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## UPLINK ACTIVATION AGREEMENT

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This Uplink Activation Agreement (“Agreement”) is between the alarm/security system dealer, distributor, or monitoring service accepting this Agreement as provided below (“Dealer”) and Uplink Security LLC, a Georgia limited liability company, whose principal business address, and address for all legal notices, is 1600 Parkwood Circle SE, Suite 500, Atlanta, Georgia 30339 (“Uplink”).

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### ACCEPTANCE OF THIS AGREEMENT

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By signifying acceptance of this Agreement electronically, i.e., by clicking “**ACCEPT AGREEMENT**” or the equivalent when prompted or by logging in to this web site or activating, purchasing, selling, installing, monitoring or using any Uplink Devices, u-TRAQ Devices, or other Uplink/u-TRAQ Solutions, Dealer’s authorized representative acknowledges on Dealer’s behalf that Dealer has read, understood, accepts, and agrees to be bound by all terms and conditions of this Agreement. (Dealer may request a paper version of this Agreement, signed by authorized representatives of both parties, by contacting Uplink in writing.) **DEALER FURTHER ACKNOWLEDGES THAT PRIOR TO ACCEPTING THIS AGREEMENT, IT HAD THE OPPORTUNITY TO CONSULT WITH AN INDEPENDENT ATTORNEY OF ITS OWN CHOOSING.** This Agreement is effective when accepted by Dealer and applies, upon its acceptance and as further provided below, to all transactions between Dealer and Uplink involving the past, present, or future activation of Uplink Devices or u-TRAQ Devices on the Uplink/u-TRAQ Platform and is reaffirmed by Dealer every time Dealer logs in to this web site or activates, purchases, sells, installs, monitors, or uses Uplink Devices, u-TRAQ Devices, or other Uplink/u-TRAQ Solutions. This Agreement remains in effect until terminated in accordance with its terms.

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### 1. DEFINITIONS

Capitalized terms used herein shall, except where defined elsewhere in the body of this Agreement, have the meanings set forth below:

1.1 “**Uplink/u-TRAQ Solutions**” are, as further detailed the applicable product guide or service plan description available through Uplink’s online dealer portal, Uplink’s full line of product and service offerings hereunder consisting of Uplink Devices, u-TRAQ Devices, access to the u-TRAQ Application, and associated Uplink/u-TRAQ Data Services.

1.2 “**Dealer Solutions**” are the complete product and service offering furnished by Dealer to Dealer’s Customers deriving from Dealer’s combination, integration, or incorporation of Uplink/u-TRAQ Solutions with Dealer’s own value-added products and services.

1.3 “**Uplink Devices**” are hardware solutions offered by Uplink—typically purchased by Dealer from an authorized third party distributor—that when properly installed and activated by Dealer (or a central monitoring station on Dealer’s behalf) on the Uplink/u-TRAQ Platform for use with Uplink/u-TRAQ Data Services, are capable of wirelessly relaying alarm panel signals to available third party telecommunications networks for termination to central monitoring stations.

1.4 The “**Uplink Application**” and its associated web site enables Dealer to access and manage its master account, activate Uplink Devices, and configure the relay of alarm signals to a Dealer-designated central monitoring station.

1.5 “**u-TRAQ Devices**” are hardware solutions offered by Uplink—typically purchased by Dealer from an authorized third party distributor—that when properly installed and activated by Dealer on the Uplink/u-TRAQ Platform for use with Uplink/u-TRAQ Data Services, are capable of wirelessly relaying GPS data to available third party telecommunications networks for termination to the u-TRAQ Application.

1.6 The “**u-TRAQ Application**” is Uplink’s service offering consisting of access to a privately labeled web portal, graphical user interface, and associated application, hosted by Uplink and enabled by the Uplink/u-TRAQ Platform and Uplink/u-TRAQ Data Services, through which Dealer and Dealer’s Customer’s may manage their accounts and track the location of u-TRAQ devices.

1.7 The “**Uplink/u-TRAQ Platform**” underpins the operation of Uplink Devices, u-TRAQ Devices, the Uplink Application, the u-TRAQ Application, and associated Uplink/u-TRAQ Data Services and consists of Uplink’s value-added proprietary facilities, software systems, processes, and know-how, for example, connectivity to third party cellular telecommunications networks enabled by Uplink’s proprietary network gateway architecture; Uplink’s proprietary data processing services; and Uplink’s manned network operations center.

1.8 “**Uplink/u-TRAQ Data Services**” are Uplink’s service offerings consisting of connectivity to, and the functionality of, the Uplink/u-TRAQ Platform and interconnected third party telecommunications networks; as applicable, Uplink/u-TRAQ Data Services enable machine-generated data, i.e., alarm panel signals or GPS data to be relayed wirelessly by Uplink Devices or u-TRAQ Devices to available third party telecommunications networks for termination to central monitoring stations or the u-TRAQ Application.

