



1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply in these conditions.

Bureau: means the 24 hour monitoring bureau approved by the Company from time to time.

Contract: the contract between the Company and the Customer for the purchase, lease rental or rental of the Tracking System and the provision of any of the Services relating thereto incorporating these conditions.

Fixed Monitoring Period: the fixed monitoring period applicable to the purchase or Lease Rental of the Tracking System as specified in the Contract.

Equipment: the road or non road going vehicles or plant or machinery owned by the Customer suitable for the installation into it of the Tracking System and in respect of which such installation takes place pursuant to the Contract.

Intellectual Property Rights: all patents, copyright and related rights, trade marks, service marks, trade, business and domain names, including by not limited to "Skyline", rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, typography rights, moral rights, rights in confidential information and any other intellectual property rights in each case whether registered or unregistered and including all

applications for and renewals or extension of such rights and all similar or equivalent rights or forms of protection in any part of the world.

Installation Date: the date agreed between the Company and the Customer.

Location and Reporting Services: means the provision to the Customer of access to the Company's system to enable the Customer to view and receive reports (as agreed) via the Tracking System relating to its Equipment.

Minimum Monitoring Period: the minimum monitoring period applicable to the Rental of the Tracking System as specified in the Contract.

Bureau Monitoring Services: means the monitoring services to be supplied by the Company or the Bureau to the Customer in accordance with condition 6.3.

Network: means the GSM/GPRS network in the Territory which operates in conjunction with the Tracking System.

Lease Rental: means the lease rental of the Tracking System by the Customer in accordance with the relevant provisions of condition 5.

Rental: means the rental of the Tracking System by the Customer in accordance with the relevant provisions of condition 5.

Services: means the Location and Reporting Services and/or the Text Services and/or the Bureau Monitoring Services together with any other

additional services which the Company or the Bureau provides or agrees to provide to the Customer.

Skyline: means the brand name of the products and services supplied by the Company.

Text Services: means the automated service provided by the Company whereby if an item of Equipment is illegally moved a text message is sent to the text number of the Customer specified on the Contract.

Territory: means mainland England, Scotland and Wales.

Tracking System: the tracking system to be purchased or rented (under the Lease Rental or Rental option) by the Customer for installation into the Equipment under the brand names "Skyline +, Skyline, Skyline Trailer Tracker, Skyline 999+ and Skyline 999".

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 Any obligation on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

2. APPLICATION OF TERMS



Enigma Vehicle Systems plc – Terms and Conditions of Sale, Lease Rental and Rental



2.1 These conditions shall:

(a) apply to and be incorporated into the Contract; and

(b) prevail over any inconsistent terms or conditions contained, or referred to, in any Customer purchase order, confirmation of order, acceptance of a quotation, or specification or other similar document supplied by the Customer, or implied by law, trade, custom, practice or course of dealing.

2.2 Any Customer purchase order, or Customer acceptance of a quotation for the sale or rental (under the Lease Rental or Rental option) of the Tracking System and the provision of any Services by the Company constitutes an offer by the Customer to purchase or rent (under the Lease Rental or Rental option) the Tracking System and to purchase such Services on these conditions. No offer placed by the Customer shall be accepted by the Company other than by the Company executing the Contract when a contract for the purchase or rental of the Tracking System (under a Lease Rental or Rental Option) and the provision of any Services on these conditions will be established.

The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not govern the Contract.

2.3 Quotations are given by the Company on the

basis that no Contract shall come into existence except in accordance with condition 2.2. Any quotation is valid for a period of 30 days from its date, provided that the Company has not previously withdrawn it.

2.4 No employee, sub-contractor or agent of the Company has any authority to add to or to vary the Contract or these conditions or to make any representation or authority unless such addition, variation, representation or warranty is in writing and is signed by a director of the Company.

3. DELIVERY AND INSTALLATION

3.1 Unless otherwise agreed by the Company, the Company shall deliver and install the Tracking System in the Equipment at the location agreed with the Customer, and the Customer shall ensure that all Equipment into which the Tracking System is to be installed is made available to the Company at such agreed location on the Installation Date. The Customer acknowledges that the Installation Date is only intended to be an estimate and the time for delivery and installation of the Tracking System and shall not be made of the essence by notice.

