



## «General terms and conditions for purchase agreements»

### 1. General

1.1. All business relationships between us «LOSTnFOUND AG» and our commercial customers shall be governed exclusively by our terms of sale, delivery and payment 'GTCs' below.

1.2. Unless agreed otherwise, the GTCs shall apply as a framework agreement in the version that is valid at that time the customer places an order or otherwise in the version most recently imparted to the customer in writing.

1.3. The GTCs shall apply to the exclusion of other documents. Any general terms and conditions of the customer that differ from, conflict with, or supplement the present GTCs shall only become a contract component if LOSTnFOUND expressly agrees to their validity.

1.4. For the purpose of these GTCs, commercial customers are defined as individuals or corporate entities or incorporated business partnerships, as well as corporate entities under public law or special funds under public law, who each act to exercise a commercial or independent professional occupation.

1.5. The products we sell are intended to be used subject to the relevant restrictions, which are more precisely defined in the telematics subscription. The customer must inform itself of applicable export regulations and other countries' legal requirements. Re-exports shall be subject to the foreign trade regulations of Switzerland or the country of origin.

1.6. LOSTnFOUND must agree in writing to transfers of customer rights and duties arising from the purchase agreement for such transfers to be valid.

### 2. Offer and acceptance

2.1. Offers from LOSTnFOUND shall be non-binding, subject to change and are aimed exclusively at businesses.

2.2. The technical specifications used by LOSTnFOUND when the contract is entered (such as appearance, weight, dimensions and performance specifications) that are contained on price lists, in brochures and other printed materials, as well as on websites, are only examples and approximations, unless they are expressly indicated as binding. The products LOSTnFOUND sells may therefore differ from those described and shown due to actual, temporal and/or technical advances and innovations.

2.3. The written description on page 1 of this purchase agreement defines the scope of delivery. The offer shall otherwise be non-binding. A customer's goods order shall be considered a binding offer to enter into a contract. Orders are accepted through an order confirmation by the customer or delivery by LOSTnFOUND, while reserving the right to partial acceptance and partial delivery.

2.4. The customer gives its consent to LOSTnFOUND:

- Collecting information about the customer and forwarding data related to the customer's payment history in the context of entering into and processing the contract
- forwarding data to third parties for collection purposes
- Processing the customer's data for marketing purposes, namely in order to design and develop needs-appropriate services and customised offers
- The data protection policy published on the LOSTnFOUND website shall also be applicable.

### 3. Prices and payment

3.1. The prices quoted by LOSTnFOUND are net prices for collection at the LOSTnFOUND warehouse, which is currently in Adliswil, plus statutory VAT, shipping, packaging and insurance, unless agreed otherwise.

3.2. In principle, invoices are issued and payable in Swiss francs. Invoices are issued after the required services are performed. LOSTnFOUND is, in principal, permitted to send all invoices to customers electronically, unless a customer sends a written request for an invoice to be sent physically. Requests for paper copies of invoices shall incur a flat administrative fee of CHF 2.50 each.

3.3. The sale price shall be due and payable within 14 days of the invoice date. LOSTnFOUND shall be entitled to demand advance payment for all or part of a delivery at any time, even during an ongoing business relationship. LOSTnFOUND shall inform the customer of this option at the latest with its order confirmation.

3.4. If the customer has neither paid the invoice by the due date nor raised justified objections to an invoice in writing, it shall automatically fall into arrears and LOSTnFOUND may, to the extent permitted by law, interrupt service provision for all services, take additional steps to prevent further losses and/or terminate the contract immediately and without compensation. The customer shall bear all costs incurred by LOSTnFOUND resulting from late payment. In particular, the customer shall owe LOSTnFOUND 5% interest on arrears and a reminder fee of at least CHF 5.00 per reminder. In the event of third-party collections, the customer shall be liable for additional fees for collection expenses. Should the customer's account lack sufficient funds for a direct debit, LOSTnFOUND may charge a processing fee of at least CHF 40.00.

3.5. The customer shall only be entitled to offset or refuse payment if its claim is legally binding or undisputed. In the case of delivery defects, the customer's reciprocal rights shall remain unaffected.

3.6. If, after the contract is entered into, it becomes clear (for instance, through an application to begin insolvency proceedings) that payment of the sale price is threatened by the customer's inability to pay, LOSTnFOUND is entitled to refuse service in accordance with the statutory provisions and - if need be, after having set a deadline - withdraw from the contract. In the case of contracts for the manufacture of single items (unique products), LOSTnFOUND may declare its withdrawal immediately; statutory requirements on dispensing with deadlines shall remain unaffected.

3.7. Money orders, cheques and bills of exchange shall be accepted only as conditional payments.

### 4. Delivery deadline

4.1. An anticipated delivery deadline shall be agreed individually or stated by LOSTnFOUND when accepting an order. The delivery deadline shall be binding only if expressly designated as such. It cannot, however, be scheduled before the customer provides the necessary documentation.

4.2. Customer rights pursuant to Art. 10 of these GTCs and the statutory rights of LOSTnFOUND, particularly for an exclusion of the duty of performance (for example, because performance and/or supplementary performance is impossible or infeasible) shall remain unaffected.

### 5. Retention of title

5.1. Delivered goods remain the property of LOSTnFOUND until full payment of the sale price and all receivables resulting from the entire business relationship, regardless of type.

5.2. Goods under retention of title may not be pledged to third parties or assigned as a security before secured receivables are paid in full. The customer must inform LOSTnFOUND in writing immediately if it has filed an application to begin insolvency proceedings or if third parties seize goods that belong to LOSTnFOUND (for example, through attachment).



5.3. If the customer acts in violation of contract, particularly by not paying the sale price due, LOSTnFOUND shall, in accordance with the statutory provisions, be entitled to withdraw from the contract and/or reclaim goods on the basis of retention of title.

