ARTICLE 1 – APPLICABILITY

1. These general terms and conditions (the “Terms and Conditions”) will apply to all orders and offers of sale (including Topcon Software) and/or services (hereinafter “Products” or “Services”) agreed between Topcon and the Purchaser (“Purchaser”)/you) as well as for any delivery of Products or render of services by Topcon (as such term is defined in the Incoterms 2010) whatever name carried out by Topcon.

2. Upon entering the order, the Purchaser declares that: (i) I am aware that any contract with Topcon is subject to these Terms and Conditions; (ii) I received a copy of the following Terms and Conditions in advance; (iii) I have read and understood these Terms and Conditions (rehereafter; and (iv) I accept each of the stipulations they contain, along with their express incorporation into the contract.

3. Any other Terms and Conditions differing from these, as well as any modification of these Terms and Conditions, will have no legal effect unless they have been expressly agreed to in writing by Topcon.

4. Unless expressly agreed otherwise in writing, all future purchases of Products by the Purchaser will be subject to these Terms and Conditions.

5. If these Terms and Conditions are contrary to or incompatible with the provisions in the specific agreement(s) agreed by Topcon and Purchaser, the provisions in the relevant specific agreement will prevail. Possible arrangements deviating from these Terms and Conditions will not be enforceable, unless Topcon has agreed in writing to such deviations. With respect to future agreements, Purchaser will not be able to derive any rights from any possible deviations in the past.

ARTICLE 2 – OFFERS, ORDERS AND CONCLUSION OF AGREEMENT

2.1 All Topcon’s offers or quotations are made without any engagement and solely for informative purposes.

2.2 Topcon reserves the right to revoke the offers and prices before accepting any Purchaser’s order received. In the case of agreement, after accepting the offer, in accordance with the provisions of Article 3 of these Terms and Conditions.

2.3 Orders placed by the Purchaser must specify the name of the requested Products or Services, as well as the quantity, preferred delivery date and specific requirements for the Products or Services ordered.

2.4 Purchaser guarantees the accuracy and completeness of the information provided to Topcon, and in the event that Topcon bases its offer, Topcon will not be liable for the lack of conformity of the Products or Services with respect to any specifications that were not notified to Topcon at the time of placing the order.

2.5 The signatory signing a purchase or other agreement with Topcon must have sufficient authority to legally bind the company the signatory represents or works for to a purchase agreement. If this is not the case, the signatory is personally bound to the obligaions.

2.6 An agreement between Topcon and Purchaser will be validly entered into and become binding from Topcon’s confirmation, in writing, of the Purchaser’s order or, when the case, upon execution of the order by Topcon.

2.7 These Terms and Conditions will form an integral part of the agreement between Purchaser and Topcon upon the acceptance of the order by Topcon, according to Article 2.6.

2.8 Any change to an order after the confirmation by Topcon will have no effect, unless Topcon expressly agrees in writing by Topcon, to the contrary.

ARTICLE 3 - THE PRICES

3.1 Except as agreed otherwise, all prices are based on delivery EX WORKS (Topcon’s warehouse located Avenida de la Industria, 35 Tres Cantos, Spain) (as such term is defined in the Incoterms 2010). All prices include V.A.T., import and export duties and any other taxes and impositions.

3.2 Prices given in quotations, estimates, price schedules or other documents issued by Topcon are subject to confirmation of the order are not binding on Topcon, barring the existence of a prior agreement. The final price will be the one applicable on the date the order is confirmed.

3.3 In the event changes occur in cost price factors (such as costs of raw materials, government measures, freight, exchange rates, taxes etc.) after the confirmation of the order, Topcon is entitled to stipulate that the price will be increased accordingly. Topcon will notify Purchaser in writing of a price increase. If Purchaser has not informed Topcon that it wishes to terminate the agreement within fourteen days after the notice is sent, Purchaser will be deemed to expressly accept the price increase.

