

## **Navico Track Services Subscriber Terms and Conditions**

Effective Date: September 16, 2016

Welcome to **Navico Track** (referred to hereafter as the “**Track Services**” or the “**Services**”). These Subscriber Terms and Conditions (these “**Terms**” or this “**Agreement**”) apply to your use of the Track Connected Vessel and telematics services, whether in a dealer demonstration, trial or paid subscription (each a “**Service Plan**”).

### **IF YOU DO NOT ACCEPT THESE TERMS, YOU ARE NOT PERMITTED TO USE THE SERVICES.**

These Terms are the agreement between us and you regarding our provision of Track Services. As used in these Terms, the terms “you” and “your” shall be deemed to refer to, and these Terms shall be binding upon, any person or entity who has purchased or leased a Vessel (as defined below) equipped with, or who uses your Vessel or the Track Services as an operator or occupant (e.g., other operators, passengers) and/or who has activated the Track Services pursuant to this Agreement. As used in this Agreement, the terms “we,” “us,” “our,” and “Track Services” shall be deemed to collectively refer to the following persons/entities, (i) Navico, Inc. (“**Navico**”) and its affiliates, parent company, successors and assigns and Navico dealers and partners; and (ii) the employees, directors, officers, subcontractors, representatives and agents of Navico. In addition, the following persons and entities are intended third party beneficiaries of this Agreement: Service Providers (defined below) and their affiliates, successors and assigns.

PLEASE READ ALL PAGES OF THESE TERMS CAREFULLY BEFORE USING ANY TRACK SERVICES. BY RECEIVING, USING, ACCEPTING OR OTHERWISE ACCESSING THE TRACK SERVICES, YOU ACCEPT AND AGREE TO BE BOUND BY THESE TERMS EVEN IF YOU HAVE NOT SIGNED A SUBSCRIBER AGREEMENT. IF YOU DO NOT CONTACT US TO DEACTIVATE THE SERVICES WITHIN THREE (3) BUSINESS DAYS OF PURCHASE OR LEASE OF YOUR NEW VESSEL, OR IF YOU DO NOT OTHERWISE CANCEL YOUR SUBSCRIPTION, IT WILL MEAN THAT YOU ACCEPT THESE TERMS WHICH WILL BE LEGALLY BINDING.

**Your subscription may automatically renew under this Agreement. On the expiration of your initial cellular subscription plan, in order to continue the cellular Services, you must purchase a paid subscription. Upon expiration of each prepaid subscription, your Service Plan will automatically renew for additional prepaid periods of the same length. Your Track Services account will be billed, and your payment method on file, if applicable, will automatically be charged at the subscription rate in effect at the time of renewal, plus taxes and other charges unless your subscription is cancelled by you or by us as allowed by these Terms. In order to cancel, you must either, log into your account at [GoFreemarine.com/vessel](http://GoFreemarine.com/vessel) or call us toll-free at Navico’s customer service phone number 800-628-4487 during the hours of 8 A.M. until 5 P.M., Central US time, Monday through Friday. Removing the Track device from your Vessel and/or deactivating it will not deactivate your Track subscription(s). Even after deactivating your account, your Track device will still transmit data to Navico. See Section 10.B. below, Navico’s Privacy Policy online at <http://navico.com/privacy-policy/> for more information. BY**

RECEIVING, ACCESSING, USING, OR ENROLLING IN TRACK SERVICES, YOU CONSENT ON BEHALF OF YOU AND OCCUPANTS IN YOUR VESSEL TO WIRELESS COMMUNICATION BEING CONDUCTED IN YOUR VESSEL TO ENABLE US AND OUR SERVICE PROVIDERS TO DELIVER TRACK SERVICES TO YOU OR OTHER OCCUPANTS IN YOUR VESSEL. YOU, ON BEHALF OF YOURSELF AND OCCUPANTS IN YOUR VESSEL, ALSO CONSENT TO THE COLLECTION, RECORDING AND USE OF THE INFORMATION DESCRIBED IN THIS AGREEMENT AND RELEASE US FROM AND AGAINST ANY AND ALL CLAIMS OR LIABILITIES ARISING OUT OF THE COLLECTION AND USE OF THIS INFORMATION. YOU ALSO AGREE THAT WE MAY CONTACT YOU BY ELECTRONIC MAIL, OR BY TELEPHONE AT ANY NUMBER WE HAVE ON FILE FOR YOU, AND, IN SOME CIRCUMSTANCES, BY PRERECORDED MESSAGE, EVEN IF DOING SO MAY RESULT IN ADDITIONAL TELECOMMUNICATIONS FEES OR CHARGES TO YOU, TO DISCUSS YOUR ACCOUNT, OFFER UNSOLICITED PROMOTIONS, OR TO DELIVER SERVICES. YOU MAY MANAGE YOUR CONTACT PREFERENCES ONLINE AT [WWW.GOFREEMARINE.COM/VESSEL](http://WWW.GOFREEMARINE.COM/VESSEL) OR IN ANY OTHER MANNER DESCRIBED IN THE NAVICO PRIVACY POLICY AT [WWW.NAVICO.COM](http://WWW.NAVICO.COM).

PLEASE READ AND KEEP A COPY OF ANY ADDITIONAL TRACK SERVICES DOCUMENTS GIVEN OR SENT TO YOU. ANY TRACK SERVICES DOCUMENTS (REGARDLESS OF WHETHER THEY STATE THEY BECOME PART OF THIS AGREEMENT) ARE AUTOMATICALLY DEEMED A PART OF THIS AGREEMENT IF YOU ACCEPT ANY OF THE SERVICES SUCH DOCUMENTS DESCRIBE.

## **1. SERVICE REQUIREMENTS AND SERVICE PROVIDERS.**

**A. Eligibility For Use of Service.** You must be at least 18 years old, or the age of majority, as determined by the laws of your state or country of residency, to assume the obligations set forth in this Agreement. You are solely responsible for the use of Track Services in your Vessel, even if you are not the one using it, and even if you later claim the use was not authorized. You are also solely responsible for the services requested by you, or by anyone using your Vessel, through Track Services. IF YOU OR ANYONE USING YOUR VESSEL DISABLES DATA TRANSMISSION FROM YOUR VESSEL, CERTAIN OF YOUR TRACK SERVICES ALSO WILL BE DISABLED.

