

Semtech Corporation

Terms of Service for AWS Marketplace

Last Updated: December 9, 2024

BY PURCHASING OR OTHERWISE ACCESSING OR USING THE SEMTECH SOLUTIONS (AS DEFINED BELOW), YOU ARE AGREEING TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS AS OF THE DATE OF SUCH PURCHASE, ACCESS, OR USE OF THE SEMTECH SOLUTIONS (WHICHEVER IS EARLIER, THE “**EFFECTIVE DATE**”). AS USED IN THESE TERMS OF SERVICE (AS DEFINED BELOW), “**WE**”, “**US**”, “**OUR**”, OR “**SEMTECH**” MEANS SEMTECH CORPORATION AND ITS AFFILIATES, AND “**YOU**”, “**YOUR**”, OR “**CUSTOMER**” MEANS THE ENTITY YOU REPRESENT AND REGISTERED ON THE AMAZON WEB SERVICES (“**AWS**”) ONLINE MARKETPLACE ([HTTPS://AWS.AMAZON.COM/MARKETPLACE](https://aws.amazon.com/marketplace)). CERTAIN TERMS ARE DEFINED IN SECTION 12.

1. Terms of Service

- 1.1. Scope. These Terms of Service (defined below) apply to the Semtech Solutions that are provided to you. These Terms of Service govern your access to and use of (a) our online AirVantage® software-as-a-service platform (the “**AirVantage® Platform**”), and (b) Services, Software, and Hardware that are ordered or administered using, or received through, the AWS Marketplace or AirVantage® Platform. The AirVantage® Platform and such Services, Software, and Hardware are referred to collectively as the “**Semtech Solutions**”. The Semtech Solutions’ offering details are offered on AWS Marketplace.
- 1.2. Solution Terms. Your order and use of a Semtech Solution are also subject to any additional terms that are specific to that Semtech Solution and attached to these Terms of Service as an Appendix (the “**Solution Terms**”).
- 1.3. Orders. Semtech Solutions may be ordered through AWS Marketplace or the AirVantage® Platform, or in some cases, via a physical order form that we accept and administer through AWS Marketplace (each, an “**Order**”). The Order will be deemed to incorporate any quantities and pricing for the Semtech Solutions that are presented to you on AWS Marketplace during the Order process.
- 1.4. Terms of Service. The contract between you and Semtech consists of these Terms of Service for AWS Marketplace, including the applicable Solution Terms, and any Orders (together, the “**Terms of Service**”). If there is any conflict between this document, the Solution Terms, or the Order with respect to a specific Semtech Solution, the following priority will apply: (a) the Order, (b) the Solution Terms, and (c) this document.

2. Authorized Users

- 2.1. Authorized Users. You are responsible for designating individuals who are authorized to use the AirVantage® Platform and Semtech Solutions (“**Authorized Users**”) and for managing the rights and permissions of Authorized Users. Each Authorized User will be provided with a distinct account to access the AirVantage® Platform (a “**User Account**”).
- 2.2. Your Responsibilities. You are responsible for any activities by Authorized Users, or by anyone else who accesses the AirVantage® Platform using User Accounts. You are also responsible for revoking access for Authorized Users if you no longer wish them to have access. You should therefore ensure that you implement appropriate procedures to maintain the security and confidentiality of the access credentials used by Authorized Users to access the AirVantage® Platform, and to revoke User Accounts when the Authorized User no longer requires access.

