

# General Terms and Conditions

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## INTRODUCTION

### 1. General

CHEERLOT B.V., vested in the Netherlands (hereinafter referred to as "CheerIoT") provides the Products and Services and Customer purchases such Products and Services under the conditions defined in these General Terms and Conditions (hereinafter referred to as the "GTCs"). The term "Customer" used hereinafter shall duly refer to every such person or entity, purchasing CheerIoT's Products and Services, and any person or entity that has requested a quotation from CheerIoT. Any pre-contractual and contractual relations between CheerIoT and Customer will be governed by the present GTCs, unless and in as far as explicitly otherwise agreed in writing between parties concerned. Customer acknowledges that he has been informed of and agrees with the present GTCs. Any stipulations included in documents issued by Customer, which do not conform to the present GTCs, will not be applicable. Customer explicitly acknowledges that his general conditions will not apply to the present agreement between CheerIoT and Customer. In case of any conflict or inconsistency arising between the provisions of the Contract between CheerIoT and Customer and the provisions of the GTC, the provisions of the Contract between CheerIoT and Customer shall prevail.

### 2. Definition of CheerIoT's services and products

CheerIoT is a national and international service provider in mobile data communications. CheerIoT offers platform licenses and a convergent solution using mobile telecommunication and internet. For purposes of these GTCs, the term « services » shall refer, jointly or alternatively, i) to the provision of mobile telecommunication services by CheerIoT, ii) to all related software, such as, but not limited to, "MyAccount", allowing customer to monitor and operates CheerIoT services, iii) to all trainings and training documentation provided by CheerIoT, iv) to all technical support by CheerIoT. For purposes of these GTCs, the term « product », shall refer, jointly and alternatively, to the SIM cards and the recharges and moreover to any device that is equipped with a SIM card that is supplied by CheerIoT.

## CHAPTER I: CheerIoT's SERVICES IMPLEMENTATION AND PRODUCTS

### 3. General

CheerIoT gives the Customer, for the term of the Agreement, a non-transferable and non-exclusive right to use the Services as Customer, according to the applicable Product Information, including prices, and according to the existing network coverage. However it is not possible to guarantee services that are completely free of interruption or interference, particularly not in cases of force majeure (avalanches, floods, war, unforeseeable orders by the authorities, electricity cuts, viruses, etc.). Details and conditions regarding the Services provided by CheerIoT are contained in the specific Service and Product Description. Information regarding the availability of services is always provided on a non-binding basis. The Customer acknowledges that CheerIoT's Services can only be supplied if all the contractual and technical conditions have been fulfilled.

### 4. Customer's general Obligations

1. Customer shall ensure to use and treat CheerIoT's services and products lawfully and in compliance with these GTC's. The Customer undertakes, from the signing date of this Agreement, and throughout the whole duration of the Initial Term and any other supplementary Term and according to this Agreement, to:
  - b. only use, make use of, cause, allow or permit to be used the Services in accordance with the specifications contained in this Agreement and any reasonable instructions provided by CheerIoT and to only use the Services for the purpose for which they were designed;

- c. not use the access to CheerIoT's network provided under the terms of this Agreement to offer or access any services, apart from the Services outlined herein, without the written express and prior agreement of CheerIoT;
  - d. not to resell the Services to any other third party, without the prior and written consent of CheerIoT;
  - e. comply with CheerIoT's reasonable requests for assistance in order to diagnose existing or potential faults;
  - f. not use the Services to send any communications which are offensive, abusive, menacing, obscene, annoying, incite hatred, panic or anxiety or which are otherwise unlawful or to access, transmit, publish, display, advertise or make available material which infringes copyright or any other intellectual property right held in any country, is obscene or pornographic, contains threats of any kind, is defamatory in any way or breaches confidence, which is illegal or infringes any third party's legal rights of whatsoever nature under the laws of any jurisdiction for any reason;
  - g. not to use the Services in a manner which will conflict with, compete with, undercut, destabilize or otherwise compromise any of CheerIoT's current or future Services or products supplied to its customers anywhere in the world;
  - h. be responsible for damage or loss caused to CheerIoT or third parties by misuse of the Services other than due to the negligent acts or omissions of CheerIoT or its employees.
2. The Customer undertakes to comply with the terms of any license, law or regulation applicable to such use of the Services.
  3. The Customer is fully responsible for any device and/or equipment used in connection to the Services, whether provided by CheerIoT or supplied by any other third party. The Customer has to ensure that any such device and/or equipment is technically compatible with the Services and that the device and/or equipment complies and is used in accordance with the applicable law. CheerIoT will not be liable for the improper use of any device and/or equipment used in connection with the Services. Furthermore, the Customer undertakes that any device and/or equipment used in connection with the Services will not interfere with CheerIoT's network or with the Services.
  4. The Customer undertakes not to introduce viruses or other harmful code or procedures to the network of CheerIoT.

