



## GENERAL TERMS AND CONDITIONS

DARFON Electronics Czech s.r.o.

### Article 1 – Definitions

1.1. In these general terms and conditions, the following terms are defined as stated below:

- a) “Darfon”: the Czech legal entity Darfon Electronics Czech s.r.o., having its registered office at Turanka 1315/112, 627 00 Brno in the Czech Republic, registered in the Czech register of companies under number 27679268 and with the VAT identification number CZ27679268.
- b) “Customer”: any natural person or legal entity with whom Darfon enters into an agreement or to whom Darfon makes an offer.
- c) “Agreement”: any agreement, including a signed quotation with general terms and conditions, that comes about between Darfon and the Customer, any amendment or supplement to such an agreement, as well as all legal acts in preparation for and implementation of this agreement;
- d) “Product”: any item offered, to be supplied or delivered by Darfon in pursuance of the Agreement, including among other things bicycles and locking devices;
- e) “Bicycles”: all types of bicycles, including e-bikes, city bikes and cargo bikes.
- f) “Locking Devices”: all types of locking devices, such as Zone devices, dockings, lockings and Bluetooth Low Energy E-R1 Locks including the Keysafe Cloud Service.
- g) “E-R1 Lock”: Bluetooth Low Energy E-R1 Lock including the Keysafe Cloud Service.
- h) “Basic IT-platform”: the Darfon Mobility App, Control Panel and API.
- i) “Services”: all activities, including granting of access to the Basic IT-platform, hosting thereof, installation of the delivered Products, KeySafe Cloud services, maintenance and other service provision, carried out by Darfon for the Customer in implementation of the Agreement.

### Article 2 – General

- 2.1. Unless expressly agreed otherwise, these General Terms and Conditions are applicable to any offer, quotation and Agreement, including those for the supply of Products or provision of Services, between Darfon and the Customer.
- 2.2 An Agreement entered into between Darfon and the Customer, including these General Terms and Conditions, comprise the entire set of the agreements between Darfon and the Customer, and will take the place of any prior written or verbal agreements, declarations, statements and actions of the parties.
- 2.3. If and insofar as an offer and/or Agreement between Darfon and the Customer includes provisions that are divergent from these General Terms and Conditions, without the applicability of these General Terms and Conditions having been expressly excluded, the other provisions of these General Terms and Conditions continue to apply in full.
- 2.4. All general or specific purchasing conditions or other conditions applied by the Customer are expressly rejected by Darfon.
- 2.5. Insofar as the nature of the supplied Products or Services admits this, these General Terms and Conditions are applicable to all subsequent agreements entered into between Darfon and the Customer after they have been provided to the Customer or after the Customer has taken cognisance of them, or can be considered to have taken cognisance of them, in a manner in accordance with the law.
- 2.6. In the event that one or more provisions of these conditions are void or voidable at any time, then the other provisions of these conditions continue to apply in full. In that case Darfon and the

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Customer will agree on a replacement provision in mutual consultation, whereby the spirit of the original provisions will form the guiding principle.

2.7. In the event of discrepancies between the Dutch and the English versions of these General Terms and Conditions, the Dutch text will always be decisive.

## **Article 3 – Offers/Agreement**

3.1. All quotations and offers issued by Darfon are free of obligation and are revocable at any time, unless expressly determined otherwise in the quotation or the offer. The applicability of article 6:219 of the Dutch Civil Code is expressly excluded.

3.2. Without prejudice to the provisions of paragraph 1 of this article, and unless expressly determined otherwise, written offers expire after sixty days.

3.3. All price lists, catalogues and other information provided with an offer are not binding upon Darfon towards the Customer.

3.4. An agreement with the Customer comes about at the time that Darfon has confirmed or accepted the instruction in writing, or if Darfon implements the assignment.

