

## SOFTWARE SERVICE TERMS

The terms set out herein apply for all use of software-services as granted to a Customer as set out in a valid and binding Order Confirmation as issued by El-Watch in accordance with the General Terms and Conditions to which these Software Service Terms is attached.

The General Terms and Conditions, these Software Service Terms and accompanying Service Level Agreement constitute the entire agreement between the Parties with respect to the use of the Service and is herein jointly referred to as the "Service Terms". Unless explicitly amended in the Order Confirmation these terms shall prevail in the event of any inconsistencies with the General Terms and Conditions or other agreements between the Parties.

### 1 SCOPE OF SERVICE

- 1.1 Conditional upon the compliance with the Subscription Terms, the Customer is granted a non-exclusive, non-transferrable access to the Service, which includes the following deliverables to be provided by El-Watch and/or El-Watch partners:
- a) Access to the Service within the agreed scope of use as set out in the Order Confirmation for the term of the Agreement.
  - b) Hosting of applications and the Customer's data associated with said applications.
  - c) Assistance to the Customer's designated data administrators on issues and questions related to the use of the Service, as well as support in the event of defects, malfunctions, or other service impairments in accordance with the Service Level Agreement.
  - d) Updates and improvements of the Service for the benefit of the Customer made available by El-Watch during the term of the Agreement.

### 2 INSTALLATION/SET UP AND BASIC TRAINING

- 2.1 El-Watch is responsible for establishing the required user access to the Service for the designated number of users with administration privileges. It is the responsibility of the designated

administrator(s) to establish access to the Service based on the configuration tools provided through the Service.

The Customer is responsible to ensure that all passwords and log-in credentials comply with any applicable password or security policies of the Customer and are kept secret and that such information shall not be distributed to any unauthorized third parties.

- 2.2 On-site training and similar services specific to the needs of the Customer will be available upon request and on terms to be separately agreed.

### 3 RESTRICTIONS ON USE OF THE SERVICE

- 3.1 The Customer shall not use the Service to, or attempt to, violate or circumvent the security of any computer network, passwords, software, encryption measures or other protection measures.
- 3.2 El-Watch reserves the rights to, in its sole discretion, suspend or otherwise disable the Service or access to the Service or content hosted on behalf of the Customer if El-Watch deems it necessary for security or technical reasons, e.g. (but not limited to) events of unauthorized third-party access, security attacks and breaches, distributed denial-of-service attacks or other events that may possibly harm El-Watch, the Service or the Customer.

### 4 HOSTING AND CONTENT MANAGEMENT

- 4.1 El-Watch is, conditional upon the Customers compliance with the terms set out in the foregoing section 3, responsible for storage and management for data and content uploaded by the Customer or otherwise associated with the Customers use of the Service during the preceding 12 months of use.
- 4.2 El-Watch will maintain a backup of Customer application data for recovery in the event of data loss of data and content hosted by El-Watch, ref section 4.1. However, El-Watch assumes no liability for loss or damage associated with loss of data,

hereunder incomplete or insufficient backup of application data.

Notwithstanding the foregoing, the Customer is advised to establish and maintain internal backup and recovery systems to ensure the integrity of the data uploaded through the Service if the data is considered business critical, hereunder for storage of historical data that will otherwise be deleted by El-Watch pursuant to section 4.1.

## 5 CUSTOMER SUPPORT

Terms and conditions for access to support and maintenance services are governed by the Service Level Agreement entered into by and between the Parties, ref [Appendix 1](#).

## 6 UPDATES, UPGRADES

El-Watch will work towards updating and improving the Service during the term of the Agreement for the benefit of the Customer. Updates will be provided to the Customer through service updates at the discretion of El-Watch if and when updates are available. Any and all service responsibilities of El-Watch hereunder, including the Service Level Undertakings, is expressly conditional upon that the Customer implements all mandatory service and platform updates.

Maintenance and updates/upgrades will be planned and executed to ensure minimum interruption to the Service and El-Watch will, if possible, provide information in advance of any Service outages or other adverse consequences for Customers.

## 7 FEES AND PAYMENT

The agreed fee for the Service is stated in the Order Confirmation, whereas payment for the initial term shall be made by the Customer prior to being granted access to the Service. The fee is excluded sales tax or similar that might be applicable for sales in the Customers jurisdiction.

The fee includes all services outlined in the Order Confirmation unless otherwise agreed separately, which typically apply for any additional services requested by the Customer and identified in the Order Confirmation as payable services.

In the event of non-payment, El-Watch reserves the right to suspend the Service up until full payment has been made. If the Customer fails to make payment by the agreed time, El-Watch shall be entitled to claim interest on any overdue amount, pursuant to the Act No. 100 of 17 December 1976 relating to Interest on Overdue Payments, etc. (Late Payment Interest Act).

Applicable rates and fees may be adjusted as per the beginning of every calendar year, with an amount that shall not exceed the increase in the retail price index ("Konsumprisindeksen") of Statistics Norway.

However, any increased in costs by third party services associated with the provisioning (telecommunication, payment services, storage and hosting etc.) could, upon written notice from El-Watch, result in an increase of fees corresponding to the documented cost increase for such third-party services.

## 8 TERM AND TERMINATION

8.1 This Agreement enters into force on the date of signature and is valid for a [12-month term] unless otherwise indicated in the Order Confirmation. If the Agreement is not expressly terminated in writing by the Customer more than 3 months prior to the expiry of a contract term, the Agreement is automatically extended for an additional [12-month term].