3. Semtech Solutions; Orders

- 3.1. Ordering. By submitting an Order, you agree to the pricing and other terms set out in the Order. You acknowledge that you will be responsible for any Orders placed by your Authorized Users. No Order is binding on us until we have accepted it, which we may do either by providing an Order confirmation, or by providing the applicable Semtech Solutions.
- 3.2. Access and Use. Subject to your compliance with these Terms of Service, including your timely payment of all applicable Fees, we grant you and your Authorized Users the right to access and use the Semtech Solutions you have Ordered. You and your Authorized Users may use the Semtech Solutions solely in accordance with the terms of these Terms of Service. Additional or different terms relating to the use of Semtech Solutions may be included in the Solution Terms.
- 3.3. License to Software. If you Order any Software, or if any Hardware we provide comes with Software pre-installed, we grant you a non-exclusive, non-transferrable, non-sublicensable right to (a) install a single object-code instance of the Software on a single device, and (b) to execute the Software on the device on which it was first installed, in each case solely to support your use of other Semtech Solutions. Additional or different terms relating to the licensing of Software may be included in the Solution Terms. All Software is licensed and not sold. If we make any open source software available to you (including the Legato® application framework software, the associated development environment and Linux distribution), the software is provided without warranty, your use of such software will be governed by the applicable open source licenses, and you will be responsible for complying with those licenses if you choose to use the software.
- 3.4. Restrictions. Except as explicitly set out in the applicable Solution Terms, you may not (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Semtech Solutions available to any third party, other than to Authorized Users or as otherwise contemplated by these Terms of Service; (b) use the Semtech Solutions to send or store any infringing or unlawful information; (c) send to or store malicious code in the AirVantage® Platform; (d) interfere with or disrupt the integrity or performance of the Semtech Solutions; (e) attempt to gain unauthorized access to the Semtech Solutions or any related systems or networks; (f) alter, modify or create derivative works of the Semtech Solutions; (g) frame or mirror any content forming part of the Semtech Solutions; (h) reverse engineer the Semtech Solutions for any purpose; (i) access the Semtech Solutions for purposes of building a competitive product or service, or copy any ideas, features, functions or graphics of the Semtech Solutions; or (j) directly or indirectly (including facilitating a third party), export or re-export the Semtech Solutions without obtaining all applicable governmental licences and complying with all applicable laws.
- 3.5. Prohibited Applications. You may not use nor permit your customers to use the Semtech Solutions for or in connection with (a) Medical Devices, (b) life or safety critical systems, in hazardous environments, or in any other environments requiring fail-safe performance, including without limitation in the operation of nuclear facilities, aircraft navigation, air traffic control systems, or life-saving or life-sustaining systems, (c) any other application where a failure or malfunction of the Semtech Solution may result in personal injury, death or severe damage to property or the environment, (d) any application that provides emergency calling to 911 or equivalent emergency telephone numbers; or (e) the monitoring of individuals without their consent..
- 3.6. Your Responsibilities. You will (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Your Data; (b) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Semtech Solutions, and notify us promptly of any unauthorized access or use; and (c) comply with all applicable local, state, provincial, federal and foreign laws in using the Semtech Solutions. You are solely responsible for ensuring that any hardware, software, service or other solution you develop that utilizes the Semtech Solutions complies with all applicable legal and regulatory requirements and telecommunications industry standards (e.g. FCC, PTCRB, RED), and for obtaining any required certifications and approvals.
- 3.7. Modifications and Limits. We may update the Semtech Solutions from time to time, including to add or remove features. We may also discontinue certain Semtech Solutions from time to time. We will endeavor to provide reasonable notice to you if we intend to discontinue or remove material functionality from a Service

that you are using. We may also impose reasonable limits on the use of the Services, including the number and frequency of API calls or device communications.

- 3.8. Affiliates. If your affiliates use a Semtech Solution in any way, they will be bound by these Terms of Service, but you agree to be jointly and severally liable for any actions of your affiliates related to their use of a Semtech Solution.
- 3.9. Hardware Purchases. If you place any orders for Hardware through AWS Marketplace, these Terms of Service will govern the order and payment for such Hardware. However, all other terms relating to the purchase and sale of the Hardware (including delivery, warranty, indemnification and limitation of liability) will be governed by Semtech' General Terms & Conditions of Sale, as posted at www.sierrawireless.com/terms-of-sale at the time you place an order for Hardware.

4. Trials

Pursuant to Section 1.3, we may provide certain Semtech Solutions to you that are described in the Order as being provided for testing, evaluation or trial purposes ("**Trials**"). The following terms and conditions apply solely to Trials.

- 4.1. Use Restrictions. In addition to the restrictions contained elsewhere in the Terms of Service, the Semtech Solutions may be used solely for testing and evaluation in a test environment and may not be used for commercial or revenue generating purposes or for any production use (the "**Trial Permitted Purpose**").
- 4.2. No Obligation to Provide Trials. It is in our discretion to decide which Semtech Solutions to make available to you under a Trial. Your acceptance of these Terms of Service or submission of any Order for any Semtech Solutions does not obligate us to provide any Semtech Solutions to you under a Trial or otherwise. We may suspend or terminate a Trial at any time without notice.
- 4.3. Access and Use. Subject to your compliance with the Terms of Service, Semtech grants you and your Authorized Users the right to access and use only those Semtech Solutions that we make available to you, solely for the Trial Permitted Purpose and solely in accordance with the Terms of Service.
- 4.4. No Warranties. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE TERMS OF SERVICE, THE SEMTECH SOLUTIONS PROVIDED AS A TRIAL ARE PROVIDED ON AN "AS-IS" BASIS. WE SPECIFICALLY DISCLAIM ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, (B) THAT THE SEMTECH SOLUTIONS WILL BE PROVIDED ON AN UNINTERRUPTED OR ERROR-FREE BASIS; (C) THAT THE SEMTECH SOLUTIONS ARE SECURE; (D) THAT THE SEMTECH SOLUTIONS WILL OPERATE SATISFACTORILY IN CONJUNCTION WITH YOUR OR ANY THIRD PARTY'S HARDWARE, MEDIA, OR SOFTWARE; (E) THAT WE WILL CORRECT PROGRAM DEFECTS IN SOFTWARE; OR (F) THAT THE SEMTECH SOLUTIONS ARE SUITABLE FOR USE IN SAFETY-CRITICAL ENVIRONMENTS. FOR CLARITY, NOTHING CONTAINED ON THE AIRVANTAGE® PLATFORM, AWS MARKETPLACE OR ON ANY SEMTECH CORPORATION WEBSITE, MARKETING MATERIALS OR TECHNICAL DOCUMENTATION CONSTITUTES A REPRESENTATION OR WARRANTY WITH RESPECT TO A TRIAL FOR SEMTECH SOLUTIONS.

