

OWL CUSTOMER AGREEMENT

[Agreement Date]

Version 3.0

[Customer Name]

&

Onwave UK Limited

Onwave UK Ltd.

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

THIS AGREEMENT IS DATED [DATE] 2025

PARTIES

- (1) **ONWAVE UK LIMITED** incorporated and registered in England and Wales with company number 07490613 whose registered office is at 4 Abbey Wood Road, Kings Hill, West Malling, England ME19 4AB (**Onwave**); and
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Customer**).

BACKGROUND

- (A) Onwave has developed OWL, a geofencing software application, which it makes available to users as an online service.
- (B) The Customer wishes to use, and Onwave wishes to provide, the OWL Services on the terms set out in this Agreement (all defined below).

AGREED TERMS

1 INTERPRETATION

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

Active Authorised Users:	means an Authorised User whose user account is set as active within the User Management page of the OWL Portal and regardless of whether the Authorised User is at the Project Location, uses or does not use the OWL Services.
Active Plant Users:	means Plant which is allocated a Tracker Device and is being monitored and/or tracked via the OWL Services requiring a Plant Licence.
Agreement:	means this agreement.
Authorised Users:	means those employees, agents and independent contractors of the Customer who are authorised by the Customer in relation to a particular Project to use the OWL Services, details of whom are notified to Onwave as set out in clause 3.
Business Day:	means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Confidential Information:	means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 16.5 or clause 16.6.
Consumables:	has the meaning given to it in clause 5.1.
Company Administrator:	means the Customer's Company administrator named in the initial Service Order Form agreed between the parties (or their replacement as notified to Onwave by the Customer in writing from time to time), who is authorised by the Customer to set up new

Projects and assign Authorised Users to those Projects via the OWL Services.

Customer Data:	means: (a) the data inputted by the Customer or its Authorised Users (or by Onwave behalf of the Customer or its Authorised Users) into the OWL Services including details of the Authorised Users, the Project (including the address of the Project Location), the areas/zones set by applicable Authorised Users and the related rules set by applicable Authorised Users; and (b) the movement logs created by the OWL Services in relation to the Authorised Users.
Data Protection Legislation:	means all relevant data regulations including applicable data protection and privacy legislation in force from time to time including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party. The terms controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures shall have the meanings given in the Data Protection Legislation.
Documentation:	means the documentation which sets out the description of the OWL Services and the user instructions for the OWL Services as made available to the Customer by Onwave from time to time. Documentation will be made available via the Onwave website at www.onwave.com
Effective Date:	means the date on which this Agreement is signed by the Customer.
End User Licence Agreement (EULA):	means the licence terms governing the access and use by Authorised Users of the OWL Software and Services, a copy of which can be found at Schedule 3, as updated from time to time by Onwave.
Force Majeure Event:	has the meaning given to it in clause 21.
Full Licence:	a type of OWL licence which provides Customer's Authorised Users assigned this type of licence access to all functions within the OWL Services. Supplementary role based access control may also be added by the Customer within the OWL Portal.
Installation Date:	means the date on which any RTK base stations are installed for the purposes of billing.



Intellectual Property Rights:	means all patents, copyrights, design rights, trade marks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or not) and all applications for the same which may now, or in the future, subsist anywhere in the world, including the right to sue for and recover damages for past infringements.
Normal Business Hours:	means 8.00 am to 5.00 pm local UK time, each Business Day.
Onwave:	means Onwave UK Limited, a company registered in England and Wales with company number 07490613 whose registered office is at 4 Abbey Wood Road, Kings Hill, West Malling, England ME19 4AB.
OWL Portal:	means Onwave's online portal which enables the Customer to use the OWL Services including the ability to add and define Projects, set areas/zones and allocate Authorised Users, in each case in accordance with the Documentation and the terms of the Agreement.
OWL Services:	means the services made available to the Customer by Onwave in accordance with the term of the Agreement comprising the licence to use the OWL Software and access to the OWL Portal on a subscription basis, and where the context requires, the provision of related services, Tags, RTK Base Stations, and Consumables, as set out in the Agreement.
OWL Software:	means the mobile software application known as OWL which is made available to the Customer by Onwave for mobile devices (via iOS, Android or Onwave supplied GPS trackers) to enable the location of Authorised Users at Project Locations to be tracked and recorded via the OWL Services.
Plant Licence:	A type of OWL licence required for each item of plant (such as machinery or equipment) which a Customer requires monitored and/or tracked via the OWL Services. The licence does not permit access to the OWL Software or OWL Portal.
Plant:	means each item of plant the Customer may wish to become an Active Plant User from time to time and assign a Plant Licence to as part of a particular Project.
Project:	means a distinct project for which the Customer wishes to use the OWL Services. The initial Project is described in the initial Service Order Form agreed between the parties. Additional Projects may be added by the Company Administrator from time to time by agreeing a new Service Order Form or via the OWL Portal (subject to such functionality being available).
Project Location:	means the geographical location at which the Project is being performed.
RTK Base Stations:	means RTK base stations which may be provided by Onwave to the Customer as set out within the Service Order Form in order to provide RTK Service.

RTK Base Station Guidance:	means Onwave's document which provides guidance on how to keep and maintain the RTK Base Stations as made available to the Customer from time to time. This documentation will be available via the Onwave website at www.onwave.com .
RTK Service:	means where a relevant Tag connects to an RTK Base Station to provide correction data to provide enhanced accuracy of location for the Authorised User.
Service Order Form	means the service order form agreed between the parties in accordance with clause 2, describing the OWL Services to be provided by Onwave and related items listed in the template service order form set out at Schedule 1.
Support Services Policy:	means Onwave's support services policy as set out at Schedule 5, as updated by Onwave from time to time.
Tags	means those tags detailed in a Service Order Form, and such other Tags as may be supplied from time to time by Onwave to the Customer, in accordance with the terms of this Agreement to enable the location of Authorised Users and Active Plant Users at Project Locations to be tracked and recorded via the OWL Services.
Third Party Hosting Provider:	means the third party service providers used by Onwave to host the OWL Software and OWL Portal from time to time. Onwave shall be entitled to change its Third Party Hosting Providers at any time at its absolute discretion.
Third Party Software:	has the meaning given to it in clause 14.1.
Tracker Devices:	means a mobile phone or other device onto which the OWL Software is downloaded, or other dedicated tracking device (including the Tags), in each case to enable the location of Authorised Users and Active Plant Users at Project Locations to be tracked and recorded via the OWL Services.
Tracker Device Guidance:	means Onwave's document which provides guidance on how to use Tracker Devices as made available to the Customer from time to time. This documentation will be available via the Onwave website at www.onwave.com
View Licence:	A type of OWL licence which provides Customer's Authorised Users assigned this type of licence access to the following limited functions within the OWL Portal: Live View, Reports, Dashboards. Supplementary role based access control may also be added by the Customer within the Portal.
Virus:	means anything (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or

