

# IntelliCulture Standard Terms & Conditions

## Definitions.

*“Device”* means the vehicle loggers for farm equipment developed and manufactured by Geotab and or IntelliCulture that connect to the Platform and send data respecting the usage of such vehicles.

*“Platform”* means the IntelliCulture proprietary, Internet-accessible software platform that will collect and analyze certain data from the Device.

*“Services”* means the data collection and analysis services performed through the Platform by IntelliCulture on your behalf.

*“Products”* means the Device, Platform and Services collectively.

*“You”* means the customer entity identified on the Order Form attached to these Terms and Conditions and forming part of this Agreement.

**Devices.** The Device is designed, developed and manufactured by Geotab and or IntelliCulture, and consists of both hardware and software components. The following provisions apply to your possession and use of the Device:

1. Title to any Devices bought by you shall pass to you upon your full payment for such Devices; however, notwithstanding the foregoing, title to software shall NOT pass to you, and you are hereby put on notice that your use of any IntelliCulture software supplied to you as firmware in, or separately for use in conjunction with, the Device is governed by and subject to the software license terms as set forth herein. Use of any third party software in connection with this Agreement shall be governed by and subject to your agreeing to the terms of all applicable third party agreements and licenses respecting such third party software.
2. Except as expressly provided herein, you shall not:
  1. copy, reproduce, modify, enhance, improve, alter, reverse engineer, disassemble, deconstruct, translate, decrypt, reverse compile or convert into human readable form the Device or any part thereof (including software);
  2. distribute, assign, license, sublicense, lease, rent, transfer, sell or otherwise provide access to the Device, in whole or in part, to any third party, unless the Device is sold in its entirety to a third party who has agreed in writing that use of the Device is contingent upon such third party's subscription to Services of IntelliCulture, and is subject to the terms of this Agreement, and you have notified IntelliCulture of such sale so that the Services relating to such Device can be transferred to such third party;
  3. remove, deface, cover or otherwise obscure any proprietary rights notice or identification on the Device (including without limitation any copyright notice);

4. copy any written or electronic materials accompanying any portion of the Device unless specifically authorized in writing to do so by IntelliCulture; or
5. authorize, permit or otherwise acquiesce in any other party engaging in the activities set forth in (i), (ii) (iii) or (iv) above, or attempting to do so.

**Product Changes.** IntelliCulture reserves the right to make changes in the design of any of its Products (including added features) without the obligation to make equivalent changes to Products that have previously been supplied to you. The Device includes embedded software (firmware). IntelliCulture reserves the right, but has no obligation, to download updates to your Device, in order to maintain compatibility with the Services.

**Services.** In order to use the Services, you must provide up-to-date, complete and accurate registration information as requested by IntelliCulture on IntelliCulture's website, including current payment information (such as valid credit card information). IntelliCulture relies on the accuracy of the information provided by you, and shall have no liability whatsoever, whether to you or to any third party, for any claims or damages resulting from inaccurate information provided to IntelliCulture. In addition, the following conditions shall apply to the Services:

1. IntelliCulture will provide you with certain information to allow you to use the Services, such as one or more user IDs and passwords and/or the ability to create user IDs and/or passwords (the "Access Information"). The Access Information is provided on the understanding that it is personal to you; you may not permit anyone other than your authorized representatives to obtain access to the Services using the Access Information. IntelliCulture is not responsible or liable in any way for any use of the Services (authorized or unauthorized) by any party accessing the Services using your Access Information, and you accept all responsibility for such use of the Services and any consequences resulting from such use of the Services.
2. IntelliCulture reserves the right to change, suspend or discontinue the Services at any time, including the availability of any feature or content, account access, or any promotion offered by us. IntelliCulture may also impose limits on the Services and/or terminate or restrict your access to parts or all of the Services without liability. Where feasible, we will provide you with advance notice of such changes, limitations or discontinuance; however, you acknowledge that such notice may not be feasible in all circumstances, and that IntelliCulture shall have no liability whatsoever for its failure to provide such notice.
3. You acknowledge and agree that an integral part of the Services entails the collection of information and data from relating to your vehicles, and the processing of such information and data by IntelliCulture. You are solely responsible for obtaining all relevant permissions for collecting such information and data from any third parties who may have ownership rights relating to such information and data and having it processed by IntelliCulture. IntelliCulture will have no liability whatsoever respecting any claim by you or any third party whose information and data are collected by your use of the Products, whether related to intellectual property

rights, accuracy, privacy or otherwise, and you agree to indemnify, defend and hold IntelliCulture harmless against any such claims.

