SODAQ General Terms and Conditions
June 2021

SODAQ Engineering B.V., which has its registered seat at Bussumerstraat 34 in Hilversum, the Netherlands and is registered with the Dutch Chamber of Commerce under registration no. 78267714, and **SODAQ Products B.V.**, which has its registered seat at Bussumerstraat 34 in Hilversum, the Netherlands and is registered with the Dutch Chamber of Commerce under registration no. 78267854 (hereinafter collectively referred to as: the "**SODAQ Entities**" or **"SODAQ"**), offer development of custom software, custom hardware and custom end products and consultancy services – as well as an on-premises software solution which can be used by clients to deliver updates remotely to devices developed by the SODAQ Entities or purchased in their web shop, and connected to the internet through Internet-of-Things networks.

The following Terms and Conditions apply to all agreements the SODAQ Entities enter into with their clients for the provision of their services. These Terms and Conditions consist of three separate Modules. Module A applies to all agreements with regard to services provided by the contracting SODAQ Entity in question, whereas Module B and C apply exclusively in situations where SODAQ Engineering B.V. provides development services and SODAQ Products B.V. provides its on-premises software solution respectively. For the avoidance of doubt, each agreement for the provision of services is concluded with an individual SODAQ Entity. Nothing in these Terms and Conditions is intended to indicate joint and several liability for agreements entered into by individual SODAQ entities.

Visit www.sodaq.com for more information with regard to the available services.

MODULE A: GENERAL

Article 1.   Applicability
1.1.   This Module A will apply to all Agreements concluded between SODAQ and the Client.

Article 2.   Definitions
All capitalized definitions in these Terms and Conditions, both plural and singular, are defined as indicated in this article.

2.1.   **Agreement:** the Quotation through which both parties have agreed to the provision of Services by SODAQ to the Client, and any attachments thereto, as well as any service level agreement or data processing agreement concluded between the parties. These General Terms and Conditions form an integral part of that agreement.
2.2.   **Client:** any legal or natural person acting in the exercise of a profession or business with which SODAQ concludes an Agreement in connection with the provision of Services.
2.3.   **Custom Hardware:** a custom-made hardware product or component, not containing Custom Software, as specified in the SOW, to be developed on behalf of and delivered to the Client by SODAQ as part of the Services.
2.4.   **Custom Product:** a custom-made hardware product or component, containing Custom Software as specified in the SOW, to be developed on behalf of and delivered to the Client by SODAQ as part of the Services.
2.5.   **Custom Software:** custom-made software, as specified in the SOW, to be developed on behalf of and delivered to the Client by SODAQ as part of the Services, the OTAU Service and OTAU Module.

2.6. **Custom Work:** Custom Hardware, Custom Software, and/or Custom Products, as specified in the SOW, to be developed on behalf of and/or delivered to the Client by SODAQ as part of the Services.

2.7. **Intellectual Property Rights:** all intellectual and industrial property rights, including but not limited to copyrights, (sui generis) database rights, rights to domain names, trade name rights, rights to know-how, trademark rights, trade secrets, model rights, neighboring rights and patent rights.

2.8. **Materials:** documents, designs, reports, software, data files, formats, models, analyses, data, concepts and prototypes, working drawings, illustrations, prototypes, models, molds, designs, design sketches, films, Custom Works and other materials or (electronic) files provided or developed by or on behalf of SODAQ in the course of the provision of Services.

2.9. **Office Hours:** the hours between 09.00 and 17.00 on Working Days.

2.10. **OTAU Module:** the software module, provided by SODAQ, that must be installed on the Custom Hardware, Custom Products and other devices provided by SODAQ in order to effect updates through the OTAU Service.

2.11. **OTAU Service:** the on-premises software solution provided by SODAQ to the Client under a subscription, through which the software installed on Custom Hardware, Custom Products and other devices provided by SODAQ, may be updated remotely 'over-the-air' by way of the LTE-M-network (with the 2G network as fallback) through an online dashboard hosted by the Client – as well as the provision of the OTAU Module required to effect compatibility of the Client's devices with the OTAU Service.

2.12. **Quotation:** an offer provided to the Client by SODAQ for the provision of Services and, in the event the Client contracts with SODAQ for development of Custom Works, including an attached SOW.

2.13. **Services:** the services provided by SODAQ under the Agreement, including but not limited to the development of Custom Works, consultancy services and the provision of OTAU Services.

2.14. **SODAQ:** the SODAQ Entity specified on the relevant (part of the relevant) Quotation.

2.15. **SOW:** the statement of work attached to the Quotation, containing at least the detailed description and specifications of the Custom Work.

2.16. **Website:** www.sodaq.com.

2.17. **Working Days:** days from Monday to Friday, with the exception of official Dutch holidays and other days of which SODAQ has indicated in advance that it will be closed.

Article 3. Order of precedence

3.1. The Agreement may consist of several documents. In the event of contradictions, the order of precedence as set out below will apply:

1. the Quotation;
2. any other written agreements between the parties;
3. any separate service level agreement concluded between the parties;
4. any separate data processing agreement concluded between the parties;
5. these General Terms and Conditions.

3.2. In the event of contradictions between the general provisions of Module A of these General Terms and Conditions and Modules B and C, the Module relating to the relevant part of the Services will take precedence.

