

Terms and Conditions of Sale for Hardware and Software Products

These terms and conditions of sale (“**Terms and Conditions of Sale**”) form an integral part of the contract entered into between K-SPORT WORLD SRL, Via Annibale Mengoli 23, 61122 Pesaro (PU), Italy, VAT No. 02758950410, IBAN IT97 N 05034 12803 000000023327 (“K-SPORT”) and the purchaser, licensee or borrower of the goods and services described in the sales contract (the “Customer”), and supplement *the EULA - GENERAL TERMS AND CONDITIONS FOR THE USE OF SOFTWARE PRODUCTS AND UPDATE, SUPPORT AND MAINTENANCE SERVICES* (the “**General Terms and Conditions**”). The Terms and Conditions of Sale govern, in particular, the sale of the Hardware and the related licence for the Licensed Materials and the software components strictly necessary for the use of the Hardware specified in the Contract, in accordance with the provisions of Article 2.A below.

1. Definitions:

- A. “Hardware” means the system of devices, as further described in the Contract;
- B. “**Software**” means each of the software programmes specified in each individual Order;
- C. “Materials” means the Software and the related technical and informational documentation made available by K-Sport;
- D. “**Services**” means the services as described in the Contract;
- E. “**Employee(s)**” means any person employed by the Customer during the term of the Contract, and anyone who has access to the Materials described in points A, B, C and D;
- F. “**Contract Commencement Date**” means the date specified in the Contract
- G. “**Contract End Date**” means the date specified in the Contract
- H. **Contract:** The term ‘Contract’ refers to: the General Terms and Conditions (EULA), these Terms and Conditions of Sale, the *Hardware and Clothing Annex: Safety Information and warranty limitations*, the Supplementary Terms, the Service Offer issued by K-Sport and signed by the Customer (the “Order”), the relevant appointment as Data Processor pursuant to Article 28 of the GDPR, any technical documentation provided to the Customer, any subscription forms and any *online* instructions for the use of the Software. All the aforementioned documents form an integral part of the Contract.



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2. Description of Content/Products/Services/Additional Rights

A. Non-exclusive licence and restrictions: the licence granted by K-SPORT for the purposes of these Terms and Conditions of Sale is governed by the General Terms and Conditions, unless expressly provided otherwise herein. In any event, the licence granted under the Contract is to be understood as (i) non-exclusive, (ii) subject to a fee, (iii) revocable, (iv) not sub-licensable, not assignable or otherwise transferable to third parties for any reason without the prior written consent of K-Sport, (v) valid only for the duration of the Contract or the shorter period specified therein, and (vi) limited to the uses specified therein for lawful purposes within the scope of the Customer's professional activities, to access the licensed materials exclusively in connection with the Hardware and solely for the purposes of the Customer's internal operations (e.g. analysis, performance and training). The Licensed Materials shall at all times remain the property of K-SPORT, and K-SPORT hereby retains all intellectual property rights and all other proprietary rights in the Licensed Materials. The Customer must not permit the use of the usernames/passwords for the Licensed Materials by anyone other than the Customer's own Employees. The Customer acknowledges and agrees that no further licences are granted or transferred except as expressly stated, and that under no circumstances may the Contract be applied or interpreted as granting or conferring any express or implied licence rights or rights of use.

The Licensed Materials must not be copied, reproduced, retransmitted, sold, sub-licensed, distributed or decoded in any way. Upon expiry of the term of the Agreement or in the event of early termination of the Agreement, the Licensee's licence to access the Licensed Materials shall cease.

The Materials are licensed for the exclusive use of the Customer, including through its Employees. The Customer assumes full liability towards K-Sport and its affiliates for any use by third parties who have gained access to the Materials through the Customer's actions.

The additional licence and usage conditions for the Software and the Materials contained in the General Terms and Conditions (EULA) are incorporated in full and shall apply.

B. Sale or loan of hardware and software licence. K-Sport sells and the Customer purchases the hardware as described in the contract. The Customer shall be deemed the owner of the hardware, in the case of a sale, once K-Sport has received the full amount of the payment. In any other circumstances other than a definitive sale, such as a loan, the Customer undertakes to return the hardware at the end of the contract.

The Customer may purchase the equipment provided on loan by agreeing the price with K-Sport and in accordance with the terms and conditions of sale.

