

## General Terms and Conditions of Business and Use of NIC-Place as a Licensed Product of NIC GmbH

### § 1 General

- (1) These terms and conditions shall apply exclusively. Terms and conditions of the customer that conflict with, or deviate from, our terms and conditions shall not apply, unless they have been expressly consented to in writing. These terms and conditions shall apply even if we unreservedly provide services to the customer despite knowing of terms and conditions of the customer that conflict with, or deviate from, our terms and conditions.
- (2) All agreements made between NIC and the customer for the purpose of the implementation of this Agreement have been laid down in writing in the Framework Agreement or in these terms and conditions.
- (3) These terms and conditions shall apply only in relation to business owners as defined by § 14 (1) BGB [German Civil Code].

### § 2 Liability/Warranty

NIC's liability shall, subject to the following stipulations, be governed by the statutory provisions.

- (1) NIC shall be liable only for loss caused by wrongful intent or negligence, including wrongful intent or negligence on the part of its representatives or authorized agents, or by a breach of a guarantee provided, or a feature warranted, upon the conclusion of this Agreement. Except where NIC is held liable for any intentional or grossly negligent breach of the Agreement, liability for damages shall be limited to the foreseeable loss that might typically occur, and to a maximum amount of € 50,000 per case of loss.
- (2) Liability for culpable mortal injury, physical injury or health damage, and liability under the *Produkthaftungsgesetz* [Product Liability Act] shall remain unaffected by any limitation under § 2.
- (3) In the event of a breach of material contractual duties that are of the utmost importance for the attainment of the object of the Agreement (cardinal duties), liability for damages shall be limited to the foreseeable loss that might typically occur.
- (4) Insofar as NIC's liability for damages is excluded or limited, this shall also apply to the personal liability of its staff, workers and other employees, and of its representatives and authorized agents.
- (5) The above provisions shall also apply in cases where, instead of claiming compensation in lieu of performance, the Customer demands that expenditure incurred in vain be reimbursed.
- (6) Any liability for damages that extends beyond that provided for in this paragraph shall, irrespective of the legal nature of the asserted claim, be excluded. In particular, this shall apply to damage claims for loss arising from culpa in contrahendo or due to other breaches of duties.
- (7) Defects in the software NIC-Place shall, within the scope of the support provided, be rectified following corresponding notification of the defect by the Customer. Defect-related claims shall be governed by rental contract law relating to defects. Any right of termination on the part of the Customer under § 543 (2), sentence 1, no. 1 BGB on the basis of failure to grant use is hereby ruled out, except where it is to be deemed that contractual use has not been successfully brought about.

### § 3 Maintenance of Secrecy

- (1) The parties shall, also after their collaboration has ended, maintain absolute secrecy in respect of all findings and information of a commercial nature that concern the respective other party's operations or company and have been acquired in connection with the conclusion and/or implementation of this Agreement.
- (2) The parties shall, even after the project contract has ended, treat with strict confidentiality, and keep secret, all the respective other party's confidential information, personal data and trade secrets that come to their knowledge within the framework of the project contract, in particular the information that the customer makes available to NIC in connection with this project contract in the form of specifications or other data ("Confidential Information"). In particular, the parties hereby also undertake not to make this confidential information accessible to third parties or pass on this confidential information to third parties.
- (3) The parties' obligation of secrecy shall not extend to facts or documents
  - a) that, at the time of their disclosure by the other party, are already generally accessible or known without this being due to a breach of this obligation of secrecy by one of the parties;
  - b) if the other party has given its prior written consent to the disclosure of these facts or documents;
  - c) of if this is necessary from a legal perspective owing to an official or judicial order, or an official or judicial disclosure requirement, in relation to a public authority. If these prerequisites are met, the party concerned shall inform the other party thereof, insofar as this is legally permissible.

### § 4 Marketplace

- (1) NIC shall be permitted to set up a link in the portal on the Marketplace in order to make NIClets for the customer. In this respect, a link to the NIC-Place Marketplace shall be created in every customer portal.
- (2) NIC shall be entitled to insert a dashboard into the web application in order to display content that has, for example, been purchased via the Marketplace.

### § 5 Procedure for Data Collection and Provision

- (1) NIC shall take from various servers of the hardware manufacturers the telematics data from the units connected. The systems supported shall be agreed upon beforehand. For non-supported systems, additional costs shall arise on a one-off basis.
- (2) Once the data is available on the NIC-Place servers, it shall be assigned to the customer portal and shall, therefore, be covered by the Agreement.
- (3) From this point in time onwards, the units shall be regularly checked as to whether the data is up-to-date and shall be updated accordingly.
- (4) NIC shall then show the customer's telematics data on the NIC-Place portal and/or deliver the telematics data via the NIC-Place Push API for the purpose of archiving. Further use of the data in other business models is not included in the license fees and a separate agreement must be concluded.
- (5) Use shall be limited to the agreed applications.
- (6) It shall not be permissible to transfer the right of use or the user license to third parties.