#### **6. Delivery, transfer of risk and acceptance**

6.1. Goods are dispatched at the discretion of LOSTnFOUND from its warehouse, which is currently in CH-8134 Adliswil, at the customer's expense and risk. This is also the place of performance for delivery and any subsequent performance. LOSTnFOUND reserves the right to dispatch from a location other than the place of performance. Goods shall be dispatched to a different destination at the customer's request and expense.

6.2. The risk of accidental loss and accidental deterioration of goods passes to the customer no later than the time of transfer. In the case of sales where delivery is to a place other than the place of performance, the risk of accidental loss and accidental deterioration of goods as well as the risk of delay passes to the courier, the shipper or any other person or institution designated to deliver the items at the time the goods are picked up for dispatch. This risk shall be deemed to have been transferred even if the customer fails to accept the items in good time.

6.3. If the customer does not accept goods that have been properly made available for delivery, it must bear the additional costs incurred as a result (return transport costs, storage costs, etc.).

#### **7. Delivery defects**

7.1. Unless specified otherwise, statutory regulations apply for customer rights in the event of material defects and defects of title. Special statutory provisions for ultimate delivery of goods to a consumer (supplier recourse) shall remain unaffected in all cases.

7.2. Where no specific quality specifications were agreed, statutory requirements are to be used to determine whether there is a defect or not.

#### **8. Customer's duty to cooperate**

8.1. The customer must ensure that the organisational and technical prerequisites for the agreed services to be rendered are in place. Should the customer not fulfil this duty to cooperate, or do so incorrectly, late, or receive goods late or pay late, LOSTnFOUND shall have the option, after the unsuccessful lapse of an appropriate extension, of either withdrawing from the contract in return for complete indemnity or continuing to render the agreed services and additionally billing the customer at the agreed rate or standard market rate for the expenses incurred through the customer's violation of its duty to cooperate. The customer shall be informed within the context of order acceptance of the duties to cooperate that are required for the provision of the service.

8.2. Where available, manuals and directions shall be provided in German or English as part of the deliveries or shall be made available online. Customers shall not be entitled to seek legal recourse if these documents are not available in German.

8.3. A customer may file claims for defects only if it has met its statutory duties to inspect and notify of nonconformity (Sections 377, 381 Commercial Code). If a defect is found during delivery, inspection or later, we must be immediately notified in writing. In all cases, obvious defects must be reported in writing within five working days of delivery and defects not obvious during inspection must be reported in writing within five working days of being discovered. In accordance with the statutory provisions, if the customer fails to properly inspect and/or report defects, LOSTnFOUND cannot be held liable for defects not reported, not reported on time or not reported properly.

8.4. If an item is defective when delivered, LOSTnFOUND may decide whether to provide subsequent performance by correcting the defect (rectification) or by delivering an item that is free of defects (replacement delivery). The right to

refuse subsequent performance pursuant to statutory requirements shall remain unaffected.

8.5. LOSTnFOUND shall be entitled to make any subsequent performance it owes dependent on the customer paying the due sale price. The customer shall, however, be entitled to retain an appropriate proportion of the sale price in relation to the defect.

8.6. The customer must provide the time and opportunity that LOSTnFOUND requires for the subsequent performance owed, and in particular must hand over the defective goods for inspection purposes. In the case of a replacement delivery, the customer must return the defective item in accordance with the statutory provisions. Subsequent performance shall not include uninstalling or reinstalling a defective item if LOSTnFOUND did not originally have an obligation to install it.

8.7. The expenses incurred as a result of inspections and subsequent performance shall be borne by both parties in equal measure. The customer shall bear the cost of uninstalling the item, transporting it to the return address provided by LOSTnFOUND, and reinstalling it. LOSTnFOUND shall bear the cost of inspecting the item and returning it to the customer. Pursuant to Art. 9 of these GTCs, LOSTnFOUND shall be entitled to demand that the customer reimburse costs resulting from an unjustified request for correction of defects (especially costs for inspection and transport).

8.8. In urgent cases, such as where operational safety is threatened or to prevent excessive losses, the customer shall have the right to rectify the defect itself and request that LOSTnFOUND reimburse the expenses objectively required to do so. The customer should inform LOSTnFOUND before undertaking such a step. The customer's right to rectify defects on its own shall not apply if LOSTnFOUND would have been justified in refusing subsequent performance in accordance with the statutory provisions.

8.9. Customer claims to compensation or reimbursement of expenditures incurred in vain shall be governed exclusively by Art 10, even in the case of defects.

8.10. Contrary to Section 210 (Swiss Code of Obligations) the general time limit for claims resulting from material defects and defects of title is one year after delivery. Should the buyer arrange to collect an item, this time limit shall commence from the time of collection.

8.11. The above time limits on purchase rights shall also apply to contractual and noncontractual customer claims for compensation that are based on a goods defect, unless applying the regular statutory time limit would lead to a shorter time in an individual case. However, customer claims for compensation pursuant to Art 10 of these GTCs and pursuant to the Product Liability Act shall expire exclusively in accordance with the statutory time limits.

#### **9. Returns/RMA process**

9.1 The customer shall be obliged to request a return number (RMA number) before returning a device. The customer is advised that by issuing an RMA number, LOSTnFOUND is not agreeing to allow a device to be returned for credit, exchange or any other customer claim. Only use the supplied RMA return forms and the return address given there, currently in Adliswil.

9.2. The customer shall bear the dispatch, installation and reinstallation costs for RMA packages. Packages sent carriage-forward and packages without an RMA number shall either be refused by LOSTnFOUND or incur a fee of CHF 25.00.

9.3. LOSTnFOUND shall bear the device costs in all legitimate warranty claims. Relevant price lists shall apply in cases when incomplete devices are completed with cable sets, antennas, etc. If a technical defect cannot be found on a device, a service fee of CHF 40.00 per device shall be charged.



#### **10. Limitations on liability**

10.1. To the extent that nothing else arises from these GTCs including the following provisions, LOSTnFOUND is liable in the event of a violation of contractual and noncontractual duties in accordance with the statutory provisions.

