

# 一般条款和条件

## 定义

<b>访问数据</b>	客户编号、用户名或电子邮件地址和密码
<b>附属公司</b>	直接或间接控制，由另一方控制或与另一方处于共同控制下的任何法人实体；就此而言，“控制”是指持有公司 50% 以上的股份或者有权任命董事会成员
<b>可用性说明</b>	关于平台和其他服务级别服务的可用性和性能参数说明
<b>承运人</b>	从发货人处收到运输订单并负责运输的公司；承运人包括但不限于发货人向其订购货物的供应商（以下称为“ <b>供应商</b> ”），或者发货人的物流提供商或承运人通过平台转发运输订单而将运输订单转包给的任何其他方
<b>机密信息</b>	披露方以任何形式提供给接收方的非公开信息，包括但不限于访问数据、平台上保存的数据、与其他公司有关的数据、订单和报价、商业和工业秘密、流程、知识产权、金融或业务信息、定价或产品信息或者相关的文档
<b>联系方式数据</b>	公司名称、地址、发票地址、增值税号以及授权签字人，包括姓名、电子邮件地址和职务
<b>客户数据</b>	客户存储在平台上或基于平台生成的所有数据，特别是与客户运输相关的数据（例如运输、路线、运输路线、报价、价格、运输文件）以及客户用户使用平台的数据
<b>披露方</b>	披露机密信息的任何一方
<b>生效日期</b>	本协议生效日期，见本协议封面
<b>机构</b>	客户的分支机构、代理机构或任何其他机构，通过稳定的安排有效且真实地开展活动
<b>收货人</b>	承运人根据发货人运输订单交付的货物的接收方
<b>内部系统</b>	ERP 系统（如 SAP ERP、JD Edwards）
<b>知识产权</b>	任何专利、外观设计、模型、图纸、版权、软件和数据库权利、商标、专有技术、网络域名、公司名称以及一般性质相同或类似的所有权利，无论其在世界任何地方已注册或未注册，包括以上各项的所有延期、撤销、恢复和更新
<b>当地子公司</b>	根据所提供的服务可以充当服务提供商的服务提供商附属公司，名单可参见： <a href="https://legal.transporeon.com/transporeon_entities.pdf">https://legal.transporeon.com/transporeon_entities.pdf</a>
<b>平台</b>	基于云的通信和交易平台，同时支持服务提供商针对商业客户（企业对企业）运营的电子运输采购和货运成本管理
<b>平台使用指南</b>	一份平台使用规则，包括安全原则、在平台上的行为和用户账户信息
<b>接收方</b>	接收机密信息的任何一方
<b>服务合作伙伴</b>	充当服务提供商分包商的任何一方，并且服务提供商已通过书面或其他适当方式指定给客户作为“服务合作伙伴”，名单可参见： <a href="https://legal.transporeon.com/transporeon_service_providers.pdf">https://legal.transporeon.com/transporeon_service_providers.pdf</a>
<b>服务</b>	服务提供商提供的服务和/或工程
<b>发货人</b>	货物的生产商、经销商或收货人；向供应商订购服务的公司
<b>系统要求</b>	客户系统需要满足以便能够使用平台和服务的硬件和软件方面的技术要求，可参见： <a href="http://www.transporeon.com/en/system-requirements">http://www.transporeon.com/en/system-requirements</a>
<b>第三方</b>	客户或服务提供商以外的任何个人或实体

<b>Transporeon Trucker</b>	适用于驾驶员的 <i>Transporeon Trucker</i> ；一款由 <i>服务提供商</i> 提供、可安装在移动设备上的应用程序
<b>用户</b>	由 <i>客户</i> 授权并由 <i>服务提供商</i> 或 <i>服务提供商附属公司</i> 加以确认，可通过使用分配的 <i>访问数据</i> 来访问平台的自然人
<b>Visibility Services</b>	平台上提供的所有 <i>服务</i> ，支持跟踪运输过程相关的状态信息

## 前言

客户希望提高其物流效率。据此，*服务提供商*向客户提供平台访问权。针对客户对平台的使用，*服务提供商*还可提供 IT 服务，包括咨询、项目管理、定制和支持。

## 1. 合同订立

- (a) 可以书面形式、通过电子邮件或通过 *服务提供商* 的注册中心在线签订本协议。但是，合同在 *服务提供商* 接受注册之后方可成立。务必完整、真实地完成在线注册。*服务提供商* 可以要求客户的授权签字人出示作为客户代理人的授权证明。*服务提供商* 如果发现客户滥用或提供虚假信息，可保留拒绝注册或撤销/删除注册的权利。
- (b) 针对某些服务，发货人需要激活才能在平台上执行操作。此外，每个承运人也可以选择额外的增值服务，同时也要接受额外的条件。为此，承运人还要签订额外的协议，其中规定了此等额外增值服务的使用条款。

## 2. 平台和服务的安全

### 2.1. 平台使用指南

- (a) 客户可通过其访问数据对平台进行访问。客户同意对其访问数据进行保密，并限制对账户的非授权访问。客户承诺定期更改其密码。
- (b) 客户同意遵守平台使用指南中规定的条件，可参阅：<https://www.transporeon.com/en/pug>。*服务提供商* 可以按照 16 (变更) 中规定的条件不时更新平台使用指南。客户应当为其每个账户对应的用户提供平台使用指南。客户要为其在平台上拥有的每个账户名下发生的所有操作以及其用户的行为负责。
- (c) 客户不可规避平台以避免或减少任何费用的支付金额。

### 2.2. 违反平台使用指南的后果

- (a) 如果客户故意规避或试图规避平台，*服务提供商* 可立即阻止客户访问平台。如果客户故意在此等规避行为中协助其他用户，同样可以立即阻止客户访问平台。
- (b) *服务提供商* 保留阻止客户访问平台的权利（如果发生进一步违反平台使用指南的行为），以及删除或阻止违反本协议规定的客户数据的权利。
- (c) 在根据 2.2 (a) (违反平台使用指南的后果) 和/或 2.2 (b) (违反平台使用指南的后果) 作出决定时，*服务提供商* 将在合理范围内考虑客户的合法利益，并将考虑客户一方没有过错的任何情形。
- (d) 如果客户因此等规避行为或企图规避而致使 *服务提供商* 遭受损失或损害的，客户应对由此造成的损害承担责任，包括客户未规避或企图规避平台时应支付的所有费用。
- (e) *服务提供商* 将以书面形式或通过电子邮件通知客户其访问被阻止以及其数据被阻止或删除。
- (f) *服务提供商* 有权通知客户的发货人客户对平台的访问即将被阻止或已经被阻止。
- (g) *服务提供商* 的任何其他权利，例如与损害赔偿、违约延迟和/或出于正当理由终止本协议有关的权利将不受影响。

### 2.3. 服务提供商的 IT 安全措施

*服务提供商* 根据 ISO/IEC 27001 标准维护通过认证的信息安全管理体系（以下称为“ISMS”）。ISMS 是一个旨在将机密性、完整性和可用性等信息安全目标与所提供服务的业务目标相匹配的安全框架。ISMS 涵盖安全控制，如风险管理、已明确的流程和责任、对适用法律的遵循、操作和审计方面的安全。

### 2.4. 技术数据传输

使用不安全的数据传输途径，特别是 HTTP 或 FTP，可能导致第三方访问、读取或修改所传输的数据。为了防止这种风险，*服务提供商* 提供了安全的数据传输途径，例如 HTTPS、FTPS 或 AS2。如果客户仍然决定使用不安全的传输途径，则客户将对由此可能造成的任何损害承担全部责任。

## 3. 使用权利

### 3.1. 平台访问和使用权利

- (a) *服务提供商* 授予客户访问和使用平台的权利，但仅限于本协议的目的和期限范围以内。*服务提供商* 可能会不时针对平台推出新的发行版、版本、更新和升级。在这种情况下，应相应地适用前一句规定。

- (b) 客户需要满足系统要求方能访问和使用平台。系统要求会根据 16（变更）规定的条件不时进行更新。
- (c) 客户承诺根据本协议的规定仅出于其内部业务目的使用平台和服务。
- (d) 客户无权以收费和免费形式向第三方提供平台的访问权限。
- (e) 服务提供者在生效日期之前拥有的任何和所有知识产权仍是服务提供者的专有财产。产生的、获得的或开发的与本协议以及生效日期之后服务提供有关的任何和所有知识产权，应由服务提供者独家拥有。
- (f) 客户确认其有权完全代表其附属公司，并确定其附属公司在本协议项下的权利和义务。客户应对其附属公司在本协议项下的所有合同义务负责。

