General terms and conditions

Definitions

Access Data	*Customer* number, *User* name or e-mail address and password
Affiliate	Any legal entity that directly or indirectly controls, is controlled by or is under common control with another party; for these purposes, "control" means ownership of more than 50% of shares or being entitled to appoint the board of directors of a legal entity
Availability Description	Description of availability and performance parameters of *Platform* and other service level *Services*
Carrier	A company that receives a transport order from a *Shipper* and is responsible for carrying it out; *Carrier* includes, but is not limited to, a supplier (hereinafter **Supplier**) from which *Shipper* orders the goods or a logistics provider of *Shipper* or any other party to which *Carrier* subcontracts the transport order by forwarding the transport order via *Platform*
Confidential Information	Non-public information in any form provided to *Receiving Party* by *Disclosing Party*, including but not limited to *Access Data*, data stored on *Platform*, data relating to other companies, orders and offers, trade and industrial secrets, processes, *Intellectual Property*, financial or operational information, price or product information or related documentation
Contact Data	Company name, address, invoicing address, VAT No. as well as authorised signatory including name, surname, e-mail address and job title
Customer Data	All data of *Customer* stored on *Platform* or generated on the basis of *Platform*, in particular data in connection with *Customer*'s transports (e.g. transports, routes, transport routes, offers, prices, transport documentation) and data on the use of *Platform* by *Customer*'s *Users*
Disclosing Party	Any *Party* disclosing *Confidential Information*
Effective Date	Date upon which this *Agreement* enters into force, given on the cover page of this *Agreement*
Establishment	A branch, agency or any other establishment of *Customer* that implies the effective and real exercise of activity through stable arrangements
Goods Recipient	recipient of the goods that *Carrier* delivers according to the transport order of *Shipper*
In-House System	ERP system (e.g. SAP ERP, JD Edwards)
Intellectual Property	Any patents, designs, models, drawings, copyrights, software and database rights, trademarks, know-how, web domain names, company names and in general all rights of a same or similar nature, whether registered or unregistered anywhere in the world including all extensions, reversions, revivals and renewals thereof
Local Subsidiaries	*Service Provider*'s *Affiliates* which also could act as *Service Provider* depending on *Services* offered are listed at **https://legal.transporeon.com/transporeon_entities.pdf**
Platform	Cloud-based communication and transaction platform enabling as well electronic transportation procurement and freight cost management operated by *Service Provider* for commercial customers (business to business)
Platform Usage Guidelines	A set of rules for the usage of *Platform* including security principles, conduct on *Platform* and user account information
Receiving Party	Any *Party* receiving *Confidential Information*
Service Partner	Any party acting as sub-contractor of *Service Provider* and which has been denominated in writing or by other suitable means by *Service Provider* to *Customer* as "*Service Partner*" or listed at **https://legal.transporeon.com/transporeon_service_providers.pdf**
Services	*Services* and/or works provided by *Service Provider*

Shipper	A producer, distributor or recipient of goods; company which orders services from *Supplier*
System Requirements	Technical requirements regarding hardware and software to be met by *Customer*'s systems in order to be able to use *Platform* and *Services*, listed at **http://www.transporeon.com/en/system-requirements**
Third Party	Any person or entity other than *Customer* or *Service Provider*
Transporeon Trucker	*Transporeon Trucker* for drivers; an application installed on mobile devices, provided by *Service Provider*
User	A natural person authorised by *Customer* and confirmed by *Service Provider* or *Service Provider*'s *Affiliates*, who is allowed to access *Platform* by using *Access Data* assigned to this person
Visibility Services	All *Services* offered on *Platform* that enable tracking status messages in connection with the execution of the transport

Preamble

Customer desires to increase the efficiency of its logistics processes. For this purpose, *Service Provider* provides *Customer* with access to *Platform*. In connection with the usage of *Platform* by *Customer*, *Service Provider* may also render IT services, including consultancy, project management, customizing and support.

1. Contract conclusion

(a) This *Agreement* can be concluded in writing, via e-mail or online via the Registration centre of *Service Provider*. However, a contract is not concluded until *Service Provider* accepts the registration. The online registration must be completed in full and truthfully. *Service Provider* may request the authorised signatory of *Customer* to show suitable evidence of authority to represent *Customer*. *Service Provider* reserves the right to refuse registration or to revoke or to delete such in case of misuse or if false information is provided.

(b) *For certain services, an activation of the Shipper is necessary to perform actions on the Platform.* Furthermore, each *Carrier* may opt for additional premium services and shall accept further conditions. In order to do so, *Carrier* shall conclude additional agreement which sets out the terms of use of these additional premium services.

