

FLOTALK SOFTWARE LICENSE TERMS & CONDITIONS

These **FLOTALK SOFTWARE LICENSE TERMS & CONDITIONS** (these “**Terms**”) govern all matters related to the delivery and use of the proprietary FLOTalk software application (“**Software**”) licensed by Licensor in connection with the sale of its ED3/D3/EFLO/FLO/EFLO-G.FLO-G/VCAM equipment, parts and components (the “**Equipment**”). As used herein, “**Licensor**” means GPS Source, Inc.; “**Customer**” means the customer identified on the Order; and “**Order**” means the applicable purchase order or other such order form through which Customer purchases the Equipment and licenses the Software from Licensor. By accepting the Order, paying the Equipment Fees or accessing the Software, Customer agrees to be bound by these Terms.

In consideration of the Equipment Fees paid by Customer to Licensor and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Licensor and Customer agree as follows:

1. **DEFINITIONS.** In addition to the terms defined elsewhere in these Terms, the following terms shall have the meanings given to them:
 1. “**Documentation**” means any user manuals and instructions provided to Customer for the use of the Equipment and/or Software, in either electronic, online help files or hard copy format.
 2. “**Effective Date**” means the earlier of the date on which the parties agree to the Order or the date on which Customer pays the Equipment Fees or first accesses the Software.
 3. “**Equipment Fees**” means the total fees payable by Customer for the Equipment purchase specified in the Order. The Software license fees are included in the Equipment Fees.
 4. “**Intellectual Property Rights**” means all known or hereafter existing worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights and other proprietary rights.
 5. “**Support Fees**” means the fees payable for Support Services, as described below. Ten (10) hours of Support Services are included in the Equipment Fees with the purchase of the ED3/D3/EFLO/FLO/EFLO-GFLO-G Developer Kit.
2. **LICENSE GRANT AND OTHER RIGHTS.**
 1. **Software License Grant.** Subject to Customer’s compliance with these Terms (including payment of all applicable Equipment Fees), Licensor grants to Customer a perpetual, non-exclusive and non-transferable license to (a) install and execute one copy of the Software, in object code form only, on one computer solely for Customer’s configuration and troubleshooting of the Equipment as further specified in the Order and Documentation; and (b) make one copy of the Software (and execute as reasonably needed, in object code form only) solely for archival, disaster recovery or backup purposes (collectively, the “**License**”). Customer may purchase additional Licenses based on these same Terms by executing an Order for such additional Licenses.
 2. **Restrictions On Use.** Customer acknowledges that the Software and the structure, organization, and source code thereof constitute valuable trade secrets of Licensor. Accordingly, except as expressly permitted in Section 2.1 or as otherwise authorized by Licensor in writing, Customer will not, and will not permit any third party to (a) modify, adapt, alter, translate, or create derivative works from the Software; (b) sublicense, lease, rent, loan, sell, distribute, make available or otherwise transfer the Software to any third party, (c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Software; or (d) otherwise use or copy the Software except as expressly allowed under Section 2.1.
 3. **Additional Materials.** Unless otherwise expressly agreed by the parties in writing, Customer shall provide and obtain for itself all hardware, software, tools and resources other than the Equipment that may be necessary to utilize the Software.
3. **DELIVERY, ACCEPTANCE AND INSTALLATION.** Unless otherwise specified in the Order or agreed in writing, Licensor will deliver the Software to Customer by making it available to Customer for download. Without limiting the warranties set forth below, the Software will be deemed accepted upon delivery. Unless otherwise agreed by the parties in writing, Customer is responsible for installing the Software in accordance with the Documentation.
4. **MAINTENANCE & SUPPORT.**
 1. **Maintenance.** Licensor shall not be responsible for the provision of any Software maintenance of any kind, and Licensee agrees that it has not relied on nor will be entitled to any future Software functionality, updates, upgrades or improvements of any kind. Notwithstanding the foregoing, (a) in the event Licensor decides in its sole discretion to prepare and make available to its customer base any Software bug patches and similar minor fixes, such patches and fixes will be made available to Customer at no extra charge; and (b) in the event Licensor decides in its sole discretion to prepare and make available to its customer base any updates, upgrades or improvements other than bug patches and minor fixes (such as major releases or new Software-related applications), licenses to such improvements will be made available to Customer at Licensor’s then-current pricing. For the avoidance of doubt, Licensor bears sole discretion in

