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General software rental conditions for the use of smart2i (April 2025)

These General Software Rental Conditions for the use of the software solution *"smart2i - Industry Intelligence"*, a system for the continuous monitoring, permanent recording and analysis of machine, production and quality data (hereinafter referred to as "**smart2i**" or "**Software**") regulate the provision of smart2i for use as a subscription by smart2i (hereinafter referred to as "**smart2i**") for authorized customers (hereinafter referred to as "**Customer**"; smart2i and Customer are hereinafter also referred to individually as "**Party**" and jointly as "**Parties**") (hereinafter referred to as "**Terms of Use**" and together with the quotation also referred to as "**SaaS Contract**" or "**Software-as-a-Service Contract**").

§ 1 Subject matter of the contract and scope of services

The subject matter of these terms of use is the cloud-based provision, subscription and maintenance of the smart2i standard software for analyzing production parameters. The Software is hosted by the security-certified partner company of the Contractor, Ionos SE, Elgendorfer Str. 57, 56410 Montabaur (hereinafter "Ionos SE"). During the term of the agreement, the Customer shall be given access to this software via browser with all Internet-enabled end devices. The Customer's machine-related data stored in the database managed by the software shall remain the property of the Customer even after the end of the term of this agreement.

The details of the modules, signal packages and sensors have been agreed in the quotation. If further modules, signal packages or hardware are required by the Customer over the term of the SaaS Contract, this shall be done via an updated quotation and a subsequent order. These terms of use shall also apply to the adjusted scope of services.

§ 2 Services from smart2i

2.1 Subject of the SaaS subscription

The subject of terms of use is the cloud-based provision and subscription of smart2i, which is provided "as is", i.e. in its current state.

2.2 Operation and hosting

smart2i is operated by smart2i, but hosted in a hardware environment provided by Ionos SE in Germany or the EU. In connection with hosting, the terms and conditions for cloud hosting/infrastructure of Ionos SE apply exclusively. The General Terms and Conditions of Ionos SE are available at https://www.ionos.de/terms-gtc/terms/. The Customer acknowledges that the availability of smart2i is dependent on the availability of Ionos SE

hosting and therefore the Ionos SE T&Cs conclusively regulate the rights and remedies of each party with regard to the hosting of smart2i (in particular including the service level and service availability). The service levels in Annex 1 apply in all other aspects.

2.3 Maintenance and support

The software architecture installed in the cloud is continuously updated and brought up to date by the cloud provider.

The proper functioning of the application is checked at regular intervals. Automated tests ensure the quality of the application. If necessary, the performance of the system is adjusted according to the current requirements.

Trained smart2i personnel are available to the customer by telephone or e-mail during working hours from 8.00 a.m. to 4.00 p.m. to deal with the customer's inquiries. Depending on the complexity of the inquiries, they are either processed at short notice or forwarded to our experts. Annex 2 applies in all other respects.

2.4 Consulting services

All consulting services during the entire term of the contract shall be remunerated separately by the Customer on a time and material basis. This shall be based on the consulting rates valid at the time of performance. smart2i shall adjust these annually to the current price level and the wage costs for corresponding specialist personnel. The Customer shall also expressly bear any travel costs and travel time as well as other expenses in the course of a service/consulting assignment. Consulting services include software training, the creation of customer-specific dashboards and all other services provided by smart2i.

2.5 Training courses

If required, the Customer may order key user training courses from smart2i for a separate fee.

§ 3   Software

The customer rents the contract software in its current version. The features of the software are set out in the respective product description, available at https://www.smart2i.cloud/en/components/produkt-updates.

3.1 IT infrastructure

The basis for installing the IT infrastructure is the smart2i-connect gateway, which receives signals from the machines and systems via OPC UA or MQTT, encrypts them and forwards them to the smart2i-cloud. A smart2i-connect gateway can manage signals from multiple controllers. A smart2i gateway is regionally limited to one location and a maximum volume of 5000 signals. If additional locations/plants are integrated, additional costs will be incurred.

smart2i will provide and connect the smart2-connect gateway.