**B. System Requirements.** Your marine vessel (“Vessel”) must be equipped with an authorized Track Services or Track System, or other Navico electronics system,(the “System”), which is the equipment, including hardware and software, used to provide the Services to your Vessel. Track Services are provided to you by Navico. You may “opt in” to allow Navico to share data collected by your Track by adjusting your user preferences at [www.gofreemarine.com/vessel](http://www.gofreemarine.com/vessel). Doing so will allow Navico’s Service Providers, as defined later in this paragraph, to provide additional services to you. If you “opt in” to allow data sharing with Service Providers, Navico may interact with and/or engage one or more third party providers as necessary to provide the Services. Those third party providers include any person, company, or entity who provides any service, equipment, or facilities in connection with the Services or the System, including, but not limited to, wireless service providers, underlying wireless carriers, suppliers, licensors, public safety answering points, emergency responders and other service providers (such as police, fire, Coast Guard and ambulance), towing

companies, boat manufacturers, distributors and dealers. Such third party providers are referred to in this Agreement as “**Service Providers.**”

**C. Activation and Enrollment.** Upon your purchase and installation of a Track device in your Vessel, or if your new Vessel is equipped with a System, upon your purchase or lease of the Vessel, a limited set of demonstration features for the Track Services may be activated in your Vessel for an undefined duration from your purchase or lease date at no cost to you (the “**Demonstration Services**”). The Demonstration Services may include only basic or limited features. To decline the Demonstration Services and deactivate the Services, if applicable, please contact us at [www.vessel.gofreemarine.com](http://www.vessel.gofreemarine.com), or contact Navico’s customer service phone number 800-628-4487. **You must be in the Demonstration Services period or have an active Service Plan to receive Track Services. TO HAVE ACCESS TO THE FULL SERVICES OR TO EXTEND YOUR TRACK SERVICES BEYOND THE DEMONSTRATION SERVICES PERIOD, YOU MUST ENROLL IN A DATA PLAN. YOUR TRACK SERVICES SERVICE WILL BECOME INACTIVE AT THE END OF THE DEMONSTRATION SERVICES PERIOD IF YOU DO NOT SUBSCRIBE TO A SERVICE PLAN.**

**D. Service Providers and Emergency Services.** Your requests for Track Services may be responded to through an automated operator or through personnel known as “**Track Services Agents.**” Future updates to the Services may allow Track Services Agents to connect you or your Vessel to other Service Providers such as the Coast Guard, police, fire department, ambulance service, or other assistance services. In that event, the Track Services Agents will use reasonable efforts to contact appropriate Service Providers for help when you ask for it or when the System in your Vessel signals for it, but it cannot be promised that any Service Providers will respond in a timely manner or at all. The laws in some places require an emergency to be confirmed before emergency Service Providers will provide service. We will not contact emergency Service Providers in these locations in response to any emergency signal or vessel alert about a security issue if we cannot confirm that an emergency exists. We also may not contact emergency Service Providers in any location in response to a signal or vessel alert from vessels situated in locations which reasonably indicate that an emergency is unlikely, such as boat dealerships, rental companies, roadways or your home address. We will assume an emergency exists if our center receives a crash notification signal from your Vessel.

## **2. FEES, PAYMENT, BILLING AND TAXES.**

**A. Fees and Billing.** At any time during the Demonstration Services period, you may convert to a fully featured Track Services trial subscription Service Plan by enrolling online. Once your trial subscription period has expired, you must select and purchase a paid Service Plan and provide a valid payment method in order to continue to receive Track Services. Your account will automatically renew, and your payment method on file, if any, will be charged the applicable service fees according to the payment schedule associated with your Service Plan and the automatic renewal terms described above, unless your subscription is cancelled.

By providing payment account information to us, you represent that you are an authorized user of such payment account. The price of your Service Plan may change over time, and we will use the rates in effect at the time of renewal for the applicable payment period for those charges.

The purchase or lease price of your Vessel may have included a prepayment for a period of time for a specified Service Plan. Upon expiration of the period covered by such prepayment, we will automatically start charging the payment account you provided as set forth above.

**B. Your Payment Obligations.** Payment must be made in U.S. Dollars and is due in advance. We do not accept gift cards issued by Visa, MasterCard, American Express or Discover for recurring payment plans; these types of cards may only be used for one-time payments. **Your outstanding balance is due in full each payment period. We expect you to pay your account balance on time.** Undisputed portions of your account must be paid by the due date to avoid possible deactivation of the Service. No “payment in full” notation or other restrictive endorsement written on your payments will restrict our ability to collect all amounts owing to us. If you are delinquent in any payment to us, we reserve the right to suspend or terminate your Service Plan, deactivate your System and report any late payment or non-payment to credit reporting agencies. If your credit, bank or debit card provider refuses a charge or an automated withdrawal, we may terminate or suspend your service. If you object to any fees or charges for services billed by or through us, you must tell us in writing within 60 days after the fee or charge is incurred (unless the law does not allow a limit or requires a longer period), OR YOU WILL AUTOMATICALLY WAIVE THE DISPUTE. WE MAY RECEIVE UPDATED CREDIT CARD INFORMATION FROM YOUR CREDIT CARD ISSUER. Your credit card issuer may give you the right to opt out of the update service. You are responsible for paying directly to all Service Providers any charges for services furnished by them that are not expressly covered by your Service Plan.

**C. Taxes and Other Fees.** You promise to pay all taxes, fees, and surcharges charged to you by us. We may not tell you in advance of changes to these items. We may charge additional fees related to our costs (or the costs of our Service Providers). Such charges are subject to change.

### **3. SERVICE DURATION AND CANCELLATION.**

**A. Duration.** A trial subscription Service Plan for Track Services is available during the initial one year after your purchase of a new Track or the purchase or lease date of a new Vessel equipped with Track Services. Your self-paid subscription starts immediately following your trial subscription, if any, and continues for the length of time specified in your Service Plan.

