

Terms and Conditions – Smart Society Services B.V.

Version: 1.1

Date: December 5, 2017

These Terms and Conditions apply to all proposals, Quotations, agreements and services provided by Smart Society Services B.V., established in Utrecht and registered with the Chamber of Commerce under registration number 62059270, hereafter referred to as ‘**Provider**’.

Smart Society Services offers IoT products and -services to remotely monitor, control and manage objects and devices within large infrastructures. The services are offered as Software-as-a-Service and are based on an open, generic and scalable IoT platform. Because of the variety of the Services that are provided by Provider, these terms and conditions are a general outline of terms to be included with a detailed proposal and/or Quotation.

Deviations from these terms and conditions is possible only by means of written confirmation by Smart Society Services B.V.

Article 1. Definitions

Capitalized terms in this Agreement, both singular and plural, are considered to have the meaning as described in this article.

- 1.1 **Agreement:** the Quotation, the terms in this document and any attachments.
- 1.2 **Customer:** a legal- or governmental entity that concludes an Agreement with Provider in order to use the Services.
- 1.3 **Customer Confidential Information:**
 - i) any information disclosed by or on behalf of the Customer to the Provider at any time before the termination of this Agreement (whether disclosed in writing, orally or otherwise) that at the time of disclosure:
 - (1) was marked (or described) as ‘confidential’; or
 - (2) should have been reasonably understood by the Provider to be confidential; and
 - ii) the Customer Data;
- 1.4 **Customer Data:** all data, works and materials: uploaded to or stored on the Platform by the Customer; transmitted by the Platform at the instigation of the Customer; supplied by the Customer to the Provider for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Services by the Customer;
- 1.5 **Documentation:** the documentation for the Services produced by the Provider and delivered or made available by the Provider to the Customer;

- 1.6 **Effective Date:** the date of execution of this Agreement;
- 1.7 **Force Majeure Event:** an event, or a series of related events, that is outside the reasonable control of the party affected (including, but not limited to, failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars).
- 1.8 **Hardware:** physical goods to be used in conjunction with the Service. Including, but not limited to, sim-cards, data communication-devices and switchboxes.
- 1.9 **Intellectual Property Rights:** all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (including copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs).
- 1.10 **IoT:** the interworking of products and -services to remotely monitor, control and manage objects and devices within large infrastructures.
- 1.11 **Office Hours:** 08:30 – 17:30 CET+1 (DST+2), unless specified otherwise in a Service Level Agreement.
- 1.12 **On-Premises:** the software part of the Service is installed and runs on computers on the premises of the Customer rather than at a remote facility (SaaS).
- 1.13 **Parties:** Customer and Provider.
- 1.14 **Personal Data:** as defined in article 1 sub a of the Dutch Data Protection Act.
- 1.15 **Quotation:** a document to accompany these terms and conditions containing a detailed description and pricing of the Service and, if applicable, deviating terms.
- 1.16 **SaaS:** Software as a Service.
- 1.17 **Service(s):** any services that the Provider provides to the Customer, or has an obligation to provide to the Customer under this Agreement. Including, but not limited to, current and future Internet of Things hardware and software solutions and/or services aimed at cities, municipalities, utility companies and related service companies. Also referred to as Smart Utility Services.
- 1.18 **Website:** <https://smartsocietyservices.com/>.

Article 2. Conclusion of the Agreement

- 2.1 A Quotation can be requested through an online or offline channel, including the Website, by or on behalf of the Customer using a method authorized by Provider.

- 2.2 If Provider determines that it is able to provide the requested Services and if the request from the Customer, in the opinion of Provider, meets the requirements, Provider will provide Customer with a Quotation specifying the scope, price and additional terms of the Service. Unless indicated otherwise, Quotations are valid for two (2) months.
- 2.3 The Agreement is deemed to have come into effect on the date and time when Provider confirms Customer's acceptance notifications of the Quotation. The acceptance notification must be in writing.