3.2 If for any reason the Customer fails to accept delivery of the Tracking System on the Installation Date, or the Company is unable to deliver and install the Tracking System on the Installation Date because the Customer has not

provided the appropriate Equipment to it:

(a) risk in the Tracking System, shall pass to the Customer (including for loss or damages caused by the Company's negligence);

(b) the Tracking System, shall be deemed to have been delivered; and

(c) the Company may store the Tracking System until delivery and installation, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

4. RISK/TITLE

4.1 The Tracking System is at the risk of the Customer from the time of delivery and installation.

4.2 Where the Customer has opted to purchase the Tracking System immediately or has purchased the Tracking System pursuant to condition 5.4 ownership of the Tracking System shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of the Tracking System.

4.3 Where the Customer has opted to purchase the Tracking System immediately or has purchased the Tracking System pursuant to condition 5.4 until ownership of the Tracking System has passed to the Customer, the Customer shall:

(a) hold the Tracking System on a fiduciary basis as the Company's bailee;

(b) not destroy, deface or obscure any identifying



Enigma Vehicle Systems plc – Terms and Conditions of Sale, Lease Rental and Rental



mark on or relating to the Tracking System; and (c) maintain the Tracking System in satisfactory condition and keep it insured on the Company's behalf for its full price against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company.

4.4 The Customer's right to possession of the Tracking System under clause 4.3 shall terminate immediately if:

(a) the Customer makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed over its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of

the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or

(b) the Customer suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe or perform any of its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or

(c) the Customer encumbers or in any way charges the Tracking System.

4.5 The Company shall be entitled to recover payment for the Tracking System notwithstanding that ownership of the Tracking System has not passed from the Company.

4.6 On termination of the Contract, howsoever caused, the Company's rights contained in this condition 4 shall remain in effect.

5. RENTAL

5.1 Where the Customer has opted to rent the Tracking System under the Lease Rental option the term of the rental shall be for the Fixed Monitoring Period

5.2 Where the Customer has opted to rent the Tracking System under the

Rental option, the term of the rental shall be the Minimum Monitoring Period and shall continue thereafter unless and until terminated either: -

(a) by the Company on providing to the Customer not less than 3 months notice in writing; or

(b) by the Customer under condition 13.3.

5.3 Where the Customer has opted to rent the Tracking System under the Lease Rental or Rental option the Customer acknowledges that the Company is and shall remain the owner of the Tracking System at all times.

5.4 Where the Customer has opted to rent the Tracking System under Lease Rental the Customer may at any time notify the Company in writing that it wishes to purchase the Tracking System. Within 10 working days of receipt of such notification the Company shall inform the Customer in writing of the price applicable to the requested purchase of the Tracking System. Within 10 working days of receipt of the price notification the Customer shall confirm whether it wishes to proceed and if it should wish to proceed the Company and the Customer will agree the relevant paperwork in connection thereto. Until such paperwork is agreed and signed by the Customer the existing terms applicable to the existing Lease Rental arrangements will remain in full force and effect.

6. SERVICES



Enigma Vehicle Systems plc – Terms and Conditions of Sale, Lease Rental and Rental



If the Customer has opted to receive any part of the Services the following shall apply:-

6.1 The Company shall use its reasonable endeavours to supply such Services to the Customer for the appropriate monitoring period specified in the Contract.

6.2 The Company shall use its reasonable endeavours to meet any performance dates specified or agreed in relation to the provision of such Services but such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

6.3 If the Customer had opted to receive the Bureau Monitoring Services:-

(a) subject to and following compliance the Customer with condition 7.1(c) the Company or the Bureau shall as soon as reasonably practicable verify with the relevant police force that the relevant Equipment is officially logged with the police national computer and, if so, provide information within the Company's possession to the relevant police force for the purpose of assisting the relevant police force to locate the Equipment;

(b) the Company or the Bureau shall use its reasonable endeavours to monitor for signals transmitted by the Tracking System indicating unauthorised movement of any relevant Equipment and if it detects any such signals will notify the Customer of that fact.

6.4 The Customer acknowledges and agrees that due to the nature of the Network using wireless communication the Company cannot guarantee that it will receive any signals referred to in condition 6.3 or any signals to enable it to perform the Text Services, or having received any such signals that it will be able to make immediate or any contact with the Customer. Accordingly the Company shall not be liable to the Customer for any damage of whatever nature arising out of or incidental to the Company's failure to receive any such signals or failure and/or delay in making contact with the Customer.

6.5 The Company does not warrant that the performance by it of any of the Services will lead to the location of any stolen Equipment.