deciding whether to charge additional fees for any changes or improvements to the Software, and Licensee bears sole discretion in deciding whether to accept and install such changes or improvements (subject to Section 9). All such changes and improvements to the Software purchased by the Customer will be deemed a part of the License except as otherwise agreed in writing.

2. **Support.** Ten (10) hours of email and telephonic troubleshooting and related technical support (“**Support Services**”) are included in the Equipment Fees with the purchase of the ED3/D3/ELO/FLO/EFLO-G/FLO-G/VCAM Developer’s Kit. Otherwise, Support Services may be purchased by Customer in ten (10)-hour blocks by placing an Order for such with Licensor. Usage of Support Services hours is measured in ten (10)-minute increments, rounded up to the nearest increment. Licensor will have no obligation to provide technical support other than as expressly set forth in these Terms.
3. **Non-Recurring Engineering Charges.** NRE charges will be incurred and invoiced as set forth in GPSS’s proposal and as amended from time to time as mutually agreed, upon scope of work changes.
5. **PROPRIETARY RIGHTS.** The Software and Documentation, and all worldwide Intellectual Property Rights therein, are the exclusive property of Licensor and its suppliers. All rights in and to the Software not expressly granted to Customer in these Terms are reserved by Licensor and its suppliers. Customer will not remove, alter, or obscure any proprietary notices (including copyright notices) of Licensor or its suppliers on the Software or Documentation.
6. **FEES AND PAYMENT.** Customer will pay Licensor the Equipment Fees and Support Fees (if any) in accordance with the applicable Order.
7. **COMPLIANCE VERIFICATION.** At all times during the Term (as defined below), and for at least three (3) years after any termination of the License, Customer will maintain complete and accurate records of all usage of the Software and all other data reasonably necessary for verification of Customer compliance with these Terms. Upon ten (10) days written prior notice, Customer agrees to make such documentation available to Licensor along with written certification of full compliance with these Terms.
8. **WARRANTY; DISCLAIMER.**
 1. **Software.** For a period of ninety (90) days after the date of delivery of the Software (the “**Software Warranty Period**”), Licensor warrants that the Software, when used as permitted by Licensor and in accordance with the Documentation, will operate substantially as described in the Documentation. Licensor does not warrant that Customer’s use of the Software will be error-free or uninterrupted. Licensor will, at its own option and expense, and as its sole obligation and Customer’s exclusive remedy for any breach of this warranty, use commercially reasonable efforts to either (a) correct any reproducible error covered by said warranty that Customer reports to Licensor in writing during the Software Warranty Period, or (b) replace the defective Software. Any such error correction or replacement provided to Customer will not extend the original Software Warranty Period. If Licensor determines that it is unable to correct the error or replace the Software, Licensor will issue to Customer a refund in the amount of U.S. \$500, which reflects Licensor’s good-faith estimate of the commercial value of the License (the “**License Value**”).
 2. **Support Services.** Licensor warrants that it will provide all Support Services in a professional manner. Licensor does not warrant that it will be able to fix or otherwise resolve all questions, concerns and defects raised by Customer. Licensor will, at its own option and expense, and as its sole obligation and Customer’s exclusive remedy for any breach of this warranty, use commercially reasonable efforts to re-perform any defective Support Services for which it has received written notice from Customer within thirty (30) days of the performance of the defective Support Services.
 3. **Disclaimers.** THIS WARRANTY EXTENDS TO BUYER ONLY AND MAY BE INVOKED ONLY BY BUYER ON BEHALF OF ITS CUSTOMER(S). SELLER WILL NOT ACCEPT WARRANTY RETURNS DIRECTLY FROM BUYER’S CUSTOMERS OR USERS OF BUYER’S PRODUCTS. THE EXPRESS WARRANTIES IN THIS SECTION 8 ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, REGARDING THE SOFTWARE AND SUPPORT SERVICES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS, WHICH ARE HEREBY DISCLAIMED.
9. **INFRINGEMENT CLAIMS.** Licensor will defend at its own expense any action against Customer brought by a third party to the extent that the action is based upon a claim that the Software infringes any U.S. patents or any copyrights or misappropriates any trade secrets of a third party, and Licensor will pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Customer (a) notifying Licensor promptly in writing of such action, (b) giving Licensor sole control of the defense thereof and any related settlement negotiations, and (c) cooperating and, at Licensor’s request and expense, assisting in such defense. If the Software becomes, or in Licensor’s opinion is likely to become, the subject of an infringement claim, Licensor may, at its option and expense, either (i) procure for Customer the right to continue using the Software, (ii) replace or modify the Software so that it becomes non-infringing, or (iii) accept return of the Software and refund Customer the remaining License Value, computed according to a thirty-six (36) month straight-line amortization schedule beginning on the Effective Date. Notwithstanding the foregoing, Licensor will have no obligation under this Section 9 or otherwise with respect to any infringement claim based upon (A) any use of the Software not in accordance with these Terms or for purposes

