



## **BUSINESS INTELLIGENCE SERVICE AGREEMENT**

### **1. PARTIES**

Users of this information agree to be bound by the terms of this Business Intelligence Service Agreement (the "Agreement"):

Telematics Research Group, Inc., located at: 5720 Smetana Drive, Suite 218 in Minnetonka, Minnesota 55343 ("TRG");

### **2. DESCRIPTION OF SERVICES**

TRG is engaged in the business of compiling and distributing marketing information, materials, and reports related to automotive electronics, telematics, and LBS (location based services)-enabled mobile devices; including without limitation, information about new products, industry trends, forecasts and projections, and company profiles (the "Services"). The Services are provided to

### **3. USE AND LIMITATIONS ON USE**

Subscriptions. Subscriber access is limited to the Subscribed Services (per TRG contract proposal).

Specific Location. The Subscribed Services may be accessed and used by Subscriber only at the facilities of Subscriber that are located at Subscriber's physical address or as otherwise agreed to in writing by the parties (the "Permitted Location(s)").

Subscription Content. Subscriber agrees to only use and access the Subscribed Services for internal planning, and internal marketing and business intelligence purposes. Subscribed Services cannot be copied, modified, distributed in any format, or otherwise used for any external marketing, public relations, research, or other purposes.

### **4. INTELLECTUAL PROPERTY**

Ownership. TRG is and shall be the exclusive owner of all right, title, and interest in and to the Services and all related content; including without limitation, any and all associated patents, copyrights, trademarks and service marks, and all other proprietary rights of any kind whatsoever.

### **5. DISCLAIMER OF WARRANTIES AND LIMITATIONS ON LIABILITY**

THE SERVICES ARE PROVIDED "AS IS," "AS AVAILABLE," AND "WITH ALL FAULTS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS, OR THEIR COMPATIBILITY WITH ANY HARDWARE OR SOFTWARE CONFIGURATIONS. TRG expressly disclaims any and all representations and warranties concerning the Services of any kind, whether express or implied, including without

limitation, those relating to the time limits, accuracy, completeness, or appropriateness of any products, information, and/or content displayed, purchased, or accessed through the Services in any manner. TRG does not warrant that the Services and content accessible thereon will be provided without error or interruption, or will be free of viruses or other harmful elements. The entire risk as to the quality and performance of the Services, and the accuracy or quality of content associated with the Services, is assumed by Subscriber. IN NO EVENT SHALL TRG BE LIABLE FOR ANY LOST PROFITS, LOST SAVINGS, LOST DATA, OR OTHER INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL, OR COVER DAMAGES, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND IRRESPECTIVE OF THE NUMBER OR NATURE OF CLAIMS. THIS LIMITATION UPON DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE BEEN HELD TO BE INVALID OR INEFFECTIVE.

In no event shall TRG's total liability in connection with this Agreement exceed One Thousand Dollars (\$1,000 USD).

## **6. CONFIDENTIAL INFORMATION**

All of the trade secrets and other confidential information of TRG, including without limitation, the information provided as a part of the Services, methods, processes, marketing plans, strategic plans, customer lists, computer software, and financial information shall be maintained in confidence by the Subscriber; and the Subscriber shall not divulge to any person or organization, or use in any manner whatsoever, directly or indirectly, for any reason whatsoever, any of the trade secrets or confidential information of TRG without receiving the prior written consent of TRG.

## **7. NATURE OF RELATIONSHIP**

The provisions of this Agreement shall not in any respect whatsoever be deemed to create a partnership, joint venture, principal-agent, or other business combination between TRG and the Subscriber. The Subscriber shall not represent or imply to any other person or organization that this Agreement authorizes the Subscriber to act as an agent for or on behalf of TRG.

## **8. INDEMNIFICATION**

The Subscriber and its successors and assigns shall indemnify, defend, and hold harmless TRG and its successors and assigns from and against and in respect of any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies, including interest, penalties and reasonable attorneys' fees, that TRG may incur or suffer, which arise, results from, or relate to: (i) the failure by the Subscriber to perform any of its obligations under this Agreement, (ii) the use the Services by the Subscriber, or (iii) damages to property or personal injury caused by the negligence or willful acts of the Subscriber or any of its employees or agents.

## **9. SUSPENSION**

The ability of the Subscriber to access and use the Services, may be restricted, suspended, and/or terminated by TRG without notice in the event TRG determines, in its sole discretion, that the Subscriber is engaging in conduct or activities that are in violation of this Agreement. The decision of TRG with regards to the restriction, suspension, and/or termination of access or the duration thereof is final. No refunds will be granted as a result of any such restriction, suspension, and/or termination.

## 10. TERMINATION

TRG shall have the right to immediately terminate this Agreement in the event Subscriber breaches or fails to perform any of its obligations under this Agreement, where such breach or failure to perform is not cured within ten (10) days after Subscriber's receipt of written notice of the breach or failure to perform.

## 11. GENERAL

Language. This Agreement has been prepared in English, and English is the controlling language with respect to all matters concerning this Agreement. Any and all notices or communications related to this Agreement shall be in English.

Remedies. Injunctive or other equitable relief shall be a remedy available to TRG in the event of a breach of any provision of this Agreement by the Subscriber; but such remedy shall not be the exclusive remedy available to TRG.

Notices. Any notices required or permitted to be given under this Agreement shall be sufficient if in writing and personally delivered, sent by confirmed facsimile transmission, sent by certified mail (or, as applicable the foreign equivalent thereof), sent by express courier (by nationally or internationally recognized courier), or by email to the other party at its address, fax number, or email address set forth in this Agreement, or at such other address, fax number, or email address as the party shall designate in writing by the aforementioned means of personal delivery, facsimile transmission, certified mail, express courier, or email.

Survival. The provisions of this Agreement, which, by their terms, require performance after the termination of this Agreement, or have application to events that may occur after the termination of this Agreement, shall survive the termination of this Agreement.

Assignment and Delegation. The Subscriber shall not, without the prior written consent of TRG, assign its rights or delegate its duties under this Agreement.

Waiver. The waiver of any provision or the breach of any provision of this Agreement by TRG shall not be effective unless made in writing. Any waiver by TRG of any provision or the breach of any provision of this Agreement shall not operate as or be construed to be a continuing waiver of the provision or the breach of the provision.

Situs and Jurisdiction. This Agreement shall be governed by the laws of the State of Minnesota in the United States and the applicable laws of the United States. For the purpose of resolving conflicts related to or arising out of this Agreement, the parties expressly agree that venue shall be in the courts in the State of Minnesota, and, in addition, the parties hereby expressly consent to the exclusive jurisdiction of the federal and state courts in the State of Minnesota. The parties specifically disclaim application of the United Nations Convention on the International Sale of Goods, 1980.

Severability. In the event any portion of this Agreement shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remainder of this Agreement.

Entire Agreement. This Agreement sets forth the entire understanding between the parties with respect to the subject matter hereof, there being no terms, conditions, warranties, or representations

other than those contained in this Agreement, and no amendments shall be valid unless made in writing and signed by the parties to this Agreement.

IN WITNESS WHEREOF, the parties have “accepted” this Agreement effective as of the Effective Date, and the parties acknowledge and agree that electronic acceptance of this Agreement constitutes execution of this Agreement by the Subscriber and shall bind Subscriber to this Agreement.