

Terms and Conditions of Sale and Service

Last updated April 25, 2020

SECTION 1: DEFINITIONS/GENERAL INTRO

- I. *“Zenseio” means the entity Zenseio LLC*
- II. *“You” means yourself and any entities you represent, its employees, agents or subcontractors*
- III. *“Services” means the any and all services and hosted software applications provided by Zenseio, including but not limited to, wireless communications network service and any other software services offered by Zenseio.*
- IV. *“Products” means the physical products produced or sold by Zenseio.*
- V. *“Third Party Products” – includes but is not limited to communications services, applications, websites, APIs, software, or hardware, produced by anyone other than Zenseio, that interact with, implement, use, or connect to any Zenseio Products or Services.*
- VI. *“APIs” means any API (Application Programming Interface) owned and implemented by Zenseio or other Third Parties.*

SECTION 2: GENERAL TERMS

- I. *This legal agreement between you and Zenseio (“Terms”) applies to You and your use of any and all Zenseio Products and Services.*
- II. *By using any of the Products or Services provided by Zenseio, you acknowledge that you have read and agreed to these Terms and Conditions and Privacy Policy. If You do not agree to these Terms and Conditions or the applicable Privacy Policy, please do not use the Products or Services.*
- III. *These Terms of Use will remain in full force and effect while you use the Products and Services.*

SECTION 3: USE OF ZENSEIO PRODUCTS AND SERVICES

- I. *By using any and all Zenseio Products and Services, You agree to abide by all applicable local, state, national, foreign and international laws and regulations and you agree that You will be solely responsible for all acts or omissions that occur under Your account or password, including the content of Your transmissions through the Service.*
- II. *You further agree to not use Products or Services to: (a) interfere with or disrupt the Services or servers or networks connected to the Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Products or Services; (b) engage in, or enable others to engage in, illegal*

activities; (c) access or attempt to access the accounts, materials, information, computer systems, networks or devices owned or created by Zenseio or otherwise, through password mining or any other means; (d) violate, tamper with, or circumvent the encryption codes or technological protection measures of the Services.

III. You acknowledge and agree that You are solely responsible for compliance with all legal, regulatory and safety-related requirements concerning Your products and projects, and any use of Zenseio Products or Services in Your applications. By creating products and projects using Zenseio Products and Services, You represent and agree that you have all the necessary expertise to: (1) create and implement safeguards which anticipate dangerous consequences of failures; (2) monitor failures and their consequences; (3) lessen the likelihood of failures that might cause harm; and (4) take appropriate remedial actions. Products and Services are not recommended, authorized or warranted for use in military, air craft, space, lifesaving, or life sustaining applications. You will fully indemnify Zenseio and its representatives against any damages and/or losses arising out of the use of any Zenseio components in safety- or security-critical applications.

IV. Zenseio may provide an opportunity to interact with, interface with, and use Third-Party Products.

i These Third-Party Products are not Zenseio Products and Services and you agree that Zenseio is not responsible for damages or loss that may be caused by them.

ii Once you have granted authorization to a Third-Party, it will continue to be able to send and receive messages to designated products (Zenseio Products or otherwise), share data with Zenseio, access parts of Your Account and interact with Zenseio in ways you have granted permission until you specifically revoke access by written notification.

iii You release Zenseio for any future claims, liabilities or damages arising from (1) the behavior or actions of Third-Party Products or their owners, or (2) resulting from Your use of the APIs or Third-Party Products that access data via the APIs.

I. You may at points use Services, including the API (Application Program Interface), to control, access or provision access to Your account and products (Zenseio products or otherwise) connected to Your account.

i The terms of this agreement also cover the use of the APIs through a Third-Party Product that accesses Zenseio.

ii Abuse or excessively frequent requests to any Zenseio API may result in the temporary or permanent suspension of Your account's access to the API and other Services. Zenseio, at its sole discretion, will determine abuse or excessive usage.

iii Zenseio reserves the right at any time to modify or discontinue, temporarily or permanently, your access to the API (or any part of Services thereof) with 30-day notice.

