

MCL Mobility Platform

Terms and Conditions

MCL

(registered in BCE/KBO n° 2.087.817.310)

NYSDAM Office Park

Avenue Reine Astrid, 92 (3rd floor)

1310 La Hulpe

Belgium

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(Version 1.8)

Please read these Terms and Conditions ("the T&C") carefully, as they set out our and your legal rights and obligations in relation to the MCL Mobility Platform and services. You will be asked to agree to these Terms and Conditions before becoming a customer.

THIS TERMS and CONDITIONS GOVERN YOUR RIGHTS OF USE OF THE MCL MOBILITY PLATFORM SERVICES.

BY ACCEPTING THESE TERMS and CONDITIONS, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THESE TERMS and CONDITIONS, YOU AGREE TO IT. IF YOU ARE ACCEPTING THESE TERMS and CONDITIONS ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THEM AND MAY NOT USE THE SERVICES.

You may not access the Services if You are an MCL direct competitor, except with our prior written consent. In addition, You may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

You should print a copy of these terms and conditions for future reference. We will not file a copy specifically in relation to you, and they may not be accessible on our website in future.

These terms and conditions are available in the English language only.

1. Definitions and interpretation

1.1 In the Agreement:

"**Affiliate**" means an entity that Controls, is Controlled by, or is under common Control with the relevant entity;

"**Application**" means the software application (called MCL Mobility Admin Manager) supplied by the Provider to the Customer for the purpose of enabling the Customer to access and use the Platform. The Application can be accessed via any standard web browser;

"**Application Program Interface**" or "**API**" means a set of commands, functions, and protocols which programmers can use when building software to interact with the Platform.

"**Business Day**" means any week day, other than a bank or public holiday in Belgium;

"**Business Hours**" means between 09:00 AM and 05:30 PM Brussels time on a Business Day;

"**Confidential Information**" means the Customer Confidential Information and the Provider Confidential Information;

"**Control**" means the legal power to control (directly or indirectly) the management of an entity (and "**Controlled**" will be construed accordingly);

"Customer" means the company or other legal entity for which you are accepting these Terms and Conditions, and Affiliates of that company or entity;

"Customer Confidential Information" means

- (a) any information disclosed (whether disclosed in writing, verbally or otherwise) by the Customer to the Provider or to the Reseller during the Term that is marked as "confidential", described as "confidential" or should have been understood by the Provider or by the Reseller at the time of disclosure to be confidential;
- (b) the financial terms and conditions of the Subscriptions attached to a Customer Account;
- (c) the Customer Materials.

"Customer Indemnity Event" has the meaning given to it in Clause 13.1;

"Customer Materials" means all works and materials including Mobile Applications:

- (a) uploaded to, stored on, processed using or transmitted via the Platform or Application by or on behalf of the Customer or by any person or application or automated system using the Customer's User Account; and
- (b) otherwise provided by the Customer to the Provider or to the Reseller in connection with the Agreement;

"Defect" means a defect, error or bug having a materially adverse effect on the appearance, operation or functionality of the Platform, but excluding any defect, error or bug caused by or arising as a result of:

- (a) an act or omission of the Customer, or an act or omission of one of the Customer's employees, officers, agents, suppliers or sub-contractors; or
- (b) an act or omission of the Reseller, or an act or omission of one of the Reseller's employees, officers, agents, suppliers or sub-contractors; or
- (c) an incompatibility between the Platform and any other system, application, program or software not specified as compatible in the Documentation;

"Documentation" means the documentation produced by the Provider and supplied or made available on the Platform to the Customer specifying how the Platform and Application should be used;

"Effective Date" means the date that these Terms and Conditions comes into force as specified in Clause 2;

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including but not limited to failures of or problems with the internet or a part of the internet, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Intellectual Property Rights" means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of

application for such rights. They include a.o. copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs;

"Minimum Term" means the period specified as such in the Order Form or the period associated to a specific Service category reference number;

"Main Agreement" means the agreement between the Reseller and the Customer for the provision of the Platform as a service, incorporating these Terms and Conditions (including the Schedules) and any amendments to the Main Agreement from time to time;

"Malicious Code" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

"Mobile Application" means the software application (i) developed and supplied by the Reseller to the Customer or (ii) developed by the Customer themselves. The Mobile Application is uploaded in the Platform's Enterprise Application Store in order to be downloaded and installed on mobile terminals themselves connected to the Platform;

"Mobile Computers" means a small, handheld computing device, for the most part featuring a screen to view information and a keyboard or keypad for entering information, and which may integrate dedicated I/O such as scanner, imager, touch screen, RFID reader and audio capabilities.

"Order Form" means the document or the electronic form made available by the Reseller to the Customer during the order process that specifies the identity of the Customer, and the Services to be provided hereunder and that is entered into and agreed between You and the Reseller.

"Platform" means the software platform known as MCL Mobility Platform that is owned and operated by the Provider, and that will be made available to the Customer as a service via the internet under these Terms and Conditions. The MCL Mobility Platform allows the use of different Services;

"Platform API App" means any application that accesses the Platform through the Platform API.

"Provider" means MCL, an entity incorporated in Belgium (registered in the Belgian crossroad bank of enterprises, BCE/KBO n° 2.087.817.310) having its offices at NYSDAM Office Park, Avenue Reine Astrid 92 (3rd floor), 1310 La Hulpe, Belgium.

"Provider Confidential Information" means any information disclosed (whether disclosed in writing, verbally or otherwise) by the Provider to the Customer or to the Reseller that is marked as "confidential", described as "confidential" or should have been understood by the Customer or by the Reseller at the time of disclosure to be confidential.

"Provider Indemnity Event" has the meaning given to it in Clause 13.3;

"Reseller" also sometimes known as a value-added reseller **"VAR"** means a company that orders, directly or indirectly, from Provider all or some MCL Mobility Platform Services and then re-sells them through a subscription to its own Customers;

"Services" means the services that are ordered by You under an Order Form accepted by a Reseller and made available online by Us through the Platform, including associated offline components, as described in the Documentation;

"Software" means different separate software components (such as MCL-Designer (MP), MCL-Client (MP) or MCL-Net (MP) – the current list being non limitative) and any integrated third party software which will be made available to Customer and installed on premise to allow him to interact with the Platform. The abbreviation MP stands for Mobility Platform;

"Subscription" means a purchase made through an Order Form. The Subscription is opened for a specified series of Services of the Platform, for an initial specified period of time and/or for an initial specified number of Mobile Computers.

"Subscription Fees" or **"Fees"** means the fees perceived by the Reseller or by Provider for the rights to use the Platform and its associated Services.

