

## B2C Terms & Conditions of Business

### 1. INTERPRETATION

The following definitions and rules of interpretation apply in these Terms.

#### 1.1 Definitions:

<b>"Business Day"</b>	means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
<b>"Contract"</b>	means these Terms.
<b>"Customer"</b>	means the person or business named on the Order Form with whom the Supplier has agreed supply Goods and/or supply Services.
<b>"Force Majeure Event"</b>	has the meaning given to it in clause 14.
<b>"Hardware"</b>	means the hardware specified in the Order Form.
<b>"Intellectual Property Rights"</b>	means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>"Order Form"</b>	means the completed order form for the Hardware and/or supply of Services, as annexed to these Terms.
<b>"Services"</b>	means the repair, management and maintenance services to be provided by the Supplier to the Customer as set out in the Order Form and further described in clause 9.
<b>"Software"</b>	means the software specified in the Order Form.
<b>"Supplier"</b>	means DGB Mobility Limited registered in England and Wales with company number 13466062, trading as Ottr.
<b>"Terms"</b>	means the terms and conditions set out in this document as amended from time to time in accordance with clause 15.5.

### 2. BASIS OF CONTRACT

- 2.1 These terms, with the Quotation/Order Form, set out the basis on which the Customer is permitted to use the Hardware and/or Software, and/or Services. In the event of a conflict between these Terms and the Order Form, these Terms shall take precedence.
- 2.2 The Order Form is an offer by the Customer to hire the Hardware and/or Services and/or licence the Software in accordance with these Terms.

- 2.3 The Order Form shall only be considered to be accepted when the Supplier issues written acceptance of it at which point and on which date the Contract shall come into existence ("**Commencement Date**").
- 2.4 Any drawings, descriptive matter or advertising issued by the Supplier and any descriptions or illustrations contained in the Supplier's website, catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods and/or Services referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.5 These Terms apply to the Contract to the exclusion of any other terms which are implied by law, trade custom, practice or course of dealing.
- 2.6 Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 60 days from its date of issue.
- 2.7 All of these Terms shall apply to hire of Hardware, supply of Services and the licence of the Software except where application to one or the other is specified.

### 3. **ORDERS AND SPECIFICATIONS**

- 3.1 The quantity, quality and description of the Hardware or Services and any specification for them shall be as set out in the Order Form.
- 3.2 The Supplier reserves the right to amend any specification in the Order Form if required by any applicable statutory or regulatory requirements, and the Supplier shall notify the Customer in any such event.

### 4. **DELIVERY OF GOODS**

- 4.1 The Supplier shall deliver the Hardware to the location set out in the Order Form or such other location as the parties may agree at any time after the Supplier notifies the Customer that the Hardware is ready ("**Location**").
- 4.2 Delivery of the Hardware shall be completed on the completion of unloading of the Hardware at the Location.
- 4.3 The Supplier shall provide the Customer with a user session on delivery to ensure that the Customer is made aware of all features and safety requirements of the Hardware.
- 4.4 The Supplier shall have no liability for any failure to deliver the Hardware to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

### 5. **QUALITY OF GOODS**

- 5.1 The Supplier warrants that, on delivery, the Hardware shall:
  - 5.1.1 conform in all material respects with their description and specification as set out in the Order Form;
  - 5.1.2 be free from material defects in design, material and workmanship;
  - 5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
  - 5.1.4 be fit for any purpose held out by the Supplier.
- 5.2 Subject to clause 5.3, if:
  - 5.2.1 the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Hardware do not comply with the warranty set out in clause 5.1;
  - 5.2.2 the Supplier is given a reasonable opportunity of examining such Hardware; and
  - 5.2.3 the Customer (if asked to do so by the Supplier) returns such Hardware to the Supplier's place of business at the Customer's cost,

the Supplier shall, at its option, repair or replace the defective Hardware.

- 5.3 The Supplier shall not be liable for the Hardware's failure to comply with the warranty set out in clause 5.1 if:
- 5.3.1 the Customer makes any further use of such Hardware after giving a notice in accordance with clause 5.2;
  - 5.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Hardware;
  - 5.3.3 the Customer alters or repairs such Hardware without the written consent of the Supplier;
  - 5.3.4 the defect arises as a result of wilful damage, negligence, or abnormal working conditions; or
  - 5.3.5 the Hardware differs from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Hardware's failure to comply with the warranty set out in clause 5.1.
- 5.5 These Terms shall apply to any repaired or replacement Hardware supplied by the Supplier.

## 6. **TITLE AND RISK**

- 6.1.1 The Supplier shall retain full title to the Hardware at all times during the Contract. The Customer's rights to use the Hardware are as lessee only, with the rights to possession and use of the Hardware subject to these Terms.
- 6.1.2 The Customer is responsible for the risk of loss, theft, damage or destruction of the Hardware from the date of Delivery and throughout the Contract until such time as the Hardware is redelivered to the Supplier.

## 7. **INSURANCE**

- 7.1 The Supplier agrees to provide the Customer with membership of Cycling UK for the Term of the Contract. Membership benefits include third party insurance cover. However, the customer is advised to obtain their own insurance covering loss, theft, damage or destruction.
- 7.2 The Supplier shall have the right to repair or have repaired any Hardware which is the subject of damage. If the Supplier does not choose to do so, the Customer shall be liable to reinstate or repair at its own expense (but subject to any insurance proceeds) Hardware which has not become a total loss.
- 7.3 In the event of a repair under clause 7.2 or a total loss, where the Customer has failed to comply with any of clauses 8.1.1 to 8.1.5, the Customer shall be liable, at the discretion of the Supplier, for 50% of the Supplier insurance excess or provision of repair/replacement under the Customer insurance detailed at clause 8.1.6.

