



## Platform Terms of Use – Applicable for Australian Customer

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Security and Safety Things GmbH, Sendlinger Straße 7, 80331 Munich, Germany, ("**S&ST**") operates an IoT platform for security camera systems under [www.securityandsafetythings.com](http://www.securityandsafetythings.com) where different stakeholders, such as system integrators, application developers, camera manufacturers, distributors, VMS vendors and end customers ("**Customer**") can access and use different Service Offerings among other things a Device Management Portal, a Developer Environment, a Manufacturer Portal and an Application Store for security camera systems ("**Platform**"). In the Application Store Customer can order specific software applications ("**Products**") which are developed and provided by different application developers ("**Third Party Providers**"). These terms of use ("**Terms of Use**") govern exclusively the legal relationship between S&ST and the Customer, or the entity the Customer is representing, regarding the access to the Platform and the use of Service Offerings.

S&ST operates the Platform for businesses only and does not accept Consumers within the meaning of § 13 of the German Civil Code as Customers.

### 1. Definitions

**Account** means the access authorization to the Platform and the Service Offerings.

**Access Credentials** are used to control access to an Account and consist of a user ID and a password only known by the Customer. A Customer can create further Users with access to the respective Account. These Users will each have an individual user ID and password.

**Affiliate** shall mean an entity that controls, is controlled by, or is under common control with a Party to these Terms of Use, where "control" means the direct or indirect holding of more than 50% of equity ownership or voting rights.

**Application Store** means the IoT marketplace for security camera systems under [www.securityandsafetythings.com](http://www.securityandsafetythings.com) where Customer can order specific Products and Trial Products provided by Third Party Providers.

**Content** means all information available via the Platform and the Service Offerings, such as software (including machines images and source code), software functionalities, APIs, data, text, audio, video or images, including documentation; sample code; software libraries; command line tools; proofs of concept; templates; and other related technology.

**Consumer** within the meaning of § 13 of the German Civil Code means every natural person who enters into a legal transaction for purposes that predominantly are outside their trade, business or profession.

**Customer** means the legal entity that is the owner of an Account.

**Customer Content** means Content that a Customer transfers to S&ST in connection with the access to the Platform, the use of Service Offerings and the Account for processing, storage or hosting. Customer Content also includes Registration Data.

**Developer Environment** contains two components

- (a) the Developer Portal where necessary information for the development for applications can be obtained (e.g. documentations, resources) as well as
- (b) the Developer Console which allows uploading and managing applications listed in the Application Store.

**End User** means any individual or entity that directly or indirectly through another Customer accesses or uses Customer Content. The term "End User" does not include individuals or entities when they are accessing or using the Platform and the Service Offerings or any Content under their own Account. In this case the individual or entity is considered as a Customer.

**Device Management Portal** means the environment in which devices can be administered, supervised and operated

(e.g. camera health monitoring, organizing of cameras, and management of applications).

**Listing** means the offering of a Product via the Application Store.

**Manufacturer Portal** means the environment where information about the S&ST Operating System is made available. This comprises general information about the technology and requirements, version releases and other technical documentation to support porting of the S&ST Operating System onto devices.

**Ordering/ Subscription** means the agreement entered into via the Application Store regarding a specific Product.

**Platform** means the S&ST Ecosystem under [www.securityandsafetythings.com](http://www.securityandsafetythings.com).

**Product** means any software, software functionality, service or other product that is made available via the Application Store for Ordering.

**Product Fee** means the fee, if any, defined by the Third Party Provider, associated with the Ordering of a Product via the Application Store.

**Provider** means the respective provider of a Product and the contractual partner of the Customer with regard to Ordering via the Application Store.

**Service Offerings** means the services and functionalities accessible through the Platform among other things the Device Management Portal, the Developer Environment, the Manufacturer Portal, the Application Store and information, products or services provided by S&ST under these Terms of Use. Service Offerings do not include Products and Third Party Content governed by separate Terms of Use.

**Support** means any helpline, professional and/or maintenance service, among other things consulting services or removal of defects.

**Supported Countries** means the listed countries under: <https://support.securityandsafetythings.com/hc/en-us/articles/360043913854-Which-countries-are-currently-supported->, where Customer can have full access to the Platform and its Service Offerings.

**Third Party Content** means Content made available to Customer by a third party other than S&ST on the Platform or in conjunction with the Products. Third Party Content includes Products offered by Third Party Provider via the Application Store.

**Third Party Provider** means a third party other than S&ST that provides Content on the Platform under its own name and own Account.