**B. Your Cancellation Rights.** You can cancel your subscription at any time by logging into your GoFreemarine.com/vessel account. Your Track Services will also cancel when you remove your Track completely from your account on the GoFreemarine.com website. EVEN IF YOU CANCEL YOUR SERVICES SUBSCRIPTION, NAVICO MAY STILL COLLECT DATA FROM YOUR TRACK FOR AS LONG AS THE TRACK BATTERY IS CAPABLE OF TRANSMITTING DATA. DISABLING THE SYSTEM OR REMOVING POWER FROM IT DOES NOT CANCEL YOUR COMMUNICATIONS SUBSCRIPTION. UNLESS YOU NOTIFY US AS INDICATED IN THIS AGREEMENT, YOUR SUBSCRIPTION WILL REMAIN ACTIVE IN ACCORDANCE WITH THESE TERMS.

**IF YOUR TRACK DEVICE IS LOST, STOLEN, SOLD OR OTHERWISE TRANSFERRED, YOU MUST CALL US TO CANCEL YOUR SUBSCRIPTION OR YOU WILL REMAIN RESPONSIBLE FOR THE PAYMENT OBLIGATIONS FOR YOUR SERVICE PLAN UNDER THESE TERMS.**

If you cancel your Subscription or if your Subscription is cancelled under these Terms, we have the right to turn off your System, and you may be required to pay a reactivation fee.

**C. Refund Rights.** If you cancel your pre-paid Service Plan prior to its expiration, you will receive a refund of amounts you paid directly, if any, on a pro-rata basis, less any applicable fees, unless provided otherwise in any offer for the Service Plan that you accept. We will refund to you on a pro-rata basis any service fees prepaid by you (excluding any amounts included in the purchase or lease price of your Vessel) for any days remaining in the Service Period, which follow the first of the date (i) you called to request cancellation, (ii) your Track service plan subscription is successfully terminated at the Track website. If your Service Plan was included in the financing of your purchase or lease of a Vessel, any refund will be payable to your finance company unless the finance company has notified us in writing that your loan has been paid in full. Fees attributable to certain promotional offerings or Services received during demonstration or trial subscription periods may not be refunded. In the event of a Vessel Disposal Event that pre-dates the effective date of your cancellation, you may apply for a refund adjustment. You will be asked to provide written proof of the sale, lease expiration or destruction of your Vessel. Our decision to apply a refund adjustment is entirely up to us, and if approved, we will apply the adjustment amount to the valid payment card account you have on file with us.

**IN THE UNLIKELY EVENT THAT WE CEASE PROVIDING TRACK SERVICES, WHETHER AS A RESULT OF A LIQUIDATION, BANKRUPTCY, OR OTHERWISE, ALL PREPAID SUBSCRIPTIONS WILL BE TREATED AS NONREFUNDABLE.**

**D. Our Cancellation and Suspension Rights.** We reserve the right to cancel your Track Services subscription at any time for any reason in our sole discretion. If we cancel your Track Services subscription without cause, we will give you notice thirty (30) days prior to the effective date of cancellation after which your account will be deactivated, and your access to the Services will terminate. We may also terminate your access to the Services without prior notice if your Vessel, the System, or other equipment attached to your Vessel operates in a manner that creates a nuisance to us or any Service Provider. In either of these cases, we will refund any amount remaining in your subscription for the Services that you have paid in advance (other than any payment that was included in the purchase or lease price of your Vessel), but not for the System.

We may cancel your Services without prior notice to you if we have received information that establishes you are no longer the owner/lessee of your Vessel and, in such case, we will not refund any prepaid amounts to you unless you notify us as provided in Section 3B. We may also cancel your Services without prior notice to you for any good cause, including but not limited to if you breach any part of this Agreement; if you do not pay amounts that are due, interfere with our efforts to provide service, or interfere with our business; or if your Track Services service is

used for illegal or improper purposes. If your access to the Services is terminated for good cause, we will not refund prepaid or unused portions of your services fees. Whether we permit you to reactivate the Track Services again will be entirely up to us.

We may suspend your Services for any of the same reasons we may cancel them. We can also suspend the Services for network or system maintenance or improvement; if there is network congestion; or if we suspect the Services are being used for any improper purpose.

**4. TRANSFERRING YOUR SERVICE.** Your Track Services Service Plan is not transferrable to another Vessel or to the account of another person.

**5. CHANGES TO THIS AGREEMENT.** WE RESERVE THE RIGHT TO CHANGE THE TERMS OF THIS AGREEMENT AT ANY TIME. ANY CHANGES WILL BE EFFECTIVE UPON POSTING OF THE REVISIONS ON THE SITE REFLECTING THE NEW EFFECTIVE DATE. This includes but is not limited to changing the prices or services provided. IF WE MAKE ANY MATERIAL CHANGES TO THIS AGREEMENT THAT, IN OUR SOLE JUDGMENT, WOULD HAVE AN ADVERSE EFFECT ON YOUR USE OF THE SERVICE, OR IF ANY SUCH CHANGE MATERIALLY AFFECTS YOUR RIGHTS UNDER THIS AGREEMENT, WE WILL PROVIDE YOU WITH NOTICE OF SUCH CHANGE, WHICH MAY INCLUDE NOTICE BY ELECTRONIC MAIL. We will notify you of any other changes by publishing a notice of the change or a revised version of these Terms on the Track Services website. YOU MAY CANCEL YOUR TRACK SERVICES SUBSCRIPTION OR AGREE TO THE CHANGE. IF YOU DO NOT CANCEL YOUR TRACK SERVICES SUBSCRIPTION WITHIN THIRTY (30) DAYS OF THE DATE OF THE NOTICE, THEN YOU WILL BE AGREEING TO THE CHANGE AND IT WILL AUTOMATICALLY BECOME PART OF THIS AGREEMENT. YOU SHOULD FREQUENTLY REVIEW THIS AGREEMENT (INCLUDING THE EFFECTIVE DATE) AND APPLICABLE POLICIES FROM TIME TO TIME TO UNDERSTAND THE TERMS THAT APPLY TO YOUR USE OF THE SERVICE. In the event of any potential conflict between this Agreement and the terms of any offer for Track Services, this Agreement will govern. You can obtain a copy of the Terms in effect at the time, online at <http://vessel.gofreemarine.com/Content/NavicoTrackSubscriberTermsAndConditions.pdf>.