1.9 “**Dealer’s Customers**” are third parties who purchase Uplink/u-TRAQ Solutions or Dealer Solutions from Dealer.

1.10 “**End Users**” are third parties who purchase Uplink/u-TRAQ Solutions or Dealer Solutions from Dealer or from Dealer’s Customers (if authorized to act as a secondary reseller) for their own end purposes, i.e., premises security, vehicle tracking, and related applications, and not for further resale or distribution. End Users may include Dealer’s Customers. Any third party, regardless of its relationship with Dealer, who accesses, uses, or benefits from Uplink/u-TRAQ Solutions or Dealer Solutions resold by Customer, is also deemed to be an End User for purposes of this Agreement.

1.11 The “**Territory**” means the United States (including Alaska, Hawaii, and Puerto Rico) and Canada subject to coverage limitations deriving from limitations in the extent of third party telecommunications carriers’ coverage, limitations with respect to roaming arrangements, local restrictions, or the availability of Uplink/u-TRAQ Solutions in certain geographical areas or markets.

## **2. PURPOSE OF AGREEMENT; RELATIONSHIP OF THE PARTIES**

2.1 Purpose of Agreement. This Agreement provides the framework according to which Dealer may purchase and activate Uplink/ u-TRAQ Devices on the Uplink/u-TRAQ Platform, resell those devices in conjunction with its own product and service offerings, and resell access to the u-TRAQ Application to Dealer’s Customers within the Territory.

2.2 Representations - Uplink. Uplink is in the business of selling hardware solutions, network connectivity, and data services that enable data to be relayed wirelessly to available third party telecommunications networks for termination to end points designated by Uplink’s customers.

2.3 Representations – Dealer. Dealer has the expertise, personnel, and resources necessary to be successful in the business of marketing, selling, installing, and servicing and monitoring alarm systems and components, including components intended to work with Uplink/u-TRAQ Data Services as applicable, and is appropriately licensed to do. Dealer also has the ability to be successful in reselling access to the u-TRAQ Application.

2.4 Relationship of the Parties. Dealer and Uplink are independent contractors acting for their own accounts hereunder. Nothing in this Agreement or any transaction hereunder is intended by the parties to create, or be construed as creating, an agency, employment, or partnership relationship, or joint venture, between the parties. Uplink may freely sell Uplink/u-TRAQ Solutions to any third party and Dealer may freely purchase Uplink Security Solutions from any duly authorized third party reseller or distributor of Uplink/u-TRAQ Solutions; Dealer may purchase u-TRAQ Solutions only from Uplink.

## **3. PRICING, PAYMENT, AND RELATED TERMS**

3.1 Pricing. Uplink shall determine the pricing of Uplink/u-TRAQ Solutions furnished hereunder. With notice to Dealer, all pricing is subject to change from time to time at Uplink’s sole discretion. Pricing generally excludes federal, state, and local governmental sales taxes, use taxes, occupational taxes, and other taxes, imposts, and

regulatory fees or surcharges (“Taxes”). All Taxes, excepting those on Uplink’s income, must be collected and paid by Dealer unless Uplink is required by law to collect or pay them or Dealer presents a valid exemption certificate. Dealer must promptly reimburse Uplink for Taxes paid by Uplink on Dealer’s behalf.

**3.2 Payment.** Recurring charges for Uplink/u-TRAQ Data Services apply on a monthly, per unit basis to all Uplink Devices and u-TRAQ Devices active on the Uplink/u-TRAQ Platform. Monthly recurring charges applicable to Uplink Devices activated between the first and last day of the month will be due the following month on a one-time, pro-rated basis in an amount equal to 50% of the applicable monthly recurring charge. Thereafter, monthly recurring charges for the newly activated Uplink Devices and u-TRAQ Devices will not be prorated. Charges may be invoiced as Uplink and/or Numerex Solutions. Dealer may not withhold or delay any payment due but may dispute a charge by notifying Uplink in writing within 45 days of the date of the subject invoice. Otherwise, Dealer will be deemed to have agreed to the charges as invoiced and to have waived its right to object to such charges. Unless otherwise expressly agreed in writing by Uplink, i.e., unless Uplink has agreed to provide billing services hereunder, Dealer is solely responsible for invoicing Dealer’s Customers. Dealer’s obligation to pay Uplink is independent of Dealer’s collection of payment from Dealer’s Customers. If Dealer fails to timely make any payment, Dealer must pay interest on the balance due at the rate of 1.5% per month or the highest rate allowed by law, *whichever is less*, which interest shall accrue from the date the payment was due until the date the payment is made in full. Dealer must pay reasonable attorneys’ fees and other collection costs incurred by Uplink.