3.5. Darfon reserves the right to refuse assignments and orders.

## **Article 4 - Prices**

4.1. Darfon delivers ex-works. The prices applied by Darfon are exclusive of VAT and all other costs, taxes and levies connected with the sale and delivery of Darfon's Products and Services, unless expressly agreed otherwise. These other costs include, among others, the freight costs, costs of instructions for use, environmental surcharges, waste disposal fees, (product) maintenance and support costs and any costs of the installation on site of the Products supplied by Darfon. The abovementioned costs will be borne by the Customer.

4.2. Agreements will be entered into on the basis of the fee that is applicable at that time. Prices may be adjusted if factors that are determinative for the cost price, such as wages and prices, rise by more than 3%. If the price of the services that Darfon buys from third parties and supplies to the Customer rises, Darfon is entitled to pass on this price rise.

4.3. For a number of its Services, including the Control Panel and API, Darfon operates unlimited usage on the basis of a fair user policy. This fair user policy entails that unlimited usage is permitted, provided that this usage does not exceed the bounds of reasonability and the Customer refrains from any misuse of this unlimited usage. If the usage by the Customer exceeds these bounds of reasonability Darfon reserves the right to charge an additional surcharge.

4.4. In respect of the Services for which Darfon applies a data or usage limit, an additional surcharge will be charged if this data or usage limit is exceeded.

4.5. Prior calculations and estimates have an indicative character. The Customer cannot derive any rights from these.

## **Article 5 – Delivery of Products**

5.1. Unless agreed otherwise, delivery will be made from Darfon's office, Service Centre or warehouse.

5.2. The delivery period commences on the date of written order confirmation by Darfon. If Darfon needs additional information or requires a down payment from the Customer in order to implement the order, the delivery period commences on the date on which Darfon is in possession of this necessary information or the amount of the down payment. This will never be an earlier date than the date of the order confirmation.

5.3. Items will be regarded as delivered at the time of their reception by the Customer or by any party appointed by the Customer for this purpose. After delivery the risk is transferred to the Customer.

5.4. The delivery periods stated by Darfon can never be regarded as strict deadlines, unless expressly agreed otherwise in writing.

5.5. Darfon will always strive to have delivery made on time. If despite this the delivery period may

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be exceeded, then this does not necessarily give the Customer the right to wholly or partly terminate the agreement, unless the Customer has given Darfon notice of default by means of a written demand, and Darfon has been given a reasonable period of at least six weeks to nevertheless honour its obligations, and after the expiry of this period Darfon has still not honoured its obligations, unless circumstances as described in Article 19 of these General Terms and Conditions arise. Direct or indirect reimbursement of any damage arising from late delivery is excluded.

5.6. If the other party is not able to receive the agreed items at the agreed time, or if it is agreed that the delivery will take place on demand, and if this demand does not follow, or does not follow in a timely manner, then Darfon will store the items, or arrange for them to be stored, at the Customer's expense and risk. Items will be stored for up to thirty days after they are offered, after which Darfon is able to freely make use of the items and to dispose of them to third parties at its own discretion. The Customer is not permitted to refuse payment for the items to be delivered as a result of the fact that the Customer was not able to receive the agreed items at the agreed time.

5.7. The Customer must inspect the delivered items at the time of their reception. Any defects, not being defects of a limited significance that barely, if at all, influence the foreseen use of the items, must be reported to Darfon within a reasonable period of time, but without delay. In the case of visible defects, complaints must be submitted in writing, accompanied by supporting arguments and stating the order number, within fourteen days of delivery. In the case of invisible defects, complaints must be submitted in writing, accompanied by supporting arguments and together with evidence and a copy of the original dated proof of purchase without delay, and in any event within fourteen days of the buyer having discovered, or should have been reasonably expected to have discovered, the defects. In the case that the Customer is a consumer, a period of a maximum of sixty days applies.

5.8. In the event of noncompliance with the inspection and reporting obligations stated in the previous paragraph, the Customer loses the right to invoke the circumstances described in this paragraph, as well as the guarantee provisions stated in article 14, in the latter case except for the situation in which a defect arises that the Customer could not or could not be reasonably expected to discover during the abovementioned period.