4. Under no circumstance will IntelliCulture be liable for any loss or damage caused by your reliance on information obtained through the Services (including to determine actual or potential yields, location of vehicles, vehicle maintenance requirements, or otherwise). IntelliCulture does not assess data transmitted through the Device for quality or otherwise; metrics, analyses and reports generated through the Services are automatically generated by algorithms, not as the result of any specific examination or judgment of the data by IntelliCulture or its employees. It is solely your responsibility to evaluate the accuracy, completeness or usefulness of any content and data available through the Services, and use of the Services is at your own risk. You acknowledge that IntelliCulture has no control over, and no duty to take any action regarding your use of the Products, including without limitation, how you interpret or use data accessed through the Services, or what actions you may take as a result of having been exposed to information obtained through the Services.
5. The Services will be subject to the usage policies as provided to you by IntelliCulture from time to time, including in electronic form by posting on IntelliCulture's website. Such policies may include limitations on data storage space.
6. IntelliCulture is only responsible for the computers and networks hosting the Services, and in any event, only to the extent that such computers and networks are wholly within IntelliCulture's control, and only has the Device responsibilities as specifically set forth in this Agreement. You are solely responsible for the selection, implementation, installation, maintenance and performance of any and all equipment, software and services used in conjunction with the Products (including any vehicles, or equipment or subscriptions needed to access the Services), including without limitation your internal network infrastructure, Internet Service Providers, and any mobile devices. IntelliCulture is specifically not responsible for any compatibility issues, communication lags or downtime respecting any such computers, networks, devices or ISPs.
7. You acknowledge that, due to the nature of the Services, information or data communicated through the Services may be hosted on servers residing in jurisdictions other than Canada, over which IntelliCulture has no direct control. By using the Services, you acknowledge that your data may become, during the period that it is hosted on such servers, subject to the laws of the jurisdiction in which those servers reside and/or to the terms of agreements respecting the hosting of data on such servers. Although IntelliCulture has made reasonable efforts to verify that its agreements with such server providers are reasonably protective of your data, you acknowledge that IntelliCulture has no liability for any acts or omissions of third parties in relation to such servers and the data stored on them. You therefore hereby release IntelliCulture from all liability for any governmental or third party action taken in such jurisdictions with respect to such data and/or the servers on which such data resides, and you acknowledge that it is solely your responsibility to back up and retain copies of your data obtained through the Services.

**Your Usage of the Products.** You agree as follows:

1. Except to the extent expressly set forth herein or agreed upon in writing by you and IntelliCulture, you shall not use the Products except for your personal use (which, in the case of a company, shall include facilitation of your internal business functions), which shall not be for the purposes of development for commercial resale or further distribution of the Device (including without limitation by resale or sublicensing) or for using the Services as a commercial service provided for the benefit of any third party.
2. You are responsible for the selection, implementation, and performance of any and all third party equipment and software used in connection with the Products, and for compliance with any licenses, conditions, laws, rules and/or regulations respecting the use of the Products and any equipment, services or software used in conjunction with the Products. This includes all applicable laws, regulations and orders applicable to the export, re-export, transfer or resale of the Device. You also acknowledge that IntelliCulture will not take, and will not be required to take, any action contrary to such applicable laws.
3. You acknowledge and agree that IntelliCulture will exercise no control over your use of the Products, that you are solely responsible for complying with the provisions of this Agreement and all applicable laws, ordinances, codes and regulations of governmental agencies (including import and export laws and regulations), including federal, provincial, state, municipal and local governing bodies, of any country having jurisdiction over your use of the Products, and that IntelliCulture has no liability whatsoever relating to your usage of the Products. Without limiting the foregoing, the Device is not intended for any use where failure or fault of the Device could directly or indirectly cause risk or damage to life or property, or in any mission-critical or time-sensitive application. Any such use is entirely at your discretion and risk. You will be solely responsible for (and IntelliCulture disclaims) any and all loss, liability, or damages resulting from such use, and you agree to hold IntelliCulture harmless from any claims for losses, costs, damages, or liability arising out of or in connection with your use of the Products, except to the extent solely caused by IntelliCulture's material breach of this Agreement, gross negligence or wilful misconduct.
4. You represent and warrant that:
  1. You will only use the Products in accordance with this Agreement and applicable law;
  2. You will be solely responsible for all activities with respect to the Products undertaken by you;
  3. You have the right and the authority to enter into this Agreement and to use the Products as described herein;
  4. Your use of the Products will not interfere with, degrade, or adversely affect any software, system, network or data used by any person, including IntelliCulture and other users of the Services (including by ensuring that you do not place an undue burden upon the CPUs, servers or other resources used to provide the Services);
  5. You will not in any way use the Products to commit or attempt to commit a crime or facilitate the commission of any crime or other illegal or tortious acts, including any

