

## General Terms and Conditions of Ticket to Mars GmbH for the Aufmaster

### § 1 Contractual Basis

1. These General Terms and Conditions (hereinafter referred to as "GTC") shall apply to the provision of deliveries and services that Ticket to Mars GmbH (hereinafter referred to as "TTM") provides to its customers in connection with the provision of the Aufmaster. TTM concludes contracts exclusively with companies such as building contractors and craft businesses, and legal entities under public law (hereinafter referred to as "Customers"). Accordingly, the GTC apply exclusively in business transactions.
2. Employees and business partners of the Customer (such as external planning offices) who use the Aufmaster in the course of their professional activities for the Customer (hereinafter referred to as "Users") may only use the Aufmaster if the Customer has created a corresponding account for them and they have accepted TTM's terms of use when registering for the first time with the access data provided by the Customer.
3. The Aufmaster is a system consisting of a measuring device and associated software with which cable lengths can be determined and cable sections automatically recorded and documented. In addition to the delivery of the measuring devices (hereinafter referred to as "Measuring Devices" or "Goods"), TTM also provides the Office Software (hereinafter referred to as "Office Software") and the Aufmaster app (hereinafter referred to as "Aufmaster App"; Measuring Devices, Office Software and Aufmaster App together hereinafter also referred to as "Contractual Items") in accordance with the more detailed provisions of these GTC.
4. The type and number of Contractual Items as well as the amount of remuneration shall be determined by the specific individual contract or the other contractual documents, in particular any offer provided by TTM. In the event of any conflict, the customer-specific provisions (e.g. in the offer) shall take precedence over these GTC.
5. These GTC in their respective current version shall also apply to all future contracts between TTM and the Customer concerning the delivery of Goods or the provision of services in connection with the Aufmaster, even if this is not expressly referred to again.
6. Terms and conditions of the Customer that conflict with, deviate from or supplement these GTC shall not become part of the contract, even if TTM should provide deliveries or services without expressly objecting to such terms and conditions of the Customer.
7. In addition to these GTC, the corresponding terms and conditions of the respective App Store shall apply to the download and use of the Aufmaster App. Insofar as an independent contractual relationship is established between the Customer and the app store operator, this shall not be affected by these GTC and the contract concluded between the contracting parties.

### § 2 Scope of Delivery and Services

1. The Measuring Devices work exclusively in connection with the (free of charge) Aufmaster App; in addition, the (free of charge) Office Software can be used with an extended range of functions. Properties, functions and quality of the Measuring Devices as well as the minimum technical requirements and operation conditions to be observed by the Customer result from the respective product description (e.g. on the Aufmaster website at [www.aufmaster.de](http://www.aufmaster.de)) and additionally from the operating instructions which are provided to the Customer together with the Measuring Device in German and English or, if applicable, in the language of the country in which the Measuring Devices are sold. Public statements are only decisive for the agreed quality insofar as they concern specific properties of the Measuring Devices.
2. Information provided by TTM on the Measuring Devices (e.g. utility values, load capacity, performance, tolerances and technical data) as well as representations of the Measuring Devices (e.g. in drawings, models and illustrations) are only approximately authoritative, unless their usability for the contractually intended purpose requires exact conformity. In particular, they do not represent guaranteed qualities (*garantierte Beschaffenheitsmerkmale*) or warranted properties (*zugesicherte Eigenschaften*). Customary deviations or adjustments in size, colour, shape and quality or with regard to other properties, which

are made on the basis of legal regulations or in the course of further technical development, as well as the replacement of components by equivalent parts are permissible insofar as they do not impair the usability of the Measuring Devices for the contractually intended purpose.

3. TTM is entitled to have the contractually agreed services provided in whole or in part by third parties as subcontractors (agents), whereby TTM always remains directly obligated to the Customer. In particular, TTM may commission a subcontractor with the hosting of the Office Software and the data and content of the Customers.
4. A service desk is available to the Customer to answer questions on the application and use of the Contractual Items and to report problems and faults. The purpose of the Support shall be to assist the Customer with technical problems in connection with the use of the Contractual Items which the Customer cannot solve itself. In particular, the Support does not include the provision of professional, organisational or technical advice to the Customer on the use of the Contractual Items.
5. The subject matter of the contract does not include services for the installation and commissioning of the Contractual Items that go beyond its provision under this contract, for example training of the Customer and its employees on the use of the Measuring Devices or the provision of other consulting services.

### § 3 Offer, Conclusion of Contract, Contract Amendments

1. All offers from TTM shall be subject to change and shall not be binding unless they are expressly designated as binding or contain a specific term of acceptance. Orders or commissions from the Customer shall be binding and can be accepted by TTM within two (2) weeks of receipt, e.g. by sending a corresponding order confirmation.
2. Contracts can also be concluded online via the website of TTM or via the account of the Customer; the following applies to this: The presentation of the Contractual Items on the website does not constitute a binding offer by TTM to conclude a contract. Rather, the Customer submits an offer by completing its order. Before submitting its order, the Customer can check it for input errors and make corrections if necessary. TTM will confirm receipt of the order to the Customer immediately by e-mail; this automatic confirmation of receipt does not constitute acceptance of the contract. The contract between TTM and the Customer is only concluded when TTM sends the Customer a separate order confirmation by e-mail. The Customer has no claim to conclude contracts; TTM may accept or reject the Customer's offer at its own discretion. The Customer receives its individual order data together with the order confirmation.
3. The conclusion of the contract with the Customer shall be subject to the correct and timely delivery of the Measuring Devices to TTM by its suppliers. This shall not apply if TTM is responsible for the non-delivery or late delivery by a supplier, in particular if TTM has not concluded a congruent hedging transaction. TTM shall inform the Customer immediately of any non-availability of the Goods and reimburse any consideration already paid by the Customer without delay.
4. For new contracts, the current GTC apply at the time of conclusion. TTM reserves the right to amend the terms and conditions for ongoing licence agreements. Such amendments shall become effective if the Customer does not object to the amendment in writing (e.g. by e-mail) within one (1) month after receipt of a notice of amendment and TTM has informed the Customer in the notice of amendment of the right to object and of the applicable deadline. If the Customer objects to the amendment, the previous terms and conditions shall continue to apply. In this case, TTM shall be entitled to terminate the affected contract within two (2) weeks after receipt of the objection. Excluded from this reservation of right to make amendments are such amendments that relate to material contractual obligations of one party or that change the equivalence relationship between service and consideration more than insignificantly.