5. Subscriptions

- 5.1. Subscriptions. Some Services may be Ordered in advance for a defined term ("**Subscriptions**").
- 5.2. Initial Subscription Term. The initial term of a Subscription will be specified in the Order, and if not specified, will be 12 months (the "**Initial Subscription Term**"). The Initial Subscription Term will start on the date the applicable Service is first made available to you.
- 5.3. Subscription Renewals. Subscriptions will automatically renew for successive terms. The renewal term for a Subscription will be specified in the Order, or if not specified, will be the same duration as the Initial

Subscription Term (the **Subscription Renewal Term**). If you do not wish to renew a Subscription you must select this option in the applicable place in the AirVantage® Platform or AWS Marketplace or notify us in writing at least 30 days prior to the renewal date.

- 5.4. Declined Renewals. We have no obligation to accept a renewal of a Subscription. We will endeavor to provide reasonable notice to you if we intend to refuse renewals of Subscriptions.
- 5.5. Termination. You may terminate a Subscription at any time. However, you will be required to pay any recurring Fees under the terminated Subscription up to the end of the then-current Initial Subscription Term or Subscription Renewal Term. If we change a Service in a manner that materially reduces its functionality, the termination Fee will be waived if you provide notice within 30 days of the change to terminate any Subscriptions directly affected by the change.

6. Fees and Payment

- 6.1. Types of Fees. The fees that may be charged under these Terms of Service include the following ("**Fees**"):
 - (a) *Subscription Fees*. A Subscription may include a Fee that is payable to access and use the applicable Service ("**Subscription Fee**"). The Subscription Fee applicable to the Initial Subscription Term will be specified in the Order and will not change during the Initial Subscription Term. The Subscription Fee applicable to a Subscription Renewal Term will be specified in the AWS Marketplace or AirVantage® Platform, or if not, will be the same as the Subscription Fee for the previous term. Subscription Fees are either payable in advance at the beginning of the term or in installments throughout the term, as specified in the Order.
 - (b) *Usage Fees*. Fees that are incurred based on the actual usage of Semtech Solutions in a billing period, such as Fees charged per event, per active device or per gigabyte of data ("**Usage Fees**"). No Order is required for Usage Fees, and by entering into these Terms of Service you agree to pay all Usage Fees that are incurred, including Usage Fees attributable to unauthorized or fraudulent activity. Usage Fees will be specified in the Order or the AirVantage® Platform and may change at any time on 30 days' notice. Usage Fees are payable in arrears based on actual usage in the preceding period.
 - (c) *A-La-Carte Fees*. Certain Semtech Solutions may be Ordered on an "a-la-carte" basis, for example an Order for a certain number of units of Hardware. The Fees applicable to these Semtech Solutions ("**A-La-Carte Fees**") will be specified in the applicable Order. A-La-Carte Fees may change at any time without notice, but changes will only affect Orders placed after the date of the change. A-La-Carte Fees are payable in advance at the time of Order.
- 6.2. Payment Method. All Fees will be invoiced to you by AWS on behalf of Semtech. The payment terms for such Fees are set forth in the AWS Customer Agreement and governed by the terms and conditions contained therein.
- 6.3. Non-Refundable. Unless otherwise specified in the Order or the Solution Terms, Fees are not refundable.
- 6.4. Usage Quotas. Certain Semtech Solutions may include a usage quota that applies to a given Subscription, device and/or period (such as a Subscription that includes 1GB of data per month). Unless otherwise specified in the Order or the Solution Terms, usage quotas do not pool across Subscriptions or devices, and any unused usage quota in a period will expire and will not roll over to the next period. Usage quotas have no cash value.
- 6.5. Taxes. Fees are stated exclusive of any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction (collectively, "**Taxes**"). You will be responsible for paying all Taxes associated with your purchases, except for those taxes based on our net income.

