

Master Service Agreement

hereinafter **Agreement**

between

Please enter Company name including legal form

Please enter Street name and No.

Please enter Postal code, City

Please enter Country

TRANSPOREON Group Americas Inc.

500 Office Center Drive, Suite 400

Fort Washington

Pennsylvania 19034

hereinafter **Customer**

hereinafter **TRANSPOREON**

hereinafter individually **Party** or collectively **Parties**

This document is confidential. It may not be disclosed to third parties or otherwise made publicly available unless TRANSPOREON expressly agrees to such disclosure.

I. Definitions and Scope

§1 Definitions

Access Data	Customer number, User name or e-mail address and password
Affiliate	any entity which directly or indirectly controls, is controlled by or is under common control with a Party; for these purposes, "control" means ownership of more than 50 % of shares or being entitled to appoint the board of directors of an entity
Availability Description	The availability of Platform, the support times and the remedies for failure to achieve the availability of Platform are defined in Availability Description available under https://www.transporeon.com/en/avd/ and incorporated into this Agreement by reference.
Carrier	company which receives a transport order from a Shipper and is responsible for carrying it out; Carrier includes, but is not limited to, a supplier of Shipper
Change Request	Customer's request to change the initial scope of Services already defined in the respective Statement of Work and to perform the scope analysis with regard to such Change Requests by Service Provider
Cloud Services	The features of Platform including regular new releases, versions, updates, upgrades and standard support (helpdesk), as set out in the Statement Of Work
Confidential Information	non-public information furnished to Receiving Party by Disclosing Party, including but not limited to Access Data, data stored on the Platforms, data relating to other companies, orders and bids, trade secrets, processes, proprietary data, financial and/or operational information or documentation related thereto or related to any pricing or product information
Contact Data	company name, address, invoicing address as well as authorized signatory including name, surname, email and job title
Data Subject	Any identified or identifiable natural person
Development	any document or computer program created by TRANSPOREON specifically for Customer; useable only in connection with the Platforms
Disclosing Party	TRANSPOREON, TRANSPOREON's Affiliates Customer and Customer's Affiliates disclosing Confidential Information
Dispute	any claim, dispute or other controversy arising out of or relating to this Master Service Agreement
Local Subsidiaries	The local subsidiaries of TRANSPOREON which also could act as Party depending on the Services offered are listed under following address https://legal.transporeon.com/transporeon_entities.pdf
Party	Customer and/or TRANSPOREON
Project	realization of Services agreed upon in a Statement of Work
Professional Services	Services, particularly consulting, customisation, implementation, training and other services for the performance of contractual services as set out in Statement Of Work particularly in relation to the provision of Platform and any changes hereto
Receiving Party	TRANSPOREON, TRANSPOREON's Affiliates, Customer and Customer's Affiliates 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 under https://legal.transporeon.com/transporeon_service_providers.pdf
Services	Professional Services, Cloud Services or other services provided by Service Provider as stipulated in Statement of Work
Shipper	producer or distributor of goods; Shipper issues transport orders
Statement of Work	agreement between Parties defining Services and corresponding conditions
Third Party	each party other than Customer, Customer's Affiliates and TRANSPOREON
TRANSPOREON	TRANSPOREON Group Americas Inc.; TRANSPOREON is Affiliate of TRANSPOREON GmbH having the right based on a separate agreement with TRANSPOREON GmbH to distribute and give access to Platforms
TRANSPOREON GmbH	entity, with its principal place of business at Heidenheimer Straße 55/1, 89075 Ulm, Germany, that has developed and administers TRANSPOREON Platform
Platform	internet-based communication and transaction platforms provided by TRANSPOREON to commercial customers (business to business)
User	company or person using the Platforms

§2 Scope

- (1) Customer desires to increase the efficiency of its logistics processes. For this purpose, TRANSPOREON provides Customer and Customer's Affiliates with the access to Platforms. In connection with the use of Platforms by Customer and Customer's Affiliates TRANSPOREON also renders IT services, including consultancy, project management, customizing and support.

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- (2) This Master Service Agreement constitutes the legal framework for the cooperation of TRANSPOREON, Customer and Customer's Affiliates. The corresponding Statements of Work contain a detailed description of Services in each Project. Each Statement of Work is subject to the conditions stipulated in this Master Service Agreement.
- (3) Customer's Affiliates have the right to use Platforms under Customer's name or under their own names. Customer's Affiliates will respect the conditions of this Master Service Agreement and will not renegotiate them with TRANSPOREON.
- (4) Customer confirms that it is entitled to establish and revoke the rights and obligations of Customer's Affiliates according to this Master Service Agreement.
- (5) Service Provider shall be allowed to integrate services rendered by Service Partners and other Third Parties in Cloud Services in its own Services and to work with other subcontractors in this context.