### 3.2. 客户数据的匿名使用

- (a) 客户特此授予服务提供者自由的、简单的（非专属的）、全球性的、暂时不受限制的且不可撤销的权利，可以匿名形式存储、处理、链接、评估、分析、传递、发布和经济地利用客户数据（在 3.2 (c)“客户数据的匿名使用”规定的含义范围内）。其中具体重点包括使用和商业开发数据的权利，以进行错误纠正，改进自己或第三方的产品（包括服务），开发新产品，建立基准以及进行广告宣传、科学研究或统计。
- (b) 所授予的使用权利可由服务提供者转让和转授给服务合作伙伴和附属公司。
- (c) 以匿名形式使用意味着以解除与以下对象相关性的方式，如通过汇总（摘要），更改要利用的数据：(i) 单个自然人，尤其是客户的用户和员工，(ii) 客户，(iii) 发货人或 (iv) 承运人。为了确定是否可以进行引用，必须考虑根据一般判断，服务提供者或第三方可能使用的用于直接或间接确定引用对象的所有方式。
- (d) 由于将客户数据用于上述用途并不是为了提供合同服务，也不代表处理个人数据（尤其是匿名处理），因此服务提供者并不是代表客户的处理者，而是独立的控制者。

## 4. 模块和服务说明

客户可以通过点击 <https://www.transporeon.com/en/msd> 访问包含产品、模块、功能和服务使用的详细技术说明和使用条件的文档。服务提供者有权按照 16（变更）中规定的条件不时更新本文档，并让客户可以通过上述链接访问更新后的文档。

## 5. 服务级别。可用性。支持。补救措施

### 5.1. 提供服务

服务提供者将秉持以下原则，结合公认的技术规则来提供服务

- (a) 快速、尽职、熟练且专业
- (b) 遵照可用性说明中规定的所有适用服务级别。

### 5.2. 可用性；支持；补救措施

平台可用性、支持时间以及未能实现平台可用性情况下的补救措施可参见 <https://www.transporeon.com/en/avd> 上可用性说明中的定义，并以引用形式纳入了本协议。服务提供者将按照 16（变更）中规定的条件不时更新可用性说明，并让客户可以通过上述链接访问更新后的文档。请注意，更新、升级、保持最新系统版本所需的正常维护工作或者入侵者、未经授权滥用服务或法规要求等事件，可能会导致服务暂时中断。

## 6. 期限与终止

- (a) 客户可随时终止本协议，但需在日历月结束前 30 天发出通知。在这种情况下，服务提供者授予客户的访问权限可以独立撤销。
- (b) 服务提供者可随时终止本协议，但需在日历月结束前 90 天发出通知。
- (c) 除了 6 (a)（期限与终止）规定的终止权利外，如果客户违反平台使用指南和/或 9（遵从性）规定的义务，服务提供者可在书面通知客户后，以正当理由终止本协议。双方出于正当理由终止本协议的任何其他权利不受影响。如果出于正当理由终止，服务提供者则保留立即阻止客户访问的权利。
- (d) 本协议终止后，3（使用权利）规定的所有权利都将失效。

## 7. 商业机密

接收方可以访问披露方的机密信息。

### 7.1. 披露限制

- (a) 接收方不得以任何形式向任何第三方、自然人或法律实体提供披露方的机密信息，需要知悉此等机密信息的接收方或披露方员工、附属公司或代理除外。在这种情况下，接收方应确保接收方所有需要知悉此等机密信息的员工、附属公司或代理均受保密义务的约束，并提供不低于本协议规定的同等级别的保护。
- (b) 接收方员工、附属公司、分包商或代理未经授权披露或使用机密信息，均视为接收方违反本协议。在这种情况下，接收方向披露方承担与接收方自身违约相同的责任。

### 7.2. 合理谨慎

接收方在对机密信息保密时应至少采取与接收方对待其自身商业机密相同的谨慎态度，且任何情况下均不得低于合理的谨慎程度。

### 7.3. 保密例外情形

机密信息不包括以下信息

- (a) 在披露方披露之前接收方已经知悉的信息，
- (b) 已为公众所知（而非通过接收方）的信息，
- (c) 接收方从第三方获取，没有对披露方的保密义务的信息，
- (d) 被视为服务的支持性信息的信息。

### 7.4. 一般披露许可情形

如果根据适用法律或政府法规要求进行披露，接收方可以披露机密信息，但接收方必须事先已在发出书面通知的同时通过电子邮件通知披露方披露事宜，并已采取合理、合法的行动避免信息披露和尽量减少信息披露程度。

### 7.5. 特殊披露许可情形

为了提供本协议项下的服务，并实现畅通无阻的快速管理，发货人会不时要求服务提供商将客户的数据转发给发货人。服务提供商可以共享以下非个人数据，包括但不限于：

- 客户开始使用平台的日期
- 客户订立的本协议的合同版本
- 客户使用的模块
- 客户与服务提供商之间的接口
- 客户的管理状态
- 客户从服务提供商处获得的培训种类
- 用于 Visibility Services 的设备数量
- 关于客户为实施 Visibility Services 而采取的举措的信息（例如，与驾驶员组织的内部培训）
- 客户是否主动使用 Visibility Services。

### 7.6. 存续与更替

本协议终止后，7（商业机密）的规定自本协议有效终止之日起5年内继续有效。

### 7.7. 转发数据和信息

如果客户作为平台上的转发方因而使用“再转让”功能，则客户必须确保客户有权将数据/信息从平台转发给分承运人/分包商。如果客户无权转发，客户可以删除/编辑数据/信息。

## 8. 保证、软件缺陷

服务提供商保证服务可以按照本协议的规定进行使用。如果与约定的或假定的特性存在细微或非实质性的偏差，或者只是存在轻微的使用障碍，则应排除因缺陷而产生的权利。除非另有书面约定，否则产品描述不应视为得到保证。值得特别注意的是，如果由硬件缺陷、环境条件、错误操作、有缺陷的数据或源自客户风险范围的其他情况所导致的功能障碍并不构成缺陷。

## 8.1. 软件缺陷

### 8.1.1 补救措施

- (a) *服务提供商*可自行选择通过提供新版本的平台或指出避免缺陷影响的合理方法，对软件缺陷进行补救。
- (b) 必须以书面形式或通过电子邮件发出缺陷通知，以易于理解的语言描述错误症状，并尽可能地辅以书面记录、硬拷贝或其他文件作为缺陷证明。
- (c) 缺陷通知应能使*服务提供商*重现错误。
- (d) 在客户向*服务提供商*支付约定费用减去相当于缺陷经济价值的金额后的款项之前，*服务提供商*可以拒绝对缺陷进行补救。

### 8.1.2 调查

- (a) 如果对客户而言缺陷原因并不显而易见，*服务提供商*将调查原因。
- (b) 如果*服务提供商*不对缺陷负责，特别是因为客户使用不合适的硬件或外部获得的组件，或由于客户的干扰导致的，*服务提供商*可以针对此等调查要求按照调查时有效的每小时费用进行赔偿。
- (c) 如果缺陷不存在，且客户至少在通知缺陷时疏忽大意，未能意识到这一点，*服务提供商*可以针对此等调查要求按照调查时有效的工时和材料费用进行赔偿。

## 8.2. 未经授权修改

- (a) 如果客户或代表客户的任何第三方对服务和/或平台进行任何修改，则排除任何保修索赔，除非客户证明此等修改对缺陷没有影响。
- (b) 对于因客户使用或操作不当或者使用不合适的操作方式（例如使用不受支持的硬件或操作系统）而导致的任何缺陷，*服务提供商*不承担任何责任。

## 8.3. 约定履行内容

- (a) *服务提供商*不是客户和其他用户之间合同的缔约方。*服务提供商*不保证任何报价与相应需求相匹配，也不保证客户与其他用户之间将签订任何合同。
- (b) *服务提供商*不负责提供客户和其他用户之间合同约定的任何履行内容，也不负责提供任何对价。

## 8.4. 准确性和正确性

- (a) *服务提供商*不对客户和其他用户在使用平台时所输入和/或提供的信息的准确性和正确性负责。
- (b) *服务提供商*全权负责根据所提供的信息准确计算结果并负责正确的数据传输。

