



## SOFTWARE SUBSCRIPTIONS & SERVICES MASTER AGREEMENT AND TERMS OF USE

**Last Updated: 11 December 2023**

**Version: 2023.1**

**Current Version available at:**

<https://go.teletracking.com/Legal-Terms-Policies-MasterTerms>

This Software Subscriptions & Services Master Agreement and Terms of Use ("**Agreement**") sets forth the terms for your use of the Services (as defined herein). It is effective on the earlier of the date you first access the Services or when you execute an Ordering Document subject to the terms of this Agreement ("**Effective Date**"). This Agreement is between the applicable TeleTracking entity identified below ("**TeleTracking**") and you or the organization on whose behalf you are accepting or otherwise agreeing to the terms of this Agreement ("**you**" "**your**" "**yours**" or "**Client**").

PLEASE REVIEW THESE TERMS OF USE CAREFULLY. UPON THE EFFECTIVE DATE, THEY BECOME A BINDING LEGAL COMMITMENT BETWEEN YOU AND TELETRACKING FOR YOUR USE OF THE SERVICES. IF YOU DO NOT AGREE TO THESE TERMS OF USE, YOU ARE PROHIBITED FROM USING THE SERVICES.

IF YOU HAVE A SEPARATE WRITTEN AGREEMENT WITH TELETRACKING FOR YOUR USE OF THE SERVICES, THESE TERMS OF USE WILL NOT APPLY TO YOU, UNLESS THAT WRITTEN AGREEMENT DOES NOT COVER A PARTICULAR SERVICE, IN WHICH CASE, THESE TERMS OF USE APPLY TO YOUR USE OF THAT SERVICE.

If you are domiciled in:	TeleTracking entity entering into this Agreement:
Any country outside of Germany	TeleTracking Technologies, Inc. The Times Building, 336 Fourth Avenue Pittsburgh, PA 15222 United States of America
Germany	TeleTracking GmbH KONTORHAUS Kronenstraße 63 10117, Berlin, Germany Amtsgericht Berlin-Charlottenburg HRB 226616 B

TeleTracking may update the terms of this Agreement from time to time in its sole discretion. The updated version of this Agreement will be made available at the hyperlink at the top of this Agreement, along with a summary of any *material* updates to the Agreement. TeleTracking agrees to provide you with written notice of any *material* updates at least ten (10) days prior to the date the updated version of this Agreement becomes effective unless such material updates are because of changes in laws or regulations. The Notices for material updates to the terms of this Agreement will be provided in accordance with Section 19(b) of the Agreement to the contact information for your account. Following such notice, your continued use of the Services constitutes your acceptance of the updated version of this Agreement. The updated version of this Agreement shall supersede all prior versions. If you do not agree to the updated version of this Agreement, you must stop using the Services.

TeleTracking provides subscriptions to certain software and services and professional services, which Client or a Client Affiliate intends to procure through an Ordering Document (defined below), which shall be subject to this Agreement.

In consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties do hereby agree as follows:

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**1. Definitions.** As used in this Agreement:

**“Account Data”** means data, including personal information or Personal Data, used in connection with Client’s relationship with TeleTracking, including without limitation to access Client’s account and billing information for identity verification, to maintain or improve performance of the Services, to provide support, to investigate and prevent system abuse, or to fulfill legal obligations.

**“Advisory Services”** means advisory services related to the applicable Subscription Services, including, but not limited to, assistance with Client’s related business processes, as described in an Ordering Document.

**“Affiliate”** means an entity which is controlled by or is under common control of a Party. For purposes of the preceding sentence, “control” means direct or indirect ownership or control of more than 50% of the voting or membership interests of the subject entity or the power or authority to manage, direct, restrict, regulate, administer, or oversee the subject entity.

**“Agreement”** means this Software Subscriptions & Services Master Agreement and Terms of Use, as updated from time to time and made available at available at the hyperlink at the top of this document, as well as the following addenda, notices, or policies which are incorporated herein by reference and may be updated from time to time in TeleTracking’s discretion, subject to the terms herein: the TeleTracking Data Processing Addendum, the TeleTracking Sub-Processors List, the TeleTracking Support Notice, the TeleTracking SLA Notice, the TeleTracking End of Life Policy, the TeleTracking Privacy Policy, and the TeleTracking Security Overview.

**“Authorized Users”** means any Client, Client Affiliate, Designated Facility, or Authorized End User Facility identified in an Ordering Document and their respective employees, contractors, or agents, who are authorized to access and use the Subscription Services or procure Professional Services consistent with the terms of this Agreement.

**“Authorized End User Facility”** means a non-Affiliate entity or facility identified by a Client or Client Affiliate in an Ordering Document and granted the right to access and use the Subscription Services or receive Professional Services subject to this Agreement. All non-Affiliate entities must be separately identified in an Ordering Document.

**“Client”** means the named Client identified in an Ordering Document. A Client Affiliate shall be considered a “Client” only as to the specific Services set forth in an Ordering Document agreed by the Client Affiliate.

**“Client Affiliate”** means an Affiliate of Client.

**“Client Data”** means any electronic data or other information provided to TeleTracking by Authorized Users in connection with any Subscription Services or Professional Services.

**“Client Feedback”** means any ideas, suggestions, enhancements, requests, recommendations, plans, advice, or other feedback of any kind provided by Authorized Users relating to the interface, operation, and/or functionality of the Subscription Services, the Documentation, the Professional Services, or any other form of TeleTracking Confidential Information or Deliverable.

**“Client Materials”** shall have the meaning set forth in [Section 13\(d\)](#).

**“Confidential Information”** means all sensitive, proprietary or confidential information which is not generally available to the public, including, but not limited, (a) any existing or contemplated software and services including the software utilized by TeleTracking in the provision of the Services and respective source code and all improvements, concepts and ideas; past, current, and planned research and development; (b) Client Data; (c) each Party’s technical information, including, but not limited, to TeleTracking’s Documentation, Support, training materials, any information relating to software plans, designs, or the design or format of any graphical user interface (GUI), reports, results, and output generated by the Services, (d) each Party’s business information, including, but not limited to, costs, prices, finances, marketing plans, business opportunities, personnel, research, development or know-how, that is designated by the disclosing Party as “confidential” or “proprietary” or the receiving Party knows, or should reasonably know, is confidential or proprietary; and (e) the terms, conditions and pricing of this Agreement (but not its existence or parties).

**“Deliverable”** means the tangible, quantifiable products or services that must be provided within the scope of, and upon the completion of, a specific project, as set forth in an applicable Ordering Document.

**“Derived Data”** means data derived through processing that renders it sufficiently different from any original Client Data such that no Personal Data or Protected Health Information (PHI) can be identified through reverse engineering, reidentification, analysis, or further processing of the Derived Data. Derived Data is compliant with all applicable laws, rules, and regulations, and shall not identify nor reasonably lead to identification of any protected health information of any person. Due to the processing, de-identification, and aggregation associated with the creation of Derived Data, information derived from Client Data in formulating Derived Data is not subject to segregation or deletion from TeleTracking databases. For the avoidance of doubt, Derived Data does not constitute or contain Personal Data or PHI.

**“Designated Facility”** means a Client Affiliate facility identified in an Ordering Document for which use of the Subscription Services is authorized or for which Professional Services will be provided.

**“Designated Area”** means the specific department(s) or other diagnostic, procedural, or functional area(s) within a Designated Facility or Authorized End User Facility for which use of certain Subscription Services is authorized but limited or for which Professional Services will be provided.

**“Documentation”** means all applicable electronic and hardcopy documentation for use of the Subscription Services that is made available to Client, including, without limitation, online help files, user manuals, administrator guides, release notes, technical specifications, technical information references, and training materials, as updated by TeleTracking from time to time in its sole discretion.

**“Fees”** means all monetary amounts due to TeleTracking for any Services specified in an Ordering Document. Fees do not include Transaction Taxes.

