Terms and Conditions or the Agreement.

v. Warranty claims shall be submitted by Application Provider to ORBCOMM with supporting documentation stating the basis for the claim and within the warranty period.

vi. As to replacement Product supplied or repairs made during the original warranty period, the warranty period on the replacement or repaired Product shall be terminated with the expiry of the original warranty, or ninety (90) days from delivery, whichever is longer.

vii. ORBCOMM's Product return policy is as follows; Application Provider must notify ORBCOMM within thirty (30) days of receipt of the Product to indicate the reason for requesting the return. In order to initiate a return, Application Provider must request and receive return authorization from ORBCOMM, including an RMA (Return Material Authorization) number issued by ORBCOMM, prior to return. ORBCOMM shall charge a restocking fee to be determined at the time of the return.

viii. All warranty returns must be sent back to ORBCOMM from the Application Provider address ORBCOMM originally shipped the Product to. Application Provider will pay for shipping costs to ORBCOMM. ORBCOMM will pay for shipping costs to Application Provider upon approval of RMA request for Product under warranty. For Product returned for repair or replacements that are not covered by warranty, all shipping costs will be paid for by Application Provider.

ix. EXCEPT FOR THE WARRANTIES IN THIS SECTION 8.c., ORBCOMM DELIVERS THE PRODUCT AND NETWORK SERVICES HEREUNDER ON AN "AS IS" BASIS (WITHOUT ANY WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESSED OR IMPLIED), AND ORBCOMM EXPRESSLY DISCLAIMS WITH RESPECT TO APPLICATION PROVIDER AND APPLICATION PROVIDER EXPRESSLY WAIVES, RELEASES AND RENOUNCES ALL WARRANTIES OF ORBCOMM AND ITS AFFILIATES ARISING BY LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO: (A) ANY IMPLIED WARRANTIES OR

CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, (B) ANY WARRANTY AGAINST CLAIMS OF PATENT INFRINGEMENT OR THE LIKE AND/OR NON-INFRINGEMENT (C) ANY IMPLIED WARRANTY ARISING FROM THE COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; (D) ANY WARRANTIES AS TO THE ACCURACY, AVAILABILITY OR CONTENT OF THE NETWORK SERVICES; AND (E) ANY WARRANTY UNDER ANY THEORY OF LAW, INCLUDING ANY TORT, NEGLIGENCE, STRICT LIABILITY, CONTRACT OR OTHER LEGAL EQUITABLE THEORY. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, INCLUDING, BUT NOT LIMITED TO, STATEMENTS REGARDING CAPACITY OR SUITABILITY FOR USE, THAT IS NOT CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WARRANTY BY COMPANY OR ITS AFFILIATES.

j. ORBCOMM MAKES NO WARRANTIES, REPRESENTATIONS, OR GUARANTEES AS TO THE OPERATION OR USE OF THE PRODUCT WITH ANY NETWORK SERVICES OTHER THAN NETWORK SERVICES ACQUIRED FROM ORBCOMM OR AS TO COMPATIBILITY OF ANY OF THE PRODUCT WITH ANY OF THE APPLICATION PROVIDER PRODUCT IN ANY CONFIGURATIONS OR THAT THE PRODUCT WILL MEET ANY OR ALL OF AN APPLICATION PROVIDER'S, OR THIRD PARTY'S PARTICULAR REQUIREMENTS, THAT THE PRODUCT WILL OPERATE ERROR FREE OR UNINTERRUPTED OR THAT ALL ERRORS IN THE PRODUCT CAN BE FOUND AND CORRECTED.

