

# Terms & Conditions

02/08

The Terms & Conditions shown below, and the Information Pack that we provide you with (which comprises a copy of these Terms & Conditions and the User Guide) form the Agreement between Cobra UK Limited (“us”, “we” and “our”) and you (being the person designated as the subscriber in the Order), and “your” shall be understood accordingly.

## 1. Definitions

The following words have the following meanings:

**Approved Technician:** a technician trained to install and maintain CobraTrak Systems;

**Charges:** all charges for Services;

**Commencement Date:** the date on which this Agreement starts, as determined in accordance with clause 3.2;

**European Territories:** the European countries specified in the User Guide. A fully up to date list of countries that we service is set out on our Website;

**False Alarms:** when a theft alert is received by the Secure Operating Centre but the vehicle has not been stolen;

**Minimum Term:** the minimum term as specified in clause 3.1;

**CobraTrak Customer Services:** the telephone number detailed in the Information Pack for each country, through which you may contact us;

**CobraTrak System:** the Cobra in-vehicle unit, and associated software and hardware (including ADR card, where applicable);

**Order:** your order for the CobraTrak System and the Services, which is completed in accordance with clause 2;

**Price List:** our standard subscription renewal price list as issued by us from time to time and such other prices as we set out on our Website from time to time;

**Secure Operating Centre:** the call and monitoring centre in a particular location;

**Service Call:** an agreed time when our Approved Technician can have access to your vehicle;

**Services:** the vehicle tracking services that you subscribe for and such other services as we and you agree from time to time;

**Stolen Vehicle Recovery Service:** the specific Service described as such in the User Guide;

**Term:** the number of months selected by you for the Services on the Order;

**Warranty Period:** the Warranty Period is 36 months from the date the CobraTrak System was first installed; and

**Website:** our website at [www.cobra-at.com/uk](http://www.cobra-at.com/uk)

## 2. Order and Your Right to Cancel

2.1. There are three ways in which we may receive an Order relating to your subscription to the Services:

- 2.1.1. if you acquire your vehicle with a factory fitted CobraTrak System, the manufacturer or distributor will have completed your Order;
- 2.1.2. the third-party dealer from whom you acquire the CobraTrak System might complete the Order for you; or
- 2.1.3. you complete the Order and in each case, the Order may be in writing or provided to us orally, and shall contain certain information relating to you which we shall hold for the purpose of providing you with the Services.

2.2. We accept your Order at the point in time that

you receive our Information Pack.

- 2.3. As part of the registration process, you must arrange payment for the Services and agree security passwords with us. We will not be able to provide any Services to you until payment is received and you have agreed Security passwords with us. Where a third party supplies information about you to us as part of the Order, we have to rely on that information being correct, and if it is not, we will not be liable to you for any losses or damage that flows from that. It is therefore also important when you contact us to agree security passwords that you check that the information that we hold about you is correct.
- 2.4. You must keep your security passwords completely confidential as they permit access to the Services for which you may incur Charges. You are responsible for all Charges resulting from use of your security passwords.
- 2.5. If you decide that you do not want the Services, you may cancel this Agreement at any time within 10 business days of the Commencement Date (the “Cooling Off Period”). To cancel this Agreement, you must send us written notice of your wish to cancel this Agreement, which may be delivered personally or sent by post to Cobra UK Limited, Crossgate House, Cross Street, Sale, Cheshire M33 7FT, United Kingdom, or by fax to +44 (0)844 239 0032, or you may email us using the following email address: [info-uk@cobra-at.com](mailto:info-uk@cobra-at.com).
- 2.6. If you continue to use or access the Services after the end of the Cooling Off Period referred to in clause 2.5, all the terms of this Agreement will apply. These terms also apply to your use of the Service before the end of the Cooling Off Period. The CobraTrak System may only be fitted to the following types of vehicles:
  - 2.7.1. 12V to 32V negative earthed vehicles, being cars, vans, tractors (interior fitting in cab only), lorries, and motor homes; and
  - 2.7.2. other vehicles as agreed in advance with us.
- 2.8. We will agree a time and a place with you for the installation of the CobraTrak System, where applicable. If you cancel any agreed appointment to install the CobraTrak System less than 2 working days before the appointment date, then we will charge you a cancellation fee, in accordance with the Price List.
- 2.9. You must ensure that the CobraTrak System is installed, modified and/or removed only by a Approved Technician. Whilst we will endeavour to assist you with any complaint you have with an Approved Technician, we exclude any liability for the acts or omissions of such Approved Technician (unless an employee of ours).
- 2.10. You must comply with the following important conditions when using the Services, or else we cannot necessarily, or we may refuse to, provide the Services to you until you do comply with these conditions:
  - 2.10.1. only use the CobraTrak System and/or

