

## TERMS AND CONDITIONS OF SALE

### CELLULAR SURVEY PRODUCTS

The following terms and conditions (“Terms and Conditions”) apply to an end-user (“End-User”) purchasing cellular survey Products sold by TrustComm, Inc. (“TrustComm”).

#### 1. Sale of Products by TrustComm

(A) These Terms and Conditions, along with a TrustComm Subscriber Application (“Subscriber Application”) and/or End-User’s written acceptance of a TrustComm quotation, when taken together, will govern the sale by TrustComm of Products to End-User. There are no other agreements (oral or implied), warranties or understandings, relating to the subject matter hereof and, from time to time, TrustComm may, at its sole discretion, add, delete or modify the portfolio of Products made available to End-User under these Terms and Conditions.

(B) In the absence of a TrustComm quotation signed by End-User, End-User’s verbal instruction or issuance to TrustComm of a purchase order, work order, work ticket or other form of written order on End-User’s standard form (collectively “Purchase Order(s)”) will constitute End-User’s acceptance of a TrustComm quotation and constitute acceptance of these Terms and Conditions and their Exhibits, including the End User License Agreement (EULA). Any End-User Purchase Order for Products accepted by TrustComm will be treated as an administrative document only and will not add to, delete from, or change any of these Terms and Conditions. All future orders for Products will be governed by these Terms and Conditions, unless otherwise mutually agreed in writing. Future orders will be subject to TrustComm’s acceptance, which may be withheld for any reason or for no reason.

#### 2. Definitions

Whenever used in these Terms and Conditions, the following terms will have the following specified meanings:

**“Applicable Law”** means all effective laws and government statutes, regulations, rules, decisions and orders of any jurisdiction, foreign or domestic, applicable to each Party’s rights, and performance of its obligations, under these Terms and Conditions, except for the Export Control laws of the United States, the Anti-Boycott laws of the United States, and the United States Foreign Corrupt Practices Act which shall, at all times apply and take precedence over any other similar laws and regulations of other jurisdictions.

**"Documentation"** means any user manual and other documentation furnished by TrustComm as part of a Product Package, including without limitation the Limited Product Warranty and End User License Agreement (EULA).

**"End-User"** means a Person who acquires a Product Package for its internal use and not for resale.

**"End-User License Agreement" or "EULA"** means the license agreement, to which the software and firmware contained in and/or provided with the Products are subject. A copy of the current EULA is attached as **Exhibit B**. TrustComm may prospectively update the EULA from time to time.

**"Export Controls"** Export controls means any U.S. Applicable Law that controls the conditions under which certain information, technologies, and commodities can be transmitted overseas to anyone, including U.S. citizens, or to a foreign national on U.S. soil. Export Controls are implemented by both the Department of Commerce through its Export Administration Regulations ("EAR") and the Department of State through its International Traffic in Arms Regulations ("ITAR"). The EAR and the ITAR can restrict, under license, the furnishing of information, technical data and software to foreign persons, whether this takes place abroad or in the United States. In addition, the Office of Foreign Assets Control ("OFAC"), a subdivision of the Department of Treasury, administers and enforces economic embargoes and trade sanctions based on U.S. foreign policy and national security goals. OFAC directs its activities against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. Such laws shall also include Anti-Boycott and Foreign Corrupt Practices Act(s) of the United States which at all times shall be "Applicable law."

**"Limited Product Warranty"** means the limited warranty statement provided by TrustComm with the applicable Products for the benefit of End-Users. A copy of the current TrustComm Limited Product Warranty effective as of the Effective Date is attached as **Exhibit C**. TrustComm may prospectively update the Limited Product Warranty from time to time.

**"Person"** means any individual, corporation, partnership, joint venture, association, organization, trust, governmental authority or other entity.

**"Product" or "Product Package"** (hereinafter collectively "Products") mean any of the TrustComm products identified in a TrustComm quotation as referenced in the attached **Exhibit A**, including, if applicable, associated Documentation and software which may be shipped with and/or incorporated into a Product in accordance with TrustComm's standard practice. Included in the definition of Product is Support Services. TrustComm may update **Exhibit A** from time to time by giving notice to End User. TrustComm's quotation will identify the export classification (commercial or ITAR) for each Product being quoted.

**"Support Agreement"** means an agreement for the maintenance and support of Products offered by TrustComm from time to time. A description of the current Support Agreement arrangement is attached as **Exhibit D**.

**"Support Services"** means the maintenance and support services for Products offered by TrustComm to an End User from time to time pursuant to a Support Agreement. Support Services are included in the definition of Products referenced in the attached **Exhibit D**.

### **3. Delivery/Risk of Loss/Partial Shipments**

(A) Subject to the terms and conditions of Article 11 relating to the sale of ITAR Products and Products subject to a validated license, Products shall be shipped free-on board (FOB) Origin or Plant (which is a TrustComm facility) or in the case of international shipments ex works (EXW) from TrustComm's facility. Notwithstanding anything contained herein to the contrary, End-User shall be responsible for all costs of shipping and importation from TrustComm's facility to End-User's destination, including, but not limited to VAT, sales, use, or privilege taxes, import duties or excise taxes, or any similar charge which may be levied as a result of the shipment of any Products to End-User. TrustComm shall use commercially reasonable efforts to make arrangements with a common carrier designated by End-User, at End-User's expense, to accept the Products at TrustComm's facility for shipment.

(B) Risk of loss in the Products shall transfer to End-User upon delivery and delivery will take place when Products are delivered to the carrier at TrustComm's facility location. In the absence of specific instructions, TrustComm will select the carrier to whom delivery will be made for shipment. Additional delivery terms for Products will be mutually agreed to by TrustComm and End-User in advance of shipment.

(C) End-User agrees to accept partial shipments unless otherwise specified in advance, particularly in cases where the Products are temporarily out of stock. In the event that ordered Products are not available, TrustComm will maintain a backorder list compiled by date. As backordered Products are received from a Supplier, TrustComm will fill orders based on date of order. End-User is responsible for shipping charges for each partial shipment.