ARTICLE 4 – DELIVERY, TRANSPORTATION AND PASSING OF RISKS

4.1 Unless otherwise agreed in writing, the delivery dates specified by Topcon are only estimates and do not imply a commitment to delivering the Products on a specific date. Estimated delivery dates are based on applicable labor conditions at the time of conclusion as well as on timely delivery of (raw materials or parts of) products by third parties to Topcon. A delivery after the estimated delivery date will never be understood as a breach of contract by Topcon.

4.2 The delivery period will begin to run from the moment of confirmation of the order by Topcon. The delivery period will be considered completed when the delivery is ready for dispatch at Topcon’s warehouse located – unless otherwise specified - Tres Cantos (Madrid).

4.3 In the event deliveries are delayed as a result of a change in said labor conditions or because timely ordered (raw materials or parts of) Products are not delivered in time or as a result of other circumstances which are not for Topcon’s account, including those mentioned in Article 16 of these Terms and Conditions, Topcon may extend the estimated delivery time with a reasonable period.

4.4 The delivery period will also be extended if the Purchaser changes the original order or the Purchaser is delayed in the fulfillment of its contractual obligations, particularly in the event that the Purchaser delays the agreed payments or the delivery of the necessary documentation.

4.5 Topcon will not be liable for any loss, damage, cost or penalty as a result of any delay in delivery of Products or render of services by Topcon due to or otherwise comply with the agreement and/or these Terms and Conditions due to any cause beyond Topcon’s control, including those mentioned in Article 16 of these Terms and Conditions.

4.6 By mutual agreement between the parties, Topcon may carry out the transportation of the Products. In this case, any shipment or transport agreements shall be made at the Purchaser’s expense, following the Purchaser’s instructions, in which case, all taxes, expenses, or other costs, such as transport costs, generated shall be charge to the Purchaser’s account. For legal purposes, Topcon shall act as commission agent. Topcon will take reasonable efforts to ensure that the Products are delivered in compliance with the estimated delivery date. Topcon will not be responsible for a delivery made after the estimated delivery date. If Topcon carries out the transportation, the Products shall be delivered EX WORKS (as such term is defined in the Incoterms 2010) to the specified location.

4.7 Unless agreed otherwise, all Products and spare parts will be delivered EX WORKS (Topcon’s warehouse located – unless otherwise specified - Tres Cantos (Madrid) (as such term is defined in the Incoterms 2010) (the “Delivery”).

4.8 The risks pertaining to the Products will be passed on to the Purchaser at the moment of delivery of the Products at the disposal of the Purchaser at Topcon’s warehouse located Tres Cantos (Madrid).

ARTICLE 5 - RECEIPT AND ACCEPTANCE OF PRODUCTS

5.1 If the Purchaser does not collect or take receipt of all or any part of the Products at Topcon’s warehouse located – unless otherwise specified - Tres Cantos (Madrid) the date agreed upon, Topcon may move to (i) cannot this and any other pending deliveries, charging to the Purchaser’s account any costs, damages and losses it may suffer; or (ii) it may choose to store the Products at the Purchaser’s expense and risk and on the Purchaser’s account. The Purchaser will be obliged to bear the corresponding costs and expenses and the risks pertaining to loss and deterioration of the Products.

5.2 The Purchaser will immediately inspect and confirm the quality and quantity of the Products. If, within five (5) days after delivery of the Products, the Purchaser does not notify Topcon of the existence of apparent defects or lack of conformity or lack of material with respect to the items specified in the order, the Products received will be deemed to have been irrevocably accepted, and the Purchaser waives the right to any claim.

ARTICLE 6 – PAYMENT

6.1 Payment is to be made on the agreed date and in the currency indicated by Topcon. In case no specific date for payment has been agreed upon, payment has to be made within thirty calendar days after the invoice date.

6.2 In case the Purchaser fails to meet his payment obligations in time, Topcon shall be entitled to immediately and, without any written notice being required, to charge, any legal interest, established under the Business Transactions Act over the from time to time outstanding amount(s).

