



**COMPLETE AND FAX BACK TO 800-557-4314**

# LIVEVIEWGPS

TRACKING YOU CAN TRUST

## CREDIT CARD AUTHORIZATION FORM

### BLACKBERRY TRACKING SOFTWARE CARD AUTHORIZATION FORM

I authorize LiveViewGPS, to use the below listed credit card to bill me each month for the selected service listed below. I am the authorized cardholder on file and/or have authorization to use the card.

BlackBerry Tracking Software - \$15.95 Per Month Per Device.

I am Activating \_\_\_\_\_ Devices:

Once You Have Downloaded The Software, Go to The LiveViewGPS Application Installed On The Mobile Device. Look Under Properties, We Will Need The Device ID # For Each Device Being Tracked.

\_\_\_\_\_ Serial #

\_\_\_\_\_ Serial #

\_\_\_\_\_ Serial #

\_\_\_\_\_ Serial #

\_\_\_\_\_ Serial #

\_\_\_\_\_ Serial #

\_\_\_\_\_ Serial #

\_\_\_\_\_ Serial #

\_\_\_\_\_ Serial #

Customer Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Phone # \_\_\_\_\_

E-mail: \_\_\_\_\_

Reference/Cust ID# \_\_\_\_\_  
(From Order Receipt)

Activation Type: \_\_\_\_\_ New \_\_\_\_\_ Reactivation

Credit Card Type: \_\_\_\_\_ VISA \_\_\_\_\_ MASTERCARD \_\_\_\_\_ AMEX \_\_\_\_\_ Discover

Credit Card # \_\_\_\_\_

Expiration Date: \_\_\_\_\_ CVV2 \_\_\_\_\_

Billing Address: \_\_\_\_\_ City: \_\_\_\_\_ State \_\_\_\_\_

Zip Code: \_\_\_\_\_ Country: \_\_\_\_\_

**I HAVE READ AND AGREE TO THE ATTACHED TERMS & CONDITIONS OF USE (BELOW), I UNDERSTAND THAT SERVICE IS BILLED MONTH TO MONTH, UNLESS OTHERWISE NOTED.**

Signature: \_\_\_\_\_

E-mail: \_\_\_\_\_

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If you are e-signing this document, you must check your email and click a link to verify the signed document after it has been submitted. Upon confirmation you will receive a copy of the agreement. Once your activation order is processed, you will receive an e-mail with your username/password, and url for login.

# LiveViewGPS Terms and Conditions of Use

This LiveViewGPS Terms and Conditions of Use (this "Agreement") sets out the terms and conditions pursuant to which LiveViewGPS Inc., a California corporation ("LiveViewGPS"), will make the LiveViewGPS Service (as defined herein) available on a hosted basis to you, the customer ("Customer").

BY USING THE SERVICE, CUSTOMER AGREES TO THE FOLLOWING TERMS AND CONDITIONS AND AGREES TO BE BOUND HEREBY:

## 1. LiveViewGPS Service.

(a) During the term of this Agreement (as set forth in Section 24 hereof) and in accordance with the terms hereof, LiveViewGPS will provide Customer access to and use of the LiveViewGPS services, and LiveViewGPS shall provide and Customer shall be entitled to receive related services that are provided for herein (such LiveViewGPS services are collectively referred to as the "Service" or the "LiveViewGPS Service").

(b) The LiveViewGPS Service consists of a hosted web enabled application, data access and storage, wireless network and a variety of wireless applications. Customer is responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access the LiveViewGPS Service, and for paying all access charges (e.g., ISP, telecommunications) incurred while using the LiveViewGPS Service.

(c) Upon your acceptance of this Agreement, LiveViewGPS will provide Customer with login access to the LiveViewGPS Service for the term of the Agreement.

(d) At the commencement of the Agreement, Customer must purchase a LiveViewGPS tracking device with SIM card. Installation is required for (hardwired) vehicle tracking devices; installation and any associated costs are the sole responsibility of Customer. Installation instructions are provided with each vehicle tracking device at the time of purchase and may also be available on the LiveViewGPS Site. Portable battery powered devices do not require installation.

2. License. Subject to the provisions of this Agreement, LiveViewGPS hereby grants to Customer a personal, non-exclusive, non-sublicensable, non-transferable, revocable license (the "License") to use the LiveViewGPS Service only in accordance with the terms of this Agreement and the applicable end user documentation related thereto ("Documentation"), if any, during the term of this Agreement. The License allows for Customer and any person authorized by Customer (collectively, "Users") to access remotely and use (only through remote access) the LiveViewGPS website currently located at [www.LiveViewGPS.com](http://www.LiveViewGPS.com) and [www.LiveViewGPS.net](http://www.LiveViewGPS.net) (collectively, the "LiveViewGPS Site") for Customer's personal use only and otherwise in accordance with this Agreement.

