

**Carahsoft Rider to Manufacturer Commercial Supplier Agreements**  
**(for U.S. Government End Users)**  
**Revised 20160504**

- 1. Scope.** This Carahsoft Rider and the Manufacturer's Commercial Supplier Agreement (CSA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").
  
- 2. Applicability.** The terms and conditions in the attached Manufacturer's CSA are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 § U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's CSA is inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's Multiple Award Schedule Contract, GS-35F-0119Y, including, but not limited to the following:
  - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", defined as an entity authorized to order under Government contracts as set forth in Government Order 4800.2H ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.
  
  - (b) Changes to Work and Delays.** Subject to General Services Administration Acquisition Regulation (GSAR) 552.238-81 Modifications (Federal Supply Schedule) (APR 2014) (Alternate I – APR 2014) and GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) regarding which of the GSAR and the FAR provisions shall take precedence.
  
  - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

- (d) Audit.** During the term of this CSA: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this CSA. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this CSA.
- (e) Termination.** Clauses in the Manufacturer's CSA referencing termination or cancellation of the Manufacturer's CSA are hereby deemed to be deleted. Termination shall be governed by the GSAR 552.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:
- Carahsoft may request cancellation or termination of the CSA on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section (q) below or if such remedy is otherwise ordered by a United States Federal Court.
- (f) Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider and the CSA will be governed by and construed in accordance with the laws of the United States. All clauses in the Manufacturer's CSA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) Force Majeure.** Subject to GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer's CSA referencing unilateral termination rights of the Manufacturer's CSA are hereby deemed to be deleted.
- (h) Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (MAY 2014) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer's CSA are hereby deemed to be deleted.
- (i) Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (MAY 2014), and all clauses governing waiver of jury trial in the Manufacturer's CSA are hereby deemed to be deleted.

- (j) **Customer Indemnities.** All of the Manufacturer's CSA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All of the Manufacturer's CSA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) **Renewals.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) **Taxes.** Taxes are subject to GSAR 552.212-4(k) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) and GSAR 552.212-4 (w)(1)(x) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored).
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer's CSA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer's CSA and to this Rider shall be resolved in accordance with the FAR, the GSAR and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. See GSAR 552.212-4 (w)(1)(iii) Contract Terms and Conditions – Commercial Items, Law and Disputes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). The Ordering Activity expressly acknowledges that Carahsoft, as the vendor selling the Manufacturer's licensed software, shall have standing under the Contract Disputes Act to bring such claims that arise out of licensing terms incorporated into Multiple Award Schedule Contract GS-35F-0119Y.

**(r) Limitation of Liability: Subject to the following:**

Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

**(s) Advertisements and Endorsements.** Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

**(t) Public Access to Information.** Manufacturer agrees that the CSA and this Rider contain no confidential or proprietary information and acknowledges the CSA and this Rider will be available to the public.

**(u) Confidentiality.** Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court. The Licensee may provide information to other components of the United States Government pursuant to proper requests for such information as permitted by law, regulation or policy (e.g., disclosures to Congress, auditors, Inspectors General, etc.).



## Subscription Agreement

This SUBSCRIPTION AGREEMENT ("Agreement") is made between CompassCom Software Corporation, a Colorado corporation ("CompassCom") and the Government Ordering Activity, as defined in Section 2(a) of the Carahsoft Technology Corporation (Carahsoft) Rider, ("Customer") which include all officers, directors, employees, agents, affiliates and related companies and other persons related to CompassCom as well as their parents, subsidiaries, brother and sister entities and all such persons related to such affiliated persons or entities.

### General Overview

CompassCom is the owner or licensee of all rights to software, the code related thereto and all proprietary information, intellectual property, trademarks and trade secrets in and to certain software exclusively owned or licensed by CompassCom which is generally referred to as CompassWorks. As used herein the term CompassWorks which is hosted by CompassCom ("CompassCom Host") and which generally includes and refers to CompassLDE Software and the CompassCom Software, if subscribed to by Customer and all software and also includes the Modem and its Set Up, Installation and other material furnished to Customer in connection with CompassWorks. The term CompassLDE Software includes the CompassLDE Software, the CompassCom Viewer and the CompassCom Reports. In addition thereto, CompassCom is owner or licensee of all rights to the additional software, the code related thereto and all proprietary information, Intellectual Property, trademarks and trade secrets for additional software which can be accessed only in connection the CompassLDE Software as set forth on Exhibit A or on the CompassCom Quote (CompassCom Software"). The provisions of this Agreement shall control the Customer access to CompassWorks, the CompassLDE Software and the CompassCom Software and are made pursuant to the provisions of the Scope of the Subscription and Services set forth herein attached hereto as Exhibit B and the Acceptable Use Policy attached hereto as Exhibit C.

Generally CompassWorks, the CompassLDE Software and CompassCom Software, if subscribed to by the Customer, and their various modules provides real time information and metrics ("Mobile Resource Unit Information") regarding Mobile Resource Units including vehicles (generally referred to herein as "Mobile Resource Units") including Mobile Resource Unit management and Automatic Vehicle Tracking (generally "AVL") using a device (the "Modem") installed in the Mobile Resource Unit that transmits the Mobile Resource Unit Information regarding the Mobile Resource Unit and may include AVL as specified by the Customer. The term Modem, as used herein, includes the Modem and all wiring and connections required to be installed the Modem on the Mobile Resource Unit ("Installation"). CompassCom then uses its CompassWorks, CompassLDE Software and CompassCom Software, if subscribed to by the Customer, to provide to the Customer and Compass Com the Mobile Resource Unit Information and reports regarding the Mobile Resource Unit and may include AVL and other metrics and information as the parties may agree for the use of Customer and CompassCom as set forth on Exhibit B hereof (the "Services" or the "Subscription").

Unless CompassCom and the Customer otherwise agree in writing, the Modem shall be supplied and installed on the Mobile Resource Unit by CompassCom pursuant to the terms and conditions of the Equipment Invoice agreed to by the Customer, the form of which is attached hereto as Exhibit E. In the

event CompassCom or its subcontractor installs the Modem, Customer shall pay the Installation Fee per unit of the Mobile Resource Unit as defined on Exhibit D (“Installation Fee”) which fee includes the cost of the Modem, required wiring and connections, all costs associated therewith and the labor necessary to install the Modem on the Mobile Resource Unit. Exhibit D also may set forth the terms for storage by CompassCom of the Mobile resource Information as agreed to by the Parties. Customer may install the Modem on its own Mobile Resource Unit in which case Customer shall not be liable for the Installation Fee provided that Customer shall first advise CompassCom concerning all technical information and procedures it intends to use to install the Modem and shall have received CompassCom’s consent to such Customer installation.

Unless the Parties agree in writing to another form of communication, the Mobile Resource Unit Information regarding the Mobile Resource Unit is generally transmitted to CompassCom using a communication supplier (usually cellular) which is provided by the Customer at its sole expense and responsibility (“Transmission Method”). The Mobile Resource Unit Information which may include AVL is then processed by CompassCom using CompassWorks, the CompassLDE and the CompassCom Software, if subscribed to by Customer, to process and report to the Customer the Mobile Resource Unit Information and may include AVL generally as set forth on Exhibit B attached hereto and made a part hereof.

This Agreement and all Exhibits as set forth herein and as attached hereto shall, as applicable, are included in the definition of Agreement as used herein.

The Customer agrees that after the installation of the Modem and the testing of CompassWorks and Acceptance by the Customer as defined herein, the Customer cannot modify the Modem, the Transmission Method, CompassWorks, the CompassLDE and the CompassCom Software or change the Mobile Resource Unit in which the Modem is installed or the environment in which CompassWorks operates without the express written consent of CompassCom and if granted subject to such terms, conditions and payments as CompassCom and Customer may agree to in writing.

The Price Schedule for the initial Installation Fee if applicable and for any additional Customer Resource Units, the Set Up Fee and for any additional Customer Resource Units for access to CompassWorks including the CompassLDE Software and CompassCom Software for the Term as defined herein is set forth on Exhibit D. The Parties agree that the Price as set forth on Exhibit D is based on the number of Mobile Resource Unit using CompassWorks, the CompassComLDE Software, the CompassCom Software and the Subscription and Services and that any increase in the number of Mobile Resource Unit using CompassWorks and the Subscription and Services will increase the Price by the number of Customer Resource Units using CompassWorks, the CompassLDE Software, the CompassCom Software and the Subscription and Services added times the price per unit of Mobile Resource Unit using CompassWorks, the CompassLDE Software, the CompassCom Software and the Subscription and Services.

The foregoing is intended to be a general description of the relationship between the Parties and to set forth certain defined terms. In the event any provisions of the General Statement conflict with the terms herein, the Subscription and Services, the AUP or the terms of the form of the Invoice, the order of precedence between conflicting terms shall be determined in accordance with General Services Administration Acquisition Regulation (GSAR) 552.212-4(s).

**Terms of the Subscription** This CompassCom Subscription Agreement and all attachments hereto to be agreed to by the Customer as set forth and all undertakings by CompassCom sometimes referred to collectively, as CompassWorks, as described herein including the Subscription and Services). Acceptance of any terms or conditions different from those

contained herein by CompassCom will be deemed to be provision of this Agreement only if by electronic or written signature of an officer of CompassCom.

CompassCom agrees to furnish CompassWorks, the CompassLDE Software and the CompassCom Software, the Subscription and the Services to the Customer, subject to this Agreement and all attachments hereto.

The access to CompassWorks, the CompassLDE Software, and the CompassCom Software if subscribed to by Customer, the Subscription and the Services constitutes acceptance of this Agreement and all attachments hereto.

**1. Notice of Intellectual Property Rights** CompassCom is the sole owner of CompassWorks, the CompassLDE Software, the CompassCom Software and any other software, trade secrets and proprietary information, names, trade names, trademarks and the Intellectual Property and is also protected by copyright laws as well as other intellectual property protection and applicable laws. "Intellectual Property" means all algorithms, application programming interfaces (APIs), apparatus concepts, Moral Rights, Patents and Patent rights in any country, Design, trade secrets, know-how, CompassWorks, the CompassLDE Software and the CompassCom Software, Confidential Information, Intellectual Property Rights, the CompassLDE Software and the CompassCom Software, Improvements, Upgrades and Updates, data, databases and data collections, designs, diagrams, Documentation, drawings, flow charts, formulae, ideas and inventions (whether or not patentable or reduced to practice), materials, marketing and development plans, Marks (including brand names, CompassWorks, the CompassLDE Software and the CompassCom Software and their names, logos, and slogans), methods, models, net lists, network configurations and architectures, procedures, processes, protocols, schematics, software code (in any form including source code and executable or object code), specifications, subroutines, techniques, test vectors, uniform resource identifiers including uniform resource locaters (URLs), user interfaces, web sites, works of authorship, and other forms of technology together with the physical embodiments thereof. The term Intellectual Property includes this Agreement and all Exhibits and other undertakings between the Parties. The Intellectual Property shall be held in the strictest confidence by Customer and no part thereof or any information regarding, CompassWorks, the CompassLDE Software, the CompassCom Software, the Subscription and the Services shall not be disclosed to any unauthorized person without the express written consent of CompassCom and shall constitutes the proprietary and Confidential Information ("Confidential Information") owned by CompassCom.

**2. Scope of the Subscription.** So long as the Agreement is in effect, CompassCom agrees to provide the Customer access to CompassWorks, the CompassLDE Software, the CompassCom Software, if subscribed to by Customer, Subscription and Services to Customer as set forth herein and on Exhibit B, Scope of the Subscription and Services. For the access to Customer Resource Unit Information, CompassWorks, the CompassLDE Software, the CompassCom Software, if subscribed to by Customer, the Subscription and Services supplied by CompassCom hereunder, CompassCom shall be paid the fees as specified under Exhibit D, Price Schedule, attached hereto and incorporated herein which Price Schedule includes the initial Installation Fee, Installation Fee if any for any additional Compass Resource Units installed, the Set Up Fee, if any for any initial and any additional fees for additional Customer Resource Units, the Monthly Access Fee and subscription to CompassWorks, the CompassLDE Software and any components of the CompassCom Software subscribed for as set forth herein.

Without prejudice and subject to the terms and conditions of this Agreement, CompassCom grants to the Customer, a limited, non-exclusive, non-sub licensable, non-transferable right and non -assignable to electronically access the Mobile Resource Unit Information only in conjunction with CompassWorks, the CompassLDE Software, the CompassCom Software, if subscribed to by Customer in

accordance with this Agreement, the AUP, the accepted Quote agreed to by CompassCom and Customer (Quote”) and the Invoice and any specific additional agreement(s), executed by the Parties which would need to be entered into prior to the granting of access to specific portions of CompassWorks.

**3. Access to CompassWorks, the CompassLDE Software, the CompassCom Software if subscribed to by Customer, the Subscription and Services** The access to CompassWorks, the CompassLDE Software and the CompassCom Software, if subscribed to by Customer, the Subscription Services any other software is solely for access by the Customer. Customer shall not allow any third party or unauthorized person or entity to access the CompassCom Host or access CompassWorks, the CompassLDE Software, the CompassCom Software or the Mobile Resource Unit Information whether for consideration or otherwise without the express written consent of CompassCom which may be granted or denied in CompassCom’s sole discretion. In addition thereto CompassWorks, any Modems, the CompassLDE Software the CompassCom Software and any other software and may not be used for any Mobile Resource Unit that is not either owned by Customer or used by Customer in its usual course of business.

The AUP is attached hereto as Exhibit C and may be updated from time to time. BY USING COMPASSWORKS, THE COMPASSLDE SOFTWARE AND THE COMPASSCOM SOFTWARE, IF SUBSCRIBED TO BY CUSTOMER, THE SUBSCRIPTION AND SERVICES, CUSTOMER AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND THE AUP.

