



**FUJIFILM Recording Media U.S.A., Inc.**  
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## **FUJIFILM RECORDING MEDIA U.S.A., INC. TERMS OF SERVICE AGREEMENT**

THIS TERMS OF SERVICE AGREEMENT (the "Agreement") is a legal agreement between you (either an individual or a single entity) (hereinafter "you" or "Licensee") and FUJIFILM RECORDING MEDIA U.S.A., Inc. ("FUJIFILM"). This Agreement relates to the software accompanying this Agreement or authorized to be used under this Agreement, which includes computer software and may include associated media, printed materials, and "online" or electronic documentation (the "Licensed Software"). By Using, installing, copying, or otherwise using the Licensed Software, you agree to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, do not install, copy or use the Licensed Software.

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### 5) Membership Portal. FUJIFILM will offer LoJack InTransit™ (a trade mark of SC-integrity, Inc.), tracking, monitoring and recovery services through the FUJIFILM Member Portal (collectively, the "Services"). The Services include the following:

- a) LoJack InTransit™ Technology: Includes the tracking devices, web-based Member monitoring application and, optionally, the Communications Command Center Service. The LoJack InTransit™ web-based Member monitoring application includes: unlimited number of users with unique user ID and password as well as unlimited use of website to track and monitor devices.
- b) On-Line Map and Aerial Photo Display of Device Location: The ability to view the geographic locations of the tracking devices on a map displayed via a browser interface.



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- c) Alerts and Alert Monitoring: Provides Members cargo tracking devices and related components (collectively, "Equipment") and the ability to create alert events such as 'geo-fences' (routes, locations, fixed position), low battery conditions, and stops or stationary conditions over a specified length of time and automatically monitor these alerts in transit. When an alert occurs, an automatic alert notification is sent to the Member's designated security staff or, if selected, the optional Communications Command Center.
- d) System Activity Reports: Member may define and modify reports based on requirements.
- 6) Member Support. Member shall have telephone support via a toll-free phone access available 24 hours per day, 7 days per week.
- 7) Terms of Use for Website Security.
  - a) Password Security: Only employees of Member shall be authorized to use the Services hereunder and such use must be solely for the benefit of Member. The Member is responsible for the use of any password provided and must take all reasonable steps to ensure that no unauthorized person shall have access to the FUJIFILM website. In the event Member realizes the password has been, or could potentially have been, compromised, it is the Member's responsibility to inform FUJIFILM immediately.
  - b) Transmission of Information: Member grants FUJIFILM and any and all affiliates, employees, contractors, partners and all other persons or entities involved in the operation of the FUJIFILM website the right to transmit, monitor, retrieve, store, and use Member's information solely with respect to the operation of the website. FUJIFILM CANNOT AND DOES NOT ASSUME ANY RESPONSIBILITY OR LIABILITY FOR, AND MEMBER SHALL INDEMNIFY AND HOLD FUJIFILM (AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, LICENSORS, SUBCONTRACTORS AND SUPPLIERS) HARMLESS FOR ANY DAMAGES RESULTING FROM, ANY INFORMATION MEMBER SUBMITS OR PERMITS TO BE SUBMITTED, OR THIRD PARTIES' USE OR MISUSE OF INFORMATION TRANSMITTED OR RECEIVED BY USING THE FUJIFILM WEBSITE.
- 8) Changes in General Terms & Conditions. FUJIFILM reserves the right to change, limit, modify or cancel program rules, regulations, services, benefits, special promotions and Member privileges upon thirty (30) days prior written notice to Member (the "Change Notice Period"). If, in Member's sole discretion, such change, limits, modifications, etc, are unacceptable to Member, Member may terminate this Agreement any time within the Change Notice Period.
- 9) FUJIFILM IS NOT AN INSURER. FUJIFILM DOES NOT WARRANT OR REPRESENT THAT THE EQUIPMENT OR SERVICES MAY NOT BE COMPROMISED OR CIRCUMVENTED OR THAT THEY WILL IN ALLCASES PREVENT ANY LOSS BY HOLD-UP, ROBBERY, THEFT OR OTHERWISE; OR THAT THEY WILL IN ALL CASES PROVIDE THE PROTECTION FOR WHICH THEY WERE INSTALLED, PROVIDED OR INTENDED. IT IS UNDERSTOOD THAT FUJIFILM IS NOT AN INSURER OF MEMBER'S PROPERTY OR THE PERSONAL SAFETY OF PERSONS COMING IN CONTACT WITH MEMBER'S PROPERTY; THAT INSURANCE, IF ANY, ON SUCH PROPERTY AND ITS CONTENTS AND ANY LIFE, DISABILITY OR HEALTH INSURANCE FOR PERSONS WILL BE THE SOLE RESPONSIBILITY OF THE MEMBER. THE PAYMENTS TO BE MADE TO FUJIFILM BY MEMBER ARE BASED SOLELY ON THE VALUE OF THE SERVICES AND/OR EQUIPMENT PROVIDED BY FUJIFILM, THE COST OF INSTALLING AND MAINTAINING THE MEMBERSHIP, AND THE SCOPE OF LIABILITY ASSUMED BY FUJIFILM HEREIN. THE PAYMENTS MADE TO FUJIFILM BY MEMBER ARE NOT RELATED TO THE VALUE OF MEMBER'S PROPERTY OR THE PROPERTY OF OTHERS. MEMBER UNDERSTANDS THAT FUJIFILM DOES NOT GUARANTY OR WARRANT ( INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS) THAT THE EQUIPMENT OR SERVICES SUPPLIED WILL AVERT OR PREVENT THE CCURENCES OR CONSEQUENCES THEREFROM WHICH THE EQUIPMENT OR SERVICES ARE DESIGNED TO DETECT OR PREVENT AND FUJIFILM WILL NOT BE LIABLE FOR ANY LOSSES INCURRED AS A CONSEQUENCE OF OR INCIDENTAL TO SUCH OCCURENCES.

