

## CellTrak Technologies, Inc. third party pass through terms:

The following terms apply to the CellTrak Technologies Inc. ("CellTrak") products and services being provided to Client from Netsmart:

### **Definitions.**

**"CellTrak Data"** means the data or information collected or generated by CellTrak in the course of providing the Services, but excluding Client Data.

**"CellTrak Software"** means all of the care delivery management software that CellTrak licenses or otherwise makes available to Client pursuant to this Agreement, including all application programming interfaces.

**"Client Data"** means all information and data submitted by Client or Users to the Services.

**"De-Identified Data"** means de-identified and anonymized sets of Client Data that have been gathered by CellTrak for the purpose of expressing that information in summary form, and does not include any information that could be used to identify, or re-identify, Client, Users, or Client's clients or Clients.

**"Documentation"** means the instructions for use (whether in print or electronic form) that relate to the use of the Services or CellTrak Software and have been provided by CellTrak to Client hereunder.

**"Hosted Services"** means the delivery of the CellTrak Software (including all interfaces, mobile applications, and web-based portals that are embedded within the Hosted Services), in its most current generally released major version and one previous generally released major version, to Client in a software as a service (SaaS) model.

**"Non-CellTrak Application"** means a web-based, mobile, offline or other software application functionality that is provided by Client or a third party and interoperates with the Services.

**"Privacy Laws"** means any applicable laws relating to data protection, privacy and security and any pertinent local legislation implementing the same, including, without limitation, the Health Insurance

Portability and Accountability Act of 1996, as supplemented by the Health Information Technology for Economic and Clinical Health Act of 2009, and the implementing regulations at 45 CFR Parts 160 and 164, and any other similar or equivalent laws in jurisdictions outside of the United States from which the Services may be accessed in accordance with this Agreement.

**"Professional Services"** means those services defined in a mutually agreed upon Statement of Work, and which may include implementation services, integration services, training, project management and success management.

**"Services"** means the Hosted Services, Support Services and Professional Services.

**"Statement of Work"** or **"SOW"** means an addendum to the Agreement, entered into by both parties, that specifies the Professional Services that CellTrak will provide under this Agreement.

**"Support Services"** means the use of reasonable efforts, solely through telephone support and remote electronic access, to correct errors reported by Users, and provide answers to questions from Users related to the use and operation of the CellTrak Software or Hosted Services.

**"Update"** means any update to the CellTrak Software that CellTrak commercially releases to its Clients generally during the term of this Agreement and is not an Upgrade.

**"Upgrade"** means any new version or major release of the CellTrak Software that adds functionality, features or other enhancements or improvements and is not generally released to Clients without payment of additional fees.

**"Users"** means Client's employees, contractors or agents who are authorized to use the Services and have been supplied user identifications and passwords by Client or by CellTrak based on Client's direction.

### **CellTrak Responsibilities.**

**Provision of Services.** CellTrak shall make the Services available to Client for Client's internal operations pursuant to the terms and conditions set forth in this Agreement.

**Hosted Services.** If purchased by Client, CellTrak grants to Client a nonexclusive, non-transferable, limited, revocable license and right to access and use, and permit Users to access and use, the CellTrak Software through the Hosted Services during the term and in the territory (the "Service Term") solely for Client's internal business operations. CellTrak shall take commercially reasonable steps consistent with industry standards to maintain the security of the Hosted Services and Client Data. CellTrak shall use commercially reasonable efforts to make the Hosted Services generally available 24 hours a day, seven days a week, but excluding: (a) any planned downtime (of which CellTrak will give at least 72 hours' notice and which CellTrak will schedule to the extent reasonably practicable during the weekend hours from 9 PM ET Friday to 6 AM ET Monday); (b) downtime caused by circumstances beyond CellTrak's reasonable control, including for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving CellTrak employees), internet service provider failure or delay; (c) issues due to Client's breach of its obligations under this Agreement or violation of any applicable law; or (d) exclusions specified in Section 8.3.

**Updates and Upgrades.** CellTrak will make available to Client, as part of the Hosted Services and at no additional charge, any Update to the CellTrak Software when CellTrak makes such Update generally available to other Clients. Upgrades are available for an additional cost.

**Support Services.** CellTrak will provide Support Services to Client and its Users. As part of the Support Services, CellTrak will work with Client to resolve any data issues and exceptions related to the Hosted Services. Support Services do not include on-site support, unless otherwise agreed in a separate Statement of Work, which will include reimbursement for CellTrak's reasonable out-of-pocket expenses for all on-site support. CellTrak may provide and may bill Client for material telephone and any on-site support spent on issues that are not included in Support Services.