Security: Customer is solely responsible for any security breaches affecting servers or accounts under the Customer control. If the Customer server is responsible for or involved in an attack on or unauthorized access into another server or CompassWorks, CompassCom will suspend Customer’s access to CompassWorks immediately. Carahsoft, on behalf of CompassData, shall invoice Customer for any charges resulting from the cost to correct security breaches affecting CompassCom or any of its other customers.

**4. Interruption of the Subscription and Service** CompassCom and its suppliers are not liable for any temporary delay, outages or interruptions of CompassWorks, the CompassLDE Software and the CompassCom Software, the Subscription and the Services related thereto. CompassCom is not liable for any delay or failure to perform its obligations under this Agreement, where the delay or failure results from any “act of God” or other cause beyond its reasonable control (including any mechanical, electronic communications or third-party supplier failure). Any CompassCom liability, which is specifically denied, shall be limited as provided for herein in paragraphs 17, 19 and 20.

**5. CompassWorks and Network Security** In addition to the provisions of this Agreement and the AUP, Customer is prohibited from violating or attempting to violate the security of CompassCom’s Intellectual Property, CompassWorks, the CompassLDE Software, the CompassCom Software, this Agreement, the Subscription and the Services and the CompassCom proprietary network. Violations of CompassWorks, the CompassLDE Software, the CompassCom Software, this Agreement, the Subscription and the Services or network security may result in civil or criminal liability. CompassCom will investigate occurrences and cooperate with law enforcement authorities in prosecuting Customer or a user or other persons whether accessing CompassWorks, the CompassLDE Software, the CompassCom Software or the Customer Resource Unit Information whether thru CompassCom’s or Customer’s computer or otherwise, which is involved in such violations. These violations include, without limitation:

- a) Accessing data or other information not intended for the Customer or logging into a server or account, which such Customer or user is not authorized to access
- b) Attempting to probe, scan or test the vulnerability of CompassWorks, the



CompassLDE Software, and the CompassCom Software if subscribed to by Customer or network or to breach security or authentication measures without proper authorization.

c) Attempting to interfere with the Subscription and any Service to any Customer, user, host or network, including without limitation, via means of overloading, flooding, mail bombing or crashing

d) Forging any TCP/IP packet header or any part of the header information in any email or newsgroup posting.

e) Taking any action in order to obtain access to CompassWorks, the CompassLDE Software, and the CompassCom Software if subscribed to by Customer, the Services and the Subscription, which such Customer or user is not entitled.

**6. Notification of Violations or Infractions** CompassCom is under no duty to look at each Customer's or users activities to determine if a violation of this Agreement, the AUP or any trademark, proprietary information or copyright has occurred, nor does CompassCom assume any responsibility through its this Agreement, CompassWorks, the CompassLDE Software, the CompassCom Software, or the AUP to monitor or police Internet related activities.

**7. Acceptance** CompassCom agrees to notify the Customer ("Notice of Completion") that the Modem has been installed, if installed by CompassCom or upon installation by the Customer as permitted herein and that CompassWorks, the CompassLDE Software and the CompassCom Software, the Subscription and the Services materially performs according to this Agreement on the occurrence of the first Customer's Mobile Resource Unit to be put into operation. Unless CompassCom receives written notice from the Customer of any material defect in the Customer's access to CompassWorks, the CompassLDE Software and the CompassCom Software and the Subscription and Services and its performance on such first Mobile Resource Unit as specific by the Parties within 10 business days of the Notice of Completion (which notice shall set forth details setting forth the claimed defect), the Customer shall be deemed to have accepted CompassCom's performance of its undertakings herein including the access to CompassWorks, the CompassLDE Software, the CompassCom Software if subscribed to by Customer, and access to the Mobile Resource Unit Information ("Acceptance").

**8. Term and Fees** Upon the initial payment of the initial Set Up Fee, the initial Installation Fee and the first Monthly Access Fee and unless sooner terminated as provided for herein, this Agreement will be for an Initial Term of one years ("Initial Term") and each next Renewal Year for an additional year (Renewal Year") both terms also referred to interchangeably and collectively as "Term".

Pricing and duration of the Initial Term or any Renewal Year may be modified only if in writing signed by Carahsoft, acting on behalf of CompassCom.

Any future price increases in the Installation Fee for any additional Modems to be installed on additional Mobile Resource Units, the Set Up Fee, if applicable for additional CompassCom Software subscribed for and the Monthly Access Fee for the Subscription or Services will be documented in an updated Exhibit D Price Schedule,.

**10. Taxes etc.** Customer is responsible for paying all federal, state, and local sales, use, value added taxes (VAT); excise duty and any other taxes assessed with respect to this Agreement and all attachments hereto, other than taxes based on CompassCom's state and US income taxes. All Customer payments to CompassCom or its affiliates shall be net of such taxes.

**11. Credit Cards** Customer authorizes CompassCom to charge the Customer credit or debit card to pay for any charges that may apply to the Customer account. Customer has a specific obligation to immediately notify CompassCom of any changes to the Customer card account (including applicable

account number or cancellation or expiration of the account, the Customer billing address or any information that may prohibit CompassCom from properly charging the Customer's account. Credit cards that are declined for any reason or that are either rejected or not paid when CompassWorks, the CompassLDE Software, the CompassCom Software, if subscribed to by Customer, the Subscription and the Services are invoiced as well as checks or other forms of payment that is not honored are subject to the Prompt Payment Act.

**12. Support, Training and Maintenance** As a part of the Set Up Fee, Installation Fee and the Monthly Access Fee paid by Customer, CompassCom provides on line only technical Support, Training and Maintenance to the Customer as set forth on Exhibit B. The following are additional guidelines regarding Support, Training and Maintenance:

CompassCom does not provide support for application specific issues other than CompassCom supplied applications such as any Third Party Software, programming, HTML third party applications or any other such issue.

Any Installation or Set Up for any Modem or equipment and any modification thereof done by anyone other than CompassCom shall void any warranties or other commitments herein unless such installation or modification is done only with CompassCom's written consent and strictly in compliance with CompassCom's specifications.

In consideration of the payment of the Installation Fee and Monthly Access Fee, CompassCom will provide the Maintenance, Training and Support as set forth on Exhibit B.

**13. Customer Representatives and Warranties** Customer warrants, represents and covenants to CompassCom that (a) the Customer and all persons acting on behalf of Customer is at least 18 years of age if an individual: (b) the Customer possess the legal right and ability to enter into this Agreement: (c) the Customer will access CompassWorks, the CompassLDE Software, the CompassCom Software, if subscribed to by Customer, only for lawful purposes and in accordance with this Agreement and all applicable policies and guidelines, including the AUP: (d) the Customer content does not and will not infringe or violate any right of any third party (including any intellectual property rights) or violate any applicable law, regulation or ordinance and (e) Customer has all licensee, permits and consents (including consents from employees) which may be required for Customer to gather the Mobile Resource Unit Information and to utilize same as Customer sees fit.

**14. CompassCom Intellectual Property Policy** CompassCom respects the intellectual property rights of others and expects its Customers to do the same. CompassCom reserves the right, at its discretion, but is not obligated to, inquire about and to delete, after providing notice to and receiving approval from Customer, material that infringes the copyrights, trademarks or other intellectual property rights of others. If the Customer believes that the Customer Mobile Resource Information, CompassWorks, the CompassLDE Software and the CompassCom Software has been used in a way that constitutes copyright infringement, Customer agrees to provide CompassCom with the following information:

1. A description of the copyrighted work property that the Customer or CompassCom claims has been infringed:
2. A description of the material that the Customer or CompassCom claims infringes the Customer copyright, and information sufficient to allow us to locate the material;
3. Customer and the infringer's address telephone number and e-mail address.
4. A statement by the Customer that the Customer has a good faith belief that

the disputed access is not authorized by the copyright or intellectual property of the owner, its agent or the law;

5. A statement by the Customer made under penalty of perjury, that the information provided is accurate and, if the Customer claims to have the rights to the alleged infringing material that the Customer is the copyright owner or authorized to act on the copyright owner's behalf.

6. An electronic or physical signature of a person authorized to act on behalf of the owner of the copyright.

**15. Privacy** The parties acknowledge that access to CompassWorks, the CompassLDE Software and the CompassCom Software, the Services and Subscription and the Customer Resource Unit Information may have privacy implications for employees of the Customer. Whether, and to what extent, an employee of Customer privacy rights are implicated may be affected by such things as: the use to which the Customer Resource Unit Information is put; the information that is gathered by the Customer and sent to CompassCom; the dissemination of Mobile Resource Unit Information that is gathered; the actions that are taken based upon the information gathered; whether the employees of Customer have knowledge and/or have consented to such monitoring; the policies and procedures that have been implemented and communicated by the Customer; and current federal and state laws, regulations and constitutional rights applicable to the Customer. Customer hereby agrees to take commercially reasonable steps to protect employee's privacy rights, and to comply with all applicable laws, regulations and policies. In connection therewith, Customer agrees (i) to notify that it no longer needs to store Mobile Resource Unit Information or information longer than is required under, (ii) not to transfer employee data including Mobile Resource Unit Information or information to third parties other than is necessary to provide the Services, (iii) not to aggregate the Mobile Resource Unit Information with other data in such a way that would compromise employee's privacy or (iv) not to collect additional information regarding an employee other than is required to provide the Service.

**16. IP Numbers** CompassCom will maintain and control ownership of all Internet Protocol ("IP Numbers") numbers and addresses that CompassCom may assign to the Customer. CompassCom may, in its sole discretion, change or remove any and all IP numbers and addresses at any time.

**17. Third Party Software** CompassCom may provide the Customer with access to other third party software and/or services ("Third Party Software") through reseller relationships that CompassCom has established with certain commercial vendors, including without limitation, Microsoft Corporation ("Third Party Vendors"). Unless otherwise notified, Customer understands that Software support, training and maintenance for Third Party Software which is provided by the Third Party Vendor. Neither CompassCom nor any Third Party Vendor makes any representations or warranties, expressed or implied, regarding any Third Party Software. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THIRD PARTY SOFTWARE IS AT CUSTOMER'S SOLE RISK AND SUCH THIRD PARTY SOFTWARE IS PROVIDED "AS IS" AND WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND FROM COMPASSCOM OR ANY THIRD PARTY VENDOR, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, LACK OF VIRUSES, ACCURACY OR COMPLETENESS OF RESPONSES OR RESULTS, CORRESPOND TO ANY DESCRIPTION THEREOF, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER COMPASSCOM NOR ANY THIRD PARTY VENDOR WILL BE LEGALLY RESPONSIBLE FOR ANY DAMAGES,

WHETHER DIRECT, INDIRECT, OR CONSEQUENTIAL ARISING FROM THE USE OR INABILITY TO USE ANY THIRD PARTY SOFTWARE.

Customer shall not (i) remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on CompassWorks or on any Third Party Software or that appear during use of CompassWorks or appears on any Third Party Software: or (ii) reverse engineer, decompile, or disassemble CompassWorks or any Third Party Software, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limit.

**18. Termination or Modification of Agreement**

18.1 Termination for Convenience. In accordance with GSAR 552.212-4(1), Customer may terminate this Agreement and the Subscription and any Service for its convenience prior to the end of the applicable Initial Term or any Renewal Year, provided that Customer gives CompassCom prior written notice of such termination.

18.2 This Agreement may be terminated or revised by the mutual written agreement of the parties.

18.3 The occurrence of any event as set forth herein.

18.4 Return of Mobile Resource Unit Information Upon termination of this Agreement, regardless of the cause, all Mobile Resource Unit Information shall be delivered to the Customer immediately upon termination and in no case may CompassCom hold such Mobile Resource Unit Information.

18.5 Following Termination. Upon expiration or termination of this Agreement, Customer shall cease all access to CompassWorks, CompassLDE Software, CompassCom Software, the Services and the Subscription, and destroy, erase, delete or otherwise permanently remove all copies of any Proprietary Information, Intellectual Property or other information supplied by CompassCom other than the Mobile Resource Unit Information, destroy and delete all pass words, or any information granting Customer access to CompassWorks, the CompassLDE Software, the CompassCom Software and any information related thereto and certify in writing to CompassCom that the foregoing has occurred. Upon expiration or termination of this Agreement, CompassCom and Customer shall destroy, erase, delete or otherwise permanently remove all copies of each Party's Intellectual Property and Confidential Information residing on any of its hardware or CompassWorks the CompassLDE Software, the CompassCom Software or in its possession, and certify in writing to the other Party that the foregoing has occurred. However, Customer may continue to use any Mobile Resource Unit Information.

**19. Limit of Liability and Exclusion of Incidental, Consequential and Certain Other Damages.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. IN NO EVENT SHALL COMPASSCOM, ITS AUTHORIZED RESELLERS OR ITS SUPPLIERS OR THEIR OR ITS SUPPLIERS OR THEIR PARENTS OR SUBSIDIARIES OR BROTHER OR SISTER ENTITIES, THEIR PARENTS OR SUBSIDIARIES OR BROTHER OR SISTER ENTITIES BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT THE ACCESS OR USE OF OR INABILITY TO ACCESS OR USE THE COMPASSWORKS, THE COMPASSLDE SOFTWARE, THE COMPASSCOM SOFTWARE, SERVICES, SUBSCRIPTION, MAINTENANCE, TRAINING OR SUPPORT, OR OTHERWISE, THE PROVISION OF OR FAILURE TO PROVIDE COMPASSWORKS, THE COMPASSWORKS, THE COMPASSLDE SOFTWARE THE

COMPASSCOM SOFTWARE OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, LOSS OF PROFITS, DAMAGE TO BUSINESS REPUTATION, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER, COMPASSWORKS, COMPASSLDE SOFTWARE, THE COMPASSCOM SOFTWARE, THE SERVICES, THE SUBSCRIPTION MAINTENANCE, TRAINING OR SUPPORT, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF COMPASSCOM, EVEN IF COMPASSCOM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL COMPASSCOM OR ITS SUPPLIERS OR THEIR PARENTS OR THEIR SUBSIDIARIES OR BROTHER OR SISTER ENTITIES HAVE ANY LIABILITY FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF INFORMATION DISTRIBUTED OR MADE AVAILABLE FOR DISTRIBUTION VIA THE SERVICES OR SUBSCRIPTION THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES. NEITHER COMPASSCOM NOR ITS SUPPLIERS WILL HAVE LIABILITY WITH RESPECT TO COMPASSCOM'S OBLIGATIONS UNDER THIS AGREEMENT, OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES EVEN IF COMPASSCOM HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES.

