



munisense

GENERAL TERMS & CONDITIONS MUNISENSE B.V.

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CHAPTER 1 GENERAL

Article 1.1 Definitions

- 1.1.1 **General Terms & Conditions:** the present general terms & conditions of MUNISENSE;
- 1.1.2 **Attachment(s):** the Appendice(s) included in the Agreement, which is (are) an integral part of the Agreement;
- 1.1.3 **Client:** the natural or legal person who commissions MUNISENSE to perform the Service by means of the Agreement;
- 1.1.4 **Party:** either MUNISENSE or Client;
- 1.1.5 **Parties:** MUNISENSE and Client jointly;
- 1.1.6 **Service:** the activities MUNISENSE performs and/or executes based on the Agreement, which may include the establishment, management, exploitation of the Measuring Network, the supply of the measurement data, the granting of access to a portal, the delivery and/or the sale of goods;
- 1.1.7 **Authorized Employees:** the persons appointed by Client for the tasks as referred to in the Agreement;
- 1.1.8 **Agreement:** the Agreement in which MUNISENSE and Client agree upon the performance of the Service;
- 1.1.9 **Personal data:** data with respect to an identified or identifiable natural person;
- 1.1.10 **Service Term:** the term within which the Service is performed in case the Service is performed within a certain term;
- 1.1.11 **Start date:** the date as of which the Service Term begins, as indicated in the Agreement;
- 1.1.12 **Intellectual Property Rights:** all intellectual and industrial property rights such as, but not limited to, copy, trade name, model, trademark and patent rights and domain names with respect to the Service, the Measuring Network, the Facilities and/or the goods sold;
- 1.1.13 **Back Office:** assembly of centrally located computer systems for storage, processing and presentation of the Measurement Data obtained from the Measuring Network.
- 1.1.14 **Measuring Network:** the (wireless) network, including Facilities, equipment and other technological means, which make measuring, actuating and transmission and routing of signals possible;
- 1.1.15 **Location:** the location(s) where the Facilities for the Measuring Network are situated;
- 1.1.16 **Facilities:** facilities, including equipment, which are used for the provision of a Service;
- 1.1.17 **Measurement Data:** the data, which is communicated with the Back Office on behalf of Client and which is presented in the Portal;
- 1.1.18 **Portal:** part of the Back Office where Client gets access to the Measurement Data;
- 1.1.19 **Application:** the software for the Service, including new versions thereof, as further defined in the Agreement;
- 1.1.20 **Tools:** the software, which User is required to install on his computer, telephone or tablet to be able to use the Portal;
- 1.1.21 **Access Code:** the access code, which, in combination with the user name, provides access to the Portal;
- 1.1.22 **URL:** the URL of the Portal;
- 1.1.23 **User:** Person who is authorized by Client to use the Portal;
- 1.1.24 **Peripheral equipment:** equipment intended to be connected to the Measuring Network for the local use of the Service;
- 1.1.25 **Working days:** Monday up to and including Friday, with the exception of the official holidays in the Netherlands;
- 1.1.26 **MUNISENSE:** the private limited company MUNISENSE B.V.

Article 1.2 Applicability General Terms & Conditions

- 1.2.1 The General Terms & Conditions are, to the exclusion of all general terms & conditions applied by Client, applicable to the Agreement and all (other), whether or not additional, agreements, quotations, offers and/or (other) legal relations between Parties, unless otherwise agreed in writing in individual cases.
- 1.2.2 If a part and/or Article of the General Terms & Conditions is not applicable, because it is contrary to the principles of reasonableness and/or fairness and/or is unreasonably onerous, the remaining part of the General Terms & Conditions or the Agreement remains fully applicable and the part or Article that is not applicable, shall be replaced by a provision, which replicates the part or Article that is not applicable, with respect to nature and scope as much as possible;
- 1.2.3 The Attachments referred to in the Agreement form an integral part of the Agreement. These attachments are binding on Parties as if the content of the text was included in the Agreement itself.
- 1.2.4 With respect to the order of the various parts of the Agreement, the provisions hereinafter are applicable, unless otherwise defined in the Agreement:



- in case of contradiction between the content of an Attachment and the provisions of the Agreement, the content of the text defined in the Agreement prevails;
- in case of contradiction between the General Terms & Conditions and the content of an (other) Attachment, the content of the text defined in the General Terms & Conditions prevails;
- in case of contradiction between the Attachments apart from the General Terms & Conditions, a document with a letter, which comes first in the alphabet (e.g. A) or a lower number (e.g. 1) prevails over a document with a letter that comes later in the alphabet (e.g. Z) or a higher number (e.g. 4).

- 1.2.5 Amendments of or supplements to the Agreement are only legally valid, if and insofar these amendments or supplements have been agreed between Parties in writing;
- 1.2.6 In the General Terms & Conditions, in writing means also but not solely by email;
- 1.2.7 The inscriptions and headings above the Articles included in the General Terms & Conditions, including the titles of the chapters, are merely indicative and not intended for interpretation of the content of these Articles;
- 1.2.8 If the General Terms & Conditions state that an item, a Facility or the Measuring Network, or parts thereof originates from a party, this also but not exclusively means that this Party has established, delivered, and/or has made this item, Facility or Measuring Network, or parts thereof, available and/or has performed these actions, with or without the help of third parties;
- 1.2.9 All definitions of the General Terms & Conditions in singular form have the same meaning as the definitions in plural form and vice versa;
- 1.2.10 In any case, the Agreement is concluded by:
 - (i) a written order confirmation of MUNISENSE; or
 - (ii) the signing of the Agreement by Parties.

Article 1.3 Authorized Employees

- 1.3.1 Client shall appoint Authorized Employees for the tasks as mentioned in the Agreement and shall then notify MUNISENSE in writing about who these employees are in a timely manner and as soon as possible.
- 1.3.2 Client shall ensure that Authorized Employees receive adequate training and are competent to carry out their tasks and activities.

