

Endur ID®
Terms and Conditions of Sale

THESE TERMS AND CONDITIONS (THESE “TERMS”) FORM AN INTEGRAL PART OF EVERY PURCHASE ORDER ACCEPTED BY ENDUR ID INC. (“ENDUR ID”) FOR ENDUR ID® BLUETRAC® PRODUCTS. BY ORDERING SUCH PRODUCTS, THE CUSTOMER AGREES TO THESE TERMS.

1. Definitions. As used herein:

(a) “Activated” means, with respect to a Product, that the Product’s radio has been turned on and communicates with the BlueTrac® mobile app on a Supervised Releasee’s smart phone (whether or not the Product has been physically fastened to the Supervised Releasee).

(b) “Agreement” means, with respect to a purchase of Products by a Customer, the relevant Order, these Terms and the Endur ID Privacy Policy.

(c) “Applicable Fee” means, with respect to each Product purchased hereunder at the relevant time, the Shelf Fee or the Usage Fee.

(d) “Customer” means the entity named as the customer on the relevant Order.

(e) “Documentation” means, at any given time and with respect to any Product, the latest revision of any and all specifications and user documentation made available by Endur ID to users of such Product.

(f) “Shelf Fee” means, with respect to each Product that has been shipped to Customer, a daily fee set forth on the relevant Order (or, if not set forth in the Order, the Shelf Fee on Endur ID’s standard price list in effect on the date of the Order) that shall accrue for each entire 24-hour calendar day during which the Product has been not Activated, commencing on the date of delivery and ending at the end of the Product’s useful life when the shelf rate exceeds 20%.

(g) “Shelf Rate” is determined as the quantity of tags that are not in use per day divided by the total quantity of tags ordered/shipped per agency or for all agencies overseen by a Management Company.

(g) “Order” means a purchase order submitted by Customer accepted in writing by Endur ID or other written agreement between Customer and Endur ID, in each case documenting Customer’s agreement to purchase Products.

(h) The “Platform” means an Internet-based user portal and/or mobile app made available to Customer by Endur ID to enable Customer to monitor the location of each Product that, at the relevant time, is Activated.

(i) “Product” means an Endur ID® BlueTrac® wearable tracking device for deployment on a Supervised Releasee and, when used in combination with the Platform, for monitoring the location of such Supervised Releasee. Each Product includes a radio and the band and clasp with which it is to be assembled into a wearable unit. For the avoidance of doubt, Endur ID® products for other market sectors (*e.g.*, healthcare, corrections) are not subject to these Terms.

(j) “Supervised Releasee” means an individual enrollee subject to parole, probation, sex offender registration or a restraining order.

(k) “Term” has the meaning given in Section 17 below.

(l) “Usage Fee” means, with respect to each Product that has been shipped to Customer, a daily fee set forth on the relevant Order (or, if not set forth in the Order, the Usage Fee on Endur ID’s standard price list in effect on the date of the Order) that shall accrue for each calendar day during any portion of which the Product has been Activated.

(m) “Useful Life” means a period of twelve (12) months commencing on the date the Product is shipped by Endur ID.

2. Use of Products on Supervised Releasees; Data.

(a) Customer represents and warrants that: (a) Customer is an entity authorized under applicable law to monitor the location of Supervised Releasees on which Products will be deployed; (b) Customer shall have obtained all applicable case-specific authorizations and consents for such deployment and monitoring, including from such Supervised Releasee if required; and (c) Customer has not received or relied upon any advice from Endur ID or its agents with respect to the lawful use of Products.

(b) The Platform will enable Customer to generate reports and download data at any time with respect to the location of Supervised Releasees on whom Products are deployed. Endur ID may archive such data from the Platform after seven (7) years or, unless customer requires transfer of such data to a location of their choice and the customers storage cost; if earlier, the expiration or termination of this Agreement, subject to Section 17(c)(iv). Accessing archived data for interpretation or presentation can be retrieved at an hourly fee by Endur ID.