**3.3 Credit and Security.** Sales and the continued provision of Uplink/u-TRAQ Solutions to Dealer are contingent upon Dealer’s creditworthiness, as determined by Uplink and communicated to Dealer from time to time. Until payment has been made in full for any Uplink Devices or u-TRAQ Devices ordered by Dealer directly from Uplink hereunder, Dealer grants Uplink a purchase money security interest in them and in the proceeds thereof to the extent of the balance due. At Uplink’s request, Dealer will execute documentation evidencing Uplink’s interest. Uplink may require additional security, guarantees, or modified payment terms in the event of a material adverse change in Dealer’s creditworthiness.

#### **4. DEALER’S RESPONSIBILITIES**

**4.1 Ordering and Activation.** Uplink may reject, at any time, any order or activation request that is not placed using Uplink’s prescribed order or activation form or format, or that is otherwise inconsistent with this Agreement. In the event of any conflict between this Agreement and any order or activation request, this Agreement shall control. **TERMS AND CONDITIONS ADDED BY DEALER TO AN ORDER OR ACTIVATION REQUEST (FOR EXAMPLE, TERMS STATED ON CUSTOMER’S OWN PURCHASE ORDER FORM) THAT ADD TO, OR CONFLICT WITH, THIS AGREEMENT, WHETHER CONTAINED IN AN ACKNOWLEDGEMENT OF SUCH ORDER OR ACTIVATION REQUEST OR OTHERWISE, SHALL NOT BE BINDING ON UPLINK, AND UPLINK HEREBY OBJECTS THERETO.** Uplink’s standard shipping terms are F.O.B. Uplink’s point of shipment with all risk of loss, damage, or delays passing to Dealer at such point. Title to goods purchased from Uplink by Customer hereunder shall pass to Customer only upon Uplink’s receipt of payment in full for the goods.

**4.2 Deactivation. NON-REFUNDABLE MONTHLY RECURRING CHARGES WILL CONTINUE TO APPLY WITH RESPECT TO ALL PREVIOUSLY ACTIVATED UPLINK DEVICES OR U-TRAQ DEVICES, WHETHER OR NOT THEY REMAIN IN SERVICE, THAT HAVE NOT SUBSEQUENTLY BEEN DEACTIVATED BY DEALER IN ACCORDANCE WITH UPLINK’S PRESCRIBED DEACTIVATION PROTOCOL; CUTTING THE POWER TO, DISCONNECTING, OR PHYSICALLY REMOVING, AN UPLINK DEVICE DOES NOT CONSTITUTE DEACTIVATION.** Dealer must pay applicable monthly recurring charges even if the supported devices are damaged, lost, or stolen; Uplink will, however, make a good faith to suspend or terminate service with respect to devices that Dealer positively verifies have been damaged, lost, or stolen. Restoration of service may result in additional nonrecurring charges to Dealer. Uplink Security Devices that fail to show any activity for 12 consecutive months (or 36 consecutive months of non-use in the case of u-TRAQ Devices) are subject to permanent deactivation by Uplink at any time without notice to Dealer. Dealer must advise Dealer’s Customers to remove u-TRAQ Devices from their vehicles before selling or transferring them.

**4.3 Runaway Devices; Reasonable Use/Volume Restrictions.** Dealer agrees that Uplink Devices and associated Uplink/u-TRAQ Data Services are to be used only for the purpose of relaying, transporting, and terminating alarm

panel signals. Likewise, u-TRAQ Devices and associated Uplink/u-TRAQ Data Services may only be used in conjunction with the u-TRAQ Application. **ABSENT UPLINK'S EXPRESS, PRIOR WRITTEN CONSENT, ANY AND ALL OTHER USES SHALL BE DEEMED A MATERIAL BREACH OF THIS AGREEMENT AND GROUNDS FOR IMMEDIATE SUSPENSION OF ALL UPLINK/U-TRAQ DATA SERVICES WITHOUT NOTICE OR LIABILITY TO DEALER.** As further set forth in the applicable product guide or service plan description available through Uplink's online dealer portal, Uplink/u-TRAQ Data Services are subject to reasonable use/volume restrictions for purposes of controlling "runaway" units and preventing harm to, or fraudulent use or abuse of, the Uplink/u-TRAQ Platform. Such restrictions are typically triggered by usage that is in excess of, or is inconsistent with, the norm under the applicable service plan and may, for example, be in the form of deactivation of problem units and/or increases, following notice to Dealer, in Uplink's monthly recurring charges to Dealer. In the event of network congestion or an emergency, to prevent harm to another person, or in response to requests from civil authorities, Dealer acknowledges that access to telecommunications networks may have to be reallocated and without liability to Dealer or any third parties.

