

Lopos Terms and Conditions

1. Scope of application

- 1.1. These Terms and Conditions are applicable to all sales and deliveries of our Products to our Customers, except where we have specifically varied them in writing. These Terms and Conditions apply from the moment that they are first made available to our Customer, at whatever time and in whatever manner, and are deemed to have been formally and expressly accepted by the Customer.
- 1.2. The Customer agrees to waive its own general and special terms and conditions, even where it is stated therein that only those conditions may apply and even if such terms and conditions were not protested by Lopos.
- 1.3. The performance of each sale and of each delivery is strictly limited to what is expressly indicated in the Contract.

2. Definitions

In these Terms and Conditions, the capitalised terms mentioned below shall have the following meaning:

- 2.1. **“Contract”** means any agreement concluded between Lopos and the Customer, including these Terms and Conditions, the Quotation, any specific conditions agreed in writing and the Documentation;
- 2.2. **“Customer”** means a natural person or legal entity (i) issuing a request for offer, request for proposal, request for quotation or purchase order, in any form, with the intention to enter in a business relationship with Lopos and/or (ii) entering into a Contract with Lopos;
- 2.3. **“Documentation”** means the user manual, including a description of the Product and all other related materials made available by Lopos to its Customers;
- 2.4. **“Intellectual Property Rights”** means the following:
 - (i) copyright, patents, database rights and rights in trademarks, designs, know-how and trade secrets (whether registered or unregistered);
 - (ii) applications for registration, and the right to apply for registration, for any of these rights; and
 - (iii) all other equivalent or similar forms of protection of intellectual

property existing anywhere in the world;

- 2.5. **“Lopos”, “us”, “our” and “we”** means Lopos BV, having its registered office at Loboslaan 19, 9080 Lochristi and with company number 0735.693.728;
- 2.6. **“Party” and “Parties”** means the Customer and/or Lopos;
- 2.7. **“Products”** means any products provided by Lopos to the Customer, including (but not limited to) the SafeDistance wearables, as further described in the Quotation and/or in the Documentation;
- 2.8. **“Quotation”** means the offer, quotation, purchase order, tenders or contractual document that is issued by Lopos to the Customer;
- 2.9. **“Terms and Conditions”** means the present Lopos terms and conditions.

3. Quotations and orders

- 3.1. Quotations issued by Lopos are only binding on us when made in writing and for a maximum period of fifteen (15) calendar days, unless stated otherwise in the Quotation.
- 3.2. The Contract becomes effective after both Parties have accepted and signed the Quotation. The effective date shall be the date of the last signature of the Quotation (**“Effective Date”**).
- 3.3. In the event of inconsistencies between these Terms and Conditions, our Quotation, the purchase order or order confirmation from our Customer, the following order of precedence applies: (i) our Quotation, (ii) our Terms and Conditions, (iii) the purchase order and (iv) the order confirmation.
- 3.4. Customer acknowledges that it acts in the context of its professional activities and that, as a result, the Customer shall not have the right to withdraw or cancel any orders made.
- 3.5. If the Customer is obliged to pay VAT, it must provide us with its VAT number and the percentage that it may deduct, on its own initiative, at the latest when placing the order or signing the Contract.

4. Delivery

- 4.1. Any delivery schedule provided by us is purely a good faith estimation. Lopos has

the right to change or delay the delivery schedule if causes beyond its reasonable control prevent the delivery within the stipulated timeframe, without giving rise to any compensation. Lopos shall inform the Customer thereof.