7. CUSTOMER'S OBLIGATIONS

7.1 The Customer shall:-

(a) co-operate with the Company in all matters relating to the Services and at all times follow any instructions provided by the Company in connection with the provision of the Services;

(b) provide the Company, its agents, sub-contractors, consultants and employees, in a timely manner and at no charge with access to the Tracking System operating on any relevant Equipment as reasonably required by the Company;

(c) upon becoming aware or suspecting that any of the Equipment in which the Tracking System has been installed has been stolen, the Customer must immediately take the following steps:-

(i) notify the relevant police force and obtain a police crime reference number in respect of the theft;

(ii) inform the Company and the Bureau quoting the police crime reference number and indicating the police station or relevant police force which has been notified.

7.2 If the Customer has opted for the Lease Rental or Rental option the Customer shall:-

(a) use the Tracking System only for its proper purpose and in accordance with any operating instructions issued by the Company;

(b) use the Tracking System only in the ordinary course of its business within the Territory;

(c) not sell, offer for sale, assign, pledge, underlet, lend, transfer, lease or otherwise dispose of nor mortgage, charge or otherwise encumber any Equipment on or in which the Tracking System operates nor to agree to do any such thing nor to agree to create any floating charge upon the same unless the Company has previously consented in writing;

(d) keep the Tracking System at its own expense in good repair, condition and working order.

7.3 In the event that any loss or damage occurs to the Tracking System or



Enigma Vehicle Systems plc – Terms and Conditions of Sale, Lease Rental and Rental



the Equipment within which the Tracking System operates the Customer shall notify the Company forthwith and shall be responsible for the cost of making good the damage and/or replacing the Tracking System and should it fail to do so the Customer shall indemnify the Company against all losses, costs, claims, damages and expenses sustained by the Company as a result. For the avoidance of doubt the continuance of this Contract or the Customer's liability to pay all sums due under this Contract shall not be affected in any way by the loss, theft or damage to or any defect in the Tracking System.

7.4 If the Company's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly for such prevention or delay.

8. PRICE

8.1 The relevant price to purchase or rent the Tracking System under the Lease Rental or Rental option shall be as specified in the Contract.

8.2 The price shall be exclusive of any value added tax which the Customer shall pay to the Company in addition.

9. PAYMENT

9.1 The Customer shall pay the relevant price to purchase or rent the Tracking System under the Lease Rental or Rental option on the dates specified in the Contract.

9.2 Time for payment shall be of the essence of the Contract and no payment shall be deemed to have been received until the Company has received cleared funds.

9.3 All payments payable by the Customer to the Company under the Contract shall become due immediately on its termination despite any other provision.

9.4 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.

9.5 If the Customer fails to pay the Company any sum due under the Contract:-

(a) the Customer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 8% above the base lending rate from time to time of Nat West Bank plc, accruing on a daily basis until payment is made, whether before or after any judgment. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998;

(b) the Company reserves the right suspend any or all of the Services until payment has been made in full;

(c) the Company reserves the right to

repossess the Tracking System.

9.6 The Customer agrees that the Company may review and increase its prices under this Contract provided that such cannot be increased by more than once in any 12 month period. The Company will give the Customer written notice of such increase 3 months before the proposed date of the increase.

10. QUALITY

10.1 If the Customer has opted to purchase or rent the Tracking System under the Lease Rental or Rental option the Company warrants that (subject to the other provisions of these conditions) the Tracking System shall be of satisfactory quality for the applicable monitoring period unless the Customer has opted not to include warranty cover in the Contract in which case the Company's warranty that (subject to the other provisions of these conditions) the Tracking System shall be of satisfactory quality shall only apply for the first 12 months following the Installation Date.

10.2 The Company shall not be liable for a breach of the warranty in condition 10.1 unless the Customer gives written notice of any defect to the Company, within 7 days of the defect arising and the Company is given a reasonable opportunity by the Customer after receiving the notice of examining the Tracking System.



Enigma Vehicle Systems plc – Terms and Conditions of Sale, Lease Rental and Rental



10.3 The Company shall not be liable for a breach of the warranty in condition 10.1 if:

- (a) the Customer makes any further use of the Tracking System after giving the notice referred to in Condition 10.2;
- (b) the defect arises because the Customer failed to follow the Company's oral or written instructions as to the use of the Tracking System or (if there are none) good trade practice;
- (c) the Customer alters or repairs the Tracking System without the written consent of the Company;
- or
- (d) the defect arises as a result of fair wear and tear.