If the existing control technology does not support OPC UA or MQTT, smart2i shall install a customer-specific PLC solution that can act as an interface between the machines and the smart2i-connect gateway. Remuneration for installation and customization is based on time and effort in accordance with smart2i's standard consulting and service rates.

3.2 Storage & use of signal data outside the rented signal package

The functions of smart2i are limited to the booked signal quantity (in combination with the booked modules) and explicitly to the signals selected by the Customer. The signal package can be extended if required.

"Signals" within the meaning of these terms of use are all information carriers whose information content is intended to be displayed, archived and analyzed.

3.3 Version updates

smart2i is responsible for maintaining the smart2i platform by transferring software corrections (patches), transferring new software versions (after further development or error correction) to the Customer with installation instructions, license fee-free updates to a higher release level (update) and license fee-free updates to a new version (upgrade).

This does not include additional modules that smart2i has developed for the Customer.

smart2i shall inform the Customer at least one week before a version update. The Customer can find an overview of the new functions and adjustments contained in a version update in the web application.

3.4 Customized adaptations

Customized adaptations to the software must be ordered separately and for an additional fee. In the case of version updates or the purchase of additional modules, additional costs will incur for the software maintenance of the customized adaptations, which shall be borne by the Customer. These shall be added to the monthly Subscription Fee as a percentage of the development costs for the customized adaptation.

smart2i has the right to integrate customized adaptations with newer versions into its standard software and to make them available to all of its smart2i customers. In this case, the monthly percentage costs for the customized adaptations shall not incur.

3.5 Dashboards

The data is displayed on personalized dashboards to be created by the Customer in the customer-specific area of smart2i. The dashboards can be customized independently and individually by the Customer. Training and support in the creation of dashboards can be provided by smart2i for a fee on the basis of smart2i's standard consulting and service rates.

3.6 Usage data

Only machine-related data and no personal data is processed via smart2i. The only exception is user login data (name, e-mail and password), cf. section 3.9. The machine-related data of the Customer stored in the database managed by the software ("Usage Data") shall remain the property of the Customer even after the possible end of the term of this SaaS Contract. The Customer grants smart2i the right to collect and use this Usage Data in connection with the use of smart2i by the Customer, including (a) for internal research and development purposes and (b) to identify trends.

3.7 Storage space

smart2i shall provide sufficient storage space for long-term data storage of the recorded signals in smart2i for the duration of the rental relationship, but for a maximum of 5 years.

3.8 Data loss

In the event of data loss (due to an unlikely failure of the cloud, internet connection problems of the customer or other issues that lead to missing data), the customer shall have no claim against smart2i for a complaint, recovery or price reduction. smart2i undertakes to minimize the possible damage, in particular by regularly creating encrypted backups, and to keep the possible loss within reasonable limits with the specialist capacities available to it, as

well as to obtain a prompt rectification of the problem. Encrypted backups are generally created at regular intervals.

3.9 Data access

When using smart2i, personal data (login data) is processed in accordance with the applicable data protection regulations. In this context, we refer to our privacy policy, which can be accessed at any time at https://www.smart2i.cloud/en/data-protection smart2i warrants that unauthorized third parties will not have access to the Customer's stored data. Only authorized employees of smart2i and individual employees of participating companies, such as the cloud provider, who (further-) develop and maintain the software, have access to the stored data for the purposes of the performance of the contract and problem analysis with the Customer.

3.10 Data sovereignty in the event of contract termination

In the event of termination of the contract in accordance with § 12, regardless of which party, the Customer shall not be entitled to the provision of the stored data from the end of the SaaS Contract. The Customer is responsible for exporting all data requested during the term of the SaaS Contract. This can be carried out using various export functions provided in the smart2i software.

§ 4 Availability and service level

With regard to cloud/hosting services, only the availability and service levels of Ionos SE available at www.ionos.de apply.

The system availability consists of that of the cloud provider and the application. The Customer is informed in time of any major planned restrictions such as updates or maintenance.