**Trial Products** means Products that can be tested for a Trial Period as further detailed out in Section 7.

**User** means any individual or legal entity with Access Credentials under an Account of the Customer.

## 2. Scope of Terms of Use

- 2.1 S&ST provides access to the Platform and use of the Service Offerings exclusively on the basis of these Terms of Use.
- 2.2 An individual, representing the Customer when entering into this agreement, warrants to S&ST, that he is lawfully able and has the capacity to enter into contracts (e.g. he is not a minor) and that he has legal authority, permission, resolution or power of attorney to bind the Customer. The representative further warrants, that the Customer is duly organized, validly existing and in good standing under the laws of the country in which it is organized or incorporated.
- 2.3 Any other provisions, in particular any general terms and conditions of the Customer, shall not be effective.
- 2.4 Contractual declarations and notifications to be given by the Customer after execution of an agreement (such as setting of deadlines, notification of defects, and declaration of withdrawal or reduction) must be provided in writing (e.g. email, letter) to be effective.
- 2.5 Individual contracts concluded with the Customer (including collateral agreements, addenda and amendments) in a specific case shall without exception take precedence over these Terms of Use. A written contract or written confirmation from S&ST is required for the content of such agreements to be valid.
- 2.6 S&ST is entitled to commission any service from third parties (including affiliates of S&ST) acting as subcontractors.
- 2.7 The Listing of Products by a Third Party Provider in the Application Store is not in the scope within these Terms of Use and requires the acceptance of the document titled Additional Conditions for Third Party Providers under

<https://info.securityandsafetythings.com/hubfs/AdditionalConditionsThirdPartyProvider-AU.pdf>.

### 3. Compliance with Laws and Regulations

- 3.1 Customer may access the Platform and use the Service Offerings in accordance with these Terms of Use.
- 3.2 Customers' access to the Platform and the use of the Service Offerings must comply with all applicable laws, including copyright or trademark laws, antitrust and competition laws, export control laws, data protection laws, or other laws in any applicable jurisdiction and does not conflict with any agreement that the Customer has signed with a third party. Customer is responsible for making sure that its access to the Platform and the use of Service Offerings is in compliance with the applicable laws and regulations.
- 3.3 Customers' access to the Platform and the use of the Service Offerings must comply with the principles of the UN Global Compact Initiative relating basically to the protection of international human rights, the right to collective bargaining, the abolition of forced labor and child labor, the elimination of discrimination when personnel is engaged and employed, the responsibility for the environment and the prevention of corruption. Further information on the UN Global Compact Initiative is available at: <https://www.unglobalcompact.org/what-is-gc/mission/principles>.

### 4. Service Offerings

- 4.1 Full access to the Platform and its Service Offerings is only available in the following Supported Countries: <https://support.securityandsafetythings.com/hc/en-us/articles/360043913854-Which-countries-are-currently-supported>. Customer understands and agrees that any user of Customer's product has to be located in a Supported Country, in order to register and get full access to the Platform and its Service Offerings. Without full access to the Platform and its Service Offerings, Customer can only use the Service Offerings in a limited way.
- 4.2 The access to the Platform and its Service Offerings requires a Registration (as that term is defined in Section 5). Registration is only possible if the Customer is located in a Supported Country at the time of their Registration.
- 4.3 The Platform is a platform with various Service Offerings via which a Customer can, inter-alia, get support for the development and the publication of applications, manage their devices and deploy applications to their devices. The functionalities depend on the role under which the Customer is registered ("Developer", "Integrator" or "Device Manufacturer").
- 4.4 Third Party Content is made available to the Customer by any Third Party Provider and may be used by Customer at Customer's own choice, in particular when Ordering Products via the Application Store. Third Party Providers offer Third Party Content in their own name and on their own Account. Third Party Content may be governed by separate terms and conditions which may include separate fees and charges.
- 4.5 As far as the Platform and the Service Offerings are provided free of charge, they are provided on an "as is" basis. Therefore, subject to clause 15.1 and to the maximum extent permitted by law, there are no warranties and there is no right to access or use the Platform and the Service Offerings without interruption. S&ST does not and cannot warrant that the access to the Platform and the use of Service Offerings will not be impaired by downtime, maintenance activities, further developments, updates and upgrades or malfunctions. S&ST will use reasonable efforts to ensure that the Platform and the Service Offerings are as user-friendly as possible. Technical malfunctions (e.g. interruption in the electricity supply, hardware and software errors, and technical problems in the data lines) also can, however, give rise to temporary restrictions or interruptions.
- 4.6 S&ST shall store and regularly back up Customer Content for the duration of these Terms of Use. The Customer is solely responsible for compliance with mandatory record retention periods for financial accounting and tax purposes.

### 5. Account, Users and Notices

- 5.1 In order to access the Platform and use the Service Offerings Customer must provide certain information required by S&ST to open an Account ("**Registration**").
- 5.2 The data requested by S&ST at the time of Registration must be stated completely and correctly, e.g. company name, current address, valid ABN (Australian Business Number), telephone number, valid e-mail address and a representative's name ("**Registration Data**"). The Registration of a legal entity may only be carried out by an authorized individual, who must be mentioned by name.