3. Restrictions. Customer will not, and will not allow its Users, or agents to, directly or indirectly:

(a) reverse assemble, reverse engineer, decompile or otherwise attempt to derive source code or underlying ideas or algorithms from the LiveViewGPS Site or any software or any component thereof;

(b) copy, reproduce, modify, translate or create derivative works of, the LiveViewGPS Service, or any software or component thereof other than as expressly agreed to in this Agreement;

(c) sell, lease, sublicense, market, distribute, assign or otherwise transfer rights to or commercially exploit in any way the LiveViewGPS Service, or any software or any component thereof other than as expressly agreed to in this Agreement

(d) use, or permit the use of, the LiveViewGPS Service or any component thereof to perform information processing or any other function whatsoever for any other person, entity or business including providing information processing for a third party in any service bureau, time sharing, lease, distribution,

resale, rental, service provider agreement or any other arrangement;

(e) remove any proprietary, copyright, patent, trade mark, design right, trade secret, or any other proprietary rights legends from the LiveViewGPS Materials (as defined herein);

(f) disclose or grant access to any User Access Code (as defined herein), the LiveViewGPS Service or any component thereof to any third party other than one to whom LiveViewGPS has consented in writing;

(g) make more than one copy of the Documentation per User; or

(h) use the LiveViewGPS Service (i) for any unlawful, unsafe, malicious or abusive purpose, (ii) for interfering with others' use of the Service, (iii) in such a way as to defraud LiveViewGPS or any third party or (iv) to create damage or risk to LiveViewGPS's business, network or facilities or to third parties.

(i) It is the responsibility of the Customer to ascertain and comply with all applicable Local, State, and Federal laws in regard to the possession and use of any items purchased, used or activated from LiveViewGPS, Inc. Please consult with an attorney regarding such laws if you have any questions. Customer acknowledges that he or she is of legal age and agrees to use the product only in a lawful manner.

4. User Account, Password and Security. To open an account for usage of the LiveViewGPS Service, Customer must complete the registration process by providing LiveViewGPS with current, complete and accurate information as requested by LiveViewGPS. Inaccurate details may result in suspension or termination of the LiveViewGPS Service. LiveViewGPS will assign an account name to Customer and Customer will choose a password. Customer is entirely responsible for maintaining confidentiality with regard to its password and account information. Furthermore, Customer is entirely responsible for any and all activities that occur under its account. LiveViewGPS is not liable for any third party claims and/or actions taken with respect to services offered, all of which liability shall be solely borne by Customer.

5. Access to LiveViewGPS Service. Customer shall access the LiveViewGPS Service by means of the browser that is recommended by LiveViewGPS and using equipment obtained by Customer as further described in Section 13 hereof. Customer shall access the LiveViewGPS Service through the LiveViewGPS Site and by entering Customer's account name and password (the "User Access Code"). Customer will be solely responsible for any use of any User Access Code. For greater certainty, LiveViewGPS will not be responsible for the use or misuse of any User Access Code.

6. Fees. In consideration for providing the Service and the License, Customer shall pay to LiveViewGPS a one-time activation fee for each tracking device and ongoing service fees, all as set out in Customer's application for Service documentation (collectively, the "Fees"), without any set-off or deductions of any kind, as such Fees may be amended from time to time in accordance with the terms hereof. LiveViewGPS shall have the right to increase the Fees at any time during the Term of this Agreement in accordance with the terms of Section 30(f) hereof. The increase in the Fees shall be effective on the date stipulated in such notice. Customer is responsible for paying any governmental taxes imposed on Customer's purchases and use of the Service, including sales, use or value-added taxes. All sales of LiveViewGPS Service are final. All charges from those sales are nonrefundable. Service Fees entitle Customer to a number of locates per month based upon the service plan selected. Unused locates for any month are not refundable and do not rollover to future months. If not on an unlimited use plan, customer shall be liable for locates in excess of the number allowed in the selected service plan at the cost set forth in that service plan; Customer will be separately charged for such excess locates.

