



**NavTrak**

**Terms & Conditions**

**11/09**

# Terms & Conditions

The Terms & Conditions shown below, and the Information Pack that we send you (which comprises a copy of these Terms & Conditions, our Introductory Letter, the User Guide and our Privacy Policy) 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.

The following words have the following meanings:

## **Approved Technician**

a technician trained to install and maintain NavTrak Systems and approved by Cobra UK Limited:

## **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;

## **Secure Operating Centre**

the call and monitoring centre in a particular location;

## **NavTrak Customer Services**

the telephone number detailed in the Information Pack for each country, through which you may contact us;

## **NavTrak System**

the NavTrak in-vehicle unit, and associated software and hardware (including a Proactive key card or a NavTrak ADR card, where applicable);

## **Order**

your order for the NavTrak 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;

## **Replacement Vehicle Service**

the service as described in the User Guide and available in accordance with clause 6;

## **Return and Valet Service**

the service as described in the User Guide and available in accordance with clause 6;

## **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 Tracking 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 NavTrak System was first installed or such other period as is detailed in your Introductory Letter;

## **Website**

our website at [www.cobra-at.com/uk](http://www.cobra-at.com/uk); and WebWatch Service the service described in the User Guide and available in accordance with clause 6.

## **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 NavTrak System, the manufacturer or distributor will have completed your Order;
  - 2.1.2. the dealer from whom you acquire the NavTrak 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 call us to agree security passwords and a personal identification number (“PIN”) with us. We will not be able to provide any Services to you until you have agreed these 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 and your PIN that you check that the information that we hold about you is correct.
- 2.4. You must keep your security passwords and PIN 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 password and PIN.
- 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)161 924 5454, or you may email us using the following email address: 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.
  - 2.7. The NavTrak 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 NavTrak System, where applicable. If you cancel any agreed appointment to install the NavTrak 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 NavTrak 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 NavTrak System and/or 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 NavTrak System under any circumstances;
    - 2.10.2. provide all proofs of identity and other information that we require and cooperate 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 NavTrak System you subscribe for, the Commencement Date is the later of:
    - 3.2.1. the date the NavTrak System is installed; or
    - 3.2.2. the date on which you take delivery of your vehicle containing the NavTrak 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 NavTrak System already installed, the Agreement may be transferred, with our consent, to the new owner for the remainder of the Term. 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 NavTrak System is installed, we will not provide the Services to you. An administration charge will be payable by the new owner in addition to any SIM reconnection fee that may be applicable. Please call us for details.
  - 3.5. If you transfer a NavTrak System to another vehicle, then, provided that the NavTrak 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 NavTrak System, Warranty and Services**
- 4.1. Where the NavTrak 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 NavTrak System or the installation of the NavTrak 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 NavTrak System or make good the installation, free of charge.
  - 4.2. You must not tamper with the NavTrak System in any way or transfer the NavTrak System between vehicles using an unauthorised technician or the warranty in clause 4.1 will be invalidated. We will disconnect your NavTrak 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 NavTrak System before reconnection.
  - 4.3. You may request a Service Call to repair your NavTrak System after the expiry of the Warranty Period or to transfer your NavTrak System to a new vehicle at any time, although there will be a charge for this service for parts and labour. Please contact us 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 NavTrak System, you must consent to a

# Terms & Conditions

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 us in order that we may test that the NavTrak 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 NavTrak System.
- 4.8. In order to provide the location of your vehicle when the vehicle engine is switched off, the NavTrak System has an internal battery power supply. This is recharged whenever the vehicle engine is running. For periods of prolonged inactivity, the battery will run low and we will only be able to locate the vehicle after the engine has been started again. The NavTrak System's internal battery power is dependent on vehicle usage and GSM signal strength. Fully charged, the battery will normally last for at least 14 days.
- 4.9. 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 NavTrak System and all other warranties that may be implied in this Agreement or by law are excluded to the maximum extent permissible by law.
- 4.10. The only Services that we offer to you are those described in our User Guide.
- 4.11. The Services may occasionally require upgrading, modification or other works making them temporarily unavailable. We will try to keep such interruption to a minimum.
- 4.12. 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 Tracking 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 NavTrak System has been damaged or tampered with in any way, or is in a tunnel, container or underground enclosure, or if the NavTrak System has been disabled or if the engine has not been started for more than 14 days 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. This clause only applies to the United Kingdom