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

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

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

2 **SERVICE ORDER FORM**

- 2.1 The Customer may procure any of the OWL Services in relation to a Project by agreeing a Service Order Form with Onwave pursuant to this clause 2 or via the OWL Portal (subject to such functionality being available).
- 2.2 Each Service Order Form shall be agreed in the following manner:
 - 2.2.1 the Customer shall ask Onwave to provide any or all of the OWL Services and provide Onwave with as much information as Onwave reasonably requests in order to prepare a Service Order Form for the OWL Services requested;
 - 2.2.2 following receipt of the information requested from the Customer Onwave shall, as soon as reasonably practicable either:
 - 2.2.2.1 inform the Customer that it declines to provide the requested OWL Services; or
 - 2.2.2.2 provide the Customer with a Service Order Form.
 - 2.2.3 if Onwave provides the Customer with a Service Order Form pursuant to Clause 2.2.2.2, the Supplier and the Customer shall discuss and agree that Service Order Form; and
 - 2.2.4 both parties shall sign the Service Order Form when it is agreed.

2.3 Once a Service Order Form has been agreed and signed in accordance with clause 2.2.4, if extensions or amendments to the OWL Services are required, these can be added by agreement of additional Service Order Forms.

2.4 Each Service Order Form and/or any procurement of OWL Services via the OWL Portal shall be governed by the terms of this Agreement and shall form a separate contract between the parties.

3 AUTHORISED USERS AND ACTIVE PLANT USERS

3.1 The Customer shall appoint a Company Administrator who will be responsible for setting up new Projects and adding other Authorised Users and Active Plant Users for administering and participating in those Projects (as applicable) via the OWL Portal in accordance with the applicable OWL licence type assigned to them. Authorised Users shall require either a Full Licence or a View Licence. Active Plant Users require a Plant Licence.

3.2 The Company Administrator may, from time to time, add or replace Authorised Users and Active Plant Users in relation to a Project (subject to the Customer having a positive OWL Service Balance).

3.3 The Customer acknowledges that it is solely responsible for the acts and omissions of its Authorised Users and in relation to its Active Plant Users (including the Company Administrator).

3.4 In relation to the Authorised Users and Active Plant Users, the Customer undertakes that:

3.4.1 it shall ensure that the Authorised Users and Active Plant Users use the OWL Services in accordance with the Documentation, the Agreement and the applicable End User Licence Agreement and it shall be responsible for any breaches by Authorised User's of these Licence terms;

3.4.2 it shall ensure that the Tracker Devices are used by the Authorised Users and in relation to the Active Plant Users in accordance with the Tracker Device Guidance;

3.4.3 each Authorised User shall keep a secure password for their use of the OWL Portal and Software, and shall keep their password confidential and not share their password with anyone else (including without limitation another employee or contractor of the Customer). Onwave reserve the right to initiate a change of password for a user if Onwave believes that a user account is no longer secure;

3.4.4 it shall permit Onwave to conduct a remote audit of the OWL Services in order to ensure compliance with the Agreement, in such a manner as not to substantially interfere the with Customers normal conduct of business. Where an audit reveals that the OWL Services are being used outside the terms of the Agreement for example where accounts for Authorised Users are being shared Onwave shall have the right to disable or suspend such Authorised User accounts and to charge the Customer any unpaid fees for OWL Credits that would have properly been due. Onwave will invoice the Customer for such unpaid fees identified during the Audit and the Customer shall pay to Onwave to such underpayment within 60 Business Days.

4 PROJECTS AND LICENCES

4.1 The Customer acknowledges that they will require different licences for a Project depending on the combination of OWL Services required and for what purposes:

- 4.2 Each licence required by the Customer for a Project will have an associated time period after which the OWL Services will cease to operate unless the Customer has extended the Agreement through the placement of additional Service Orders.
- 4.3 Onwave grants the Customer's Authorised Users and Active Plant Users a limited, non-transferable, non-sublicensable licence to use the OWL Services during the term of the Agreement subject to the Customer paying the applicable fees and complying with the terms of the Agreement.
- 4.4 The OWL Portal will display a countdown timer showing the number of remaining access/use days based on the contract duration of the Services on active Service Orders, the dates of purchase of these.
- 4.5 If the Customer wishes to extend the term of the Agreement or purchase any additional OWL Services for a new or existing Project, it can do so via the OWL Portal (subject to such functionality being available). Where such functionality is not available via the OWL Portal, the Customer may add any new Projects or purchase any additional OWL Services for a new or existing Project by agreeing a new Service Order Form via Onwave's sales desk as directed by Onwave in writing.