10.2. No claims for compensation may be filed against LOSTnFOUND, its legal representatives, its subcontractors or employees, regardless of the type and legal basis, for instance due to a breach of duty or unauthorised action. Should LOSTnFOUND, its legal representatives or executives be guilty of intent or gross negligence, LOSTnFOUND shall be liable in accordance with the statutory provisions.

10.3. All liability shall be excluded for losses resulting from ordinary negligence. This provision on liability shall also apply to advice provided verbally and in writing, through testing or other means. In particular, the customer shall not be exempted from the obligation to ensure that goods and services are suited for their intended use.

10.4. In particular, LOSTnFOUND shall not be liable for: loss of earnings, losses resulting from vehicle breakdowns or damage to goods transported with said vehicles, loss of expected savings, loss of yields, loss of business opportunities, lost and damaged data, loss of use, loss of goodwill, losses due to delays, or any indirect losses, damage or subsequent losses.

10.5. Claims in accordance with the Product Liability Act shall not be affected by this exclusion of liability. This shall also apply to liability for losses resulting from death, physical injury or damage to health.

10.6. LOSTnFOUND shall reimburse justified material and financial losses on the net price paid or to be paid by the customer for the entire year (12 months) in which the loss or damage occurred, or on the price paid for those products or

the rental prices that the customer paid or is to pay for those products that caused the loss for the preceding period of twelve (12) months, whichever is greater.

#### **11. Copyrights**

11.1. Property rights and copyrights are reserved for all documents belonging to the offer, such as drawings, project proposals, presentations, descriptions of software, calculations and samples. These documents must not be made available to third parties in their original or any other form without permission from LOSTnFOUND and must also be returned to us on request.

#### **12. Place of jurisdiction**

12.1. Unless otherwise stated, the place of performance shall be the registered office of LOSTnFOUND. If the customer is a merchant, a corporate entity under public law or a special fund under public law, the exclusive place of jurisdiction - including internationally - for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of LOSTnFOUND, currently CH-8134 Adliswil (Zurich). The same place of jurisdiction shall apply if the customer does not have a general place of jurisdiction domestically or if its domicile or normal place of residence is unknown at the time the lawsuit is filed.

#### **13. Choice of law**

13.1 Swiss law applies to the contractual relationships. The provisions of the CISG (United Nations Convention on Contracts for the International Sale of Goods) of 10 April 1980 and subsequent laws do not apply.

#### **14. Severability clause**

14.1. If the above terms, the other contractual foundations between the parties or parts thereof are or become entirely or partially invalid, the validity of the remaining provisions shall not be affected. Provisions that are entirely or partially invalid are to be replaced with a valid provision whose economic result most closely reflects that of the invalid provision.

CH-Adliswil, June 2018



## II. Special contract terms for «Telematics subscription»

### 1. General

1.1. Individuals or corporate entities who use the Telematics subscription and corresponding cloud ('service') and who use the LOSTnFOUND service are referred to as 'bill payers'. The 'user' is an individual who is either the same person as the bill payer or a person named as a user in the telematics subscription. By concluding a telematics subscription, the user becomes entitled to use the associated services that LOSTnFOUND offers in its function as the provider of this service.

1.2. The bill payer signs the telematics subscription electronically via the system provided by LOSTnFOUND. The bill payer shall be sent an electronic copy. A user is entitled to represent a bill payer and take steps in the name of the bill payer for all subscription-related matters. The bill payer is responsible for the user having the corresponding rights to represent the bill payer.

1.3. The present GTCs apply to business relations between LOSTnFOUND and commercial customers who have started a telematics subscription. LOSTnFOUND is entitled to change these terms subject to appropriate advance notice, provided that the change is reasonable for the customer while taking into account the interests of LOSTnFOUND. The customer shall be informed of changes in writing. If changes are to the customer's disadvantage, the customer has a special right of termination at the time the change takes effect. In this notification of changes, LOSTnFOUND shall inform the customer of this special right of termination and that the change shall take effect if the customer does not make use of the special right of termination within the set time.

1.4. The present terms apply to the exclusion of other terms. Any general terms and conditions of the customer that differ from, conflict with, or supplement the present GTCs shall only become a contract component if LOSTnFOUND expressly agrees to their validity.

1.5. LOSTnFOUND must agree in writing to transfers of customer rights and duties arising from this contract for such transfers to be valid.

### 2. Object of contract

2.1. LOSTnFOUND operates the service as a SaaS or cloud solution. The customer shall be enabled to use the software that is saved and running on the servers of the provider or a service provider commissioned by LOSTnFOUND via the internet, for its own purposes and for the duration of this contract, and to store and process its data with their help.

2.2. LOSTnFOUND shall provide the service for the customer at the router output of the data centre in which the server with the software is located, the 'transfer point'. LOSTnFOUND shall provide the memory and processing power required for this use. LOSTnFOUND shall not be responsible for establishing and maintaining the data connection between the IT systems of the customer and the aforementioned transfer point.

2.3. The customer is familiar with the service and its capabilities. LOSTnFOUND has allowed the customer to test the service for its own purposes for the duration stated on page 1 of this agreement ('Scope of service for trial period'). The service has been developed taking into account due scientific diligence and the recognised rules of technological practice, and in particular, the recognised rules of programming. The customer is cognisant of the fact that LOSTnFOUND does not operate its own network and does not provide the customer with internet access. LOSTnFOUND therefore accepts no liability whatsoever for the functionality of the respective access to the Internet.

### 3. Service level and support

3.1. The LOSTnFOUND service shall have at least 98.5% availability and shall be calculated as follows:

$$\frac{[(total\ service\ hours) - (total\ hour\ out\ of\ service)]}{[total\ service\ hour]}$$

Availability shall be shown as a percentage. Service hours shall be taken as the number of hours per year (8,640 hours) and outage hours shall mean the number of hours during the last 12 months when the service was not available, less excluded events. Current availability can be viewed at

<https://performance.lostnfound.com>.