7. Intellectual Property; Your Data; Confidentiality

- 7.1. Ownership of Semtech Solutions and Network Information. We and our licensors retain all right, title and interest in the Semtech Solutions and Network Information, including any technology and intellectual property rights developed or used in order to provide the Semtech Solutions to you. Unless otherwise specified in a statement of work, we will own all right, title and interest in and to any technology, deliverables and associated intellectual property rights we develop while performing professional services for you.
- 7.2. Ownership of Your Software and Algorithms. The Semtech Solutions may allow you to develop software applications or algorithms that either run on the Semtech Solutions or interface with them through APIs or other means. We do not claim any ownership over the software applications or algorithms that you develop.
- 7.3. Ownership of Your Data. We do not claim any ownership over Your Data. We may use Your Data for the following purposes: (a) to provide the Semtech Solutions to you and your Authorized Users, and (b) to comply with the terms of these Terms of Service and our legal obligations.
- 7.4. Security and Retention of Your Data. Without limiting section 9.2 or your obligations under section 3.6, we will implement reasonable risk-based measures, tailored to our systems, networks and environment, that are designed to assist you in securing Your Data against accidental or unlawful loss, access or disclosure. The Semtech Solutions are not intended to serve as a repository of information or as a data archive, and accordingly we may delete Your Data without notice. However, we will endeavor to provide reasonable notice if we believe that our deletion of Your Data is likely to materially affect your use of the Semtech Solutions.
- 7.5. Feedback. We welcome feedback and suggestions relations to the Semtech Solutions. If you choose to provide us with any feedback or suggestions, we will be entitled to use them in any manner without restriction, and without any obligation of confidentiality, attribution or compensation.
- 7.6. Confidentiality. The Receiving Party (a) shall not use any Confidential Information of the Disclosing Party for any purpose outside the scope of these Terms of Service, and (b) shall not disclose any Confidential Information of the Disclosing Party, except to its employees and representatives who have a need to know such information. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information of the Disclosing Party if required to do so by any applicable law, by any rule or regulation of any court or government agency of competent jurisdiction, or pursuant to legal process; provided that the Receiving Party provides the Disclosing Party with prompt written notice of the requirement to disclose (unless prohibited by law), and reasonable assistance in contesting such requirement. The parties agree that any unauthorized disclosure of Confidential Information may cause immediate and irreparable injury to the Disclosing Party and that, in the event of such breach, the Disclosing Party will be entitled, in addition to any other available remedies, to immediate injunctive and other equitable relief. For clarity, a data security breach or other compromise to the security of Your Data will not be considered to be a breach of this section 7.6.
- 7.7. Personal Data. If Your Data includes any personal data that is governed by applicable privacy or data protection laws, it is your responsibility to ensure compliance with such laws. If you require us to enter into a data processing agreement (or any similar agreement relating to our processing of this data) you may contact us in accordance with section 11.2. We will have no obligations with respect to the processing of personal data (other than the confidentiality obligations in section 7.6) unless we have signed a separate data processing agreement. If we decline to sign such an agreement, your sole remedy is to terminate these Terms of Service in accordance with section 8.4(c).

8. Term and Termination; Suspension

- 8.1. Terms of Service Term. These Terms of Service will remain in effect until the later of (a) the termination or expiration of all Subscriptions, and (b) the date that access to the AirVantage® Platform for all Authorized Users has been revoked in accordance with these Terms of Service, unless these Terms of Service are terminated earlier in accordance with section 8.3 or section 8.4. Termination of these Terms of Service will terminate all Subscriptions and all Orders.

- 8.2. Suspension. We may cease providing or suspend your access to the AirVantage® Platform or any Service (in whole or in part) (a “**Suspension**”) if you do not pay Fees when due under these Terms of Service or if you violate any term of these Terms of Service. We may also Suspend if we are required to do so by applicable law, if we detect usage of the AirVantage® Platform or Service that we reasonably believe to be fraudulent or excessive, if your usage of the AirVantage® Platform or Service is disrupting other users, our network, or the network of our third party providers, or if AWS requests that we suspend your access. We will endeavour to provide notice before a Suspension, unless we reasonably believe that we need to Suspend immediately. Once we have confirmed that the reason for a Suspension has been fully addressed, we will resume providing the Service or re-instate your access to the AirVantage® Platform, as applicable. Recurring Fees will continue to accrue during a Suspension, and no refunds or credits will be issued for any period during which the AirVantage® Platform or a Service was unavailable due to a Suspension.
- 8.3. Termination by Us.
- (a) *Breach.* We may terminate these Terms of Service or any Subscriptions or Orders if you breach any material term of these Terms of Service, provided that we will provide you with written notice and 30 days to cure the breach. We may also terminate these Terms of Service (i) if you do not fully address the reason for a Suspension within 30 days after Suspension, (ii) if there have been more than two Suspensions in any 12-month period, or (iii) if AWS terminates your use of AWS Marketplace.
 - (b) *Insolvency.* We may terminate these Terms of Service if you cease your business operations or become subject to insolvency proceedings and the proceedings are not dismissed within 90 days.
 - (c) *Convenience.* We may terminate these Terms of Service at any time on 90 days’ notice. If you have pre-paid any Fees for a Subscription, we will refund to you the pro-rated portion of the Fees.
- 8.4. Termination by You.
- (a) *Breach.* You may terminate these Terms of Service if we breach any material term of these Terms of Service, provided that you provide us with written notice and 30 days to cure the breach.
 - (b) *Insolvency.* You may terminate these Terms of Service if we cease our business operations or become subject to insolvency proceedings and the proceedings are not dismissed within 90 days.
 - (c) *Convenience.* You may terminate these Terms of Service as a whole on 90 days’ written notice to us, however you will still be required to pay for any Orders you placed up to the effective date of termination, and the termination fees for any terminated Subscriptions, in accordance with section 5.5.
- 8.5. Effect of Termination. If these Terms of Service are terminated for any reason we will have no further obligation to provide the Semtech Solutions to you, we may delete Your Data, and you will immediately cease using all Services. You may continue to use any Hardware that was previously sold to you. You may continue to use any Software that was previously licensed to you until the end of the applicable license term, unless we terminated these Terms of Service for your breach, in which case you will stop using the Software immediately. Termination will not relieve you of your obligation to pay Fees that accrued prior to termination. Sections 3.4 and 5.5, article 7, this section 8.5, section 9.2, and articles 10, 11 and 12 will survive any expiration or termination of these Terms of Service.