- 6.1. The Replacement Vehicle Service is only available in the United Kingdom. If we are unable to locate your vehicle within 6 hours of a theft being reported to us, we will, subject to clause 6.4, arrange for you to have a free temporary replacement loan vehicle (within 24 hours) whilst your vehicle is being located.
- 6.2. The temporary replacement loan vehicle is provided by our approved vehicle hire company. You may be required to sign terms of hire before you take delivery of the vehicle. We will normally pay to insure the temporary replacement loan vehicle subject to insurance company approval, however there may be occasions when we need to make alternative arrangements with you. You will have to pay any policy excess that applies.
- 6.3. We will pay for the hire of the temporary replacement loan vehicle until we locate your vehicle for a maximum of 10 days. We will charge to you all further fees levied to us by the vehicle hire company including vehicle damage. At the end of this 10 day period you must return to us, or as we otherwise direct, the temporary replacement loan vehicle otherwise you will incur a late return fee.
- 6.4. We will require your credit card details before making the temporary replacement loan vehicle available to you. Excess costs charged to us by the hire company will be charged to your credit card.
- 6.5. Our approved vehicle hire company will normally offer a variety of vehicles and will try to accommodate your needs. No temporary replacement vehicle will be of a higher specification than the vehicles in the "Premium" class or equivalent as offered by our approved vehicle hire company. We will endeavour to provide a temporary replacement loan vehicle adapted to meet an individual's special needs or disability. We will not provide any replacement commercial vehicle. If your vehicle is a commercial vehicle

- your temporary replacement loan vehicle will be a car, unless otherwise specifically agreed with us.
- 6.6. If you have an accident in the temporary replacement loan vehicle, please contact us immediately.
  - 6.7. You will need to pay for the fuel and other running costs for the temporary replacement loan vehicle, as if you were using your own vehicle.
  - 6.8. The Return and Valet Service is:
    - 6.8.1. only available in the United Kingdom;
    - 6.8.2. only available to you if your vehicle, when recovered following being stolen, is undamaged; and
    - 6.8.3. not available for, or applicable to, any commercial vehicles.
  - 6.9. Our vehicle recovery agent may complete and sign on your behalf a 'vehicle condition report' when the police are ready to release your recovered vehicle following it being stolen, however we exclude any liability to you for doing so.
  - 6.10. We reserve the right to modify, update or withdraw the WebWatch Service at any time. In the case of withdrawal of the WebWatch Service, we will refund on a pro-rata basis any pre-payments for the WebWatch Service that relate to the period after such withdrawal and such refund shall be your only remedy in relation to such withdrawal.
  - 6.11. You must ensure that all drivers of your vehicle are aware of the availability of the WebWatch Service before they drive the vehicle and that they are aware that the vehicle can be located at all times. This is for data protection and privacy reasons.
  - 6.12. Do not use the WebWatch Service if you believe your vehicle has been stolen. If your vehicle is stolen call the Secure Operating Centre immediately and allow us and/or the police to recover the vehicle. We shall have no liability for injury caused to you or any other person, or for damage caused to your property (including your vehicle) or the property of any other person, or for any form of consequential or indirect loss, caused by you, the police or your or the police's agent using the WebWatch Service to pursue a stolen vehicle.
  - 6.13. We do not accept any liability for any decisions that you make based on your use of, or the data we provide to you under, the WebWatch Service and any costs or damages arising therefrom.
  - 6.14. You must keep your password and PIN used in connection with the WebWatch Service confidential as they permit access to the WebWatch Service for which you will incur charges.
  - 6.15. There is a registration charge per vehicle registered for the WebWatch Service and an extra charge for location credits which are purchased in batches. These charges are detailed in our Price List and we reserve the right to amend these charges from time to time. All payments must be made by credit card and credit balances may take up to 24 hours to be updated.
  - 6.16. We aim to report the location of your vehicle to you via our website within 10 minutes of your request to the WebWatch Service.