5.9. Unless agreed otherwise in writing, partial delivery can be made. In that case invoicing can also take place separately for each delivery, and the requirements in respect of the payment of these invoices as well as the requirements as set out in these General Terms and Conditions apply to the Customer. Partial delivery can entail additional costs.

## **Article 6 – Services**

6.1. Darfon provides its services on the basis of an obligation to perform to the best of its ability, unless expressly agreed otherwise.

6.2. Darfon reserves the right to amend its Services on certain points if the law requires this or if amendment is otherwise reasonably required.

6.3. It also applies to the Services provided by Darfon that the delivery periods stated by Darfon can never be regarded as strict deadlines, unless expressly agreed otherwise in writing.

6.4. The materials and components necessary for the provision of the Services will be charged separately by Darfon, unless expressly agreed otherwise in writing.

6.5. If it is agreed that the Services provided by Darfon will be carried out by a person specifically designated for this purpose, Darfon reserves the right to replace this person with one or more other persons with the same or comparable qualifications.

## **Article 7 – Locking Devices**

7.1. The Locking Devices delivered by Darfon are both produced by Darfon as well as bought from third parties.

7.2. A KeySafe Cloud Service, bought from a third party, is used for the operation of the E-RI Lock.

7.3. The KeySafe Cloud Service Terms of Service and the KeySafe Cloud Service SLA, as supplied to the Customer together with these General Terms and Conditions, are applicable to the Key Cloud Service



provided by Darfon.

7.4. In the event that Darfon will make use of digital locks other than the E-RI Lock or a service other than the KeySafe Cloud Service, the general terms and conditions and SLA of the specific manufacturer or supplier will be applicable to them.

#### **Article 8 – IT platform**

8.1. Darfon offers a Basic IT Platform, as described in Article 1 of these General Terms and Conditions. Darfon can expand this platform in the future.

8.2. At the Customer's request, and at extra cost, Darfon can provide a personalised app and a personalised website.

8.3. Darfon requests a monthly IT licence fee for the Basic IT Platform. This fee covers the following IT services: the licence and access to the Control Panel, maintenance and hosting of the IT platform, second line support via email and use of the Darfon Mobility app. First line support is not covered.

8.4. The service fee will be paid no later than the first day of the month, under the payment conditions as stated in these General Terms and Conditions.

8.5. The IT licence will always be taken out for a minimum duration to be agreed by the parties. If the licence is not cancelled, it will automatically be extended for an unlimited duration after this minimum period. Both of the parties can cancel the licence during the minimum period at the end of the minimum duration with a period of notice of one month. After this minimum duration both Darfon and the Customer can cancel at any time they wish, with the observance of a period of notice of one month. Cancellation must take place in writing or by email. The Customer must address its cancellation to the Cancellations department.

8.6. On the termination of the IT licence agreement all claims of Darfon on the Customer will be immediately payable. If Darfon terminates the licence agreement on the basis of reasons within the sphere of influence of the Customer, the Customer is obliged to pay the remaining instalments. The foregoing leaves all other rights of Darfon under these General Terms and Conditions unimpaired.

8.7. Darfon reserves the right to adjust the fees once per year on 1 January with reference to the Statistics Netherlands Consumer Price Index.

8.8. To ensure the continuity of the IT services provided by Darfon, an escrow agreement can be entered into at the Customer's request. This agreement will be entered into, with Darfon's assistance, with an agent contracted by Darfon. Any costs arising from this, including the annual costs, will be borne by the Customer and will be charged by Darfon.

8.9. Hosting of the IT platform will be carried out by Darfon via AWS (Amazon Web Services). Hosting will be carried out in the continent of the Customer. Darfon reserves the right to switch to a different hosting provider.

8.6. The Customer is responsible for the provision of the information that is necessary to configure the Control Panel in a format agreed between Darfon and the Customer, the provision of the content and the logo that the Customer wishes to use for the Tenant screen as used in the app, and the provision of the content for the personalised website.