- 4.2. Unless explicitly agreed otherwise in writing, any delivery obligation of Lopos shall be subject to receipt by Lopos of payment of the first instalment.
- 4.3. In any case, we cannot be held liable for any failure or delay in the execution of our obligations:
 - 4.3.1. if the Customer has not respected its payment obligations;
 - 4.3.2. in cases of force majeure such as: a lock-out, strikes, epidemics, war, economic embargoes, sabotage, fire, unfavourable weather conditions, water damage, machine failure, breakdowns, delays in the delivery of important components during manufacturing, disruptions or delays in the transportation or receipt of raw materials. This applies both to us, our suppliers and, generally speaking, to any external cause that we can reasonably demonstrate has delayed, or is delaying the delivery of goods and/or services or the general execution of our commitments. Force majeure only suspends the execution of the Contract with our Customer and does not give the Customer the right to dissolve or terminate of the Contract to our disadvantage, nor to claim any compensation from Lopos.
- 4.4. The delivery of the Products shall occur at the Customer's risk, including the risk for loss or destruction and cost, and the Customer shall take out suitable and sufficient insurance for possible damage claims (INCOTERM EX WORKS). Any applicable customs costs shall be borne by the Customer.
- 4.5. If a Product is supplied to the Customer as part of a trial period, the Customer is obliged to return the Product to us in perfect condition, if they decide not to purchase it. If the Product is lost or damaged, the Customer assumes full responsibility and we will invoice the Product at its current valid sales price. Simply exceeding the

agreed trial period will be interpreted by us as an agreement from the Customer to purchase the item and we will invoice the Customer for the Product in question.

5. Acceptance

- 5.1. The Customer, the recipient, the collector or the person receiving the goods on behalf of the Customer must inspect the goods for deviations (i) upon receipt thereof and express any reservations they have regarding any damage or visible defects in writing to the courier; or, if immediate inspection is not reasonably possible, (ii) at the latest within eight (8) calendar days following delivery.
- 5.2. The delivered Products shall be deemed to be in accordance with the Contract and accepted by the Customer unless a claim is formulated within eight (8) calendar days of the delivery date. Any such claim must be formulated in writing by e-mail. Such claims do not in any circumstances suspend the payment obligation of the Customer.
- 5.3. Any non-accepted Products shall be returned within eight (8) calendar days of receipt in the original packaging. Only the postmark or the dated signature of a representative of Lopos will serve as proof.

6. Use of the Products

- 6.1. The Customer recognizes that:
 - 6.1.1. the Product measures the distance to the next nearest Product and warns a user when the distance between his and another user's Product falls below a certain distance;
 - 6.1.2. as a result of the ultra-wide band technology, the distance as measured by the Products may deviate from the actual distance between the Products;
 - 6.1.3. the Products have a purely accessory role and cannot in any way be considered as the only tool for monitoring the distance between persons wearing the Products;
 - 6.1.4. the Products do not in any way prevent other persons (whether they are wearing a Product or not) from getting too close to persons wearing the Product; and
 - 6.1.5. the Products do not guarantee the health or safety of the persons wearing the Products.

- 6.2. The Customer is responsible for implementing all necessary safety precautions alongside the Products.
- 6.3. The Products shall only be used in accordance with the Contract (including the Documentation) and the Customer shall be responsible for ensuring that the users shall only use the Products in accordance with the Contract (including the Documentation).
- 6.4. The Products shall not be used for the following purposes:
 - 6.4.1. for illegal purposes, to perform acts that could be contrary to the applicable law (criminal or otherwise) or that could be prejudicial to Lopos, other Customers or third parties;
 - 6.4.2. for purposes, applications or within industries (i) other than those approved by Lopos and/or (ii) that require specific certifications;
 - 6.4.3. to copy or reverse engineer the Lopos Products or to directly or indirectly prepare competing or derivative products or services; and/or
 - 6.4.4. to resell or market the Products to third parties.

7. Prices

- 7.1. If not stated explicitly otherwise, the agreed prices are expressed in Euro.
- 7.2. The prices do not include (i) delivery costs, (ii) value added tax, and (iii) other taxes, duties, customs duties or other similar charges, that will be at the Customer's cost. The Customer shall promptly reimburse Lopos for any such taxes or duties paid by Lopos.
- 7.3. Any specific prices or terms or conditions which have been negotiated between the Parties are unique and shall not be used as a basis to seek or justify similar terms in the future.
- 7.4. Lopos reserves the right, at any time, to change the prices stated in its catalogue, pricelist, any Quotations that have not been accepted, or on its website. However, prices confirmed in already concluded Contracts will not be changed, unless explicitly stated otherwise in the Contract.
- 7.5. Our prices are based on the information provided to us by the Customer and do not take account of special circumstances which we could not possibly have foreseen at the time when we issued the Quotation or

entered into the Contract. In case such special, unforeseen circumstances arise, Lopos shall have the right to modify the agreed price. If the Customer does not agree in writing with the modified price, both Parties shall have the right to terminate the Contract, without court intervention and without any additional compensation.