4.4 Service, Support, and Troubleshooting - Dealer's Customers. Dealer must not enter into any agreements with or make any representations, warranties, or commitments, express or implied, to Dealer's Customers that are contrary to, or conflict with, this Agreement or that Dealer cannot be reasonably certain of fulfilling. Dealer must not (a) tamper or interfere with, fraudulently use, misuse, or knowingly allow Dealer's Customers or End Users to tamper or interfere with, or misuse, Uplink/u-TRAQ Solutions; or (b) engage in, or knowingly allow Dealer's Customers or End Users to engage in, any activity that threatens to harm the Uplink/u-TRAQ Platform or the facilities of a third party. Except as otherwise expressly agreed in writing by Uplink, Dealer is solely responsible for providing all support and customer care services to Dealer's Customers; Uplink may, however, provide incidental support to Dealer's Customers from time to time at Dealer's request. Additionally, Dealer must furnish, at its own expense, toll-free access to Dealer's central monitoring stations. Alternatively, Uplink will arrange for access at Dealer's expense. As an expert in the field, Dealer acknowledges that electronic equipment may cease functioning properly and that signals generated by such equipment may cease being generated or transmitted at any time for any number of reasons, and therefore agrees to assume the sole responsibility for monitoring, testing, and, as necessary, troubleshooting and properly servicing, any and all equipment located at the premises of Dealer's Customers (or installed in their vehicles) including, without limitation, alarm panels and other alarm system components installed or maintained by Dealer, Uplink Devices, and u-TRAQ Devices. It is solely incumbent upon Dealer to properly service Uplink Devices or u-TRAQ Devices that are in, appear to be in, or are suspected to be in, an error state. Dealer acknowledges that Uplink does not and cannot actively monitor Uplink Devices or u-TRAQ Devices and, in particular, affirms that Uplink does not provide alarm monitoring services; those functions are solely and exclusively Dealer's. **IN VIEW OF THE FOREGOING, DEALER, ON ITS OWN BEHALF AND ON BEHALF OF ITS INSURER(S) AND CENTRAL MONITORING STATION(S), AGREES TO HOLD HARMLESS, DEFEND, AND INDEMNIFY UPLINK AND UPLINK'S AFFILIATES, SUCCESSORS, AND ASSIGNS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS FROM AND AGAINST ANY AND ALL LIABILITY, DAMAGES, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES) ARISING OUT OF OR RELATING TO THE FAILURE OR ALLEGED FAILURE TO MONITOR OR TIMELY SERVICE AN UPLINK DEVICE, U-TRAQ DEVICE, ALARM PANEL OR SYSTEM, OR OTHER EQUIPMENT INSTALLED OR MAINTAINED BY DEALER OR ITS DESIGNEE.**

4.5 Forms. Dealer affirms that Dealer is solely responsible for, and solely liable with respect to, any representations or warranties, express or implied, made by Dealer to Dealer's Customers or any other third parties in connection with this Agreement. Uplink does not warrant Uplink Devices, u-TRAQ Devices, or Uplink/u-TRAQ Data Services including, without limitation, the u-TRAQ Application, directly to Dealer's Customers or End Users. Subject to applicable federal, state, and local law, Dealer agrees to extend to Dealer's Customers express, limited product warranties and terms and conditions of service that appropriately affirm Dealer's sole responsibility to Dealer's Customers for service and support and product warranty claims, appropriately disclaim Uplink's service providers' liability to Dealer's Customers and End Users, and are otherwise consonant with all warranties, disclaimers, and limitations of liability set forth in this Agreement. With respect to u-TRAQ Devices and the u-TRAQ Application in particular, suggested forms for Dealer's consideration are available through Uplink's online customer portal.

4.6 **Compliance.** Dealer must know and comply with all applicable laws, regulations, and other governmental requirements including, without limitation, state and local laws governing the licensing of alarm companies, voice and data communications laws and regulations, and privacy laws, and must contractually obligate Dealer's Customers to comply with all legal and regulatory requirements applicable to them. Dealer acknowledges that Uplink/u-TRAQ Solutions are subject to U.S. export jurisdiction and will at all times act consistent with applicable U.S. export controls. **PRIOR TO EXPORTING ANY UPLINK/U-TRAQ SOLUTIONS OR DEALER SOLUTIONS, EITHER DIRECTLY OR THROUGH A THIRD PARTY, DEALER WILL NOTIFY UPLINK EXECUTE AN END USER/END USE CERTIFICATION IN A FORM ACCEPTABLE TO UPLINK.** Dealer must maintain, and provide Uplink with timely access to, such records as are necessary to enable Uplink to timely and accurately invoice Dealer and verify Dealer's compliance with all terms and conditions of this Agreement. The purchase and use of Uplink products and services by the United States government or any other governmental entity shall be subject to such "restricted rights" as are defined in applicable regulations. Absent Uplink's express written agreement, no government contract provisions or flow down requirements shall be binding on Uplink or any of its affiliates or subsidiaries in any way.

4.7 **Certification.** Dealer may not activate any of its own devices, other equipment, or any non-standard applications on the Uplink/u-TRAQ Platform except by special arrangement with Uplink's express, prior written approval.