### § 4 Delivery of Goods and Passing of Risk

1. Unless otherwise agreed, all deliveries of Goods shall be made "ex works" in accordance with the current version of the Incoterms. The choice of the shipping method and the type of packaging are subject to

the dutiful discretion of TTM. Transport insurance will only be taken out at the request and expense of the Customer.

2. TTM is entitled to make partial deliveries if these can be used independently by the Customer, complete delivery is ensured, and the Customer does not incur any significant additional expense or costs as a result of the partial delivery.
3. The risk shall pass to the Customer at the latest when the Goods are handed over to the forwarding agent, carrier or any other third party appointed to carry out the shipment. This shall also apply if partial deliveries are made. If the shipment or handover of the Goods is delayed due to a circumstance caused by the Customer, the risk shall pass to the Customer from the day on which the Goods are ready for shipment and TTM has notified the Customer of this.

### **§ 5 Deadlines and Dates**

1. Deadlines and dates by TTM shall be regarded as non-binding and are only approximate unless a deadline or date has been expressly designated as binding. Deadlines and dates refer to the time of handover of the Goods to the forwarding agent, carrier or other third party commissioned with the transport.
2. Deadlines and dates shall be extended or postponed by the period of time during which TTM is prevented from making the provision of the delivery or the service due to circumstances for which TTM is not responsible, and by a reasonable restart time after the removal of the cause of the impediment. In addition to events of force majeure and other unforeseeable events (e.g. strikes and lockouts, shortage of raw materials, difficulties in obtaining the necessary official permits, official measures), the circumstances for which TTM is not responsible in this respect also include the Customer's failure to cooperate or late cooperation (e.g. in the case of delivery) as well as times during which TTM is waiting for necessary information, documents or decisions from the Customer.

### **§ 6 Creation of a Company Account and purchase of credits for data export**

1. Customers can create a Company Account (hereinafter also referred to as an "Account") in the Office Software in order to use an extended range of functions. There is no physical transfer or local installation of the Office Software on the servers or clients of the customer or its users.
2. The customer shall receive a non-exclusive right to use the Office Software, limited in terms of content to use for its own business purposes. The customer is not authorised to use the Office Software for purposes other than those agreed. The intended use is also determined by the description on the Aufmaster website.
3. TTM may temporarily restrict access to the Office Software for individual or all customers and users if the security of operations, the maintenance of network or data integrity or the avoidance of serious disruptions or the threat of data loss so require. In making such a decision, TTM shall take appropriate account of the legitimate interests of the customer.
4. In order to export the data obtained with the Contractual Items, the customer can purchase credits for a fee via his Account in the Office Software; the following applies in this regard: The presentation and description of the credits on the Aufmaster website or in the Office Software do not constitute a binding offer by TTM to conclude a contract. Rather, the customer submits an offer by making a binding booking for a credit. Before finalising the booking, the customer can check it for input errors and make corrections if necessary. The contract is concluded when TTM transfers the credit to the customer's Account. The current version of these GTC is available on the TTM website. The contract shall be concluded exclusively in German and English.
5. With the transfer of a credit, the customer receives the right, limited to his account, to export the data obtained with the Contractual Items in accordance with the more detailed provisions on the Aufmaster website or the information in the Office Software, provided that the amount of the credit is sufficient. The customer's right to the purchased credits expires if the customer's Account is deleted or if the customer does not use the credit for a period of 24 months, unless a different usage period was specified in the description of the credit at the time of the respective booking.
6. The customer has the option of setting up an automatic booking of the credit in his Account in order to achieve a recurring purchase of the

desired credit. Once the corresponding amount of the booked credit has been reached (see Section 5 of this § 6), the customer shall automatically be granted with a new credit of the same amount when using this function. Section 5 of this § 6 applies accordingly. The term of such automatic credit cooking is unlimited and can be deactivated again at any time without cause. All that is required is a corresponding declaration by e-mail to [cancel@aufmaster.de](mailto:cancel@aufmaster.de) or via the customer's Account. Credits transferred before deactivation will not be refunded. Unless otherwise agreed, a credit will be charged after it has been booked.

7. The customer can use the Office Software for an indefinite period after successful registration; he can delete his Account at any time, without notice and without reason. TTM may delete the user's Account without cause with a notice period of one (1) month to the end of the (calendar) quarter. The right of both contracting parties to extraordinary termination of the contractual relationship for good cause shall remain unaffected by the above provisions. Deletion of the account in the Office Software - regardless of the reason and regardless of the contractual party - shall not lead to rescission (Rückabwicklung) of the purchase contracts for Measuring Devices.
8. The payment made for unused credits shall not be refunded. This shall not apply if TTM deletes the Account or permanently discontinues operation of the Office Software for reasons for which the customer or its users are not responsible; in such cases, the customer shall be entitled to demand the equivalent value of the credit still held in the Account.
9. Until the Account is deleted, the customer shall have the option of retrieving the data and content stored by it by download in a machine-readable format and purchasing corresponding credits for exporting the data and content. TTM is not obliged to store, archive and/or retain the customer's data and content for access by the customer beyond the specified period. TTM reserves the right to also delete the customer's data and content no later than three (3) months after the Account has been deleted.

