

Terms of Use – Smappee

last revised: November 2024

1. Applicability

These Terms constitute a legally binding agreement between Smappee and any User of the Platform concerning the User's access to- and use of such Platform. Access to- and use of the Platform is subject to the User's acknowledgment and acceptance of these Terms which will be registered electronically and logged upon installation and first use of the Platform by checking the box "accept terms of use and privacy policy" (or any similar statement). **If the User does not agree with these Terms, the User is prohibited from using the Platform and is obligated to immediately discontinue any use of the Platform and delete the (mobile) application on any of its devices.**

Additional terms and conditions or documents that may be posted on the Platform from time to time are hereby expressly incorporated in these Terms by reference. Smappee reserves the right, in its sole discretion, to make changes or modifications to these Terms at any time and for any reason. Smappee will alert the User about any changes by updating the "last revised" date of these Terms. The User hereby waives any right to receive specific notice of each such change. It is the User's responsibility to periodically review these Terms to stay informed of updates. The User will be subject to, and will be deemed to have been made aware of and to have accepted, the changes in any revised Terms by its continued use of the Platform after the date such revised Terms are posted.

2. Definitions

The capitalized words used in these Terms will have the following meaning:

"Content": all source code, databases, functionality, software, website designs, audio, video, text, photographs, and graphics on the Platform.

"Documentation": all technical documents, manuals, instructions, specifications and other documents and materials that are available to the User and which may change from time to time in any medium, describing the functionality, components, features or requirements of the Platform.

"Feedback": the User's input regarding the Platform, including, without limitation, comments, ideas, suggestions or other information regarding the usability, possible creation, modification, correction, improvement or enhancement of the Platform; excluding strictly personal data (name, address, bank account number, etc.).

"Force Majeure": means any act, event or circumstance which is beyond the reasonable control of Smappee, its affiliates or (sub)contractors and which interrupts the accessibility, availability or functionality of the Platform.

"Marks": all trademarks, service marks and logos included in the Platform.

"Platform": the Smappee mobile device application ('Smappee Mobile App', to be downloaded from the designated mobile application providers) and the

Smappee dashboard (as accessible through the Smappee website (<https://www.smappee.com/>)).

"Smappee": means one or more of the following companies, including where relevant their affiliates, depending on whether the registered address of the User is located in (i) Europe, (ii) North-America or (iii) APAC or Oceania:

- (i) Smappee NV, a public limited liability company incorporated under Belgian law, having its registered office at Evolis 104, B-8530 Harelbeke, registered with the Crossroads Bank for Enterprises under number 0849.366.642;
- (ii) Smappee Inc., a private limited liability company incorporated under US law, having its registered office at 55 Madison Avenue, Suite 400 Morristown, New Jersey (US)07960, United States; listed under enterprise number VAT. EIN61-1750640; or
- (iii) Smappee PTY, a private limited liability company incorporated under Australian law, having its registered office at 1/575 Darling Street, Rozelle, New South Wales 2039, Australia, and registered under number AU21627146874.

"Terms": the present terms and conditions for the use of the Platform by the User, as may be amended from time to time.

"User": any person using the Platform, whether it is on their own behalf or on behalf of a legal entity and whatever their intended use of the Platform (installation, configuration or steering of any Smappee smart energy management hardware; purchase of add-ons relating to Smappee software; use of the Platform for information purposes only, etc.). If the User uses the Platform on behalf of a legal entity or another person, this legal entity or other person shall also be deemed to be a User for the purposes of these Terms.

3. Use of the Platform

The User warrants that it shall not:

- permit any third party to access the Platform, nor attempt to gain unauthorized access to the Platform, its related systems and networks or permit direct or indirect access to or use of the Platform in a way that circumvents the usage limit;
- copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute any part or content of the Platform and/or Documentation, in any form, including for the purpose of building a competitive platform or to copy any features, functions or graphics of the Platform;
- decipher, decompile, disassemble, or reverse engineer any of the software comprising- or in any way making up a part of the Platform;
- sell, rent, lease, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make use of the Platform except as expressly permitted;
- bypass or breach any security device or protection used for or included in the Platform;
- engage in any activity which interferes with or disrupts the Platform;
- use the Platform to store, upload, download, post, email or transmit (i) infringing, libelous, or

