

**THEODORE SOFTWARE CONSULTANTS**  
**SERVICE LEVEL AGREEMENT No. [REDACTED]**

THEODORE SOFTWARE CONSULTANTS  
A.B.N. 17 893 047 490  
1 Tarana Avenue,  
Glenroy Vic 3046  
AUSTRALIA

Hereby agrees to maintain the items described in Schedule A below, hereinafter referred to as 'THE EQUIPMENT' and to provide the level of cover chosen in schedule C below, from the date of commencement of service (as defined hereinafter) and thereafter until this agreement shall be terminated under the provisions hereof for

**Customer** [REDACTED] herein after referred to as  
**Customer Address 1** [REDACTED] "The Customer"  
**Customer Address 2** [REDACTED] (Enter client name and address on left)

Upon the terms and conditions contained herein.

IN CONSIDERATION WHEREOF THE CUSTOMER AGREES TO PAY TO THEODORE SOFTWARE CONSULTANTS THE TOTAL CHARGES SET FORTH IN SCHEDULE C AND SUCH OTHER AMOUNTS AS BECOME DUE UNDER THIS AGREEMENT

**SCHEDULE A – THE EQUIPMENT**

**CALLTRAK Software installed at The Customer premises**  
**Licensed for monitoring (X Site Licence) and Y Extensions (total)**

PRIME SHIFT MAINTENANCE DEFINED AS:

DAY	MON	TUE	WED	THU	FRI	SAT	SUN	PUBLIC HOLS
Ordinary Coverage	8:00 AEST am – 7:00 AEST pm Excluding Public Holidays					No	No	No
Extended Coverage								

**SCHEDULE B**

Name & Billing Address of Customer: *As above*

Site of Installation Address:  
*As above*

Technical contact and Phone:
<b>Contact Name</b> <b>Contact PhoneNo/Mobile</b>
<b>Contact MobileNo</b>

**SCHEDULE C – AGREEMENT LEVEL OF COVER**

Type	Cover	Prime Shift Maint. Annual cost	Chosen
Level 1	Up to 6 Requests for assistance per annum during the Prime Shift Maintenance.	10%	<input type="checkbox"/>
Level 2	Phone and Email support during Prime Shift maintenance (Up to 52 requests per annum)	25%	<input checked="" type="checkbox"/>
Level 3	Level 2 cover plus routine remote surveillance. Remote surveillance performed by daily received emailed reports. Any data cessation is reported by email to the client contact.	30%	<input type="checkbox"/>
Level 4	Level 3 cover plus 1 carrier rate table update per year based on pricing information as supplied by the reseller's client	50%	<input type="checkbox"/>
Level 5	Level 4 cover plus annual software upgrades.	75%	<input type="checkbox"/>
Level 6	Level 5 cover plus fortnightly maintenance of housekeeping activities including adds, moves and changes of Extensions ( .csv file to be supplied by client in our format)	100%	<input type="checkbox"/>
Level 7	Level 6 plus adhoc report generation (up to 3 reports per week)	125%	<input type="checkbox"/>

*The above annual cost is an indicator only and may vary depending on licensing. Please call for your pricing.*

**MAINTENANCE AGREEMENT**

**COMMENCEMENT OF AGREEMENT:**

1. This instrument shall become a binding agreement between The Customer & THEODORE SOFTWARE CONSULTANTS immediately the memorandum of acceptance of the Customer offer (as herein matter provided for) has been signed by a duly authorised officer of THEODORE SOFTWARE CONSULTANTS whether or not the Customer has been advised of this fact.

**SCOPE OF SERVICES PROVIDED:**

2. THEODORE SOFTWARE CONSULTANTS shall keep the equipment in good working order and shall make all adjustments and repairs therein which it deems necessary for this purpose without charge to the Customer except as provided in clause 5 of this agreement provided however that nothing in this clause shall be taken to mean THEODORE SOFTWARE CONSULTANTS' liability shall extend beyond making good the effects of wear and tear resulting from ordinary use and defects in the workmanship or materials supplied by THEODORE SOFTWARE CONSULTANTS and without limiting the generality of the above. Repairs, replacements or adjustments arising from the following are specifically excluded and shall be carried out by THEODORE SOFTWARE CONSULTANTS at the Customer's cost and at THEODORE SOFTWARE CONSULTANTS' sole discretion:

- a) Re-installation, moving or removal of the Equipment, any part thereof, options or attachments
- b) Changes or alterations of the Equipment's functions made or requested by the Customer including any software modifications or enhancements to system functioning.
- c) Damage resulting from accident, neglect, misuse, failure of electrical power or air-conditioning, nuclear reaction, nuclear radiation, radioactive contamination, earthquakes or any fault on the part of the Customer, his agent, servants or employees:
- d) Maintenance, repairs or modifications having been made any persons other than THEODORE SOFTWARE CONSULTANTS representatives:
- e) Operating errors of The Customer or where the reported problem is caused by equipment not installed by THEODORE SOFTWARE CONSULTANTS.

**COMMENCEMENT OF SERVICE**

- 3. a) Where the equipment was not being maintained under contract by THEODORE SOFTWARE CONSULTANTS immediately prior to this agreement THEODORE SOFTWARE CONSULTANTS shall inspect The Equipment at no charge to the Customer and carry out such repairs and adjustments as in its sole opinion it deems is necessary and shall charge the Customer for all parts and labour expended in such repairs and adjustments at it's then standard prices and rates. Service under this agreement shall commence immediately such repairs and adjustments are completed.
- b) Where the Equipment is newly installed and supplied by THEODORE SOFTWARE CONSULTANTS, service under this agreement shall commence on the date of acceptance therefore under the purchase agreement provided that for the purpose of this clause "newly installed" shall only mean equipment in use by the Customer for less than one month.
- c) In all other cases the service under this agreement shall commence to run from the date of this agreement.

**INITIAL MAINTENANCE TERM:**

4. The initial maintenance term of this agreement shall run from the date service commenced as provided under clause 3 (hereinafter called "date of commencement of service") and shall continue for a minimum period of one year there from.

**CHARGES:**

- 5. (a) Throughout the initial maintenance term of this Agreement and thereafter until this agreement shall be terminated there shall become due and payable to THEODORE SOFTWARE CONSULTANTS by the Customer on the first day of each and every quarter the quarterly Prime Shift Maintenance charges specified in this agreement provided however that there shall also be due and payable on the day after the commencement of service a proportionate amount calculated on the basis of a 90 day quarter representing the period from that date until to the end of the first calendar month of the initial maintenance term OR payable annually on the day of commencement of the agreement if the Customer has opted to pay annually.
- (b) Maintenance services provided on the Equipment on Saturdays, Sundays, Public Holidays or before 8.00 am or after 7.00 pm on a weekday shall be charged to the Customer on an hourly basis at then THEODORE SOFTWARE CONSULTANTS'

standard rates provided if extended coverage is included in Prime Shift Maintenance such services shall only be charged if they were provided outside the hours of the extended coverage

(c) Where the Equipment is installed in excess of 40 kilometers from THEODORE SOFTWARE CONSULTANTS' nearest maintenance location and on-site attendance is required the Customer shall pay the travel expenses of THEODORE SOFTWARE CONSULTANTS' engineers carrying out maintenance services together with time spent travelling at THEODORE SOFTWARE CONSULTANTS' then standard rates. Travel expenses will include, but will not be limited to, mileage, tolls, parking, meals, commercial transportation and lodging, as appropriate. "Maintenance Location" is defined as a location at which THEODORE SOFTWARE CONSULTANTS maintains a location for providing maintenance to THEODORE SOFTWARE CONSULTANTS' equipment.

6. Charges due under this agreement for Prime Shift Maintenance shall be as stated in Schedule C for the whole of the initial maintenance term subject to amendments provided for under clauses 7 and 8. In respect of any period after the initial maintenance term THEODORE SOFTWARE CONSULTANTS may vary any or all of these charges provided it has given the Customer 90 days prior notice of its intention to do so. Such notice shall state the details of the new charges and the date on which they will become effective.

7. Notwithstanding anything elsewhere contained in the agreement all charges detailed in schedule C shall at THEODORE SOFTWARE CONSULTANTS' sole option be deemed to have been amended to THEODORE SOFTWARE CONSULTANTS' standard charges for the same items applicable at the date of commencement of service if that date is more than 180 days after the date on which the agreement becomes binding.

