

**GLOBAL FLEET MANAGEMENT INC.**  
**(“GFM”)**  
**TERMS OF SERVICE**  
**(last updated on August 31, 2024)**

The following “Terms of Service”, together with any Order Form(s) are a legal agreement (the “**Agreement**”) that governs Your use of the **Services** provided by GFM, also known as PosiTrace. By using the Services, You agree to be bound by and comply with these Terms of Service, as amended from time to time.

These Terms of Service are effective the earlier of the date You first use any of the Services or the date of the last signature on the Order Form.

These Terms of Service supersede all prior Terms of Service between You and GFM. If You do not agree to be bound by these Terms of Service, You must immediately cease any access to, or use of, the Services.

GFM reserves the right to amend these Terms of Service from time to time.

## **1. Interpretation**

In this Agreement, the following terms have the following meanings:

“**Agreement Term**” means the period of the Initial Term Duration from the Initial Term Commencement Date or the Service Period from the Service Effective Date, as applicable, and all subsequent Renewal Terms;

“**Carrier**” means a third-party telecommunications carrier that provides the Carrier Services that the Services are transmitted on;

“**Carrier Services**” means the third-party services, including but not limited to the network, that GFM’s Services are hosted on, transmitted through, or otherwise enabled through;

“**Dealer**” means one of GFM’s authorized third-party dealers, vendors, or resellers;

“**Fees**” means the total amount due for the Subscription and Services, but does not include any taxes, fees, or other charges related to the Subscription and Services that may be imposed by any government body;

“**GPS System**” means the GFM tracking system included in the Software;



“**GPS Tracking Device**” means any GPS tracking unit provided by GFM or purchased by You from GFM or an authorized third-party Dealer;

“**Hardware**” means any equipment, including the GPS Tracking Device, provided by GFM that You use to access the Services;

“**Initial Term Commencement Date**” means the Initial Term Commencement Date specified in the Order Form;

“**Initial Term Duration**” means the Initial Term Duration specified in the Order Form;

“**Monitored Asset**” means the wide variety of motorized vehicles and other assets including, but not limited to cars, trucks, excavators, cranes, construction equipment, electrical generators, shipping containers, airplanes, and trains that are tracked by the GPS System;

“**Order Form**” means the order that specifies the Subscription and Services You purchased from GFM;

“**Parties**” means both You and GFM and “**Party**” means either You or GFM;

“**Renewal Term**” means any term the Subscription for the Services is renewed for beyond the end of the Initial Term Duration or Service Period, as applicable, as provided for in this Agreement or agreed upon in writing between GFM and You;

“**Services**” means GFM’s products and services, including the Hardware and Software, website (<https://positrace.com/>) including all customer login platforms, pages, and portals, and any applicable Additional Services under the Order Form;

“**Service Effective Date**” means the Service Effective Date specified in the Agreement;

“**Service Period**” means the Service Period specified in the Order Form;

“**Software**” means the firmware and software (and all additions or modifications thereto) that runs on the Hardware or User-Owned Hardware;

“**Subscription**” means the subscription described in the Order Form granting You access to and use of the Services;

“**User-Owned Hardware**” means any equipment, including the GPS Tracking Device, that You purchased from GFM or an authorized third-party Dealer;

“USA” means the United States of America, and excludes its territories.

“Wireless Communication Services” means the specific plan used with the GPS Tracking Device to obtain global positioning information from the GPS System; and

“You” and “Your” means the purchaser or subscriber of the Subscription to the Services and includes any present or former employee, agent, representative, independent contractor, servant, attorney and any entity or person who has or had authority to act on Your behalf.

## **2. Grant of Subscription and Subscription Term**

2.1 Subject to the terms and conditions of this Agreement, GFM agrees to grant You a non-exclusive, non-transferable, limited license and Subscription to access and use the Services for the duration of the Agreement Term.