Article 1.4 Ownership and protection of the Facilities

- 1.4.1 MUNISENSE is entitled to install, make available, use and/or have the Facilities in and around the Locations used for the installation of the Measuring Network. The Agreement shall not entail the transfer of ownership of, whether or not parts of, the Facilities, unless otherwise agreed in writing.
- 1.4.2 Client shall leave intact all type numbers, serial numbers, logos and/or other marks applied to the Facilities for the identification of these Facilities.
- 1.4.3 In case that:
 - (i) one or more third parties wish to exercise their rights with respect to the Facilities which originate from MUNISENSE; and/or
 - (ii) Client is declared bankrupt, is granted a suspension of payment or if legal debt restructuring applies to Client;Client shall immediately inform these third parties, the curator or the administrator of any right of ownership of MUNISENSE to the Facilities. Client shall then immediately inform MUNISENSE thereof.
- 1.4.4 Client is not entitled to make changes or have third parties make changes to the Facilities, which originate from MUNISENSE.
Client is also not entitled to replace these Facilities or have them replaced by third parties or to affect these Facilities or have them affected in any way with prior written consent of MUNISENSE.
- 1.4.5 MUNISENSE is entitled to change the Applications, technical and functional specifications, of the Measuring Network and the Facilities at any time. Such changes will not have a significant impact on the performance of the Service.
- 1.4.6 After the Service is provided and/or after the end of the Agreement, MUNISENSE is entitled to fully or partially disconnect, remove and/or retrieve the Facilities which originate from MUNISENSE, except to the extent that it entails goods delivered within the meaning of Chapter 4 of the General Terms & Conditions, in which case the provisions laid down in Chapter 4 is applicable. Client is obligated to provide full cooperation to MUNISENSE with respect to this Article. MUNISENSE shall bear the costs of disconnecting, removing and/or retrieving these Facilities, unless Client is responsible for ending the provisioning of the Service and/or terminating the Agreement.



Article 1.5 Intellectual Property Rights

- 1.5.1 The Agreement shall not entail the transfer of Intellectual Property Rights, unless agreed otherwise in writing.
- 1.5.2 MUNISENSE can provide a personal, non-exclusive, non-transferable right to the use of the Intellectual Property Rights of MUNISENSE to Client for the intended use of the Service. If the Intellectual Property Rights are held by a third party, MUNISENSE shall use its best efforts to ensure that Client obtains a personal, non-exclusive, non-transferable right of use to these Intellectual Property Rights. Client shall follow all reasonable instructions with respect to the use of the Intellectual Property Rights of MUNISENSE or a third party. Client is not entitled to transfer the right of use or to grant any sub licences.
- 1.5.3 All rights Client has to the use of the Intellectual Property Rights of MUNISENSE or a third party under the Agreement, automatically lapse after the Service the Intellectual Property Rights are subject to, is delivered or after the end of the Agreement.
- 1.5.4 Client is not allowed, whether or not by means of a third party, to disassemble, dismantle or copy the Facilities.
- 1.5.5 Client is obligated to inform MUNISENSE as soon as possible of any knowledge of an infringement of the Intellectual Property Rights of MUNISENSE.
- 1.5.6 Client provides MUNISENSE full cooperation in warranting and or enforcing the Intellectual Property Rights of MUNISENSE, including full and free access to the Facilities and/or the Measuring Network, if necessary for the enforcement or establishment of these rights.
- 1.5.7 To the best knowledge of MUNISENSE, the (parts of the) Facilities installed by MUNISENSE do not illegally infringe the Intellectual Property Rights of any third party. If these Facilities and/or the Measuring Network does nonetheless illegally infringe any such rights of third parties, MUNISENSE is entitled to, at its own discretion, limit the consequences thereof as much as possible, by e.g.:
- (i) taking over and mounting a defence against this infringement;
 - (ii) obtaining the necessary rights, so the infringement no longer exists;
 - (iii) fully or partially adjusting, replacing and/or retrieving the Facilities and/or Measuring Network.
- Client is obligated to inform MUNISENSE as soon as possible of any knowledge of any such infringement and provide MUNISENSE full cooperation in taking said measures, and to refrain from any actions, which have a negative impact on these measures.

Article 1.6 Confidentiality

- 1.6.1 Parties shall maintain the confidentiality of all information exchanged between MUNISENSE and Client under the Agreement or of which MUNISENSE and Client take note in any other way under this Agreement, and MUNISENSE and Client shall not publish this information or disclose it in any other way with the prior written consent of the other Party.
- 1.6.2 Parties shall take all necessary measures to warrant the confidentiality of the information and to prevent the information from being published or disclosed in any other way without consent.
- 1.6.3 Parties shall require their employees and/or third parties, who are involved in the execution of the Agreement, to comply with this confidentiality clause.
- 1.6.4 The obligations arising from this Article shall not apply to information which (a) is already known to the other party at the moment the Agreement is entered into, (b) is generally available in another way than through a breach of the Agreement, (c) has been received, without restrictions, from a third party, if and to the extent that this third party is entitled to disclose this information, or (d) has been - or must be - disclosed pursuant to a legal obligation or a court order.
- 1.6.5 The obligations arising from this Article shall remain unaffected until two (2) years after the end of the Agreement.

Article 1.7 Other obligations Client

- 1.7.1 Client shall not tolerate or permit any activities on/in/to the rooms and/or the buildings, which will obstruct or complicate the placement, exploitation and maintenance of the Measuring Network and/or the provision of the Service. If MUNISENSE is nevertheless affected, Client shall take the necessary preventive and/or corrective measures and follow the reasonable requirements of MUNISENSE in that respect.
- 1.7.2 Client shall take all measures reasonably possible for the prevention of damage to MUNISENSE, which also but not solely includes damage to the Measuring Network and/or the Facilities causing damage to MUNISENSE, and Client shall inform MUNISENSE as soon as possible if damage to MUNISENSE has occurred or threatens to occur.
- 1.7.3 Client is obligated to provide MUNISENSE with all essentials in a timely manner and to immediately provide all necessary cooperation needed by MUNISENSE for maintaining the proper functioning of the Measuring Network and the performance of the Service. These essentials also but not solely include information, data, items, construction plans of the Location(s), technical and functional specifications of the technical infrastructure on and around the Location(s), communications systems of third parties, electricity, power, designs, liquids, commodities, fuels, oxygen, workspaces, storage rooms, tools, hardware, software, internet connections, data connections, telephone connections and qualified English or Dutch personnel.