3.3. Insofar as the different parts of the Agreement do not contain any contradictions, they are complementary to each other.

Article 4.   Conclusion of the Agreement

4.1.   The Agreement will come into force on the day indicated in the Quotation and is concluded with SODAQ's receipt of the Client's written acceptance of a Quotation. If no starting date is indicated, the Agreement will come into force upon SODAQ's receipt of the Client's written acceptance of a Quotation.

4.2.   If the Client consists of several legal entities or legal entities, these entities are jointly and severally bound to fulfil the obligations arising under the Agreement.

4.3.   Any Quotation is valid for a period of sixty (60) days. The Client may still notify SODAQ of its acceptance in writing after this period. However, in such a case, contrary to Article 4.1, the Agreement is only concluded upon confirmation by SODAQ.

4.4.   If SODAQ has made an offer on the basis of information provided by the Client and this information proves to be incorrect or incomplete, SODAQ is entitled to dissolve the Agreement or to adjust the offer and prices accordingly, even after an Agreement has been concluded.

4.5.   In the event that the Client does not formally accept SODAQ's Quotation, but nevertheless creates that impression (e.g. by having SODAQ carry out certain work), the Quotation will also be deemed to have been accepted and an Agreement will be concluded.

4.6.   Contrary to the provisions of Section 6:225(2) of the Dutch Civil Code, SODAQ will not be bound by any deviating acceptance of the offer made, not even if the deviation concerns minor or subordinate aspects of the Quotation.

4.7.   The Client may request SODAQ to perform certain Services. In all cases, SODAQ is entitled to refuse such requests from the Client.

Article 5.   Fulfillment of the Agreement

5.1.   After the Agreement has been concluded, SODAQ will apply all commercially reasonable efforts to fulfill its obligations under the Agreement with due care and skill and within the agreed timeframe, or within a reasonable period of time if no timeframe has been agreed.

5.2.   SODAQ reserves the right to deliver work under the Agreement in phases, insofar as the nature of that work allows.

5.3.   SODAQ has the right to engage third parties for the performance of the Agreement. Any related costs will only be borne by the Client if this has been agreed in advance.

5.4.   Any (delivery) dates announced by SODAQ or agreed between the parties are indicative and do not constitute deadlines.

5.5.   In fulfilling its obligations under the Agreement, SODAQ will follow reasonable requests and directions from the Client or state the reasons why it will not do so. If the Client in spite of the provided reasoning insists on implementing the request, SODAQ may choose (insofar as the request is reasonably practicable) to carry out the work at the risk of the Client. The Client will indemnify and hold harmless SODAQ from any claims relating to or arising from such work.

5.6.   Complaints with regard to consultancy services provided by SODAQ must be submitted within ten (10) Working Days of the completion and/or delivery of (a relevant part of) the Agreement. If a complaint is not submitted within the abovementioned time period, the results of the consultancy services provided by SODAQ will be deemed to have been accepted by the Client.

Article 6.   Additional work

6.1.   For work falling outside the SOW and/or Quotation ("**Additional Work**"), SODAQ may, with the Client's prior consent, charge on a time and materials basis, at SODAQ's standard hourly rate.

6.2.   No prior consent from the Client is required for Additional Work if SODAQ can demonstrate that it is reasonably necessary for the fulfillment of the Agreement, or which reasonably

follows from the Client's instructions. Such Additional Work will be charged on a time and materials basis, at SODAQ's standard hourly rate.

6.3.   In the event SODAQ is requested to carry out Additional Work falling outside the SOW, SODAQ may also opt to issue an additional Quotation for this purpose.

6.4.   Refusal by SODAQ of a request for Additional Work will under no circumstances constitute grounds for termination or dissolution of the Agreement.

Article 7.   Cooperation

7.1.   Client acknowledges that the quality of the Services depends to a great extent on the information and cooperation provided by the Client. The Client will provide all reasonable cooperation required for the fulfillment of the Agreement. Such cooperation includes that the Client will do and refrain from doing whatever is reasonably necessary and desirable to enable the timely and correct fulfillment of the Agreement. In particular, the Client will ensure that all information and material of which SODAQ indicates that these are necessary or of which the Client should reasonably understand that these are necessary for the fulfillment of the Agreement, are provided to SODAQ in a timely manner. Cooperation also includes providing access to necessary digital environments and physical locations, as well as adhering to all reasonable instructions and advice given by SODAQ in connection with fulfillment of the Agreement.

7.2.   If the Client does not cooperate or provide information and materials in the manner referred to in the preceding paragraph, SODAQ will be entitled to pass on the resulting costs to the Client and to suspend performance of the Agreement.

7.3.   The Client represents and warrants that all the information and materials it provides to SODAQ are complete, accurate and up to date.

7.4.   SODAQ has the right, but not the obligation, to examine this information and materials for accuracy and completeness. In the event of faults or errors, SODAQ is entitled to suspend the work and pass on the resulting costs to the Client.

7.5.   If the Client makes certain information carriers, electronic files or other materials available to SODAQ, the Client represents and warrants that these are free of viruses, malware or defects.

7.6.   The Client indemnifies and holds harmless SODAQ from all claims relating to or arising from Intellectual Property Rights to materials provided by the Client.