Article 3. Use of the Service

- 3.1 The Service is offered for the purpose of remotely monitoring, controlling and managing objects and devices within large (public) infrastructures. The Customer will choose how to employ the tools and for which specific purposes.
- 3.2 To use the Service, upon the conclusion of the Agreement, the Customer will be provided with primary account and login information (username and password) to access the Service. The Customer can create accounts for additional users under his supervision.
- 3.3 The number of accounts is limited to ten (10), unless the Quotation states otherwise.
- 3.4 The Customer must secure access to the accounts by protecting the username and password against third party access. In particular the Customer and all users that are added must keep the username and password strictly confidential. Provider may assume that all actions undertaken from Customer's account after logging in with the username and password is authorized and supervised by the Customer. This means that the Customer is liable for these actions, unless and until you have notified Provider that someone else knows the username and password.
- 3.5 The Customer must not use the Services:
 - i) in any way that is unlawful, illegal, fraudulent or harmful; or
 - ii) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.
- 3.6 It is not permitted to use the Service in a manner that causes a nuisance or hindrance for other users. This includes (among others) the use of personal scripts or programs for up- or downloading large amounts of data or excessively often accessing the Service.
- 3.7 The Customer is not permitted to access the software code (including object code and intermediate code) of the Platform, either during or after the duration of the Agreement.
- 3.8 If in the opinion of Provider, the continued functioning of the computer systems or network of Provider or third parties is actually or under threat of being damaged or jeopardized, Provider may take all steps it deems reasonably necessary to end or avert such damage or jeopardy.

- 3.9 At the Customer's request, the Service can be offered On-Premises. In case the Service is delivered On-Premise, the Customer has to guarantee Provider sufficient remote access and sufficient authorization to allow provisioning, maintenance and backup of the Service.

Article 4. **Privacy and Security**

- 4.1 If, in performing the Service, Provider is to process Personal Data for which Customer is responsible, Provider and Customer, under Article 14 of the Dutch Data Protection Act, or applicable law or regulation are required to assume obligations in respect of the data processed by Provider for the purpose of safeguarding the technical and organizational protection measures pertaining to the data to be processed. Unless an attached Data Processor's Agreement is concluded between Provider and Customer, the following provisions shall apply in order to ensure an appropriate level of security for the Service and any (personal) data processed therein.
- 4.2 Provider will ensure an appropriate level of security that is commensurate with the risks involved in processing the Personal Data and the nature thereof. Unless expressly agreed to otherwise, it is understood and agreed that no special categories of Personal Data will be processed (e.g. data concerning health or data concerning a person's sex life).
- 4.3 Provider will also guarantee that anyone acting under the authority of Provider, insofar as they have access to Personal Data for which Customer is the responsible party, will only process such data on the explicit instruction of Customer, except in the event of deviating legal obligations.
- 4.4 If Customer, within the context of a legal obligation (e.g. pursuant to the Dutch Data Protection Act), or applicable law or regulation is required to adjust, delete or hand over data stored in systems of Provider, Provider will fully cooperate, where possible. The costs of the work involved may be invoiced separately.
- 4.5 Provider has the right to perform statistical analyses of how the Service is used by its Customers, but only in aggregate form and without applying profiles or registrations of individual users.
- 4.6 Provider will make daily backups of Customer Data stored via the Service, unless specified otherwise in a Service Level Agreement.
- 4.7 In case the Service is delivered On-Premises, Customer is required to supply Provider with remote access and authorization to allow provisioning, maintenance and backup of the Service. If this is not possible. Provider is not liable for these non-functioning components of the Service.
- 4.8 Customer can, subject to an additional fee, request a copy of Customer's Data.