"Subscription Term" means the term of the Subscription underwritten by the Customer;

"Upgrades" means new versions of, and updates to, the Platform, whether for the purpose of fixing an error, bug or other issue in the Platform or enhancing the functionality of the Platform;

"User" means an individual who is authorized by the Customer to use the Application and the Services of the MCL Mobility Platform and to whom You (or We at Your request) have supplied a user identification and password. Users may include, for example, Customer's employees, consultants, contractors and agents, and third parties (such as the Reseller) with which You transact business.

"User Account" means an established relationship between the Customer and the Platform. At least one Subscription has to be attached to a User Account;

"We," "Us" or "Our" refers to MCL, an entity incorporated in Belgium (registered in the Belgian crossroad bank of enterprises, BCE/KBO n° 2.087.817.310) having its offices at NYSDAM Office Park, Avenue Reine Astrid 92 (3rd floor), 1310 La Hulpe, Belgium; and

"You" or "Your" refers to the individual, the company or other legal entity accepting these Terms and Conditions.

1.2 In the Agreement, a reference to a statute or statutory provision includes a reference to:

(a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

(b) any subordinate legislation made under that statute or statutory provision.

1.3 The clause headings do not affect the interpretation of these Terms and Conditions.

2. Agreement and Term

2.1 These Terms and Conditions will come into force on the date You first accept them (Effective Date) and will continue in force for the Minimum Term and afterwards will continue until all Subscriptions hereunder have expired or have been

terminated, unless terminated earlier in accordance with Clause 17.

- 2.2 The term of each Subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional periods equal to calendar quarters (3 months) ("Renewal Period"), unless either party gives the other notice in writing of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any automatic renewal term will be the same as that during the immediately prior term unless We have given You written notice of a pricing increase at least 45 days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter.

3. Rights Granted

- 3.1 The Provider will make the Platform available to the Customer by setting up a User Account for the Customer on the Platform, and providing to the Customer login details for that User Account within 3 Business Days following the Effective Date.

After receipt and validation of an order by the Provider, Customer will receive instructions by email for opening and/or provisioning its User Account by associating to it ordered Subscriptions. The date upon which Subscriptions are associated to an existing User Account shall be the "Activation Date" of the purchased Service(s). The Activation Date will initiate the start of the Minimum Term.

- 3.2 Subject to the limitations set out in Clause 3.3 and the prohibitions set out in Clause 3.4, the Provider hereby grants to the Customer a nonexclusive, non-assignable, worldwide limited right to use the Services of the Platform via the Application solely for its business operations and subject to the terms of these Terms and Conditions and in accordance with the Documentation during the Term.

- 3.3 The rights granted by the Provider to the Customer under Clause 3.2 are subject to the following limitations:

- (a) the Platform must not be used at any point in time by more than the number of concurrent Mobile Computers specified in the Subscription(s);
- (b) the Platform may only be used by the employees, agents and sub-contractors of the Customer or a specific Reseller designated by the Customer;
- (c) the Customer must comply at all times with the terms of the Acceptable Use Policy set out in Schedule 2, and must ensure that all users of the Platform agree to and comply with the terms of that acceptable use policy.

- 3.4 Except to the extent mandated by applicable law or expressly permitted in the Agreement, the subscription rights granted by the Provider to the Customer under this Clause 3 are subject to the following prohibitions:

- (a) the Customer must not sub-subscribe its right to access and use the Platform or allow any unauthorised person to access or use the Platform;
- (b) the Customer must not frame or otherwise re-publish or re-distribute the Platform;
- (c) the Customer must not alter or adapt or edit the Platform save as expressly permitted by the Documentation.

- (d) the Customer will not use any robot, spider, scraper or other automated means to:
 - (i) access the Application for any purpose, or
 - (ii) interface with the Application for any purpose, or
 - (iii) bypass measures the Provider may use to prevent or restrict access to the Application for the purpose of obtaining unauthorized access to it.
 - (e) the Customer will not impose an unreasonable or disproportionately large load on the Platform's infrastructure.
- 3.5 The Customer has no right to access the object code or source code of the Platform or of the Application, either during or after the Term.
- 3.6 All Intellectual Property Rights in the Platform shall be the exclusive property of the Provider.
- 3.7 The Customer shall ensure that no unauthorised person will or could access the Platform using the Customer's User Account.
- 3.8 The Customer must not use the Platform in any way that causes, or may cause, damage to the Platform or impairment of the availability or accessibility of the Platform, or any of the areas of, or services on, the Platform.
- 3.9 The Customer must not use the Platform:
- (a) in any way that is unlawful, illegal, fraudulent or harmful; or
 - (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.
- 3.10 You acknowledge that the Provider has no delivery obligation and will not ship copies of the Platform to the Customer as part of the Services. The Customer agrees that he does not acquire under the Main Agreement any license to use the Platform and/or the associated Services specified in the Order Form in excess of the scope and/or duration of the Services. Upon the termination of all Subscription(s) attached to a User Account or the Services thereunder, the Customer right to access or use the Platform and/or the associated Services specified in the Order Form shall terminate.
- 3.11 The Customer is solely responsible and liable for all activities conducted through its User Account on the Platform.

4. Software

- 4.1 The Provider will within 3 Business Days following the Effective Date make available for download by the Customer a copy or copies of the Software.
- 4.2 The use of the Software shall be subject to the End User Licence Agreement included with the Software and,
- (a) the Customer may only use the Software for the Customer's internal business purposes;
 - (b) the Customer may download, install and use up to the number of copies of the Software as defined in the Subscription strictly in accordance with the Documentation;

- (c) the Customer may not:
 - (i) copy or reproduce the Software or any part of the Software other than in accordance with its subscription rights;
 - (ii) sell, resell, rent, lease, loan, supply, distribute, redistribute, publish or re-publish the Software or any part of the Software;
 - (iii) modify, alter, adapt, translate or edit, or create derivative works of, the Software or any part of the Software;
 - (iv) reverse engineer, decompile, disassemble the Software or any part of the Software (except as mandated by applicable law);
 - (v) use the Software other than in accordance with the Documentation;
or
 - (vi) circumvent or remove or attempt to circumvent or remove the technological measures applied to the Software for the purposes of preventing unauthorised use.

4.3 All Intellectual Property Rights in the Software shall be the exclusive property of the Provider.

5. Upgrades

During the Term the Provider may apply Upgrades to the Platform, in accordance with the Service Level Agreement set out in Schedule 1.

6. Use of Services and Platform APIs

6.1 Subscriptions.

Unless otherwise provided in the applicable Order Form,

- (a) Services are purchased as subscriptions,
- (b) Subscriptions may be added during a Subscription Term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and
- (c) any added subscriptions will terminate on the same date as the underlying subscriptions.