k. ORBCOMM MAKES NO WARRANTIES, CONDITIONS, REPRESENTATIONS OR GUARANTEES THAT THE PRODUCT AND NETWORK SERVICES ARE SUITABLE FOR ANY USE IN ANY HAZARDOUS ENVIRONMENTS REQUIRING FAIL SAFE PERFORMANCE (INCLUDING WITHOUT LIMITATION MARINE SAFETY AND DISTRESS SYSTEMS, OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATIONS SYSTEMS, WEAPONS SYSTEMS, AIR TRAFFIC CONTROL AND LIFE SUPPORT SERVICES) OR ANY OTHER APPLICATION IN WHICH THE FAILURE OF THE PRODUCT OR NETWORK SERVICES COULD RESULT IN DEATH OR PERSONAL INJURY. APPLICATION PROVIDER ASSUMES ALL LIABILITY ASSOCIATED WITH SELLING ANY PRODUCT AND NETWORK SERVICES FOR ANY SUCH APPLICATIONS, AND APPLICATION PROVIDER WILL DEFEND, INDEMNIFY, AND HOLD COMPANY HARMLESS AGAINST ANY CLAIMS AGAINST ORBCOMM FOR LOSS, DAMAGE, LIABILITY, OR EXPENSE (INCLUDING LAWYERS' FEES) ARISING OUT OF OR RELATED TO THE SALE BY APPLICATION PROVIDER, OR THE USE BY ANY END USER, OF ANY PRODUCT OR NETWORK SERVICE.

l. ORBCOMM MAKES NO WARRANTIES, CONDITIONS, REPRESENTATIONS OR GUARANTEES AS TO THE AVAILABILITY OF SATELLITE SPACE SEGMENT AND RELATED SERVICES OR NETWORK OPERATION SERVICES PROVIDED BY ORBCOMM OR ANY OTHER THIRD PARTY AS APPLICABLE.

m. ORBCOMM MAKES NO WARRANTIES, CONDITIONS, REPRESENTATIONS OR GUARANTEES RELATED TO THE PERFORMANCE OF THE NETWORK SERVICES OR PRODUCT IN THOSE PORTIONS OF THE TERRITORY IN WHICH THE SATELLITE COVERAGE IS LIMITED OR NOT AVAILABLE OR TO THE EXTENT THAT THE NETWORK SERVICES OR PRODUCT ARE OPERATED OUTSIDE THE ALLOWABLE OPERATING LIMITS DEFINED IN THE APPLICABLE SPECIFICATIONS.

**d. COMPANY OBLIGATIONS.**

Provided that Application Provider is not in breach of any of its obligations hereunder Company shall:

i. Provide qualified technical support services to Application Provider only for Product and Network Services via telephone, or email during normal business hours based on GMT -5 hours. For emergency support relating to Network Services, Company will provide to the Reseller, where commercially reasonable, consultation via telephone, twenty four (24) hours per day, seven (7) days per week.

ii. Maintain and monitor its Network on a twenty-four (24) hours per day, seven (7) days per week basis.

**e. LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY'S TOTAL LIABILITY TO RESELLER FOR DAMAGES OF ANY KIND, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE UNDER THIS AGREEMENT WILL BE LIMITED TO AN AMOUNT EQUAL TO THE CUMULATIVE FEES PAID TO ORBCOMM or COMPANY UNDER THIS AGREEMENT FOR THE TWELVE (12) -MONTHS PRECEDING ANY CLAIM FOR THE PRODUCTS THAT GAVE RISE TO THE CLAIM. IN NO EVENT WILL COMPANY BE LIABLE TO RESELLER, ANY RESELLER OR ANY END USER FOR ANY LOST PROFITS OR SAVINGS, LOST BUSINESS, LOSS OF DATA, ANY TELECOMMUNICATIONS BREAKDOWN, UNAVAILABILITY, DOWNTIME, INTERRUPTION OR DELAY, ANY SUSPENSION OF SERVICE BY ANY THIRD PARTY SERVICE PROVIDER INCLUDING INMARSAT OR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE AND WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH OCCURRENCE OR DAMAGE. THE PARTIES AGREE THAT THE FOREGOING REPRESENTS A FAIR ALLOCATION OF RISK HEREUNDER

[End of Annex 1]

## Annex 2

### IsatData Pro<sup>2</sup> Trademark Terms Schedule

- A. Inmarsat Global Ltd (“Inmarsat”) has granted a license to Company to use and sub-license the Trade Marks (defined below).
- B. Company wishes to grant a limited sub-license to Application Provider to use the Trade Marks in connection with the marketing and sale of the Products and Services on the terms and conditions set out herein.