### § 6 Portal Language

- (1) Currently, the following languages are available as a portal language of the software NIC-Place: English, German, Spanish, French, Italian, Dutch, Polish, Danish, Czech.
- (2) It shall be possible to implement new languages within a short period. The resulting cost thereof shall be borne by the customer.

### § 7 Prices, Payment Terms

- (1) The following prices shall apply:
  - a) 1st level support: inclusive – € 110.00 / hour
  - b) 2nd level support: inclusive – € 110.00 / hour
  - c) 3rd level support: € 160.00 / hour
  - d) Advice, training (incl. by telephone): € 110.00 / hour
  - e) Individual programming: € 1,280.00 / man-day
  - f) Sales support / On-side consulting: € 1,280.00 / man-day
- (2) Unless otherwise agreed upon, travel time shall be calculated as follows: Resulting travel time shall be charged for at the hourly rate of 60.00 €. Travel and overnight accommodation expenses as well as other incidental expenses shall be charged for by NIC in accordance with the relevant flat rates for tax purposes and on the basis of the actual costs incurred.
- (3) Travelling expenses shall be billed at a rate of 0.50 €/km.
- (4) The prices offered by NIC do not include statutory value-added tax. Value-added tax shall be shown separately in the invoice at the statutory rate valid on the day when the service was rendered. Unless otherwise ensues from the Agreement concluded or from the acknowledgement of the order, payment shall be due net (without any deduction) within thirty days of the invoice date. In the event of default in payment, the statutory rules shall apply.
- (5) Set-off by the customer shall be possible only if its counter-claims are undisputed, have been acknowledged by NIC or have been determined by a final and non-appealable court judgement. The customer shall be authorized to exercise a right of retention only insofar as its counter-claim is placed on the same contractual relationship.

### § 8 The Customer's Duties to Co-operate

- (1) The customer itself shall be responsible for the active registration or de-registration of its vehicles.
- (2) The customer shall regularly carry out data backups and shall use on its own computers the respective current version of an anti-virus program. The customer shall have the possibility of monthly reporting, free of charge, in order to carry out data backup. The customer itself shall be responsible for the sending of the data backup reports held available and, therefore, for the regular backing-up of data.
- (3) The customer shall meet the system requirements necessary for proper access. The browsers Chrome, Firefox and Edge shall be supported. In the case of other browsers, e.g. Edge, minor display problems may possibly occur. NIC shall support the respective last two versions.

### § 9 Making Available for Use

- (1) The customer shall receive an ordinary, non-sublicensable and non-transferable right to use the software NIC-Place. This right shall be limited to the term of the Agreement. The software NIC-Place, the

computing capacity essential for the usage, as well as the necessary storage space for the data shall be kept available in a computer center. The system area allotted to the customer shall be protected against third-party access. Customer access to the Internet shall not be part of this contractual relationship. The customer shall be solely responsible for the proper functioning of its Internet access, including the transmission paths, and of its own computer. The Customer shall use the software NIC-Place only for its own purposes.

- (2) The customer shall formulate as precisely as possible its fault report and any questions. For this, it shall fall back on competent employees, if necessary. Insofar as a fault report is transmitted without justification, i.e. a fault cannot be determined, the customer may be charged for the processing cost incurred.
- (3) The customer shall prevent unauthorized third-party access to the software and shall also place its employees under an obligation to comply with this duty.
- (4) Data requested via NIC's SOAP standard interface shall be used only for the agreed purpose of the Agreement, not for commercial purposes in other programs or applications.

### § 10 Support

- (1) If, in a support case, NIC determines that the problem that has occurred does not fall within the sphere of NIC's duties and, therefore, cannot be rectified by NIC, NIC shall inform customer thereof.
- (2) 24/7 support shall require a separate agreement.
- (3) The support levels are defined as follows:
  - a) First level support: 1st contact with the customer. Takes receipt of all support cases and also calls the customer back to report that the problem has been resolved. Capable of working through a pre-prepared list of questions and documenting the customer's answers accordingly. In the case of known faults/problems, capable of communicating to the customer documented standard solutions as per guidelines. Forwards queries to the 2nd level.
  - b) Second level support: Technology-oriented, is articulate when talking to the customer, capable of altering system configurations - user, time intervals, other configurations - and must be able to explain to the 3rd level support the background to the problems concerned, i.e.: technical processing of the support case.
  - c) Third level support: Rectifies the problem, insofar as this is possible within the scope of the resources available to NIC. This will generally be a software developer. Speaks only to the second level support.