4.8 **OVERDEPENDENCE. DEALER AFFIRMS THAT UPLINK HAS NO KNOWLEDGE OF DEALER'S REVENUES DERIVING FROM THE SALE OF DEALER SOLUTIONS IN COMPARISON TO DEALER'S OVERALL REVENUES AND AGREES TO HOLD UPLINK HARMLESS FROM ANY CLAIMS RESULTING FROM DEALER'S OVERDEPENDENCE ON TRANSACTIONS WITH UPLINK HEREUNDER.**

## 5. CONFIDENTIALITY AND PUBLICITY; BRANDING; INTELLECTUAL PROPERTY

5.1 **Confidentiality and Publicity.** Dealer and Uplink agree that information such as the quantity, pricing, and specifications of Uplink/u-TRAQ Solutions purchased hereunder, information about the Uplink/u-TRAQ Platform and other technology underlying Uplink/u-TRAQ Solutions, and information otherwise identified by the disclosing party as being proprietary or confidential (or that by its nature should reasonably be inferred as being proprietary or confidential) is competitively sensitive information not generally known to the public ("Confidential Information"). Each party undertakes to: (a) maintain the other party's Confidential Information in strict confidence, using at least the same degree of care (and in no event less than a reasonable degree of care) in maintaining its secrecy as it does with its own Confidential Information; and (b) use the other party's Confidential Information only to fulfill its obligations under this Agreement. Such duties will survive expiration or termination of this Agreement for a period of 3 years and, with respect to the parties' Confidential Information that is protected as a trade secret under the Georgia Trade Secrets Act, O.C.G.A. §§ 10-1-760 to 767, for so long as such Confidential Information remains a trade secret according to the Act.

5.2 **Branding.** During the term of this Agreement and coterminous with any End User's individual term of service, Dealer has a limited, revocable, non-exclusive, non-sublicensable, royalty-free license to use, in furtherance of the purposes of this Agreement, such of Uplink's or Uplink's licensors' trademarks, service marks, logos, or other designations as are approved for use in writing by Uplink. Uplink has a unlimited, irrevocable, non-exclusive, sublicensable, royalty-free license to use such of Dealer's trademarks, service marks, logos, or other designations as are reasonably required by Uplink in privately labeling the u-TRAQ Application for Dealer, providing for continuity of service to Dealer's Customers under Section 10.2, and otherwise furthering the purposes of this Agreement. Uplink reserves the right, with notice to Dealer, to revise its branding guidelines at any time.

5.3 **Intellectual Property and Work Product; Rights in Improvements.** Uplink and/or its licensors own(s) and shall continue to own all title, rights, and other interests, including all intellectual property rights, in and to the Uplink/u-TRAQ Platform, all Uplink/u-TRAQ Solutions, and all associated data, metadata, specifications, designs, documentation, software, and firmware, and Dealer shall acquire only a right hereunder to resell, market, and promote Uplink/u-TRAQ Solutions for use with Dealer Solutions. (Each party must in any event obtain the other party's express written permission prior to issuing a press release concerning this Agreement.) No other interest in or to Uplink's intellectual property is granted by Uplink to Dealer whether expressly, by implication,

estoppel, or otherwise. No work performed by Uplink hereunder shall be deemed a work for hire. Dealer agrees that under no circumstances will it attempt to deconstruct, reverse engineer, or decompile Uplink/u-TRAQ Solutions or any elements thereof. Dealer agrees that any improvements made by Dealer to Uplink/u-TRAQ Solutions or any technology proprietary to Uplink belong exclusively to Uplink, and if by operation of law any related intellectual property rights are not owned in their entirety by Uplink, then Dealer agrees to assign, and hereby assigns, to Uplink the ownership of such rights. Dealer agrees to provide any assistance required to perfect such protection and to take such further actions and execute and deliver such further agreements and other instruments as Uplink may reasonably request to give effect to this Section.

5.4 Ownership of Data; Device Identifiers. Uplink may collect, and shall own and retain all rights in, aggregated usage information from Uplink, Dealer's Customers, and End Users and may aggregate it with information obtained from other sources including, without limitation, other Uplink dealers and their customers. For example, Uplink may use aggregated information to determine Dealer's overall use of Uplink/u-TRAQ Solutions, identify usage patterns, and develop new products and services. Uplink may share aggregated information with any third party for any purpose that is not inconsistent with this Agreement. Uplink retains all rights including, without limitation, any ownership rights it may have with respect to device identifiers associated with Uplink Devices and u-TRAQ Devices, i.e., the 10-digit machine identification number or derived from the pool administered by the International Forum on ANSI-41 Standards Technology, electronic serial number, or other identifier. Uplink reserves its right to allocate and control all such identifiers. Any modification or reassignment of an identifier requires Uplink's express written consent.