2.2 You agree to not modify, reverse engineer, adapt, disassemble, copy, or otherwise tamper with the Services.

2.3 You agree that:

- i) you will not use the Services, the Hardware, the User-Owned Hardware, or the Software in any fraudulent or illegal manner or for any fraudulent or illegal purpose; and
- ii) this Agreement will terminate if You use the Services, the Hardware, the User-Owned Hardware, or the Software in any fraudulent manner or for any fraudulent purpose, or carry out any act or omission with respect to the Services, the Hardware, the User-Owned Hardware, or the Software that renders or may render GFM incapable of properly providing the Services to You, including failing to keep the Services, the Hardware, the User-Owned Hardware, or the Software secure from damage, alteration or fraudulent or illegal use by Your employees, contractors, and third parties.

2.4 You agree that that GFM holds all ownership, license, copyright, intellectual property, and other rights and interests in and to the Services and the Software.

2.5 You agree to comply with all laws, regulations, statutes, and codes that govern the use of the Services, the Hardware, the User-Owned Hardware, and the Software.

## **3. Hardware Provided by GFM**



3.1 The Hardware is provided to You as part of the Subscription, and must be immediately returned to GFM at the end of the Agreement Term or upon a termination of this Agreement.

3.2 You acknowledge and agree that the Hardware is the sole property of GFM, and that nothing in this Agreement creates any interest whatsoever in Your favour in the Hardware.

#### **4. Third-Party Purchases**

If You purchased User-Owned Hardware from a Dealer, any applicable agreement between You and the Dealer will govern any issues You have with the User-Owned Hardware, and these Terms will govern any issues You have with the Software, including the GPS System, contained in the User-Owned Hardware.

#### **5. Conflicts between Provisions (Order Form and these Terms of Service)**

If there is a discrepancy between the provisions of these Terms of Service and the provisions of the Order Form, the provisions of the Order Form will prevail.

#### **6. Renewal**

6.1 Upon the expiry of the Agreement Term (the “**Renewal Date**”), the Subscription will automatically renew for the Renewal Term of an additional twelve (12) months or such other period of time specified in writing by GFM, unless You give GFM written notice of non-renewal at least thirty (30) days before the Renewal Date.

6.2 GFM may increase the rates it charges You for the Subscription after the Renewal Date. If GFM chooses to increase these rates, it will provide You with written notice no less than forty-five (45) days before the Renewal Date.

#### **7. Termination**

7.1 Termination by GFM: GFM reserves the right to immediately terminate this Agreement and/or suspend its provision of the Services if:

- i) You commit a breach of the Agreement, which includes Your non-payment of the Fees when due, and You do not rectify such breach within thirty (30) days (the “Cure Period”) of delivery of written notice of the breach by GFM;
- ii) there is a change of control of Your ownership or management;
- iii) You become insolvent or cease to conduct business in the ordinary course;
- iv) You voluntarily seek protection from Your creditors pursuant to the applicable bankruptcy and insolvency laws;

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- v) You take any step toward, including passing a resolution for, liquidation, dissolution, or winding up;
- vi) You are the subject of any court proceeding or order for Your liquidation, dissolution, or winding up; or
- vii) You have a receiver, liquidator, or bankruptcy trustee appointed over all or a substantial part of Your assets, business undertakings, or income.

7.2 Termination by You: You may terminate this Agreement if GFM commits a material breach of the Agreement and does not rectify such breach within thirty (30) days of receiving written notice of the alleged breach from You (the “**Cure Period**”). If You terminate the Agreement in accordance with this provision, You will be responsible for the Fees and other obligations and liabilities accruing up to the end of the Cure Period.

7.3 Suspension of Services: GFM may suspend its provision of the Services during the Cure Period.

7.4 Discontinuation of Agreement: GFM may, at its sole discretion, terminate this Agreement by providing You with sixty (60) days advance written notice. Notwithstanding any other provisions of this Agreement, if GFM terminates the Agreement in this manner, You will only be responsible for the Fees and other obligations under this Agreement as of the effective termination date.