- V. *Zenseio has provided certain unit features and ability recommendations for the Products and Services provided. In the event You decide to deviate from those features and ability recommendations Zenseio is not liable for any damage or costs related to such deviation.*

SECTION 4: FEES AND PAYMENT TERMS

- I. *Payment. You agree to pay all fees or charges in accordance with the applicable fees, charges and billing terms in effect at the time a fee or charge is due and payable.*
- II. *Late Payments. You agree Zenseio may charge You a late payment fee in the amount of 2% of the outstanding balance for every month payments are overdue.*
- III. *Services Pricing. Please refer to Zenseio pricing, provided in a contract document for a description of the fees payable and the start date in connection with the Service. In the event that You wish to increase the number of Events or Devices beyond the maximum number of Events or Devices for which the applicable fees have been paid, You shall be required to pay additional fees associated with the increased number of Events or Devices, prorated for the remainder of the term.*
- IV. *Automatic Renewal. You will be responsible for payment of the applicable fee for the Zenseio Services at the time You place an order for the Services. Except as set forth herein, all fees for the Zenseio Services are non-refundable. Your subscription will continue indefinitely until terminated in accordance with the terms herein. After Your initial subscription period, and again after any subsequent subscription period, your subscription will automatically commence on the first day following the end of such period (each, a "Renewal Commencement Date") and continue for an equivalent period, at Zenseio's then-current price for such subscription. You agree that You will be subject to this automatic renewal feature unless You cancel your subscription at least thirty (30) days prior to the Renewal Commencement Date. If You cancel your subscription, You may use your subscription until the end of your then-current subscription term; Your subscription will not be renewed after your then-current term expires. However, You will not be eligible for a prorated refund of any portion of the subscription fee paid for the then-current subscription period.*
- V. *Product Pricing. Prices cited in a quote or contract document are based on current costs. Due to circumstances outside of Zenseio's control, prices may vary in the event of delay between delivery of the estimate and product order. In the event of a deviation in price from the original quote, Zenseio shall notify You immediately of such deviation and shall get written acceptance of the new price prior to moving forward with the order. In the event of a dispute related to the Product, all amounts due shall be paid in full prior to filing or notifying Zenseio of a dispute.*
- VI. *Order Cancellation. Products are both Non-Cancellable and Non-Refundable ("NC/NR").*
- VII. *Shipping costs. Shipping or freight charges and insurance will be paid by You and added to the invoice or billed collect unless specifically stated in the quote or order confirmation.*
- VIII. *Taxes. Zenseio's fees are net of any applicable sales or use tax ("Sales Tax"). If any Zenseio Properties, or payment for any Zenseio Properties, under this Agreement are subject to Sales Tax in*

any jurisdiction and you have not remitted the applicable Sales Tax to Zenseio, you will be responsible for the payment of such Sales Tax and any related penalties or interest to the relevant tax authority.

- IX. Delivery Date. Delivery Date cited in a quote or contract document are based on current estimates. Due to circumstances outside of Zenseio's control, delivery date may vary due to circumstances outside of Zenseio's control. In the event of a delay, Zenseio shall inform You in writing of any status updates. Zenseio shall not be held liable or responsible for any delays in delivery based on circumstances outside of Zenseio's reasonable control. Such delays may include, but are not limited to, interruptions due to political protests or policies, public health crisis, subcomponent availability in the supply chain, labor disputes, etc.*

SECTION 5: LIMITED PRODUCT WARRANTY AND DISCLAIMER OF WARRANTIES

- I. Zenseio warrants Zenseio Manufactured Products will be free from manufacturing defects for a period of one (1) year from the date of transfer to You, with the exception of installed batteries which are warranted to be free from manufacturing defects for a period of sixty (60) days.*
- II. Zenseio will replace, repair, credit, or refund You for any confirmed defective product at Zenseio's option. In the event of refund, the refund amount shall never exceed the amount of the original purchase price of the product. You must receive Return Material Authorization ("RMA") from a Customer Service representative prior to shipment. Unauthorized returns will not be accepted at the point of receipt. You shall pay (or reimburse Zenseio for) all shipping charges associated with sending Merchandise to and from Zenseio.*
- III. You will bear the costs of access, de-installation, re-installation of the products to Zenseio and back to You in connection with any warranty claims.*
- IV. Products that are not manufactured by Zenseio carry the warranty of the respective manufacturer only and must be handled directly with that manufacturer in accordance with their warranty.*
- V. Warranty will not apply if Product fails or is damaged after delivery to You due to: (i) improper use, or improper or inadequate maintenance and care as listed in the maintenance manual; (ii) modifications to or repairs of the products performed by any party other than Zenseio; (iii) combination of the products with any other unapproved or malfunctioning technology, equipment, hardware, software, or other materials; (iv) use of the products in an environment not meeting the operating specifications for the products or with no or poor cellular service coverage; (v) water damage due to improper installation or submersion; (vi) failure to properly transport, prepare, and store the products; (vii) lightning and other acts of God; or (viii) any normal wear and tear or normal environmental degradation.*
- VI. Warranty does not cover consequential or incidental damages, including but not limited to, loss of use, loss of business, loss of profits, loss of data, down-time and charges for time and effort, except as otherwise stated herein;*