### **§ 7 Customer Responsibility**

1. The Customer must provide complete and truthful information during its registration and inform TTM of any changes or update its information itself, if possible. The Customer shall keep its access data to the Office Software secret and protect them from access by unauthorised third parties (e.g. by encryption). The Customer shall also instruct its employees accordingly to maintain confidentiality. Only the registered Customer and its Users shall be entitled to use the Office Software; the transfer of access to the Office Software to unregistered third parties or any other granting of usage options by the Customer to unauthorised third parties shall be prohibited.
2. For trouble-free use of the Office Software, the Customer requires a reliable and high-performance internet connection. It is the Customer's responsibility to establish and maintain a sufficient internet connection. The Customer is also responsible in other respects for compliance with the respective current minimum technical requirements for its infrastructure and for compliance with the defined conditions of use; these are described on the Aufmaster website.
3. The Customer shall ensure that customary and state-of-the-art security measures (such as anti-virus programme and firewall) are installed on its IT systems and end devices and that these and the system and application software used are regularly updated. The Customer also undertakes to set up and maintain all necessary precautions for the regular protection of its IT systems and data.
4. The Customer shall report defects and other faults of the Contractual Items to TTM in a comprehensible and detailed form, stating all information relevant for the fault analysis. In particular, the work steps that led to the occurrence of the fault, the mode of appearance and the effects of the fault must be stated. The report can be made via a ticket system or at [support@aufmaster.de](mailto:support@aufmaster.de).
5. It is the Customer's responsibility to verify the correctness and accuracy of the processing results obtained using the Contractual Items. Since the quality of the measurement results also depends, for example, on the data quality and the specific way in which the Contractual Items are applied by the User (e.g. a properly calibrated cable data set) and on external influences (e.g. the environmental conditions prevailing at the place of use), TTM makes no specific promises and accepts no responsibility for the correctness and accuracy of the measurement and processing results achieved.

6. The Customer is obliged to comply with the applicable laws, in particular copyright law, competition law, data protection law, criminal law, etc., when using the Contractual Items. The Customer is obliged not to upload or store any illegal data or content that violates applicable laws or infringes the rights of third parties. This includes, in particular, content that defames, discriminates against, threatens or harasses other persons or violates their right to privacy or the protection of their personal rights. The Customer undertakes to refrain from any activity that is likely to impair and/or place an excessive burden on the operation of the Contractual Items or the technical infrastructure behind it. The Customer shall instruct its Users accordingly and ensure that they also comply with the above obligations.
7. The Customer grants TTM all rights necessary for the fulfilment of the contract, in particular for storage and processing, to the data and content uploaded by the Customer to the Office Software or accessible to TTM. If text, image, graphic, audio or video files are placed in the Office Software by the Customer or its Users, the Customer must ensure that it is entitled to the necessary rights of use to such content.
8. Furthermore, TTM shall receive from the Customer free of charge the right with no restrictions on time, place and substantive scope, to use and exploit the (usage) data collected and processed via the Contractual Items for its own business purposes. This includes in particular the evaluation, combination with other data (also of other Customers), the duplication, processing and any form of dissemination of the data for analysis, optimisation and benchmarking purposes as well as other commercial use and exploitation of the data, e.g. for own sales purposes. In doing so, TTM shall ensure that the Customer and the Users are not identifiable (even indirectly) for third parties.
9. The Customer shall inform its Users of the aforementioned obligations and monitor their observance by its Users. In the event of a breach by the Customer or its Users of legal regulations or its contractual obligations, in particular those set forth in § 7, as well as in the event of justified suspicion of illegal or improper use of the Contractual Items, TTM shall be entitled, depending on the kind and severity of the breach, to shorten or delete content, to temporarily block the Customer's access to the Contractual Items or to delete the Customer's account in the Office Software. When deciding on the aforementioned measures, TTM shall take appropriate consideration of the legitimate interests of the Customer. TTM will inform the Customer of a blocking and deletion by e-mail as far as possible before, but at the latest immediately after the blocking or deletion, stating the relevant reasons for this, insofar as this is legally permissible. The Customer shall indemnify TTM against all damages, costs and other claims of third parties based on an unlawful use of the Contractual Items by the Customer or its Users; this shall not apply if the Customer is not at fault. Further rights of TTM due to infringements of the law by the Customer or its Users shall remain unaffected.
6. TTM shall be entitled to perform or provide outstanding deliveries or services only against advance payment or the provision of security if, after the conclusion of the contract, it becomes aware of circumstances which are likely to substantially reduce the creditworthiness of the Customer and as a result of which the payment of TTM's outstanding claims by the Customer under the respective contractual relationship appears to be at risk.
7. The Customer may only offset undisputed or legally established claims and may only base a right of retention on undisputed or legally established claims from the same contractual relationship.