8.8. The use of unlimited data will be in accordance with the provisions of article 4 of these General Terms and Conditions, based on a user policy founded on reasonability. Limits for Services with a data or usage limit will be stated in a separate appendix.

8.9. The Customer is not permitted to connect the IT platform to an application of a third party without Darfon's prior written permission.

#### **Article 9 – Bicycles**

9.1. Unless agreed otherwise, the Customer is responsible for making the Bicycles and the advert panels on the Bicycles ready for use.

9.2. The Customer is responsible for the safe rental and use of the Bicycles, insofar as this can be reasonably expected of the Customer.

9.3. The Customer indemnifies Darfon against, and will refrain from holding Darfon liable for, all

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damage that arises through the unsafe rental or the noncompliance with the instructions that apply in respect of the Bicycles.

## **Article 10 – Installation**

10.1. If the Customer wishes that Darfon installs or assembles the delivered Bicycles and Locking Devices on site, both parties will consult on this. The Customer will supply Darfon with all information required by Darfon, insofar as this information is necessary for a complete and correct installation on site. This also includes information in respect of underground cable networks. Installation costs and additional costs, including costs for the assembly of the locks on the Bicycles, will be borne by the Customer.

10.2. The site on which the Customer wishes installation to be carried out must be fully accessible for Darfon's personnel and vehicles.

10.3. If it should turn out that the site and the surrounding area are unsafe or could reasonably be considered as unsafe, for whatever reason, including on the basis of political reasons or reasons that form a threat to the national security of the country of the Customer, the Customer will not require of Darfon or of any other employee involved in the installation that they will carry out any installation on site, unless the Customer has taken all possible measures to guarantee the safety of these employees. Any costs for this will be borne by the Customer.

10.4. Additional work or changes in the work to be carried out that are required by the Customer must be submitted in writing and are possible in mutual consultation. Any additional costs will be borne by the Customer.

10.5. The Customer is responsible for the acquisition of all necessary permits, exemptions and rights.

10.6. Unless agreed otherwise, the Customer is responsible for any operational vehicles and tools that serve to enable installation on site.

10.7. Darfon can only guarantee a safe and adequate installation if all base plates for the dockings at ground level are installed and sufficient space is available.

10.8. Complaints in connection with the installation must be reported to Darfon within 24 hours of the installation.

10.9. The Customer is responsible for a sufficient amount of access points to the electricity network, an adequate energy supply and activated and tested points before installation begins. The specifications will be supplied to the Customer by Darfon in good time. The costs of this will be borne by the Customer.

10.10. A stable coverage of the mobile data network is required for a 100% user experience of the object to be installed. The Customer is responsible for the acquisition of SIM cards and data contracts. The Customer will be informed of the specifications and requirements in respect of the data before the installation begins. A stable connection cannot be guaranteed by Darfon.

10.11. In the event that a fixed internet connection is required, the Customer is responsible for the presence of sufficient access points to the network. The Customer will be informed of the specific information and requirements in respect of the network before the installation begins.

10.12. Darfon will provide user training and support in connection with the installation on request. Training and support will take place via Skype (minimum 2 hours per session). Support and training can take place on site on request. The costs of this will be borne by the Customer.

## **Article 11 – Payment**

11.1. Payment must be made within thirty days of the invoice date, unless agreed otherwise in writing. Products will be invoiced per delivery or partial delivery. To this end Darfon can decide to invoice by means of two separate invoices, whereby 60% of the amount must be paid on the date of order confirmation and 40% of this amount must be paid at the time of delivery as stated in Article 5

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of these General Terms and Conditions. Amounts must be paid in Euros.

11.2 The monthly IT licence fee must be paid no later than the first day of each month. If the amount is lower than €500 per month the licence fee must be paid quarterly no later than the first day of each quarter. The licence-holder also has the possibility to make this payment annually, prior to the licence period. In that case Darfon will grant a discount to be further determined.

11.3. After the expiry date stated in paragraph 1 and paragraph 2, the Customer is in default by operation of law and is liable to pay Darfon interest of 1% per month. If after notice of default the Customer again neglects to make payment Darfon is entitled, in addition to the payment of the principal sum and the interest stated in the first sentence, to an immediately payable compensation of 10% of the principal sum.

