

OWL CUSTOMER AGREEMENT

[Agreement Date]

Version 1.0

[Customer Name]

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Onwave UK Limited

Onwave UK Ltd.

4, Abbey Wood Road, Kings Hill

West Malling

Kent ME19 4AB

1 INTRODUCTION

- 1.1 Onwave has developed OWL, a geofencing software application, which it makes available to users as an online service. The Customer wishes to use OWL in its business operations in relation to Projects.
- 1.2 The Service Order Form (Schedule 1), together with these Onwave OWL Terms and Conditions, sets out the basis on which Onwave makes OWL available and forms the Agreement between Onwave and the Customer named in the Service Order Form for the use of the OWL Services.
- 1.3 If there is any inconsistency between the main body of these OWL Terms and Conditions and any provision of the Schedules, the OWL Terms and Conditions shall take precedence.
- 1.4 These Terms, as updated by Onwave from time to time and are deemed incorporated into each Service Order Contract entered into for OWL Services with the Customer pursuant to this Agreement.

2 INTERPRETATION

- 2.1 The definitions and rules of interpretation in this clause apply in the Agreement.

Active Authorised Users: means an Authorised User whose user account is set as active within the User Management page of the OWL Portal and regardless of whether the Authorised User is at the Project Location, uses or does not use the OWL Services.

Active Plant Users: means Plant which is allocated a Tracker Device and is being monitored and/or tracked via the OWL Services requiring a Plant Licence.

Agreement: means the contract between Onwave and the Customer comprising OWL Terms and Conditions, the accompanying Service Order Form, and the End User Licence Agreement.

Authorised Users: means those employees, agents and independent contractors of the Customer who are authorised by the Customer in relation to a particular Project to use the OWL Services details of whom are notified to Onwave as set out in clause 3.

Business Day: means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Confidential Information: means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 18.5 or clause 18.6.

Consumables: has the meaning given to it in clause 6.1.

Customer: means the customer named in the Contract Details.

Company Administrator: means the Customer's Company administrator named in the Contract Details (or their replacement as notified to Onwave by the Customer in writing from time to time) who is authorised by the

Customer to set up new Projects and assign Authorised Users to those Projects via the OWL Services.

Customer Data:	means: (a) the data inputted by the Customer or its Authorised Users (or by Onwave behalf of the Customer or its Authorised Users) into the OWL Services including details of the Authorised Users, the Project (including the address of the Project Location), the areas/zones set by applicable Authorised Users and the related rules set by applicable Authorised Users; and (b) the movement logs created by the OWL Services in relation to the Authorised Users.
Data Protection Legislation:	means all relevant data regulations including applicable data protection and privacy legislation in force from time to time including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party. The terms controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures shall have the meanings given in the Data Protection Legislation.
Documentation:	means the documentation which sets out the description of the OWL Services and the user instructions for the OWL Services as made available to the Customer by Onwave from time to time. Documentation will be made available via the Onwave website at www.owl-bi.com
Effective Date:	means the date on which the Contract Details is signed by the Customer.
End User Licence Agreement:	means the licence terms governing the access and use by Authorised Users of the OWL Software and Services.
Force Majeure Event:	has the meaning given to it in clause 22.
Full Licence:	A type of OWL licence which provides Customer's Authorised Users assigned this type of licence access to all functions within the OWL Services. Supplementary role based access control may also be added by the Customer within the Portal.
Installation Date:	has the meaning given to it in clause 8.6.
Intellectual Property Rights:	means all patents, copyrights, design rights, trade marks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or not)

and all applications for the same which may now, or in the future, subsist anywhere in the world, including the right to sue for and recover damages for past infringements.

Normal Business Hours:	means 8.00 am to 5.00 pm local UK time, each Business Day.
Onwave:	means Onwave UK Limited, a company registered in England and Wales with company number 07490613 whose registered office is at 4 Abbey Wood Road, Kings Hill, West Malling, England ME19 4AB.
OWL Credits:	means the number of credits purchased by the Customer in relation to a particular Project pursuant to this agreement.
OWL Portal:	means Onwave's online portal which enables the Customer to use the OWL Services including the ability to add and define Projects, set areas/zones and allocate Authorised Users, in each case in accordance with the Documentation and the terms of the Agreement.
OWL Services:	means the services made available to the Customer by Onwave in accordance with the term of the Agreement comprising the licence to use the OWL Software and access to the OWL Portal on a subscription basis, and where the context requires, the provision of related services, Tags, RTK Base Stations, and Consumables, as set out in the Agreement.
OWL Software:	means the mobile software application known as OWL which is made available to the Customer by Onwave for mobile devices (via iOS, Android or Onwave supplied GPS trackers) to enable the location of Authorised Users at Project Locations to be tracked and recorded via the OWL Services.
Plant Licence:	A type of OWL licence required for each item of plant (such as machinery or equipment) which a Customer requires monitored and/or tracked via the OWL Services. The licence does not permit access to the OWL Software or Portal.
Plant:	means each item of plant the Customer may wish to become an Active Plant User from time to time and assign a Plant Licence to as part of a particular Project.
Project:	means a distinct project for which the Customer wishes to use the OWL Services. The initial Project is described in the Contract Details. Additional Projects may be added by the Company Administrator from time to time via the OWL Portal.
Project Location:	means the geographical location at which the Project is being performed.
Professional Services Charges:	means the professional services charges set out within the Service Order Form for provision of ad hoc or professional services that are made available in support of the OWL Service by Onwave to the Customer.

RTK Base Stations:	has the meaning given to it in clause 8.3.
RTK Base Station Guidance:	means Onwave's document which provides guidance on how to keep and maintain the RTK Base Stations as made available to the Customer from time to time. This documentation will be available via the Onwave website at www.owl-bi.com .
RTK Service:	means where a relevant Tag connects to an RTK Base Station to provide correction data to provide enhanced accuracy of location for the Authorised User.
Service Order Form	means the service order form set out at Schedule 1.
Support Services Policy:	means Onwave's support services policy for the OWL Services as updated by Onwave from time to time.
Tags	means those tags detailed in the Contract Details, and such other Tags as may be supplied from time to time by Onwave to the Customer, in accordance with the terms of this Agreement to enable the location of Authorised Users and Active Plant Users at Project Locations to be tracked and recorded via the OWL Services.
Third Party Hosting Provider:	means the third party service providers used by Onwave to host the OWL Software and OWL Portal from time to time. Onwave shall be entitled to change its Third Party Hosting Providers at any time at its absolute discretion.
Third Party Software:	has the meaning given to it in clause 16.1.
Tracker Devices:	means a mobile phone or other device onto which the OWL Software is downloaded, or other dedicated tracking device (including the Tags), in each case to enable the location of Authorised Users and Active Plant Users at Project Locations to be tracked and recorded via the OWL Services.
Tracker Device Guidance:	means Onwave's document which provides guidance on how to use Tracker Devices as made available to the Customer from time to time. This documentation will be available via the Onwave website at www.owl-bi.com
View Licence:	A type of OWL licence which provides Customer's Authorised Users assigned this type of licence access to the following limited functions within the OWL Portal: Live View, Reports, Dashboards. Supplementary role based access control may also be added by the Customer within the Portal.
Virus:	means anything (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or

otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Vulnerability: means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly.

- 2.2 Clause, schedule and paragraph headings shall not affect the interpretation of the Agreement. References to clauses and schedules are to the clauses and schedules of the Agreement; references to paragraphs are to paragraphs of the relevant schedule to the Agreement.
- 2.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality). A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 2.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders.
- 2.5 A reference to a statute or statutory provision is a reference to it as it is in force from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 2.6 A reference to writing or written includes e-mail.