### **§ 9 Claims due to Material Defects**

1. TTM shall warrant that the Measuring Devices have the agreed quality. Defects shall not include functional impairments of the Contractual Items which arise, for example, from the use of the Measuring Devices with programmes other than the Office Software and the Aufmaster App, from incorrect operation by the Customer or from other circumstances from the Customer's sphere of risk. Any liability for defects requires that the Customer does not modify the Measuring Devices or use them contrary to the contractual specifications (e.g. under other operation conditions), unless the Customer proves that the defect does not relate to these circumstances.
2. If there is a defect in the Goods provided at the time of the passing of risk, TTM shall provide a warranty by means of subsequent performance (*Nacherfüllung*), which shall be effected, at TTM's option, by means of a subsequent delivery of Goods free of defects or by rectifying the defect. Claims by the Customer for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labour and material costs, are excluded insofar as the expenses have increased because the Goods have been transferred to a place other than the agreed place of delivery, unless the transfer corresponds to the intended use of the Goods.
3. If the subsequent performance finally fails (at least two (2) subsequent performance attempts per defect) or is refused by TTM, the Customer may withdraw (*Rücktritt*) from the purchase contract for the Goods concerned or reduce the remuneration. Due to the complexity of the Goods, more than two (2) attempts at subsequent performance may also be reasonable for the Customer. In the event of an only insignificant deviation of the Goods from the agreed quality, there shall be no right of withdrawal. TTM shall pay damages and reimbursement of futile expenses due to a defect within the limits set out in § 11 of these GTC.
4. The limitation period for defect claims by the Customer under this § 9 shall be one (1) year and shall begin with the delivery of the Good. The reduction of the limitation period shall not apply in the event of intent or gross negligence on the part of TTM, if TTM has fraudulently concealed a defect, or if the defect consists of a right in rem of a third party on the basis of which restitution of the Good can be demanded.
5. Defects in the Office Software will be remedied by TTM during the term of the licence agreement within a reasonable period of time (e.g. as part of the next update). If the rectification of defects finally fails and if this constitutes an important reason for the Customer, the Customer shall be entitled to terminate (*Kündigung*) the licence agreement for the use of the Software for good cause without observing a notice period. The Customer shall not be entitled to withdraw from the contract. Further claims of the Customer remain unaffected. TTM shall also only pay damages in this respect within the limits of § 11 below.
6. TTM shall not assume any warranty for defects in the free Office Software (with the exception of the additional data export function, which is subject to a charge), unless TTM has fraudulently concealed a material defect. TTM shall also only pay compensation for damages in this respect within the limits of § 11 below.
7. If TTM provides services during the analysis and/or rectification of a defect without being obliged to do so, TTM may request the Customer to pay separate remuneration in accordance with the applicable TTM price list for these services based on the actual cost. This provision shall apply, in particular, whenever a defect reported by the Customer cannot be proven or cannot be attributed to TTM. There shall be no claim to additional remuneration if it was not apparent to the Customer that there was no defect in the Goods.

### **§ 8 Prices and Payment Terms**

1. The respective current purchase prices for the Measuring Devices can be called up via the Aufmaster website. In the event of a contract being concluded via the Aufmaster website or the Customer's account, the price will be displayed to the Customer as part of the ordering process. In the absence of any agreement to the contrary, the purchase price shall be invoiced to the Customer immediately after handover of the Goods.
2. The use of the Aufmaster App and the use of the Office Software (without the additional data export function) are free of charge.
3. Only the use of the additional data export function, which is offered and made available to the customer in the Office Software, is subject to remuneration (see § 6 of these GTC). The prices for the purchase of credits are set out in the current price list on the TTM website at the time the corresponding contract is concluded. Unless otherwise agreed, a credit shall be invoiced following its purchase.
4. Unless otherwise agreed, all prices are net prices in euros, plus the applicable statutory value-added tax, plus shipping costs and packaging in the case of deliveries of Goods and plus any customs duties, fees and other public charges that may be incurred in the case of export deliveries.
5. Invoices shall be sent to the Customer by TTM electronically by e-mail. Unless otherwise specified, they shall be due for payment without deduction immediately upon receipt by the Customer. Payment is processed via an external payment service provider. If the Customer is in default with the payment of an invoice, TTM shall be entitled to the legal claims without limitation.
1. TTM warrants that the deliveries and services provided to the Customer are free from third party intellectual property rights and shall indemnify

### **§ 10 Infringements of IP Rights**

the Customer from third party claims due to infringement of intellectual property rights in accordance with the following provisions.

2. If third parties enforce claims against the Customer due to the infringement of their intellectual property rights caused by the Contractual Items, the Customer shall inform TTM immediately in writing and in detail. TTM shall be entitled, but not obliged, to solely conduct the dispute with the third party both in and out of court. If TTM makes use of this option, the Customer shall support TTM in its defence to a reasonable extent without payment. The Customer will not acknowledge the claims of the third party on its own initiative.
3. If the Goods contain a defect of title at the time of passing of risk or if the Office Software has a defect of title during the term of the agreement, TTM shall provide the Customer with a lawful way of use; however, this shall only apply to the free Office Software (except for the additional data export function subject to a charge) if TTM has fraudulently concealed the defect of title. To rectify the defect, TTM may alternatively at its choice replace the affected Contractual Items by equivalent Contractual Items if this is reasonable for the Customer. If an infringement of third party intellectual property rights and/or a legal dispute concerning the third party claims can be rectified or avoided by the Customer using a more up-to-date version of the Contractual Items provided by TTM free of charge, the Customer shall be obliged to accept and use these Contractual Items as part of its obligation to minimize damages, unless the Customer proves that the use of the more up-to-date model is unreasonable for it.
4. TTM will indemnify the Customer within the liability limits set forth in § 11 of these GTC from all damages arising from the infringement of intellectual property rights, insofar as these are based on a defect of title in the Contractual Items used by the Customer in accordance with the contract for which TTM is responsible. In all other respects, the provisions for material defects in § 9 of these GTC apply accordingly to the Customer's claims based on defects of title.

