

## General Terms and Conditions

### Smartlight Solutions - Services, Products, Packages



#### GENERAL TERMS AND CONDITIONS

Please take time to read through these Terms and Conditions and understand fully the provisions set out there in. The General Terms and Conditions are an attempt to clear up any issues that might occur in the future.

The General Terms and Conditions form part of the Agreement between Smartlight Solutions (PTY) Ltd and the Client and is binding on the Clients using services, products and or, packages provided by Smartlight Solutions (PTY) Ltd.

## 1. Definition

- 1.1 SMARTLIGHT SOLUTIONS (PTY) Ltd is recognised as ; "SMARTlight", "Smartlight", "Smartlight Solutions" in this document as well as but not limited to SMARTLIGHT SOLUTIONS (PTY) Ltd;
  - 1.1.1 Policy
  - 1.1.2 Service Contract
  - 1.1.3 Agreement
  - 1.1.4 Terms and Conditions
  - 1.1.5 Acceptable Use Policy (AUP)
- 1.2 The URL "www.smartlight.co.za" along with any other URL SMARTlight notifies the client of is referred to as "SMARTlight Website".
- 1.3 "Client" is used for the party describe as such on any Agreement, AUP, Service Contact, Policy or Terms and Conditions.
- 1.4 "User" and "Users" stands for Client and or any other person using / accessing any of the Services, Products, Packages offered and or provided by SMARTlight.
- 1.5 "Service Request" stands as the request for commencement of a Service, Product and or Package.
- 1.6 "SMARTlight Network" stands as the equipment used to provide any Service, Package, Product, where in the network includes without limitation; Software, Databases, cables, generators, uninterruptible power supplies, routers, switches, servers and or peripherals.
- 1.7 "Client Data" stands for Data:
  - 1.7.1 Sent/transmitted to the "Client" via the SMARTlight Network,
  - 1.7.2 Sent/transmitted from the "Client" via the SMARTlight Network,
  - 1.7.3 Used in day to day in terms of a Service, Product, Package.
- 1.8 "Urgent Maintenance" and "Priority Maintenance" stand for maintenance performed on/in the SMARTlight Network to either correct existing conditions or prevent forthcoming conditions that are likely to cause damage and or danger to property, persons, a break and or interruption to services, or packages, or products. This includes any substantial loss to SMARTlight and or the Client or any third party.
- 1.9 "Payment" and "Fee" respective of Service will be specified in the Service Contract provided to the Client on initial inception of the Service, Product and or Package, and are liable to adjustment from time to time.
- 1.10 "Services" in general stands for internet services and access but for each individual Service, Package, Product finer detailing will be applied on the specific Services, Packages and or Products terms and conditions.
- 1.11 "Application" stands for the initial request from the Client for the provision of a Service, Product and or Package.

## 2. How the Agreement works (Contract)

- 2.1 The general terms and conditions stated within this document apply to all Services, Products, Packages.
- 2.2 The specifics of Goods and Services provided by SMARTlight to the Client will be described in the Service Contract attached to said Service, Package and or Product.
- 2.3 If there is any discrepancy or conflict between documents SMARTlight reserves all rights and privileges in order to amend the discrepancy and or conflict in a manner decided upon by SMARTlight.
- 2.4 More detailed terms of a particular Service, Product and or Package may be contained within the Service, Product and or Packages specified Service Contact and or Service Terms.

### 3. Applications and Initiation

- 3.1 SMARTlight reserves the right to refuse provision of any and or all Services, Packages and or Products based on the Client's prior record and conduct.
- 3.2 Each individual Service Contracts are held as a separate contract between SMARTlight and the Client (Unless amended by SMARTlight or a renewed Service Contract is initiated by the Client).
- 3.3 Terms stated in one Service Contract, Agreement, and or Policy will not apply to another. Unless amendments or renewal of an existing Service, Product and or Package, This also applies to any Services, Products and or Packages being added to an existing Service Contract.
- 3.4 SMARTlight reserves the right to terminate this Agreement and will not be liable for any damage and or loss the Client may incur as a result of non-compliance of any required clause by the Client and or User.

