

# **CALSTART**

## **Terms & Conditions**

### **Telematics Usage Agreement**

**The following Terms and Conditions do not constitute a legally binding agreement until they are incorporated in a Telematics Usage Agreement fully executed by the Parties (CALSTART and Data Owner.)**

#### **1. Data Logger**

DATALOGGER installation: ASSURED TELEMATICS INC. will provide guidance to DATA OWNER on the proper handling and care of the DATALOGGERS.

DATA collection period: DATA OWNER will operate the plug-in electric vehicles and keep the DATA LOGGER connected for a period of at least 12 months, with the exception of fleets onboarded less than 12 months from the project end date. ASSURED TELEMATICS INC. will maintain the monthly DATALOGGER subscriptions necessary to ensure the collection and transfer of DATA during this period. DATA OWNER will have access to DATA through GeoTab software.

#### **2. Data Owner Responsibilities**

DATA OWNER represents and warrants that it has the right to grant CALSTART, DOE and DOE Labs the Licenses as described above in Article 2.

DATA OWNER will provide adequate access of the plug-in electric vehicles to CALSTART staff. This includes plug-in electric vehicle availability for the installation of the DATALOGGER which will be coordinated by ASSURED TELEMATICS INC. Such access must be consistent with the purpose of the PROJECT.

In the event that DATA OWNER discontinues the collection and transmission of DATA prior to the end of this period, DATA OWNER will notify CALSTART or ASSURED TELEMATICS INC. immediately and return DATALOGGERS to CALSTART within one (1) month of ceasing data collection. Should the period of DATA collection last less than 12 months, the DATA OWNER must also reimburse CALSTART for the installation costs (\$100), with the exception of fleets onboarded less than 12 months from the project end date. Should the DATA OWNER not return the DATALOGGER, DATA OWNER must also reimburse CALSTART for the DATALOGGER (\$75).

DATA OWNER will provide CALSTART with DATA as defined above.

DATA OWNER acknowledges that CALSTART will utilize the retrieved data for the purpose of (1) creating an anonymized dataset from all DATA, (2) data analyses to determine summary results, (3) supporting the development of and providing reports/presentations to DOE and other PROJECT stakeholders, and (4) creation of a database for DOE Labs to perform analyses (under an NDA that restricts their publication to results only and will not allow DOE Labs to release any DATA). CALSTART will be the only organization to have access to the complete set of retrieved DATA; summary data will be disclosed to the DOE and other PROJECT stakeholders, an anonymized database will be disclosed publicly at the end of the PROJECT, and a limited dataset will be provided to DOE Labs to support DOE Labs analyses for sharing and/or publishing summary data and related results.

DATA OWNER will take the necessary precautions to ensure the safekeeping of the DATALOGGER installed in their plug-in electric vehicles. DATA OWNER will notify CALSTART within one (1) week if any known damage occurred to the DATALOGGER. Should any damage to the DATALOGGER be caused by the DATA OWNER, DATA OWNER will coordinate and pay for any necessary repairs or replacement of the DATALOGGER, including installation if a new DATALOGGER is required.

DATA OWNER will notify CALSTART within one (1) week if any plug-in electric vehicle will be not operated for a period of one (1) month or more.

Following completion of the DATA collection period of 12 months, DATA OWNER will return DATALOGGERS to CALSTART within one (1) month. DATA OWNER is responsible for shipping costs. Should the DATA OWNER demonstrate intention to continue DATA monitoring capabilities with GeoTab following the PROJECT's DATA collection period (at DATA OWNER's expense), DATA OWNER will be permitted to retain possession of the DATALOGGERS and will be responsible for ongoing monthly subscription costs.

### **3. CALSTART and ASSURED TELEMATICS INC Responsibilities**

CALSTART or ASSURED TELEMATICS INC. will provide DATA OWNER with a minimum of 48 hours' notice, when possible, prior to completing any inspection of or DATALOGGER installation on the plug-in electric vehicles.

CALSTART and ASSURED TELEMATICS INC. will only disclose summary data and an anonymized database obtained from DATA to the DOE and other PROJECT stakeholders. DOE National Labs will receive a database for their own analysis with a limitation to only share or publish summary data and related results.

CALSTART and ASSURED TELEMATICS INC. will not attempt to identify or contact any person whose information is contained within the DATA.

CALSTART and ASSURED TELEMATICS INC. will use appropriate safeguards to protect the DATA from misuse and unauthorized access or disclosure. Should unauthorized disclosure occur, CALSTART and ASSURED TELEMATICS INC. will work to mitigate such disclosure and ensure proper safeguards, preventing further disclosure, are in place to prevent further unauthorized dissemination of DATA.

At the conclusion of the PROJECT, CALSTART and ASSURED TELEMATICS INC. will destroy all DATA exported from GeoTab servers, not to include content within the resultant data analyses, summary reports/presentations, and any anonymized dataset.

#### **4. Modifications**

No amendments or modifications to the Agreement shall be effective unless in writing and signed by both Parties.

#### **5. Term**

The agreement will commence on the Effective Date and continue until December 31, 2022.

#### **6. Waiver**

Either Party's failure at any time to require the other Party's performance of any obligation under the Agreement will in no way affect the full right to require such performance at any time thereafter. Either Party's waiver of a breach of any provision of the Agreement will not constitute a waiver of the provision itself. Either Party's failure to exercise any of its rights provided in the Agreement will not constitute a waiver of such rights.

#### **7. Applicable Law:**

The Agreement will be construed, and performance will be determined, according to the laws of the State of California without reference to such state's principles of conflicts of law.

#### **8. Assignment**

Data Owner may not assign any of its rights or obligations under the Agreement, whether by operation of law or otherwise, without the prior written consent of CALSTART.

## **9. Termination**

Either Party may terminate the Agreement for any reason so long as the other Party is provided with thirty (30) days written notice of such termination. Each party may terminate the Agreement with immediate effect by delivering notice of the termination to the other Party if other party fails to perform, or otherwise materially breaches any of its obligations, covenants, or representations after being provided a five (5) day period to cure any such breach.

## **10. Confidentiality**

CALSTART and DATA OWNER realize that some information received by one party from the other pursuant to the Agreement shall be confidential. It is therefore agreed that any information received by one party from the other, and clearly designated in writing as "CONFIDENTIAL" at the time of transfer, shall not be disclosed by either party to any third party and shall not be used by either party for purposes other than those contemplated by the Agreement.

## **11. Indemnification and Limitation of Liability**

Each Party shall defend indemnify and hold harmless the other Party, including Affiliates and each of their respective officers, directors, shareholders, employees, representatives, agents, successors and assigns from and against all Claims of Third Parties, and all associated Losses, to the extent arising out of (a) a Party's gross negligence or willful misconduct in performing any of its obligations under the Agreement, or (b) a material breach by a Party of any of its representations, warranties, covenants or agreements under the Agreement.

NOTWITHSTANDING ANYTHING PROVIDED HEREIN TO THE CONTRARY, (I) NEITHER PARTY WILL HAVE ANY LIABILITY UNDER THE AGREEMENT FOR ANY LOST PROFIT OR REVENUE OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES.

## **12. Notices**

All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed by certified mail, postage prepaid, or delivered by tracked courier to all addresses indicated in the Agreement.