## 8.5. 用户可靠度

*服务提供商*不保证其他用户的可靠度。

## 8.6. 第三方服务的提供

### 8.6.1 数据和链接

*服务提供商*在*服务提供商*网站上或通过服务链接到服务合作伙伴的服务或提供服务合作伙伴的服务（以下称为“其他服务”），以便向客户提供内容、产品和服务。这些服务合作伙伴可能拥有自己的使用条款和条件以及隐私政策，客户对此等其他服务的使用将受这些条款和条件以及隐私政策的约束。对于提供了其他服务的直接链接的情况，*服务提供商*不保证、不认可或不支持此等其他服务，也不对这些其他服务或客户使用此等其他服务所造成的损失或问题负责，因为这已超出*服务提供商*的控制范围。客户承认，*服务提供商*可以允许服务合作伙伴根据其他服务与服务之间互操作的需要，访问服务中使用的客户的数据。客户声明并保证，客户使用任何其他服务即表示客户自主同意服务合作伙伴访问和使用客户的数据。

### 8.6.2 数据丢失

针对数据丢失的责任仅限于客户定期制作适当的备份副本所导致的正常恢复费用。客户减轻损害的义务不受影响。

## 9. 遵从性

- (a) 双方均应遵守并确保代表其履行本协议项下义务或使用平台和服务的员工或代理人遵守所有适用的法律、法规、条例、规则和标准，并应遵守服务提供商的标准行为准则，可参见 [https://investor.trimble.com/files/doc\\_downloads/gov\\_docs/Trimble-Code-of-Business-Conduct-and-Ethics-US-English-en\\_US.pdf](https://investor.trimble.com/files/doc_downloads/gov_docs/Trimble-Code-of-Business-Conduct-and-Ethics-US-English-en_US.pdf)。
- (b) 为了秉持道德与诚信原则来开展商业活动，双方应特别遵守以下领域的所有适用法律，即人权、职业健康和安全、反贿赂和腐败、竞争和反垄断以及环境等领域的法律。
- (c) 在履行其在本协议项下的义务以及使用平台和服​​务时，就本协议及任何附加协议的执行而言，客户同意遵守所有适用的反腐败法律法规，包括但不限于 1977 年美国《反海外腐败法》修订版以及 2010 年英国《反贿赂法》及其任何修订案。
- (d) 在本协议期限内，就使用服务所获得、计划的或达成的任何合同或业务关系，以及就其使用平台和服​​务而言，
- 客户不得且不得允许其任何授权用户或代表提供、要约、承诺或授权向任何政府官员或为了获取政府官员提供的利益而支付或给予任何钱款、费用、佣金、报酬或任何其他贵重物品，以影响其做出违反其法定职责和适用法律的行为或决定，从而获取或保持业务，亦或者为了取得不正当利益或造成利益冲突（统称为“**贿赂**”）；
  - 客户不得直接或间接地向任何人提供或承诺，或向任何人要求或接受任何个人或不正当的经济利益或其他利益，从而影响客户或任何其他人的决策，或产生利益冲突，欺骗或误导其他客户、客户的董事、高级职员、员工、顾问或代理，意图剥夺他们的某些合法权利。
- (e) 如果知道或有合理理由怀疑客户控制下或与之有关联的任何人正在实施或试图实施与客户使用平台和服​​务有关的贿赂行为或促使贿赂的行为，客户应立即通知服务提供商。
- (f) 双方应遵守相关的竞争和反垄断法。
- (g) 除非另有规定，否则此等法律禁止竞争者对市场（即行业、地区、产品和服务方面的细分）、条件、价格、商业策略和活动（如操纵投标、参与投标程序、操纵价格、价格歧视）进行讨论或约定。
- 客户不得签订任何（书面或口头）协议，也不得参与任何其他形式的、以防止或限制竞争为目的或效果以及/或者违反竞争或公平交易相关适用法律的活动。此外，客户应避免出于自身利益或出于第三方利益参与违反反垄断或反抵制法的协议或联合行为。
- 不得利用客户可能持有的任何市场支配地位，操纵、隐瞒或歪曲重要事实，滥用机密或特权信息，或者类似的做法，取得不公平的优势。
- (h) 此规定同样适用于竞争性敏感信息的交换，即所有非公开的、可能被竞争对手或供应商用于提供服务或制定生产、定价或营销决策的信息，包括但不限于与成本、产能、分销、营销、供应、市场领域、客户关系、与任何特定客户的交易条款以及当前和未来价格、投标或价目表有关的信息。
- (i) 客户应采取商业上合理的措施，确保其遵守适用的反恐怖主义法规以及其他国家和国际禁运和贸易管制规则。
- (j) 客户声明并保证，其在本协议期限内，目前没有且将来也不会受到适用于其使用平台和服​​务的商品或技术出口限制。
- (k) 双方同意，在提供和使用服务进行所有活动时，严格遵守所有贸易、海关、进出口和制裁的所有相关规定，以及各自国家和适用于所开展业务的任何其他司法管辖区的法律规定下适用的其他相关和类似法律、法规、要求和限制，例如：
- 出口管制法、适用的贸易制裁和贸易禁运、双用途商品管制法；
  - 禁止与“被拒”方或“被限制”方交易，即法人集团实体、其董事、员工和/或分包商未出现在联合国、欧盟、英国和/或美国政府机构发布的任何观察和/或制裁名单（统称为“**制裁和观察名单**”）上。
- (l) 如果客户或其任何用户，亦或者使用平台和服​​务的计划或已签订合同中的任何其他方被列入任何制裁名单，客户应立即以书面形式或通过电子邮件通知服务提供商。

## 10. 赔偿

### 10.1. 客户赔偿

- (a) 如果第三方针对因客户使用服务而由此等第三方造成的损害提出任何索赔，客户应承担赔偿责任。
- (b) 客户同意针对服务提供商遭受或合理造成的由以下行为引发的或与以下行为有关的任何第三方索赔、损害（实际的和/或间接的）、诉讼、程序、要求、损失、责任、费用和开支（包括合理的法律费用），对服务提供商以及服务合作伙伴、许可方、附属公司、承包商、高级职员、董事、员工、代表和代理进行赔偿、辩护、免责并使其免受损害：
- 客户的任何疏忽行为、不作为或故意不当行为；
  - 客户违反本协议的行为；和/或
  - 客户违反任何法律，包括但不限于数据保护法，或侵犯任何第三方的任何权利。

- (c) 如果 *服务提供商* 根据 **10（赔偿）** 的规定要求 *客户* 赔偿，*服务提供商* 将立即以书面形式或通过电子邮件通知 *客户*。
- (d) 在这种情况下，*服务提供商* 有权指定一名法律顾问，并控制维护其权利所需的任何程序，并要求赔偿相关的费用。

### 10.2. 服务提供商赔偿

- (a) 针对因 *客户* 使用 *服务* 导致第三方 *知识产权* 遭到侵犯而引起的 *第三方* 索赔，*服务提供商* 将在“责任”中规定的范围内，对 *客户* 进行赔偿。
- (b) *客户* 应立即向 *服务提供商* 发出有关索赔的书面通知，同时发送电子邮件通知。*客户* 还将向 *服务提供商* 提供信息、合理协助和独家授权，以便进行辩护或解决索赔。
- (c) *服务提供商* 可以根据其合理的判断，
  - (i) 为 *客户* 取得继续使用 *服务* 的权利，或者
  - (ii) 替换或修改 *服务*，使其不构成侵权；又或者
  - (iii) 停止提供 *服务*，并赔偿 *客户* 因此而产生的合理费用。

### 10.3. 无义务

- (a) 如果 *客户* 在未经 *服务提供商* 事先书面同意的情况下解决与 *第三方* 的争议，*服务提供商* 无义务根据 **10.2（服务提供商赔偿）** 的规定对 *客户* 进行赔偿。
- (b) 如果因 *客户* 或代表 *客户* 的 *第三方* 未经授权修改 *服务* 或者结合未经 *服务提供商* 同意的情任何硬件、软件或材料使用 *服务* 而构成侵权，*服务提供商* 无义务对 *客户* 进行赔偿，除非 *客户* 证明上述修改或使用情况对所主张的侵权索赔没有影响。

## 11. 引用

*服务提供商* 有权在外部通信和商业材料中，特别是 *服务提供商* 的网站、主页及其官方社交媒体渠道、定向电子邮件营销活动以及文件夹、宣传册、网站上，引用 *客户* 的名称和 *客户* 的徽标。*客户* 谨此授予 *服务提供商* 简单、可转让、可撤销的使用其名称和徽标的权利。如需进一步使用，应事先与 *客户* 达成一致。

## 12. 释读

如果本 *协议* 的任何个别条款部分或全部无效或失效，不会影响其余条款的有效性。

## 13. 转让

未经 *服务提供商* 事先书面批准，*客户* 无权转让本 *协议* 项下的任何权利和义务，除非相应的索赔为金钱索赔。

## 14. 声明

- (a) 双方应以书面形式或通过电子邮件作出与本 *协议* 有关的所有法律相关声明。
- (b) *客户* 应及时更新其 *联系方式数据*，并及时通知 *服务提供商* 相关的数据变更。