otherwise unlawful or tortious material, or material in violation of third party privacy rights; (ii) code, files, scripts or programs intended to do harm, including any form of malware, for example, viruses, worms, time bombs and Trojan horses designed to interrupt, deny, damage, destroy or limit the functionality of any software or hardware; (iii) material or content which (a) it may not transmit under any law or under contractual or other relationships (such as proprietary and confidential information) or intentionally or unintentionally does anything which may violate any applicable law or regulation; (b) infringes any patent, trade mark, trade secret, copyright, database right or other intellectual property rights of any person or entity; (c) consists of unsolicited or unauthorized advertising, promotional materials or any other form of solicitation; (d) harms, or attempts to harm minors in any way or stalks or harasses a person (e) does anything which may directly or indirectly interfere with or disrupt the (use of the) Platform or servers or networks connected to the Platform, or disobey any requirements, procedures, policies or regulations of any networks connected to the Platform; (f) collects, attempts to collect or stores personal data of other users of the Platform.

- engage in any automated use of the system, such as using scripts to send comments or messages, or using any data mining, robots, or similar data gathering and extraction tools;
- upload or transmit (or attempt to upload or to transmit) any material that acts as a passive or active information collection or transmission mechanism, including without limitation, clear graphics interchange formats (“gifs”), 1×1 pixels, web bugs, cookies, or other similar devices (sometimes referred to as “spyware” or “passive collection mechanisms” or “pcms”);
- use the Platform in a manner inconsistent with any applicable laws or regulations.

The User shall:

- ensure that its hardware, software, network connectivity and systems comply with the relevant specifications set out herein and in the Documentation;
- be responsible for procuring and maintaining its network connections and telecommunication links from its systems to the Platform;
- implement the necessary precautions to prevent the introduction and proliferation of a virus into the Platform.

If the User becomes aware of any breach hereof, it shall promptly notify Smappee. Smappee reserves the right to investigate the User’s account if there is a justified suspicion of unlawful activities or activities in breach of these Terms.

4. Feedback

The User acknowledges and agrees that any Feedback is non-confidential and shall become Smappee’s sole property. Smappee shall own exclusive rights, including all intellectual property rights, and shall be entitled to the unrestricted use

and dissemination of this Feedback for any lawful purpose, commercial or otherwise, without acknowledgment or compensation to the User. The User hereby waives all moral rights to any such Feedback, and hereby warrants that any such Feedback is original to it or that it has the right to submit such Feedback. The User represents and warrants there shall be no recourse against Smappee for any alleged or actual infringement or misappropriation of any proprietary right in its Feedback.

5. Intellectual Property Rights

The Platform, the Content and the Marks are proprietary property of Smappee, owned or controlled by Smappee or licensed to Smappee, and are protected by copyright and trademark laws and various other intellectual property rights (under any jurisdiction whatsoever). The Content and the Marks are provided on the Site “AS IS” for the User’s information and personal use only. No part of the Platform and no Content or Marks may be copied, reproduced, aggregated, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted, distributed, sold, licensed, or otherwise exploited for any commercial purpose whatsoever, without express prior written permission of Smappee.

The use of the Platform or acceptance of the Terms does not entail an assignment of any intellectual property right to the User. The User only acquires a limited right of use as set out in these Terms.

The User will refrain from any infringement against Smappee’s intellectual property rights at any time.

Nothing in these Terms shall give to the User or any other person any right to access or use the source code or constitute any license on the source code.

6. Processing of personal data

Any personal data shall be processed in accordance with Smappee its privacy policy (as can be consulted on [Smappee its website: https://www.smappee.com/](https://www.smappee.com/)).

7. Disclaimer

Smappee does not warrant that the User will be able to use the Platform uninterruptedly or clear of any errors or harmful code. Smappee delivers the Platform to the User ‘AS IS’ and ‘AS AVAILABLE’. URL’s (links) or content arising from or displayed on the Platform but controlled by third parties can never lead to breach of liability by Smappee. Smappee does not warrant that the Platform is or will be compatible with any device or browser whatsoever used by User.

Smappee does not provide any warranty or guarantee whatsoever in relation to the Platform, including any implicit or legally determined warranties, such as warranties regarding the proper functioning, sufficient quality, suitability for purpose, reliability, availability, accuracy, completeness, absence of infringement of (intellectual) property

rights of third parties, absence of viruses, presence of sufficient support services, etc.

Smappee can temporarily restrict or block access to the Platform whenever it deems necessary. As far as reasonably possible, Smappee will inform the User regarding the limited or blocked access. Smappee cannot be held responsible or liable for the consequences of any interruptions of the Platform whether the interruption is caused by a Force Majeure event, the installation of updates or the servicing and maintenance of the Platform or otherwise.