**“Go-Live Date”** means the date TeleTracking achieves a Project Milestone or completes the Implementation Services specified in an applicable SOW.

**“Implementation Deadline”** means the date by which Client agrees to satisfy its commercially reasonable efforts obligations related to any implementation of the Subscription Services or any Professional Services specified in an Ordering Document.

**“Implementation Services”** means Professional Services provided by TeleTracking to implement the Subscription Services, as specified in an Ordering Document.

**“Improvements”** means all improvements, updates, enhancements, modifications, error corrections, bug fixes, upgrades and/or changes to the Subscription Services and/or

Documentation developed and made generally available for commercial use by TeleTracking without an additional or separate subscription fee chargeable to Client.

**“Infrastructure”** means all Client-provided networks, firewalls/security, in-house software, hardware, and other peripheral equipment necessary for Authorized Users to access or the Subscription Services, as specified in the Documentation.

**“Intellectual Property”** means all common law, statutory and other industrial property rights, and intellectual property rights, including copyrights, trademarks, trade secrets, patents, and other proprietary rights, issued, honored or enforceable under any applicable Law, anywhere in the world, and all moral rights related thereto.

**“Law” or “Laws”** means all applicable local, state, national or foreign laws, treaties, or regulations, applicable to a Party to this Agreement or any Ordering Document, as well as any Authorized Users.

**“Ordering Document”** means a separate Order Form or Statement of Work (“SOW”) through which Client acquires the rights for Authorized Users to access the Subscription Services, or through which Client procures Professional Services for Authorized Users, and which is executed by Client pursuant to the terms and conditions of this Agreement. The Ordering Document specifies the mutually agreed upon Fees for the applicable Services as well as any additional terms & conditions.

**“Patient”** means any natural person being treated by, or seeking to be treated by any Authorized User, as well as any such Patient’s immediate family members, powers of attorney, or other surrogates seeking, requesting, or otherwise being provided access to any health information or records related to Patient.

**“Personal Data”** shall have the meaning specified in the DPA.

**“Platform”** means the TeleTracking software platform upon which the Subscription Services are designed to function, as well as any Improvements or interfaces thereto provided by TeleTracking. The Platform shall be considered part of the Subscription Services.

**“Post-Implementation Services”** means any services provided after the implementation of the Subscription Services, as described in an Ordering Document.

**“Professional Services”** means the Implementation Services, Post-Implementation Services, or Advisory Services provided by TeleTracking related to the Subscription Services, as described in an Ordering Document.

**“Project Milestone”** means the completion date for a specific group of tasks or Deliverables identified as a Milestone in an Ordering Document.

**“Protected Health Information”** or **“PHI”** shall have the meaning specified in the DPA.

**“Service Usage Data”** means any data that is derived from the use of the Services that does not directly or indirectly identify you, your End Users, or any natural person and includes (a) data such as volumes, frequencies, bounce rates, and Service performance data and (b) subject to any restrictions under applicable law or regulation, data that is anonymized, de-identified, and/or aggregated such that it could no longer directly or indirectly identify you, your End Users, or any natural person.

**“Services”** means the collective Subscription Services and Professional Services provided by TeleTracking and specified in an Ordering Document.

**“Statement of Work”** or **“SOW”** means a document defining the scope of the Professional Services and/or Deliverables to be provided by TeleTracking to an Authorized User. Each Statement of Work may include, among other information, (i) a description of the Professional Services and any Deliverables to be provided to Client; (ii) any applicable Project Milestones; (iii) the scope and duration of the Professional Services; and (iv) the applicable Fees and payment terms for such Professional Services.

**“Start Date,”** means the date on which the applicable Subscription Term or Services Term begins, which date shall be the earlier of its Go-Live Date or its Implementation Deadline, unless otherwise set forth in an Ordering Document.

**“Sub-Processor”** shall have the meaning specified in the DPA.

**“Subscription Services”** means a software solution hosted by TeleTracking as a cloud-based, hybrid managed services, or software-as-a-service (“SaaS”) solution procured for Authorized Users by a Client or a Client Affiliate in an Ordering Document, and any Improvements and interfaces thereto provided by TeleTracking, as well as Support related thereto consistent with the TeleTracking Support Notice.

**“Support”** means the technical software support provided in accordance with the TeleTracking Support Notice.

**“TeleTracking Data Processing Addendum”** or **“DPA”** means the data processing- and data privacy-related terms for the Services, including its annexes, the current version of which is available at <https://go.teletracking.com/Legal-Terms-Policies-DPA>.

**“TeleTracking EOL Policy”** means the terms by which TeleTracking may retire or otherwise discontinue any Software version or product, the current version of which is available at <https://go.teletracking.com/Legal-Terms-Policies-EOL>.

**“Privacy Policy – Account Data”** means the then-current TeleTracking Privacy Policy relating use of Account Data submitted with the Services available at <https://go.teletracking.com/Legal-Terms-Policies-ProductPrivacy>.

**“TeleTracking Security Overview”** means the document generally outlining TeleTracking’s security protocols, the current version of which is available at <https://go.teletracking.com/Legal-Terms-Policies-Security>.

**“TeleTracking SLA Notice”** means the TeleTracking Service Level Availability Notice for TeleTracking’s Subscription Services, the current version of which is available at <https://go.teletracking.com/Legal-Terms-Policies-SLA>.

**“TeleTracking Sub-Processors List”** means the list of current pre-approved TeleTracking Sub-Processors (as defined in the DPA) which is available at <https://go.teletracking.com/Legal-Terms-Policies-Subprocessors>.

**“TeleTracking Support Notice”** or **“Support Notice”** means the support-related terms for the Services, the current version of which is available at <https://go.teletracking.com/Legal-Terms-Policies-Support>.

**“Term”** means the length of time during which TeleTracking will provide the Subscription Services, Support, and/or Professional Services, as specified in an Ordering Document.

**“Third Party Products”** means any products, services, or software components that are purchased by you from TeleTracking, but provided, or otherwise made available, by a third party (i.e., a party other than TeleTracking). Third Party Products may be governed by a separate agreement or terms & conditions between you and the third-party provider.

**“Transaction Taxes”** means any applicable taxes, levies, duties, or similar exactions imposed by a legal, governmental, or regulatory authority in any applicable jurisdiction, including, without limitation, sales, use, value-added, consumption, or withholding taxes, excluding any taxes based on TeleTracking’s net income, property, or employees, resulting from the Services provided to Client by TeleTracking.

## 2. **TeleTracking Obligations.**

(a) **Provision of Services.** During the applicable Term, upon payment of all Fees due consistent with an Ordering Document, TeleTracking will: (1) provide the Subscription Services and/or Professional Services to the applicable Authorized Users consistent with the terms of this Agreement, the Documentation, and any applicable Ordering Document; (2) comply with the TeleTracking SLA Notice; (3) comply with the TeleTracking Security Overview; (4) comply with the TeleTracking Data Processing Addendum; (5) comply with the TeleTracking Support Notice; (6) comply with the Privacy Policy – Account Data; and (7) comply with the TeleTracking EOL Policy.

(b) **Changes to the Subscription Services.** Client acknowledges that the features and functions of the Subscription Services may change over time; provided, however, TeleTracking will not materially decrease the overall functionality of the Subscription Services. TeleTracking endeavors to avoid changes to the Subscription Services that are not backwards compatible, however, if any such changes become necessary, TeleTracking will use commercially reasonable efforts to notify you at least twenty (20) days prior to implementation. In the event TeleTracking makes a non-backwards compatible change to certain Subscription Services and such change materially and negatively impacts Client's use of the Subscription Services ("Adverse Change"), (1) Client will notify TeleTracking of the Adverse Change, and (2) TeleTracking agrees to work with Client to resolve or otherwise address the Adverse Change, except where TeleTracking, in its sole discretion, has determined that an Adverse Change is required for security reasons or to comply with applicable law or regulation.