8.2 The Customer is free to terminate the Agreement at its convenience, with a [90] day written notice, during a contract term, but fees paid are non-refundable. [El-Watch can terminate the agreement with [180] days' notice written notice to the Customer.]

8.3 If the Service fee is based on number of sensor- or data points under the control of the Customer, the Customer can discontinue use of one or more sensors and will not be invoiced for the discontinued sensors or data points effective from the following payment term.

8.4 Both Parties can terminate this Agreement with immediate effect upon material breach by the other party if such breach is not remedied within 10 days after its occurrence and that the non-breaching Party has provided written notice of such breach to the other Party.

8.5 Upon termination of the Agreement for whichever reason, the Customer will have access to download application data in the format in which El-Watch has hosted it. Upon download of the data, the material shall be permanently deleted from the Service unless El-Watch is subject to regulatory requirements to store such data for an additional period after termination. Further, the access rights for the Service will be terminated accordingly, which will also apply for any third Party using the service for applications created by the Customer through use of the Service.

Notwithstanding the foregoing, El-Watch will, upon request by the Customer, be available for providing migration/transition services on commercial terms to be agreed.

**9 OWNERSHIP TO INTELLECTUAL PROPERTY IN AND RELATED TO THE SERVICE**

9.1 El-Watch retains all ownership and intellectual property rights in and to the Service, hereunder its trademarks, design and visual presentations as well as the software tools and components included in the Service used for creation of the Customer’s application(s) and any improvements and modifications thereto.

9.2 The Customer’s rights to the Service are granted for its own use and the Customer shall not sell, assign or otherwise redistribute or use the Service for the benefit of third parties unless expressly stated herein or otherwise agreed with El-Watch.

**10 OWNERSHIP TO DATA AND RESULTS FROM USE OF THE SERVICE**

The Customer retains any and all rights and ownership to all data generated by the Customer and hosted through the Service unless the use of the Service for its intended purpose requires that data is provided to third Parties. This includes user-generated data (e.g., datasets stored in databases linked to the Service).

El-Watch is free to utilize the Customers data for the purposes of further development and improvements of the Service, including a right to utilize anonymized data, individually or in data aggregates, in and for new products and services etc.

**11 PERSONAL INFORMATION**

El-Watch will take all reasonable steps to ensure the integrity and security of any personal data and information hosted on the Service in accordance with applicable law and regulations. El-Watch will not disclose or grant third parties access to any such personal data for any purpose, and will not itself use such data for any other purpose, commercially or otherwise, than what is required to provide the Service hereunder. However, El-Watch will aggregate anonymous statistics and pattern analysis of use, including application data defined in the foregoing section 10, and is free to use the results of such statistics for commercial purposes.

The roles and responsibilities of El-Watch with respect to processing of personal data is otherwise governed exclusively under the terms of a separate Data Processor Agreement entered into with the Customer upon commencement of the Service.

**12 WARRANTIES - LIMITATION OF LIABILITY**

12.1 El-Watch warrants and represents that the Service will be provided consistent with the technical and functional specifications provided at the time of commencement of the Service. The warranty is limited to software flaws or errors, i.e. where the Service fails to perform in accordance with the specifications provided by El-Watch and where such failure is not the result of incorrect use on part of the Customer. Improvement areas and requests for changes or amendments of functionality in the Service does not constitute a flaw or error for which El-Watch is responsible.

12.2 As the sole remedy in the event of a software flaw or error, El-Watch will – upon having received a notification of non-conformity from the Customer - use all reasonable efforts to remedy the defect(s) to ensure the uninterrupted operations of the Services. Procedures for service inquiries, response times etc. is governed under the Service Level Agreement.

12.3 Notwithstanding the foregoing, El-Watch cannot guarantee that the Service will be performed error-free or uninterrupted or that El-Watch will be able to remedy errors or defects that occur in the Service. The Customer accepts and acknowledge that El-Watch does not control transfer of data over communication facilities and that the

Service may be subject to limitations, delays and other problems inherent to the use of such communication facilities. Further, in the event of unforeseen storage and access volumes and other extraordinary circumstances, the Service could be temporarily inaccessible or interrupted. Information of such services outages will generally be made available to the customers.

El-Watch is not in any event responsible for delays, delivery failures or any other loss or damage related to such problems.

12.4 Any and all liability for El-Watch under, or related to, the Service is expressly limited upward to an amount equal to the fee paid by the Customer for access to the Service over the last 3 months prior to the occurrence of the liability event.

12.5 The Customer shall hold El-Watch harmless from any damages, third party claims or liability resulting from the Customer's use of the Service that constitutes a violation of the Customer's obligations set out in this Agreement or the Subscription Terms.

### 13 GENERAL

13.1 The Parties are obliged to treat as confidential all information, know-how, other confidential material and any other information or material which is of such a nature that it should be considered confidential, and which is disclosed to the other party through business activities regulated by this Agreement.

This obligation applies to all staff and other personnel acting on behalf of the Parties in connection with this Agreement. Both Parties are obliged to take necessary precautions in order to avoid information or any other material being disclosed to others in violation of these regulations. These obligations survive the completion of this Agreement or any other termination. Employees or other personnel working for any Party that resign shall be obliged to secrecy also after their resignation.

13.2 Without prejudice to El-Watch's responsibilities with respect to confidential treatment of data and content of the Customer, the Customer accepts that the existence of the Agreement and the identity of the Customer can be used by El-

Watch as a reference in marketing materials and other promotion.

13.3 This Agreement is governed by the substantive laws of Norway and any and all disputes related to Agreement are subject to the exclusive jurisdiction of Sør-Trøndelag tingrett (municipal court).