## 6. INSURANCE AND INDEMNIFICATION

6.1 Insurance. Each party must, at its own expense, take out and maintain comprehensive general liability insurance, including products, operations, and contractual liability coverage that will protect it from claims for bodily injury and property damage, including, without limitation, death, that may arise in or result from its activities under, or in connection with, this Agreement. Such insurance coverage must be written on an occurrence basis with limits of not less than \$1,000,000 per occurrence per location and \$2,000,000 in the aggregate. Either party may request a certificate of insurance verifying the other party's coverage and naming the covered party and its affiliates as additional insureds.

6.2 INDEMNIFICATION BY UPLINK. **SUBJECT TO THE LIMITATIONS SET FORTH IN THIS AGREEMENT, UPLINK WILL INDEMNIFY AND DEFEND DEALER AND DEALER'S OFFICERS, DIRECTORS, AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF A CLAIM BY A THIRD PARTY AND TO THE EXTENT RESULTING FROM UPLINK'S GROSS NEGLIGENCE OR MISCONDUCT UNDER THIS AGREEMENT.**

6.3 INDEMNIFICATION BY DEALER. **SUBJECT TO THE LIMITATIONS SET FORTH IN THIS AGREEMENT, DEALER WILL INDEMNIFY AND DEFEND UPLINK AND UPLINK'S AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND THIRD PARTY SERVICE PROVIDERS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF A CLAIM BY A THIRD PARTY AND TO THE EXTENT RESULTING FROM (A) DEALER'S BREACH OF OR GROSS NEGLIGENCE OR MISCONDUCT UNDER THIS AGREEMENT; (B) AN ACT OR OMISSION OF DEALER'S CUSTOMER OR AN END USER RELATED TO THIS AGREEMENT; OR (C) THE COMBINATION, INTEGRATION, OR INCORPORATION OF UPLINK/U-TRAQ SOLUTIONS WITH DEALER'S OWN AND/OR A THIRD PARTY'S PRODUCTS OR SERVICES.**

6.4 Indemnification Procedure. Promptly, upon becoming aware of any matter that is subject to an express indemnification obligation hereunder (a "Claim"), the party seeking indemnification (the "Indemnified Party") must give notice of the Claim to the other party (the "Indemnifying Party"), accompanied by a copy of any written documentation regarding the Claim received by the Indemnified Party. The Indemnifying Party will, at its option, settle or defend, at its own expense and with its own counsel, the Claim. The Indemnified Party will have the right, at its option, to participate in the settlement or defense of the Claim, with its own counsel and at its own expense; but the Indemnifying Party will have the right to control the settlement or defense. The Indemnifying Party will not enter into any settlement that imposes any liability or obligation on the Indemnified Party without

the Indemnified Party's prior written consent. The parties will cooperate in the settlement or defense and give each other reasonable access to relevant information.

## **7. UPLINK DEVICES AND U-TRAQ DEVICES – LIMITED WARRANTY**

7.1 **Limited Warranty.** Uplink warrants to Dealer that for 12 months following the date of purchase, Uplink Devices and u-TRAQ Devices will be free of defects in materials and workmanship when installed, operated, maintained, and serviced in strict accordance with Uplink's and the manufacturer's requirements. If a Uplink Device fails because of a defect in materials or workmanship within the 12 month warranty period, Uplink will, at its sole option and at no charge to Dealer, repair or replace it or arrange for its repair or replacement. Uplink's agreement to repair (using new or reconditioned parts) or replace (with an equivalent new or reconditioned device) an Uplink Device or u-TRAQ Device found to be defective in materials or workmanship is Dealer's exclusive remedy; this remedy will not be deemed to have failed of its essential purpose so long as Uplink is willing and able to repair or replace a defective Uplink Device as provided above or, at its sole option, to refund the purchase price paid. Any returns hereunder must be made in accordance with Uplink's prescribed RMA process. **THE WARRANTY SET FORTH IN THIS SECTION IS LIMITED AND IS THE ONLY WARRANTY OFFERED UNDER THIS AGREEMENT. UPLINK MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND NON-OBSOLESCENCE. THE WARRANTY SET FORTH IN THIS SECTION FURTHERMORE DOES NOT COVER UPLINK DEVICES OR U-TRAQ DEVICES THAT (A) HAVE BEEN IMPROPERLY INSTALLED, MAINTAINED, OR SERVICED; (B) HAVE BEEN ABUSED OR TAMPERED WITH; OR (C) HAVE BEEN SUBJECTED TO OPERATING CONDITIONS OUTSIDE OF SPECIFIED PARAMETERS.**

## **8. UPLINK/U-TRAQ DATA SERVICES – NO WARRANTIES**

8.1 **UPLINK/U-TRAQ DATA SERVICES INCLUDING, WITHOUT LIMITATION, THE FUNCTIONALITY OF THE UPLINK/U-TRAQ PLATFORM, U-TRAQ APPLICATION, AND OTHER SERVICES PROVIDED BY UPLINK HEREUNDER, ARE SERVICES AND NOT TANGIBLE GOODS, AND ARE THEREFORE PROVIDED STRICTLY AS-IS, WITHOUT WARRANTY OF ANY KIND INCLUDING, WITHOUT LIMITATION, ANY WARRANTY THAT THEY WILL BE UNINTERRUPTED OR ERROR-FREE, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR NON-OBSOLESCENCE.**

