

Terms and Conditions of EROAD Service Agreement

1. Definitions:

In this document (T&C V1.5 February 2010): **Agreement** means the document comprising the front page, these terms and conditions, the Schedules and the Set-up Information; **Cellular Services** means the mobile communications services provided by EROAD or a Service Provider; **Customer** means the person, firm or company, whose name and contact details appear on the front page of this Agreement; **Customer Information** means information relating to the Customer, its drivers, employees and contractors, and its vehicles, including location, speed, distance and RUC transactions (which in turn includes, RUC Licences, purchases and refunds); **Documentation** means any instruction manuals, online help, user guides and other information relating to the EHUBO or ELOCATE or the Service; **EHUBO** means EROAD's electronic Hubodometer fitted to trucks and trailers with GPS tracking capability and cellular connectivity; **ELOCATE** means EROAD's GPS tracking product with cellular connectivity; **Finance Company** means any other EROAD approved provider provides finance to the Customer in respect of the Service; **Hubodometer** means a Distance Recorder as set out in the RUC Legislation; **Installation Date** means the installation date specified on the front page of this Agreement or in the Set-up Information (or such other date as the parties may agree in writing); **Installation Cost** means the cost for the Installation Services, as specified on the second page of this Agreement in the Installation Details Information; **Installation Services** means the delivery and installation of the EHUBO or ELOCATE in a Vehicle by EROAD or Service Provider; **Intellectual Property Rights** means all rights to patents, licences, trademarks, trade names, inventions, trade secrets, copyrights, and know-how relating to the origin, manufacture, programming and operation of the Service and any related enhancements and modifications; **Internet Based Services** means the Internet based services delivered over the Internet provided by EROAD or a Service Provider; **Network** means any network or system used in the provision of Cellular Services or Internet Based Services; **NZTA** means the New Zealand Transport Authority or any successor organisation responsible for administering the RUC Legislation; Password means a password used by the Customer, its officers, employees or agents to access and use the Service; **Rental Agreement** means the Customer's agreement with the Finance Company for the rental of the Service; **Rental Term** means the term of the Rental Agreement, which commences on the Installation Date and includes any extension agreed; **RUC** means a Road User Charge distance license issued in accordance with RUC Legislation; **RUC Legislation** means the Road User Charges Act 1977 and the Road User Charges Regulations 1978, as they may be amended from time to time; **Service** comprises the services and functions listed on the front page of this Agreement; **Service Fees** means the fees payable for the Service, as set out on page 1 of this Agreement; **Service Period** means the period commencing on the Installation Date, during which EROAD or its Service Provider will provide the Internet Based Services and Cellular Services, such period usually being the same as the Rental Term, or such other period as the parties may agree in writing; **Service Provider** means a third party authorised by EROAD to provide the Cellular Services, Internet Based Services or Installation Services on behalf of EROAD; **Set-up Information** means the information relating to the Site, each Vehicle and other Customer Information uploaded by the Customer to the Software and required by EROAD to provide the Service; **Site** means each installation site at which the Installation Services are to be provided, details of which are specified on the front page of this Agreement or in the Set-up Information; **Software** means EROAD's Internetbased RUC management software, known as "Depot" [dEPot], which is used in connection with the Service, and which is accessed by the Customer through their Internetconnected computer system; **Specific Terms** means the terms set out on the first page of this Agreement; **Support** means the support services described in clause 6; **Vehicle** means any vehicle of the Customer in which the EHUBO or ELOCATE is installed; **Working Day** means Monday to Friday, except for public holidays in New Zealand.

2. Term and Scope of Agreement

2.1 This Agreement will commence on the Installation Date of the first EHUBO or ELOCATE and, subject to clause 12, will continue for the longer of the

Rental Term or the Service Period. Unless notice of termination is given by either party at least 3 months prior to the end of the relevant period, this Agreement will automatically continue thereafter until terminated pursuant to clause 12 or by either party giving not less than 3 months' prior written notice to the other party.

2.2 EROAD will provide the Service to the Customer on the terms and conditions of this Agreement and the Specific Terms. In the event of any inconsistency between the clauses of this Agreement and the Specific Terms, the Specific Terms will prevail.

2.3 Contemporaneously with execution of this Agreement the Customer will:(a) complete and deliver to EROAD the Set-up Information (which on completion will form part of this Agreement);(b) sign and deliver to EROAD the Rental Agreement with the Finance Company; (c) sign and deliver to EROAD two direct debit forms whereby the Customer authorises:(i) the Finance Company to debit the Customer's bank account for the amount of the Service Fees; and (ii) EROAD to debit the Customer's bank account for any transaction fees, dishonoured payment fees and any other fees payable in connection with the purchase and refund of RUC Licences and other transactions.