6.3 The agreed payment date(s) must be fulfilled by the Purchaser even if the delivery is delayed for reasons beyond Topcon’s control or responsibility.

6.4 If the Purchaser fails to meet his payment obligations, the Purchaser shall be entitled to refuse any further deliveries of Products until full payment is offered in cash or satisfactory security for the payment has been offered. Topcon’s right to refuse further deliveries shall be notwithstanding any other rights of Topcon to claim immediate fullfillment of any (payment) obligations.

6.5 All costs resulting from Purchaser’s failure to meet his (payment) obligations shall be on the Purchaser’s account. These costs include judicial as well as extra judicial costs, including fees of (legal) advisors.

6.6 Payments by Purchaser shall be deemed to have been made first to settle accrued interest, and judicial and extra judicial costs, and thereafter they shall be charged to the oldest debt, irrespective of indications made by Purchaser.

6.7 Objections to an invoice must be made prior to the payment date of the invoice.

ARTICLE 7 - RESERVATION OF TITLE

7.1 All Products supplied shall remain Topcon’s property until the purchase price for the relevant Products has been paid in full. Topcon is entitled to record its reservation of title in public registers and to require the Purchaser to provide all documentation required for such purposes.

7.2 In case the Purchaser fails to fulfill any of its obligations, Topcon has the right to directly repossess the Products and withdraw them from where they are located, without the need to seek judicial intervention. Purchaser is obliged to return the Products to Topcon upon request. All costs involved shall be on the Purchaser’s account.

7.3 As long as Topcon has not fulfilled all its obligations, Purchaser is not entitled to pledge, encumber in any other way or dispose in whole or in part of any of the Products as well as sell the Products (export or re-export).

7.4 Purchaser shall notify Topcon immediately upon the occurrence of the following events: (i) if Purchaser becomes aware of the fact that third parties exercise rights to the Products. Also, if an attachment is made or execution levied on the Products; (ii) if Purchaser applies or any of his creditors apply for an adjudication in bankruptcy or a (preliminary) suspension of payments with regard to Purchaser; (iii) if Purchaser is declared bankrupt or granted a (preliminary) suspension of payments; (iv) any change occurs in the effective control over Purchaser, or if Purchaser is involved in any bankruptcy; (v) if Purchaser becomes involved in negotiations with one or more of its creditors or takes any step with a view to the general readjustment or rescheduling of its indebtedness; (vi) if Purchaser applies for debt relief; and (vii) if Purchaser dies or is dissolved or its business is transferred in whole or in part.

ARTICLE 8 – SECURITY

8.1 In case Topcon has good reason to believe that Purchaser will not strictly fulfill its (contractual) obligations towards Topcon, Topcon, Purchaser is obliged, at Topcon’s first request, to take all reasonable measures to secure (i) any claim arising from the Terms and Conditions; (ii) security amounting to the contract price of any other order sent by Topcon, and (iii) all other agreements with Topcon, as well as any other agreement with Topcon, as well as any other agreement with Topcon.

8.2 As long as Topcon does not fulfill any of its obligations as set forth in Article 8.1 of these Terms and Conditions, Topcon has the right to suspend the fulfillment of its obligations and to claim any compensation being due to Topcon.

8.3 In case Purchaser fails to comply with Topcon’s request as mentioned in Article 8.1 of these Terms and Conditions within 14 days after having received a written notification, all obligations of Purchaser shall become due and payable, as established in Article 15.3.
ARTICLE 9 – WARRANTY
Topcon warrants that the Products comply with the specifications set out in the Purchaser’s order and that they are free from defects in materials and workmanship for the period for which as specified and disclosed or as otherwise supplied by Topcon. The applicable specific Product Warranty is provided upon purchase and/or request of the Purchaser (the “Product Warranty”). This warranty is Purchaser’s sole and exclusive remedy for breach of contract. No other warranty is available or offered.