Article 5. **Availability and maintenance**

- 5.1 Unless Parties conclude a separate service level agreement, Provider does not give any guarantees regarding to availability of the Service. In case of a conflict between a provision in the SLA and these terms and conditions, the provision in the SLA shall prevail.
- 5.2 Provider actively maintains the Service. Maintenance will only take place during specific service windows. Maintenance causing impact to the availability of the Service will be announced in advance and will take place outside of Customer Office Hours, unless specified otherwise in the Quotation or a Service Level Agreement.
- 5.3 Provider may from time to time incorporate changes into the Service. Customers feedback and suggestions are welcome but ultimately Provider decides which changes to carry out (or not). Provider shall announce major changes at least thirty days in advance. Minor changes that do not affect the functioning of the Service in a meaningful way will be automatically incorporated into the Service without notice.
- 5.4 Provider partners with various third parties for the performance of the Agreement. As such, there are certain aspects of the Service that are outside of the control of Provider that Provider is not liable for. This includes, but is not limited to, mobile data coverage and electricity required for Hardware. This also applies to cases where the Service is delivered On-Premises. Provider is determined to provide a maximum level of uptime and will negotiate the highest possible service level with all third parties.

Article 6. **Hardware and configuration**

- 6.1 Hardware components are an essential part of the Service. At Customer's request Provider is prepared to supply the required Hardware for use with the Service, and/or provide installation and configuration services. The fees for such supply or services shall be specified in the Quotation.
- 6.2 Ownership of Hardware supplied by Provider remains with Provider unless specified otherwise in the Quotation.
- 6.3 Hardware delivered by the Provider shall be checked thoroughly and without delay for defects, compliance with the order and completeness upon delivery to the Customer. The Hardware is regarded as approved unless a written claim has been received by the Provider within seven (7) days of delivery or within ten (10) days of identifying the defect, if the defect was not obvious after an immediate and thorough check. The Customer is requested to return the claimed defective Hardware to Provider using the cheapest transportation method, for which Provider will reimburse transportation cost to the Customer if the claim turns out to be valid.
- 6.4 In case of Hardware defects Customer's sole remedy is to claim repair or replacement directly with the manufacturer. Provider shall inform the

Customer about manufacturer warranties and use its best efforts to help you make your claim, but is not responsible for the manner in which the manufacturer carries out its warranty obligations (if any).

- 6.5 Provider can refuse installation and configuration if the Hardware does not meet the minimum requirements set by Provider.

Article 7. **Intellectual property**

- 7.1 The Service as well as all related information is the intellectual property of Provider (or its licensor). None of these items may be copied or used without the prior written permission of Provider, except and to the extent permitted by mandatory law.
- 7.2 Information which the Customer stores or processes using the Service is and remains Customer's property (or the property of Customer's suppliers or licensors). Provider receives a limited license to use this information for the Service, including for future aspects thereof. Customer can cancel this license by terminating the Agreement and requesting the removal of all data.
- 7.3 Upon the conclusion of the Agreement, Provider grants to Customer a non-exclusive license to use the Service for the duration of one (1) year, unless the Quotation states otherwise. This license does not include the right to sublicense, sell or otherwise multiply or disclose the software in any way.
- 7.4 Except to the extent expressly permitted in this Agreement or required by law on a non-excludable basis, the license granted by the Provider to the Customer under 7.3 is subject to the following prohibitions:
- i) the Customer must not sub-license its right to access and use the Services, unless specified otherwise in the Quotation;
 - ii) the Customer must not permit any unauthorized person to access or use the Services;
 - iii) the Customer must not use the Services to provide services to third parties, unless specified otherwise in the Quotation;
 - iv) the Customer must not republish or redistribute any content or material from the Services; and
 - v) the Customer must not make any alteration to the Platform, except as permitted by the Documentation.

Article 8. **Support**

- 8.1 Customer is requested to check the (online) Documentation first before submitting a support-request by e-mail or phone.
- 8.2 When the information contained in the (online) Documentation does not facilitate a solution, Customer can
- i) e-mail Provider support at: support@smartsocietyservices.com;
 - ii) call Provider support at: 085 303 8426.

- 8.3 Response times during Dutch Office Hours are within 4 hours. Solutions are on a best effort basis, unless specified otherwise in a Service Level Agreement.