3 **AUTHORISED USERS AND ACTIVE PLANT USERS**

- 3.1 The Customer shall appoint a Company Administrator who will be responsible for setting up new Projects and adding other Authorised Users and Active Plant Users for administering and participating in those Projects (as applicable) via the OWL Portal in accordance with the applicable OWL licence type assigned to them. Authorised Users shall require either a Full Licence or a View Licence. Active Plant Users require a Plant Licence.
- 3.2 The Company Administrator may, from time to time, add or replace Authorised Users and Active Plant Users in relation to a Project (subject to the Customer having a positive balance of Owl Credits).
- 3.3 The Customer acknowledges that it is solely responsible for the acts and omissions of its Authorised Users and in relation to its Active Plant Users (including the Company Administrator).
- 3.4 In relation to the Authorised Users and Active Plant Users, the Customer undertakes that:
 - 3.4.1 it shall ensure that the Authorised Users and Active Plant Users use the OWL Services in accordance with the Documentation, the Agreement and the applicable End User Licence Agreement and it shall be responsible for any breaches by Authorised User's of these Licence terms;
 - 3.4.2 it shall ensure that the Tracker Devices are used by the Authorised Users and in relation to the Active Plant Users in accordance with the Tracker Device Guidance;

- 3.4.3 each Authorised User shall keep a secure password for their use of the OWL Portal and Software, and shall keep their password confidential and not share their password with anyone else (including without limitation another employee or contractor of the Customer). Onwave reserve the right to initiate a change of password for a user if Onwave believes that a user account is no longer secure;
- 3.4.4 it shall permit Onwave to conduct a remote audit of the OWL Services in order to ensure compliance with the Agreement, in such a manner as not to substantially interfere the with Customers normal conduct of business. Where an audit reveals that the OWL Services are being used outside the terms of the Agreement for example where accounts for Authorised Users are being shared Onwave shall have the right to disable or suspend such Authorised User accounts and to charge the Customer any unpaid fees for OWL Credits that would have properly been due. Onwave will invoice the Customer for such unpaid fees identified during the Audit and the Customer shall pay to Onwave to such underpayment within 60 Business Days.

4 CUSTOMER ONBOARDING

- 4.1 The On-boarding items to be provided by Onwave for the initial Project are as set out in the Service Order Form.

5 PROJECTS AND LICENCES

- 5.1 The Customer acknowledges that they will require different licences for a Project depending on the combination of OWL Services required and for what purposes:
- 5.1.1 Authorised Users shall require either a Full Licence or a View Licence; and
- 5.1.2 Active Plant Users shall require a Plant Licence.
- 5.2 Each licence required by the Customer for a Project utilises a different number of OWL Credits per user per day.
- 5.3 Onwave grants the Customer's Authorised Users and Active Plant Users a limited, non-transferable, non-sublicensable licence to use the OWL Services during the term of the Agreement subject to the Customer paying the applicable fees to maintain a positive balance of OWL Credits and complying with the terms of the Agreement.
- 5.4 The greater the number of Active Authorised Users and Active Plant Users who use the OWL Services, the faster the Customer's purchased number of OWL Credits will be consumed.
- 5.5 The OWL Portal will display a countdown timer showing the number of remaining access/use days based on the number of purchased OWL Credits (subject to such functionality being available), the dates of purchase of these and the number of Active Authorised Users and Active Plant Users registered to that Company at that particular time, as well as other related items being used which consume OWL Credits.
- 5.6 If the Customer wishes to add access time during the term of the Agreement or purchase any additional OWL Credits for a new or existing Project, it can do so via the OWL Portal (subject to such functionality being available). Where such functionality is not available via the OWL Portal the Customer may add any new Projects or purchase any additional OWL Credits for a new or existing Project via Onwave's sales desk as directed by Onwave in writing.

6 CONSUMABLES

- 6.1 Onwave offers a range of Consumables which the Customer may like to purchase from Onwave from time to time. The Consumables required by the Customer for the initial Project are set out in the Service Order Form. Any other Consumables required by the Customer and to be supplied by Onwave may be ordered via the OWL Portal (subject to such functionality being available). Where such functionality is not available via the OWL Portal, the Customer may order Consumables and purchase the required OWL Credits for such Consumables via Onwave's sales desk or as directed by Onwave in writing ("**Consumables**").
- 6.2 The provisions set out in Schedule 3 shall apply to the supply of Consumables by Onwave which will apply in addition to the terms set out in the main body of this Agreement.

7 TAGS

- 7.1 Onwave offers a range of Tags which the Customer may like to hire from Onwave from time to time. The Tags to be hired by the Customer for the initial Project are set out in the Service Order Form. Any other Tags required by the Customer and to be supplied by Onwave may be ordered via the OWL Portal (subject to such functionality being available). Where such functionality is not available via the OWL Portal, the Customer may order Tags and purchase the required OWL Credits for such Tags via Onwave's sales desk or as directed by Onwave in writing.
- 7.2 The provisions set out in Schedule 4 shall apply to the hire of Tags by the Customer which will apply in addition to the terms set out in the main body of this Agreement.

8 RTK BASE STATIONS

- 8.1 Onwave offers RTK Base Stations which the Customer may hire from Onwave from time to time. Where it wishes to do so the Customer shall discuss and agree with Onwave the relevant geographical area it wishes to install the RTK Base Stations the number required and how and where these can be positioned.
- 8.2 If the Customer wishes to proceed with the hire of the RTK Base Stations, the Customer shall order and pay for the relevant number of OWL Credits for Onwave to carry out:
- 8.2.1 Pre-Installation Survey – to survey the applicable area and confirm the precise locations of the base stations to be hired and what is specifically required for the base stations to be installed and set-up;
 - 8.2.2 Installation/set-up – installation and set-up of the base stations in accordance with the completed Pre-Installation Survey; and
 - 8.2.3 Hire – hire of the base stations themselves on an ongoing periodic basis.
- 8.3 The RTK Base Stations required by the Customer for the initial Project is set out in the Service Order Form. Any other RTK Base Stations required by the Customer and to be supplied by Onwave may be ordered via the OWL Portal (subject to such functionality being available). Where such functionality is not available via the OWL Portal, the Customer may order RTK Base Stations and purchase the required OWL Credits for such RTK Base Stations via Onwave's sales desk or as directed by Onwave in writing ("**RTK Base Stations**").
- 8.4 The Customer shall provide all reasonable assistance, information and access to Onwave to enable Onwave to carry out the Pre-Installation Survey and subsequent installation and set-up of the RTK Base Stations.

- 8.5 Onwave shall use reasonable skill and care when installing and setting up the RTK Base Stations.
- 8.6 For the purposes of this Agreement the installation of the RTK Base Stations will be deemed complete by Onwave's Field Engineer when they provide the Customer with a signed and dated certificate of installation, notwithstanding that further ancillary and/or related work may still need to be carried out by the Customer and/or the Customer's sub-contractors. The date stated on the Onwave installation certificate shall be the "**Installation Date**" for the purposes of this Agreement.
- 8.7 The provisions set out in Schedule 4 shall apply to the hire of the RTK Base Stations by the Customer which will apply in addition to the terms set out in the main body of this Agreement.
- 8.8 The Customer acknowledges that where it is using the RTK Service, the RTK Base Stations will need to be hired for so long as the Customer wishes to use the RTK Service.