7.5 Consequences of Termination:

- i) if this Agreement is terminated for any reason, then, as of the effective termination date, all outstanding Fees will become immediately due and payable, GFM will immediately cease its provision of the Subscription and Services, and You must immediately cease use of the Subscription and Services and return all Hardware to GFM. All existing obligations and liabilities of the Parties will survive the termination of the Agreement; and
- ii) if this Agreement is terminated by the operation of section 2.3, terminated by GFM under section 7.1, or terminated by You for any reason other than as permitted under section 7.2, then, as of the effective termination date, in addition to Your obligations under section 7.5(i), all Fees that would be paid, payable, or owed until the end of the Agreement Term will become immediately due and payable. By way of illustration only, if the Agreement and Order Form provide for a monthly subscription Fee of \$500, and the Agreement is terminated with 16 months remaining in the Agreement Term, then, as of the effective termination date, You will be responsible for the immediate payment of \$8,000, being 16 x \$500.

## 8. Wireless Communication Services

The Monitored Asset is tracked by the GPS System and Wireless Communication Services. Subject to the Services included in Your Subscription, GFM will provide to You some or all of the following information:

- i) the location of the Monitored Asset;
- ii) the Monitored Asset's direction;
- iii) the nearest street address to the Monitored Asset;
- iv) the Monitored Asset's speed;
- v) a calculated average speed of the Monitored Asset; and
- vi) GFM indicators and/or alerts relating to the Monitored Asset's state.

## 9. Monitored Asset Insurance

You shall ensure that the Monitored Asset, if applicable, has complete automobile liability insurance coverage.

## 10. Fees and Payment

10.1 **Billing:** To access and use the Services You must pay to GFM the Fees in the amount, time, and manner specified in the Order Form. All Fees are in Canadian dollars and are due and payable on Your receipt of GFM's invoice, unless otherwise specified in the Order Form.

10.2 **Payment Method:** For the purpose of paying the Fees to GFM, You will provide GFM with Your credit card or banking information ("**Payment Information**") via a payment portal provided by GFM. You agree to notify GFM immediately if Your Payment Information changes and provide GFM with the details of Your new Payment Information.

10.3 **Interest on Outstanding Amounts:** Any Fees or other amounts due from You to GFM not paid when due will incur, from the due date, interest at the rate of the lower of 1.5% per month, compounded monthly (19.56% per annum), and the highest interest rate allowable under law.

10.4 **Costs of Enforcement:** You agree to pay all costs and expenses (including the fees and disbursements of legal counsel and other advisors) incurred by GFM arising in connection with the protection or enforcement of the rights and powers of GFM in connection with this Agreement, including any costs incurred by GFM to collect any Fees, including Fees payable by You pursuant to sections 7.5 hereof.

## 11. Installation and Use



11.1 Unless otherwise specified in the Order Form You will be responsible for installing, activating and maintaining the GPS Tracking Device or other applicable Hardware and User-Owned Hardware in Your vehicle.

11.2 Unless otherwise agreed upon by GFM and You in writing, You are responsible for all costs related to installing, inspecting, maintaining, or removing the GPS Tracking Device or other applicable Hardware and User-Owned Hardware.

11.3 If GFM provided You with the Hardware in the USA, You will use that Hardware only in the USA. If GFM provided You with Hardware in Canada, You will only use that Hardware in Canada, unless You have opted for the USA Roaming feature with GFM and paid GFM the associated Fees. You agree that You will pay GFM applicable roaming charges and penalties if You use the Hardware outside of the USA or Canada as applicable.

11.4 If You purchased a Subscription to the Services in the USA, You will only use User-Owned Hardware to access those Services in the USA. If You purchased a Subscription to the Services in Canada, You will only use User-Owned Hardware to access those Services in Canada, unless You have opted for the USA Roaming feature with GFM and paid GFM the associated Fees. You agree that You will pay GFM applicable roaming charges and penalties if You use User-Owned Hardware outside of the USA or Canada, as applicable, to access Services for which You purchased a Subscription to in the USA or Canada, as applicable.

11.5 GFM is not liable for the activation, installation, interruption, operation or non-operation of the GPS Tracking Device, the Carrier Services, the Software including the GPS System, or any related Hardware, User-Owned Hardware, or third-party device or network, except as expressly provided herein.