6.2 Usage Limits.

Services are subject to usage limits, including, for example, the quantities specified in the Subscription(s). Unless otherwise specified,

- (a) a quantity in a Subscription refers to Mobile Computers, and the Service may not be accessed by more than that number of Mobile Computers,
- (b) a User's password may not be shared with any other individual, and
- (c) a User identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the Service.

6.3 Specific Platform APIs terms.

6.3.1 Platform API Apps must comply with the Platform policies and requirements set forth on the documentation provided by the Provider, which may be modified from time to time.

6.3.2 Platform APIs Usage.

a) The Provider may sometimes review the Platform APIs (including how the services are being accessed and used) but has no obligation to do so.

b) At any time the Provider may utilize technical measures to prevent overusage of the Platform through API calls. The Provider may also limit the number of calls or requests accepted by the Platform APIs if the Provider believes that the number of calls to the Platform APIs may negatively impact the Platform APIs or the Platform itself.

c) The Provider may indicate the number of authorized allowed API calls per day in the aggregate with a maximum number of API calls per second in the aggregate. The Provider may change such usage limits at any time without notice.

7. Ownership

7.1 The Customer retains all ownership and intellectual property rights in and to its data.

7.2 The Provider or its licensors retain all ownership and intellectual property rights to the Platform, the Services and the Software.

7.3 The Provider retains all ownership and intellectual property rights to anything developed and/or delivered by the Provider under the Main Agreement.

8. Customer Materials

8.1 The Customer grants to the Provider a non-exclusive licence to store, copy and otherwise use the Customer Materials on the Platform for the purposes of operating the Platform, providing the Services, fulfilling its other obligations under the Agreement, and exercising its rights under the Agreement.

8.2 Subject to Clause 8.1, all Intellectual Property Rights in the Customer Materials will remain the property of the Customer or the third party(ies) in whom the rights were vested.

8.3 The Customer warrants and represents to the Provider that the Customer Materials, and their use by the Provider in accordance with the terms of the Agreement, will not:

(a) breach any laws, statutes, regulations or legally-binding codes;

(b) infringe any person's Intellectual Property Rights or other legal rights; or

(c) give rise to any cause of action against the Provider or the Customer or any third party,

in each case in any jurisdiction and under any applicable law.

- 8.4 Where the Provider reasonably suspects that there has been a breach by the Customer of the provisions of this Clause 8, the Provider may:
- (a) delete or amend the relevant Customer Materials; and/or
 - (b) suspend any or all of the Services and/or the Customer's access to the Platform while it investigates the matter.
- 8.5 Any breach by the Customer of this Clause 8 will be deemed to be a material breach of the Agreement for the purposes of Clause 17.
- 8.6 The Provider shall ensure that the Customer Materials stored and processed by the Platform are stored separately from, and are not co-mingled with, the materials of other customers of the Provider.

9. Services Tools, Statistical Information and Customer Reference

- 9.1 The Provider may use tools, scripts, software, and utilities (collectively, the "tools") to monitor and administer the Services and to help resolve Platform support requests. The tools will not collect, report or store any of your data residing in the production environment, except as necessary to troubleshoot Platform support and maintenance activities or other technical problems in the Platform.
- 9.2 The Provider may compile statistical information related to the performance of the Platform and/or the Services, and may make such information publicly available, provided that such information does not incorporate your data and/or identify your confidential information. The Provider retains all intellectual property rights in such information.
- 9.3 Unless the Provider receives a written notice to opt-out You agree (i) that the Provider may identify you as a recipient of Services and use Customer logo in sales presentations, marketing materials and press releases, and (ii) to develop a brief customer profile for use by the Provider for promotional purposes.

10. Subscription Fees

- 10.1 You will pay to Reseller in due time all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on Services purchased and not actual usage, (ii) payment obligations are non-cancellable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the relevant subscription term.

All fees due under the Agreement are non-cancellable and the sums paid non-refundable.

- 10.2 It is the Reseller's responsibility to, directly or indirectly, pay the fees to the Provider less Reseller's margin.
- 10.3 If the Customer does not pay any amount properly due to the Reseller under or in connection with the Agreement, the Provider may suspend access to the Platform and the provision of the Services but only if any amounts due to be paid by the Customer to the Reseller under the Main Agreement are overdue by more than 10 days.

- 10.4 If the Reseller does not pay any amount properly due to the Provider under or in connection with the Agreement or if the Reseller becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, the Provider may request the Customer, in order to assume continuity of Services, to pay the fees attached to its Subscription directly to the Provider, bypassing the Reseller. In this case, if the Customer does not pay any amount properly due to the Provider under or in connection with the Agreement, the Provider may suspend access to the Platform and the provision of the Services but only if any amounts due to be paid by the Customer to the Provider under the Agreement are overdue by more than 10 days. In such case Reseller is relieved of paying the concerned Subscription Fees to Provider.
- 10.5 Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). The Customer is responsible for paying all Taxes associated with its purchases hereunder.
- 10.6 Refund or Payment upon Termination.

If the Subscription(s) is(are) terminated by the Customer in accordance with Section 17.1 (Termination), the Provider will refund the Customer any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If the Subscription(s) is(are) terminated by the Provider in accordance with Section 17.1 (Termination), the Customer will pay any unpaid fees covering the remainder of the term of all Order Forms. In no event will termination relieve the Customer of its obligation to pay any fees payable to the Reseller or to the Provider for the period prior to the effective date of termination.

11. Subscription Fees Increase

The Provider shall be entitled to increase the Subscription Fees, at the start of each Renewal Period upon 45 days' prior notice to the Customer.

12. Warranties

- 12.1 The Customer warrants to the Provider that it has the legal right and authority to enter into and perform its obligations under the Agreement.
- 12.2 The Provider warrants to the Customer:
- (a) that it has the legal right and authority to enter into and perform its obligations under the Agreement;
 - (b) that it will perform its obligations under the Agreement with reasonable care and skill;
 - (c) that the Platform will operate without Defects and will perform substantially in accordance with the Documentation (subject to any Upgrades);
 - (d) that the Platform will be available to the Customer in accordance with the uptime commitments given in Schedule 1;
 - (e) that the Platform (excluding for the avoidance of doubt the Customer Materials) will not:

- (i) breach any laws, statutes, regulations or legally-binding codes;
 - (ii) infringe any person's Intellectual Property Rights or other legal rights; and
- (f) the Platform is and will remain free from viruses and other malicious software programs.

For any breach of the above warranty, Your exclusive remedies are those described in Sections 10.6 (Refund or Payment upon Termination), in Section 17 (Termination) and in Schedule 1 – Section 3.4.

