

General terms and conditions

This document is valid from April 12th 2022.

1. Contracting parties and scope

1.1 The contracting parties are:

- The **Supplier**, by the legal entity as specified in order confirmation or the signed customer contract (the “**Customer Contract**”)
- The **Customer**, by the person or legal entity as specified in the Customer Contract.

1.2. The Supplier and the Customer are collectively referred to as the “**Parties**” and separately as a “**Party**”.

1.3. These general terms and conditions (“**General Terms**”) apply to any purchase of services from the Supplier.

1.4. The Contractual Relationship between the Parties is governed by the following documents, and in the following order in case of conflict between the documents (the “**Contract Documents**”) which collectively constitutes the “**Agreement**”:

- the Customer Contract
- the Data Processor Agreement
- this General Terms
- the Service Level Agreement (if concluded)
- the description of the Supplier’s services, as updated from time to time, available at <https://www.abax.com/uk/servicedescription>, (the “**Service Description**”)
- the Customer’s terms and conditions (if made part of the Agreement by the Supplier’s acceptance)

1.5. Modifications or amendments to the Contract Documents are only binding if the Supplier has confirmed them in writing (also electronically).

1.6. By its signature on the Contract Documents, the individual entering into the Agreement on behalf of the Customer thereby confirms having the legal authority to bind the Customer.

2. Contact information

2.1. The Parties’ contact information is stated in the Customer Contract. All inquiries and notices in accordance with this General Terms shall be made in writing to the given e-mail address to be considered submitted.

2.2. The Parties are responsible to inform each other of any changes in contact information. Inquiries and notices sent to the Party's original or most recently provided contact information shall be considered submitted.

3. The Service

3.1. Each subscription, as specified in the Customer Contract, creates a Service (the "**Service**").

3.2. The Service shall be deemed as activated when the hardware included in the Service has been shipped (the "**Activation Date**"). If the Supplier shall not provide hardware, the Activation Date is when the Customer is provided with log-in details that enable access to use the Service and data from a connected device is made available.

3.3. The Customer is granted a non-exclusive and non-sublicensable right to use the Service and the data generated or created through the Service within the purpose of the Service. The right of use is time-limited to the duration of the Agreement.

3.4. The right granted in section 3.3 does not include the right to access the source code or object code, or otherwise access parts of the Service or the Supplier's systems that are not intentionally made available. The right to use does not include the right to modify, reproduce, reverse-engineer, decompile, disassemble, copy or imitate the Service.

4. Hardware provided by the Supplier

4.1. Unless otherwise is stated in the Customer Contract, the physical equipment/hardware (the "**Hardware**") provided by the Supplier is placed at the Customer's disposal and is the property of the Supplier. Hardware that is contracted before 1st February 2020 is however the Customer's property regardless of the wording of the Customer Contract.

4.2. Hardware is delivered DAP (Incoterms 2020) unless otherwise is stated or agreed.

4.3. Unless otherwise agreed, the Customer is obliged to install the Hardware himself and is solely responsible for ensuring that the Hardware is properly positioned and assembled as described in the user manual and additional instructions from the Supplier.

4.4. The Customer is obliged to test the Hardware after installation and notify the Supplier immediately if the Hardware is not working. The test is done by checking registrations in the interface.

4.5. The Customer may request guidance on installation and testing by e-mail to the Supplier. The Supplier is not liable for the consequences of technical failure or inadequate registration due to incorrect installation or misplacement of the Hardware.

4.6. Any service, maintenance or repair of the Hardware may only be carried out by the Supplier or its authorised partners, as instructed by the Supplier. If the Customer detects that

the Hardware is defective or damaged, the Supplier shall be notified by e-mail immediately for guidance in troubleshooting and/or the procedure for Hardware return and re-delivery.

4.7. The Supplier reserves the right to replace all or part of the Hardware at any time. In such a case, the Customer is obliged, at its own cost, to receive and install the new Hardware, as well as to return the old Hardware (if the Hardware is the Supplier's property, cf. section 4.1), no later than 7 days after receipt of new Hardware.

4.8. The Supplier reserves the right to make use of the Hardware to collect and process data across multiple customers for the purpose of generating Aggregated Data or Anonymised Data as defined in section 12.4 of the Agreement. The Aggregated Data or Anonymised Data generated through such use shall not be associated with a specific Customer or Hardware.