#### 1 Definitions and interpretations

- 1.1 In this Terms Schedule the following expressions shall have the following meanings, unless the subject or the context otherwise requires. If a capitalized term used in this Terms Schedule is not defined in this Terms Schedule, then such term shall have the meaning ascribed to it in the Service Provider Agreement:

“**Branding Guidelines**” shall mean Company’s guidelines issued to the Licensee from time to time describing the permitted form, manner, color, size and prominence of the Trade Marks and the words and other indicia that must or may be used or displayed in conjunction with the Trade Marks;

“**Business Day**” shall mean any day other than a Saturday or Sunday when banks are generally open for business in the province of Ontario, Canada;

“**Effective Date**” shall mean the date set out at the top of the first page of this Amendment;

“**Products and Services**” shall mean IsatData Pro products and network services in respect of which the Trade Marks may be used under the provisions of this Terms Schedule;

“**Terms Schedule**” means the provisions contained in this Annex 2;

“**Territory**” shall mean the territory as defined in an executed IsatData Pro Product Schedule of the Solution Provider Agreement;

“**Trade Marks**” shall mean the trade mark *IsatData Pro*, the graphic representation thereof (if applicable) as depicted in the Branding Guidelines, and any other trademarks agreed from time to time in writing between the parties; and

- 1.2 The headings in this Terms Schedule are for ease of reference only and shall not affect its construction.
- 1.3 In this Terms Schedule, if the context so requires, references to the singular shall include the plural and vice versa.
- 1.4 Unless otherwise stated, a reference to a Clause (or Sub-clause) is a reference to a clause (or sub-clause) of this Terms Schedule.
- 1.5 Any reference to a “person” includes a natural person, firm, partnership, company, corporation, association, organization, government, state, foundation and trust (in each case whether or not having a separate legal personality).
- 1.6 “include”, “includes” and “including” shall be deemed to have the words “without limitation” inserted after them.

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<sup>2</sup> IsatData Pro is an Inmarsat trademark.

## **2 Grant of License**

- 2.1 In consideration of the premises hereinafter contained and other valuable consideration Company hereby grants to the Customer and the Customer hereby accepts a revocable, non-exclusive, non-transferable, royalty-free license to use the Trade Marks in the Territory on the terms and conditions set out in this Terms Schedule in relation to the Products and Services. This license is personal to the Customer and does not include any right to grant sub-licenses.