## 15. 不可抗力

除支付义务外，任意一方均不对因超出其合理控制范围的原因而导致履约受阻、延期或受到妨碍，从而未能履行本 *协议* 项下义务的情况承担责任，这些原因包括但不限于 (i) 无线提供商网络或基础设施的中断；(ii) 网络设施、设备或软件的故障、变更、修改或改动；(iii) 对 *平台* 的滥用或破坏。本款规定的存在正当理由的履约延期或未能履约情形，将导致履约日期自动延长，延长时间等于导致履约延期或未能履约的事件的持续时间。此等存在正当理由的履约延期或未能履约情形不构成违约，或除非相关履约义务不完整或未履行，否则也不构成争议或扣留本 *协议* 项下应付款项的理由，但前提是履约延期或暂停的一方应尽商业上合理的努力尽快恢复履行其在本 *协议* 项下的义务。

## 16. 变更

- (a) 如果由于新的技术发展、法律变更、*服务* 扩展或其他类似的令人信服的原因，有必要进行变更，则 *服务提供商* 有权改动本 *协议* 及任何其他条件。如果变更实质上破坏了 *双方* 之间的合同平衡，则该等变更不会生效。
- (b) *服务提供商* 将在变更生效前至少提前 **45 天** 向 *客户* 发出书面通知（也可通过电子邮件或 *平台* 上的即时消息）。



- (c) 如果客户在收到服务提供商的变更通知后 4 周内未以书面或者通过电子邮件或平台提出异议，则视为客户同意变更。此后果将在变更通知中阐明。如果客户反对变更，则双方均可终止本协议，但条件是协议终止的生效日期不得晚于相关变更通知的生效日期。

## 17. 完整协议

- (a) 本协议构成双方之间的完整协议，并取代之前与本协议相关的所有口头或书面谈判、声明或协议。
- (b) 服务提供商不承认客户所列的任何偏离或补充条件。

## 18. 具备约束力的版本

若英文版本与翻译版本不一致，以英文版本为准。

# 附件：Transporeon Group Asia Pacific Pte. Ltd. 的特定条款和条件

## 1. 条款

### 1.1. 免责声明和责任限制

- (a) 条款 1.1 (免责声明和责任限制) 规定了服务提供商对客户的全部责任 (如有) (包括因其员工、代理商和分包商的作为或不作为而引起的任何责任): (I) 本协议项下产生的或与本协议有关的; (II) 与平台相关的; (III) 与客户或其用户对平台使用有关的; 以及/或者 (IV) 与本协议项下产生的或与本协议相关的任何陈述、声明或侵权行为或不作为 (包括过失) 有关的。
- (b) 在“可用性说明”所述的限制内, 服务提供商向客户保证, 服务提供商将使用商业上合理的措施, 以确保平台可连续使用, 但受平台维护 (无论是计划性还是意外性维护, 由服务提供商确定) 或超出服务提供商控制范围外的原因的约束。本保证是服务提供商就平台、web 客户端及本协议作出的唯一保证和声明。上述保证: (I) 基于所有用户正确使用平台并遵守本协议条款; (II) 不保证平台的执行或运行中无中断、病毒、漏洞或错误, 也不保证所有错误都将得到修复; (III) 不适用于任何用户名下或用户控制下的数据或数据输入、输出、准确性和适用性; (IV) 不保证平台将满足任何用户的要求, 也不保证客户将与其他用户签订合同; (V) 不保证平台运行速度; 以及 (VI) 服务提供商以外的任何个人或实体对平台进行修改的, 不予生效。
- (c) 除非适用法律明确禁止且与平台相关, 服务提供商明确表示不承担任何形式的所有其他保证, 无论是明示、暗示或法定的, 包括但不限于对适销性或满意质量或适合特定用途的任何默示保证。客户承认并同意平台是在“现有状况”和“既有状况”并且可能存在各种问题的基础上进行提供。违反“10. 赔偿”条款的情况下, 服务提供商对平台不会侵犯任何一方的权利 (包括知识产权) 不作保证。受上述内容约束, 客户完全承担访问和使用平台的所有风险。因此, 服务提供商不保证, 并且不承担与以下内容有关的所有责任: (I) 服务提供商通过平台发布或传达给客户的与平台有关的任何信息的准确性、完整性、适用性或合法性; (II) 平台 (包括平台上任何内容) 质量、可用性、适用性或相关的任何其他方面; 以及 (III) 平台中包含或纳入的任何信息、数据、材料或工具, 及/或此等内容的准确性。
- (d) 服务提供商对平台的用户之间交换的数据不作任何明示或暗示保证。服务提供商不承担验证平台用户所提供的任何数据的准确性或完整性的义务。以上责任限制是双方商定的风险分配, 部分构成服务提供商向客户提供服务的对价, 即使任何有限补救措施的基本目的未能实现, 以上责任限制仍将适用。部分司法管辖区不允许排除或限制附带的、间接的或指定的其他损害, 或者允许限制默示保证的期限, 因此上述限制或排除规定可能不适用于或不完全适用于客户。
- (e) 服务提供商对任何用户的计算机系统和网络或是否适合平台不作保证, 也不提供担保。
- (f) 服务提供商对通过使用平台而获得的结果、正确性、质量、用户身份或可靠性和/或通过平台获取的信息内容不作保证, 也不提供担保。服务提供商没有义务对提交给平台的数据中的错误和/或不准确之处进行纠正。
- (g) 服务提供商对因下载有害数据或使用平台而导致的数据丢失或客户系统损坏不承担任何责任或义务。
- (h) 服务提供商不对因平台的用户之间的信息交换或合同和非合同关系和/或协议而导致的索赔、要求、诉讼、债务、伤害、起诉、损失、费用、损害或处罚, 包括但不限于诉讼费和律师费 (和/或法律费用) 承担责任。
- (i) 服务提供商 (及其母公司、附属公司、承包商、分包商、顾问、代理和供应商) 不承担平台任何及所有用户的特殊、间接、偶然、必然、惩戒性或惩罚性赔偿, 包括利润损失、数据丢失或丧失使用价值, 无论诉讼方式或依据如何, 即使已告知服务提供商其可能性。在任何情况下, 服务提供商对客户所承担的、因使用平台或 web 客户端引起的或与之相关的最大责任应限制在过去 12 个月内客户实际支付给服务提供商的费用以及服务提供商已接收的金额总额范围内或 1 万新加坡元 (SGD 10,000.00), 具体以较低者为准。这些限制适用于所有的诉因, 包括但不限于违约、违反保证、疏忽、严格责任、误导性陈述等侵权诉讼。

### 1.2. 数据保护

#### 1.2.1 个人数据的处理

##### 1.2.1.1 遵守法律

服务提供商和客户应遵守任何相关司法管辖区的所有法律和法规中有关数据保护或个人数据使用和规定的规定。

### 1.2.1.2 个人数据的处理

(a) 有关个人数据处理的详细信息（隐私声明），可参阅平台登录页面的页脚部分，也可以在线访问 [https://legal.transporeon.com/DP/PLT/en\\_Platform\\_Privacy\\_Policy.pdf](https://legal.transporeon.com/DP/PLT/en_Platform_Privacy_Policy.pdf)

(b) 此外，服务提供商还会处理 *Visibility Services* 中驾驶员的个人数据，尤其是

- 位置数据（如 GPS 定位）
- 车牌数据

处理此等个人数据的目的在于提高运输过程的透明度。同时也便于预估延迟、测量运输路线以及优化运输时间预测（= “ETA” 计算）。有关驾驶员作为数据主体的个人数据处理的详细信息（车辆驾驶员信息声明），可在线访问 [https://legal.transporeon.com/DP/RTV/en\\_Driver\\_Privacy\\_Policy.pdf](https://legal.transporeon.com/DP/RTV/en_Driver_Privacy_Policy.pdf)。

(c) 通过 *Transporeon Trucker* 使用的情况下，驾驶员的个人数据仅在征得相关驾驶员明确同意的情况下进行处理。服务提供商作为独立的 *Transporeon Trucker* 数据控制方。

## 1.2.2 数据保护法规定的义务

### 1.2.2.1 个人数据的提供

(a) 客户应向服务提供商提供履行本协议规定服务所需的个人数据。具体重点包括隐私声明中提及的个人数据（请参阅 1.2.1.2 (a)（个人数据的处理））。

(b) 数据可由客户直接提供，也可以由数据主体在客户的指示下提供。

(c) 客户将确保所提供的个人数据仅限于所需最小范围的数据（数据最小化原则）。

### 1.2.2.2 数据主体的信息

(a) 客户应以简明、透明、易懂且易于访问的形式，使用清晰、简单的语言向已将个人数据传至服务提供商的所有数据主体提供履行本协议所需的有关其个人数据处理的全面且正确的信息。