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- 11) IN THE EVENT THE APPLICABLE LAW LIMITS THE DISCLAIMER AS TO WARRANTIES OR LIABILITY CONTAINED IN THIS AGREEMENT, MEMBER AGREES THAT DAMAGES SHALL BE CAPPED AT THE LESSER OF THE ANNUAL SERVICE CHARGES BILLED TO MEMBER FOR THE YEAR IN WHICH THE LOSS OCCURRED OR \$5,000.00. MOREOVER, NO SUIT OR ACTION SHALL BE BROUGHT AGAINST FUJIFILM OR ITS AFFILIATES OR SUBSIDIARIES MORE THAN ONE (1) YEAR AFTER THE ACCRUAL OF THE CAUSE OF ACTION THEREFOR.
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- 13) Governing Law and Jurisdiction. The state and federal law of New York, United States of America, shall govern the interpretation and enforcement of this Agreement and any Dispute arising out of or related to this Agreement, without giving effect to any conflict of laws principles that may cause the law of any jurisdiction to apply. Furthermore, with respect to any aforementioned Dispute, the parties consent to the exclusive jurisdiction and venue of such Dispute in the federal or state courts in Westchester County, New York. The parties waive the defenses of lack of subject matter jurisdiction, lack of personal jurisdiction and forum non conveniens.
- 14) Assignment. This Agreement is personal to the Member and may not be assigned by the Member, and the Member may not delegate any duties hereunder to any other party unless expressly authorized in writing by FUJIFILM. Any attempted assignment or transfer by the Member of this Agreement, or of any rights hereunder, shall be null and void and of no effect. FUJIFILM may assign this Agreement to an affiliate without the consent of the Member.
- 15) Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all previously existing agreements between the parties relating to the purchase and sale of the products. No change, modification or revision of this Agreement shall be valid unless in writing and signed by the parties hereto.
- 16) ACKNOWLEDGEMENT. BY USING THE LICENSED SOFTWARE AND SERVICE, LICENSEE ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THIS AGREEMENT AND AGREES TO BE BOUND BY ITS TERMS. LICENSEE FURTHER AGREES THAT THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN LICENSEE AND LICENSOR, AND SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATIONS RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.