8. The Customer shall pay or re-imburse THEODORE SOFTWARE CONSULTANTS for all taxes and duties however designated or levied which are based on arise from this agreement or any charge due or payable hereunder including but not limited to Stamp Duty, and whether imposed by or payable to a State or Federal authority provided however that this clause shall not be meant to include taxes on the total personal property or total net income of THEODORE SOFTWARE CONSULTANTS.

#### **PAYMENT TERMS AND SET-OFFS:**

9. The Customer shall pay all charges and amounts due under this agreement within 30 days of the date they become payable and shall not set off against charges or amounts any counter claims against THEODORE SOFTWARE CONSULTANTS or amounts' claimed as owing from THEODORE SOFTWARE CONSULTANTS.

The Customer agrees to pay interest, on all payments or charges past due, in an amount equal to one and one half percent (1.5%) per month of the unpaid balance of such past due payments or charges, or if the maximum interest permitted by law shall be a lesser amount then such maximum interest rate as permitted by law.

#### **CUSTOMER'S OBLIGATIONS:**

10. The Customer shall use the Equipment in a careful and proper manner and shall not move it from the Site of Installation or employ or use additional attachments, features or devices or make changes or alterations to it without the written consent of THEODORE SOFTWARE CONSULTANTS in each case. The Customer shall comply with any conditions under which such consent is given and agrees that there shall be no cessation of any charges due under this agreement by reason of such

move change or alteration or arising there from. The Customer shall maintain the site of Installation in accordance with the specifications laid down by THEODORE SOFTWARE CONSULTANTS at the commencement of this agreement. Notwithstanding anything contained elsewhere herein, the Customer shall not make any physical alterations or add any attachments to the Equipment or any unit of Equipment, or cause or permit such alterations and attachments to be made other than by THEODORE SOFTWARE CONSULTANTS and THEODORE SOFTWARE CONSULTANTS shall at its own discretion determine that such alterations and attachment will interfere with the normal maintenance or satisfactory operation of that Unit of Equipment or render its obligation to maintain the unit of Equipment or the Equipment mode difficult, THEODORE SOFTWARE CONSULTANTS shall have the right upon written notice to the Customer to terminate its obligation to maintain such unit of Equipment and all other Units of Equipment affected thereby without penalty.

**MAINTENANCE CALLS:**

**11.** The Customer shall notify THEODORE SOFTWARE CONSULTANTS if maintenance service is required and shall make the Equipment available during the prime shift maintenance for whatever period is necessary in the opinion of THEODORE SOFTWARE CONSULTANTS to carry out the service required. In addition, the Customer shall make the Equipment available at such times as THEODORE SOFTWARE CONSULTANTS may reasonably request for the purpose of preventative maintenance. The Customer shall not perform any maintenance on the Equipment or permit any person other than a THEODORE SOFTWARE CONSULTANTS employee to do so without the prior written consent of THEODORE SOFTWARE CONSULTANTS.

THEODORE SOFTWARE CONSULTANTS shall make every effort to respond to all requests for service on the same day requested; with the exception that service requested within 2 hours of the termination of the Prime Shift Maintenance will normally be performed on the following business day. Service performed at the request of the Customer at times outside the Prime Shift Maintenance shall be billed to and paid by the Customer to THEODORE SOFTWARE CONSULTANTS' then current charges for such service.

**TERMINATION:**

**12.** This agreement shall terminate upon on the expiry of 90 days written notice by either party to the other of intention to do so provided that if such expiry would occur before the end of the initial maintenance term the termination shall not become affective until the conclusion of the initial maintenance term.

**THEODORE SOFTWARE CONSULTANTS WARRANTY:**

**13.** THEODORE SOFTWARE CONSULTANTS warrants that all parts used by it in the supply of the equipment, will be in good working order and free from defects in workmanship and material when installed.