infringement of intellectual property rights, any fraudulent activities, any deceptive impersonation, or any activities that violate any third party's privacy rights;

6. You will not interfere with or in any manner compromise any of IntelliCulture's security measures;
7. You will cooperate with IntelliCulture and provide information requested by IntelliCulture to assist IntelliCulture and/or relevant authorities in investigating or determining whether there has been a breach of this Agreement or applicable law.

Without limiting the foregoing, you agree not to violate any applicable laws, the rights of others, or the operational and security mechanisms of the Products.

**Software.** IntelliCulture hereby grants you a personal, non-exclusive, revocable, non-transferable license to use any software provided as part of the Products ("Software") solely for the purposes of using the Services. This license does not imply any rights to future upgrades or updates to, or versions of, such Software; if they are provided to you, they may be subject to additional fees, and shall be subject to this Agreement unless a separate agreement is executed with IntelliCulture respecting such upgrades, updates or versions. You do not have the right to obtain or use any source code for any Software. You shall not:

1. copy, reproduce, modify, enhance, improve, alter, reverse engineer, disassemble, deconstruct, translate, decrypt, reverse compile or convert into human readable form the Software or any part thereof;
2. remove, deface, cover or otherwise obscure any proprietary rights notice or identification on the Software;
3. use the Software in any way inconsistent with the use parameters for the Services;
4. attempt to hack the Software or any communication initiated by the Software or to defeat or overcome any encryption and/or other technical protection methods implemented by IntelliCulture with respect to the Software and/or data and/or content transmitted, processed or stored by IntelliCulture or other users of the Services;
5. collect any information or communication about the users of the Services or Software by monitoring, interdicting or intercepting any process of or communication initiated by the Software or Services or by developing or using any software or any other process or method that engages or assists in engaging in any of the foregoing;
6. use any type of bot, spider, virus, clock, timer, counter, worm, software lock, drop dead device, packet-sniffer, Trojan-horse routing, trap door, time bomb or any other codes or instructions that are designed to be used to provide a means of surreptitious or unauthorized access to the Services or any computer system or that are designed to monitor, distort, delete, damage or disassemble the Software or its ability to communicate and perform the Services; or
7. authorize, permit or otherwise acquiesce in any other party engaging in any of the activities set forth in (a) – (f) above, or attempting to do so.

**Support.** IntelliCulture shall not be obligated to provide any support or maintenance services for the Products unless otherwise expressly agreed upon in writing by you and IntelliCulture. However, this provision does not relieve IntelliCulture of its warranty obligations as expressly described in this Agreement.