## **3 Use of the Trade Marks**

- 3.1 Any use by the Customer of the Trade Marks shall be in the manner stipulated by Company from time to time and the Customer shall observe any and all directions given by Company (whether in the Brand Guidelines or otherwise) as to the colors used and size of the Trade Marks and their manner, disposition and presentation in respect of the Products and Services and any accompanying promotional materials.
- 3.2 Whenever the Trade Marks are used by the Customer it shall, if requested to do so by Company, attach to the Trade Marks wording to show that they consist of registered Trade Marks used by the Customer with the permission of Company and/or Inmarsat and any other wording requested by Company.
- 3.3 The use of the Trade Marks by the Customer shall at all times be in keeping with and seek to maintain their distinctiveness and reputation as determined by Company, and the Customer shall forthwith cease any use which is not consistent therewith as Company may require. In particular, the Customer shall not use the Trade Marks in any way that would or may tend to allow them to become generic, lose their distinctiveness, become liable to mislead the public, or be materially detrimental to, or inconsistent with, the good name, goodwill and image of Inmarsat (including its affiliated companies and licensors) or Company.
- 3.4 The Customer acknowledges and agrees that the exercise of the license granted under this Terms Schedule is subject to all applicable laws, enactments, regulations and other similar instruments in the Territory, and the Customer understands and agrees that it shall at all times be solely liable and responsible for the due observance of same. The Customer's obligations in this regard shall include obligations to:
- (a) ensure that the Products and Services are safe for the use for which they were intended;
  - (b) obtain at its own expense all licenses, permits and consents necessary for the provision of the Products and Services in the Territory;
  - (c) perform its obligations in connection with the provision of the Products and Services with all due skill, care and diligence including good industry practice;
  - (d) only make use of the Trade Marks for the purposes authorized in this Terms Schedule; and
  - (e) comply with all regulations and practices in force or use in the Territory to safeguard Company and Inmarsat's rights in the Trade Marks.
- 3.5 The Customer shall not, nor directly or indirectly assist any other person to:
- (a) use a Trade Mark outside the Territory;
  - (b) do or omit to do anything to diminish the rights of Company and Inmarsat in any Trade Mark or impair any registration of any Trade Mark; or
  - (c) use any Trade Mark as a metatag or purchase them as advertising keywords, without Company's prior written consent.
- 3.6 The Customer shall, upon Company's request from time to time, provide such assistance and information as Company shall require in order to enable it to audit the use made of the Trade Marks to enable it (or any of its licensors) to enforce its or their rights to maintain quality control thereof.

3.7 Nothing in this Terms Schedule shall entitle the Customer to use the Trade Marks as part of any corporate business or trading name or style of the Customer or to adopt the Trade Marks as domain names or as part of any URL.

3.8 No goodwill shall be deemed to pass to the Customer by virtue of its use of the Trade Marks.

#### **4 Advertising and Promotion**

4.1 The Customer may use the Trade Marks in the promotion and sale of the Products and Services.

4.2 Notwithstanding Sub-clause 4.1 above, Company shall have the right to approve all such promotional material(s) on which the Trade Marks appear and if requested by Company from time to time, the Customer shall furnish to Company all promotional material(s) prepared containing the Trade Marks prior to publication for this purpose.

4.3 Where, pursuant to Sub-clause 4.2 above, Company forms the reasonable view that the purported use of the Trade Marks, or any of them, by the Customer for advertising or promotional purposes may or will fail to adequately protect either the validity of the said Trade Marks, or the good name, goodwill and image of Inmarsat (including its affiliated companies and licensors), or Company, the Customer shall be required to make amendments to the promotional material(s) concerned to Company's satisfaction, the approval of which by Company shall not be unreasonably withheld or delayed.

#### **5 Ownership of the Trade Marks**

5.1 The Customer acknowledges that the Trade Marks and the goodwill therein are the exclusive property of Inmarsat.

5.2 The Customer further acknowledges that all use by the Customer of the Trade Marks and all rights and goodwill attaching to or arising out of such use, shall accrue to the benefit of Inmarsat (or its affiliated companies and licensors), and the Customer shall at any time (at the request and expense of Company), whether during or after the term of this Terms Schedule, execute such assignments, assurances or other documents as shall be reasonably required by Inmarsat (or its affiliated companies and licensors), or Company to give effect to the provisions of this paragraph.

5.3 The Customer shall not make any representation or do any act that indicates that it has title in or ownership of the Trade Marks, or claim any other rights in or to the Trade Marks except as authorized by the terms of this Terms Schedule. In particular, but without limitation, the Application Provider shall not represent its use of the Trade Marks as indicating or holding out that a legal partnership arrangement exists between Inmarsat (including its affiliated companies and licensors), or Company on the one hand and the Customer on the other, or that any other relationship exists between the parties in respect to the Trade Marks other than that of licensee and sub-licensee.

