



STANDARD TERMS & CONDITIONS FOR ALL EQUIPMENT & SERVICES
(effective December 1, 2021)

The following terms and conditions apply to all agreements for Equipment and Services provided by SKYTRAC Systems Ltd. ("SKYTRAC") and/or its division LATITUDE TECHNOLOGIES, including without limit, the following agreements:

- (a) SKYTRAC Certus Airtime Services Agreement;
- (b) SKYTRAC Communications and Flight Following Agreement; and
- (c) SKYTRAC Integrated Services Agreement.

(collectively, the "Agreement")

By using SKYTRAC's Equipment and/or Services, the Client acknowledges that these terms and conditions (the "SKYTRAC Terms") apply to each Agreement.

NOW THEREFORE, in consideration of the mutual covenants set out below and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

PART I – GENERAL

1 INTERPRETATION

1.1 Definitions

The capitalized terms used herein have the following meanings:

"Affiliate" means entities that control, are controlled by, or are under common control with a Party to the Agreement.

"Certus Airtime Services" means the provision of voice/data communication over the Iridium Certus satellite network.

"Client Data" means any of the Client's data or information gathered by or provided to SKYTRAC in the course of performing its Services under the Agreement but excluding any financial or proprietary information or trade secrets belonging to the Client.

"Commencement Date" or **"Effective Start Date"** or **Start Date** means the commencement date of the Services as described in the applicable Agreement.

"Confidential Information" means all confidential or proprietary information of the respective Party and its Affiliates, including all intellectual property, know-how, customer, financial, manufacturing and marketing information and all documents and information relating to the installation, operation, testing, maintenance and servicing of SKYTRAC's Equipment and Services.

"Documentation" means any materials or information (in any format) that describes the features, functionality and use of the System or that assists the Client in using the System.

"Equipment" means all transceivers and other hardware, peripherals, goods and accessories to be provided by SKYTRAC under the applicable Agreement.

"Fees" or **"Rates"** means the fees and rates for the Equipment and Services as described in the applicable Agreement.

"Flight Following and Communication Services" means the provision of satellite tracking and voice/data communication as contemplated by the Communications and Flight Following Agreement.

"Flight Following and Communication Services Term" means the term defined under the Communications and Flight Following Agreement.

"Intellectual Property" means any intellectual, industrial and intangible property of whatever nature and kind in any jurisdiction, trademarks, brand names, trade names, domain names, logos, trade secrets, inventions, innovations, discoveries, developments, formulae, product formulations, compositions of matter, databases, works of authorship, works subject to copyright, guides, manuals and designs, in all cases whether patented or patentable, whether registered or unregistered, and in any medium whatsoever that may subsist in any software tools, hardware designs, algorithms, software, user interface designs, class libraries, architecture, network designs, printed and electronic documentation, including any improvements or enhancements to same.

"Intellectual Property Rights" means (a) any and all proprietary rights anywhere in the world provided under (i) patent law; (ii) copyright law, including moral rights; (iii) trademark law; (iv) design patent or industrial design law; (v) semiconductor chip or mask work law; (vi) trade secret law; (vii) privacy law; or (viii) any other statutory provision or common law principle applicable to these SKYTRAC Terms which may provide a right in either (A) Intellectual Property; or (B) the expression or use of Intellectual Property; and (b) any and all applications, registrations, licenses, sub-licenses, franchises, agreements or any other evidence of a right in any of the foregoing.

"Modified Software" means any derivative works of the Software developed or provided by SKYTRAC during the provision of the Services, including without limitation software interfaces and extensions, and any related Documentation.

"Party" or **"Parties"** means individually a party to the applicable Agreement, and jointly both Parties.

"Prices" means the agreed upon unit rates for the Equipment and Services, exclusive of Taxes (unless otherwise indicated) and as specified in the applicable Agreement.

"Representatives" means a Party's directors, officers, employees, or its authorized consultant or agent having express written authority to represent it.

"Services" means all services and such other work and materials, necessary to be performed or supplied by SKYTRAC under the applicable Agreement, and including any work or services which are not expressly described in the Agreement but which are nevertheless necessary for the proper execution of the work or services required, together with all consulting, Software development, Software customization and technical support activities provided by SKYTRAC thereunder. Where the context so requires, Services may also include Flight Following and Communication Services, as contemplated by the Communications Flight Following and Communication Services Agreement.

"Software" means any software owned or licensed by SKYTRAC and used in providing the Services, together with any related Documentation, updates, upgrades and other revisions thereto, including any Modified Software.

"System" means the combination of the Equipment and Software, and the connections, processes and procedures that enable them to work together to function as the SKYTRAC flight data monitoring system.

