

# Aston Martin Tracking



ASTON MARTIN

## Terms & Conditions

### 1. GENERAL

1.1 The "Aston Martin Tracking" service and Communications as defined below are provided by TELETRAC NAVMAN UK LTD a company registered in England No. 2292714 ("TN") with a registered office at K1 – First Floor, Kents Hill Business Park, Milton Keynes, MK7 6BZ.

1.2 In these Conditions:

**"Alarm Diversion Service"** means the part of the Service whereby TN will receive alarms from the Tracking Service in the event that the Subscriber or his designated contacts do not respond to the alarm and contact the Subscriber or his designated contacts to seek verification of an Incident;

**"Communications"** means the GSM communication provided to the Subscriber by TN for use with and for the sole purpose of the Tracking Service;

**"Countries"** means the countries that are covered by the Service as detailed on the Website from time to time. As at the date of this Agreement the Countries include *Andorra, Austria, Belgium, Brazil, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom*, but in the event of any deletion of a Country from the Website the Subscriber will be given thirty (30) days notice but the Service shall always be available in the above named countries;

**"Dealer Subscription"** means a Subscription in the name of an authorised automotive dealer for use on its retail stock;

**"False Alarms"** means the provision by the Subscriber of information regarding an Incident which, in the reasonable opinion of TN is recklessly provided or due care has not been taken by the Subscriber to establish whether an Incident has occurred or to follow guidelines issued by TN or the Subscriber's automotive dealer;

**"GSM"** means the Global Standard for Mobile communications for cellular communication;

**"Incident"** means an incident occurring in respect of a Subscriber's Vehicle, whereby the Subscriber has been unlawfully dispossessed of the Vehicle but does not include without limitation, mechanical breakdown of vehicles; traffic accidents; personal accident or illness;

**"Initial Subscription"** means the term of the first Subscription Period which is pre-paid;

**"IPR"** means any patents, trade marks, service marks, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, trade or business names and other similar rights or obligations whether registrable or not in any country;

**"Police"** means any Police Force, Police Authority or recognised law enforcement agency, or any of their respective employees or officers;

**"Service"** means the alarm centre call handling and police access service for Subscribers and Communications provided by TN in the Countries;

**"Subscriber"** means the person or entity that is contracting for the Service under this Agreement with TN;

**"Subscription"** means this Contract between the parties by which TN provides the Service;

**"Subscription Period"** means any period for which the Subscriber has pre-paid a Subscription;

**"Tracking Service"** means the tracking equipment purchased separately by the Subscriber from the vendor of the Vehicle which is configured to send an alarm to the Subscriber or his designated contacts in the event of an Incident;

**"Verification"** means in respect of an Incident the availability and validation of data in respect of the Incident to the standards required by Police;

**"Vehicle"** means any private passenger car owned by or controlled by the Subscriber; and

**"Website"** means the entire content of the Website at [automotive.teletracnavman.com](http://automotive.teletracnavman.com) or any replacement or successor uniform resource locator and any other site operated by TN to provide the Service.

1.3 The headings in these Conditions do not affect their meaning.

1.4 These Conditions constitute the entire agreement of the parties to the exclusion of any antecedent statement or representation whether oral, written or implied or whether contained in any advertisement, correspondence or other materials.

1.5 The invalidity, illegality or unenforceability of the whole or part of any of these Conditions does not affect or impair the continuation in force of the remainder of these Conditions.

1.6 This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

1.7 References in these Conditions to TN shall be deemed to include references to TN and its associates or partners.

1.8 References herein to a person includes a reference to a body corporate, association or partnership and references to the singular includes the plural and vice versa and references to any gender includes a reference to all other genders.

### 2. PROVISION OF SERVICE

2.1 TN will use all reasonable endeavours to provide the Service including such Communications as are required for the Subscription Period.

2.2 Upon becoming aware, or suspecting, that there is an Incident taking place relating a Vehicle, the Subscriber must follow the guidelines issued at the time of Subscription by TN or the Vehicle's vendor and/or any instructions given to the Subscriber by TN at the time of an Incident or False Alarm.

2.3 In the event that TN receives an electronic message from the Tracking Service that an alarm from a

Subscriber's Vehicle has not been acknowledged by the Subscriber or his designated contacts, TN will attempt to contact the Subscriber or his designated contacts (in the order of priority the Subscriber has elected) to seek Verification.