- 5.3 By submitting Registration Data, Customer is making S&ST an offer to conclude a contract based on these Terms of Use. After submitting the Registration Data, these are validated by S&ST for completeness and plausibility. If the Registration Data is correct, S&ST shall decide on whether to accept Customer's offer at S&ST's own discretion. If Customer's Registration is not confirmed by S&ST by e-mail to the e-mail address provided by Customer within a reasonable time, Customer shall no longer be bound by Customer's offer. If an e-mail confirmation from S&ST is received by Customer within this time frame, an open-ended user relationship shall be established on the basis of these Terms of Use and Customer shall be entitled to use the Platform and the Service Offerings in accordance with these Terms of Use.
- 5.4 S&ST reserves the right to refuse to open a Customer's Account, in particular if there is a legitimate reason to believe that the Customer will not act in accordance with these Terms of Use or applicable law.
- 5.5 Customer is entitled to create multiple Users under an Account. Each User shall be given individual Access Credentials. Customer represents and warrants that all Users will abide by these Terms of Use in their then current version or any subsequent new version and that all Users shall duly act on behalf of Customer and in compliance with any applicable law. By creating a user, Customer accepts responsibility for the acts and omissions of any User as if they were Customer's own acts and omissions. In particular, Customer is responsible for Customer's Users' compliance with the obligations set out in Section 9.
- 5.6 All notices will be sent in electronic form to the email address associated with the Account.
- 5.7 Customer is liable for all activities performed under Customer's Account.

## **6. Application Store, Payment, Obligations in Electronic Commerce and Reviews**

- 6.1 In the Application Store the Customer can order specific software applications ("**Products**") which are developed and provided by different application developers ("**Third Party Providers**").
- 6.2 The Ordering of Products via the Application Store is governed by separate terms and conditions provided by Third Party Providers during the order process.
- 6.3 The Listing of a Product via the Application Store does not constitute a binding offer. Only the Ordering of Products by the Customer is a binding offer by the Customer. The contractual relationship is established when the Customer receives a confirmation e-mail about the acceptance of the offer.
- 6.4 The fee for the Product ("**Product Fee**") is based on the respective price list of the Third Party Providers displayed during the order process and can be changed at any time based on the decision of the Third Party Provider. All Product Fees are in Euro (EUR) or US Dollar (USD) based on the Customer's country of registration and shall be exclusive of VAT or any other tax of a similar nature in whatever jurisdiction, which may be substituted or levied in addition to it. Any such VAT or similar tax shall be charged in accordance with the relevant regulations in force at the time of making the supply. Customer shall (against the production of a valid tax invoice) pay, in addition to sums due, any VAT or other sales or similar tax due at the current rate.
- 6.5 Due to statutory VAT provisions and for VAT purposes only, S&ST will issue the invoice to the Customer in its own name but on the account of Third Party Provider. Invoices and other financial documents will be made available to Customer in compliance with local regulatory requirements. For the majority of Customers, this will be via their Account as a download and not sent by Email. Only for those countries where other forms on invoicing are required by law will other forms be used (e.g. paper invoice).
- 6.6 Payments will be made free and clear of any deduction or withholding of taxes, as may be required by law. If any such deduction or withholding of taxes (including but not limited to cross-border withholding taxes) is required on any payment, Customer will pay such additional amounts as are necessary so that the net amount received is equal to the invoiced amount.
- 6.7 Payment can be made by credit card or by SEPA credit transfer.
- a) Credit card payment: credit card payment will be processed by the contracted payment service provider Stripe Payments Europe, Ltd. 1 Grand Canal Street Lower, Dublin 2, Ireland ("**Stripe**"). The following credit cards can be used for payments: VISA, MASTERCARD, AMERICAN EXPRESS. The invoice amount will be charged immediately after placing an Ordering via the Application Store. The Customer must ensure sufficient funds in the provided bank account. If applicable, Customer has to bear costs which arise as a result of a chargeback of the payment transaction due to insufficient funds in the provided bank account or due to incorrect bank account data transmitted by the

Customer. If payment fails, the Customer acknowledges that all received technical licenses will become invalid immediately.

- 6.8 b) SEPA credit transfer: S&ST reserves the right not to offer payment by SEPA credit transfer in individual cases and to limit the amount up to which an ordering via payment by SEPA credit transfer is possible. This limit applies to the entire customer account and also takes into consideration outstanding amounts from previous invoice orders. Payment is due immediately after placing the order and is payable according to the payment term stated on the invoice. If the payment term is exceeded a default interest in the amount of 8 percent above the respective base interest rate p.a. shall accrue.
- 6.9 The following general obligations in electronic commerce do not apply to the order of Products via the Application Store:
- a) provision with reasonable, effective, and accessible technical measures with the help of which the Customer may identify and correct input errors prior to making their order according to § 312i para. 1 sentence 1 no. 1 German Civil Code;
  - b) communicate to the Customer clearly and comprehensibly the information specified in Article 246c of the Introductory Act to the Civil Code in good time prior to sending their order according to § 312i para. 1 sentence 1 no. 2 German Civil Code; and
  - c) confirmation of the receipt of the order without undue delay according to § 312i para. 1 sentence 1 no. 3 German Civil Code.
- 6.10 S&ST is only providing Customer support regarding errors or issues associated with the Platform and the Service Offerings. Third Party Provider is solely responsible for all errors or issues associated with a Third Party Product or for providing all Customer support for their Third Party Product.
- 6.11 Customer is entitled to review and rate the Product after it was ordered. Customer is obliged to provide objective and accurate information in the submitted reviews. Reviews are most helpful when they provide unbiased information. Therefore, the posting of reviews for own Products that a Customer might offer in the Application Store as a Third Party Product is not allowed, nor is it allowed to review and rate a Product to promote it against compensation. The reviews are not examined by S&ST and may be inaccurate or misleading. Any review manipulation, which is any attempt to artificially increase or lower a rating score, is not allowed. S&ST reserves the right to remove any review in case of a breach of the foregoing provisions. In case Customer or Third Party Provider detect any review and rating manipulation, they shall contact [S&ST](#) and report the infringement.