### § 11 System Availability

- (1) NIC shall guarantee the availability of the software and of the data transferred to the server by the respective telematics devices at the transfer point. In this respect, availability is defined as the technical usability of the software and the technical possibility of accessing the stored data at the transfer point for use by the Customer. For this, NIC shall ensure a system availability rate of 99.00 % per calendar year. However, this system availability shall include pre-announced maintenance windows in the sense of subsection 4, which shall not be deemed to be "non-availability" of the system in the sense of these assurances.
- (2) NIC shall assume no liability for malfunctions or for the non-provision of data that has not been transmitted to NIC. In particular, this shall apply to
  - a) malfunctions of the hardware used by the customer (installed telematics device)
  - b) malfunctions in manufacturers' interfaces or manufacturers' servers
  - c) malfunctions in the mobile phone network
- (3) If NIC wholly or partly fails to comply with its obligation entered into in § 1(1), the monthly flat-rate fee shall, for the units concerned, be reduced pro rata for the period when the software and/or the data was/were not available to the agreed extent.
- (4) In order to guarantee and optimise the quality of the product on an ongoing basis, NIC shall require maintenance windows and the possibility of importing new features (releases). Such work, which NIC shall give prior notice of, may result in temporary non-availability of the systems (generally for a maximum of 90 minutes).
- (5) NIC develops using the "scrum method". The advantage of this method is that customer projects can be developed in a short time. This is associated with release cycles of approx. 3 weeks, after which a new release shall be imported in each case.

### § 12 Data and Server Security / Software

- (1) NIC guarantees a high standard of data and server security.
- (2) The security software used may be replaced by NIC with more recent software versions or with equivalent alternative software. On request at any time, NIC shall provide information concerning any changes.
- (3) For analyse purpose, NIC collects anonymised data. For further information, please see <https://nic-place.com/legal/privacy-policy/>

### § 13 Enhancements, Programming, Adaptations

- (1) NIC shall be entitled, but not obliged, to further develop the portal and the software on which it is placed and to add new functionalities.

- (2) If the customer desires new features, adaptations or enhancements, NIC shall, subject to a fee, draw up functional specifications. These functional specifications shall then form the basis of an overall offer that shall be transmitted by NIC to the customer in writing.
- (3) The customer may accept this offer on the basis of the requirements specifications and functional specifications contained in this offer. The fee for the drafting of the functional specifications is laid down in § 1(1).

### § 14 Force Majeure

- (1) In the event of force majeure, neither party shall be obliged to fulfil their contractual obligations during the period of force majeure. The following circumstances, in particular, shall be deemed to be force majeure in this sense:
  - a) fire/explosions/flooding for which the contractual partner concerned is not at fault,
  - b) war, mutiny, blockade, embargo,
  - c) an industrial dispute that lasts over six weeks and has not been culpably brought about by either party,
  - d) technical Internet-related problems beyond the influence of either party.
- (2) Each contractual partner shall, without undue delay, give the other party written notification of the occurrence of a case of force majeure.

### § 15 Extraordinary Termination

- (1) Extraordinary termination of the contractual relationship by either party at any time for good cause (§ 314 BGB) shall be possible, in particular if
  - a) a fleet is sold,
  - b) units are permanently taken out of operation,
  - c) the respective other contractual partner discontinues its payments or services,
  - d) insolvency proceedings have been instituted against the respective other party's assets, or the institution of such proceedings has been rejected owing to a lack of assets,
  - e) compulsory execution is levied upon the assets of the respective other party, and such execution is not discontinued within one month,
  - f) the respective other contractual partner is in serious breach of duties under this Agreement and, even after a written warning, fails to comply with these duties or make up for the loss or damage caused, and the other party cannot, therefore, be reasonably expected to continue the Agreement.
- (2) Any notice of termination must be given in writing in order to be effective.

### § 16 Compliance

- (1) Both parties hereby undertake to comply with the statutory provisions applicable to their company. They shall, in conformity with national laws and customs, support and heed the principles of the "Global Compact" ("UNGC"), the United Nations General Declaration of Human Rights and the International Labor Organization Declaration on Fundamental Principles and Rights at Work, of 1998. At their respective company, both parties shall, in particular,
  - a) not employ children or use forced labour,
  - b) comply with the respective national laws and regulations concerning working time, wages and salaries as well as other employer obligations,
  - c) comply with the applicable provisions concerning health and safety at work and provide for a safe and healthy work environment in order to preserve the health of the workforce and avoid accidents, injuries and work-related illnesses,
  - d) refrain from in any way discriminating on the basis of race, religion, disability, age, sexual orientation or gender and shall heed the international anti-corruption standards, as laid down in the UNGC, and local anti-corruption and bribery laws,
  - e) comply with all applicable environmental laws and regulations and propose to their trading partners and subcontractors that they also take the aforementioned principles as a basis for their actions.

### § 17 Place of Jurisdiction / Place of Performance

- (1) If the customer is a merchant, the place where our registered office is situated shall be the place of jurisdiction. However, NIC shall be entitled to also bring an action against the customer at the court where the customer's domicile is situated.
- (2) The laws of the Federal Republic of Germany shall apply. Applicability of UN sales law (CISG) is hereby ruled out.
- (3) Unless otherwise ensues from the acknowledgement of the order, the place where NIC's registered office is situated shall be the place of performance.

Kempton, November 2020

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