10.4 Subject to conditions 10.2 and 10.3 if the Tracking System does not conform with the warranty in condition 10.1, the Company shall (provided the Customer has made all payments due to the Company under the Contract) at its option, repair or replace that Tracking System (or the defective part) or refund the price of that Tracking System at the pro rata Contract rate provided that, if the Company so requests, the Customer shall, at the Company's expense, return that Tracking System or the part of such Tracking System which is defective to the Company.

10.5 If the Company complies with condition 10.4 it shall have no further liability to be for a breach of any the warranty

in condition 10.1 in respect of each Tracking System.

11. INTELLECTUAL PROPERTY

11.1 As between the Company and Customer all Intellectual Property Rights in the Tracking System are owned and shall remain owned by the Company and the Customer will not acquire any proprietary rights over the same whatsoever. Subject to the Customer complying the terms of this Contract the Company grants to the Customer a personal, non-exclusive, non-transferable licence to use the Intellectual Property Rights in the Tracking System but only to the extent necessary to enable the Customer to use the Tracking System and to receive any of the Services for the longer of the Services Period, the Fixed Rental Period (and any continuation thereof pursuant to condition 5.1) and for so long as the Customer owns the Equipment in which the Tracking System operates.

11.2 The Customer shall not permit any third party to copy, adapt, reverse engineer, de-compile, disassemble, modify or adapt any software comprised in the Tracking System.

12. LIMITATION OF LIABILITY

12.1 Subject to conditions 6 and 10, the following provisions set out the entire financial liability of the Company (including

any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- (a) any breach of the Contract;
- (b) any use made or resale by the Customer of the Tracking System, or of any Equipment incorporating the Tracking System;
- (c) any use made by the Customer of the Services or any part of them; and
- (d) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

12.2 All warranties, conditions and other terms implied by statute or common law (save as expressly stated and save for the conditions implied by Section 12 of the Sale of Goods Act 1979 and Section 2 of the Supply of Goods and Services Act 1982) are, to the fullest extent permitted by law, excluded from the Contract.

12.3 Nothing in these conditions excludes or limits the liability of the Company:

- (a) for death or personal injury caused by the Company's negligence; or
- (b) under section 2(3), Consumer Protection Act 1987; or
- (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
- (d) for fraud or fraudulent misrepresentation.



Enigma Vehicle Systems plc – Terms and Conditions of Sale, Lease Rental and Rental



12.4 Subject to condition 12.2 and condition 12.3:

(a) the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited in respect of each separate Tracking System to the amount received by the Company from the Customer for each separate Tracking System; and

(b) the Company shall not be liable to the Buyer for loss of profit, loss of business, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of use in each case whether direct, indirect or any special, indirect consequential or pure economic loss, costs, damages, charges or expenses which arise out of or in connection with the Contract.

12.5 The Customer acknowledges that it is not dealing as a consumer within the meaning of Section 12 of the Unfair Contract Terms Act 1988 (UCTA) and accordingly agrees that the limitations of liability contained in this Contract satisfy the requirements of reasonableness within the meaning of subsection 2(2) and section 11 of UCTA.

13. TERMINATION

13.1 Without prejudice to any other rights or remedies which the parties may have, the Company may terminate the Contract (in whole or in part) or

suspend the provision of the Services (in whole or in part), without liability to the Customer, immediately on giving notice to the Customer if:

- (a) the Customer fails to pay any amount due under the Contract on the due date for payment;
- (b) the Customer commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of the Customer being notified in writing of the breach;
- (c) if the Customer shall do or allow to be done any act or thing that may prejudice or endanger the Company's Intellectual Property Rights in the Tracking System;
- (d) a technical failure affects the provision of the Services;
- (e) if any modification or maintenance is being carried out by any person to the Network;
- (f) if changes to the Services (in whole or in part) are required by any government or regulatory authority;
- (g) if the operator of the Network ceases to trade;
- (h) if any act or omission of the Customer results in the Monitoring Service transmitting repeated false signals to the Company.

13.2 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other, immediately on giving notice to the other if:

- (a) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (b) the other party commences negotiations with all or any class of its creditors with a view to re-scheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party; or
- (d) an application is made to Court or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
- (e) a floating chargeholder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
- (f) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or
- (g) a creditor or encumbrances of the other party attaches or takes possession of or a distress, execution, sequestration or other such process is levied or enforced on or sued



Enigma Vehicle Systems plc – Terms and Conditions of Sale, Lease Rental and Rental



against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

(h) the other party suspends or ceases, or threatens to suspend or cease to carry on all or substantial part of its business.