## **12. Product Warranty**

12.1 Length of Warranty: GFM will provide You with warranty for all GPS Tracking Devices or other applicable Hardware and User-Owned Hardware equal to the greater of one (1) year or length of the Initial Term Duration. However, if You purchased the “premium” subscription package, GFM will provide You with warranty for all GPS Tracking Devices or other applicable Hardware and User-Owned Hardware equal to the length of the Agreement Term.

12.2 Non-Coverage: GFM will provide You with warranty pursuant to the terms and conditions contained herein. GFM will immediately terminate the warranty if the GPS Tracking Device or other applicable Hardware and User-Owned Hardware is damaged or misused due to Your actions or omissions, including but not limited to:



- (i) consumable parts that fail, leak, or otherwise degrade, unless due to a defect in materials or workmanship;
- (ii) cosmetic damage;
- (iii) damage caused by use with another product;
- (iv) damage caused by external causes including but not limited to accident, abuse, misuse, or any other external cause;
- (v) unauthorized repair or modification by You of the Hardware, User-Owned Hardware, or Software;
- (vi) damage caused by normal wear and tear or normal use; or
- (vii) a GPS Tracking Device or other Hardware or User-Owned Hardware with a removed or defaced serial number.

12.3 Equipment Returns: If GFM deems damaged Hardware, or User-Owned Hardware purchased from GFM, to be under warranty, GFM will replace it. If You return the damaged Hardware or User-Owned Hardware to GFM within thirty (30) days of GFM determining that the damaged Hardware or User-Owned Hardware is covered by a warranty, GFM will replace the Hardware or User-Owned Hardware for You without charging the price of the replacement. If You do not return the damaged Hardware or User-Owned Hardware to GFM within thirty (30) days, You will pay the full price of the replacement. You are solely responsible for any costs or fees related to shipping or delivery of the damaged Hardware or User-Owned Hardware to GFM.

12.4 Risk and Damage: You will assume all risk for loss or damage to Your Monitored Asset or its contents and for personal injury to persons occupying or affected by Your Monitored Asset.

### **13. Limitation of Liability**

13.1 Disclaimer of Warranties: GFM expressly disclaims all warranties of any kind, express or implied, regarding the Services, including, but not limited to, any implied warranties of accuracy, security, operation, merchantability, fitness for a particular purpose, title, and non-infringement of third-party rights with respect to the Services. GFM further expressly disclaims any warranty that the Services are or will be error-free, secure, or uninterrupted.

13.2 GFM shall not be liable for, and You waive any and all right to claim from GFM any loss, injury, liability, or damage of any kind, including without limitation personal injury, property damage, or loss of profits, that results from or is connected in any way to the Services, the Hardware, the User-Owned Hardware, or the Software.

13.3 In the event that the operation of section 13.2 is prohibited or restricted by the operation of any law of mandatory application, You further agree that the liability of GFM that arises out of



any claim, regardless of the form of action, whether in contract, tort, strict liability, or otherwise, in any way connected to the Services will not exceed the greater of \$1,000.00 CAD or 20% of the Fees You paid for the Subscription within the preceding twelve (12) month period before the date the claim arose. You further agree that GFM is not and will not be liable for any special, indirect, incidental, or consequential damages of any kind whatsoever, including without limitation, attorney fees, in relation to the Services, the Hardware, the User-Owned Hardware, or the Software.

13.4 You agree that GFM is not and will not be responsible for the acts of Your employees, partners, members, temporary employees, agents, independent contractors, or any other persons under Your control in relation to the use of the Services, the Hardware, the User-Owned Hardware, or the Software.

#### **14. Indemnification**

14.1 You hereby agree to indemnify and hold harmless GFM from and against any claim, action, proceeding, loss, liability, judgment, obligation, penalty, damage, cost, or expense, including attorneys' fees, which arise from Your use of the Services, the Hardware, the User-Owned Hardware, or the Software.