II. Projects

§1 Performance

TRANSPOREON shall render the Services according to the contractually agreed standards and in line with the state of the art at the time of conclusion of this Master Service Agreement.

§2 Deadlines

- (1) Parties shall agree on any binding deadlines for Services in writing.
- (2) The deadlines will be extended by any period during which TRANSPOREON is prevented from rendering Services due to circumstances beyond its control and a reasonable start-up time after the obstacle. The same applies to the period during which Customer does not fulfil its cooperation obligations.
- (3) If mutually agreed deadlines have to be changed due to a fault of Customer resulting in additional costs for TRANSPOREON, TRANSPOREON is entitled to invoice such costs to Customer. TRANSPOREON will inform Customer in a timely manner in this case.

§3 Cooperation obligations

- (1) Customer shall promptly provide TRANSPOREON with all information required to perform Services, examine the results of Services without any delay and immediately report in writing any disruptions or defects with a description of all necessary details.
- (2) If necessary or appropriate for the performance of Services, Customer shall provide TRANSPOREON with all reasonable assistance promptly and free of charge. This includes, in particular, granting reasonable access to Customer's computer environment, data, relevant staff and cooperating by creation of specifications and testing to the extent necessary to provide the Services.
- (3) If Customer does not fulfil its cooperation obligations, which are necessary for the provision of the Services, TRANSPOREON is entitled to discontinue performance of Services and demand reasonable compensation.

§4 Acceptance

- (1) Customer shall accept Services when Service Provider has essentially rendered Services in a correct and complete manner as well as free of defects. Acceptance may not be refused by Customer by reason of trivial defects. The acceptance testing has to be carried out within the period agreed by Parties or – if no such agreement has been reached – within 14 days, upon Service Provider's request. Acceptance shall be declared in writing or via e-mail.
- (2) Acceptance of Services shall also be deemed to have been declared if Customer expresses its approval of Services in some other manner, e.g. by using Services in productive operations or by failing to reply to a request for acceptance by Service Provider within reasonable time (in the absence of agreement, longer than 14 days) or accepting the (partial) Service by the corresponding payments in accordance with Statement Of Work.
- (3) Service Provider may demand that Customer accepts definable components of Services that can be independently assessed and tested without the remaining parts (partial acceptance). By making such partial acceptance, Customer accepts the respective part of Services concerned. Subsequent acceptance procedures will only determine whether the accepted component of Services works in conjunction with Services in other areas of Project. The outcome of the final acceptance procedure does not affect any partial acceptance.

§5 Change Requests

- (1) Customer may request changes and additions to the Services in writing. TRANSPOREON may decline to carry out Customer's request if it is unreasonable or not practicable.
- (2) Subject to prior informing Customer by Service Provider, Service Provider will charge Customer the actual incurred costs for time spent analyzing Change Request and drafting a follow-up Statement Of Work at the valid prices for Services based on time and material, especially if Customer decides not to implement the required change. Service Provider may also demand separate payment of the cost of any idle time caused by Customer due to its Change Request. Unless otherwise agreed in the respective Statement Of Work, the deadlines agreed for Services will be extended by the period of time on which Services had to be interrupted due to Change Request, as well as by a reasonable start-up period.

III. Platform Use

§1 Identification and Security

- (1) Customer and Customer's Affiliates will have access to the Platforms by way of their Access Data and subject to being able to meet the system requirements as described under <http://www.transporeon.com/en/system-requirements/> and updated from time to time. Customer and Customer's Affiliates agree to keep their Access Data confidential.

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- (2) Customer and Customer's Affiliates agree not to enter information or data into the Platforms that could harm, interrupt, damage or improperly access other computer programs, systems and information.