Article 8.   Payment

8.1.   All prices quoted by SODAQ are in euros and are exclusive of VAT and other government levies.

8.2.   SODAQ will send an invoice for all amounts due and is entitled to invoice electronically and in advance. SODAQ is also entitled to invoice in parts. All invoices are due and payable within thirty (30) days of the invoice date.

8.3.   If a price is based on information provided by the Client and this information proves to be incorrect, SODAQ is entitled to adjust the prices accordingly, even after the Agreement has already been concluded.

8.4.   SODAQ is entitled to increase the prices annually, by a maximum of five percent (5%), without this resulting in a possibility for the Client to terminate the Agreement.

8.5.   SODAQ is authorized to adjust the prices as a result of changes in legislation and regulations, without this resulting in a possibility for the Client to terminate the Agreement.

8.6.   Prices may be increased by SODAQ with immediate effect as a result of changed rates charged by suppliers for products or services that are charged pro rata to the Client (such as licensing or hosting costs), without the possibility for the Client to terminate the Agreement.

8.7.	If SODAQ increases its prices outside the cases described in this article, it will be regarded as an amendment as meant in Article 15.
8.8.	The Client is not entitled to set off any payment obligation incumbent on the Client against any claim against SODAQ for any reason.
8.9.	If the Client does not agree with the content of an invoice, the Client is entitled to suspend the disputed part of the invoice, but not the undisputed part. If the Client does not object in writing within the payment term stated in Article 8.2 and substantiates its objections, it is deemed to agree with the contents of the invoice. SODAQ will assess as soon as possible whether or not the Client's dispute is justified. If the dispute turns out to be unjustified, the Client will pay the amount as promptly as possible, but in any case, within no more than seven (7) days of the day SODAQ notifies the Client of the findings of its assessment.
8.10.	If the Client fails to pay an invoice within the payment term stated in Article 8.2, the Client will be in default without prior warning or notice of default being required. SODAQ will in such a case be entitled to charge statutory interest for commercial transactions on the amount or (if higher) an interest of two percent (2%) per month.
8.11.	If the Client fails to pay the invoice amount after a reminder or notice of default, SODAQ is entitled to engage a third party for the purpose of collection of the amounts due and/or to suspend the Services until the outstanding amounts have been paid in full. In such a case, both judicial and extrajudicial costs (including the costs of lawyers, lawyers, bailiffs and collection agencies) will be borne by the Client.

Article 9.   Intellectual Property Rights

9.1.	Unless stated otherwise in the Agreement, all Intellectual Property Rights and other proprietary rights relating to the provision of Services, and all resulting Materials, will be exclusively vested in SODAQ or its licensors.
9.2.	After the completion of the Agreement, neither party will have a duty of retention towards the other with regard to the Materials.
9.3.	After dissolution or premature termination of the Agreement by the Client, SODAQ is not obliged to provide any (draft) Materials developed or produced up to that point to the Client or any third party.
9.4.	With due regard for the interests of the Client, SODAQ will at all times be entitled to use the Materials for its own publicity or promotion.
9.5.	The Client is not permitted to remove or modify any designation of Intellectual Property Rights or to remove any indications of confidential nature from Materials, without prior written permission from SODAQ to do so.

Article 10.   License

10.1.	On the condition that the Client fully complies with its (payment) obligations under the Agreement, the Client will, unless parties agreed otherwise in writing, acquire a perpetual, non-exclusive, non-transferable, non-sublicensable and limited license to use the Materials insofar as this use is in strict accordance with the purpose agreed upon in the Agreement – or, in the event no purpose has been agreed upon in such a manner, in strict accordance with the intentions with regard to the Materials as communicated between SODAQ and the Client prior to the conclusion of the Agreement.
10.2.	In the event of use exceeding or otherwise outside the purpose or intentions as described in Article 10.1 – including alteration, mutilation or deterioration of the provisional or final Materials – SODAQ is entitled to compensation for infringement of its rights of three (3) times the amount payable to SODAQ under the Agreement, or at least a fee which in all reasonableness and fairness is proportionate to such infringement, without prejudice to SODAQ's right to claim damages and other rights and remedies under the Agreement or the applicable law.

10.3. Unless SODAQ provides written notice stating otherwise, the license granted under Article 10.1 will be revoked automatically in the event:

    a. the Client fails to fulfil its payment obligations under the Agreement in full and/or on time or is otherwise in default of its obligations under the Agreement;

    b. the Agreement is dissolved or terminated prematurely for any reason; or

    c. the Client is subject to bankruptcy proceedings, applies for or is granted a suspension of payments, has its activities terminated or has its business wound up.

Article 11.   Confidentiality

11.1. The parties will treat as confidential the information they provide to each other before, during or after the performance of the Agreement if this information has been marked as confidential or if the receiving party knows or should reasonably assume that this information was intended to be confidential. The parties also impose this obligation on their employees and on the third parties engaged by them for the performance of the Agreement. These provisions continue to apply after the Agreement ends for any reason whatsoever and for as long as the disclosing party has the right to invoke the confidential nature of the information.

11.2. Each party will use the same degree of care in protecting the Confidential Information of the disclosing party as it uses in protecting its own Confidential Information, but in no event less than reasonable care.

