



Terms and Conditions for SkyBitz GLS Services

These Terms And Conditions apply to the purchase and/or use of ELM TECHNOLOGIES Ltd. ("ELM") &/or SkyBitz, Inc. ("SkyBitz") services or accompanying documentation (collectively, "GLS Services") by the purchaser ("Customer") under any attached purchase order ("Order Form"). Any terms in any Customer purchase order, acknowledgment or other document that are in addition to or inconsistent with these Terms and Conditions are rejected by ELM &/or SkyBitz and will be of no effect. If these Terms and Conditions and Order Form are provided in response to a Customer purchase order, such purchase order is deemed a request for quotation only, and these Terms and Conditions are an offer to sell the GLS Services. Customer may assent to and accept these Terms and Conditions by written acknowledgment, by conduct or course of dealing, and/or by acceptance of or payment for the services ordered. ELM's &/or SkyBitz's failure to object to any term or condition contained in any communication from Customer shall not be deemed a waiver of these Terms and Conditions nor shall such failure be deemed an acceptance of any term or condition contained in such communication. These Terms and Conditions may be amended, modified or superseded only in a written agreement executed by an authorized representative of each party.

1. Description of Services. The SkyBitz Global Locating Services (GL) contains three functional elements - the SkyBitz Mobile Terminal (the "MT"), Satellite Gateway (the "SG"), and Service Operations Center (the "SOC"). Each of these service elements are described in specifications previously provided to Customer by SkyBitz.

2. Access to GLS Services

2.1 Grant of Access. Subject to these Terms and Conditions during the term set forth in the applicable Order Form, SkyBitz shall provide Customer with access to the GLS Service with respect to any User Equipment ELM &/or SkyBitz has shipped to Customer under an Order Form and with respect to which Customer is current in the payment of applicable service charges under Section 3.1.

2.2 Procedures and Technical Protocols. ELM &/or SkyBitz will specify to Customer procedures according to which Customer may establish and obtain access to, and use of, the features and functions of the GLS Service, including, without limitation, provision of any access codes, passwords, technical specifications, connectivity standards or protocols, or any other relevant procedures, to the limited extent any of the foregoing may be necessary to enable Customer to obtain access to the features and functions of the GLS Service via the Internet, WAN or other dedicated point-to-point connection (as agreed pursuant to an applicable Order Form).

2.3 Responsibility for Hosting of Service. As between SkyBitz and the Customer, SkyBitz will bear responsibility, at its own expense, for hosting and operation of hardware and software necessary to provide the GLS Services through SkyBitz's proprietary Web site, provided that Customer will be responsible for procuring and/or operating computer systems, software and telecommunications services meeting such minimum technical requirements as SkyBitz may

specify, as necessary for Customer to obtain access to the GLS Service as hosted by SkyBitz.

2.4 Usage Restrictions. Customer will not (i) copy or duplicate any software or technology comprising a component of the GLS Service; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of the GLS Service is compiled or interpreted, and Customer acknowledges that nothing in this Terms and Conditions will be construed to grant Customer any right to obtain or use such source code; or (iii) modify the GLS Service or create any derivative product from any of the foregoing, except with the prior written consent of SkyBitz. Customer will use the GLS Service in accordance with any applicable user documentation provided by SkyBitz, and Customer will ensure that its use of the GLS Service complies with all applicable laws, statutes, regulations or rules promulgated by governing authorities having jurisdiction over the Parties or the GLS Service.

2.5 Data Retention. Customer acknowledges and understands that the GLS Service will generate data regarding the positioning and tracking of specific Customer assets ("GLS Data"). During the term of this Terms and Conditions, SkyBitz will make such GLS Data available to Customer through online access to the GLS Service for a period of thirty (30) days from date that the relevant GLS Data is generated. Thereafter SkyBitz will archive and retain such GLS Data for the remainder of the term of this Terms and Conditions and, upon Customer's request, will retrieve and make available such data, provided that Customer pays ELM's &/or SkyBitz's then-standard, applicable rates for such retrieval services.

3. Fees and Payments

3.1 Service Charges. Monthly service charges for the GLS Service shall begin to accrue thirty (30) days following the date of shipment of the corresponding MT units to Customer from ELM &/or SkyBitz or SkyBitz manufacturer. The standard billing policy is upon shipment of unit to Customer, ELM will bill the Customer for the first and last month of service.