§2 Conduct on Platforms

- (1) Customer and Customer's Affiliates may not circumvent TRANSPOREON Platform in order to avoid or reduce the payment of usage fees, in particular, by gathering information on the Platforms for subsequent conclusion of a transport contract by other means than via the Platforms, e.g. by telephone or email.
- (2) Customer and Customer's Affiliates may not use the Platforms for illegal agreements among competitors, circumvention of any embargos or any other illegal activity. This applies also to attempting and to supporting such usage.
- (3) Customer and Customer's Affiliates may not use the Platforms for any purpose that is racist, discriminatory, obscene, indecent, hateful, malicious, pornographic, potentially damaging to minors, defamatory, libelous, fraudulent, treasonous, threatening, abusive, excessively violent, promotes the use of violence, or is otherwise harmful to others, unlawful or against official regulations or requirements. Customer and Customer's Affiliates will not use or save such data on the Platforms.

§3 Blocking of Access and Data

- (1) TRANSPOREON may immediately block Customer's and/or Customer's Affiliates' access to the Platforms if Customer and/or Customer's Affiliates knowingly circumvent or attempt to circumvent the Platforms. The same applies if Customer and/or Customer's Affiliates knowingly assist other Users in such circumvention.
- (2) TRANSPOREON reserves the right to block Customer's and/or Customer's Affiliates' access to the Platforms in case of any further infringement according to point III §2 and to delete or block Customer's and/or Customer's Affiliates' data infringing the provisions of this Master Service Agreement. In making such decision, TRANSPOREON will take into account the legitimate interests of Customer and Customer's Affiliates to a reasonable extent and will consider any indications that there is no fault on the part of Customer and/or Customer's Affiliates.
- (3) TRANSPOREON will inform Customer and/or Customer's Affiliate about blocking of its access and blocking or deletion of its data by e-mail.
- (4) Any further rights of TRANSPOREON, such as those related to claiming damages and/or the rights to an extraordinary termination of this Master Service Agreement remain unaffected.

IV. General Conditions

§1 Rights of Use

- (1) TRANSPOREON grants to Customer and/or Customer's Affiliates for the duration of this Master Service Agreement and the respective Statement(s) of Work a simple, non-exclusive, non-transferable, non-sublicenseable right to access and use the Platforms. TRANSPOREON may introduce new releases, versions, updates and upgrades of Platforms from time to time. In this case, the preceding sentence shall apply accordingly.
- (2) Customer and Customer's Affiliates undertake to use the Platforms and the Services solely for their own internal business purposes in accordance with this Master Service Agreement and the respective Statement(s) of Work.
- (3) Customer and Customer's Affiliates shall not be entitled to provide to Third Parties access to the Platforms, either for payment of a fee or free of charge. In particular, Customer and Customer's Affiliates shall expressly not be permitted, to sell, lend, rent or otherwise sublicense any work results provided by TRANSPOREON under this Master Service Agreement and/or a Statement of Work or make them available to the public.

§2 Fees and Payment

- (1) Customer pays to TRANSPOREON the fees stipulated in respective Statement of Work via ACH or bank transfer.
- (2) TRANSPOREON issues invoices relating to Customer's and/or Customer's Affiliates' usage of TRANSPOREON Platform monthly, however, only when the total invoice amount has reached thirty-five (35) USD. The final invoicing will take place in December of each calendar year regardless of the total invoice amount.
- (3) If Customer does not timely pay the fees in full, TRANSPOREON may charge interest in the overdue amount at a rate equal to the highest rate permitted by applicable law.
- (4) If Customer is in default with any payment, TRANSPOREON reserves the right to block Customer's and/or Customer's Affiliates' access to Platforms. TRANSPOREON will notify Customer in advance with fourteen (14) calendar days written notice or via e-mail. Any further rights according to the applicable law arising from, in particular, default delay remain unaffected.
- (5) Incorrect performance or non-performance of any contract concluded via Platforms does not release Customer from its obligation to pay the fees.
- (6) Customer may only offset claims recognized by TRANSPOREON or declared *res judicata*.

§3 Adjustments of Fees

- (1) TRANSPOREON can adjust the fees each year in line with economic developments.
- (2) If TRANSPOREON exercises its right, the adjustment in line with economic developments is calculated for every month since the last price adjustment. If TRANSPOREON does not exercise this right in one or more calendar years, it can make good the increase that is possible with this clause in a later year, effective for the future, in accordance with the rules described above.
- (3) Each adjustment will only apply to transactions made after its effective date.
- (4) TRANSPOREON will inform Customer about any adjustment in advance by post or e-mail.