11.3. This Article 11 will not apply to any information which:

    a. is or becomes generally available to the public other than as a result of a disclosure by the receiving party in breach of the Agreement;

    b. was within the receiving party's possession prior to its disclosure to it by or on behalf of the disclosing party;

    c. becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party not under obligation to keep such information confidential; or

    d. is developed independently by the receiving party.

11.4. In the event that a receiving party becomes legally compelled to disclose any Confidential Information provided pursuant to the Agreement, such receiving party will provide the disclosing party with prompt written notice so that such disclosing party may seek a protective order or other appropriate remedy and/or waive compliance with the confidentiality provisions of the Agreement. Any Confidential Information provided hereunder will remain the exclusive property of the disclosing party.

11.5. Promptly after the expiration or termination of the Agreement for any reason, each receiving party will deliver to each disclosing party all originals and copies of any material in any form containing or representing the Confidential Information in its possession or will destroy the same at the request of the disclosing party relative to such Confidential Information.

Article 12.   Liability

12.1. SODAQ's liability for loss and/or damages resulting from a failure in the performance of the Agreement, an unlawful act or otherwise, is limited to the amount that Client has paid under its last invoice immediately preceding the breach or the act giving rise to liability (exclusive of VAT).

12.2. SODAQ is only liable for direct loss and/or damage arising from an attributable failure in the performance of the Agreement. Direct loss and/or damage is solely understood to mean any and all loss and/or damage consisting of:

    a. the damage caused directly to tangible objects ("property damage");

b. reasonable and demonstrable costs the Client has had to incur in demanding that SODAQ properly performs the Agreement, unless the defective performance is not attributable to SODAQ;

c. reasonable costs to determine the cause and the extent of the direct loss and/or damage;

d. reasonable and demonstrable costs incurred by the Client to prevent or limit the direct loss and/or damage, insofar as the Client can demonstrate that such costs have resulted in limitation of the direct loss and/or damage;

e. reasonable and demonstrable costs for having the Agreement fulfilled by a third party, where SODAQ, after receiving notice from the Client, fails to ensure proper performance within the reasonable term stipulated in the notice.

12.3. Any limitation or exclusion of liability stipulated in this Agreement will not apply in the event that the loss and/or damage is attributable to (i) wilful misconduct or deliberate recklessness of SODAQ's management, (ii) death or bodily injury, or (iii) any other matter for which it is unlawful to limit or exclude liability.

12.4. Unless performance by SODAQ is permanently impossible, SODAQ will only be liable due to an attributable failure in the performance of a contract if the Client declares SODAQ to be in default in writing without delay and grants SODAQ a reasonable term to remedy the breach, and SODAQ culpably fails to fulfil its obligations also after this term has passed. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give SODAQ the opportunity to respond adequately.

12.5. Any right to claim compensation is at all times subject to the condition that the Client notifies SODAQ of the loss and/or damage in writing within no more than fifteen (15) days of its discovery.

Article 13.   Force Majeure

13.1. SODAQ cannot be obliged to perform any obligation under the Agreement if the performance is prevented due to force majeure. SODAQ is not liable for any loss and/or damage due to force majeure.

13.2. Force majeure is considered to exist in any event in case of power outages, Internet failures, telecommunication infrastructure failures, network attacks (including D(DOS) attacks), attacks by malware or other harmful software, civil commotion, natural disaster, terror, mobilisation, war, import and export barriers, strikes, stagnation in supplies, fire, floods and any circumstance whereby SODAQ is not enabled to perform or prevented from performing by its suppliers, irrespective of the reason.

13.3. If a force majeure situation has lasted for more than ninety (90) days, both parties will be entitled to give notice to terminate the Agreement in writing with immediate effect. The Services which in that case have been delivered by SODAQ prior to the occurrence of the force majeure situation and during the force majeure situation will be paid for on a pro rata basis.

Article 14.   Term and termination

14.1. The term of an Agreement within the framework of a defined one-off project ends by completion of that project.

14.2. The term of an Agreement within the framework of a continuing performance agreement will be specified in the Agreement. If no term is stated in the Agreement, it will be deemed to have been entered into for an initial period of twelve months.

14.3. If the Agreement has been entered into for a definite period, neither party will be permitted to terminate the Agreement in the interim, except as expressly provided for in the Agreement.

14.4. If the Agreement is entered into for a definite period of time and falls outside the scope of Article 14.1, it will each time be tacitly renewed at the end of that term for the same period of time, unless the Agreement is terminated in writing by one of the parties at the end of the term with observance of a notice period of one month.

14.5. If the Agreement is entered into for an indefinite period of time, either party may terminate the Agreement in writing after an initial period of twelve months, subject to three months' notice.

14.6. SODAQ may immediately suspend its obligations under the Agreement or terminate the Agreement in writing, without notice of default being required, if:

   a. the Client breaches the terms of the Agreement or acts contrary to the applicable laws and regulations; or
   b. the Client is subject to bankruptcy proceedings, applies for or is granted a suspension of payments, has its activities terminated or has its business wound up.

14.7. SODAQ may perform a suspension as mentioned in the previous paragraph without prejudice to its other rights and remedies under the Agreement or applicable law.

14.8. In the event that the Agreement is terminated, SODAQ's claims against the Client will be immediately due and payable.