**20 Disclaimed Warranties** Neither CompassCom or its suppliers nor their parents or subsidiaries or brother or sister entities exercises control over, and accepts no responsibility for, the content of the information passing through CompassWorks, the CompassCom Host, the Transmission Method, the network hubs and points of presence, or the Internet or the Mobile Resource Unit Information. ACCESS TO OR USE OF COMPASSWORKS, THE SERVICES OR THE SUBSCRIPTION OR ANY INFORMATION THAT MAY BE OBTAINED THEREFROM IS AT CUSTOMER'S RISK. COMPASSWORKS, THE SUBSCRIPTION AND ALL SERVICES PERFORMED UNDER THIS AGREEMENT ARE PERFORMED "AS IS" AND WITHOUT WARRANTY AGAINST FAILURE OF PERFORMANCE INCLUDING, ANY FAILURE BECAUSE OF COMPUTER HARDWARE OR THE TRANSMISSION METHOD OR THE COMMUNICATION, COMPASSWORKS, THE COMPASSLDE SOFTWARE, THE COMPASSCOM SOFTWARE, THE SERVICES AND THE SUBSCRIPTION. COMPASSCOM OR ITS SUPPLIERS OR ITS OR THEIR PARENTS OR SUBSIDIARIES OR BROTHER OR SISTER ENTITIES DOES NOT MAKE AND DISCLAIMS, AND CUSTOMER WAIVE ALL RELIANCE ON, ANY REPRESENTATIONS REGARDING THIS AGREEMENT, COMPASSWORKS, THE COMPASSLDE SOFTWARE, THE COMPASSCOM SOFTWARE IF SUBSCRIBED TO BY CUSTOMER, THE SERVICES AND THE SUBSCRIPTION, OR WARRANTIES, ARISING BY LAW OR OTHERWISE, REGARDING THE, THE SUBSCRIPTION, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE IN TRADE. COMPASSCOM DOES NOT WARRANT THAT COMPASSWORKS, THE COMPASSLDE SOFTWARE, THE COMPASSCOM SOFTWARE, THE SERVICES AND THE SUBSCRIPTION WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE OR FREE FROM BEING "HACKED" OR OTHERWISE COMPROMISED.

**21 Disclosure Rights** This Agreement and the AUP specifically prohibits the access to or use of CompassWorks, the CompassLDE Software, the CompassCom Software, if subscribed to by Customer, the Subscription, the Services and any of our service for illegal activities. Therefore, the Customer agrees that CompassCom may disclose any and all of the Mobile Resource Unit Information

including assigned IP numbers, account history, account use, etc. to any law enforcement agent who makes a written request without further consent or notification to the Customer.

## **22 Miscellaneous Provisions**

**22.1 Survival.** The duties and obligations of the Parties under Paragraphs 2,6,7,13,14,15,17,18,19,20,21,22,24 and 24 and all Fees, the Termination Fee and other amounts due and payable but unpaid prior to termination of this Agreement and the confidentiality obligations provided in paragraph 2 will remain indefinitely after the termination of this Agreement. Specifically and without limiting the foregoing, all provisions of this Agreement relating to the Customer warranties, intellectual property rights, limitation and exclusion of liability, the Customer indemnification obligations and payment obligations will survive the termination or expiration of the Agreement.

**22.2. Relationship of Parties.** CompassCom, in performing the obligations set forth herein and providing CompassWorks or components thereof, the Subscription and Services, is acting only as an independent contractor and nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, partnership, or joint venture.

**22.3 Binding Effect; Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. This Agreement is not assignable by Customer without CompassCom's prior written consent. A change in the ownership of the Customer over 50% shall be deemed an assignment for the purposes of this paragraph.

If to CompassCom:  
CompassCom Software Corporation  
Attn.: Brent Willing  
12353 East Easter Avenue  
Centennial, Colorado 80122  
Phone: 303-999-3007  
Fax:  
Email:bwilling@compasscom.com

**22.4. Entire Agreement; Modifications.** This Agreement and the AUP are the exclusive and complete statement of the Parties' understandings of this Agreement, and shall supersede all prior understandings, whether oral or written. Except as expressly set forth herein, this Agreement and the AUP may be modified only by in writing signed by all the parties.

**22.5. Counterparts and Facsimile.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and both of which shall constitute one and the same document. This Agreement may be executed by facsimile signature, and a facsimile signature shall constitute an original signature for all intended purposes.

**22.6. Paragraph Headings.** The paragraph headings of this Agreement are inserted for convenience of reference only and shall not be deemed to be a part thereof or used in the construction or interpretation thereof.

**22.7. Severability** Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without violating the remainder of this Agreement.

**23 Third Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto and CompassCom's Third Party Vendors and no provision of this Agreement shall be deemed to confer any benefit on any third party.

**24 Governing Law and other Terms.** CompassCom and the Customer agree that, except as otherwise expressly provided in any Third Party Software, there shall be no third party beneficiaries to this Agreement, including but not limited to the insurance providers for either party or the Customer customers. THIS AGREEMENT IS MADE UNDER AND WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL LAW.

**25 Partial Invalidity** In the event any provision of this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, the remaining provisions of this Agreement will remain in force and effect. The waiver of any breach or default of this Agreement will not constitute a waiver of any subsequent breach or default, and will not act to amend or negate the rights of the waiving party.

**26 Non-Assignment by Customer** Customer may not sell, assign or transfer its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of CompassCom, and any attempted assignment or delegation without such consent will be void. CompassCom may assign this Agreement in whole or part.

**27 CompassCom Delegation** CompassCom also may delegate the performance of certain portions of the Services and Subscription to third parties.

**28 Notice Delivery** All notices, demands, requests or other communications required or permitted under this Agreement shall be deemed given when delivered personally sent by facsimile upon confirmation, sent and received by return receipt email, or upon receipt of delivery of overnight mail.

**29 Complete Agreement** This Agreement and the AUP, including all documents incorporated herein by reference constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral regarding such subject matter.

**30 Customer Consultation** Customer acknowledges that he/she/it has consulted an attorney concerning the terms of this provision and the legal and other impact of same.

## **Exhibit A**

### **Definition of Software**

The following is a general description of CompassWorks, the CompassLDE Software, the CompassCom Software, CompassCom Software which may be accessed in connection with and subject to the terms of this Agreement to produce the Mobile Resource Unit Information which CompassCom agrees to provide to the Customer, as well as the Scope of the Subscription and Services and the AUP attached hereto as Exhibits B and C respectively.

1. CompassWorks is a general term which includes the CompassLDE Software, the CompassCom Software, all modules as well as the Services, the Subscription and the Modem and the general function of the system.
2. CompassLDE including the CompassCom Viewer and CompassCom Tracker which generally performs the following:
3. Optional and Additional CompassCom Software as set forth on the Price List and Quote agreed to by the Parties

## **Exhibit B**

### **Scope of the Subscription and Service and Maintenance etc.**

In addition to the provisions of the Agreement and all attachments hereto, the following shall also apply:

1. The Parties acknowledge that the Price as set forth on Exhibit D is based on the number of units of the Mobile Resource Units for which is using CompassWorks, the CompassLDE Software, the CompassCom Software if subscribed to by Customer, the Subscription and Services and any increase in the number of units of Mobile Resource Units using CompassWorks, the CompassLDE Software, the CompassCom Software if subscribed to by Customer, and the Subscription and Services shall increase the Price as set forth herein.
2. CompassWorks, CompassLDE Software and the CompassCom Software Access. CompassWorks, CompassLDE Software and the CompassCom Software, if subscribed to by Customer and their access as described herein so long as Customer makes all payments as required herein during the Term. Payment of the then Monthly Access Fee for subsequent CompassWorks, the CompassLDE Software, the CompassCom Software if subscribed to by Customer, the Services and the Subscription access during extension of any then Term is required to be made for renewal thereof.
3. Terms of Training, Support and Maintenance. CompassCom agrees to provide Support, Training and Maintenance (as defined herein) to Customer pursuant to the terms and conditions set forth herein and so long as Customer pays all Fees provided for herein and provided that Customer pays the Set Up Fee and the Installation Fee for additional Customer Resource Units if any, and the Monthly Access Fee for each month thereafter. So long as this Agreement is in effect, Maintenance, Training and Support for all components of CompassWorks subscribed for will be provided for a period of the Initial Term and any Renewal Term, unless otherwise agreed to by the parties, from the date of payment of the Set Up Fee, the Installation Fee and payment of each the Monthly Access.



4. Maintenance, Training and Support In exchange for the payment of the Installation Fee and the initial Set Up Fee and payment of each Monthly Access Fee and the Set Up Fee for additional CompassCom Software subscribe for, if applicable and the Installation Fee for additional Customer Resource Units and so long as this Agreement is in effect CompassCom agrees to provide to Customer during the term of this Agreement Support, Training and Maintenance (collectively "Maintenance") as follows:

a) *Support:* CompassCom will provide email or online Support to Customer for the then current versions (currently subscribed to and under Maintenance) of CompassCom Software between the hours of 8:30 a.m. and 5:00 p.m. Mountain Time (North America) Monday through Friday, excluding holidays. CompassCom will investigate all of Customer questions and problems promptly. Customer agrees to provide adequate information to CompassCom for the investigation and to confirm that any problems have been resolved. CompassCom does not provide guaranteed response time but will make every effort to answer emails and voice mails or online Support within two business days. CompassCom will provide 20 hours of Support per year as defined herein for no additional fee. Thereafter on line Support or Maintenance will be provided for as set forth in Exhibit D. In addition, CompassCom will conduct regular web-based seminars that will address Customer questions and/or support issues. If Customer presents a support issue that requires such as assistance, CompassCom may schedule and provide a web-based support session to address the support need.

b) *Training* CompassCom shall, at Customer request, provide on line training session in the operation of the then current CompassWorks, the CompassLDE Software, the CompassCom Software if subscribed to by Customer provided that such Training Session is conducted within 30 days of the date of the Customer payment of the Set Up Fee, the Installation Fee if applicable for the Initial Term hereunder and any additional Customer Mobile Resource Units. Additional Training Sessions, on line Training and any on-site Training will be on terms and conditions as the parties may agree which terms and conditions shall include, for on-suite training, a daily (or part thereof) fee as set forth on Exhibit D. Customer shall be responsible for paying any agreed upon and authorized travel, food and accommodation expenses which CompassCom or CompassCom' staff may incur during this training period. If Customer elect, this Training may also be performed remotely over the Internet. CompassCom shall provide such additional Training either on line or on site and technical advice on such terms and conditions as the Parties may agree.

c) *Improvements* CompassCom will supply to Customer, at no additional charge, any improvements, upgrades, updates, "bug" fixes or modifications to CompassWorks, the CompassLDE Software, the CompassCom Software, if subscribed to by Customer, if subscribed to by Customer, that CompassCom makes generally available to its customers. Any such improvements, upgrades, or modifications shall be owned by CompassCom but become part of CompassWorks the CompassLDE Software, the CompassCom Software, if subscribed to by Customer, if subscribed to by Customer for all purposes of this Agreement.

d) *Version* Customer acknowledges and agrees that the Maintenance to be provided by CompassCom hereunder is limited to the then most current version of CompassWorks, the CompassLDE Software and the CompassCom Software.

e) *Exclusions* CompassCom's obligation to provide Support, Training and Maintenance is contingent upon payment of all of Customer's obligations that this Agreement is in full force and effect and the proper use of CompassWorks, the CompassLDE Software and the CompassCom Software. Moreover, CompassCom shall be under no obligation to provide Maintenance should such Maintenance be required due to:

- i) Failure to operate CompassWorks, the CompassLDE Software and CompassCom Software requirements provided for CompassCom Software;
- ii) Any modification or attempted modification of CompassWorks, the CompassLDE Software and the CompassCom Software by Customer or any third party, or
- iii) Customer failure or refusal to implement CompassWorks, the CompassLDE Software and the CompassCom Software changes recommended by CompassCom.

5. **Internet Access** In order to access CompassWorks and to enable CompassCom to perform the undertakings in this Agreement and all attachments hereto, Customer must obtain access to the Transmission Method and the Internet, either directly or through devices that access Web-based content, and pay any service fees associated with such access. In addition, Customer must provide all equipment necessary to make such connection to the Transmission Method and the Internet, including a computer and modem or other access device.

6. **Restrictions** Customer is prohibited from and shall not assist any person or entity in:
- a) Providing services similar to CompassWorks, the CompassLDE Software, the CompassCom Software, the Subscription and the Services in competition with CompassCom;
  - b) Developing, providing, selling, renting, or reselling any Software or service which competes with CompassWorks, the CompassLDE Software and the CompassCom Software or create or implement any such software or service for the purpose of competing with CompassWorks, as this would intrinsically hinder the protection of CompassCom's confidential information and trade secrets;
  - c) Modifying, translating, decompiling, disassembling or reverse engineering or otherwise attempting to determine the source code for the operation CompassWorks, the CompassCom Host, the CompassLDE Software and the CompassCom Software;
  - d) Creating derivative works based on CompassWorks or any part thereof, the CompassLDE Software, the CompassCom Software if subscribed to by Customer, or Confidential or Proprietary Information;
  - e) For the purpose of this Agreement 'reverse engineering' shall mean the examination or analysis of CompassWorks, the CompassLDE Software, the CompassCom Software if subscribed to by Customer, or Confidential or Proprietary Information to determine its source code, sequence, structure, organization, internal design, algorithms or encryption devices.
  - f) The number of Mobil Resource Units who may access CompassWorks under individual logins is limited to the number of units of the Mobile Resource Units then being paid for by the Customer.