§4 Term and Termination

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- (1) Parties may terminate this Master Service Agreement or any Statement of Work relating hereto at any time subject to a thirty (30) days notice period to the end of the calendar month. This does not apply if Statement of Work has a specific validity period or a termination period deviating from this clause.
- (2) If Customer terminates a Statement of Work before completion of a Project, TRANSPOREON is entitled to the agreed fees for such Project.
- (3) The termination of this Master Service Agreement results in automatic termination of all Statements of Work relating hereto. TRANSPOREON's rights stipulated in IV §4 (2) remain unaffected. Notwithstanding the foregoing, if a Statement of Work has a specific validity period, the conditions of this Master Service Agreement remain in force relating to respective Statement of Work until the end of its specific validity period.
- (4) Any termination of a Statement of Work does not affect this Master Service Agreement and other Statements of Work relating hereto.
- (5) Each Party reserves the right to terminate this Master Service Agreement or any Statement of Work relating hereto with immediate effective upon written notice to the other Party in the event of a material breach of this Master Service Agreement and/or respective Statement of Work by the other Party or in the event any representation, warranty or covenant of the other Party proves to be false or untrue.
- (6) Upon termination of this Master Service Agreement all rights of use according to point IV §1 expire.
- (7) Upon termination or expiration of a Statement of Work the rights of use according to point IV §1 relating to Services agreed in such Statement of Work expire.
- (8) As of the effective date of termination (for whatever reason), except for the Parties' obligations of confidentiality and the obligations incurred by either Party before the effective date of termination, Parties will have no further rights or obligations with respect to this Master Service Agreement and/or respective Statement of Work.

§5 Data Protection

- (1) TRANSPOREON's processing of personal information, and Customer's use of TRANSPOREON's Services, will comply in all material respects with applicable laws, rules, regulations, and directives relating to data privacy, trans-border data flows, and data protection (collectively, "Data Protection Laws"). With respect to TRANSPOREON's processing of personal information which is governed by Data Protection Laws, the US Data Processing Addendum for Customer Personal Information located at https://dl.trimble.com/www/us_dpa_customer.pdf is herein incorporated by reference. In relation to that addendum, the terms "Trimble" and "Trimble Inc." are replaced by TRANSPOREON as defined herein. TRANSPOREON's privacy policy governs TRANSPOREON's processing of personal information. In order to use TRANSPOREON's Services, Customer warrants and covenants that prior to providing TRANSPOREON with any personal information, Customer has provided or, where necessary, obtained consent or has another valid legal basis under applicable Data Protection Laws to provide such personal information to TRANSPOREON to or allow such personal information to be collected by TRANSPOREON, and further Customer acknowledges that TRANSPOREON is permitted to process and use such personal information in accordance with the Agreement.
- (2) The details on the processing of personal data 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 ("Privacy Notice").
- (3) 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 Personal Information in anonymised form (within the meaning of point III §5(4)). 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.
- (4) The right of use granted is transferable and sub-licensable by Service Provider to Service Partners and Affiliates.
- (5) 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.

§6 Confidentiality

- (1) Receiving Party may have access to Confidential Information of Disclosing Party.
- (2) Receiving Party will not disclose or otherwise make available to any Third Party any of Disclosing Party's Confidential Information in any form, to any person or entity other than Receiving Party's Affiliates, employees or agents with a need to know such Confidential Information. Receiving Party will not use the Disclosing Party's Confidential Information for any purpose other than fulfilling the Receiving Party's obligations under this Master Service Agreement.
- (3) 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.
- (4) Confidential Information does not include information which:
 - a. was known to Receiving Party prior to its disclosure by Disclosing Party as evidenced by written records,
 - 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.
- (5) It is agreed that no Receiving Party acquires the ownership of or any other right to use Confidential Information of the Disclosing Party by virtue of this Master Service Agreement or by implied conduct.
- (6) Receiving Party may disclose Confidential Information if such disclosure is required according to applicable laws or governmental regulations, provided that Receiving Party has submitted prior written notice of such disclosure to Disclosing Party and takes reasonable and lawful actions to avoid and/or minimize the extent of the disclosure.
- (7) The provisions of §6 (Confidentiality) shall supersede and invalidate all other confidentiality and non-disclosure agreements, whether stipulated in text, in writing or orally, which Parties previously concluded. Furthermore, the provisions of §6 (Confidentiality) shall survive the termination of this Agreement for a period of 5 years from the date of effective termination of this Agreement.