## 7. Trial Products

- 7.1 Third Party Provider might offer Trial Products for test purposes which Customer can use free of charge for a limited period of time (“**Trial Period**”). Third Party Provider will label Trial Products in an appropriate form, e.g. as “Trial Product”, “Demo Version”, “Beta Version”, “Limited Use” or “Free”.
- 7.2 Trial Products shall be used for trial purposes only and are not intended for any resale, production or any other commercial use. Customer is not entitled to an uninterrupted or error-free use of the Trial Products. Apart from Trial Products that are already ordered, S&ST and Third Party Provider may discontinue Trial Products at any time, without notice and may decide to never make Trial Products available as a full version of Product. Trial Products cannot be converted into full versions of Products after Trial Period. Full versions of Products need to be ordered and installed separately.

## 8. Third Party Content

- 8.1 The Content of the Platform and the Service Offerings is comprised partly from S&ST Content and partly from Third Party Content. S&ST does not carry out an examination for completeness, correctness and legality in Third Party Content and does not adopt it as its own. In particular, S&ST does not carry out any inspection of the safety aspects related to Third Party Content. This also applies to the quality of Third Party Content and its suitability for a specific purpose, and also, as far as Third Party Content is linked to external websites, which may possibly be viewed through framing.
- 8.2 Products are made available to the Customer by Third Party Providers via the Application Store. Third Party Providers offer Products in their own name and on their own Account. When Ordering a Product offered by Third Party Provider, the Customer enters into a contractual relationship with the respective Third Party Provider. Third Party Providers therefore are solely responsible for such Products. S&ST is not the contractual partner and therefore accepts no

responsibility or warranty for the Products of Third Party Providers. S&ST is also not an agent of any third party.

- 8.3 Notwithstanding the provisions in Section 8.1 and 8.2, due to statutory VAT provisions and for VAT purposes only, S&ST is treated as taking part in the transaction between Third Party Provider and Customer regarding the Ordering of a Product via the Application Store. Thus, S&ST is treated as acting in S&ST's own name but for the account of Third Party Providers (fiction of a commissionaire structure for VAT purpose). To the extent permitted by applicable indirect tax legislation S&ST will issue self-billing invoices to the Third Party Provider and the Third Party Provider hereby agrees on receiving self-billing invoices. In case issuing self-billing invoices is not permitted by applicable indirect tax legislation, upon request of S&ST, Third Party Provider has to issue an invoice to S&ST without undue delay. It will be incumbent on S&ST ("Obliegenheit") to issue the respective invoice to the Customer.
- 8.4 Notwithstanding the provisions in Section 8.1, S&ST will, at its sole discretion, examine legitimate notices of infringements of these Terms of Use, or of any unlawfulness or inaccuracy of Third Party Content and, where applicable, take appropriate actions to end this unlawful condition. In particular, S&ST will remove unlawful or offensive Third Party Content, after S&ST becomes aware of it.

## 9. Customer's Duties

- 9.1 Customer is obliged to promptly provide reasonable cooperation required from them. Therefore Customer is:
- a) obliged to immediately change all initial passwords which are assigned to him into passwords known only to the Customer. Customer is required to carefully store Customer's Access Credentials and protect them from unauthorized access. If a Customer becomes aware that a third party has used Customer's Access Credentials, they are required to notify S&ST immediately;
  - b) obliged to correct the information in Customer's Account immediately, if, after the Registration, the indicated data changes (e.g. new valid Customer's ABN (Australian Business Number) identification);
  - c) responsible to ensure that the Products meet Customer's requirements in terms of capacity, reliability and security.
- 9.2 Customer shall not (and shall procure that any User under Customer's Account shall not):
- a) Intentionally access, tamper with, or use non-public portions of the Platform and the Service Offerings or the technical delivery systems of S&ST's providers;
  - b) Use any robot, spider, scraper, or other similar automated data collection or extraction tools, program, algorithm or methodology to search, access, acquire, copy or monitor any portion of the Platform and/or the Service Offerings other than via documented API endpoints;
  - c) Post or transmit any file which contains viruses, worms, Trojan horses or any other contaminating or destructive features, or that otherwise interfere with the proper working of the Platform and the Service Offerings;
  - d) Attempt to decipher, decompile, disassemble, or reverse-engineer or otherwise attempt to discover or determine the source code of any software or any proprietary algorithm used, comprising or in any way making up a part of the Platform and the Service Offerings;
  - e) Attempt to probe, scan or test the vulnerability of the Platform and the Service Offerings or breach or impair or circumvent any security or authentication measures protecting the Platform and the Service Offerings;
  - f) Frame or mirror the Platform and the Service Offerings; or
  - g) Use any device, software, or routine that interferes with any application, function, or use of the Platform and the Service Offerings, or is intended to damage, create undue load, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, or communication stored or transmitted therewith.