5.4 The Customer shall, subject to the payment by Company of any reasonable expenses incurred thereby, render all assistance to Company as required to maintain registered trade mark protection for the Trade Marks and to enable Inmarsat (or its affiliated companies and/or licensors) to register in the Territory any of the Trade Marks not registered as at the Effective Date. Such assistance shall include, but not be limited to, providing to Company such details of the Customer's use of the Trade Marks as Company may request, together with the execution of all documents that may be reasonably required to give effect to the provisions of this paragraph.

#### **6 Third Party Infringement**

6.1 If the Customer becomes aware of any actual or suspected infringement of the Trade Marks, or of any other unauthorized use of elements of the Trade Marks in the Territory by a third party, it shall immediately notify Company in writing, giving full particulars thereof.

- 6.2 This Terms Schedule expressly excludes section 30 of the Trade Marks Act 1994 (United Kingdom) as it may apply to this Terms Schedule. Inmarsat (including its affiliated companies and licensors), at its sole discretion, shall take whatever action it considers necessary in relation to any actual or suspected infringement or unauthorized use of any of the Trade Marks. If Inmarsat (including its affiliated companies and licensors) decides to take action of any kind, Inmarsat (including its affiliated companies and licensors) shall have sole control of the conduct of such action. Inmarsat (including its affiliated companies and licensors) shall bear the entire costs and expense associated with the conduct of any action and any recovery or compensation that may be awarded as a result of such action, including, but not limited to, any settlement that may be reached, shall belong solely to Inmarsat (or its affiliated companies and/or licensors).
- 6.3 Without prejudice to the foregoing, upon request by Company the Customer shall do, sign and execute and shall procure the doing, signing and execution of all acts, things, documents, instruments and affidavits and shall generally furnish to Company or Inmarsat (including its affiliated companies and licensors) all information, evidence and assistance, whether orally or by affidavit, as Inmarsat (including its affiliated companies and licensors) may reasonably request in connection with any actions or proceedings for infringement of the Trade Marks. The Customer acknowledges and agrees that such co-operation on the part of the Customer shall not entitle the Customer to any claim for recovery or compensation in respect thereof, and that all such recovery or compensation shall belong solely to Inmarsat (or its affiliated companies and/or licensors).

## **7 Infringement Action Against the Customer**

- 7.1 The Customer acknowledges that Company and Inmarsat may not have registered the Trade Marks in all of the jurisdictions in the Territory and have not undertaken searches in respect of each trade mark constituting the Trade Marks to establish whether any party has registered or makes use of the same in every country in the Territory.
- 7.2 If the Customer is or becomes aware of any registered or unregistered trade mark(s) in the Territory at the commencement of, or during, the term of this Terms Schedule that conflict with the Trade Marks, the Customer shall promptly notify Company in writing of such trade mark(s).
- 7.3 If legal action is commenced or threatened against the Customer as a result of its authorized use of the Trade Marks, the Customer shall promptly notify Company in writing.
- 7.4 Upon receipt of written notice as aforesaid, the Customer shall have no authority to settle or compromise any such claim and Inmarsat (or its affiliated companies and/or licensors) shall enjoy any recovery or settlement awarded or otherwise received and shall bear any costs or settlement payments in respect thereof.
- 7.5 Where, in order for the Customer to continue using the Trade Marks, a license fee is levied by a third party in settlement of any alleged infringement the Customer may elect to either pay such license fee or to cease to use the Trade Marks in the Territory (or that part of the Territory where infringement has been alleged). The Customer acknowledges that if Company or Inmarsat (or its affiliated companies and/or licensors) are unable to negotiate a license or to resolve an alleged infringement, the Customer may be required to cease use of the Trade Marks in the Territory (or that part of the Territory where infringement has been alleged).

## **8 Disclaimers, Warranties, Liability and Indemnities**

- 8.1 Neither Company nor Inmarsat makes any representations or warranties with respect to the existence of possible third party rights in the Trade Marks or similar marks in the Territory. Neither Company nor Inmarsat makes any representations or warranties that the use of the Trade Marks by the Customer in the Territory shall not infringe the rights of any third party or that any Trade Mark is valid, subsisting, exercisable or enforceable.
- 8.2 The Customer warrants that it shall use the Trade Marks only as authorized under this Terms Schedule and that it shall comply with and follow all appropriate laws, regulations, guidelines, rules and practices

(including the standards of any appropriate professional association) in the Territory with respect to its use of the Trade Marks in relation to the Products and Services.