14.2 You hereby agree to indemnify and hold harmless GFM from and against any claim, action, proceeding, loss, liability, judgment, obligation, penalty, damage, cost, or expense, including attorneys' fees, which arise from Your use of any data or information, including but not limited to metadata, that is hosted on or extracted from the Services, the Hardware, the User-Owned Hardware, or the Software.

14.3 The clauses in this Section shall survive any termination of the Agreement.

#### **15. Access to Services**

15.1 SIM Card: GFM will include a SIM card (the "SIM Card") with a designated telephone number (the "Equipment Number") in any GPS Tracking Device in order to allow You to access the Services. You shall not remove, alter, or otherwise use any SIM Card independently from any GPS Tracking Device. You agree that GFM retains the right to modify any element of the SIM Card, including the Equipment Number, without providing You with prior notice.

15.2 Loss or Unauthorized Usage: If Your GPS Tracking Device is lost, misplaced or stolen, or if Your Equipment Number is used by a third party without Your permission or authorization (collectively, the "Equipment Loss"), You must provide written notice to GFM within



forty-eight (48) hours of the Equipment Loss and provide GFM with all information and documentation relating to the Equipment Loss, including any police reports and affidavits.

15.3 Unauthorized Third-party Usage: If GFM determines that Your Equipment Number was fraudulently used by a third party without fault or authorization on Your part (the “Unauthorized Usage”), and if You provided written notice to GFM within forty-eight (48) hours of the Equipment Loss, GFM will not charge You for the Unauthorized Usage. You expressly authorize GFM, its agents, and law enforcement agencies (collectively, the “Investigators”) to investigate any claim of Unauthorized Usage, including by investigating calls to the Equipment Number (the “Investigation”).

15.4 Failure to Cooperate with Investigation: If You fail to cooperate with any Investigators in an Investigation and fail to comply with reasonable precautions as GFM may require from You from time to time, You will remain liable, for all usage, including usage charges, associated with the GPS Tracking Device and Equipment Number. GFM may take legal action against You with respect to such liability.

## **16. Information Authorizations**

16.1 Consumer Report Authorization: You hereby authorize GFM to secure a non-investigative consumer report on You from a consumer reporting agency. You agree to release GFM from, and agree to indemnify and hold GFM harmless from, any liability with respect to the release of such information to and/or response by You, Your authorized representative, a Carrier, or any other third party.

16.2 Requests to Third-Party Carriers: You authorize GFM to make requests for information, service, orders or equipment in any respect on behalf of You to any applicable third-party telecommunications Carriers as GFM determines to be necessary or desirable.

## **17. Carrier Usage Terms**

17.1 Interruption of Carrier Services: GFM provides the Services to Your Hardware and User-Owned Hardware via third-party Carrier Services provided to GFM by third-party telecommunications Carriers. The Services may be subject to interruption when there the Carrier Services experience transmission limitations, outages, or interruptions. In the event of such an interruption, GFM will not be responsible for any lack of availability, connectivity, or interruption of the Services.

17.2 Data Privacy: You acknowledge that data privacy cannot be guaranteed as it is possible for third parties to monitor data traffic. You agree to assume sole and full responsibility for the



secure transmission of data and secure authorized access to the Hardware and User-Owned Hardware, including the establishment of appropriate security measures.

**17.3 Data Disclosure:** Unless You provide express consent, or disclosure by GFM is required pursuant to a Court Order or similar judicial or law enforcement requirement, all information kept by GFM regarding You and Your organization, other than Your or Your organization's name, address and listed telephone number (the "Confidential Information"), is confidential and may not be disclosed by GFM to anyone other than:

- (i) yourself;
- (ii) a person who, in the reasonable judgment of GFM, is seeking the information as an agent of You or Your organization;
- (iii) a Carrier, if the Carrier requires and uses the Confidential Information solely for the purpose of efficient and cost-effective provision of Carrier Services;
- (iv) a third-party company that provides You with cellular-related services, if that company requires and uses the Confidential Information solely for the purpose of providing You with cellular-related services; or
- (v) an agent retained by GFM in the collection of Your account, if the agent requires and uses the Confidential Information solely for the purpose of collecting on Your account.