3. The Products. Customer acknowledges that: (a) Products can be used only in combination with the Platform; and (b) each Product has a limited useful life, as described in the Documentation. Endur ID may revise, update or replace the Platform, in whole or in part, at any time in its sole discretion; *provided* that no such action shall result in a material reduction in the functionality of the Platform during any Subscription Year for which Customer has paid the applicable Platform Fee.

4. Accrual of Fees. Applicable Fees shall accrue on a daily basis.

5. Payment. For so long as there are accrued and unpaid Applicable Fees hereunder, Endur ID shall make available to Customer, on the Platform or by email, a monthly report (the “Monthly Fee Report”) of (i) Applicable Fees, if any, accrued during the calendar month then ended, (ii) any unpaid Applicable Fees accrued during prior periods and (iii) the total amount due from Customer. Customer shall pay the indicated balance due using one of the following payment methods, as selected on the Order:

(a) ACH debit upon issuance of the Monthly Fee Report;

(b) MasterCard, Visa and Discover card; or

(c) wire transfer or check within thirty (30) days after issuance of the Monthly Fee Report (or, if required by Customer, Endur ID’s invoice), subject to Endur ID’s acceptance in its sole discretion of Customer’s credit application, which Endur ID may revoke at any time.

All amounts hereunder shall be paid in US Dollars. Under no circumstances may Customer withhold, set off against or otherwise reduce any payment due hereunder. While any balance remains overdue hereunder, in addition to any other remedies available to Endur ID, Endur ID may: (x) apply late payment charges thereon equal to the lesser of 1.5% per month or the maximum interest rate under applicable law; and (y) suspend software performance under this Agreement (See performance changes below) and any other Order or agreement between Endur ID and Customer. Customer shall pay Endur ID all costs and expenses, including reasonable attorneys’ fees, incurred by Endur ID in collecting any amounts due and other charges.

Software Performance Changes due to late payments:

- As a first step if a customer is not paying their bill, after 60 days (Net60), software is put in a state where customers cannot add anything or anyone new.
- After 90 days of non payment (Net90), their account becomes **Read only**. They can access parolee information as it is on the date it was switched to read only, but lose all other access to the application.
- After 120 days of non payment (Net120) the account is Archive/Disabled – The account data is available to EndurID in an archive access mode and the customer can no longer see data or access application.

6. Taxes. All prices hereunder are net of all sales, use, service, value added and similar taxes, duties and other assessments of any kind (other than income taxes imposed upon Endur ID), which shall be borne by Customer. If Endur ID is required to collect or pay any such tax or duty, the amount thereof, shall be added to and become a part of the amounts immediately due from Customer. If Customer has a tax-exempt status, Endur ID will require a copy of the corresponding certificate of exemption from Customer at the time of the Order.

7. Orders; Acceptance. Endur ID shall not have any obligation with respect to any proposed Order unless and until Endur ID has affirmatively accepted such proposed Order in writing. Endur ID asks for a minimum order of 25 Products (one box).

8. Shipment; Delivery. Endur ID shall use reasonable efforts to deliver the Products in accordance with the delivery date, if any, specified in the Order but will not be liable for failure to meet such date. Unless otherwise specified in the Order: (a) all Products shall be delivered FOB Endur ID's facility in Hampton, New Hampshire, and title in, and risk of loss of or damage to, the Products shall pass to Customer upon such delivery; (b) Endur ID may designate a common carrier on Customer's behalf, and Customer shall be responsible for payment of all charges of such common carrier; and (c) the Products shall be packed and shipped in accordance with Endur ID's standard practice and Customer may be charged for any requested non-standard methods and forms of packing and shipment (standard ground shipment is standard).

9. Intellectual Property. All intellectual property rights in the Products (including the Platform) and Documentation, including rights over any software and designs included therein, shall remain the exclusive property of Endur ID and its licensors. Notwithstanding the foregoing, Customer shall have a non-exclusive, royalty-free, non-assignable license to use the Platform and the Documentation to the extent reasonably necessary to ensure that the Products can be operated by Customer as contemplated hereby. Customer shall not, and shall not permit any party to: (a) alter or remove any logo or other trademark, or any safety information, from any Product; or (b) attempt to reverse-engineer or make unauthorized copies of any of the Products, Platform or Documentation.