12.3 The Customer acknowledges that:

- (a) complex software is never wholly free from defects, errors and bugs, and the Provider gives no warranty or representation that the Platform will be wholly free from such defects, errors and bugs;
- (b) the Provider does not warrant or represent that the Platform will be compatible with any application, program or software (other than the Application) not specifically identified as compatible in the Documentation; and
- (c) the Provider will not and does not purport to provide any legal, taxation or accountancy advice under the Agreement or in relation to the Platform.

12.4 All of the parties' warranties and representations in respect of the MCL Mobility Platform are expressly set out in the terms of these Terms and Conditions. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of the MCL Mobility Platform will be implied.

13. Indemnities

13.1 Subject to the Provider's compliance with Clause 13.2, the Customer will indemnify and will keep indemnified the Provider against all liabilities, damages, losses, costs and expenses (including legal expenses and amounts paid in settlement of any disputes) suffered or incurred by the Provider and arising as a result of any breach by the Customer of Clause 8.3 (a "**Customer Indemnity Event**").

13.2 The Provider will:

- (a) upon becoming aware of an actual or potential Customer Indemnity Event, notify the Customer;
- (b) provide to the Customer reasonable assistance in relation to the Customer Indemnity Event;
- (c) allow the Customer the exclusive conduct of all disputes, proceedings, negotiations and settlements relating to the Customer Indemnity Event; and
- (d) not admit liability in connection with the Customer Indemnity Event or settle the Customer Indemnity Event without the prior written consent of the Customer.

13.3 Subject to the Customer's compliance with Clause 13.4, the Provider will indemnify and will keep indemnified the Customer against all liabilities, damages, losses, costs and expenses (including legal expenses and amounts paid in settlement of any disputes) suffered or incurred by the Customer and arising as a result of any breach by the Provider of Clause 12.2(e) (a "**Provider Indemnity Event**").

13.4 The Customer will:

- (a) upon becoming aware of an actual or potential Provider Indemnity Event, notify the Provider;
- (b) provide to the Provider reasonable assistance in relation to the Provider Indemnity Event;
- (c) allow the Provider the exclusive conduct of all disputes, proceedings, negotiations and settlements relating to the Provider Indemnity Event; and
- (d) not admit liability in connection with the Provider Indemnity Event or settle the Provider Indemnity Event without the prior written consent of the Provider.

14. Limitations and exclusions of liability

14.1 Nothing in the Agreement will:

- (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
- (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
- (c) limit any liability of a party in any way that is not permitted under applicable law; or
- (d) exclude any liability of a party that may not be excluded under applicable law.

14.2 The limitations and exclusions of liability set out in this Clause 14 and elsewhere in these Terms and Conditions govern all liabilities, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty;

14.3 The Provider will not be liable in respect of any loss of profits, income, revenue, use, production or anticipated savings.

14.4 Neither party will be liable for any loss of business, contracts or commercial opportunities.

14.6 Neither party will be liable in respect of any special, indirect or consequential loss or damage.

14.7 Neither party will be liable for any losses arising out of a Force Majeure Event.

14.8 The Provider's liability in relation to any event or series of related events will not exceed the total amount paid and payable as Subscription Fees under the Main Agreement during the 12 months period immediately preceding the event or events

giving rise to the claim, provided that in no event will Provider's aggregate liability arising out of or related to this Agreement exceed the total amount paid to Provider hereunder. The above limitations will apply whether an action is in contract or tort. The above limitations will not limit Customer's payment obligations under Section 10 (Subscription Fees).

15. Audit

The Provider may audit Your use of the MCL Mobility Platform or of the Services. You agree to cooperate with the Provider's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with your normal business operations. You agree to pay within 30 days of written notification any fees applicable to your use of the Services in excess of your Subscription(s) rights. If you do not pay, the Provider can suspend Your access to the Platform and/or terminate the Agreement. You agree that the Provider shall not be responsible for any of Your costs incurred in cooperating with the audit.

16. Confidentiality and publicity

16.1 The Provider will:

- (a) keep confidential and not disclose the Customer Confidential Information to any person save as expressly permitted by this Clause 16;
- (b) protect the Customer Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care;

16.2 The Customer will:

- (a) keep confidential and not disclose the Provider Confidential Information to any person save as expressly permitted by this Clause 16;
- (b) protect the Provider Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.

16.3 Confidential Information of a party may be disclosed by the other party to that other party's [officers, employees, agents, insurers and professional advisers], provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information disclosed.

16.4 The obligations set out in this Clause 16 shall not apply to:

- (a) Confidential Information that is publicly known (other than through a breach of an obligation of confidence);
- (b) Customer Confidential Information that is received by the Provider, and Provider Confidential Information that is received by the Customer, from an independent third party who has a right to disclose the relevant Confidential Information; or

- (c) Confidential Information that is required to be disclosed by law, or by a governmental authority, stock exchange or regulatory body, provided that the party subject to such disclosure requirement must where permitted by law give to the other party prompt written notice of the disclosure requirement.
- 16.5 The Customer will not make any public disclosure relating to the MCL Mobility Platform (including press releases, public announcements and marketing materials) without the prior written consent of the Provider.

17. Termination

- 17.1 The Provider or the Customer may each terminate the Subscription(s) immediately by giving written notice to the other party if the other party:
- (a) commits any material breach of any term of these Terms and Conditions , and:
 - (i) the breach is not remediable; or
 - (ii) the breach is remediable, but the other party fails to remedy the breach within 30 days of receipt of a written notice requiring it to do so; or
 - (b) persistently breaches the terms of these Terms and Conditions (irrespective of whether such breaches collectively constitute a material breach).
- 17.2 Either party may terminate the Agreement immediately by giving written notice to the other party if:
- (a) the other party:
 - (i) is dissolved;
 - (ii) ceases to conduct all (or substantially all) of its business;
 - (iii) is or becomes unable to pay its debts as they fall due;
 - (iv) is or becomes insolvent or is declared insolvent; or
 - (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
 - (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement); or
 - (d) (where that other party is an individual) that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.
- 17.3 Either party may terminate the Subscription(s) by giving at least 30 days' written notice of termination to the other party, expiring at the end of the Minimum Term or at least 30 days' written notice of termination to the other party, expiring at the end of the Renewal Period.

- 17.4 If the Provider stops or makes a good faith decision to stop operating the Platform generally, then the Provider may terminate the Agreement by giving at least 90 days' written notice of termination to the Customer.
- 17.6 The Provider may terminate the Subscription(s) immediately by giving written notice of termination to the Customer where the Customer fails to pay to the Reseller (or to the Provider per application of Section 10.4) any amount due to be paid and that is overdue by more than 30 days.