ARTICLE 10 – PURCHASER’S OBLIGATIONS
10.1 Purchaser is responsible for his own equipment and software to obtain access to the system of Topcon.
10.2 In order to ensure the quality and the integrity of the systems and technical infrastructure of the Products and/or Services required for the provision of services, Purchaser will ensure that:
(i) only authorized and capable persons shall have access to the systems of Topcon;
(ii) Purchaser is not misusing or and acting in breach of the law and/or regulations by using the system of Topcon;
(iii) Purchaser has sufficient rights to meet its obligations arising from the agreements entered into with Topcon, if any;
(iv) Purchaser shall comply with any confidentiality obligations regarding any confidential information;
(v) Purchaser shall comply with any data protection obligations under applicable data protection and privacy legislation;
(vi) the systems and processes to which Purchaser is connected to the system of Topcon, are free of defects and/or viruses, which can or may cause damages to the system of Topcon.
10.3 Purchaser shall cooperate and comply with any and all mandates and/or instructions by the competent national authorities and/or Topcon relating to recall of any Topcon Product. Topcon will reimburse during the warranty period such costs reasonably made directly in connection with any recall procedures, except where the conduct of the Purchaser, and to the extent applicable, its employees, its contractors and/or any other person(s) authorized by the Purchaser has given rise to the recall of any Topcon Products.

ARTICLE 11 – EXPORT CONTROL
11.1 Purchaser may only export, re-export, sell, transfer, transmit, or otherwise make available, directly or indirectly, any Topcon product products, software or technology, which is obtained from, or contains any software, hardware, or technology as well as any corresponding documentation, if and when such comply with any and all applicable national and international (re-export) control laws, rules and regulations. Purchaser will determine and fulfill any and all export and re-export license requirements to export and/or re-export the relevant Topcon Products. Purchaser shall be entitled to receive export license or other official authorization, and carry out any customs formalities for the export or re-export of the relevant Topcon Products.
11.2 Prior to any transfer of Topcon Products to a third party, Purchaser will ensure that:
(i) the transfer will not infringe any right claim of the European Union, by the United States of America and/or by the United Nations;
(ii) the Topcon Products to be transferred are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless required authorization is provided;
(iii) the regulations of all applicable Sanctioned Party Lists of the United Nations, European Union and the United States of America concerning the trading with entities, persons and organizations listed therein, are considered and followed.
11.3 Purchaser represents and covenants that it shall not export, re-export, sell, transfer, transmit, or otherwise make available, directly or indirectly, any Topcon Product received from or owned by Topcon, including any hardware, software and/or technology as well as any corresponding documentation, to a particular person or entity, if Purchaser has reason to believe that such person or entity will transfer or sell the Topcon Products in violation of this Article 11.
11.4 If required to conduct export control checks, Purchaser, upon request by Topcon, shall promptly provide Topcon with all information pertaining to the recipient of the Topcon Products, the destination and the intended use of the Topcon Products, as well as any applicable export control restrictions.
11.5 Topcon is not liable, and Purchaser shall indemnify and hold harmless for and against, any damages, losses, liabilities, costs and expenses (including advisor’s fees) incurred or to be incurred as a result of any non-compliance by Purchaser with this Article 11 and/or any applicable export control regulations.

ARTICLE 12 – LIMITATION OF LIABILITY
12.1 This Article applies to any liability on the part of Topcon, regardless of the legal basis of such liability.
12.2 The maximum liability of Topcon, for any reason, will not in any event exceed the price of the specific Product supplied or Service rendered.
12.3 The provisions of this Article 12 do not affect product liability based on mandatory provisions of Spanish law.

ARTICLE 13 – INDEMNIFICATION
Upon request by Topcon, you agree to defend, indemnify and hold harmless Topcon and its subsidiaries, affiliates, officers, agents, co-branders or other partners and employees from all liabilities, claims and expenses (including legal fees) incurred by reason of or arising out of your violation of these Terms and Conditions or your violation of any rights of another party.

ARTICLE 14 – NO WAIVER
The failure of Topcon to enforce any provisions of these Terms and Conditions or respond to a breach by you or other parties shall not in any way constitute a waive of Topcon’s right to enforce subsequently all provisions of these Terms and Conditions or to act with respect to similar breaches.