2. Security of *Platform* and *Services*

2.1. *Platform Usage Guidelines*

(a) *Customer* will have access to *Platform* by way of its *Access Data*. *Customer* agrees to keep its *Access Data* confidential and to restrict any unauthorised access to the account. *Customer* undertakes to change its password on a regular basis.

(b) *Customer* agrees to comply with the conditions stipulated in *Platform Usage Guidelines* which can be accessed at **https://www.transporeon.com/en/pug**. *Service Provider* may update *Platform Usage Guidelines* from time to time in compliance with the conditions specified in **16 (Changes)**. *Customer* shall make *Platform Usage Guidelines* available for each *User* of its accounts. *Customer* remains responsible for all the activities that occur under each account that it has on *Platform* and for the conduct of its *Users*.

(c) *Customer* may not circumvent *Platform* in order to avoid or reduce the payment of any fees.

2.2. Consequences for breach of *Platform Usage Guidelines*

(a) *Service Provider* may immediately block *Customer*'s access to *Platform* if *Customer* knowingly circumvents or attempts to circumvent *Platform*. The same applies if *Customer* knowingly assists other *Users* in such circumvention.

(b) *Service Provider* reserves the right to block *Customer*'s access to *Platform* in case of any further infringement of *Platform Usage Guidelines* and to delete or block *Customer*'s data infringing the provisions of this *Agreement*.

(c) In making the decision according to **2.2 (a) (Consequences for breach of Platform Usage Guidelines)** and/or **2.2 (b) (Consequences for breach of Platform Usage Guidelines)**, *Service Provider* will take into account the legitimate interests of *Customer* to a reasonable extent and will consider any indications that there is no fault on the part of *Customer*.

(d) If *Customer* culpably causes loss or damage to *Service Provider* by such circumvention or attempted circumvention, *Customer* shall be liable for the damage resulting therefrom including all the fees that would have been due if *Customer* would not have circumvented or attempted to circumvent *Platform*.

(e) *Service Provider* will inform *Customer* about blocking of its access and blocking or deletion of its data in writing or via e-mail.

(f) *Service Provider* is entitled to inform *Shipper*s of *Customer* about an impending or actual blocking of *Customer*'s access to *Platform*.

(g) Any further rights of *Service Provider*, such as those related to claiming damages, default delay and/or the right to terminate this *Agreement* for good cause remain unaffected.

2.3. IT security by *Service Provider*

Service Provider maintains a certified information security management system (hereinafter **ISMS**) according to ISO/IEC 27001. *ISMS* is a security framework to align information security objectives such as confidentiality, integrity and availability with business objectives of provided services. *ISMS* includes security controls such as risk management, defined processes and responsibilities, compliance to applicable laws, security in operations and audits.

2.4. Technical data transfer

The use of insecure data transmission routes, in particular, HTTP or FTP, can result in *Third Parties* accessing the transmitted data, reading or changing these data. In order to prevent this risk, *Service Provider* offers secure data transmission routes, e.g. HTTPS, FTPS or AS2. If

Customer nevertheless decides to use insecure transmission routes, *Customer* is solely responsible for any damages that may result therefrom.

3.   Rights of use

3.1.   Platform access and usage rights

(a)   *Service Provider* grants to *Customer* a right to access and use *Platform* strictly for the purpose and duration of this *Agreement*. *Service Provider* may introduce new releases, versions, updates and upgrades of *Platform* from time to time. In this case, the preceding sentence shall apply accordingly.

(b)   *Customer* needs to match *System Requirements* to be able to access and use *Platform*. *System Requirements* may be updated from time to time in compliance with the conditions specified in **16 (Changes)**.

(c)   *Customer* undertakes to use *Platform* and *Services* solely for its own internal business purposes in accordance with this *Agreement*.

(d)   *Customer* shall not be entitled to provide *Third Parties* access to *Platform*, neither for payment of a fee nor free of charge.

(e)   Any and all *Intellectual Property* owned by *Service Provider* prior to *Effective Date* shall remain the sole property of *Service Provider*. Any and all *Intellectual Property* that results from, is obtained or developed in connection with this *Agreement* and the provision of *Services* after *Effective Date* shall exclusively be owned by *Service Provider*.

(f)   *Customer* confirms that it is entitled to fully represent its *Affiliates* and to establish the rights and obligations of its *Affiliates* under this *Agreement*. *Customer* shall be liable for its *Affiliates* for all contractual obligations under this *Agreement*.

3.2.   Anonymised use of *Customer Data*

(a)   *Customer* hereby grants *Service Provider* the free, simple (non-exclusive), worldwide, temporally unlimited and irrevocable right to store, process, link, evaluate, analyse, pass on, publish and economically exploit *Customer Data* in anonymised form (within the meaning of **3.2 (c) (Anonymised use of Customer Data))** This granted right includes in particular the right to use and commercially exploit the data for error correction as well as for the improvement of own or third-party products (including services), for the development of new products, for benchmarks as well as for advertising, scientific or statistical purposes.