3.2. Excluded events include

- An outage caused by announced maintenance work, or
- Delayed or irregular delivery of data by end devices, or
- Disruptions/outages that can be traced back to user behaviour on the part of the customer, its employees, its representatives or third parties (such as a large number of simultaneous requests during a DDoS attack).

3.3. The following operating hours shall apply (CET):

- Normal operating hours are Monday to Thursday from 8:00 a.m. to 5:30 p.m., Fridays and before public holidays from 8:00 a.m. to 5:00 p.m.
- Technical support requests related to the service or offered end devices shall be accepted and processed on weekdays from 7:00 a.m. to 7:00 p.m.
- 24-hour control centre available for urgent, chargeable support cases outside normal support hours. When an emergency service is used, LOSTnFOUND shall be entitled to charge a flat fee that shall be quoted to the customer prior to its use of that emergency service.

3.4. A customer reporting a support case should supply as detailed a description of the functional disruption as possible to facilitate the efficient correction of the defect. LOSTnFOUND shall supply both a telephonic and an electronic ticketing system to process the support service.

### 4. Use of end devices and SIM cards

4.1. The SIM cards in end devices provided by LOSTnFOUND must only be removed from their corresponding devices if directed to do so in writing by LOSTnFOUND. LOSTnFOUND must be informed immediately if there is cause for suspicion that an unauthorised third party has gained access to these SIM cards.

4.2. Should a user lose their SIM card or the associated end devices, or should the SIM card be unusable for another reason for which LOSTnFOUND is not responsible, LOSTnFOUND shall provide a replacement on request, subject to the proviso that the bill payer has not violated their responsibilities pursuant to the GTCs in a manner that could be construed as sufficient to cancel the contract. The bill payer must pay CHF 50 for the new card and the effective list price for the end device.

4.3. An end device supplied by LOSTnFOUND may become unusable for technical reasons, even if the bill payer fulfils their duties. Where this is the case, LOSTnFOUND must be informed. In such cases, LOSTnFOUND shall provide a replacement on request at no cost if the devices are still within the

corresponding guarantee period. In this context, customers are advised to refer to Section 8 (Returns/RMA process) in the 'General terms and conditions for purchase agreements'.

4.4. SIM cards and the end devices that the bill payer receives may only be used for telematics services offered by LOSTnFOUND. Unless otherwise agreed, the bill payer's LOSTnFOUND subscription shall be valid when using SIM cards in the networks of international providers where these are approved by LOSTnFOUND. 4.5. LOSTnFOUND reserves the right to block cards and services if LOSTnFOUND has reason to suspect that an unauthorised party is using the card or that the card is or has been used in hardware not approved by LOSTnFOUND.

4.5. LOSTnFOUND reserves the right to block cards and services if LOSTnFOUND has reason to suspect that an unauthorised party is using the card or that the card is or has been used in hardware not approved by LOSTnFOUND.

#### 5. Technical changes and network problems

5.1. The user accepts the fact that a telecommunications signal may not be available everywhere without restriction. To function properly, LOSTnFOUND end devices require appropriate mobile network coverage. Poor network coverage may lead to a negative impact on data connections and cause information to be transmitted with a delay or not at all. In the case of location-based services, it is not always possible to determine the exact location. Car parks and dense urban areas may prevent precise positioning by satellites and mobile phone towers.

5.2. For legal, technical or de facto reasons, existing signal coverage at a specific location may deteriorate or disappear entirely. A seamless transition between different network technologies cannot be guaranteed.

5.3. LOSTnFOUND shall be entitled to suspend old technologies after informing the customer of its intention to do so. Customer rights pursuant to Art. 12ff of these GTCs and the statutory rights of LOSTnFOUND, particularly for an exclusion of the duty of performance (for example, because performance and/or subsequent performance are impossible or infeasible) shall remain unaffected.

5.4. LOSTnFOUND shall not be responsible for nor liable for damages resulting from operational problems such as interrupted connections, incomplete connections or suspended services.

#### 6. Service defects

6.1. Unless specified otherwise, statutory regulations apply for customer rights in the event of material defects and defects of title. The scope of service shall depend on the trial period accepted by the customer on page 1.

6.2. Where no scope of service was agreed, statutory requirements shall be used to determine whether or not a defect exists.

#### 7. Customer's duty to cooperate

7.1. The customer must ensure that the organisational and technical prerequisites for the agreed services to be rendered are in place. Should the customer not fulfil this duty to cooperate, or do so incorrectly, late, or receive goods late or pay late, LOSTnFOUND shall have the option, after the unsuccessful lapse of an appropriate extension, of either withdrawing from the contract in return for complete indemnity or continuing to render the agreed services and additionally billing the customer at the agreed rate or standard market rate for the expenses incurred through the customer's violation of its duty to cooperate. The customer shall be informed within the context of order acceptance of the duties to cooperate that are required for the provision of the service.

7.2. Where available, manuals and directions shall be provided in German or English as part of the deliveries or shall be made available online. Customers

shall not be entitled to seek legal recourse if these documents are not available in German.

7.3. A customer may file claims for defects only if it has met its statutory duties to inspect and notify of nonconformity. If a defect is found during delivery, inspection or obvious defects must be reported in writing within five working days of delivery and defects not obvious during inspection must be reported in writing within five working days at a later time, LOSTnFOUND must be immediately notified in writing. In all cases, days of being discovered. In accordance with the statutory provisions, if the customer fails to properly inspect and/or report defects, LOSTnFOUND cannot be held liable for defects not reported, not reported on time or not reported correctly.

7.4. If an item is defective when delivered or provided, LOSTnFOUND may decide whether to provide subsequent performance by correcting the defect (rectification) or by delivering an item that is free of defects (replacement delivery). The right to refuse subsequent performance pursuant to statutory requirements shall remain unaffected.

7.5. LOSTnFOUND shall be entitled to make any subsequent performance it is obliged to provide dependent on the customer paying the due usage fee. The customer shall, however, be entitled to retain an appropriate proportion of the usage fee in relation to the defect.