"Subcontractors" means any consultants or contractors (of any tier) hired by SKYTRAC in accordance with the Agreement to perform any portion of the Services.

"Suppliers" means any third party retained by SKYTRAC to supply Equipment, materials or both for any portion of the Services.

"Taxes" means any and all applicable taxes, charges, fees, levies or other assessments imposed or collected by any governmental entity worldwide or any political subdivision thereof and however designated or levied on the sale, use or transfer of any Equipment or Services or any value added tax or any other duties or fees related to any payment made by the Client to SKYTRAC for Equipment or Services provided by SKYTRAC to the Client under the applicable Agreement; exclusive, however, of any taxes imposed upon the net income or capital of SKYTRAC or the Client, any taxes in lieu of such net income taxes and any other taxes which are to be borne by SKYTRAC or the Client under any applicable law.

“**Tracking**” means the provision of the flight following services as contemplated by the Communications and Flight Following Agreement.

“**Tracking Term**” means the term as defined in the Communications and Flight Following Agreement.

“**Term**” means the Initial Term or the Renewal Term, as the case may be, as described in the applicable Agreement.

1.2 Construction of Agreement

1.2.1 In the event of any inconsistency or ambiguity between the applicable Agreement and these SKYTRAC Terms, the applicable Agreement and any of its appendices, will govern.

1.2.2 The titles and headings herein are for reference purposes only and shall not in any manner limit the construction of these SKYTRAC Terms, which shall be considered as a whole. The word “including” is not limiting and will be deemed to be followed by the wording “without limitation.”

2 FEES AND PAYMENT

2.1 Invoicing and Payment

2.1.1 The Client agrees to pay to SKYTRAC the Fees, Rates and Prices for the Equipment and Services, together with any applicable Taxes, in accordance with the applicable Agreement, as invoiced by SKYTRAC from time to time. All Fees, Rates and Prices are stated and payable in United States Dollars.

2.1.2 Unless otherwise agreed, all invoices are due within thirty (30) days of the Client’s deemed receipt of such invoice. Invoices will be deemed delinquent if not paid within thirty (30) days of receipt and will incur interest, with retrospective effect from the date on which such amounts were due and up to and including the date on which such payment is received by SKYTRAC, at a rate equal to the lesser of twelve percent (12%) per annum or the maximum rate permitted by applicable law.

2.1.3 All Equipment and Services to be provided hereunder are non-cancellable and all Fees, Rates and Prices paid to SKYTRAC hereunder are non-refundable. If the Agreement is terminated for any Client Event of Default (as defined below), the Client is not entitled to any refunds or credits for any Fees, Rates or Prices paid to SKYTRAC under the applicable Agreement.

2.1.4 In the event that the Client fails to make a payment to SKYTRAC when due under the applicable Agreement, the Client shall be in material breach of the applicable Agreement and shall be deemed to have committed a Client Event of Default in accordance with these SKYTRAC Terms. Without limiting the foregoing, in the event that the Client has committed a Client Event of Default, SKYTRAC will be entitled to collect all past and present amounts due and owing under the applicable Agreement. The Client also will be responsible for any collection expenses, including reasonable legal fees, incurred by SKYTRAC to enforce its rights hereunder.

2.2 Billing Disputes and Overdue Charges

In the event of a dispute concerning an invoice, the Client may withhold only the disputed amounts due under such invoice, provided that the Client has (i) a good-faith belief concerning the disputed amount due, and (ii) communicated the concern to SKYTRAC in writing prior to withholding any such disputed amounts along with documentation supporting the Client’s dispute. If amounts are withheld for any reason and ultimately found to be owed to SKYTRAC, the Client agrees and acknowledges that it will pay such amount to SKYTRAC, plus interest calculated in the manner set out herein.

2.3 Deposits

At SKYTRAC’S option, the Client may be required to pay to SKYTRAC a deposit equal to the estimated value of any Equipment or Services to be charged under the applicable Agreement. SKYTRAC may apply the deposit to any outstanding amounts payable by Client, including late payment charges. To the extent that a deposit is no longer deemed necessary by SKYTRAC, the balance will be refunded to the Client.

3 Title and Risk of Loss

3.1 All Equipment will be shipped to the Client FCA (INCOTERMS 2020) SKYTRAC’s facility. Title and risk of loss to the Equipment will pass to the Client at SKYTRAC’s loading point.

3.2 Title and risk of loss to the Software and all other SKYTRAC intellectual property will remain with SKYTRAC at all times and under no circumstances will any title to the Software or other intellectual property be transferred to the Client.