9. Warranties

- 9.1. Solution Warranties. Our warranties with respect to the Semtech Solutions are included in the applicable Solution Terms.
- 9.2. Exclusions. THE REPRESENTATIONS AND WARRANTIES SET OUT IN THESE TERMS OF SERVICE ARE OUR EXCLUSIVE REPRESENTATIONS AND WARRANTIES IN CONNECTION WITH THESE TERMS OF SERVICE AND THE SEMTECH SOLUTIONS. WE SPECIFICALLY DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, (B)

THAT THE SEMTECH SOLUTIONS WILL BE PROVIDED ON AN UNINTERRUPTED OR ERROR-FREE BASIS; (C) THAT THE SEMTECH SOLUTIONS ARE SECURE; (D) THAT THE SEMTECH SOLUTIONS WILL OPERATE SATISFACTORILY IN CONJUNCTION WITH YOUR OR ANY THIRD PARTY'S HARDWARE, MEDIA, OR SOFTWARE; (E) THAT WE WILL CORRECT PROGRAM DEFECTS IN SOFTWARE; OR (F) THAT THE SEMTECH SOLUTIONS ARE SUITABLE FOR USE IN SAFETY-CRITICAL ENVIRONMENTS. FOR CLARITY, NOTHING CONTAINED ON THE AIRVANTAGE® PLATFORM OR ON ANY SEMTECH WEBSITE, MARKETING MATERIALS OR TECHNICAL DOCUMENTATION CONSTITUTES A REPRESENTATION OR WARRANTY WITH RESPECT TO A SEMTECH SOLUTION.

10. Limitation of Liability

- 10.1. Limitation. OUR AGGREGATE LIABILITY IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION OR OTHERWISE ARISING IN CONNECTION WITH THE SEMTECH SOLUTIONS OR THE PERFORMANCE OR NON-PERFORMANCE OF THESE TERMS OF SERVICE SHALL BE LIMITED TO DIRECT DAMAGES UP TO THE AGGREGATE AMOUNT OF THE FEES PAID UNDER THESE TERMS OF SERVICE IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE LIABILITY AROSE. IF YOU HAVE NOT PAID ANY FEES UNDER THESE TERMS OF SERVICE IN THAT PERIOD, OUR LIABILITY IS LIMITED TO DIRECT DAMAGES UP TO US\$5,000.
- 10.2. Disclaimer. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THESE TERMS OF SERVICE OR THE SEMTECH SOLUTIONS, NOR FOR ANY LOSS OF PROFITS OR REVENUES, LOST DATA, FAILURE TO REALIZE EXPECTED SAVINGS, INTERRUPTION OR LOSS OF USE OF SEMTECH SOLUTIONS, NOR FOR ANY OTHER COMMERCIAL OR ECONOMIC LOSSES OF ANY KIND, IN EACH CASE WHETHER BASED IN CONTRACT, TORT (INCLUDING THEORIES OF NEGLIGENCE, RECKLESSNESS, STRICT LIABILITY, OR DEFECTIVE PRODUCT LIABILITY), OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY WERE REASONABLY FORESEEABLE.
- 10.3. Exceptions. The limitations in sections 10.1 and 10.2 apply to the fullest extent permitted by applicable law, but do not apply to (a) either party's obligations in section 7.6 (Confidentiality), (b) violation of the other party's intellectual property rights, or (c) your obligation to pay Fees.
- 10.4. Third Party Claims. You will at your expense defend us from, and pay any settlement amounts, losses, liabilities, damages, costs and expenses (including reasonable legal fees) arising out, of any third party claim, suit or proceeding that is asserted against us, our affiliates or our respective officers, directors or employees that arises from or relates to any (a) breach of section 3.5, or (b) any dispute between you and any user of the Semtech Solutions that you purchase under these Terms of Service.