2.4 EROAD will provide the Customer with a number of Internet based service sessions that at any time does not exceed the number of vehicles fitted with the EROAD product.

3. Installation Services

3.1 Subject to the Customer complying with clause 2.3 and receiving credit approval from the Finance Company, EROAD will use all reasonable efforts to ensure that its Service Provider:(a) delivers the EHUBO or ELOCATE to the Customer, together with one set of Documentation; and (b) commences providing the Installation Services, (c) on the Installation Date and at the Site.

3.2 The Customer will:(a) ensure that EROAD or its Service Provider has access to the Vehicle and Site to provide the Installation Services;(b) ensure that the Customer's computer system on which the Software is to be run is fully operational and tested (if required). The Customer's computer must be using the latest production release of Internet Explorer or Firefox; (c) ensure that the Customer's computer system is connected to a high speed broadband internet connection.(d) comply with any reasonable instructions specified by EROAD or its Service Provider in respect of the Installation Services; and(e) pay the Installation cost, which may include additional charges where a Vehicle's odometer or speed sensors are not readily accessible and additional speed sensors need to be installed.

3.3 If the Customer fails to comply with clause 3.2, neither EROAD nor its Service Provider will be liable for any failure or delay in providing the Installation Services. EROAD may charge an additional Installation cost resulting from such failure.

3.4 Risk of damage to or loss of each EHUBO or ELOCATE will pass to the Customer on delivery to the Site.

3.5 The Customer acknowledges that as part of the Installation Services, EROAD or its Service Provider may be required to alter parts of the Vehicle, such as the dashboard, roof or chassis.

3.6 The Customer acknowledges that neither EROAD nor the Service Provider will be responsible for restoring the Vehicle to its original, pre-installation condition if the EHUBO or ELOCATE is removed.

3.7 On completion of the Installation Services the Customer will:(a) register the EHUBO with NZTA and purchase the required RUC Licences, and(b) be responsible for removing the mechanical Hubodometer from each Vehicle and obtaining any refunds for unused RUC Licences in respect of the replaced Hubodometer; and (c) sign a completion certificate supplied by EROAD confirming that the Installation Services have been completed (the Completion Certificate), (d) and the Customer will indemnify EROAD against any loss or damage EROAD may suffer as a result of the Customer's failure to comply with its obligations under this clause 3.6.

3.8 On receipt of the Completion Certificate and subject to the ongoing payment of the Service Fees, EROAD grants the Customer a non-exclusive, non-transferable licence to use the Software and Documentation solely for use in connection with the Service for the duration of the Service Period.

3.9 Notwithstanding that a Completion Certificate may not have been signed the Installation Services will be deemed to have been completed if the Customer uses the Service in any way, registers the EHUBO with NZTA or purchases a RUC Licence for

the EHUBO.

4. Use of the EHUBO or ELOCATE

4.1 The Customer will: (a) keep the EHUBO or ELOCATE in the same good order and condition as at it was in at the Installation Date and take the same care of the EHUBO or ELOCATE as a prudent owner would; (b) inform EROAD of all repairs and maintenance necessary to maintain the EHUBO or ELOCATE in the best operating condition; (c) insure the EHUBO or ELOCATE with an insurer and under a policy approved by EROAD or the Finance Company, recording the Finance Company as the owner with all loss payable to the Finance Company; (d) pay all premiums payable and not do anything that may render the insurance policy voidable or moneys not payable; (e) not use any equipment in connection with the EHUBO or ELOCATE that has not first been approved in writing by EROAD; (f) notify EROAD in writing immediately following any loss or damage to the EHUBO or ELOCATE; (g) provide the EHUBO or ELOCATE for inspection or testing at EROAD's request.(h) maintain the vehicle power supply to the EHUBO or ELOCATE, and ensure the vehicle speed sensor system that provides the EHUBO or ELOCATE with the speed signal remains capable of doing so.

4.2 The Customer acknowledges that any items supplied or attached to the EHUBO or ELOCATE (excluding fixed wiring & connections) form part of the EHUBO or ELOCATE.

4.3 If the Customer fails to return the EHUBO or ELOCATE on termination of this Agreement, the Customer will continue to pay the Service Fees and comply with the other terms of this Agreement so far as applicable until the return of the EHUBO or ELOCATE.