ARTICLE 15 – NON – PERFORMANCE
15.1 In the event of breach or lack of timely or adequate fulfillment of any of the Purchaser’s obligation’s and/or any or more of the events described in Article 7.4 of these Terms and Conditions occur, Topcon, along with the right to enforce the agreement, shall be entitled to terminate the agreement(s) forthwith in whole or in part or rescind or suspend the (further) performance of its obligations under the agreement(s) and to take back the Products, all without prejudice to Topcon’s right of compensation of any losses, damages it has incurred as a result thereof and any other rights it may have, and without any compensation being due by Topcon. In case Topcon terminates the agreement(s) shall be entitled to collect any of the amounts paid by the Purchaser before the termination of the agreement(s) as a penalty, without prejudice of Topcon’s right to compensation of any losses or damages suffered.
15.2 The foregoing will be carried out by means of a written notification to this effect, without the prior written consent of Topcon. Topcon shall be entitled to exercise in a general liability for any damages that any such termination or suspension may cause to the Purchaser.
15.3 The breach of any of Purchaser’s obligations will entail the acceleration of all the amounts owed by the Purchaser for this and any other contract of sale of Products and/or contract of Services, which will become due and payable immediately.
15.4 In case of termination of the contract, the Purchaser will be obliged to return the Products immediately upon first request by Topcon, with all return-related costs to be borne by the Purchaser.
15.5 If such Products are not returned by the Purchaser, Topcon will be entitled to recover them without the need for a new request, notice or judicial intervention.

ARTICLE 16 – FORCE MAJEURE
16.1 For the purposes of these Terms and Conditions, force majeure will be declared when there exists any contingency, circumstance or cause beyond the control of Topcon, including the following: riots, wars, civil disturbances, fires, floods, earthquakes, storms, explosions, nuclear disasters, strikes or lock-out, closures, stoppage of machinery or factories and the impossibility of obtaining raw materials, equipment, energy or transport.
16.2 If, as a result of force majeure, Topcon is unable to meet any contractual obligations, the obligations will be released from the obligation, provided that it notifies the Purchaser in writing and specifies the commencement and nature of the force majeure. Topcon must provide immediate notification of the cessation of the force majeure.
16.3 Topcon will not be liable for any damage or loss arising from breach of contract or failure to comply promptly and in full with its obligations by reason of force majeure.
16.4 If the force majeure event affects the Purchaser, it will not be released from any of its obligations to accept and pay for Products that are acquired prior to the receipt by Topcon of the force majeure notice. In such case, the Purchaser may make a declaration of force majeure in order to delay the payment of sums owed.