(b) 客户还应按照适用数据保护法的规定通知数据主体其享有的权利。具体重点包括访问权、更正权、限制处理权和反对权。

(c) 客户可以通过提供服务提供商的隐私声明（请参阅 1.2.1.2 (a)（个人数据的处理））和车辆驾驶员信息声明（请参阅 1.2.1.2 (b)（个人数据的处理））来履行上述信息义务（如果数据主体尚不了解该信息义务）。

### 1.2.2.3 合法处理

(a) 客户保证，为履行本协议，客户直接提供或数据主体在客户的指示下提供的任何个人数据可由服务提供商、当地子公司以及服务合作伙伴合法处理。

(b) 客户除非且仅限于在强制性法律、集体协议或雇佣合同允许的范围内使用此等个人数据，用于监控数据主体的行为或表现。

## 1.3. 争议解决、管辖权和准据法

(a) 如果双方之间存在因本协议引起或与之相关的任何争议，争议一方必须向另外一方提交有关该争议的书面通知（以下称为“争议通知”）。在递送此类争议通知后的 15 天内，双方应见面谈判以真诚解决争议。如果在一方收到争议通知后的 60 日内无法达成友好协商解决，则应根据条款 1.3 (b)（争议解决、管辖权和准据法）将争议提交仲裁并通过仲裁解决。

(b) 根据条款 1.3 (a)（争议解决、管辖权和准据法），本协议引起或与之相关的所有索赔、争议或其他纠纷，包括关于其存在、效力或终止的任何问题（以下称为“争议”），如果在双方根据条款 1.3 (a)（争议解决、管辖权和准据法）进行协商后无法解决，则应根据新加坡国际仲裁中心（SIAC）的现行仲裁规则在新加坡由最终、有约束力的仲裁确定，仲裁规则被视为以提述方式纳入本条款。仲裁庭应包含 1 名仲裁员，由 SIAC 主席或 SIAC 委任的其他指定代理指定。仲裁语言应为英语。基于此争议的法律或衡平法诉讼机构被诉讼时效禁止后，不可提出或允许仲裁要求。尽管双方同意仲裁，任一方可提请法庭诉讼，获取临时禁令救济，以维持现状直到仲裁结束。

(c) 为执行本协议以及尽管存在条款 1.3 (a)（争议解决、管辖权和准据法）和/或 1.3 (b)（争议解决、管辖权和准据法），服务提供商具有绝对自由裁量权向其选择的具有合法管辖权的法院寻求公平救济，而无需首先尝试根据条款 1.3 (a)（争议解决、管辖权和准据法）和/或 1.3 (b)（争议解决、管辖权和准据法）解决争议，而且客户特此服从法院的管辖权，服务提供商可以从本分条款中寻求补救措施。为避免疑义，本分条款中的权利仅扩展至服务提供商，而不扩展至客户。

- (d) 本协议应以新加坡法律为准据法，并根据该法律进行解释。为避免疑义，联合国国际货物销售合同公约（CISG）不适用于本协议。

# General terms and conditions

## Definitions

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

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

## Preamble

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

### 1. Contract conclusion

- (a) This *Agreement* can be concluded in writing, via e-mail or online via the Registration centre of *Service Provider*. However, a contract is not concluded until *Service Provider* accepts the registration. The online registration must be completed in full and truthfully. *Service Provider* may request the authorised signatory of *Customer* to show suitable evidence of authority to represent *Customer*. *Service Provider* reserves the right to refuse registration or to revoke or to delete such in case of misuse or if false information is provided.
- (b) For certain services, an activation of the Shipper is necessary to perform actions on the *Platform*. Furthermore, each *Carrier* may opt for additional premium services and shall accept further conditions. In order to do so, *Carrier* shall conclude additional agreement which sets out the terms of use of these additional premium services.

### 2. Security of *Platform* and Services

#### 2.1. Platform Usage Guidelines

- (a) *Customer* will have access to *Platform* by way of its *Access Data*. *Customer* agrees to keep its *Access Data* confidential and to restrict any unauthorised access to the account. *Customer* undertakes to change its password on a regular basis.
- (b) *Customer* agrees to comply with the conditions stipulated in *Platform Usage Guidelines* which can be accessed at <https://www.transporeon.com/en/pug>. *Service Provider* may update *Platform Usage Guidelines* from time to time in compliance with the conditions specified in 16 (Changes). *Customer* shall make *Platform Usage Guidelines* available for each *User* of its accounts. *Customer* remains responsible for all the activities that occur under each account that it has on *Platform* and for the conduct of its *Users*.
- (c) *Customer* may not circumvent *Platform* in order to avoid or reduce the payment of any fees.

#### 2.2. Consequences for breach of Platform Usage Guidelines

- (a) *Service Provider* may immediately block *Customer's* access to *Platform* if *Customer* knowingly circumvents or attempts to circumvent *Platform*. The same applies if *Customer* knowingly assists other *Users* in such circumvention.
- (b) *Service Provider* reserves the right to block *Customer's* access to *Platform* in case of any further infringement of *Platform Usage Guidelines* and to delete or block *Customer's* data infringing the provisions of this *Agreement*.
- (c) In making the decision according to 2.2 (a) (Consequences for breach of Platform Usage Guidelines) and/or 2.2 (b) (Consequences for breach of Platform Usage Guidelines), *Service Provider* will take into account the legitimate interests of *Customer* to a reasonable extent and will consider any indications that there is no fault on the part of *Customer*.
- (d) If *Customer* culpably causes loss or damage to *Service Provider* by such circumvention or attempted circumvention, *Customer* shall be liable for the damage resulting therefrom including all the fees that would have been due if *Customer* would not have circumvented or attempted to circumvent *Platform*.
- (e) *Service Provider* will inform *Customer* about blocking of its access and blocking or deletion of its data in writing or via e-mail.
- (f) *Service Provider* is entitled to inform *Shippers* of *Customer* about an impending or actual blocking of *Customer's* access to *Platform*.
- (g) Any further rights of *Service Provider*, such as those related to claiming damages, default delay and/or the right to terminate this *Agreement* for good cause remain unaffected.

#### 2.3. IT security by Service Provider

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

#### 2.4. Technical data transfer

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

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

### 3. Rights of use

#### 3.1. Platform access and usage rights

- (a) *Service Provider* grants to *Customer* a right to access and use *Platform* strictly for the purpose and duration of this *Agreement*. *Service Provider* may introduce new releases, versions, updates and upgrades of *Platform* from time to time. In this case, the preceding sentence shall apply accordingly.
- (b) *Customer* needs to match *System Requirements* to be able to access and use *Platform*. *System Requirements* may be updated from time to time in compliance with the conditions specified in 16 (Changes).
- (c) *Customer* undertakes to use *Platform* and *Services* solely for its own internal business purposes in accordance with this *Agreement*.
- (d) *Customer* shall not be entitled to provide *Third Parties* access to *Platform*, neither for payment of a fee nor free of charge.
- (e) Any and all *Intellectual Property* owned by *Service Provider* prior to *Effective Date* shall remain the sole property of *Service Provider*. Any and all *Intellectual Property* that results from, is obtained or developed in connection with this *Agreement* and the provision of *Services* after *Effective Date* shall exclusively be owned by *Service Provider*.
- (f) *Customer* confirms that it is entitled to fully represent its *Affiliates* and to establish the rights and obligations of its *Affiliates* under this *Agreement*. *Customer* shall be liable for its *Affiliates* for all contractual obligations under this *Agreement*.

#### 3.2. Anonymised use of *Customer Data*

- (a) *Customer* hereby grants *Service Provider* the free, simple (non-exclusive), worldwide, temporally unlimited and irrevocable right to store, process, link, evaluate, analyse, pass on, publish and economically exploit *Customer Data* in anonymised form (within the meaning of 3.2 (c) (Anonymised use of *Customer Data*)) This granted right includes in particular the right to use and commercially exploit the data for error correction as well as for the improvement of own or third-party products (including services), for the development of new products, for benchmarks as well as for advertising, scientific or statistical purposes.
- (b) The right of use granted is transferable and sub-licensable by *Service Provider* to *Service Partners* and *Affiliates*.
- (c) Usage in anonymised form means that the data to be exploited is changed in such a way that it can no longer be related to (i) a single natural person, in particular Users or employees of *Customer*, (ii) *Customer*, (iii) a *Shipper* or (iv) a *Carrier*, e.g. by aggregation (summary). In order to determine whether a reference is possible, all means that are likely to be used by *Service Provider* or a third party, according to general judgment, to directly or indirectly identify a reference object must be considered.
- (d) Insofar as the use of *Customer Data* for the above-mentioned purposes does not serve to provide the contractual services and represents a processing of personal data (in particular the process of anonymisation), *Service Provider* does not act as a processor on behalf of *Customer*, but as an independent controller.