## **Exhibit C**

### **Acceptable Use Policy**

#### **Background**

This "Acceptable Use Policy" or "AUP" of CompassCom Software Corporation, a Colorado corporation ("CompassCom") and applies to CompassCom and all divisions and identities used by CompassCom including and references hereinafter to CompassCom includes reference to the foregoing terms. This AUP is designed to provide a clear understanding of the rules, regulations, and restrictions on the use of the CompassCom Subscription ("Subscription") and the, Servers, and IP Addresses of CompassCom ("collectively "Services") as additionally defined herein.

This AUP is a part of the Terms of Subscription Agreement between CompassCom and the Customer ("Agreement") and sets forth additional terms and conditions in addition to the terms and conditions

in the Agreement and all Exhibits thereto related to the Subscription by the Customer for the Subscription as defined in the Agreement and herein.

Hereinafter, "Services" is additionally defined as any offering of CompassCom including, without limitation, those managed in whole or in part, for you by CompassCom, "Server's" is defined as any CPU based hardware platform of CompassCom including, without limitation, those managed, in whole or in part, for you by CompassCom, and "IP Addresses" is defined as any publicly mutable IPv4 32-bit or IPv6 128-bit Internet Protocol address assigned by CompassCom to you as part of the Subscription and the Services or Servers provided to you by CompassCom.

### **Data Liability And Responsibility**

YOU ARE SOLELY LIABLE AND RESPONSIBLE FOR ANY AND ALL DATA STORED OR TRANSMITTED ON, TO, FROM, OR THROUGH THE SUBSCRIPTION, SERVICES, SERVERS, AND IP ADDRESSES PROVIDED TO YOU BY COMPASSCOM TO INCLUDE WITHOUT LIMITATION, BLOCK SPECIAL FILES, CHARACTER SPECIAL FILES, DIRECTORIES, SYMBOLIC LINKS, SOCKET LINKS, FIFOS, REGULAR FILES, PROGRAMS, DATABASES, TEXT, GRAPHICS, PICTURES, MOVIES, AUDIO, STREAMING MEDIA, WEB PAGES, HYPERLINKS, EMAIL, INSTANT MESSAGES, CHAT MESSAGES. FILE TRANSFERS, HOST NAMES AND DOMAIN NAMES.

### **Disclaimer Of Responsibility**

COMPASSCOM ASSUMES NO LIABILITY OR RESPONSIBILITY TO ANY PERSON OR PARTY FOR ANY VIOLATION OF THIS AUP BY ANY OTHER PERSON OR PARTY. IT IS THE POLICY OF COMPASSCOM AND FAST SERVERS, BUT NOT IT'S OBLIGATION, TO MONITOR ITS NETWORK FOR POTENTIAL, ALLEGED, OR ACTUAL VIOLATIONS OF THIS AUP.

### **Subjugation**

ALL RESELLERS, CLIENTS, USERS, AND SUB NETWORKS OF THE SUBSCRIPTION, SERVICES, SERVERS, AND IP ADDRESSES PROVIDED BY COMPASSCOM ARE SUBJECT TO THIS AUP AND ANY ATTEMPTED OR ACTUAL VIOLATION OF THIS AUP BY ANY PERSON OR PARTY ON YOUR BEHALF SHALL BE A VIOLATION OF THIS AUP BY YOU.

### **Prosecution And Fines**

COMPASSCOM COOPERATES FULLY WITH LAW ENFORCEMENT AGENCIES IN THE INVESTIGATION AND PROSECUTION OF CRIMINAL ACTIVITY AND HAS ZERO TOLERANCE FOR VIOLATIONS OF THIS AUP. WE RESERVE THE RIGHT TO LEVY FINES OF \$500 TO \$5000 USD PER INCIDENT FOR ANY VIOLATION OF THIS AUP.

### **Policy Enforcement and Resolution**

Violations of this AUP are, at the sole discretion of CompassCom, enforced by issuance of a Policy Enforcement notice to the registered contact email addresses of the Subscription, Services, Servers, or IP Addressee and, additionally, may be issued in the registered abuse contact email addresses of the Subscription, Services, Servers or IP Addresses. It is your responsibility to request from abuse contact email addresses. Failure to receive a Policy Enforcement notice does not limit the right of enforcement by CompassCom of this AUP or your responsibility to resolve violations of this AUP in a manner acceptable to CompassCom.

You must remove all domains, sites, users, or exploits causing a violation of this AUP from the Subscription, Services, Servers, and IP Addresses of CompassCom. You must reconfigure, harden, or remove any improperly configured or insecure software causing a violation of this AUP. However, CompassCom may, at the sole discretion of CompassCom, access any managed components of the Subscription, Server or Service of CompassCom or require root access to any managed Server or Service of CompassCom to remove the cause of an abuse or reconfigure, harden, or remove any improperly configured or insecure software. You must reply to the Policy Enforcement notice within the time frame given in the notice with appropriate comments, questions, or actions to resolve the violations cited in the notice. Depending on the violation type, severity, history, quantity of complaints, upstream provider requirements, and other factors, your Subscription, Services, Servers or IP Addresses may be:

- Monitored for Additional Violations
- Disconnected, Null-Routed, or Port Shutdown in 24-Hours, 16-Hours, 8-Hours, 1-Hour, or 0-Hours as Indicated
- Required to Provide root Login Information for our Direct Investigation, Cleaning, Hardening, and/or Securing
- Required to Submit Reload Ticket With or Without Data Recovery as Indicated
- Required to Remove Current End-User-Client from All Servers
- Placed on 20-Day Probation
- Reviewed for Probation Violation

### **Violations of the AUP will result in the following:**

Unless otherwise provided for herein, a warning notification sent via email. CompassCom trouble ticket with 24 hours notice for resolution:

24 hours is the standard notification: situations involving law enforcement, phishing scams, fraud, password harvesting, network interference, Denial or Disruption of the Subscription and any Service, IRC related misuse, or other malicious activity can reduce the notification time frame.

- a) We reserve the right to drop the section of IP space involved in any SPAM or Denial-of-the Subscription and any Service (Dos) complaints if it is clear that the offending activity is causing great harm to parties on the Internet, In particular, if open relays are on your network or a customer's network, or if denial-of-the Subscription and any Service attacks are originating from your network. In certain rare cases, we may have to take this action prior to attempting to contact you.

### **Disclosure to Law Enforcement**

The AUP specifically prohibits the use of the Subscription and our Services for illegal activities. Therefore, Customer agrees that the Company may disclose any and all Customer information, including assigned IP addresses, account history, account use, etc. to any law enforcement agency who makes a written request without further consent or notification to the Customer. In addition, CompassCom shall have the right to terminate the Subscription and all Services set forth in this Agreement if requested to do so as a result of any action of any law enforcement or government agency.

### **Self-Managed and Partially-Managed Services, Servers, and IP Addresses**

With respect to self-managed and partially-managed Service, Servers, and IP Addresses provided to you by CompassCom, you are solely responsible, without limitation, for the management, administration, and security of the Services, Servers and IP Addresses provided to you by CompassCom, for any and all data stored or transmitted on, to, from or through the Subscription, the Services, Servers, and IP Addresses provided to you by CompassCom, and for all passwords provided to you by CompassCom.

Should it become necessary for CompassCom to perform, at your request, any management, administration, or security work on the Services, Servers, or IP Addresses provided to you by CompassCom to resolve a violation of this AUP in a manner acceptable to CompassCom, which includes DEFCON 4 and 5 management, administration, and security work, CompassCom and Licensee shall negotiate and agree, in writing, to the terms and conditions of such work.

### **Fully-Managed Services, Servers, and IP Addresses**

With respect to fully-managed Services, Servers, and IP Addresses provided to you by CompassCom, you are solely responsible, without limitation, for any and all data stored or transmitted on, to, from, or through the Services, Servers, and IP Addresses provided to you by CompassCom and for all passwords provided to you by CompassCom. CompassCom is responsible for the management, administration, and security of the Subscription, the Services, Servers, and IP Addresses provided to you by CompassCom.

Should it become necessary for CompassCom to perform any management, administration, or security work in connection with the Subscription, on the Services, Servers, or IP Addresses provided to you by CompassCom to resolve a violation of this AUP in a manner acceptable to CompassCom, which includes DEFCON 3, 2, and 1 management, administration, and security work, CompassCom may not perform such management, administration, or security work without prior approval.

### **Contact Information**

You are responsible for maintaining your contact information in the ticket system such that your registered contact email address is always reachable even in the event of disconnection of the Subscription, the Services, Servers, or IP Addresses provided to you by CompassCom.

### **IP Address Overlap**

Use of a publicly routable IP address not provided to you by CompassCom in connection with the Subscription, on the Services or Servers provided to you by CompassCom is a violation of this AUP.

## **Network Performance**

CompassCom provides shared network resources and, therefore, excessive use or abuse of these shared network resources by one client of CompassCom may adversely affect other clients of CompassCom or the network of CompassCom. Any misuse of network resources in a manner which may adversely affect other clients of CompassCom, or the network of CompassCom Is a violation of this AUP.

## **Internet Etiquette**

You and all users of the Subscription, the Services, Servers, and IP Addresses provided to you by CompassCom are expected to practice good Internet etiquette (Netiquette). Any activity or data stored or transmitted on, to, from, or through the Services, Servers, or IP Addresses or in connection with the Services provided to you by CompassCom, whether legal or not, which may adversely affect other clients of CompassCom, the network of CompassCom as a result of an offended third person or party, or the reputation of CompassCom is a violation of this AUP.

## **Definition of SPAM**

All Unsolicited Bulk Email or "UBE" email which is both unsolicited and bulk, is hereby defined in this AUP as scam. Unsolicited means the recipient did not give verifiable, deliberate, explicit, and revocable permission for the message to be sent. Bulk means the message was sent to multiple recipients with substantively identical content and, therefore, the recipient's personal identity and context are irrelevant because the email is equally applicable to multiple recipients. Spam is an issue of consent, not content No other definition of spam including, without limitation, Title 15 USC Chapter 103 Controlling the Assault of Non-Solicited Pornography and Marketing § 7702 et. Al. or "CAN-SPAM Act" applies to the definition of spam as used in this AUP.

## **Opt-In Mailing Lists**

Mailing lists must be true opt-in which requires you to provide to the recipient either a confirmation email or a confirmation web page whereby the recipient must have replied with a confirmation email having a unique tracking number or must have clicked a hyperlink in the confirmation email having a unique tracking number maintained in your web server log file or must have clicked the hyperlink in the confirmation web page having a unique tracking number maintained in your web server log file thereby granting verifiable, deliberate, explicit, and revocable permission to be added to the specific opt-in email list at the specific site both of which must be hosted on the network of CompassCom and under your administrative control. You are required to provide the confirmation email reply with unique tracking number or the web server log file line having the unique tracking number as evidence that the recipient did, indeed, opt-in to the email list. You are also required to provide at least one simple method to opt out of the email list, which must be honored immediately.

## **Free Hosting Services or use of the Subscription**

You are liable and responsible for violations of this AUP by all third persons or parties for whom you provide free web, mall, tip, or other hosting CompassCom strongly advise you not to provide free hosting to unknown third persons or parties. If a pattern of violations of this AUP from the use of the Subscription, the Services, Servers, or IP Addresses provided to you by CompassCom occurs resulting from such free hosting, CompassCom may, at the sole discretion of CompassCom, suspend or cancel any or all of the Subscription, the Services, Servers, and IP

Addresses provided to you by CompassCom or require you to remove such free hosting from the Services, Servers, and IP Addresses and use of the Subscription provided to you by CompassCom.

### **TOR and Anonymous Routers or Routing Protocols**

If an alleged or actual violation of this AUP is believed, at the sole discretion of CompassCom and Fast Servers, to have occurred on, to, from, or through the use of the Subscription, the Services, Servers, or IP Addresses provided to you by CompassCom on which TOR or an anonymous router or routing protocol exists, the alleged or actual violation of this AUP shall be deemed to have occurred whether verifiable evidence exists or not and CompassCom shall enforce this AUP at the sole discretion of CompassCom and Fast Servers.

### **Bit Torrent, Point-to-Point, and Proxy Software**

Bit Torrent, Point-to-Point, and Proxy software are permitted until and unless abuse occurs related to such software. Should abuse occur related to such software, CompassCom may, at the sole discretion of CompassCom, require removal of such software from the use of the Subscription, the Services, Servers, and IP Addresses of CompassCom.

### **Billing**

You are responsible for paying for any network resources used to connect the Services, Servers, and IP Addresses or otherwise use the Subscription provided to you by CompassCom to the Internet. Pursuant to the Agreement and the Terms of Service of CompassCom, you may request that the Subscription, the Services, Servers, and IP Addresses provided to you by CompassCom be disconnected from the Internet, however, you remain responsible for paying for any network resources used up to the time of disconnection

Violations of this AUP should be reported to **bclark@compasscom.com**

## **Exhibit D**

### **Price Schedule**

#### **Number of Mobile Resource Units Initially Subscribed for:**

**All Pricing for the Set Up Fee, the Installation Fee, the Monthly Access Fee and the fee for any CompassCom Software subscribed to shall be as set forth on the Quote Parties as agreed to by the Parties.**

Set Up Fee means the fee for the initial and subsequent fee for the configuration for CompassWorks, the CompassLDE Software and any additional CompassCom Software on the initial Modems and any subsequent Modems utilizing CompassWorks. The Set Up Fee is as set forth on in the Quote.