**6. SPECIAL INFORMATION ABOUT SERVICE AND SYSTEM LIMITATIONS.**

**A. Availability.** Track Services are available wherever there is an accessible WiFi hot spot or where cellular or satellite coverage provided by Navico's Service Partners is available, which may vary from time to time. Track Services works using wireless communication networks and the Global Positioning System ("GPS") satellite network. NOT ALL FEATURES OF TRACK SERVICES ARE AVAILABLE EVERYWHERE, PARTICULARLY IN REMOTE OR ENCLOSED AREAS, OR ON ALL VESSELS, AT ALL TIMES. The area that you are boating in may affect the type or quality of service that we can provide to you, including but not limited to routing service. Additionally, some Track Services may not be fully available if the GPS system is not working. Certain programming limitations of the GPS system may impair our ability to determine your Vessel's precise location.

**B. Technology and Communications.** Track Services cannot work unless your Vessel is in a place where we have an agreement with a wireless service provider for service in that area.

Track Services also cannot work unless you are in a place where the wireless service provider engaged for that area has coverage, network capacity, and reception when the service is needed, and technology that is compatible with the Track Services. Features of Track Services that involve location information about your Vessel cannot work unless GPS satellite signals are unobstructed, available in that place and compatible with the Track Services System as well.

**C. Vessel and Equipment.** Track Services uses an embedded device installed in your Vessel which receives GPS signals and communicates with Navico and its Service Partners via communications networks. YOUR VESSEL MUST HAVE A WORKING ELECTRICAL SYSTEM (INCLUDING ADEQUATE BATTERY POWER) AND DATA TRANSMISSION SETTINGS ON FOR THE SYSTEM TO OPERATE. The Services may not work if your System is not properly installed (by a Navico certified installer (see NOLA, Navico Online Learning Academy) course for details) or you have not maintained it and your Vessel is not in good working order and in compliance with all government regulations. If you or someone with access to your Vessel turns off the communications setting on the System device, certain data may continue to be transmitted, but the Services will not work. If you try to add or modify any equipment or software in your Vessel, including the System, the Services may not work and we may terminate your Track Services. Your System needs to be compatible with Track Services and the wireless service and technology provided by our wireless service provider.

**D. Geography and Environment.** There are other problems we cannot control that may prevent us from providing Track Services to you at any particular time or place, or that may impair the quality of the Services.

**E. Maps and Navigation.** The map images and vessel tracking data displayed on the Track website is based on map information available to us, it is not intended to be used for vessel navigation. Navico recommends that you navigate by a mapping and charting system intended for marine navigation. These products contain important navigational aids and markings needed to navigate a vessel.

**F. Outside Our Control.** Navico and Track Services are not responsible for any delay or failure in performance if such failure or delay could not have been prevented by reasonable precautions. Additionally, Track Services is not responsible if such failure or delay is caused by acts of nature, or forces or causes beyond our reasonable control. Examples include public utility electrical failure, acts of war, government actions, terrorism, civil disturbances, labor shortages or difficulties (regardless of cause), tornadoes, blizzards, or equipment failures including Internet, computer, telecommunication or other equipment or technology failures.

## **7. SPECIAL NOTICES.**

**A. Content Rights.** All programming, text, software (including source and object codes), information, visual, oral or other digital material, and all other content of any description included in the Service and/or in the System (collectively, the “**Content**”) and all worldwide copyrights, trademarks, service marks, patents, patent registration rights, trade secrets, know-how, database rights, and all other rights in or relating to the Content (collectively, the

“**Intellectual Property**”) are owned by us or are the property of our licensors and suppliers who have given us permission to use it. You promise not to use any content you receive through the Services, except as expressly authorized by us and for no other purpose. You cannot license, lease, sell, resell, have licensed, have leased, have sold or resold, or otherwise transfer or convey any of it or use it for commercial purposes. You agree you will not copy, store, reproduce, distribute, modify, display, publish, perform, transmit, broadcast, or create derivative works from the Content.

**B. Software, Hardware and Equipment Updates.** Track Services involve software that we may need to change from time to time. We may do this remotely without notifying you first. Such changes may affect or erase data you have stored on the System in your Vessel. We are not responsible for any lost data. You do not own the Track Services software or acquire any rights to use, modify, or reverse engineer the Track Services software on your own. Your Vessel’s systems also involve software that Navico may need to change from time to time. You agree to allow this to be done remotely without your consent.

**C. Telecommunications/GPS Changes.** The System uses digital wireless telecommunications technology and GPS technology that are outside of our control. Telecommunications technologies have been known to change over time, resulting in the obsolescence of certain telecommunications networks. If the telecommunications technology or GPS technology changes in a way that results in an incompatibility of those technologies with your System, then your System may not work, and we may be required to cancel your Track Services subscription.

**D. Wireless Carriers.** You have no rights in the wireless phone number or other communications number or address or IP address assigned to your System. We can change the number at any time. As a condition to providing wireless service, the wireless carrier requires that you agree to the terms in this section. You agree that you have no contractual relationship whatsoever with the wireless carrier and that you are not a third-party beneficiary of any agreement between Navico and any wireless carrier. IN ADDITION, YOU AGREE THAT THE WIRELESS CARRIER HAS NO LEGAL OR EQUITABLE LIABILITY OR OTHER LIABILITY OF ANY KIND TO YOU.

## **8. SPECIAL INFORMATION AND AGREEMENTS ABOUT CERTAIN FEATURES**

**A. Security Sensor and Other Vessel Notifications That May Require Emergency Responses.** The Track system is designed to detect changes onboard and report those changes to the Track server which will send an email notification to a list of recipients. The recipients of these notices is under your control and not under the control of Navico. The Track system should not be depended on as a vessel’s emergency warning system. You understand and agree that we cannot assure you, or make any guarantees, about the manner or timeliness of messages received from a vessel that are emergency in nature.

**B. Stolen Vessel Locator.** We do not provide stolen vessel location services. However, if a vessel is stolen the Track Tracking system may be useful for the discovery of the vessel



whereabouts. For your safety and the safety of others, only you or someone you have authorized as your agent may request Stolen Vessel Location information from the Track site. We will provide vessel location information about stolen Vessels only to the police or an authorized third party such as a government entity pursuant to a valid court order or other official governmental action. We cannot guarantee that we will find it. We also are not required to try to find your Vessel for the purpose of locating a person.