### 4. Client's Commitments

- 4.1 The Client and or individual signing on behalf of the client confirms that all statements and information made and or given to SMARTlight are correct and true. The Client agrees and commits to providing SMARTlight with required information in the provisioning of Services, Products and or Packages, (where applicable) consent is given in the use or sharing of this information with third parties to comply with any applicable legislation, guidelines and or conditions.
- 4.2 The Service Contract(s) and Agreements and supporting documents shall be governed by the laws of the Republic of South Africa and any disputes shall be decided in the courts of South Africa.
- 4.3 Irrespective of form, extent or medium any abuse from a Client or its staff toward Smartlight and or its staff, that is in contravention of the Acceptable Use Policy, Smartlight reserves the right to terminate the Client's Service, Product and or Package.
- 4.4 In the case that SMARTlight receives any form of takedown notice for content hosted by a Client SMARTlight reserves the right to remove the content in mention.
- 4.5 It is the Client's responsibility to keep itself informed of any amendments made to these General Terms and Agreements. In the case that SMARTlight elects to amend this or any other documents, including but not limited to; Service Contract, Agreement, Acceptable Use Policy, Privacy Policy. SMARTlight will make reasonable efforts to inform the Clients through but not limited to notice sent by email to the address given by the Client.

### 5. Terms Subject to Change

- 5.1 Smartlight Solutions is required to give notice not less than one calendar month prior to the amendments coming into effect. The amendments will become effective at the beginning of the first calendar month after the notice period has expired.
- 5.2 The Client has a duty to keep itself informed of the documents and any amendments that may occur to said documents. Smartlight Solutions may amend (including but not limited to); General Terms and Conditions, Policy, Service Contract, Agreement, Acceptable Use Policy, Privacy Policy. Smartlight Solutions will make reasonable efforts to inform and or advise the Client by email.
- 5.3 If the Client objects to any amendments made the Client may terminate the Agreement. This cancellation will be effective at the end of the notice period.

### 6. Interactions with Staff and Smartlight Solutions Brand

- 6.1 Clients will be held accountable for actions and or behaviours including (but not limited to) aggression, offensive and or racist language or conduct and intimidation, toward Smartlight Solutions employees. Clients found to be using public platforms with the intent to spread, false allegations or unreasonable content that diminishes the public perception of the Smartlight Solutions brand may be found in breach of the AUP and thus are liable to have their service terminated depending on the severity of the act in question. Smartlight Solutions retains the right to suspend or terminate any Service Contracts and or Agreements with the Client.

## 7. Availability of Services

- 7.1 Smartlight Solutions does not guarantee provision of any requested Service and or Product.
- 7.2 Provisioning of any Product, Service or Package is reliant on Smartlight confirming that it is technically feasible. Examples: Site inspection, confirmation of Client details, credit history, minimum take-rate.
- 7.3 Smartlight Solutions is required to inform the Client of the outcome (may it be true or false) of any Service Contract requests feasibility.

## 8. Choice of Services and Products

- 8.1 Smartlight Solutions offers no warranty or guarantee of the suitability of any Service, Product and or Package to meet the Clients requirements.
- 8.2 Application for any Service, Product and or Package is subject to the “cooling off” period outlined in section 44 of the Electronic Communications and Transactions Act.
- 8.3 Smartlight Solutions will not be held liable for any form of costs, damages or compensation resulting from incorrect information and or incorrect selection of any Service, Product and or Package.