(b)   The right of use granted is transferable and sub-licensable by *Service Provider* to *Service Partners* and *Affiliates*.

(c)   Usage in anonymised form means that the data to be exploited is changed in such a way that it can no longer be related to (i) a single natural person, in particular Users or employees of *Customer*, (ii) *Customer*, (iii) a *Shipper* or (iv) a *Carrier,* e.g. by aggregation (summary). In order to determine whether a reference is possible, all means that are likely to be used by *Service Provider* or a third party, according to general judgment, to directly or indirectly identify a reference object must be considered.

(d)   Insofar as the use of *Customer Data* for the above-mentioned purposes does not serve to provide the contractual services and represents a processing of personal data (in particular the process of anonymisation), *Service Provider* does not act as a processor on behalf of *Customer*, but as an independent controller.

4.   Modules and *Services* description

Customer can access the document which contains a detailed technical description and conditions for the usage of products, modules, features and *Services* by clicking on **https://www.transporeon.com/en/msd**. *Service Provider* is entitled to update this document from time to time in compliance with the conditions specified in **16 (Changes)** provides *Customer* the possibility to access the updated document under the above-mentioned link.

5.   Service levels. Availability. Support. Remedies

5.1.   Performance

Service Provider will perform *Services* taking into account the recognised rules of technology

(a)   with promptness and diligence and in a workmanlike and professional manner and

(b)   in accordance with all applicable service levels stipulated in *Availability Description*.

5.2.   Availability; support; remedies

The availability of *Platform*, the support times and the remedies for failure to achieve the availability of *Platform* are defined in *Availability Description* available at **https://www.transporeon.com/en/avd** and incorporated into this *Agreement* by reference. *Service Provider* will update *Availability Description* from time to time in compliance with the conditions specified in **16 (Changes)** and provide *Customer* the possibility to access the updated document under the above-mentioned link. Please note that updates, upgrades, normal maintenance work

which is necessary to keep the system up to date, or events such as intruders, unauthorised misuse of services, or regulatory requirements, may result in temporary disruption of services.

6.   Term and termination

(a)   *Customer* may terminate this *Agreement* for convenience at any time subject to a 30-days' notice period to the end of the calendar month. In this case the access granted to *Customer* by *Service Provider* can be revoked independently.

(b)   *Service Provider* may terminate this *Agreement* for convenience at any time subject to a 90-days' notice period to the end of the calendar month.

(c)   In addition to the termination rights according to **6 (a) (Term and termination)**, *Service Provider* may terminate this *Agreement* for good cause, effective upon written notice to *Customer*, if *Customer* breaches the obligations as stipulated in *Platform Usage Guidelines* and/or **9 (Compliance)**. Any further rights of *Parties* to terminate this *Agreement* for good cause remain unaffected. In case of termination for good cause, *Service Provider* reserves the right to block *Customer*'s access immediately.

(d)   Upon termination of this *Agreement*, all rights according to **3 (Rights of use)** expire.

7.   Confidentiality

Receiving Party may have access to *Confidential Information* of *Disclosing Party*.

7.1.   Disclosure restrictions

(a)   *Receiving Party* must not make any of *Disclosing Party*'s *Confidential Information* available in any form, to any *Third Party*, natural person or legal entity other than Receiving or *Disclosing Party*'s employees, *Affiliates* or agents with a need to know such *Confidential Information*. In this case, *Receiving Party* shall ensure that all such *Receiving Party*'s employees, *Affiliates* or agents shall be bound by the confidentiality obligations offering no less than the same level of protection as stipulated in this *Agreement*.

(b)   Any unauthorised disclosure or use of *Confidential Information* by *Receiving Party*'s employees, *Affiliates*, subcontractors or agents shall be deemed a breach of this *Agreement* by *Receiving Party*. In this case, *Receiving Party* shall be liable to *Disclosing Party* to the same extent as if *Receiving Party* committed such breach itself.

7.2.   Reasonable care

Receiving Party will keep *Confidential Information* secret by using at least the same care and discretion that *Receiving Party* uses with respect to its own trade secrets and in no case less than reasonable care.

7.3.   Exceptions of confidentiality

Confidential Information does not include information that

(a)   was known to *Receiving Party* prior to its disclosure by *Disclosing Party*,

(b)   has become generally available to the public (other than through *Receiving Party*),

(c)   is obtained by *Receiving Party* from a *Third Party* under no obligation of confidentiality to *Disclosing Party*,

(d)   is considered as supporting information in order to enable *Services*.