8.2 Neither Uplink nor its service providers warrant that Uplink/u-TRAQ Data Services including, without limitation, the functionality of the Uplink/u-TRAQ Platform, u-TRAQ Application, and other services provided by Uplink hereunder, can never be compromised or circumvented, or that they will prevent any injury or loss by burglary, hold-up, or other criminal activity; by fire; by health, safety, or medical condition; or otherwise; or that they will in all cases, by themselves or in combination with Uplink Devices, u-TRAQ Devices, or other products and services, provide the protection or benefit intended.

## **9. LIMITATIONS OF LIABILITY**

9.1 **NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOST DATA, SALES, REVENUES, OR PROFITS, REGARDLESS OF WHETHER THE POSSIBILITY OF SUCH DAMAGES WAS ADVISED OF OR COULD HAVE REASONABLY BEEN FORESEEN; PROVIDED, THAT THE FOREGOING LIMITATION SHALL NOT APPLY WITH RESPECT TO THE PARTIES' OBLIGATIONS UNDER SECTION 5 OR ANY EXPRESS INDEMNIFICATION PROVISION OF THIS AGREEMENT.**

9.2 Neither Uplink nor its service providers shall be liable for interruptions in, or interference with, their own or third party telecommunications carriers' operations or voice/data transmissions due to factors over which they have no control, i.e., atmospheric/orbital conditions, terrain, weather, man-made structures, "gaps" in network coverage, network congestion, emergencies, acts of God, or other actors/conditions over which Uplink has no control.

9.3 Neither Uplink nor its service providers shall be liable with respect to any acts or omissions of Dealer's Customers, End Users, or any other third parties including, without limitation, telecommunication carriers, police and fire dispatchers, emergency service and law enforcement personnel, and actors/agencies over which Uplink has no authority or control. For example, Uplink and the cellular or satellite telecommunications carrier utilized

by Uplink in furnishing Uplink/u-TRAQ Data Services hereunder shall not be liable if such services are interrupted or become unavailable because such carrier deploys new technology, makes changes to its network, exercises its independent right to prevent Dealer, Dealer's Customers, or End Users from accessing its network, unilaterally terminates its contract with Uplink, unilaterally exits a market, or ceases doing business. Emergency service or law enforcement personnel may not respond in a timely or effective manner. In view of its experience and expertise in the alarm business, Dealer acknowledges that no system or product, whether Dealer's or Uplink's, and even if operating without error, can guarantee against property loss or personal injury and affirms that the recurring fees charged by Uplink to Dealer, or by Dealer to Dealer's Customers, are not substitutes for insurance.

9.4 Neither Uplink nor its service providers shall be liable with respect to any claims to the extent resulting from (a) the end use or application including, without limitation, a health, safety, or medical application, or an unlawful end use, of Uplink/u-TRAQ Solutions or Dealer Solutions; (b) Dealer's productization of Uplink/u-TRAQ Solutions, i.e., any product or service deriving from Dealer's combination, integration, or incorporation of Uplink/u-TRAQ Solutions with its own and/or a third party's products, services, or applications; (c) any lack of privacy or security of data transported over a common carrier wireless or wireline network or the internet; or (d) third party fraud.

**9.5 NEITHER PARTY'S TOTAL, CUMULATIVE LIABILITY TO THE OTHER PARTY UNDER OR RELATING TO THIS AGREEMENT OR ANY PROVISION HEREOF FOR ANY DAMAGES, LOSSES, LIABILITIES, COSTS, OR EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) OF ANY NATURE PERTAINING TO ONE OR MORE RELATED OR UNRELATED CLAIMS SHALL EXCEED THE TOTAL AMOUNT INVOICED TO DEALER BY UPLINK HEREUNDER DURING THE 180 DAY PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EARLIEST EVENT GIVING RISE TO SUCH LIABILITY; PROVIDED, THAT THE FOREGOING LIMITATION SHALL NOT APPLY TO DEALER'S OBLIGATIONS UNDER SECTION 5 OR DEALER'S OBLIGATIONS UNDER ANY EXPRESS INDEMNIFICATION PROVISION OF THIS AGREEMENT. THE FOREGOING LIMITATION IS ALSO EXCLUSIVE OF DEALER'S LIABILITY TO UPLINK FOR THE PAYMENT OF MONIES DUE FOR PURCHASES UNDER THIS AGREEMENT.**