7.6. The customer must provide the time and opportunity that LOSTnFOUND requires for the subsequent performance owed. In the case of a replacement delivery, the customer must return the defective item in accordance with the statutory provisions. Subsequent performance does not include uninstalling or reinstalling a defective item if LOSTnFOUND did not originally have an obligation to install it.

7.7. The expenses incurred as a result of inspections and subsequent performance shall be borne by both parties in equal measure. The customer shall bear the cost of uninstalling the item, transporting it to our return address in CH-8134 Adliswil, and reinstalling it. LOSTnFOUND shall bear the cost of inspecting the item and returning it to the customer. pursuant to Art. 9 'General terms and conditions for purchase agreements' LOSTnFOUND shall be entitled to demand that the customer reimburse costs resulting from an unjustified request for correction of defects (especially costs for inspection and transport).

7.8. In urgent cases, such as when operational safety is threatened or to prevent excessive losses, the customer shall have the right to rectify the defect itself and request that LOSTnFOUND reimburse the expenses objectively required to do so. The customer should inform LOSTnFOUND before undertaking such a step. The customer's right to rectify defects on its own shall not apply if LOSTnFOUND would have been justified in refusing subsequent performance in accordance with the statutory provisions.

7.9. Customer claims to compensation or reimbursement of expenditures incurred in vain shall be governed exclusively by Art 11, even in the case of defects.

7.10. Contrary to Section 210 (Swiss Code of Obligations) the general time limit for claims resulting from material defects and defects of title is one year after delivery. Should the buyer arrange to collect an item, this time limit shall commence from the time of collection.

7.11. The above time limits on purchase rights shall also apply to contractual and noncontractual customer claims for compensation that are based on a goods defect, unless applying the regular statutory time limit would lead to a shorter time in an individual case. However, customer claims for compensation pursuant to Art 10 of these GTCs and pursuant to the Product Liability Act shall expire exclusively in accordance with the statutory time limits.

## **8. Responsibility for payment**

8.1. The bill payer agrees to pay the agreed fee on page 1 for the full agreed duration of this telematics subscription, regardless of whether the bill payer uses this service. LOSTnFOUND's performance shall consist of making the agreed services available for use at all times.

8.2. LOSTnFOUND shall send all invoices to customers electronically, unless a customer submits a written request for an invoice to be sent physically. Requests for paper copies of invoices shall incur a flat administrative fee of CHF 2.00 each.

8.3. LOSTnFOUND requires invoices to be paid within 14 days of the invoice date. The due date is stated on the invoice and commences from the end of the service delivery period. LOSTnFOUND shall be entitled to demand advance payment for all or part of a service at any time, including during the course of an ongoing business relationship.

8.4. If the customer has neither paid the invoice by the due date nor raised justified objections to an invoice in writing, it shall automatically fall into arrears and LOSTnFOUND may, to the extent permitted by law, interrupt service provision for all services, take additional steps to prevent further losses and/or terminate the contract immediately and without compensation.

The customer shall bear all costs incurred by LOSTnFOUND resulting from late payment. In particular, the customer shall owe LOSTnFOUND 5% interest on arrears and a reminder fee of at least CHF 5.00 per reminder. In the event of third-party collections, the customer shall owe additional fees for collection expenses. Should the customer's account lack sufficient funds for a direct debit, LOSTnFOUND may charge a processing fee of at least CHF 40.00.

8.5. The customer shall only be entitled to offset or refuse payment if its claim is legally binding or undisputed. In the case of delivery defects, the customer's reciprocal rights shall remain unaffected.

8.6. If, after the contract is entered into, it becomes clear (for instance, through an application to begin insolvency proceedings) that payment of the sale price is threatened by the customer's inability to pay, LOSTnFOUND is entitled to refuse service in accordance with the statutory provisions and - if need be, after having set a deadline - withdraw from the contract. In the case of contracts for the manufacture of single items (unique products), LOSTnFOUND can declare its withdrawal immediately; statutory requirements on dispensing with deadlines remain unaffected.

8.7. Money orders, cheques and bills of exchange shall be accepted only as conditional payments.

## **9. Contract duration and termination**

9.1. The telematics subscription can be terminated by either signatory subject to three months' notice, although not before the end of the minimum duration. The respective minimum duration appears on page 1 of this agreement. If the contract is not terminated, it shall be extended by an additional 12 months unless notice is given at least three months before it ends.

9.2. Assuming that the statutory requirements are met, the right to extraordinary termination for good cause is reserved for both parties. For LOSTnFOUND, good cause shall in particular be deemed present where, in spite of reminders, the customer is more than two months behind on payment of due remuneration. Should the customer be responsible for the reason for termination, the customer shall be obliged to pay LOSTnFOUND the agreed remuneration less expenses saved by LOSTnFOUND by the date on which the contract would end at the earliest in the case of ordinary termination.

9.3. Notice of termination must be given in writing to be valid. This requirement must be met for a termination to be valid. Fax and e-mail do not meet this requirement.

## **10. Data processing rights**

10.1. LOSTnFOUND complies with the statutory provisions on data protection. In addition, please see the data protection policy published on the LOSTnFOUND website.

10.2. The customer grants LOSTnFOUND the right to reproduce the data to be stored by LOSTnFOUND for the customer insofar as this is necessary to render the services owed pursuant to this contract. LOSTnFOUND shall also be entitled to keep data in a backup system or separate backup data centre. Furthermore, LOSTnFOUND shall be entitled to make changes to the structure of data or the data format in order to correct malfunctions.

## **11. Limitations on liability**

11.1. To the extent that nothing else arises from these GTCs including the following provisions, LOSTnFOUND shall be liable in the event of a violation of contractual and noncontractual duties in accordance with the statutory provisions.