7.4.   General disclosure permissions

Receiving Party may disclose *Confidential Information* if such disclosure is required according to applicable laws or governmental regulations, provided that *Receiving Party* has previously notified *Disclosing Party* of the disclosure by e-mail in parallel with the written notice and has taken reasonable and lawful actions to avoid and minimise the extent of the disclosure.

7.5.   Special disclosure permissions

For the purposes of providing its *Services* under this *Agreement* and to enable a quick and smooth onboarding, *Service Provider* is asked from time to time by *Shippers* to forward *Customer*'s data to *Shippers*. *Service Provider* may share the following non-personal data including, but not limited to the following:

•   date since when *Customer* is using *Platform*

•   which contract version of this *Agreement Customer* concluded

•   which modules *Customer* uses

•   which interfaces *Customer* has with *Service Provider*

•   status of *Customer's* onboarding

- kind of trainings *Customer* received from *Service Provider*

- number of devices used for *Visibility Services*

- information about the steps *Customer* takes in order to implement *Visibility Services* (e.g. organisation of internal trainings with the driver)

- if *Customer* is actively using *Visibility Services*.

7.6. Survival and replacement

The provisions of **7 (Confidentiality)** shall survive the termination of this *Agreement* for a period of 5 years from the date of effective termination of this *Agreement*.

7.7. Forwarding data and information

In the event *Customer* is acting as a forwarder on *Platform* and is therefore using the "sub assignment" function, *Customer* must ensure that *Customer* is entitled to forward the data/information from *Platform* to a subcarrier/subcontractor. If *Customer* is not entitled to do so, *Customer* has the possibility to delete/edit the data/information.

8. Warranty. Software defects

Service Provider warrants that *Services* may be used in accordance with the provisions of this *Agreement*. Rights in case of defects shall be excluded in case of minor or immaterial deviations from the agreed or assumed characteristics or in case of just slight impairment of use. Product descriptions shall not be deemed guaranteed unless separately agreed in writing. In particular, a functional impairment does not constitute a defect if it results from hardware defects, environmental conditions, wrong operation, flawed data or other circumstances originating from *Customer*'s sphere of risk.

8.1. Software defects

8.1.1 Remedy

(a) *Service Provider* remedies software defects at its option by providing a new version of *Platform* or by indicating reasonable ways to avoid the effects of the defect.

(b) Defects must be notified in writing or via e-mail with a comprehensible description of the error symptoms, as far as possible evidenced by written recordings, hard copies or other documents demonstrating the defects.

(c) The notification of the defect should enable *Service Provider* to reproduce the error.

(d) *Service Provider* may refuse to remedy defects until *Customer* has paid the agreed fees to *Service Provider* less an amount that corresponds to the economic value of the defect.

8.1.2 Investigation

(a) If the cause of the defect is not obvious to *Customer*, *Service Provider* will investigate the cause.

(b) *Service Provider* may demand compensation for such investigation on the basis of its fees per hour valid at the time of the investigation if *Service Provider* is not responsible for the defect, in particular, if the defect is due to *Customer*'s usage of unsuitable hardware or externally obtained components, or to *Customer*'s interference.

(c) *Service Provider* may demand compensation for such investigation on the basis of its fees for time and material valid at the time of the investigation if a defect does not exist and *Customer* was at least negligent in failing to recognize this when notifying the defect.

8.2. Unauthorised modifications

(a) In case of any modifications to *Services* and/or *Platform* by *Customer* or any *Third Party* acting on its behalf, any warranty claims are excluded, unless *Customer* proves that such modification had no influence on the defect.

(b) *Service Provider* is not liable for any defects that are caused by improper use or improper operation by *Customer* or the use of unsuitable means of operation (e.g. the use of non-supported hardware or operating systems).

8.3. Performance agreed

(a) *Service Provider* is not a party to the contracts between *Customer* and other *Users*. *Service Provider* does not warrant that any offer will be matched by a corresponding demand or that any contract will be concluded between *Customer* and other *Users*.

(b) *Service Provider* is not responsible for the provision of any performance contractually agreed between *Customer* and other *Users* or for the provision of any consideration.

8.4.   Accuracy and correctness

(a)   *Service Provider* is not responsible for the accuracy and correctness of the information that *Customer* or other *Users* enter and/or provide when using *Platform*.

(b)   *Service Provider* is solely and exclusively responsible for the accurate calculation of the results based on the provided information and for the correct data transmission.

8.5.   Reliability of *Users*

Service Provider gives no warranty as to the reliability of other *Users*.