(D) In no event shall TrustComm have any liability in connection with any shipment, nor shall the carrier be deemed to be an agent of TrustComm.

### **4. Title/Security Interest**

(A) Title to the Products will transfer from TrustComm to End-User upon TrustComm's receipt of the full sale price and any applicable Taxes, fees, and freight charges. Until such time, TrustComm will have a lien on the Products. End-User will keep Products that are subject to TrustComm's lien free from any other liens, claims or encumbrances and will execute all such documents as may be reasonably required by TrustComm to evidence or perfect its security interest.

(B) TrustComm retains a purchase money security interest in the Products and all proceeds of the Products, including, but not limited to, insurance proceeds, to the extent such Products are shipped but not paid for in full. Failure of End-User to pay all charges related to any Products when due shall give TrustComm the right, without liability, to repossess such Product, with or without notice or court order, and to avail itself of any legal remedy. End-User agrees to execute and deliver such financing statements and other documentation as TrustComm may reasonably request to perfect and protect TrustComm's interest in such Products.

**5. Inspection and Acceptance.** Each Product delivered by TrustComm shall be deemed to be inspected and accepted by End-User fifteen (15) days after delivery, (except for Products delivered to the U.S. Government which will also be subject to any applicable FAR provision regarding acceptance), unless notice of rejection or notice of any claim, including, without limitation, any claim for delay in delivery, is given in writing to TrustComm within said period. If End-User fails to reject any Product or Product Package within such time, TrustComm may, without liability, refuse to repair or replace the nonconforming Product or Product Package and End-User shall be deemed to have inspected and accepted such Product or Product Package.

**6. Refunds/Restocking Fees.** There will be no refunds for used Products returned to TrustComm. If End-User returns unused Products to TrustComm in its original package, in its original condition, and within thirty (30) days of delivery, TrustComm will refund to End-User eighty five percent (85%) of the purchase price, the remaining fifteen percent (15%) of the purchase price representing a restocking fee. End-User will bear all shipment and insurance costs related to such return shipment. All Products returned to TrustComm must have a TrustComm-issued Returned Merchandise Authorization ("RMA") number prominently displayed on the packaging and must be returned to the TrustComm facility as directed by TrustComm. An RMA number may be obtained by calling TrustComm's S-NOC at +1-832-448-1030 or by email at S-NOC@trustcomm.com. Products returned without an RMA number will be returned to End-User at End-User's expense. No refunds will be made beyond the above-designated 30-day period.

**7. Cancellation Charges.** End User may cancel or postpone scheduled deliveries under these Terms and Conditions by giving a minimum of thirty (30) days' written notice to TrustComm; provided, however, that in the event of any such cancellation or rescheduling, End User will pay to TrustComm: (a) a charge of ten percent (10%) of the total amount of the order; and (b) all costs incurred by TrustComm that result from the cancellation or rescheduling provided that such costs incurred are supported by documentation reasonably acceptable to End User. Notwithstanding the foregoing, End User may cancel without charge any scheduled delivery of Product that is more than sixty (60) days late due to no fault of End User.

**8. Payment Terms**

(A) End-Users will be charged TrustComm's then-current price in effect on the date End-User's order is received or the price in the quotation provided to End-User. End-User will also pay the following to TrustComm: (a) any applicable federal, state and local sales, excise, use or other tax assessment, including VAT or GST where applicable, and duties, surcharges or similar charges of any nature levied upon the Products or Support Services by any governmental taxation, revenue or other entity (except for taxes based on TrustComm's income) arising out of or related to the sale, provision or use of the Products or Support Services ("Taxes"), and (b) any shipping costs incurred by TrustComm to ship the Products to the location designated by End-User. If End-User provides TrustComm with an applicable tax exemption certificate, TrustComm will work with End-User to obtain applicable tax exemptions to the extent consistent with applicable law.

(B) Invoices for Products will be sent on or after the date of shipment and will include all applicable Taxes and other charges that apply, as known at the time. Additional invoices will be sent as appropriate to address Support Services, as applicable, and to address Taxes and other charges which apply but are not determined at the time of invoicing.

(C) End-User must pay all undisputed amounts invoiced within thirty (30) days of the date of the invoice. If any amount is in dispute, End-User must, within ten (10) days of the date of invoice, notify TrustComm in writing of the disputed amount and the reason for disputing the invoiced charge. If the disputed amount is resolved in favor of TrustComm, End-User must pay the disputed amount with appropriate late charges, if applicable, upon final determination of such dispute. All disputed amounts resolved in End-User's favor will be (i) credited against amounts owing on subsequent invoices, or (ii) in the event End-User has paid its invoice in full prior to shipment, amounts owing to End-User will be refunded by TrustComm. If no written notice of dispute is received by TrustComm within 10 days of the date of invoice, End-User shall be deemed to have waived its right to dispute charges.

(D) Overdue payments are subject to a late fee on the unpaid balance of the lesser of one and one half percent (1.5%) per month of the unpaid balance or the highest rate permitted by law. End-User will pay for any and all collection or litigation expenses, including reasonable legal fees, incurred by TrustComm in collecting any late payments or late payment fees.

(E) End-User may pay for Products via Master Card, VISA, American Express, or other credit card(s) as TrustComm may accept in its sole discretion.

(F) TrustComm may require payment of a deposit prior to ordering from its supplier(s) in such amount as TrustComm, in its sole discretion, reasonably requires as security for the payment of any charges payable by End-User for such Products. Such deposit shall be applied as a credit on the invoice sent on or after the date of shipment of the applicable Products.

(G) TrustComm may require End-User to pre-pay in full for Products or provide a third party guarantee, letter of credit, or other credit facility deemed by TrustComm, in its sole

discretion, necessary to provide adequate assurance of payment. The provision of such third party guarantee, letter of credit, or other credit facility does not relieve End-User of its payment obligations specified herein.