4.9. Hardware sold for use within the EU/EEA/UK cannot be used outside this area unless agreed in writing. In case of use outside the approved area, the Customer shall reimburse the Supplier of all and any additional expenses caused by out of area usage, e.g. roaming, within 14 days after the date of invoice provided by the Supplier.

4.10. The Hardware may only be used in connection with the Supplier's services. The Customer is obliged to process the Hardware with due care and in accordance with the user manual. The Customer is not entitled to make changes and/or modifications to the Hardware beyond as set out in the user manual.

4.11. In case of suspected misuse of the Hardware, the Supplier has the right to demand the return of Hardware that is the Supplier's property, cf. section 4.1, within a given timeframe.

4.12. Upon termination, the Customer is responsible at its own expense, immediately and at the latest within one month after the expiry of the Contract Period (as defined in 8.2), to return Hardware that is the Supplier's property, cf. section 4.1, according to the instructions given by the Supplier.

4.13. In all cases of non-return of the Hardware as provided herein, the Customer will be liable to reimburse the Supplier per Hardware according to the current lost device fee, within 14 days after the date of reimbursement invoice provided by the Supplier.

5. Third-party Hardware and Software

5.1. If the Supplier shall receive and process data from hardware provided by or to others ("**Third-party Hardware**") or software provided by others ("**Third-party Software**"), the Customer acknowledges that the Supplier shall not be liable for (i) not being able to provide the Service due to errors or defects in the Third-party Hardware or Third-party Software, or (ii) errors or failures in the Services due to the Third-party Hardware or the Third-party Software.

5.2. Any use of Hardware which is provided by the Supplier to others than the Customer shall be deemed as Third-party Hardware. The Supplier shall not be liable for defects on such Third-party Hardware for which the Supplier is not responsible or in control of, including but not limited to situations where the other customer removes or damages the Third-party Hardware or otherwise restricts or prevents the collection of data.

5.3. The Supplier shall have no responsibility or liability regarding the Customer's use of Third-party Hardware or Third-party Software. The Customer shall assume all the risks and costs of using such Hardware and/or Software, including, but not limited to, any inconvenience, damage, cost etc. inflicted on the third-party supplier or others.

5.4. The Customer is solely responsible to solve any issues or defects with such Third-party Hardware and/or Third-party Software, and the Customer shall comply with its obligations under the Agreement, including, but not limited to, payment obligation regardless of the issues or defects.

5.5. The Customer shall notify the Supplier with undue delay if issues or defects with Third-party Hardware or Third-party Software is detected, whereupon the Supplier may provide assistance or support to the Customer.

6. Customer's Obligations

6.1. The Customer is responsible for ensuring that both the Service and the Hardware are used in accordance with any instructions, user manuals or similar information provided by the Supplier and any provider of Third-party Hardware or Third-party Software.

6.2. The Customer shall not use the Service or its possibilities in violation of applicable law or in a manner contrary to the rights of others, including but not limited to the Supplier's or third-party's intellectual property rights and privacy rights, or contrary to any other agreements entered into with the Supplier or the Supplier's group companies.

6.3. The Customer is responsible for the use of the Service and compliance with the Agreement by its officers, directors, employees, contractors, and any other person to which Customer gives access to the Service.

7. Payment

7.1. The price for the Service is set out in the Customer Contract.

7.2. The Customer will be invoiced annually and in advance with due per 14 days unless otherwise agreed in writing. The invoice is subject to an invoice fee. The first invoice will be issued at Activation Date and following invoices every anniversary of the Activation Date.

7.3. In case of delayed payment, the Supplier shall be entitled to interest from the day on which payment was due and continue until the date payment is fully received. The interest

rate shall be in accordance with the applicable national law on interest on overdue payments in the country where the Supplier has its registered business address. Claims for interest do not reduce other claims the Supplier may have against the Customer under other rules, including compensation claims.

7.4. The Supplier is entitled to charge the Customer for any additional costs incurred as a result of the Customer not picking up Hardware that has been sent to the address provided by the Customer.

7.5. The Customer has no right to make deductions in the invoice or to exercise any right of retention, counterclaims or set-offs against the invoice unless the claim has been acknowledged in writing or legally settled.