Notwithstanding anything in this Agreement to the contrary, in no event shall CellTrak have any support or other obligation hereunder for errors resulting from (a) misuse, accident or neglect by Client, (b) the unavailability of, or latencies attributable to, the Internet or other public telecommunications infrastructure, or (c) use of the Services or CellTrak Software in a manner not specified in the appropriate Documentation.

**Professional Services.** CellTrak will provide Professional Services in accordance with the terms of one or more Statements of Work.

### **Client Responsibilities.**

**Cooperation.** Client shall cooperate with CellTrak in the performance of the Services and provide CellTrak with all information and assistance reasonably required for CellTrak to provide the Services. Each party shall designate a contact person (and one or more backup contacts) to be primarily responsible for coordination of the Services.

**Client Access and User IDs.** Client will ensure that only Users use the Services, and that they do so in accordance with the terms of this Agreement. Each User will be assigned a unique User identification name and password for access to and use of the Services ("User ID"). User IDs may not be shared or used by more than one User. Client is responsible for the security and confidentiality of User IDs, including any lost, misappropriated or misused User ID information. In addition, Client is responsible for all activities (whether lawful or unlawful) that occur under User IDs, and any transactions completed under User IDs will be deemed to have been lawfully completed by Client or a User. Client shall: (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Client Data; (b) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Services, and promptly notify CellTrak of any unauthorized access or use; and (c) comply with all applicable local, state, provincial and federal laws in using the Services, including, without limitation, the Privacy Laws. Client acknowledges and agrees that any breach of this Agreement by its Users or any other employee, agent or contractor of Client shall be deemed a breach of this Agreement by Client. Client understands that CellTrak supports only the vendor supported browser versions of Internet Explorer, Google Chrome and Mozilla Firefox and



the vendor supported cellular operating systems of Android and IOS.

**Usage Restrictions.** Client shall not: (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Services available to any third party, other than as contemplated by this Agreement; (b) send to CellTrak or cause to be sent to CellTrak or store on any computer that is used to access the Services any infringing, obscene, threatening, libelous, or otherwise unlawful or tortuous material, including material harmful to children or that violates third party privacy rights; (c) send to CellTrak (or cause to be sent to CellTrak) or store on any computer or mobile device that is used to access the Services material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (d) interfere with or disrupt the integrity or performance of the Services or the data contained therein; (e) attempt to gain unauthorized access to the Services or its related CellTrak Software or networks; or (f) conceal or remove any title, trademark, copyright, proprietary or restricted rights notice contained in the CellTrak Software or the Services associated therewith. Client shall not (i) download, reproduce, copy, alter, adapt, modify, improve, enhance, translate, or create derivative works based on the Services, CellTrak Software or any other CellTrak Technology (as defined below); or (ii) disassemble, reverse engineer, decompile, or otherwise attempt to reveal the code, trade secrets or know-how underlying the Services, CellTrak Software or any other CellTrak Technology for any reason, or access the Services in order to: (A) build a competitive product or service, (B) build a product or service using similar features, functions or graphics of the Services or CellTrak Software, or (C) copy any features, functions or graphics of the Services or CellTrak Software.

**Customer/Client Data.** If Customer/Client chooses to use a Non-CellTrak Application with the Hosted Services, Customer/Client hereby grants CellTrak permission to allow the Non-CellTrak Application and its supplier to access Customer/Client Data as required for the interoperation of that Non-CellTrak Application with the Hosted Services. CellTrak is not responsible for any disclosure, modification or deletion of Customer/Client Data

resulting from access by any Non-CellTrak Application or its supplier.

Integration with Non-CellTrak Applications. **Hosted Services may contain features designed to interoperate with Non-CellTrak Applications. To use those features, Customer Client may be required to obtain access to Non-CellTrak Applications from their suppliers, and may be required to grant CellTrak access to Customer Client's account(s) on the Non-CellTrak Applications. CellTrak cannot guarantee the continued availability of those features, and may cease providing them without entitling Customer Client to any refund, credit, or other compensation. Fees and Payment.**

#### **Proprietary Rights.**

**Reservation of Rights.** Client acknowledges that in providing the Services, CellTrak utilizes (a) the CellTrak name, the CellTrak logo, the CellTrak domain name, the product and service names associated with the Services, and other trademarks and service marks; (b) certain audio and visual information, documents, software and other works of authorship; and (c) other technology, software, hardware, products, processes, algorithms, user interfaces, know-how and other trade secrets, techniques, designs, inventions and other tangible or intangible technical material or information (collectively, "**CellTrak Technology**") and that CellTrak owns or licenses patent rights, trademark rights, copyrights and other intellectual property rights to the CellTrak Technology (collectively, "**CellTrak IP Rights**"). Other than as expressly set forth in this Agreement, CellTrak does not grant or otherwise convey any license or other right in or to the CellTrak Technology or CellTrak IP Rights to Client. CellTrak expressly reserves all rights to the CellTrak Technology not expressly granted under this Agreement. There are no implied licenses under this Agreement.