3. **Access and Use.** A Client or Client Affiliate may execute an Ordering Document setting forth the Authorized Users being granted access to the Subscription Services. During the applicable Term, upon payment of all Fees due consistent with an Ordering Document, TeleTracking grants identified Authorized Users a limited, revocable, non-exclusive, non-transferable, and non-sublicensable right to access and use the Subscription Services and Documentation, solely for their internal business purposes and not for the benefit of any third party. TeleTracking retains all right, title, and interest in and to the Subscription Services, including without limitation all software used to provide the Subscription Services and all logos and trademarks reproduced throughout the Subscription Services. This Agreement does not grant Client, Client Affiliate, or any Authorized Users any intellectual property

rights in the Subscription Services, Documentation, or in any of its components.

## 4. **Client Obligations.**

(a) **Access and Use.** Client may enable access and use of the Subscription Services only by Authorized Users for the applicable Term, solely for internal business purposes, in accordance with the applicable Ordering Document and Documentation, and not for the benefit of any third party.

(b) **Client Access Responsibilities.** Client is solely responsible for (1) the log-in, password, and security requirements for access and use the Subscription Services, and (2) commercially reasonable efforts to prevent unauthorized access to, or use of, any part of the Subscription Services under Client's control. Client shall promptly, and in no event later than forty-eight (48) hours after becoming aware of the same, notify TeleTracking of any unauthorized access to or use of the Subscription Services.

(c) **Patient Consents.** Client is solely responsible for ensuring that (1) all necessary permissions and consents regarding Client's methods and means of communication with Patients regarding their Personal Data, PHI, treatment and/or care (collectively "Personal Data"), and (2) any permissions required by Law to permit the transfer of any Client Data containing Personal Data or PHI to TeleTracking in accordance with the TeleTracking DPA. Client represents and warrants for itself and its Authorized Users that adequate notices have been provided and/or permissions obtained, as applicable and necessary to provide any Client Data containing Personal Data or PHI to TeleTracking for processing in accordance with the TeleTracking DPA. Client further acknowledges and agrees that it is solely responsible for Authorized User: (1) content, instructions, frequency, timing, and/or delivery of any communications provided directly to Patients via the Subscription Services; (2) ensuring that any such communications are properly addressed to the intended recipient (e.g., correct phone number, email address, or other means of delivery); and (3) compliance with any request by Patients to opt-out of any such communications.

(d) **Prohibitions.** Client shall be solely responsible for ensuring that it and its Authorized Users do not: (i) use the Subscription Services in violation of applicable Law; (ii) send or store infringing, obscene, threatening, or otherwise unlawful or tortious material, including material that violates privacy rights; (iii) send, post, upload, or otherwise transmit or store Malicious Code; (iv) interfere with or disrupt performance of the Subscription Services or the data contained therein; (v) attempt to gain access to the

Subscription Services, or any related systems, databases, or networks, in a manner not set forth in the Documentation; (vi) share individual log-in information of Authorized Users among multiple users for use of the Subscription Services; (vii) write, run or attempt to write or run SQL or other database queries against TeleTracking's databases, the Subscription Services, or any related systems or networks, without the express written consent of TeleTracking; (viii) pirate, softload, softline, duplicate, clone, ghost, or otherwise share or create any copy of TeleTracking's databases, the Subscription Services, or any related systems or networks, other than as expressly approved in writing by TeleTracking for permitted disaster recovery, quality assurance and/or testing purposes; or (ix) share personally identifiable information or Personal Data with TeleTracking via unsecure/unencrypted transmission.

- (e) **Conduct of Authorized Users.** Client shall be solely responsible for all acts, omissions, and activities of its Authorized Users, including their compliance with this Agreement, any Ordering Document, the Documentation, the DPA, and all applicable Laws.

**5. Support and Service Level.**

- (a) **Support.** During the applicable Term, TeleTracking will provide Support for the Subscription Services in accordance with the TeleTracking Support Notice and will provide Authorized Users with online Documentation to assist with use of the Subscription Services. TeleTracking also offers additional training and advisory services in the form of Professional Services.

- (b) **Service Level.** During the Subscription Term, TeleTracking will provide the Subscription Services in accordance with the TeleTracking SLA Notice. Should any Subscription Services fail to achieve the service availability targets set forth in the TeleTracking SLA Notice, Client will be entitled, as its sole and exclusive remedy, to the applicable credit or termination rights for the affected Subscription Service. Subscription Services system logs and other records shall be used to calculate any service level events for purposes of the TeleTracking SLA Notice.

- 6. **Professional Services.** A Client or Client Affiliate may procure Professional Services from TeleTracking for Authorized Users in an Ordering Document. All such Professional Services will be provided in a professional, workmanlike manner consistent with industry standards.

- 7. **Implementation and Go-Live.** Any necessary Implementation Services shall be considered complete when delivered by TeleTracking in accordance with the

specific delivery requirements or Project Milestones set forth in an Ordering Document. Client agrees that all Authorized Users must undertake all commercially reasonable efforts to satisfy Client obligations set forth in an Ordering Document to assure implementation of the Subscription Services by the applicable Implementation Deadline. Upon TeleTracking's completion of the contracted Implementation Services, Client will be presented with an acceptance certificate. If Client does not sign or acknowledge the acceptance certificate or notify TeleTracking in writing of any non-conforming Implementation Services within ten (10) days of the applicable Go-Live Date ("Notice Period"), the Implementation Services shall be deemed to have been delivered and accepted. If, through no fault or delay of Client, the Implementation Services do not conform to the applicable Ordering Document, and Client notifies TeleTracking of such nonconformity within the Notice Period, TeleTracking agrees to undertake commercially reasonable efforts in the industry to re-perform the Implementation Services and provide a revised acceptance certificate. The Go-Live date shall be validated by TeleTracking's Implementation Service records.

- 8. **Early Adopter Offerings.** As part of TeleTracking's software development and go-to-market processes, during the Term of this Agreement, TeleTracking may offer Client or Client Affiliate the opportunity to participate in its Early Adopter program to use, test, validate, evaluate, and provide Client Feedback for new software solutions or services not yet generally available for sale (each an "EA Offering"). Any EA Offering shall be provided by TeleTracking on an "as-is" basis, solely for purposes of using, testing, validating, evaluating, and providing Client Feedback for software solutions or services that are still in development. TeleTracking makes no representations, warranties, or guarantees, express or implied, and, TeleTracking disclaims all indemnity obligations and liability relating to use or testing of any EA Offering, except for the indemnification provided in Section 16(a) of this Agreement. Additional specific terms and conditions, rights and/or obligations relating to each EA Offering may be set forth in an Ordering Document. TeleTracking may discontinue an EA Offering at any time, in its sole discretion, or decide not to make an EA Offering generally available for sale.

**9. Client Infrastructure and Third-party Products.**

- (a) **Client Infrastructure.** Client understands that TeleTracking's Subscription Services function via certain Infrastructure under the control of Client. Except as otherwise provided by TeleTracking with the Subscription



Services and identified in an Ordering Document or the Documentation, Client shall supply all Infrastructure needed to use the Subscription Services or any Improvements thereto. Client shall be responsible throughout the Term for all license fees, subscriptions, support, updates, upgrades, and any maintenance associated with, or required of, any Infrastructure. Client understands that Improvements to TeleTracking's Subscription Services may require Client to timely update or upgrade its Infrastructure as necessary to maintain the security, compatibility, and interoperability of the Subscription Services as specified in the Documentation. No later than sixty (60) days after being notified by TeleTracking of any necessary general updates or upgrades to Infrastructure ("General Notice"), and no later than twenty (20) days after being notified by TeleTracking of any necessary security-related updates or upgrades to Infrastructure ("Security Notice"), Client and its Authorized Users hereby agree to update or upgrade to any minimum versions of such Infrastructure under Client's control as specified in the Documentation. If Client or any Authorized User fails to timely update or upgrade its Infrastructure in response to a General Notice, TeleTracking shall have no liability to Client or any Authorized User for any errors, loss of functionality, or inability to use the Services. If Client or any Authorized User fails to timely update or upgrade its Infrastructure in response to a Security Notice, TeleTracking shall have no liability to Client or any Authorized User for any Breach (as defined in the DPA). A failure to timely update or upgrade Infrastructure as shall not relieve Client of its payment obligations for any TeleTracking Services in an Ordering Document.