7.6. Upon the expiry date of any financed agreement, invoicing will be continued directly from the Supplier to the Customer if the Agreement is not terminated in accordance with section 8.4. It is the Customer's sole responsibility to terminate a financed agreement within the notice period.

7.7. If the Customer believes the invoice is incorrect, the Customer shall notify the Supplier as soon as possible by e-mail, and no later than one day before the invoice due date in order for the Supplier to correct the invoice, if the Supplier at its sole discretion agrees with such adjustment.

7.8. In the event of a material breach, the Supplier has the right to claim payment for all outstanding and remaining benefits during the Contract Period (as defined in section 8.2).

7.9. The Supplier reserves the right to sell the invoice to another company, which thereby will collect the invoice.

8. Term and Termination

8.1. The Customer Contract is entered into by the Customer's electronic signature (the "**Effective date**").

8.2. Unless otherwise agreed in the Customer Contract, the initial term of the Agreement shall be 36 months calculated from the Activation Date (the "**Initial Term**"). The Agreement shall thereafter be automatically renewed for 12 months at a time (the "**Renewal Term**"), unless terminated in accordance with section 8.4. The Initial Term and any Renewal Term are hereinafter collectively referred to as the "**Contract Period**".

8.3. If the Customer purchases additional services (add-ons) to a Service, the Contract Period of the Service applies.

8.4. The Agreement in its entirety or specific Services only may be terminated by either Party in writing (e-mail) at least 3 months before the expiry of the Contract Period.

8.5. Upon termination, the Supplier shall stop providing the Service at the end of the Contract Period. The Supplier is entitled to payment throughout the Contract Period regardless of whether the Customer uses the Service or not.

8.6. Customer who has received a discounted price on the Service due to membership or agreement with a third party, loses the right to the discount upon expiry of the membership or agreement with the third party.

9. Lifetime Warranty

9.1. The Supplier warrants that the Hardware is free from defects in workmanship and materials at the time of the shipment and undertakes to provide functional Hardware throughout the Contract Period (the “**Lifetime Warranty**”).

9.2. The Lifetime Warranty covers Hardware failures and is solely and exclusively limited to replacement or repair, at the Supplier’s sole option.

9.3. The Lifetime Warranty is provided on the following conditions:

9.3.1. The Customer notifies the Supplier of the defect by e-mail.

9.3.2. The Customer disconnects and returns the defective Hardware to the Supplier, at its own cost.

9.3.3. The Supplier’s examination of the returned Hardware disclose that defects have not been caused by improper handling, storage, testing, installation, misuse, neglect, repair, alteration or accident.

9.3.4. The Customer receives and install the new Hardware, at its own cost.

9.4. The Lifetime Warranty does not:

9.4.1. Cover defects or damage caused by circumstances for which the Customer is responsible, including negligent use or use in violation of this General Terms, the user manual, the Service Description or other instructions from the Supplier.

9.4.2. Apply if the battery runs out on battery-powered Hardware. The Customer must either replace the battery or the Hardware, depending on what the Hardware allows.

9.4.3. Apply for any Third-party Hardware.

10. Transfer of the Agreement or Services

10.1. The Customer may by e-mail to the Supplier request for the Agreement in its entirety or specific Services to be transferred to another customer. The Supplier may reject the request if

the credit check of the new customer is not approved. Upon transfer, the Supplier will charge the Customer a transfer fee according to the current price list.

10.2. The Supplier has the right to transfer the Agreement to any other company within the group or to third parties.

11. Limitations of Liability

11.1. The Supplier shall in no event be liable for any indirect loss or consequential damages, including but not limited to, loss of time or profit, revenue, goodwill, business opportunities, data or other business interruptions.

11.2. The Supplier's maximum liability to the Customer for all obligations (whether under the Agreement or otherwise) which are directly or indirectly connected with the Agreement shall be limited to the price the Customer has paid for the Service the last 36 months before the event giving rise to the liability.

11.3. The Supplier disclaims any and all liability, including any express or implied warranties, whether oral or written, for Third-party Hardware and Third-party Software. This implies even if such hardware or software is essential for the Service to effectively function.

12. Data Processing

12.1. The Customer is the data controller and responsible for complying with the rules laid down in the GDPR and/or national privacy act for all personal data processed by the Supplier via the Services. The Customer is solely responsible for having a legal and adequate processing basis for personal data processed through the relevant Service at all times.