**C. Location of Your Vessel in Connection with Lease/Finance.** If you lease or finance your Vessel through a Navico authorized dealer, and you breach any of the terms of the agreements governing such lease or finance, we may use Track Services to locate you or your Vessel for the purpose of communicating with you and/or recovering your Vessel. **YOU EXPRESSLY CONSENT TO OUR USE OF TRACK SERVICES IN THIS MANNER.**

**D. Content-Based Services.** The information available via the content-based features of Track Services is limited to that information which is available in the databases of the Service Providers selected by us, which may or may not be complete or accurate at all times.

**E. Remote Sound Horn & Flash Lights.** **It is your responsibility prior to activating any remote switching functions onboard using the Track system to ensure that doing so will not violate any regulation, ordinance or other law applicable to the location of your Vessel at time of activation.**

**F. Remote Start/Stop.** If you choose to install a third party Remote Start-enabling system of any kind. **It is your responsibility prior to activating Remote Start to ensure that your Vessel is located where it is safe to start the engine(s) or Generator(s), as well as to ensure that starting your Vessel remotely will not violate any regulation, ordinance, or other law applicable to the location of your Vessel at time of activation.**

## **9. YOUR RESPONSIBILITIES**

**A. Passwords/PINs.** You promise to be fully responsible for the protection of your password/PINs. Anyone who has access to your password or PINs may be able to access your Accounts and Track Services, the Track Services Web Site, and Track Services Mobile App. Neither we nor any Service Provider has any obligation to inquire about the authority of anyone using your password/PINs or other information that can be used to identify your account to request Track Services for your Vessel. **YOU HAVE THE OBLIGATION TO PROTECT YOUR USERNAME, PASSWORD AND PIN FROM UNAUTHORIZED USE.**

**B. Proper Use of the Services.** You are responsible for your compliance with all regulations, ordinances and other laws applicable to your Vessel. You promise not to use Track Services for any fraudulent, unlawful, or abusive purpose, or that interferes with our provision of services to you or to our other customers. You promise you will not abuse or do anything to damage our business operations, services, reputation, employees or facilities. If you do any of these things, you agree you will be responsible for any costs, losses, damages or other amounts anyone else

claims from us, plus any expenses, any of which result in whole or in part from that use, misuse, or your actions or omissions.

**C. Other Users/Occupants of Your Vessel.** You promise to educate and inform all users and occupants of your Vessel about Track Services, the System, and its limitations.

**YOU, AS THE PRIMARY SUBSCRIBER, ARE SOLELY RESPONSIBLE FOR ANY USE OF TRACK SERVICES CONCERNING YOUR VESSEL, EVEN IF YOU ARE NOT THE ONE USING IT, AND EVEN IF YOU LATER CLAIM THE USE WAS NOT AUTHORIZED. YOU ARE ALSO SOLELY RESPONSIBLE FOR THE SERVICES REQUESTED BY YOU, OR BY ANYONE USING YOUR VESSEL, THROUGH TRACK SERVICES.**

Neither we nor any Service Provider has any obligation to inquire about the authority of anyone using your Vessel. If you, another operator or an occupant of your Vessel uses the Track Services System to commit a crime or for another improper purpose, you will be responsible for any damages owed by any of us as a result of such use.

## **10. PRIVACY**

**A. Information Collected and Used by Track Services.** In providing Track Services to you, we may collect and retain an electronic or other record of certain information including: your Vessel's description, location, speed, direction of travel, time of travel, service data, mechanical condition or incidents involving your Vessel, your search content, and information about anyone using Track Services from your Vessel or under your account. You agree that we may record or monitor your Vessel's location or other information both when you or other occupants are in your Vessel or not in your Vessel. You acknowledge that your vessel may be equipped with one or more sensing or diagnostic modules capable of automatically retrieving, recording, transmitting, or storing certain Vessel data.

**B. Your Privacy Rights.** The Navico Privacy Policy governs our use and protection of information we collect. We may change this policy at any time. You can access the current policy online at <http://navico.com/privacy-policy/>. You may also review, modify, correct, or update the personal information you provide to us at any time by accessing the Track Services online portal at [www.gofreemarine.com](http://www.gofreemarine.com).

**C. Monitoring and Tracking.** We or our Service Providers may monitor and track data transmitted from your System to Navico, as well as any data transmitted between our and their service centers and you or others contacting the service centers to discuss your account outside of the Vessel. **YOU CONSENT, ON BEHALF OF YOURSELF, ALL OTHER OPERATORS AND/OR OCCUPANTS OF YOUR VESSEL, AND ANYONE ENGAGED IN A CONVERSATION WITH A SERVICE PROVIDER ABOUT YOUR VESSEL OR YOUR ACCOUNT, TO THE MONITORING AND RECORDING OF ALL TRANSMISSIONS BETWEEN THE SERVICE CENTERS AND SUCH PERSONS, AND YOU RELEASE US AND ANY THIRD PARTY FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES AND LOSSES THAT MAY RESULT FROM ANY SUCH MONITORED AND/OR RECORDED TRANSMISSIONS.** Data transmissions may be shared with third parties. We may be legally

required to provide location data and other information obtained through the Track Services System or features to law enforcement agencies. We may also monitor the location of or other information about the Vessel, including without the occupants' knowledge, in the performance services you request us to provide.

**11. NO WARRANTIES.** Navico provides a limited warranty on the Track equipment which is installed in your Vessel, BUT DOES NOT COVER TRACK SERVICES OR THE WIRELESS SERVICE. In addition, Track Services cannot promise uninterrupted or problem-free service, and cannot promise that the data or information provided to you will be error-free. The Services are provided by the Service Providers. Navico is not responsible for the provision of services hereunder. ALL DATA AND INFORMATION IS PROVIDED TO YOU ON AN "AS IS" BASIS. NEITHER WE, NOR ANY THIRD PARTY, MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, ABOUT TRACK SERVICES OR ABOUT ANY DATA OR INFORMATION OR SERVICES PROVIDED THROUGH IT. THIS MEANS, AMONG OTHER THINGS, NO WARRANTIES OF CONTENT, QUALITY, ACCURACY, TIMELINESS, COMPLETENESS, CORRECTNESS, RELIABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. ALL SUCH WARRANTIES ARE EXPRESSLY EXCLUDED BY THIS AGREEMENT.