- (b) **Third-party RTLS Hardware.** Any third-party real time locating system (RTLS) hardware compatible with TeleTracking's Subscription Services and provided by TeleTracking as an authorized reseller ("Third-party RTLS Hardware") will be identified in an Ordering Document and shall be subject to the terms of this Agreement as well as the applicable hardware manufacturer's or provider's terms available at <http://go.teletracking.com/thank-you-third-party-terms>, which are incorporated herein by reference. Unless otherwise set forth in the Ordering Document, TeleTracking conveys all title, rights, and interests in any Third-party RTLS Hardware upon shipment by the applicable manufacturer or provider to Client or its Authorized Users.

#### 10. **Payment Provisions.**

- (a) **Fees.** Client agrees to pay the Fees set forth in the applicable Ordering Document(s).

- (b) **Transaction Taxes.** TeleTracking's Fees do not include Transaction Taxes. Client is responsible for paying all Transaction Taxes associated with this Agreement and any Ordering Document. If TeleTracking has a legal obligation to collect and remit Transaction Taxes on Client's behalf to the appropriate taxing authority, the Transaction Taxes will be shown as a separate line item on an invoice presented to Client and must be paid by Client to TeleTracking.

- (c) **Invoices and Payment.** All Fees will be invoiced to Client or Client Affiliate in accordance with the relevant Ordering Document. Invoices will be sent via email to the email address(es) designated in the Ordering Document. If Client or Client Affiliate fails to pay the Fees by the applicable due date, and thereafter fails to remedy such failure within fifteen (15) days, TeleTracking may (i) assess a late fee of the lesser of 1.5% of the outstanding balance per month or the maximum amount allowable by law ("Late Fee") and/or (ii) suspend Subscription Services access to all Authorized Users, without liability, until all Fees, including any late Fees, are paid in full. Client or Client Affiliates are prohibited from enabling additional Authorized User access or executing new Ordering Documents until all outstanding undisputed Fees are paid in full.

- (d) **Non-cancelable and Non-refundable.** Except as otherwise expressly agreed in an Ordering Document, all Ordering Documents are non-cancelable, and all paid Fees are non-refundable.

- (e) **Payment Disputes.** Client must notify TeleTracking in writing within thirty (30) days of the applicable invoice date of any Fees Client wishes to dispute. Where Client is disputing any Fees, it must act reasonably and in good faith and will cooperate diligently with TeleTracking to resolve the dispute. TeleTracking will not charge Late Fees or suspend access to the Subscription Services for unpaid Fees for which written notice has been provided, except for Client's or Client Affiliate's failure to cooperate diligently with TeleTracking or where TeleTracking reasonably determines the dispute is not brought by Client or Client Affiliate in good faith.

#### 11. **Proprietary Rights.**

- (a) **Client Data.** Subject to the usage rights granted to TeleTracking in this Agreement or any Ordering Document, as between TeleTracking and Client or its Authorized Users, Client exclusively owns and reserves all right, title, and interest in and to all Client Data. Client is solely responsible for the accuracy, quality, integrity, completeness, and legality of any Client Data submitted to TeleTracking.

(b) **Client Names and Marks.** Client grants TeleTracking the right to use and display Client's name, logo, and a description of its use case(s) on TeleTracking's website, and in marketing and promotional materials, subject to any standard trademark usage guidelines that Client provides to TeleTracking in writing.

(c) **Client Materials.** Client shall own and retain all rights, title, and interest in and to any proprietary Client technology or Client-specific business processes or other materials provided or described by any Authorized User to TeleTracking, including all intellectual property rights thereto ("Client Materials"). TeleTracking shall have the limited right to use any such Client Materials solely for the purpose of meeting its obligations to Client under this Agreement and any Ordering Document.

(d) **Reservation of Rights to Subscription Services and Documentation.** Subject to the limited use and access rights expressly granted to Client hereunder, TeleTracking reserves all rights, title and interest in and to the Subscription Services and Documentation, including all training materials, software designs, and the design or format of any graphical user interface (GUI), report, result, or other output generated by the Subscription Services (other than Client Data) and all related Intellectual Property Rights and any Improvements or other modifications, enhancements, customizations, and derivative works thereof. In addition, TeleTracking shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, and perpetual license to use or incorporate into the Subscription Services or Documentation any Client Feedback. Client has no obligation to provide Client Feedback and TeleTracking has no obligation to make Client Feedback an Improvement. Any rights not expressly granted to Client under this Agreement are reserved by TeleTracking.

(e) **Reservation of Rights to Professional Services and Deliverables.** All rights, title and interest to all ideas, techniques, know-how, designs, programs, development tools, processes, integrations, interfaces, enhancements, and other technical information developed by TeleTracking while performing Professional Services, and all Client Feedback pertaining thereto, shall vest solely and exclusively with TeleTracking. Except as otherwise expressly set forth in an Ordering Document, TeleTracking shall own all rights, title, and interest in and to any Deliverables and related intellectual property rights, excluding any Client Materials or Client-Owned Deliverable, as defined herein. Unless otherwise set forth in an Ordering Document, TeleTracking grants to Client a limited, revocable, non-exclusive, non-transferable, and non-sublicensable right

and license to use the Deliverables for Client's internal operations. Client shall acquire the rights, title, and interest only to those Deliverables expressly identified as a "Client-Owned Deliverable" in an Ordering Document.

(f) **Restrictions.** Client shall not, nor shall Client permit any Authorized User or any other party associated in any manner with Client to: (i) modify or copy the Subscription Services, Documentation, or Deliverables, or create any derivative works based on the Subscription Services, Documentation, or Deliverables, except that Authorized Users may make a reasonable number of copies of the Documentation and Deliverables as necessary to use the Subscription Services consistent with this Agreement; (ii) sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, co-source, or offer in a service bureau the Subscription Services, Documentation, or Deliverables, or otherwise make the Subscription Services, Documentation, or Deliverables available to any third-party, other than to Authorized Users as permitted herein; (iii) reverse engineer, reverse assemble, disassemble, or decompile any portion of the Subscription Services, Documentation or Deliverables, including, but not limited to, any software utilized by TeleTracking in the provision of the Subscription Services; (iv) access the Subscription Services, Documentation, or Deliverables in order to assess, compare, design, build or develop any commercially available or competitive product or service; (v) copy any features, functions, integrations, interfaces, reporting formats, or graphics of the Subscription Services, Documentation or Deliverables; or (vi) use or knowingly permit the use of any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of any Subscription Services provided as a Subscription Service without prior written consent of TeleTracking.

(g) **Co-Branding of Subscription Services.** During an applicable Term, TeleTracking may, in its sole discretion, agree to provide the Subscription Services co-branded with a Client name or trademark ("Client Marks") for use in Client's internal business operations. In such event, Client hereby grants to TeleTracking a limited, non-exclusive, non-transferable, non-sublicensable right and license to use the Client Marks during the Term solely for use with the applicable Subscription Services. Nothing in this provision shall grant Client any rights or ownership in or to the Subscription Services or any TeleTracking Intellectual Property.

## 12. Data Use.

(a) **Permitted Uses.**



(i) *Client Data.* Client agrees that TeleTracking may use and process Client Data in accordance with this Agreement and the TeleTracking Data Processing Addendum to meet its obligations for the provision of the Services identified in any Ordering Document or as required by Law.

(ii) *Derived Data.* Client agrees that TeleTracking may use Derived Data in accordance with this Agreement to develop and improve its software solutions.