## **10. ADMINISTRATION AND INTERPRETATION OF THIS AGREEMENT**

10.1 Term and Termination. Unless otherwise terminated as provided herein, this Agreement shall continue in effect on a month-to-month basis until terminated as provided herein. Either party may terminate this Agreement for any reason at any time on not less than 1 full calendar month's prior written notice to the other party. This Agreement will terminate without notice (a) upon the institution by or against a party of an insolvency, receivership or bankruptcy proceeding (provided that the party against which an involuntary proceeding has been brought will have 60 days within which to seek its dismissal); (b) upon a party's making of a general assignment for the benefit of creditors; or (c) upon a party's dissolution or cessation of business. Upon termination of this Agreement, all provisions contained herein will continue in effect to the extent that they are either expressly, or by their nature, i.e., with respect to a given Dealer Customer's individual term of service extending beyond the date of termination of this Agreement, meant to survive termination of this Agreement. Termination, regardless of cause, will, except as otherwise stated in this Agreement, be without prejudice to any other rights or remedies of the parties and will not release either party from any liability that at the time of such termination has already accrued, or that may occur in respect of any act or omission of a party prior to termination or any obligation of a party subject to survival. **NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR DAMAGES SOLELY ON ACCOUNT OF THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.**

10.2 Continuity of Service. Dealer agrees that in the event Dealer becomes unwilling or unable to fulfill its obligations to Dealer's Customers or to provide them with continuity of service following the termination of this Agreement, or in the event Dealer breaches this Agreement and Uplink terminates it for cause, or if contacted directly by Dealer's Customers, Uplink may without liability to Dealer refer them to a third party selected by Uplink. **DEALER SHALL HOLD HARMLESS, INDEMNIFY, AND DEFEND UPLINK AND UPLINK'S AFFILIATES, SUCCESSORS, AND ASSIGNS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF OR RELATING TO THE REFERRAL OF DEALER'S CUSTOMERS.**

10.3 Remedies. If Dealer is in breach or default of any of its obligations hereunder, Uplink may, without liability to Dealer by reason of such election, and without limiting any of Uplink's other rights or remedies under this Agreement or applicable law: (a) suspend, in whole or in part, the provision of Uplink/u-TRAQ Data Services to Dealer; (b) deny, in whole or in part, connectivity to the Uplink/u-TRAQ Platform; (c) discontinue, in whole or in part, any discounts, volume purchase incentives, or other preferential terms; (d) limit the amount and/or duration of, or cancel, any credit granted to Dealer; (e) cancel all or any portion of any accepted orders or activation requests; (f) refuse to accept any new orders or activation requests; (g) suspend shipment or stop delivery of Uplink Devices or u-TRAQ Devices; (h) place Uplink Devices or u-TRAQ Devices allocated to any accepted order in storage, at Dealer's expense, until Dealer has effected a cure satisfactory to Uplink; or (i) resell any Uplink Devices or u-TRAQ Devices not shipped or delivered to Dealer under any accepted order without giving notice to Dealer and without affecting Uplink's right to hold Dealer liable for any expenses or losses suffered by Uplink in connection with such resale.

10.4 Dispute Resolution. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia in the United States of America without regard to the conflicts of law rules thereof or to the United Nations Convention on Contracts for the International Sale of Goods. Any controversy or claim arising out of relating to this Agreement, or the breach thereof, shall be resolved by arbitration in Atlanta, Georgia in accordance with the Georgia Arbitration Code and administered by the American Arbitration Association under its Commercial Arbitration Rules. The prevailing party shall be entitled to an award of reasonable attorneys' fees.

10.5 Miscellaneous Provisions. Neither party shall be liable for failure to perform hereunder if such failure is attributable to an act of God, act of government, war, terrorism, civil disturbance, fire, flood, power outage, or other casualty, or any other condition beyond the non-performing party's reasonable control, but only for the time and to the extent such failure is occasioned by such a condition. The headings in this Agreement are included for convenience of reference only and shall be disregarded in the construction of this Agreement. The provisions of this Agreement are severable, and the unenforceability of any provision of this Agreement will not affect the enforceability of the remainder of this Agreement so long as its continued enforcement would not unduly advantage one party over the other. A party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right of such party thereafter to enforce such provision. Dealer may not assign, novate, effect a change of control with respect to, or otherwise transfer this Agreement or its rights or obligations hereunder without Uplink's prior written consent, which shall not be unreasonably withheld. Any such transfer shall be void at Uplink's election. Legal notices to Dealer hereunder may be personally delivered or delivered by overnight courier to the same address utilized by Uplink for invoicing. Legal notices will be deemed to have been served and given upon confirmation of delivery by the courier. Dealer must promptly notify Uplink of any name or address changes. Subject to, and unless otherwise provided by, this Agreement, each and all of the covenants, terms, provisions, and agreements contained herein shall be binding upon, and inure to the benefit of, the permitted assigns, successors, representatives, and administrators of the parties. This Agreement, which includes the Attachments, constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes, except as stated herein, all prior and contemporaneous agreements, express or implied, between the parties with respect to the subject matter hereof, and may not be amended or modified without specific written provision to that effect, signed by both parties.