11.3. In the event of noncompliance with the payment obligation by the Customer, all judicial and extrajudicial collection costs will be borne by the Customer.

11.4. If the Customer consists of more than one natural person and/or legal entity, each of these persons or entities is jointly and severally obliged to comply with the (payment) obligation arising from the Agreement.

## Article 12 – Security

12.1. Darfon is entitled at all times, if it has reasonable doubt concerning the Customer's payment obligations, to require security that is sufficient in its judgement, or prepayment, for the compliance with these payment obligations before complying with its obligations by virtue of the Agreement. Any losses due to delays as a result of not complying with this request within a reasonable period will be borne by the Customer.

12.2. If the Customer does not comply with a request based on paragraph 1 of this article within a reasonable period, Darfon is entitled to wholly or partly terminate the agreement with immediate effect, without being liable to pay any compensation.

## Article 13 – Complaints

13.1. In addition to that which is stated in article 5, paragraphs 7 and 8 in respect of the inspection and reporting obligations, the Customer can only make a complaint if the delivered items are left in an unimpaired condition until the time that Darfon has been able to investigate the Customer's complaints.

13.2. The right of complaint in respect of invoices can be exercised in writing up to fourteen days after the receipt of the invoice by the Customer, to be counted from the first day after the invoice date.

13.3. With regard to invoices, the Customer loses the right to evoke the right of complaint if this right is not invoked within the period stated in the previous paragraph.

## Article 14 – Guarantee and return consignments

14.1. Products. The following guarantee periods apply to the delivered Products:

### Bicycles:

- 5 years: frames and front forks without suspension
- 2 years: front forks with suspension
- 2 years: motor and controller of the E-bike, batteries (2 years or 300 full loading cycles with not less than 80% capacity) and functional electronic components.
- For the other guarantee periods, Darfon will ensure that the Customer is provided with a guarantee list.

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Locking Devices: a guarantee period of 2 years applies to the Locking Devices that are produced by Darfon, with the exception of the battery, from the time of the integration in the IT platform, or the delivery date if this date is earlier.

E-RI Lock: 2 years from the time that the E-RI Lock is claimed in the KeySafe cloud, or the delivery date if this date is earlier. Darfon does not provide any guarantee on the battery of the E-RI Lock.

14.2. Products that show defects and reasonably fall under the guarantee can be replaced, repaired or restored at Darfon's free choice at the Customer's request. Replacement will in no event extend further than the cost-free dispatch of a new Product to replace the Product showing defects.

Replaced items or components become the property of Darfon.

14.3. The Customer can only invoke this guarantee provision if Darfon is informed of the defect immediately after it is detected and Darfon is enabled to inspect the Product and to remedy the defects without delay, and in any event within fourteen days of the Customer making a complaint.

The Customer must submit the guarantee claim in writing, accompanied by sound supporting arguments and together with evidence and a copy of the original, dated proof of purchase. All components must be sent by the Customer to Darfon for examination, at the Customer's expense.

14.4. The guarantee period applicable to repair or replacement deliveries ends at the same time as the period that was applicable to the guarantee of the original delivery.

14.5. Spare parts will be invoiced in all cases. If a component falls under the guarantee, the Customer will receive a credit invoice for the component in question, provided that the component to be replaced will be or has been returned to the Darfon Service Center via a return consignment.

14.6. All guarantee obligations become inoperative in any event if:

- the Products have been or are used improperly or in a way that is inconsistent with their intended use. Theft and accidents also fall under the scope of the foregoing;
- the instructions for use and maintenance, software updates and any installation or fitting instructions are not taken into due consideration;
- inexpert repairs are carried out or non-original components are used, or if non-original components are otherwise fitted on the Products other than during repairs;
- alterations are made on or in the Products and Software and/or the manufacturer's numbers or marks are made unrecognisable or are removed;
- the original proof of purchase stating the purchase date and product description is no longer available;
- The Customer has carried out repairs on electronic Locking Devices and components, or has arranged for such repairs to be carried out, without Darfon's prior permission.