13.3 If the Customer has rented the Tracking System on a Rental option the Customer may terminate the Contract on providing written notice to the Company, in writing to the Company to expire on or after the date falling 3 months after the Installation Date provided that such termination will only be effective by the Customer complying in full with condition 13.4(d).

13.4 On termination of the Contract for any reason:

(a) if the Customer has opted to purchase the Tracking System, the Customer shall immediately pay to the Company all of the payments that, had the Contract not terminated were agreed to be paid by the Customer to the Company for the appropriate monitoring period;

(b) if the Customer has opted to rent the Tracking System on Lease Rental the Customer shall immediately pay to the Company all arrears of payments including apportioned payments for any unpaid period and all payments that had the Contract not terminated, were agreed to be paid by the Customer to the Company until the end of the relevant Fixed Monitoring Period (less a

discount for accelerated payment at the rate of 2½ % a year) together with damages for breach and all expenses and costs incurred by the Company in retaking possession of and selling or attempting to sell the Tracking System and/or enforcing its rights under the Contract;

(c) if the Customer has opted to rent the Tracking System on the Rental option the Customer shall immediately pay to the Company all arrears of payments for any unpaid period;

(d) the Customer will immediately deliver up the Tracking System to the Company in good repair and working order at such address as the Company shall notify to the Customer and if necessary allow the Company, its employees, agents or subcontractors access to where the Tracking System may be for the purpose of removing it;

(e) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly survive termination shall not be effected.

14. CONFIDENTIALITY

14.1 The Customer shall keep in strict confidence all technical or commercial know-how specifications, inventions, process or initiatives which are of a confidential nature and have been disclosed to the Customer by the Company, its employees, agents, consultants or sub-contractors and any other

confidential information concerning the Company's business or its products (including but not limited to the Tracking System) which the Customer may obtain. The Customer shall ensure that its employees, officers, representatives, advisers, agents or sub-contractors to whom information is disclosed comply with this condition 14.

14.2 The Customer may disclose such information as may be required by law, court order or any governmental or regulatory authority.

14.3 The Customer shall not use any such information for any purpose other than to perform its obligations under the Contract.

15. SECURITY

The Customer accepts that for security reasons the Company may record telephone calls made between the Customer and the Company and the Customer consents to the making of such records and to such being made available to the Company and being made available by the Company to any relevant police force for the purposes of the provision of any of the Services or otherwise for the prevention and detection of crime.

16. INDEMNITY

The Customer shall be liable to pay the Company, on demand, all reasonable costs, charges, or losses sustained or incurred by the Company (including, without limitation, any



Enigma Vehicle Systems plc – Terms and Conditions of Sale, Lease Rental and Rental



direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract.

17. FORCE MAJEURE

The Company shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network failure, lack of coverage or interruption of the network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

18. VARIATION

18.1 The Company may, from time to time and

without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.

18.2 Subject to condition 18.1, no variation of the Contract or of any of the documents referred to in them shall be valid unless it is in writing and signed by or on behalf of each of the parties.

19. WAIVER

19.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

19.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

20. SEVERANCE

20.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or

unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.

20.2 If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

21. ENTIRE AGREEMENT

21.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

21.2 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract).

21.3 Nothing in this condition shall limit or exclude any liability for fraud.

22. ASSIGNMENT

22.1 The Customer shall not, without the prior written consent of the Company, assign, transfer, charge, mortgage,



Enigma Vehicle Systems plc – Terms and Conditions of Sale, Lease Rental and Rental



subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under the Contract.

22.2 The Company may at any time assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

22.3 Each party that has rights under the Contract is acting on its own behalf and not for the benefit of another person.

23. NO PARTNERSHIP OR AGENCY

Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

24. RIGHTS OF THIRD PARTIES

A person who is not a party to the Contract shall not have any rights under or in connection with it.

25. COMMUNICATIONS

25.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:

(a) (in case of communications to the Company) to its registered office or such changed address as shall be notified

to the Customer by the Company; or

(b) (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Customer.

25.2 Communications shall be deemed to have been received:

(a) if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

(b) if delivered by hand, on the day of delivery; or

(c) if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

25.3 Communications addressed to the Company shall be marked for the attention of The Managing Director.

26. GOVERNING LAW AND JURISDICTION

26.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

26.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arise out of, or in connection with, the Contract or its

subject matter or formation (including non-contractual disputes or claims).