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§7 Defects

- (1) In case of defects, TRANSPOREON may at its sole option remedy the defect, replace or repeat Services. In case of software, TRANSPOREON may provide a new version of the program or indicate a work-around.
- (2) If, after repeated attempts, TRANSPOREON is unable to resolve a defect identified by Customer and Customer therefore rejects the Services, the Customer may terminate this agreement without penalty.
- (3) Defects must be notified in writing with a comprehensible description of the error symptoms, as far as possible evidenced by written recordings, hard copies or other documents demonstrating the defects. The notification of the defect should enable the reproduction of the error.
- (4) In case of any modifications to the Services and/or the Platforms by Customer and/or Customer's Affiliates or any Third Party acting on their behalf, any warranty claims are excluded, unless Customer or respectively Customer's Affiliates prove that such modification had no influence on the defect. TRANSPOREON is not liable for any defects, which are caused by improper use or improper operation by Customer and/or Customer's Affiliates or the use of unsuitable means of operation (e.g. the use of non-supported hardware or operating systems).
- (5) If the cause of the defect is not obvious to Customer, TRANSPOREON will investigate the cause. TRANSPOREON may demand compensation for such investigation on the basis of its hourly rates valid at the time of the investigation if TRANSPOREON is not responsible for the defect, in particular, if the defect is due to Customer's and/or Customer's Affiliates' usage of unsuitable hardware or externally obtained components, or to Customer's and/or Customer's Affiliates' interference.

§8 Warranties

TRANSPOREON warrants (a) that Services shall be performed in all material respects as specified in the SOW, and (b) Professional Services will be performed in a workmanlike and professional manner and in accordance with the descriptions set forth in the applicable SOW. Our sole obligation and liability, and your exclusive remedy, for any breach of this warranty shall be for us to undertake commercially reasonable efforts to correct defects of the Platform provided to you which materially adversely affects you, in accordance with the Availability Description. TRANSPOREON is not a Party to the contracts between Customer and/or Customer's Affiliates and other Users. TRANSPOREON does not warrant that any offer will be matched by a corresponding demand or that any contract will be concluded between Customer and/or Customer's Affiliates and other Users. TRANSPOREON is not responsible for the provision of any performance contractually agreed between them or for the provision of any consideration.

§9 Disclaimers; Risk Allocation

- (1) POINT IV. §8 ABOVE SETS FORTH TRANSPOREON'S EXCLUSIVE WARRANTY WITH RESPECT TO SERVICES, DEVELOPMENTS AND/OR PLATFORMS. THE FOREGOING WARRANTY IS CONTINGENT UPON PROPER USE OF PLATFORMS AND COMPLIANCE WITH THE TERMS OF THIS MASTER SERVICE AGREEMENT AND ANY STATEMENT OF WORK BY CUSTOMER AND CUSTOMER'S AFFILIATES.
- (2) EXCEPT AS EXPRESSLY SET FORTH HEREIN, TRANSPOREON'S SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND TRANSPOREON MAKES NO WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, CONCERNING THE SERVICES, AND SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. TRANSPOREON DOES NOT REPRESENT OR WARRANT THAT THE SERVICES, INCLUDING UPDATES, WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, COMPLETE OR ERROR-FREE, AND TRANSPOREON GRANTS NO WARRANTY REGARDING ITS USE OR THE RESULTS THEREFROM. TRANSPOREON IS NOT RESPONSIBLE FOR ISSUES WITH THEIR SERVICES ARISING OUT OF THEIR USE ON OR IN CONJUNCTION WITH HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED BY TRANSPOREON.
- (3) IN NO EVENT TRANSPOREON WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, REVENUE, OR DATA, LOSS OF USE, COSTS OF COVER, DOWNTIME AND USER TIME REGARDLESS OF THE LEGAL THEORY ASSERTED OR WHETHER A CLAIM IS BROUGHT IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR STRICT LIABILITY) OR OTHER THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- (4) IN NO EVENT WILL TRANSPOREON'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THE AGREEMENT, REGARDLESS OF THE LEGAL THEORY ASSERTED OR WHETHER A CLAIM IS BROUGHT IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR STRICT LIABILITY) OR OTHER THEORY, EXCEED THE PURCHASE PRICE OR FEES PAID BY CUSTOMER FOR THE SERVICES DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.
- (5) THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR TRANSPOREON'S SERVICES TO CUSTOMER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL, CONSEQUENTIAL OR SPECIFIED OTHER DAMAGES, OR ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY OR MAY NOT FULLY APPLY TO CUSTOMER.
- (6) NO ACTION, REGARDLESS OF FORM, ARISING FROM OR PERTAINING TO SERVICES, DEVELOPMENTS, PLATFORMS, THIS MASTER SERVICE AGREEMENT AND/OR ANY STATEMENT OF WORK MAY BE BROUGHT BY CUSTOMER MORE THAN TWO (2) YEARS AFTER SUCH ACTION HAS ACCRUED.
- (7) TRANSPOREON MAKES NO WARRANTY, EXPRESS OR IMPLIED, AND PROVIDES NO GUARANTEE FOR THE RESULTS OBTAINED BY USING SERVICES, DEVELOPMENTS AND/OR PLATFORMS, THE CORRECTNESS, QUALITY, IDENTITY OR RELIABILITY OF USERS, THE CONTENT OF ANY INFORMATION, FILES AND/OR DATA OBTAINED THROUGH THE USE OF SERVICES, DEVELOPMENTS AND/OR PLATFORMS. TRANSPOREON HAS NO OBLIGATION TO CORRECT MISTAKES AND/OR INACCURACIES IN THE DATA SUBMITTED TO PLATFORMS.
- (8) TRANSPOREON WILL NOT BE LIABLE FOR ANY CLAIMS, DEMANDS, SUITS, LIABILITIES, INJURIES, CAUSES OF ACTION, LOSSES, EXPENSES, DAMAGES OR PENALTIES, INCLUDING WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES, ARISING OUT OF THE EXCHANGE OR DOWNLOADING OF DATA, FILES, INFORMATION, OR CONTRACTUAL AND NON-CONTRACTUAL RELATIONSHIPS AND/OR AGREEMENTS AMONG USERS OF PLATFORMS. TRANSPOREON MAKES NO GUARANTEE THAT ANY OFFER BY A USER WILL BE ACCEPTED, THAT ANY CONTRACT WILL BE ENTERED INTO, OR THAT ANY TIME SLOTS WILL BE BOOKED OR OBSERVED BY USERS OF PLATFORMS.