Installation Fee, if applicable, means the fee for the installation of the Modem on the Customer's Mobile Resource Units and for any additional Customer Resource Units so installed in the future as set forth on in the Quote charged by CompassCom or its subcontractors for the installation of the Modem and its component parts or any additional Customer Resource Units unless the Customer installs the Modem and component parts after approval of CompassCom. The Installation Fee is charged based on the number of Mobile Resource Units that provide Mobile Resource Unit Information using CompassWorks to the

CompassCom Host and therefore may vary depending on number of units using CompassWorks, the CompassLDE, the CompassCom Software and the Subscription and Services and the number of Mobile Resource Units.

Monthly Access Fee means the monthly fee as set forth herein commencing on the first day of the month following Acceptance and monthly thereafter for the access to CompassWorks, Subscription, Services, the CompassLDE Software and the CompassCom Software, if subscribed to by Customer, Training, Support and Maintenance as now exists or may exist in the future as set forth herein. The Monthly Access Fee is charged based on the number of Mobile Resource Units that provide Mobile Resource Unit Information to the CompassCom Host and therefore may vary depending on number of the Mobile Resource units using CompassWorks. For each year thereafter, the then Monthly Access Fee shall be based on the greater of the number of Customer Mobile Resource Units paid for in the prior month or the number of Mobile Resource Units accessing the CompassWorks during any month of any Renewal Year.

#### **STORAGE OF MOBILE RESOURCE UNIT INFORMATION AND PRICING**

**Any on-site Support and Training will be on terms and conditions as the parties may agree.**





## License Agreement

This LICENSE AGREEMENT ("License") is made between CompassCom Software Corporation, a Colorado corporation ("Licensor") and the Government Ordering Activity, as defined in Section 2(a) of the Carahsoft Technology Corporation (Carahsoft) Rider, ("Licensee") which include all officers, directors, employees, agents and other persons related to Licensor respectively as well as their parents, subsidiaries, brother and sister entities and all such persons related to such affiliated persons or entities.

### General Overview

Licensor is the owner or licensee of all rights to software, the code related thereto and all proprietary information, intellectual property, trademarks and trade secrets in and to certain software exclusively owned or licensed by Licensor which is generally referred to as CompassTrac. As used herein the term CompassTrac which is licensed to Licensee and hosted by Licensee ("Licensee Host") includes and refers to CompassLDE Software which must be licensed by the Licensee to be used in conjunction with CompassTrac and the Licensor Software and includes and related components and CompassTrac Mobile and all components thereof if licensed to Licensee, and all software related thereto (sometimes referred to collectively as "Licensor Software") and also the Modem and its Set Up, Installation and other material furnished to Licensee in connection with the Licensee license of and hosting of CompassTrac. In addition thereto, Licensor is owner or licensee of all rights to the additional software, the code related thereto and all proprietary information, Intellectual Property, trademarks and trade secrets for additional software which can be used only in connection the Licensor Software as set forth on Exhibit A or on the Licensor Quote. The provisions of this License shall control the Licensee license of CompassTrac, the CompassLDE Software and the Licensor Software and are made pursuant to the provisions of the Scope of this License and Services set forth herein attached hereto as Exhibit B and the Acceptable Use Policy attached hereto as Exhibit C.

Generally CompassTrac, the CompassLDE Software and the Licensor Software, if licensed to the Licensee, and their various modules provides real time information and metrics ("Mobile Resource Unit Information") regarding Mobile Resource Units including vehicles (generally referred to herein as ("Mobile Resource Units") including Mobile Resource Unit management and Automatic Vehicle Tracking (generally "AVL") using a device (the "Modem") installed in the Mobile Resource Unit that transmits the Mobile Resource Unit Information regarding the Mobile Resource Unit and may include AVL as specified by the Licensee. The term Modem, as used herein, includes the Modem and all wiring and connections required to be installed the Modem on the Mobile Resource Unit ("Installation"). The Licensee then uses the licensed CompassTrac, CompassLDE Software and Licensor Software, if licensed to the Licensee, to provide to the Licensee the Mobile Resource Unit Information and reports regarding the Mobile Resource Unit and may include AVL and other metrics and information as the parties may agree and as set forth on Exhibit B hereof (the "Services" or the "License").

Unless Licensor and the Licensee otherwise agree in writing, the CompassTrac, CompassLDE Software and Licensor Software, if licensed to the Licensee, shall be installed on the Licensee's host computers Licensor which host computers shall have specifications approved by Licensor.

Unless Licensor and the Licensee otherwise agree in writing, the Modem shall be supplied and installed on the Mobile Resource Unit by Licensor pursuant to the cost and the terms and conditions of the Equipment Invoice agreed to by the Licensee, the form of which is attached hereto as Exhibit E. In the event Licensee or its subcontractor installs the Modem, Licensee shall pay the Installation Fee per unit of the Mobile Resource Unit as defined on Exhibit D ("Installation Fee") which fee includes the cost of the Modem, required wiring and connections, all costs associated therewith and the labor necessary to install the Modem on the Mobile Resource Unit. Licensee may install the Modem on its own Mobile Resource Unit in which case Licensee shall not be liable for the Installation Fee provided that Licensee shall first advise Licensor concerning all technical information and procedures it intends to use to install the Modem and shall have received Licensor's consent to such Licensee installation.

Unless the Parties agree in writing to another form of communication, the Mobile Resource Unit Information regarding the Mobile Resource Unit is generally transmitted to Licensee using a communication supplier (usually cellular) which is provided by the Licensee at its sole expense and responsibility ("Transmission Method"). Licensor may supply its cellular network services to Licensee on the terms and conditions and at the cost as the Parties may agree on a Cellular Service Invoice agreed to by the Licensee. The Mobile Resource Unit Information which may include AVL is then processed by Licensee using CompassTrac, the CompassLDE and the Licensor Software, if licensed to by Licensee, to process and report to the Licensee the Mobile Resource Unit Information and may include AVL generally as set forth on Exhibit B attached hereto and made a part hereof.

This License and all Exhibits as set forth herein and as attached hereto shall, as applicable, are included in the definition of License as used herein.

The Licensee agrees that after the installation of the Modem and the testing of CompassTrac and Acceptance by the Licensee as defined herein, the Licensee cannot modify the Modem, the Transmission Method, CompassTrac, the CompassLDE and the Licensor Software or change the Mobile Resource Unit in which the Modem is installed or the environment in which CompassTrac operates without the express written consent of Licensor and if granted subject to such terms, conditions and payments as Licensee and Licensor may agree to in writing determine.

The Price Schedule for the initial Installation Fee if applicable and for any additional Licensee Resource Units, the Set Up Fee and for any additional Licensee Resource Units for this License of CompassTrac including the CompassLDE Software and Licensor Software for the Term as defined herein is set forth on Exhibit D. The Parties agree that the Price as set forth on Exhibit D is based on the number of Mobile Resource Unit using CompassTrac, the CompassLDE Software, the Licensor Software and this License and Services and that any increase in the number of Mobile Resource Unit using CompassTrac and this License and Services will increase the Price by the number of Licensee Resource Units using CompassTrac, the CompassLDE Software, the Licensor Software and this License and Services added times the price per unit of Mobile Resource Unit using CompassTrac, the CompassLDE Software, the Licensor Software and this License and the Services.

The foregoing is intended to be a general description of the relationship between the Parties and to set forth certain defined terms. In the event any provisions of the General Statement conflict with the terms herein, this License and Services, the AUP or the terms of the form of the Invoice, the order of precedence between conflicting terms shall be determined in accordance with General Services Administration Acquisition Regulation (GSAR) 552.212-4(s).

**1. Terms of this License** This Licensor License and all attachments hereto to be agreed to by the Licensee as set forth and all undertakings by Licensor sometimes referred to collectively, as CompassTrac, as described herein including this License and Services). Acceptance of any terms or conditions different from those contained herein by Licensor will be deemed to be provision of this License only if by electronic or written signature of an officer of Licensor. Licensee must register and accept the terms of this License and all attachments hereto in order to use this License and the Services.

Licensor agrees to furnish CompassTrac, the CompassLDE Software and the Licensor Software, this License and the Services to the Licensee, subject to this License and all attachments hereto.

The license of CompassTrac, the CompassLDE Software, and the Licensor Software, if licensed to by Licensee, this License and the Services constitutes acceptance of this License and all attachments hereto.

**2. Notice of Intellectual Property Rights** Licensor is the sole owner of CompassTrac, the CompassLDE Software, the Licensor Software and any other software, trade secrets and proprietary information, names, trade names, trademarks and the Intellectual Property and is also protected by copyright laws as well as other intellectual property protection and applicable laws. "Intellectual Property" means all algorithms, application programming interfaces (APIs), apparatus concepts, Moral Rights, Patents and Patent rights in any country, Design, trade secrets, know-how, CompassTrac, the CompassLDE Software and the Licensor Software, Confidential Information, Intellectual Property Rights, the CompassLDE Software and the Licensor Software, Improvements, Upgrades and Updates, data, databases and data collections, designs, diagrams, Documentation, drawings, flow charts, formulae, ideas and inventions (whether or not patentable or reduced to practice), materials, marketing and development plans, Marks (including brand names, CompassTrac, the CompassLDE Software and the Licensor

Software and their names, logos, and slogans), methods, models, net lists, network configurations and architectures, procedures, processes, protocols, schematics, software code (in any form including source code and executable or object code), specifications, subroutines, techniques, test vectors, uniform resource identifiers including uniform resource locaters (URLs), user interfaces, web sites, works of authorship, and other forms of technology together with the physical embodiments thereof. The term Intellectual Property includes this License and all Exhibits and other undertakings between the Parties. The Intellectual Property shall be held in the strictest confidence by Licensee and no part thereof or any information regarding, CompassTrac, the CompassLDE Software, the Licensor Software, this License and the Services shall not be disclosed to any unauthorized person without the express written consent of Licensor and shall constitutes the proprietary and Confidential Information (“Confidential Information”) owned by Licensor.

**3. Scope of this License.** So long as this License is in effect, Licensor agrees to license to the Licensee the license of CompassTrac, the CompassLDE Software, the Licensor Software, if licensed to by Licensee and the Services to Licensee as set forth herein and on Exhibit B, Scope of this License and Services. For this License of CompassTrac, the CompassLDE Software, the Licensor Software, if licensed to by Licensee, this License and Services supplied by Licensor hereunder, Licensor shall be paid the fees as specified under Exhibit D, Price Schedule, attached hereto and incorporated herein which Price Schedule includes the initial Installation Fee, Installation Fee if any for any additional Compass Resource Units installed, the Set Up Fee, if any for any initial and any additional fees for additional Licensee Resource Units, the One Time License Fee for CompassTrac, the CompassLDE Software and any components of the Licensor Software licensed for as set forth herein.

**4. License of CompassTrac, the CompassLDE Software, the Licensor Software if licensed to by Licensee, this License and Services** This License of CompassTrac, the CompassLDE Software and the Licensor Software, if licensed to by Licensee, the Services and any other software is solely for use by the Licensee. Licensee shall not allow any third party or unauthorized person or entity to use the Licensee Host or use CompassTrac, the CompassLDE Software, the Licensor Software or the Mobile Resource Unit Information whether for consideration or otherwise without the express written consent of Licensor which may be granted or denied in Licensor’s sole discretion. In addition thereto CompassTrac, any Modems, the CompassLDE Software the Licensor Software and any other software and may not be used for any Mobile Resource Unit that is not either owned by Licensee or used by Licensee in its usual course of business.

The AUP is attached hereto as Exhibit C and incorporated herein and may be updated from time to time. BY USING COMPASSTRAC, THIS LICENSE AND SERVICES, LICENSEE AGREES TO BE BOUND BY THE TERMS OF THIS LICENSE AND THE AUP.

Security: Licensee is solely responsible for any security breaches affecting servers or accounts under the Licensee control. If the Licensee’s server is responsible for or involved in an attack on or unauthorized access into or use of another server or CompassTrac, Licensee or Licensor will suspend Licensee’s access to CompassTrac immediately. Carahsoft, on behalf of Licensor, shall invoice Licensee for any charges resulting from the cost to correct security breaches affecting Licensor or any of its other Licensees.

**5. Interruption of this License and Service** Licensor and its suppliers are not liable for any temporary delay, outages or interruptions of CompassTrac, the CompassLDE Software and the Licensor Software, this License and the Services related thereto. Licensor is not liable for any delay or failure to perform its obligations under this License, where the delay or failure results from any “act of God” or other cause beyond its reasonable control (including any mechanical, electronic communications or third-party supplier failure). Any Licensor liability, which is specifically denied, shall be limited as provided for herein in paragraphs 18, 20 and 21.

**6. CompassTrac and Network Security** In addition to the provisions of this License and the AUP, Licensee is prohibited from violating or attempting to violate the security of Licensor’s Intellectual Property, CompassTrac, the CompassLDE Software, the Licensor Software, this License and the Services and the Licensor proprietary network. Violations of CompassTrac, the CompassLDE Software, the Licensor Software, this License and the Services or network security may result in civil or criminal liability. Licensor will investigate occurrences and cooperate with law enforcement authorities in prosecuting Licensee or a user or other persons whether accessing or using CompassTrac, the CompassLDE Software,

the Licensor Software or the whether thru Licensor's or Licensee's computer or otherwise, which is involved in such violations. These violations include, without limitation:

- a) Accessing or using data or other information not intended for the Licensee or logging into a server or account, which such Licensee or user is not authorized to access or use.
- b) Attempting to probe, scan or test the vulnerability of CompassTrac, the CompassLDE Software, and the Licensor Software if licensed to by Licensee or network or to breach security or authentication measures without proper authorization.
- c) Attempting to interfere with this License and any Service to any Licensee, user, host or network, including without limitation, via means of overloading, flooding, mail bombing or crashing
- d) Forging any TCP/IP packet header or any part of the header information in any email or newsgroup posting.

