



## ELITETRAK TERMS OF USE

1. **TERMS OF PAYMENT:** Customer (“Customer”) named in the foregoing Equipment and Service Agreement (“Agreement”) agrees to purchase from Atlanta Auto Tracker Inc. d/b/a EliteTrak. (hereafter EliteTrak) and EliteTrak agrees to sell to Customer, products (“Products”) as listed under the section designated “Product Information” in the Agreement. Customer will pay all invoices upon delivery of any product or service unless the Customer has established prior credit with EliteTrak as expressly provided for by EliteTrak. If Customer has established credit with EliteTrak as determined in EliteTrak’s discretion, then all amounts due to EliteTrak shall be paid in full by Customer no later than 30 calendar days after the date of the invoice for Products and/or services provided. Further, Customer shall pay all invoices for Service Fees and Airtime services no later than 30 calendar days after the date of the invoice regarding services fees and/or airtime service fees. Any invoice paid later than 30 calendar days after the date of the invoice shall be considered delinquent. Restrictive endorsements, terms, or other statements shall be deemed ineffective notwithstanding the acceptance of payment by EliteTrak. EliteTrak shall have the right to change the payment terms extended to Customer, or to cancel any order by Customer, in its sole discretion. All payments by Customer shall be sent to 134 Woodstock Square Ave. Suite 410, Woodstock, GA 30189, or to such other address as may be designated by EliteTrak to Customer. Prices quoted for Products do not include federal, state, or local excise, sales, use, property, or other taxes. All applicable taxes shall be billed by EliteTrak to Customer as separate items and shall be paid by Customer unless Customer furnishes to EliteTrak acceptable evidence of tax exemption by means of a tax exemption certificate, or otherwise. EliteTrak shall have the right to charge, and Customer shall pay, late charges on any unpaid delinquent balance, in an amount not to exceed the maximum late charge permitted by applicable law. Customer shall pay all reasonable attorney’s fees and expenses incurred by EliteTrak in the collection of any unpaid delinquent balance. EliteTrak shall have the right to remove Customer access to all EliteTrak software and online applications due to unpaid or delinquent balances.
2. **SERVICE FEES:** Service Fees and Airtime Service fees billing will begin on the date the Product is installed in the Customer’s vehicles for EliteTrak GPS Fleet Tracking Units. Services are billed for each individual activated unit. Airtime is defined as the two way wireless information service that is used to enable the activated units to send its current position and other data to the customer, or the two way wireless information service that is used by the customer to send data as either a request for the information or as another control command, to the activated unit, through the EliteTrak fleet management service. The service and airtime fees are based on the amount agreed upon per unit as listed in the Agreement. This airtime rate is charged monthly on a per unit basis. You will be charged this amount each month for each unit installed. If the customer fails to pay a monthly invoice in full within thirty (30) days of the invoice date, EliteTrak shall have the right to disconnect or otherwise interrupt all airtime or monitoring services. In the event the Customer fails to pay their invoice within the time provided and EliteTrak terminates or interrupts service, EliteTrak shall have the right to accelerate the full value of the contract and immediately pursue any and all remedies to collect the full value of the contract. The rights and remedies provided herein shall be cumulative and not exclusive of any rights or remedies provided by law, and the election of EliteTrak not to exercise a right or remedy shall not constitute a waiver of that right or remedy.
  - a. **CREDIT CARD CHARGE AUTHORIZATION:** EliteTrak may, as a condition of providing services, require Customer to execute a credit card authorization form which would allow EliteTrak to bill any invoices directly to a credit card. This Credit Card Authorization, if required, will be provided along with this contract.
3. **CREDIT ADVANCED TO CUSTOMER:** EliteTrak may, in its sole discretion sell Prepackaged Passive Units to Customer on credit extended by EliteTrak to Customer. In the event Customer fails to make the agreed upon payment to EliteTrak for any credit extended to Customer, EliteTrak shall have the right to immediately terminate, suspend, or otherwise interrupt any and all airtime or monitoring services. In the event the Customer fails to pay their invoice within the time provided and EliteTrak terminates or interrupts service, EliteTrak shall have the right to accelerate the full value of the contract and immediately pursue any and all remedies to collect the full value of the contract. The rights and remedies provided herein shall be cumulative and not exclusive of any rights or remedies provided by law, and the election of EliteTrak not to exercise a right or remedy shall not constitute a waiver of that right or remedy.