Article 9. **Compensation for the Service**

- 9.1 As compensation for the granted license to use the Service, the Customer is required to pay the agreed upon price as stated in the Quotation. The price is to be paid upfront for the period of one month, unless the Quotation states otherwise.
- 9.2 Payment is possible through direct debit order or by making a wire transfer to the account of Provider, unless the Quotation states otherwise.
- 9.3 All prices are in the EUROS (€) currency and excluding VAT. Provider will send Customer a digital invoice containing the amount owed for the provided Service. Payment must be received within thirty (30) days after the invoice is sent, unless the Quotation states otherwise. If payment is not received within this period, statutory interest will be owed.
- 9.4 When payment is not received within the specified timeframe, Customer will be liable to pay, in addition to the price owed and statutory interest, full compensation for extrajudicial and judicial collecting costs, including costs for lawyers, bailiffs and debt collection agencies, as permitted under the law.
- 9.5 The Provider may suspend the provision of the Services if:
- i) any amount due to be paid by the Customer to the Provider under this Agreement is overdue,
 - ii) the Provider has given to the Customer at least 30 days' written notice, following the amount becoming overdue, and
 - iii) the Provider has, through regular or assigned channels, notified Customer of its intention to suspend the Services on this basis.

Article 10. **Confidentiality**

- 10.1 Parties shall refrain from disclosing or using for any other purpose than within the scope of this Agreement, any trade secrets and other information of the other party that has been designated as confidential or the confidential nature of which is known or can reasonably be deemed to be known by the other party.
- 10.2 Parties accept the duty to observe strict secrecy towards third parties with respect to all that has been arranged in this Agreement. In addition, the Parties accept the duty to observe strict secrecy with respect to all information regarding the activities and organization of the other party, except as far as such information was already part of the public domain without any involvement of the other party.
- 10.3 The Provider must:
- i) keep the Customer Confidential Information strictly confidential;

- ii) not disclose the Customer Confidential Information to any person without the Customer's prior written consent, and then only under conditions of confidentiality approved in writing by the Customer;
- iii) use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Provider uses to protect the Provider's own confidential information of a similar nature, being at least a reasonable degree of care;
- iv) act in good faith at all times in relation to the Customer Confidential Information; and
- v) not use any of the Customer Confidential Information for any purpose other than the Services.

10.4 Notwithstanding 10.3, the Provider may disclose the Customer Confidential Information to the Provider's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Customer Confidential Information for the performance of their work with respect to the Permitted Purpose and who are bound by a written agreement or professional obligation to protect the confidentiality of the Customer Confidential Information.

10.5 This article imposes no obligations upon the Provider with respect to Customer Confidential Information that:

- i) is known to the Provider before disclosure under this Agreement and is not subject to any other obligation of confidentiality;
- ii) is or becomes publicly known through no act or default of the Provider; or
- iii) is obtained by the Provider from a third party in circumstances where the Provider has no reason to believe that there has been a breach of an obligation of confidentiality.

10.6 The restrictions in this article do not apply to the extent that any Customer Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of the Provider on any recognized stock exchange.

10.7 The provisions of this article shall continue in force for a period of two (2) years following the termination of this Agreement, at the end of which period they will cease to have effect.

Article 11. **Data protection**

11.1 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with this Agreement, and that the processing of that Personal Data by the Provider for the permitted purpose in accordance with this Agreement will not breach any applicable data protection or data privacy laws (including the Wet Bescherming Persoonsgegevens (the Dutch Data Protection Act)).

- 11.2 To the extent that the Provider processes Personal Data disclosed by the Customer, the Provider warrants that:
- i) it will act only on instructions from the Customer in relation to the processing of that Personal Data;
 - ii) it has in place appropriate security measures (both technical and organizational) against unlawful or unauthorized processing of that Personal Data and against loss or corruption of that Personal Data; and
 - iii) it will not transfer or permit the transfer of that Personal Data outside the EEA without the prior written consent of the Customer.