(H) TrustComm retains a purchase money security interest in the Products and all proceeds of the Products, including, but not limited to, insurance proceeds, to the extent such Products are shipped but not paid for in full. Failure of End-User to pay all charges related to any Products when due shall give TrustComm the right, without liability, to repossess the Products, with or without notice or court order, and to avail itself of any legal remedy. End-User agrees to execute and deliver such financing statements and other documentation as TrustComm may reasonable request to perfect and protect TrustComm's interest in such Products.

(I) All payments are to be made in United States currency.

**9. End User License Agreement.** End User acknowledges that the Products contain valuable intellectual property rights of TrustComm and are subject to the attached and incorporated End User License Agreement (EULA). End User will: (a) ensure each Product is used in accordance with the then-current End User License Agreement; and (b) comply with TrustComm's licensing and software policies and procedures in effect from time to time.

**10. Compliance with Applicable Laws.** The Parties will comply with all Applicable Laws as defined in Section 2, now or hereafter in effect, of any applicable jurisdiction and/or government authority.



## 11. Export Controls/Government Approvals and Authorizations.

(A) The sale of ITAR Products and Products subject to a “Validated License” from the Department of Commerce is subject to the following:

**A.1 ITAR Products.** In the case of a Product controlled by the ITAR, any such product shall be shipped directly from TrustComm to the End User. TrustComm shall take the necessary steps to submit to the U.S. Department of State, the appropriate documentation to allow the shipment of the ITAR product to the End User, after TrustComm’s receipt of all required information from End User (as well as from any reseller involved in the sale). End User shall provide to TrustComm such information as TrustComm shall reasonably request to allow TrustComm to comply with all export control and related laws of the United States and all other applicable jurisdictions. End User shall immediately notify TrustComm of any unauthorized use of the Products or Documentation that comes to End User’s attention. Such unauthorized use includes, but is not limited to, use by a party that is not the End User, or use by anyone of any TrustComm Product in a manner not intended. In the event of any such unauthorized use by End User’s employees, agents or representatives, End User shall use commercially reasonable efforts to terminate such unauthorized use and to retrieve any copy of the Products, Documentation or Product Package in the possession or control of the Person engaging in such unauthorized use.

**A.2 Commercial Products Needing a Validated License.** If TrustComm determines that the End User of a Commercial Product requires a validated license from the U.S. Department of Commerce, End User (and any reseller if applicable) shall provide the necessary information for TrustComm to submit a request for such a license. End User shall comply with all terms and conditions for any such validated license. Upon approval of any validated license, TrustComm shall ship to End User the Commercial Products ordered.

**No License Guarantee.** Due to the changing nature of US international treaties and commitments, TrustComm cannot guarantee that any such license (above) will be issued, nor can it guarantee any timeline for issuance of such license. TrustComm will use commercially reasonable efforts to obtain all necessary licenses and may charge a fee for such additional work.

(B) End-User acknowledges that all Products and Documentation must be exported in accordance with Export Controls Laws and Applicable Laws, including without limitation the U.S. EAR, ITAR, Anti-Boycott laws and regulations, provisions of the U.S. Foreign Corrupt Practices Act and economic sanctions regulations maintained by OFAC, and that diversion contrary to any U.S. Applicable Law is prohibited. End-User agrees not to transfer, resell or divert any Products and Documentation, or to provide services using the Products and Documentation to those countries that may be embargoed from time to time by the U.S. government. It is the End User’s responsibility to maintain currency on countries considered to be Embargoed Countries by the U.S. End-User represents that it will not use or transfer the Products and Documentation for end use relating to any nuclear, chemical or biological weapons, or missile technology unless authorized by the U.S. Government by regulation or specific license.

(C) End-User acknowledges that Products and Documentation may be subject to export control regulations in countries in which the End-User operates and End-User hereby declares and agrees that it will not directly or indirectly export, re-export, import, transmit or use the Products and Documentation contrary to the laws or regulations of any other governmental entity that has jurisdiction over such export, import, transmission or use. End-User acknowledges that TrustComm may be prohibited from providing maintenance and support for restricted Products, if TrustComm has knowledge that a violation of the EAR, ITAR, OFAC regulations or other Applicable Law has occurred. End-User acknowledges that it is End-User's responsibility to comply with any and all export and import laws, and obtain licenses, permits, registrations or other approvals required by the laws of any governmental entity having jurisdiction for the license, export, re-export and import of the Products and Documentation and the implementation of these Terms and Conditions.

**12. Government Contracts.** TrustComm Software and Documentation for those Products identified in a TrustComm quotation under the auspices of the Commerce Department if applicable) is a “commercial item”, “commercial computer software” and “commercial computer software documentation”. Accordingly, the Government’s use, duplication, reproduction, release, modification, disclosure or transfer of the Software that accompanies or is embedded in the Product or any related Documentation so identified is restricted in accordance with the Federal Acquisition Regulation (“FAR”) 12.212 for civilian agencies and the Defense Federal Acquisition Regulation Supplement (“DFARS”) 227.7202 for military agencies.

### **13. Confidentiality and Proprietary Rights**

(A) Each Party will hold in confidence and will not disclose to any third party proprietary and/or confidential information (“Confidential Information”) disclosed to such Party by the other Party. The receiving Party will disclose Confidential Information of the other Party only to employees, agents, representatives and governmental authorities having a need to know the same in order to perform or enforce their obligations in connection with these Terms and Conditions.

(B) Both TrustComm and End-User will comply fully with all applicable privacy and data protection laws and regulations, and will provide such assistance to the other Party as is reasonably necessary to assist the other Party in complying with such laws and regulations. End-User will indemnify TrustComm against claims by third parties resulting from breach or inadequate observance by End-User of the provisions of this Section.

**14. Ownership of Proprietary Rights.** End-User acknowledges that the Products involve valuable patent, copyright, trademark, trade secret and other confidential and proprietary rights of TrustComm. TrustComm reserves all such rights. No title to, or ownership of, any confidential or proprietary rights related to any Product is transferred to End-User pursuant to these Terms and Conditions.