#### **§ 11 General Liability**

1. If TTM provides the Customer with Contractual Items free of charge, e.g. the provision of the Office Software (without the additional function of data export), or provides other free deliveries or services, TTM shall only be liable in this respect for intentional and grossly negligent breaches of duty. Otherwise, liability is excluded. Mandatory statutory liability provisions such as those arising from the German Product Liability Act (ProdHaftG) remain unaffected.
2. If Contractual Items are provided on a rental basis, the following provisions shall apply: In deviation from the statutory provision of § 536a of the German Civil Code (BGB), TTM shall only be liable for defects already existing at the time of conclusion of the contract, if TTM is responsible for such defects.
3. In all other respects, TTM will pay compensation for property damages and pecuniary loss as well as for futile expenses, regardless of the legal reason, only to the following extent:
  - a. in the event of intent and gross negligence as well as in the event of an assumption of a guarantee (*Garantie*) in the full amount;
  - b. in all other cases only in the event of a breach of a material contractual obligation, without which the achievement of the purpose of the contract would be jeopardised and on the fulfilment of which the Customer may therefore rely; and in these cases restricted to compensation for typical damages, however, limited in amount per case of damage to the respective order value of the individual contract concerned, but at least to EUR 25,000 (as an applicable upper limit if the order value is lower).
4. TTM shall be liable for the restoration of data within the limits set forth in § 11 para. 3 only to the extent that the Customer has ensured that the data can be reproduced at any time with reasonable effort from data backups stored by the Customer in machine-readable form.
5. The above-mentioned liability restrictions shall also apply to the legal representatives, agents and employees of TTM.
6. Liability for damages resulting from the loss of life, physical injury or injury to health as well as liability according to the German Product Liability Act (ProdHaftG) shall not be affected by the above-mentioned provisions.

#### **§ 12 Confidentiality, Data Protection**

1. The contracting parties shall be obliged to maintain confidentiality regarding all business and trade secrets of the other contracting party

entrusted to them, made accessible to them or which become known to them in another way, as well as about other business relationships and operational facts. The contracting parties are obliged to use such confidential information only for the contractually intended purpose and not to disclose it to third parties. The contracting parties shall grant access to the confidential information only to those of their employees and subcontractors (who are obliged to maintain confidentiality) who need to know it in order to fulfill the purposes of the contract.

2. The obligation to maintain confidentiality shall not apply to confidential information which was already known to the recipient without the obligation to maintain confidentiality or is or becomes generally known without the recipient being responsible or which is legally disclosed to the recipient by a third party without an obligation to maintain confidentiality or was proven to have been developed independently by the recipient.
3. TTM will process and use the personal data of the Customer and its Users for the purpose of fulfilling the contract. An evaluation of the data for the analysis of the User behaviour and for the improvement of the Office Software will only take place after anonymisation or aggregation of the data, which makes the reference to persons obsolete. Personal data will only be transferred to third parties for the purpose of fulfilling the contract, if another legal basis for legitimacy permits the transfer or if the Customer or User has given their prior consent.
4. As TTM processes personal data on behalf of the Customer, the contracting parties shall conclude in the context of the Customer registration the data processing agreement which forms an integral part of these GTC and the contractual agreement (cf. Appendix).

#### **§ 13 Retention of Title**

1. The Goods delivered by TTM to the Customer (hereinafter referred to as "Reserved Goods") shall remain the property of TTM until full payment of the purchase price. If third parties access the Reserved Goods, in particular by way of seizure, the Customer shall immediately draw their attention to TTM's ownership and inform TTM thereof in order to enable TTM to enforce its ownership rights.
2. In the event that the Customer is in default of payment, ceases to make payments or if there is a significant deterioration in its financial circumstances so that TTM's claims appear to be at risk, in particular if an application is made to open insolvency proceedings against its assets, TTM shall be entitled to demand the return of the Reserved Goods from the Customer. The demand for return shall constitute withdrawal from the contract. It is not necessary to set a deadline in advance.

#### **§ 14 Final Provisions**

1. Events beyond the control of a contracting party, such as force majeure, strikes, lockouts, which make the provision of deliveries or services substantially more difficult or temporarily impossible, shall entitle the affected contracting party to postpone the performance of its obligations for the duration of the hindrance and a reasonable restart time. The contracting parties shall inform each other immediately of the occurrence and termination of such circumstances.
2. The Customer may only assign or transfer contractual rights and obligations to third parties – including companies affiliated with the Customer – with the prior written consent of TTM.
3. Any amendments and additions to the agreement must be made in writing or in text form in order to be effective (notifications by e-mail or within the Customer's account or via the Aufmaster App shall be sufficient).
4. The contract shall be governed by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction for all disputes arising out of or in connection with the contract shall be the registered office of TTM. TTM shall be entitled to take legal action at any other national or international court of competent jurisdiction.
5. If these GTC are provided to the Customer in a language other than German, this shall only be done to facilitate understanding. In the event of contradictions or discrepancies in interpretation, the text in German shall prevail.
6. If individual clauses of these GTC or of the agreement are or become invalid, or if the contract contains a loophole, the validity of the other

clauses shall not be affected. The invalid or missing clause shall be replaced by a valid clause which comes as close as possible to the intended economic intentions of the contracting parties at the time of conclusion of the contract.

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## **Appendix**

### **Standard Contractual Clauses for Commissioned Data Processing pursuant to Art. 28 GDPR**

#### **Section I**

##### **Clause 1 Purpose and Scope**

- a) These standard contractual clauses (hereinafter referred to as "Clauses") are intended to ensure compliance with Article 28 para. 3 and para. 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data, on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).
- b) The controllers and processors listed in Annex I have agreed to these clauses to ensure compliance with Article 28 para. 3 and para. 4 of Regulation (EU) 2016/679.
- c) These clauses apply to the processing of personal data in accordance with Annex II.
- d) Annexes I to IV form an integral part of the Clauses.
- e) These clauses are without prejudice to the obligations to which the controller is subject under Regulation (EU) 2016/679.
- f) These clauses do not in themselves ensure compliance with the obligations relating to international data transfers under Chapter V of Regulation (EU) 2016/679.

##### **Clause 2 Unalterability of the Clauses**

- a) The parties undertake not to amend the Clauses except to supplement or update the information given in the annexes.
- b) This does not prevent the parties from incorporating the standard contractual clauses set out in these Clauses into a more comprehensive contract and from adding further clauses or additional guarantees, provided that these do not directly or indirectly conflict with the Clauses or interfere with the fundamental rights or freedoms of the data subjects.