8.6.   Provision of services by third parties

8.6.1   Data and links

Service Provider links to or offers services of *Service Partners* (hereinafter **Other Services**) on *Service Provider*'s website or otherwise through *Services* for making available content, products, and/or services to *Customer*. These *Service Partners* may have their own terms and conditions of use as well as privacy policies and *Customer*'s use of these *Other Services* will be governed by and be subject to such terms and conditions and privacy policies. For the cases where a direct link to *Other Services* is provided, *Service Provider* does not warrant, endorse or support these *Other Services* and is not responsible or liable for these or any losses or issues that result from *Customer*'s use of such *Other Services*, since that is outside of *Service Provider*'s control. *Customer* acknowledges that *Service Provider* may allow *Service Partners* to access *Customer*'s data used in connection with *Services* as required for the inter-operation of *Other Services* with *Services*. *Customer* represents and warrants that *Customer*'s use of any *Other Services* represents *Customer*'s independent consent to the access and use of *Customer*'s data by *Service Partners*.

8.6.2   Loss of data

Liability for loss of data is limited to the normal recovery expenses that would result in the event of regular appropriate backup copies being made by *Customer*. *Customer*'s duty to mitigate damages remains unaffected.

9.   Compliance

(a)   Both *Parties* shall comply and shall ensure that their representative employees or agents carrying out obligations hereunder or using *Platform* and *Services* comply with all applicable laws, regulations, ordinances, rules and standards, and shall submit to the standard Code of Conduct of *Service Provider* available at **https://investor.trimble.com/files/doc_downloads/gov_docs/Trimble-Code-of-Business-Conduct-and-Ethics-US-English-en_US.pdf**.

(b)   In order to conduct business activities ethically and with integrity, both *Parties* shall adhere in particular to all applicable laws in the following areas, i.e. human rights, occupational health and safety, anti-bribery and corruption, competition and antitrust, and environmental laws.

(c)   In connection with the execution of this *Agreement* and any additional agreements in the performance of its obligations hereunder and in using *Platform* and *Services*, *Customer* agrees to comply with all applicable anti-corruption laws regulations including but not limited to the US Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act 2010 and any amendments thereto.

(d)   During the term of this *Agreement*, in connection with any contract or business relationship solicited, contemplated, or entered into using *Services*, as well as in connection with its use of *Platform* and *Services*,

- *Customer* shall not, and shall not permit any of its authorized *Users* or representatives to, provide, offer, promise or authorize the payment or giving of any money, fee, commission, remuneration or any other valuable item to or for the benefit of any government official in order to influence an act or decision in violation of his or her lawful duty and applicable law for the purpose of obtaining or retaining business or for the purpose of securing an improper advantage or creating a conflict of interest (collectively **Bribery**);
- *Customer* shall not, directly or indirectly offer or promise to any person, or demand or accept from any person, any personal or improper financial or other advantage that has the ability to influence decision-making of *Customer*, any other person or to create a conflict of interest deceive or mislead other customers, *Customer's* directors, officers, employees, consultants or agents with the intent to deprive them of some legal right.

(e)   *Customer* shall inform *Service Provider* immediately in the event of knowledge or reasonably founded suspicion that any person under the control or affiliated with *Customer* is committing or attempting to commit any act of, or in furtherance of, *Bribery* in connection with its use of *Platform* and *Services*.

(f)   Both *Parties* shall adhere to the relevant competition and antitrust laws.

(g)   Unless otherwise stipulated, these laws prohibit competitors from discussing or agreeing on markets (i.e., allocation of segments on industries, territories, products, and services), conditions, prices, business strategies, and activities (e.g., bid rigging, participation in tender procedures, price fixing, price discrimination).

Customer must not enter into any agreement (written or verbally), or engage in any other forms of activity, which has as its object or effect the prevention or restriction of competition and/or which breaches applicable laws relating to competition or fair trade. Moreover, *Customer* should refrain from taking part in agreements or concerted practices that breach anti-trust or anti-boycott laws, whether in their own favor or in favor of *Third Parties*.

No unfair advantage is taken through of any dominant market position *Customer* might hold, manipulation, concealment or misrepresentation of material facts, abuse of confidential or privileged information, or like practices.

(h)   The same applies to the exchange of competitively sensitive information, i.e. all information that is not public and could be used by a competitor or supplier to offer service or to make production, pricing or marketing decisions, including but not limited to information relating to costs, capacity, distribution, marketing, supply, market territories, customer relationships, the terms of dealing with any particular customer, and current and future prices, bids, or price lists.

(i)   *Customer* shall take commercially reasonable measures to ensure its compliance with applicable anti-terror regulations and other national and international embargo and trade control rules.

(j)   *Customer* represents and warrants that it is not and will not be during the term of this *Agreement* subject to any restrictions on export of goods or technology that apply to their use of *Platform* and *Services*.