Article 1.8 Liability MUNISENSE

- 1.8.1 MUNISENSE is not liable as part of the realization and/or execution of the Agreement, except with respect to the provisions laid down in the following paragraphs of this Article 1.8.
- 1.8.2 The total liability of MUNISENSE and/or any legal person, natural person, third party, subcontractor and/or supplier used and/or hired by MUNISENSE for the execution of the Agreement, in relation to any legal basis, is (cumulatively) limited to:
- (i) the (total) amount MUNISENSE has or will invoice (d) to Client in the calendar year which includes the start date based on the Agreement; or
 - (ii) if no start date has been agreed, the (total) amount of the fees owed by Client to MUNISENSE under the Agreement.
 - (iii) in any case up to a maximum amount of € 10,000.
- 1.8.3 MUNISENSE /or any legal person, natural person, third party, subcontractor and/or supplier used and/or hired by MUNISENSE for the execution of the Agreement, are only liable for the direct damages (such as described below) Client and/or a third party suffers as a result of a culpable shortcoming by MUNISENSE.
- 1.8.4 Direct damage shall solely mean:
- a. material damage to property
 - b. material damage caused by damage, destruction, loss or contamination of property;
 - c. reasonable costs incurred to prevent or limit direct damages, which, as a result of the event to which the liability applies, could have been expected;
 - d. reasonable costs incurred to determine the cause of the damage, liability, direct damage and the method of repair.
- Damage to property as referred to in this Article does not include damage, destruction or loss of computer software and data files available on electronic data carriers.
- 1.8.5 Any liability of MUNISENSE and/or of any legal person, natural person, third party, subcontractor and/or supplier used or hired by MUNISENSE for the execution of the Agreement, for consequential damage, is hereby excluded. Consequential damage in this respect shall mean in any case:
- a. loss of profit;
 - b. losses;
 - c. costs incurred to prevent or determine consequential damage; and
 - d. other damage than direct damage as referred to in Article 1.8.4.
- 1.8.6 MUNISENSE must be informed of the damage in writing as soon as possible and no later than three (3) months after:
- (i) the occurrence of the damage
 - (ii) the moment Client discovered the damage; and/or
 - (iii) the moment Client reasonably could have discovered the damage,
- in the absence of which, the damage shall not be eligible for compensation.
- 1.8.7 MUNISENSE and/or any legal person, natural person, third party, subcontractor and/or supplier used and/or hired by MUNISENSE for the execution of the Agreement, are in any case not liable for:
- (i) the fully or partially improper functioning of communication networks of third parties and/or (communication) services of third parties;
 - (ii) damage suffered by Client and/or a third party when using or applying the Measuring Network;
 - (iii) damage suffered by Client and/or a third party, which is caused by or can be attributed to the functioning or not functioning of the Measuring Network;
 - (iv) infringement of third party rights, including any damage caused by the fact that items originating from MUNISENSE infringe the industrial or intellectual property rights of third parties;
 - (v) damage caused by defects in items supplied and/or made available to MUNISENSE, which have been delivered and/or made available to Client by MUNISENSE, unless and to the extent that MUNISENSE can reclaim such damage from the party who has delivered and/or had made these items available to MUNISENSE.
 - (vi) damage as a result of items and/or activities not included in the Agreement;
 - (vii) damage to items to which and/or with which MUNISENSE has carried out activities, services and/or works and/or to which and/or with which third parties hired by MUNISENSE have carried out activities, services and works;
 - (viii) damage to items which are located on, or in the vicinity of the Measuring Network and/or the location where MUNISENSE carries out the Service or has a third party carry out the service;
 - (ix) loss of electronical data;
 - (x) damage caused by malfunctions;
 - (xi) damage as a result of failures in, or a lack of compatibility with, software or hardware originating from and/or which is the property of MUNISENSE or (a) third party/parties;
 - (xii) the consequences, of whatever nature, of the failure to comply with the terms agreed; and
 - (xiii) damage as a result of written and/or oral instructions, advice and/or directions of MUNISENSE, which have not been or are not followed.

1.9 Liability Client

- 1.9.1 Client is liable for all damage of MUNISENSE. This damage includes damage as a result of destruction, loss, theft or damage of the Measuring Network and the Facilities and/or parts of the Measuring Network and the Facilities.
- 1.9.2 Damage as referred to in this Article also includes wear as a result of improper use or handling by Client.
- 1.9.3 Client agrees to indemnify MUNISENSE and/or any legal person, natural person, third party, subcontractor and/or supplier used or hired by MUNISENSE for the execution of the Agreement, against all claims of third parties, employees and/or agents as a result of damage suffered or to be suffered, directly or indirectly arising from and/or connected to the (i) performance of the Service and/or (ii) the use, functioning and/or not functioning of the Measuring Network, the Facilities and/or items which are originating from MUNISENSE, unless there is evidence of intent or gross negligence on the part of MUNISENSE and/or on the part of the persons used or hired by MUNISENSE. Client is obligated to reimburse all damages suffered by MUNISENSE in this respect, including the (full) costs of defence.
- 1.9.4 Client is liable for all damages arising from the unauthorized access or use by third parties of, whether or not parts of, the Measuring Network, and/or the Portal. To prevent unauthorized access or use of the Measuring Network, and/or the Portal, the Client is responsible for the development and implementation of a security policy and Client shall comply with the security measures of MUNISENSE. MUNISENSE is entitled to immediately postpone or terminate the Service without prior notice, if MUNISENSE suspects or may suspect unauthorized access or use.
- 1.9.5 MUNISENSE is, with respect to settlement, among others entitled to settle its claims against and debts to Client with respect to its debts to and claims against affiliated companies, as referred to in Articles 2:24a, 2:24b or 2:24c DCC, of Client.