**CellTrak Data.** As between CellTrak and Client, all CellTrak Data is owned exclusively by CellTrak and shall be considered Confidential Information of CellTrak subject to the terms of this Agreement.

**Client Data.** As between CellTrak and Client, all Client Data is owned exclusively by Client and shall be considered Confidential Information of Client subject to the terms of this Agreement. However, Client hereby grants to CellTrak a perpetual,

royalty-free, fully paid-up, worldwide right and license to access, use, copy, reproduce, display, alter and otherwise modify the Client Data in order to provide the Services and fulfill its obligations (and exercise its rights) under this Agreement. Client's license to CellTrak's Hosted Services includes Client's right to access Client Data which resides in the Hosted Services solely for Client's business purposes. Client also has the right to access Client's Data to retrieve, update, report on, and otherwise use Client's Data. CellTrak will not prohibit, block or charge a fee for such access or use, nor will CellTrak deploy any type of virus, software trap, or other malicious, disruption or corrupting program code or instructions within the licensed software that would purposely prevent Client from accessing or using Client Data. CellTrak agrees to cooperate with Client by providing any documentation for all interfaces and application programming interfaces and any technical support required by Client to access and use its Client Data.

**De-Identified Data.** In order to improve the Services and for other purposes, CellTrak collects and compiles De-Identified Data. CellTrak may use De-Identified Data for purposes of aggregating data and preparing reports and statistics regarding use and functioning of the Services by CellTrak's various clients, improving any CellTrak Technology, creating new CellTrak solutions to serve industry needs, and conducting research and analysis related to the Services, which may be distributed to its Clients and potential Clients, so long as CellTrak maintains the confidentiality of the Client Data, including any Protected Health Information, and Client's identity in accordance with this Agreement. CellTrak will use the Client Data, including the De-Identified Data Set, in accordance with all applicable laws, including 45 CFR §164.514.

**License to Use Feedback.** Client hereby grants to CellTrak a worldwide, perpetual, irrevocable, royalty-free, fully-paid up license to use and incorporate into the Services and CellTrak Technology any suggestion, enhancement request, recommendation, form design, correction or other feedback provided by Client or Users.

**Protection and Non-Disclosure.** Receiving Party agrees to protect the confidentiality of Disclosing Party's Confidential Information in the same manner that Receiving Party protects the confidentiality of its own proprietary and confidential information, but in no event shall

Receiving Party exercise less than reasonable care in protecting Disclosing Party's Confidential Information. Receiving Party shall: (a) not disclose or use any of the Disclosing Party's Confidential Information for any purpose outside the scope of this Agreement; (b) unless otherwise permitted by Disclosing Party in writing, limit access to the Disclosing Party's Confidential Information to those of Receiving Party's employees, contractors and agents who need access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein.

**Compelled Disclosure.** If Receiving Party is compelled by law to disclose any portion of Disclosing Party's Confidential Information, it shall provide Disclosing Party with prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party contests the disclosure.

**Remedies.** If Receiving Party discloses or uses (or threatens to disclose or use) any of Disclosing Party's Confidential Information in breach of this Section 7, Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts without the requirement of a bond or other assurance, it being specifically acknowledged by the parties that any other available remedies are inadequate.

**Privacy Laws.** CellTrak and Client each agree to comply with the applicable requirements of applicable Privacy Laws. CellTrak and Client further agree to comply with the provisions of the agreed upon and separately executed Business Associate Addendum, which shall constitute an integral part of this Agreement and is hereby incorporated into this Agreement. In the event of conflict between the Business Associate Addendum and any provision of this Agreement, the terms of the Business Associate Addendum shall control.