2.4 In the event that TN is alerted and able to attain Verification it will contact the Police to seek assistance in the country of the Incident.

2.5 A Subscriber's telephone calls with TN may be monitored or recorded.

### **3. TERM, PRICES & PAYMENT**

3.1 A Subscription commences on the date the Subscriber nominates as part of his Subscription registration process and continues until terminated by either party under the terms of this Agreement.

3.2 The dates and duration of the Subscription Period are set out in the documentation sent at the time of registration of the Subscription.

3.3 The price for the Service is set out in the documentation sent at the time of registration of the Subscription. TN reserves the right to vary these Terms and the price for the Service before any Subscription Period after the Initial Subscription with sixty (60) days notice to the Subscriber.

3.4 The Initial Subscription is payable in accordance with the payment option nominated as part of the Subscription registration process. If the payment option selected is to pay by invoice then payment is due within 14 days of the commencement of the Subscription. The Subscriber hereby warrants that any credit or debit card or bank account used for payment is their own and that there are sufficient funds to cover the costs of the Subscription. In the event that any payment is rejected or not authorised TN reserves the right to cancel the Subscription immediately with notice by email.

3.5 Except in the case of Dealer Subscriptions, unless this Agreement is terminated by either party at least sixty (60) days before the end of a Subscription Period it shall continue as an annual Subscription thereafter until terminated in accordance with this Condition and the Subscriber hereby authorises TN to deduct the next annual Subscription charge twenty (20) days before the start of the next Subscription Period from any credit or debit card or bank account used by the Subscriber for the Initial Subscription. In the event that the credit or debit card has expired or the bank account is not operational or the charge is rejected and/or alternative payment is not received by TN within fourteen (14) days of email notification to the Subscriber, TN reserves the right to cancel the Subscription immediately with notice by email.

3.6 False Alarms received by the Alarm Diversion Service will be charged to the Subscriber at a rate of £20 in addition to any relevant Value Added Tax or sales tax for each False Alarm subsequent to the Subscriber transmitting more than four (4) False Alarms in any twelve (12) month period. Except in the case of Dealer Subscriptions, in the case of a payment being due for a False Alarm the Subscriber hereby authorises TN to deduct the payment from any credit or debit card used to pay for the Initial Subscription. In the event that the credit or debit card has expired or the charge is rejected and/or alternative payment is not received by TN within fourteen (14) days of email notification to the Subscriber, or in the case of a Dealer Subscription in the event that payment of these charges are not received by TN within fourteen (14) days of the issue of an invoice to the Subscriber, TN reserves the right to cancel the Subscription immediately with notice by email.

3.7 Prepayments for Subscriptions are not refundable.

3.8 A Subscriber may assign his Subscription to another car, or in the case of a Dealer Subscription to another car in its retail stock, within any Subscription Period by giving TN ten (10) days notice in writing and upon payment of a £20 administration charge (in addition to any relevant Value Added Tax or sales tax). In addition, except in the case of a Dealer Subscription a Subscriber may assign a Subscription to the purchaser of a Vehicle by giving TN ten (10) days notice in writing (the purchaser will be liable to pay a £20 administration charge (in addition to any relevant Value Added Tax or sales tax)). TN is under no obligation to provide the Service to the purchaser until he has paid the administration charge and provided alternative Registration Information.

### **4. TERMINATION**

4.1 In addition to the provisions of termination under 3.4, 3.5 & 3.6 above TN reserves the right to terminate this Contract forthwith on notice to the Subscriber if the Subscriber is using the Service for unlawful or criminal purposes under the law of any jurisdiction or acts in a manner that is likely to damage or affect the operation of the Service.

4.2 Otherwise, except in the case of Dealer Subscriptions, this Contract shall only terminate if the Subscriber gives TN at least sixty (60) days notice before the beginning of any Subscription Period after the Initial Subscription and in the event that the Contract is not terminated after the Initial Subscription it shall continue as an annual Subscription thereafter until terminated in accordance with this Condition.