4 TAXES

4.1 **Taxes.** The Fees, Rates and Prices exclude all applicable Taxes and the Client will be responsible for all such Taxes, excluding Taxes relating to SKYTRAC’s income, profit, capital or employees.

4.2 **Income Tax Act (Canada).** SKYTRAC represents and warrants that it is not a “non-resident” for the purposes of the Income Tax Act (Canada).

5 SAFETY AND SECURITY

5.1 To the extent that SKYTRAC performs any Services at the Client’s premises, SKYTRAC agrees to comply with the Client’s safety and security policies and procedures that are in effect at such time provided that the Client provides SKYTRAC with a written copy of such policies and procedures.

6 COMPLIANCE WITH LAW

6.1 Compliance with Law by SKYTRAC

SKYTRAC will comply with and will ensure that its Representatives comply with and will require its Subcontractors and Suppliers and their respective employees and agents to comply with all laws that are applicable to SKYTRAC. If the Client informs SKYTRAC of any variance between the laws applicable to SKYTRAC and the laws applicable to the Client, and if the Parties agree pursuant to the change request provisions described in the applicable Agreement, SKYTRAC will make any revisions to the Services as necessary to comply with the laws applicable to the Client.

6.2 Licenses, Permits and Approvals

SKYTRAC agrees to obtain all necessary permits, licenses and/or approvals for the lawful performance of the Services except for those licenses, permits and approvals that can only be obtained by the Client.

6.3 Compliance with Law and Use of Equipment and Services by Client

The Client will comply with and will ensure that its Representatives comply with all laws that are applicable to it. The Client will only use the Equipment and Services for lawful purposes and in accordance with terms of the applicable Agreement. The Client is prohibited from reselling, remarketing, or transferring the Equipment or sharing any of the Services outside of its Affiliates.

7 TERM AND TERMINATION

7.1 Term

The applicable Agreement commences on the Effective Date as described therein and will remain in full force until the expiry of the Initial Term or any Renewal Term (both as further described in the applicable Agreement), unless terminated earlier in accordance with the terms of such Agreement.

7.2 Renewal Term

Except as otherwise agreed between the Parties, at the end of the Initial Term the applicable Agreement will automatically renew for a term of the same duration (the “Renewal Term”) unless the Client notifies SKYTRAC of

its intention not to renew the Agreement not less than ninety (90) days in advance of the end of the Initial Term or any renewal thereof. All terms and conditions of the Agreement will continue to apply during the Renewal Term as if it were the Initial Term, except for the Fees, Rates and Prices, which will be subject to adjustment for each Renewal Term.

7.3 Termination

For purposes of this Section, the following terms have the following definitions:

7.3.1 “Client Event of Default” means

- (a) if the Client fails to perform any of its material obligations or contravenes any provision under the applicable Agreement; or
- (b) if SKYTRAC, in its sole discretion considers Client to be unacceptable credit risk and becomes unable to pay its debts, or if the Client enters into liquidation, makes an arrangement with its creditors, becomes subject to an administration order or a receiver or administrative receiver is appointed over all or any of its assets or takes or suffers to be taken any similar action in consequence of a debt, ceases or threatens to cease trading or is dissolved, or any procedure equivalent to any of the preceding matters occurs in any other jurisdiction with respect to the Client.

7.3.2 “SKYTRAC Event of Default” means:

- (a) if SKYTRAC materially and repeatedly fails to perform any of its material obligations under the applicable Agreement; or
- (b) if SKYTRAC enters into liquidation, makes an arrangement with its creditors, becomes subject to an administration order or a receiver or administrative receiver is appointed over all or any of its assets or takes or suffers to be taken any similar action in consequence of a debt, ceases or threatens to cease trading or is dissolved, or any procedure equivalent to any of the preceding matters occurs in any other jurisdiction with respect to SKYTRAC.

7.3.3 If the Client commits a Client Event of Default, and (where the breach is capable of being remedied) that breach has not been remedied within thirty (30) days after receipt of notice giving full particulars of the breach and requiring the Client to remedy it, does not cure such breach or failure to the reasonable satisfaction of SKYTRAC,

then SKYTRAC may, in addition to any other rights and remedies available to it in law or equity, terminate the applicable Agreement upon providing the Client with written notice (the “Default Notice”).

7.3.4 Upon the occurrence of a Client Event of Default and after providing the Client with the Default Notice, SKYTRAC may require the Client to provide payment (or other form of security acceptable to SKYTRAC) for SKYTRAC’s works in progress arising in connection with the applicable Agreement.