Article 1.10 Reimbursement

- 1.10.1 Reimbursements due under this Agreement may consist of one-off amounts due, monthly or otherwise periodical amounts and amounts, which depend on the use of the Service.
Reimbursements shall be further defined in the Agreement. The amounts can be increased by among others:
- (i) VAT and any other governmental imposed levies, which also but not solely include costs with respect to obtaining the necessary permits, waivers, decisions and/or inspections;
 - (ii) costs incurred in mitigating or preventing damages to movable or immovable property at the location of the Client;
 - (iii) costs for construction or reparation work at the location of the Client, which also but not solely includes work on the ground, foundation and building(s);
 - (iv) travel and accommodation expenses
 - (v) connection costs with respect to gas, water, electricity or other facilities; and/or
 - (vi) costs for disposal and/or materials.
- 1.10.2 MUNISENSE is entitled to annually index the agreed amount with the average Dutch wage index.
- 1.10.3 The records of MUNISENSE are definitive with respect to determining the amounts due, unless Client proves that these records are not correct.
- 1.10.4 If MUNISENSE performs work and/or services, which is/are not laid down in the Agreement, this work and/or these services may be invoiced against the fees of MUNISENSE applicable at that time.

Article 1.11 Payment

- 1.11.1 Unless otherwise agreed, payment shall be done by means of continuous direct debit orders at a bank or giro institution, to which MUNISENSE is authorized by means of a written authorization by Client.
- 1.11.2 If parties have not agreed upon payment via direct debit, payment must be done in the manner and within the term mentioned on the invoice.
- 1.11.3 If the invoice does not state a payment term, this term is 30 days.
- 1.11.4 Objections against the amounts invoiced, must be put forward before the due date of the invoice. Client shall never suspend payment of any amount invoiced, to which no objection has been made in writing, and shall never settle this amount.
- 1.11.5 All amounts Client must or will have to pay to MUNISENSE under the Agreement, can immediately be claimed and MUNISENSE is entitled to claim the items, (parts of) the Measuring Network and/or the Facilities originated from MUNISENSE, in order to try to recover the amounts owed to MUNISENSE from the proceeds thereof insofar as possible, if:
- (i) if Client is declared bankrupt or if suspension of payment is granted to Client, or petitions to that effect have been filed;
 - (ii) an attachment is placed upon the items, (parts of) the Measuring Network and/or the Facilities (including an object to which they are added or attached) originating from MUNISENSE;
 - (iii) a payment term is exceeded by Client;
 - (iv) Client is a legal person who is liquidated or dissolved.



Article 1.12 Late payment

- 1.12.1 If Client has not paid within the term stated on the invoice or if a direct debit is not possible within the term stated on the invoice, Client will be in default without any further notice of default.
- 1.12.2 From the date Client is in default, Client is obligated to immediately pay, without any notice of default, MUNISENSE (i) the annual interest of 12% or the statutory interest rate if the interest rate is higher and (iii) all collection costs, including the actual costs incurred for legal assistance, both judicial and extrajudicial, and the costs of the proceedings.

Article 1.13 Bail, deposit, bank guarantee

- 1.13.1 In case Client purchases the Service from MUNISENSE, MUNISENSE is entitled to require either a bail, bank guarantee or guarantee of the parent company of Client, or to claim a deposit, in case there is reasonable doubt, based on the facts and circumstances, whether Client will comply with his payment obligations.

Article 1.14 Privacy

- 1.14.1 Personal data are processed in the course of the business of MUNISENSE. MUNISENSE processes personal data for:
- Market research, sales activities and marketing of activities and/or services of MUNISENSE or the affiliated companies;
 - Invoicing and assessment of client's creditworthiness;
 - Use of the INSIGHTNOW™ platform including, but not exclusively, authorisation, authentication, notifications, and reporting of changes in the platform.

Client gives permission for this processing. Client ensures that employees of Client, Users authorized by Client and/or Authorized Employees appointed by Client, who provide personal data to MUNISENSE, timely grant this permission to MUNISENSE.

Munisense does not process **Sensitive Personal Data** as defined in the GDPR.

- 1.14.2 To the extent that MUNISENSE processes personal data as part of the Agreement on personal data, which also but not solely includes personal data of Client's employees, which processing is commissioned by Client, MUNISENSE acts as Processor and the Client as Controller both within the meaning of the GDPR. The Agreement shall then be valid as the agreement in which the execution of the processing by MUNISENSE as processor is laid down and on the basis of which an obligation arises between MUNISENSE and the Client.
- 1.14.3 Client shall not, and will do everything possible to ensure that employees of Client, Users authorized by Client and/or Authorized Employees appointed by Client shall neither, issue **Sensitive Personal Data** to MUNISENSE.
- 1.14.4 MUNISENSE shall ensure that appropriate technical and organizational measures are in place to protect the personal data. The personal data shall not be save in a way, which makes identification of the person involved possible, for any longer than is necessary for realization of the purposes for which this data is collected or then processed.
- 1.14.5 MUNISENSE shall comply with the legal requirements with respect to the provision of information, including personal data.
- 1.14.6 Munisense provides a clarification of the privacy policies in a Privacy Manifest which is available on the MUNISENSE website.

Article 1.15 Duration and termination

- 1.15.1 The Service Term starts at the Start Date or, if no Start Date has been agreed upon, on the day the performance of the Service starts.
- 1.15.2 The Service Term is entered into for a minimum period as defined in the Agreement, in the absence of which the Service Term is entered into for a minimum period of twelve (12) months.
- 1.15.3 After expiry of the initial term, the Service Term shall be extended each time with terms of twelve (12) months, unless and until one of the Parties informs the other Party in writing and with due observance of a notice term of three (3) months before the end of the Service Term applicable at that time, to not have the desire to extend the Service Period, in which case the Agreement is terminated by operation of law on the last day of the Service Period applicable at that time.
- 1.15.4 If the Agreement is terminated by Client before the end of the Service Period applicable at that time, he shall, without prejudice to the other rights of MUNISENSE, have to pay a termination fee as defined in the Agreement and/or in the Attachments. In addition, Client is, independently of this termination fee, obligated to compensate all damages MUNISENSE has suffered, suffers or will suffer as a result of this termination.
- 1.15.5 MUNISENSE is entitled to immediately terminate the Agreement in case of bankruptcy, suspension of payment or application of statutory debt rescheduling, unless the curator or administrator chooses to continue the Agreement and lodges a security thereto.
- 1.15.6 MUNISENSE is entitled to suspend one or more obligations of MUNISENSE under the Agreement, if Client does not comply with one or more obligations of Client under the Agreement.