### **15. Disclaimer of Warranties and Limitations**



EXCEPT FOR THE LIMITED PRODUCT WARRANTY OFFERED TO END USERS AS SET FORTH IN EXHIBIT C, TRUSTCOMM AND ITS THIRD PARTY SUPPLIERS PROVIDE THE PRODUCTS, DOCUMENTATION, SUPPORT SERVICES AND ANY OTHER ITEMS FURNISHED BY OR ON BEHALF OF TRUSTCOMM UNDER THESE TERMS AND CONDITIONS, AND END USER HEREBY ACCEPTS SUCH PRODUCTS, DOCUMENTATION, SUPPORT SERVICES AND ANY OTHER ITEMS, "AS IS" AND "WITH ALL FAULTS, DEFECTS AND ERRORS." TRUSTCOMM AND ITS THIRD PARTY SUPPLIERS DISCLAIM, AND END USER HEREBY RELEASES TRUSTCOMM AND ITS THIRD PARTY SUPPLIERS FROM, ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, REGARDING THE PRODUCT, DOCUMENTATION, SUPPORT SERVICES AND ANY OTHER ITEMS (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT, AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE AND COURSE OF DEALING OR USAGE OF TRADE).

**16. Excused Performance.** TrustComm shall not be liable for any failure of or delay in performance hereunder arising out of or resulting from causes beyond its reasonable control ("Force Majeure") including, but not limited to, acts of God; fire; flood; adverse weather conditions; or other natural events; strikes; lockouts or other labor disputes; delay in delivery of component parts for Products; delay in performance of subcontractors to the extent such delay is beyond TrustComm's reasonable control; acts of government (including, but not limited to, any law, rule, order, regulation or direction of any applicable government, civil or military authority); national emergencies; insurrections; riots; acts of war; civil disorder; quarantine restrictions; or embargoes. TrustComm's obligation to perform will be suspended for the duration of the period of Force Majeure and will resume as soon as reasonably possible upon the cessation of the event of Force Majeure.

**17. Limitation of Liability.** TRUSTCOMM'S TOTAL LIABILITY (WHETHER IN CONTRACT, TORT OR OTHERWISE AND NOTWITHSTANDING ANY NEGLIGENCE, STRICT LIABILITY, OR PRODUCT LIABILITY OF TRUSTCOMM) UNDER THESE TERMS AND CONDITIONS OR WITH REGARD TO ANY PRODUCT, DOCUMENTATION, PRODUCT PACKAGE, SUPPORT SERVICES OR OTHER ITEMS FURNISHED UNDER THESE TERMS AND CONDITIONS WILL NOT EXCEED THE COMPENSATION ACTUALLY PAID BY END-USER TO TRUSTCOMM FOR THE SAME.

**18. Limitation of Damages.**

TRUSTCOMM WILL NOT BE LIABLE (WHETHER IN CONTRACT, TORT OR OTHERWISE, AND NOTWITHSTANDING ANY NEGLIGENCE, STRICT LIABILITY OR PRODUCT LIABILITY OF TRUSTCOMM,) TO END-USER OR ANY OTHER PERSON FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR INDIRECT DAMAGES OR FOR ANY LOSS OF PROFIT, REVENUE, BUSINESS, DATA OR USE IN CONNECTION WITH THESE TERMS AND CONDITIONS.

IN NO EVENT WILL END USER BE LIABLE TO TRUSTCOMM FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR INDIRECT DAMAGES ARISING UNDER THESE TERMS AND CONDITIONS.

IN THE EVENT THAT END USER MATERIALLY BREACHES THESE TERMS AND CONDITIONS AND, AFTER RECEIPT OF WRITTEN NOTICE FROM TRUSTCOMM FAILS TO CURE SUCH BREACH WITHIN A TEN (10) DAY PERIOD, TRUSTCOMM MAY TERMINATE THESE TERMS AND CONDITIONS (INCLUDING EXHIBITS) AND, IN ADDITION TO SEEKING ITS LEGAL AND EQUITABLE REMEDIES, TRUSTCOMM WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, CONSEQUENTIAL DAMAGES) ON ACCOUNT OF SUCH TERMINATION. END USER WAIVES ANY RIGHT THAT IT MAY HAVE TO RECEIVE ANY COMPENSATION OR REPARATIONS UPON TERMINATION OF THESE TERMS AND CONDITIONS.

End User's obligations under these Terms and Conditions regarding payment, indemnification and liabilities and all other provisions that may reasonably be construed as surviving the termination or expiration of the Terms and Conditions, will survive such termination or expiration.

## **19. Indemnity**

(A) Subject to the liability limitations and disclaimers set forth in these Terms and Conditions, TrustComm shall indemnify End User and hold End User harmless from and against any and all claims, losses and liabilities ("Claims"), incurred by or asserted against End User to the extent such Claims arise out of or result from: (1) any infringement by TrustComm of any U.S. intellectual property rights held by any third party due to End User's use of the Products, unless such infringement results from: (a) modifications made to Products by End User, (b) the use of the Products in a manner not permitted by or inconsistent with these Terms and Conditions or any applicable Product manuals or specifications, or (c) End User information; or (2) bodily injury, death or property damage to the extent arising out of the sole negligence or willful misconduct of TrustComm, its employees, officers, contractors or agents in connection with these Terms and Conditions. In the event that any Claims are (or likely to be in TrustComm's sole opinion) incurred by or asserted against End User, TrustComm may, at TrustComm's sole option and expense: (i) obtain the right for End User to continue using the Products subject to the claim/liability; (ii) modify the Products so that they are no longer infringing provided, however that such modifications shall not substantially diminish the functionality offered by such item or substantially deviate from the requirements of the applicable order(s); or (iii) replace the Products with a substantially similar product provided that such replacement conforms to the material requirements of the applicable order(s). In the event TrustComm is unable to accomplish any of the foregoing three options, TrustComm may terminate the provision of Products and these Terms and Conditions without liability except for any indemnity obligation above.