SKYTRAC may also, at its sole discretion, terminate, restrict or suspend the Services or use of the System immediately and without notice if:

7.3.5 Its invoices are not paid when due and after notification of such overdue invoices, or Client’s use of the Services, in SKYTRAC’s sole opinion, adversely affects functionality, quality or availability of the System.

7.4 Client may terminate the Services at any time without notice if SKYTRAC commits a SKYTRAC Event of Default and does not cure such breach or failure to the reasonable satisfaction of the Client within a period of ninety (90) calendar days after the date of receipt of notice from the Client specifying such breach or failure.

7.5 Termination or expiry of the applicable Agreement shall not affect any rights or obligations which may have accrued prior to termination or expiry. The obligations of each Party set out in any clause intended to survive such termination or expiry shall continue in full force and effect notwithstanding termination or expiry of the applicable Agreement.

- 7.6 Either party may, in the event of an Event of Default, terminate all or any part of the applicable Agreement at any time by notice in writing specifying the extent of termination and the effective date (the “**Termination Notice**”).
- 7.7 Effect of Termination. Unless otherwise agreed, upon termination of the applicable Agreement, all access by the Client to the System and Services will be cancelled and terminated and be of no further force or effect. Termination will not relieve either Party from any liability arising from any breach of the applicable Agreement. Neither Party will be liable to the other for damages of any kind solely as a result of terminating the applicable Agreement in accordance with its terms, and termination of such Agreement by a Party will be without prejudice to any other right or remedy of a Party thereunder or applicable law. The obligations of each Party set out in any clause intended to survive such termination or expiry shall continue in full force and effect notwithstanding termination or expiry of the applicable Agreement.

8 WARRANTY

8.1 Equipment. SKYTRAC warrants that the Equipment shall be free from defects in materials and workmanship for a period of twelve (12) months from the date of delivery to the Client provided that the alleged defects are not immaterial deviations from the agreed quality and do not arise from normal wear and tear or damage arising from faulty or negligent handling, excessive strain, unsuitable use, or claims based on particular external influences not contemplated by the applicable Agreement. During the applicable warranty period for the Equipment, SKYTRAC agrees to either repair or replace (at its option), the Equipment within a reasonable time at no additional cost. If the Equipment, assumed to be covered under warranty, is returned to SKYTRAC and it is determined that the item has been damaged out of the scope of warranty, then the Client will be given the option to be invoiced for the replacement and/or repair of the Equipment in question.

8.2 Services. SKYTRAC warrants that all Services provided to the Client will conform to its published specifications at the time of delivery and will be free from defects for a period of one (1) year from the in-service date provided that the alleged defects are not immaterial deviations from the agreed quality and do not arise from any unsuitable use, or claims based on particular external influences not contemplated by the Agreement. SKYTRAC further warrants that all Services will be performed in a competent manner with reasonable skill and care in accordance with industry standards at the time of completion. Notwithstanding this Section, it is the Client’s responsibility to verify that the Services are suitable for the Client’s intended use and are consistent with the Client’s operations and practices regardless of whether the Services are selected by the Client on the recommendation of SKYTRAC or its Representatives.

SKYTRAC will have no liability under this Section in connection with any non-performance or degradation of the Services arising from: (a) the combination of the Services with any other products not supplied by SKYTRAC if the non-performance or degradation would not have occurred but for the combination; or (b) the modification by Client of the Services if the non-performance or degradation would not have occurred but for the modification.

8.3 SKYTRAC MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, REGARDING THE EQUIPMENT OR SERVICES, AND EXPRESSLY DISCLAIMS ANY SUCH WARRANTY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, ABSENCE OF DEFECTS OF DESIGN OR MANUFACTURE, FAULT-FREE OR CONTINUOUS OPERABILITY OR SERVICE AND THOSE ARISING FROM ANY CUSTOM, CONDUCT, USAGE, TRADE OR OTHERWISE.

8.4 IN NO EVENT SHALL SKYTRAC BE LIABLE (WHETHER IN CONTRACT, TORT OR OTHERWISE, AND NOTWITHSTANDING ANY NEGLIGENCE, STRICT LIABILITY OR PRODUCT LIABILITY OF SKYTRAC) TO CLIENT OR OTHER PERSON FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR INDIRECT DAMAGES OR FOR ANY LOSS OF PROFIT, REVENUE, BUSINESS, DATA, TIME OR USE, WHETHER FORESEEABLE OR NOT , INCLUDING (BUT NOT LIMITED TO) THOSE ARISING FROM ERRORS, DELAYS, INTERRUPTIONS OR OMISSIONS IN THE TRANSMISSION OF MATERIAL OR MESSAGES OVER OR THROUGH THE SKYTRAC SYSTEM OR THE NETWORKS OF OTHER COMPANIES OR THE INTERNET, ARISING OUT OF THE FAILURE OF, USE OF OR INABILITY TO USE THE SERVICES, WHETHER OR NOT THE CLIENT OR SKYTRAC HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES.