**Fees and Taxes.**

1. You agree to pay all applicable fees in connection with the Products, as set forth on the order form attached hereto, or (as applicable) IntelliCulture's standard price list, found on IntelliCulture's website or otherwise provided to you in a quote or separate order form. Fees are based on Products purchased and not actual usage. Payment obligations are non-cancellable and fees paid are non-refundable, except as set forth in additional proposals that may have been provided to you.
2. Where fees are paid by means of a credit card, you authorize IntelliCulture to automatically charge you for any and all fees incurred by you for Products. If your credit card is rejected for any reason, you will be responsible for any fees and charges associated with such rejection. IntelliCulture utilizes a third party payment processor to handle all credit card payments; you are responsible for complying with such processor's policies and terms when making any payment through such processor. The foregoing shall not limit IntelliCulture's ability to exercise any rights available to it in law or equity respecting the collection of any amounts payable hereunder, and you shall also be responsible for paying for all reasonable fees and costs incurred by IntelliCulture, including legal fees, in collecting any overdue amounts or enforcing any provision of this Agreement.
3. In addition to any other rights and remedies available to IntelliCulture, IntelliCulture shall be entitled to charge interest on all outstanding amounts at the lesser of 1.5% per month or the maximum rate permitted by law, such interest commencing as of the due date for such payment.
4. You are responsible for, and shall pay all taxes relating to this Agreement, excluding any taxes based on the net income of IntelliCulture. Unless otherwise indicated, all amounts payable under this Agreement are exclusive of any tax, duty, levy, or similar government charge that may be assessed by any jurisdiction, whether based on gross revenue, the delivery, possession or use of the Products, the execution of this Agreement or otherwise. If you are required to withhold any taxes from payments owed under this Agreement, the amount of payment due shall automatically be increased to offset such tax, so that the amount actually remitted to IntelliCulture shall equal the amount invoiced or otherwise due. You shall promptly furnish IntelliCulture with copies of all official receipts evidencing payment of taxes due under or in relation to this Agreement to the appropriate taxing authority.

**Intellectual Property.** You do not acquire any intellectual property or other proprietary rights under this Agreement, including without limitation any right, title or interest in and to patents, copyrights, trade-

marks, industrial designs, confidential information, or trade secrets, whether registered or unregistered, relating to the Products or any part thereof. Your only rights to the Products shall be those rights expressly licensed or granted to you under this Agreement or in a separate, mutually agreed upon, written agreement between you and IntelliCulture. Any rights not expressly granted under this Agreement are reserved.

**Warranty.** IntelliCulture warrants that, for a period of one (1) year from the date that the Device is delivered to you by IntelliCulture or its authorized distributor: (a) the Device will comply with IntelliCulture's specifications for such Device, and (b) the Device will be free from material defects in material, design and workmanship. This warranty is valid only for the original purchaser of a new Device obtained from IntelliCulture or its authorized distributor, and shall not survive any transfer of ownership of the Device. The foregoing warranty shall be subject to the following provisions:

1. You must follow IntelliCulture's return policy, available upon request, and obtain a valid, written Return Materials Authorization (RMA) from IntelliCulture as part of the warranty return process. IntelliCulture reserves the right to refuse or return any Device sent back without an RMA.
2. If you notify IntelliCulture of any such material defects or non-conformance within such one (1) year period and obtain the applicable RMA, IntelliCulture will, at its option, repair or replace the Device. If IntelliCulture is unable to repair or replace such Device within a reasonable timeframe, IntelliCulture will refund you the amounts paid for such defective or non-conforming Device. All shipment of such Device is at your expense, unless IntelliCulture otherwise agrees in writing.
3. IntelliCulture may, at its option, use new or refurbished or used parts in good working condition to repair or replace any Device. Any replacement Device will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer, or for such minimum time period as required by the jurisdiction in which you reside.
4. The above warranty shall not apply to defects or non-conformities resulting from: (a) use of the Device in a manner contrary to, or not in accordance with, the documentation (including this Agreement), guidelines or instructions provided by IntelliCulture, (b) any modification, maintenance or repair of the Device by anyone other than IntelliCulture, (c) normal wear and tear, (d) external causes such as, but not limited to, power failure or electrical power surges, or (e) your breach of this Agreement.
5. IntelliCulture does not warrant that the operation of the Device will be uninterrupted or error-free. Additionally, the foregoing warranty does not apply to any software provided to you, except to the extent that the Device does not comply with this warranty solely due to firmware issues that are not excluded under this section. All IntelliCulture software is provided "AS IS", and subject only to the license terms applicable to such software.