**12. LIMITATIONS OF LIABILITY.** YOU AND WE ARE EACH WAIVING IMPORTANT RIGHTS. UNLESS FORBIDDEN BY LAW IN A PARTICULAR INSTANCE, WE EACH AGREE AS FOLLOWS:

**A. NAVICO WILL NOT BE LIABLE FOR** THE ACTIONS OR INACTIONS OF ANY SERVICE PROVIDER WE CONTACT FOR YOU OR YOUR VESSEL, OR FOR OUR INABILITY TO CONTACT ANY SERVICE PROVIDER IN ANY PARTICULAR SITUATION.

**B. NAVICO WILL NOT BE LIABLE TO YOU FOR** (1) ANY INJURIES TO PERSONS OR PROPERTY ARISING OUT OF OR RELATING TO YOUR OR THE OCCUPANT'S OR YOUR VESSEL'S USE OF THE TRACK SERVICES SYSTEM OR TRACK SERVICES, (2) ANY DAMAGES ARISING OUT OF OR RELATING TO THE INSTALLATION, REPAIR, OR MAINTENANCE OF THE TRACK SERVICES SYSTEM, OR (3) ANY DAMAGES RESULTING FROM FAILURE OF THIRD PARTY DEVICES CONNECTED TO THE SYSTEM OR OTHERWISE ONBOARD THE VESSEL.

**C. THE MAXIMUM AGGREGATE LIABILITY OF NAVICO, THE WIRELESS CARRIERS AND ANY OTHER SERVICE PROVIDER** TO YOU UNDER ANY THEORY (INCLUDING BUT NOT LIMITED TO FRAUD, MISREPRESENTATION, BREACH OF CONTRACT, PERSONAL INJURY, OR PRODUCTS LIABILITY) IS LIMITED TO THE GREATER OF (I) \$500 OR (II) THE TOTAL AMOUNT PAID BY YOU FOR THE PORTION OF TRACK SERVICES GIVING RISE TO THE CLAIM DURING THE SIX (6) MONTHS PRECEDING THE DATE YOUR CLAIM AROSE. YOU AGREE THAT NONE OF US -- NAVICO, THE WIRELESS CARRIERS, NOR ANY SERVICE PROVIDER -- WOULD HAVE AGREED TO PROVIDE TRACK SERVICES TO YOU IF YOU DID NOT AGREE TO THIS LIMITATION. THIS AMOUNT IS THE SOLE AND EXCLUSIVE LIABILITY TO YOU OF NAVICO, THE WIRELESS CARRIERS, AND ANY OTHER THIRD PARTY BENEFICIARIES, AND IS PAYABLE AS LIQUIDATED DAMAGES AND NOT AS A PENALTY.

**D. YOU CANNOT RECOVER** (1) PUNITIVE OR EXEMPLARY DAMAGES, (2) TREBLE, CONSEQUENTIAL, INDIRECT, INCIDENTAL OR SPECIAL DAMAGES, OR (3) ATTORNEY'S FEES. YOU CANNOT RECOVER THESE TYPES OF DAMAGES OR FEES FROM ANY THIRD PARTY BENEFICIARY EITHER. YOU WAIVE, TO THE FULLEST EXTENT ALLOWED BY LAW, ANY CLAIM FOR DAMAGES OTHER THAN DIRECT, ACTUAL, COMPENSATORY DAMAGES AS LIMITED IN THIS AGREEMENT.

**E. WE HAVE NO LIABILITY FOR SERVICE INTERRUPTIONS** OF THIRTY (30) DAYS OR LESS. TO RECEIVE SERVICE CREDIT FOR LONGER INTERRUPTIONS, YOU MUST NOTIFY US WITHIN SIXTY (60) DAYS AFTER THE TIME WHEN THAT SERVICE INTERRUPTION STARTED. EXCEPT FOR ANY CREDITS PROVIDED VOLUNTARILY BY US AS DESCRIBED ABOVE, NO ONE IS LIABLE TO YOU FOR DROPPED CONNECTIONS OR INTERRUPTED SERVICE, OR FOR PROBLEMS CAUSED BY OR CONTRIBUTED TO BY YOU, BY ANY THIRD PARTY, WATER WAY OBSTRUCTIONS, BRIDGES, NETWORK CONGESTION, WEATHER, OR ANY OTHER THINGS WE OR OUR SERVICE PROVIDERS ARE UNABLE TO CONTROL.

**F. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, YOU EXCUSE ANY NON-PERFORMANCE** BY US OR ANY SERVICE PROVIDER CAUSED IN WHOLE OR IN PART BY AN ACT OR OMISSION OF A THIRD PARTY, OR BY ANY EQUIPMENT FAILURE, ACT OF GOD, NATURAL DISASTER, STRIKE, EQUIPMENT OR FACILITY OR SERVICE SHORTAGE OR SERVICE OUTAGE, OR OTHER CAUSES BEYOND THE CONTROL OF NAVICO OR ANY SERVICE PROVIDER.

**G.** If another wireless service provider is involved in any problem (for example, because of roaming,) you also agree to any limitations of liability that it imposes on its customers.

**H. YOU AGREE THAT** NEITHER NAVICO NOR ANY SERVICE PROVIDER WHO SENDS YOU DATA OR INFORMATION THROUGH TRACK SERVICES IS LIABLE FOR ANY ERRORS, DEFECTS, PROBLEMS, OR MISTAKES IN THAT DATA OR INFORMATION.

**I.** NAVICO WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR INJURIES TO PERSONS OR PROPERTY ARISING FROM YOUR USE OF THE TRACK SERVICES SYSTEM OR THE TRACK SERVICES SERVICE OR THE INSTALLATION, REPAIR OR MAINTENANCE OF THE TRACK SERVICES SYSTEM. YOU AGREE TO INDEMNIFY AND HOLD HARMLESS NAVICO AND ITS OFFICERS, EMPLOYEES AND AFFILIATES FROM AND AGAINST ANY AND ALL COSTS, EXPENSES, ACTS, ACTIONS OR CLAIMS, ARISING OUT OF OR IN CONNECTION WITH THE ACTIVITIES CONTEMPLATED BY THIS AGREEMENT, WHETHER BROUGHT BY YOU OR THIRD PARTIES.

**J. You agree that the limitations of liability and indemnities in this Agreement will survive** even after this Agreement has ended. These limitations of liability apply not only to you, but to anyone using your Vessel, to anyone making a claim on your behalf, and to any claims made by your family, employees, customers, or others arising out of or relating to your Track Services or the Track Services System.