(B) Subject to the liability limitations and disclaimers set forth in these Terms and

Conditions, End User shall indemnify, defend and hold TrustComm harmless from and against any and all claims, losses and liabilities (“Claims”), incurred by or asserted against TrustComm to the extent such Claims arise out of or result from: (1) any infringement by End User of any U.S. intellectual property rights held by any third party due to End User’s use of the Products if such infringement results from: (a) modifications made to Products by End User (b) the use of the Products in a manner not permitted by or inconsistent with these Terms and Conditions or any applicable Product manuals or specifications, or (c) End User information; or (2) bodily injury, death or property damage to the extent arising out of the sole negligence or willful misconduct of TrustComm, its employees, officers, contractors or agents in connection with these Terms and Conditions or (3) any breach or alleged breach of these Terms and Conditions or order by End User or (4) the use of the Products by End User other than as permitted by these Terms and Conditions.

## 20. **Miscellaneous**

20.1 **Assignment**. End User may not assign, or otherwise transfer, these Terms and Conditions, or its rights thereunder, without the prior written consent of TrustComm. TrustComm may, without the consent of End-User (a) assign its right to receive payment hereunder to a third party and (b) assign its rights and obligations hereunder to a corporation, partnership, affiliate or other business enterprise in which TrustComm has directly or indirectly an ownership interest or (c) assign its rights and obligations to a successor in the event of a merger, acquisition, reorganization or consolidation, or to a purchaser of all (or substantially all) of TrustComm’s assets. These Terms and Conditions shall inure to the benefit of, and shall be binding on End-User’s and TrustComm’s respective successors and permitted assigns.

20.2 **Independent Contractor**. These Terms and Conditions do not create any joint venture, partnership, agency, employer-employee, or franchisor-franchisee relationship between End User and TrustComm. Each of End-User and TrustComm is an independent contractor with respect to these Terms and Conditions. If applicable, End User assumes full responsibility for its employees’ and agents’ acts and omissions in performance of End User’s obligations under these Terms and Conditions.

20.3 **Notices and Communications**. All notices required to be given hereunder shall be in writing to the address below and mailed by first-class, registered or certified air mail, return receipt requested, postage prepaid, sent by an internationally-recognized overnight courier service, or transmitted by hand delivery, or by facsimile machine with appropriate verification of receipt. Notices of default, force majeure delay, dispute, bankruptcy, termination, or other important notices must be sent via a nationally recognized overnight courier service.

If to TrustComm:

TrustComm Inc.

Attn: Contracts Department

800 Corporate Drive, Suite 421

Quantico Corporate Center, Stafford, VA 22554

Email: [Contracts@trustcomm.com](mailto:Contracts@trustcomm.com)

Fax No.: 703-221-4872

If to End-User: To the address set forth on TrustComm's quotation or End-User's Purchase Order, as applicable.

**20.4 Nonwaiver.** The failure of either Party to insist upon or enforce strict performance of any of the provisions of these Terms and Condition or to exercise any rights or remedies under these Terms and Conditions will not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provisions, rights, or remedies in that or any other instance; rather, the same will be and remain in full force and effect. Further, no waiver will be valid unless set forth in a written instrument signed by the Party to be bound thereby.

**20.5 Severability.** Each provision of these Terms and Conditions is intended to be severable. If any covenant, condition or other provision contained in these Terms and Conditions is held to be invalid, void or illegal by any court of competent jurisdiction, such provision will be deemed severable from the remainder of the Terms and Conditions and will in no way affect, impair or invalidate any other covenant, condition or other provision contained in these Terms and Conditions.

**20.6 Attorneys' Fees.** In any action, litigation or other proceeding between the Parties arising out of or in relation to End User's performance or non-performance of these Terms and Conditions, if TrustComm prevails in such action it will be awarded, in addition to any damages, injunctions or other relief, and without regard to whether or not such matter is prosecuted to final judgment, its costs and expenses, including, but not limited to, taxable costs and reasonable attorneys', accountants' and experts' fees and costs.

**20.7 Governing Law; Venue.** These Terms and Conditions shall be governed, interpreted, construed and enforced in all respects in accordance with the laws of the state of New York, United States without reference to its conflict of laws principles to the contrary. The provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods, as amended, do not apply to these Terms and Conditions. End User will not commence or prosecute any suit or claim to enforce these Terms and Conditions, or otherwise arising under or by reason of these Terms and Conditions, other than in the federal courts for the United States for the Southern District of New York or the state courts of New York County, New York, and no other courts. End User hereby irrevocably consents to the jurisdiction and venue of the above-identified courts with regard to any suit or claim arising under or by reason of these Terms and Conditions.

## **21. Effective Date**

These Terms and Conditions are effective as of March 1, 2016 and will remain in effect until modified, revoked or terminated by TrustComm.



## EXHIBIT A

### A.1. Product Descriptions

The Products are multi-protocol communication survey, base station and direction-finding/geo-location tools to fulfill commercial End-User wireless needs around the world, on the sea, over land and in the air. These needs include RF test and measurement, point-to-point communications, and a variety of other wireless applications where size, weight, and power consumption of the survey/measurement Products are critical.

A.2.1. - **Gravity** is a commercial, hand-held, multi-protocol communication survey, base station and direction-finding/geo-location tool that exists in a stand-alone unit weighing less than two (2) pounds and is incorporated into a Motorola Xoom Tablet form-factor.

A.2.2. - **Gray Matter** is a commercial, multi-protocol communication survey and base station tool that exists in a custom stand-alone unit.

A.2.3. - **Dark Matter** is a commercial, multi-protocol communication survey and base station tool that exists in a Dell E6440 Laptop form-factor.

A.2.4 – **COMET** is a customizable solution for air application of base station operation, multiple protocol, wireless communication spectrum analyzer.

The specific Products to be provided will be set forth in the TrustComm quotation.