18. Effects of termination

- 18.1 Upon termination of the Subscriptions, all the provisions of these Terms and Conditions will cease to have effect, save that the following provisions of these Terms and Conditions will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses 1, 7, 13, 14, 16.1 to 16.4, 18 and 21.
- 18.2 Termination of the Subscription(s) will not affect either party's accrued liabilities and rights as at the date of termination.
- 18.3 Subject to Clause 18.5, within 30 days following the termination of the Subscription(s), the Provider will:
- (a) irrevocably delete from the Platform all Customer Confidential Information; and
 - [(b) irrevocably delete from its other computer systems all Customer Confidential Information, and return to the Customer or dispose of as the Customer may instruct all documents and materials containing Customer Confidential Information.
- 18.4 Subject to Clause 18.5, within 30 days following the termination of the Agreement, the Customer will:
- (a) return to the Provider or dispose of as the Provider may instruct all documents and materials containing Provider Confidential Information; and
 - (b) irrevocably delete from its computer systems all Provider Confidential Information.
- 18.5 A party may retain any document (including any electronic document) containing the Confidential Information of the other party after the termination of the Agreement if:
- (a) that party is obliged to retain such document by any law or regulation or other rule enforceable against that party; or
 - (b) the document in question is a letter, fax, email, order confirmation, invoice, receipt or similar document addressed to the party retaining the document.

19. Temporary Suspension

- 19.1 The Provider may suspend Your right to access or use any portion or all of the Platform immediately upon notice to you if it determines, in its reasonable

discretion, that Your use of the Platform or Your use of Platform APIs

- (i) poses a security risk to the Platform or any third party, or
- (ii) may adversely impact a) the Platform in such a way that the Services or any component thereof are about to suffer a significant threat to security or functionality or b) the Platform's access by any other user, or
- (iii) may be fraudulent.

19.2 If the Provider suspends Your right to access or use any portion or all of the Platform:

(a) You remain responsible for all fees and charges you have incurred up to the date of suspension;

(b) You remain responsible for any applicable fees and charges for any Platform service to which you continue to have access, as well as applicable data storage fees and charges, and fees and charges for in-process tasks completed after the date of suspension;

(c) You will not be entitled to any service credits under the Service Level Agreements for any period of suspension; and

(d) the Provider will not erase any of Your Content as a result of your suspension, except as specified elsewhere in this Agreement.

The Provider's right to suspend Your right to access or use the Platform is in addition to his right to terminate the Subscription pursuant to Section 17.

20. Notices

20.1 Any notice given under these Terms and Conditions must be in writing (whether or not described as "written notice" in these Terms and Conditions) and must be delivered personally, or sent by recorded signed-for post, or sent by fax, for the attention of the relevant person, and to the relevant address or fax number given below (or as notified by one party to the other in accordance with this Clause).

The Provider:

MCL
NYSDAM Office Park
Avenue Reine Astrid, 92 (3rd floor)
1310 La Hulpe
Belgium
Attn : Managing Director
Fax : +32 2 728 37 51

Or any new address of the registered offices of the Provider.

The Customer:

The address of the registered offices of Customer.
Attn : Managing Director

20.2 A notice will be deemed to have been received at the relevant time set out below (or where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below):

- (a) where the notice is delivered personally, at the time of delivery;
- (b) where the notice is sent by recorded signed-for post, 96 hours after posting; and
- (c) where the notice is sent by fax, at the time of the transmission (providing the sending party retains written evidence of the transmission).

21. Force Majeure Event

- 21.1 Where a Force Majeure Event gives rise to a failure or delay in either party performing its obligations under these Terms and Conditions (other than obligations to make payment), those obligations will be suspended for the duration of the Force Majeure Event.
- 21.2 A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under the Agreement, will:
 - (a) forthwith notify the other; and
 - (b) will inform the other of the period for which it is estimated that such failure or delay will continue.
- 21.3 The affected party will take reasonable steps to mitigate the effects of the Force Majeure Event.

22. Third party software

- 22.1 The Software may operate or interface with non-integrated third party software or other technology that is licensed to MCL by a third party, which is not proprietary to MCL, but which MCL has the necessary rights to license in subscription to Customer. Customer agrees that (a) it will use such non-integrated third party software in accordance with their respective license terms and conditions, (b) except for the respective license terms and conditions of the non-integrated third party software, no third party licensor makes any warranties, conditions, undertakings or representations of any kind, either express or implied, to Customer concerning such third party software or the Software itself, (c) such non-integrated third party software may be licensed under license terms which grant Customer additional rights or contain additional restrictions in relation to such materials, beyond those set forth in the rest of the present Terms and Conditions, and such additional license rights and restrictions are described or linked to in a separate Schedule of the present Terms and Conditions, the relevant MCL or third party licensor webpage, or within the product itself. For the avoidance of any doubt, such additional rights and/or restrictions apply to the non-integrated third party software on a standalone basis; nothing in such third party licenses shall affect Customer's use of the subscribed Software in accordance with the terms and conditions of these Terms and Conditions.
- 22.2 The third party software itself shall be governed by their respective license terms and conditions. MCL shall have no warranty or indemnification obligations with respect to any third party software. Your warranty and indemnification rights, if any, with respect to third party software shall be pursuant to such third party's applicable terms and conditions.

23. General

- 23.1 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.
- 23.2 If a Clause of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of the Agreement will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).
- 23.3 Nothing in the Agreement will constitute a partnership, agency relationship or contract of employment between the parties.
- 23.4 The Agreement may not be varied except by a written document signed by or on behalf of each of the parties.
- 23.5 The Customer hereby agrees that the Provider may freely assign any or all of its contractual rights and/or obligations under the Agreement to any Affiliate of the assigning party or any successor to all or a substantial part of the business of the assigning party from time to time. Save as expressly provided in this Clause or elsewhere in the Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in the Agreement or any contractual rights or obligations under the Agreement.
- 23.6 Each party agrees to execute (and arrange for the execution of) any documents and do (and arrange for the doing of) any things reasonably within that party's power, which are necessary to enable the parties to exercise their rights and fulfil their obligations under these Terms and Conditions.
- 23.7 these Terms and Conditions are made for the benefit of the parties and the Reseller, and is not intended to benefit any other third party or be enforceable by any other third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.
- 23.8 Subject to Clause 14.1:
- (a) these Terms and Conditions and the Schedules referred to in herein constitute the entire agreement between the parties in relation to the use of the MCL Mobility Platform, and supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter; and
 - (b) neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in accepting these Terms and Conditions.
- 23.9 The Agreement will be governed by and construed in accordance with the laws of Belgium; and the courts of Brussels, Belgium will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

Except for actions for non-payment or breach of Provider's intellectual proprietary rights, no action, regardless of form, arising out of or relating to the Agreement may be brought by either party more than two years after the cause of action has accrued.