7. Method of Payment. All payments must be made by **VISA, MasterCard, Discover, or AMEX, AUTO ACH DEBIT** (any of which may be removed by LiveViewGPS at any time in its sole discretion). Unless expressly agreed in writing by LiveViewGPS, LiveViewGPS does not accept any other payment form. By

submitting Customer's application for Service documentation to LiveViewGPS, Customer authorizes LiveViewGPS to charge Customer's card as may be required for Customer to pay LiveViewGPS any and all amounts that may be due from Customer under this Agreement. Customer's card issuer agreement governs Customer's use of Customer's designated card, and Customer should refer to that agreement to determine Customer's rights and liabilities as a cardholder. CUSTOMER, AND NOT LIVEVIEWGPS, IS RESPONSIBLE FOR PAYING ANY UNAUTHORIZED AMOUNTS BILLED TO CUSTOMER'S CARD BY A THIRD PARTY. Customer agrees to pay all Fees and charges incurred in connection with Customer's purchases and use of the Services (including any applicable taxes) at the rates in effect when the charges were incurred. Unless Customer notifies LiveViewGPS of any discrepancies within thirty (30) days after they first appear on Customer's credit card statement, Customer agrees that such charges shall be deemed accepted by Customer for all purposes. If LiveViewGPS does not receive payment from Customer's credit card issuer or its agent, Customer agrees to pay all amounts due upon demand by LiveViewGPS.

**7.5 Cancellation Of Service.** Customer can cancel service by visiting <http://www.liveviewgps.com/Cancel.html> Or by calling 661.294.6805. Cancellation requests must be received by the 25<sup>th</sup> day of the current month requested. Service cancellation requests received later than the 25<sup>th</sup> day, shall be charged for service for the following month and cancelled at the end of that month.

**8. Late Payment.** If amounts are not paid when due or if LiveViewGPS does not receive payment from Customer's applicable credit card company, such amounts will be subject to a late payment charge at the rate of one and one-half percent (1.5%) per month or the highest charge allowable by law (whichever is less), payable monthly, on the amounts outstanding from the time such amounts become due until payment in full is received by LiveViewGPS. Any amount received by LiveViewGPS while late payment charges are outstanding will be applied first to late payment charges. NSF payments will be subject to a \$25.00 handling fee for each defaulted payment.

**9. Taxes.** Prices set out herein are exclusive of all taxes and Customer shall pay (and LiveViewGPS shall have no liability for), any taxes, tariffs, duties and other charges or assessments imposed or levied by any government or governmental agency in connection with this Agreement, including any federal, provincial, state and local sales, use, goods and services, value-added and personal property taxes on any payments due LiveViewGPS in connection with the Service provided hereunder, except for tax based solely on the net income of LiveViewGPS.

**10. Remedies in the Event of Failure to Pay.** If Customer defaults in payment of any amount when due or any interest thereon, then LiveViewGPS may, in addition to any other rights or remedies at law or under this Agreement, and in its sole discretion, (i) suspend or deny Customer's access to or use of the Service or the performance of any of its obligations under this Agreement until such failure is remedied, subject to such conditions as LiveViewGPS may require; and/or (ii) terminate this Agreement. Furthermore, delinquent accounts with outstanding balances due past 30 days, will be submitted to collections for processing.

**11. Ownership of Intellectual Property.** Customer acknowledges and agrees that LiveViewGPS shall retain and own all right, title and interest and all intellectual property rights (including copyrights, trade secrets, trademarks and patent rights) in and to the LiveViewGPS software, Documentation and the LiveViewGPS Site (collectively, the "LiveViewGPS Materials") and all copies thereof, and that nothing herein transfers or conveys to Customer any ownership right, title or interest in or to the LiveViewGPS Materials or to any copy thereof or any license right with respect to same not expressly granted herein. Customer agrees that it will not, either during or after the termination of this Agreement, contest or challenge the ownership of the intellectual property rights in the LiveViewGPS Materials by LiveViewGPS.

**12. Ownership of Customer Data.** LiveViewGPS acknowledges that all Customer data, including data transmitted by Customer

to LiveViewGPS for processing using the LiveViewGPS Service ("Customer Data") and Customer systems used by Customer to access the LiveViewGPS Service shall be and remain the property of Customer. LiveViewGPS shall have the right to use and reproduce Customer Data solely to the extent necessary to provide the Service and fulfill its obligations to Customer hereunder.

**13. Access to LiveViewGPS Service.** Customer is responsible for obtaining all hardware, software and services which are necessary to connect to the LiveViewGPS Site and access the Service including all computers, web browsers, and services provided by an Internet service provider. All such facilities and services shall comply with LiveViewGPS's specifications for the Service described in the Documentation or as otherwise required by LiveViewGPS.

**14. Member Privacy.** It is LiveViewGPS's policy to respect Customer's privacy. LIVEVIEWGPS will never rent, lease, sell or give away any Customer information to third parties for marketing purposes. LiveViewGPS will not monitor, edit, or disclose any personal information about Customer or Customer's LiveViewGPS account, including its contents, without Customer's prior permission unless LiveViewGPS has a good faith belief that such action is necessary to: (a) conform to legal requirements or comply with legal process; (b) protect and defend the rights or property of LiveViewGPS; (c) enforce this Agreement or protect LiveViewGPS's business or reputation, including upon termination, cancellation or suspension of this Agreement by LiveViewGPS; (d) respond to any request for identification in connection with claim of copyright or trademark infringement by Customer; (e) prevent imminent physical injury or harm to any person or prevent any suspected infringing, illegal or improper activity; in either of which event, such information shall be disclosed to any law enforcement agency making such request in regards to criminal activity; or (f) act to protect the interests of Customer or others. Customer agrees that LiveViewGPS may access its account, including its contents, as stated above or to respond to service or technical issues.