## 10. Usage Rights

- 10.1 S&ST hereby grants to Customer the limited, non-exclusive, non-sub-licensable, revocable and non-transferable right to access the Platform and use the Service Offerings solely in accordance with these Terms of Use, during the term as provided in Section 17.1.
- 10.2 Customer is only allowed to install, use, access, display and execute the Products ordered in the Application Store on one hardware device at one time. S&ST stores which licenses are linked to which hardware devices. S&ST or an authorized third party is entitled, on behalf of the Third Party Provider, to examine whether the use of the Products is within the scope of the rights granted. The examination must be announced with a reasonable notice time. During the

examination, it must be ensured that no personal data is transmitted to S&ST or an authorized third party. Customer shall support S&ST or an authorized third party to the best of its ability in the performance of such an examination.

- 10.3 Where S&ST makes new versions, updates, upgrades, modifications or extensions of the Platform and the Service Offerings available or carries out other changes with respect to the Platform and the Service Offerings, the provisions of Section 10 shall also apply thereto.
- 10.4 Customer shall have no rights which are not explicitly granted to the Customer under these Terms of Use. Customer shall not be entitled to use the Platform and the Service Offerings beyond the scope of use granted in these Terms of Use or make the Platform and the Service Offerings available to third parties. In particular, it is not permitted to duplicate the Platform and the Service Offerings or to provide it for use for a limited period of time, in particular not to lease it or loan it.
- 10.5 If Customer violates any of the provisions of this Section 10, S&ST shall be entitled to and reserves the right to suspend Customer's access to the Platform and the Service Offerings in accordance with Section 14, provided that such suspension remedies the violation. Customer shall be informed prior to such suspension. In case of repeated violations of this Section 10 by the Customer, S&ST shall be entitled to terminate the Account for cause, unless Customer is not responsible for the violation.

## **11. Intellectual Property**

- 11.1 S&ST and its licensors own all rights, title, and interest in and to the Platform and the Service Offerings, and all related technology and intellectual property rights.
- 11.2 The Customer is not permitted to remove notices and notations in the Platform and the Service Offerings that refer to confidentiality, copyrights, trademark rights, patent rights and other intellectual property rights. Subject to Customer Content, S&ST or S&ST's licensors own all right, title and interest in any and all copyrights, trademark rights, patent rights and other intellectual property or other rights in the Platform and the Service Offerings as well as any improvements, design contributions or derivative works conceived or created by S&ST or its licensors in or to the Platform and the Service Offerings.

## **12. Open Source Software**

Free and Open Source Software (FOSS) components including the applicable FOSS license conditions used within the Platform and the Service Offerings shall be illustrated in the Product Description or in the application itself, if providing requires the fulfilment of FOSS license obligations.

## **13. Customer Content**

- 13.1 By submitting, uploading, sharing, publishing, transmitting, or otherwise making available Customer Content on or through the Platform or the Service Offerings, Customer hereby grants to S&ST a fully paid, royalty free, worldwide, sub-licensable, non-exclusive license and right to use Customer Content during the term of these Terms of Use according to Section 17 and for the sole purpose of enabling S&ST to perform its obligations in accordance with these Terms of Use. The right of use includes, in particular
  - a) the storage of Customer Content on the servers of S&ST or of third parties commissioned by S&ST at home or abroad;
  - b) the reproduction, modification, adaption, moderating and publishing of Customer Content, in particular publicly performing and publicly displaying Customer Content via the Platform or the Service Offerings (or parts thereof), and publicly displaying the Customer Content on websites operated by S&ST and on social networks and similar platforms (such as Facebook, Google, Stack Overflow, LinkedIn, Twitter, etc.).
- 13.2 Customer warrants that
  - a) Customer has all rights and title to Customer Content required to grant to S&ST all rights under these Terms of Use;
  - b) Customer Content shall not violate these Terms of Use or applicable law and shall not infringe or misappropriate the intellectual property rights of a third party;
  - c) Customer Content is free of viruses, worms, malware, Trojan horses or any other contaminating or destructive features.
- 13.3 Without prejudice to the S&ST's obligation to store Customer Content in accordance with Section 4.6, the Customer

is obliged to create back up of Customer Content on a regular basis in an alternative storage medium.