11. Miscellaneous

- 11.1. Publicity. Unless required by applicable law, neither party will issue any press releases or make any other public announcements relating to these Terms of Service without the other party's prior consent, which will not be unreasonably withheld. However, we may include your name and logo on websites and marketing materials that generally identify our customers or users of the applicable Semtech Solutions. If you object in writing to such use, we will promptly remove the references to you.
- 11.2. Notices.
- (a) *Notices to You*. We may send notices to you at the email address we have on record for you in the AirVantage® Platform or AWS Marketplace. Any notices we send to you will be deemed given when we send them. You are responsible for ensuring that the email address we have on record for you remains up-to-date. We may also from time-to-time post notices in the AWS Marketplace or AirVantage® Platform.

- (b) *Notices to Us.* If you need to send us any formal notices you must send them to the following address: Semtech Corporation, 200 Flynn Road, Camarillo, California, 93012, United States of America, Attention: Legal Department, with a copy to legal@semtech.com. You must send notices by first class mail or by courier, and notices will be deemed given when we receive them.
- 11.3. Assignment. You may not assign these Terms of Service or any of your rights or delegate any of your obligations without our written consent. We may assign these Terms of Service if we provide notice to you. We may also assign these Terms of Service or any of our rights or obligations to one of our affiliates or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of our assets relating to the Semtech Solutions we are providing to you, without providing notice. Any purported assignment in contravention of the foregoing will be void.
- 11.4. Severability. Any provision of these Terms of Service which is, or deemed to be, unenforceable in any jurisdiction shall be severable from these Terms of Service in that jurisdiction without in any way invalidating the remaining provisions of these Terms of Service, and that unenforceability shall not make that provision unenforceable in any other jurisdiction.
- 11.5. Waiver. Failure to enforce any provision of these Terms of Service will not constitute a waiver.
- 11.6. Relationship. The relationship between the parties created by these Terms of Service is that of independent contractors and not partners, joint venturers or agents. There are no third-party beneficiaries to these Terms of Service.
- 11.7. Modification. We may revise these Terms of Service from time-to-time, and the most current version will always be posted on the AWS Marketplace or AirVantage® Platform, which you should check regularly. If a revision is material (in our discretion) we will provide at least 30 days' notice to you in the manner contemplated by section 11.2 above. By continuing to use the Semtech Solutions after the revisions become effective, you agree to be bound by the revised Terms of Service. If you do not agree to the revised Terms of Service terms, you may terminate the Terms of Service within 30 days of receiving notice of the change.
- 11.8. Governing Law and Dispute Resolution. All disputes arising out of or in connection with the Terms of Service, including the formation, interpretation, breach or termination thereof, or arising in connection with the Semtech Solutions, shall be governed by the laws of the State of New York, U.S.A. and submitted to arbitration conducted by JAMS in New York, New York in accordance with JAMS rules of arbitration, except as follows: (a) If you are incorporated or organized within the regions of Europe, Middle East or Africa, the laws of France shall govern and arbitration shall be conducted in Paris, France by the International Court of Arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce; and (b) if you are incorporated or organized within the Asia region, Australia or New Zealand, the laws of Singapore shall govern and arbitration shall be conducted in Singapore by the Singapore International Arbitration Centre (SIAC) in accordance with the Arbitration Rules of the SIAC; in each case without regard to the conflict of law provisions of such jurisdiction. For greater certainty, the United Nations Convention on Contracts for the International Sale of Goods (The Vienna Convention) shall not apply to the purchase of Semtech Solutions. The arbitration shall be binding and conducted in English before a single arbitrator appointed in accordance with the applicable rules. Judgment on the award may be entered in any court having jurisdiction. THE PARTIES EXPRESSLY WAIVE ANY RIGHTS TO HAVE DISPUTES ADJUDICATED IN COURT, AND WAIVE THEIR RIGHTS TO TRIAL BY JURY.
- 11.9. Interpretation. Headings have been inserted for convenience of reference only and will not affect the construction of these Terms of Service. Any reference to "including" means "including without limitation". Any references to dollars or the use of the dollar sign (\$) is a reference to United States dollars, unless expressly indicated otherwise.
- 11.10. Entire Terms of Service. These Terms of Service states the entire understanding between us with respect to the Semtech Solutions, and supersedes all prior proposals, marketing materials, negotiations and other written or oral communications between the parties with respect to the subject matter of these Terms of Service. Notwithstanding any language to the contrary therein no terms or conditions that you include or

reference on any purchase order or any of your other order documentation will be incorporated into or form any part of these Terms of Service, and all such terms or conditions will be null and void.