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- (9) CUSTOMER ACKNOWLEDGES THAT TRANSPOREON HAS NO CONTROL OVER THE SERVICES OF THIRD PARTIES, IN PARTICULAR, VALUE-ADDED NETWORK SERVICES. TRANSPOREON RELIES ON INTEROPERABILITY WITH SUCH SERVICES BUT CANNOT AND DOES NOT GUARANTEE THEIR UNINTERRUPTED, SECURE, OR ERROR-FREE NATURE. TRANSPOREON DOES NOT WARRANT AND HEREBY DISCLAIMS THAT THE SERVICES OF THIRD PARTIES WILL PROVIDE PROTECTION FROM, VIRUSES, TROJAN HORSES, WORMS, TIME BOMBS, CANCELBOTS OR OTHER HARMFUL OR DELETERIOUS PROGRAMMING ROUTINES, DATA LOSS, UNAUTHORIZED, UNKNOWN, OR UNFORESEEABLE SECURITY BREACHES, ACCESSES, OR ATTACKS INTO OR AFFECTING CUSTOMER'S EQUIPMENT OR SYSTEMS, AND ANY FORM, OR REAL-TIME DETECTION, OF ANY OR ALL OF THE FOREGOING.
- (10) IF CUSTOMER UTILIZES DATA FIELDS AVAILABLE IN OUR SOFTWARE TO STORE DATA NOT REQUIRED FOR THE NORMAL USE AND OPERATION OF SERVICES FOR THEIR INTENDED PURPOSE, (i) CUSTOMER AGREES THAT WE ARE NOT RESPONSIBLE FOR COMPLIANCE WITH LAWS, RULES AND REGULATIONS SPECIFIC TO SUCH DATA (E.G., HIPAA OR PCI RULES); AND (ii) CUSTOMER ASSUMES ALL RISKS ASSOCIATED WITH, AND AGREE TO HOLD US HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) RELATED TO OR ARISING FROM, YOUR USE OF DATA FIELDS TO STORE SUCH DATA.
- (11) TRANSPOREON MAY ONLY BE RESPONSIBLE FOR THE RESTORATION OF DATA IF CUSTOMER AND CUSTOMER'S AFFILIATES HAVE ENSURED THAT SUCH DATA CAN BE REPRODUCED WITH NO MORE THAN COMMERCIALY REASONABLE EFFORTS FROM THE COLLECTIONS OF DATA THAT ARE KEPT IN MACHINE-READABLE FORM. CUSTOMER AND CUSTOMER'S AFFILIATES WILL THEREFORE SAVE THEIR LATEST DATA AT SHORT REGULAR INTERVALS (AT LEAST ONCE EVERY WORK DAY). OBLIGATIONS TO SAVE DATA GOING BEYOND THIS REMAIN UNAFFECTED.
- (12) CUSTOMER IS ADVISED THAT THE STORAGE OF DATA ON PLATFORM SERVES EXCLUSIVELY AND PRIMARILY THE PURPOSE OF PROVIDING CLOUD SERVICES. PROPER KEEPING AND STORAGE OF BOOKS, RECORDS AND DOCUMENTS IS NOT GUARANTEED BY THE USE OF PLATFORM AND IS THE SOLE RESPONSIBILITY OF CUSTOMER. SERVICE PROVIDER'S LIABILITY FOR DATA LOSS SHALL BE LIMITED TO THE TYPICAL RECOVERY COSTS THAT WOULD HAVE BEEN INCURRED IF BACKUP COPIES HAD BEEN MADE ON A REGULAR BASIS AND IN SUCH A WAY AS TO BE SUSCEPTIBLE TO RISKS. LIABILITY SHALL ONLY EXIST IF CUSTOMER HAS ENSURED THROUGH APPROPRIATE DATA BACKUP MEASURES THAT THE DATA CAN BE RECONSTRUCTED WITH REASONABLE EFFORT FROM DATA MATERIAL HELD IN MACHINE-READABLE FORM.