#### 14. Suspension

- 14.1 S&ST may suspend Customer's access to the Platform and/or the Service Offerings, if S&ST reasonably determines that
- a) the Customer Content and/or the Customer's use of the Platform and/or the Service Offerings
    - pose a security risk to the Platform and/or the Service Offerings and/or any third party;
    - may adversely impact the Platform and/or the Service Offerings or the systems or Content of any third party;
    - infringes any applicable law or any third party right;
    - may subject S&ST, S&ST's Affiliates, or any third party to liability; or
    - may be fraudulent.
  - b) the Customer is in breach of these Terms of Use;
  - c) the Customer is delinquent on its payment obligations for more than 30 days; or
  - d) the Customer has ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of the Customer's assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding.
- 14.2 S&ST will notify Customer about the suspension by sending a communication to the email address associated with Customer's Account prior to the suspension unless due to the seriousness and urgency of the matter S&ST needs to act immediately and is unable to provide prior notice.
- 14.3 The suspension shall be revoked after the Customer has resolved the problem giving rise to the suspension and notified S&ST accordingly.
- 14.4 The right of S&ST to suspend Customer's access to the Platform and/or the Service Offerings is in addition to S&ST's right to terminate these Terms of Use pursuant to Section 17 and other remedies that S&ST may have under the applicable law.

#### 15. Liability

- 15.1 Any warranties given by S&ST under these Terms of Use are in addition to other rights and remedies you may have at law in relation to the Application Store. If you are a "consumer" for the purposes of the Australian Consumer Law, certain guarantees, rights and remedies may be conferred on you which cannot be excluded, restricted or modified. If so, then to the maximum extent permitted by law, S&ST's liability to you is limited, at S&ST's option, to: (a) in the case of goods, replacement or repair of the goods or payment of the cost of replacing or repairing the goods; and (b) in the case of services, resupply of the services or payment of the cost of re-supplying the services. If the Australian Consumer Law does apply, nothing in these Terms of Use is intended to affect those rights.
- 15.2 S&ST is liable in accordance with the statutory provisions
- a) in the event of intent or gross negligence;
  - b) in accordance with the provisions of the German Product Liability Act or any applicable corresponding mandatory laws including the Australian Consumer Law;
  - c) within the scope of a warranty or guarantee given by S&ST; and
  - d) for loss of life or bodily injury/harm.
- 15.3 Subject to clause 15.1 and to the maximum entent permitted by law:
- a) In the event of any property and financial damage caused negligently in any other way, S&ST and persons engaged by it for the performance of its obligations shall be liable only in the event of a breach of a material contractual obligation, the amount being limited, however, to the damages foreseeable at the time of acceptance of these Terms of Use by the Customer and typical of the type of contract; material contractual obligations are those obligations which are necessary to the fulfillment of these Terms of Use, upon which the Customer may therefore rely ("**Material Obligation**").
  - b) Notwithstanding the provision in Section 15.1, in the event of a negligent breach of a Material Obligation evidenced



by Customer, the amount of S&ST's liability for all damaging events occurring in the same contract year is limited to 100% of the fees incurred under the Account of the Customer in the year of the damaging event, however, at most Euro 50,000 per contract year. A contract year shall be the 12-month period starting on the date of Registration and every subsequent twelve-month period.

c) No-fault liability for damages per § 536a BGB shall be excluded for defects that existed at the time of conclusion of these Terms of Use.

d) Furthermore, S&ST's liability is excluded.

e) S&ST shall not be liable for the loss of Customer Content if the damage is due to Customer's failing to back up data in accordance with Section 13.3, thereby ensuring that lost Customer Data can be recovered with reasonable effort.

f) The foregoing limitations of liability shall also apply in the event of fault by a person engaged by S&ST in the performance of its obligations and to the personal liability of employees, representatives and corporate bodies of S&ST.

## **16. Indemnification**

16.1 The Customer is obligated to indemnify, defend and hold S&ST harmless for and from any third party claims, liabilities, damages, losses, and expenses, including, without limitation, reasonable legal and accounting fees, arising out or in any way related to

a) any breach of these Terms of Use or any violation of any applicable law or regulation by the Customer or due to the use of Customer Content;

b) the usage of the Platform or the Service Offerings by the Customer in a manner in which it infringes or violates any Third Party rights, including without limitation any injuries, losses or damages of any kind arising in connection with or as a result of the usage of the payment service by the Customer;

c) claims regarding Customer Content, or the combination of Customer Content with other applications and third party products, content or processes, including any claims arising from alleged infringement or misuse of third party rights through Customer Content or through use, development, design, production, advertising or marketing of Customer Content;

d) the use of Open Source Software by the Customer;

e) any infringement of data protection law respectively applicable or other data protection law relevant stipulations as agreed between the Parties herein or in another context by the Customer or through Customer Content;

f) any violation of applicable export and re-export control laws and sanctions regulations by the Customer;

g) any violation of applicable tax law requirements;

unless Customer is not responsible for the claim.

16.2 S&ST shall notify the Customer without delay and leave to the Customer the defense of these claims. S&ST will provide the Customer with all reasonable support. In particular, S&ST will, as far as possible, provide the Customer with all the necessary information of the use and the possible processing of the Application Store which are subject to these Terms of Use, if this is necessary for the Customer to defend against a claim.

## **17. Term and Termination**

17.1 The term of these Terms of Use commences with the date of Registration and will remain in effect until terminated by S&ST or by the Customer.