§ 5 Hardware, material

Systems and machines that are not yet equipped with the necessary hardware or sensors can be retrofitted accordingly.

All costs arising from the retrofitting and modification of sensors shall be invoiced separately to the Customer. A corresponding quotation shall be submitted to the Customer in advance for this purpose. The retrofitting of parts shall be charged separately as described under § 7.

§ 6 Utilization

6.1 Rights of use

The customer is authorized to create up to 50 users within his account and to register them in the system at the same time. If more than 50 users are required, a separate agreement is necessary, which is associated with additional costs. The Customer is responsible for the parameterization of its plants, systems and machines as well as all dashboards etc. designed.

The Customer therefore also bears the risk of loss of this data due to incorrect administration by its users. Restoration of the data by smart2i, if at all possible, shall be subject to the then current daily hourly rate on a time and material basis.

The Customer has the right and the option to export the recorded signal data using the functions provided.

6.2 Permitted use

The Customer shall comply with all applicable laws and regulations and the contractual terms of use for smart2i and is fully responsible for its users' compliance with these laws and regulations. The Customer is responsible for establishing and enforcing terms of use and privacy policies applicable to the use of the SaaS Subscription by its individual users as permitted under these terms of use.

Unless expressly permitted otherwise under these terms of use, the Customer shall refrain from the following measures: (a) reconstructing or otherwise attempting to identify the source code of the smart2i or any part thereof or any trade secrets contained therein, (b) distributing, transferring, granting sublicenses or otherwise making the smart2i (or any part thereof) available for the benefit of any third party, including, without limitation, making the smart2i available (i) through resellers or other distributors or (ii) as an application service provider, service bureau or rental agency, (c) developing modifications or derivative works of the smart2i, (d) reproducing the smart2i, (e) attempting to modify, alter or circumvent the controls and protections for the license within the use of the smart2i, (f) using or transferring the licenses in violation of any applicable laws, rules or regulations, including data protection laws, (g) intentionally accessing, using or making copies of any part of the documentation or smart2i (including its logic and/or architecture and any trade secrets contained therein) in violation of this Agreement, to directly or indirectly develop, promote, distribute, sell or endorse any product or service that competes with smart2i; or (h) remove, conceal or alter any proprietary notices or names, trademarks, service marks, slogans, hyperlinks or other designations contained on any smart2i display screen. The Customer shall not authorize any third party to take any of the foregoing actions.

6.3 Restriction of the right of use

smart2i may suspend the right of use and suspend the provision of the smart2i functions and the associated services with regard to function, number of users or other limitations if the Customer is in default with the payment of the Subscription Fee and does not pay the amount due even after a corresponding reminder with a reasonable deadline set by smart2i.

6.4 Further rights and obligations

All other rights to the software and documentation including the copies remain the property of smart2i or the software supplier. The granting of sublicences is not permitted.

§ 7   Subscription Fee, price composition and price adjustments

7.1 Subscription Fee

The use of smart2i is subject to a Subscription Fee.

The Customer shall pay the remuneration specified in the quotation (hereinafter referred to as "Subscription Fee"). The Subscription Fee consists of a fee for:
- the use of the smart2i web application,
- the smart2i-gateway data interface,
- the signal package booked,
- the necessary cloud storage capacity for the permanent storage of all signals from the start of the rental period,
- data security and backup costs

A smart2i gateway is regionally limited to one location and a maximum volume of 5000 signals. If additional locations/plants are integrated, additional costs will be incurred.

Payment is made monthly, quarterly or annually in advance in accordance with the quotation after receipt of an invoice.

7.2 Price adjustment

smart2i shall adjust the Subscription Fee annually in line with the development of the consumer price index (CPI) of the Federal Statistical Office (Statistisches Bundesamt). The basis is the CPI of the previous year (2021: 104.6). This adjustment is made for the first time in the second year of the SaaS Contract and for all subsequent years with a notice period of 2 months. If the Customer does not agree with the price adjustment, it may terminate the SaaS Contract with effect from the effective date of the adjustment.