not intended by Licensor, (B) any use of the Software in combination with other products, equipment, software, or data not intended by Licensor to be used with the Software, (C) any use of any release of the Software other than the most current release made available to Customer at no additional cost, or (D) any modification of the Software by any person other than Licensor or its authorized agents or subcontractors. THIS SECTION 9 STATES LICENSOR'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS AND ACTIONS.

10. **LIMITATION OF LIABILITY.** IN NO EVENT WILL LICENSOR BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, OR FOR ANY LOST DATA, LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THE SOFTWARE, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LICENSOR'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THESE TERMS AND THE SOFTWARE, WHETHER IN CONTRACT, EQUITY, TORT OR OTHERWISE, WILL NOT IN ANY EVENT EXCEED THE LICENSE VALUE PLUS ALL SUPPORT FEES PAID IN THE PRECEDING TWELVE (12) MONTHS. IN NO EVENT WHATSOEVER WILL ANY BREACH OR OTHER LIABILITY INCURRED BY LICENSOR HEREUNDER ENTITLE CUSTOMER TO REFUNDS OR OTHER RECOURSES RELATED TO THE EQUIPMENT. Customer acknowledges that these limitations reflect the allocation of risk set forth in these Terms and that Licensor would not offer this License without these limitations on its liability, and Customer agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. No action may be brought for any alleged breach of an Order more than one (1) year after the date such alleged breach occurred.
11. **TERM AND TERMINATION.**
 1. **Term.** The term of these Terms will begin on the Effective Date and will continue until terminated as provided in Section 11.2 (the "Term").
 2. **Termination.** Either party may terminate the License if the other party breaches any material provision of these Terms and, if curable, does not cure such breach within thirty (30) days after receiving written notice thereof. In addition, this License shall automatically terminate in the event the Equipment is returned by Customer or resold by Customer without Licensor's prior written consent.
 3. **Effects of Termination.** Upon termination or expiration of the License for any reason, any amounts owed to Licensor hereunder before such termination or expiration will be immediately due and payable, all rights granted in these Terms will immediately cease, and Customer must promptly discontinue all use of the Software, erase all copies of the Software from Customer's computers and return to Licensor or destroy all copies of the Software and Documentation. Sections 1, 2.2, 5, 6, 7, 9, 10, 11.3 and 12 together with any accrued payment obligations, will survive expiration or termination of the License for any reason.
12. **Audit.** Notwithstanding any language or provision to the contrary, Buyer shall have no right to audit or examine Seller's books and records.
13. **Proprietary Information.**
 1. Except as provided in Section 2 of this clause, all information disclosed in written, graphic, model, or oral form, including, but not limited to, drawings, prints, publications, specifications, processes, manufacturing techniques, oral explanations, schedules and financial reports, obtained by Buyer from Seller prior to and during the performance of an Order which is marked as "Proprietary" by Seller shall be kept confidential by Buyer and shall remain the property of Seller, and shall be returned at Seller's request. Such information shall only be used in performance of the Order and shall not be used for other purposes unless agreed to in writing by Seller. Such information shall not be reproduced, published, disseminated, or disclosed to any third party, including the U.S. Government, by Buyer without the prior written consent of Seller. Nothing contained herein shall be construed as granting an implied license or a license by estoppel or otherwise to any of Seller's intellectual property.
 2. Subject to the terms contained in an Order, Seller grants to Buyer and its customer (as applicable), including Buyer's and its customer's subcontractors associated with the Order, a non-exclusive, non-transferable, irrevocable, royalty-free license to use, copy and reproduce in whole or in part copyrighted standard commercial documentation provided with the Product(s) for the limited purposes of conducting training and/or to facilitate operation and maintenance of Seller's Product(s).
14. **GENERAL.**
 1. **Compliance with Laws.** Customer acknowledges that the export and import of the Software, Equipment and related technical information is, as of the Effective Date, controlled by various national export laws and regulations including the U.S. International Traffic in Arms Regulations, as amended (collectively, "Export Laws"). Customer shall comply with all applicable Export Laws concerning its use of the Software and, in particular, Customer will not export or re-export the Software without all required government licenses. Customer agrees to defend, indemnify, and hold harmless Licensor from and against any violation of any applicable laws or regulations by Customer or any of its agents, officers, directors, or employees.