Under no circumstances will Smappee be liable for:

- (i) the direct or indirect (financial) consequences of the decisions made by- or on behalf of the User on the basis of the Platform or its Content or the Documentation whether or not such decisions result from the proper or improper use of the Platform and its functionalities;
- (ii) damage, following directly or indirectly from the improper usage or installation of the Platform;
- (iii) any losses arising out of Force Majeure or resulting from external causes;
- (iv) any loss of profits or anticipated savings, loss of revenue or income, loss of business, contracts or opportunities, loss or corruption of any data, database or software, any loss or damage resulting from a virus or other malware, a distributed denial of service attack, or other harmful material that may adversely affect the User's hardware, software, data or other material.

Smappee does not warrant, endorse, guarantee or assume responsibility for any product or service advertised or offered by a third party through the Platform, any hyperlinked website or any website or mobile application featured in any banner or other advertising and Smappee will not be party to- or in any way be responsible for monitoring any transaction between the User and any third party providers of products or services.

No provision of these Terms will (i) limit or exclude any liability for death or personal injury resulting from negligence; (ii) limit or exclude any liability for fraud or fraudulent misrepresentation; or (iii) limit any liabilities in any way that is not permitted under applicable law.

The User hereby unconditionally and definitively waives any claims it might hold against subsidiaries or affiliates of Smappee and all of Smappee's respective officers, directors, agents, partners, and employees (whether based on any contract made between Smappee and the User or based on common tort law).

8. Indemnification

The user agrees to defend, indemnify, and hold Smappee harmless, including its subsidiaries, affiliates, and all of its respective officers, agents, partners, and employees, from and against any loss, damage, liability, claim, or demand, including reasonable attorneys' fees and expenses, made by any third party due to or arising out of: (1) Feedback;

(2) use of the Platform; (3) breach of these Terms; (4) any breach of the User's representations and warranties set forth in these Terms; (5) the violation of the rights of a third party by the User, including but not limited to intellectual property rights; or (6) any overt harmful act toward any other user of the Platform with whom the User is connected via the Platform.

9. Term, suspension and termination

Smappee may terminate or suspend access and use of the Platform by the User, without prior notification, upon violation by the User of any provision of these Terms.

These Terms remain in effect for the entire period the User has a registered account on the Platform or makes use of the Platform in any other way.

10. Varia


In case of Force Majeure, Smappee is entitled to, either suspend access to- or certain functionalities on the Platform for the duration of the period this situation exists, or to definitively dissolve the Platform, without this resulting in any right to damages for the User.

The User consents to receiving electronic communications (emails, online forms, push-up notifications, etc.) and agrees that all agreements, notices, disclosures, and other communications Smappee provides to the User electronically, via email and on the Platform, satisfy any legal requirement that such communication be in writing. The User hereby agrees to the use of electronic signatures, contracts, orders and other electronic records and to electronically delivered notices, policies and records of transactions initiated by Smappee via the Platform. The User hereby waives any rights or requirements under any statutes, regulations, rules, ordinances, or other laws in any jurisdiction which require an original signature or delivery or retention of non-electronic records, or to payments or the granting of credits by any means other than electronic means.

In the event that any provision of these Terms is found to be unenforceable, this does not affect the applicability of other provisions as a whole. The unenforceable provisions shall be changed and mitigated (by the courts) so that they are in accordance with statutory provisions.

The failure of, or any delay in, exercising any right or remedy under these Terms on the part of Smappee shall not operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy hereunder preclude any other or future exercise thereof or the exercise of any other remedy granted hereby or by any related document or by law.

Smappee may feature advertising on the Platform and reserves the right to display advertising. Smappee is not responsible for the content of any advertising, unless the content of the advertising is relates to Smappee itself.



Any dispute concerning these Terms and the use of the Platform shall be governed by and construed in accordance with the laws of Belgium. All disputes arising out of or in connection with the use of the Platform and these Terms shall be settled by the Courts of Kortrijk or the competent court of the jurisdiction in which the User who is to be qualified as a consumer has its registered address.

The English version of the Terms prevails over any local language version in case of discrepancy.

Please check our website for other languages or additional information and documentation at <https://www.smappee.com/legal-documents/>

To contact us, please email us at info@smappee.com or by using any of the methods provided on our contact page.