**7. Notification of Violations or Infractions** Licensor is under no duty to look at each Licensee's or users activities to determine if a violation of this License, the AUP or any trademark, proprietary information or copyright has occurred, nor does Licensor assume any responsibility through its this License, CompassTrac, the CompassLDE Software, the Licensor Software, or the AUP to monitor or police Internet related activities.

**8. Acceptance** Licensor agrees to notify the Licensee ("Notice of Completion") that the Modem has been installed, if installed by Licensor or upon installation by the Licensee as permitted herein and that CompassTrac, the CompassLDE Software and the Licensor Software, this License and the Services materially performs according to this License on the occurrence of the first Licensee's Mobile Resource Unit to be put into operation. Unless Licensor receives written notice from the Licensee of any material defect in the Licensee's License of CompassTrac, the CompassLDE Software and the Licensor Software and this License and Services and its performance on such first Mobile Resource Unit as specific by the Parties within 10 business days of the Notice of Completion (which notice shall set forth details setting forth the claimed defect), the Licensee shall be deemed to have accepted Licensor's performance of its undertakings herein including the license of CompassTrac, the CompassLDE Software, the Licensor Software if licensed to by Licensee, and license of the Mobile Resource Unit Information ("Acceptance").

**9. Term and Fees** Upon the initial payment of the initial Set Up Fee, the initial Installation Fee and the One Time License Fee and unless sooner terminated as provided for herein, this License will be for a Perpetual Term ("Term") unless sooner terminated as provided for herein. To provide the Licensee Notice of Termination, the Licensee must submit a Notice of Termination to Licensor ("Notice of Termination") via certified mail return receipt requested.

Any future price increases in the Installation Fee for any additional Modems to be installed on additional Mobile Resource Units, the Set Up Fee, if applicable for additional Licensor Software licensed for and the One Time License Fee for this License or Services will be documented in a new Exhibit D Price Schedule,.

**10. Taxes etc.** Licensee is responsible for paying all federal, state, and local sales, use, value added; excise duty and any other taxes assessed with respect to this License and all attachments hereto, other than taxes based on Licensor's state and US income taxes.

**11. Credit Cards** Licensee authorizes Licensor to charge the Licensee credit or debit card to pay for any charges that may apply to the Licensee account. Licensee has a specific obligation to immediately notify Licensor of any changes to the Licensee card account (including applicable account number or cancellation or expiration of the account, the Licensee billing address or any information that may prohibit Licensor from properly charging the Licensee's account. Credit cards that are declined for any reason or that are either rejected or not paid when CompassTrac, the CompassLDE Software, the Licensor Software, if licensed to by Licensee, this License and the Services are invoiced as well as checks or other forms of payment that is not honored are subject to the Prompt Payment Act.

**12. Support, Training and Maintenance** As a part of the Set Up Fee, Installation Fee and the One Time License Fee paid by Licensee, Licensor provides for a one time only technical Support, Training and

Maintenance to the Licensee as set forth on Exhibit B. The following are additional guidelines regarding Support, Training and Maintenance:

Licensor does not provide support for application specific issues other than Licensor supplied applications such as any Third Party Software, programming, HTML third party applications or any other such issue.

Any Installation or Set Up for any Modem or equipment and any modification thereof done by anyone other than Licensor shall void any warranties or other commitments herein unless such installation or modification is done only with Licensor's written consent and strictly in compliance with Licensor's specifications.

In consideration of the payment of the Installation Fee and One Time License Fee, Licensor will provide the Maintenance, Training and Support as set forth on Exhibit B.

**13. Licensee Representatives and Warranties** Licensee warrants, represents and covenants to Licensor that (a) the Licensee and all persons acting on behalf of Licensee is at least 18 years of age if an individual; (b) the Licensee possess the legal right and ability to enter into this License; (c) the Licensee will use CompassTrac, the CompassLDE Software, the Licensor Software, if licensed to by Licensee, only for lawful purposes and in accordance with this License and all applicable policies and guidelines, including the AUP; (d) the Licensee content does not and will not infringe or violate any right of any third party (including any intellectual property rights) or violate any applicable law, regulation or ordinance and (e) Licensee has all licensee, permits and consents (including consents from employees) which may be required for Licensee to gather the Mobile Resource Unit Information and to utilize same as Licensee sees fit.

**14. Licensor Intellectual Property Policy** Licensor respects the intellectual property rights of others and expects its Licensees to do the same. Licensor reserves the right, at its discretion, but is not obligated to, inquire about and to delete, after providing notice to and receiving approval from Licensee, material that infringes the copyrights, trademarks or other intellectual property rights of others. If the Licensee believes that the Licensee Mobile Resource Information, CompassTrac, the CompassLDE Software and the Licensor Software has been used in a way that constitutes copyright infringement, Licensee agrees to provide Licensor with the following information:

- a) A description of the copyrighted work property that the Licensee or Licensor claims has been infringed;
- b) A description of the material that the Licensee or Licensor claims infringes the Licensee copyright, and information sufficient to allow us to locate the material;
- c) Licensee and the infringer's address telephone number and e-mail address.
- d) A statement by the Licensee that the Licensee has a good faith belief that the disputed access or use is not authorized by the copyright or intellectual property of the owner, its agent or the law;
- e) A statement by the Licensee made under penalty of perjury, that the information provided is accurate and, if the Licensee claims to have the rights to the alleged infringing material that the Licensee is the copyright owner or authorized to act on the copyright owner's behalf.
- f) An electronic or physical signature of a person authorized to act on behalf of the owner of the copyright.

**15. Privacy** The parties acknowledge that license of CompassTrac, the CompassLDE Software and the Licensor Software, the Services and License and may have privacy implications for employees of the Licensee. Whether, and to what extent, an employee of Licensee privacy rights are implicated may be affected by such things as: the use to which the Mobile Resource Unit Information is put; the information that is gathered by the Licensee; the dissemination of Mobile Resource Unit Information that is gathered; the actions that are taken based upon the information gathered; whether the employees of Licensee have knowledge and/or have consented to such monitoring; the policies and procedures that have been implemented and communicated by the Licensee; and current federal and state laws, regulations and constitutional rights applicable to the Licensee. Licensee hereby agrees to take commercially reasonable steps to protect employee's privacy rights, and to comply with all applicable laws, regulations and policies. In connection therewith, Licensee agrees (i) to notify that it no longer needs to store Mobile Resource Unit Information or information longer than is required under, (ii) not to transfer employee data including Mobile Resource Unit

Information or information to third parties other than is necessary, (iii) not to aggregate the Mobile Resource Unit Information with other data in such a way that would compromise employee's privacy or (iv) not to collect additional information regarding an employee other than is required to provide the Services.

**16. Licensor Limited Access** Licensee hereby grants to Licensor, under Licensee's intellectual property rights in and to the Mobile Resource Unit Information collected and/or generated through license of CompassTrac, CompassLDE Software, the Licensor Software and the Services and this License a limited, revocable, non-transferable, non-exclusive right, without the right to sublicense, to access the Mobile Resource Unit Information solely as necessary to provide Licensee the CompassTrac, the CompassLDE Software, the Licensor Software, if licensed to by Licensee, this License and the Services and subject to the limitations set forth herein. Licensor receives no title or ownership rights in the Mobile Resource Unit Information collected in connection with providing the Service and this License. Except for the rights granted herein, all right, title and interest in the Mobile Resource Unit Information is and shall remain the exclusive property of the Licensee including if and when the Mobile Resource Unit Information is aggregated with other data or information as is necessary to provide visualization tools, reports or other Software or services set forth in this License. Licensor shall not use the Mobile Resource Unit Information other than to provide the Licensee Resource Information, this License and the Services to the Licensee pursuant to the terms of this License. Licensor shall not sell, license, sublicense, or otherwise transfer the Mobile Resource Unit Information. Licensor shall not create any derivative works using the Mobile Resource Unit Information and shall not aggregate the Mobile Resource Unit Information with other Mobile Resource Unit Information sets except as necessary to provide the Services to the Licensee. Licensor shall not cause or permit any third party to do any of the foregoing and shall immediately notify Licensee in writing of any breach of these terms and conditions, including any unauthorized access by third parties.

**17. IP Addresses** Licensee will maintain and control ownership of all Internet Protocol ("IP") numbers and addresses that Licensee may acquire. Licensee may, in its sole discretion, change or remove any and all IP numbers and addresses at any time.

**18. Third Party Software** Licensor may provide the Licensee with license of other third party software and/or services ("Third Party Software") through reseller relationships that Licensor has established with certain commercial vendors, including without limitation, Microsoft Corporation ("Third Party Vendors"). Unless otherwise notified, Licensee understands that Software support, training and maintenance for Third Party Software are provided by the Third Party Vendor. Neither Licensor nor any Third Party Vendor makes any representations or warranties, expressed or implied, regarding any Third Party Software. LICENSEE EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THIRD PARTY SOFTWARE IS AT LICENSEE'S SOLE RISK AND SUCH THIRD PARTY SOFTWARE IS PROVIDED "AS IS" AND WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND FROM LICENSOR OR ANY THIRD PARTY VENDOR, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, LACK OF VIRUSES, ACCURACY OR COMPLETENESS OF RESPONSES OR RESULTS, CORRESPOND TO ANY DESCRIPTION THEREOF, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER LICENSOR NOR ANY THIRD PARTY VENDOR WILL BE LEGALLY RESPONSIBLE FOR ANY DAMAGES, WHETHER DIRECT, INDIRECT, OR CONSEQUENTIAL ARISING FROM THE USE OR INABILITY TO USE ANY THIRD PARTY SOFTWARE.

Licensee shall not (i) remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on CompassTrac or on any Third Party Software or that appear during use of CompassTrac or appears on any Third Party Software: or (ii) reverse engineer, decompile, or disassemble CompassTrac or any Third Party Software, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limit.

**19. Termination or Modification of License**

19.1 Termination for Convenience. In accordance with GSAR 552.212-4(l), Licensee may terminate this License and any Service for its convenience at any time.

19.2 This License may be terminated or revised by the mutual written agreement of the parties.

19.3 The occurrence of any event as set forth herein.

19.4 **Retention of Mobile Resource Unit Information** Upon termination of this License, regardless of the cause, all Mobile Resource Unit Information shall be retained by the Licensee and in no case may Licensor hold such Mobile Resource Unit Information.

19.5 **Following Termination.**

(a) Upon expiration or termination of this License, Licensee shall cease all license of CompassTrac, CompassLDE Software, Licensor Software, the Services and this License, and destroy, erase, delete or otherwise permanently remove all copies of any Proprietary Information, Intellectual Property or other information supplied by Licensor other than the Mobile Resource Unit Information, destroy and delete all pass words, or any information granting Licensee license of CompassTrac, the CompassLDE Software, the Licensor Software and any information related thereto and certify in writing to Licensor that the foregoing has occurred. Upon expiration or termination of this License, Licensor and Licensee shall destroy, erase, delete or otherwise permanently remove all copies of each Party's Intellectual Property and Confidential Information residing on any of its hardware or CompassTrac the CompassLDE Software, the Licensor Software or in its possession, and certify in writing to the other Party that the foregoing has occurred. However, Licensee may continue to use any Mobile Resource Unit Information.

(b) Upon expiration or termination of this License, Licensee shall certify to Licensor in a written affidavit executed by an executive officer of the Licensee that the Licensee has fully complied with the intent and provisions of paragraph 19.8 and that neither Licensee nor any other person or et&tt retains any of the Licensor items set forth in paragraph 19.8 or otherwise has the possession or use thereof.

**20. Limit of Liability and Exclusion of Incidental, Consequential and Certain Other Damages.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. IN NO EVENT SHALL LICENSOR, ITS AUTHORIZED RESELLERS OR ITS SUPPLIERS OR THEIR OR ITS SUPPLIERS OR THEIR PARENTS OR SUBSIDIARIES OR BROTHER OR SISTER ENTITIES, THEIR PARENTS OR SUBSIDIARIES OR BROTHER OR SISTER ENTITIES BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THIS LICENSE THE ACCESS OR USE OF OR INABILITY TO ACCESS OR USE THE COMPASSTRAC, THE COMPASSLDE SOFTWARE, THE LICENSOR SOFTWARE, SERVICES, THIS LICENSE, MAINTENANCE, TRAINING OR SUPPORT, OR OTHERWISE, THE PROVISION OF OR FAILURE TO PROVIDE COMPASSTRAC, THE COMPASSTRAC, THE COMPASSLDE SOFTWARE THE LICENSOR SOFTWARE OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, LOSS OF PROFITS, DAMAGE TO BUSINESS REPUTATION, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER, COMPASSTRAC, COMPASSLDE SOFTWARE, THE LICENSOR SOFTWARE, THE SERVICES, THIS LICENSE MAINTENANCE, TRAINING OR SUPPORT, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS LICENSE, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF LICENSOR, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL LICENSOR OR ITS SUPPLIERS OR THEIR PARENTS OR THEIR SUBSIDIARIES OR BROTHER OR SISTER ENTITIES HAVE ANY LIABILITY FOR UNAUTHORIZED ACCESS TO OR USE OF, OR ALTERATION, THEFT OR DESTRUCTION OF INFORMATION DISTRIBUTED OR MADE AVAILABLE FOR DISTRIBUTION VIA THE SERVICES OR LICENSE THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES.

NEITHER LICENSOR NOR ITS SUPPLIERS WILL HAVE LIABILITY WITH RESPECT TO LICENSOR'S OBLIGATIONS UNDER THIS LICENSE, OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES.