- 11.11. **Force Majeure.** We will not be liable if our performance becomes commercially impracticable due to any contingency beyond our reasonable control including, acts of God, fires, floods, wars, sabotage, civil unrest, accidents, epidemics, labor disputes (other than those with our own employees) labor shortages, government laws, rules and regulations, power outages, Carrier or third party network outages, or our inability to obtain products, services or data supplied by a third party on commercially reasonable terms.

12. Definitions

"AWS Marketplace" means the websites hosted by AWS where the Semtech Solutions are marketed and may be Ordered ([AWS Marketplace: Homepage \(amazon.com\)](https://aws.amazon.com/marketplace)).

"Carrier" means any third-party provider of products, services, or facilities that we utilize in connection with providing the Semtech Solutions including, without limitation, any third-party wireless, wireline, satellite, or hybrid telecommunications service provider or common carrier network operator, including such service provider's or operator's network and facilities.

"Carrier+ Services" means Cellular Connectivity Services that are marketed as AirVantage® Smart Connectivity: Carrier+ (or any successor branding), or that otherwise use a Carrier's SIM card.

"Cellular Connectivity Services" means Services providing cellular connectivity to one or more Connected Devices, using the Telecommunications Networks.

"Confidential Information" means all confidential or proprietary information of a party ("**Disclosing Party**") disclosed to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of its disclosure. Our Confidential Information includes (a) the pricing and other terms included in Orders, (b) the specifications, technical details and software code relating to the Semtech Solutions, and (c) Network Information. Your Confidential Information includes Your Data. Confidential Information excludes information which (i) is or becomes publicly available without a breach of any obligation owed to the Disclosing Party; (ii) is already known to the Receiving Party at the time of its disclosure by the Disclosing Party, without a breach of any obligation owed to the Disclosing Party; (iii) following its disclosure to the Receiving Party, is received by the Receiving Party from a third party without breach of any obligation owed to the Disclosing Party; or (iv) is independently developed by the Receiving Party without reference to or use of the Disclosing Party's Confidential Information.

"Connected Device" means a hardware device that transmits data to, or receives data from, the AirVantage® Platform (whether directly, or through a router or gateway), or otherwise utilizes the Services.

"Hardware" means any module, gateway, modem, physical SIM card or other hardware device, but excluding any embedded software that comes pre-installed on the Hardware at the time of delivery.

"IoT Application" means an Internet of Things (IoT) or machine-to-machine (M2M) application whereby a Connected Device communicates data to or from a server or another device on a regular or event-driven basis without any requirement for human intervention. For clarity, IoT Applications exclude applications such as cellular phones, tablets and laptops.

"Medical Devices" means "Devices" as defined in the U.S. Food, Drug and Cosmetic Act; "Medical Devices" as defined in European Union Medical Devices Directive (Directive 93/42/EEC), the Active Implantable Medical Devices Directive (Directive 90/385/EEC), or the EU In Vitro Diagnostic Medical Devices Directive (Directive 98/79/EC), or any devices regulated by the local equivalents of such legislation in other territories, or by any successor legislation.

"Network Information" means any data or information that is created by, derived from, utilizes or is necessary for, the operation of our network or the networks of our third party providers, including any international mobile subscriber identity numbers (IMSI), IP addresses, PICs, telephone numbers, network access identifiers and cell site locations.

“Service” means any service that we provide under these Terms of Service, including access to the AirVantage® Platform and to any other software application that is hosted by us or on our behalf.

“SIM” means a subscriber identity module, whether it is removable from, or embedded in, the Connected Device, or implemented in the Connected Device software.

“Smart Sensing Services” means the Services marketed as AirVantage® Managed Solutions: Smart Sensing or any successor branding.

“Software” means any software (a) we provide to you for installation on a device that you own or control, or (b) that comes pre-installed on Hardware at the time of delivery (including firmware).

“Telecommunications Networks” means the telecommunications networks that are used for the delivery of the Cellular Connectivity Services, whether operated by us or by Carriers.

“Your Data” means (a) any unprocessed data or information that is collected by your devices or systems and transmitted to or from the Semtech Solutions, and (b) any data or information that you or your Authorized Users submit to the AirVantage® Platform, including any account, contact and payment information that you or they submit. Your Data does not include Network Information.

Appendix 1

Solution Terms – Cellular Connectivity

These Solution Terms – Cellular Connectivity (the “**Connectivity Terms**”) are incorporated into and form a part of the Terms of Service that governs your use of Cellular Connectivity Services.