10. Warranty. Endur ID warrants that each Product: (a) when delivered hereunder, shall be new (or, if so specified on the Order, factory reconditioned), of good workmanship and free of material defects; and (b) will perform substantially as described in the Documentation during its intended useful life as described in the Documentation.

CUSTOMER ACKNOWLEDGES THAT THE PRODUCTS ARE BATTERY-POWERED AND, TO ENSURE THE EFFECTIVENESS OF EACH PRODUCT, ITS USEFUL LIFE SHALL BE LIMITED TO THE PERIOD SET FORTH IN THE DOCUMENTATION.

ENDUR ID DOES NOT GUARANTEE THAT THE PLATFORM WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT ENDUR ID WILL CORRECT ALL ERRORS. CUSTOMER ACKNOWLEDGES THAT ENDUR ID DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE PLATFORM MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. ENDUR ID IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

TO THE EXTENT NOT PROHIBITED BY LAW, THE FOREGOING WARRANTY IS EXCLUSIVE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

11. Limitation of Liability. IN NO EVENT SHALL ENDUR ID BE LIABLE IN CONNECTION WITH ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PERFORMANCE, BREACH OR DELAY IN PERFORMANCE HEREUNDER, OR THE TERMINATION HEREOF FOR:

(A) ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND; OR

(B) ANY AMOUNT EXCEEDING IN THE AGGREGATE THE SHELF FEES AND USAGE FEES RECEIVED BY ENDUR ID UNDER THE RELEVANT ORDER IN RESPECT OF THE TWELVE (12) MONTHS UP TO AND INCLUDING THE DATE THE CLAIM AROSE.

THE FOREGOING LIMITATIONS SHALL NOT APPLY TO LIABILITY (I) CAUSED BY ENDUR ID'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (II) DEATH OR PERSONAL INJURY CAUSED BY ENDUR ID'S NEGLIGENCE, OR (III) UNDER ARTICLE 14 (*Indemnification*) HEREOF.

12. Warranty Claims; Returns.

(a) If a wearable or phone Product fails to perform as warranted in Section 10 above, as Customer's sole remedy therefor, Customer may return the Product to Endur ID for repair, replacement or refund, in Endur ID's sole discretion. Any such return must be made in accordance with Endur ID's then current Return Merchandise Authorization (RMA) policy as posted on Endur ID's website. Returns must be made within the time limits set forth in the RMA policy. Endur ID shall not be responsible for any defect in a Product caused by the misuse, abuse or neglect of the Product by Customer, a parolee, or any other person after shipment of the Product by Endur ID. If a Product is returned to Endur ID due to misuse, abuse, or neglect, the Customer shall pay, in full, the Shelf Fee for the remaining balance of the defective Product's Useful Life before Endur ID ships any replacement Product. Any replacement Product, once shipped, shall be subject to all Applicable Fees.

(b) A Product that is repaired or replaced shall continue to be warranted under Section 10 above only for the original useful life of the Product that was returned.

(c) While a returned Product is in Endur ID's custody, the Applicable Fee for such Product shall be suspended. If Endur ID determines that the returned Product was not defective, such fees shall be charged retroactively to the date of suspension. If the warranty issue is confirmed, then the Applicable Fee will resume only when the Product or its replacement is delivered to Customer.

(d) Endur ID may in its sole discretion refuse any return except for warranty claims.

13. Indemnification.

(a) *Indemnification by Customer.* Customer shall indemnify, defend and hold harmless Endur ID, its affiliates and their respective officers, directors, employees, agents and stockholders (each an “Endur ID Indemnitee”) from and against all damages, costs, liabilities and expenses (including without limitation reasonable attorneys’ fees) (collectively, “Losses”) arising out of any claim or action by a third party (a “Claim”) arising out of or resulting from the use or misuse of any Product furnished to Customer hereunder, including without limitation as to the legality of such use, the validity of any consent (by a Supervised Releasee or any other party) to such use, or the safety or privacy of any Supervised Releasee or any other person, even if such Claim is based upon the defective design or manufacture of such Product or the Platform.