CUSTOMER HEREBY GRANTS LIVEVIEWGPS THE RIGHT TO SEND CUSTOMER COMMUNICATIONS VIA E-MAIL OF ANY UPDATES, UPGRADES, NOTICES, OR OTHER INFORMATION RELATING TO THE SERVICE THAT LIVEVIEWGPS DEEMS IMPORTANT FOR CUSTOMER TO KNOW.

**15. Customer Security Responsibilities.** To the extent deemed necessary by Customer, Customer shall implement security procedures necessary to limit access to the Service to Customer and any of Customer's authorized Users. Customer shall notify LiveViewGPS immediately if there is a security breach or unauthorized use of the Service. Customer shall permit LiveViewGPS to review/audit Customer's use of the LiveViewGPS Site and the LiveViewGPS Service.

**16. Customer Data.** LiveViewGPS will not be responsible or liable for any loss or damage to Customer's Data or any inconvenience suffered by Customer or by any third person arising out of the use of the Service by Customer.

**17. Customer Systems.** LiveViewGPS shall have no responsibility for the performance, adequacy, accuracy, concurrency or other matters related to Customer systems.

**18. Export.** Customer agrees that it shall not export or re-export the LiveViewGPS tracking device or any software or any copies thereof, either directly or indirectly, outside of the jurisdiction in which Customer accesses such materials, except in compliance with all applicable laws, ordinances and regulations. Customer shall have the exclusive obligation to ensure that any such export is in compliance with all applicable export laws and the laws of any foreign country.

**19. Provision of Releases.** At its sole option, LiveViewGPS shall be entitled to prepare new versions of any LiveViewGPS software that LiveViewGPS generally makes available to Customers ("Update Releases"). LiveViewGPS exclusively shall determine whether Update Releases shall be included in any LiveViewGPS software provided pursuant to the Service. At any time, LiveViewGPS may install any Update Releases and use same to provide the Service.

20. Right to Modify the LiveViewGPS Service. LiveViewGPS may from time to time, in its sole discretion, change some or all of the functionality or any component of the LiveViewGPS Service or make any modification for the purpose of improving the performance, service quality, error correction or to maintain the competitiveness of the Service.

21. AS IS, WITH ALL FAULTS. LiveViewGPS provides the LiveViewGPS Site and Service to Customer on an "AS IS" and "WITH ALL FAULTS" basis.

22. Warranty Disclaimer.

(a) LIVEVIEWGPS EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, INCLUDING REPRESENTATIONS AND WARRANTIES OF SATISFACTORY QUALITY, PERFORMANCE, MERCHANTABILITY, MERCHANTABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USE OF TRADE. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE LICENSORS AND SUPPLIERS OF LIVEVIEWGPS MAKE NO DIRECT WARRANTY OF ANY KIND TO CUSTOMER UNDER THIS AGREEMENT.

(b) LIVEVIEWGPS DOES NOT REPRESENT OR WARRANT THAT: (i) THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS; (ii) THE SERVICE WILL BE ERROR-FREE OR UNINTERRUPTED OR THAT THE RESULTS OBTAINED FROM THEIR USE WILL BE ACCURATE OR RELIABLE; OR (iii) ALL DEFICIENCIES IN THE SERVICE CAN BE FOUND OR CORRECTED. FURTHER, THE SERVICE MAY BE INTERRUPTED OR UNAVAILABLE FOR THE PURPOSES OF PERFORMING MAINTENANCE OR UPGRADES. LIVEVIEWGPS WILL NOT BE RESPONSIBLE FOR: (a) SERVICE IMPAIRMENTS CAUSED BY ACTS WITHIN THE CONTROL OF CUSTOMER OR ANY USER; (b) INTEROPERABILITY OF SPECIFIC CUSTOMER APPLICATIONS OR EQUIPMENT; (c) INABILITY OF CUSTOMER TO ACCESS OR INTERACT WITH ANY OTHER SERVICE PROVIDER THROUGH THE INTERNET, OTHER NETWORKS OR USERS THAT COMPRISE THE INTERNET OR THE INFORMATIONAL OR COMPUTING RESOURCES AVAILABLE THROUGH THE INTERNET; (d) INTERACTION WITH OTHER SERVICE PROVIDERS, NETWORKS, USERS OR INFORMATIONAL OR COMPUTING RESOURCES THROUGH THE INTERNET; (e) SERVICE PROVIDED BY OTHER SERVICE PROVIDERS; OR (f) PERFORMANCE IMPAIRMENTS CAUSED ELSEWHERE ON THE INTERNET.