**21. Disclaimed Warranties** Neither Licensor or its suppliers nor their parents or subsidiaries or brother or sister entities exercises control over, and accepts no responsibility for, the content of the information passing through CompassTrac, the Licensee Host, the Transmission Method, the network hubs and points of presence, or the Internet or the Mobile Resource Unit Information. LICENSE OF OR USE OF COMPASSTRAC, THE SERVICES OR THIS LICENSE OR ANY INFORMATION THAT MAY BE OBTAINED THEREFROM IS AT LICENSEE'S RISK. COMPASSTRAC, THIS LICENSE AND ALL SERVICES PERFORMED UNDER THIS LICENSE ARE PERFORMED "AS IS" AND WITHOUT WARRANTY AGAINST FAILURE OF PERFORMANCE INCLUDING, ANY FAILURE BECAUSE OF COMPUTER HARDWARE OR THE TRANSMISSION METHOD OR THE COMMUNICATION, COMPASSTRAC, THE COMPASSLDE SOFTWARE, THE LICENSOR SOFTWARE, THE SERVICES AND THIS LICENSE. LICENSOR OR ITS SUPPLIERS OR ITS OR THEIR PARENTS OR SUBSIDIARIES OR BROTHER OR SISTER ENTITIES DOES NOT MAKE AND DISCLAIMS, AND LICENSEE WAIVE ALL RELIANCE ON, ANY REPRESENTATIONS REGARDING THIS LICENSE, COMPASSTRAC, THE COMPASSLDE SOFTWARE, THE LICENSOR SOFTWARE IF LICENSED TO BY LICENSEE, THE SERVICES AND THIS LICENSE, OR WARRANTIES, ARISING BY LAW OR OTHERWISE, REGARDING THE, THIS LICENSE, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE IN TRADE. LICENSOR DOES NOT WARRANT THAT COMPASSTRAC, THE COMPASSLDE SOFTWARE, THE LICENSOR SOFTWARE, THE SERVICES AND THIS LICENSE WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE OR FREE FROM BEING "HACKED" OR OTHERWISE COMPROMISED.

**22. Disclosure Rights** This License and the AUP specifically prohibits the license of or use of CompassTrac, the CompassLDE Software and the Licensor Software if licensed to by Licensee, this License, the Services and any of the Services for illegal activities. Therefore, the Licensee agrees that Licensor may disclose any and all of the Mobile Resource Unit Information, if any accessible by Licensor including assigned IP numbers, account history, account use, etc. to any law enforcement agent who makes a written request without further consent or notification to the Licensee.

**23. Miscellaneous Provisions**

**23.1 Survival.** The duties and obligations of the Parties under Sections 2,6,7,13,14,15,18,19,20,21,22,23,24 and 25 and all Fees, the Termination Fee and other amounts due and payable but unpaid prior to termination of this License and the confidentiality obligations provided in Section 2 will remain indefinitely after the termination of this License. Specifically and without limiting the foregoing, all provisions of this License relating to the Licensee warranties, intellectual property rights, limitation and exclusion of liability, the Licensee indemnification obligations and payment obligations will survive the termination or expiration of this License.

**23.2. Relationship of Parties.** Licensor, in performing the obligations set forth herein and providing CompassTrac or components thereof, this License and Services, is acting only as an independent contractor and nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, partnership, or joint venture.

**23.3 Binding Effect; Assignment.** This License shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. This License is not assignable by Licensee without Licensor's prior written consent. A change in the ownership of the Licensee over 50% shall be deemed an assignment for the purposes of this paragraph.



If to Licensor:  
CompassCom Software Corporation  
Attn.: Brent Willing  
12353 East Easter Avenue  
Centennial, Colorado 80122  
Phone: 303-999-3007  
Fax:  
Email:bwilling@Licensor.com

**23.4. Entire License; Modifications.** This License and the AUP are the exclusive and complete statement of the Parties' understandings of this License, and shall supersede all prior understandings, whether oral or written. Except as expressly set forth herein, this License and the AUP may be modified only by in writing signed by all the parties.

**23.5. Counterparts and Facsimile.** This License may be executed in two or more counterparts, each of which shall be deemed an original and both of which shall constitute one and the same document. This License may be executed by facsimile signature, and a facsimile signature shall constitute an original signature for all intended purposes.

**23.6. Section Headings.** The section headings of this License are inserted for convenience of reference only and shall not be deemed to be a part thereof or used in the construction or interpretation thereof.

**23.7. Severability** Whenever possible, each provision of this License will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without violating the remainder of this License.

**24. Third Party Beneficiaries.** This License is solely for the benefit of the parties hereto and Licensor's Third Party Vendors and no provision of this License shall be deemed to confer any benefit on any third party.

**25. Governing Law and other Terms.** Licensor and the Licensee agree that, except as otherwise expressly provided in any Third Party Software, there shall be no third party beneficiaries to this Agreement, including but not limited to the insurance providers for either party or the Licensee Licensees. THIS AGREEMENT IS MADE UNDER AND WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL LAW

**26. Partial Invalidity** In the event any provision of this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, the remaining provisions of this Agreement will remain in force and effect. The waiver of any breach or default of this Agreement will not constitute a waiver of any subsequent breach or default, and will not act to amend or negate the rights of the waiving party.

**27. Non-Assignment by Licensee** Licensee may not sell, assign or transfer its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of Licensor, and any attempted assignment or delegation without such consent will be void. Licensor may assign this Agreement in whole or part.

**28. Licensor Delegation** Licensor also may delegate the performance of certain portions of the Services and Subscription to third parties.

**29. Notice Delivery** All notices, demands, requests or other communications required or permitted under this Agreement shall be deemed given when delivered personally sent by facsimile upon confirmation, sent and received by return receipt email, or upon receipt of delivery of overnight mail.

**30. Complete Agreement** This Agreement and the AUP, including all documents incorporated herein by reference constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral regarding such subject matter.

**31. Licensee Consultation** Licensee acknowledges that he/she/it has consulted an attorney concerning the terms of this provision and the legal and other impact of same.

**IN WITNESS WHEREOF**, the parties hereto have executed this License as of the day and year first above written.

## **Exhibit A**

### **Definition of Software**

The following is a general description of CompassTrac, the CompassLDE Software, the Licensor Software, Licensor Software which may be licensed in connection with and subject to the terms of this License to produce the Mobile Resource Unit Information which Licensor agrees to provide to the Licensee as well as the Scope of this License and Services and the AUP attached hereto as Exhibits B and C respectively.

1. CompassTrac is a general term which includes the CompassLDE Software, the Licensor Software, all modules as well as the Services, this License and the Modem and the general function of the system.
2. CompassLDE including the Licensor Viewer and Licensor Tracker which generally performs the following:
3. Optional and Additional Licensor Software as set forth on the Price List and Quote agreed to by the Parties

## **Exhibit B**

### **Scope of this License and Service and Maintenance etc.**

In addition to the provisions of this License and all attachments hereto, the following shall also apply:

1. The Parties acknowledge that the Price as set forth on Exhibit D is based on the number of units of the Mobile Resource Units for which is using CompassTrac, the CompassLDE Software, the Licensor Software if licensed to by Licensee, this License and Services and any increase in the number of units of Mobile Resource Units using CompassTrac, the CompassLDE Software, the Licensor Software if licensed to by Licensee, and this License and Services shall increase the Price as set forth herein.
2. CompassTrac, CompassLDE Software and the Licensor Software Use. CompassTrac, CompassLDE Software and the Licensor Software, if licensed to Licensee, and their use as described herein, is covered for the Term so long as Licensee makes all payments as required herein during the Term by paying Licensor or its authorized agent the applicable One Time License Fee..
3. Terms of Training, Support and Maintenance. Licensor agrees to provide Support, Training and Maintenance (as defined herein) to Licensee pursuant to the terms and conditions set forth herein for a period of twelve (12) months from the date of this Agreement and provided that Licensee pays the Set Up Fee and the Installation Fee for additional Licensee Resource Units if any, and the License.

4. Maintenance, Training and Support In exchange for the payment of the Installation Fee and the initial Set Up Fee and payment of the One Time License Fee and the Set Up Fee for additional Licensor Software subscribe for if applicable and the Installation Fee for additional Licensee Resource Units, for a period of twelve (12) months from the date of Acceptance as set forth in paragraph 5 of this Agreement, Licensor agrees to provide to Licensee during the term of this License, Support, Training and Maintenance as defined below (collectively "Maintenance"). Thereafter commencing with the 13<sup>th</sup> month after Acceptance and billed to the Licensee on an invoice sent to Licensee and paid by Licensee, Licensor agrees to provide to Licensee annual Maintenance for the next 12 month period as follows:

a) *Support:* Licensor will provide email or online Support to Licensee for then current versions (currently licensed to and under Maintenance) of Licensor Software between the hours of 8:30 a.m. and 5:00 p.m. Mountain Time (North America) Monday through Friday, excluding holidays. Licensor will investigate all of Licensee questions and problems promptly. Licensee agrees to provide adequate information to Licensor for the investigation and to confirm that any problems have been resolved. Licensor does not provide guaranteed response time but will make every effort to answer emails and voice mails or online Support within two business days. Licensor will provide 20 hours of Support per year as defined herein for no additional fee. Thereafter on line Support or Maintenance that is not on-line will be provided for as set forth in Exhibit D. In addition, Licensor will conduct regular web-based seminars that will address Licensee questions and/or support issues. If Licensee presents a support issue that requires such as assistance, Licensor may schedule and provide a web-based support session to address the support need.

b) *Training* Licensor shall, at Licensee request, provide on line training session in the operation of the then current CompassTrac, the CompassLDE Software, the Licensor Software if licensed to by Licensee provided that such Training Session is conducted within 30 days of the date of the Licensee payment of the Set Up Fee, the Installation Fee if applicable for the Term hereunder and any additional Licensee Mobile Resource Units. Additional Training Sessions, on line Training and any on-site Training will be on terms and conditions as the parties may agree which terms and conditions shall include, for on-suite training, a daily (or part thereof) fee as set forth on Exhibit D. Licensee shall be responsible for paying any agreed upon and authorized travel, food and accommodation expenses which Licensor or Licensor' staff may incur during this training period. If Licensee elect, this Training may also be performed remotely over the Internet. Licensor shall provide such additional Training either on line or on site and technical advice on such terms and conditions as the Parties may agree.

c) *Improvements* Licensor will supply to Licensee, at no additional charge, any improvements, upgrades, updates, "bug" fixes or modifications to CompassTrac, the CompassLDE Software, the Licensor Software, if licensed to by Licensee, if licensed to by Licensee, that Licensor makes generally available to its Licensees. Any such improvements, upgrades, or modifications shall be owned by Licensor but become part of CompassTrac, the CompassLDE Software, the Licensor Software, if subscribed to by Licensee, if subscribed to by Licensee for all purposes of this License.

d) *Version* Licensee acknowledges and agrees that the Maintenance to be provided by Licensor hereunder is limited to the then most current version of CompassTrac, the CompassLDE Software and the Licensor Software.

e) *Exclusions* Licensor's obligation to provide Support, Training and Maintenance is contingent upon payment of all of Licensee's obligations, that this License is in full force and effect and the proper use of CompassTrac, the CompassLDE Software and the Licensor Software. Moreover, Licensor shall be under no obligation to provide Maintenance should such Maintenance be required due to:

i) Failure to operate CompassTrac, the CompassLDE Software and Licensor Software requirements provided for Licensor Software;

ii) Any modification or attempted modification of CompassTrac, the CompassLDE Software and the Licensor Software by Licensee or any third party, or

iii) Licensee failure or refusal to implement CompassTrac, the CompassLDE Software and the Licensor Software changes recommended by Licensor.

5. **Internet Access** In order to use CompassTrac and to enable Licensor to perform the undertakings in this License and all attachments hereto, Licensee must obtain license of the Transmission Method and the Internet, either directly or through devices that access Web-based content, and pay any service fees associated with such access. In addition, Licensee must provide all equipment necessary to make such connection to the Transmission Method and the Internet, including a computer and modem or other access device.

6. **Restrictions** Licensee is prohibited from and shall not assist any person or entity in:
- a) Providing services similar to CompassTrac, the CompassLDE Software, the Licensor Software, this License and the Services in competition with Licensor;
  - b) Developing, providing, selling, renting, or reselling any Software or service which competes with CompassTrac, the CompassLDE Software and the Licensor Software or create or implement any such software or service for the purpose of competing with CompassTrac, as this would intrinsically hinder the protection of Licensor's confidential information and trade secrets;
  - c) Modifying, translating, decompiling, disassembling or reverse engineering or otherwise attempting to determine the source code for the operation CompassTrac, the Licensee Host, the CompassLDE Software and the Licensor Software;
  - d) Creating derivative works based on CompassTrac or any part thereof, the CompassLDE Software, the Licensor Software if licensed to by Licensee, or Confidential or Proprietary Information;
  - e) For the purpose of this License 'reverse engineering' shall mean the examination or analysis of CompassTrac, the CompassLDE Software, the Licensor Software if licensed to by Licensee, or Confidential or Proprietary Information to determine its source code, sequence, structure, organization, internal design, algorithms or encryption devices.
  - f) The number of Mobil Resource Units who may use CompassTrac under individual logins is limited to the number of units of the Mobile Resource Units then being paid for by the Licensee.

### **Exhibit C**

#### **Acceptable Use Policy Exhibit C**

#### **Background**

This "Acceptable Use Policy" or "AUP" of CompassCom Software Corporation, a Colorado corporation ("CompassCom") and applies to CompassCom and all divisions and identities used by CompassCom including and references hereinafter to CompassCom includes reference to the foregoing terms. This AUP is designed to provide a clear understanding of the rules, regulations, and restrictions on the use of the CompassCom Subscription ("Subscription") and the, Servers, and IP Addresses of CompassCom ("collectively "Services") as additionally defined herein.

This AUP is a part of the Terms of Subscription Agreement between CompassCom and the Customer ("Agreement") and sets forth additional terms and conditions in addition to the terms and conditions in the Agreement and all Exhibits thereto related to the Subscription by the Customer for the Subscription as defined in the Agreement and herein.