7.3 Remuneration for consulting services

All consulting services for the implementation, setup of the software and subsequent consulting during the entire term of the SaaS Contract shall be remunerated separately by the Customer on a time and material basis. This shall be based on the consulting rates valid at the time of performance. smart2i shall adjust these annually to the current price level and the wage costs for corresponding specialist personnel. The Customer shall also expressly bear any travel costs and travel time as well as other expenses in the course of a service/consulting assignment.

§ 8   Warranty period / limitation period

In principle, smart2i is provided "as is" in the current version.

In respect of defective performance (other than hosting, which is subject to the Ionos Terms and Conditions between the parties), smart2i warrants that smart2i, as delivered and when used in accordance with the Contract (i) will perform in all relevant material respects as set out in the product description (subject to the obligations of smart2i under section 2.3 remain unaffected and apply throughout the term of the SaaS Contract), and (ii) does not contain any backdoor, time bomb, trojan horse, worm, timed malware, virus, preventive routine or other computer software routine intentionally designed to enable unauthorized persons to gain access to or use any of the Customer's computer systems ("**Malware**"). With regard to defects of title, the statutory warranty periods shall apply, whereby the Customer must notify smart2i of such defects without delay.

In the event of a breach of the above warranties, smart2i shall, at its sole and absolute discretion, remedy the defects by removal (repair) or replacement free of charge within a reasonable period of time. If a defect cannot be remedied within a reasonable period of time after four attempts with respect to defective performance and after two attempts with respect to defects of title, the Customer shall have the right, at its sole discretion, to terminate the Software-as-a-Service Contract for cause or to reduce the Subscription Fee under this Software-as-a-Service Contract appropriately.

In the event that the Customer integrates third-party software or uses APIs (interfaces) to indirectly integrate the smart2i and/or to download/upload data from or in connection with smart2i and/or to process such data, smart2i assumes no warranty for this. Functional impairments and interruptions resulting from environmental conditions, operating errors, etc. do not constitute defects.
The warranty period for hardware and materials according to § 5 is 12 months from installation of the respective parts.

§ 9   Liability

9.1 Simple negligence

In the event of simple negligence, smart2i shall only be liable in the event of a breach of essential performance obligations or an obligation whose fulfillment is essential for the proper execution of the SaaS contract or on whose compliance the parties may regularly rely or an obligation so essential that the achievement of the purpose of the contract is jeopardized (cardinal obligations). Liability is limited to the reasonably foreseeable damage typical for the contract or 100% of the annual software subscription fee; the lower amount applies in each case. The above liability amount is the result of a damage forecast for typically foreseeable damage for contracts of the same type and quality.

Otherwise, liability for simple negligence is excluded.

In the event of a breach of non-essential obligations, the liability of smart2i shall be excluded in the event of gross negligence on the part of non-executive employees, i.e. simple vicarious agents.

9.2 Disclaimer

smart2i is expressly not liable for any damage

a) due to a loss of data in accordance with § 3.8,

b) that arise as a result of the installation or modification by the Customer of, for example, sensors or other components on the Customer's machine or system,

c) that arises due to improper intervention in the system control by the Customer and lead to consequential damage such as system downtime, loss of production, etc.

9.3 Indirect and consequential damages

smart2i shall not be liable, irrespective of the legal grounds, for production downtime, product losses, loss of profit, loss of use, production rejects (including material input costs), loss of contracts or any other consequential or indirect damage.

9.4 Cases of unlimited liability

The above limitations of liability shall not apply and smart2i shall be liable without limitation, irrespective of the legal grounds,

a) in the event of willful misconduct or gross negligence on the part of smart2i;

b) in the event of injury to life, limb or health;

c) in the event of the assumption of a guarantee within the meaning of §§ 443, 639 BGB;

d) in the event of liability of smart2i under the Product Liability Act.

9.5 Statute of limitations

Claims for damages and reimbursement of expenses in the event of contractual or non-contractual liability shall become time-barred - with the exception of claims under section 9.4 - in one year.