You agree that You have provided GFM with express consent to disclose Confidential Information when You provide GFM with:

- (i) prior written consent;
- (ii) oral consent verified by an independent third party;
- (iii) oral consent in an audio recording that You provide to GFM;
- (iv) telecommunication confirmation through the use of a toll-free telephone number; or
- (v) another form of consent if You or a third party create an objective documented record of the consent and provide it to GFM.

**17.4 Carrier Modification of Agreements:** You acknowledge that a Carrier may change, modify, or amend its agreement(s) with GFM at any time upon providing GFM with prior written notice of thirty (30) days. If GFM receives such written notice, GFM may change, modify, or amend the terms of any applicable Order Form with You, including Fees owed, with prior written notice of thirty (30) days.

## **18. Privacy Waiver**

**18.1 Consent to Recording:** You agree that GFM may, for the purposes of employee training, quality control, and provision of Services, monitor or record Your conversations with GFM personnel and any other persons directly involved in providing You with Services.

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18.2 Use of Information: You agree that GFM may use information about You and Your GPS Tracking Device, including the location of Your GPS Tracking Device (collectively, the “Usage Information”), to provide the Services, offer new products or services, or enforce the Agreement. You further agree that GFM may use or share the Usage Information with others under the condition that GFM does not include information that identifies You personally in the Usage Information that it shares.

18.3 Required by Law: You agree that GFM, if required by law, including by Court Order or similar judicial or law enforcement requirement, may provide information about You to any governmental authority with lawful jurisdiction over the Services including the GPS Tracking Device, or GFM.

## **19. Marketing Authorization**

You hereby authorize GFM to, at its discretion, reference Your company name and logo(s) in any marketing materials or in connection with any marketing-related activities, including but not limited to printed marketing materials, press releases, testimonials, case studies, and on GFM’s website (<https://positrace.com/>).

## **20. General Provisions**

20.1 Entire Agreement: This Agreement constitutes the entire Agreement between the Parties and supersedes all prior agreements, undertakings, negotiations and discussions, whether oral or written, between the parties with respect to the subject matter hereof.

20.2 Severability: In the event that any provision of this Agreement or any part of any provision shall be held to be invalid, illegal or unenforceable, it shall not affect the validity, legality or enforceability of any other provision or portion of a provision of this Agreement.

20.3 Amendment: GFM reserves the right to amend the Terms of Service from time to time.

20.4 Notices: Notices in writing to GFM must be delivered by email to: [support@positrace.com](mailto:support@positrace.com) or by registered mail to: **250-5172 Kingsway, Burnaby, BC, V5H 2E8**. Notices in writing to You will be delivered to the email or address listed in the Order Form.

20.5 Governing Forum: The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. This Agreement shall be governed by and construed in accordance with the laws of British Columbia and the laws of Canada applicable therein and shall be treated in all respects as a British Columbia contract. The Parties agree to irrevocably submit to the exclusive jurisdiction of the courts of the Province of British Columbia.

20.6 Assignment: You may not assign nor delegate any or all of its rights, duties, or obligations

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under this Agreement without the prior written consent of GFM. GFM may, without any limitation whatsoever, assign or delegate any or all of its rights, duties, or obligations under this Agreement to a third party without providing You with prior written consent.

20.7 Force Majeure: Neither Party shall be liable for breaching this Agreement where that breach results from Force Majeure. Force Majeure refers to any event that is beyond the reasonable control of GFM or You and includes, but is not limited to: Internet failure, industrial action, civil unrest, theft, fire, flood, storms, earthquakes, pandemics, acts of terrorism, acts of war, governmental action or orders or restrictions, cyberattacks, or any other event that is beyond the control of the Party in question.

20.8 Relationship of the Parties: No provision of this Agreement shall make either Party an employee, agent, franchisee, or legal representative of the other Party for any purpose whatsoever. Neither Party is permitted to represent the other Party or enter into agreements or other commitments on the other Party's behalf with the sole exception of GFM entering into agreements for third-party software used in the Services on Your behalf.