14.7. The guarantee cannot be invoked in the case of corrosion, normal wear and tear, or if a defect concerns the Products used by Darfon that Darfon has received from its suppliers or manufacturers, the latter unless determined otherwise. For the latter category, the guarantees as provided to Darfon by this specific supplier or manufacturer apply.

14.8. If the Customer is of the opinion that Darfon has not or has insufficiently complied with its guarantee obligations, this does not discharge the Customer from its obligations arising from any agreement entered into with Darfon.

## **Article 15 - Maintenance**

15.1. Depending on the Product supplied or the Service offered by Darfon, Darfon and the Customer can agree, at the Customer's request, that Darfon will carry out maintenance on the supplied Products and the offered Services.

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15.2. Maintenance on Products that do not fall under the guarantee described in Article 14 will be charged for on the basis of subsequent calculation and under conditions and for prices to be further agreed by the parties, unless agreed otherwise in writing.

15.3. Maintenance on the Basic IT Platform is included in the IT licence fee.

15.4 Maintenance of the personalised app and personalised website will be offered as a separate Service by means of an SLA.

15.5. Darfon is entitled to refuse the provision of maintenance if the Products and Services delivered by Darfon, or the environment in which these Products and Services operate that is considered as essential for their proper functioning, are altered by the Customer in any form or any manner whatsoever.

15.6. The Customer is not permitted to refuse maintenance on the IT platform. The costs of damage that arises from not maintaining the Services or Products delivered by Darfon, or not having them maintained, will be borne by the Customer.

## **Article 16 – Retention of ownership**

16.1. All Products delivered by Darfon remain the property of Darfon until all claims that Darfon has against the Customer, including but not restricted to the purchase price of the Products, any (collection) costs and interest are paid in full.

16.2. The Customer is not permitted to sell, dispatch or otherwise dispose of these items, other than in accordance with normal business operations, before the intended transfer of ownership. The Customer is also not permitted to pledge these items or to grant any right upon them to third parties for as long as the transfer of ownership has not yet taken place.

16.3. The Customer undertakes to retain the items that are dispatched with retention of ownership carefully and as the recognisable property of Darfon.

16.4. Darfon is entitled to exercise its right of ownership of the items that are dispatched with retention of ownership and are still present at the Customer, and to this end, with the cooperation of the Customer, will be enabled to take back these items if the Customer does not ensure timely payment of the invoice or experiences payment difficulties, or if there is a reasonable expectation that the Customer will experience payment difficulties. If the Customer refuses the abovementioned cooperation, the Customer will forfeit a penalty of €500 per day. The Customer will grant Darfon free access to its items at all times for inspection purposes or to exercise its rights.

## **Article 17 – Relationship of Darfon and the Customer**

17.1. Darfon and the Customer are deemed to be independent parties acting on their own account. Neither party is permitted to enter into obligations on behalf of the other party, or to represent this party in any way whatsoever. No connection under company law or any fiscal connection whatsoever exists between the parties, and neither Darfon nor the Customer will publicly employ terms that suggest such a connection. Neither of the parties can be held responsible for the actions of the other party.

17.2. Unless agreed differently or determined otherwise in these General Terms and Conditions, the Agreement between Darfon and the Customer is based on non-exclusivity. Both Darfon and the Customer are permitted to enter into contracts with other parties within the bounds of the Agreement that has been entered into and these General Terms and Conditions.

## **Article 18 – Liability**

18.1. In addition to all that is stated in these General Terms and Conditions, the liability of Darfon by virtue of all agreements entered into with the Customer concerning all items delivered, work carried out or services provided by Darfon is under all circumstances limited to the direct damage suffered

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by the Customer and that which is stated in article 14 of these General Terms and Conditions.