## 8. **CUSTOMER'S RESPONSIBILITIES DURING THE HIRE PERIOD**

- 8.1 The Customer shall during the term of the Hire Period:
- 8.1.1 Download and install the Otrr Software application ("App"), comply with all prompts given by the App and advise the Supplier promptly of any issues arising with use of the App;
  - 8.1.2 ensure, on each occasion the Hardware is left in a location that is not the home address of the Customer, that photographic evidence is uploaded to the App that the Hardware has been secured to a static, unmoveable object;
  - 8.1.3 ensure that on each occasion referred to in clause 8.1.2 that a gold standard cycle lock is used, in addition to the wheel lock provided with the Hardware;

- 8.1.4 ensure that the Hardware is kept and operated in a suitable environment, used only for the purposes for which it is designed, and operated in a proper manner in accordance with any operating instructions;
- 8.1.5 make no alteration to the Hardware and shall not remove any existing component (or components) from the Hardware without the prior written consent of the Supplier;
- 8.1.6 maintain fully comprehensive insurance in respect of the Hardware;
- 8.1.7 not, without the prior written consent of the Supplier, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Hardware or allow the creation of any mortgage, charge, lien or other security interest in respect of it;
- 8.1.8 not do or permit to be done any act or thing which will or may jeopardise the right, title or interest of the Supplier in the Hardware;
- 8.1.9 not suffer or permit the Hardware to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Hardware is so confiscated, seized or taken, the Customer shall notify the Supplier and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Hardware and shall indemnify the Supplier on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- 8.1.10 not use the Hardware for any unlawful purpose; and
- 8.1.11 deliver up the Hardware at the end of the Hire Period at such address as the Supplier requires, or if necessary allow the Supplier or its representatives access to the Location or any premises where the Hardware is located for the purpose of removing the Hardware.

## 9. **SUPPLY OF SERVICES**

- 9.1 The Services shall consist of:
  - (a) One routine maintenance service per 12 month period; and
  - (b) the repair of any defect in or malfunction of the Hardware caused by reasonable wear and tear, which is discovered by the Supplier during the course of the service referred to at clause 9.2 or is reported to the Supplier by the Customer in writing from time to time.
- 9.2 The Customer is responsible for booking the routine maintenance service via the App. Failure to do so may result in the Customer being liable for charges on repairs or maintenance.
- 9.3 Additional Services may be requested at the Customer's expense.
- 9.4 Service of the Hardware shall be carried out by one of the Supplier's suitably qualified and duly authorised representatives ("**Representative**") attending at the Location at such times during the hours of 9.00 am to 5.00 pm ("**Business Hours**") on a Business Day as may be agreed in advance between the Supplier and the Customer from time to time.
- 9.5 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 9.6 The Services shall not apply to any defect in or malfunction of the Hardware which in the Supplier's reasonable opinion has arisen as a result of:
  - (a) transportation or relocation of the Hardware not performed by or on behalf of the Supplier;
  - (b) any error or omission relating to the operation of the Hardware;

- (c) any modification, adjustment or repair to the Hardware made by a third party without the written consent of the Supplier;
- (d) the neglect or misuse of the Hardware by the Customer; or
- (e) any other cause (except fair wear and tear) which is not due to the neglect or default of the Supplier.

## 10. **INTELLECTUAL PROPERTY RIGHTS**

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services and the Software shall be owned by the Supplier. The Customer shall have no rights in or to the Software other than the right to use it in accordance with the terms of the licence pursuant to the Contract.

## 11. **DATA PROTECTION**

The Supplier will use Customer Personal Data as set out in the Supplier Privacy Notice, details of which are provided in Schedule 1.

## 12. **LIMITATION OF LIABILITY**

12.1 All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy are excluded to the fullest extent permitted by law.

12.2 Nothing in this Contract shall exclude or limit the liability of the Supplier for fraud, death or personal injury due to the Supplier's negligence, not exclude any other type of liability which it is not permitted to exclude or limit as a matter of law.

12.3 The Supplier shall have no liability to the Customer to the extent that the Customer is covered by any policy of insurance arranged as a result of this Contract and the Customer shall ensure that the Customer's insurers waive any and all rights of subrogation they may have against the Supplier.

## 13. **TERMINATION**

13.1 This Contract shall terminate automatically on expiry of a 12 month period from the date the Contract commences.

## 14. **FORCE MAJEURE**

The Supplier shall not be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (a "**Force Majeure Event**"). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for three weeks, the party not affected may terminate the Contract by giving five Business Days' written notice to the affected party. Without limiting the foregoing, the following shall be regarded as caused beyond the Supplier's reasonable control: Act of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; pandemic or epidemic; import or export regulations or embargoes; strikes, lock-outs or other industrial actions or trade disputes (whether involving

employees of the Supplier or of a third party); difficulties in obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery.

## 15. GENERAL

### 15.1 Complaints

15.1.1 Where the Customer has complaints or queries, it may contact the Supplier on [www.rideottr.co.uk](http://www.rideottr.co.uk).

### 15.2 Assignment and other dealings

15.2.1 The Supplier may at any time sub-license, assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

15.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this clause 15.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

### 15.4 Third party rights

15.4.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

15.4.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

15.5 **Variation.** Except as set out in these Terms, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

15.6 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

15.7 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.