### **5. WARRANTY AND LIABILITY**

5.1 TN warrants that the Service will:

5.1.1 Comply with the specification set out herein; and

5.1.2 Be executed with reasonable care, skill and diligence.

5.2 The warranties in Condition 5.1 are given on the following Conditions:

5.2.1 TN will use all reasonable efforts to make the Service available but (without limiting Condition 5.1) TN shall not be liable if the communications or location services used by the Tracking Service such as the Cellular communications or Satellite positioning are adversely affected by faults and disruptions including, but not limited to, atmospheric conditions, state of the ionosphere or other causes of interference, failure or are otherwise withdrawn, or the Tracking Service is faulty or not operable, damaged or tampered with or does not conform to national laws and regulations or insurance criteria relevant to the use of stolen automobile tracking systems and accordingly the Service is not available or possible;

5.2.2 TN will use all reasonable efforts to make the Service available but (without limiting Condition 5.1) shall not be liable in the event that the Website is not operational for a period of time. The Website is available on an "as is" and "as available" basis; and

5.2.3 TN will use all reasonable efforts to make the Service available but (without limiting Condition 5.1) TN shall not be liable if the Police in the country in which the Incident occurs or is occurring, fail to respond to a request for assistance properly or at all. The Police have a full discretion to respond to an Incident and will be subject to other operational demands on them. Nothing in this Agreement imposes on the Police any legal duty of care or entitlement greater than or different from that owed to the public at large.

5.3 Except as set out in these Conditions, all conditions, warranties, representations, and other terms, express or implied by (i) statute, (ii)

common law or (iii) otherwise, in relation to the Service are excluded.

5.4 Subject always to Clause 5.5, the aggregate liability under this Agreement of TN for all breaches shall in no event exceed the total fees paid or payable in respect of the Subscription, but nothing in these Conditions shall operate to exclude or restrict TN's liability for death or personal injury resulting from negligence; breach of the obligations arising from Section 12 of the Sale of Goods Act 1979; and fraud or deceit.

5.5 Subject always to Condition 5.4 TN will not be responsible to the Subscriber for any indirect or consequential losses which he may incur as a result of any acts and omissions by TN or any of its employees or contractors. The Subscriber's statutory rights are not affected.

5.6 In the event that a Subscriber is dissatisfied with the Service he must bring any such complaint to TN's attention within 28 days of being aware of it. 5.7 The Subscriber acknowledges that the provisions of these Terms limiting or excluding the liability of TN are reasonable given the complex nature of the technology involved in the provision of the Service and the many other factors affecting the Service outside TN's control.

5.8 The Subscriber shall at all times insure and keep the Vehicle insured with a reputable insurance company against all insurable liability relating to the Vehicle, its operation and its passenger howsoever related to the Services.

5.9 The Subscriber shall notify TN or its designated agent of any change to the password relating to his Tracking Service, of any alternative credit or debit card or bank account details for payment or of any changes to the information provided on registration with the Service.

## **6. INTELLECTUAL PROPERTY**

The Subscriber hereby acknowledges that:

6.1 Any IPR owned by TN, whether associated or not with the Service, shall remain TN's exclusive property; and

6.2 TN (or its associated companies) is the proprietor of the "TN" and TN symbol, trademarks and all documentation relating thereto and any use of the trademarks is specifically prohibited unless by agreement with TN.

## **7. FORCE MAJEURE**

TN does not guarantee to carry out the Service if it is prevented from doing so in circumstances beyond its reasonable control including, without limitation, the activities of civil or governmental authorities, industrial disputes, acts of God, or severe weather conditions.

## **8. WAIVER**

The failure by TN to exercise or delay by TN in exercising a right or remedy provided by the Contract or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by the Contract or by law prevents a further exercise of the right or remedy or the exercise of another right or remedy.

## **9. NOTICES**

9.1 A notice under or in connection with the Contract shall be in writing and shall be delivered by email or sent by pre-paid post to the party due to receive the notice at its last known address.

9.2 In the absence of earlier receipt, a notice is deemed given if acknowledgement of email receipt is received or if sent by post three days after posting it.

## **10. THIRD PARTY RIGHTS**

Where any provision of the Contract refers to an affiliated company or licensor of TN, it shall be enforceable by that company in accordance with the Contracts (Rights of Third Parties) Act 1999 (UK), but otherwise no provision in the Contract is intended for the benefit of any third party.

## **11. DATA PROTECTION**

TN operates in accordance with applicable European data protection legislation. A Subscriber has a right to ask for a copy of its information. TN may use a Subscriber's data for administration, information and customer services. A Subscriber, by agreeing these Conditions consents to his information being made available during an Incident to TN affiliates and police agencies in countries whose legislation may not provide the same level of data protection as in the Subscriber's country of residence.

## **12. GOVERNING LAW**

This Agreement is governed by the laws of England.