9 RESTRICTIONS ON THE USE OF THE OWL SERVICES

- 9.1 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the OWL Services that:
- 9.1.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 9.1.2 facilitates illegal activity;
 - 9.1.3 depicts sexually explicit images;
 - 9.1.4 promotes unlawful violence;
 - 9.1.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 9.1.6 is otherwise illegal or causes damage or injury to any person or property.
- 9.2 The Customer shall not:
- 9.2.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Agreement:
 - 9.2.1.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the OWL Services and/or the Documentation (as applicable) in any form or media or by any means; or
 - 9.2.1.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the OWL Services.
 - 9.2.2 access all or any part of the OWL Services or the Documentation in order to build a product or service which competes with the OWL Services and/or the Documentation; or
 - 9.2.3 subject to clause 288, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the OWL Services

and/or Documentation available to any third party except the Authorised Users;
or

9.2.4 attempt to obtain, or assist third parties in obtaining, access to the OWL Services and/or Documentation, other than as permitted under the Agreement; or

9.3 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the OWL Services and, in the event of any such unauthorised access or use, shall promptly notify Onwave.

9.4 The rights granted to the Customer under the Agreement are granted to the Customer only, and shall only be considered granted to any group company of the Customer where these are explicitly defined within Schedule 4 and where such company is procuring OWL Services. The Customer shall procure such group company's compliance with the terms of this Agreement, and the Customer shall remain responsible for the acts or omissions of such group companies and the acts and omissions of those employed or engaged by those companies as if they were its own.

9.5 Onwave reserves the right, without liability to the Customer or prejudice to Onwave's other rights and remedies, to disable or suspend the Customer's access to the OWL Services in the event of a breach of this clause 9.

10 **SUPPORT AND TRAINING**

10.1 Onwave will, as part of the OWL Services provide the Customer at no additional cost (subject to clause 10.2) with Onwave's standard customer support services during Normal Business Hours in accordance with Onwave's Support Services Policy in effect at the time that the OWL Services are provided. Onwave may amend the Support Services Policy in its sole and absolute discretion from time to time.

10.2 The Customer agrees that where Onwave provides support services to it in relation to issues and/or faults which in Onwave's sole opinion are overly repetitive and persistent and/or which upon investigation by Onwave are groundless, Onwave shall be entitled to charge the Customer for its time and effort in providing the support services in relation to such issues and/or faults.

10.3 Should the Customer require additional support and training, the Customer acknowledges that can be provided by way of professional services, such additional support and training shall be chargeable by Onwave. Prior to delivering these professional services Onwave shall issue a Service Order Form which will set out the Professional Services Charges. Such Professional Services Charges shall be directly invoiced and payable by the Customer as set out within the Service Order Form which shall be agreed in writing between the parties.

11 **SERVICE WARRANTY**

11.1 Onwave warrants that the OWL Services will be performed in accordance with the Documentation and with reasonable skill and care.

11.2 If the OWL Services do not conform with the foregoing warranty, Onwave shall, at its expense, use all reasonable endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the warrant set out in clause 11.1.

11.3 Onwave warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Agreement.

- 11.4 Onwave does not warrant that:
- 11.4.1 the Customer's use of the OWL Services will be uninterrupted or error-free;
 - 11.4.2 that the OWL Services, Documentation and/or the information obtained by the Customer through the OWL Services will meet the Customer's unique/specific requirements or be fit for any purpose expressly or implicitly made known to Onwave by the Customer; or
 - 11.4.3 the OWL Services will be free from Vulnerabilities.
- 11.5 The Customer accepts responsibility for the selection of the OWL Services to achieve its intended results and acknowledges that the Software has not been developed to meet the individual requirements or intended purpose of the Customer.
- 11.6 Onwave is not responsible for any delays, delivery failures or service impacts resulting from the transfer of data over communications networks including cellular and GPS networks, and the customer acknowledges that the OWL Service relies on such services meaning that it can only provide best efforts service levels in respect of these components.
- 11.7 The Agreement shall not prevent Onwave from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the Agreement.
- 11.8 OWL Services should never be used as a replacement for Customers existing health and safety procedures or general health and safety good practice. The OWL Services are not a substitute for carrying out operations with all due care and attention and should not be relied upon to notify Authorised Users of all risks and restrictions. OWL is not intended to be used as a safety critical device.

12 **CUSTOMER'S OBLIGATIONS**

- 12.1 The Customer shall:
- 12.1.1 provide Onwave with all necessary co-operation in relation to the Agreement and all necessary access to such information as may be required by Onwave in order to provide the OWL Services, including but not limited to Customer Data, security access information and configuration services;
 - 12.1.2 without affecting its other obligations under the Agreement, comply with all applicable laws and regulations with respect to its activities under the Agreement;
 - 12.1.3 carry out all other Customer responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Onwave may adjust any agreed timetable or delivery schedule as reasonably necessary;
 - 12.1.4 obtain and shall maintain all necessary licences, consents, and permissions necessary for Onwave, its contractors and agents to perform their obligations under the Agreement, including without limitation the OWL Services;
 - 12.1.5 ensure that its network and systems and any Tracker Devices used by it and its Authorised Users comply with the relevant specifications provided by Onwave from time to time; and

12.1.6 be, to the extent permitted by law and except as otherwise expressly provided in the Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to data centres specified (or those used by Onwave from time to time), and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

12.2 The Customer acknowledges that:

12.2.1 the OWL Services are intended to serve as a project management aid and are not to be used as a safety critical tool. The OWL Services are not a substitute for carrying out operations with all due care and attention and should not be relied upon to notify Authorised Users of all risks and restrictions;

12.2.2 Onwave shall have no responsibility to the Customer, the Authorised Users or any third party for procuring compliance with any tasks or rules set by the Customer (or the applicable Company Administrator or other applicable Authorised Users) in relation to a Project via the OWL Portal;

12.2.3 the Customer assumes sole responsibility for:

12.2.3.1 setting the areas/zones;

12.2.3.2 the tasks and rules applicable to the areas/zones it sets;

12.2.3.3 any actions or activities taken by the Customer and/or its Authorised Users when using the OWL Services and the Documentation;

12.2.3.4 compliance with all applicable laws (including without limitation health and safety laws);

12.2.4 Onwave shall have no responsibility or liability for any damage caused by errors or omissions in any information, instructions, rules or scripts:

12.2.4.1 provided to Onwave by the Customer in connection with the OWL Services;

12.2.4.2 created by the Customer or its Authorised Users in relation to a Project; and/or

12.2.4.3 any actions taken by Onwave at the Customer's direction;

12.3 The Customer shall defend, indemnify and hold harmless Onwave against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the use of the OWL Services and/or Documentation by the Customer or its Authorised Users. Onwave will provide reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense provided that Onwave is given prompt notice of any such claim.

13 **CUSTOMER DATA**

13.1 The Customer shall own the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of all such Customer Data. The Customer grants Onwave a licence to use the Customer Data to the extent necessary to enable Onwave to provide the OWL Services.

- 13.2 Onwave shall follow its archiving procedures for Customer Data as set out in its Data Management Policy which is available on request (as amended by Onwave in its sole discretion from time to time). In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against Onwave shall be for Onwave to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Onwave in accordance with the archiving procedure described in its Data Management Policy. Onwave shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Onwave to perform services related to Customer Data maintenance and back-up).
- 13.3 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 13.4 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and Onwave is the data processor with regard to personal data processed in relation to the OWL Services. Schedule 1 sets out the scope, nature and purpose of processing by Onwave, the duration of the processing and the types of personal data and categories of data subject.
- 13.5 Without prejudice to the generality of clause 13.3, the Customer, as data controller, will ensure that it has all necessary appropriate consents and notices in place to enable hosting and processing of the personal data by Onwave for the duration and purposes of this Agreement.
- 13.6 Onwave will maintain a privacy notice on the OWL Portal giving Authorised Users basic information about what data is collected via the OWL Services and how it is used by Onwave (**OWL Service Privacy Notice**). This OWL Service Privacy Notice will be provided to help Authorised Users understand how the OWL Service operates but will not make Onwave a data controller or place any responsibility on Onwave for providing information to Authorised Users. Such obligation will remain with the Customer as the data controller.
- 13.7 Without prejudice to the generality of clause 13.3, Onwave shall, in relation to any personal data processed in connection with the performance by Onwave of its obligations under this Agreement:
- 13.7.1 process that personal data only on the written instructions of the Customer (and the Customer hereby instructs Onwave to process the personal data as necessary to provide the OWL Services and as otherwise described in this Agreement) unless Onwave is required by Data Protection Legislation to otherwise process that personal data. Where Onwave is relying on laws of a member of the European Union or European Union law as the basis for processing personal data, Onwave shall promptly notify the Customer of this before performing the processing required by Data Protection Legislation unless that Data Protection Legislation prohibits Onwave from so notifying the Customer;
- 13.7.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