**13. YOUR INSURANCE OBLIGATIONS.** The service Track Services provides is intended as a convenience. The payments you make for Track Services are not related to the value of your Vessel or any property in it, or the cost of any injury to or damages suffered by you or anyone

else as a result of the operation of your Vessel. We are not an insurance company. You promise you will obtain and maintain appropriate insurance covering personal injury, loss of property, and other risks. FOR YOURSELF AND FOR ANYONE ELSE CLAIMING UNDER YOU, YOU HEREBY RELEASE AND DISCHARGE NAVICO, THE SERVICE PROVIDERS, AND EACH OF THEIR PARENTS, AFFILIATES, AND SUBSIDIARIES, AND THE RESPECTIVE OFFICERS, DIRECTORS, AND EMPLOYEES OF ANY OF THEM FROM AND AGAINST ALL HAZARDS COVERED BY YOUR INSURANCE. NO INSURANCE COMPANY OR INSURER WILL HAVE ANY RIGHT OF SUBROGATION AGAINST NAVICO OR THE SERVICE PROVIDERS.

**14. YOUR RESPONSIBILITY FOR ANY THIRD PARTIES' CLAIMS.** YOU AGREE THAT YOU WILL BE RESPONSIBLE FOR ANY AMOUNT ANYONE ELSE CLAIMS FROM NAVICO OR THE SERVICE PROVIDERS (OR THE PARENTS, AFFILIATES, AND SUBSIDIARIES OF EACH, OR THE RESPECTIVE OFFICERS, DIRECTORS, AND EMPLOYEES OF ANY OF THEM) PLUS ANY EXPENSES RESULTING FROM ANY CLAIM, DEMAND OR ACTION, REGARDLESS OF THE NATURE OF THE CAUSE OF THE CLAIM, DEMAND, OR ACTION ALLEGING LOSS, COSTS, EXPENSES, DAMAGES, OR INJURIES (INCLUDING INJURIES RESULTING IN DEATH) ARISING OUT OF OR IN CONNECTION WITH (1) THE ACTIVITIES CONTEMPLATED BY THIS AGREEMENT, WHETHER BROUGHT BY YOU, THE OCCUPANTS OF YOUR VESSEL, YOUR EMPLOYEES, OR THIRD PARTIES, EVEN IF DUE TO THE NEGLIGENCE OF ANY OF NAVICO OR ANY OF THE SERVICE PROVIDERS; (2) THE USE OR POSSESSION OF DATA OR INFORMATION PROVIDED IN CONNECTION WITH TRACK SERVICES; (3) CLAIMS FOR LIBEL, SLANDER, OR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH, ARISING OUT OF OR RELATED IN ANY WAY DIRECTLY OR INDIRECTLY TO THIS AGREEMENT; OR (4) THE USE, FAILURE TO USE, OR INABILITY TO USE TRACK SERVICES, EXCEPT WHERE THE CLAIMS RESULT FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF NAVICO OR ANY OF THE SERVICE PROVIDERS. IN ADDITION, IF YOU HAVE AUTHORIZED CHARGES FOR AMOUNTS DUE AGAINST YOUR CREDIT, DEBIT OR BANK CARD ACCOUNT OR OTHER SIMILAR ACCOUNT BY GIVING US A CARD OR ACCOUNT NUMBER, THEN YOUR AGREEMENT IN THIS SECTION EXTENDS TO CLAIMS, EXPENSES, LIABILITIES, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH USE OR OWNERSHIP OF THE CREDIT OR DEBIT CARD ACCOUNT, OR OTHER SIMILAR PAYMENT ACCOUNT, OR FROM THE ISSUER'S REFUSAL TO PAY AMOUNTS CHARGED TO SUCH ACCOUNT.

We are required to inform you that Navico has agreed to indemnify and hold harmless its Service Providers and any underlying carriers who supply services to Service Providers, and all respective employees and agents, against any and all claims, including without limitation claims for libel, slander, infringement of copyright, or personal injury or death, arising in any way directly or indirectly in connection with Navico's agreements with those Service Providers or in connection with the use, failure to use, or inability to use an access telephone number, IP address, or other similar identifying point of access. This indemnity survives the termination of Navico's agreements with its Service Providers. If Navico is required to indemnify its Service Providers pursuant to the terms of its agreements with those Service Providers, you agree that you are proportionally responsible to Navico for its indemnity obligation.

**15. RESOLVING DISPUTES.**

**A. Arbitration.** We and you agree that any dispute between us will be resolved by binding arbitration. Arbitration is not a court proceeding. The rules of arbitration differ from the rules of court. In arbitration, a dispute is resolved by an arbitrator, or a panel of arbitrators, instead of by a judge or jury. This agreement to arbitrate is intended to be broadly interpreted. It includes, but is not limited to: (i) claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory; (ii) claims that arose before this or any prior agreement (including, but not limited to, claims relating to advertising); (iii) claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and (iv) claims that may arise after the termination of this Agreement.

You understand and agree that the parties would have had a right or opportunity to litigate disputes through a court and, by entering into this Agreement, accessing or using the Services, you and we are each waiving the right to a trial by jury or to participate in a class action. This arbitration agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, including, for example, the Federal Trade Commission. Such agencies can, if the law allows, seek relief against us on your behalf. References to “we” or “us” in this section 15 include the Third Party Beneficiaries, and references to “you,” and “we” or “us” in this section 15 include our respective subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of the Track Services program or System under this or prior agreements between us.

In order to expedite and control the cost of disputes, you agree that any legal or equitable claim relating to the Service or your Subscription or this Agreement (a “Claim”), will be resolved as follows:

- (i) **Informal Claim Resolution.** To initiate an informal resolution to a Claim, you must send by first class mail a written Notice of Dispute (“**Notice**”) to Navico Inc. Copies of the Notice should be sent to the following address: Navico, Inc., 4500 S. 129th East Avenue, Suite 200, Tulsa, Oklahoma 74134, Attn: Global Legal Department. Neither of us may start a formal proceeding for at least sixty (60) days after one of us notifies the other of a Claim in writing. If we initiate a Claim, we will send our notice to the billing address on file with us. The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought.
- (ii) **Formal Claim Resolution.** If we cannot resolve a Claim informally, including any claim between us, and any claim by either of us against any agent, employee successor, or assign of the other, including to the full extent permitted by applicable law, third parties who are not party to this Agreement whether related to this Agreement or otherwise, including past, present, and future Claims and disputes, and including any dispute as to the validity or applicability of this arbitration clause, then these Claims shall be resolved, upon election by either party, exclusively and finally by binding arbitration. Private arbitration will

be conducted by a neutral arbitrator and administered by the American Arbitration Association (“**AAA**”) in accordance with its commercial arbitration rules, as modified by this Agreement. The arbitrator is bound by the terms of this Agreement. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are for the court to decide. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party’s individual claim. During the arbitration, the amount of any settlement offer made by us or you shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or we are entitled. The arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. This arbitration provision shall survive termination of this Agreement.