5 CONSUMABLE SUPPLY PROVISIONS

- 5.1 Onwave offers a range of Consumables which the Customer may like to purchase from Onwave from time to time. The Consumables required by the Customer for the initial Project are set out in the Service Order Form. The Customer may order Consumables by agreeing a new Service Order Form via Onwave's sales desk or as directed by Onwave in writing ("**Consumables**").
- 5.2 Onwave shall deliver the Consumables to the location agreed between the parties in writing ("Delivery Location") following receipt by Onwave of the signed Service Order Form and any initial payments relevant to the purchase of the Consumables. Any dates quoted for delivery are approximate only and the time of delivery is not of the essence. Onwave shall not be liable for any delay in delivery of the Consumables that is caused by a Force Majeure Event or the Customer's failure to provide Onwave with adequate delivery instructions or any other instructions relevant to the supply of the Consumables. Onwave may deliver the Consumables by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.
- 5.3 Onwave warrants that the Consumables shall (a) conform in all material respects with their description in the order accepted by Onwave and any applicable written specification provided by Onwave; and (b) be free from material defects in design, material and workmanship. Consumables that are purchased carry a 1-year warranty from date of purchase.
- 5.4 The risk in the Consumables shall pass to the Customer on completion of delivery. Title to the Consumables shall not pass to the Customer until Onwave has received payment in full for the Consumables.
- 5.5 Subject to paragraph 5.6, if:
 - 5.5.1 the Customer gives notice in writing to Onwave within a reasonable time of discovery that part or all of the Consumables do not comply with the warranty set out in paragraph 5.3;
 - 5.5.2 Onwave is given a reasonable opportunity of examining the Consumables; and

- 5.5.3 the Customer (if asked to do so by Onwave) returns the Consumables to Onwave's place of business, Onwave shall, at its sole discretion, replace the defective Consumables (or the relevant defective part) or refund the monies paid by the Customer for the defective Consumables. The Customer acknowledges that this remedy is its exclusive remedy for breach of the warranty in paragraph 5.3.
- 5.6 Onwave shall not be liable for any failure of the Consumables to comply with the warranty in any of the following events:
- 5.6.1 the Customer makes any further use of the Consumables after giving notice under paragraph 5.5 (unless otherwise agreed with Onwave in writing);
- 5.6.2 the defect arises because the Customer failed to follow Onwave's oral or written instructions as to the storage, use or maintenance of the Consumables or (if none were provided) good trade practice regarding the same;
- 5.6.3 the Customer alters or repairs the Consumables without Onwave's prior written consent;
- 5.6.4 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 5.6.5 the Consumables differ from the order accepted by Onwave (or any applicable specification) as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.7 Except as provided in this paragraph 5, Onwave shall have no liability to the Customer in respect of a failure of the Consumables to comply with the warranty set out in paragraph 5.3.
- 5.8 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the supply of the Consumables by Onwave.
- 5.9 These terms shall apply to any replacement Consumables supplied by Onwave.

6 TAG/DEVICE HIRE PROVISIONS

- 6.1 Onwave offers a range of Tags and RTK Base Stations ("Equipment") which the Customer may like to hire from Onwave from time to time. The Equipment to be hired by the Customer for the initial Project are set out in the applicable Service Order Form. The Customer may order additional Equipment by agreeing a new Service Order Form via Onwave's sales desk or as directed by Onwave in writing.
- 6.2 Onwave shall hire the Equipment to the Customer subject to these terms. Onwave shall not, other than in the exercise of its rights under this Agreement or applicable law, interfere with the Customers quiet possession of the Tags and RTK Base Stations. Unless otherwise agreed by Onwave, the Customer shall have no right to purchase the Tags or RTK Base Stations, which must be returned to Onwave at the end of the applicable Hire Period (as defined below)
- 6.3 The hire period shall commence (a) in the case of Tags, when Onwave has delivered the Tags to the Customer; and (b) in the case of RTK Base Stations, on the Installation Date, and shall last for such period as set out in the order accepted by Onwave, unless terminated earlier as provided for in this Agreement or extended by Onwave's prior written approval (the "Hire Period"). Unless otherwise agreed in writing by Onwave, the Customer acknowledges that the minimum period for which it can hire any Tag or RTK Base Station is 90 days. Without

prejudice to any termination rights in the main body of this Agreement, the Customer shall be entitled to terminate the Hire Period early by giving Onwave not less than 7 days' notice in writing, provided that such notice shall not expire before the end of the 90-day minimum hire period.

- 6.4 Onwave shall deliver the Tags to the Delivery Location upon receipt of (i) a valid order for the Tags from the Customer. If the Customer fails to accept delivery of the Tags on the date Onwave attempts delivery (and such failure is not due to Onwave's breach of its obligations), then the Tags shall be deemed delivered at 9:00 a.m. on that day, and Onwave shall store the Tags until delivery takes place and may charge the Customer for any related re-delivery costs and expenses.
- 6.5 The Tags and RTK Base Stations shall at all times remain the property of Onwave, and the Customer shall have no right, title or interest in or to them (save the right to possession and use during the Hire Period, subject to these terms). The risk of loss, theft, damage or destruction of the Tags and RTK Base Stations (except to the extent caused by Onwave) passes to the Customer upon delivery (for Tags) or installation (for RTK Base Stations). The Customer shall indemnify Onwave on demand against all losses, costs, damages and expenses incurred as a result of any loss, theft or damage to the Tags and RTK Base Stations during the Hire Period or while in the Customer's possession or control, up to the full replacement value. The Tags and RTK Base Stations remain at the Customer's sole risk during the Hire Period and any period thereafter until they are returned to or recovered by Onwave ("Risk Period"). During the Hire Period and Risk Period, the Customer shall fully insure the Tags and RTK Base Stations against loss, damage and theft for Onwave's benefit, and provide proof of such insurance to Onwave upon request. If the Customer fails to effect or maintain the required insurance, Onwave may do so and recover the cost from the Customer. The Customer shall notify Onwave immediately in writing of any loss, accident or damage to the Tags or RTK Base Stations during the Hire or Risk Period.
- 6.6 The Customer shall during the Hire Period and Risk Period:
 - 6.6.1 keep and operate the Tags and RTK Base Stations in a suitable environment and use them only for their intended purpose, in a proper manner and by trained staff, in accordance with any instructions or specifications provided by Onwave (including Onwave's "Tracker Device Guidance" for Tags and "RTK Base Station Guidance" for base stations);
 - 6.6.2 take all reasonable steps to ensure the Tags and RTK Base Stations are safe and without risk to health during use, cleaning, maintenance, and storage;
 - 6.6.3 maintain the Tags and RTK Base Stations in good working condition (subject to fair wear and tear) and restore them to the condition they were in at the time of delivery (fair wear and tear excepted);
 - 6.6.4 not make any alteration or repair to the Tags or RTK Base Stations without Onwave's prior written consent, nor remove any existing components;
 - 6.6.5 keep Onwave informed of any material matters relating to the Tags and RTK Base Stations;
 - 6.6.6 not move any RTK Base Station from its installation location without Onwave's prior written consent;
 - 6.6.7 permit Onwave or its representatives to inspect the Tags and RTK Base Stations at reasonable times and upon reasonable notice, and grant access to any premises where they are located for such inspection;