12.2. The Supplier's responsibility and right to store data generated or created through the Service ceases at the end of the Contract Period. The Customer is responsible for exporting and storing data from the Supplier's system before the expiry of the Contract Period.

12.3. Upon termination of the Agreement, the Supplier will delete all data within the deadline specified in the Data Processor Agreement. However, this will not apply if the Customer enters into a separate agreement with the Supplier regarding continued data storage.

12.4. The Supplier has the right to, free of charge and without limitation to use Aggregated Data and Anonymised Data generated through the Service and/or via Hardware owned or controlled by the Supplier.

For the purposes of this Agreement:

a) Aggregated Data means data that has been combined across multiple vehicles, drivers, customers, fleets, time periods and/or geographic areas such that it is no longer associated with, attributable to, or reasonably capable of being linked to any specific vehicle, driver, individual, or Customer. Aggregated Data does not constitute personal data or personally

identifiable information. Supplier and/or its licensors shall own all right, title and interest in Aggregated Data. Supplier shall not intentionally disaggregate Aggregated Data or re-associate it with a specific vehicle, driver, or Customer without Customer's prior consent, unless legally required to do so or necessary for safety, security, or troubleshooting purposes. For the avoidance of doubt, Aggregated Data shall not constitute Confidential Information of the Customer.

b) Anonymised Data means data that has undergone technical and organisational measures designed to irreversibly prevent the identification of individuals, vehicles, or drivers, including the removal or transformation of personal data so that identification is not reasonably likely by the Supplier or any third party, taking into account available means. Anonymised Data does not constitute personal data under applicable data protection laws.

The Supplier may transfer, disclose, and make available Aggregated Data and Anonymised Data to third parties for lawful business purposes, provided that such use does not seek to re-identify individuals, vehicles, or drivers.

13. Breach of Contract

13.1. The Agreement or specific Services may be terminated with immediate effect by either Party in the event of a material breach by the other Party, and such breach is not rectified within a reasonable time after the breaching Party was notified of its breach in writing. The consequences of a material breach are governed by the background rules of law in addition to what is stated in these General Terms, including the right to compensation etc., with the limitations of the Supplier's liability arising from section 11.

13.2. In case of a material breach by the Customer, the Customer shall remain liable for the payment of the fees equivalent to the remainder of the current Contract Period.

13.3. If payment has not been received in a timely manner in accordance with section 7, nor within 14 days after the Supplier has given a written notice requiring payment, the breach is deemed as material.

13.4. Violation of section 6.2 is considered a material breach.

13.5. Upon a material breach by the Customer, the Supplier is entitled to immediately:

- terminate the Agreement with immediate effect
- disable the Customer's access to the Service
- claim payment for all outstanding benefits, and/or
- claim compensation for the loss due to payment defaults.

13.6. In the event of termination due to a material breach, the Customer is obliged to immediately return the Hardware, cf. section 4.11.

14. Software Updates and Changes of the Service

14.1. Software updates are included in the price.

14.2. The Supplier reserves the right to at any time update, make modifications and alter the contents of the Services offered, without providing any notice thereof. New versions do not necessarily include all the functions available in the previous version but shall not materially alter the functional level of the Service negatively.

14.3. If the Supplier, at its sole discretion, decides to no longer offer a specific Service or a part of a Service, the Supplier is entitled to terminate the Agreement in whole or in part with 30 days' prior notice to the Customer. The same applies if a contract with a subcontractor is terminated, involving that the Service can no longer be provided.

15. Changes to the Contract Documents

15.1. The Supplier, at its sole discretion, may from time to time update or modify these General Terms with one month's prior written notice (also electronically) to the Customer.

15.2. In addition, the Supplier may conduct such changes to the Contract Documents as it appears from these General Terms or the individual Contract Documents.

16. Price Changes

16.1. The Supplier may unilaterally adjust the price corresponding to any increased purchasing costs or costs to subcontractors, for example to providers of mobile data and/or map services, compared with the time of entering into the Customer Contract. Such change can take place with 2 months' prior written notice (also electronically) to the Customer.

16.2. The Supplier may at any time and without prior notice adjust the price agreed upon for a Service in accordance with changes in the general price level by using a recognised and commonly used index in the country where the Supplier has its registered business address or such index in Europe. Choice of index is the Supplier's sole decision. Adjustment may take place at the earliest with effect from January the calendar year after the Effective Date.