8. Invoicing

- 8.1. Unless explicitly indicated otherwise, each order of Products shall be invoiced by Lopos in two instalments, as follows:
 - 8.1.1. fifty (50) percent of the total fees at the Effective Date; and
 - 8.1.2. fifty (50) percent of the total fees at the delivery date.
- 8.2. Unless explicitly indicated otherwise, Lopos shall have the right to send its invoices electronically to the Client's email address set out in the order form.
- 8.3. Electronic invoices are deemed to have been received by the Customer at the date of sending thereof by Lopos.
- 8.4. Any claim by the Customer relating to an invoice shall be sent within eight (8) calendar days of the date on the invoice. Such claim must be notified to Lopos in writing by e-mail stating the reason for the claim. If no claim is received within the specified period or if the claim only relates to a part of the invoice, the (undisputed part of the) invoice shall be deemed to have been accepted in full by the Customer.
- 8.5. All amounts to be paid to Lopos under this Contract shall be paid without the right to set off or counterclaim and free and clear of all deductions or withholdings whatsoever, unless the same are required by law. In case of the latter the Customer undertakes to pay Lopos such additional amounts as are necessary in order that the net amounts received by Lopos after all deductions and withholdings shall not be less than such payments would have been in the absence of such deductions or withholdings.
- 8.6. Unless explicitly agreed otherwise in writing, payment must be made within fifteen (15) calendar days after invoice date ("**Due Date**") by bank transfer on the account of Lopos as indicated on the invoice.
- 8.7. In case of late payment by the Customer:
 - 8.7.1. the amount of any invoice which has not been paid on or before its Due Date shall automatically be

- subject to a late payment interest equal to the higher of (i) twelve (12) percent per annum or (ii) the legal interest rate of the Act of August 2nd, 2002 on late payment interests in commercial transactions, which interest shall be compounded monthly as of the Due Date until receipt of full payment by Lopos;
- 8.7.2. in addition, Customer shall pay all costs incurred by Lopos as a result of the (extra)judicial enforcement of the Customer's payment obligation under this article. To cover the extrajudicial collection costs and the additional administrative work involved, a compensation payment is estimated equal to ten (10) percent of the outstanding balance with a minimum of EUR 125, plus a fixed charge of EUR 13 per reminder plus any registration charges;
- 8.7.3. if we bring in third parties to collect the outstanding amounts, the relevant charges will also be charged to the Customer;
- 8.7.4. all other invoices, even those that have not yet fallen due, become immediately payable;
- 8.7.5. Lopos shall be entitled to suspend, without notice, its obligations and the Customer's rights hereunder until receipt of payment of any outstanding amounts; and
- 8.7.6. we reserve the right to declare any discounts allowed to be forfeit, also with retroactive effect in respect of the discounts granted to the Customer for one year prior to the most recent discount granted to the Customer.
- 8.8. Incomplete or partly disputed performance of our obligations under the Contract may not, in any circumstances, serve a pretext for postponing payment of the undisputed part. No payment whatsoever may be withheld in respect of guarantees, unless expressly agreed by us.
- 8.9. Where we grant payment facilities, such as payment in instalments, it is expressly agreed that the first non-payment will automatically result in bills of exchange or instalments that have not yet fallen due to become immediately due and payable
- without further notice of default. In that case, we may also regard any contracts entered into as having been cancelled by the Customer.
- 8.10. Lopos shall at all times be entitled to transfer all or part of the debt owned to us by the Customer to a third party.
- 9. Retention of title and Intellectual Property**
- 9.1. We retain ownership of the Products and any other goods and/or materials (whether delivered or not) until the full payment of all amounts the Customer owes us under the Contract has been made.
- 9.2. For the avoidance of doubt, all Intellectual Property Rights in the Products and the Documentation shall be and remain the property of Lopos and/or its licensors.
- 10. Warranties**
- 10.1. The Products are delivered in the state in which they are at the moment of delivery ("as is") and therefore with all visible and invisible errors and defects. Lopos hereby, to the maximum extent permitted under applicable law, disclaims all warranties, express or implied, including, without limitation, the warranties of merchantability, merchantable quality, non-infringement of third-party rights or fitness for any particular purpose, the warranty that the Products will operate error-free or that any errors in the Products will be corrected.
- 10.2. Without prejudice to the generality of the foregoing, under no circumstances shall Lopos offer any warranty for:
- 10.2.1. damage to vulnerable parts that may be damaged through careless use;
- 10.2.2. small deviations from the established quality that do not affect the value and the soundness of the Products;
- 10.2.3. any deterioration or problem of a purely aesthetic nature that has no impact on the properties of the Products;
- 10.2.4. damage caused by external causes, such as (i) chemical or electro-chemical effects of water or other liquid substances; (ii) any use that is not in line with normal use or that deviates from the instructions given in the Documentation; (iii) contact with aggressive substances;