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- Services as instructed by us in our User Guide or in other reasonable instructions that we give to you from time to time. You must not tamper with the CobraTrak System under any circumstances;
- 2.10.2. provide all proofs of identity and other information that we require and co-operate with us in our reasonable security and other checks;
  - 2.10.3. do not use the Services for any fraudulent or unlawful purposes, or otherwise than for the purposes contemplated in the User Guide; and
  - 2.10.4. comply with all applicable traffic laws and regulations and good driving practice when accessing the Services from your vehicle and comply with all legislation or regulations relating to the use of your mobile phone.
- 3. Term**
- 3.1. The Minimum Term is 12 months from the Commencement Date. We will provide the Services for the Term, and you and we may agree further renewal periods in which we will provide the Services and in respect of which you will pay the relevant Charges.
  - 3.2. For each CobraTrak System you subscribe for, the Commencement Date is the later of:
    - 3.2.1. the date the CobraTrak System is installed; or
    - 3.2.2. the date on which you take delivery of your vehicle containing the CobraTrak System.
  - 3.3. Unless you cancel this Agreement during the Cooling Off Period, the Charges for Services will begin on the Commencement Date whether or not you have registered with us under clause 2.
  - 3.4. If you sell your vehicle with the CobraTrak System already installed, the Services are not transferable. The new owner must register with us to enable us to provide the Services directly to the new owner. Once we know that you are no longer the owner of a vehicle in which the CobraTrak System is installed, we will not provide the Services to you.
  - 3.5. If you transfer a CobraTrak System to another vehicle, then, provided that the CobraTrak System transfer is undertaken in accordance with clause 2.9, the Agreement is automatically transferred to the new vehicle for the remainder of the Term. You must register any change of details with us.
- 4. The CobraTrak System, Warranty and Services**
- 4.1. Where the CobraTrak System is in use for the purpose for which we supplied it to you (namely the receipt and/or use of the Services in accordance with this Agreement) and the CobraTrak System or the installation of the CobraTrak System is proved to be defective within the Warranty Period, other than due to your act or omission, then we will arrange a Service Call to repair or replace your CobraTrak System or make good the installation, free of charge.
  - 4.2. You must not tamper with the CobraTrak System in any way or transfer the CobraTrak System between vehicles using an unauthorised technician or the warranty in clause 4.1 will be invalidated. We will disconnect your CobraTrak System if we reasonably believe you or any other unauthorised third party has tampered with it and charge you for any remedial work required on the CobraTrak System before reconnection.
  - 4.3. You may request a Service Call to repair your CobraTrak System after the expiry of the Warranty Period or to transfer your CobraTrak System to a new vehicle at any time, although there will be a charge for this service for parts and labour. Please contact CobraTrak Customer Services for a quotation.
  - 4.4. If you cancel any agreed Service Call under clause 4.1 or clause 4.3 within 2 working days before the date agreed for the appointment (whether during the Minimum Term or not), then we will charge you a cancellation fee, in accordance with the Price List.
  - 4.5. If we inform you that there is a fault with your CobraTrak System, you must consent to a Service Call as soon as possible and within a reasonable period of time (and in any event, no more than 5 days after the date that we propose to you).
  - 4.6. If your vehicle is involved in an accident, your vehicle battery has been disconnected for any reason (for example bodywork repair or paint re-spray) or if your vehicle has been parked unused for more than 3 months, then you must contact CobraTrak Customer Services in order that we may test that the CobraTrak System still functions correctly.
  - 4.7. You must ensure that you advise any person who services your vehicle that there is a security tracking product fitted to prevent inadvertent disconnection of any component parts of the CobraTrak System.
  - 4.8. If you entered into this Agreement or use the Services in connection with your work or your business then the warranty set out in clause 4.1 is the only warranty that we give you in relation to the CobraTrak System and all other warranties that may be implied in this Agreement or by law are excluded to the maximum extent permissible by law.
  - 4.9. The only Services that we offer to you are those described in our User Guide.
  - 4.10. The Services may occasionally require upgrading, modification or other works making them temporarily unavailable. We will try to keep such interruption to a minimum.
  - 4.11. Where we reasonably determine that it would be necessary or advantageous for the purposes of law enforcement, or to prevent the commission of an offence of any description, we reserve the right to refuse to provide you with data that we hold about the location or movements of your vehicle.
- 5. Additional provisions relating to the Services**
- 5.1. We aim to make all Services available to you at all times.
  - 5.2. Where GSM coverage exists, the local Secure Operating Centre will endeavour to detect vehicle alerts and where necessary:

- 5.2.1. in the European Territories provide vehicle locations to the local police, having first made contact with you; or
- 5.2.2. outside the European Territories, provide vehicle locations to you.
- 5.3. We do not provide any local police liaison services outside of the European Territories.
- 5.4. You must provide us with your current telephone contact details at all times. If you are planning to be uncontactable, you must provide us with contact details for an alternative person to you who is responsible for the vehicle in your absence in order to receive the Stolen Vehicle Recovery Service. If you do not provide us with the contact details for a secondary contact, we cannot provide the Services to you.
- 5.5. We do not warrant that the Services will lead to the location of your stolen vehicle. We may not be able to locate your vehicle if the CobraTrak System has been damaged or tampered with in any way, or is in a tunnel, container or underground enclosure, or if the CobraTrak System has been disabled or for other reasons beyond our reasonable control.
- 5.6. Whilst we will assist the police in any investigation, we exclude any liability for any loss caused to you by any third parties, including the police, in such investigation.
- 5.7. You will be liable directly to the police for any charges you incur, such as recovery and storage charges, as a result of any attempt by the police to recover your stolen vehicle.
- 5.8. You hereby authorise us to pass on to the police any information that they require or request from us in order to assist with their investigations and any subsequent prosecution.
- 6. False Alarms**
- 6.1. We reserve the right to terminate your Agreement or to charge you for False Alarms if an excessive number of False Alarms occur. For these purposes, "excessive" means, in any 12 month period, 5 or more False Alarms that are not caused by us or by any circumstances beyond your reasonable control.
- 6.2. You should call the Secure Operating Centre before leaving your vehicle for service or repairs in order to reduce the possibility of excessive False Alarms being sent from the vehicle.
- 7. Payment**
- 7.1. We will charge, and you will pay us, the Charges for all Services in accordance with the Price List. We reserve the right to amend the Price List from time to time.
- 7.2. Your initial payment for Services is due by the Commencement Date. The initial payment will include the cost of the CobraTrak System, installation, subscription and warranty.
- 7.3. After the expiry of your initial Term you may renew the Services on an annual basis (each annual renewal period being referred to as a "Renewal Period") subject to payment of the then current Services renewal fee set out in our then current Price List. Payment for each Renewal Period is due on the first day of that Renewal Period.
- 7.4. Any other Charges will be due on demand.
- 7.5. If any payment of Charges has not been received by us within 21 days of its due date, we may:
- 7.5.1. suspend or cancel provision of the Services to you (although we will first send you a reminder letter to the last address that we hold for you); and
- 7.5.2. charge interest on all sums outstanding at the rate of 2% above the annual base rate from time to time of the Royal Bank of Scotland plc, which interest shall accrue on a daily basis from the due date until the date of payment.
- 7.6. If Services are suspended or cancelled under clause 7.5.1 above but payment is subsequently received, we will levy a charge for reactivating the Services. Please refer to clause 7.7 for reconnection conditions.
- 7.7. If your CobraTrak System is disconnected by us and you subsequently request reconnection then before we reconnect the CobraTrak System, you must pay us a reconnection fee and we will further require (and you shall make) immediate payment of all sums due. Charges for Services will continue during this period of disconnection.
- 7.8. Unless otherwise stated in this Agreement or agreed by us, all payments are to be made by Direct Debit, credit card or debit card. If a payment request is refused by your bank or card issuer for any reason then we will notify you and request payment of all arrears within 21 days of the due date of the relevant payment. If you have not paid all arrears within this time we may disconnect your CobraTrak System and take steps to recover monies due. Please refer to clause 7.7 for reconnection conditions.
- 7.9. You will be responsible for paying all Charges whether or not they have been incurred by you personally.
- 8. Limitations and Exclusions of Liability**
- 8.1. We exclude all liability to you for any loss of income, business, profits, expenditure or any other indirect or consequential loss arising under or as a result of this Agreement and for any matter outside of our reasonable control. The cost of the Services to you takes into account this exclusion of liability, without which the cost to you would be significantly higher.
- 8.2. Nothing in this Agreement limits our liability to you for death or personal injury caused by our negligence or for our fraudulent misrepresentation in relation to the CobraTrak System and/or Services.
- 8.3. Subject to the terms of this Agreement, we limit our liability to you in respect of any claim or series of connected claims to a maximum of 12 months' Charges.
- 8.4. In the event that the vehicle in respect of which the Services are provided is stolen and / or not recovered following being stolen, for whatever reason, we are not liable for any costs associated with its repair or replacement.
- 8.5. Your liability under this Agreement is limited to payment of all outstanding Charges and/or interest due under this Agreement. If you use the CobraTrak System for any purpose other than for receiving the Services you shall be liable to Cobra