17.2 Termination for Convenience

a) The Customer may terminate these Terms of Use at any time for any reason and close the Account for all Service Offerings, for which S&ST provides an account closing mechanism.

b) S&ST may terminate these Terms of Use for any or no reason, at any time, by providing three (3) months' notice effective at the calendar month-end. The right to suspend Customer's Account according to Section 14 shall remain thereby unaffected.

17.3 Termination for Cause

a) The right of the Parties to terminate these Terms of Use for cause and without notice shall remain unaffected.

- b) Good cause shall be in evidence in particular when one Party grossly breaches express obligations under these Terms of Use, in particular if the Customer utilizes the Platform or the Service Offerings outside the scope of these Terms of Use and remains in breach after the end of a reasonable cure period following a warning notification by S&ST.

#### 17.4 Effect of Termination

Upon the effective date of termination

- a) the Platform including the Service Offerings will no longer be accessible;
- b) the Customer remains responsible for all fees and charges which have incurred through the date of termination, including fees and charges for in-process tasks completed after the date of termination;
- c) all authorizations of the Customer according to these Terms of Use end. A termination of these Terms of Use also entails a termination of all User IDs provided to employees or End Users of the Customer;
- d) S&ST has no longer the obligation to store and back up Customer Content. The Customer is responsible for securing Customer Content prior to the effective date of termination; and
- e) The termination will not have any effect on the term of agreements between Customer and Third Party Provider.

### 18. Data Privacy

- 18.1 The Parties shall comply with the provisions of data protection law respectively applicable and bind their employees engaged in connection with this contractual relationship and the execution thereof to data privacy and confidentiality in accordance with the applicable laws, except to the extent that they are already under a general obligation to act accordingly.
- 18.2 If the Customer processes personal data, then the Customer guarantees that he is authorized to do so in accordance with the applicable laws and regulations, and that he has obtained all necessary consents, authorization and required permissions or has entered into necessary agreements with third parties in a valid manner in order to allow for S&ST to perform the tasks hereunder, including any access and processing of personal and other private data of all concerned individuals and/or third parties (e.g. end customers of Customers or Customers' employees) which may be subject to special protection under applicable laws.
- 18.3 S&ST shall only process Customer-related personal data to the extent required to execute these Terms of Use or otherwise permitted by applicable laws. The Customer acknowledges and confirms the collection and processing of such personal data to this extent. Information about the processing of personal data can be found in the data protection notice of the Platform and the Service Offerings under <https://www.securityandsafetythings.com/privacy-policy>.
- 18.4 Insofar as S&ST is acting as a data processor on behalf of the Customer, then this constitutes a processing on behalf of a controller. Such processing activities shall be subject to and be further regulated in the requisite commissioned data processing agreement as provided by S&ST during the relevant processes ("**Commissioned Data Processing Agreement**"), that the parties shall enter into prior to making use of the Platform and the Service Offerings in written form if the applicable law so requires.
- 18.5 As Third Party Provider(s) may collect or process personal data of Customer when Customer is Ordering a Third Party Product, Customers (in their role as Providers to End Users) shall ensure that any and all applicable data protection law requirements will be met when collaborating with Third Party Providers via the Platform and the Service Offerings, including, but not limited to, entering into a proper agreement on data processing on behalf of a controller, where necessary in written form.
- 18.6 The obligations pursuant to Sections 18.1 to 18.5 shall continue to exist as long as Customer Data is in the area of influence of S&ST, also after the termination date of these Terms of Use.

### 19. Confidentiality

- 19.1 The Parties agree to keep all Confidential Information that becomes known to them while accessing the Platform and using the Service Offerings strictly confidential and only use such information for the contractually agreed purposes. "**Confidential Information**" for the purpose of this use shall mean information, documents, details and data, which is marked as such or that reasonably should be understood to be confidential given the nature of the information. Customer shall, in particular, treat as confidential any non-public information regarding the availability, performance or functionality of the Platform and the Service Offerings. The Parties shall not seek to register intellectual

property rights in respect of Confidential Information of the other Party.

- 19.2 If Confidential Information within the above definition is requested by a public authority, then the other Party – to the extent that it is legally allowed - shall be informed without delay and before the Confidential Information is supplied to the public authority.
- 19.3 The obligations under Section 19.1 shall lapse for such information or parts thereof with respect to which the Party receiving the information evidences that it
- a) was known to that Party or generally accessible prior to the date of receipt or became known from a third party after the date of receipt in a lawful manner and without any confidentiality obligation;
  - b) was already known to the general public or was generally accessible prior to the date of receipt;
  - c) became known to the general public or became generally accessible after the date of receipt without the Party receiving the information being responsible for this.
- 19.4 Each Party may disclose Confidential Information to its employees and Affiliates if
- a) this is necessary for the purpose of the fulfillment of these Terms of Use,
  - b) Confidential Information will only be disclosed to the extent that it is necessary for integration in these Terms of Use ("need to know"), and
  - c) the recipient of Confidential Information is obliged to maintain confidentiality in accordance with Section 19.5.
- 19.5 Each Party is obliged to commit employees and Affiliates within the meaning of Section 19.4 to maintain confidentiality in accordance with the provisions of Section 19.1 to 19.3 insofar as they are not already otherwise obliged to do so by virtue of contractual and/or statutory provisions to an extent that is at least equivalent to the level of protection resulting from Section 19.1 to 19.3.
- 19.6 The rights and obligations under Section 19 shall not be affected by the termination of an Account, and for as long as there is no evidence of an exception under Section 19.3.