9.6 General maximum liability limit

In principle and irrespective of all of the above, smart2i's liability is generally limited to a maximum of 100% of the annual Subscription Fee.

§ 10   Confidentiality

10.1   General

The parties shall maintain confidentiality vis-à-vis third parties with regard to the data and information communicated or made accessible to it by the other party in whatever form, regardless of content, to use it only for the performance of the SaaS Contract and not to exploit it in whole or in part for its own purposes without the express written consent of the other party. The same applies to data and information that the receiving party has received from an affiliated company within the meaning of the disclosing party pursuant to § 15 et seq. German Stock Corporation Act (Aktiengesetz). Affiliated companies are not third parties within the meaning of this SaaS Contract insofar as they are bound by the provisions agreed herein or similar confidentiality obligations.

10.2   Exceptions

The above obligations do not apply to data and information that verifiably

a) belong to the state of the art or are or become generally known to the public or subsequently become publicly known through no fault of the receiving party,

b) the receiving party received from third parties who were not bound to secrecy/confidentiality,

c) already possessed by the receiving party at the time of disclosure or which are developed by the receiving party independently of the data and information received,

d) must be disclosed by the receiving party in the context of judicial or administrative proceedings based on a legal standard. To the extent possible, the receiving party shall give the disclosing party reasonable advance written notice of the foregoing obligation to disclose and shall provide all assistance necessary to protect its data and information concerned.

10.3   Registration of property rights

smart2i reserves the right to register the data and information provided to the other party for protection and also reserves all other rights thereto (including other industrial property rights and

copyrights). The disclosure of data and information does not include the right for the other party to register them for protection. Disclosure is also not associated with the granting of license rights.

10.4 Commitment of employees

The parties guarantee that their employees - insofar as they obtain or may obtain knowledge of the data and information received - are or will be obliged to maintain the same confidentiality as agreed herein. The obligations of the parties under this agreement remain unaffected.

§ 11 Data protection and data security

The parties undertake to comply with all applicable data protection regulations, in particular the European General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG), in the performance of this SaaS Contract. In order to regulate further rights and obligations for the protection of personal data, the parties shall enter into separate data protection agreements, in particular an agreement on commissioned data processing, if necessary.

Breaches of confidentiality and data protection are excluded from the limitation of liability.

§ 12 Term and termination

12.1 Trial period at special conditions

The parties have agreed a trial period with special conditions in the quotation. At the end of the trial period, smart2i may block access to smart2i at any time. The Customer may terminate the SaaS Contract at any time during the trial period.

12.2 Term, termination for convenience

The SaaS contract begins with the return of the signed order confirmation to smart2i and has an indefinite term. The SaaS contract can be terminated by either party with a notice period of one month to the end of the month.

12.3 Termination for cause

The right of both parties to terminate the contract for good cause remains unaffected. Good cause shall be deemed to exist if there are facts on the basis of which the terminating party can no longer reasonably be expected to continue the contractual relationship after taking into account the interests of both parties.

Good cause entitling one party to terminate the contract exists in particular,

a) if one of the parties culpably breaches a material provision of the contract and fails to remedy this breach in a timely manner to the extent required

by § 314 BGB despite a written warning from the other party;

b) if the financial circumstances of the other party have deteriorated since the conclusion of the SaaS Contract, so that this party cannot fulfill its contractual obligations or cannot fulfill them in full, in particular if this party suspends its payments or services, if execution is levied against its assets or if insolvency proceedings or other judicial or extrajudicial proceedings serving to settle the debt are or are initiated against its assets.

12.4 Written form

Notice of termination require written form.

12.5 Deletion of data

smart2i confirms that the obligation to archive data for the active term of the SaaS Contract is its sole responsibility and that the Customer may perform a data export in the meantime. Upon expiry of a period of 30 days after the termination/cancellation of the SaaS Contract or upon written request by the Customer – whereby the earlier date shall be decisive – smart2i shall irrevocably delete all data of the Customer and confirm the deletion, subject to statutory archiving obligations.