## EXHIBIT B

### END USER LICENSE AGREEMENT

READ CAREFULLY. THIS PRODUCT CONTAINS CERTAIN COMPUTER PROGRAMS AND OTHER PROPRIETARY MATERIAL, THE USE OF WHICH IS SUBJECT TO THIS END USER SOFTWARE LICENSE AGREEMENT ("AGREEMENT" or "EULA"). END USER'S (A) WRITTEN ACCEPTANCE OF A TRUSTCOMM QUOTATION OR (B) ISSUANCE OF A PURCHASE ORDER IN ACCORDANCE WITH SECTION 1 OF THE TERMS AND CONDITIONS OR (C) USING THE COMPUTER PROGRAM CONSTITUTES END USER'S ASSENT TO AND ACCEPTANCE OF THIS AGREEMENT. WRITTEN APPROVAL IS NOT A PREREQUISITE TO THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT AND NO SOLICITATION OF ANY SUCH WRITTEN APPROVAL BY OR ON BEHALF OF TRUSTCOMM SHALL BE CONSTRUED AS AN INFERENCE TO THE CONTRARY. IF YOU HAVE ORDERED THIS PRODUCT, YOU HAVE ASSENTED TO THE TERMS AND CONDITIONS AND TO THIS AGREEMENT TO THE EXCLUSION OF ALL OTHER TERMS.

**GRANT.** Subject to the terms of this Agreement TrustComm, Inc. ("TrustComm") hereby grants to you ("End-User") a limited, personal, nontransferable, nonsublicensable, nonexclusive license to use TrustComm's software ("Software"), in object code form solely as such Software is embedded in Products provided herewith.

**LICENSE RESTRICTIONS.** End-User may not, directly or indirectly: (a) modify, translate, reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code or the underlying ideas or algorithms of the Software, except to the extent applicable statutory law expressly prohibits such restrictions; (b) create derivative works based on the Software; (c) use the Software for performing comparisons or other "benchmarking" activities; (d) copy, rent, lease, distribute, or otherwise transfer rights to the Software; or (e) remove any proprietary notices or labels on the Software.

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and all representations and warranties, express, implied or statutory, with respect to any and all such Third Party Software, including without limitation, any warranties of merchantability, fitness for a particular purpose, system integration, data accuracy, title, non-infringement, quiet enjoyment, and/or non-interference. End-User acknowledges and agrees that the foregoing disclaimers, limitations and exclusions of liability form an essential basis of the bargain between the parties, and that, absent such disclaimers, limitations and exclusions, the terms of this Agreement,, including, without limitation, any economic terms, would be substantially different.

**SUPPORT.** End-User may purchase Support Services for the software at prices to be agreed at the time of request by End-User.

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**LIMITATION OF LIABILITY.** UNDER NO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE, SHALL TRUSTCOMM OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, RELIANCE OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF

GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, OR DAMAGES RESULTING FROM USE. TRUSTCOMM'S LIABILITY FOR DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO THE ACTUAL FEES PAID BY END\_USER FOR THE SOFTWARE.

**WARRANTY DISCLAIMER.** TRUSTCOMM PROVIDES THE SOFTWARE "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND HEREBY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY, QUIET ENJOYMENT, INTEGRATION, TITLE, NON-INTERFERENCE AND NON-INFRINGEMENT. FURTHER, TRUSTCOMM DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS THAT THE SOFTWARE WILL BE FREE FROM BUGS OR THAT ITS USE WILL BE UNINTERRUPTED OR THAT THE SOFTWARE OR WRITTEN MATERIALS WILL BE CORRECT, ACCURATE, OR RELIABLE. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. SHOULD THE SOFTWARE PROVE DEFECTIVE FOLLOWING LICENSE, END USER (AND NOT TRUSTCOMM) ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING OR REPAIR, EXCEPT AS MAY OTHERWISE BE PROVIDED BY A TRUSTCOMM PARTNER OR TRUSTCOMM AUTHORIZED SUPPORT PROVIDER.

**TERM AND TERMINATION.** This Agreement shall continue until terminated as set forth herein. End-User may terminate this Agreement at upon thirty (30) days prior written notice.. TrustComm may, upon five (5) days prior notice, terminate this Agreement immediately if End-User violates any provision of this Agreement and does not cure such violation within the notice period. Any termination of this Agreement shall terminate the licenses granted hereunder. Upon termination of this Agreement for any reason, End-User shall destroy and remove from all Products, computers, hard drives, networks, and other storage media all copies of the Software, and shall so certify in writing to TrustComm that such actions have occurred. Except for the license and except as otherwise expressly provided herein, the terms of this Agreement shall survive termination.

**CONFIDENTIALITY.** Except as expressly allowed by this Agreement, End-User will not use or disclose any Software or related technology, idea, algorithm or information except to the extent End-User can document that it is generally available for use and disclosure by the public without any charge or license.

**GOVERNMENT USE.** If End User is part of an agency, department, or other entity of the United States Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Software or any related

Documentation for certain of the TrustComm Products (as identified in a TrustComm quotation) is restricted in accordance with the Federal Acquisition Regulation 12.212 for civilian agencies and the Defense Federal Acquisition Regulation Supplement 227.7202 for military agencies. The Software and Documentation is a "commercial item", "commercial computer software" and "commercial computer software documentation." The use of the Software and Documentation is further restricted in accordance with the terms of this Agreement, or any modifications thereto.

**EXPORT CONTROLS.** End-User shall comply with the U.S. Foreign Corrupt Practices Act and all applicable export and anti-corruption laws, restrictions, and regulations of the United States or foreign agency or authority. End-User shall not export, or allow the export or re-export of the Software in violation of any such laws, restrictions or regulations.