18.2. The amount to be paid by Darfon in respect of any compensation, depending on the nature of the damage, can never be higher than the total price of the defective components exclusive of VAT, or the total price of the Products sold to the Customer by Darfon in the year previous to the event causing damage. The latter amount is exclusive of VAT and inclusive of the fees connected with the corresponding KeySafe Cloud Service.

18.3. Darfon is, except in case of wilful misconduct or deliberate recklessness, under no circumstances whatsoever liable to the Customer or any other person for any form of exceptional trading loss, indirect and/or consequential loss, including lost profit, missed savings, reduced goodwill and loss as a result of claims of the Customer's customers.

18.4. The Customer will fully indemnify Darfon on demand against all claims of third parties upon Darfon in respect of any act for which the liability is excluded in these General Terms and Conditions.

18.5. The Customer also indemnifies Darfon against all damage that arises through the contravention by the Customer of the General Terms and Conditions or any applicable law or provision, and damage that arises through misuse of Darfon's Products and Services.

18.6. The information that Darfon provides by means of its Services must be regarded as purely informative, and therefore does not entail any advice.

18.7. Darfon endeavours to keep the IT platform supplied by it and the information within it or accompanying it up to date, but cannot guarantee that (the content of) the IT platform will be completely free of inaccuracies, defects, malware or viruses.

18.8. Except in case of wilful misconduct or deliberate recklessness on the part of Darfon, Darfon cannot be held liable for damage that arises by virtue of paragraphs 6 and 7 of this article.

18.9. Darfon cannot be held liable for damage that is the result of the IT platform not functioning, or not functioning properly, as a result of causes that lie outside of Darfon's sphere of influence. These include, among other things, but not exclusively, irregularities in the network connection, interception of data by third parties or the improper functioning of the mobile phone on which components of the IT platform are installed.

18.10 Darfon cannot be held liable for defects in or damage through the products of third parties used by Darfon.

## **Article 19 – Force majeure**

19.1. Force majeure is defined as a shortcoming through which compliance with the Agreement is temporarily or permanently impossible, which cannot be attributed to Darfon and is not the result of a wrongful act on the part of Darfon, and is not or should not be considered to be the responsibility of Darfon by virtue of the law or according to generally accepted standards. Force majeure is in any event considered to exist if any of the following events occur: strikes, illness, war or natural disasters, transport problems as a result of a shortage of transport resources, impediments by third parties, serious operational breakdowns, shortcomings of suppliers and government measures.

19.2. Darfon is entitled to suspend compliance with its obligations arising from the Agreement for the period in which compliance with the Agreement has been temporarily or permanently impossible due to a case of force majeure. If the situation of force majeure has lasted for longer than thirty days, both Darfon and the Customer are entitled to terminate the Agreement in writing.

19.3. Shortcomings due to force majeure do not give the Customer any entitlement to reimbursement of indirect or direct damage.

## **Article 20 – Intellectual property**

20.1. The Customer cannot assert any property right or other right applicable to intellectual property that belongs to Darfon or its supplier(s).



20.2. All equipment, products and other items used by Darfon in its service provision remain the (intellectual) property of Darfon or its supplier.

20.2. If Darfon provides the Customer with drawings, models, designs etc. in implementation of an Agreement, these may not be reproduced, copied, provided to third parties or made available for inspection, wholly or in part, in any form and for whatever purpose without Darfon's prior written permission. Darfon is entitled to require that the abovementioned items be surrendered.

20.3. The Customer is not permitted to alter any notice of intellectual property, or have it altered, to remove it or make it unrecognisable or have it made unrecognisable.

20.4. The Customer is only permitted, with Darfon's prior approval, to place its own trade name, trademark, logo or other designation on Darfon's Products insofar as this does not infringe the intellectual property rights of Darfon or its manufacturers or suppliers. The Customer is not permitted to place any designations on Products that Darfon buys from suppliers or manufacturers.

20.5. Darfon will supply the Customer with a limited, non-exclusive, non-transferable licence for the use of the IT platform, unless agreed otherwise. This licence may not be sublicensed.