- 10.2.5. transportation damage that occurred outside of our responsibility, incorrect installation or assembly, misuse, poor maintenance or a lack of observance of our assembly, installation, user and maintenance instructions;
- 10.2.6. any defect caused by reparation or interventions by third parties;
- 10.2.7. any defect related to the battery;
- 10.2.8. any defect resulting from modification or use combined with other systems not supplied or approved by Lopos; and/or
- 10.2.9. any defect resulting from use or operation of the Products not consistent with good practice or with the Contract (including the Documentation).

11. Liability

- 11.1. To the maximum extent permitted by applicable law, Lopos shall not be liable for any damages resulting from, or in relation to, the Contract and/or the Products. This exclusion shall apply to direct damages as well as to indirect, punitive, consequential, special or similar damages (including damages for loss of profit, anticipated savings, lost revenue or income, loss of use or production, loss of business, loss of customers and contracts, loss of goodwill, the cost of procuring replacement goods or services, and reputational damage).
- 11.2. Without prejudice to the generality of the foregoing,
 - 11.2.1. in all cases, our liability shall be excluded if the Customer, or any user to which the Customer has provided the Product, uses the Products (i) in an improper manner, (ii) in a manner inconsistent with the Contract (including the Documentation) or (iii) has otherwise deviated from the user and safety instructions delivered with the Product or otherwise made available to the Customer; and
 - 11.2.2. Lopos' liability shall always be excluded in case of damage caused jointly by a fault of Lopos and the fault of the victim or a person for whom the victim is responsible.

- 11.3. In any case, Lopos' liability shall be limited to the lower of: (i) the fees paid by the Customer under this Contract in the twelve (12) months preceding the event that gave rise to the liability and (ii) fifty (50) percent of the total amount paid by the Customer under the Contract. Lopos will under no circumstances be liable for an amount that is higher than the amount for which Lopos has a liability insurance.
- 11.4. To the extent permitted by applicable law, the Customer accepts that only Lopos' liability as a legal entity may be invoked under any Contract and waives the right to invoke the liability of an employee, director or shareholder of Lopos or affiliated company.
- 11.5. Nothing in this Contract shall exclude Lopos' liability for its (or its employees') wilful misconduct ("*opzet*" / "*dof*") or gross negligence ("*zware fout*" / "*faute grave*").

12. Confidential information

- 12.1. The Customer must consider all information concerning Lopos, obtained during consultations, negotiations and during the realization and implementation of the Contract as confidential information. Confidential information is understood to mean all information and/or data with regard to its relationship with Lopos, Lopos' business, business models, pricing, staff, Customers, suppliers, Lopos' internal policies and ways of working, equipment, designs, plans, diagrams, outlines, the functioning of the Products, the files and the software which come to the Customer's knowledge in any way.
- 12.2. The provisions of this article shall not apply to any information which: (i) is published or comes into the public domain other than by a breach of the Contract; (ii) can be shown to have been known by the Customer before disclosure by Lopos; (iii) is lawfully obtained from a third-party; or (iv) can be shown to have been created by the Customer independently of the disclosure and other than as part of the Contract.
- 12.3. The Customer shall use such information in a secure manner, solely for purposes for which it is intended and share this information with people within its organization only on a need-to-know basis to fulfil the Contract.
- 12.4. The obligation of confidentiality shall remain in force for a period of ten (10) years after the latter of (i) the last delivery made under