- 1.15.7 The Articles of the General Terms & Conditions and the Agreement remain applicable after termination, regardless of the basis thereof, to the extent these articles have and independent meaning. Articles with respect to liability, confidentiality, applicable law, choice of court and delivery (chapter 4) remain applicable in all cases after such termination.
- 1.15.8 MUNISENSE or Client is not in default and is entitled suspension with respect to an obligation of which fulfilment is prevented because of force majeure. The term force majeure also but not solely includes:
- (i) natural disasters;
 - (ii) weather conditions;
 - (iii) strikes or other work interruptions;
 - (iv) shortage of employees;
 - (v) the fact that third parties hired by MUNISENSE, such as transporters, subcontractors or suppliers of MUNISENSE, do not comply with their obligations;
 - (vi) fire;
 - (vii) blockages, trade or import restrictions;
 - (viii) lack of necessary tools or materials, also but not solely caused by theft or loss;
- (i) (power) failures;
 - (ii) situations of war or civil unrest;
 - (iii) epidemics;
 - (iv) state interventions, which also but not solely include a decision of a competent Dutch or foreign authority; and

all other circumstances on which MUNISENSE or Client reasonably cannot exert any control, whilst force majeure does not include any inability of Client to fully or partially pay the price of the Agreement. If the situation of force majeure lasts longer than six (6) months or if fulfilment remains impossible because of force majeure, MUNISENSE and Client are entitled to immediately terminate the Agreement for the part, which cannot be fulfilled because of force majeure.

Article 1.16 Transfer of contract

- 1.16.1 Client is not entitled to transfer or subcontract the rights and obligations arising from the Agreement to a third party without the written consent of MUNISENSE, which consent shall not be withheld on unreasonable grounds.
- 1.16.2 If Client transfers the title of ownership of the Location(s) to a third party during the term of the Agreement, Client warrants that the rights and obligations under this Agreement shall (also) be applicable to and/or imposed on that third party and Client shall immediately inform MUNISENSE thereof in writing.
- 1.16.3 MUNISENSE is entitled to transfer or subcontract the rights and obligations under the Agreement to a third party and/or involve third parties in any other way in the execution of the Agreement, without prior (written) consent of Client.

Article 1.17 Applicable law and competent court

- 1.17.1 The Agreement is subject to Dutch law.
- 1.17.2 Disputes will be put before the competent court in The Hague, the Netherlands.
- 1.17.3 The Vienna Convention on the International Sales of Goods and/or any other international regulation, of which exclusion is permitted, is/are not applicable.

Article 1.18 Amendment of the General Terms & Conditions and fees

- 1.18.1 MUNISENSE is entitled to amend the General Terms & Conditions and/or the fees.
- 1.18.2 MUNISENSE shall use best effort to ensure that the Client is informed about amendments of the General Terms & Conditions and/or the fees.
- 1.18.3 The amendments of the General Terms & Conditions and/or the fees shall enter into force fourteen (14) days after the moment on which the Client is informed as referred to in Article 1.18.2.



CHAPTER 2 MEASURING NETWORK

Article 2.1 Establishing the Measuring Network

- 2.1.1. Client shall allow MUNISENSE to conduct a thorough inspection on the Location(s) before starting construction of the Measuring Network.
- 2.1.2. MUNISENSE shall give all reasonable effort to establish the Measuring Network at the proposed date. MUNISENSE shall establish the Measuring Network in the way it deems necessary. If possible, MUNISENSE will take the reasonable requests of Client into account.
- 2.1.3. Client warrants that all items necessary for establishing the Measuring Network will be present and available at the Location(s) in time. Client shall among others ensure he obtains of all necessary licenses and authorizations for the construction of the Measuring Network.
- 2.1.4. At the request of MUNISENSE, Client shall provide all necessary cooperation for the installation of the Measuring Network.
- 2.1.5. In case the Facilities originate from Client, Client shall render all necessary information and provide all necessary cooperation to MUNISENSE for the connection and/or use of these facilities. Client shall ensure that these Facilities are operational and functioning fully, correctly and as agreed. Client warrants the operation and functioning of these Facilities.
- 2.1.6. Client shall in any case be liable for all costs incurred by MUNISENSE and/or by any legal person, natural person, third party, subcontractor and/or supplier used and/or hired by MUNISENSE for the execution of the Agreement, as a result of any delay in the establishment of the Measuring Network, to the extent that such delay is caused by the fact that Client fails to comply with the obligations under this Agreement.

Article 2.2 Installation

- 2.2.1. With respect to the installation of the Measuring Network, Client grants MUNISENSE among others the right to adjust and use the available technological infrastructure and other Facilities, which also but not solely include the cabling, on and around the Location(s) for the construction of the Measuring Network and the necessary electricity for the Measuring Network, and to purchase these Services free of charge.
- 2.2.2. The construction of the Measuring Network also includes the construction of Facilities on and at the buildings or infrastructure on the relevant Location(s), including the mounting of equipment and the construction of aerial installations.

Article 2.3 Access

- 2.3.1. Client is obligated to allow that Facilities are built on the Location(s), including in and at buildings and in and on grounds, which constitute a single entity therewith, for the (operation of) the Measuring Network and/or the Service and that these Facilities are maintained, changed, relocated or removed by MUNISENSE.
- 2.3.2. Client shall grant access to the persons authorized by MUNISENSE for the work referred to in Chapter 2 and for the repair of malfunctions and the inspection of whether the conditions with respect to the Measuring Network are complied with, for the locations where the work must be carried out at all times.
- 2.3.3. At the request of MUNISENSE, Client shall take measures to ensure that MUNISENSE can carry out the work properly.