(iii) *Account Data.* Client agrees that TeleTracking may use Account Data in accordance with this Agreement for internal purposes only relating to the proper management and administration of Client's account, for improvement of Client satisfaction with account or billing management or with the Services, or for Client's proper use and access of the Services, including without limitation, (i) account access and identity verification, (ii) technical support, (iii) investigation and/or prevention of system abuse, and/or (iv) to fulfill any other legal or contractual obligation to Client in the provision of the Services.

(b) **Conditions of Client Data Use.** TeleTracking agrees: (i) to limit the use and disclosure of Client Data to select members of its workforce and any Sub-Processors who have a legitimate business need to access the Client Data for the purposes described in [Section 12\(a\)](#) above; (ii) that those persons who have access to the Client Data shall not use or further disclose it, except as permitted by this Agreement or the DPA; (iii) to ensure that any Sub-Processor agrees to at least as restrictive conditions and terms of use as apply under this Agreement and the DPA; (iv) to use appropriate safeguards to protect the Client Data from misuse or inappropriate disclosure; (v) to not use Personal Data or PHI to identify the individuals whose information is contained therein, nor to contact them under any circumstances; and (vi) to promptly report unauthorized use or disclosure to Client consistent with this Agreement or the DPA, as applicable.

### 13. **Confidentiality Obligations.**

(a) **Confidentiality.** Without the other Party's prior written permission, except as expressly permitted herein, or in the DPA, or as required by Law, neither Party will disclose or use any Confidential Information of the other Party to any third party. Client agrees that TeleTracking may use the Sub-Processors identified in the TeleTracking Sub-Processors List in the provision of any Services, provided such third-party providers commit to at least as restrictive conditions

and terms of use as apply under this Agreement and the DPA.

(b) **Protection.** Each Party agrees to protect the Confidential Information of the other Party in the same manner that it protects its own Confidential Information of like kind, but in no event using less than a reasonable standard of care.

(c) **Compelled Disclosure.** A disclosure required by Law or compelled by legal process of one Party ("Compelled Party") concerning Confidential Information of the other Party ("Affected Party") will not be considered a breach of this Agreement.

(d) **Remedies.** If a Party discloses or uses (or threatens to disclose or use) any Confidential Information of the other Party in breach of the confidentiality obligations hereunder, the other Party will have the right, in addition to any other remedies available, to seek injunctive relief to enjoin such acts, without the necessity of proving actual damages or posting bond, it being acknowledged by the Parties that any other available remedies may be inadequate.

(e) **Exclusions.** Confidential Information does not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the other Party; (ii) was known to a Party prior to its disclosure by the other Party without breach of any obligation owed to the other Party; (iii) was independently developed by a Party without any Confidential Information of the other Party or breach of any obligation owed to the other Party; or (iv) is lawfully received from a third-party without breach of any obligation owed to the other Party.

### 14. **Security.**

(a) **TeleTracking Security.** During the Term of this Agreement, TeleTracking will maintain commercially reasonable and appropriate security measures in accordance with industry standards and the TeleTracking Security Overview, which are designed to: (i) ensure the security and integrity of its Subscription Services; (ii) protect against threats or hazards to the security or integrity of its Subscription Services; and (iii) prevent unauthorized access to its Subscription Services. TeleTracking may change and update its security measures from time to time in its sole discretion to further protect the Subscription Services.

(b) **Client Network and Internet Access.** Client is solely responsible for procuring and maintaining any Client or any Authorized User's network or connections that connect the Client or any Authorized User network to the Subscription Services. Client is solely responsible for all appropriate

security measures related thereto, including but not limited to “browser” software that supports protocols used by TeleTracking specified in the Documentation, Secure Socket Layer (SSL) protocol, or other protocols accepted by TeleTracking, and for following secure log-on procedures for services that support such protocols. TeleTracking is not responsible for the compromise of data transmitted across computer networks, telephony systems, wireless, or other telecommunications services or facilities not operated by TeleTracking (including, but not limited to, the internet, any cloud services, or satellite communications). TeleTracking assumes no responsibility for the reliability or performance of any Client or Authorized User network or network connections.

- (c) **Unauthorized Disclosure.** If either Party believes that there has been a breach of security concerning the Subscription Services or any Client Data, or a breach of the DPA, such Party must promptly notify the other Party. Each Party agrees to reasonably assist the other Party in mitigating any potential damage caused by an actual breach of security. Upon either Party’s request, TeleTracking and Client will consult in good faith regarding a root cause analysis and any remediation efforts.

**15. Warranties, Remedies & Disclaimers.**

- (a) **Mutual Warranties.** Each Party represents and warrants to the other that it has the authority to enter into this Agreement and any related Ordering Document, and in connection with the performance thereof, will comply with all Laws applicable to it, including without limitation any Laws related to data privacy and security and the transmission of Personal Data or PHI.
- (b) **Subscription Services Warranty & Remedy.** TeleTracking represents and warrants to Client that it has sufficient right, title, interest, and authority to convey to Client the right to access and use the Subscription Services granted in this Agreement and any Ordering Document. TeleTracking further represents and warrants that, during the applicable Term, the contracted Subscription Services will perform materially in accordance with the applicable Documentation and any functionality will not materially decrease. Client’s sole and exclusive remedy for a breach of this Section 15(b) will be, at TeleTracking’s option, to (1) take commercially reasonable efforts to remediate any material non-conformity at no additional charge to Client, or (2) if applicable, provide credits consistent with the TeleTracking SLA Notice. To receive warranty remedies, Client must comply with requirements in the TeleTracking SLA Notice.

- (c) **Professional Services and Deliverables Warranty & Remedy.** TeleTracking warrants to Client that the Professional Services provided by TeleTracking will be performed in a professional and workmanlike manner in accordance with generally prevailing industry standards, and that any Deliverables provided to Client as part of any Professional Services will materially conform to the applicable Ordering Document. Client’s sole and exclusive remedy for a breach of this Section 15(c) will be, at TeleTracking’s option, to (1) take commercially reasonable efforts to remediate any material non-conformity in the Professional Services or Deliverables at no additional charge to Client, or (2) if unable to remediate after taking commercially reasonable efforts, refund Client any portion of the Fees paid for the affected Professional Services or Deliverables do not comply with this Section 15(c). To receive warranty remedies, Client must promptly notify TeleTracking in writing of any deficiencies no later than thirty (30) days from the date that the Professional Services are completed, or the Deliverables delivered.

- (d) **DISCLAIMER OF OTHER WARRANTIES.** EXCEPT AS EXPRESSLY PROVIDED HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TELETRACKING MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AS WELL AS ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE, WITH RESPECT TO THE SUBSCRIPTION SERVICES, DOCUMENTATION, PROFESSIONAL SERVICES, DELIVERABLES OR SUPPORT. TELETRACKING DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICES WILL BE ERROR FREE, UNINTERRUPTED, OR FREE FROM CYBER ATTACK. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CLIENT IN CONNECTION WITH THE PROVISION OF THE SUBSCRIPTION SERVICES, DOCUMENTATION, PROFESSIONAL SERVICES, DELIVERABLES, OR SUPPORT.