20.6. The Customer will receive a lifelong user licence in respect of the personalised app.

20.7. The Customer is not permitted to copy, adapt, amend, create works derived from, distribute, license, sell, transfer, publicly display, publicly implement, duplicate, play, broadcast or otherwise exploit the content of the IT platform, unless agreed otherwise in writing. In divergence from this, the public display and public implementation of the Darfon Mobility App is permitted.

20.8. The words "Powered by Darfon xxx" must always be used in public expressions by the Customer in respect of the Products and Services delivered by Darfon.

20.9. The sources, design and code of the Basic IT Platform, the personalised application and the personalised website are the property of Darfon and will not be transferred.

#### **Article 21 – Processing of personal data**

21.1. The processing of any personal data of users of the IT platform or other Services by Darfon will take place in accordance with the applicable privacy legislation. Darfon can implement the Agreement, improve its service provision and provide up-to-date product information on the basis of this processing. In the case of processing of personal data by the Customer, the Customer guarantees that this processing will also be carried out by the Customer in accordance with the applicable privacy legislation. The Customer is responsible for the development of user conditions with the end user.

21.2. In respect of the personal data processed by Darfon, inspection, deletion and correction can be requested of Darfon, and objections can be lodged.

21.3. Darfon will not make acquired personal data available to third parties in any event whatsoever, nor will Darfon sell this data on.

21.4. Darfon must be informed as soon as possible of any change to personal data or address details.

21.5. Darfon endeavours to develop the IT platform in such a way that this fulfils the requirements set by law, assuming the use of the IT platform in the intended manner. A large proportion of the processing of personal data will however be carried out by the Customer. Darfon can therefore not be held liable for damage that arises through the processing of personal data by the Customer or any other third party. Darfon can also not be held liable for the use of personal data of users of the IT platform by the Customer that is not in accordance with the privacy legislation.

#### **Article 22 – Confidentiality**

22.1. Both Darfon and the Customer will refrain from sharing with third parties or otherwise commercially utilising all that comes to its knowledge in connection with entering into or

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implementing the Agreement with Darfon, the confidential nature of which it is aware of, or reasonably ought to be aware of, unless Darfon has given permission for this or if its disclosure is necessary for the implementation of the Agreement or in pursuance of any legal provision.

22.2. Confidential information must be returned or destroyed on written request. The parties are permitted to retain a copy of this confidential information insofar as this is necessary for administrative reasons.

## **Article 23 – Termination**

23.1. In addition to that which is stated in articles 5, 12 and 19 of these General Terms and Conditions, each party is entitled to terminate the Agreement in writing with immediate effect, without legal intervention, without having to observe a period of notice and without any entitlement to compensation from the other party:

- In the event that the other party does not, or does not properly, comply with the obligations under the Agreement to which these General Terms and Conditions apply, despite having been given the opportunity to comply with the obligations and despite a request for compliance from the party seeking compliance. If one party is of the opinion that the other party is failing to fulfil the Agreement, this party will inform the other party of this in writing as soon as possible. The other party will subsequently have the opportunity to remedy this failure within a reasonable period given for this, which period will amount to a maximum of thirty days. In such an event Darfon is also entitled to suspend its obligations:
- In the event of force majeure affecting the other party that has lasted for thirty days.
- In the event that the other party is in a state of bankruptcy or suspension of payment, the Customer (being a natural person) is admitted to a debt rescheduling scheme, the Customer (being a legal entity) is dissolved, the Customer loses the power of disposition of its assets or parts thereof, or if the Customer permanently discontinues its business.

## **Article 24 – Applicable law**

24.1. The laws of the Netherlands are exclusively applicable to all disputes that arise from or are connected with the Agreement to which these General Terms and Conditions apply. The applicability of the 1980 United Nations Convention on Contracts for the International Sale of Goods (the Vienna Sales Convention) is expressly excluded.

24.2. All disputes that arise from or are connected with the Agreement to which these General Terms and Conditions apply will be exclusively resolved by the judge of competent jurisdiction of the District Court of Oost-Brabant.