4. **TERMINATION:** ELITETRAK MAY TERMINATE THIS CONTRACT UPON ANY FAILURE OF THE CUSTOMER TO ABIDE BY THE PROVISIONS OF THIS AGREEMENT. UPON TERMINATION BY ELITETRAK, CUSTOMER SHALL DISCLOSE THE LOCATION OF EACH PRODUCT INSTALLED BY ELITETRAK AND ELITETRAK, IN ITS SOLE DISCRETION, SHALL HAVE THE RIGHT TO IMMEDIATE POSSESSION OF EACH PRODUCT. CUSTOMER SHALL BE LIABLE FOR ANY COSTS ASSOCIATED WITH RECOVERING THE PRODUCT.
5. **CHOICE OF LAW AND DEFINITIONS:** The terms and conditions hereof shall be governed by and construed in accordance with the laws of the State of Georgia. In addition, both parties consent to the venue and jurisdiction of Cherokee County Georgia for the resolution of any dispute

that might arise in connection with any goods or services sold pursuant to this agreement. The invalidity, in whole or in part, of any term or condition hereof shall not affect the validity of the remainder hereof. The failure of either EliteTrak or Customer to enforce at any time any of the terms and conditions hereof shall not constitute or be construed to be a waiver of such terms and conditions or of the right of such party thereafter to enforce any such terms and conditions. Customer is solely responsible for complying with any orders, rules, and regulations of the Federal Communication Commission, or any other federal, state or local governmental authority, applicable to the purchase, installation, and operation of Products. The terms and conditions hereof are for the benefit of EliteTrak and Customer and no other party. The terms and conditions hereof constitute the entire agreement between EliteTrak and Customer, and any modification or amendment hereof must be executed by EliteTrak and Customer.

6. **LIMITED SOFTWARE LICENSE:** In consideration of the payment of the fees listed under the section designated "Service Agreement" on the Agreement, and as specified in the End User License Agreement, EliteTrak grants to Customer a nonexclusive license to use directly or to sublicense the use to an end user of the computer program loaded on Products solely for purposes specified in the End User License Agreement. Customer shall not reverse engineer, decompile, or disassemble any licensed software. Elite Track retains all intellectual property rights and title to the software and any other intellectual property associated therewith. Customer may not sell, distribute, disseminate, or allow any additional access to the software or intellectual property without the express permission of EliteTrak.
7. **LIMITATION OF LIABILITY:** THE TOTAL LIABILITY OF ELITETRAK WITH RESPECT TO ANY AND ALL CLAIMS, IRRESPECTIVE OF THE FORM OF ACTION, WHETHER IN CONTRACT, OR TORT (INCLUDING NEGLIGENCE AND PRODUCT LIABILITY) OR OTHERWISE, ARISING OUT OF OR INCIDENT TO THE END USER LICENSE AGREEMENT OR USE OF ANY OF PRODUCTS OR SOFTWARE SHALL NOT EXCEED THE PRICE PAID TO ELITETRAK ALLOCABLE TO PRODUCTS ON WHICH SUCH CLAIM IS BASED. IN NO EVENT WILL ELITETRAK BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFIT OR REVENUES, LOSS OF USE, LOSS OF DATA, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWNTIME COST, OR CLAIMS OF CUSTOMER FOR SUCH DAMAGES, EVEN IF ELITETRAK KNEW OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE LIMITATIONS OR EXCLUSIONS SPECIFIED IN THIS SECTION MAY NOT APPLY TO CUSTOMER. ELITETRAK SHALL HAVE NO LIABILITY WHATSOEVER TO ANYONE FOR ANY CLAIMS OF PATENT, COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY INFRINGEMENT OR MISAPPROPRIATION OF TRADE SECRETS MADE AGAINST CUSTOMER INCIDENT TO THE PURCHASE OR USE BY CUSTOMER OF PRODUCTS OR SOFTWARE.