11.2. No claims for compensation may be filed against LOSTnFOUND, its legal representatives, its subcontractors or employees, regardless of the type and legal basis, for instance due to a breach of duty or unauthorised action. Should LOSTnFOUND, its legal representatives or executives be guilty of intent or gross negligence, LOSTnFOUND shall be liable in accordance with the statutory provisions.

11.3. All liability shall be excluded for losses resulting from ordinary negligence. This provision on liability shall also apply to advice provided verbally and in writing, through testing or other means. In particular, the customer shall not be exempted from the obligation to ensure that goods and services are suited for their intended use.

11.4. In particular, LOSTnFOUND shall not be liable for: loss of earnings, losses resulting from vehicle breakdowns or damage to goods transported with said vehicles, loss of expected savings, loss of yields, loss of business opportunities, lost and damaged data, loss of use, loss of goodwill, losses due to delays, or any indirect losses, damage or subsequent losses.

11.5. Claims in accordance with the Product Liability Act shall not be affected by this exclusion of liability. This shall also apply to liability for losses resulting from death, physical injury or damage to health.

11.6. LOSTnFOUND shall reimburse justified material and financial losses on the net price paid or to be paid by the customer for the entire year (12 months) in which the loss or damage occurred, or on the price paid for those products or the rental prices that the customer paid or is to pay for those products that caused the loss for the preceding period of twelve (12) months, whichever is greater.

## **12. Changes to GTCs**

12.1. The GTCs may be amended insofar as this does not affect essential regulations in the contractual relationship and doing so is necessary to adapt to developments that were not foreseeable when the contract was entered into and which would noticeably impact the balance of the contractual relationship if ignored. Essential regulations are, in particular, those related to the type and scope of contractually agreed services, as well as the duration, including regulations on termination. Furthermore, the GTCs can be adapted or supplemented if this is necessary to correct difficulties during the execution of the contract due to gaps that emerge after the contract is entered into. This may be the case, in particular, if there is a change in legislation affecting one or more clauses in these GTCs.

12.2. Service descriptions may be amended if there is good cause to do so, if doing so does not put the customer in an objectively weaker position (such as maintaining or improving a functionality) versus the service description included





when the contract was entered into, and if the new description is not markedly different. Good cause exists if technical innovations have occurred on the market for the services owed or if third parties, from which LOSTnFOUND obtains necessary inputs to provide its services, change their service offering.

12.3. Agreed prices can be raised to compensate for higher costs. This may be done if made necessary by an increase in VAT or if the Federal Network Agency requires it on the basis of regulatory conditions.

12.4. The customer shall be informed in writing (for example, by letter or e-mail) of changes to GTCs, changes to service descriptions, and price increases not exclusively due to an increase in VAT that are intended pursuant to 12.1 to 12.3 at least six weeks before such changes take effect. The customer has a special right of termination at the time the changes take effect. If the customer does not terminate the contract in writing (for example, by letter or e-mail) within six weeks of receiving a notice of amendments, the amendments shall form part of the contract at the time they take effect. The notice of amendments shall make this clear to the customer.

### **13. Copyrights**

13.1. Property rights and copyrights are reserved for all documents forming part of the offer, such as drawings, project proposals, presentations, descriptions of software, calculations and samples. These documents must not be made available to third parties in their original or any other form without permission from LOSTnFOUND and must also be returned to us on request.

### **14. Place of performance and jurisdiction**

14.1. Unless otherwise stated, the place of performance shall be the registered

office of LOSTnFOUND. If the customer is a merchant, a corporate entity under public law or a special fund under public law, the exclusive place of jurisdiction including internationally - for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of LOSTnFOUND, currently CH-8134 Adliswil (Zurich). The same place of jurisdiction shall apply if the customer does not have a general place of jurisdiction domestically or if its domicile or normal place of residence is unknown at the time the lawsuit is filed.

### **15. Additional agreements, written form, miscellaneous**

15.1. Additional verbal agreements must be submitted in writing to be valid. Changes to the requirement of the written form must also be submitted in writing to be valid.

### **16. Choice of law**

16.1. The contractual relationships shall be governed by Swiss law. The provisions of the CISG (United Nations Convention on Contracts for the International Sale of Goods) of 10 April 1980 and subsequent laws do not apply.

### **17. Severability clause**

17.1. Should the above terms, the other contractual foundations between the parties or parts thereof be or become entirely or partially invalid, the validity of the remaining provisions shall not be affected. Provisions that are entirely or partially invalid are to be replaced with a valid provision whose economic result most closely reflects that of the invalid provision.

CH-Adliswil, June 2018

Special contract terms for "Telematics subscription", Version: June 1st 2018

### III. Special contract terms for «Telematics installation»

#### 1. General

1.1. All business relationships between us «LOSTnFOUND AG» and our commercial customers shall be governed exclusively by our terms of sale, delivery and payment 'GTCs' below.

1.2. Unless agreed otherwise, the GTCs shall apply as a framework agreement in the version that is valid at that time the customer places an order or otherwise in the version most recently imparted to the customer in writing.

1.3. The GTCs shall apply to the exclusion of other documents. Any general terms and conditions of the customer that differ from, conflict with, or supplement the present GTCs shall only become an element of the contract if LOSTnFOUND expressly agrees to their validity.

1.4. For the purpose of these GTCs, commercial customers are defined as individuals or corporate entities or incorporated Business partnerships, as well as corporate entities under public law or special funds under public law, who each act to exercise a commercial or freelance occupation.

1.5. The products we sell are intended to be used subject to the relevant restrictions, which are more precisely defined in the telematics subscription. The customer must inform itself of applicable export regulations and other countries' legal requirements. Re-exports shall be subject to the foreign trade regulations of Switzerland or the country of origin.

1.6. LOSTnFOUND must agree in writing to transfers of customer rights and duties arising from the purchase agreement for such transfers to be valid.

#### 2. Object of contract and service provision

2.1. This contract concerns the installation, conversion or de-installation of telematics systems that the customer has acquired from LOSTnFOUND for use in the customer's vehicles.