However, if your vehicle has not been used recently, this report may be delayed by the NavTrak System's power management cycle. Response times may also be affected by SMS traffic on the mobile telephone network. Location Charges will only be deducted by us from your account on receipt by you of a successful location report.

## 7. False Alarms

- 7.1. 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, 20 or more False Alarms that are not caused by us or by any circumstances beyond your reasonable control.
- 7.2. 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.

## 8. Payment

- 8.1. 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.
- 8.2. Your initial payment for Services is due by the Commencement Date. The initial payment will include the cost of the NavTrak System, installation, subscription and warranty.
- 8.3. 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.
- 8.4. Any other Charges will be due on demand.
- 8.5. If any payment of Charges has not been received by us within 21 days of its due date, we may:
  - 8.5.1. 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
  - 8.5.2. 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.
- 8.6. If Services are suspended or cancelled under clause 8.5.1 above but payment is subsequently received, we will levy a charge for reactivating the Services. Please refer to clause 8.7 for reconnection conditions.
- 8.7. If your NavTrak System is disconnected by us and you subsequently request reconnection then before we reconnect the NavTrak 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 of disconnection.
- 8.8. Unless otherwise stated in this Agreement or agreed by us, all payments are to be made by credit card or debit card. If a payment request

# Terms & Conditions

is refused by your card issuer or bank 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 NavTrak System and take steps to recover monies due. Please refer to clause 8.7 for reconnection conditions.

- 8.9. You will be responsible for paying all Charges whether or not they have been incurred by you personally.

## 9. Limitations and Exclusions of Liability

- 9.1. 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.
- 9.2. 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 NavTrak System and/or Services.
- 9.3. 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.
- 9.4. 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. We exclude any liability for any loss caused to you by your vehicle recovery service or by any delay in it reaching you.
- 9.5. Your liability under this Agreement is limited to payment of all outstanding Charges and/or interest due under this Agreement. If you use the NavTrak System for any purpose other than for receiving the Services you shall be liable to Cobra 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.
- 9.6. 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.
- 9.7. You must:
- 9.7.1. always keep your Proactive key card or NavTrak ADR card separately from the vehicle keys; and
- 9.7.2. not leave your Proactive key card or NavTrak ADR card in your vehicle, and

if, and to the extent that, your failure to comply with clause 9.7 affects our ability to provide you with the Services, we shall have no liability or responsibility for such failure.

## 10. Privacy and Data Protection

- 10.1. We take your privacy and data protection very seriously. Please consult our Privacy Policy which forms part of this Agreement.

## 11. Termination

- 11.1. 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 NavTrak System.
- 11.2. 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.
- 11.3. We may terminate this Agreement immediately if:
- 11.3.1. you fail to settle your account or pay the Charges within 21 days of the due date;
- 11.3.2. we reasonably believe you have supplied us with false or misleading information;
- 11.3.3. you break an important term of this Agreement and for the purposes of clause 11.3.3 we consider the following conditions to be important: 2.3, 2.9, 2.10, 3.5, 4.2, 4.5, 5.4, 9.7 and 12.2 of these Terms and Conditions;
- 11.3.4. if you behave in a threatening or abusive manner to our staff or those of our agents.
- 11.4. Termination of this Agreement is subject to payment of all sums that the party terminating owes to the other party.
- 11.5. 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.

## 12. Miscellaneous Terms

- 12.1. 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.
- 12.2. 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.
- 12.3. We reserve the right to assign, novate or transfer this Agreement to any third party. We reserve the right to sub contract the performance of any or all of our obligations under this Agreement to any third party.

- 12.4. 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.
- 12.5. 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) 161 924 5454 or by email to 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.
- 12.6. 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.
- 12.7. 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.
- 12.8. This Agreement constitutes the entire Agreement between us and you relating to the Services and supersedes all prior agreements and negotiations.
- 12.9. 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.

**Cobra UK Limited**

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M33 7FT

United Kingdom

[www.cobra-at.com/uk](http://www.cobra-at.com/uk)



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subsidiary of Cobra Automotive Technologies SpA