2. **Assignment.** Customer may not assign or transfer this License, by operation of law or otherwise, to any third party without Licensor's prior written consent, which consent will not be unreasonably withheld or delayed; except that Customer may assign this License, without consent, to any successor to all or substantially all its business or assets, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any attempted assignment or transfer in violation of the foregoing will be null and void.
3. **Force Majeure.** Except for any payment obligations, neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder for any cause which is beyond the reasonable control of such party.
4. **U.S. Government End Users.** If Customer is a branch or agency of the United States Government or is obtaining the Software on behalf of, or for the benefit of, a branch or agency of the United States Government, the following provision applies. The Software is comprised of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 and are provided to the Government (a) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (b) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202-1 and 227.7202-3.
5. **Notices.** All notices, consents, and approvals hereunder must be delivered in writing by courier, by electronic facsimile (fax), or by certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth in the Order, and will be effective upon receipt or when delivery is refused. Either party may change its address by giving notice of the new address to the other party.
6. **Governing Law and Venue.** These Terms will be governed by and interpreted in accordance with the laws of the State of Colorado, without reference to its choice of laws rules. Any action or proceeding arising from or relating to these Terms shall be brought in a federal or state court in Denver, Colorado, and each party irrevocably submits to the exclusive jurisdiction and venue of any such court in any such action or proceeding. The United Nations Convention on Contracts for the International Sale of Goods is hereby excluded and does not apply.
7. **Validity and Waiver.** If a court of competent jurisdiction determines any provision, in whole or in part, of an Order to be illegal, invalid, or unenforceable, then the validity and enforceability of the remaining provisions hereunder will not be affected. In lieu of such illegal, invalid, or unenforceable provision, the Parties shall negotiate one or more provisions as similar in terms as may be legal, valid and enforceable under applicable law. The failure of Seller to enforce any applicable provision of these Domestic Terms of Sale, or to require at any time performance by Buyer of any provision or obligation related to an Order or these terms hereof, shall in no way be construed to be a waiver of such provision, nor in any way affect the validity of an Order, these terms, or any part hereof, or the right of Seller thereafter to enforce each and every provision.
8. **Remedies.** Except as provided in Sections 8 and 9, the parties' rights and remedies hereunder are cumulative. Customer acknowledges that the Software contains valuable trade secrets and proprietary information of Licensor, that any actual or threatened breach of Section 2 will constitute immediate, irreparable harm to Licensor for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought by Licensor to enforce these Terms, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.
9. **Waiver; Severability.** All waivers must be in writing. Any waiver or failure to enforce any provision of these Terms on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. If any provision of these Terms is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.
10. **Compliance with Regulations only if Buyer's Customer is the U.S Government.** Seller shall comply with the following applicable FAR clauses* in situations where the Buyer's Customer is an agency of the U.S. Government and the FAR clauses are contained in the prime contractor's contract.