## 9. Payment and Penalties

- 9.1 Unless under special request and acceptance, Smartlight Solutions only accepts Debit Order payments. Any alternative form of payment will only be allowed if prior arrangements with Smartlight have been accepted and confirmed, this is left solely at the discretion of Smartlight Solutions.
- 9.2 Smartlight Solutions accepts no responsibility or liability for any delays, suspension or impact on any Service, Product or Package due to non-approved or incorrect payment methods, this includes late or missed payments.
- 9.3 The Client’s monthly debit order will be submitted monthly in advance within the first business week of the month.
- 9.4 Unpaid Debit Orders or any irregularity regarding payment will result in immediate suspension of any Service, Product and or Package.
- 9.5 Smartlight retains the right to suspend or terminate any Service, Product and or Package in lieu of non-payment. The stance will be held until all arrears are settled in full for any Service, Product or Package.
- 9.6 Smartlight Solutions retains its rights to change pricing for any Service, Product and or Product at any time. Reasonable notice of no less than 30 days will be given.
- 9.7 An Admin Fee might be applicable in the case of failed or returned payments. If an Admin Fee is applicable it is payable in conjunction with the outstanding fees which resulted in the non-payment and or suspension of Service, Product, Package.
- 9.8 In the case of a Client’s Service, Product and or Package being suspended or terminated then reinstated, Smartlight may charge a Reconnection Fee if the Client requests a Service, Product, Package to be reactivated.
- 9.9 Any and all outstanding fees and or penalty fees must be settled in full before the reconnection of affected services in the case of the Service, Product and or Package being suspended and or terminated due to non-payment.
- 9.10 Smartlight Solutions reserves the right to suspend and or terminate any Service, Product and or Package where the Client shows repeated disregard for payment terms and fails to make the scheduled payments through the approved payment methods. Smartlight Solutions is not and will not be held liable for any requests or claims of Service, Product and or Package delivery once the Client’s Service Contract has been terminated.

## 10. Debit Order Authorisation

- 10.1 The Client by accepting these terms, hereby authorizes Smartlight Solutions to debit their nominated bank account or credit card any variable amount pertaining to the service or products they have selected. This sum being the amount for settlement of the monthly amount due by the Client in respect of services or products.
- 10.2 The Client authorises Smartlight Solutions' nominated agent (the "authorized party") to debit their bank account or credit card on behalf of Smartlight Solutions'. The debit authority will remain in force until such services or products are cancelled, subject to the condition that the Client agrees that debits related to cancellation notice periods will be honored before the expiration of the debit authority.
- 10.3 The Client agrees that the authorized party may freely cede, delegate or assign any of its rights or obligations in terms of this debit order instruction without consent from the Client and that the Client may not cede, delegate or assign any of their rights and obligations in terms of this debit order instruction to any third party without the prior written consent of the authorized party.

## 11. Term and Termination

- 11.1 In consideration of Smartlight Solutions' Month-to-Month contracts. Either the Client or Smartlight Solutions may terminate the agreement, or a particular Service, by giving one calendar month's notice to the other. Shorter notice periods may be allowed in lieu of Particular Service Terms. For example if notice is given to terminate an agreement or particular service on the 15th of June, the termination will take effect on the 1st of August.
- 11.2 The Client must give notice of termination to Smartlight Solutions via written notice (to [accounts@smartlight.co.za](mailto:accounts@smartlight.co.za)). Cancellation of any Service is the Client's responsibility. The Client is responsible for ensuring that the cancellation of service is actioned with due attention to terms of cancellation, as well as cancellation conditions which require the Client to specifically indicate a required process. Should the Client incorrectly complete the cancellation process, Smartlight will not be liable for any additional costs or compensation due to the error.
- 11.3 The Client acknowledges that Smartlight Solutions may terminate this Agreement by written notice, including email, and without liability in the event of the termination of its agreement with an upstream licensee relevant to the provision of any connectivity Service.
- 11.4 Smartlight Solutions reserves the right to deactivate or terminate selected Free Products. Such termination will take place automatically, as per product specifications, and may occur without prior warning. Smartlight Solutions accepts no liability should such termination take place, and no warranty is made regarding the availability of said products in the future. Smartlight Solutions accepts no liability for any consequences resulting in the deletion of the product.