## **20. Export Compliance**

- 20.1 The access to the Platform, the Use of the Service Offerings, the Ordering of Products and Customer Content may be subject to national and international export and re-export control laws and sanctions regulations. The Customer agrees to comply with all applicable export and re-export control laws and sanctions regulations, including but not limited to the legislation of the Federal Republic of Germany, the European Union, the United States of America and the local jurisdiction of the Customer's country.
- 20.2 The Customer shall not – directly or indirectly – provide access to the Platform and the Service Offerings to any destination, entity, or person prohibited or sanctioned by the laws and regulations of the Federal Republic of Germany, the European Union, the United States of America or any other jurisdiction involved.
- 20.3 Customer agrees not to use or export or re-export any Content or any copy or adaptation of such Content, or any product or service offered on the Platform and the Service Offerings, in violation of any applicable export or re-export laws or regulations of the Federal Republic of Germany, the European Union, the United States of America or any other jurisdiction involved.
- 20.4 Customer agrees that the Platform, the Service Offerings and resulting data, information and software will not be used directly or indirectly for nuclear, chemical or biological weapons proliferation, development of missile technology or any other military purpose.
- 20.5 Customer shall indemnify and hold S&ST harmless from and against any and all liability, claims, proceedings, actions, fines, losses, costs, expenses and damages arising out of, connected with or resulting from Customer's infringing (by act or omission) upon Foreign Trade Law. Such costs and expenses include but are not limited to (i) investigation expenses, (b) fines imposed by the authorities or (c) fees for legal advice sought because of the infringement.
- 20.6 This Export Compliance Clause shall survive termination or cancellation of the agreements between S&ST and Customer.

## **21. Changes**

- 21.1 At any time, S&ST shall have the right to rebrand the Platform, modify the Platform and the Service Offerings provided free of charge, make new Service Offerings available either free of charge and/or for a fee and to discontinue the

provision of free Service Offerings, as well as to change these Terms of Use. S&ST will take due care of Customer's legitimate interests.

- 21.2 S&ST reserves the right to modify paid Service Offerings and these Terms of Use, if this is necessary to meet the technical requirements of connecting networks, devices or computers, change in laws or regulations or with regard to further developments, however the basic functionalities of the respective paid Service Offering and the essential characteristics are retained.
- 21.3 Customer shall be notified of changes by email no later than thirty (30) calendar days before the planned effective date of the changes insofar as the modifications involves a restriction on the usability of data generated till date or other disadvantages or additional charges (e.g. adaptation expenses). If Customer does not object within thirty (30) days of receipt of the notification or continues to use the Platform and its Service Offerings after expiry of the period for objection, then the changes shall be deemed to have been effectively agreed as from the expiry date of the time limit. In the event of an objection, the contractual relationship shall be continued subject to the conditions applying hitherto. If an objection is raised, S&ST is entitled to terminate these Terms of Use subject to a one (1) month notice period. Customer shall be advised of its right to object and of the consequences in the change notification.

## **22. Applicable law and place of jurisdiction**

- 22.1 The contractual relationships between the Parties shall be governed by the laws of the Federal Republic of Germany. Application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- 22.2 The exclusive place of jurisdiction for any legal disputes arising from or in connection with these Terms of Use shall be Stuttgart, Germany.

## **23. Miscellaneous**

- 23.1 **"Force Majeure"**: Operational disruptions caused by force majeure or other unavoidable events beyond S&ST's control,
  - a) which could not be averted with reasonable effort,
  - b) which could not have been foreseen even when exercising with extreme care, and
  - c) which make S&ST's obligations under these Terms of Use considerably more difficult or completely or partially impossible, such as fire, armed conflicts, war, general mobilization, insurrection, requisition, confiscation, embargo, industrial action that affects S&ST or its suppliers, strikes, lockouts, exceptional weather conditions, pandemic/epidemic, operational or traffic disruptions and transport obstructions or restrictions on energy consumption,discharge S&ST from its obligations under these Terms of Use for the duration of such an event.
- 23.2 The contract language is English. Translations of these Terms of Use into other languages are for Customer's information only. In case of conflicts between the language versions of these Terms of Use, the English language version will prevail.
- 23.3 Customer may not assign any or all portion of its obligations without the prior written consent of S&ST, not to be unreasonably withheld.
- 23.4 Should any provision of these Terms of Use be or become invalid or unenforceable, this shall, however, not affect the remaining provisions. In this case the Parties will replace the invalid or unenforceable provision by an effective or enforceable provision that is nearest to the economic purpose of the invalid or unenforceable provision.

Security and Safety Things GmbH