9 LIMITATIONS ON LIABILITY

- 9.1 SKYTRAC does not guarantee error-free service or uninterrupted Service or receipt of material or messages transmitted over or through the system or the networks of other companies or the internet, and SKYTRAC makes no representations as to coverage or quality or service. Service may fail or be interrupted for reasons including, but not limited to, environmental conditions, technical limitations, defects or failures, emergency or public safety requirements, limitations of the systems of other satellite communications companies, or causes beyond SKYTRAC's control. SKYTRAC does not guarantee the privacy of any communications over or through a SKYTRAC System
- 9.2 The Iridium satellite communication system is an intrinsic component of the SKYTRAC System and its associated products. SKYTRAC is licensed by Iridium as a value-added reseller of its data transfer services. SKYTRAC will not be liable for the performance or non-performance of the Iridium satellite system. However, SKYTRAC shall use all reasonable efforts to ensure that Iridium provides its services as per the international standards of the satellite communication industry and published guidelines and SKYTRAC shall follow up for rectification in good faith with Iridium for any failure of its satellite system for ensuring the performance of Services under the Agreement. In no event will SKYTRAC be liable for any damages, claim or under any other theory for the performance or non-performance of the Iridium satellite system.
- 9.3 It is understood and agreed that any weather services provided by SKYTRAC pursuant to the applicable Agreement are only advisory in nature. As in the case of similar products or services provided by the meteorological consulting industry, such products or services are in part based on data provided by third parties, including the U.S. National Weather Service. Therefore, SKYTRAC cannot and does not warrant or assume responsibility for the accuracy of the services, and such services may be updated or modified at SKYTRAC's sole discretion. SKYTRAC assumes no responsibility for the correctness or accuracy of the same, except to the extent such inaccuracies are caused by the gross negligence or wilful misconduct of SKYTRAC. SKYTRAC shall not be liable for any damages or penalties for delay in delivery or use of these services, or for failure to give notice of delay, when such delay is due to any cause or condition outside of SKYTRAC' direct control, including, but not limited to: (i) acts of God, civil or military authority; (ii) actions or inactions of any governmental entity (foreign or domestic) or its agencies and departments, the U.S. National Weather Service, or the National Oceanic and Atmospheric Administration; (iii) acts of a public enemy; (iv) suspension, interruption, or unavailability of data communicated to SKYTRAC from any governmental or private sources; or (v) accidents, fires, explosions, earthquakes, floods, energy shortages, other elements of nature.
- 9.4 SKYTRAC'S ENTIRE LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO THE APPLICABLE AGREEMENT IS LIMITED TO THE AGGREGATE AMOUNTS PAID FOR BY THE CLIENT TO SKYTRAC UNDER SUCH AGREEMENT IN THE SIX (6) MONTHS PRIOR TO THE EVENT THAT GAVE RISE TO THE CLAIM FOR DAMAGES. TO THE EXTENT PERMITTED BY LAW, THESE LIMITATIONS ON LIABILITY WILL APPLY REGARDLESS OF WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), OR ANY OTHER LEGAL THEORY, BY OPERATION OF LAW OR OTHERWISE. THE CLIENT AGREES AND ACKNOWLEDGES THAT HIGHER FEES AND PRICES WOULD BE PAYABLE FOR THE EQUIPMENT AND/OR SERVICES BUT FOR SUCH LIMITATIONS.
- 9.5 SKYTRAC DOES NOT GUARANTEE ERROR-FREE SERVICE OR UNINTERRUPTED SERVICE OR RECEIPT OF MATERIALS OR MESSAGES TRANSMITTED OVER OR THROUGH THE SYSTEM OR THE NETWORKS OF OTHER COMPANIES OR THE INTERNET, AND SKYTRAC MAKES NO REPRESENTATIONS AS TO THE COVERAGE OR QUALITY OF ANY SATELLITE COMMUNICATION SERVICES. SKYTRAC DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED, AND HEREBY DISCLAIMS ANY AND ALL LIABILITY ON ACCOUNT THEREOF. SERVICE MAY FAIL OR BE INTERRUPTED FOR REASONS INCLUDING BUT NOT LIMITED TO, ENVIRONMENTAL CONDITIONS, TECHNICAL LIMITATIONS, DEFECTS OR FAILURES, EMERGENCY OR PUBLIC SAFETY REQUIREMENTS, LIMITATIONS OF THE SYSTEMS OF OTHER SATELLITE COMMUNICATIONS COMPANIES, OR CAUSES BEYOND SKYTRAC'S CONTROL. SKYTRAC DOES NOT GUARANTEE THE PRIVACY OF ANY COMMUNICATIONS OVER OR THROUGH SKYTRAC'S SYSTEMS. SKYTRAC DOES NOT WARRANT THAT THE SERVICES WILL MEET THE CLIENT'S NEEDS OR REQUIREMENTS. THE CLIENT SHALL NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, TO ANY THIRD PARTY ON BEHALF OF SKYTRAC. NOTHING IN THE AGREEMENT IS TO BE CONSTRUED AS