The warranty set forth in this section is the exclusive warranty made by IntelliCulture to you respecting the Products. IntelliCulture disclaims all other representations, warranties and conditions, whether express or implied, including but not limited to any express or implied representations, warranties or conditions of merchantability, merchantable quality, fitness for a particular purpose, durability, title, non-infringement, or any other warranty or condition arising by statute, custom or usage of trade related to

the Products provided hereunder. Some jurisdictions may not allow the exclusion or limitation of implied warranties and conditions. To the extent permitted by law, any implied warranties or conditions relating to the Products to the extent that they cannot be excluded as set out above are limited to one (1) year from the date that the Device is delivered to you.

**Limitation on Liability.** In no event will IntelliCulture be liable under this Agreement for any damages other than your direct damages to the extent arising from IntelliCulture's gross negligence or willful misconduct, and in no event shall IntelliCulture's aggregate liability exceed the amounts paid by you to IntelliCulture for the Products that gave rise to the claim. No claim may be brought against IntelliCulture, whether in contract, tort or otherwise, more than two (2) years after the Products giving rise to the claim were provided to you. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NONE OF INTELICULTURE, ITS DIRECTORS, OFFICERS, EMPLOYEES, ADVISORS OR CONTRACTORS SHALL BE LIABLE TO YOU FOR ANY DAMAGES WHATSOEVER, BE THEY DIRECT, ECONOMIC, COMMERCIAL, SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR INDIRECT DAMAGES, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF BUSINESS REVENUE OR EARNINGS, LOST DATA, DAMAGES CAUSED BY DELAYS, LOST PROFITS, OR A FAILURE TO REALIZE EXPECTED SAVINGS. The limitations, exclusions and disclaimers set out herein shall apply whether an action, claim or demand arises from a breach of warranty or condition, breach of contract, negligence, strict liability or any other kind of civil liability connected with this Agreement. Some jurisdictions do not allow limitations or exclusions of certain types of damages and/or implied warranties and conditions. The limitations, exclusions and disclaimers set forth herein shall not apply if and only if and to the extent that the laws of a competent jurisdiction require liabilities beyond and despite these limitations, exclusions and disclaimers.

**Indemnification.** You shall indemnify IntelliCulture, its successors, assigns, officers, directors, employees and agents with respect to, and hold IntelliCulture harmless from, any and all claims, judgments, damages, settlements, losses, liabilities, and expenses, including but not limited to attorney's fees and charges, and court and arbitration costs, arising at any time during or after the term of this Agreement as a result of or in connection with your use of the Products hereunder (including without limitation: (a) a claim of infringement of any intellectual property or proprietary right arising from your combination or use of the Products or any part thereof with software, interfaces, or other materials that are not supplied or specifically authorized by IntelliCulture, (b) a claim respecting any injury, death or property damage in connection with your use or misuse of the Products, (c) any third party claim arising from your unauthorized or improper use or modification of the Products, (d) any third party claim arising out of your material breach of this Agreement, and (e) any claim relating to your commission or alleged commission of any crime or other illegal or tortious acts, including any infringement of intellectual property rights, any fraudulent activities, any deceptive impersonation, or any activities that violate any third party's privacy rights). This indemnity obligation excludes any direct damages to the extent arising from the gross negligence or willful misconduct of IntelliCulture.



**Feedback.** You agree to promptly and accurately report to IntelliCulture any actual or apparent errors, problems, nonconformities or other difficulties in using the Products, along with any other information reasonably requested by IntelliCulture to aid in resolving such errors, problems, nonconformities or other difficulties, and hereby consent to the collection, processing, transmission and disclosure of such information by IntelliCulture for the purposes of IntelliCulture's internal use to improve the Products or other IntelliCulture products or services. You hereby agree that IntelliCulture shall own all feedback, ideas, concepts, or changes to the Products developed or identified in the course of this Agreement or as the result of your use of the Products, and all associated intellectual property rights therein, to the extent that you have provided them to IntelliCulture (collectively the "Results"), and hereby assign to IntelliCulture all right, title and interest thereto.