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| 52.203-13 | Contractor Code of Business Ethics and Conduct (if this contract exceeds \$5,500,000 and the performance period is 120 days or more. All disclosures of violation of the civil False Claims Act or of the Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.) |
| 52.203-15 | Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 if the subcontract is funded under the Recovery Act. |
| 52.204-21 | Basic Safeguarding of Covered Contractor Information Systems (Jun 2016), other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause 52.204-21. |
| 52.219-8 | Utilization of Small Business Concerns, (if the subcontract offers further subcontracting opportunities and if Order exceeds \$700,000 and the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.. Services contracts are excluded.) |

52.222-17	Nondisplacement of Qualified Workers (applies to Services Order only)
52.222-21	Prohibition of Segregated Facilities
52.222-26	Equal Opportunity
52.222-35	Equal Opportunity for Veterans (if Order is \$150,000 or more)
52.222-36	Affirmative Action for Workers with Disabilities (if Order exceeds \$15,000)
52.222-37	Employment Reports on Veterans (if FAR 52.222-35 applies)
52.222-40	Notification of Employee Rights under the National Labor Relations Act (applies if Order is \$150,000 or more)
52.222-41	Service Contract Labor Standards (if the prime contract and work performed by Seller are both subject to the Act and the contract exceeds \$2,500)
52.222-50	Combating Trafficking in Persons
52.222-51	Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements
52.222-53	Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements
52.222-54	Employment Eligibility Verification (applies if Order exceeds \$150,000)
52.222-55	Minimum Wages under Executive Order 13658 (if the prime contract and work performed by Seller are both subject to FAR 52.222-41)

*The FAR clause in effect as of the date of the Prime Contract execution shall apply unless otherwise specified.

11. **Software License.**

1. Software will be licensed in accordance with the License provided with the Product. If no software license is provided and the Product contains software or firmware, then Seller grants to Buyer and Buyer's customer (if applicable) a nonexclusive, royalty-free, limited license to use such software or firmware and software documentation only for the purpose of operating and maintaining the Product on which it is installed.
2. The Software is proprietary information of Seller. Seller retains title to all Software. Making copies of Software except for one copy for archive purposes is prohibited unless specifically authorized by Seller in writing. Buyer will reproduce and include all Seller proprietary and copyright notices and other legends both in and on every authorized copy of Software. Buyer may transfer the Software in conjunction with the resale of the Product or Buyer's product, in which the Software is installed or with which it is used, but only under terms consistent with and no less stringent than the terms set forth in this "Software License" section. Except for the foregoing, the Software may not be sublicensed, transferred, or loaned to any other party without Seller's prior express written consent. Buyer may not either itself or with the assistance of others, make modifications to the Software including, but not limited to, translating, decompiling, disassembling or reverse assembling, reverse engineering, creating derivative or merged works, or performing any other operation on Software to recover any other operation on Software, or to recover any portion of the program listing, object code or source code or any information contained therein.

12. **Entire Agreement; Precedence.** These Terms, together with the Order and any other attachments or exhibits incorporated herein or therein by reference (including the Documentation), constitute the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. Licensor hereby rejects the inclusion of any conflicting or supplemental terms that may be included with any Customer-submitted documentation (such as pre-printed terms contained on purchase orders) unless Licensor has accepted them in a signed writing. Where Licensor and Customer have agreed in a signed writing to other sets of provisions related to the Equipment and Services, these Terms will be deemed supplemental to such provisions; provided, however, that in the event of any conflict between these Terms and any other such provisions, these Terms shall control and take precedence. These Terms may be amended only by a written document signed by both parties.