Article 2.4 Available space

- 2.4.1. With respect to indoor equipment, Client shall put, free of charge, a safe telecommunications space at the disposal of MUNISENSE on and around the Location(s) for the installation and maintenance of the Measuring Network. Client shall ensure that only Authorized Employees have access to the Facilities.
- 2.4.2. Client shall ensure that the telecommunication space put at the disposal of MUNISENSE for the Measuring Network is:
 - a. dry and vibration free;
 - b. offers protection against harmful influences;
 - c. complies with the requirements as laid down from time to time by MUNISENSE.
- 2.4.3. With respect to outdoor equipment, Client shall ensure that the locations, positions and the mounting comply with the requirements set by MUNISENSE. Including, but not limited to:
 - a. vibration free;
 - b. sufficient light in case solar power is used;
 - c. no interference with the proper functioning of the antenna;
 - d. protection against harmful influences;



Article 2.5 Management

- 2.5.1 Maintenance of the Measuring Network shall be done by MUNISENSE, whether or not with the aid of third parties.
- 2.5.2 MUNISENSE shall give every effort to ensure that the Measuring Network and the provision of the Service does not cause any malfunctions to the technical infrastructure of Client. In the event that such malfunctions do occur, MUNISENSE shall give every effort to ensure that the Measuring Network is adjusted in such a way that the malfunctions no longer occur. Client shall provide all reasonable cooperation hereto.
- 2.5.3 If prevention or remedying of malfunctions is technically and commercially not feasible, MUNISENSE shall remove (parts of) the Measuring Network and possible stop the provision of the Service on the relevant Location(s) of Client. Client is not entitled to dissolution of the Agreement or to compensation for any reason whatsoever, because of (a) malfunction(s) and/or measures of MUNISENSE related to (a) malfunction(s) as referred to in the previous sentence.
- 2.5.4 MUNISENSE is free to outsource its management operations to third parties.
- 2.5.5 To maintain the integrity of the Measuring Network, MUNISENSE is free to have the network run in a degraded mode. Examples of conditions in which this may occur, are insufficient light over a certain period in order to charge the solar batteries, overheating in the Facilities, and limited availability of the (Mobile) internet.
- 2.5.6 The management of the Measuring Network includes the right of MUNISENSE to expand and change the Measuring Network.
- 2.5.7 In case of possible malfunctions in the Facilities originated from Client, Client is obligated to immediately provide all necessary information and cooperation needed by MUNISENSE for a diagnosis of the malfunction, to MUNISENSE.

Article 2.6 Decommissioning of Measuring Network

- 2.6.1 Notwithstanding the provisions laid down in the previous Articles, MUNISENSE is entitled to temporarily decommission the Measuring Network, if Client does not comply with an obligation against MUNISENSE and if this non-compliance justifies the decommissioning in the reasonable opinion of MUNISENSE. The obligation to pay compensation, if agreed, including monthly remuneration, continues to exist during the decommissioning.
- 2.6.2 In the following cases MUNISENSE is among others but not exclusively authorized to decommission the Measuring Network and/or to disconnect and retrieve parts of the Measuring Network originated from MUNISENSE, without proof of default or notification:
- a) if Client acts contrary to the Agreement and/or one or more Articles or paragraphs of the General Terms & Conditions;
 - b) if Client is in default;
 - c) if Client refuses to provide a security at the request of MUNISENSE; and/or
 - d) if Client causes such damage, that MUNISENSE cannot reasonably be expected to maintain the Measuring Network and/or Service.
- 2.6.3 The Measuring Network will be put back into operation, if Client has complied with his obligations within the term set by MUNISENSE. Client must pay an amount to be determined by MUNISENSE for the reconnection costs before using the Measuring Network.
- 2.6.4 MUNISENSE is entitled to temporarily decommission the Measuring Network for maintenance, adjustment or improvement without the Client being able to fully or partially dissolve the Agreement and/or having the right to compensation for whatever reason.
- 2.6.5 If MUNISENSE is no longer capable of exploiting the Measuring Network and/or performing the Service based on legislation or other regulations or a decision of a competent Dutch or foreign court, MUNISENSE is authorized to immediately decommission the Measuring Network.

Article 2.7 Change, replacement or relocation of Facilities

- 2.7.1 If Parties have agreed that Facilities are available in certain places at the Location, only Authorized Employees are allowed to replace, relocate or change these Facilities with prior written consent of MUNISENSE.

Article 2.8 Use

- 2.8.1 Client is not permitted to let third parties connect equipment to the Measuring Network or let third parties use the Measuring Network and/or Service without prior written consent of MUNISENSE.
- 2.8.2 If the use of the Service or of connected Peripheral Equipment causes disturbance to the communication traffic, Client is obligated to comply with all reasonable requirements of MUNISENSE.
- 2.8.3 Client is obligated to inform MUNISENSE with respect to the installation and/or use of other (wireless) (measuring) networks and/or communication networks on the Measuring Location.

CHAPTER 3 PORTAL

Article 3.1 Description

- 3.1.1 Client shall appoint persons as Users and shall then inform MUNISENSE about this appointment in writing as soon as possible.
- 3.1.2 After the realization of the Agreement, MUNISENSE shall electronically provide Client with the URL, a user name, and an Access Code, which Users can use to access the Portal during the Service Period.
- 3.1.3 If the Agreement provides for multiple Users, Client can add Users to the Portal.
- 3.1.4 The Users of Client can only use the Portal for internal affairs; Client is not allowed to give third parties access to the Portal.
- 3.1.5 MUNISENSE is entitled to prematurely change the technical properties of the Portal (or have the technical properties changed) to improve the functionality and to remedy any faults (or have them remedied) or to comply with the rules laid down by or pursuant to the Dutch law. MUNISENSE shall give every effort to trace any faults in the software and to remedy those faults (or have them remedied). However, MUNISENSE cannot warrant that all faults are remedied. If a material difference occurs in the functionality of the Portal because of such a remedy, MUNISENSE shall immediately inform Client thereof in writing or electronically.
- 3.1.6 The User is responsible for the availability and functioning of the (peripheral) equipment and software, tools, configuration and internet connection used by him, and for maintaining a connection to the energy network and for other connections and tools necessary to access and use of the Portal.
- 3.1.7 MUNISENSE is not subject to a (statutory) retention period for the Sensor data and the data and information entered by Client. Upon termination of the Agreement, MUNISENSE is entitled to immediately delete and destroy any data saved, edited, processed or otherwise entered through and/or by means of the Portal, from the Back Office without prior notification.