- (e) **DISPLAY OF DATA DISCLAIMER & INDEMNIFICATION.** CLIENT IS SOLELY RESPONSIBLE FOR ENSURING THE PROPER HANDLING, PROCESSING, USE, DISPLAY, AND/OR DISCLOSURE OF ANY PATIENT DATA, PII, OR PHI IN ACCORDANCE WITH ALL APPLICABLE LAW BY ANY AUTHORIZED USER. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN ANY OTHER AGREEMENT BETWEEN THE PARTIES, TELETRACKING EXPRESSLY DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR ANY ACTS OR OMISSIONS OF CLIENT, AUTHORIZED USERS, OR ANY

OTHER EMPLOYEE, AGENT, SUBCONTRACTOR, OR VENDOR ACTING FOR, WITH, OR ON BEHALF OF CLIENT, RELATING TO THE HANDLING, PROCESSING, USE, DISPLAY, AND/OR DISCLOSURE OF ANY PATIENT DATA, PII, OR PHI AT ANY DESIGNATED FACILITY, OR FOR ANY INSTRUCTION OR DIRECTION GIVEN TO TELETRACKING FROM CLIENT OR ITS AUTHORIZED USERS, WHICH RESULTS IN ANY CLAIMS, COSTS, DAMAGES, LOSSES, LIABILITIES OR EXPENSES, INCLUDING ATTORNEYS' FEES AND COSTS (HEREINAFTER COLLECTIVELY "**CLAIMS**"), ARISING OUT OF OR RELATING IN ANY WAY TO THE HANDLING, PROCESSING, USE, DISPLAY, OR DISCLOSURE OF PATIENT DATA, PII, OR PHI. CLIENT HEREBY AGREES TO FULLY INDEMNIFY, DEFEND AND HOLD HARMLESS TELETRACKING, AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, AGENTS, SUBCONTRACTORS, SUPPLIERS, AND CHANNEL PARTNERS (EACH A "**TELETRACKING INDEMNIFIED PARTY**"), AGAINST ANY SUCH DIRECT OR INDIRECT CLAIMS AND WHETHER BROUGHT IN CONTRACT, TORT, REGULATORY, STATUTORY OR OTHER CAUSE OF ACTION.

- (f) **PATIENT CONSENTS & COMMUNICATIONS - DISCLAIMER & INDEMNIFICATION.** TELETRACKING DISCLAIMS ALL LIABILITY RELATED TO CLIENT'S OBLIGATION TO OBTAIN ANY REQUIRED CONSENTS IN ACCORDANCE WITH SECTION 4(c) OF THIS AGREEMENT, OR ANY CONSENTS NECESSARY FOR USE OF THE SUBSCRIPTION SERVICES AS A MEANS OR METHOD OF COMMUNICATION WITH PATIENTS AND FOR CLIENT'S COMPLIANCE WITH ANY OPT-OUT REQUESTS SENT BY PATIENTS. FURTHER, TELETRACKING DISCLAIMS ALL LIABILITY FOR THE CONTENT, INSTRUCTIONS, FREQUENCY, TIMING, AND/OR DELIVERY OF ANY COMMUNICATIONS SENT BY CLIENT TO ANY PATIENTS VIA THE SUBSCRIPTION SERVICES, AS WELL AS ALL LIABILITY FOR THE INTENDED OR UNINTENDED CONSEQUENCES OF ANY ACTIONS TAKEN BY PATIENTS IN RELIANCE ON THE COMMUNICATION SENT BY CLIENT VIA THE SUBSCRIPTION SERVICES. CLIENT AGREES TO FULLY INDEMNIFY, DEFEND, AND HOLD ANY TELETRACKING INDEMNIFIED PARTY HARMLESS AGAINST ANY DIRECT OR INDIRECT CLAIMS ARISING OUT OF OR RELATING IN ANY WAY TO ANY FAILURE TO OBTAIN ANY PATIENT CONSENT OR ARISING OUT OF OR RELATING IN ANY WAY TO ANY COMMUNICATION SENT BY CLIENT TO PATIENTS OR SENT BY PATIENTS TO CLIENT VIA THE SUBSCRIPTION SERVICES, WHETHER BROUGHT IN CONTRACT, TORT, REGULATORY, STATUTORY OR OTHER CAUSE OF ACTION.
- (g) **PROFESSIONAL RESPONSIBILITY DISCLAIMER & INDEMNIFICATION.** THE SUBSCRIPTION SERVICES AND ANY PROFESSIONAL SERVICES ARE NOT, NOR ARE THEY

INTENDED TO BE, A SUBSTITUTE FOR THE KNOWLEDGE, EXPERTISE, SKILL, AND JUDGMENT OF PHYSICIANS, NURSES, PHARMACISTS, OR ANY OTHER HEALTHCARE PROFESSIONALS, IN PROVIDING PATIENT CARE. CLIENT, ON BEHALF OF ITSELF AND ANY AUTHORIZED USER, ACKNOWLEDGES THAT TELETRACKING IS NOT A HEALTHCARE PROVIDER AND THAT THE PROFESSIONAL DUTY TO A PATIENT IN PROVIDING HEALTHCARE SERVICES AND PATIENT CARE LIES SOLELY WITH CLIENT AND ITS HEALTHCARE PROFESSIONALS. CLIENT ACKNOWLEDGES THAT THE USE OF THE SUBSCRIPTION SERVICES IS IN NO WAY INTENDED TO REPLACE OR SUBSTITUTE FOR THE PROFESSIONAL JUDGMENT OF CLIENT, ITS AUTHORIZED USERS OR ITS OTHER PROFESSIONAL PERSONNEL WHEN TREATING PATIENTS. CLIENT IS SOLELY RESPONSIBLE FOR THE DISSEMINATION AND USE OF INFORMATION PROVIDED BY THE SUBSCRIPTION SERVICES OR PROFESSIONAL SERVICES IN PROVIDING PATIENT CARE. TELETRACKING DOES NOT ASSUME AND EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR THE ACTS OR OMISSIONS OF CLIENT, ITS AUTHORIZED USERS, ITS HEALTHCARE PROFESSIONALS, ITS DESIGNATED FACILITIES, ITS AUTHORIZED END USER FACILITIES, AND ANY OTHER CLIENT PERSONNEL OR AGENTS WHICH MAY RESULT IN CLAIMS BY ANY PERSON OR ENTITY RESULTING FROM OR RELATING TO PATIENT CARE OR TREATMENT. CLIENT HEREBY AGREES TO FULLY INDEMNIFY, DEFEND AND HOLD HARMLESS ANY TELETRACKING INDEMNIFIED PARTY AGAINST ANY CLAIMS, INCLUDING WITHOUT LIMITATION ANY CLAIMS ASSERTING LIABILITY OR SEEKING DAMAGES DUE TO BREACH OF ANY DUTY, OR FOR MEDICAL MALPRACTICE, FAILURE TO WARN, NEGLIGENCE, OR ANY OTHER STATUTORY OR COMMON LAW CLAIM OR THEORY INVOLVING PATIENT TREATMENT OR CARE.

- (h) **DATA INCIDENT DISCLAIMER.** NOTWITHSTANDING ANYTHING IN ANY OTHER AGREEMENT BETWEEN THE PARTIES TO THE CONTRARY, TELETRACKING WILL HAVE NO RESPONSIBILITY OR LIABILITY TO CLIENT, ANY AUTHORIZED USER, ANY THIRD PARTY, OR ANY PATIENT, OR BE REQUIRED TO INDEMNIFY ANY SUCH PERSON OR ENTITY, OR HAVE ANY OBLIGATION TO PAY ANY COSTS OF REMEDIATION, FOR ANY DATA BREACH OR SIMILAR DATA OR SECURITY INCIDENT CAUSED OR AFFECTED, WHETHER IN WHOLE OR IN PART, BY CLIENT OR ITS AUTHORIZED USERS, OR ANY CLIENT AGENT, CONTRACTOR, OR VENDOR.
- (i) **INTEGRATION WARRANTY & DISCLAIMER.** Client represents and warrants that TeleTracking is permitted to integrate the Subscription Services with all systems or third-party software that Client authorizes or requests under this Agreement or any applicable Ordering Document,

including, without limitation, Client's Admit Discharge Transfer (ADT) system, Electronic Medical Record (EMR) system, or Electronic Health Record (EHR) system. For the avoidance of doubt, the foregoing Client representation does not create any obligation for TeleTracking to ensure that its Subscription Services integrate with or are interoperable with any particular system, without limitation any ADT, EMR or EHR system used by Client. TELETRACKING EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR ANY DELAY, FAILURE, OR CLAIM ARISING OUT OF OR RELATING TO THE SUBSCRIPTION SERVICES, DOCUMENTATION, PROFESSIONAL SERVICES, DELIVERABLES, OR SUPPORT BASED UPON LACK OF INTEGRATION WITH ANY THIRD-PARTY SYSTEM OR SOLUTION, OR LACK OF COOPERATION OR INSUFFICIENT COOPERATION FROM CLIENT OR CLIENT'S ADT, EMR, EHR, OR OTHER SYSTEM PROVIDERS.