23. Limit of Liability.

(a) FOR ANY BREACH OR DEFAULT BY LIVEVIEWGPS OF ANY OF THE PROVISIONS OF THIS AGREEMENT, OR WITH RESPECT TO ANY CLAIM ARISING HEREFROM OR RELATED HERETO, LIVEVIEWGPS'S ENTIRE LIABILITY SHALL IN NO EVENT EXCEED THE LESSER OF THE FOLLOWING: (i) THE FEES PAID TO LIVEVIEWGPS BY CUSTOMER PURSUANT TO THIS AGREEMENT IN THE CALENDAR MONTH IMMEDIATELY PRECEDING THE CLAIM, OR (ii) IN THE AGGREGATE WITH RESPECT TO ALL CLAIMS MADE UNDER OR RELATED TO THIS AGREEMENT, THE AMOUNT PAID BY CUSTOMER UNDER THIS AGREEMENT.

(b) IN NO EVENT WILL LIVEVIEWGPS BE LIABLE FOR DIRECT, SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL LOSS OR DAMAGE, LOST BUSINESS REVENUE, LOSS OF PROFITS, LOSS OF DATA, LOSS OF COVER, DAMAGES FOR DELAY, PUNITIVE OR EXEMPLARY DAMAGES, FAILURE TO REALIZE EXPECTED PROFITS OR SAVINGS OR ANY CLAIM AGAINST CUSTOMER BY ANY OTHER PERSON, EVEN IF LIVEVIEWGPS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSSES OR DAMAGES.

(c) LIVEVIEWGPS SHALL NOT BE LIABLE FOR UNAUTHORIZED ACCESS TO OR ALTERATION, THEFT, LOSS OR DESTRUCTION OF ANY DATA, EQUIPMENT OR SERVICES, INCLUDING THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES, OR ANY OTHER METHOD.

(d) LIVEVIEWGPS SHALL BE LIABLE TO CUSTOMER ONLY AS EXPRESSLY PROVIDED IN THIS AGREEMENT BUT SHALL HAVE NO OTHER OBLIGATION, DUTY, OR LIABILITY WHATSOEVER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE TO CUSTOMER. THE LIMITATIONS, EXCLUSIONS AND

DISCLAIMERS IN THIS AGREEMENT SHALL APPLY IRRESPECTIVE OF THE NATURE OF THE CAUSE OF ACTION, DEMAND, OR ACTION BY CUSTOMER, INCLUDING BREACH OF CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER LEGAL THEORY AND SHALL SURVIVE A FUNDAMENTAL BREACH OR BREACHES OR THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR OF ANY REMEDY CONTAINED HEREIN. SOME STATES AND JURISDICTIONS DO NOT ALLOW LIMITATIONS ON DURATION OR THE EXCLUSION OF AN IMPLIED WARRANTY, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. YOU MAY ALSO HAVE ADDITIONAL RIGHTS NOT STATED IN THIS DOCUMENT.

(e) Neither party shall be responsible or liable for any loss, damage or inconvenience suffered by the other or by any third person, to the extent that such loss, damage or inconvenience is caused by the failure of the other party to comply with its obligations under this Agreement.

(f) Neither party may bring an action, regardless of form, arising out of or related to this Agreement (other than to recover fees or expenses due to LiveViewGPS) more than one year after the cause of action has arisen or the date of discovery of such cause, whichever is later.

(g) Customer agrees to indemnify and hold LiveViewGPS, its affiliates, employees, officers, directors and shareholders harmless from and against any claims, suits, actions or proceedings ("Claims") brought and damages, costs (including attorneys' fees) or judgments awarded against LiveViewGPS that arise from or in connection with: (i) Claims by any person or entity to the extent that such Claims are based upon or arise out of Customer's use of the Service or Customer's actions; (ii) breach by Customer of this Agreement; or (iii) Customer's failure to comply with all applicable laws. LiveViewGPS shall give Customer prompt written notice of such Claims, permit Customer to defend (with counsel reasonably acceptable to LiveViewGPS) and/or settle such Claims (upon terms reasonably acceptable to LiveViewGPS), and give Customer all information and assistance reasonably requested by Customer in connection with such Claims.

24. Term. The term of this Agreement is calendar month to calendar month, together with any partial calendar month resulting from the commencement of the Agreement after the first day of the initial calendar month. The term shall be automatically extended on the first day of each succeeding calendar month, unless terminated by Customer or LiveViewGPS in accordance with the terms of this Agreement.