- (iii) **Small Claims.** Instead of proceeding to arbitration, either you or we have the option to pursue a Claim in small claims court (or the equivalent) so long as the Claim (1) remains in that court, and (2) is made solely on our behalf (if brought by us) or on your behalf. However, if that claim is transferred or appealed to a different court, we reserve our right to elect arbitration.
- (iv) **Class Actions and Severability.** If either party elects to resolve a claim by arbitration, that Claim shall be arbitrated on an individual basis. There shall be no right or authority for any claims to be arbitrated on a class action basis or on bases involving Claims brought in a purported representative capacity on behalf of the general public, other subscribers or other persons similarly situated. No Claim submitted to arbitration is heard by a jury or may be brought as a private attorney general. You do not have the right to act as a class representative or participate as a member of a class of claimants with respect to any Claim submitted to arbitration (“**Class Action Waiver**”). The parties acknowledge and agree that under no circumstances will a class action be arbitrated. If any portion of this arbitration agreement or the Class Action Waiver is limited, voided or cannot be enforced, then the entirety of this arbitration provision (except for this sentence) shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver, that portion will be severed, and the rest of the arbitration agreement will continue to apply. “Claim” does not include any challenge to the validity and effect of the Class Action Waiver, which must be decided by a court. If this entire agreement to arbitrate shall be null and void, then the parties agree that any actions shall be brought in the State or Federal courts of New York, New York.
- (v) **Binding Effect.** This arbitration agreement is made pursuant to a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act (“**FAA**”), and not by any state law concerning arbitration. In the arbitration proceeding, the arbitrator must follow applicable law, and any award may be

challenged, as set forth in the FAA. Any court with jurisdiction may enter judgment upon the arbitrator's award. The arbitrator's decision is final and binding on all parties and may be enforced in any federal or state court with jurisdiction.

**B. Governing Law.** To the fullest extent permitted by law and except as explicitly provided otherwise, this Agreement and any disputes arising out of or relating to it will be governed by the laws of the State of Oklahoma. If for some reason these arbitration requirements do not apply, or a claim proceeds in small claims court, we each waive any trial by jury and a judge will decide any and all disputes.

**C. Time Limits.** EXCEPT WHERE PROHIBITED BY LAW, YOU ARE NOT ALLOWED TO BRING ANY CLAIM AGAINST NAVICO MORE THAN ONE YEAR AFTER THE CLAIM ARISES.

## **16. GENERAL LEGAL INFORMATION.**

**A. Communicating with Each Other.** You can contact us by phone: 800-628-4487; or by mail: Navico, Inc., 4500 S. 129th East Avenue, Suite 200, Tulsa, Oklahoma 74134. ANY WRITTEN NOTICE FROM YOU REQUIRED BY THIS AGREEMENT WILL BE CONSIDERED GIVEN WHEN WE RECEIVED AT THE ADDRESS IN THIS PARAGRAPH. ANY WRITTEN NOTICE FROM US REQUIRED BY THIS AGREEMENT WILL BE CONSIDERED GIVEN WHEN WE SEND IT BY EMAIL TO ANY EMAIL ADDRESS YOU HAVE PROVIDED TO US, OR TWO DAYS AFTER WE MAIL IT TO YOU AT THE MOST CURRENT BILLING ADDRESS WE HAVE ON FILE FOR YOU.

**B. Others Covered by this Agreement.** EACH OF THE PERSONS/ENTITIES LISTED IN THE THIRD PARAGRAPH OF THESE TERMS IS BOUND BY THIS AGREEMENT. YOU AGREE THAT YOU WILL MAKE ALL OF THE OCCUPANTS OF YOUR VESSEL, WHETHER PASSENGERS, GUESTS OR OPERATORS OF YOUR VESSEL, AWARE OF OUR RIGHTS AND SUBJECT TO THE LIMITATIONS OF THIS AGREEMENT.

**C. Our Relationship.** This Agreement does not create any fiduciary relationships between you and us. It also does not create any relationship of principal and agent, partnership, or employer and employee.

**D. Assignment.** We can assign this Agreement or your obligations to pay under it in whole or in part to anyone we choose. You cannot assign this Agreement or your obligations to anyone else without our prior written consent and any attempted assignment in violation of this provision shall be void.

**E. Final Provisions.** This Agreement (which includes, without limitation, these Terms and any other Track Services documents incorporated herein by reference) is the entire agreement between you and us. This Agreement supersedes all other agreements or representations, oral or written, between us, past or present. In the event of a conflict between any provision contained in these Terms and any provision of any other Track Services document incorporated herein, the provision contained in these Terms shall take precedence, and no additional or



different terms shall be binding on either of us unless mutually agreed to in writing. This Agreement will not be presumptively construed for or against either party. Section titles used in these Terms are for convenience only. If any part of this Agreement is considered invalid by a court or arbitrator, the rest of it will remain enforceable. Even after this Agreement has ended, its provisions will govern any disputes arising out of or relating to it (unless it has been replaced by a new agreement between us). It will also be binding on your heirs and successors and on our successors and assigns. No waiver of any part of this Agreement, or of any breach of it, in any one instance will require us to waive any other instance or breach. IN SOME CIRCUMSTANCES WE MIGHT DECIDE TO PROVIDE YOU SERVICE VOLUNTARILY EVEN IF YOU WOULD NOT OTHERWISE QUALIFY. THIS WILL NOT BE DEEMED A WAIVER OR REQUIRE US TO DO SO AGAIN. YOU AGREE WE WILL NOT BE LIABLE FOR ANYTHING RESULTING FROM OUR PROVISION OF SUCH SERVICE.

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