4.4 Nothing in this Agreement will give the Customer any right of property or interest in or to the EHUBO or ELOCATE. The Customer will not, without EROAD's prior written consent, dispose of, lend or part with possession of, or otherwise encumber the EHUBO or ELOCATE.

5. Cellular and Internet Based Services

5.1 EROAD or its Service Providers will provide the Cellular Services and Internet Based Services to the Customer for the Service Period.

5.2 The Customer:(a) acknowledges that the SIM card inside the EHUBO or ELOCATE, which enables the Customer to access the Cellular Services (the SIM card), remains the property of EROAD or its Service Providers;(b) will only use the SIM card inside the EHUBO or ELOCATE;(c) will, subject to clause 5.1(e), be responsible for the replacement of lost or stolen SIM cards.

5.3 The Customer will:(a) not use the Cellular Services or the Internet Based Services for any improper, immoral or unlawful purpose including the transmission of material that is defamatory or breaches the intellectual property rights of a third party or EROAD;(b) comply with any conditions notified to the Customer by EROAD or its Service Providers that concern the Customer's use of the Cellular Services or Internet Based Services; and (c) not do anything that, in EROAD's or its Service Providers' reasonable opinion, could damage or impair any Network.

5.4 EROAD will use reasonable endeavours to ensure that the Cellular Services and Internet Based Services are available but the Customer acknowledges that, due to the nature of such services, it may not be possible to provide a fault free service. The Cellular Services and Internet Based Services may be adversely affected by matters beyond EROAD's or its Service Providers' control or by physical features such as buildings, underpasses or other causes of interference. Neither EROAD nor its Service Providers will be liable for a failure to provide a fault free service.

5.5 EROAD or its Service Providers may suspend the Cellular Services or Internet Based Services or disconnect the EHUBO or ELOCATE from any Network:(a) during any technical failure, for the purpose of modification or maintenance of the Network. In such cases advance notice will be provided if possible and best endeavours will be used to minimise the interruption; (b) if the Customer fails to comply with this Agreement within a reasonable time specified by EROAD or its Service Providers. The Customer will remain liable to pay for all amounts due under this Agreement notwithstanding any such suspension or disconnection.

6. Support

6.1 If the Customer requires Support in respect of the Service, the Customer will contact EROAD via the internet (www.eroad.co.nz/support), email (support@eroad.co.nz) or telephone (0800 4EROAD).

6.2 EROAD will use reasonable efforts to ensure that its Service Provider provides Support for the Service Period.

6.3 The Support will comprise: (a) reasonable levels of advice by telephone and/or email on how to use the Service and the Software; (b) the provision of any new versions or updates of the Software; (c) rectifying bugs or deficiencies in the Software; and (d) such other advice as may be reasonably required by the Customer to obtain the full benefit and use of the Service;

6.4 Support does not include any services provided as a result of: (a) misuse of the Software or the Service; (b) provision of advice or assistance in excess of that which EROAD customarily provides to its other customers; (c) failure to use the Software or Service in accordance with the Documentation; or (d) unauthorised attempts to repair, replace, modify or maintain the Software or any other component used in connection with the Service by persons other than EROAD or its Service Providers.

7. Customer's obligations

7.1 The Customer undertakes that it will not, and will ensure that its officers, employees, contractors and agents do not, tamper with the EHUBO or ELOCATE or use the Service (or any part of it) for any illegal, unlawful or offensive act and will ensure that its use of the Service complies with the RUC Legislation and all other applicable laws, regulations, standards and industry codes of conduct.

7.2 EROAD: (a) will inform the Customer of any potential unlawful use of the EHUBO or ELOCATE or the Service of which it becomes aware; and (b) may report evidence of systematic tampering of the EHUBO or ELOCATE to the appropriate authorities.

7.3 The Customer will comply with the reasonable directions of EROAD from time to time regarding the use of the Service and Documentation.

7.4 The Customer will indemnify EROAD against any claims, loss or damage (on a solicitor and own client basis and whether incurred by or awarded against EROAD) that EROAD suffers as a result of any breach of this clause 7 and clause 4.1.

8. Payment of Service Fees, RUC Licences and other charges

8.1 The Customer: (a) will promptly pay the Service Fees directly to the Finance Company; (b) acknowledges that EROAD will receive a share of the Service Fees paid to the Finance Company for delivery of the Service; (c) will indemnify EROAD against all losses, damages and other forms of liability EROAD may suffer as a result of the Customer's failure to pay or delay in paying the Service Fees.