### 4. Modules and *Services* description

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

### 5. Service levels. Availability. Support. Remedies

#### 5.1. Performance

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

- (a) with promptness and diligence and in a workmanlike and professional manner and
- (b) in accordance with all applicable service levels stipulated in *Availability Description*.

#### 5.2. Availability; support; remedies

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



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

## 6. Term and termination

- (a) *Customer* may terminate this *Agreement* for convenience at any time subject to a 30-days' notice period to the end of the calendar month. In this case the access granted to *Customer* by *Service Provider* can be revoked independently.
- (b) *Service Provider* may terminate this *Agreement* for convenience at any time subject to a 90-days' notice period to the end of the calendar month.
- (c) In addition to the termination rights according to 6 (a) (Term and termination), *Service Provider* may terminate this *Agreement* for good cause, effective upon written notice to *Customer*, if *Customer* breaches the obligations as stipulated in *Platform Usage Guidelines* and/or 9 (Compliance). Any further rights of *Parties* to terminate this *Agreement* for good cause remain unaffected. In case of termination for good cause, *Service Provider* reserves the right to block *Customer's* access immediately.
- (d) Upon termination of this *Agreement*, all rights according to 3 (Rights of use) expire.

## 7. Confidentiality

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

### 7.1. Disclosure restrictions

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

### 7.2. Reasonable care

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

### 7.3. Exceptions of confidentiality

*Confidential Information* does not include information that

- (a) was known to *Receiving Party* prior to its disclosure by *Disclosing Party*,
- (b) has become generally available to the public (other than through *Receiving Party*),
- (c) is obtained by *Receiving Party* from a *Third Party* under no obligation of confidentiality to *Disclosing Party*,
- (d) is considered as supporting information in order to enable *Services*.

### 7.4. General disclosure permissions

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

### 7.5. Special disclosure permissions

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

- date since when *Customer* is using *Platform*
- which contract version of this *Agreement* *Customer* concluded
- which modules *Customer* uses
- which interfaces *Customer* has with *Service Provider*
- status of *Customer's* onboarding

- kind of trainings *Customer* received from *Service Provider*
- number of devices used for *Visibility Services*
- information about the steps *Customer* takes in order to implement *Visibility Services* (e.g. organisation of internal trainings with the driver)
- if *Customer* is actively using *Visibility Services*.

#### 7.6. Survival and replacement

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

#### 7.7. Forwarding data and information

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

## 8. Warranty. Software defects

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

### 8.1. Software defects

#### 8.1.1 Remedy

- Service Provider* remedies software defects at its option by providing a new version of *Platform* or by indicating reasonable ways to avoid the effects of the defect.
- Defects must be notified in writing or via e-mail with a comprehensible description of the error symptoms, as far as possible evidenced by written recordings, hard copies or other documents demonstrating the defects.
- The notification of the defect should enable *Service Provider* to reproduce the error.
- Service Provider* may refuse to remedy defects until *Customer* has paid the agreed fees to *Service Provider* less an amount that corresponds to the economic value of the defect.

#### 8.1.2 Investigation

- If the cause of the defect is not obvious to *Customer*, *Service Provider* will investigate the cause.
- Service Provider* may demand compensation for such investigation on the basis of its fees per hour valid at the time of the investigation if *Service Provider* is not responsible for the defect, in particular, if the defect is due to *Customer*'s usage of unsuitable hardware or externally obtained components, or to *Customer*'s interference.
- Service Provider* may demand compensation for such investigation on the basis of its fees for time and material valid at the time of the investigation if a defect does not exist and *Customer* was at least negligent in failing to recognize this when notifying the defect.

### 8.2. Unauthorised modifications

- In case of any modifications to *Services* and/or *Platform* by *Customer* or any *Third Party* acting on its behalf, any warranty claims are excluded, unless *Customer* proves that such modification had no influence on the defect.
- Service Provider* is not liable for any defects that are caused by improper use or improper operation by *Customer* or the use of unsuitable means of operation (e.g. the use of non-supported hardware or operating systems).

### 8.3. Performance agreed

- Service Provider* is not a party to the contracts between *Customer* and other *Users*. *Service Provider* does not warrant that any offer will be matched by a corresponding demand or that any contract will be concluded between *Customer* and other *Users*.
- Service Provider* is not responsible for the provision of any performance contractually agreed between *Customer* and other *Users* or for the provision of any consideration.

#### 8.4. Accuracy and correctness

- (a) *Service Provider* is not responsible for the accuracy and correctness of the information that *Customer* or other *Users* enter and/or provide when using *Platform*.
- (b) *Service Provider* is solely and exclusively responsible for the accurate calculation of the results based on the provided information and for the correct data transmission.

#### 8.5. Reliability of *Users*

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

#### 8.6. Provision of services by third parties

##### 8.6.1 Data and links

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

##### 8.6.2 Loss of data

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

## 9. Compliance

- (a) Both *Parties* shall comply and shall ensure that their representative employees or agents carrying out obligations hereunder or using *Platform* and *Services* comply with all applicable laws, regulations, ordinances, rules and standards, and shall submit to the standard Code of Conduct of *Service Provider* available at [https://investor.trimble.com/files/doc\\_downloads/gov\\_docs/Trimble-Code-of-Business-Conduct-and-Ethics-US-English-en\\_US.pdf](https://investor.trimble.com/files/doc_downloads/gov_docs/Trimble-Code-of-Business-Conduct-and-Ethics-US-English-en_US.pdf).
- (b) In order to conduct business activities ethically and with integrity, both *Parties* shall adhere in particular to all applicable laws in the following areas, i.e. human rights, occupational health and safety, anti-bribery and corruption, competition and antitrust, and environmental laws.
- (c) In connection with the execution of this *Agreement* and any additional agreements in the performance of its obligations hereunder and in using *Platform* and *Services*, *Customer* agrees to comply with all applicable anti-corruption laws regulations including but not limited to the US Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act 2010 and any amendments thereto.
- (d) During the term of this *Agreement*, in connection with any contract or business relationship solicited, contemplated, or entered into using *Services*, as well as in connection with its use of *Platform* and *Services*,
  - *Customer* shall not, and shall not permit any of its authorized *Users* or representatives to, provide, offer, promise or authorize the payment or giving of any money, fee, commission, remuneration or any other valuable item to or for the benefit of any government official in order to influence an act or decision in violation of his or her lawful duty and applicable law for the purpose of obtaining or retaining business or for the purpose of securing an improper advantage or creating a conflict of interest (collectively **Bribery**);
  - *Customer* shall not, directly or indirectly offer or promise to any person, or demand or accept from any person, any personal or improper financial or other advantage that has the ability to influence decision-making of *Customer*, any other person or to create a conflict of interest deceive or mislead other customers, *Customer's* directors, officers, employees, consultants or agents with the intent to deprive them of some legal right.
- (e) *Customer* shall inform *Service Provider* immediately in the event of knowledge or reasonably founded suspicion that any person under the control or affiliated with *Customer* is committing or attempting to commit any act of, or in furtherance of, **Bribery** in connection with its use of *Platform* and *Services*.
- (f) Both *Parties* shall adhere to the relevant competition and antitrust laws.
- (g) Unless otherwise stipulated, these laws prohibit competitors from discussing or agreeing on markets (i.e., allocation of segments on industries, territories, products, and services), conditions, prices, business strategies, and activities (e.g., bid rigging, participation in tender procedures, price fixing, price discrimination).

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

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

- (h) The same applies to the exchange of competitively sensitive information, i.e. all information that is not public and could be used by a competitor or supplier to offer service or to make production, pricing or marketing decisions, including but not limited to information relating to costs, capacity, distribution, marketing, supply, market territories, customer relationships, the terms of dealing with any particular customer, and current and future prices, bids, or price lists.
- (i) *Customer* shall take commercially reasonable measures to ensure its compliance with applicable anti-terror regulations and other national and international embargo and trade control rules.
- (j) *Customer* represents and warrants that it is not and will not be during the term of this *Agreement* subject to any restrictions on export of goods or technology that apply to their use of *Platform* and *Services*.
- (k) Both *Parties* agree that while providing and using *Services* to perform all activities in strict compliance with all provisions of all trade, customs, import and export and sanctions and other related and similar laws, regulations, requirements, and restrictions which are applicable under the laws of its respective territories and any other jurisdiction applicable to the business conducted, such as:
  - export control laws, applicable trade sanctions and trade embargoes, laws that govern dual use goods;
  - prohibitions to deal with 'Denied' or 'Restricted' parties, i.e., no legal group entity, its directors, employees, and/or subcontractors appear on any Watch and/or Sanctions lists issued by the UN, EU, UK, and/or the US governmental bodies (collective **Sanctions- and Watch lists**)
- (l) *Customer* shall notify *Service Provider* immediately in writing or via e-mail in the event *Customer* or any of its *Users* or a counterparty to any contract contemplated or entered into using *Platform* and *Services* becomes listed on any sanctions list.