Schedule 1

Service Level Agreement

attached to

MCL MOBILITY PLATFORM TERMS & CONDITIONS

1. Introduction

1.1 In this Schedule:

"New Functionality" means new functionality that is introduced to the Platform by an Upgrade; and

1.2 References in this Schedule to Paragraphs are to the paragraphs of this Schedule, unless otherwise stated.

2. Upgrades

2.1 The Customer acknowledges that from time to time during the Term the Provider may apply Upgrades to the Platform, and that such Upgrades may, subject to Paragraph 2.2, result in changes of the appearance and/or functionality of the Platform.

2.2 The Provider will give to the Customer reasonable prior written notice via e-mail of the application of any Upgrade to the Platform.

2.3 The Customer shall not be subject to any additional Fees arising out of the application of the Upgrade, save where:

(a) the Upgrade introduces New Functionality to the Platform ; and

(b) that New Functionality does not serve the same purpose as a legacy functionality that ceases or has ceased to be available as a result of any Upgrade; and

(c) access to or use of the New Functionality is chargeable to the customers of the Provider using the Platform generally;

2.4 Any decision by the Customer not to pay the Fees for the New Functionality will not prejudice the Customer's access to and use of the rest of the Platform.

3. Uptime commitment

3.1 The Provider shall ensure that the Platform is available 99.9% of the time during each calendar month, subject to Paragraph 5.

3.2 The Provider shall arrange for the monitoring of the availability of the Platform, and shall send an availability report to the Customer promptly following the Customer's request.

3.3 In the event that, during a calendar month entirely within the Term, the Platform fails to meet the availability commitment set out in Paragraph 3.1 then the Provider

shall issue service credits calculated in accordance with Paragraph 3.4 to the Customer, such service credits to be deducted by the Reseller or by the Provider from future Fees.

- 3.4 Subject to Paragraph 3.5, the services credits referred to in Paragraph 3.3 and due in respect of a calendar month shall be calculated as follows:

service credits (expressed in EURO) = $((100 - a)/10) \times b$

where:

a = the actual percentage availability of the Platform during the relevant calendar month; and

b = the Subscription Fees payable in respect of a specific Subscription to access to the Platform during the relevant calendar month (exclusive of VAT and other taxes).

- 3.5 The maximum service credits available to the Customer in respect of any calendar month shall be the total Fees payable in respect of a specific Subscription to access to the Platform during the relevant calendar month (exclusive of VAT and other taxes).
- 3.6 Subject to Clause 14.1, then the award of service credits under this Paragraph 3 shall be the exclusive remedy of the Customer in the case of a failure of the provider to meet the uptime commitment in Paragraph 3.1 except in the case of a failure constituting a material breach of the Agreement.

4. Back-up and restoration

- 4.1 General Back-Up operated by Provider (Recovery purposes only)

- (a) The Provider will make back-ups of the entire Platform on a daily basis (2:00am GMT), and will retain such back-ups for at least 15 days (the minimum Retention Period).
- (b) The Provider will have access to a recovery option: an interface allowing to restore any daily Backup copy kept within the Retention Period.
- (c) In the event of technical problems the Provider might have to restore the Platform from the most recent available back-up copy. It is the Customer's sole responsibility to take by himself the necessary steps to adopt the right back up policy concerning the Customer Materials (see point 4.2 below).

- 4.2 Back-up operated by Customer (Data export and retention policy)

- (a) All the data (as part of the Customer Materials) gathered via the Platform on the Mobile Computers (battery status, GPS coordinates of a device, etc.....) is stored within the MCL Mobility Platform database.
- (b) Customer Materials stored in the MCL Mobility Platform database can be exported via User Interface (CSV & Excel format) and/or through back-end Web Services.
- (c) It is the Customer's sole responsibility to take by himself the necessary steps to adopt the right back up policy concerning the Customer Materials.

5. Scheduled maintenance

- 5.1 The Provider may suspend access to the Platform in order to carry out scheduled maintenance, such suspension to be for not more than 3 hours in each calendar week.
- 5.2 The Provider must give to the Customer at least 7 days' written notice via e-mail of schedule maintenance, including full details of the expected Platform downtime.
- 5.3 Platform downtime during scheduled maintenance carried out by the Provider in accordance with this Paragraph 5 shall not be counted as downtime for the purposes of Paragraph 3.

Schedule 2

Acceptable Use Policy

attached to

MCL MOBILITY PLATFORM TERMS & CONDITIONS

(1) This Policy

This Acceptable Use Policy (the "**Policy**") sets out the rules governing the use of our Platform and its related Services and any content that you may submit to the Services ("**Content**").

By using the Services, you agree to the rules set out in this Policy.

(2) General restrictions

You must not use the Platform and the Services in any way that causes, or may cause, damage to the Platform or impairment of the availability or accessibility of the Services, or any of the areas of, or Services on, the Platform.

You must not use the Platform or the Services:

- (a) in any way that is unlawful, illegal, fraudulent or harmful; or
- (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

(3) Unlawful and illegal material

You must not use the Services to store, host, copy, distribute, display, publish, transmit or send Content that is illegal or unlawful, or that will or may infringe a third party's legal rights, or that could give rise to legal action whether against you or us or a third party (in each case in any jurisdiction and under any applicable law).

Content (and its publication on the Platform) must not, a.o.:

- (a) be libellous or maliciously false;
- (b) be obscene or indecent;
- (c) infringe any copyright, moral rights, database rights, trade mark rights, design rights, rights in passing off, or other intellectual property rights;
- (d) infringe any rights of confidence, rights of privacy, or rights under data protection legislation; or
- (e) be in breach of any contractual obligation owed to any person.

You must not submit any Content that is or has ever been the subject of any threatened or actual legal proceedings or other similar complaint.

(4) Graphic material

Content must not depict violence in an explicit, graphic or gratuitous manner.

Content must not be pornographic or sexually explicit, or consist of or include explicit, graphic or gratuitous material of a sexual nature.

(5) Harmful software

You must not use the Services to promote or distribute any viruses, Trojans, worms, root kits, spyware, adware or any other harmful software, programs, routines, applications or technologies.

(6) Gambling

You must not use the Services for any purpose related to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.

(7) Netiquette

Content must be appropriate, civil, tasteful and accord with generally accepted standards of etiquette and behaviour on the internet.

Content must not be offensive, insulting, deliberately upsetting, deceptive, threatening, abusive, harassing, or menacing, hateful, discriminatory or inflammatory.

Content should not cause annoyance, inconvenience or needless anxiety.

Do not flame or conduct flame wars on the Platform ("flaming" is the sending hostile messages intended to insult, in particular where the message is directed at a particular person or group of people).

Do not troll on the Platform ("trolling" is the practice of deliberately upsetting or offending other users).