##### **Clause 3 Interpretation**

- a) Where terms defined in Regulation (EU) 2016/679 are used in those Clauses, those terms shall have the same meaning as in that Regulation.
- b) These clauses shall be interpreted in the light of the provisions of Regulation (EU) 2016/679.
- c) Those Clauses shall not be interpreted in a way that is contrary to the rights and obligations provided for in Regulation (EU) 2016/679 or that affects the fundamental rights or freedoms of data subjects.

##### **Clause 4 Precedence**

In the event of any conflict between these Clauses and the provisions of any related agreements existing between the parties or subsequently entered into or concluded, these Clauses shall prevail.

##### **Clause 5 Tying Clause**

- a) An entity that is not a party to these Clauses may, with the consent of all parties, accede to these Clauses as a controller or processor at any time by completing the annexes and signing Annex I.
- b) After completing and signing the annexes referred to in point a), the acceding entity shall be treated as a party to these Clauses and shall have the rights and obligations of a controller or a processor as designated in Annex I.
- c) No rights or obligations arising from these Clauses shall apply to the acceding entity for the period prior to its accession as a party.

## **Section II**

### **Obligations of the Parties**

#### **Clause 6 Description of the Processing**

The details of the processing, in particular the categories of personal data and the purposes for which the personal data are processed on behalf of the controller, are set out in Annex II.

#### **Clause 7 Obligations of the Parties**

##### **7.1 Instructions**

- a) The processor shall process personal data only on the documented instructions of the controller unless it is required to process under Union law or the law of a Member State to which it is subject. In such a case, the processor shall notify the controller of those legal requirements prior to the processing, unless the law in question prohibits it on grounds of important public interest. The controller may give further instructions throughout the processing of personal data. These instructions shall always be documented.
- b) The processor shall inform the controller without undue delay if it considers that instructions given by the controller infringe Regulation (EU) 2016/679 or applicable Union or Member State data protection law.

##### **7.2. Purpose Limitation**

The processor shall process the personal data only for the specific purpose(s) set out in Annex II unless it receives further instructions from the controller.

##### **7.3. Duration of the Processing of Personal Data**

The data shall be processed by the processor only for the period specified in Annex II.

##### **7.4. Security of Processing**

- a) The processor shall implement at least the technical and organisational measures set out in Annex III to ensure the security of personal data. This includes the protection of the data against a breach of security leading to the destruction, loss, alteration or unauthorised disclosure of or access to the data, whether accidental or unlawful (hereinafter referred to as "Personal Data Breach"). In assessing the appropriate level of protection, the parties shall have due regard to the state of the art, the costs of implementation, the nature, scope, circumstances and purposes of the processing, and the risks involved for the data subjects.
- b) The processor shall only grant its employees access to the personal data subject to the processing to the extent strictly necessary for the performance, management and monitoring of the contract. The processor shall ensure that the persons authorised to process the personal data received have committed themselves to confidentiality or are subject to an appropriate legal duty of confidentiality.

##### **7.5. Sensitive Data**

If the processing concerns personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, or containing genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning a person's health, sex life or sexual orientation, or data concerning criminal convictions and offences (hereinafter referred to as "Sensitive Data"), the processor shall apply specific restrictions and/or additional safeguards.

##### **7.6. Documentation and Compliance with Clauses**

- a) The parties must be able to demonstrate compliance with these Clauses.
- b) The processor shall deal promptly and reasonably with requests from the controller relating to the processing of data under these Clauses.
- c) The processor shall provide the controller with all information necessary to demonstrate compliance with the obligations set out in these Clauses and arising directly from Regulation (EU) 2016/679. Upon request of the controller, the processor shall also allow and contribute to the audit of the processing activities covered by these clauses at reasonable intervals or where there are indications of non-compliance. When deciding on a review or audit, the controller may take into account relevant certifications of the processor.

- d) The controller may conduct the audit itself or engage an independent auditor. Audits may include inspections of the premises or physical facilities of the processor and shall be carried out with reasonable advance notice, where appropriate.
  - e) The parties shall make the information referred to in this clause, including the results of audits, available to the relevant supervisory authority or authorities upon request.
- 2) Obligation to consult the competent supervisory authority(ies) prior to processing where a Data Protection Impact Assessment indicates that the processing would result in a high risk, unless the controller takes measures to mitigate the risk;
  - 3) Obligation to ensure that personal data is accurate and up to date by the processor informing the controller without delay if it becomes aware that the personal data it processes is inaccurate or out of date;
  - 4) Obligations under Article 32 of Regulation (EU) 2016/679.

### 7.7. Use of Subprocessors

- a) The processor shall have the general authorisation of the controller to engage subprocessors that are included in an agreed list. The processor shall expressly inform the controller in writing at least one month in advance of any intended changes to that list by adding or replacing subprocessors, thereby giving the controller sufficient time to object to those changes before the subprocessor(s) in question is/are engaged. The processor shall provide the controller with the necessary information to exercise its right to object.
- b) Where the processor engages a subprocessor to carry out certain processing activities (on behalf of the controller), such engagement shall be by way of a contract that imposes substantially the same data protection obligations on the subprocessor as those applicable to the processor under these Clauses. The processor shall ensure that the subprocessor complies with the obligations to which the processor is subject under these Clauses and under Regulation (EU) 2016/679.
- c) The processor shall provide the controller with a copy of any such subcontracting agreement and any subsequent amendments upon the controller's request. To the extent necessary to protect trade secrets or other confidential information, including personal data, the processor may obscure the text of the agreement before providing a copy.
- d) The processor shall be fully liable to the controller for the subprocessor's compliance with its obligations under the contract concluded with the processor. The processor shall notify the controller if the subprocessor fails to perform its obligations under the contract.
- e) The processor shall agree with the subprocessor on a third party beneficiary clause, according to which the controller - in the event that the processor ceases to exist factually or legally or is insolvent - has the right to terminate the subcontract and instruct the subprocessor to delete or return the personal data.