## **5. Price and Invoice**

1. The price to implement CheerIoT's services is specified in the Contract between CheerIoT and Customer, and the applicable Price List specifies the prices for using CheerIoT's services and buying CheerIoT's products.
2. Unless otherwise expressly indicated, all such prices are excluding costs for delivery and transport and are exclusive of all applicable value added, sales, use, excise or other applicable taxes.
3. An invoice shall be issued by CheerIoT for any and all amount due by Customer. Customer shall pay CheerIoT all charges under this Agreement without deduction, postponement or set-off. All payments shall be made to CheerIoT's bank account as stated on the invoice.
4. CheerIoT will invoice the Customer the total commitment as stated on the Contract even if this commitment is not fully used.
5. Verbal agreements which defer from the price list are only applicable after written confirmation from CheerIoT.
6. In the event Customer disagrees with any amount mentioned on the invoice, Customer shall notify CheerIoT within ten (10) working days in writing. The notification shall be done by registered post. If Customer does not complain within ten working days, the Invoice will be deemed correct unless proven otherwise by Customer.
7. All prices and billing will be in Euro
8. In the event the Customer violates the Fair Use Policy as described in article 7 of these

GTCs, CheerIoT is entitled to increase the rates per MB, with a fine, from the moment the Violation has taken place.

9. Inactive Simcards will not be charged in the first 12 months after delivery, but will be activated after the 12th month and monthly charged

#### **6. Payment terms**

1. Customer agrees to pay all applicable charges for CheerIoT's services and products in accordance with the applicable Price List.
2. Unless otherwise stated, all invoice amounts are required to be paid upfront on order.
3. Payment shall be considered as effected when CheerIoT receives the applicable funds for the full amount due in its account.
4. Any levies or bank charges that are due or may become due on the payment will be paid by Customer.
5. In the event of late payments, CheerIoT shall have the right to charge an interest ascending to the annual rate of 12% on the outstanding amount. The interest shall be immediately due.
6. In case any charges, rates or prices are stated in currencies not being the Euro, these charges, rates or prices will be transferred to prices in Euro against the median currency exchange rate in effect on the day of the invoice.

#### **7. Fair Use Policy**

SIM card rates and tariffs assume fair usage of the services by the Customer. Fair usage of the services should be in line with the Commitment as agreed in the Contract. In the event of fair usage not being sustained, CheerIoT reserves the right to review the rates and tariffs applied to Customer's account or to terminate the Services. CheerIoT may rely on the Fair Use Policy where Customer's usage of CheerIoT Data Services is excessive or unreasonable, as defined above. It is unreasonable use of CheerIoT Services where Customer's use of CheerIoT services is reasonably considered by CheerIoT to be fraudulent, in violation with laws and regulation or to adversely affect the CheerIoT network or other CheerIoT Customers' use of or access to a CheerIoT service or the CheerIoT network. Where Customer is in breach of this Fair Use Policy, CheerIoT may contact Customer to discuss changing Customer's usage so that it conforms to this Fair Use Policy. If, after CheerIoT has contacted Customer, Customer's excessive or unreasonable use continues, CheerIoT may, without further notice to Customer suspend or limit the service (or any feature of it) for any period CheerIoT thinks is reasonably necessary and/or terminate Customer's agreement with two weeks written notice.

#### **8. Relationship of the Parties**

1. It is agreed that, unless otherwise stated expressly, the Contract does not grant to Customer any exclusive rights. CheerIoT shall be entitled to enter into a same or similar contractual relationship as that provided under this Contract to other individuals or entities.
2. Customer specifically agrees that it shall have no power or authority to represent CheerIoT in any manner and that it will not at any time represent orally or in writing to any person or corporation or other business entity that it has any right, power or authority expressly granted by this Agreement.