## 10. Indemnification

### 10.1. Indemnification by *Customer*

- (a) *Customer* is liable in case of any claims by *Third Parties* for damages incurred by such *Third Parties* in connection with *Customer's* usage of *Services*.
- (b) *Customer* agrees to indemnify, defend, release, and hold *Service Provider*, and all *Service Partner*, licensors, affiliates, contractors, officers, directors, employees, representatives and agents, harmless, from and against any *Third Party* claims, damages (actual and/or consequential), actions, proceedings, demands, losses, liabilities, costs and expenses (including reasonable legal fees) suffered or reasonably incurred by *Service Provider* arising as a result of, or in connection with:
  - any negligent acts, omissions or wilful misconduct by *Customer*;
  - any breach of this Agreement by *Customer*; and/or
  - *Customer's* violation of any law including but not limited to data protections laws or of any rights of any *Third Party*.
- (c) In the event *Service Provider* seeks indemnification from *Customer* according to 10 (Indemnification), *Service Provider* will inform *Customer* promptly in writing or via e mail.
- (d) In this case, *Service Provider* is entitled to appoint a legal counsel and to control any proceeding necessary to safeguard its rights as well as to demand reimbursement of the associated costs.

### 10.2. Indemnification by *Service Provider*

- (a) *Service Provider* will indemnify *Customer* from claims of *Third Parties* arising from the infringement of their *Intellectual Property* rights which have arisen through the use of *Services* by *Customer* to the extent set out in "Liability".
- (b) *Customer* will give *Service Provider* prompt written notice in parallel with an e-mail notification of such claim. *Customer* will also provide information, reasonable assistance as well as the sole authority to *Service Provider* to defend or settle such claim.
- (c) *Service Provider* may, at its reasonable discretion,
  - (i) obtain for *Customer* the right to continue using *Services*, or
  - (ii) replace or modify *Services* so that they become non-infringing; or
  - (iii) cease to provide *Services* and reimburse *Customer* for reasonable expenses resulting therefrom.

### 10.3. No obligation

- (a) If *Customer* resolves the dispute with a *Third Party* without the prior written consent of *Service Provider*, *Service Provider* is not obliged to indemnify *Customer* in accordance with the provisions of 10.2 (Indemnification by Service Provider).
- (b) *Service Provider* will have no obligation to indemnify *Customer* if the infringement is based on an unauthorised modification of *Services* by *Customer* or a *Third Party* on *Customer's* behalf or the usage of *Services* in combination with any hardware, software or material not consented to by *Service Provider*, unless *Customer* proves that such modification or usage had no influence on the asserted claims for infringement.

## 11. References

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

## 12. Interpretation

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

## 13. Assignment

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

## 14. Declarations

- (a) Both *Parties* shall make all legally relevant declarations in connection with this *Agreement* in writing or via e-mail.
- (b) *Customer* will keep its *Contact Data* up to date and notify *Service Provider* of any changes without undue delay.

## 15. Force Majeure

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

## 16. Changes

- (a) *Service Provider* is entitled to make changes of this *Agreement* as well as any other conditions if these become necessary due to new technical developments, changes in the law, extensions to *Services* or other comparable compelling reasons. If a change disrupts the contractual balance between *Parties* substantially, such change will not come into force.
- (b) *Service Provider* will give *Customer* at least 45 days prior written notice (also via e-mail or instant message on *Platform*) before the changes enter into effect.
- (c) The changes are deemed approved by *Customer* if *Customer* does not object in writing or via e-mail or via *Platform* within 4 weeks after having received the notification from *Service Provider*. This consequence will be expressly pointed out in the notification. If *Customer* objects to the changes, both *Parties* may terminate this *Agreement* in accordance, with the proviso, however, that the termination shall become effective no later than the effective date of the relevant notification.

## 17. Entire Agreement

- (a) This *Agreement* constitutes the entire agreement between *Parties* and supersedes all prior negotiations, declarations or agreements, either oral or written, related hereto.
- (b) *Service Provider* does not recognise any deviating or supplementary conditions set out by *Customer*.

## 18. Binding version

In case of contradictions between the English and the translated version the English language version shall prevail.

# Annex: Terms and Conditions specific to Transporeon Group Asia Pacific Pte. Ltd.

## 1. Terms

### 1.1. Disclaimers and limitation of liability

- (a) THIS CLAUSE 1.1 (DISCLAIMERS AND LIMITATION OF LIABILITY) SETS OUT THE ENTIRE LIABILITY (IF ANY) OF SERVICE PROVIDER (INCLUDING ANY LIABILITY FOR THE ACTS OR OMISSIONS OF ITS EMPLOYEES, AGENTS, AND SUB-CONTRACTORS) TO CUSTOMER: (I) ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT; (II) IN RESPECT OF PLATFORM; (III) IN RESPECT OF ANY USE MADE BY CUSTOMER OR ITS USERS OF PLATFORM; AND/OR (IV) IN RESPECT OF ANY REPRESENTATION, STATEMENT OR TORTIOUS ACT OR OMISSION (INCLUDING NEGLIGENCE) ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.
- (b) WITHIN THE LIMITATIONS DESCRIBED IN THE AVAILABILITY DESCRIPTION, SERVICE PROVIDER WARRANTS TO CUSTOMER THAT SERVICE PROVIDER WILL USE COMMERCIALY REASONABLE EFFORTS TO ENSURE PLATFORM IS AVAILABLE ON A CONTINUAL BASIS SUBJECT TO MAINTENANCE (WHETHER SCHEDULED OR UNEXPECTED, AS DETERMINED BY SERVICE PROVIDER) OF PLATFORM OR UNAVAILABILITY DUE TO CAUSE(S) BEYOND SERVICE PROVIDER'S CONTROL. THIS WARRANTY IS THE EXCLUSIVE WARRANTY AND REPRESENTATION MADE BY SERVICE PROVIDER WITH RESPECT TO PLATFORM, THE WEB CLIENT, AND IN RELATION TO THIS AGREEMENT. THE FOREGOING WARRANTY: (I) IS CONTINGENT UPON PROPER USE OF PLATFORM AND COMPLIANCE WITH THE TERMS OF THIS AGREEMENT BY ALL USERS; (II) DOES NOT GUARANTEE EXECUTION OR OPERATION OF PLATFORM WITHOUT INTERRUPTIONS, VIRUSES, BUGS OR ERRORS, OR THAT ALL ERRORS WILL BE CORRECTED; (III) DOES NOT APPLY TO DATA OR DATA INPUT, OUTPUT, ACCURACY AND SUITABILITY WHICH ARE UNDER ANY USER'S OR USER'S CONTROL; (IV) DOES NOT GUARANTEE THAT PLATFORM WILL MEET ANY USER'S REQUIREMENTS OR THAT CUSTOMER WILL ENTER INTO CONTRACTS WITH OTHER USERS; (V) DOES NOT GUARANTEE THE SPEED OF PLATFORM; AND (VI) DOES NOT OPERATE IF ANY PERSON OR ENTITY OTHER THAN SERVICE PROVIDER HAS MODIFIED PLATFORM.
- (c) UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, AND IN CONNECTION WITH PLATFORM, SERVICE PROVIDER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR SATISFACTORY QUALITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES AND AGREES THAT PLATFORM IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. IN DEVIATION FROM 10. INDEMNIFICATION, SERVICE PROVIDER FURTHER MAKES NO WARRANTY THAT PLATFORM DOES NOT INFRINGE THE RIGHTS (INCLUDING INTELLECTUAL PROPERTY RIGHTS) OF ANY PARTY. SUBJECT TO THE FOREGOING, CUSTOMER WHOLLY ASSUMES ALL RISKS IN ITS ACCESS AND USE OF PLATFORM. HENCE, SERVICE PROVIDER DOES NOT WARRANT, AND EXCLUDES ALL LIABILITY IN RESPECT OF: (I) THE ACCURACY, COMPLETENESS, FITNESS FOR PURPOSE OR LEGALITY OF ANY INFORMATION PUBLISHED BY SERVICE PROVIDER THROUGH PLATFORM, OR THAT IS COMMUNICATED TO CUSTOMER RELATING TO PLATFORM; (II) PLATFORM (INCLUDING ANY CONTENTS THERE) IN RESPECT OF THEIR QUALITY, USABILITY, FITNESS FOR PURPOSE OR ANY OTHER ASPECTS THEREOF; AND (III) ANY OF THE INFORMATION, DATA, MATERIALS OR FACILITIES CONTAINED OR INCORPORATED IN OR ON PLATFORM, AND/OR THE ACCURACY OF THE SAME.
- (d) SERVICE PROVIDER MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE DATA EXCHANGED AMONG USERS OF PLATFORM. SERVICE PROVIDER DISCLAIMS ANY OBLIGATION TO VERIFY THE ACCURACY OR COMPLETENESS OF ANY DATA PROVIDED BY USERS OF PLATFORM. THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR SERVICE PROVIDER'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.
- (e) SERVICE PROVIDER MAKES NO WARRANTY AND PROVIDES NO GUARANTEE WITH RESPECT TO ANY USER'S COMPUTER SYSTEMS AND NETWORKS OR THE SUITABILITY THEREOF WITH RESPECT TO PLATFORM.
- (f) SERVICE PROVIDER MAKES NO WARRANTY AND PROVIDES NO GUARANTEE FOR THE RESULTS OBTAINED BY USING PLATFORM, THE CORRECTNESS, QUALITY, IDENTITY OR RELIABILITY OF USERS, AND/OR THE CONTENT OF ANY INFORMATION OBTAINED THROUGH PLATFORM. SERVICE PROVIDER HAS NO OBLIGATION TO CORRECT MISTAKES AND/OR INACCURACIES IN THE DATA SUBMITTED TO PLATFORM.
- (g) SERVICE PROVIDER SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR LOSS OF DATA OR DAMAGE TO CUSTOMER'S SYSTEMS ARISING FROM THE DOWNLOADING OF HARMFUL DATA OR THE USE OF PLATFORM.
- (h) SERVICE PROVIDER SHALL 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 (AND/OR LEGAL