(k)   Both *Parties* agree that while providing and using *Services* to perform all activities in strict compliance with all provisions of all trade, customs, import and export and sanctions and other related and similar laws, regulations, requirements, and restrictions which are applicable under the laws of its respective territories and any other jurisdiction applicable to the business conducted, such as:

- export control laws, applicable trade sanctions and trade embargoes, laws that govern dual use goods;
- prohibitions to deal with 'Denied' or 'Restricted' parties, i.e., no legal group entity, its directors, employees, and/or subcontractors appear on any Watch and/or Sanctions lists issued by the UN, EU, UK, and/or the US governmental bodies (collective **Sanctions- and Watch lists**)

(l)   *Customer* shall notify *Service Provider* immediately in writing or via e-mail in the event *Customer* or any of its *Users* or a counterparty to any contract contemplated or entered into using *Platform* and *Services* becomes listed on any sanctions list.

10. Indemnification

10.1. Indemnification by *Customer*

(a)   *Customer* is liable in case of any claims by *Third Parties* for damages incurred by such *Third Parties* in connection with *Customer*'s usage of *Services*.

(b)   *Customer* agrees to indemnify, defend, release, and hold *Service Provider*, and all *Service Partner*, licensors, affiliates, contractors, officers, directors, employees, representatives and agents, harmless, from and against any *Third Party* claims, damages (actual and/or consequential), actions, proceedings, demands, losses, liabilities, costs and expenses (including reasonable legal fees) suffered or reasonably incurred by *Service Provider* arising as a result of, or in connection with:

- any negligent acts, omissions or wilful misconduct by Customer;
- any breach of this Agreement by Customer; and/or
- *Customer*'s violation of any law including but not limited to data protections laws or of any rights of any *Third Party*.

(c)   In the event *Service Provider* seeks indemnification from *Customer* according to **10 (Indemnification)**, *Service Provider* will inform *Customer* promptly in writing or via e mail.

(d)   In this case, *Service Provider* is entitled to appoint a legal counsel and to control any proceeding necessary to safeguard its rights as well as to demand reimbursement of the associated costs.

10.2. Indemnification by *Service Provider*

(a)   *Service Provider* will indemnify *Customer* from claims of *Third Parties* arising from the infringement of their *Intellectual Property* rights which have arisen through the use of *Services* by *Customer* to the extent set out in "Liability".

(b)   *Customer* will give *Service Provider* prompt written notice in parallel with an e-mail notification of such claim. *Customer* will also provide information, reasonable assistance as well as the sole authority to *Service Provider* to defend or settle such claim.

(c)   *Service Provider* may, at its reasonable discretion,

(i)   obtain for *Customer* the right to continue using *Services*, or

(ii)   replace or modify *Services* so that they become non-infringing; or

(iii)   cease to provide *Services* and reimburse *Customer* for reasonable expenses resulting therefrom.

10.3. No obligation

(a)   If *Customer* resolves the dispute with a *Third Party* without the prior written consent of *Service Provider*, *Service Provider* is not obliged to indemnify *Customer* in accordance with the provisions of **10.2 (Indemnification by Service Provider)**.

(b)   *Service Provider* will have no obligation to indemnify *Customer* if the infringement is based on an unauthorised modification of *Services* by *Customer* or a *Third Party* on *Customer*'s behalf or the usage of *Services* in combination with any hardware, software or material not consented to by *Service Provider*, unless *Customer* proves that such modification or usage had no influence on the asserted claims for infringement.

11.   References

Service Provider is entitled to use the name of *Customer* as well as *Customer*'s logo for reference purposes in external communications and commercial material, in particular, on *Service Provider*'s website, homepage and its official social media channels, targeted e-mail campaigns, as well as folders and brochures, websites. Hereunto *Customer* grants *Service Provider* a simple, transferable, revocable right to use its name and logo. Any further usage will be agreed with *Customer* in advance.

12.   Interpretation

If any individual provision of this *Agreement* is or becomes ineffective in part or in whole, this does not affect the validity of the remaining provisions.

13.   Assignment

Customer is not entitled to assign any of the rights and obligations of this *Agreement* without prior written approval by *Service Provider* unless the corresponding claim is a monetary claim.

14.   Declarations

(a)   Both *Parties* shall make all legally relevant declarations in connection with this *Agreement* in writing or via e-mail.

(b)   *Customer* will keep its *Contact Data* up to date and notify *Service Provider* of any changes without undue delay.