#### **9. Publicity**

Customer shall, on no occasion whatsoever, make any announcements or statements to the public or create any written materials concerning the relationship between the Parties or concerning CheerIoT's services, products or business, without the prior written consent of CheerIoT.

#### **10. Intellectual Property Rights**

1. General: In the absence of written provisions to the contrary, all intellectual and industrial

- property rights held by either party shall remain the property of that party, or its respective owners. Nothing in this agreement shall be taken as giving the other party any right or license relating to the intellectual or industrial property rights belonging to the other party.
2. **Material:** In the event any marketing logo, works of authorship, training materials, telemarketing scripts, reports or data, any other proprietary information or promotional material in respect of CheerIoT's products and services ("the Material") is made, created developed or written, by either party in accordance with the activities contemplated hereunder and/or with the performance of this agreement, this Material shall be deemed the sole property of CheerIoT with royalty-free right of use thereof for the other party.
  3. Customer shall indemnify, defend and hold harmless CheerIoT against all claims, suits (threatened or actual), liabilities and expenses (including reasonable attorneys' fees and expenses) arising out of or derived from whatsoever violation of intellectual property rights by Customer.
  4. The right to Use CheerIoT services will grant Customer a personal, non-transferable and non-exclusive license to use any of the software and documentation regarding the service supplied by CheerIoT during the present agreement. CheerIoT and its licensors, if any, will always possess the rights, property rights and interests in and in relation with the supplied software and documentation, including any intellectual property rights related thereto.
  5. Nothing in the agreement will be deemed to give to the Customer any right, license or other type of right to use any of the Intellectual Property owned and/or developed and/or licensed by CheerIoT and/or any Third Party Service Provider, with the exception of the rights CheerIoT grants to the Customer for the term of the Agreement solely in connection with providing the Services and to the extent that they are necessary in order for the Services to be used for the purpose they were supplied.
  6. Where access to the Mobile Platform is granted as part of the Services, the license to use the Platform is granted only in connection with the provision of the Services and for the duration of this Agreement. Upon termination of this Agreement, the Customer loses any rights to use the Mobile Platform and access will be restricted from the termination date.

#### **11. Trademarks and other intellectual Property Rights**

Customer shall not at any time during the term of Agreement or thereafter directly or indirectly use the CheerIoT's Trademark(s) except in a manner and to an extent to which CheerIoT may specifically and expressly consent in writing. Customer hereby acknowledges that any use by Customer of the Trademark(s) shall not create or confer any ownership-right therein in favour of Customer. Nothing in this Agreement shall be construed as transferring any patents, utility models, trademarks, trade names, design patterns, copyrights or any equivalent intellectual property rights from one party to the other.

## **CHAPTER II: SIM CARDS USAGE AND LOGISTIC**

#### **12. Ordering, Delivery and Activation**

1. **General:** All orders of products pursuant to this Contract shall be effected by the issuance of an Order Form by Customer. Such orders shall be firm and irrevocable and made in the way agreed from time to time by the parties. Customer will be responsible for the accuracy of all information contained in such order and fulfilment of the preconditions for the proper processing of the order in compliance with the agreed process. Such Order Form shall be fully filled in stating unit quantities, unit descriptions, applicable prices, and shipping instructions and any other details figuring in the Order Form. CheerIoT reserves the right to refuse, at its sole discretion, any order in cases such as, but not limited to: (a) the fulfilment of Customer's order is not possible because of technical and/or legal restrictions; or (b) the fulfilment of Customer's order would constitute or give rise to a breach of this Agreement.
2. **Order Placement:** Orders for the Products are initiated when Customer sends an Order Form via email to the CheerIoT's Sales Department during UTC+1 office hours. In order to

ensure that all information to start the ordering process is available, the Order Form must be complete and duly signed by Customer.