**Warranties and Disclaimers.**

**CellTrak Warranty.** CellTrak warrants that it will provide the (a) Hosted Services materially in accordance with the Documentation; (b) Professional Services in a professional manner that materially complies with the requirements set



forth in the applicable Statement of Work; and (c) Support Services in accordance with Section 2.4. If any Services provided to Client are not performed in accordance with the foregoing warranties (as applicable), Client must promptly provide written notice to CellTrak describing the deficiency. For any breach of the foregoing warranties, CellTrak shall, as Client's sole and exclusive remedy and CellTrak's entire liability, re-perform of the deficient Services. The foregoing warranties do not apply to the extent that the CellTrak Technology or the Services have been modified by persons other than CellTrak employees or persons authorized by CellTrak.

**Client Warranty.** Client warrants that (a) Client is authorized, and has the right and license, to provide the Non-CellTrak Applications and Client Data to CellTrak in accordance with the terms of this Agreement; (b) in connection with CellTrak's provision of Services under this Agreement, CellTrak is authorized to access and use such Client Data and Non-CellTrak Applications consistent with the terms of this Agreement.

**Disclaimer.** TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, THE WARRANTIES SET FORTH IN THIS SECTION 8 ARE EXCLUSIVE AND THERE ARE NO OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND CELLTRAK HEREBY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE. CELLTRAK DOES NOT WARRANT THAT (A) THE SERVICES WILL BE ERROR-FREE, UNINTERRUPTED, SECURE OR VIRUS-FREE OR THAT CELLTRAK WILL CORRECT ALL ERRORS, (B) THE SERVICES WILL OPERATE IN COMBINATION WITH CLIENT DATA OR NON-CELLTRAK APPLICATIONS, OR WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED OR APPROVED BY CELLTRAK, OR (C) THE SERVICES WILL MEET CLIENT REQUIREMENTS, SPECIFICATIONS OR EXPECTATIONS. CLIENT ACKNOWLEDGES THAT CELLTRAK DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. CELLTRAK IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY

FAILURES, OR OTHER DAMAGE RESULTING FROM THOSE PROBLEMS. CELLTRAK IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE SERVICES THAT ARISE FROM CLIENT DATA NON-CELLTRAK APPLICATIONS OR THIRD PARTY CONTENT.

**Indemnification.**

**Indemnification by CellTrak.** CellTrak shall defend, indemnify and hold Client harmless against any loss or damage (including reasonable attorneys' fees) incurred in connection with any claim, demand, suit, or proceeding made or brought against Client by a third party (a) alleging that Client's use of the Services (including the CellTrak Software) as contemplated hereunder infringes the intellectual property rights of a third party, or (b) relating to the gross negligence or willful misconduct of CellTrak. CellTrak's obligation shall not extend to a claim based on any alleged infringement arising from any: (i) third party component of the Services, (ii) additions, changes or modifications to the Services by or on behalf of Client, (iii) incorporation of the Services (or any component thereof) into, or combination of the Services (or component thereof) with, any other product, technology, service or process, or (iv) use of the Services (or any component thereof) other than as permitted by this Agreement. Should the Services (or any component thereof) become, or in CellTrak's opinion be likely to become, the subject of any such suit or action for infringement or if Client is enjoined from using the Services, CellTrak shall, at CellTrak's option and expense, procure for Client the right to continue using the Services (or component thereof), or replace or modify such Services (or component thereof), so that it becomes non-infringing. If in CellTrak's reasonable judgment, such procurement, replacement or modification is not commercially feasible, CellTrak may terminate this Agreement without further liability or obligation to Client. If CellTrak terminates this Agreement under this Section 9.1, CellTrak will promptly refund to Client any prepaid fees for unused Services. This Section 9.1 states CellTrak's sole and entire liability and Client's sole and exclusive remedy in respect of infringement claims relating to the Services or the CellTrak Software.

**Indemnification by Client.** Client shall defend, indemnify and hold CellTrak harmless against any loss or damage (including reasonable attorneys'

fees) incurred in connection with any claim made or brought against CellTrak by a third party arising out of or relating to: (a) Client's or its Users' use of the Services; (b) any violation of applicable law by Client or its Users; (c) Client's or its Users' gross negligence or willful misconduct; or (d) allegations that the Client Data infringes the intellectual property rights of, or otherwise harmed, a third party.

**Indemnification Procedure.** In the event either party seeks indemnification under this Agreement (the "**Indemnified Party**") from the other party (the "**Indemnifying Party**"), the Indemnified Party shall: (a) promptly give written notice of the claim to the Indemnifying Party; (b) grant the Indemnifying Party sole control of the defense and settlement of the claim (provided that the Indemnifying Party may not settle any claim unless the settlement unconditionally releases the Indemnified Party of all liability or with the consent of the Indemnified Party); and (c) provides to the Indemnifying Party, at the Indemnifying Party's cost, all reasonable assistance.