2.2. LOSTnFOUND properly installs the systems in vehicles provided by the customer at the customer's location or at a location designated by the customer.

2.3. The service includes installing and connecting the telematics hardware and accessories to the vehicles' electrical supply. LOSTnFOUND will not adjust or connect any third-party systems not supplied by LOSTnFOUND.

2.4. When assessing the service, both signatories assume that the requirements are met for the seamless installation of telematics systems. The customer shall not be entitled to receive a change to the service or subsequent service unless LOSTnFOUND is responsible for the need for such a step.

#### 3. Offer and acceptance

3.1. Offers from LOSTnFOUND are non-binding, subject to change and are aimed exclusively at businesses.

3.2. The written description on page 1 of this purchase agreement defines the scope of service. The offer shall otherwise be non-binding. A customer's goods order shall be considered a binding offer to enter into a contract. Orders are accepted through an order confirmation by the customer or delivery by LOSTnFOUND, while reserving the right to partial acceptance and partial delivery.

3.3. The customer gives its consent to LOSTnFOUND:

- Collecting information about the customer and forwarding data related to the customer's payment history in the context of entering into and processing the contract
- Forwarding data to third parties for collection purposes
- Processing the customer's data for marketing purposes, namely in order to design and develop needs-appropriate services and customised offers
- The data protection policy published on the LOSTnFOUND website shall also be applicable.

#### 4. Prices and payment

4.1. The prices quoted by LOSTnFOUND are net prices.

4.2. Invoices are generally issued and payable in CHF. Invoices are issued after the required services are performed. LOSTnFOUND is generally permitted to send all invoices to customers electronically, unless a customer sends a written request for an invoice to be sent physically. Requests for paper copies of invoices shall incur a flat administrative fee of CHF 2.50 each.

4.3. The sale price shall be due and payable within 14 days of the invoice date. LOSTnFOUND shall be entitled to demand advance payment for all or part of a delivery at any time, even during the course of an ongoing business relationship. LOSTnFOUND shall inform the customer of this option at the latest with its order confirmation.

4.4. If the customer has neither paid the invoice by the due date nor raised justified objections to an invoice in writing, it shall automatically fall into arrears and LOSTnFOUND may, to the extent permitted by law, interrupt service provision for all services, take additional steps to prevent further losses and/or terminate the contract immediately and without compensation. The customer shall bear all costs incurred by LOSTnFOUND resulting from late payment. In particular, the customer shall owe LOSTnFOUND 5% interest on arrears and a reminder fee of at least CHF 5.00 per reminder. In the event of third-party collections, the customer shall be liable for additional fees for collection expenses. Should the customer's account lack sufficient funds for a direct debit, LOSTnFOUND may charge a processing fee of at least CHF 40.00.

4.5. The customer shall only be entitled to offset or refuse payment if its claim is legally binding or undisputed. In the case of delivery defects, the customer's reciprocal rights shall remain unaffected.

4.6. If, after the contract is entered into, it becomes clear (for instance, through an application to begin insolvency proceedings) that payment of the sale price is threatened by the customer's inability to pay, LOSTnFOUND shall be entitled to refuse service in accordance with the statutory provisions and - if need be and after having set a deadline - withdraw from the contract. In the case of contracts for the manufacture of single items (unique products), LOSTnFOUND may declare its withdrawal immediately; statutory requirements on dispensing with deadlines shall remain unaffected.

4.7. Money orders, cheques and bills of exchange shall be accepted only as conditional payments.



### **5. Scheduling the installation**

5.1. An anticipated installation date shall be agreed individually or stated by LOSTnFOUND when accepting the order. The installation date shall be binding only if expressly designated as such. It cannot, however, be scheduled before the customer provides the necessary documentation.

5.2. If the customer cancels an installation appointment that LOSTnFOUND has confirmed as binding less than three working days before the appointment, LOSTnFOUND may charge the customer a fee of CHF 40.00.

5.3. If LOSTnFOUND cannot follow through with an installation appointment that it has confirmed as binding, and the customer is responsible because, for instance, the planned vehicles are not at the location, LOSTnFOUND may charge a fee of CHF 120.00.

5.4. Customer rights pursuant to Art. 9 of these GTCs and the statutory rights of LOSTnFOUND, particularly for an exclusion of the duty of performance (for example, because performance and/or subsequent performance are impossible or infeasible) shall remain unaffected.

### **6. Acceptance of the service and complaints**

6.1. The customer shall be obliged to accept the services of LOSTnFOUND in order to meet its statutory duties to inspect and notify of nonconformity.

6.2. If there is a defect in a service that LOSTnFOUND has rendered, the customer should report this to LOSTnFOUND in writing immediately. In all cases, obvious defects must be reported in writing within five working days of performance and defects not obvious during inspection must be reported in writing within five working days of being discovered. In accordance with the statutory provisions, if the customer fails to properly inspect and/or report defects, LOSTnFOUND cannot be held liable for defects not reported, not reported on time or not reported properly.

6.3. Should the customer decline to accept a service due to a defect, it must cooperate in jointly assessing the state of the installation at LOSTnFOUND's request, including enlisting an expert if necessary. The joint assessment should include the date of manufacture and be signed by both signatories. If the customer does not appear at an agreed assessment appointment or at an appointment set by LOSTnFOUND within a reasonable period of time, LOSTnFOUND may perform the assessment on its own. This shall not apply if the customer does not appear due to a circumstance that it is not accountable for and that it immediately informs LOSTnFOUND of. LOSTnFOUND shall include the date of the assessment on the single party assessment, sign it and provide the customer with a copy of the single-party assessment. If the document is provided to the customer and no obvious defect is listed pursuant to the above paragraphs, it shall be presumed that the defect has occurred after the assessment and that the customer is accountable for it. This presumption cannot be made if the defect is of a type that the customer could not have caused.

6.4. If an item is defective when delivered, LOSTnFOUND may decide whether to provide subsequent performance by correcting the defect (rectification) or by delivering an item that is free of defects (replacement delivery). The right to refuse subsequent performance pursuant to statutory requirements shall remain unaffected.