3. CheerIoT is allowed to accept any Order that doesn't comply with article 12.1 and/ or 12.2 of the GTCs.
4. Any changes done on an Order as mentioned in Article 12.1 can only be done in writing.
5. Invoice: CheerIoT will send Customer a pro forma invoice, including the amount payable. An order shall be processed only upon receipt by CheerIoT of the invoiced amount.
6. Delivery & Shipment: Customer shall bear all costs and expenses incidents to CheerIoT's shipment of the products to it. Customer shall duly inform CheerIoT about the preferred method of shipment and the carrier; being alternatively, the Post or any other private express carriers. However CheerIoT may choose another method of shipment or carrier at its own discretion. Title to and risk of loss or damage to; the Products sold by CheerIoT shall pass to Customer upon CheerIoT's delivery thereof to the carrier at the shipping point, being CheerIoT's office or alternatively the Post office, the carrier acting as Customer's agent. All claims for damages must be filed with the Carrier. All shipments will normally be made following Customer's instruction. Risk of loss or damage to the products in transit without regard to any other circumstances surrounding the shipment, remains with Customer. In the event of miss-delivery, CheerIoT shall, on a reasonable efforts' basis, aid Customer in dealing with the carrier in tracing the shipment and obtaining delivery. In case of failure to accept delivery at the time of the first tender, Customer shall be liable of any additional costs incurred and be responsible for any loss, damages, destruction of the goods that may occur thereafter, except where CheerIoT has expressly retained any risk to the goods until delivery.
7. Time of Delivery: Delivery dates and time set forth in any Customer's order or other purchasing documents, or any confirmation thereof or statement by CheerIoT shall be deemed to be estimated only and subject to CheerIoT's then current lead times for the products. CheerIoT shall bear no liability whatsoever for delay in delivering the product.
8. Import control: Customer shall be responsible to satisfy any import regulation and to obtain, as the case may be, any necessary import documentation prior to import any product. Customer shall secure and obtain, at its sole expense, such import documents as are necessary for it to fulfil its obligations under this Agreement. Upon Customer's specific request, CheerIoT shall on a reasonable efforts' basis, provide supporting import document that CheerIoT may issue.
9. The Services offered by CheerIoT are M2M (Machine to Machine) Services, and do not offer access to voice calls, including access to the single European emergency call number 112. The Services are intended solely for the use in connection with devices that support M2M communication and are not to be used in connection with any other type of devices.

### **13. SIM Card Expiry**

Should the SIM card and/or License still not be activated six (6) months after delivery, SIM card and/or License will be charged for in case CheerIoT didn't start charging them before. In the case Customer's customer and End-users do not use the SIM Card or the data value components over a period of six (6) months CheerIoT has the right to de-activated or charge additional fees.

NB: the applicable period of time prior to deactivation may vary from country to country and/or from product to product. No use shall be defined as no billable transaction per MSISDN over a period of six (6) months in CheerIoT's Billing System for the SIM. Billing transactions are, data or license usage.

### **14. Registration**

Customer is obliged to provide CheerIoT a copy of the Chamber of Commerce registration and a passport photocopy of the authorised signatory of the company, CheerIoT will be responsible for the protection of personal data from customer and user as

agreed in the "Personal Data Protection Act" and/or other laws concerning processing personal data.

**15. Defect Check & Return Process**

Notwithstanding to the applicable Return Process as may be defined by CheerIoT, Customer shall not accept returns of products without first checking with CheerIoT as to determining whether the problem relates to the products or not.

## **CHAPTER III: SERVICING END USERS**

**16. Servicing End Users**

Except if otherwise is expressly agreed upon, Customer shall be responsible for communicating with its users of the service, and for handling complaints and the due referral to CheerIoT's Customer Service for trouble reports made by such users in accordance with the mutually agreed procedure. Customer shall make sure that its users are provided with up-to-date contractual and product literature.

**17. Passing on Warranties and disclaimers**

Customer shall distribute and sell CheerIoT's services and products with the minimal warranties and disclaimers designated by CheerIoT and will require all its sub distributors and dealers, as the case may be, to adhere to the same obligations.

## **CHAPTER IV: COMPLIANCE WITH LAW AND REGULATIONS**

**18. Compliance**

General Customer shall, at its own expense, comply with any governmental law, statute, ordinance, administrative order, rule or regulation applicable to the exercise and performance of its duties and obligations hereunder and under the other contractual documents and shall procure all licenses and authorizations and pay all fees and other charges required thereby.