You must submit Content to the appropriate part of the Platform.

(8) Hyperlinks

You must not link to any website or web page containing material that would, were it posted on the Platform, breach the preceding terms of this Policy.

(9) Breaches of this Policy

We reserve the right to edit or remove any Content in our sole discretion, without notice or explanation.

Without prejudice to this general right and our other legal rights, if you breach this Policy in any way, or if we reasonably suspect that you have breached this Policy in any way, we may:

- (a) delete or edit any of your Content;
- (b) send you one or more formal warnings;
- (c) temporarily suspend your access to a part or all of the Services; and/or

(d) permanently prohibit you from using a part or all of the Services.

(10) Banned users

Where we suspend or prohibit your access to the Services or a part of the Services, you may not take any action to circumvent such suspension or prohibition (including without limitation using a different User Account).

(11) Monitoring

Notwithstanding the provisions of this Policy, we do not actively monitor Content.

(12) Report abuse

If you become aware of any material on the Platform that contravenes this Policy, please notify us.

Schedule 3

End-User License Agreement (EULA)

attached to

MCL MOBILITY PLATFORM TERMS & CONDITIONS

Please read this EULA carefully, as it sets out the terms and conditions upon which we license our Software for use.

By clicking "accept agreement" when you first install the Software, you agree to be bound by the terms and conditions of this EULA. You further agree that your employees / any person you authorise to use the Software will also be bound by the terms and conditions of this EULA. If you do not agree to this EULA, you must click "reject agreement" during the installation process.

Before you download the Software from our website, we will ask you to give your express agreement to the terms and conditions of this EULA. You further agree that your employees / any person you authorise to use the Software will also be bound by the terms and conditions of this EULA.

If you do not agree to this EULA, you must not use the software for any purpose whatsoever.

1. Definitions and interpretation

1.1 The definitions of the Terms and Conditions have the same meaning under the present EULA.

1.2 In this EULA:

"**Computer**" means a desktop, notebook, netbook or similar computer owned by and in the control of the Licensee;

"**Customer**" or "**Licensee**" means the company or other legal entity having accepted the Terms and Conditions of the MCL Mobility Platform, and Affiliates of that company or entity and who is the licensee of the Software under this EULA;

"**Documentation**" means the documentation concerning the Software supplied by the Licensor or by the Software supplier to the Licensee with the Software;

"**Effective Date**" means the later of the two dates that (i) the MCL Mobility Platform Terms & Conditions comes into force as specified in its Clause 2 and (ii) when the Licensee agrees to the terms and conditions of this EULA, as detailed in the preamble to this EULA;

"**EULA**" means this end user licence agreement (including the preamble), and any amendments to it from time to time;

"**Licensor**" means MCL, an entity incorporated in Belgium (registered in the Belgian crossroad bank of enterprises, BCE/KBO n° 2.087.817.310) having its offices at NYSDAM Office Park, Avenue Reine Astrid 92 (3rd floor), 1310 La Hulpe, Belgium;

"MCL Mobility Platform Terms & Conditions" means the terms and conditions defining the rights and obligations between the Customer and the Provider following the purchase by the Customer of a Subscription.

"Software" means different separate software components (such as MCL-Designer (MP), MCL-Client (MP) or MCL-Net (MP) – the current list being non limitative) and any integrated third party software which will be made available to Customer and installed on premise to allow him to use the Platform. The abbreviation MP stands for Mobility Platform; and

"Upgrade" an upgrade, update, enhancement, improvement or patch to the Software supplied by the Licensor.

"We," "Us" or "Our" refers to MCL, an entity incorporated in Belgium (registered in the Belgian crossroad bank of enterprises, BCE/KBO n° 2.087.817.310) having its offices at NYSDAM Office Park, Avenue Reine Astrid 92 (3rd floor), 1310 La Hulpe, Belgium; and

"You" or "Your" refers to the Customer.

1.2 In this EULA, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

1.3 The clause headings do not affect the interpretation of this EULA.

2. Term of EULA

This EULA will come into force on the Effective Date and will continue in force for the Minimum Term and afterwards will continue until all Subscriptions have expired or have been terminated, unless terminated earlier in accordance with Clause 17 of the MCL Mobility Platform Terms & Conditions.

3. Licence

3.1 The Licensee may only use the Software and Documentation for the Licensee's business purposes and in accordance with the provisions of this Clause 3 and in all circumstances only under the MCL Mobility Platform Terms & Conditions.

3.2 Subject to the payment by the Licensee of the Subscription Fees, and the Licensee's compliance with Clause 3.4 and the other provisions of this EULA and of the MCL Mobility Platform Terms & Conditions, the Licensor grants to the Licensee a non-exclusive non-transferable licence to:

- (a) download 1 instance of the Software and Documentation;
- (b) install 1 instance of the Software and Documentation;
- (c) use 1 instance of the Software in accordance with the Documentation; and
- (d) use 1 instance of the Documentation,

per Computer or per Mobile Computer anywhere in the world except in any country for which any applicable government, at the time of export or re-export, requires an export license or other governmental approval, without first obtaining the license or approval.

3.3 THIS LICENSE MAY NOT BE USED CONCURRENTLY ON DIFFERENT COMPUTERS OR MOBILE COMPUTERS (BOTH OF THEM HARDWARE). The SOFTWARE is licensed as a single product and may only be used with one HARDWARE at a time. The Licensee may permanently transfer all of its rights under this EULA in conjunction with a permanent sale or transfer of the HARDWARE on which it has been activated, provided he retains no copies, if the Licensee transfers all of the SOFTWARE (including all component parts, the media and printed materials, any upgrades, this EULA and the License Certificate), and if the recipient agrees to the terms of this EULA. If the SOFTWARE is an Upgrade, any transfer must also include all prior versions of the SOFTWARE.

3.4 Subject to the payment by the Licensee of the relevant charges and fees in respect of the Subscription Fees, and the Licensee's compliance with Clause 3.5 and the other provisions of this EULA, the Licensor further grants to the Licensee the rights to:

- (a) print not more than 1 copy of the Documentation; and
- (b) make not more than 1 back-up copy of the Software and Documentation,

3.5 The Licensee must not:

- (a) copy or reproduce the Software or Documentation or any part of the Software or Documentation other than in accordance with the licence granted in this Clause 3;
- (b) sell, resell, rent, lease, loan, supply, distribute, redistribute, publish or re-publish the Software or Documentation or any part of the Software or Documentation;
- (c) modify, alter, adapt, translate or edit, or create derivative works of, the Software or Documentation or any part of the Software or Documentation;
- (d) reverse engineer, decompile, disassemble the Software or Documentation or any part of the Software or Documentation;
- (e) use the Software other than in accordance with the Documentation; or
- (f) circumvent or remove or attempt to circumvent or remove the technological measures applied to the Software and Documentation for the purposes of preventing unauthorised use,

providing that nothing in this Clause 3.5 will prohibit or restrict the Licensee or any other person from doing any act expressly permitted by applicable law.