- 13.7.3 not transfer any personal data outside the European Economic Area unless the following conditions are fulfilled:
 - 13.7.3.1 the Customer or Onwave has provided appropriate safeguards in relation to the transfer;
 - 13.7.3.2 the data subject has enforceable rights and effective legal remedies;
 - 13.7.3.3 Onwave complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - 13.7.3.4 Onwave complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
- 13.7.4 assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 13.7.5 notify the Customer without undue delay on becoming aware of a personal data breach;
- 13.7.6 at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Agreement unless required by Data Protection Legislation to store the personal data; and
- 13.7.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 12.1.
- 13.8 The Customer consents to Onwave appointing third-party processors of personal data under this Agreement. Onwave confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between the Customer and Onwave, Onwave shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 13.8.
- 13.9 The Customer shall ensure that it shall bring to each Authorised User's attention, prior to use by them of the OWL Services, a copy of the OWL Services Privacy Notice, and the Customer's own policy detailing how the Customer will use the personal data collected or otherwise obtained by the Customer (either directly or via Onwave) in relation to the Authorised Users.
- 13.10 Onwave shall only retain the Customer Data for so long as is needed for the purposes of the Agreement or otherwise as required to comply with any applicable laws (including without limitation Data Protection Legislation).
- 13.11 Onwave shall delete all Customer Data within 60 days of termination of the Agreement save to the extent that Onwave is required to retain such Customer Data in order to comply with any applicable laws (including without limitation Data Protection Legislation). For the purposes of this clause, the term "delete" shall mean to put such data beyond use.
- 13.12 The Customer agrees that Onwave shall be permitted to collect and retain (both during the term of the Agreement and after termination) anonymised and statistical data derived from the use of the OWL Services by the Customer and its Authorised Users provided that such data does not identify (and cannot be used to identify) the Customer or its Authorised Users.

14 CHARGES AND PAYMENT

- 14.1 The Customer acknowledges that it must purchase OWL Credits to use the OWL Services.
- 14.2 If the Customer wishes to purchase OWL Credits, it can do so via the OWL Portal (subject to such functionality being available). Where such functionality is not available the Customer may purchase OWL Credits via Onwave's sales desk or as directed by Onwave in writing.
- 14.3 Onwave will provide a quote for the OWL Credits that the Customer requires within 48 hours of any such request.
- 14.4 OWL Credits can be purchased to cover every element of the OWL Services, this includes items that have one-off credit charges (for example Consumables). as well as items that have a daily or other periodic OWL Credit charges (for example relevant user licences and Tag hire).
- 14.5 The Customer shall provide to Onwave approved purchase order information or a credit card to allow Onwave to take payment for OWL Credits.
- 14.6 if the Customer provides its credit card details to Onwave, the Customer hereby authorises Onwave to bill such credit card:
- 14.6.1.1 on the Effective Date for the fees payable in respect of the initial Owl Credits set out in the Contract Details; and
 - 14.6.1.2 on the due date for the fees payable in respect of any additional Owl Credits purchased by the Customer from time to time in accordance with this Agreement.
- 14.7 If the Customer provides a Purchase Order it must provide any other relevant valid, up-to-date and complete contact and billing details needed to allow payment to Onwave, Onwave shall invoice the Customer for OWL Credits immediately on receipt of the purchase order
- 14.8 Where the Customer does not have an agreed financial credit limit with Onwave, OWL Credits will be deposited into the Customer's account within 48 hours of receipt of payment from the Customer.
- 14.9 Where the Customer does have an agreed financial credit limit OWL Credits will be deposited into the Customer's account within 48 hours of receipt of a valid purchase order or payment from the Customer, whichever is the earlier.
- 14.10 If Onwave has not received payment within 30 days, and without prejudice to any other rights and remedies of Onwave (including those set out in clause 19.1) Onwave shall have the right to remove any OWL Credits applied to the Customer account with immediate effect, and interest shall accrue on a daily basis on such due amounts at an annual rate equal to 8% over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 14.11 Once purchased, OWL Credits are non-refundable and are not transferable to third parties (including members of the Customer's group).
- 14.12 The OWL portal will automatically account for the utilisation of OWL Credits, OWL Credits will be deducted from the Project credit balance for one-off services as these are delivered by Onwave, and for licenses, tags and base stations which have a periodic credit charge, on a daily basis.

- 14.13 The Customer acknowledges that how long OWL Credits last will depend upon several factors including the number of Active Authorised Users, Active Plant Users, Tags etc and the credit value applicable to each item as illustrated by the example below:

Illustrative Example. If a Customer purchases 80 Owl Credits for a Project and a Full Licence has a credit rating of 10 Owl Credits per user per day, this would mean that the Customer could either have: i) one Active Authorised User (with a Full License) for ten days; or ii) two Active Authorised Users (with a Full License) for five days.

- 14.14 All amounts and fees stated or referred to in the Agreement:

14.14.1 shall be payable in Pounds Sterling, payment in US Dollars or Euro's is available via prior agreement;

14.14.2 are non-cancellable and non-refundable in respect of OWL credits (save as set out in clause 14.15) once these have been deposited with the Customer; and

14.14.3 are exclusive of VAT, which shall be added to Onwave's invoice(s) at the appropriate rate.

- 14.15 At the end of a Project, any OWL Credits purchased by the Customer relating to that Project may be reassigned to another of the Customer's Projects.

- 14.16 Any unused OWL Credits (or remaining days thereof) will expire on the later of: (a) three years from the date of purchase; and (b) termination of the Agreement.

- 14.17 If, at any time whilst using the OWL Services, the Customer exceeds the amount of data storage space specified in the Documentation, Onwave may charge the Customer, and the Customer shall pay, Onwave's then current excess data storage fees. The Customer may also, at any time, request an increase to the standard data storage offered by Onwave for an additional monthly cost as specified by Onwave.

- 14.18 Price Increases for OWL credits will be agreed on an annual basis between the parties. Where no agreement can be reached in respect of the prices, either party may terminate this agreement in accordance with Clause 21. Annual price increases proposed shall not exceed the percentage increase in the Retail Price Index in the applicable preceding 12-month period plus 5%.

15 LOW OWL CREDITS

- 15.1 The Customer acknowledges that to use the OWL Services, it must maintain a positive balance of OWL Credits.

- 15.2 The OWL Portal will display the number of days the OWL Services will continue to operate for based on the current OWL Credit balance and the current Credit consumption rate based on the number of items currently consuming OWL Credits (subject to such functionality being available).

- 15.3 The OWL Portal will warn the Customer that it has a Low Credit balance where the balance of OWL Credits, in the Customer's company account, is less than 30 days from expiring ("**Low Balance Notice**").