**19. Data Protection.**

CheerIoT keeps, saves and operates data necessary to the proper performance of this Contract, for compliance with Dutch law, for maintaining the proper service to Customer, for the development of the quality of its services, and for the security of its service and of the infrastructure. CheerIoT is responsible for the protection of personal data from customer and user as agreed in the "Personal Data Protection Act" and/or other laws concerning processing personal data.

**20. Consumers**

Customer shall insure that any documentation provided to end users, be in compliance with any local, national and international law applicable to the end users. If needed, Customer shall in particular insure that the above referred documentation, and appropriate modifications and additions to such documentation, be duly translated into the official language of the end users.

**21. Compliance as to Registration**

CheerIoT hereby draws to customer's attention to the strict observance of the registration obligations mentioned above under section 14.

**22. Usage of the Services**

Customer agrees to use, and to insure that its users use, the service only for lawful services. This

means, amongst others, that the service shall by no mean be used :

1. fraudulently or in connection with a criminal offence;
2. to send, knowingly receive, upload, download, or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights;
3. to cause annoyance, inconvenience or needless anxiety;
4. to spam or to send or provide unsolicited advertising or promotional material or, knowingly to receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party;
5. in any way which in CheerIoT's opinion is, or is likely to be, detrimental to the provision of the service to the Customer or any of CheerIoT's other customers;
6. in an unlawful manner, in contravention of any legislation, laws, licence or third party rights ; or
7. in a way that does not comply with any instructions CheerIoT has given to the Customer.

### **23. Indemnification**

Limited to these above-mentioned compliance obligations, Customer agrees:

1. to indemnify, defend and hold CheerIoT, the directors, officers, stockholders, agents and employees of CheerIoT, harmless to the greatest extent possible under applicable law against any and all judgments, fines, penalties, amounts paid in settlement and any other amounts reasonably incurred or suffered by CheerIoT in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, arising from, in connection with or incidental to the performance of Services under this Agreement, including without limitation reasonable attorneys' and advisers' fee, costs and disbursements.
2. CheerIoT shall, as a condition precedent to his or its right to be indemnified under this Agreement give Customer notice in writing as soon as practicable of any claim made against CheerIoT for which indemnification will or could be sought under this Agreement. In addition, CheerIoT shall give Customer such information and cooperation as it may reasonably require and as shall be within CheerIoT's power.
3. In the event Customer shall be obligated to pay the expenses of any proceeding against CheerIoT, Customer, if appropriate, shall be entitled to (i) participate jointly with CheerIoT in CheerIoT's defence, settlement or other disposition of any interest related to the Indemnity Matter, (ii) to settle or otherwise dispose of such Indemnity Matter, on such terms as Customer shall deem appropriate, provided that CheerIoT can obtain a written release from the claiming third party and is not adversely affected in any other manner.
4. The indemnification provided herein shall not be deemed exclusive of any rights to which CheerIoT or any other Indemnitee may be entitled under any applicable law or contractual disposition. The Indemnification provided under this Agreement shall continue as to CheerIoT and each other Indemnity for any action taken or not taken while CheerIoT was providing services even though CheerIoT may have ceased to provide services at the time of any action, suit, or other covered proceeding.

## **CHAPTER V: WARRANTIES AND LIABILITY**

### **24. As to the Services**

CheerIoT endeavours to provide quality service to its customers but cannot guarantee the fault free working of the services and especially the fault free working of mobile networks. CheerIoT is not liable for any service or proof of service of Customer, which is carried over the CheerIoT's network.

CheerloT is also not liable for operators ceasing or terminating roaming, termination or interworking services. CheerloT will give best effort to restore and maintain these services.

CheerloT reserves the right to perform maintenance activities as required for a variety of reasons and every effort will be made to minimise any adverse impact on service quality.

CheerloT is entitled to cancel or change the service, with a notice period of 3 months, when technical or business economic reason oblige for that.

## **25. Liability for the services**

CheerloT's liability under this Agreement or in connection with its performance is expressly limited to the express provisions of this Agreement and to the conditions set out in this article. CheerloT makes no express or implied warranties, representations or endorsements regarding any merchandise, information, products or services provided in connection with or contemplated by the performance of the Agreement.