8. **LIMITED PRODUCT WARRANTY:** EliteTrak hereby warrants ("Limited Warranty") to Customer that Products sold by EliteTrak to Customer will be free from defects in workmanship and materials for a period ("Limited Warranty Period") of 1 calendar year after the date that Customer purchases Products. This Limited Warranty does not apply to Products purchased by Customer from a third party that is later installed by EliteTrak. The Limited Warranty does not apply to normal wear and tear and does not cover repair or replacement of any of Products damaged by tampering, misuse, accident, abuse, neglect, inadequate or improper installation, misapplication, alteration of any kind, disaster, or defects due to repairs or modifications made by anyone other than EliteTrak or an authorized service representative of EliteTrak. Further, the Limited Warranty does not apply to physical damage of any nature whatsoever to any Products, if it is determined, in EliteTrak's sole discretion, that a Product was opened or that someone attempted to open a Product. All Products when shipped will be in good working condition and Customer shall be solely responsible for verification that Products are in good working condition upon receipt. Customer hereby WAIVES ANY CLAIM FOR PRODUCTS WHICH ARE DEFECTIVE, DAMAGED, AND FOR ANY SHORTAGE IN QUANTITY FOR PRODUCTS DELIVERED UNLESS SUCH CLAIM IS MADE IN WRITING AND IS RECEIVED BY ELITETRAK WITHIN 10 CALENDAR DAYS AFTER RECEIPT BY CUSTOMER OF THE PRODUCTS. FOR PURPOSES OF THIS PROVISION THE CUSTOMER MUST SEND THE WRITTEN CLAIM BY CERTIFIED MAIL AND THE CLAIM MUST BE RECEIVED BY ELITETRAK AT 134 WOOSTOCK SQUARE AVENUE, SUITE 410, WOODSTOCK, GA 30189 (or other address provided in writing by EliteTrak to Customer), AS EVIDENCED BY THE SIGNATURE OF AN OFFICER OF ELITETRAK ON THE CERTIFIED MAIL RETURN RECEIPT. THIS CLAIM SHALL BE DEEMED RECEIVED BY ELITETRAK ON THE DATE LISTED AS RECEIVED ON THE RETURN MAIL RECEIPT. At the discretion of EliteTrak, defective Products shall be repaired or replaced by EliteTrak only within the Limited Warranty. REPAIR OR REPLACEMENT OF DEFECTIVE PRODUCTS IS THE EXCLUSIVE REMEDY OF CUSTOMER UNDER THE LIMITED WARRANTY. ELITETRAK SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES FOR BREACH OF THE LIMITED WARRANTY. ELITETRAK EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ANY WARRANTY ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE. SOFTWARE LOADED ON ANY PRODUCT IS PROVIDED "AS IS" WITHOUT WARRANTY. THE LIMITED WARRANTY GIVES CUSTOMER SPECIFIC SPECIAL RIGHTS. CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. SOME STATES MAY NOT ALLOW LIMITATIONS OF SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, AND THE LIMITATIONS SPECIFIED HEREIN MAY NOT APPLY TO CUSTOMER.
9. **LIMITED LABOR WARRANTY:** EliteTrak hereby warrants ("Limited Labor Warranty") to Customer that all products installed by EliteTrak shall be installed in a reasonable manner to ensure the proper function of the products installed. Accordingly, for the period of 1 calendar year from the date of installation EliteTrak shall repair any defects resulting from the improper installation of any product by EliteTrak. THIS WARRANTY DOES NOT APPLY TO PRODUCTS SOLD TO CUSTOMER BY ELITETRAK THAT ARE INSTALLED BY CUSTOMER OR ANY THIRD PARTY. THIS WARRANTY SHALL ONLY BE APPLICABLE IF THE CUSTOMER FIRST NOTIFIES ELITETRAK IN WRITING OF THE CLAIMED DEFECT OR CLAIMED PROBLEM IN INSTALLATION. NOTIFICATION IN WRITING MUST BE RECEIVED BY ELITETRAK VIA CERTIFIED MAIL AND SENT TO ELITETRAK AT 134 WOOSTOCK SQUARE AVENUE, SUITE 410, WOODSTOCK, GA 30189 (or other address provided in writing by EliteTrak to Customer), AS EVIDENCED BY THE SIGNATURE OF AN OFFICER OF ELITETRAK ON THE CERTIFIED MAIL RETURN RECEIPT. THIS CLAIM SHALL BE DEEMED RECEIVED BY

ELITETRAK ON THE DATE LISTED AS RECEIVED ON THE RETURN MAIL RECEIPT. ONCE THE CUSTOMER HAS NOTIFIED ELITETRAK AS SPECIFIED ABOVE OF THE ALLEGED DEFECT OR PROBLEM, ELITETRAK SHALL HAVE THE RIGHT TO INSPECT THE PRODUCT AND TO MAKE ANY REPAIRS IT DEEMS NECESSARY TO REPAIR THE ALLEGED PROBLEM OR DEFECT. THE CUSTOMER'S EXCLUSIVE REMEDY SHALL BE TO NOTIFY ELITETRAK AS DESCRIBED ABOVE AND TO ALLOW ELITETRAK TO MAKE REPAIRS AS IT DEEMS NECESSARY.