### 7.8. International Data Transfers

- a) Any transfer of data by the processor to a third country or an international organisation shall only be made on the basis of documented instructions from the controller or to comply with a specific provision under Union law or the law of a Member State to which the processor is subject and shall comply with Chapter V of Regulation (EU) 2016/679.
- b) The controller agrees that where the processor uses a subprocessor pursuant to clause 7.7 for the performance of certain processing activities (on behalf of the controller) and those processing activities involve a transfer of personal data within the meaning of Chapter V of Regulation (EU) 2016/679, the processor and the subprocessor may ensure compliance with Chapter V of Regulation (EU) 2016/679 by using standard contractual clauses adopted by the Commission pursuant to Article 46 para. 2 of Regulation (EU) 2016/679, provided that the conditions for the application of those standard contractual clauses are met.

### Clause 8 Support of the Controller

- a) The processor shall immediately inform the controller of any request received from the data subject. The processor shall not respond to the request itself unless it has been authorised to do so by the controller.
- b) Taking into account the nature of the processing, the processor shall assist the controller in fulfilling the controller's obligation to respond to requests from data subjects to exercise their rights. In fulfilling its obligations under points (a) and (b), the processor shall follow the instructions of the controller.
- c) In addition to the processor's obligation to assist the controller under Clause 8 (b), the processor shall, taking into account the nature of the processing and the information available to it, also assist the controller in complying with the following obligations:
  - 1) Obligation to carry out an assessment of the impact of the envisaged processing operations on the protection of personal data (hereinafter referred to as "Data Protection Impact Assessment") where a form of processing is likely to result in a high risk to the rights and freedoms of natural persons;

- d) The parties shall specify in Annex III the appropriate technical and organisational measures to be taken by the processor to assist the controller in the application of this clause and the scope and extent of the assistance required.

### Clause 9 Notification of a Personal Data Breach

In the event of a Personal Data Breach, the processor shall cooperate with and assist the controller to enable the controller to comply with its obligations under Articles 33 and 34 of Regulation (EU) 2016/679, taking into account the nature of the processing and the information available to the processor.

#### 9.1. Personal Data Breach of Data Processed by the Controller

In the event of a Personal Data Breach in relation to the data processed by the controller, the processor shall assist the controller as follows:

- a) in notifying the Personal Data Breach to the competent supervisory authority or authorities without undue delay after the breach has come to the attention of the controller, where relevant (unless the Personal Data Breach is unlikely to result in a risk to the personal rights and freedoms of natural persons);
- b) in obtaining the following information to be included in the notification by the responsible person pursuant to Article 33 para. 3 of Regulation (EU) 2016/679, which information shall include at least the following:
  - 1) the nature of the personal data, where possible, indicating the categories and approximate number of data subjects and the categories and approximate number of personal data records concerned;
  - 2) the likely consequences of the Personal Data Breach;
  - 3) the measures taken or proposed by the controller to address the Personal Data Breach and, where appropriate, measures to mitigate its possible adverse effects.

If and to the extent that all such information cannot be provided at the same time, the initial notification shall contain the information available at that time and further information shall be provided thereafter without unreasonable delay as and when it becomes available;

- c) in complying with the obligation under Article 34 of Regulation (EU) 2016/679 to notify the data subject without undue delay of the Personal Data Breach where that breach is likely to result in a high risk to the rights and freedoms of natural persons.

#### 9.2. Personal Data Breach of Data processed by the Processor.

In the event of a Personal Data Breach in relation to the data processed by the processor, the processor shall notify the controller without undue delay after becoming aware of the breach. This notification shall contain at least the following information:

- a) a description of the nature of the breach (specifying, if possible, the categories and the approximate number of individuals concerned and the approximate number of data records concerned);
- b) contact details of a contact point from which further information on the Personal Data Breach may be obtained;
- c) the likely consequences and the measures taken or proposed to be taken to address the Personal Data Breach, including measures to mitigate its possible adverse effects.

If and to the extent that all such information cannot be provided at the same time, the initial notification shall contain the information available at that time and further information shall be provided subsequently without undue delay as soon as it is available.

The parties shall set out in Annex III any other information to be provided by the processor to assist the controller in fulfilling its obligations under Articles 33 and 34 of Regulation (EU) 2016/679.

### Section III

#### Final Provisions

##### Clause 10 Infringements of the Clauses and Termination of the Contract

- a) Without prejudice to the provisions of Regulation (EU) 2016/679, if the processor fails to comply with its obligations under these Clauses, the controller may instruct the processor to suspend the processing of personal data until it complies with these Clauses or the contract is terminated. The processor shall immediately inform the controller if, for whatever reason, it is unable to comply with these Clauses.
- b) The controller shall be entitled to terminate the contract insofar as it concerns the processing of personal data pursuant to these Clauses if
  - 1) the controller has suspended the processor's processing of personal data pursuant to point (a) and compliance with these Clauses has not been restored within a reasonable period of time and in any event within one month of the suspension;
  - 2) the processor materially or persistently breaches these Clauses or fails to comply with its obligations under Regulation (EU) 2016/679;
  - 3) the processor fails to comply with a binding decision of a competent court or supervisory authority(ies) relating to its obligations under these Clauses, Regulation (EU) 2016/679.
- c) The processor shall be entitled to terminate the contract insofar as it relates to the processing of personal data pursuant to these Clauses if the controller insists on the performance of its instructions after having been notified by the processor that its instructions are in breach of applicable legal requirements pursuant to clause 7.1(b).
- d) Upon termination of the contract, the processor shall, at the controller's option, erase all personal data processed on behalf of the controller and certify to the controller that this has been done, or return all personal data to the controller and erase existing copies, unless there is an obligation under Union or Member State law to retain the personal data. Until the deletion or return of the data, the processor shall continue to ensure compliance with these Clauses.