14.9. Any dissolution of the Agreement, in full or in part, does not affect any sums paid by the Client under this Agreement. As such, no reversal of payments shall take place. The Client may only dissolve the part of the Agreement that has not yet been executed by SODAQ.

14.10. Upon termination of the Agreement, any Additional Work not yet invoiced will be charged to the Client.

Article 15.   Amendments

15.1. SODAQ has the right to amend (parts of) these General Terms and Conditions. SODAQ will notify the Client of any amendments at least two months in advance.

15.2. If an amendment to the General Terms and Conditions announced by SODAQ adversely affects the Client's position, the Client may object to this in writing, stating its reasons. In the event of an objection, SODAQ may reconsider the amendment and decide to withdraw it in whole or in part.

15.3. If SODAQ decides to implement the amendment despite the Client's objection, the Client will be entitled to terminate the Agreement at the latest by the date on which the amendment takes effect, subject to one month's notice. In the event of termination on this ground, SODAQ will refund, pro rata, the unused part of any fees prepaid by the Client in relation to licenses for OTAU Services.

15.4. If the Client does not object in writing to the proposed amendment within one month of SODAQ's announcement, stating reasons, the Client will be deemed to have agreed to the amendment.

15.5. Amendments of minor importance, amendments that are necessary due to amended laws and regulations and amendments that are to the benefit of the Client may be implemented by SODAQ without prior notice. In the event of such changes, the Client does not have the right to object and/or terminate the Agreement.

Article 16.   Applicable law

16.1. The Agreement is exclusively governed and construed by Dutch law.

16.2. Any disputes arising from or in connection with the Agreement will be submitted to the competent court in the district in which SODAQ has its registered office.

Article 17.   Miscellaneous provisions

17.1. Neither party may assign the rights and obligations under this Agreement to a third party without the written consent of the other party.

17.2.   Notwithstanding the foregoing, SODAQ has the right to transfer its rights and obligations under the Agreement without consent to a parent entity, sister entity or subsidiary entity or to a third party that takes over the Services or the relevant business activities of SODAQ. SODAQ will inform the Client as soon as possible if such a transfer has taken place.

17.3.   If a provision in the Agreement proves to be null and void, voidable or otherwise invalid, this will not affect the validity of the entire Agreement. In such a case, the parties will determine a new provision(s) to replace it, which will give shape to the intention of the original provision as far as is legally possible.

17.4.   Where this Agreement refers to written communication, this includes communication by e-mail provided that the identity of the sender and the integrity of the content is sufficiently established.

17.5.   In the event of disputes, SODAQ's administration, communication and log files will be deemed to be authentic evidence, subject to evidence to the contrary from the Client.

MODULE B: DEVELOPMENT

Article 18.   Applicability

18.1.   This Module B will apply only in the event and insofar Client contracts with SODAQ for the development of (a) Custom Work(s).

Article 19.   Development services

19.1.   After the Agreement has been concluded, the development of the Custom Work will be carried out as soon as reasonably possible, unless agreed otherwise.

19.2.   SODAQ may independently determine the location at which the work in question is to be carried out.

19.3.   SODAQ can independently determine its working hours. In doing so, SODAQ will at all times take into account the agreed (delivery) dates.

19.4.   SODAQ will be entitled to transfer all or part of its rights and obligations under this Module B to a third party, provided that this has been approved in advance by the Client in writing.

19.5.   In the event of a transfer to a third party as described in Article 19.4 SODAQ will:

a. inform the Client of the names of the third parties in question; and
b. conclude a confidentiality agreement with those third parties with the purpose of protecting confidential information relating to the development of the Custom Work and related matters – containing terms at least as stringent as those concluded between SODAQ and the Client on the same subject and with the same purpose.

19.6.   SODAQ will develop the Custom Work with due care on the basis of the SOW, data and source materials to be provided by the Client.

19.7.   SODAQ will apply all commercially reasonable efforts to develop and deliver the Custom Work within the time period(s) specified in the SOW.

19.8.   SODAQ is independent in the performance of the Agreement. However, the Client will be free to provide SODAQ with instructions as referred to in article 7:402 of the Dutch Civil Code.

19.9.   SODAQ will keep the Client informed on a bi-weekly basis of the progress of the development of the Custom Work. In doing so, SODAQ will indicate whether the Custom Work is expected to be completed within the time periods specified in the SOW.

Article 20.   Development process

20.1.   The parties will, in consultation, specify the functional requirements of the Custom Work in the SOW. SODAQ will apply all commercially reasonable efforts to carry out the SOW and develop a version of the Custom Work that complies with the SOW and deliver the Custom Work for an acceptance test within the time period(s) specified in the SOW. Unless explicitly stated in the SOW, SODAQ cannot guarantee or ensure compliance of the Custom Work with any sort of certification standards.

20.2.   After the Agreement has been concluded, the parties will appoint contact persons who will be responsible for:

a. the mutual exchange of information between parties;
b. providing general support; and
c. periodic consultations on the progress of the Custom Work.

Article 21.   Third party products, services and software

21.1.   SODAQ may place orders for or purchase third-party products, services and/or software on behalf and under the responsibility of the Client, if this is necessary for the performance of

the Agreement. Unless agreed otherwise, the related agreements apply directly between the Client and the third party concerned. Unless agreed otherwise, SODAQ may charge the Client ten percent (10%) of the order or purchase cost as compensation

21.2. Additional or different conditions may apply to the use of the products, services and/or software of third parties. These terms and conditions are available on request. The Client agrees to these terms and conditions in advance and is aware that the terms and conditions may be amended from time to time.