- 15.4 Once the Credit Balance reaches zero and until the Customer has purchased sufficient OWL Credits, Onwave may:

- 15.4.1 suspend access to the OWL Services making it unavailable to the Customer's Authorised Users and Onwave shall be under no obligation to provide any or all of the OWL Services;
- 15.4.2 suspend all communication with Tags and RTK Base Stations (SIMs blocked).
- 15.5 If the Customer has not purchased sufficient OWL Credits within 10 days of reaching a zero OWL Credit balance:
 - 15.5.1 Onwave may continue to suspend access to the OWL Services making it unavailable to the Customer's Authorised Users and Onwave shall be under no obligation to provide any or all of the OWL Services.
 - 15.5.2 the Customer shall, at Onwave's election, either return all OWL Tags itself to Onwave, or, allow Onwave or its representatives access at any time during business hours to any premises where the OWL Tags are held for the purposes of removing them.
 - 15.5.3 the Customer shall, at Onwave's election, either return the RTK Base Stations itself to Onwave, or, allow Onwave or its representatives access at any time during business hours to any premises where the RTK Base Stations are installed for the purposes of removing them.
- 15.6 The Customer acknowledges that failure to return the Tags pursuant to clause 15.5.2 or RTK Base Stations pursuant to clause 15.5.3, shall entitle Onwave to invoice the Customer for the full replacement value of the Tags or RTK Base Stations (as applicable) not returned which shall be payable by the Customer immediately on receipt.
- 15.7 If the Customer has not purchased sufficient OWL Credits within 30 days of reaching a zero OWL Credit balance, Onwave may:
 - 15.7.1 terminate the Agreement, and the consequences of termination as set out at clause 20.4 shall apply.
- 15.8 If the Customer purchases the required OWL Credits following receipt of the Low Balance Notice, Onwave shall within 48 hours of receipt of the applicable funds:
 - 15.8.1 make the OWL Services available again to the Customer's Authorised Users; and
 - 15.8.2 Re-activate Tags and Base Stations still hired, subject to payment of an additional re-activation fee as notified by Onwave to the Customer.

16 **THIRD PARTY SOFTWARE AND THIRD PARTY LICENCES**

- 16.1 The Customer acknowledge that a number of items of third party software have been integrated into the OWL Services including Google Maps, a web mapping service developed by Google. A full list of third party software is available on the OWL Portal (the "**Third Party Software**"), as may be updated by Onwave from time to time by written notice to the Customer.
- 16.2 The Customer acknowledges that the incorporation of each item of Third Party Software into the OWL Services and use of it as part of the OWL Services is done so under standard licence terms granted by relevant third parties to Onwave. The Customer further acknowledges that Onwave sub-licences the use of such Third Party Software by the Customer in accordance with such licence terms and the Customer agrees to be bound by such sub-licencing terms ("**Third Party Licences**") (a link to such terms can be found on the

OWL Portal, and/or copies of which shall be provided to the Customer on written request). The Customer shall indemnify and hold Onwave harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of the Third Party Licences howsoever arising.

16.3 Onwave may treat any breach of the Third-Party Licences as a breach of the Agreement.

17 **INTELLECTUAL PROPERTY RIGHTS**

17.1 The Customer acknowledges and agrees that Onwave and/or its licensors own all Intellectual Property Rights in the OWL Services and the Documentation. Except as expressly stated herein, the Agreement does not grant the Customer any rights to, under or in, any Intellectual Property Rights or any other rights or licences in respect of the OWL Services or the Documentation.

17.2 Subject to clause 17.4, Onwave shall defend the Customer, its officers, directors and employees against any claim that the Customer's use of the OWL Services in accordance with the Agreement infringes any third party Intellectual Property Rights, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claim, provided that:

17.2.1 Onwave is given reasonable notice of any such claim;

17.2.2 the Customer does not make any admission of liability, agreement or compromise in relation to the claim without the prior written consent of Onwave;

17.2.3 the Customer provides reasonable co-operation to Onwave in the defence and settlement of such claim, at Onwave's expense; and

17.2.4 Onwave is given sole authority to defend or settle the claim.

17.3 In the defence or settlement of any claim under clause 17.2, Onwave may procure the right for the Customer to continue using the OWL Services, replace or modify the OWL Services so that they become non-infringing or, if such remedies are not reasonably available, terminate the Agreement on 5 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

17.4 In no event shall Onwave, its employees, agents and sub-contractors be liable to the Customer to the extent that the actual or alleged infringement is based on or relates to:

17.4.1 any Third Party Software; or

17.4.2 any modification of the OWL Services by anyone other than Onwave or its partners; or

17.4.3 the Customer's use of the OWL Services in a manner contrary to the instructions set out in the Documentation or otherwise given to the Customer by Onwave.

17.4.4 the Customer's use of the OWL Services after notice of the alleged or actual infringement from Onwave or any appropriate authority.

18 **CONFIDENTIALITY**

18.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement. A party's Confidential Information shall not be deemed to include information that:

- 18.1.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 18.1.2 was in the other party's lawful possession before the disclosure;
 - 18.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 18.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence.
- 18.2 Subject to clause 18.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Agreement.
- 18.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Agreement.
- 18.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 18.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 18.5 The Customer acknowledges that details of the OWL Services, constitute Onwave's Confidential Information.
- 18.6 Onwave acknowledges that the Customer Data is the Confidential Information of the Customer.
- 18.7 No party shall make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 18.8 The above provisions of this clause 18 shall survive termination of the Agreement, however arising.

19 **LIMITATION OF LIABILITY**

- 19.1 Except as expressly and specifically provided in the Agreement:
- 19.1.1 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Agreement; and
 - 19.1.2 the OWL Services and the Documentation are provided to the Customer on an "as is" basis.
- 19.2 Nothing in the Agreement excludes the liability of Onwave:

- 19.2.1 for death or personal injury caused by Onwave's negligence;
 - 19.2.2 for fraud or fraudulent misrepresentation; or
 - 19.2.3 any other liability which cannot be excluded or limited under applicable law.
- 19.3 Subject to clause 19.1 and clause 19.2:
- 19.3.1 Onwave shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Agreement; and
 - 19.3.2 Onwave's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to either:
 - 19.3.2.1 the total fees paid for the Owl Credits during the 12 months immediately preceding the date on which the claim arose; or
 - 19.3.2.2 £50,000,whichever is the lesser amount.

20 TERM AND TERMINATION

- 20.1 This Agreement shall, unless otherwise terminated as provided in this clause 19.1, commence on the Effective Date and shall continue for as long as the Customer has live OWL Credits and/or OWL Credits which have not expired pursuant to clause **Error! Reference source not found.**
- 20.2 Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:
 - 20.2.1 the other party fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
 - 20.2.2 the other party commits a material breach of any other term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 21 days after being notified in writing to do so;
 - 20.2.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
 - 20.2.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- 20.2.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 20.2.6 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
 - 20.2.7 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
 - 20.2.8 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 20.2.9 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
 - 20.2.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 20.2.3 to clause 20.2.9 (inclusive);
 - 20.2.11 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - 20.2.12 where the parties cannot reach agreement in respect of annual price increases as set out within Clause 14.18 within a period of 90 days.
 - 20.2.13 the Customer has had no Active Authorised Users within the previous 180 days.
- 20.3 Onwave shall be entitled to terminate the Agreement at any time by giving not less than 60 days' notice in writing to the Customer. In the event that Onwave terminates the Agreement in accordance with this clause 20.3, Onwave shall refund to the Customer on a pro-rata basis any unused and unexpired Owl Credits purchased by the Customer prior to the date of such termination.
- 20.4 On termination of the Agreement for any reason:
- 20.4.1 the licences granted by Onwave under the Agreement shall immediately terminate and the Customer shall immediately cease all use of the OWL Services and/or the Documentation;
 - 20.4.2 subject to clause 20.4.3, each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
 - 20.4.3 all Tags and RTK Base Stations hired by the Customer shall terminate and the equipment returned in accordance with paragraph 6.1.14 of Schedule 4. For the avoidance of doubt, any equipment to be returned shall be done so by the Customer promptly and in any event no later than 30 days from the date of termination of the Agreement. If (as permitted for by paragraph 6.1.14 of Schedule 3) Onwave elects to retrieve the equipment from the premises it is located at (whether by itself or by its representatives), provided Onwave has provided the Customer with reasonable notice the Customer hereby grants

relevant access to enable Onwave or its representatives to retrieve the equipment at any time during business hours;

20.4.4 Onwave may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with clause 13.11, unless Onwave receives, no later than 30 days after the effective date of the termination of the Agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Onwave shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Onwave in returning or disposing of Customer Data; and

20.4.5 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

20.5 The Customer acknowledges that failure to return the equipment within 30 days or permit Onwave to retrieve the equipment pursuant to clause 20.4.3, shall entitle Onwave to invoice the Customer for the full replacement value of the equipment which shall be payable by the Customer immediately on receipt.