Article 12. **Liability**

- 12.1 Except in case of intentional misconduct or willful recklessness by Provider management of managerial staff, the liability of Provider shall be limited to the amount paid by Customer in the twelve (12) calendar months prior to the moment the cause of the damage occurred.
- 12.2 Provider in no event is liable for indirect damages, consequential damages, lost profits, missed savings or damages through business interruption.
- 12.3 Damages may only be claimed if reported in writing to Provider no later than two (2) months after discovery by the Customer.
- 12.4 In case of a Force Majeure Event, Provider will under no circumstances be liable for compensation.

Article 13. **Warranties and indemnifications**

- 13.1 Provider represents and warrants that:
- i) it has full right to enter into this Agreement and to perform its obligations hereunder, without violating any agreement it has with a third party;
 - ii) to the best of its knowledge, the Service does not infringe upon any intellectual property rights of third parties;
 - iii) to the best of its knowledge, the Service is free from viruses or other malicious code;
- 13.2 Provider shall indemnify and hold harmless Customer from and against all claims, damages or losses resulting from Provider breach of its warranties above. A condition for this indemnification is that Customer notifies Provider immediately upon receiving an allegation of a breach and allows Provider to resolve the claim at its discretion.
- 13.3 Customer represents and warrants that:
- i) it has full right to enter into this Agreement and to perform its obligations hereunder, without violating any agreement it has with a third party;
 - ii) it shall not breach the terms of this Agreement;

- iii) its authorized users shall not use the Service in violation of anyone's legal right, in violation of the terms of this Agreement, or in violation of applicable law, and any legal requirements that may apply to certain
- iv) services rendered using the Service, such as legal services, financial services or other specific kinds of services, will at all times be complied with by its authorized users;

13.4 Customer shall indemnify and hold harmless Provider from and against all claims, damages or losses resulting from Customers breach of its warranties above.

Article 14. **Term and termination**

14.1 The Agreement shall be valid for a period of one (1) year starting from the date specified in the Quotation, unless the Quotation states otherwise. After this period the Agreement is silently renewed with successive terms of the same period. After the initial period, the Customer may terminate the Agreement while taking into account a three (3) month notice period.

14.2 Unless explicitly agreed otherwise in the Agreement, neither Party may unilaterally terminate this Agreement before its minimum term has expired, unless for cause, in the following circumstances:

- i) the other party:
 - (1) is dissolved;
 - (2) ceases to conduct all (or substantially all) of its business;
 - (3) is or becomes unable to pay its debts as they fall due;
 - (4) is or becomes insolvent or is declared insolvent; or
 - (5) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- ii) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
- iii) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganization where the resulting entity will assume all the obligations of the other party under this Agreement).

14.3 All obligations of the Parties that accrued prior to termination of this Agreement shall survive termination of this Agreement. In particular, the following provisions shall survive termination or expiration of this Agreement: articles 7, 12 and 16.

14.4 Hardware that is supplied to Customer under the Agreement, if any, must be returned to Provider within two (2) months after termination, unless specified otherwise in the Quotation.

Article 15. Changes to the Terms and Conditions

- 15.1 These Terms and Conditions may be amended at any time if the changes are not significant.
- 15.2 If the Customer does not want to accept a change or addition, the Customer can terminate the Agreement until the date the changes take effect. Use of the Service after the date of effect shall constitute Customer's acceptance of the changed or added-to terms and conditions.

Article 16. Miscellaneous

- 16.1 The Agreement shall be governed by Dutch law, excluding any conflict of law provisions contained in Dutch law.
- 16.2 To the extent not otherwise provided for in mandatory law, all disputes related to the Service or this Agreement will be submitted to the competent Dutch court in the jurisdiction where Provider has its registered office.
- 16.3 If a provision in the Agreement prescribes that a notification must be performed 'in writing', this requirement will also be satisfied if the notification is made by e-mail.
- 16.4 The version of any communication of information as recorded by Provider shall be deemed to be authentic, unless Customer supplies proof to the contrary.
- 16.5 If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.
- 16.6 Provider has the right to transfer its rights and obligations under the Agreement to a third party that takes over the relevant business activity from it.