- 6.6.8 not, without Onwave's prior written consent, part with possession of or allow access to the Tags or RTK Base Stations by any third party (including for repair or maintenance), nor create any lien or security interest over them;
- 6.6.9 not do or permit anything that could jeopardise Onwave's title to the Tags and RTK Base Stations, and if any Tag or RTK Base Station is affixed to land or a building, ensure Onwave has the right to enter such property to retrieve it both during the term and for a reasonable period after, including obtaining waivers from any third-party with an interest in the property;
- 6.6.10 not allow the Tags or RTK Base Stations to be seized or taken in execution or otherwise, and if they are, notify Onwave and take all actions to procure their release;
- 6.6.11 not use the Tags or RTK Base Stations for any unlawful purpose;
- 6.6.12 always ensure the Tags and RTK Base Stations remain identifiable as Onwave's property (for example, by leaving Onwave's labels or markings intact on the devices);
- 6.6.13 upon expiration or termination of the Hire Period, deliver up the Tags and RTK Base Stations to Onwave at the address Onwave requires, or allow Onwave (or its agents) to access Customer's premises to remove them; and
- 6.6.14 not do or permit anything that invalidates the required insurance coverage for the Tags and RTK Base Stations.
- 6.7 The Customer acknowledges that Onwave is not responsible for:
 - 6.7.1 any loss or damage to Tags or RTK Base Stations arising from the Customer's or its agents' negligence, misuse, or mishandling of them; or
 - 6.7.2 issues of non-availability or malfunction of any third-party software, services, telemetry, or equipment used in conjunction with the OWL Services.
 - 6.7.3 The Customer shall indemnify Onwave in full for any liabilities, costs, damages or losses suffered by Onwave arising from the Customer's failure to comply with the terms of this Agreement with respect to the Tags or RTK Base Stations (including any breach of the above obligations).
- 6.8 Onwave warrants that during the Hire Period the Tags and RTK Base Stations shall;
 - 6.8.1 substantially conform to their published specifications,
 - 6.8.2 be of satisfactory quality, and
 - 6.8.3 be free from material defects in design, material and workmanship.
- 6.9 If the Customer notifies Onwave in writing within a reasonable time of discovery that any Tag or RTK Base Station fails to comply with this warranty and permits Onwave to examine the alleged defective equipment (either on-site or by returning it to Onwave, at Onwave's discretion and at Customer's cost), then Onwave shall, at its sole discretion, replace the defective equipment and refund the amount paid for its hire during the period in which the defective equipment was not operational. The Customer acknowledges this is its exclusive remedy for breach of this equipment warranty. Onwave shall not be liable for any failure of the Tags or RTK Base Stations to comply with the warranty if:

- 6.9.1 the Customer continues to use the defective item after giving notice of defect;
 - 6.9.2 the defect arises from misuse, neglect, improper handling, or failure to follow Onwave's instructions for storage, use and maintenance;
 - 6.9.3 the Customer alters or repairs the Tags or RTK Base Stations without Onwave's prior written consent; or
 - 6.9.4 the defect arises from fair wear and tear or abnormal conditions. Onwave reserves the right at any time during the Hire Period to substitute or replace any Tag or RTK Base Station with equivalent equipment (in functionality) at its own cost, regardless of the age of the equipment.
- 6.10 Tags are provided on a hire basis; limited warranties apply during the hire period. If a faulty Tag is returned to Onwave and it has been opened or its seal is broken, Onwave reserves the right to charge for repair or replacement up to the full replacement cost.

7 RESTRICTIONS ON THE USE OF THE OWL SERVICES

- 7.1 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the OWL Services that:
- 7.1.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 7.1.2 facilitates illegal activity;
 - 7.1.3 depicts sexually explicit images;
 - 7.1.4 promotes unlawful violence;
 - 7.1.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 7.1.6 is otherwise illegal or causes damage or injury to any person or property.
- 7.2 The Customer shall not:
- 7.2.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Agreement:
 - 7.2.1.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the OWL Services and/or the Documentation (as applicable) in any form or media or by any means; or
 - 7.2.1.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the OWL Services.
 - 7.2.2 access all or any part of the OWL Services or the Documentation in order to build a product or service which competes with the OWL Services and/or the Documentation; or

7.2.3 subject to clause 27, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the OWL Services and/or Documentation available to any third party except the Authorised Users; or

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

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

7.4 Subject to the rest of this clause, the rights granted to the Customer under the Agreement are granted to the Customer entity only. Where any other group company of the Customer wishes to procure the OWL Services, that group company may do so provided:

7.4.1 the group company is mutually agreed in writing between the parties ("**Approved Group Company**"); and

7.4.2 the group company procures any OWL Services by entering into an applicable Service Order Form or via the OWL Portal.

The Customer shall procure the Approved Group Company's compliance with the terms of this Agreement, and the Customer shall remain responsible for the acts or omissions of such Approved Group Company and the acts and omissions of those employed or engaged by the Approved Group Company as if they were its own. An obligation on the Customer to do, or to refrain from doing, any act or thing shall include an obligation on the Customer to procure that its employees, staff and agents and Approved Group Company's employees, staff and agents also do, or refrain from doing, such act or thing.

7.5 Onwave reserves the right, without liability to the Customer or prejudice to Onwave's other rights and remedies, to disable or suspend the Customer's access to the OWL Services in the event of a breach of this clause 7.