10. **LIMITATION OF LABOR WARRANTY:** THE LIMITED LABOR WARRANTY SHALL NOT APPLY IF THE CUSTOMER OR ANY OTHER PERSON OR ENTITY INSPECTS, REPAIRS, MODIFIES, OR OTHERWISE INTERFERES, WITH ANY PRODUCT INSTALLED BY ELITETRAK. THE LABOR WARRANTY SHALL NOT COVER ANY DAMAGE TO THE PRODUCT THAT OCCURS AFTER THE INSTALLATION BY ELITETRAK NOR SHALL THE LABOR WARRANTY COVER ANY PROBLEMS THAT WERE NOT CAUSED BY ELITETRAK IN INSTALLING THE PRODUCT. ELITETRAK SHALL HAVE THE SOLE DISCRETION TO DETERMINE HOW THE DAMAGE WAS CAUSED. IF ELITETRAK, IN ITS SOLE DISCRETION, DETERMINES THAT ELITETRAK DID NOT CAUSE THE DAMAGE, THE WARRANTY SHALL NOT APPLY AND ELITETRAK SHALL NOT BE RESPONSIBLE FOR MAKING ANY REPAIRS. FURTHER, SHOULD ELITETRAK DETERMINE THAT THE DAMAGE WAS CAUSED BY ANY PERSON OR ENTITY OTHER THAN ELITETRAK, CUSTOMER SHALL BE RESPONSIBLE FOR PAYING ALL COSTS ASSOCIATED WITH ELITETRAK CONDUCTING THE INSPECTION OR EVALUATION OF THE PROBLEM INCLUDING ANY COSTS OR EXPENSES ASSOCIATED WITH THAT INSPECTION AND/OR THE COST OF ANY REPAIRS.
11. **TITLE:** Title and right of possession without legal process to Products shall remain with EliteTrak until all payments due hereunder shall have been made. Customer shall do all acts necessary to maintain title in EliteTrak and, if requested by EliteTrak, to perfect a Uniform Commercial Code security interest in favor of EliteTrak in Products.
12. **LIMITED RETURN POLICY:** Products purchased as new and later returned to EliteTrak within 10 calendar days of the original sale and confirmed by EliteTrak to be unused will be accepted for return with a 15% restocking fee. Shipping and handling fees and any activation fees will not be refunded. All returns must be accompanied with a return product authorization number issued in writing or by fax from EliteTrak and will not be accepted otherwise. Products purchased as used will not be accepted for return.
13. **CREDIT INFORMATION:** CUSTOMER HEREBY AUTHORIZES ELITETRAK TO MAKE INQUIRY AS TO CREDIT INFORMATION PERTAINING TO CUSTOMER FOR ANY REASONABLE AND LEGAL PURPOSE AND AUTHORIZES ELITETRAK TO CONDUCT ANY OTHER INVESTIGATION IT DEEMS NECESSARY.
14. **EXPORT:** Customer will not export Products, directly or indirectly, from the United States of America.