#### **Termination.**

1. Either party may terminate this Agreement for any reason upon thirty (30) days' written notice to the other party. Additionally, IntelliCulture may terminate this Agreement and/or immediately cease to provide the Services without any liability whatsoever if IntelliCulture is prevented from providing any portion or all of any Services due to the acts or omissions of you or any third party, or by any law, regulation, requirement or ruling issued in any form whatsoever by judicial or other governmental body.
2. Without limiting other remedies, IntelliCulture may limit your access to Services, issue a warning, temporarily suspend, indefinitely suspend or terminate your account and refuse to provide Services to you if: (a) you breach this Agreement; (b) IntelliCulture is unable to verify or authenticate any information you provide; or (c) IntelliCulture believes that your actions may cause financial loss or legal liability for you, other users or IntelliCulture.
3. IntelliCulture reserves the right to investigate suspected violations of this Agreement. You hereby authorize IntelliCulture to cooperate with (1) law enforcement authorities in the investigation of suspected criminal violations and (2) system administrators at Internet service providers, networks or computing facilities, and other content providers in order to enforce the terms and conditions of this Agreement.
4. The above-described actions are not IntelliCulture's exclusive remedies and IntelliCulture may take any other legal, equitable or technical action it deems appropriate in the circumstances. IntelliCulture will not have any liability to you or any third party in relation to the termination of this Agreement for any reason whatsoever.
5. The initial term of this Agreement (the "Activation Period") shall be 12 months following the first date of the Activation Period, except as set forth in additional proposals that may have been provided to you. Upon expiration of the Activation Period, this Agreement shall automatically renew for an unlimited number of successive 12-month renewal terms (each, a "Renewal Period" and any Renewal Periods together with the Activation Period, collectively the "Activation") unless either party provides the other party with written notice of its intention to not renew this Agreement at least 30 days prior to the expiration of the Activation Period or the applicable Renewal Period.

6. Termination of this Agreement for any reason shall not affect your payment obligation for any fees accruing hereunder or payments owing prior to the date of termination, except as set forth in additional proposals that may have been provided to you. Any provision of this Agreement which expressly states that it is to continue in effect after termination or expiration of this Agreement, or which by its nature would survive the termination or expiration of this Agreement, shall do so. Upon termination, you shall immediately cease use of the Products, and destroy or delete any IntelliCulture software in your possession.

**Miscellaneous.** This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements relating to the subject matter hereof. This Agreement may not be altered, amended, or modified except by a written instrument signed by the duly authorized representatives of both parties. If any one or more of the provisions of this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, any such provision shall be severable from this Agreement. No waiver by either party of a breach or omission by the other party under this Agreement shall be binding on the waiving party unless it is expressly made in writing and signed by the waiving party. This Agreement, and all Product requirements, shall be governed by, and construed in accordance with, the laws of the Province of Ontario. It is the express will of the parties that this Agreement and all related documents be drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

**Contact.** If you have any questions or inquiries regarding this Agreement, please contact IntelliCulture at [contact@intelliculture.ca](mailto:contact@intelliculture.ca). Please note that e-mail communications will not necessarily be secure, so please do not include credit card information or other sensitive information in your e-mail correspondence with us. For contractual purposes, you consent to receive communications electronically from us and you agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. This condition does not affect your statutory rights related to electronic communications.

**Privacy.** Your personal information, if any is disclosed to IntelliCulture, will be handled in accordance with IntelliCulture's Privacy Policy. To view IntelliCulture's Privacy Policy, please visit the following link: [www.IntelliCulture.com/privacy-policy](http://www.IntelliCulture.com/privacy-policy). Notwithstanding the foregoing, IntelliCulture reserves the right at all times to disclose any information as it deems necessary to satisfy any applicable law, regulation, legal process or governmental authority. By submitting personal information to IntelliCulture pursuant to this Agreement, including without limitation your name, address, e-mail address and credit card or other financial information, you consent to the collection, processing, transmission and disclosure of such information by IntelliCulture for the purposes for which such information has been requested. You specifically agree that you are hereby providing your express consent to communications from IntelliCulture (including e-mail communications, both marketing and informational) respecting IntelliCulture's Products.