Article 3.2 Access to the Portal

- 3.2.1 The Access Code(s) of the Users cannot be transferred and are strictly personal. Client shall observe strict confidentiality of the Access Codes with respect to third parties, and shall precisely follow the requirements with respect to the use of the Access Code(s). MUNISENSE can then change the Access Code(s) at its own discretion, of which it shall inform Client in a timely manner.
- 3.2.2 Client is responsible for any use, with or without his consent, of the Portal and of the Access Code(s) provided to him. MUNISENSE is not liable for any damage to Client and/or third parties caused by unauthorized use of the Access Code(s).
- 3.2.3 Client shall immediately inform MUNISENSE of any unauthorized use of the Access Code(s) or the suspicion thereto of Client.
Client may request MUNISENSE to block the Access Code(s).
MUNISENSE is entitled to block the Access Code(s) at all times, if MUNISENSE becomes aware of any unauthorized use of the Access Code(s), without being bound to pay any compensation for damages and/or costs.
- 3.2.4 MUNISENSE can block the Access Code(s) and/or terminate the access to the Portal among others, if:
 - (i) any action is taken that is contrary to the provisions laid down in Chapter 3 of the General Terms & Conditions; and/or
 - (ii) MUNISENSE seriously suspects that the use is contrary to the provisions laid down in Chapter 3 of the General Terms & Conditions.The payment obligation remains in force during such termination and/or blocking.

Article 3.3 Conditions for use of Portal

- 3.3.1 MUNISENSE has no knowledge of the data Client and his Users enter into the Portal for the configuration of the Service. Therefore, Client remains responsible for the data entered by him. MUNISENSE shall therefore not be liable for any damage arising from the data entered by Client. Client indemnifies MUNISENSE for any third party claims with respect to compensation of damages, for which those third parties might seek recourse from MUNISENSE, to the extent that this claim is based on Client's use of the Portal.
- 3.3.2 MUNISENSE is not obligated to check the correctness and completeness of the data provided and is therefore not liable for the consequences of the use of the wrong and incorrect data provided by Client.
- 3.3.3 If and to the extent that MUNISENSE provides software of third parties to Client, those third parties' terms & conditions shall replace the provisions laid down in these Terms & Conditions and shall be applicable between MUNISENSE and Client with respect to this software, provided that MUNISENSE has informed Client thereof in writing or electronically. Client accepts in that case the third parties' terms and conditions as referred to in this Article. If and to the extent that the third parties' terms and conditions as referred to in this Article are deemed or declared to be inapplicable in the relationship between Client and MUNISENSE, the provisions in the General Terms & Conditions shall apply.

- 3.3.4 Client should possibly install any Tools for access to and use of the Portal. The use of these Tools could (in addition to these General Terms & Conditions) be subject to additional (license) conditions (of third parties). MUNISENSE cannot warrant the suitability for specific purposes, functionality or usefulness of the Tools.
- 3.3.5 Client warrants in any case that he takes account of the following requirements (insofar relevant) with respect to the use:
 - a) Client shall not carry out activities, which may cause malfunctions in the Portal, (computer) networks and/or (telecommunication) infrastructures (of other users) or which may cause disturbances, limited use or unexpected use (of other users) with respect thereof. If the electronic communication traffic is disturbed by the Client's use of the Portal or by Client's (peripheral) equipment, which is connected, Client is obligated to follow the reasonable instructions of MUNISENSE;
 - b) Client shall not carry out or refrain from carrying out activities, of which he knows or reasonably could have known that those activities could lead to an use of the Portal, which is punishable and which is unlawful against MUNISENSE and/or third parties;
 - c) Client is responsible for ensuring that the hardware and software used by him shall comply with the minimum system requirements specified by MUNISENSE;
 - d) Client shall ensure the protection of his (peripheral) equipment, software, telecommunication infrastructure and internet connection against viruses, computer crime and unlawful use by third parties;
 - e) Client shall not spread any (computer) viruses or other files, which can damage the (proper functioning of) the Portal;
 - f) Client shall not abuse any Access Code(s) or hack and/or try to hack the security of the Portal;
 - g) Client shall not impersonate another person (in a misleading way), for example by using an address to identify himself as the sender of a certain third party message, without the consent of this third party;
 - h) Client is not allowed to disclose, duplicate or otherwise apply information and data received through or by means of the Portal, other than for internal use. It is not permitted to sell the information and data to third parties.

Article 3.4 Maintenance, Availability and Support

- 3.4.1 MUNISENSE is entitled to temporarily decommission the Portal for maintenance, adjustment or improvement of the computer systems of MUNISENSE. MUNISENSE shall schedule such decommissioning outside office hours as much as possible and shall inform Client of the scheduled decommissioning in a timely manner. MUNISENSE is never entitled to pay any compensation of damages to Client with respect to such decommissioning of the Portal.
- 3.4.2 MUNISENSE shall give every effort to ensure that the Portal always functions properly and aims to achieve a high degree of availability, quality and security of the Portal. However, MUNISENSE does, other than possibly laid down in the Agreement, not take any responsibility for this.
- 3.4.3 Service-specific conditions with respect to availability, management and support applicable to the Portal, can be laid down in the Agreement.