### ANNEX I

#### List of parties

- A. Controller: The Customer concluding the contract.
- B. Processor: Ticket to Mars GmbH, Grüneburgweg 106, D-60323 Frankfurt am Main, Germany

### ANNEX II

#### Description of the Processing

Categories of data subjects whose personal data are processed:

- Data subjects of processing on behalf include the controller, its employees, as well as, if applicable, suppliers of the Customer, B2B customers and cooperation partners.

Categories of personal data processed:

- Registration data when registering via the Aufmaster website: Name of the Customer (company name), company address, contact person, telephone number, e-mail address
- Device data when registering a new mobile device via the Aufmaster App: device name (alias), coded device ID, Aufmaster App version, co-designated organisation key
- Customer account data: system codes for error analysis, Aufmaster ID, drum ID, if applicable, names of the Customer's employees involved in the project, if applicable, address data of the Customer's cooperation partners for ongoing projects via the Aufmaster website, order notifications, data from service specifications or Customer costing sheets
- Order data: Company name/company address, contact details, product, quantity, desired delivery location of the Customer, credit card or IBAN for direct debit
- Measurement data: start and end location/position, cable type used, section length, remaining length of cable drum, time of creation of project, project list & changes made, project name, position numbers
- Metadata of connected Measuring Devices: connection status, connection strength, MAC address of the Measuring Device, type of the Measuring

Device, activity history, name, ident code, colour code, firmware version, battery status, description of connected mobile terminal

- Metadata of the connected cable reels: Activity history (date/time, mobile terminal device, project, extraction quantities), measurement data created if applicable, cable type, identification code of the drum, remaining quantity, initial quantity, last GPS position (determined via the logged-in terminal device in the taskmaster app), critical quantities for repeat orders, connected Measuring Devices, linked project or project list
- Collection data: GPS data of the current position of the registered mobile device in the Aufmaster App (allocation per project)
- If provided for in an individual agreement, also other data points defined by the Customer, if applicable.
- No special categories of personal data are provided to or collected by TTM.

Sensitive Data: Will not be processed within the scope of the Aufmaster.

Type, scope and means of processing:

- The specific type and scope as well as the means of processing result from the stipulations made between the contracting parties in the licence agreement and, if applicable, further stipulations from the processing agreement concluded between the Customer and TTM.
- After the online registration of a customer account by the Customer, the collected data of the Customer and its cooperation partners will be transferred to the cloud environment of TTM via the Aufmaster website or the Aufmaster App and processed there by TTM and any subcontracted processors used by it.
- Insofar as Customer data is processed on the instructions of the Customer in order to use the logging and Goods management services contractually agreed between the contracting parties via mobile end devices or the app, the Customer profiles required for this purpose shall be created by the TTM.
- Within the Customer profiles and after the Customer has positioned the transmitters of the TTM's Measuring Devices within the cable drum or component selected by the Customer, the TTM generates project-related master and drum IDs within the Aufmaster Software, which are assigned to the Customer. Using these IDs, TTM provides the Customer with central overviews of the inventory and other export, logging and documentation functions selected by the Customer within the Aufmaster-Software.
- The Measuring Device provided by TTM on the Customer's instructions, which communicates with the Customer's web or app area and, if applicable, the Customer's Goods ordering system via a Bluetooth connection with the internet-enabled smartphone/tablet, enables the project-related analysis and logging of residual quantities of the cables in use for the Customer. In addition, the TTM generates automated order messages or reorders on the Customer's instructions if the stock level falls below the minimum stock level specified by the Customer and displays these within the Aufmaster-Software.
- The integration of the Measuring Device by the Customer leads to the fact that TTM, upon removal of the cables/components stored virtually in the Aufmaster-Software, creates a cut-to-length report and/or measurement on the basis of the positions on the basis of the Customer's instructions, which documents the removal quantities per cable type, lengths, intended uses and e.g. the location when cutting and displays this within the Aufmaster-Software. The removal and cut-to-length logs provide the Customer with information on the quantities removed per date, time, employee and project. This Customer data is evaluated by TTM according to the specifications of the individual order.
- TTM prepares the data for the Customer within the Aufmaster-Software in such a way that the Customer receives an overview of the projects managed by it, the persons involved or mobile end devices and stocks of Goods and can maintain and continue its customer relationships and projects.
- The processing on the part of TTM also takes place in order to standardise, manage and structure the Customer's project data. The purpose of the processing is also to improve data and project quality.

Purpose(s) for which the personal data are processed on behalf of the controller:

- (Project-related) logging of removal quantities and the remaining length on cable drums as well as the Customer's stock of Goods with each cable cut via provided Measuring Devices ("Aufmaster") or via manual entry via Aufmaster App or Office Software
- Generation of order notifications / triggering of orders for required material vis-à-vis the Customer's suppliers.
- Creation of measurements and cut-to-length/installation reports for construction work, taking into account applicable calculation principles (e.g. VOB)
- Visualisation of the metadata of the connected Measuring Devices and connected cable drums, including remaining quantities within the Customer account or the Aufmaster App
- Import of service specifications or calculation sheets and project-related allocation of the data contained therein
- Support of the Customer in project analysis, inventory, invoicing and prevention of material shortages
- Error analysis of the Measuring Devices and evaluation of the error codes
- Implementation of an inventory management system

- Maintenance and support of the Customer account

Duration of processing: Corresponds to the duration of the licence agreement.

### **ANNEX III**

#### **Technical and Organisational Measures, including to ensure the Security of Data**

Description of the technical and organisational security measures (including any relevant certification) implemented by the processor(s) to ensure an adequate level of protection, taking into account the nature, scope, context and purposes of the processing and the risks to the rights and freedoms of natural persons:

<https://www.aufmaster.de/en/tom>

### **ANNEX IV**

#### **List of sub-processors**

The controller consents to the appointment of the following subprocessors:

<https://www.aufmaster.de/en/subcontractor>