8.2 Where the Customer uses the Service to purchase RUC Licences, obtain RUC Licence refunds or enter into any other transaction with NZTA or its agents (RUC Transactions), the Customer: (a) will comply strictly with the RUC Legislation and all other requirements of the NZTA and its agents in connection with all RUC Transactions; (b) may configure the RUC Management Software to automatically purchase (AutoRUC) RUC licences. The Customer understands they must carefully review these settings regularly to ensure they remain appropriate to their business needs; (c) ensure that no payment made by or on behalf of the Customer in connection with any RUC Transaction is dishonoured; and (d) indemnifies EROAD against all losses, damages and other forms of liability EROAD may suffer as a result of the Customer's failure to comply with paragraphs (a), (b) and (c).

8.3 EROAD may increase any amount payable by the Customer under this Agreement where the supply of any component of the Service is delayed for any reason and, as a result, EROAD suffers an increase in the cost of supply, whether as a result of a change in foreign exchange rates or otherwise.

8.4 Unless expressly stated otherwise, all amounts referred to in this Agreement exclude GST.

9. Warranties and Limitation of Liability

9.1 EROAD warrants that: (a) it has full power and authority to make the Service available to the Customer and to license the Software to the Customer; (b) to the best of its knowledge and belief the Service does not infringe any intellectual property rights of a third party.

9.2 EROAD further warrants that during the Service Period: (a) the EHUBO or ELOCATE will function in accordance with its specifications but the Customer acknowledges that the EHUBO or ELOCATE is of a complicated and technical nature and may have minor or inherent defects. If an unaltered version of the EHUBO or ELOCATE develops faults by reason of defective components, design or workmanship

within the Service Period, EROAD will either repair or replace the EHUBO or ELOCATE (or the affected component of the EHUBO or ELOCATE) at no cost to the Customer. Any replacement or repair will be the Customer's sole remedy in respect of the supply of

a defective EHUBO or ELOCATE; (b) the Software will function in accordance with its specifications but the Customer acknowledges that the Software is of a complicated and technical nature and may have minor or inherent defects. EROAD will provide all reasonable programming and remedial services to correct documented code errors caused by a defect in an unaltered version of the Software at no cost to the Customer. Any programming and remedial services will be the Customer's sole remedy in respect of the supply of defective Software.

9.3 Except as expressly set out in this clause 9, all representations, conditions and warranties (whether express or implied, statutory or otherwise and including warranties as to the merchantable quality or fitness for any particular purpose of the Service or the Documentation) are expressly excluded.

9.4 EROAD will not be liable whether in contract, tort (including negligence) or otherwise for any indirect loss or damage (including any consequential loss or loss of profits) suffered or incurred by the Customer arising out of or in connection with this Agreement.

9.5 EROAD's liability to the Customer arising out of all claims for damages under this Agreement will not exceed in aggregate the total amount actually paid by the Customer to EROAD under this Agreement in the three months prior to the time such liability arises.

10. Intellectual Property and Confidentiality

10.1 The Customer acknowledges that the Intellectual Property Rights in the Service and Documentation belong to EROAD.

10.2 The Customer will not reproduce, translate, adapt, reverse engineer or modify any component used in connection with the Service or Documentation, except that one copy of the Software may be made to the extent that such copying is necessary for the Customer's own backup purposes.

10.3 The Customer will: (a) take all reasonable steps to ensure the confidentiality of the Service and Documentation until it is in the public domain through no fault of the Customer; (b) ensure that its officers, employees and agents do not disclose or copy any part of the Service and Documentation, except as permitted by this clause; (c) not transfer, assign or otherwise deal in the Service or Documentation; (d) maintain all copyright notices on any component used in connection with the Service and Documentation; (e) notify EROAD in writing immediately it has knowledge of any circumstances that may suggest that any person may have unauthorised knowledge, possession or access to the Service or Documentation.

10.4 The Customer's obligations under this clause 10 will survive termination of this Agreement.

11. Customer Information

11.1 EROAD: (a) acknowledges that the Customer Information is owned by the Customer; and (b) subject to clause 11.2, will: (i) take all reasonable steps to ensure the confidentiality of the Customer Information until it is in the public domain through no fault of EROAD; (ii) ensure that its officers, employees and agents do not disclose or copy any part of the Customer Information, except as permitted by this clause 11; (iii) not transfer, assign or otherwise deal in the Customer Information; (iv) notify the Customer in writing immediately it has knowledge of any circumstances that may suggest that any person may have unauthorised knowledge, possession or use of the Customer Information.