6.5. LOSTnFOUND shall be entitled to make any subsequent performance it owes dependent on the customer paying the due sale price. The customer shall, however, be entitled to retain an appropriate proportion of the sale price in relation to the defect.

6.6. In urgent cases, such as where operational safety is threatened or to prevent excessive losses, the customer shall have the right to rectify the defect itself and request that LOSTnFOUND reimburse the expenses objectively required to do so. The customer should inform LOSTnFOUND before undertaking such a step. The customer's right to rectify defects on its own shall not apply if LOSTnFOUND

would have been justified in refusing subsequent performance in accordance with the statutory provisions.

6.7. Customer claims to compensation or reimbursement of expenditures incurred in vain shall be governed exclusively by Art 10, even in the case of defects.

### **7. Customer's duty to cooperate**

7.1. The customer must ensure that the organisational and technical prerequisites for the agreed services to be rendered are in place. Should the customer not fulfil this duty to cooperate, or do so incorrectly, late, or receive goods late or pay late, LOSTnFOUND shall have the option, after the unsuccessful lapse of an appropriate extension, of either withdrawing from the contract in return for complete indemnity or continuing to render the agreed services and additionally billing the customer at the agreed rate or standard market rate for the expenses incurred through the customer's violation of its duty to cooperate. The customer shall be informed within the context of order acceptance of the duties to cooperate that are required for the provision of the service.

7.2. The customer agrees to make vehicles available for installation on the agreed installation date, at the agreed installation site and for the required installation time frame, unobstructed, in proper working order and free of defects.

7.3. The customer shall employ a vehicle-appropriate specialist workshop to make any necessary adjustments and take any necessary follow-up measures, at the customer's own expense. Without such adjustments and follow-on measures, which must only be performed by specialised workshops, the telematics systems shall not be fully functional.

7.4. On request, the customer agrees to supply LOSTnFOUND with all required information and data about vehicles in which the systems are to be installed, immediately and in their entirety. In addition, the customer agrees to inform LOSTnFOUND of any known vehicle defects or bugs, particularly those involving the vehicle's electronics.

### **8. Returns/RMA process**

8.1. The customer shall be obliged to request a return number (RMA number) before returning a device. The customer is advised that by issuing an RMA number, LOSTnFOUND is not agreeing to allow a device to be returned for credit, exchange or any other customer claim. Only use the supplied RMA return forms and the return address stated therein, currently CH-8134 Adliswil. 8.2. The customer shall bear the dispatch, installation and reinstallation costs for RMA packages. Packages sent carriage-forward and packages without an RMA number will either be refused by LOSTnFOUND or will incur a fee of CHF 20.00.

8.3. LOSTnFOUND shall bear the device costs in all legitimate warranty claims. Relevant price lists shall apply in cases when incomplete devices are completed with cable sets, antennas, etc. If a technical defect cannot be found on a device, a service fee of CHF 40.00 per device shall be charged.

### **9. Limitations on liability**

9.1. To the extent that nothing else arises from these GTCs including the following provisions, LOSTnFOUND shall be liable in the event of a violation of contractual and noncontractual duties in accordance with the statutory provisions.

9.2. No claims for compensation may be filed against LOSTnFOUND, its legal representatives, its subcontractors or employees, regardless of the type and legal basis, for instance due to a breach of duty or unauthorised action. Should LOSTnFOUND, its legal representatives or executives be guilty of intent or gross negligence, LOSTnFOUND shall be liable in accordance with the statutory provisions.

III. Special contract terms for "Telematics installation" / Version: June 1<sup>st</sup> 2018



9.3. All liability shall be excluded for losses resulting from ordinary negligence. This provision on liability shall also apply to advice provided verbally and in writing, through testing or other means. In particular, the customer shall not be exempted from the obligation to ensure that goods and services are suited for their intended use.

9.4. In particular, LOSTnFOUND shall not be liable for: loss of earnings, losses resulting from vehicle breakdowns or damage to goods transported with said vehicles, loss of expected savings, loss of yields, loss of business opportunities, lost and damaged data, loss of use, loss of goodwill, losses due to delays, or any indirect losses, damage or subsequent losses.

9.5. Claims in accordance with the Product Liability Act shall not be affected by this exclusion of liability. This shall also apply to liability for losses resulting from death, physical injury or damage to health.

9.6. LOSTnFOUND shall reimburse justified material and financial losses on the net price paid or to be paid by the customer for the entire year (12 months) in which the loss or damage occurred, or on the price paid for those products or the rental prices that the customer paid or is to pay for those products that caused the loss for the preceding period of twelve (12) months, whichever is greater.

#### **10. Place of performance and jurisdiction**

10.1. Unless given otherwise, the place of performance is the company headquarters LOSTnFOUND. If the customer is a merchant, a corporate entity

under public law or a special fund under public law, the exclusive place of jurisdiction - even internationally - for all disputes arising directly or indirectly from the contractual relationship is the company headquarters of LOSTnFOUND, currently CH-8134 Adliswil. The same place of jurisdiction shall apply if the customer does not have a general place of jurisdiction domestically or if its domicile or normal place of residence is unknown at the time the lawsuit is filed.

#### **11. Additional agreements, written form, miscellaneous**

11.1. Additional verbal agreements must be put in writing to be valid. Changes to the requirement of the written form must also be submitted in writing to be valid.

#### **12. Choice of law**

12.1. Swiss law applies to the contractual relationships. The provisions of the CISG (United Nations Convention on Contracts for the International Sale of Goods) of 10 April 1980 and subsequent laws do not apply.

#### **13. Severability clause**

13.1. If the above terms, the other contractual foundations between the parties or parts thereof are or become entirely or partially invalid, the validity of the remaining provisions shall not be affected. Provisions that are entirely or partially invalid are to be replaced with a valid provision whose economic result most closely reflects that of the invalid provision.

CH-Adliswil, June 2018

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