Where and to the extent that equipment is provided on a loan basis as specified in an Order: K-Sport shall make the equipment available to the user and grant them the right to use it during the Validity Period. Title and ownership of the equipment shall at all times remain with K-Sport (and shall not be transferred to the user); and the customer must:

- keep the Equipment in good condition and repair it (subject to normal wear and tear);
- keep the Equipment in safe custody and under their own possession or control at all times;



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- notify K-sport within 24 hours of becoming aware of the loss, theft, damage or destruction of any Equipment, or of its becoming unusable;

Without K-sport's written consent, either during or after the Validity Period, you must not sell, transfer, lend, sub-license, encumber or allow anyone other than your own Staff to use the Equipment in any way (or attempt to do so);

Where and to the extent that the Equipment is supplied to you on a prepaid basis pursuant to an Order:

- title and ownership of the Equipment shall remain with K-sport (and shall not pass to you) until the earlier of the following occurs: (i) full payment for the Equipment by you to K-sport; and (ii) the termination or expiry of this contract (for any reason);
- until ownership of any Equipment is transferred to you in accordance with clause K-sport reserves the right to modify any such Equipment, and you shall hold such Equipment in a fiduciary capacity as K-sport's agent and custodian, and shall ensure that such Equipment is clearly identifiable as the property of K-sport, is properly stored and protected, and remains fully insured.

C. Hardware Warranty. The warranty for the Hardware shall be provided by K-SPORT. The warranty for the Hardware shall be valid for two years from the date of sale or loan. The warranty covers only faults arising from the failure of electronic components but does not cover faults resulting from improper use, maintenance or storage of the system, as set out in the warranty terms attached to the contract. Details of the warranties and limitations regarding use and misuse are set out in the document '**Hardware and Clothing Warranty**' valid on the date of signing the Contract, to which full reference is hereby made.

3. Financial and Commercial Terms

A. Payment obligations and interest in the event of late payment

In consideration of the rights and licence granted to the Customer in relation to the Licensed Material and the sale of the hardware for the duration of the contract, the Customer shall pay K-Sport a total amount for the entire duration of the contract, equal to the sum specified in the contract, excluding VAT, taxes, customs duties and delivery charges. In the event of non-payment or late payment of any sum due under the Contract, interest on arrears shall automatically be charged on the sums due at the rate provided for by Legislative Decree 231/2002, without the need for prior notice of default or any formal communication whatsoever.

B. Early termination. The Customer may terminate the Agreement early by giving written notice to be sent via email. Should the termination take effect before the natural expiry of the Agreement, the Customer shall be required to pay the Supplier, in accordance with and for the purposes of Article 1373(3) of the Civil Code, a specific fee for exercising the right to early termination, equal to the sum of the remaining contractual amounts that would have accrued from the effective date of termination until the natural expiry of the Agreement. The Customer



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acknowledges and accepts that all payment obligations provided for in the contract shall remain in force and must be fulfilled in full, irrespective of the early termination. Any sums already paid shall not be refunded and shall be counted as part of the total balance due

C. Suspension of the service due to non-payment. In the event of late payment, the terms set out in the General Terms and Conditions (EULA), which form an integral part of the Contract, shall apply to the Software.

D. Exclusivity Conditions. During the term of the contract, the customer must use exclusively K-Sport hardware products, which are to be understood solely as wearable systems designed for tracking external load, and may not use competing products in any way.

4. Term of the Contract

A. The start and end dates are specified in the Contract

5. Processing of personal data

The Parties acknowledge that, in the course of the performance of the Contract, personal data may be processed. In this regard, reference is made, where relevant, to **the attached “Data Protection Notice” – Notice pursuant to Article 13 of EU Regulation No. 2016/679, the General Data Protection Regulation (“GDPR”)**, which forms an integral and essential part of this Contract, as well as to Article 18 (*Processing of Personal Data*) of the General Terms and Conditions (EULA) of the Contract.

6. Appointment as Data Controller

The parties acknowledge and agree that, upon entering into this Contract, the Customer appoints the Licensee as Data Processor in accordance with the terms and conditions set out in the **“Appointment as Data Processor”**, drawn up in accordance **with Article 28 of EU Regulation 2016/679 (GDPR)**, which forms an integral and substantial part of this Contract. In accordance with this annex, the **Customer is the Data Controller**, whilst **K-Sport** acts as **the Data Processor**, undertaking to process personal data exclusively for the agreed purposes and in accordance with the instructions provided by the Data Controller.

7. Other applicable terms

A. Governing Law and Jurisdiction. The law applicable to the Contract and the exclusive jurisdiction for any disputes that may arise between the Parties are set out in Article 19 of the General Terms and Conditions (EULA).

B. Necessary Consents and Licences. The Customer represents and warrants that it is solely responsible for obtaining any prior written consents (including those of athletes), licences or authorisations that may be necessary to:

(a) enable the Customer to collect and process data using the Hardware and Software;



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- (b) enable K-Sport to use the data in order to fulfil its obligations under this Agreement; and
(c) enable the Customer to use the Licensed Materials as provided for in this Agreement.

Date	Version
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