A WARRANTY OR REPRESENTATION BY SKYTRAC THAT USE OF ANY OF THE SERVICES ARE FREE OF INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

9.6 LIMITATION ON LIABILITY

SKYTRAC'S ENTIRE LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT IS LIMITED TO THE AGGREGATE AMOUNTS PAID FOR BY THE CLIENT TO SKYTRAC UNDER THIS AGREEMENT IN THE SIX (6) MONTHS PRIOR TO THE EVENT THAT GAVE RISE TO THE CLAIM FOR DAMAGES. TO THE EXTENT PERMITTED BY LAW, THESE LIMITATIONS ON LIABILITY WILL APPLY REGARDLESS OF WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), OR ANY OTHER LEGAL THEORY, BY OPERATION OF LAW OR OTHERWISE. THE CLIENT AGREES AND ACKNOWLEDGES THAT HIGHER FEES AND PRICES WOULD BE PAYABLE FOR THE SERVICES BUT FOR SUCH LIMITATIONS.

10 REPRESENTATIONS AND WARRANTIES

10.1 Each Party hereby represents and warrants to the other Party that:

- (a) it has good and sufficient power, authority and right to enter into the applicable Agreement;
- (b) it has been duly incorporated, properly organized and is validly existing in good standing pursuant to the applicable laws; and
- (c) the execution and performance of the applicable Agreement do not conflict with, and do not and will not result in a breach of any applicable law, rule or regulation or any agreement or obligation.

10.2 SKYTRAC warrants and represents that the Equipment and Services provided hereunder will:

- (a) comply with the terms of the applicable Agreement; and
- (b) be performed in a timely manner by qualified personnel in a good and workmanlike manner in accordance with applicable industry standards and practices.

Except as expressly stated in this Section, SKYTRAC makes no other warranty or representation with respect to the Equipment or Services.

11 INDEMNITY BY CLIENT FOR IMPROPER USE

The Client will indemnify defend, and save harmless SKYTRAC for all damages, expenses, losses, claims (including reasonable attorney's fees) or judgments sustained by or made against SKYTRAC arising directly or indirectly from or in connection with the Client's use or misuse of the Equipment, Services or System, or for any breach of the applicable Agreement.

12 INDEMNIFICATION FOR INTELLECTUAL PROPERTY

12.1 SKYTRAC Indemnity

12.1.1 If a third party claims that any Services and/or Software other than Modified Software provided to Client pursuant to the Agreement ("Indemnified Items") infringes any Canadian or United States copyright, patent or registered trademark of a third party, SKYTRAC will defend Client against such claim at SKYTRAC's expense and will pay all judgments and damages that a court finally awards based on such claim. This obligation of SKYTRAC is expressly conditioned on Client promptly notifying SKYTRAC in writing of the claim, cooperating and allowing SKYTRAC to control the defence of such claim and any related settlement negotiations, and promptly allowing SKYTRAC to modify or replace the Indemnified Items so as to eliminate any claimed infringement. If a claim of infringement is made or appears likely to be made regarding any Indemnified Item, Client agrees to allow SKYTRAC to modify or replace such Indemnified Item. If SKYTRAC in its discretion determines that none of the foregoing alternatives is reasonably available, Client agrees to return such Indemnified Item to SKYTRAC upon SKYTRAC's request. If

SKYTRAC requests to have such Indemnified Item returned, SKYTRAC will grant Client a credit equal to the then-current net book value of the Indemnified Item as indicated on the books of Client, provided that Client has followed generally accepted accounting principles.