§10 Compliance

Customer and Customer's Affiliates will comply with all applicable United States and international anti-corruption and anti-bribery laws and regulations, including the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, and others (collectively, "Anti-Corruption Laws"). Customer and any third party acting on Customer's behalf, will not directly or indirectly offer, promise, or give any payment or anything of value to a government official, or any other individual or entity, where the intent is to improperly influence any act or decision of the government official, or other individual or entity, to obtain or retain business or some other benefit or commercial advantage for Customer or TRANSPOREON. Customer and any third party acting on Customer's behalf, also will not solicit or accept any sort of payment or anything of value from anyone, where the intent is to improperly influence any of your acts, our acts, any the acts of any third party acting on Customer's behalf. Customer acknowledges that TRANSPOREON'S Services, products, proprietary information, and derivatives thereof may be subject to United States and international export control, embargo, and sanctions laws, regulations, and licensing requirements, including those administered by the U.S. Department of Treasury, U.S. Department of State, and others ("collectively, "Export Control Laws"). Customer will strictly comply with such laws, and will not export, re-export, transfer, divert, or disclose any of TRANSPOREON'S Services, products, proprietary information, or derivatives thereof to any individual, entity, or destination in violation of any U.S. and international Export Control Laws.

§11 Indemnification

- (1) The Parties agree that only Customer is entitled to make any claims against TRANSPOREON itself and/or on behalf of Customer's Affiliates according to this Master Service Agreement. Customer will ensure that none of Customer's Affiliates will make such claims against TRANSPOREON directly.
- (2) Customer and Customer's Affiliates agree to indemnify, defend and hold harmless TRANSPOREON (and its parent company, Affiliates, subcontractors, vendors, officers, directors, employees, agents, consultants and representatives) from and against any and all defense costs (including reasonable attorneys' fees and other litigation expenses), fines and penalties imposed, negotiated settlement amounts, and court-awarded damages in connection with claims, demands, actions, proceedings and suits brought or commenced by a third party to the extent resulting or arising from (i) Customer's and/or Customer's Affiliates breach of the material terms of the Agreement, (ii) Customer's and/or Customer's Affiliates actual or alleged use or modification of any Services in breach of the Agreement, or in any manner not authorized by the Agreement; (iii) Customer's and/or Customer's Affiliates failure to comply in all material respect with laws, rules, or regulations applicable to Customer and/or Customer's Affiliates, Customer's and/or Customer's Affiliates business, or use of TRANSPOREON'S Services, or Customer's and/or Customer's Affiliates violation of the rights of a third party. In the event TRANSPOREON seeks indemnification from Customer and/or Customer's Affiliates according to this section, TRANSPOREON will give Customer or Customer's Affiliates prompt written notice. TRANSPOREON is entitled to engage counsel and to control any proceeding.
- (3) TRANSPOREON will indemnify, defend and hold harmless Customer and/or Customer's Affiliates against any liability or expense (including reasonable attorney's fees) arising out of or relating to claims by Third Parties for damages incurred by such Third Parties alleging that Customer's and/or and Customer's Affiliates' use of Services, Developments and/or Platforms infringes the Third Party's intellectual property rights. Customer and Customer's Affiliates will give TRANSPOREON prompt written notice of such claim and will provide information, reasonable assistance as well as the sole authority to defend or settle such claim.
- (4) TRANSPOREON may, at its reasonable discretion and at its option and expense, obtain for Customer and/or Customer's Affiliates the right to continue using Services, Development and/or Platforms, replace or modify them so that they become non-infringing, or cease to provide them and reimburse Customer for reasonable expenses resulting therefrom.
- (5) TRANSPOREON will have no obligation to indemnify, defend and hold harmless Customer and/or Customer's Affiliates if Customer and/or Customer's Affiliates agree to settle any claim without the prior written consent of TRANSPOREON.
- (6) TRANSPOREON will have no obligation to indemnify, defend or hold harmless if the infringement is based on a modification of Services and/or Developments by any Third Party or the usage of the Services, Developments and/or the Platforms in combination with any hardware, software or material not consented to by TRANSPOREON.