(b) *Indemnification by Endur ID.* Endur ID shall indemnify, defend and hold harmless the other party, its affiliates and their respective officers, directors, employees, agents and stockholders (each a “Customer Indemnitee”) from and against all Losses arising out of any Claim arising out of or resulting from infringement of the third-party claimant’s intellectual property rights by products, services or material furnished hereunder by a Product, the Platform or the Documentation (“Endur ID Material”), except to the extent such Claim could have been avoided but for: (i) the unauthorized modification of Endur ID Material by or with the consent of any Customer Indemnitee; (ii) Endur ID’s compliance with or use of specifications, instructions, technology or information provided by any Customer Indemnitee; or (iii) use of Endur ID Material in combination with products or services not supplied or approved by Endur ID. If Endur ID believes, or it is determined, that the Endur ID Material infringes the rights of the third-party claimant, then Endur ID, at its sole option and expense, may: (x) procure for Customer the right to continue use of the Endur ID Material; (y) modify the Endur ID Material or replace the infringing part thereof with other non-infringing Endur ID Material having substantially the same or better capabilities; or (z) if Endur ID is unable to carry out the remedies described in the foregoing clauses (x) and (y) on commercially reasonable terms, terminate this Agreement upon at least thirty (30) days’ advance notice to Customer, refunding to Customer any prepaid fees for subsequent periods.

(c) *Procedure.* An Endur ID Indemnitee or a Customer Indemnitee, as the case may be (an “Indemnitee”), seeking indemnification hereunder shall promptly notify the party obligated to indemnify under the foregoing subsection (a) or (b), as applicable (“Indemnitor”), of the Claim; *provided* that the failure so to notify shall not excuse Indemnitor from its obligations under this Article 14 except to the extent Indemnitor’s ability to defend the Claim has been prejudiced thereby. At Indemnitor’s request and expense, Indemnitees shall (i) permit Indemnitor to assume and control the defense or settlement thereof and (ii) provide reasonable cooperation to Indemnitor in the defense of the Claim. Indemnitor shall obtain the prior written consent of each Indemnitee, not to be unreasonably withheld or delayed, for any settlement of a Claim that imposes any liability or other obligations on such Indemnitee.

(d) *Exclusive Remedy.* THIS ARTICLE 14 STATES THE SOLE REMEDY AND

THE ENTIRE LIABILITY OF ENDUR ID HEREUNDER FOR INTELLECTUAL PROPERTY INFRINGEMENT.

14. Confidentiality. Each party hereto (“Recipient”) acknowledges that, in connection with discussion, negotiation and performance of this Agreement, it has had and will have access to information of the other party and its affiliates (collectively, “Discloser”) that comprises Confidential Information. As used herein, “Confidential Information” means information that is proprietary to Discloser, whether or not reduced to writing or other tangible medium, and whether or not protected or protectable by patent, trade secrecy or copyright, including the terms of this Agreement, technical information and other information relating to intellectual property, business and marketing plans, financial matters, products, services, processes, methods, specifications, designs, costs, sources of supply, pricing, sales, profits, personnel and business relationships. Confidential Information shall include, if Discloser is: (i) Endur ID, any software embedded in Products and the Platform and any documentation relating to the design, installation, maintenance or use thereof; or (ii) Customer, any personal data relating to Supervised Releasees, victim participant or Customer’s personnel. Notwithstanding the foregoing, Confidential Information shall not include information that is: (a) acquired from a third party rightfully having such information and under no obligation to not disclose it to Recipient; (b) available or becomes available to the public without the fault, breach or negligence of Recipient; (c) lawfully in Recipient’s possession without an obligation of confidentiality before receipt of such information from Discloser, or (d) independently developed by Recipient without any use of confidential information of Discloser.