12.1.2 Notwithstanding the foregoing, SKYTRAC shall have no obligation to Client regarding any alleged violation of intellectual property rights of any type, which is based on, or which results from, any of the following:

12.1.2.1 any modification of an Indemnified Item requested by Client, or use of any Indemnified Item in an operating environment not specified or approved by SKYTRAC in writing,

12.1.2.2 any combination, operation or use of an Indemnified Item with any product, data, software or apparatus not provided or approved by SKYTRAC where the infringement would not arise except for the combination thereof, or

12.1.2.3 infringement caused or contributed to by third party components or software.

12.1.3 Client may participate in any litigation regarding infringement provided that such involvement shall be at Client's cost and such costs shall not be indemnified. SKYTRAC will pass through to Client any intellectual property indemnities granted by third parties, where permitted by such party.

12.1.4 Client Indemnity

12.1.5 Client, at Client's expense, shall defend, indemnify and hold harmless SKYTRAC, and its Affiliates, directors, officers, employees and agents, from and against any claim, proceeding or suit (referred to as a "**Claim**") brought against SKYTRAC to the extent such Claim: (i) alleges, directly or indirectly that any business and/or functional requirements provided to SKYTRAC by Client infringes any copyright, patent or registered trademark of a third party; or (ii) is in relation to Client's use of any Services or the Flight Following and Communication Services, except to the extent SKYTRAC has indemnified Client pursuant to Section 12.1; provided that Client is given:

12.1.5.1 prompt written notice of the Claim or of any allegations or circumstances known to SKYTRAC which could result in a Claim;

12.1.5.2 all reasonable information and assistance from SKYTRAC, at Client's expense, which Client may require to defend the Claim; and

12.1.5.3 sole control of the defence of the Claim, and all negotiations for its settlement or compromise thereof.

13 CONFIDENTIALITY AND CLIENT DATA

13.1 Confidentiality

Unless the Parties enter into a non-disclosure and/or confidentiality agreement (the "**NDA**"), in which case the terms and conditions of the NDA will be incorporated into the applicable Agreement and will prevail over this SKYTRAC Terms, then any data, plans, specifications, reports, models, samples or other similar items or other technical, commercial or financial information relating to either Party's business (the "**Confidential Information**") which either Party may obtain or in any way disclose to the other Party in connection with the Services being provided under the applicable Agreement, will be deemed to be confidential and neither Party will use the Confidential Information for its own purposes, other than as provided hereunder, nor will either Party disclose the Confidential Information to any third party except as may be specifically authorized by the disclosing party in writing in advance.

13.2 Public Disclosure

Neither Party will publish any information regarding the applicable Agreement, nor disclose, confirm or deny any details about the existence or subject matter of such Agreement, or use the other Party's name in connection with any press releases, announcements, promotions or marketing efforts without the prior written approval of the other Party.

13.3 Client Data

The Client hereby authorizes and grants to SKYTRAC a non-exclusive, worldwide, royalty-free, right to possess, store, use, copy, distribute and process any of the Client Data. SKYTRAC agrees and acknowledges that the Client Data shall always remain the property of the Client. The Client acknowledges that SKYTRAC may share the Client Data with certain third parties in order to perform, administer or improve the Services. SKYTRAC will only use the Client Data with individually identifiable personal information in a manner which complies with the applicable privacy laws of the Province of British Columbia. For greater certainty, SKYTRAC will not reveal the identity of the Client in association with any Client Data to any third party without the prior written approval of the Client or if SKYTRAC is required to do so by law or other regulatory authority.

14 INTELLECTUAL PROPERTY

14.1 All right, title and interest, including all Intellectual Property Rights, in any of the Intellectual Property in and with respect to the System and Services, including Modified Software, and all right, title and interest, including all Intellectual Property Rights, in any of the Intellectual Property that is conceived, reduced to practice, or developed by SKYTRAC during the Term will vest with and belong exclusively to SKYTRAC.

14.2 All Modified Software developed by SKYTRAC for the Client in the course of performing the Services shall be governed by the terms of the Agreement. Notwithstanding the foregoing, in the event that Services include (i) the delivery to the Client of any Modified Software that is developed, modified or configured by SKYTRAC in accordance with Client's requirements or specifications, or (ii) the delivery or use of any other software which Client has provided, requested or specified that SKYTRAC deliver or use, or (iii) delivery of software for which Client has no signed license with SKYTRAC, then SKYTRAC makes no warranties or conditions concerning such software or related services, and disclaims any warranty or condition that such software or services can be used without infringing the rights of third parties, and Client agrees to defend, indemnify and hold SKYTRAC harmless from any intellectual property infringement claim related to such Modified Software or services.