21.3. The products, services and/or software of third parties may be invoiced either via SODAQ or directly to the Client. If invoicing takes place via SODAQ, the Client is not permitted to suspend any payment obligation as a result of breach of contract by the third party concerned.

21.4. SODAQ is under no circumstances liable with regard to products, services and software provided by third parties. The Client indemnifies and holds harmless SODAQ from any claims relating to or arising from the provision of products and services by third parties as described in this Article.

Article 22. Intellectual Property Rights relating to Custom Works

22.1. In the event the Agreement specifies that the Intellectual Property Rights in relation to the Custom Work are to be transferred to the Client, such transfer will occur on the condition that the Client has fulfilled all its payment obligations under the Agreement, by way of a separate deed of assignment to be concluded between the parties, which document will form an integral part of the Agreement.

Article 23. Delivery and acceptance

23.1. SODAQ will deliver the Custom Work if, in its professional opinion, it complies with the SOW and is suitable for use. Unless provided otherwise in the SOW, the Client will evaluate the delivered Custom Work within fourteen (14) days after delivery and accept or reject it in accordance with the acceptance criteria specified in the SOW. If the Client does not reject the delivered Custom Work within this time period, it will be deemed to have been accepted and deemed to conform to the SOW.

23.2. Acceptance of the delivered Custom Work will be deemed to have taken place if the Client:

a. approves the delivered Work (in writing);
b. uses the delivered Custom Work for production purposes, including but not limited to the transfer of the Custom Work to a production environment; or
c. does not reject the Custom Works within the aforementioned period, has not applied for a revision round and/or has not objected to delivery within the time period mentioned in Article 23.1.

23.3. If the Custom Work is delivered in stages, the Client will, after completion of each stage, provide its acceptance or rejection of the part of the Custom Work of that stage in the manner as stipulated above. The Client may not base a rejection in a later phase on aspects approved in an earlier phase.

23.4. If the Client rejects the delivered Custom Works in whole or in part, SODAQ will apply all commercially reasonable efforts to remove the reason for rejection as soon as possible. SODAQ may do this by revising the Custom Work or by stating the reasons why the rejection is unjustified. The Client will then have seven (7) days to approve or reject the revision or motivation.

23.5. The Client may only reject the Custom Work on the grounds of substantial deviation from the SOW. If objections with regard to the Custom Work concern only minor aspects, the Custom Work will be deemed to have been accepted subject to the proviso that these objections will still be lifted within a reasonable period of time.

23.6.   Deviations from the SOW that were explicitly requested by the Client will never constitute grounds for rejection of the Custom Work.

23.7.   If the Client continues to reject all or part of the Custom Work delivered after a revision or motivation, SODAQ is entitled to charge reasonable additional costs for all subsequent revisions.

23.8.   If after at least one revision round a party indicates that it does not or no longer consider further revisions to be useful, both parties are entitled to terminate the Agreement (or the part of it relating to the Custom Works). In that case, the Client will only be obliged to reimburse the costs incurred by SODAQ and the work already carried out, but the Client will not be entitled to use or continue to use the Custom Work.

23.9.   Provisions specific to the delivery of Custom Software are contained in Article 24. Provisions specific to the delivery of Custom Hardware and Custom Products are contained in Article 25.

Article 24.   Delivery of Custom Software

24.1.   This Article 24 will apply only in the event the Client contracts with SODAQ for the development of Custom Software, in addition to the provisions of Article 23.

24.2.   Unless otherwise agreed, the Client will make available a secure development environment for the Custom Software to SODAQ, accessible via the internet. SODAQ will primarily develop within this environment. The development environment will enable the Client to test the Custom Software, as it is at that moment, and to provide feedback.

24.3.   Unless otherwise agreed, if the Client does not provide a development environment, SODAQ will make the Custom Software available during development via a secure software development repository to which the Client has access via the internet.

24.4.   The source code of the Custom Software will only be made available to the Client if this has been explicitly agreed to by both Parties in writing. Such making available of the source code will occur in the same manner as the making available of the Custom Software as described in Article 24.2 and Article 24.3.

24.5.   In the event any issues occur with the provision of source code as arranged above, SODAQ will provide the Client, at the Client's first request, with a copy of the source code in a manner to be agreed upon between the parties.

Article 25.   Delivery of and warranty on Custom Hardware and Custom Products

25.1.   This Article 25 will apply only in the event the Client contracts with SODAQ for the development of Custom Hardware and/or Custom Products, in addition to the provisions of Article 23.

25.2.   The risk of loss, theft or damage to the Custom Hardware and/or Custom Products will pass to the Client when the Custom Hardware and/or Custom Products are delivered by SODAQ to an agreed address and/or an agreed representative or contact person of the Client.

25.3.   The Client will inspect the delivered Custom Hardware and/or Custom Products for visible damage and report such damage to SODAQ within two (2) Working Days. The Client will substantiate its report with sufficient evidence to allow SODAQ to assess the merits of the report. If the Client does not report the damage to SODAQ within the aforementioned time period, the Custom Hardware and/or Custom Products are deemed to have been delivered without damage (e.g. damage from transportation). After the foregoing inspection, any further evaluation and acceptance will occur according to the provisions of Article 23.