ARTICLE 17 – INTELLECTUAL PROPERTY RIGHTS
17.1 For the purpose of these Terms and Conditions, “IP Rights” means any patents, utility models, trademarks, service marks, trade names, trademark registrations, designs, business names, copyrights, Software (meaning software used in connection with or on Products, which is obtained from or otherwise used by Topcon, or of its group companies, including or are similar to any of the IP Rights.
17.2 Topcon reserves the right to modify the IP Rights. Topcon hereby grants to the Purchaser a revocable, non-transferable right to use the IP Rights, under the conditions that (i) such is permitted under the license conditions Topcon has agreed upon with third parties, (ii) such third party license validly exists, and/or (iii) Topcon is entitled to these third party IP Rights (the “IP Rights License”). The IP Rights License is granted to Purchaser solely in connection with the normal use by Purchaser of the Products and/or Services purchased by Purchaser from Topcon, to the extent permitted by these Terms and Conditions and/or an additional supply agreement between Topcon and Purchaser. Purchaser may not sub-license any rights under the IP Rights License to other third parties without obtaining the prior written consent of Topcon. Topcon reserves the right to amend the terms and content of the IP Rights License at any time.
17.3 Purchaser shall use the IP Rights in accordance with the usage guidelines or other written instructions provided by Topcon with the Products and Services. Any use of the IP Rights by Purchaser will indicate that Topcon is the owner or licensee of the IP Rights. All uses of the IP Rights and any associated therewith will inure solely to the benefit of Topcon. Upon request of Topcon, Purchaser shall provide Topcon with a sample of all product packaging and advertising that makes use of the IP Rights for purposes of permitting Topcon to use the IP Rights in connection with the usage guidelines or other written instructions provided by Topcon with the Products and Services.
17.4 The Purchaser shall refuse from (i) challenging Topcon’s, or the relevant third party’s interest in the IP Rights, or the validity thereof, (ii) obtaining any right, title or interest in or to the IP Rights and (iii) modifying, adapting, translating, making derivative works or, creating, reusing, using or otherwise reverse-engineering the IP Rights or any portion thereof except where such restriction is prohibited under applicable law without possibility of contractual waiver. Purchaser shall at all times recognize, respect, and protect Topcon’s right to full ownership in, or the license to use, any and all of the IP Rights. The Purchaser shall not apply for and/or register any of the IP Rights or any symbols that are similar to or confusing of Topcon’s marks. The Purchaser shall always respect the protection provisions that Topcon’s IP Rights offer.
17.5 Purchaser may not infringe any of the IP Rights associated with the manufacturing, design, branding and packaging of any of Topcon’s Products purchased by the Purchaser or advertised by Tos or otherwise introduced any mark confusing of Topcon’s Products supplied by Topcon, unless the nature of the delivered Product dictates otherwise.
17.6 Topcon reserves the right to modify the IP Rights or substitute alternative marks for any or all of the IP Rights at any time.
17.7 Purchaser may not use any trademarks, service marks, trade names, and trademark registrations in connection with the Products and/or Services (other than the IP Rights) without the prior written consent of Topcon. Purchaser shall provide Topcon with a sample of all product packaging and advertising that makes use of the IP Rights for purposes of permitting Topcon to use the IP Rights in connection with the usage guidelines or other written instructions provided by Topcon with the Products and Services.
17.8 Purchaser acknowledges and agrees that, in case any license to use any IP Rights granted to Topcon by a third party shall terminate or cease to exist for whatever reason, such termination may result in the (immediate) termination of the IP Rights License granted to Topcon. The Purchaser shall pay all amounts due and pay all liabilities, losses, damages (including advisor’s fees) incurred or to be incurred by Topcon as a result of any termination of the IP Rights License.

ARTICLE 18 – CONFIDENTIALITY
18.1 “Confidential Information” means any and all non-public information disclosed by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) in any form or medium, whether oral, written, graphical or electronic, pursuant to the agreement, that is

Topcon Precision Agriculture E.S.L. - Chamber of Commerce no: B54543394, VAT no: ESB54543394
designated confidential or proprietary, or that a reasonable person should understand is confidential or proprietary. Confidential Information includes, but is not limited to: the terms of the agreement, information related to either party’s technology, whether or not patented or otherwise copyrightable, Product specifications, products, designs, plans, pricing information, promotional and marketing activities, finances and other business affairs, Topcon Products and anything else created or developed by Topcon in connection with the agreement and the Products and/or Services. Purchaser will not remove, modify or destroy any confidential or proprietary markings or restrictive legends placed upon or integrated into the Products, Service and/or System (the “Purpose”). The Receiving Party will not disclose Confidential Information of the Disclosing Party to any third party, provided that the Receiving Party may disclose Confidential Information to its partners, officers, directors, employees, contractors, affiliates, agents, advisors, or representatives who need access to such Confidential Information for the Purpose and who are subject to written confidentiality obligations at least as stringent as the obligations set forth in this Article 18. Each party accepts responsibility for the actions of its partners, officers, directors, employees, contractors, affiliates, agents, advisors and representatives, and will protect the other party’s Confidential Information in the same manner that it manages its own confidential information, but with no less than reasonable care. The Receiving Party will promptly notify the Disclosing Party upon becoming aware of a breach or threatened breach hereunder and will cooperate with any reasonable request of the Disclosing Party in enforcing its rights.