**MISCELLANEOUS.** This Agreement represents the complete agreement concerning this license between the parties and supersedes all prior agreements and representations. This Agreement may be amended only by a writing executed by both parties. If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. The failure of TrustComm to act with respect to a breach of this Agreement by End-User or others does not constitute a waiver and shall not limit TrustComm's rights with respect to such breach or any subsequent breaches. This Agreement is personal to End-User and may not be assigned or transferred for any reason whatsoever (including, without limitation, by operation of law, merger, reorganization, or as a result of an acquisition or change of control involving End-User) without TrustComm's consent and any action or conduct in violation of the foregoing shall be void and without effect. This Agreement shall be governed, interpreted, construed and enforced in all respects in accordance with the laws of the state of New York, United States without reference to its conflict of laws principles to the contrary. The provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods, as amended, do not apply to this Agreement. End User will not commence or prosecute any suit or claim to enforce this Agreement, or otherwise arising under or by reason of this Agreement, other than in the federal courts for the United States for the Southern District of New York or the state courts of New York County, New York, and no other courts. End-User hereby irrevocably consents to the jurisdiction and venue of the above-identified courts with regard to any suit or claim arising under or by reason of this Agreement. If the terms of this Agreement conflict with any terms or conditions of the Terms and Conditions or with any other agreement entered into by the Parties with respect to the software associated with the Product, the terms of this Agreement shall prevail unless otherwise specified in writing.

## EXHIBIT C

### Limited Product Warranty

THIS LIMITED WARRANTY ("WARRANTY") APPLIES TO THE PRODUCT (AS DEFINED BELOW) PURCHASED FROM TrustComm Inc. ("TrustComm"). END USER'S (A) WRITTEN ACCEPTANCE OF A TRUSTCOMM QUOTATION OR (B) ISSUANCE OF A PURCHASE ORDER IN ACCORDANCE WITH SECTION 1 OF THE TERMS AND CONDITIONS OR (C) USING THE PRODUCT CONSTITUTES END USER'S ASSENT TO AND ACCEPTANCE OF THIS LIMITED PRODUCT WARRANTY

**Section 1. Definitions.** (a) "End-User" means the original person or entity purchasing the Product from TrustComm. (b) "Product" means a TrustComm product identified and set forth in a TrustComm quotation, including, without limitation, all hardware, firmware, third party software, transit cases, documentation and other items packaged or shipped therewith. "Product" also includes parts of products that are deemed by TrustComm to be "field replaceable units" within a larger product. (c) "Warranty Period" means the period commencing on the date the Product is shipped by TrustComm and ending 365 days after such date.

**Section 2. Limited Warranty and Remedies**

**2.1 Inspection.** End-User will promptly inspect each Product delivered by TrustComm after receipt. End-User must notify TrustComm in writing or by telephone as provided below within fifteen (15) days after receipt of any discrepancies between the shipment of Products and End-User's order and any obvious defects or damage to the Products ("Inspection Claims"). TrustComm will not be obligated to remedy Inspection Claims made by End-User after such fifteen (15) day period. Inspection Claims arising from defects or damage to the Product will be remedied in accordance with and subject to Section 2.3 but only to the extent such damage or defects are covered by the warranty set forth in Section 2.2.

**2.2 Limited Warranty.** Subject to Section 2.6, TrustComm warrants to End-User that each Product (a) upon delivery to the shipping destination will be free of material defects, design defects and defects in workmanship and (b) under normal use will perform substantially in accordance with TrustComm's published specifications for the Product during the Warranty Period. TrustComm does not warrant that the software included in the Product will operate uninterrupted or that it will be free from errors.

**2.3 Exclusive Remedy.** If End-User gives notice of noncompliance with any of the warranties set forth in Section 2.2 within the Warranty Period in the manner set forth below, then, upon verification of the noncompliance by TrustComm, TrustComm will, at TrustComm's option: (a) use commercially reasonable efforts to repair the Product, (b) replace the noncomplying Product or part thereof upon return of the complete Product in accordance with Section 2.4, or (c) refund the amounts paid for the Product (excluding shipping, handling and taxes) less depreciation upon return of the complete Product in accordance with Section 2.4. The foregoing sets forth TrustComm's entire liability and End-User's sole and exclusive remedy for any breach of warranty under Section 2.2 or any other defect or deficiency in the Product. End-User will reasonably assist TrustComm to diagnose and validate any nonconformity with the Product. Notice of noncompliance must be given to TrustComm at 800 Corporate Drive, Suite 421, Stafford, VA (or such other address as TrustComm may specify from time to time), or by calling TrustComm's service center at 1-832-448-1030 (or such other telephone number(s) as TrustComm may designate from time to time).

**2.4 Return.** Any Product returned under Section 2.3 must be assigned a Return Merchandise Authorization ("RMA") number by TrustComm before shipment and must be returned in accordance with TrustComm's then current RMA procedures. End-User may obtain a RMA number by contacting TrustComm's service center at the number listed in 2.3 above. End-User must return the complete Product to TrustComm in accordance with this Section 2.4 to be eligible for coverage under this Warranty. Any Product returned without an RMA number, or any Product that has been disassembled (except under the direction of TrustComm) will be refused and returned to End-User at End-User's expense. Any Product that has been assigned a RMA number must be returned in the same condition as it was received from TrustComm to the address designated by TrustComm, freight pre-paid, in packaging sufficient to protect the contents thereof and with the RMA number prominently displayed on the outside of the box. End-User is responsible for insurance and risk of loss with respect to returned items until they are properly received by TrustComm. A Product issued a RMA number must be returned within thirty (30) days after issuance of the applicable RMA number.

**2.5 Replacement by TrustComm.** If TrustComm elects to replace any Product that does not conform with a warranty set forth in Section 2.2, then TrustComm will ship a replacement Product at TrustComm's expense by standard ground service after receipt of the nonconforming Product returned in accordance with Section 2.4 and validation by TrustComm that the Product does not conform to the warranty. Replacement Product will be new or serviceably used, comparable in function and performance to the original Product and warranted for the remainder of the original Warranty Period or thirty (30) days after it is shipped to End-User, whichever period is longer. Any Product found to be non-defective will be returned to End-User at End-User's expense.