- VII. *THIS WARRANTY IS IN LIEU OF ANY AND ALL OTHER WARRANTIES, WHETHER ORAL, WRITTEN, EXPRESSED, IMPLIED OR STATUTORY. ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE HEREBY DISCLAIMED.*
- VIII. *ZENSEIO'S AGGREGATE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE PURCHASE PRICE PAID BY BUYER FOR THE PRODUCTS WHICH ARE THE SUBJECT OF THE CLAIM.*

SECTION 6: OPTIONAL EXTENDED WARRANTY

- I. *Optional extended warranty, if purchased, extends product warranty for Zenseio Manufactured Products to be free from manufacturing defects for an additional period of one (1) year. This warranty does not apply to batteries used in Zenseio Manufactured Products.*
- II. *Zenseio will replace, repair, credit, or refund You for any confirmed defective product at Zenseio's option. In the event of refund, the refund amount shall never exceed the amount of the original purchase price of the product. You must receive Return Material Authorization ("RMA") from a Customer Service representative prior to shipment. Unauthorized returns will not be accepted at the point of receipt. You shall pay (or reimburse Zenseio for) all shipping charges associated with sending Merchandise to and from Zenseio.*
- III. *You will bear the costs of access, de-installation, re-installation of the products to Zenseio and back to You in connection with any warranty claims.*
- IV. *Products that are not manufactured by Zenseio carry the warranty of the respective manufacturer only and must be handled directly with that manufacturer in accordance with their warranty.*
- V. *Warranty will not apply if Product fails or is damaged after delivery to You due to: (i) improper use, or improper or inadequate maintenance and care as listed in the maintenance manual; (ii) modifications to or repairs of the products performed by any party other than Zenseio; (iii) combination of the products with any other unapproved or malfunctioning technology, equipment, hardware, software, or other materials; (iv) use of the products in an environment not meeting the operating specifications for the products or with no or poor cellular service coverage; (v) water damage due to improper installation or submersion; (vi) failure to properly transport, prepare, and store the products; or (vii) lightning and other acts of God. Warranty shall not cover failures or damage resulting from normal wear and tear or normal environmental degradation.*
- VI. *Warranty does not cover consequential or incidental damages, including but not limited to, loss of use, loss of business, loss of profits, loss of data, down-time and charges for time and effort.*
- VII. *Zenseio reserves the right to discontinue or change the terms of the extended warranty coverage after the expiration of the current term.*

- VIII. *Zenseio obligations under Your extended warranty plan will be fulfilled in their entirety if we replace Your device with a replacement device or issue you a refund for your product's current market value not to exceed the original purchase price excluding taxes.*
- IX. *THIS WARRANTY IS IN LIEU OF ANY AND ALL OTHER WARRANTIES, WHETHER ORAL, WRITTEN, EXPRESSED, IMPLIED OR STATUTORY. ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE HEREBY DISCLAIMED.*
- X. *ZENSEIO'S AGGREGATE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE PURCHASE PRICE PAID BY BUYER FOR THE PRODUCTS WHICH ARE THE SUBJECT OF THE CLAIM.*

SECTION 7: SUPPORT SERVICES

- I. *During the Warranty period, Zenseio shall provide You with telephone or electronic support during Zenseio's normal business hours in order to help You locate and correct problems with the product, and internet-based support system generally available seven days a week, twenty-four hours a day.*

SECTION 7: EXPORT COMPLIANCE

- I. *You acknowledge that the products and services delivered under this agreement are subject to applicable export control and trade sanctions laws and regulations, including without limit those of the united states (e.g., the sanctions administered by the U.S. Department of Treasury's office of foreign assets control (31 CFR Part 500 et seq.), the export administration regulations ("EAR", 15 CFR Part 730 et seq.) administered by the U.S. Department of Commerce's Bureau of Industry and Security, Laws and Regulations targeting proliferation activities, and the restricted parties lists maintained by the U.S. Government (e.g., the denied persons list, unverified list, entity list, specially designated nationals list, debarred list and non-proliferation sanctions).*
- II. *You agree to comply with these laws and regulations and certify that You will not use, sell, resell, export, re-export, import, dispose of, disclose or otherwise deal with the products or services delivered under this agreement, directly or indirectly, to any country, destination or party without first obtaining any required export license or other governmental approval, and completing such formalities as may be required.*
- III. *You further agree to not do anything which would cause Zenseio to be in breach of the export control and trade sanctions laws and regulations.*

SECTION 8: LIMITATION OF SERVICE LIABILITY

- I. *Services are available to Products only within the operating range of the Communications Provider Network (Zenseio or Third Party).*