8 **SUPPORT AND TRAINING**

8.1 Onwave will, as part of the OWL Services, provide the Customer at no additional cost (subject to clause 8.2) with Onwave's standard customer support services during Normal Business Hours in accordance with Onwave's Support Services Policy in effect at the time that the OWL Services are provided. Onwave may amend the Support Services Policy in its sole and absolute discretion from time to time.

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

8.3 Should the Customer require additional support and training, the parties may enter into Onwave's standard OWL Framework Services Agreement which sets out what additional services Onwave is prepared to provide to the Customer and the terms upon which such services will be provided.

9 SERVICE WARRANTY

- 9.1 Onwave warrants that the OWL Services will be performed in accordance with the Documentation and with reasonable skill and care.
- 9.2 If the OWL Services do not conform with the foregoing warranty, Onwave shall, at its expense, use all reasonable endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the warrant set out in clause 9.1.
- 9.3 Onwave warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Agreement.
- 9.4 Onwave does not warrant that:
- 9.4.1 the Customer's use of the OWL Services will be uninterrupted or error-free;
 - 9.4.2 that the OWL Services, Documentation and/or the information obtained by the Customer through the OWL Services will meet the Customer's unique/specific requirements or be fit for any purpose expressly or implicitly made known to Onwave by the Customer; or
 - 9.4.3 the OWL Services will be free from Vulnerabilities.
- 9.5 The Customer accepts responsibility for the selection of the OWL Services to achieve its intended results and acknowledges that the Software has not been developed to meet the individual requirements or intended purpose of the Customer.
- 9.6 Onwave is not responsible for any delays, delivery failures or service impacts resulting from the transfer of data over communications networks including cellular and GPS networks, and the Customer acknowledges that since the OWL Services relies on such networks it may be subject to limitations, delays and other problems inherent in the use of such communications networks and facilities.
- 9.7 The Agreement shall not prevent Onwave from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the Agreement.
- 9.8 OWL Services should never be used as a replacement for Customers existing health and safety procedures or general health and safety good practice. The OWL Services are not a substitute for carrying out operations with all due care and attention and should not be relied upon to notify Authorised Users of all risks and restrictions. OWL is not intended to be used as a safety critical device, solution or service.

10 CUSTOMER'S OBLIGATIONS

- 10.1 The Customer shall:
- 10.1.1 provide Onwave with all necessary co-operation in relation to the Agreement and all necessary access to such information as may be required by Onwave in order to provide the OWL Services, including but not limited to Customer Data, security access information and configuration services;
 - 10.1.2 without affecting its other obligations under the Agreement, comply with all applicable laws and regulations with respect to its activities under the Agreement;

- 10.1.3 carry out all other Customer responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Onwave may adjust any agreed timetable or delivery schedule as reasonably necessary;
 - 10.1.4 obtain and shall maintain all necessary licences, consents, and permissions necessary for Onwave, its contractors and agents to perform their obligations under the Agreement, including without limitation the OWL Services;
 - 10.1.5 ensure that its network and systems and any Tracker Devices used by it and its Authorised Users comply with the relevant specifications provided by Onwave from time to time; and
 - 10.1.6 be, to the extent permitted by law and except as otherwise expressly provided in the Agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to data centres specified (or those used by Onwave from time to time), and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.
- 10.2 The Customer acknowledges that:
- 10.2.1 the OWL Services are intended to serve as a project management aid and are not to be used as a safety critical tool. The OWL Services are not a substitute for carrying out operations with all due care and attention and should not be relied upon to notify Authorised Users of all risks and restrictions;
 - 10.2.2 Onwave shall have no responsibility to the Customer, the Authorised Users or any third party for procuring compliance with any tasks or rules set by the Customer (or the applicable Company Administrator or other applicable Authorised Users) in relation to a Project via the OWL Portal;
 - 10.2.3 the Customer assumes sole responsibility for:
 - 10.2.3.1 setting the areas/zones;
 - 10.2.3.2 the tasks and rules applicable to the areas/zones it sets;
 - 10.2.3.3 any actions or activities taken by the Customer and/or its Authorised Users when using the OWL Services and the Documentation;
 - 10.2.3.4 compliance with all applicable laws (including without limitation health and safety laws);
 - 10.2.4 Onwave shall have no responsibility or liability for any damage caused by errors or omissions in any information, instructions, rules or scripts:
 - 10.2.4.1 provided to Onwave by the Customer in connection with the OWL Services;
 - 10.2.4.2 created by the Customer or its Authorised Users in relation to a Project; and/or
 - 10.2.4.3 any actions taken by Onwave at the Customer's direction;

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

11 CUSTOMER DATA

- 11.1 The Customer shall own the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of all such Customer Data. The Customer grants Onwave a licence to use the Customer Data to the extent necessary to enable Onwave to provide the OWL Services.
- 11.2 Onwave shall follow its archiving procedures for Customer Data as set out in its Data Management Policy which is available on request (as amended by Onwave in its sole discretion from time to time). In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy against Onwave shall be for Onwave to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Onwave in accordance with the archiving procedure described in its Data Management Policy. Onwave shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Onwave to perform services related to Customer Data maintenance and back-up).
- 11.3 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 11.4 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and Onwave is the data processor with regard to personal data processed in relation to the OWL Services. Schedule 2 sets out the scope, nature and purpose of processing by Onwave, the duration of the processing and the types of personal data and categories of data subject.
- 11.5 Without prejudice to the generality of clause 11.3, the Customer, as data controller, will ensure that it has all necessary appropriate consents and notices in place to enable hosting and processing of the personal data by Onwave for the duration and purposes of this Agreement.
- 11.6 Onwave will maintain a privacy notice on the OWL Portal giving Authorised Users basic information about what data is collected via the OWL Services and how it is used by Onwave (**OWL Privacy Notice**). This OWL Privacy Notice will be provided to help Authorised Users understand how the OWL Service operates but will not make Onwave a data controller or place any responsibility on Onwave for providing information to Authorised Users. Such obligation will remain with the Customer as the data controller. A copy of the OWL Privacy Notice can be found at Schedule 4, as may be updated by Onwave from time to time.
- 11.7 Without prejudice to the generality of clause 11.3, Onwave shall, in relation to any personal data processed in connection with the performance by Onwave of its obligations under this Agreement:
- 11.7.1 process that personal data only on the written instructions of the Customer (and the Customer hereby instructs Onwave to process the personal data as necessary to provide the OWL Services and as otherwise described in this Agreement) unless Onwave is required by Data Protection Legislation to otherwise process

that personal data. Where Onwave is relying on laws of a member of the European Union or European Union law as the basis for processing personal data, Onwave shall promptly notify the Customer of this before performing the processing required by Data Protection Legislation unless that Data Protection Legislation prohibits Onwave from so notifying the Customer;