## 12. Transferability

- 12.1 Should Smartlight Solutions agree to the acquisition or transfer of any or all of its services to another company, such services and service agreements will be transferred to the acquiring entity. Clients affected will be notified of such changes and any potential impact to their service agreement within the minimum term (30 days) of a month to month agreement.

## 13. Client Information and Privacy

- 13.1 Smartlight Solutions will observe all privacy of information best practices, in accordance with the applicable laws of South Africa, including the Protection of Personal Information Act (POPI) of 2013.
- 13.2 The Client consents to Smartlight Solutions processing Personal Information transmitted to Smartlight Solutions in a way which is consistent with the Service being provided. The Client warrants that it has obtained the consent of any third party for the use of that party's Personal Information in this way, or otherwise that such processing is lawful, and indemnifies Smartlight Solutions from any claim brought by such third party as a result of its failure to do so.
- 13.3 The Primary Contact stated when the Client signs up for services is considered the "The Client" and no other parties or persons will be permitted access or authority to the Client Account, this includes 3rd party recipient(s) or affiliate(s) of the "client".

## 14. Security

- 14.1 In line with Good Industry Practice Smartlight Solutions will implement measures to ensure the security of the Smartlight Solutions System, but gives no warranty that breaches of security will not take place.
- 14.2 If a security violation results in the damage or loss or corruption of Client Data the Client will be held accountable and liable for the damage if the violation was the Client's fault.
- 14.3 The Client must not do anything that may impair the security of the Smartlight Solutions System, and must take all reasonable measures necessary to ensure that no unlawful access is gained to, the Smartlight Solutions System, or the Client's own system and the Client Data is safeguarded.
- 14.4 Smartlight Solutions may take whatever steps it considers necessary to maintain the proper functioning of Smartlight Solutions Systems in light of a security violation occurring, or if in Smartlight's view a security violation is imminent including without limitation, Preventing access to the Smartlight Solutions System and or, changing the Client's access codes and passwords.
- 14.5 The Client must give its full cooperation to Smartlight Solutions in any investigation that may be carried out by Smartlight regarding a security violation.

## 15 Suspension or Terminations of Service

- 15.1 In the case of any of the following occurring Smartlight Solutions may suspend or terminate services of a Client in its absolute discretion by providing email notice:
- 15.1.1 The information the Client supplied to Smartlight Solutions is found to be incorrect or false; or
  - 15.1.2 Any part of the Client's Fees are not paid in full when due; or
  - 15.1.3 The Client commits a serious or repeated breach of the Agreement or the Client engages in any conduct which in Smartlight's opinion would have a negative impact on Smartlight Solutions.
- 15.2 Smartlight Solutions reserves the right to effect such suspension or termination without notice, depending on the severity of the breach, but will undertake to inform Clients where possible. Upon such suspension or termination, such Clients will not be eligible for reimbursement / compensation and or, may be reported to governing bodies, such as ISPA, for listing purposes. unless at Smartlight Solutions' discretion.