CHAPTER 4 DELIVERY

Article 4.1 Delivery

- 4.1.1 If MUNISENSE delivers one or more items, the provisions of Chapter 4 of the General Terms & Conditions also apply as regards to this delivery.
- 4.1.2 Any delivery term agreed is not a fixed term, but only an estimate. If this term has been agreed, MUNISENSE shall not be in default by the mere lapse of this term. This term starts as soon as the following conditions are met (cumulatively):
- a) the delivery term agreed has started pursuant to the Agreement;
 - b) Client has complied with all his obligations, which were due and payable at the moment of the intended delivery, which also but not solely include (down) payment obligations and the requirement to provide necessary information; and
 - c) the necessary conditions have been complied with before the start of the execution of the delivery.
- 4.1.3 Items are delivered by MUNISENSE and accepted by Client at the start of one of the following situations:
- a) upon commissioning and/or a successful test of the items by Client, whereby a partial commissioning and/or test is regarded as a partial delivery;
 - b) If Client has not indicated within ten (10) Working Days, after MUNISENSE has informed the Client in writing of the delivery of the items, that the items have been rejected;
 - c) upon approval of the items by Client, which also includes a rejection of items by Client based on minor defects or missing parts, which do not prevent the commissioning and which can be repaired within sixty (60) days after delivery or for which replacement parts can be supplied;
 - d) upon provisioning or delivery of the items at the agreed location by MUNISENSE; or
 - e) upon saving items as referred to in Article 4.1.8.
- 4.1.4 Client is obligated to notify MUNISENSE in writing of a rejection of items stating the reasons, within ten (10) Working Days after delivery and/or acceptance and to give MUNISENSE the opportunity to still deliver the items within a reasonable term.
- 4.1.5 Items are delivered Free Carrier pursuant to the Incoterms 2010. The risk of loss of or damage to items shall pass to Client pursuant to these Incoterms. Items of Client are and remain for the risk of Client, even where MUNISENSE provides activities, services and/or work or has a third party provide activities, services and/or work with respect to these items.
- 4.1.6 In case of a change of circumstances, including delay in production or transport or parts thereof by third parties and/or other circumstances, for which MUNISENSE cannot be held responsible, regardless the predictability thereof, causing a delay, the delivery time or term agreed will be postponed accordingly, without prejudice to the provisions laid down in Article 4.1.2. If this modified delivery term does not fit in the schedule of MUNISENSE, delivery will be done as soon as the schedule so allows.
- 4.1.7 If it concerns work and/or services, which have not been laid down in the Agreement, the delivery term agreed is extended with the term needed by MUNISENSE to perform this work and/or service and to deliver the necessary parts and/or materials or have these parts and/or materials delivered by a third party. If this modified delivery term does not fit in the schedule of MUNISENSE, delivery will be done as soon as the schedule so allows.
- 4.1.8 Client is obligated to purchase the items after expiry of any, whether or not extended, delivery term at the location agreed. If Client is in breach of this Article, MUNISENSE is entitled to store the items for the account and risk of Client.

Article 4.2 Ownership

- 4.2.1 MUNISENSE retains ownership of all items, which originate from MUNISENSE, and Client shall not sell, transfer, encumber and/or pledge these items as long as the amount(s) owed to MUNISENSE by Client has/have not yet been fully paid. MUNISENSE is entitled to disconnect and retrieve the items originating from MUNISENSE after invoking the retention of ownership and Client shall provide full cooperation to MUNISENSE in this respect.
- 4.2.2 Client ensures that the items originating from MUNISENSE are properly insured with an extended coverage for all damages and loss, for example caused by fire or theft, during the moment the items are received and/or delivered by Client until the moment Client has paid all amount(s) due under the Agreement, to MUNISENSE.

Article 4.3 Warranty

- 4.3.1 With due consideration of the provisions laid down elsewhere in this General Terms & Conditions, MUNISENSE warrants the expertise with respect to the items delivered and warrants that the items delivered are free of any construction faults under normal use and service. This warranty is valid for a term of one year from the date of delivery as laid down in the General Terms & Conditions, unless otherwise stated in the Agreement. This warranty obligation as laid down in this Article 4.3, applies solely to Clients.
- 4.3.2 MUNISENSE shall repair any defects to the delivered items of which Client states and proves that the defects occurred within one year after delivery, solely or mainly as a direct consequence of a defective construction designed by MUNISENSE or the use of bad material, at their own discretion and free of charge, at a time to be determined by MUNISENSE or Client shall, upon request of MUNISENSE, credit a proportional part of the amount paid or due. If MUNISENSE chooses to repair the defects, it can deliver (parts) of the replacement items to Client's



location or it can try to repair the defects at the location of Client or MUNISENSE.

Client is required to return defective items or parts thereof to the address of MUNISENSE, Delivered Duty Unpaid, pursuant to Incoterms 2010, if the items are being repaired at the location of MUNISENSE.

- 4.3.3 To the extent that Client invokes any warranty conditions, Client shall prove to MUNISENSE that the items have been maintained and used correctly and that none of the grounds for exclusion as referred to in this Article 4.3 are applicable.
- 4.3.4 No warranty is given and/or MUNISENSE is not liable under any warranty if:
- a) Client has conducted or conducts changes, repairs and/or other work to the items, whether or not by a third party;
 - b) Client uses or has used spare parts, which have not been approved in writing by MUNISENSE;
 - c) Client has not conducted sufficient, proper or any maintenance;
 - d) the items are or have not been used or treated carefully pursuant to the requirements or manual delivered or applicable or are or have been incompetently or wrongly used or treated in another way;
 - e) the items are or have been used for other purposes than for which they are intended;
 - f) the items are or have been used in a way, which could not have been expected by MUNISENSE;
 - g) Client fails to comply with any instructions of MUNISENSE with respect to the maintenance, use and/or cleaning, which has caused the defect of the items;
 - h) the defect was caused by (i) force majeure, (ii) wear, (iii) inadequacy of or defects in the items, materials, commodities or tools required by or originating from Client, (iv) the applicability of any government regulations, (v) electromagnetic and/or radio frequency interference, (vi) no or insufficient electromagnetic compatibility, (vii) installation, assembly, change or repair, which is or has not been carried out by Client, or (viii) comparable causes;
 - i) Client has not complied with all his obligations towards MUNISENSE;
 - j) Client does not offer or offers MUNISENSE insufficient opportunity to repair the defect within the meaning of the warranty scheme;
 - k) the defect is in (parts of) the items to which a manufacturer's warranty is applicable;
 - l) the items weren't new at the moment of delivery;
 - m) this warranty action is aimed at defective cables or connections; or
 - n) MUNISENSE is not notified in writing within fourteen (14) days after the defects have been identified by Client.
- 4.3.5 If Client invokes the warranty conditions and it turns out that the items are not defected, the costs incurred are for the account of Client.
- 4.3.6 All further and/or other costs with respect to the repair of the defect by MUNISENSE, including labour costs, travel and accommodation costs, transport costs, disassembly and assembly costs, are for the account and risk of Client.
- 4.3.7 MUNISENSE does not acknowledge any other warranty than the warranty laid down in this Article. The provisions of Article 4.3.3 up to and including 4.3.6 also apply, to the extent possible, to all claims based on non-conformity and breach of contract.
- 4.3.8 Any liability based on the compliance and/or non-compliance with respect to the delivered items, is limited to the obligations under the warranty as defined in Article 4.3 after delivery or acceptance of these items. The limitations of the liability included in this Article 1.8, are fully applicable when, and 2qq shall prevail over, any applicability of Article 4.3.