18.3. Confidential Information does not include information which: (i) is known by the Receiving Party prior to receipt from the Disclosing Party, without any obligation of confidentiality; (ii) becomes known to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party, without any obligation of confidentiality; or (iii) is independently developed by the Receiving Party without use or access to the Disclosing Party’s Confidential Information. The Receiving Party will not disclose Confidential Information pursuant to the requirements of applicable law, legal process or government regulation, but only after it notifies the Disclosing Party if (legally permissible) and in such event only until the Disclosing Party to seek a protective order, under or otherwise to contest such required disclosure, at the Disclosing Party’s expense.

ARTICLE 19 - DATA PROTECTION AND SECURITY

19.1. Topcon as a controller. Each party acts as an independent controller of any personal data it processes in connection with the Products or Services, whether or not obtained from Topcon. Purchaser shall at all times comply with the General Data Protection Regulation (EU 2016/679), the Spanish Data Protections Laws (Ley Orgánica 3/2018, de Protección de Datos Personales y garantía de los derechos digitales) and any other relevant data protection laws and regulations, as amended, superseded, replaced or supplemented from time to time (the “Privacy Laws”). Purchaser shall: (i) take appropriate technical and organizational security measures to protect the confidentiality of the personal data provided by Topcon while taking into account the state of the technology, the nature of the personal data and the risks to which it is exposed; (ii) inform Topcon, on Topcon’s request, about the technical and organizational security measures taken in respect to the foregoing; (iii) notify Topcon of any personal data breach affecting personal data provided to you by Topcon without undue delay, and any event within 48 hours of discovering such breach; (iv) provide reasonable assistance to Topcon so that they can comply with the obligations imposed by articles 32 to 36 of the General Data Protection Regulation (EU 2016/679); and (v) provide Topcon with such assistance and information as may be requested in response to either (a) requests or complaints made by data subjects; or (b) any enquiry or investigation by a supervisory authority. In the event that Topcon acts as a data controller, Topcon and Purchaser will agree upon the necessary data processing agreement.

19.2. Topcon as a processor. Under specific circumstances Topcon may and shall process Personal Data only as a data processor on behalf of Purchaser in order to perform its obligations under a specific agreement.

19.2.1. It connection with the sale of a Product and provision of the Service, Topcon may, from time to time, collect, maintain, store and process on behalf of Purchaser its customers’ Personal Data, such as name, address, email address, contact information, user name, password, IP address and related information.

19.2.2. Topcon will process personal data in accordance with the terms of the agreement and its Privacy Policies("https://www.topconpositioning.com/agriculture"). The parties agree that the Purchaser’s complete and final instructions are set out in this Terms and Conditions. The Processor outsources the scope of these instructions (if any) will require prior written agreement between Purchaser and Topcon with additional instructions for processing. In the event of a conflict between the terms of this Terms and Conditions and the Privacy Policies, the terms of this Terms and Conditions will prevail with respect to the Subscription being purchased under this Terms and Conditions.

19.2.3. Topcon has implemented and will maintain and follow appropriate technical and organizational measures intended to protect Personal Data against accidental, unauthorized or unlawful access, destruction, damage, alteration, loss, or unauthorized disclosure, damage, alteration, loss, or destruction. Notwithstanding the above, Purchaser is responsible for its secure use of the Products and Services, including protecting and securing of Personal Data. If Topcon becomes aware of any unlawful access or Topcon equipment or in a Topcon facility, or an unauthorized access to such equipment or facilities resulting in loss, disclosure, or alteration of Personal Data relating to the Purchaser (each a “Data Breach”), then Topcon will promptly notify the Purchaser of the Data Breach (provided that such notification may be delayed as required by a law enforcement); (2) take reasonable steps to address any Data Breach and prevent any further Data Breach. Topcon shall securely isolate and protect from any further processing except to the extent that Topcon is required by applicable law to retain some or all of the Personal Data, or to Personal Data, in which event Topcon shall securely isolate and protect from any further processing except to the extent required by law.