11.2 The Customer acknowledges that EROAD, its Service Providers, agents and any third party providing services to the Customer on behalf of EROAD (collectively, Agents) may generate and require use of Customer Information. The Customer accordingly grants EROAD and its Agents the right to use, copy, modify, store and disclose the Customer Information to the extent necessary to enable the Service to be provided;

11.3 There is a requirement to provide anonymous traffic and transport information. Subject to all Customer, vehicle and driver identification information having been removed, the Customer grants EROAD the right to use, copy, modify, store and disclose Customer Information to the extent necessary to enable EROAD: (a) to aggregate the Customer Information with other EROAD customers' information to build a complete understanding of real time traffic flows, infrastructure usage and driving patterns; (b) to provide advanced telematic services to the New Zealand transport industry; and (c) to improve the quality and efficiency of New Zealand's roading infrastructure.

11.4 To the extent that the Customer Information contains personal information about an individual the Customer will: (a) procure from that individual

all consents necessary to enable that information to be used by EROAD and its Agents in accordance with this clause 11; and (b) indemnify EROAD and its

Agents against all losses, liabilities, penalties, damages, costs, charges and expenses that EROAD or its Agents may incur by reason of the Customer's failure to comply with paragraph (a).

12. Suspension and Termination

12.1 If the Customer: (a) fails to pay any amount referred to in clause 8 when due; or (b) fails to maintain the EHUBO or ELOCATE in accordance with clause 4.1, tampers with the EHUBO or ELOCATE or uses the EHUBO or ELOCATE in breach of the RUC Legislation; or (c) breaches any other provision of this Agreement and does not remedy the breach within 5 Working Days after receiving a written notice requiring the breach to be remedied; or (d) ceases, or threatens to cease, to carry on business; or (e) becomes insolvent, goes into liquidation or has a receiver or statutory manager appointed to any of its assets or makes any arrangement with creditors, EROAD may, without prejudice to its other rights or remedies: (i) suspend or reduce the level of the Service or any part of it immediately without notice; and/or (ii) terminate this Agreement with immediate effect on giving written notice to the Customer.

12.2 On termination of this Agreement for any reason the Customer will: (a) return the EHUBO or ELOCATE to EROAD; (b) immediately cease use of the Software and Documentation and return to EROAD all copies of the Software and Documentation in the Customer's possession; (c) immediately cease use of all other aspects of the Service; and (d) remain liable for payment of: (i) all sums payable under clause 8.1 for any unexpired portion of the Service Period, and (ii) any other charges that become due for payment before or after termination.

12.3 Within 30 days of termination, the Customer must certify to EROAD in writing that it has complied with clause 12.2.

13. General

13.1 Any notice given under this Agreement will be in writing delivered to the relevant party or sent by post or facsimile transmission at the address shown on the front page of this Agreement or such other address or number as may be notified in writing by each party to the other from time to time. A notice will be deemed received when it is handed to or left at the address of the party to be served and if served by post two Working Days after the day of posting and if served by fax on the day of dispatch.

13.2 If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions will remain in force and effect.

13.3 If EROAD waives any default or breach of this Agreement, this will not constitute a waiver of any other or subsequent default or breach. No waiver will be effective unless made in writing.

13.4 The Customer may not assign or transfer its rights and obligations under this Agreement without the prior written consent of EROAD.

13.5 Neither party will be liable for any delay or failure in the performance of its obligations under this Agreement if such delay or failure is due to a force majeure event, being any cause outside its reasonable control including but not limited to acts of God, natural disaster, riot, malicious damage, fire or acts of any governmental authority. This clause does not apply to any obligation to pay money for liabilities incurred prior to the force majeure event.

13.6 This Agreement is governed by the laws of New Zealand and the parties agree to submit to the exclusive jurisdiction of the New Zealand Courts.

14. Personal Property Security Register. Security Interest

14.1 The Customer: (a) acknowledges that these Terms constitute a security agreement for the purposes of Section 36 of the Personal Properties Securities Act 1999 (PPSA); and (b) acknowledges that a security interest exists in the RUC Licence supplied to the Customer; and (c) grants a security interest in the first RUC Licence and all future RUC Licences granted to the Customer under these Terms.

14.2 The Customer will provide all information and do all things that EROAD may require to ensure that EROAD has a perfected security interest in respect of the RUC Licence under the PPSA.

14.3 The Customer waives their right to receive a verification statement and a requirement for EROAD to keep the secured party informed of any change of name or address.

T&C V.1.6 November 2010