FEES), ARISING OUT OF THE EXCHANGE OF INFORMATION, OR CONTRACTUAL AND NON-CONTRACTUAL RELATIONSHIPS AND/OR AGREEMENTS AMONG USERS OF PLATFORM.

- (i) SERVICE PROVIDER (AND ITS PARENT COMPANY, AFFILIATES, CONTRACTORS, SUBCONTRACTORS, CONSULTANTS, AGENTS AND VENDORS) SHALL NOT BE LIABLE TO ANY AND ALL USERS OF PLATFORM FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, INCLUDING LOSS OF PROFITS, LOSS OF DATA OR LOSS OF USE, REGARDLESS OF THE FORM OR BASIS OF THE ACTION, EVEN IF SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. IN ANY EVENT, SERVICE PROVIDER'S MAXIMUM LIABILITY TO CUSTOMER ARISING OUT OF OR IN ANY WAY CONNECTED TO THE USE OF PLATFORM OR THE WEB CLIENT SHALL BE LIMITED IN THE AGGREGATE TO FEES ACTUALLY PAID TO SERVICE PROVIDER BY CUSTOMER AND THAT HAS BEEN RECEIVED BY SERVICE PROVIDER DURING THE PRECEDING 12 MONTH PERIOD OR SGD 10,000.00, WHICHEVER IS THE LESSER. THESE LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, ACTIONS FOR BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS AND OTHER TORTS.

## 1.2. Data Protection

### 1.2.1 Processing of personal data

#### 1.2.1.1 Compliance with laws

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

#### 1.2.1.2 Processing of personal data

- (a) The details on the processing of personal data (Privacy Notice) can be found on the login page of *Platform* in the footer or online at [https://legal.transporeon.com/DP/PLT/en\\_Platform\\_Privacy\\_Policy.pdf](https://legal.transporeon.com/DP/PLT/en_Platform_Privacy_Policy.pdf)

- (b) Further, *Service Provider* processes personal data of drivers within *Visibility Services*, in particular

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

This personal data is processed, inter alia, to bring more transparency to the transportation process. This also covers the estimation of delays, the measurement of transport routes and the optimisation of predictions for transport times (= "ETA" calculations). The details on the processing of personal data (Information statement for vehicle drivers) for drivers as data subjects can be found online at [https://legal.transporeon.com/DP/RTV/en\\_Driver\\_Privacy\\_Policy.pdf](https://legal.transporeon.com/DP/RTV/en_Driver_Privacy_Policy.pdf).

- (c) In the event of usage via *Transporeon Trucker*, the personal data of drivers is processed only if the respective driver has given his explicit consent. *Service Provider* acts as an independent data controller with respect to *Transporeon Trucker*.

### 1.2.2 Obligations under data protection law

#### 1.2.2.1 Provision of personal data

- (a) *Customer* shall provide *Service Provider* with the personal data required for the performance of *Services* under this *Agreement*. This includes in particular the personal data mentioned in the Privacy Notice (see 1.2.1.2 (a) (Processing of personal data)).
- (b) The data may be either provided directly by *Customer* or by data subjects at the instigation of *Customer*.
- (c) *Customer* will ensure that the personal data provided is limited to the required minimum (principle of data minimisation).

#### 1.2.2.2 Information of data subjects

- (a) *Customer* shall provide any data subjects, whose personal data are transferred to *Service Provider*, with comprehensive and correct information about the processing of their personal data for the purposes of this *Agreement* in a concise, transparent, intelligible and easily accessible form, using clear and plain language.
- (b) *Customer* shall also inform such data subjects about their rights according to the applicable data protection laws. These rights may include, in particular, the right of access, the right to rectification, the right to restriction of processing and the right to object.
- (c) These information obligations can be fulfilled by *Customer* – if not already known to data subjects – by providing the Privacy Notice (see 1.2.1.2 (a) (Processing of personal data)) and the Information statement for vehicle drivers (see 1.2.1.2 (b) (Processing of personal data)) of *Service Provider*.

#### 1.2.2.3 Lawfully processing

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



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

**1.3. Dispute resolution, jurisdiction and governing law**

- (a) In the event of any dispute between *Parties* arising out of or in connection with this *Agreement*, the disputing *Party* must submit a written notice regarding the dispute (hereinafter *Dispute Notice*) to the other *Party*. Within 15 days following the delivery of such *Dispute Notice*, *Parties* shall meet and negotiate to resolve the dispute in good faith. If an amicable solution cannot be reached within 60 days of a *Party's* receipt of *Dispute Notice*, the dispute shall be referred to and resolved by arbitration in accordance with clause 1.3 (b) (Dispute resolution, jurisdiction and governing law).
- (b) Subject to clause 1.3 (a) (Dispute resolution, jurisdiction and governing law) all claims, disputes or other controversies arising out of or relating to this *Agreement*, including any question regarding its existence, validity or termination, (hereinafter *Dispute*) which cannot be resolved negotiations pursuant to clause 1.3 (a) (Dispute resolution, jurisdiction and governing law) shall be referred to and determined by final and binding arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (SIAC) for the time being in force, which rules are deemed to be incorporated by reference in this clause. The tribunal shall consist of 1 arbitrator to be appointed by the Chairman of the SIAC or such other appointing agent as designated by the SIAC from time to time. The language of the arbitration shall be English. In no event shall a demand for arbitration be made or permitted after the date when the institution of legal or equitable proceedings based on such *Dispute* would be barred by the applicable statute of limitations. Notwithstanding *Parties'* agreement to arbitrate, either *Party* may bring an action in court for temporary injunctive relief in order to maintain the status quo until arbitration is concluded.
- (c) For the purpose of enforcing this *Agreement* and notwithstanding clauses 1.3 (a) (Dispute resolution, jurisdiction and governing law) and/or 1.3 (b) (Dispute resolution, jurisdiction and governing law), *Service Provider* has absolute discretion to seek equitable relief from a court of competent jurisdiction, as it may choose, without first attempting to resolve a dispute under clauses 1.3 (a) (Dispute resolution, jurisdiction and governing law) and/or 1.3 (b) (Dispute resolution, jurisdiction and governing law) and *Customer* hereby submits to the jurisdiction of the court that *Service Provider* may seek relief from under this subclause. For the avoidance of doubt, the right under this subclause is only extended to *Service Provider* and not to *Customer*.
- (d) This *Agreement* shall be governed by and construed in accordance with the laws of Singapore. For the avoidance of doubt, the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to this *Agreement*.