During and after the Term, Recipient shall, and shall cause its affiliates and its and their respective employees, officers, directors, representatives, assigns and subcontractors (collectively, “Representatives”), to: (i) retain all Confidential Information in strict confidence; (ii) not disclose any Confidential Information to any third party without the Discloser’s written consent; (iii) limit access to Confidential Information to those Representatives who have a need to know the Confidential Information for the business purposes of this Agreement and are subject to obligations of confidentiality with respect to the Confidential Information at least as protective as this Agreement; and (iv) use measures to protect the confidentiality of Confidential Information at least as secure as it uses to protect its own similar information and in no case less than reasonable care.

Notwithstanding the foregoing, Recipient may disclose Confidential Information as required by governmental authority or court of competent jurisdiction; *provided* that Recipient has (x) made reasonable efforts to obtain confidential treatment of such disclosure and (y) given reasonable advance notice of such disclosure to Discloser, to the extent legally permissible. Upon the expiration or termination of this Agreement, Recipient shall promptly return to Discloser or, at Discloser’s request, destroy any and all copies of Confidential Information in its possession or control and delete any Confidential Information stored in its electronic media; *provided* that (i) Recipient shall not be required to delete electronic back-up files created and retained in accordance Recipient’s back-up procedures and not accessed or restored to general accessibility and (ii) Recipient’s legal counsel may retain copies of the Confidential Information which shall be used solely as archival copies for the purpose of defending any claim that Recipient breached its obligations hereunder with respect to such Confidential Information.

Notwithstanding the return or deletion of the Confidential Information, Recipient will continue to be bound by such Recipient's obligations hereunder with respect to such Confidential Information.

15. Force Majeure. A party shall not be responsible for failure or delay of performance hereunder (other than payment obligations) if caused by a circumstance or event outside its reasonable control ("Force Majeure"), including without limitation an act of war, epidemic, terrorism or sabotage, act of God, electrical, internet, or telecommunication outage that is not caused by such party, or government restrictions (including the denial or cancellation of any export or other license).

16. Term; Termination.

(a) No subscription required and no agreements other than PO's or contracts so only need a termination of business relationship assurance.

(b) *Termination.* In addition to the termination rights specified elsewhere in this Agreement, this Agreement may be terminated by either party:

(i) upon at least thirty (30) days' advance notice to the other, if the non-terminating party has breached a material term of this Agreement described in such notice and failed to correct such breach before the effective date of termination specified in such notice. By way of example but not limitation, any of the following shall be deemed material breaches by Customer: (A) providing access to the Platform to parties other than Customer's authorized personnel; (B) failure to pay any undisputed amount due under any Order; and (C) breach of Section 14 above (*Confidentiality*). By way of example but not limitation, any of the following shall be deemed material breaches by Endur ID: (X) materially decreasing the functionality specified in the Documentation as it relates to the Customer during the relevant Subscription Year; (Y) materially decreasing the overall security of the Platform during the relevant Subscription Year; and (Z) breach of Section 14 above (*Confidentiality*); or

(ii) immediately upon notice to the other, if the other (A) ceases to conduct its business in the ordinary course; (B) becomes insolvent; (C) makes an assignment for the benefit of creditors; (D) petitions, applies for, or suffers (with or without its consent) the appointment of a custodian, receiver, trustee in bankruptcy or similar officer for all or any substantial part of its business or assets; or (E) avails itself of or becomes subject to any proceeding relating to bankruptcy, insolvency, reorganization, receivership, arrangement, adjustment of debts, dissolution or liquidation, which proceeding, if involuntary, is not dismissed within sixty (60) days of commencement thereof; or

(c) *Consequences of Termination or Expiration.* In the event of the expiration or termination of this Agreement for any reason:

(i) Customer must pay, within thirty (30) days after receipt of invoice therefor, any and all amounts accrued and unpaid prior thereto, plus any related taxes and expenses;