16.3. Upon automatic renewal of the Agreement, the Supplier may adjust the price for the Service according to the current pricelist, which without prior notice thereof applies for the Renewal Term.

17. Intellectual Property Rights and Know-How

17.1. The Supplier is the exclusive owner and retains all rights, titles and interests to Intellectual Property Rights and Know-How related to or arising from the Service and the Hardware, including, but not limited to the technology (including all modifications, enhancements, upgrades and updates thereto), algorithms, source code, object code and accompanying documentation, trademarks, logos, domain names, user interface design,

graphics, illustrations, drawings, images, sound, music, videos, concepts, techniques and specifications.

17.2. “**Intellectual Property Rights**” include, but are not limited to patent rights, design rights, and copyrights.

17.3. “**Know-How**” includes, but is not limited to all industrial, technical, marketing and commercial information and techniques in any form, and all designs and artistic creations, regardless of whether it is patentable, registered as Intellectual Property Rights or protected as trade secrets.

18. Force Majeure

18.1. If circumstances beyond the Parties control, which is classified as force majeure, significantly complicate the implementation of the agreement, the Parties obligations under the Agreement are suspended to the extent the circumstance is relevant and for as long as the circumstance lasts.

18.2. Force majeure includes inter alia events that are beyond the Supplier's control, such as failure, damage, service, inspection or repair of communications facilities, failure of the telecommunications network or satellites, war, natural disaster, lightning strikes, fire, strike, lockout and other labour disturbances and incidents that result in sudden or unforeseen large waivers of personnel.

18.3. If force majeure shall be invoked, the afflicted Party must notify the other Party. The duty to notify also applies upon the end of the force majeure. During force majeure, the Parties have a mutual duty to inform of circumstances that may be of significance to the other Party. The information must be given within a reasonable time.

18.4. The Customer's obligations under the Agreement are suspended during the period the Supplier's obligations are suspended, however short-term force majeure cases do not allow the Customer to demand a reduction in the price.

18.5. Regulatory changes outside the Supplier's control does not influence the Contract Period, the price or the number of ordered Services.

19. Confidentiality

19.1. Each Party are obliged to keep and maintain the other Party's confidential information in the strictest of confidence and shall not otherwise make the other Party's confidential information available in any form, to any third party, or use the other Party's confidential information for any purpose other than the performance of its obligations in the Agreement.

19.2. Each Party shall be responsible for ensuring that their respective officers, agents and employees do not disclose, use or distribute the other Party's confidential information in

violation of the terms and conditions of the Agreement. Each Party shall make commercially reasonable efforts to protect the other Party's confidential information.

19.3. Confidential information includes, but is not limited to, any information that may be of the importance of competition or privacy considerations to keep secret for a third party, including personal information and information about security and business matters. The duty of confidentiality applies during the Contract Period as well as later.

19.4. For the avoidance of doubt, it is emphasised that the Customer does not have the right to authorise a competitor of the Supplier to obtain the Contract Documents or information about the contractual relationship and the terms of the Agreement, as this includes confidential information.

20. Mandatory law – Severability

20.1. Should any provision of the Contract Documents be or become invalid or unenforceable, e.g. because of conflict with mandatory law, the validity of the remaining provisions will not be affected. The invalid or unenforceable provision is to be replaced by a valid and enforceable regulation that comes closest in its effect to the commercial intent pursued in concluding the invalid or unenforceable provision. The same applies in the event of an omission.

20.2. This also applies if the Customer is a consumer, and any provision of the Contract Documents conflict with mandatory consumer legislation. Further information on consumer purchases can be found here: <https://www.abax.com/terms-and-conditions>

21. Prevailing Language

21.1. The Contract Documents shall be governed, interpreted, and construed in the English language, regardless of any translations that may be made into any other language.

22. Governing law and Jurisdiction

22.1. All disputes arising out of or in connection with the Agreement shall be governed by the laws of the Country where the Supplier has its registered business address.

22.2. The Parties shall seek to resolve any dispute amicably through negotiations. If such negotiations fail, each of the Parties may initiate legal proceedings before ordinary courts. Sole and exclusive venue for all disputes shall be the courts of the country where the Supplier has its registered business address, by the local district court.