25. Termination.

(a) This Agreement may be terminated or Service suspended by LiveViewGPS (i) if Customer fails to make any payment when due or any interest thereon to LiveViewGPS, or (ii) immediately, without notice or liability to LiveViewGPS, in the event of a breach by Customer of any of Customer's obligations under this Agreement.

(b) by either party providing the other party by the 25<sup>th</sup> day of the current month service termination is requested. The effective date of any such termination shall be the last business day of a calendar month. For the purpose of clarity, this means that any notice of termination provided after the 25<sup>th</sup> day of a calendar month shall be effective on the last business of the next succeeding calendar month.

(c) by either party in the event the other party materially breaches any of its duties, obligations or responsibilities under this Agreement (other than breaches covered in Section 25(a) hereof), and fails to cure such breach within thirty (30) days after receipt by the breaching party of written notice specifying the breach; or

(d) by either party in the event: (i) a receiver, trustee, administrator, or administrative receiver is appointed for the other party or its property; (ii) the other party makes an assignment for the benefit of creditors; (iii) any proceedings should be commenced against the other party under any bankruptcy, insolvency, or debtor's relief law, and such proceedings shall not be vacated or set aside within thirty (30) days from the date of commencement thereof; or (iv) the other party is liquidated or dissolved.

26. **Effect Of Termination.** Except to the extent agreed to in writing by the parties, upon the termination of this Agreement:

(a) LiveViewGPS shall be entitled to immediately cease providing the Service;

(b) LiveViewGPS shall be entitled to immediately terminate Customer's access to the LiveViewGPS Site;

(c) Customer shall forthwith pay to LiveViewGPS all amounts owing under this Agreement as of the effective date of termination;

(d) if this Agreement is terminated by LiveViewGPS under Section 25(a), 25(c) or 25(d), all amounts that would have become due under this Agreement shall automatically accelerate and become immediately due and payable by Customer to LiveViewGPS;

(e) LiveViewGPS shall have no obligation to refund any amounts to Customer

(f) Customer shall, and shall cause its Users to, immediately and permanently cease to use, in any manner whatsoever, the LiveViewGPS Service, the User Access Codes and the Documentation; and

(g) the License granted under Section 2 will automatically terminate.

27. **Survival.** The parties hereto agree that the provisions hereof requiring performance or fulfillment after the expiry or earlier termination of this Agreement shall survive such expiry or earlier termination. The provisions of this Agreement that by their nature are intended to survive the expiration or earlier termination, including those provisions relating to ownership, confidential information, warranty disclaimer, and limits of liability shall survive the expiration or earlier termination of this Agreement.

28. **Not Insurers; Limitations and Indemnification.** Customer acknowledges and agrees that the LiveViewGPS Service uses industry standard cellular wireless communications services to communicate with LiveViewGPS tracking devices. Therefore, tracking devices must be within cellular coverage to communicate. Customer further acknowledges and agrees that LiveViewGPS is not the underlying wireless carrier and that LiveViewGPS may contract with third parties from time to time in connection with the provision of the Service. Accordingly, Customer acknowledges and agrees:

(a) LIVEVIEWGPS AND THE THIRD-PARTY PROVIDERS ARE NOT INSURERS AND THE AMOUNTS PAID TO LIVEVIEWGPS HEREUNDER ARE FOR THE SERVICE PROVIDED BY LIVEVIEWGPS AND NOT FOR THE VALUE OF ANY PROPERTY, LOSS OR INJURY. IN THE EVENT OF ANY LOSS OR INJURY TO ANY PERSON OR PROPERTY BEING MONITORED BY THE SERVICE, CUSTOMER AGREES TO EXCLUSIVELY LOOK TO ITS INSURER TO RECOVER DAMAGES, AND CUSTOMER WAIVES ALL RIGHTS OF SUBROGATION OR ANY OTHER RIGHT OF RECOVERY AGAINST LIVEVIEWGPS AND THE THIRD-PARTY PROVIDERS THAT ANY INSURER OR OTHER PERSON MAY HAVE AS A RESULT OF PAYING ANY CLAIM FOR LOSS OR INJURY TO ANY OTHER PERSON. IN ADDITION, CUSTOMER AGREES THAT CUSTOMER SHALL NOT BRING ANY CLAIM OR ACTION AGAINST ANY THIRD-PARTY PROVIDER ARISING FROM CUSTOMER'S USE OF THE SERVICE. FOR PURPOSES OF THIS AGREEMENT, "THIRD-PARTY PROVIDER" MEANS ANY PERSON OR COMPANY THAT SUPPORTS OR MAINTAINS THE SERVICE, AND INCLUDES SOFTWARE AND EQUIPMENT OPERATORS AND SUPPLIERS, WIRELESS CARRIERS, MAPPING DATA PROVIDERS AND PSAP DATA VENDORS.