19.2.5. Notice(s) of a Data Breach will be delivered to one or more of Purchaser’s administrators by any means Topcon determines. Topcon has a single sole responsibility to ensure Purchaser’s administrators maintain accurate contact information. Topcon’s obligation to report or respond to a Data Breach under this Section is not an acknowledgement by Topcon of any fault or liability. Purchaser must notify Topcon promptly about any possible misuse of its accounts or authentication credentials or any Data Breach related to the contract. Topcon may transfer any Personal Data to its affiliated entities in connection with the performance of its obligations under the agreement for the purpose described in the Topcon EU Privacy Statement ("https://www.topconpositioning.com") For Topcon location, please see company locations found at https://www.topconpositioning.com. Purchaser expressly acknowledges that Personal Data may be transferred to the European Union and any other country (where applicable) to transfer Personal Data to and process it in the United States or any other country as set forth above, which may not have the same level of data protection as the country from which the Personal Data originated. Based on one of the safeguards as provided under Privacy Laws, Topcon warrants that these sub-processors have adopted the same level of protection as Topcon.

19.2.6. Purchaser represents and warrants that it has the authority to provide the Personal Data to Topcon for processing as contemplated by these Terms and Conditions. If any applicable law requires a data subject to receive notice of or to provide consent to the processing and/or transfer of his/her Personal Data, Purchaser will provide such notice and obtain such consent from the applicable data subjects.

19.2.7. Topcon will abide by Applicable Privacy Laws pertaining to any individual’s exercise of his or her rights to access, correct, or object to the processing of Personal Data. Notwithstanding the foregoing, unless otherwise required by Applicable Privacy Laws Topcon will promptly notify Purchaser if Topcon receives a request from a data subject to have access to Personal Data or any other request or request relating to Purchaser’s obligations under Applicable Privacy Laws. Topcon will provide reasonable assistance to Purchaser to facilitate Purchaser’s ability to respond to such request or complaint (including, without limitation and without prejudice to any fees incurred by Purchaser prior to suspension or termination).

19.2.8. To the extent of any unlawful access, disclosure, damage, alteration, loss, or unauthorized access, Topcon will, where required, secure the Personal Data or any other Personal Data processed by Topcon in the event of a Data Breach. Topcon will promptly notify Purchaser of such modifications to this Article 19 as it reasonably deems necessary in light of such new guidance or change in Applicable Privacy Laws. If the Purchaser does not accept or consent to these modifications, the Purchaser may terminate the agreement within 15 days of the date such notice is given.

ARTICLE 20 - SEVERABILITY

20.1. Notwithstanding the specific context, each stipulation in these Terms and Conditions will be taken as independent from the rest. If any stipulation is declared fully or partially null or unenforceable, this will not affect the validity or enforceability of the remaining clauses of the Terms and Conditions.

ARTICLE 21 - NOTICES AND LANGUAGE

21.1. Any notices to be made to Topcon must be sent to the address contained in the confirmation of order or to and address subsequently given to the Purchaser. Notices to be made to the Purchaser must be sent to the address given by the Purchaser or to its last known address. Notices will be made by any means that allows confirmation of receipt, including email.

21.2. In the event of any discrepancy between texts written in English and those written in any other language, as well as in cases where the contract or any other document concerning the sale of the Products or render of services, including Terms and Conditions, the text in English will prevail.

ARTICLE 22 - COMPETENT COURT AND APPLICABLE LAW

22.1. Topcon will be responsible for any terms and conditions specific to the contract. The specific terms and conditions of the contract and these Terms and Conditions, as well as the acts or transactions contemplated hereby, will be governed by and interpreted in accordance with the laws of the country in which the products are manufactured. The provisions of the Vienna Convention of 1980 (1980) shall not apply to the legal relationship between Topcon and the Purchaser.

Topcon Precision Agriculture Europe S.L. · Chamber of Commerce no: B85483394, VAT no: ESB85483394
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