**2.6 Exclusions.** The foregoing warranties and warranty obligations will not apply to any Product that (a) has not been operated and maintained in accordance with applicable instructions and manuals, (b) has been repaired or altered by unauthorized personnel, (c) has been in any way misused, abused, or damaged, (d) is not covered by a standard support plan offered by TrustComm, or (e) has been used with items not provided by TrustComm other than the hardware or software for which the Product is designed. Without limiting the foregoing, the foregoing warranties and warranty obligations will not apply to any Product that has been damaged in transit (unless the damage is covered by applicable freight insurance procured by TrustComm), operation, or storage or through excess shock or vibration, drop or other impact, operation in hot or cold environments for which the Product is not intended for use, or exposure to water or particulates. Further, the foregoing warranties will be void if (i) any warranty seal on the Product is broken or if End-User disassembles the Product except as authorized by TrustComm, (ii) End-User fails to implement any correction, modification, enhancement, improvement or other

update made available to End-User by TrustComm or (iii) End-User implements, installs or uses any correction, modification, enhancement, improvement or other update made available by any third party.

**2.7 Disclaimer of Warranties.** THE WARRANTIES, OBLIGATIONS, AND LIABILITIES OF TRUSTCOMM AND THE REMEDIES OF END-USER SET FORTH IN THIS WARRANTY ARE EXCLUSIVE AND IN SUBSTITUTION FOR, AND END-USER HEREBY WAIVES, RELEASES AND DISCLAIMS, ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF TRUSTCOMM AND ALL OTHER RIGHTS, CLAIMS AND REMEDIES OF END-USER AGAINST TRUSTCOMM, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE PRODUCT AND ANY OTHER GOODS OR SERVICES DELIVERED UNDER THIS WARRANTY, INCLUDING, BUT NOT LIMITED TO: (A) IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE; (B) IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE; (C) CLAIM OF INFRINGEMENT OR MISAPPROPRIATION; OR (D) CLAIM IN TORT (WHETHER BASED ON NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY OR OTHER THEORY). SOME STATES DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO END-USER.

### **Section 3. Limitations of Liability**

**3.1 Force Majeure.** TrustComm will not be liable for, or be considered to be in breach of or default under this Warranty on account of, any delay or failure to perform as required by this Warranty as a result of any cause or condition beyond its reasonable control (including, without limitation, any act or failure to act by End-User).

**3.2 Disclaimer of Certain Damages.** IN NO EVENT WILL TRUSTCOMM OR ITS SUPPLIERS BE LIABLE FOR THE COST OF COVER OR FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR SIMILAR DAMAGES OR LIABILITIES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO LOSS OF DATA, INFORMATION, REVENUE, PROFIT OR BUSINESS) ARISING OUT OF OR RELATING TO THE USE OR INABILITY TO USE THE PRODUCT, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER THEORY EVEN IF TRUSTCOMM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**3.3 Limitation of Liability.** TRUSTCOMM'S AND ITS SUPPLIERS' LIABILITY ARISING OUT OF OR RELATING TO THE USE OR INABILITY TO USE THE PRODUCT IS LIMITED TO THE AMOUNT ACTUALLY PAID BY END-USER FOR THE PRODUCT REGARDLESS OF THE AMOUNT OF DAMAGES END-USER MAY INCUR AND WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER THEORY. The foregoing disclaimer of certain damages and limitation of liability will apply to the maximum extent permitted by applicable law. The laws of some states/jurisdictions do not allow exclusion or limitation of certain damages. To the extent that those laws apply to the Product, the exclusions and limitations set forth above may not apply to End-User.

### **Section 4. Miscellaneous**

**4.1 Proprietary Rights.** TrustComm retains all right, title, and interest in any terminal software, except that purchase of the Product includes a non-exclusive license to use the Software and any third party software that is part of the Product solely for its intended purpose as part of the Product. End-User shall not copy, reproduce, decompile, reverse engineer, lend, sublicense or distribute the TrustComm Software or any third party software that is part of the Product to any third party except it may transfer the license to a third party as part of a transfer of the Product; provided, that the transferee is subject to the same restrictions set forth in this Section 4.1.

**4.2 Assignment.** End-User will not assign any of its rights under this Warranty directly, by operation of law or otherwise, without the prior written consent of TrustComm.

**4.3 No Additional Terms.** Except as expressly permitted by this Warranty, neither party will be bound by, and each party specifically objects to, any term, condition or other provision that conflicts with the provisions of this Warranty that is made by the other party in any purchase order, receipt, acceptance, confirmation, correspondence or otherwise, unless each party specifically agrees to such provision in writing. Further, if this Warranty conflicts with any terms or conditions of any other agreement entered into by the parties with respect to the Product, this Warranty will prevail unless the other agreement specifically references the sections of this Warranty that it supersedes.

**4.4 Governing Law and Venue.** These Terms and Conditions shall be governed, interpreted, construed and enforced in all respects in accordance with the laws of the state of New York, United States without reference to its conflict of laws principles to the contrary. The provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods, as amended, do not apply to these Terms and Conditions. End User will not commence or prosecute any suit or claim to enforce these Terms and Conditions, or otherwise arising under or by reason of these Terms and Conditions, other than in the federal courts for the United States for the Southern District of New York or the state courts of New York County, New York, and no other courts. End User hereby irrevocably consents to the jurisdiction and venue of the above-identified courts with regard to any suit or claim arising under or by reason of these Terms and Conditions.

**4.5 Severability.** If any provision of this Warranty is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remainder of this Warranty will remain in full force and effect.

**4.6 Entire Agreement.** The Warranty constitutes the entire agreement, and supersedes any and all prior agreements, between TrustComm and End-User related to the subject matter hereof. No amendment, modification or waiver of any of the provisions of this Warranty will be valid unless set forth in a written instrument signed by the party to be bound thereby.

## **EXHIBIT D**

### **Support Agreement**

In connection with these Terms and Conditions, TrustComm will provide operation and maintenance training in support of the Products. Such support will be in accordance with the Limited Product Warranty provisions in Exhibit C and the prices for support services as agreed upon by the Parties.