- 11.7.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
- 11.7.3 not transfer any personal data outside the European Economic Area unless the following conditions are fulfilled:
 - 11.7.3.1 the Customer or Onwave has provided appropriate safeguards in relation to the transfer;
 - 11.7.3.2 the data subject has enforceable rights and effective legal remedies;
 - 11.7.3.3 Onwave complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - 11.7.3.4 Onwave complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
- 11.7.4 assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 11.7.5 notify the Customer without undue delay on becoming aware of a personal data breach;
- 11.7.6 at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Agreement unless required by Data Protection Legislation to store the personal data; and
- 11.7.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 11.

11.8 The Customer consents to Onwave appointing third-party processors of personal data under this Agreement. Onwave confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between the Customer and Onwave, Onwave shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 11.8.

11.9 The Customer shall ensure that it shall bring to each Authorised User's attention, prior to use by them of the OWL Services, a copy of the OWL Services Privacy Notice, and the Customer's own policy detailing how the Customer will use the personal data collected or otherwise obtained by the Customer (either directly or via Onwave) in relation to the Authorised Users.

- 11.10 Onwave shall only retain the Customer Data for so long as is needed for the purposes of the Agreement or otherwise as required to comply with any applicable laws (including without limitation Data Protection Legislation).
- 11.11 Onwave shall delete all Customer Data within 60 days of termination of the Agreement save to the extent that Onwave is required to retain such Customer Data in order to comply with any applicable laws (including without limitation Data Protection Legislation). For the purposes of this clause, the term "delete" shall mean to put such data beyond use.
- 11.12 The Customer agrees that Onwave shall be permitted to collect and retain (both during the term of the Agreement and after termination) anonymised and statistical data derived from the use of the OWL Services by the Customer and its Authorised Users provided that such data does not identify (and cannot be used to identify) the Customer or its Authorised Users.

12 CHARGES AND PAYMENT

- 12.1 Customer acknowledges that OWL Services are provided on a managed service basis, with the exception of OWL Consumables. This means Active Authorised Users, Active Plant Users, and Tags, are time limited in operation based on the terms set out in the Service Order Form
- 12.2 The Customer must purchase and maintain sufficient OWL Licences as set out in the OWL Supplier Terms to use the OWL Services.
- 12.3 If the Customer wishes to purchase OWL Services, it can do so by agreeing a new Service Order Form via Onwave's sales desk or as directed by Onwave in writing.
- 12.4 Onwave will provide a quote for the OWL Services that the Customer requires within 48 hours of any such request.
- 12.5 The Customer shall provide to Onwave approved purchase order to allow Onwave to take payment for OWL Services based on the agreed payment terms set out within the Service Order Form.
- 12.6 If the Customer provides a Purchase Order it must provide any other relevant valid, up-to-date and complete contact and billing details needed to allow payment to Onwave, Onwave shall invoice the Customer for OWL Services in accordance with the Service Order Form on receipt of the purchase order
- 12.7 Where the Customer does have an agreed financial credit limit OWL Services and OWL Licenses will be deposited into the Customer's account within 48 hours of receipt of a valid purchase order or payment from the Customer, whichever is the earlier.
- 12.8 If Onwave has not received payment for OWL Services within the agreed payment terms, and without prejudice to any other rights and remedies of Onwave, Onwave shall have the right to remove any OWL Licenses applied to the Customer account with immediate effect.
- 12.9 If Onwave has not received payment within 30 days of the agreed payment date, and without prejudice to any other rights and remedies of Onwave (including those set out in clause 17.1) Onwave shall have the right to remove access to the Customer account with immediate effect, and interest shall accrue on a daily basis on such due amounts at an annual rate equal to 8% over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 12.10 Once purchased, OWL Licences are non-refundable and are not transferable to third parties (including members of the Customer's group).

- 12.11 The OWL Portal will automatically account for the utilisation of OWL Services including for licenses, and tags which have a periodic charge, on a daily basis.
- 12.12 All amounts and fees stated or referred to in the Agreement:
- 12.12.1 shall be payable in Pounds Sterling, payment in US Dollars or Euro's is available via prior agreement;
 - 12.12.2 are non-cancellable and non-refundable in respect of OWL Services (save as set out in clause 18.3) once these have been deposited with the Customer; and
 - 12.12.3 are exclusive of VAT, which shall be added to Onwave's invoice(s) at the appropriate rate.
- 12.13 If, at any time whilst using the OWL Services, the Customer exceeds the amount of data storage space specified in the Documentation, Onwave may charge the Customer, and the Customer shall pay Onwave's then current excess data storage fees. The Customer may also, at any time, request an increase to the standard data storage offered by Onwave for an additional monthly cost as specified by Onwave.
- 12.14 Onwave shall be entitled to increase the fees payable for OWL Services and any other fees payable by the Customer under the Agreement by giving the Customer not less than 90 days' prior written notice, provided that Onwave shall not increase its fees more than once in any 12-month period. All purchases made by the Customer of OWL Services after the expiry of such notice period shall be at the new rate.
- 13 LOW OWL SERVICE BALANCE**
- 13.1 The Customer acknowledges that the continued use of the OWL Services requires the Customer to have in place Service Order Form(s) covering both the required quantity of OWL Licences and OWL Devices for the period over which it wishes to use the OWL Services.
- 13.2 The OWL Portal will display the number of days the OWL Services will continue to operate "Service Balance" taking into account any OWL Services currently purchased by the Customer.
- 13.3 The OWL Portal will warn the Customer that it has a limited remaining period of operation where the Customer's account, is less than 30 days from expiring ("Low Balance Notice").
- 13.4 Once the Customers Service Balance reaches zero and until the Customer has purchased sufficient OWL Services to reinstate a positive Service Balance, Onwave may:
- 13.4.1 suspend access to the OWL Services making it unavailable to the Customer's Authorised Users and Onwave shall be under no obligation to provide any or all of the OWL Services;
 - 13.4.2 suspend all communication with Tags (SIMs blocked) and Tracker Devices.
- 13.5 If the Customer has not purchased sufficient OWL Services within 10 days of reaching a zero OWL Service balance:
- 13.5.1 Onwave may continue to suspend access to the OWL Services making it unavailable to the Customer's Authorised Users and Onwave shall be under no obligation to provide any or all of the OWL Services.