Legal classification: Confidential

§12 Governing Law and Venue; Waiver of Jury Trial.

The Agreement will be governed exclusively by, and construed and enforced exclusively in accordance with, the laws of the State of Delaware, United States of America without regard to or application of its conflicts-of-laws provisions. Any legal proceeding arising out or relating to the Agreement will be subject to the sole and exclusive jurisdiction of the United States District Court for the District of Delaware or any state court sitting in New Castle County, Delaware, to the exclusion of all other courts and venues, and each Party irrevocably consents to the sole and exclusive jurisdiction and venue of the United States District Court for the District of Delaware or any state court sitting in New Castle County, Delaware and waives any right to object thereto. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THE AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

§13 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 a 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.

§14 Interpretation

- (1) If any individual provision of this Master Service Agreement is or becomes invalid or unenforceable in part or in whole, this does not affect the validity of the remaining provisions.
- (2) In case of contradictions between this Master Service Agreement and any Statement of Work, the terms of Statement of Work prevail in relation to Services agreed therein.
- (3) The headings contained in this Master Service Agreement are included for mere convenience of reference and will not affect the language included herein.

§15 Assignment

Neither Customer nor Customer's Affiliates may assign any of the rights and obligations of this Master Service Agreement or any Statement of Work without prior written approval of TRANSPOREON.

§16 No Waiver

No course of dealing or failure of TRANSPOREON to strictly enforce any term, right or condition of this Master Service Agreement will be construed as a waiver of such term, right or condition. No express waiver of any term of this Master Service Agreement will operate as a waiver of any other term.

§17 Notice

Customer makes all legally relevant declarations in connection with this Master Service Agreement and any Statement of Work in writing. TRANSPOREON makes such declarations to the email address of Customer's authorized signatory or by post. Customer will keep its Contact Data up to date and notify TRANSPOREON of any changes without undue delay.

§18 Changes

- (1) TRANSPOREON is entitled to make changes of this Master Service Agreement as well as any other conditions. TRANSPOREON will make such changes only if there is a good reason for doing so, including, by way of example but without limitation, due to new technical developments, changes in the law, extensions to services or other comparable reasons.
- (2) TRANSPOREON will inform Customer of any changes according to this clause fourteen (14) days before such changes become effective. If Customer does not declare its disagreement within the aforementioned period, Customer will be deemed to have accepted the changes.
- (3) If Customer declares its disagreement with the changes, Customer will have the right to extraordinary termination of this Master Service Agreement from the date on which the changes were due to come into force. Notice of this termination must reach TRANSPOREON by this date at the latest.

§19 Entire Agreement

This Master Service Agreement and the related Statements of Work constitute the entire agreement between TRANSPOREON, Customer and Customer's Affiliates and supersede all prior negotiations, representations or agreements, either oral or written, related hereto. TRANSPOREON does not recognize any deviating conditions set out by Customer and/or Customer's Affiliates.

Customer

TRANSPOREON

First and last name (Authorized Signatory)

First and last name (Authorized Signatory)

Job title (Authorized Signatory)

Job title (Authorized Signatory)

Signature (Authorized Signatory)

Signature (Authorized Signatory)

City, Date

City, Date