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- UK Limited for any claim, loss or damage of whatever nature (including court costs and legal fees) arising out of such misuse and your rights under these terms shall automatically terminate without prior notice and without liability on the part of Cobra UK Limited.
- 8.6. Neither party shall be liable for any breach of this Agreement directly or indirectly caused by circumstances beyond the reasonable control of that party and which prevents that party from performing its obligations to the other. In the case of us, such circumstances include (but are not limited to) atmospheric conditions that may affect the quality or availability of the GPS and/or GSM services or the failure of GSM and/or GPS service providers (on whom we rely) in the provision of the Services. A lack of funds shall not be regarded as a circumstance beyond that party's reasonable control.
- 8.7. You must:
- 8.7.1. always keep your ADR card separately from the vehicle keys; and
  - 8.7.2. not leave your ADR card in your vehicle, and if, and to the extent that, your failure to comply with clause 8.7 affects our ability to provide you with the Services, we shall have no liability or responsibility for such failure.
9. **Privacy and Data Protection**
- 9.1. We take your privacy and data protection very seriously. Please consult our Privacy Policy which can be found in the User Guide or Website and which forms part of this Agreement.
10. **Termination**
- 10.1. After the Minimum Term ends we will continue to supply you with the Services so long as you continue to pay the Charges as and when they are due until this Agreement is terminated in any of the ways described below, at which time we will disconnect the CobraTrak System.
- 10.2. You may terminate this Agreement to expire at any time by giving us written notice, provided that we have received all Charges and other sums due under this Agreement. You are not entitled to recover any proportion of the Charges or other sums you have paid in advance.
- 10.3. We may terminate this Agreement immediately if:
- 10.3.1. you fail to settle your account or pay the Charges within 21 days of the due date;
  - 10.3.2. we reasonably believe you have supplied us with false or misleading information;
  - 10.3.3. you break an important term of this Agreement and for the purposes of clause 10.3.3 we consider the following conditions to be important: 2.3, 2.9, 2.10, 3.5, 4.2, 4.5, 5.4, 8.7 and 11.2 of these Terms and Conditions;
  - 10.3.4. if you behave in a threatening or abusive manner to our staff or those of our agents.
- 10.4. Termination of this Agreement is subject to payment of all sums that the party terminating owes to the other party.
- 10.5. It is your responsibility to cancel all payment mandates associated with this Agreement. We reserve the right to charge an administration fee in refunding any over payments.
11. **Miscellaneous Terms**
- 11.1. We reserve the right to vary the terms of this Agreement from time to time but any such change will only apply from the end of your current Term (but excluding any renewal or extension of that, in respect of which any amended terms shall apply). The latest version of these Terms and Conditions can be found at our Website.
- 11.2. This Agreement is personal to you. Unless otherwise provided in this Agreement, you may not assign or transfer this Agreement to any other person without our express consent.
- 11.3. We reserve the right to assign, novate or transfer this Agreement to any third party. We reserve the right to subcontract the performance of any or all of our obligations under this Agreement to any third party.
- 11.4. We do not intend that any of the terms of this Agreement will be enforceable by virtue of the Contracts (rights of Third Parties) Act 1999 by a person not a party to it.
- 11.5. We and you will each send notices to the other at the address given by you or us on the Order. You may send us notices by fax to +44 (0)844 239 0039 or by email to [info-uk@cobra-at.com](mailto:info-uk@cobra-at.com). Notices are deemed served 48 hours after they are sent to an address in the country of posting and 96 hours if posted to another country.
- 11.6. Any waiver or concession we may allow you (or you allow us) is limited to the specific circumstances in which it is given and does not affect our (or your) other rights.
- 11.7. Each of the provisions contained in this Agreement shall be construed as independent of every other such provision, so that if any provision of this Agreement shall be determined by any court or competent authority to be illegal, invalid and/or unenforceable then such determination shall not affect any other provision of this Agreement, all of which other provisions shall remain in full force and effect.
- 11.8. This Agreement constitutes the entire Agreement between us and you relating to the Services and supersedes all prior agreements and negotiations.
- 11.9. This Agreement is to be interpreted in accordance with the laws of England and Wales and any disputes relating to this Agreement will be dealt with by the Courts of England.