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

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EITHER PARTY (TOGETHER WITH ALL OF ITS AFFILIATES) ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED AN AMOUNT EQUAL TO THE FEES PAID BY CLIENT TO CELLTRAK HEREUNDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY IS LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO DAMAGES FOR LOSS OF BUSINESS, LOSS OF DATA, LOSS OF PROFITS OR THE LIKE) ARISING UNDER THIS AGREEMENT, OR RELATED TO THE SERVICES, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN CELLTRAK AND CLIENT. However, the limitations and exclusions in this Section 10 do not apply to either Party's

indemnification or confidentiality obligations, or to Client's obligations to pay fees and expenses when due and payable.

#### **Term & Termination.**

**Client Data Portability and Deletion.** CellTrak will maintain Client Data for at least 30 days following the end of the Term ("**Retention Period**"). Upon Client's request, if made during the Retention Period, CellTrak will make the Client Data available to Client in a mutually agreed upon format. Following the Retention Period, CellTrak will have no obligation to maintain or provide any Client Data, and CellTrak reserves the right to delete or destroy all copies of Client Data in CellTrak's possession, unless legally prohibited.

**Surviving Provisions.** The following provisions shall survive the termination or expiration of this Agreement for any reason and shall remain in effect after any such termination or expiration: Definitions, Proprietary Rights, Disclaimer, Indemnification, Limitation of Liability, Client Data Portability and Deletion, Surviving Provisions, and General Provisions.

#### **General Provisions.**

**Nonexclusive.** Nothing expressed or implied in this Agreement shall be deemed to restrict CellTrak's right or ability, whether during the term of this Agreement or at any time thereafter, to: (a) directly or indirectly sell, license, use, promote, market, exploit, develop or otherwise deal in any product or service of any kind in any location; or (b) enter into any business arrangement of whatever nature or description with any entity in any location.

**Relationship of the Parties.** This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. Nothing herein shall cause either party to be deemed an advisor or fiduciary of the other party. Neither party shall take any action or permit any action to be taken on its behalf which purports to be done in the name of or on behalf of the other party and shall have no power or authority to bind the other party or to assume or create any obligation or responsibility, express or implied, on the other party's behalf or in its name, nor shall such party represent to any one that it has such power or authority.

**Subcontractors.** CellTrak reserves the right to perform all or any of its obligations under this



Agreement through subcontractors. CellTrak will be responsible to Client for the work performed by subcontractors to the same extent that CellTrak would be if it were CellTrak's own work. All other provisions of this Agreement shall apply to the work of the subcontractor in the same manner and to the same extent as if the work were performed by CellTrak hereunder. CellTrak may provide the subcontractor with a copy of those sections of this Agreement with which the subcontractor must comply. If the subcontractor needs access to Client's Confidential Information to perform the subcontracted services, CellTrak may provide such access if the subcontractor first agrees in writing to comply with the confidentiality provisions of this Agreement applicable to such Confidential Information.

**No Benefit to Others.** The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the parties and their respective successors and permitted assigns, and they are not to be construed as conferring any rights on any other persons.

**Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law or otherwise void, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior express written consent of the other party. Notwithstanding the foregoing either party may assign this Agreement together with all rights and

obligations hereunder, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect and shall entitle the non-assigning party to terminate this Agreement for cause. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**Force Majeure.** Except for obligations to make payment, neither party shall be liable for any failure to perform or delay in performing any obligation under this Agreement if such failure or delay is due to fire, flood, earthquake, strike, war (declared or undeclared), embargo, blockade, legal prohibition, governmental action, riot, insurrection, damage, destruction, component or materials shortage or any other cause beyond the reasonable control of such party.

**Quantity and Fee:** Client agrees to pay the annual fees for the indicated Service Term. Client may not reduce Client's commitment specified in the Order during the Service Term. Client may add additional Services at the unit fee indicated above, for which Client agrees to pay the additional fees associated with any additional Services. CellTrak reserves the right to increase the annual fee during the term of this Agreement, but in no case shall the annual fee be increased within the first 12 months following the Order Effective Date. Such fee increase shall be limited to a maximum of 5% and shall not occur more than once in any 12-month period.

**Support:** CellTrak will provide the Support Services from 6:30 a.m. to 6:00 p.m. CST. CellTrak shall make reasonable efforts, solely through telephone support and remote electronic access, to correct errors reported by Users, and provide answers to questions from Users related to the use and operation of the Service.