- II. *Third-Party Communication Providers may, in their sole discretion (i) add, modify, or remove territories where roaming shall be available, (ii) substitute Roaming Partners, and/or (iii) pass through Zenseio any applicable increases in the costs of the Communications Provider Services to You in respect of such changes. You acknowledge that neither Zenseio nor Third-Party Communications Providers shall have any liability arising out of any suspension or termination of roaming services, or any increases to the charges for Services as a result of the foregoing.*
- III. *Services are subject to sporadic interruptions and failures for a variety of reasons beyond Zenseio's control, including, but not limited to, wireless communication intermittency, service provider uptime, mobile notifications and carriers, online service hosting among others. You acknowledge these limitations and agree that Zenseio is not responsible for any damages allegedly caused by the failure or delay of the Services.*
- IV. *You acknowledge that Zenseio uses third party service providers to enable aspects of the Services and Products – such as, for example, but not limited to, data storage, synchronization, and communication through third-party servers, and mobile device notifications through mobile operating system vendors and mobile carriers.*
- V. *YOU EXPRESSLY UNDERSTAND AND AGREE THAT ZENSEIO SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF ZENSEIO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) RESULTING FROM: (I) THE COST OF PROCUREMENT FOR SUBSTITUTE PRODUCTS OR SERVICES; (II) THE INTERRUPTION OF USE OR LOSS OR CORRUPTION OF DATA; (III) ACTIONS OR CHOICES BY ANY THIRD PARTIES USING SERVICES OR PRODUCTS; (IV) THE INTERRUPTION OF ACCESS TO OR INABILITY TO ACCESS SERVICES; (VI) ACCESS, AUTHORIZED OR UNAUTHORIZED, TO YOUR DATA, OR YOUR DEVICES (ZENSEIO PRODUCTS OR OTHERWISE) MAKING USE OF SERVICES (V) YOUR USE OF THE SERVICES (INCLUDING THE APIS OR THIRD-PARTY PRODUCTS THAT ACCESS DATA VIA THE APIS) OR PRODUCTS. ZENSEIO'S AGGREGATE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE THREE (3) MONTHS FEES PAID BY YOU FOR SERVICES WHICH ARE THE SUBJECT OF THE CLAIM.*

SECTION 9: INDEMNIFICATION

- I. *You agree to indemnify, defend and hold Zenseio, our affiliates and licensors, each of our and their business partners (including third party sellers on websites operated by or on behalf of us) and each of our and their respective employees, officers, directors and representatives, harmless from and against any and all claims, losses, damages, liabilities, judgments, penalties, fines, costs and expenses*

(including reasonable attorney's fees), arising out of or relating to Your use of Products or Services; this includes your use of Products or Services in a project, product, device or any other item that you sell, pass or give to another entity.

SECTION 8: FORCE MAJEURE

- I. *No party will be liable for delays in processing or other non-performance caused by such events as fires, telecommunications failures, utility failures, power failures, equipment failures, labor strife, riots, war, terrorist attack, nonperformance of our vendors or suppliers, public health crisis, acts of God, or other causes over which the respective party has no reasonable control.*

SECTION 9: MISCELLANEOUS

- I. *This agreement shall be governed by the laws of the State of Texas, USA.*
- II. *All claims and disputes arising under or relating to this Agreement are to be settled by binding arbitration in the state of Texas.*
- III. *If Zenseio does not immediately enforce any aspect of these provisions it does not mean that Zenseio approves of, allows, or will not enforce said provisions in the future.*
- IV. *If any provision of this Agreement is held to be invalid, void or unenforceable, the remainder of the provisions of this Agreement will in no way be affected, impaired or invalidated as a result.*
- V. *THIS TERMS AND CONDITIONS OF SALE AND SERVICE IS SUBJECT TO CHANGE BY ZENSEIO IN ITS SOLE DISCRETION AT ANY TIME. When changes are made, Zenseio will make a new copy of this Terms and Conditions of Sale and Service available at: http://zenseio.com/doc/Zenseio_TOS.pdf. Zenseio will also update the "Last Updated" date at the top of this Terms and Conditions of Sale and Service. If we make any material changes, and You previously purchased Zenseio products or services, we will also send an email to you at the last email address you provided to us on a purchase order or invoice. Any changes to this Terms and Conditions of Sale and Service will be effective immediately for new users and will be effective thirty (30) days after posting notice of such changes on the Website for existing users. Zenseio may require You to provide consent to the updated Terms and Conditions of Sale and Service in a specified manner for further use of the Services to be permitted. If You do not agree to any change(s) after receiving a notice of such change(s), You shall stop using the Services. Otherwise, your continued use of the Services constitutes your acceptance of such change(s).*
- VI. *Questions about these Terms and Conditions can be directed toward info@zenseio.com*