15.   Force Majeure

Except for payment obligations, neither *Party* will be liable for a failure to perform hereunder to the extent that performance is prevented, delayed or obstructed by causes beyond its reasonable control, which include without limitation (i) disruptions in a wireless provider's network or infrastructure; (ii) failures of, changes, modifications, or alterations to your network facilities, equipment or software; (iii) misuse of or damage to *Platform*. Delays or failures that are excused as provided in this paragraph will result in automatic extensions of dates for performance for a period of time equal to the duration of the events excusing such delay or failure. No such excused delay or failure will constitute a default, or, except to the extent a related performance obligations is incomplete or unperformed, be a basis for disputing or withholding amounts payable hereunder, provided that the *Party* whose performance is delayed or suspended will use commercially reasonable efforts to resume performance of its obligations hereunder as soon as feasible.

16.   Changes

(a)   *Service Provider* is entitled to make changes of this *Agreement* as well as any other conditions if these become necessary due to new technical developments, changes in the law, extensions to *Services* or other comparable compelling reasons. If a change disrupts the contractual balance between *Parties* substantially, such change will not come into force.

(b)   *Service Provider* will give *Customer* at least 45 days prior written notice (also via e-mail or instant message on *Platform*) before the changes enter into effect.

(c)   The changes are deemed approved by *Customer* if *Customer* does not object in writing or via e-mail or via *Platform* within 4 weeks after having received the notification from *Service Provider*. This consequence will be expressly pointed out in the notification. If *Customer* objects to the changes, both *Parties* may terminate this *Agreement* in accordance, with the proviso, however, that the termination shall become effective no later than the effective date of the relevant notification.

17.   Entire *Agreement*

(a)   This *Agreement* constitutes the entire agreement between *Parties* and supersedes all prior negotiations, declarations or agreements, either oral or written, related hereto.

(b)   *Service Provider* does not recognise any deviating or supplementary conditions set out by *Customer*.

Annex: Terms and conditions specific to Transporeon GmbH

1.   Definitions

Data Protection Officer	*Data Protection Officer* can be contacted via post under the keyword *"Data Protection Officer"* to the above-mentioned address or via e-mail to **transporeon_dataprotection@trimble.com**
Data Subject	Any identified or identifiable natural person
Standard Contractual Clauses	Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council - MODULE ONE: Transfer controller to controller

2.   Terms

2.1.   Liability

2.1.1   General

(a)   Insofar as not otherwise provided for herein, including the following provisions, *Service Provider* shall be liable according to the relevant statutory provisions in case of a breach of contractual and non-contractual duties.

(b)   *Service Provider* shall be liable for damages – irrespective for what legal grounds – in case of willful intent and gross negligence. With slight negligence, *Service Provider* shall only be liable for damages from the breach of a material contractual duty (i.e. those duties whose fulfilment is required in order to allow the contract to be duly performed and in relation to which *Customer* is entitled to regularly rely on for Services); in this case *Service Provider's* liability is, however, limited to the reimbursement of the reasonably foreseeable, typically occurring damages.

(c)   This limitation of liability does not apply to damages from the injury to life, body or health.

(d)   *Customer* is aware that *Service Provider* has not created and/or examined the data transmitted via *Platform*. Therefore, *Service Provider* is not liable for such data, their legality, completeness, accuracy or up-to-date nature, nor is *Service Provider* liable for such data being free of any *Third Party's Intellectual Property* rights. *Service Provider* is not liable for damages arising from downloading or another use of unchecked harmful data via *Platform*. Any liability in accordance with §§7 et seq. Telemedia Act (Telemediengesetz, "TMG") remains unaffected.

(e)   The limitations of liability stated above shall not apply if *Service Provider* has maliciously failed to disclose a defect or has assumed a guarantee for the condition of *Services*. The same shall apply to claims of *Customer* according to the Product Liability Act (Produkthaftungsgesetz), if applicable.

(f)   To the extent *Service Provider's* liability for damages is excluded or limited, this shall also apply with regard to the personal liability for damages of its representatives, employees and other vicarious agents.

2.1.2   Data and links

Service Provider links to or offers services of *Service Partners* (hereinafter *Other Services)* on *Service Provider's* website or otherwise through *Services* for making available content, products, and/or services to *Customer*. These *Service Partners* may have their own terms and conditions of use as well as privacy policies and *Customer's* use of these *Other Services* will be governed by and be subject to such terms and conditions and privacy policies. For the cases where a direct link to *Other Services* is provided, *Service Provider* does not warrant, endorse or support these *Other Services* and is not responsible or liable for these or any losses or issues that result from *Customer's* use of such *Other Services*, since that is outside of *Service Provider's* control. *Customer* acknowledges that *Service Provider* may allow *Service Partners* to access *Customer's* data used in connection with *Services* as required for the inter-operation of *Other Services* with *Services*. *Customer* represents and warrants that *Customer's* use of any *Other Services* represents *Customer's* independent consent to the access and use of *Customer's* data by *Service Partners*.