3.6 All Intellectual Property Rights in the Software and Documentation are and will remain, as between the parties, the exclusive property of the Licensor.

4. Other Users

- 4.1 The Licensee may permit any employee of the Licensee to exercise the rights granted by the Licensor to the Licensee under Clause 3.2(c) and (d), subject always to the restrictions set out in Clause 3.
- 4.2 The Licensee must ensure that any person using the Software and/or Documentation in accordance with Clause 4.1 is made aware of, and agrees to, the terms of this EULA.

5. Upgrades

- 5.1 The Licensee may apply to the Software each Upgrade released by the Licensor and made available by the Licensor to the Licensee from time to time.
- 5.2 The Licensor will have no obligation to provide support for the Software or repair or replace the Software under Clause 6.2(d) in relation to any version of the Software that does not incorporate the most recent Upgrade to the Software.

6. Limited warranties

- 6.1 The Licensee warrants to the Licensor that it has the legal right and authority to enter into and perform its obligations under this EULA.
- 6.2 The Licensor warrants to the Licensee:
 - (a) that it has the legal right and authority to enter into and perform its obligations under this EULA;
 - (b) that the use of the Software by the Licensee in accordance with the terms of this EULA will not infringe the Intellectual Property Rights of any third party;
 - (c) that the Software will operate, and will continue to operate for a period of 90 days following the Effective Date in accordance with the Documentation and if the Software does not so operate, the Licensor will, for no additional charge, either: (i) carry out any work necessary in order to ensure that the Software operates in accordance with the Documentation during this period; or (ii) provide the Licensee or arrange for the provision to the Licensee of alternative software performing substantially the same function as the Software; and
 - (d) that the Licensor has tested the Software for computer virus and other malicious third party software infections in accordance with standard industry practice from time to time.
- 6.3 The Licensee acknowledges that:
 - (a) the Software may not be error-free,
 - (b) the Software has not been developed to meet the specific requirements of the Licensee, and accordingly the Licensee will be responsible for ensuring that the Software is suitable to meet the Licensee's requirements.

- 6.4 The warranty in Clause 6.2(c) is conditional upon the Licensee promptly providing to the Licensor all such information and assistance, and access to its premises and systems, as the Licensor may reasonably require.

7. Limitations and exclusions of liability

- 7.1 Nothing in the EULA will:

- (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
- (b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
- (c) limit any liability of a party in any way that is not permitted under applicable law; or
- (d) exclude any liability of a party that may not be excluded under applicable law.

- 7.2 The limitations and exclusions of liability are those of Clause 14 of the MCL Mobility Platform Terms & Conditions.

8. Termination

This EULA will terminate immediately and automatically if:

- (a) the Licensee or any employee of the Licensee or person authorised by the Licensee to use the Software and/or Documentation breaches any provision of this EULA;
- (b) the Licensee: (i) is dissolved; (ii) ceases to conduct all (or substantially all) of its business; (iii) is or becomes unable to pay its debts as they fall due; (iv) is or becomes insolvent or is declared insolvent; or (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (c) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the Licensee;
- (d) an order is made for the winding up of the Licensee, or the Licensee passes a resolution for its winding up; or
- (e) upon any termination of the Customer's Subscription to the Platform

9. Effects of termination

- 9.1 Upon any such termination, the Customer shall no longer be permitted to use the Software, and shall delete or destroy all copies of the Software in its possession.
- 9.2 Upon termination all the provisions of this EULA will cease to have effect, save that the following provisions will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses 1, 7 and 10.

- 9.3 Termination of this EULA will not affect either party's accrued rights and liabilities.
- 9.4 Save as expressly provided in this EULA, the Licensee will not be entitled to a refund upon the termination of this EULA.

10. General

- 10.1 No breach of any provision of this EULA will be waived except with the express written consent of the party not in breach.
- 10.2 If a Clause of this EULA is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of this EULA will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).
- 10.3 The Licensor may freely assign this EULA and/or its rights and/or obligations under this EULA without the Licensee's consent. Save as expressly provided in this EULA, the Licensee must not assign, transfer, charge, license or otherwise dispose of or deal in this EULA and/or any its rights and/or obligations under this EULA.
- 10.4 This EULA is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this EULA are not subject to the consent of any third party.
- 10.5 This EULA constitutes the entire agreement and understanding of the parties in relation to the subject matter of this EULA, and supersedes all previous agreements, arrangements and understandings between the parties relating to the subject matter of this EULA.
- 10.6 This EULA will be governed by and construed in accordance with the laws of Belgium; and the courts of Brussels, Belgium will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this EULA.

SPECIFIC TERMS OF USE OF DEMO AND SAMPLE APPLICATIONS PACKAGED WITH MCL-DESIGNER

DEMO AND SAMPLE APPLICATIONS STATUS.

The Demo and Sample Applications are offering limited features allowing You only to evaluate and test the Software. You are not authorized to use the Demo and Sample Applications as such in any production system, and the Demo and Sample Applications may not be offered for sale or lease, or sold, leased or otherwise distributed.

LIMITED WARRANTY and DISCLAIMER of WARRANTY

MCL EXPRESSLY DISCLAIMS ANY WARRANTY FOR THE DEMO AND SAMPLE APPLICATIONS PACKAGED WITH MCL-DESIGNER. THESE DEMO AND SAMPLE APPLICATIONS AND THE ACCOMPANYING FILES ARE PROVIDED "AS IS" AND "WITH ALL FAULTS" AND WITHOUT WARRANTIES AS TO PERFORMANCE OF MERCHANTABILITY OR

ANY OTHER WARRANTIES WHETHER EXPRESSED OR IMPLIED, OR NONINFRINGEMENT. THESE DEMO AND SAMPLE APPLICATIONS ARE NOT FAULT TOLERANT AND SHOULD NOT BE USED IN ANY ENVIRONMENT WHICH REQUIRES THIS.

NO LIABILITY FOR DAMAGES: In no event shall MCL be liable for any damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) resulting of the use of or inability to use these DEMO AND SAMPLE APPLICATIONS EVEN IF MCL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The entire risk resulting of use or performance of the DEMO AND SAMPLE APPLICATIONS remains with You.

Schedule 4

ONLY APPLICABLE IF ALK COPILOT SOFTWARE IS USED (OPTIONAL SERVICE)

ALK EULA

attached to

MCL MOBILITY PLATFORM TERMS & CONDITIONS

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