- 8.3 Without prejudice to Sub-clauses 6.2 and 7.4, the Customer shall indemnify and keep indemnified Inmarsat (including its affiliated companies and licensors), Company and their affiliates, assigns and successors against any and all claims (whether threatened or actual), losses, damages, liabilities, costs, penalties, fines and expenses (including, without limitation, legal expenses) resulting from or arising out of the performance or nonperformance by the Customer of this Terms Schedule, or resulting from any claim by any third party relating to the manufacture, distribution, sale, supply, advertising or use of the Products and Services bearing the Trade Marks or any of them (including product liability claims, intellectual property rights infringement claims and claims from or actions or investigations brought by any competent authority).
- 8.4 To the fullest extent permitted by law, Company shall not be liable to the Customer for any costs, expenses, loss or damage (whether direct, indirect or consequential, and whether economic or other) arising from the Customer's exercise of the rights granted to it under this Terms Schedule provided that nothing in this Terms Schedule shall have the effect of limiting any liability for death or personal injury cause by negligence or fraud.

## **9 Term and Termination**

- 9.1 This Terms Schedule shall commence on the Effective Date and shall continue in force until earlier terminated by either party giving to the other not less than thirty (30) days prior written notice, or termination or expiration of the Master Agreement, whichever occurs first. If Inmarsat terminates the agreement pursuant to which Company received its authority to sub-license the Trade Marks (the "Prime License") or if the Prime License expires, then this Terms Schedule shall also terminate or expire, as the case may be, at the same time as the Prime License.
- 9.2 Company may terminate this Terms Schedule without prejudice to any of its other remedies under this Terms Schedule forthwith by notice in writing to the Customer if:
- (a) the Customer is in material breach of the terms of this Terms Schedule and (if remediable) fails to remedy the breach within seven (7) days of having been given notice in writing specifying the breach;
  - (b) an interim order is applied for or made, or a voluntary arrangement is approved, or a petition for a bankruptcy order is presented or a bankruptcy order is made against the Customer, or a receiver or trustee in bankruptcy is appointed over the Customer's estate, or a voluntary arrangement is proposed or approved, or an administration order is made, or a receiver or administrative receiver is appointed over any of the Customer's assets, or an undertaking or a winding-up resolution or petition is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or any circumstances arise which entitle the court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding-up petition or make a winding-up order, or if any other similar or equivalent action is taken against or by the Customer by reason of its insolvency or in consequence of debt;
  - (c) Company ascertains that the Customer has made any false, inaccurate or misleading statement (either negligently, recklessly or deliberately) having, in Company's sole opinion, a material effect on the making or executing of this Terms Schedule;
  - (d) there is a change in the effective control of the Customer, being a change in the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the Customer, whether through ownership of shares, by contract or otherwise;
  - (e) the Customer takes any action that would or might invalidate or put into dispute Inmarsat's (or its affiliated companies and/or licensors) title in the Trade Marks or any of them, or assists any other person directly or indirectly in any such action;
  - (f) the Customer takes any action that would or might invalidate any registration of the Trade Marks

or any of them, or assists any other person directly or indirectly in any such action; or

- (g) the Customer takes any action that would or might support an application to remove any of the Trade Marks from the registers of the Territory or elsewhere, or assists any other person directly or indirectly in any such action.