2.1.3   Loss of data

Liability for loss of data is limited to the normal recovery expenses that would result in the event of regular appropriate backup copies being made by *Customer*. *Customer's* duty to mitigate damages remains unaffected.

2.1.4   No strict liability

Any strict liability of *Service Provider* for defects existing at the time of the contract conclusion in terms of the rental provisions of law (§536a Civil Code (Bürgerliches Gesetzbuch, hereinafter BGB)) are hereby excluded. §536a Section 2 sentences 1 and 2 BGB remain unaffected.

2.2.   Data protection

2.2.1   Processing of personal data

2.2.1.1   Compliance with laws

Service Provider and *Customer* shall comply with any laws and regulations in any relevant jurisdiction relating to data protection or the use or processing of personal data.

2.2.1.2   Processing of personal data

(a)   Save for *Visibility Services*, *Service Provider* determines the purposes and means of processing personal data within the scope of *Services* provided under this *Agreement* and thus acts as an independent controller.

(b)   The details on the processing of personal data (Privacy Notice) can be found on the login page of *Platform* in the footer or online at **https://legal.transporeon.com/DP/PLT/en_Platform_Privacy_Policy.pdf**

(c)   On behalf of *Customer*, *Service Provider* processes personal data of drivers within *Visibility Services*, in particular

- •   Location data (e.g. GPS position)
- •   License plate

This data is processed, inter alia, to bring more transparency to the transportation process. This also covers the estimation of delays, the measurement of transport routes and the optimisation of predictions for transport times (= "ETA" calculations). The Data Processing Agreement, in accordance with standard contractual clauses between controllers and processors in the EU/EEA and published under: **https://www.transporeon.com/en/system/dpa**, shall govern the processing activities in **2.2.1.2 (c) (Processing of personal data)** and shall be incorporated in this *Agreement* by reference.

As a data controller for the purposes in **2.2.1.2 (c) (Processing of personal data)**, *Customer* in particular is responsible for informing *Data Subjects* pursuant to Art. 13 and Art. 14 GDPR about the processing of their personal data for the purposes of this *Agreement*. In order to assist *Customer*, *Service Provider* has summarized the details on the processing of personal data (Privacy Notice – especially for drivers) of drivers as *Data Subjects* under: **https://legal.transporeon.com/DP/RTV/en_Driver_Privacy_Policy.pdf**.

(d)   In the event of usage via *Transporeon Trucker*, the data is processed in accordance with Art. 6 Para. 1 lit. a) GDPR if the respective driver has given his explicit consent. *Service Provider* acts as an independent data controller with respect to *Transporeon Trucker*.

2.2.2   Obligations under data protection law

2.2.2.1   Provision of personal data

(a)   *Customer* shall provide *Service Provider* with the personal data required for the performance of *Services* under this *Agreement*. This includes in particular the personal data mentioned in the Privacy Notice (see **2.2.1.2 (b) (Processing of personal data)**).

(b)   The data may be either provided directly by *Customer* or by *Data Subjects* at the instigation of *Customer*.

(c)   *Customer* will ensure that the personal data provided is limited to the required minimum (principle of data minimisation).

2.2.2.2   Information of Data Subjects

(a)   *Customer* shall provide any *Data Subjects*, whose personal data are transferred to *Service Provider*, with comprehensive and correct information pursuant to Art. 13 and Art. 14 GDPR about the processing of their personal data for the purposes of this *Agreement* in a concise, transparent, intelligible and easily accessible form, using clear and plain language.

(b)   *Customer* shall also inform *Data Subjects* about their rights according to Chapter III of the GDPR. These rights may include, in particular, the right of access, the right to rectification, the right to restriction of processing and the right to object.

(c)   These information obligations can be fulfilled by *Customer* – if not already known to *Data Subjects* – by providing the Privacy Notice (see **2.2.1.2 (b) (Processing of personal data)**) of *Service Provider*.

2.2.2.3   Lawfully processing

(a)   *Customer* warrants that any personal data provided directly by *Customer* or by *Data Subjects* at the instigation of *Customer* may be lawfully processed by *Service Provider*, *Local Subsidiaries* and *Service Partners* for the purposes of this *Agreement*.

(b)   *Customer* shall not use this personal data for monitoring the behaviour or the performance of *Data Subjects*, unless and only to the extent permitted by mandatory laws, collective agreements or employment contracts.

2.3.   Jurisdiction and governing law

(a)   This *Agreement* shall be exclusively governed by and construed in accordance with the substantive laws of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

(b)   The place of jurisdiction for any legal disputes is Ulm, Germany.

(c)   *Service Provider* retains the right to sue *Customer* in its respective general place of jurisdiction.

(d)   The place of performance for delivery and payment of *Services* is the seat of *Service Provider*, Germany.