Hereinafter, "Services" is additionally defined as any offering of CompassCom including, without limitation, those managed in whole or in part, for you by CompassCom, "Server's" is defined as any CPU based hardware platform of CompassCom including, without limitation, those managed, in whole or in part, for you by CompassCom, and "IP Addresses" is defined as any publicly mutable IPv4 32-bit or IPv6 128-bit Internet Protocol address assigned by CompassCom to you as part of the Subscription and the Services or Servers provided to you by CompassCom.

### **Data Liability And Responsibility**

YOU ARE SOLELY LIABLE AND RESPONSIBLE FOR ANY AND ALL DATA STORED OR TRANSMITTED ON, TO, FROM, OR THROUGH THE SUBSCRIPTION, SERVICES, SERVERS, AND IP ADDRESSES PROVIDED TO YOU BY COMPASSCOM TO INCLUDE WITHOUT LIMITATION, BLOCK SPECIAL FILES, CHARACTER SPECIAL FILES, DIRECTORIES, SYMBOLIC LINKS, SOCKET LINKS, FIFOS, REGULAR FILES, PROGRAMS, DATABASES, TEXT, GRAPHICS, PICTURES, MOVIES, AUDIO, STREAMING MEDIA, WEB PAGES, HYPERLINKS, EMAIL, INSTANT MESSAGES, CHAT MESSAGES. FILE TRANSFERS, HOST NAMES AND DOMAIN NAMES.

### **Disclaimer Of Responsibility**

COMPASSCOM ASSUMES NO LIABILITY OR RESPONSIBILITY TO ANY PERSON OR PARTY FOR ANY VIOLATION OF THIS AUP BY ANY OTHER PERSON OR PARTY. IT IS THE POLICY OF COMPASSCOM AND FAST SERVERS, BUT NOT IT'S OBLIGATION, TO MONITOR ITS NETWORK FOR POTENTIAL, ALLEGED, OR ACTUAL VIOLATIONS OF THIS AUP.

### **Subjugation**

ALL RESELLERS, CLIENTS, USERS, AND SUB NETWORKS OF THE SUBSCRIPTION, SERVICES, SERVERS, AND IP ADDRESSES PROVIDED BY COMPASSCOM ARE SUBJECT TO THIS AUP AND ANY ATTEMPTED OR ACTUAL VIOLATION OF THIS AUP BY ANY PERSON OR PARTY ON YOUR BEHALF SHALL BE A VIOLATION OF THIS AUP BY YOU.

### **Prosecution And Fines**

COMPASSCOM COOPERATES FULLY WITH LAW ENFORCEMENT AGENCIES IN THE INVESTIGATION AND PROSECUTION OF CRIMINAL ACTIVITY AND HAS ZERO TOLERANCE FOR VIOLATIONS OF THIS AUP. WE RESERVE THE RIGHT TO LEVY FINES OF \$500 TO \$5000 USD PER INCIDENT FOR ANY VIOLATION OF THIS AUP.

### **Policy Enforcement and Resolution**

Violations of this AUP are, at the sole discretion of CompassCom, enforced by issuance of a Policy Enforcement notice to the registered contact email addresses of the Subscription, Services, Servers, or P Addressee and, additionally, may be issued in the registered abuse contact email addresses of the Subscription, Services, Servers or IP Addresses. It is your responsibility to request from abuse contact email addresses. Failure to receive a Policy Enforcement notice does not limit the right of enforcement by CompassCom of this AUP or your responsibility to resolve violations of this AUP in a manner acceptable to CompassCom.

You must remove all domains, sites, users, or exploits causing a violation of this AUP from the Subscription, Services, Servers, and IP Addresses of CompassCom. You must reconfigure, harden, or remove any improperly configured or insecure software causing a violation of this AUP. However,

CompassCom may, at the sole discretion of CompassCom, access any managed components of the Subscription, Server or Service of CompassCom or require root access to any managed Server or Service of CompassCom to remove the cause of an abuse or reconfigure, harden, or remove any improperly configured or insecure software. You must reply to the Policy Enforcement notice within the time frame given in the notice with appropriate comments, questions, or actions to resolve the violations cited in the notice. Depending on the violation type, severity, history, quantity of complaints, upstream provider requirements, and other factors, your Subscription, Services, Servers or IP Addresses may be:

- Monitored for Additional Violations
- Disconnected. Null-Routed, or Port Shutdown in 24-Hours, 16-Hours, 8-Hours, 1-Hour. or 0-Hours as Indicated
- Required to Provide root Login Information for our Direct Investigation, Cleaning, Hardening, and/or Securing
- Required to Submit Reload Ticket With or Without Data Recovery as Indicated
- Required to Remove Current End-User-Client from All Servers
- Placed on 20-Day Probation
- Reviewed for Probation Violation

#### **Violations of the AUP will result in the following:**

Unless otherwise provided for herein, a warning notification sent via email. CompassCom trouble ticket with 24 hours notice for resolution:

24 hours is the standard notification: situations involving law enforcement, phishing scams, fraud, password harvesting, network interference, Denial or Disruption of the Subscription and any Service, IRC related misuse, or other malicious activity can reduce the notification time frame.

g) We reserve the right to drop the section of IP space involved in any SPAM or Denial-of-the Subscription and any Service (Dos) complaints if it is clear that the offending activity is causing great harm to parties on the Internet, In particular, if open relays are on your network or a customer's network, or if denial-of-the Subscription and any Service attacks are originating from your network. In certain rare cases, we may have to take this action prior to attempting to contact you.

#### **Disclosure to Law Enforcement**

The AUP specifically prohibits the use of the Subscription and our Services for illegal activities Therefore, Customer agrees that the Company may disclose any and all Customer information, including assigned IP addresses, account history, account use, etc. to any law enforcement agency who makes a written request without further consent or notification to the Customer. In addition CompassCom shall have the right to terminate the Subscription and all Services set forth in this Agreement if requested to do so as a result of any action of any law enforcement or government agency

#### **Self-Managed and Partially-Managed Services, Servers, and IP Addresses**

With respect to self-managed and partially-managed Service, Servers, and IP Addresses provided to you by CompassCom, you are solely responsible, without limitation, for the management,

administration, and security of the Services, Servers and IP Addresses provided to you by CompassCom, for any and all data stored or transmitted on, to, from or through the Subscription, the Services, Servers, and IP Addresses provided to you by CompassCom, and for all passwords provided to you by CompassCom.

Should it become necessary for CompassCom to perform, at your request, any management, administration, or security work on the Services, Servers, or IP Addresses provided to you by CompassCom to resolve a violation of this AUP in a manner acceptable to CompassCom, which includes DEFCON 4 and 5 management, administration, and security work, CompassCom and Licensee shall negotiate and agree, in writing, to the terms and conditions of such work.

### **Fully-Managed Services, Servers, and IP Addresses**

With respect to fully-managed Services, Servers, and IP Addresses provided to you by CompassCom, you are solely responsible, without limitation, for any and all data stored or transmitted on, to, from, or through the Services, Servers, and IP Addresses provided to you by CompassCom and for all passwords provided to you by CompassCom. CompassCom is responsible for the management, administration, and security of the Subscription, the Services, Servers, and IP Addresses provided to you by CompassCom.

Should it become necessary for CompassCom to perform any management, administration, or security work in connection with the Subscription, on the Services, Servers, or IP Addresses provided to you by CompassCom to resolve a violation of this AUP in a manner acceptable to CompassCom, which includes DEFCON 3, 2, and 1 management, administration, and security work, CompassCom may not perform such management, administration, or security work without prior approval.

### **Contact Information**

You are responsible for maintaining your contact information in the ticket system such that your registered contact email address is always reachable even in the event of disconnection of the Subscription, the Services, Servers, or IP Addresses provided to you by CompassCom.

### **IP Address Overlap**

Use of a publicly routable IP address not provided to you by CompassCom in connection with the Subscription, on the Services or Servers provided to you by CompassCom is a violation of this AUP.

### **Network Performance**

CompassCom provides shared network resources and, therefore, excessive use or abuse of these shared network resources by one client of CompassCom may adversely affect other clients of CompassCom or the network of CompassCom. Any misuse of network resources in a manner which may adversely affect other clients of CompassCom, or the network of CompassCom is a violation of this AUP.

### **Internet Etiquette**

You and all users of the Subscription, the Services, Servers, and IP Addresses provided to you by CompassCom are expected to practice good Internet etiquette (Netiquette). Any activity or

data stored or transmitted on, to, from, or through the Services, Servers, or IP Addresses or in connection with the Services provided to you by CompassCom, whether legal or not, which may adversely affect other clients of CompassCom, the network of CompassCom as a result of an offended third person or party, or the reputation of CompassCom is a violation of this AUP.

### **Definition of SPAM**

All Unsolicited Bulk Email or "UBE" email which is both unsolicited and bulk, is hereby defined in this AUP as scam. Unsolicited means the recipient did not give verifiable, deliberate, explicit, and revocable permission for the message to be sent. Bulk means the message was sent to multiple recipients with substantively identical content and, therefore, the recipient's personal identity and context are irrelevant because the email is equally applicable to multiple recipients. Spam is an issue of consent, not content. No other definition of spam including, without limitation, Title 15 USC Chapter 103 Controlling the Assault of Non-Solicited Pornography and Marketing § 7702 et. Al. or "CAN-SPAM Act" applies to the definition of spam as used in this AUP.

### **Opt-In Mailing Lists**

Mailing lists must be true opt-in which requires you to provide to the recipient either a confirmation email or a confirmation web page whereby the recipient must have replied with a confirmation email having a unique tracking number or must have clicked a hyperlink in the confirmation email having a unique tracking number maintained in your web server log file or must have clicked the hyperlink in the confirmation web page having a unique tracking number maintained in your web server log file thereby granting verifiable, deliberate, explicit, and revocable permission to be added to the specific opt-in email list at the specific site both of which must be hosted on the network of CompassCom and under your administrative control. You are required to provide the confirmation email reply with unique tracking number or the web server log file line having the unique tracking number as evidence that the recipient did, indeed, opt-in to the email list. You are also required to provide at least one simple method to opt out of the email list, which must be honored immediately.

### **Free Hosting Services or use of the Subscription**

You are liable and responsible for violations of this AUP by all third persons or parties for whom you provide free web, mail, tip, or other hosting. CompassCom strongly advises you not to provide free hosting to unknown third persons or parties. If a pattern of violations of this AUP from the use of the Subscription, the Services, Servers, or IP Addresses provided to you by CompassCom occurs resulting from such free hosting, CompassCom may, at the sole discretion of CompassCom, suspend or cancel any or all of the Subscription, the Services, Servers, and IP Addresses provided to you by CompassCom or require you to remove such free hosting from the Services, Servers, and IP Addresses and use of the Subscription provided to you by CompassCom.

### **TOR and Anonymous Routers or Routing Protocols**

If an alleged or actual violation of this AUP is believed, at the sole discretion of CompassCom and Fast Servers, to have occurred on, to, from, or through the use of the Subscription, the Services, Servers, or IP Addresses provided to you by CompassCom on which TOR or an anonymous router or routing protocol exists, the alleged or actual violation of this AUP shall be deemed to have occurred whether verifiable evidence exists or not and CompassCom shall enforce this AUP at the sole discretion of CompassCom and Fast Servers.



## **Bit Torrent, Point-to-Point, and Proxy Software**

Bit Torrent, Point-to-Point, and Proxy software are permitted until and unless abuse occurs related to such software. Should abuse occur related to such software, CompassCom may, at the sole discretion of CompassCom, require removal of such software from the use of the Subscription, the Services, Servers, and IP Addresses of CompassCom.

## **Billing**

You are responsible for paying for any network resources used to connect the Services, Servers, and IP Addresses or otherwise use the Subscription provided to you by CompassCom to the Internet. Pursuant to the Agreement and the Terms of Service of CompassCom, you may request that the Subscription, the Services, Servers, and IP Addresses provided to you by CompassCom be disconnected from the Internet, however, you remain responsible for paying for any network resources used up to the time of disconnection

Violations of this AUP should be reported to **bclark@compasscom.com**

### **Exhibit D**

#### **Price Schedule**

#### **Number of Mobile Resource Units Initially Licensed for:**

**All Pricing for the Set Up Fee, the Installation Fee, the One Time License Fee and the fee for any Licensor Software licensed to shall be as set forth on the Quote Parties as agreed to by the Parties.**

Set Up Fee means the fee for the initial and subsequent fee for the configuration for CompassTrac, the CompassLDE Software and any additional Licensor Software on the initial Modems and any subsequent Modems utilizing CompassTrac. The Set Up Fee is as set forth on in the Quote.

Installation Fee, if applicable, means the fee for the installation of the Modem on the Licensee's Mobile Resource Units and for any additional Licensee Resource Units so installed in the future as set forth on in the Quote charged by Licensor or its subcontractors for the installation of the Modem and its component parts or any additional Licensee Resource Units unless the Licensee installs the Modem and component parts after approval of Licensor. The Installation Fee is charged based on the number of Mobile Resource Units that provide Mobile Resource Unit Information using CompassTrac to the Licensee Host and therefore may vary depending on number of units using CompassTrac, the CompassLDE, the Licensor Software and this License and Services and the number of Mobile Resource Units.

The License Fee means the One Time License Fee as set forth herein commencing on the first day of the month following Acceptance and for the license of CompassTrac, License, Services, the CompassLDE Software and the Licensor Software, if licensed to by Licensee, Training, Support and Maintenance as now exists or may exist in the future as set forth herein. The One Time License Fee is charged based on the number of Mobile Resource Units that provide Mobile Resource Unit Information to the Licensee Host and therefore may vary depending on number of the Mobile Resource units using CompassTrac.

Any on-site Support and Training will be on terms and conditions as the parties may agree.