**16. Mutual Indemnification.**

- (a) **Indemnification by TeleTracking.** TeleTracking will defend, indemnify and hold Client and its officers, directors, employees, or agents, and any Authorized Users ("Client Indemnified Party") harmless against any loss, damage or costs (including reasonable attorneys' fees) in connection with claims, demands, suits, or proceedings ("Claims") made or brought by a third-party alleging that the use of the Subscription Services or Deliverables as contemplated hereunder infringes a copyright; infringes a United States, United Kingdom, or Canadian patent; or infringes a trademark of a third-party; or misappropriates a third-party's trade secrets; provided, however, that Client: (a) promptly gives written notice of the Claim to TeleTracking; (b) gives TeleTracking sole control of the defense and settlement of the Claim (provided that TeleTracking may not settle any Claim unless it unconditionally releases Client of all liability); and (c) provides to TeleTracking, at TeleTracking's cost, all reasonable assistance. TeleTracking's indemnification obligations are the Client Indemnified Party's sole remedy in the event of a Claim under this indemnification provision. TeleTracking will not be required to indemnify Client if, and to the extent, the Claim arises from: (w) unauthorized modification of the Subscription Services or Deliverables by Client or its Authorized Users or other personnel in conflict with Client's obligations or as a result of any prohibited activity as set forth herein; (x) use of the Subscription Services or Deliverables in a manner inconsistent with the applicable Documentation; (y) use of the Subscription Services or Deliverables in combination with any other product or service not provided by TeleTracking; or (z) Client Materials or content provided by Client for use with the Subscription Services or Deliverables. If Client is enjoined from using the

Subscription Services or Deliverables, or TeleTracking reasonably believes it will be enjoined, TeleTracking will have the right, at its sole option, to obtain for Client the right to continue use of the applicable Subscription Services or Deliverables, or to replace or modify the applicable Subscription Services or Deliverables so that it is no longer infringing, if they remain at least functionally equivalent. If neither of the foregoing options is reasonably available to TeleTracking, then use of the applicable Subscription Services or Deliverables may be terminated at the option of TeleTracking and TeleTracking's sole liability will be to refund any prepaid Fees for the applicable Deliverables or Subscription Services associated with the unused portion of the Subscription Term.

- (b) **Indemnification by Client.** Client will defend, indemnify and hold harmless any TeleTracking Indemnified Party from any Claims made or brought by any third-party alleging that any Client Data or Client Materials infringe the rights of, or caused harm to, a third-party or violates any Law; provided, however, that TeleTracking: (a) promptly gives written notice of the Claim to Client; (b) gives Client sole control of the defense and settlement of the Claim (provided that Client may not settle any Claim unless it unconditionally releases any TeleTracking Indemnified Party of all liability); and (c) provides to Client, at Client's cost, all reasonable assistance.

**17. Limitation of Liability and Damages.**

- (a) **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND REGARDLESS OF THE NATURE OF THE CLAIM, IN NO EVENT WILL EITHER PARTY'S (OR THEIR AFFILIATES', OFFICERS', DIRECTORS', EMPLOYEES', OR AGENTS') AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY ORDERING DOCUMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE FEES PAID OR PAYABLE BY CLIENT TO TELETRACKING DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM OR CAUSE OF ACTION.
- (b) **Limitation on Damages.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, OR FOR ANY ANTICIPATED SAVINGS, LOSS OF USE, OR CORRUPTION OF THE SOFTWARE, DATA OR INFORMATION, WORK STOPPAGE, OR FOR ANY LOST PROFITS, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, ANY ORDERING DOCUMENT, OR THE

SERVICES, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SUBSCRIPTION SERVICES, OR ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION RELATED THERETO, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

**(c) Exceptions to Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 17(a) (LIMITATION OF LIABILITY) AND SECTION 17(b) (LIMITATION ON DAMAGES), THE LIMITATIONS IN SECTION 17(a) AND SECTION 17(b) DO NOT APPLY TO: (1) EITHER PARTY'S OBLIGATIONS REGARDING CONFIDENTIAL INFORMATION OR PROPRIETARY RIGHTS, (2) EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (3) A BREACH OF SECTION 4 OR SECTION 11(F) OF THIS AGREEMENT BY ANY AUTHORIZED USER, OR (4) CLIENT'S PAYMENT OBLIGATIONS.

**(d) Limitations Period.** No claim or other legal action under this Agreement may be brought by either Party against the other more than one (1) year after the claim or cause of action arises.

## **18. Term and Termination.**

**(a) Term of Agreement.** This Agreement commences on the Effective Date and continues until the expiration of all Ordering Documents hereunder unless terminated in accordance with Section 18(c) below.

**(b) Interoperable Software or Subscription Services.** Client acknowledges that the functionality of certain TeleTracking Subscription Services may interoperate with and/or require implementation and integration with other TeleTracking Licensed Software or Subscription Services ("Interoperable Software"). The failure of Client to procure or renew applicable licenses or subscriptions to Interoperable Software will not relieve Client any obligations relating to Subscription Services in an Ordering Document.

### **(c) Termination.**

**(i) For Cause.** Either Party may terminate this Agreement or an Ordering Document without penalty: (i) upon thirty (30) days' prior written notice to the other Party of a material breach by the other Party if such breach remains uncured at the expiration of such notice period; or (ii) immediately in the event the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership,

liquidation, or assignment for the benefit of creditors. Termination of the Agreement shall not be effective as to any Ordering Document still in effect unless the Ordering Document is also expressly terminated in writing. Termination under this section will not relieve Client or Client Affiliate of the obligation to pay any Fees accrued or due prior to the effective date of termination.

**(ii) For Convenience.** Client may, upon one hundred and twenty (120) days' written notice to TeleTracking, terminate this Agreement or an Ordering Document for convenience, provided that, no later than the effective date of termination, Client advances all remaining fee payments due to TeleTracking for the remainder of any applicable Initial Term or Renewal Term as specified in the applicable Ordering Document, as well as payment of any outstanding invoices.

**(d) Effect of Termination.** Upon termination of this Agreement, or upon expiration or termination of any Ordering Document, Client and all Authorized Users will, as of the date of such termination or expiration, immediately cease accessing or otherwise using the applicable Subscription Services and any TeleTracking Confidential Information. Client shall be responsible for ensuring that all Authorized Users delete or destroy all copies of TeleTracking Confidential Information in the possession or control of any Authorized User. Upon written request of TeleTracking, Client will provide written certification to TeleTracking of its compliance with this provision.

**(e) Retrieval of Client Data.** Client is solely responsible for retrieving any Client Data through export or download of the data as permitted through the functionality of the Subscription Services prior to expiration or termination of the applicable Subscription Term. Except as required by Law, TeleTracking will have no obligation to maintain or provide any Client Data and may thereafter, unless legally prohibited and subject to any data retention obligations imposed on TeleTracking by Law, delete all Client Data.

**(f) Surviving Provisions.** All provisions of this Agreement which, by their express terms or nature, survive termination, will continue thereafter until fully performed, including, but not limited to, Section 10 (Payment Provisions), Section 11 (Proprietary Rights), Section 12 (Data Use), Section 13 (Confidentiality Obligations), Section 16 (Mutual Indemnification), and Section 17 (Limitation of Liability and Damages).