(ii) if this Agreement was terminated due to Customer's breach during the first four (4) month's after a Product is shipped to Customer, Customer must pay to Endur ID, upon receipt of invoice therefor, Shelf Fees for the remainder of such four (4) month period for such Product;

(iii) if such expiration or termination was due to Customer's failure to pay Applicable Fees, upon the request of Customer, Endur ID may in its discretion allow Customer to renew this Agreement, subject to payment of all amounts that would have been paid hereunder had the lapse not occurred; and

(iv) Endur ID shall refrain from deleting Customer's data for a period of at least sixty (60) days, *after which Customer's data may be irretrievably deleted from the Platform*. During such period, and provided that Customer has satisfied all payment obligations hereunder, Endur ID may permit Customer to access the Platform solely to the extent necessary for Customer to retrieve a file of Customer's data then in the Platform environment.

Customer represents to Endur ID that, in entering into this Agreement, Customer has not relied on the availability of any services, programs or updates after the Term.

17. General.

(a) *Anti-Corruption.* Customer hereby acknowledges that it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Endur ID's employees or agents in connection with this Agreement. If Customer learns of any violation of the foregoing restriction, Customer will promptly notify Endur ID thereof.

(b) *Notices.* Any notice required or permitted under this Agreement from one party to the other shall be in writing and addressed to the receiving party's address, to the attention of the contact person, set forth on the Order, or to such updated address and contact person as such party may designate by notice hereunder. Notices shall be deemed given (i) ten (10) business days after being sent by certified or registered mail with return receipt, (ii) two (2) business days after being sent by reputable express courier service with tracking capability, or (iii) upon successful transmission by email with confirmation of receipt.

(c) *Governing Law; Disputes.* This Agreement is governed by the laws of New Hampshire, excluding the United Nations Convention on Contracts for the International Sale of Goods. Any dispute arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the state courts sitting in Rockingham County, and the federal courts sitting in Concord, New Hampshire.

(d) *Independent Contractors.* Endur ID and Customer are independent contractors and this Agreement does not create any partnership, joint-venture, or agency relationship between them.

(e) *Amendment.* The Order may not be amended except by a writing signed by

Customer and Endur ID. These Terms may be amended by Endur ID at any time; *provided* that any such change that would materially reduce the level of protection or service provided to Customer shall not be binding upon Customer during the then current Subscription Year. Customer is encouraged to review the then current version of these Terms before entering into any Order. Access to and use of the Platform may be conditioned upon Customer's confirmation of its acceptance of these Terms, as amended, at any time.

(f) *Integration.* This Agreement sets forth the entire agreement, and supersedes all prior or contemporaneous understandings or representations, written or oral, between the parties regarding the subject matter hereof. This Agreement shall not be modified, conditioned or supplemented by any standard terms, provisions or conditions or any purchase order, acknowledgment or other business document which Customer may use in connection with any Order, regardless of any failure by Endur ID to object to such terms, provisions or conditions. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the Order; (2) these Terms; (3) the Endur ID Privacy Policy; and (4) the Documentation.

(g) *Severability.* If any provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and such invalid or unenforceable provision shall be reformed so that it is valid and enforceable to the fullest extent permitted by law.

(h) *Assignment.* This Agreement may not be assigned, in whole or in part, by either party; *provided* that Endur ID may (i) assign this Agreement (A) to its affiliate or (B) in connection with the sale of all or substantially all its assets relating to the Products and (ii) use subcontractors.

(i) *Waiver.* A waiver by a party hereto of the performance or breach of any provision of this Agreement must be in writing and shall not constitute a waiver of any subsequent performance or breach of the same or any other provision hereof.

(j) *Counterparts.* This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

(k) *Survival.* The provisions of Sections 1 (*Definitions*), 6 (*Taxes*), 9 (*Intellectual Property*), 11 (*Limitation of Liability*), 13 (*Indemnification*), 14 (*Confidentiality*), 16(c) (*Consequences of Termination or Expiration*), and 17 (*General*) shall survive the expiration or termination of this Agreement.