- the Contract; or (ii) the moment the Confidential Information was made available to the Customer.
- 12.5. In case of violation of this article, a fixed compensation of EUR 10.000 shall be due to Lopos, ipso jure and without prior notice. This amount will be increased, if necessary, by sufficient sums that compensate all damages, without prejudice to any other rights Lopos may have by law or under the Contract.
13. **Marketing and communication**
- Customer hereby grants to Lopos the right to use the Customer's name and logo as a reference, for instance, on the Lopos Website.
14. **General**
- 14.1. **Entire agreement** - This Contract constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, representations or understandings between the Parties relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in this Contract shall affect, or be used to interpret, change or restrict, the express clauses of this Contract.
- 14.2. **Amendments** - This Contract may be modified or amended only by written agreement executed by a duly authorized representative of both Parties hereto.
- 14.3. **Waiver** - The waiver by any Party of a breach of any provision of this Contract shall only be valid if made in writing and shall not operate or be construed as a waiver of any other or subsequent breach.
- 14.4. **Severability** - If any provision of this Contract is determined to be illegal, void, invalid or unenforceable, in whole or in part, the remaining provisions shall nevertheless continue in full force and effect. The provisions found to be illegal, invalid or unenforceable shall be enforceable to the full extent permitted by applicable law. Each Party shall use its best efforts to immediately negotiate in good faith a valid replacement provision with an equal or similar economic effect.
- 14.5. **Survival** - Expiration, termination or cancellation of this Contract shall be without prejudice to the rights and liabilities of each Party which have accrued prior to the date of termination, and shall not affect the continuance in force of the provisions of this Contract which are expressly or by implication intended to continue in force, including, without limitation, the provisions relating to Intellectual Property Rights, Confidential Information and limitation of liability.
- 14.6. **Assignment** - Lopos may assign or transfer the rights under this Contract to any third party.
- 14.7. **Subcontractors** - Lopos shall have the right to subcontract part or all of its obligations to third parties.
- 14.8. **Relationship between the Parties** - The relationship between the Parties is that of independent contractors. Neither Party is agent for the other and neither Party has any authority to make any contracts, whether expressly or by implication, in the name of the other Party, without that Party's prior written consent for express purposes connected with the performance of this Contract.
- 14.9. **Interpretation** - In the Contract (unless the context otherwise requires):
- 14.9.1. reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted;
- 14.9.2. words importing the singular include the plural, words importing any gender include every gender and words importing persons include bodies corporate and incorporate; and each case vice versa;
- 14.9.3. the headings or captions to the articles are for ease of reference only and shall not affect the interpretation or construction of this Contract; and
- 14.9.4. the term "including", when used in this Contract, shall mean "without limitation" and the enumeration following the term "including" shall be non-exhaustive.
- 14.10. **Notice** - Unless explicitly indicated otherwise, any notice required to be served by this Agreement shall in first instance be given in writing and by electronic mail. Electronic notices to Lopos shall only be valid (i) if sent to info@lopos.be and (ii) provided that explicit confirmation of receipt

was given by Lopos by e-mail. In case no confirmation of receipt was given by Lopos within five (5) business days, Customer shall send the notice by registered letter addressed to Lopos' registered office.

- 14.11. **Language** - This Contract is in the English language only, which language shall be controlling in all respects. All communications and notices made or given pursuant to the Contract shall be in English or in Dutch.

15. Jurisdiction and applicable law

- 15.1. Parties agree that all means will be used to reach an amicable settlement before legal action is taken.
- 15.2. In the absence of a suitable amicable solution, the courts of the judicial district of Ghent have sole jurisdiction, even in the case of a plurality of defenders, counterclaims, proceedings by or against third parties, and even in interim injunction proceedings.
- 15.3. The Contract shall be solely governed by Belgian law. The United Nations Convention for the International Sale of Goods shall not apply to this Contract.