(b) EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE SERVICE, ALL RELATED SOFTWARE AND ALL SERVICES ARE PROVIDED BY LIVEVIEWGPS "AS-IS" "WHERE IS" AND "WITH ALL FAULTS." LIVEVIEWGPS SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, ACCURACY AND FITNESS FOR A PARTICULAR PURPOSE AS TO THE SERVICE, AND ANY RELATED SOFTWARE OR SERVICES PROVIDED UNDER THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, LIVEVIEWGPS DOES NOT WARRANT THAT THE SERVICE OR ITS OPERATION WILL BE ACCURATE, RELIABLE, UNINTERRUPTED,

ERROR-FREE OR FREE OF VIRUSES OR OTHER HARMFUL AGENTS. CUSTOMER ACKNOWLEDGES THAT THE SERVICE IS SUPPORTED BY SATELLITE AND OVER LOCAL EXCHANGE, INTER-EXCHANGE AND INTERNET BACKBONE CARRIER LINES AND THROUGH ROUTERS, SWITCHES AND OTHER DEVICES OWNED, MAINTAINED AND SERVICED BY LOCAL AND LONG DISTANCE CARRIERS, UTILITIES, SATELLITE COMPANIES, COMMUNICATIONS COMPANIES, INTERNET SERVICE PROVIDERS AND OTHER THIRD PARTIES, ALL OF WHICH ARE BEYOND LIVEVIEWGPS'S CONTROL. CUSTOMER ACCEPTS ALL RISK ARISING OUT OF OR RELATING TO THE DELAY, FAILURE, INTERRUPTION, OR CORRUPTION OF THE SERVICE. UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, WILL LIVEVIEWGPS OR ANYONE ELSE INVOLVED IN ADMINISTERING, MAINTAINING OR PROVIDING THE SERVICE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF OR INABILITY TO USE THE SERVICE, INCLUDING PERSONAL INJURY, DEATH, LOSS OF REVENUE OR LOST PROFITS, OR DAMAGES THAT RESULT FROM MISTAKES, OMISSIONS, SERVICE INTERRUPTIONS, SERVER DOWNTIME, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION, OR FAILURE OF PERFORMANCE, OF THE SERVICE, EVEN IF LIVEVIEWGPS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(c) CUSTOMER AGREES THAT IT WOULD BE EXTREMELY DIFFICULT TO DETERMINE THE ACTUAL AMOUNT OF DAMAGES RESULTING FROM ANY FAILURE OF THE SERVICE, AND THEREFORE, CUSTOMER AGREES THAT DESPITE THE DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY CONTAINED HEREIN, IN THE EVENT THAT LIVEVIEWGPS OR ANY THIRD-PARTY PROVIDER IS FOUND LIABLE FOR DAMAGES FOR ANY REASON OR FOR ANY CAUSE OF ACTION, THE AGGREGATE AMOUNT OF ALL DAMAGES PAYABLE BY LIVEVIEWGPS OR ANY THIRD-PARTY PROVIDER HEREUNDER SHALL BE LIMITED TO AN AMOUNT NOT TO EXCEED THE AMOUNT PAID BY CUSTOMER FOR THE SERVICE DURING THE CALENDAR MONTH IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE.

(d) CUSTOMER SHALL INDEMNIFY AND HOLD HARMLESS LIVEVIEWGPS AND THE THIRD-PARTY PROVIDERS AND THEIR RESPECTIVE OFFICERS, EMPLOYEES, AND AGENTS (EACH, AN "INDEMNITEE") AGAINST ANY AND ALL CLAIMS, INCLUDING CLAIMS FOR LIBEL, SLANDER, OR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH, ARISING IN ANY WAY, DIRECTLY OR INDIRECTLY, IN CONNECTION WITH THIS AGREEMENT OR THE USE, FAILURE TO USE, OR INABILITY TO USE THE SERVICE, EXCEPT WHERE THE CLAIM RESULTS FROM SUCH INDEMNITEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THIS INDEMNITY SHALL SURVIVE THE TERMINATION OF THE AGREEMENT.

(e) CUSTOMER UNDERSTANDS THAT LIVEVIEWGPS AND THE THIRD-PARTY PROVIDERS CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS, AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE SERVICE.

(f) THE SERVICE IS FOR CUSTOMER'S USE ONLY AND CUSTOMER MAY NOT RESELL THE SERVICE TO ANY OTHER PARTY.