20.6 Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement, shall remain in full force and effect.

21 DISPUTE RESOLUTION

21.1 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (**Dispute**), then, the parties shall follow the procedure set out in this clause:

21.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the relevant contract manager of Onwave and the relevant contract manager of the Customer shall attempt in good faith to resolve the Dispute;

21.1.2 if the contract manager of Onwave and the contract manager of the Customer are for any reason unable to resolve the Dispute within 14 days of service of the Dispute Notice, the Dispute shall be referred to a director of Onwave and a director of the Customer who shall attempt in good faith to resolve it; and

21.1.3 if the director of Onwave and the director of the Customer are for any reason unable to resolve the Dispute within 14 days of it being referred to them, the parties agree to enter into mediation in good faith to settle the dispute in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 35 days of service of the Dispute Notice, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, referring the dispute to mediation. A copy of the ADR notice should be sent to CEDR. Unless otherwise agreed between the parties, the mediation will start not later than 30 days after the date of the ADR notice.

21.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 33 which clause shall apply at all times.

22 **FORCE MAJEURE**

Onwave shall have no liability to each other under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors ("**Force Majeure Event**"). Where Onwave becomes aware of a Force Majeure Event it shall use its reasonable endeavours to notify each other of the event and its expected duration.

23 **VARIATION**

No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

24 **WAIVER**

No failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

25 **RIGHTS AND REMEDIES**

Except as expressly provided in the Agreement, the rights and remedies provided under the Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

26 **SEVERANCE**

26.1 If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Agreement.

26.2 If any provision or part-provision of the Agreement is deemed deleted under clause 26.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

27 **ENTIRE AGREEMENT**

27.1 This Agreement constitutes the entire Agreement between the parties and supersedes and extinguishes all previous Agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

27.2 Each party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.

27.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement.

27.4 Nothing in this clause shall limit or exclude any liability for fraud.

28 **ASSIGNMENT**

Neither Party shall, without the prior written consent of other Party, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

29 **NO PARTNERSHIP OR AGENCY**

Nothing in the Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

30 **THIRD PARTY RIGHTS**

This Agreement does not confer any rights on any person or party (other than the parties to the Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

31 **NOTICES**

31.1 Any notice or other communication given to a party under or in connection with this Agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service or by email.

Notices will be sent to the following addresses / email addresses or such replacement address / email address as the applicable party notifies to the other party in writing:

Notices to Onwave will be sent to:

The Chief Executive Officer or Chief Operating Officer

Onwave, 4 Abbey Wood Road, Kings Hill, West Malling, Kent. ME19 4AB

Email: accounts@onwave.com

Notices to the Customer will be sent to:

The Company Administrator named in the Service Order Form.

31.2 Any notice or communication shall be deemed to have been received:

31.2.1 If delivered by hand, on signature of a delivery receipt; and

31.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 11:00 am on the second Business Day after posting or at the time recorded by the delivery service; and

31.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 31.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

31.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

32 GOVERNING LAW

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

33 JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).

Executed and delivered as a deed by the parties on the date set out at the beginning of this OWL Customer Agreement, OWL Terms and Conditions.

SIGNED BY THE PARTIES AS FOLLOWS

For and on behalf of Onwave UK Limited

by its authorised signatories:

Signature)
Name:)
Title:)
Date:)

For and on behalf of [The Customer]

by its authorised signatory:

Signature)
Name:)
Title:)
Date:)

Credit Based Charges

Credit Rate	£
TOTAL NON-RECURRING CREDITS (see Credit Requirements below)	
MONTHLY RECURRING CREDIT CHARGE (see Credit Requirements below)	
Initial Project Duration (Months)	
TOTAL CREDITS RECURRING (based on Duration)	
TOTAL CREDITS THIS SERVICE ORDER	
CREDIT/PAYMENT DEPOSIT METHOD	MONTHLY/ONE OFF

Credit Requirements

Item	Quantity	Non Recurring Charges			Recurring Charges**		
		NRC (unit rate)	NRC (total Credits)	NRC Total Charge	No of Credits/ Day	NRC (unit rate)	NRC (total Credits)
OWL SOFTWARE LICENSE							
Full User	0		0	£ -		0	0
Plant User	0		0	£ -		0	0
Read Only	0		0	£ -		0	0
RTK Base station unit, including Maintenance and support							
RTK Base station unit, including Maintenance and support	0		0	£ -		0	£ -
Survey	0		0	£ -	-	0	£ -
Installation	0		0	£ -	-	0	£ -
Plus (RTK) - Includes RTK Cloud Access							
Plus (RTK) - Includes RTK Cloud Access	0		0	£ -		0	£ -
Pro (GNSS)	0		0	£ -		0	£ -
Zero (GNSS)	0		0	£ -		0	£ -
UWB Beacon	0		0	£ -		0	£ -
Optional 3rd Party RTK Cloud Access (per RTK tag)	0		0	£ -		0	£ -
Plus Tag 12 unit Charging Dock							
Plus Tag 12 unit Charging Dock	0		0	£ -		0	£ -
Plus Tag Single unit Charging Dock	0		0	£ -		0	£ -
Plus Tag – Magnetic Mount	0		0	£ -		0	£ -
Plus Tag – Belt Clip	0		0	£ -		0	£ -

Pro Tag – Magnetic Mount	0	220	0	£	-	0	£	-
CREDIT TOTALS								
TOTAL NON-RECURRING CREDITS	0		TOTAL CREDITS/MONTH	0				
CREDIT RATE				£0.00				
CREDIT BASED CHARGES								
TOTAL NON-RECURRING CHARGE	0		TOTAL MONTHLY RECURRING CHARGE**	0				

*The daily credit charges for the hire of the Tags and Base stations cover SIMs, data usage, and cloud connections required for operation. NRC credits will be deducted on delivery or installation. Credits for recurring elements will be deducted for each day that OWL Tags and Base stations are provided to the Customer.

**Recurring Credit Based charges are provided as an indication only based on indicative no of users, credits will be deposited within the Customer environment and consumed in accordance with the OWL Terms and Conditions. Customers may add and remove users, plant or tags which can increase or decrease the rate at which credits are consumed.

OWL Tags and Base stations are hired and remain the property of Onwave UK Ltd. OWL Tags and Base stations are supplied for a minimum period of 90 days. OWL Tags and Base stations returned to Onwave in less than this minimum term will be charged credits for the minimum hire period of 90 days.

MOBILE APP
There is no additional charge to the licensing charge above for using the OWL Mobile App. The App is free download from both the Apple App Store and Google Play Store, however users must have a valid OWL Software License to login and use the OWL Mobile App.

SERVICE ORDER SUMMARY

Description	Number of credits	Credit Rate (£/credit)	Price (£)
Professional Service Charges			
TOTAL PROFESSIONAL SERVICE CHARGES	N/A	N/A	£ -
Device and License Credit Charges			
TOTAL NON-RECURRING CHARGES	0	£ -	£ -
plus			
MONTHLY RECURRING CREDITS	0		
Project Duration (months)	<u>0</u>		
TOTAL RECURRING CHARGES (based on Project Duration)	0	£ -	£ -
TOTAL (CHARGES)	0 Credits		£0.00
Adjustments			
GRAND TOTAL (CHARGES)			£0.00

Terms used in these Service Order Form shall have the meaning given to them in the OWL Terms and Conditions.