25.4.   After acceptance of the Custom Hardware and/or Custom Products in accordance with the provisions of Article 23, the Client agrees that the Custom Hardware and/or Custom Products only contain the functionality and other features as found by the Client at the time of acceptance. The Custom Hardware and/or Custom Products are delivered "as is" (i.e. with all visible and invisible faults and defects), unless additional warranties are explicitly

given in the Agreement. Such warranties will in no event cover faults, damage and defects which:

a. are the result of improper use of the Custom Hardware or Custom Products;
b. are the result of modifications made by the Client;
c. are not related to the inadequacy of the materials used and/or the manufacturing process of the Custom Hardware or Custom Products;
d. have arisen as a result of incorrect storage or storage of the Custom Hardware or Custom Products; or
e. is the result of climatological or other influences.

25.5.   All Custom Hardware and Custom Products delivered to the Client by SODAQ will be subject to retention of title by SODAQ and will remain the property of SODAQ until the Client has paid the full amount owed for them. The Client is not entitled to resell or pledge the goods covered by the retention of title mentioned in the previous sentence, or to encumber them in any other way.

25.6.   The Client will notify SODAQ without delay if a third party wishes to establish or assert rights or to seize (or have a third party seize) the Custom Hardware or Custom Products subject to retention of title. The Client hereby grants SODAQ (or third parties designated by SODAQ) unconditional and irrevocable permission to enter all those places where SODAQ's property is located and to take back those Custom Hardware or Custom Products in such a case.

Article 26.   Installation of Custom Hardware and Custom Products

26.1.   This Article 26 will apply only in the event the Client contracts with SODAQ for the installation of Custom Hardware and/or Custom Products.

26.2.   Unless otherwise agreed, the Client will be responsible for installation of the Custom Hardware and/or Custom Products.

26.3.   If agreed between the parties, SODAQ will install the Custom Hardware and/or Custom Products at a location and in a manner determined in the Agreement. SODAQ is entitled to refuse the installation at a particular location if in its professional opinion the location is not feasible, or if the correct functioning of the hardware at the relevant location cannot be guaranteed.

26.4.   The Client is responsible for compliance to the technical requirements of the Custom Hardware and/or Custom Product, such as the correct power supplies and network connections, as well as any other technical requirements or dependencies as specified in the Agreement. If the aforementioned facilities are not present, SODAQ may not be able to carry out the installation.

26.5.   The Client will give SODAQ or the third party or parties engaged by SODAQ access to the designated location and give the necessary cooperation for the installation of the Custom Hardware and/or Custom Products.

MODULE C: OVER-THE-AIR UPDATES

Article 27.   Applicability
27.1.   This Module C will apply only in the event and insofar Client contracts with SODAQ for OTAU Services.

Article 28.   OTAU Server Software
28.1.   To access and use the OTAU Services, Client will be provided with a software deployment package to install the OTAU Services on its own ICT infrastructure (hereinafter: "**OTAU Server Software**").
28.2.   SODAQ will provide the Client with written instructions on how to install, configure and deploy the OTAU Software by means of the Client's own ICT infrastructure, as well as the minimum specifications for the ICT infrastructure in question. Client will follow such instructions, as well as any other reasonable instructions given by SODAQ in relation to installation, configuration, deployment and use of the OTAU Software.
28.3.   Unless otherwise agreed in writing, the Client itself bears full responsibility for the installation, configuration and deployment of the OTAU Software. SODAQ can charge the Client separately for any support activities in connection with such implementation.
28.4.   The Client itself is responsible for setting up a suitable and adequate ICT infrastructure, taking into account the intended use of the OTAU Service and OTAU Software. SODAQ may determine and provide applicable minimum specifications for such ICT infrastructure. The Client understands that these specifications can be adjusted over time, also in connection with continually developing technology.
28.5.   Unless otherwise agreed, SODAQ is not obliged to load, convert or migrate any of the Client's data or that of Client's end-users. SODAQ can charge the Client separately for any such support activities.

Article 29.   OTAU Module and devices
29.1.   In order for the OTAU services to function properly, the Client must ensure that the following conditions are met with regard to the device subject to the OTAU Services (the Custom Hardware, Custom Product or other compatible device provided by SODAQ):

a. good condition and integrity of hardware and software contained in the device;
b. integrity and unchanged condition of the OTAU Module (as provided by SODAQ and) contained in the device;
c. adequate coverage and reception of 2G or LTE-M networks at the location of the device, as well adequate internet connectivity via the 2G or LTE-M networks; and
d. a functioning and adequate power supply.

29.2.   Unless agreed otherwise, the Client is responsible for the quality, integrity and functioning of any over-the-air software update packages installed by using the OTAU Services.

Article 30.   Use of OTAU Services
30.1.   It is forbidden to use the OTAU Services in ways that contravene applicable laws and regulations, or that are otherwise unlawful.
30.2.   The Client will refrain from obstructing other SODAQ clients or causing damage to SODAQ's or third parties' systems or networks. The Client is prohibited from initiating processes or programs of which the Client knows or should know that these may hinder SODAQ or third parties or cause damage.