15 MISCELLANEOUS

15.1 Force Majeure

Neither Party will be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, earthquakes, acts of God, war, governmental action, supplier problems, or any other force majeure event that is beyond the reasonable control of such Party (the "**Force Majeure Party**"); provided, however, that if such failure or delay in performance continues for more than ninety (90) days, and the Force Majeure Party has provided the other Party with written notice of the occurrence of such an event within seven (7) calendar days of its occurrence and, if it is reasonable to do so, the Force Majeure Party has used its best efforts to promptly and diligently remedy the cause and effect of such event, then the Force Majeure Party will have the right to terminate the applicable Agreement immediately upon written notice to the other Party and will have no liability as a result of such termination.

In cases of partial or total interruption, loss or shortage of transportation facilities or supplies, shortage of Equipment or Services to be provided hereunder, or a decision by SKYTRAC, in its sole discretion, that the costs of certain supplies or materials have become unreasonable, SKYTRAC may allocate the provision of its Equipment or Services among its clients, its affiliates, and itself on any basis which SKYTRAC, in its sole discretion, determines is fair and reasonable, allowing for such priorities as SKYTRAC deems necessary or appropriate.

15.2 Notices

Any notice under the applicable Agreement shall be in writing and may be given by personal delivery, registered mail or email, addressed to such party's regular postal address or email address or such other postal address or email address as communicated by one party to the other from time to time. Any notice shall be conclusively deemed to be received, if given by personal delivery, on the date of actual delivery thereof and, if given by registered mail, on the fifth day following the date of mailing and, if given by email, on the date that the receiving party acknowledges receipt by email reply to the same email address from where the notice originated. If the party giving any notice knows or ought reasonably to know of any actual or threatened interruptions of the mails, such notice shall not be sent by mail but shall only be given by personal delivery or email.

15.3 Entire Agreement

These SKYTRAC Terms, together with the applicable agreement(s) constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior communications, representations, agreements, understandings, and negotiations, whether oral or written, of the Parties. The Agreement shall prevail over any terms and conditions of the Client whether contained in any correspondence, request for quotation, purchase order or order acknowledgement, or implied by any trade usage, custom, practice or course of dealing, and any purported provision to the contrary is hereby excluded.

15.4 Further Assurances

Each of the Parties agree to do all such other acts and things and provide all reasonable assurances as may be required to complete the transactions contemplated by the applicable Agreement, and each Party will provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to give effect to the applicable Agreement and to carry out its provisions.

15.5 Severability

Any provision in the Agreement which is held to be illegal or unenforceable in any jurisdiction will be ineffective to the extent of such illegality or unenforceability without invalidating the remaining provisions and any such illegal or unenforceable provision will be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law.

15.6 Governing Law

This Agreement will be governed and construed in accordance with the laws of the Province of British Columbia, and the federal laws of Canada applicable therein, without reference to any conflict of laws rules. The parties hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the Province of British Columbia, Canada with respect to any matters arising pursuant hereto. The Parties agree that the *United Nations Convention on Contracts for the International Sale of Goods* shall not apply to the applicable Agreement.

15.7 Assignment

15.7.1 The Client will not transfer, assign or subcontract the applicable Agreement to any other person without the prior written consent of SKYTRAC, which consent may not be unreasonably withheld.

15.7.2 SKYTRAC may, without the consent of the Client, assign the applicable Agreement to any of its Affiliates or any third party acquiring SKYTRAC by merger, acquiring all or substantially all of SKYTRAC's assets, acquiring all or substantially all of a division of SKYTRAC or to any of SKYTRAC's subsidiaries or affiliates.

15.8 Amendment

No amendment, modification, alteration or waiver of any of the provisions of the applicable Agreement will be binding upon the Parties unless made in writing and signed by the duly authorized representatives of both Parties.

15.9 Waiver

Any failure of a Party to exercise or enforce any of its rights under the applicable Agreement will not act as a waiver of such rights.

15.10 Currency

In the applicable Agreement, unless otherwise indicated, all references to currency are in United States Dollars.

15.11 Nature of Relationship

The Parties acknowledge that they are independent contractors and no other relationship, including, without limitation, any partnership, joint venture, employment, franchise, master/servant or principal/agent is intended by the applicable Agreement. Neither Party has the right to bind or obligate the other.

15.12 Survival

The provisions of the applicable Agreement which by their nature are intended to survive the termination or expiration of such Agreement, shall continue as valid and enforceable obligations of the Parties notwithstanding any such termination or expiration.

15.13 English Language

It is the express wish of the parties that the Agreement and all related documents, including notices and other communications, be drawn up in the English language only. Il est la volonté expresse des parties que cette convention et tous les documents s'y rattachant, y compris les avis et les autres communications, soient rédigés et signés en anglais seulement.