- 13.6 Once the OWL Service Balance reaches zero the Customer shall, at Onwave's election, either return all Tags itself to Onwave, or, allow Onwave or its representatives access at any time during business hours to any premises where the Tags are held for the purposes of removing them.
- 13.7 The Customer acknowledges that failure to return the Tags shall entitle Onwave to invoice the Customer for the full replacement value of the Tags (as applicable) not returned which shall be payable by the Customer immediately on receipt.
- 13.8 If the Customer has not purchased sufficient OWL Services within 30 days of reaching a zero OWL Credit balance, Onwave may:
- 13.8.1 terminate the Agreement, and the consequences of termination as set out at clause 19 shall apply.
- 13.9 If the Customer purchases the required OWL Services following receipt of the Low Balance Notice, Onwave shall within 48 hours of receipt of the applicable funds:
- 13.9.1 make the OWL Services available again to the Customer's Authorised Users; and
- 13.9.2 Re-activate Tags still hired, subject to payment of an additional re-activation fee as notified by Onwave to the Customer.

14 **THIRD PARTY SOFTWARE AND THIRD PARTY LICENCES**

- 14.1 The Customer acknowledge that a number of items of third party software have been integrated into the OWL Services including Google Maps, a web mapping service developed by Google. A full list of third party software is available at <https://owlreference.onwave.com/> (the "**Third Party Software**"), as may be updated by Onwave from time to time.
- 14.2 The Customer acknowledges that the incorporation of each item of Third Party Software into the OWL Services and use of it as part of the OWL Services is done so under standard licence terms granted by relevant third parties to Onwave. The Customer further acknowledges that Onwave sub-licences the use of such Third Party Software by the Customer in accordance with such licence terms and the Customer agrees to be bound by such sub-licencing terms ("**Third Party Licences**") (a link to such terms can be found at <https://owlreference.onwave.com/>, and/or copies of which shall be provided to the Customer on written request). The Customer shall indemnify and hold Onwave harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach of the Third Party Licences howsoever arising.
- 14.3 Onwave may treat any breach of the Third-Party Licences as a breach of the Agreement.

15 **INTELLECTUAL PROPERTY RIGHTS**

- 15.1 The Customer acknowledges and agrees that Onwave and/or its licensors own all Intellectual Property Rights in the OWL Services and the Documentation. Except as expressly stated herein, the Agreement does not grant the Customer any rights to, under or in, any Intellectual Property Rights or any other rights or licences in respect of the OWL Services or the Documentation.
- 15.2 Subject to clause 15.4, Onwave shall defend the Customer, its officers, directors and employees against any claim that the Customer's use of the OWL Services in accordance with the Agreement infringes any third party Intellectual Property Rights, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claim, provided that:

- 15.2.1 Onwave is given reasonable notice of any such claim;
 - 15.2.2 the Customer does not make any admission of liability, agreement or compromise in relation to the claim without the prior written consent of Onwave;
 - 15.2.3 the Customer provides reasonable co-operation to Onwave in the defence and settlement of such claim, at Onwave's expense; and
 - 15.2.4 Onwave is given sole authority to defend or settle the claim.
- 15.3 In the defence or settlement of any claim under clause 15.2, Onwave may procure the right for the Customer to continue using the OWL Services, replace or modify the OWL Services so that they become non-infringing or, if such remedies are not reasonably available, terminate the Agreement on 5 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.
- 15.4 In no event shall Onwave, its employees, agents and sub-contractors be liable to the Customer to the extent that the actual or alleged infringement is based on or relates to:
- 15.4.1 any Third Party Software; or
 - 15.4.2 any modification of the OWL Services by anyone other than Onwave or its partners; or
 - 15.4.3 the Customer's use of the OWL Services in a manner contrary to the instructions set out in the Documentation or otherwise given to the Customer by Onwave.
 - 15.4.4 the Customer's use of the OWL Services after notice of the alleged or actual infringement from Onwave or any appropriate authority.

16 **CONFIDENTIALITY**

- 16.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement. A party's Confidential Information shall not be deemed to include information that:
- 16.1.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 16.1.2 was in the other party's lawful possession before the disclosure;
 - 16.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 16.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence.
- 16.2 Subject to clause 16.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Agreement.
- 16.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Agreement.

- 16.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 16.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 16.5 The Customer acknowledges that details of the OWL Services, constitute Onwave's Confidential Information.
- 16.6 Onwave acknowledges that the Customer Data is the Confidential Information of the Customer.
- 16.7 No party shall make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 16.8 The above provisions of this clause 16 shall survive termination of the Agreement, however arising.