This Service Order Form and the OWL Terms and Conditions apply to the Agreement between Onwave and the Customer for the provision of OWL to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. By signing the Service Order Form, the Customer agrees to the terms set out in this Service Order Form and the OWL Terms and Conditions.

Signed for and on behalf of ONWAVE UK LIMITED
Signed.....
....
Print name.....
Date.....

Signed by for and on behalf of the above named CUSTOMER
Signed.....
.
Print name.....
Date.....
.

SCHEDULE 2- Personal data, processing and data subjects

1 Processing by Onwave

1.1 Scope

Processing as necessary to provide the OWL Services

1.2 Nature and purpose

Storing, deleting, amending, transferring and any other processing activities relating to the personal data for the purposes of providing the OWL Services.

1.3 Duration

For the duration of this Agreement and until the personal data is deleted in accordance with clause 13.11.

2 Types of personal data

Name, phone number, email address, job role, level of access (Company Administrator), authorised and restricted areas, Tracker Device information, location data and any other personal data which the Company elects to collect via the OWL Services.

3 Categories of data subject

Authorised Users of the Customer.

SCHEDULE 3 – Consumables supply terms and conditions

1 Delivery

- 1.1 Onwave shall deliver the Consumables to the location agreed between the parties in writing (“**Delivery Location**”) following receipt by Onwave of the applicable number of OWL Credits relevant to the purchase of the Consumables.
- 1.2 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.
- 1.3 Onwave shall not be liable for any delay in delivery of the Consumables that is caused by a Force Majeure Event or the Customer’s failure to provide Onwave with adequate delivery instructions or any other instructions that are relevant to the supply of the Consumables.
- 1.4 Onwave may deliver the Consumables by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

2 Quality and Disclaimer

- 2.1 Onwave warrants that the Consumables shall:
 - 2.1.1 conform in all material respects with their description in the order accepted by Onwave and any applicable written specification provided by Onwave; and
 - 2.1.2 be free from material defects in design, material and workmanship.
- 2.2 Subject to paragraph 2.3, if:
 - 2.2.1 the Customer gives notice in writing to Onwave within a reasonable time of discovery that part or all of the Consumables do not comply with the warranty set out in paragraph 2.1;
 - 2.2.2 Onwave is given a reasonable opportunity of examining the Consumables; and
 - 2.2.3 the Customer (if asked to do so by Onwave) returns the Consumables to Onwave's place of business,

Onwave shall, at its sole discretion, replace the defective Consumables (or relevant part which is defective) or refund the OWL Credits paid by the Customer for the defective Consumables. The Customer acknowledges that this is the exclusive remedy of the Customer for breach of paragraph 2.1.
- 2.3 Onwave shall not be liable for any failure of the Consumables to comply with the warranty set out in paragraph 2.1 in any of the following events:
 - 2.3.1 the Customer makes any further use of the Consumables after giving notice in accordance with paragraph 2.2 unless otherwise agreed with Onwave in writing;
 - 2.3.2 the defect arises because the Customer has failed to follow Onwave's oral or written instructions as to the storage, use and maintenance of the Consumables (if there are none) good trade practice regarding the same;

- 2.3.3 the Customer alters or repairs the Consumables without the prior written consent of Onwave;
 - 2.3.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - 2.3.5 the Consumables differ from the order accepted by Onwave (and any applicable specification) as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 2.4 Except as provided in this paragraph 2, Onwave shall have no liability to the Customer in respect of a failure by the Consumables to comply with the warranty set out in paragraph 2.1.
- 2.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the supply of the Consumables by Onwave.
- 2.6 These terms shall apply to any replacement Consumables supplied by Onwave.

3 Title and risk

- 3.1 The risk in the Consumables shall pass to the Customer on completion of delivery.
- 3.2 Title to the Consumables shall not pass to the Customer until Onwave has received payment in full for the Consumables, whether in cleared funds or by way of deduction of OWL Credits from the Customer's account.

4 Charges and payment

- 4.1 The price of the Consumables shall be the number of OWL Credits set out in the order accepted by Onwave.
- 4.2 The Customer shall ensure that it has sufficient OWL Credits to pay for the Consumables and shall purchase additional OWL Credits where required.

SCHEDULE 4– Tag and RTK Base Station hire provisions

1 Tag and RTK Base Station hire

- 1.1 Onwave shall hire the Tags and RTK Base Stations to the Customer subject to these terms and the main Agreement.
- 1.2 Onwave shall not, other than in the exercise of its rights under this Agreement or applicable law, interfere with the Customer's quiet possession of the Tags and RTK Base Stations.
- 1.3 Unless otherwise agreed by Onwave, the Customer shall have no right to purchase the Tags or RTK Base Stations, which must be returned to Onwave at the end of the applicable Hire Period (as defined below in paragraph 2) in accordance with paragraph 6.1.14.

2 Hire period

- 2.1 The hire period shall commence:
 - 2.1.1 In the case of Tags, when Onwave has delivered the Tags to the Customer; and
 - 2.1.2 In the case of RTK Base Stations, on the Installation Date,and last for such period as set out in the order accepted by Onwave, unless terminated earlier as provided for in this Agreement or extended by Onwave's prior written approval (the "**Hire Period**").
- 2.2 Unless otherwise agreed in writing by Onwave, the Customer acknowledges that the minimum period the Customer can hire the Tags or RTK Base Stations for is 90 days.
- 2.3 Without prejudice to the termination rights set out in the main body of this Agreement, the Customer shall be entitled to terminate the Hire Period early by giving Onwave not less than 7 days' notice in writing provided that such notice shall not expire prior to the end of the 90 day minimum hire period.

3 Hire charges and payments

- 3.1 The Customer acknowledges the price to hire a Tag or a RTK Base Station shall be calculated by reference to the daily OWL Credit hire rate specific to the Tag or RTK Base Station being hired and the Hire Period for the Tag or RTK Base Station (as applicable).
- 3.2 The price to hire the Tags or RTK Base Stations shall be the number of OWL Credits set out in the applicable order accepted by Onwave multiplied by the Credit Rate ("**Hire Charge**").
- 3.3 The OWL Credits purchased by the Customer for the hire of the Tags shall be consumed on a daily basis at the applicable daily OWL Credit hire rate applicable to the Tags or RTK Base Station hired (as applicable).

4 Delivery of Tags

- 4.1 Onwave shall deliver the Tags to the location agreed between the parties in writing ("**Delivery Location**") upon receipt of: (i) a valid Customer's order for the Tags; and provided that the Customer has a positive balance of OWL Credits relevant to the hire of the Tags.
- 4.2 If the Customer fails to accept delivery of the Tags on the date Onwave attempts to make delivery, then, except where such failure is caused by Onwave's failure to comply with its obligations under this Agreement:
 - 4.2.1 the Tags shall be deemed to have been delivered at 9.00 am on that day; and

- 4.2.2 Onwave shall store the Tags until delivery takes place and may charge the Customer for all related costs and expenses associated with re-delivery.

5 Title, risk and insurance

- 5.1 The Tags and RTK Base Stations shall at all times remain the property of Onwave, and the Customer shall have no right, title or interest in or to the Tags or RTK Base Stations (save the right to possession and use of the Tags and RTK Base Stations subject to the terms and conditions of this Agreement).