For a period of 90 days following the date of the installation THEODORE SOFTWARE CONSULTANTS will without charge to the Customer exchange any part (other than a translator, capacitor or similar expendable component) used and shown to THEODORE SOFTWARE CONSULTANTS' satisfaction within that time to be defective in workmanship or material and this shall be THEODORE SOFTWARE CONSULTANTS' sole liability under the warranty under this clause as regards parts or materials. The cost of labour to install and all transportation costs incurred in the supply of such replacement parts shall be borne by the Customer if this agreement

has been terminated prior to such replacement taking place. The Customer acknowledges that except as expressly provided herein THEODORE SOFTWARE CONSULTANTS makes no warranty of any kind expressed or implied with respect to any equipment, parts, service or other thing provided in connection with this agreement including but not limited to their merchantability or fitness for a particular purpose without limiting the generality of the above THEODORE SOFTWARE CONSULTANTS shall not be liable for any indirect, special or consequential damages arising out or in connection with furnishing of parts and service hereunder or the performance, use of or inability to use the Equipment or out of any negligence. The Customer further acknowledges that no conditions, warranties or representations have been made, given or implied or are applicable in respect of the parts or service except as expressly set forth in this agreement.

All warranties, conditions or liabilities which might but for this paragraph be implied into a contract for the supply of goods and services whether by implication or law or otherwise are hereby expressly negated and excluded so far as the same may be legally done. However, the Customer is advised that under the Trade Practices Act of the Commonwealth of Australia and various acts of the State and territories thereof rights are conferred on consumers in respect of certain transactions and these rights cannot be excluded or modified. If such rights apply to the parts and service covered by this Agreement the liability of THEODORE SOFTWARE CONSULTANTS is permitted by the relevant legislation shall be limited to the rectification or replacement of the parts or the cost of such rectification or replacement as the case may require or to the resupplying of such services or the cost of such resupplying and THEODORE SOFTWARE CONSULTANTS shall not be liable for any other damage or loss whatsoever and howsoever arising and without limiting the generality of the foregoing in particular for any loss due to the failure of the parts or services to perform their prescribed function or to operate satisfactorily or at all for any period of time or for any other indirect special or consequential damages or other economic loss whatsoever.

**14.** If during the continuance of this agreement THEODORE SOFTWARE CONSULTANTS ascertains that the Customer has made a false statement in any proposal to THEODORE SOFTWARE CONSULTANTS out of which this agreement arose or in relation thereto or it is in default of any of its covenants under this agreement, or fails to comply with any of its terms or conditions hereof, or become insolvent or bankrupt or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of its creditors, or bankruptcy, reorganization, arrangement or insolvency proceedings for the relief under any bankruptcy or similar law for the relief of debtors are instituted by or against the Customer and if instituted against customer, are consented to or are not dismissed within 30 days after such institution or if the Customer being a company is placed under official management or into liquidation or a receiver or receiver and manager shall be appointed in respect of any of its assets, then in such event THEODORE SOFTWARE CONSULTANTS may:

- (a)** terminate this agreement forthwith upon written notice to the Customer;
- (b)** sue for and recover all charges and sums then accrued or thereafter accruing under this agreement together with a sum equal to the total quarterly charges OR annual charges that would have been payable under this agreement if it had not been terminated under this clause by way of liquidated damages and as agreed pre-estimate of THEODORE SOFTWARE CONSULTANTS' loss

(c) pursue and exercise any other remedy available to THEODORE SOFTWARE CONSULTANTS at law or in equity.

All remedies under this clause shall be cumulative and may be exercised concurrently or separately and the Customer shall pay to THEODORE SOFTWARE CONSULTANTS all costs and expenses including all reasonable legal costs incurred by THEODORE SOFTWARE CONSULTANTS in pursuing or exercising any of its rights and remedies hereunder or enforcing any of the terms conditions or provisions hereof.

**15.** Title to parts supplied by THEODORE SOFTWARE CONSULTANTS under this agreement shall pass to the owner of the Equipment upon their installation in or on the Equipment and title to the parts they replace shall pass to THEODORE SOFTWARE CONSULTANTS at the same instant.

**INDEMNITY TO THEODORE SOFTWARE CONSULTANTS:**

**16.** The Customer agrees that all parts supplied under or in conjunction with this agreement are solely for use in or on The Equipment and will hold THEODORE SOFTWARE CONSULTANTS harmless from any action brought or loss arising from their use for any other purpose.

**FORCE MAJEURE**

**17.** THEODORE SOFTWARE CONSULTANTS shall not be responsible for delays or failure in performance resulting from acts beyond the control of THEODORE SOFTWARE CONSULTANTS which may not become overcome by due diligence. Such acts shall include, but shall not be limited to, acts of God, strikes, labour disturbances, lockouts, material shortages, riots, acts of war, government regulations imposed after the fact, fire earthquakes and any other natural disasters. The obligations of THEODORE SOFTWARE CONSULTANTS, so far as affected by such occurrence, shall be suspended during the continuance of any inability so caused, and such inability shall not be a breach of this Agreement.