§ 13 Final provisions

13.1 The place of performance for delivery and payment is Bielefeld.

13.2 If the parties cannot reach an amicable agreement, all disputes arising from or in connection with the SaaS Contract shall be decided in accordance with the law of the Federal Republic of Germany. The application of the Uniform Law on the International Sale of Goods and the UN Convention on Contracts for the International Sale of Goods is expressly excluded. The exclusive place of jurisdiction is Bielefeld.

13.3 The General Terms and Conditions of Sale of smart2i, available at https://www.smart2i.cloud/en/tcs, shall apply in addition.

13.4 The assignment and pledging of the Customer's rights under this SaaS Contract requires the prior written consent of smart2i.

13.5 The quotation and these terms of use contain the complete agreement between the parties with regard to the subject matter of the subject matter. No ancillary agreements have been made.

13.6 All declarations, notifications etc. to be issued in accordance with these terms of use must be made in writing and signed by both parties. This also applies to any waiver of the written form requirement.

13.7   Should individual provisions of these terms of use be or become invalid, the invalid provisions shall be replaced by valid provisions that come closest to the meaning and economic purpose and the intentions of the parties as they result from the provisions of these terms of use as a whole.

Annex 1 – Service Levels

smart2i will be available for the agreed availability. "Agreed availability" means the availability of the software of at least 99% during a calendar month. Excluded from the agreed availability are:

- Downtime at the host provider.

- Any planned downtime of the software that is announced to the customer in advance in writing (e-mail is sufficient).

- Any emergency downtime of the software that does not exceed 4 hours. smart2i will use commercially reasonable efforts to notify the Customer in writing (e-mail is sufficient) at least 48 hours in advance of any emergency downtime.

- Any period of unavailability lasting less than 15 minutes, provided that such a 15-minute period of unavailability does not occur more than once per calendar day.

- Any unavailability of the software caused by (i) a force majeure event, (ii) hardware, software, systems, networks or internet infrastructure not directly owned or controlled by smart2i, (iii) network intrusion or denial of service attacks.

Annex 2 – Support conditions

1. A. Definitions:

    "**Fix**" means a software patch or workaround for a bug.

    "**Support hours**" are Monday to Friday, 8:00 a.m. to 4:00 p.m. (CET), excluding public holidays in [North Rhine-Westphalia] and December 24 and 31 (support-free days).

    "**Release**" means a further development of the version number. A release offers significant improvements and includes changes to the basic structure of the software, including, by way of example only, the inclusion of additional features, functions and bug fixes in the software.

    "**Update**" means a further development of the software. An update offers minor changes that do not significantly change the basic character or structure of the software or correct errors or defects in the software.

    "**Support**" means e-mail and telephone support services in relation to errors in the software and the provision of fixes.

2. Services covered by the support services:

    (a) E-mail and telephone support for all technical problems relating to errors in the software as described below;

    (b) Error correction as set out below;

    (c) Provision of all releases and updates as soon as they are available.

    The manner in which an error is corrected is at the sole discretion of smart2i.

3. Error correction:

    smart2i shall provide support services for each reported and reproducible error in the software with an effort appropriate to the severity, as described in more detail in this Annex 2. Upon discovery of an error, the customer shall (i) immediately inform smart2i of the error in writing and (ii) provide smart2i with the necessary information to correct the error. smart2i is not responsible for the correction of errors that are not attributable to the software itself.

    smart2i will respond to all errors reported by the customer in accordance with the response times specified below. The priority is determined by smart2i on the basis of the information provided by the customer to smart2i.

Severity level	Description of error	Response time during support hours
Priority 1: **Emergency**	Priority 1 is reserved for serious errors and for urgent problems with the software due to errors.	4 hours
Priority 2: **Critical**	Priority 2 applies to critical problems in the operation of the software that do not cause a total failure or to problems that impair the software.	10 hours
Priority 3: **Normal**	Priority 3 applies to all other cases or problems that the customer may encounter with the software.	20 hours