### 30. **General.**

(a) **Notice.** LiveViewGPS may give notice by means of a general notice through the Service, electronic mail to Customer's e-mail address on record in LiveViewGPS's account information, or by written communication sent by first class mail to Customer's address on record in LiveViewGPS's account information. Customer may give notice to LiveViewGPS at any time by any of the following: electronic mail to info@LiveViewGPS.com; letter sent by confirmed facsimile to LiveViewGPS at the following fax number: (800) 557-4314, Attention: LIVEVIEWGPS Customer Service; letter delivered by nationally recognized overnight delivery service to LiveViewGPS at the following address: LiveViewGPS, Inc., 29021 Avenue Sherman, Suite 103, Valencia, California 91355, Attention: LiveViewGPS Customer Service, with a copy to the Legal Department.

(b) Force Majeure. If the performance of this Agreement, or any obligation thereunder except the making of payments hereunder is prevented, restricted, or interfered with by reason of: fire, flood, earthquake, explosion or other casualty or accident or act of God; strikes or labor disputes; inability to procure or obtain delivery of parts, supplies, power, telecommunication services, equipment or software from suppliers; war or other violence; any law, order, proclamation, regulation, ordinance, demand or requirement of any governmental authority; or any other act or condition whatsoever beyond the reasonable control of the affected party, the party so affected shall be excused from such performance to the extent of such prevention, restriction or interference; provided, however, that the party so affected shall take reasonable steps to avoid or remove such cause of non-performance and shall promptly resume performance hereunder whenever such causes are removed.

(c) Customer Rights. Nothing in this Agreement shall create or vest in Customer any right, title, or interest in the LiveViewGPS Service or the LiveViewGPS Materials other than the limited right to use the Service under the terms and conditions of this Agreement. All such rights shall remain in LiveViewGPS.

(d) Severability. To the extent that any provision or portion of this Agreement is deemed to be invalid, illegal or unenforceable, such provision or portion shall be severed and deleted or limited so as to give effect to the intent of the parties insofar as possible and the remainder of this Agreement, as the case may be, shall remain binding upon the parties.

(e) Assignment. Customer may not, without LiveViewGPS's prior written consent (which may be given or withheld in its sole discretion), assign or transfer this Agreement, or any of its rights or obligations under this Agreement to any third person (an "Assignee"). LiveViewGPS may assign this Agreement to any person or entity without the consent of Customer. LiveViewGPS may delegate to affiliates of LiveViewGPS and to agents, suppliers and contractors of LiveViewGPS any of the obligations herein imposed upon LiveViewGPS and LiveViewGPS may disclose to any such persons any information required by them to perform the duties so delegated to them.

(f) Amendment and Waiver. LiveViewGPS reserves the right to change the terms and conditions of this Agreement or its policies relating to the Service at any time. Continued use of the Service for more than thirty (30) days after any such change shall constitute your consent to such changes. A failure or delay by LiveViewGPS to enforce any right under this Agreement shall not at anytime constitute a waiver of such right or any other right, and shall not modify the rights or obligations of either party under this Agreement.

(g) Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to conflict or choice of law rules or principles. The parties irrevocably and unconditionally submit to the exclusive jurisdiction of the court of the State of California located in Los Angeles County or in the United States District Court for the Central District of California for the purposes of any suit, action or other proceeding arising out of this Agreement or the subject matter hereof brought by any party hereto; and (b) hereby waive and agree not to assert as a defense or otherwise, in any such suit action or proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced by such court.

(h) Construction. The titles of the sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. Unless the context of this Agreement clearly requires otherwise: (i) references to the plural include the singular, the singular the plural, and the part the whole, (ii) references to one gender include all genders, (iii) "or" has the inclusive meaning frequently identified with the phrase "and/or," (iv) "including" has the inclusive meaning frequently identified with the phrase "including but not limited to" or "including without limitation," and (v) references to "hereunder," "herein" or "hereof" relate to this Agreement as a whole. Any reference in

this Agreement to any statute, rule, regulation or agreement, including this Agreement, shall be deemed to include such statute, rule, regulation or agreement as it may be modified, varied, amended or supplemented from time to time. The parties agree that this Agreement shall be fairly interpreted in accordance with its terms without any strict construction in favor of or against either party and that ambiguities shall not be interpreted against the drafting party.

(i) Attorneys' Fees. If any legal action is necessary in order to enforce any of the terms of this Agreement or the relationship between Customer and LiveViewGPS, the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party.

(j) Entire Agreement. This Agreement sets forth the entire agreement of the parties, and supersedes prior agreements between the parties, relating to the subject matter contained herein and merges all prior discussions between them, and neither party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the party to be bound thereby.

(k) Agreement Update. This Agreement was last updated on March 3<sup>rd</sup> 2010.