**GENERAL:**

**18. (a)** This agreement shall be governed by the Laws of the State of Victoria and there are no understandings, agreements or representations expressed or implied which are not specified therein. Its terms and conditions shall prevail notwithstanding any variance with the terms and conditions of any order submitted by the Customer and it shall not be deemed or construed to be modified, amended, rescinded, cancelled or waived except by the written amendment of the parties thereto.

**(b)** No waiver of or failure to exercise any rights under this agreement by either party shall constitute a permanent waiver of those rights unless such waiver is made expressly permanent in writing.

**(c)** In the event that any of the terms of this agreement is or becomes or is declared to be invalid or void by any court or tribunal of competent jurisdiction, such terms shall be null and void and shall be deemed deleted from this agreement, and all remaining terms of this agreement shall remain in full force and effect.

**(d)** In construing this Agreement unless such interpretation shall be excluded by or be repugnant to the context:-

**(I)** words importing the singular shall include the plural and vice versa;

**(II)** words importing the neuter gender shall include the masculine and the feminine gender;

(III) the expression "The Customer" shall mean and include the Customer's executors, administrators, and permitted transferees, successors and assigns and if the Customer is two or more persons, each of them jointly and severally;

(IV) the expression "THEODORE SOFTWARE CONSULTANTS" shall mean and include its transferees, successors and assign;

(V) it is agreed that headings and marginal notes do not form part thereof and shall not be used;

(VI) references to THEODORE SOFTWARE CONSULTANTS' standard rates or charges shall mean the rates or charges THEODORE SOFTWARE CONSULTANTS is or would quote for new business on the day concerned and shall be evidenced by production if required of a dated official price list or letter certifying to that effect;

d) terms employed in the Schedule herein shall have the same meaning throughout this agreement;

(e) All notices required to be given and all payments due to THEODORE SOFTWARE CONSULTANTS shall be mailed to the address shown on the face of this agreement (or if different use the address shown on the most recent invoice). And all notices required to be given to the Customer shall be mailed to the billing address thereof given in Schedule B. Notices mailed shall be deemed to have been served two days after being mailed.

(f) All prices quoted are exclusive of Government state or federal taxes.

19. (a) No action regardless of form arising out of the transactions under this agreement shall be brought by either party thereto after two years from the date of the cause of the action or after the date or any limitation under any applicable statute of limitations, whichever date is earlier.

(b) All rights conferred on the Customer by the agreement shall be exclusive to, and shall not be assigned by The Customer.

## NOTE

(1) All prices quoted are in US Dollars

(2) Software charges cover telephone support with system administration problems.

(3) On-site assistance for system administration will be charged at normal call out rates.

(4) THEODORE SOFTWARE CONSULTANTS' Current support rates at \$220/hr or thereof (as at Jan 2016).

(5) For surveillance and maintenance requests, remote access to the Calltrak server will be required. Common programs for remote support include Remote desktop connection with VPN, Teamviewer 7, PC Anywhere, LogMeIn, AMYY or similar.

(6) Routine remote surveillance is carried out on a fortnightly basis.

(7) Support contact details

Ph: +61393061403

Mob: +61411822543

Email: [support@calltrak.com.au](mailto:support@calltrak.com.au)

Skype: theodore.zafiropoulos



**MEMORANDUM OF OFFER – CUSTOMER**

I, \_\_\_\_\_ certify that I am authorised to and do hereby make the foregoing offer according to the terms and conditions stated therein for and on behalf of: \_\_\_\_\_(client name)

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Signed: \_\_\_\_\_ Title: \_\_\_\_\_

**MEMORANDUM OF ACCEPTANCE – THEODORE SOFTWARE CONSULTANTS**

I, Theodore Zafiropoulos certify that I am authorised to and do hereby accept the foregoing terms and conditions stated therein for and behalf of THEODORE SOFTWARE CONSULTANTS

Date: 

Place: Melbourne, AUSTRALIA

Signed: \_\_\_\_\_ Title: BUSINESS MANAGER