**19. General Provisions.**

- (a) **Relationship of the Parties.** The Parties and any of their respective Affiliates or Authorized End User Facilities, as applicable, are independent contractors. This Agreement does not create, nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties or any of their Affiliates or Authorized End User Facilities. There are no intended third-party beneficiaries to this Agreement.
- (b) **Notices.** All legal notices under this Agreement will be in writing, signed by the Party delivering such notice, and delivered by overnight courier, or by prepaid, first class, certified mail, return receipt requested, or its equivalent. Any Party may modify its recipient of notices, or addresses therefor, by providing written notice pursuant to this section. For clarity, legal notices include, without limitation, formal notices from one Party to the other regarding an alleged breach of any provision of this Agreement, a Party's intention to terminate this Agreement, any indemnification obligations, and any warranty claims or notices of non-conformity concerning the Subscription Services, Documentation, Support, or Professional Services provided hereunder. The parties may provide other forms of communication (other than legal notices regarding this Agreement) in accordance with this Agreement through e-mail, mail, overnight courier, or a posting to the Subscription Service by TeleTracking.

- (i) Notices to TeleTracking hereunder shall be sent by email to [legal-notices@teletracking.com](mailto:legal-notices@teletracking.com) and to the applicable address, as follows:

Client domiciled in:	Notice provided to:
Any country outside of Germany	TeleTracking Technologies, Inc. The Times Building, 336 Fourth Avenue Pittsburgh, PA 15222 United States of America Attn: Chief Financial & Operating Officer
Germany	TeleTracking GmbH KONTORHAUS Kronenstraße 63 10117, Berlin, Germany Amtsgericht Berlin-Charlottenburg HRB 226616 B Attn: Geschäftsführer

- (ii) Notices to a Client or Client Affiliate hereunder shall be sent to the email or postal address provided in the Client Information section of the applicable Ordering Document.

- (c) **Waiver and Cumulative Remedies.** No failure or delay by either Party in exercising any right under this Agreement will constitute a waiver of that right or any other right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a Party at law or in equity.
- (d) **Force Majeure.** Neither Party will be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) for causes beyond that Party's reasonable control and occurring without that Party's fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving TeleTracking or Client employees, respectively), or, where TeleTracking is in compliance with its security and backup obligations under this Agreement, computer attacks or malicious acts, such as attacks on or through the internet, any internet service provider, telecommunications provider, mobile device, or hosting facility. Dates by which performance obligations are scheduled to be met will extend for a period equal to the time lost due to any delay so caused.
- (e) **Assignment.** Neither Party may assign any of its rights or obligations under this Agreement or any Ordering Document, whether by operation of law or otherwise, without the prior written consent of the other Party (not to be unreasonably withheld, conditioned, or delayed). Notwithstanding the foregoing, either Party may assign or transfer this Agreement or any Ordering Document, in whole or in part, upon written notification to the other Party but without requiring that Party's consent to (1) a successor to all or part of its assets or business or (2) an Affiliate. Any attempted assignment or transfer by either party in violation hereof will be void. Subject to the foregoing, this Agreement and any applicable Ordering Document will be binding on the parties and their respective successors and permitted assigns. If a permitted assignment results in a change to the scope of the subscription or license for any Subscription Services or additional Professional Services, the parties and their respective successors and permitted assigns shall specify any additional Fees in a subsequent Ordering Document. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- (f) **U.S. Government Restricted Rights.** This provision applies only to any Client, Client Affiliate, or Authorized User operating on behalf of any part of the United States Government. The Subscription Services, including the related Documentation, is provided with restricted rights.



The Subscription Services and Documentation are deemed to be "commercial software" and "commercial software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR 122.212, as applicable. Any use, modification, reproduction, release, performance, display, or disclosure of the Subscription Services, including related documentation by the U.S. Government or any of its agencies, shall be governed solely by the terms of the license rights granted by this Agreement and shall be prohibited except to the extent expressly permitted by the terms of the license rights granted by this Agreement.

- (g) **Export.** Each Party will comply with any applicable export Laws. Without limiting the generality of the foregoing, Client will not make the Subscription Services available to any person or entity that: (i) is in a country that is subject to a United States, United Kingdom, Canada, or German government embargo; (ii) is listed on any United States, United Kingdom, Canada, or German government list of prohibited or restricted parties; or (iii) is engaged in activities directly or indirectly related to the proliferation of weapons of mass destruction.
- (h) **Anti-Fraud.** Neither TeleTracking, nor any agent of TeleTracking that will be providing services under this Agreement, has been excluded, suspended, or debarred or otherwise sanctioned from participation in any federal or state healthcare program or has been convicted or found to have violated any federal or state fraud and abuse law or illegal remuneration law.
- (i) **Equal Opportunity Employer.** TeleTracking is an equal opportunity employer and does not discriminate based on race, sex, color, religion, creed, ancestry, national origin, disability, age, marital status, sexual orientation, or other protected class status pursuant to applicable law. TeleTracking does not reject employees, or otherwise deem employees unacceptable, or take any other action, for any reason prohibited by federal, state, or local Law, including, but not limited to, laws pertaining to employment discrimination or employee safety.
- (j) **Interpretation.** Titles and headings of sections of this Agreement are for convenience only and will not affect the construction of any provision of this Agreement. For purposes of this Agreement, (a) the words "include," "includes," and "including" will be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole; and (d) words importing singular expression include the plural and words importing gender include all genders. This Agreement will be construed without regard to any

presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing an instrument to be drafted. The headings in this Agreement are for reference only and will not affect the interpretation of this Agreement.

- (k) **Entire Agreement.** This Agreement, including any amendments, exhibits, and attachments hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter.
- (l) **Order of Preference.** In the event of a conflict or inconsistency among the following documents, the order of preference will be, (1) the terms set forth in the body of this Agreement, (2) the applicable Ordering Document, (3) the TeleTracking Data Processing Addendum, (4) the TeleTracking SLA Notice, (5) the TeleTracking Support Notice, (6) the applicable Documentation, and (7) the TeleTracking Security Overview.
- (m) **Severability and Modification.** If any provision of this Agreement is held by a court of competent authority to be contrary to law, the provision will be modified by the court to the fullest extent permitted by law and interpreted so as best to accomplish the objectives of the original provision, and the remaining provisions of this Agreement will remain unaltered.
- (n) **Governing Law.** This Agreement will be governed by and interpreted according to the laws of the applicable state or country identified below without regard to conflicts of laws and principles that would cause the application of the laws of another jurisdiction. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. The international convention for the sale of goods, and Uniform Computer Information Transactions Act shall not apply to this Agreement. Except as provided in Section 19(o) (Dispute Resolution), any legal suit, action, or proceeding arising out of or relating to this Agreement or the Services will be instituted in the applicable courts in the chart that follows, and the parties hereby consent to the personal jurisdiction of these courts. In the event of any adjudication of any dispute under this Agreement, the prevailing party in such legal suit, action, or proceeding will be entitled to reimbursement of its attorneys' fees and related costs by the non-prevailing party.

Client domiciled in:	Governing law:	Courts with personal jurisdiction:
Any country outside of Germany	State of Delaware, United States of America	State or federal courts of Pittsburgh, Pennsylvania, United States of America
Germany	Germany	Courts of Berlin, Germany

equitable or legal remedy, including provisional remedies. Each party will be responsible for its own incurred expenses arising out of any dispute resolution procedure. Any arbitration proceedings will take place in the English language in: (a) Pittsburgh, Pennsylvania, if you are domiciled in any country outside of Germany; or (b) Berlin, Germany, if you are domiciled in Germany.

- (o) **Dispute Resolution.** In the event of any dispute, claim, or controversy in connection with this Agreement (other than for disputes, claims, or controversies related to the intellectual property of a party) (collectively, "Disputes"), each party's senior representatives will, in good faith, attempt to resolve a Dispute. If the parties are unable to resolve a Dispute within thirty (30) days or within such other time as the parties may agree in writing, then the parties may commence binding arbitration under JAMS' Comprehensive Arbitration Rules and Procedures. The parties will share equally the fees and expenses of the JAMS arbitrator. The arbitration will be conducted by a sole arbitrator mutually agreed to between the parties or, failing that, by JAMS under its then prevailing rules. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrator will have the authority to grant specific performance or any other