Except for gross negligence and intent, CheerloT shall not be liable to any User of the Services for any direct or indirect loss or damage (including economic losses or any loss of profit) arising out of or in connection with the performance of its obligations under this Agreement. Under no circumstances shall CheerloT be liable for any indirect or consequential damages, including but not limited to damages that result from the Users' use of or inability to access any part of the product or User's reliance on or use of information, services merchandise provided on or through the Service or damages that result from mistakes, omissions, interruptions, loss, theft, or deletion of files, errors, defects, delays in operation, or transmission, or any failure of performance.

Absolutely no component of these GTCs is aimed at excluding or limiting the liability of CheerloT for death or personal injury as result of intentional act or omission, or CheerloT. The liability of CheerloT, on any possible basis, towards the Customer or towards others that claim liability via the Customer, subject to the provisions in below articles, restricted to, at the choice of CheerloT, is: (i) reimbursement from direct loss to not more than the average of the last 6 months usage charges incurred by Customer for the Services, or (ii) having the Services provided once more at the expense of CheerloT.

## **26. Warranty and liability for the products**

CheerloT's products are warranted to be free from defects in materials and workmanship and to meet the applicable specifications when tested.

THE FOREGOING IS IN LIEU OF ANY OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. The liability of CheerloT under this warranty is limited solely in replacing, or repairing, or issuing credit (at the discretion of CheerloT) for such Products that are or become defective within 14 (fourteen) days after the date of the first use of the product. CheerloT will not be liable under this warranty unless (i) CheerloT is promptly notified in writing by Customer upon discovery of defects, (ii) the return of the defective unit is received by CheerloT for adjustment no later than 14 (fourteen) days following the date of first use, and (iii) Customer has duly complied with this Section and the Return process defined by CheerloT (iv) CheerloT's examination of such unit shall disclose, to its satisfaction, that such defects or failure have not been caused by misuse, neglect, improper installation, repair, alteration or accident. IN NO EVENT SHALL CheerloT BE LIABLE TO CUSTOMER FOR ANY KIND OF INDIRECT DAMAGE, SUCH AS BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF PROFIT OR CLAIMS OF ANY THIRD PARTY BASED UPON A CLAIM FOR BREACH OF WARRANTY. At all times the liability of CheerloT is limited to the total amount invoiced and paid by the Customer.

## **CHAPTER VI: DURATION AND TERMINATION OF THE AGREEMENT; FINAL DISPOSITIONS**

## **27. General**

Unless agreed otherwise, the Agreement may be terminated by providing a three-months prior notice for the end of each calendar year.

If the Agreement is not terminated before the calendar year, the Agreement will automatically be extended by another year under the same conditions, unless Customer has given CheerIoT a written termination of the Agreement including the notice period.

In any case, this agreement may always be terminated:

- a. by CheerIoT upon written notice if there is an unacceptable change in the control or management of Customer, as CheerIoT may consider on its sole and entire discretion; immediately upon written notice by either Party if the other fail to fulfil any of its obligations in a material respect under this Agreement and (in case of a failure capable of being remedied) such failure is not remedied within 30 (thirty) days from having received a written request for such remedial action from the first Party;
- b. by either Party, upon written notice, if the other Party makes an arrangement or composition with its creditors generally or makes an application to a court of competent jurisdiction for protection from its creditors generally or a bankruptcy order is made against the other Party or a resolution is passed by it for its winding up, a court of competent jurisdiction makes an order for its winding up dissolution, an administrator order is made in relation to it or receiver is appointed over (or an encumbrance takes possession of or sells) any of its assets;
- c. by CheerIoT, upon written notice, if CheerIoT's license to provide the Services foreseen under this Agreement, which affects the exercise of rights or performance of obligations under this Agreement, is revoked or terminated for any reasons (and not simultaneously replaced);
- d. By CheerIoT, if CheerIoT's supplier terminates her services;
- e. by CheerIoT, on written notice, if there is a material or substantial change in ownership of Customer; or
- f. other grounds for early termination may have been foreseen elsewhere, as well as other modifications of the contractual relationship.
- g. By CheerIoT without prior notice if there is any unethical use of the service provided by CheerIoT.