3.2 Invoicing and Payment. ELM shall invoice Customer on a monthly basis for monthly service charges with respect to the GLS Service in advance of the month in which such charges shall accrue. ELM shall invoice Customer in arrears for any extraordinary or one-time charges. In each case payment in full is due within ten (10) days of the date of such invoice.

3.3 Suspension of Service. In the event that Customer's account is more than thirty (30) days overdue, ELM shall have the right in its sole discretion, in addition to its remedies under this Terms and Conditions or pursuant to applicable law, to suspend Customer's use of the GLS Service, without further notice to Customer, until Customer has paid the full balance owed, plus all applicable reactivation charges, and has made any security deposit required by ELM.

4. Service Standards

4.1 Limited GLS Service Warranty. SkyBitz warrants that the GLS Service shall operate as generally described in Section 7 when utilized in strict accordance with SkyBitz's instructions and operational procedures. In addition, SkyBitz warrants that the data and web service availability with respect to the GLS Service shall meet the service levels set forth in such Section 7, and that it shall use commercially reasonable efforts to meet the other performance targets with respect to the GLS Service also set forth in Section 7. In the event that the duration of service unavailability exceeds the limits permitted under Section 7, ELM &/or SkyBitz shall grant Customer a credit for additional future service ("Service Credit") in accordance with the terms of Section 4.2. The granting of such credits constitutes Customer's sole remedy, and ELM &/or SkyBitz's sole liability, for failure of the GLS Service to perform as warranted. ELM &/or SkyBitz will monitor its performance of the GLS Services and may generate and use aggregate statistical data, including, but not limited to, statistics as to uptime, coverage and general performance of the GLS Service; provided that such data does not disclose any of Customer's Confidential Information.

4.2 Service Credits.

(a) Where the GLS Service remains unavailable, or available, but is modified, restricted, or impaired so as to materially and adversely affect the GLS Service, for a period of twenty-four (24) hours or more, ELM &/or SkyBitz may extend a service credit at its discretion, based on the nature, extent, and duration of such modifications, restrictions, or impairments.

(b) No service credit shall be due for instances where the GLS Service is preempted, interrupted, suspended, modified or restricted as described in Section 7.3 or by acts of force majeure (acts of God).

5. Term and Termination of GLS Service

5.1 Period of GLS Service. The term for the provision of the GLS Service shall be for a period of 5 years (60 months). Customer and ELM &/or SkyBitz acknowledge that User Equipment ordered by Customer under an Order Form may be shipped to the Customer on more than one date. As such, the start date of the initial term of the GLS Service associated with any individual unit of User Equipment shall be the same as that for other units shipped on the same date, regardless of the date of the Order Form, and shall begin upon receipt of User Equipment to Customer.

5.2 Renewals. This Terms and Conditions, and each Order Form that contains an order for the GLS Service, shall automatically renew for the same initial term unless Customer gives ELM written notice of termination not less than sixty (60) days prior to the end of the initial term as applicable, provided that ELM &/or SkyBitz shall have the option to modify the rates and prices with respect to any renewal term by notifying Customer of such new rates and prices at least ninety (90) days prior to the commencement of such renewal term.

5.3 Cancellation. Cancellation by Customer of the Service, in whole or in part, before the end of the Term is subject to a termination fee equal to the monthly charges times the number of months of Service remaining under the Agreement. Any time after the initial term, Elm may change the price for Service by giving Customer notice thirty (30) days before the effective date of the change. Upon termination of Service for any reason, Customer agrees to discontinue use of the Service and either return or certify as destroyed all copies of software, and related materials and documentation obtained through the Service.

6. Ownership. Customer acknowledges that SkyBitz and its licensors own all right, title, and interest, including all patent, copyright, trade secret, trademark, moral rights, mask work rights, and other intellectual property rights ("Intellectual Property Rights") in and to the GLS Service (including all components thereof), all software of SkyBitz provided or made accessible hereunder, any databases created by SkyBitz using data processed under this Terms and Conditions (including any data models, structures, or data contained therein), and the Intellectual Property Rights in the User Equipment, and that such items reflect SkyBitz's selection, arrangement, coordination, and expression of such information and may contain confidential information, trade secrets, and/or patented technology. Customer shall not engage in any act or omission that would impair SkyBitz's and/or its licensors' Intellectual Property Rights in the GLS Service, any SkyBitz software, or User Equipment. SkyBitz reserves all rights in such items except the limited rights granted to Customer hereunder.