30.3. The Client represents and warrants that the software updates and other files uploaded or otherwise provided by the Client in the course of its use of the Services, are free of any kind of harmful code or software, such as viruses or Trojan horses.

30.4. The Client may only use the OTAU Services via systems and equipment that comply with current information security requirements. The OTAU Services may in any event not be used via systems and equipment if the (operating) software used on it is no longer maintained by the relevant supplier.

30.5. If SODAQ discovers or is informed by a third party that the Client is violating these General Terms and Conditions, SODAQ may take all reasonable measures to terminate the violation in question. This may result in total or partial blocking of access to the OTAU Services.

30.6. The Client indemnifies and holds harmless SODAQ against any (damage) claims from third parties relating to a breach of this Article 30.

Article 31.   Intellectual Property Rights and licenses for OTAU Services

31.1. All Intellectual Property Rights in relation to the OTAU Services, OTAU Server Software and the OTAU Module will be exclusively vested in SODAQ and/or its licensors. The Client, in this regard, received only the right of use as explicitly provided for in the Agreement.

31.2. The Client will receive the non-exclusive, non-transferable, non-sublicensable and limited right to, for the duration of the Agreement:
   a. install the OTAU Module on any number of compatible devices;
   b. install, access and use the OTAU Server Software on the number of devices specified in the Agreement; and
   c. use the OTAU Services .

31.3. The Client is not entitled to make changes to the OTAU Services, the OTAU module, the OTAU Server Software or any other Materials provided in the course of using the OTAU Services, except as explicitly permitted in writing by SODAQ.

31.4. The Client is not entitled to a copy of the source code of any Material related to the OTAU Services, except:

   a. in cases where the provision of such a copy is prescribed by mandatory law; or
   b. with regard to the OTAU Module and OTAU Server Software, where this is strictly necessary in order to (properly) install and enable the OTAU Services, and only if and to the extent SODAQ has explicitly permitted this in writing. The Client is under no circumstance permitted to retrieve such source code by means of reverse engineering or decompilation.

31.5. SODAQ may take (technical) measures to protect the OTAU Services, the OTAU Module, OTAU Server Software and any other works or Materials provided under the Agreement. If SODAQ has taken such security measures, the Client is not permitted to evade or remove them.

31.6. In the event the Agreement ends for whatever reason, the Client must immediately irreversibly delete all copies of the OTAU Module and OTAU Server Software and provide SODAQ with a confirmation of such deletion in writing.

31.7. The Client represents and warrants that it will not make the OTAU Module and/or OTAU Server Software available to third parties in any way. In the event (the Client suspects) such making available has occurred, it will notify SODAQ of this as soon as possible.

Article 32.   Audit

32.1. SODAQ will at all times have the right to perform an audit in order to verify the Client's compliance with the provisions of Article 31, or engage a third party to do so, taking into account a notice period of five (5) Working Days.

32.2.   Within the context of the audit, the Client will, in accordance with Article 7, provide all reasonable cooperation and give the auditor access to all relevant places and systems as reasonably necessary to determine the Client's compliance with the provisions of Article 31. The auditor will cooperate with all reasonable requests regarding compliance with the prevailing (security) procedures at the location of the Client.

32.3.   If the audit shows that the Client has complied with the provisions of Article 31, the costs relating to the audit will be borne by SODAQ. If the audit shows that the Client has not complied with the provisions in question, the Client will reimburse SODAQ for the costs of the audit, as well as be liable to pay an immediate fine of five (5) times the yearly license fee that would have applied to the Client's actual use of the OTAU Services, without prejudice to SODAQ's other rights and remedies under this Agreement, such as the right to claim damages.

Article 33.   Maintenance, availability and support

33.1.   The provisions of this Article 33 apply only to the extent that they do not conflict with a separate service level agreement concluded between the parties.

33.2.   SODAQ will maintain the OTAU Services and may carry out updates or upgrades. Such updates and upgrades may result in a change in the functionality of the OTAU Services. Suggestions by the Client are welcome, but updates and upgrades will occur on SODAQ's sole discretion.

33.3.   The Client is fully responsible for maintaining the OTAU Server Software on its ICT infrastructure and installing any updates or upgrades as provided by SODAQ. SODAQ cannot be held responsible in the event of downtime or other issues relating to the Client's ICT infrastructure, incorrect usage or incorrect configuration by the Client.

33.4.   Updates and upgrades are rolled out to all clients at a time chosen by SODAQ. Unless it has obtained written permission to do so from SODAQ, the Client may under no circumstances continue to use an old version of the OTAU Services, OTAU Server Software or OTAU Module. The Client will not have any claim to an announced update or upgrade which has not been carried out.

33.5.   SODAQ provides a reasonable level of remote support with regard to the OTAU Services during Office Hours. Such support shall be offered via a helpdesk which can be reached by telephone and by e-mail. The Client will provide its own support to its individual end-users. Requests for support that, in the opinion of the Supplier, should be considered Additional Work (for example because they require the physical presence of a SODAQ employee) will, after approval by the Client, be handled in accordance with Article 6.

33.6.   The time required for responding to notifications and resolving issues may vary. SODAQ shall make every effort to respond to any support request as quickly as possible, but - unless otherwise agreed in the SLA - gives no guarantees in this regard.