## 16. Limitation of Liability and Indemnity

- 16.1 SMARTLIGHT SOLUTIONS WILL NOT BE LIABLE TO THE CLIENT OR ANY THIRD PARTY IN RESPECT OF ANY AND ALL DAMAGES, LOSS, CLAIMS OR COSTS, OF WHATEVER NATURE AND INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES, SUFFERED BY THE CLIENT OR THIRD PARTY, HOWSOEVER ARISING, AND SMARTLIGHT SOLUTIONS WILL MOREOVER NOT BE LIABLE WHETHER THE LOSS WAS THE RESULT OF THE ACT OR OMISSION OF AN SMARTLIGHT SOLUTIONS EMPLOYEE, VICARIOUS OR STRICT LIABILITY.
- 16.2 In the event that Smartlight Solutions is nonetheless held liable, the quantum of Smartlight Solutions' liability will not exceed the monthly or pro-rata fees due for the Service, product and or package that occasioned the loss.
- 16.3 USE OF THE SERVICES INDICATES THAT THE CLIENT INDEMNIFIES AND HOLDS HARMLESS SMARTLIGHT SOLUTIONS IN RESPECT OF ANY DAMAGES, LOSS OR COSTS OR CLAIMS INSTITUTED AGAINST SMARTLIGHT SOLUTIONS ARISING FROM ANY APPLICATION OR SUBSCRIPTION TO OR USE OF ANY SERVICE OR BREACH OF THE TERMS AND CONDITIONS APPLICABLE TO IT.
- 16.4 These limitations on liability and indemnities apply to the benefit of Smartlight and Smartlight Solutions' affiliates, directors, officers, employees, contractors, agents and other representatives, as well as any third parties whose networks are connected to the Smartlight Solutions System.
- 16.5 Nothing contained in this clause 16 will limit the Client's liability in respect of charges incurred for ongoing Services.
- 16.6 In the case of ambiguity, this clause 16 will take precedence over any expression of the Parties' intention, whether express or implied, that may be contained elsewhere in this Agreement.

## 16. Limitation of Liability and Indemnity

- 16.7 If the Consumer Protection Act 68 of 2008 is applicable to this Agreement, and any provision of this clause 16 is found by a court or tribunal with jurisdiction over Smartlight Solutions to be unfair, unreasonable or unjust, then that provision (whether it be a word, phrase or sub-clause) will be severed, and the remainder of this clause 16 will have full force and effect.

## 17. Notices

- 17.1 All requests by the Client for the provisioning, modification or termination of Services, and for modification of contact and other personal information must be made via written notice to [accounts@smartlight.co.za](mailto:accounts@smartlight.co.za) and Smartlight Solutions reserves the right to ignore any such request made in any other manner.
- 17.2 Any notice given in terms of this Agreement must be in writing and any notice given by any Party to another ("the addressee") which is transmitted by email will be deemed to have been received upon confirmation of receipt (not automated receipt) thereof by the addressee. Despite the afore mentioned any notice that Smartlight Solutions sends by email to the given email address given in the Service Contract will be deemed to have been received by the Client on the date of transmission and if a written notice or communication is actually received by one of the Parties from the other, this will be adequate written notice or communication to that Party.

## 18. Interpretation and General

- 18.1 **Applicable Law & Jurisdiction.** The law of the Republic of South Africa will apply to this Agreement, its interpretation and any matter or litigation relating to or arising from it, and the parties consent to the jurisdiction of the courts of the Republic of South Africa in this regard.
- 18.2 **Survival.** Any provision of this Agreement that anticipates any right or duty extending beyond the termination or expiry of this Agreement will survive the termination or expiry of this Agreement and continue in full force and effect.
- 18.3 **No Indulgence.** If one party chooses not to enforce any part of this Agreement, that does not mean that the party cannot enforce that part at a later time. If any part of the Agreement is found to be unenforceable, the rest will still be enforceable.
- 18.4 **Severance.** In the event that any part of this Agreement is found to be partially or fully unenforceable because it does not comply with any law, or for any other reason, this will not affect the application or enforceability of the remainder of this Agreement.
- 18.5 **Reading Down.** If a provision of this Agreement is reasonably capable of an interpretation which would make that provision valid and enforceable and an alternative interpretation that would make it void, illegal, invalid or otherwise unenforceable, then that provision shall be interpreted, so far as is possible, to be limited and read down to the extent necessary to make it valid and enforceable.
- 18.6 **Representatives.** The signatories hereto acting in representative capacities warrant that they are authorised to act in such capacities, and accept personal liability under this Agreement should they prove not to be so authorised.