## **28. Service Amendments**

CheerIoT may at any time modify parameters of its services to implement new technology and offer additional services as long as this does not negatively influence the quality of services provided.

## **29. Service Suspension**

1. CheerIoT aims to offer the Services continuous and fault free. However, the suspension of the Services will be possible, for reasons that fall outside the responsibility of the Customer, in the following situations:
  - a. the Services are being updated, under maintenance, improved and/or altered;
  - b. the Services are being repaired after a malfunction, fault or damage;
  - c. the Third-Party Service Providers are suspending the services supplied to CheerIoT;
  - d. any government body, authority or regulatory organism requires the suspension of the Services;
  - e. an emergency arises or CheerIoT has to take any other action that it reasonably considers necessary as a prudent provider of the Services;
  - f. CheerIoT deals with an actual or suspected security breach, virus and/or any misuse.
2. Any suspension of the Services as per art. 29.1. will be done in a way that minimizes the downtime and, where possible, will be carried out at a suitable time in order to affect as little as possible the rights of the Customer.
3. Whenever possible, a notice to the Customer will be sent twenty-four (24) hours prior to any suspension of the Services.
4. CheerIoT shall use all reasonable endeavors to ensure that the Services are offered at an uptime of ninety-seven (97) % for any given Invoice period, with the exception of the

- suspension of Services that have been previously notified to the Customer.
5. Should the Customer observe that the uptime stated by CheerIoT is not offered according to the provisions of art. 6.4., for reasons that are not attributable to the Customer, it can file a complaint at the following address: [support@CheerIoT.com](mailto:support@CheerIoT.com) or by calling the telephone number: +31-88-0048800 (available Mon. – Fri. from 09:00-17:00 CEST). All complaints will receive a written answer within seventy-two (72) hours from the moment they are received by CheerIoT.

CheerIoT may at any time immediately suspend all or part of the services it provides until further notice without incurring any liability:

- a. if it is obliged to comply with an order, instruction or request of Government, or emergency services organisation, or other competent administrative authority;
- b. it needs to carry out work related to exceptional upgrading or maintenance of its facilities where those facilities must cease operation at or about the time;
- c. in order to prevent damage or degradation of CheerIoT's contracting party's network integrity which may be caused by whichever reason;
- d. for a violation of CheerIoT's acceptable use policy or for other behaviour that in CheerIoT's reasonable discretion may be deemed to be illegal;
- e. in order to protect CheerIoT, at its sole discretion, from legal liability which relates to a breach of obligation and/or warranties by Customer; or
- f. in case of notifications or signs of fraud or abuse of service.

### **30. Miscellaneous**

1. Failure by CheerIoT to enforce any of its rights under the Agreement shall not be taken as or deemed to be a waiver of that right.
2. CheerIoT reserves the right to change the GTCs and other contractual provisions at any time. In case (i) the Agreement has been entered into for an undetermined period of time and (ii) Customer is considerably prejudiced by any such modifications, Customer shall be entitled to terminate the Agreement as per the date the modifications come into effect. The right of termination expires with the coming into effect of the modifications.
3. Customer may not wholly or partly assign or pledge its rights and/or obligations hereunder to any third party, except with the prior written consent of CheerIoT. Such consent will not unreasonably be withheld or delayed.
4. Change of Ownership: Should Customer undergo a significant change of ownership or control it shall notify CheerIoT in writing as soon as practicable after such change.
5. The Agreement supersedes any and all other agreements, oral or written, between the Parties with respect to the subject matter hereof. Both Parties acknowledge that they have not entered into the Agreement in reliance on any representation made but not embodied in the Agreement.
6. If any provision of the Agreement or these GTCs shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired. In such a case, the Parties agree that the particular terms or conditions in this Agreement which might be ruled by any competent authority as illegal, void, unenforceable or invalid shall be replaced by terms and conditions expressing the stipulations as close as possible to the original terms and conditions by only removing the existing obstacle.

### **31. Governing Law and Competent Jurisdiction**

This contractual relationship shall be subject to the application of the Substantive Dutch Law, The exclusive place of jurisdiction for all disputes arising out of or in connection with this agreement shall be Amsterdam, Netherlands.