7. Service Levels

7.1 Data and Web Service Availability. Data and Web services provided by SkyBitz's SOC will be available at least ninety-nine and nine-tenths percent (99.9%) of the time, as measured by SkyBitz on a monthly basis, excluding periods of scheduled maintenance and Emergency Preemption (as defined below). Data and Web services shall be considered available if accessible by a user outside the SOC firewall. Any inability of Customer or any third party to access the data or Web services due to any telecommunications problem or any other technical problem outside of ELM &/or SkyBitz's direct control shall not affect the calculation of availability. Data and Web services are available through the "Customer Access" portion of SkyBitz's

proprietary Web site, and include functionality such as mapping, tabular reporting, asset locator queries, paging, and the system-to-system exchange of formatted XML data via URL/HTTP.

7.2 Performance Targets. The actual coverage and performance of the GLS Service may vary due to terrain, weather, signal strength, customer equipment, and other factors outside of ELM's &/or SkyBitz's control. Clarity and reception may be diminished by obstructions such as buildings and foliage. Customer bears sole responsibility for maintaining and replacing batteries required by the User Equipment, and shall use only batteries provided by ELM &/or SkyBitz or batteries that comply with technical standards specified by ELM &/or SkyBitz for use with such User Equipment. Customer acknowledges that performance of User Equipment will degrade if depleted batteries are not replaced. As a result, ELM &/or SkyBitz can make no absolute guarantee of coverage or availability. However, when operating with an unobstructed view of the sky and under clear atmospheric conditions and excluding periods of scheduled maintenance and Emergency Preemption, the Customer should experience the GLS Service to meet the following performance objectives:

Regularly Scheduled Reports - At least ninety-five percent (95%) of repeating scheduled reports from the MT successfully transmitted, received, processed, and delivered to Customer, as measured by SkyBitz on a monthly basis.

Paging - The MT shall respond to a page for data and/or position according to the scheduled response parameters with a success rate of at least ninety-five percent (95%), as measured by SkyBitz on a monthly basis.

Reporting and Paging with Retries Enabled - If retry logic is enabled, regularly scheduled reports shall be successfully transmitted, received, processed and delivered to Customer with a success rate of at least ninety-nine percent (99%), as measured by SkyBitz on an annual basis. The MT shall respond to pages for data and/or position within the agreed to paging response time, plus two (2) paging intervals with a success rate of at least ninety-nine percent (99%), as measured by SkyBitz on an annual basis.

7.3 Emergency Preemption. The GLS Service may be preempted, interrupted or suspended due to certain conditions or reasons beyond ELM's &/or SkyBitz's control, including but not limited to (i) maintenance requirements or emergency conditions experienced by Elm &/or SkyBitz; (ii) to protect ELM's &/or SkyBitz's personnel, facilities or services; and (iii) to provide priority and preemptive access to SkyBitz's satellite system as required by the Federal Aviation Administration and/or the U.S. Coast Guard ("Emergency Preemption"). In the event of Emergency Preemption, ELM &/or SkyBitz shall notify Customer as soon as reasonably practicable and shall restore GLS Service as quickly as reasonably practicable thereafter.

7.4 Scheduled Maintenance. The use of the GLS Service may be interrupted due to scheduled maintenance, subject to reasonable advance notice to Customer. SkyBitz shall normally restrict scheduled maintenance periods to between the hours of 2:00 AM and 6:00 AM Eastern Time on Sunday of each week, although SkyBitz reserves the right to schedule maintenance during other times. In the event of unplanned outages, ELM &/or SkyBitz shall notify Customer as soon as reasonably possible and shall restore service as quickly as reasonably practicable thereafter.

8. Language. The Parties hereto have requested that this Agreement and all correspondence and all documentation relating to this Agreement, be written in the English language. Les parties aux présentes ont exigées que la présente entente, de même que toute la correspondance et la documentation relative à cette entente, soient rédigées en la langue anglaise.

END OF TERMS AND CONDITIONS