17 **LIMITATION OF LIABILITY**

- 17.1 Except as expressly and specifically provided in the Agreement:
- 17.1.1 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Agreement; and
 - 17.1.2 the OWL Services and the Documentation are provided to the Customer on an "as is" basis.
- 17.2 Nothing in the Agreement excludes the liability of Onwave:
- 17.2.1 for death or personal injury caused by Onwave's negligence;
 - 17.2.2 for fraud or fraudulent misrepresentation; or
 - 17.2.3 any other liability which cannot be excluded or limited under applicable law.
- 17.3 Subject to clause 17.1 and clause 17.2:
- 17.3.1 Onwave shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Agreement; and
 - 17.3.2 Onwave's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to either:

17.3.2.1 the total fees paid for the OWL Services during the 12 months immediately preceding the date on which the claim arose; or

17.3.2.2 £50,000,

whichever is the lesser amount.

18 TERM AND TERMINATION

18.1 This Agreement shall, unless otherwise terminated as provided in this clause 18, commence on the Effective Date and shall continue for as long as the Customer has live OWL Service and/or OWL Service Order Forms which have not expired pursuant to clause 13.6

18.2 Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:

18.2.1 the other party fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;

18.2.2 the other party commits a material breach of any other term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 21 days after being notified in writing to do so;

18.2.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;

18.2.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

18.2.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

18.2.6 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

18.2.7 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

18.2.8 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

18.2.9 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

- 18.2.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 18.2.3 to clause 18.2.9 (inclusive);
 - 18.2.11 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
 - 18.2.12 the Customer has had no Active Authorised Users within the previous 180 days.
- 18.3 Onwave shall be entitled to terminate the Agreement at any time by giving not less than 60 days' notice in writing to the Customer. In the event that Onwave terminates the Agreement in accordance with this clause 18.3, Onwave shall refund to the Customer on a pro-rata basis any OWL Services purchased by the Customer that remain undelivered prior to the date of such termination.
- 18.4 The grounds and procedures for terminating the Agreement as a whole specified in clause 18.1 to clause 18.3 (inclusive) apply equally to a Service Order Form but interpreted accordingly, and either party may terminate such a Service Order Form in accordance with such clause.

19 CONSEQUENCES OF TERMINATION

- 19.1 On termination of the Agreement for any reason:
- 19.1.1 the licences granted by Onwave under the Agreement shall immediately terminate and the Customer shall immediately cease all use of the OWL Services and/or the Documentation;
 - 19.1.2 subject to clause 19.1.3, each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
 - 19.1.3 all Tags and RTK Base Stations hired by the Customer shall terminate and the equipment returned in accordance with 6.6.13. For the avoidance of doubt, any equipment to be returned shall be done so by the Customer promptly and in any event no later than 30 days from the date of termination of the Agreement. If (as permitted for by 6.6.13) Onwave elects to retrieve the equipment from the premises it is located at (whether by itself or by its representatives), the Customer hereby grants relevant access to enable Onwave or its representatives to retrieve the equipment at any time during business hours and upon reasonable notice;
 - 19.1.4 Onwave may destroy or otherwise dispose of any of the Customer Data in its possession in accordance with clause 11.11, unless Onwave receives, no later than 30 days after the effective date of the termination of the Agreement, a written request for the delivery to the Customer of the then most recent back-up of the Customer Data. Onwave shall use reasonable commercial endeavours to deliver the back-up to the Customer within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Onwave in returning or disposing of Customer Data; and
 - 19.1.5 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

- 19.2 The Customer acknowledges that failure to return the equipment within 30 days or permit Onwave to retrieve the equipment pursuant to clause 19.1.3, shall entitle Onwave to invoice the Customer for the full replacement value of the equipment which shall be payable by the Customer immediately on receipt.
- 19.3 Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement, shall remain in full force and effect.

20 DISPUTE RESOLUTION

- 20.1 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (**Dispute**), then, the parties shall follow the procedure set out in this clause:
- 20.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the relevant contract manager of Onwave and the relevant contract manager of the Customer shall attempt in good faith to resolve the Dispute;
- 20.1.2 if the contract manager of Onwave and the contract manager of the Customer are for any reason unable to resolve the Dispute within 14 days of service of the Dispute Notice, the Dispute shall be referred to a director of Onwave and a director of the Customer who shall attempt in good faith to resolve it; and
- 20.1.3 if the director of Onwave and the director of the Customer are for any reason unable to resolve the Dispute within 14 days of it being referred to them, the parties agree to enter into mediation in good faith to settle the dispute in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 35 days of service of the Dispute Notice, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, referring the dispute to mediation. A copy of the ADR notice should be sent to CEDR. Unless otherwise agreed between the parties, the mediation will start not later than 30 days after the date of the ADR notice.
- 20.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 32 which clause shall apply at all times.

21 FORCE MAJEURE

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

22 **VARIATION**

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

23 **WAIVER**

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

24 **RIGHTS AND REMEDIES**

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

25 **SEVERANCE**

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

25.2 If any provision or part-provision of the Agreement is deemed deleted under clause 25.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

26 **ENTIRE AGREEMENT**

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

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

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

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

27 **ASSIGNMENT**

The Customer shall not, without the prior written consent of Onwave, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

28 **NO PARTNERSHIP OR AGENCY**

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

29 **THIRD PARTY RIGHTS**

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

30 **NOTICES**

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

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

Notices to Onwave will be sent to:

The Chief Executive Officer or Chief Operating Officer

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

Email: accounts@onwave.com

Notices to the Customer will be sent to:

The Company Administrator named in the Service Order Form.

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

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

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

30.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 30.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

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

31 **GOVERNING LAW**

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

32 **JURISDICTION**

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

This Agreement has been entered into on the date stated at the beginning of it.

SIGNED BY THE PARTIES AS FOLLOWS

For and on behalf of **Onwave UK Limited**

by its authorised signatories:

Signature)

Name:)

Title:)

Date:)

For and on behalf of **[Customer]**

by its authorised signatory:

Signature)

Name:)

Title:)

Date:)

TABLE OF CONTENT FOR SCHEDULES

Schedule Number	Schedule Name
Schedule 1	OWL Service Order Form
Schedule 2	OWL Personal Data, Processing and Data Subjects
Schedule 3	OWL End User Licence Agreement
Schedule 4	OWL Privacy Notice
Schedule 5	OWL Support Services Policy