15. **ASSIGNMENT:** EliteTrak may assign its rights under this Agreement without prior notice to Customer. Upon assignment EliteTrak shall be released from all liability hereunder. The provisions hereof are for the benefit of EliteTrak and Customer and not for any other entity. The delegation or assignment by Customer of any or all of its duties or rights hereunder without the prior written consent of EliteTrak shall be ineffective and shall terminate this agreement.
16. **FORCE MAJEURE:** EliteTrak shall not be deemed in default hereof for delay, failure in performance, loss, or damage due to fire, strike, embargo, explosion, power irregularities or interruptions, earthquake, nuclear incident, volcanic action, flood, war, water, the elements, labor dispute, civil disturbances, governmental requirement, civil or military authority, acts of God or public enemy, inability to secure Products or transportation facilities, acts or omissions of common carriers, or other causes beyond the reasonable control of EliteTrak.
17. **END OF TERM:** Upon completion of the service term under this agreement, EliteTrak GPS may continue to provide service under this agreement on a month to month basis, at the current rates, unless Customer enters into a new agreement.
18. **COSTUMER RESPONSIBILITY:** THE CUSTOMER IS REPONSIBLE FOR PROVIDING ANY AND ALL DISCLOSURES REQUIRED BY LAW TO ANY PURCHASER OR ANY OTHER PARTY REQUIRED BY LAW. ELITETRAK SHALL NOT BE LIABLE FOR ANY CLAIM OR CAUSE OF ACTION INITIATED BY ANY PARTY DUE TO THE ALLEGED FAILURE OF THE CUSTOMER TO PROVIDE ANY REQUIRED NOTICES.
19. **GENERAL LIMITATION OF LIABILITY:** THE TOTAL LIABILITY OF ELITETRAK WITH RESPECT TO ANY AND ALL CLAIMS, IRRESPECTIVE OF THE FORM OF ACTION, WHETHER IN CONTRACT, OR TORT (INCLUDING NEGLIGENCE AND PRODUCT LIABILITY) OR OTHERWISE, ARISING OUT OF OR INCIDENT TO ANY ASPECT OF THE RELATIONSHIP BETWEEN ELITETRAK AND THE CUSTOMER SHALL NOT EXCEED THE PRICE PAID TO ELITETRAK ALLOCABLE TO PRODUCTS OR SERVICES ON WHICH SUCH CLAIM IS BASED. IN NO EVENT WILL ELITETRAK BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFIT OR REVENUES, LOSS OF USE, LOSS OF DATA, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWNTIME COST, OR CLAIMS OF CUSTOMER FOR SUCH DAMAGES, EVEN IF ELITETRAK KNEW OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE LIMITATIONS OR EXCLUSIONS SPECIFIED IN THIS SECTION MAY NOT APPLY TO CUSTOMER. FURTHER, ELITETRAK SHALL NOT BE LIABLE TO ANY PERSON OR ENTITY IF CUSTOMER IMPLEMENTS OR USES ANY PRODUCT OR SERVICE IN ANY MANNER NOT ALLOWED BY LAW.
20. **NO THIRD PARTY LIABILITY:** This Agreement shall be binding upon, inure solely to the benefit of, and be enforceable by only the parties hereto, their respective successors and permitted assigns, and nothing in the Agreement, express or implied, is intended to or shall confer upon

any person, other than the parties hereto, their respective successors and permitted assigns, any rights, remedies, obligations, or liabilities of any nature whatsoever.

21. **MERGER**: This Agreement contains the entire agreement between the parties with respect to the subject matter of the Agreement and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of the Agreement.
22. **CONSTRUCTION**: The parties hereto have each been represented by counsel or have had access to counsel during the negotiation and execution of this Agreement, and therefore waive application of any law, regulation, holding or rule of construction providing that ambiguities in the contract will be construed against the party drafting such contract.
23. **SEVERABILITY**: If any one or more of the provisions or parts of a provision contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect in any jurisdiction, such determination of invalidity, illegality, or unenforceability shall not affect any other provision or part of a provision, but this Agreement shall be reformed and construed as if such invalid, illegal or unenforceable provision or part of a provision had never been contained herein and such provision or part shall be reformed so that it would be valid, legal and enforceable to the maximum extent permitted in such jurisdiction.