## **10 Effect of Termination**

10.1 Upon the termination of this Terms Schedule for whatever reason:

- (a) the license granted by Sub-clause 2.1 of this Terms Schedule shall be deemed terminated and shall immediately cease and determine but without prejudice to any right of Company or Inmarsat, including its right to sue and recover damages in respect of any previous breach by the Customer of any of the obligations, covenants and/or conditions of this Terms Schedule;
- (b) the Customer shall immediately discontinue all and any use of the Trade Marks, and shall have no further right to use the Trade Marks;
- (c) the Customer shall dispose of all promotional and other materials bearing or relating to the Trade Marks in accordance with Company's instructions;
- (d) the Customer shall at the request and expense of Company execute all documents necessary for cancellation of the Customer as a registered user or registered licensee; and
- (e) the Customer shall, if so requested by Company, execute an assignment (at the expense of Company) in favor of Company (or such other person as Company may direct) of any goodwill in the Trade Marks as may have accrued to the Customer by reason of its use of the Trade Marks and by the Customer being connected with the Trade Marks in the course of trade.

10.2 Subject to the provisions of this Clause 10, the Customer shall do nothing after the expiry or early termination of this Terms Schedule that might lead any person to believe that the Customer is still licensed to use the Trade Marks, or is in any way connected with Inmarsat (including its affiliated companies and licensors) or Company.

## **11 Survival of Representations, Warranties and Indemnities**

11.1 All representations and warranties in this Terms Schedule:

- (a) shall survive the execution and delivery of this Terms Schedule and shall remain in full force and effect for the term of this Terms Schedule; and
- (b) are and shall be given to the extent that liability under those representations and warranties shall not be confined to breaches discovered prior to the Effective Date.

11.2 Each indemnity in this Terms Schedule shall:

- (a) constitute a continuing obligation of the party giving the indemnity;
- (b) constitute a separate and independent obligation of the party giving the indemnity from its other obligations under this Terms Schedule; and
- (c) survive the termination of this Terms Schedule.

## **12 Assignment**

The Customer may not assign any of its rights or delegate any of its duties under this Terms Schedule to any third party without the prior written consent of Company.

**13 Entire Agreement**

This Terms Schedule constitutes the entire agreement pertaining to the subject matter hereof between the parties and supersedes any prior oral or written agreements between them. Any modification of this Terms Schedule shall be effective only if agreed in writing and signed by both parties.

**14 Waiver**

No failure or delay to enforce any provision of this Terms Schedule shall be construed as a waiver thereof or as a waiver of any other provision contained herein.

**15 Notices**

15.1 All notices, requests, demands, consents, approvals, agreements or communications (which for the purpose of this Clause 15 shall be defined, collectively, as a "Notice") authorized or required to be made to or by a party under or in connection with this Terms Schedule shall be in writing, in the English language and may be given by hand or pre-paid registered and/or certified mail, reputable courier, fax or electronic mail, to the address set out above or to such other address as the parties may give written notification of from time to time.

15.2 A Notice delivered by hand at or before 4:30 pm on a Business Day shall be deemed to have been given on that day, or in any other case of hand delivery, shall be deemed to have been given at 9:30 am on the next Business Day following the day of delivery.

15.3 A Notice sent by pre-paid registered and/or certified mail or courier shall be deemed to have been received upon delivery of such to the address provided on the first page of this Terms Schedule, or to such other address as may be provided by notice sent in accordance with this paragraph.

**16 Severance**

If any provision of this Terms Schedule is held to be illegal or unenforceable, the validity and enforceability of the remainder of this Terms Schedule shall not be affected by that illegality or unenforceability.

**17 Counterparts**

This Terms Schedule may be executed in counterparts, each of which shall be deemed an original.

**18 Governing Law and Jurisdiction**

This Terms Schedule and any matter relating thereto shall be governed, construed and interpreted in accordance with the laws of the province of Ontario, Canada (excluding its conflicts of laws provisions), and the courts of that Province shall have exclusive jurisdiction over all matters arising hereunder. The Parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods (the Vienna Convention, 1980). The parties hereby submit to the exclusive jurisdiction of the courts of the province of Ontario for the determination of any question or dispute arising out of, under, or in connection with this Terms Schedule.

[End of Annex 2]