- 5.2 The risk of loss, theft, damage or destruction of the Tags and RTK Base Stations (excluding where such damage or destruction is caused directly by Onwave's actions) shall pass to the Customer:

5.2.1 In the case of Tags, on delivery; and

5.2.2 In the case of RTK Base Stations, on the Installation Date,

and the Customer shall indemnify Onwave and keep Onwave indemnified, on demand against all losses, costs, charges, damages and expenses incurred as a result of any such loss, theft, damage to, or destruction of the Tags and RTK Base Stations (including while in transit from the Customer to Onwave for any reason), on a full replacement basis for new replacement equipment of an equivalent or greater specification. The Tags and RTK Base Stations shall remain at the sole risk of the Customer during the Hire Period and any further term during which the Tags and RTK Base Stations are in the possession, custody or control (including while in transit from the Customer to Onwave for any reason) of the Customer ("Risk Period") until such time as the Tags and RTK Base Stations are redelivered to Onwave.

- 5.3 During the Hire Period and the Risk Period, the Customer shall fully and comprehensively insure the Tags and RTK Base Stations against loss, damage and theft for the benefit of Onwave, and will provide a certificate of insurance from its insurers of such relevant insurance to Onwave if requested to do so by Onwave.

- 5.4 If the Customer fails to effect or maintain any of the insurances required under this Agreement, Onwave shall be entitled to effect and maintain the same, pay such premiums as may be necessary for that purpose and recover the same as a debt due from the Customer.

- 5.5 The Customer shall give immediate written notice to Onwave in the event of any loss, accident or damage to the Tags and RTK Base Stations arising out of or in connection with the Customer's possession or use of the Tags and RTK Base Stations.

6 Customer's responsibilities

- 6.1 The Customer shall during the Hire Period and the Risk Period:

6.1.1 ensure that the Tags and RTK Base Stations are kept and operated in a suitable environment and used only for the purposes for which they were designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions, conditions, guidance or specifications notified to the Customer by Onwave in writing from time to time, including in particular the Tracker Device Guidance (in relation to Tags) and the RTK Base Station Guidance (in relation to RTK Base Stations);

6.1.2 take such steps (including compliance with all safety and usage instructions provided by Onwave) as may be necessary to ensure, so far as is reasonably practicable, that the Tags and RTK Base Stations (as applicable) are at all times

safe and without risk to health when it is being set, used, cleaned or maintained by a person at work (as applicable);

- 6.1.3 maintain at its own expense the Tags and RTK Base Stations in good and proper working condition and in the same condition that the Tags and RTK Base Stations were delivered to the Customer by Onwave (fair wear and tear only excepted);
- 6.1.4 in the case of RTK Base Stations, provide and maintain at its own expense a relevant power source to the RTK Base Stations in accordance with Onwave's instructions;
- 6.1.5 make no alteration to the Tags and RTK Base Stations and shall not remove any existing component (or components) from the Tags and RTK Base Stations without the prior written consent of Onwave.
- 6.1.6 keep Onwave fully informed of all material matters relating to the Tags and RTK Base Stations;
- 6.1.7 not move or attempt to move any part of the RTK Base Stations to any other location without Onwave's prior written consent;
- 6.1.8 permit Onwave or its duly authorised representative to inspect the Tags and RTK Base Stations at all reasonable times and for such purpose to enter on the premises at which the Tags and RTK Base Stations may be located, and shall grant reasonable access and facilities for such inspection;
- 6.1.9 not, without the prior written consent of Onwave, part with control of or give access to (including for the purposes of repair or maintenance), sell or offer for sale, hire, sublet or lend the Tags and RTK Base Stations or allow the creation of any mortgage, charge, lien or other security interest in respect of them;
- 6.1.10 not do or permit to be done any act or thing which will or may jeopardise the right, title or interest of Onwave in the Tags and RTK Base Stations and, where the Tags or RTK Base Stations have become affixed to any land, building or structure, the Customer must take all necessary steps to ensure that Onwave may enter and/or access such land, building or structure and recover the Tags or RTK Base Stations both during the term of this Agreement and for a reasonable period thereafter, including by procuring from any person having an interest in such land, building or structure, a waiver in writing and in favour of Onwave of any rights such person may have or acquire in the Tags or RTK Base Stations and a right for Onwave to enter onto and/or access such land, building or structure to remove the Tags and RTK Base Stations (as applicable);
- 6.1.11 not suffer or permit the Tags or RTK Base Stations to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Tags or RTK Base Stations are so confiscated, seized or taken, the Customer shall notify Onwave and the Customer shall at its sole expense procure a release of the Tags and RTK Base Stations (as applicable);
- 6.1.12 not use the Tags or RTK Base Stations for any unlawful purpose;
- 6.1.13 ensure that at all times the Tags and RTK Base Stations remain identifiable as being Onwave's property and wherever possible shall ensure that a visible sign to that effect is attached to the Tags and RTK Base Stations;

6.1.14 deliver up the Tags and RTK Base Stations at the end of the Hire Period or on earlier termination of this Agreement at such address as Onwave requires, or if required by Onwave, allow Onwave or its representatives access to any premises where the Tags and RTK Base Stations are located for the purpose of removing the Tags and RTK Base Stations; and

6.1.15 not do or permit to be done anything which could invalidate the insurances referred to in paragraph 5.

6.2 The Customer acknowledges that Onwave shall not be responsible for:

6.2.1 any loss of or damage to the Tags and RTK Base Stations arising out of or in connection with any negligence, misuse, mishandling of the Tags or RTK Base Stations or otherwise caused by the Customer or its officers, employees, agents and contractors; or

6.2.2 any issues regarding non-availability or malfunction of any third-party: (a) software (whether through planned or unplanned downtime, loss of or corruption to data or telemetry, or otherwise); (b) services; (c) telemetry services; or (d) equipment.

and the Customer shall indemnify Onwave in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Onwave arising out of, or in connection with any failure by the Customer to comply with the terms of this Agreement.

7 Warranty

7.1 Onwave warrants that the Tags and RTK Base Stations shall during the Hire Period:

7.1.1 substantially conform to their specification (as made available by Onwave);

7.1.2 be of satisfactory quality; and

7.1.3 be free from material defects in design, material and workmanship.

7.2 Subject to paragraph 7.3, if:

7.2.1 the Customer gives notice in writing to Onwave within a reasonable time of discovery that part or all of the Tags or RTK Base Stations do not comply with the warranty set out in paragraph 7.1; and

7.2.2 Onwave is permitted to make a full examination of the alleged defect at its discretion either: (a) on site where the defective equipment is located; or (b) by requiring the Customer to send the defective equipment (or relevant part of it) at the Customer's cost to Onwave;

Onwave shall, at its sole discretion, replace the defective Tags or RTK Base Stations (as applicable) or refund the OWL Credits paid by the Customer for the defective Tags or RTK Base Stations. The Customer acknowledges that this is the exclusive remedy of the Customer for breach of paragraph 7.1.

7.3 Onwave shall not be liable for any failure of the Tags or RTK Base Stations to comply with the warranty set out in paragraph 8.1 in any of the following events:

- 7.3.1 the Customer makes any further use of the defective Tags or RTK Base Stations after giving notice in accordance with paragraph 7.2;
 - 7.3.2 the defect has materialised as a result of misuse, neglect, mishandling or a failure to follow Onwave's oral or written instructions as to the storage, use and maintenance of the Tags and RTK Base Stations as applicable (if there are none) good trade practice regarding the same;
 - 7.3.3 the Customer alters or repairs the Tags or RTK Base Stations without the prior written consent of Onwave; or
 - 7.3.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.
- 7.4 Onwave shall have the right at any time during the Hire Period, at its own cost, to substitute, update and/or replace any of the Tags or RTK Base Stations, for any reason, with equipment equivalent (in functionality only) to the Tags or RTK Base Stations hired, regardless of the age of any such replacement.