1. Cellular Connectivity Services

- 1.1. Subscriptions. By assigning a SIM to a rate plan using the AirVantage® Platform you are starting a Subscription for that SIM and agreeing to pay the applicable Subscription Fees.
- 1.2. Subscription Term. Unless otherwise specified in the Order or at the time of activation, the Initial Subscription Term is one month, and the Subscription Renewal Term is one month.
- 1.3. Usage. You will be responsible for all data, voice and texts sent to or from your Connected Devices. You are responsible for any overages resulting from fraudulent or unauthorized usage of the Cellular Connectivity Services that originates from or is caused by your Connected Devices (or any device connected to your Connected Devices).
- 1.4. No Resale Permitted. You may, subject to the terms of the Terms of Service, use the Cellular Connectivity Services as a component of a value-added IoT Application that you sell to your customers under your own branding and for your own account. You may not resell the Cellular Connectivity Services on a stand-alone basis.
- 1.5. SLAs and Support. No service level agreement or service level commitments apply to the Cellular Connectivity Services unless expressly specified in the applicable Order. Any support we provide to you is provided on an “as is” basis.
- 1.6. Fees. You will be responsible for Subscription Fees in accordance with the Terms of Service. In addition to the Subscription Fee, Usage Fees and other Fees may also apply to your use of the Cellular Connectivity Services, such as activation and de-activation Fees, suspension Fees, overage Fees and roaming Fees. The applicable Fees will be specified at the time you place an Order or will otherwise be presented to you in the AWS Marketplace or AirVantage® Platform.
- 1.7. Billing Disputes. If you believe the Fees you have been charged for the Cellular Connectivity Services are incorrect, you must notify us in writing and give reasons within 90 days of the date the Fees are charged to you. If you do not notify us in this period, you waive any right to later claim that the Fees charged to you were incorrect.
- 1.8. Suspension. Connectivity Service may be temporarily suspended or permanently terminated without notice if the acceptable use policy or the network rules of Semtech or a Carrier is violated, if a Connected Device is causing disturbance to a Telecommunications Network, or if services are suspended by or at the request of a Carrier. You waive any claims against Semtech and the applicable Carriers for such suspension or termination.
- 1.9. Termination. You must stop using the Cellular Connectivity Services immediately if the applicable Subscription is terminated or if the Terms of Service are terminated. You acknowledge that once a Subscription has been deactivated that it may not be possible to reactivate.

2. SIM Cards

- 2.1. Inspection. You should promptly inspect each SIM card delivery to confirm that the correct quantity of SIM cards has been received and that there is no visible damage. You must notify us in writing of any quantity

discrepancies or visible damage within eight business days of delivery, failing which you will be deemed to have received the correct quantity of undamaged SIM cards.

- 2.2. Warranty. SIM cards may fail due to use, environmental effects and aging. The replacement of SIM cards, and all related costs, are your responsibility. However, if a SIM card fails due to a fabrication error within six months of delivery, we will deliver a new SIM card to you free of charge.

3. Connected Devices

- 3.1. Approvals and Compliance. It is your responsibility to ensure that the Connected Devices comply with all applicable legal and regulatory requirements and telecommunications industry standards, and for obtaining any required approvals and certifications for the geographical markets in which they will be used, including but not limited to GCF (Europe), RED (Europe), PTCRB (US) and FCC (US). You are not permitted to connect Connected Devices that are not approved by local authorities and applicable Carriers for connection to the Telecommunications Networks.
- 3.2. Disconnection. You shall immediately disconnect any Connected Devices that create disturbances to any Telecommunications Network.
- 3.3. Updates. Connected Device software may need to be updated from time-to-time to maintain compatibility with the Cellular Connectivity Services. Cellular Connectivity Services may be disrupted if Connected Device software is not updated in a timely manner.

4. Applications

- 4.1. Applications. The Cellular Connectivity Services may be used only for IoT Applications. Any application must be compatible with the efficient operation of the Telecommunications Networks and not interfere with the services of other users of the Telecommunications Networks, result in inefficient or excessive use of the Telecommunications Networks, or be inconsistent with the applicable Carriers' policies and practices.

5. Network Requirements and Limitations

- 5.1. Availability. Cellular Connectivity Services are subject to availability. You acknowledge that Cellular Connectivity Services may be refused, interrupted, curtailed or limited because of atmospheric, terrain, or other natural or artificial conditions and may be interrupted or curtailed due to usage concentrations, modifications, upgrades, relocation and repairs of the Telecommunications Networks. Neither we nor the Carriers shall be responsible for such interruptions of the Connectivity Service or the inability to use the Cellular Connectivity Services.
- 5.2. Security. You acknowledge that neither we nor the Carriers can guarantee the security of transmissions and will not be liable for any lack of security relating to the use of the Cellular Connectivity Services.
- 5.3. Coverage. The Cellular Connectivity Services are available only within the geographies served by Semtech and the applicable Carriers and are subject to the agreements and relationships between Semtech and the Carriers. Geographies may change from time-to-time for various reasons, including due to changes in technologies, legal and regulatory requirements, and the expiration or termination of agreements with Carriers. You waive all existing and future rights and claims against us and the Carriers related to the unavailability of Cellular Connectivity Services in a particular geography.
- 5.4. Use of Carriers. We may utilize the Telecommunications Networks of multiple Carriers to provide the Cellular Connectivity Services. The Telecommunications Networks utilized and available for use may change from time-to-time and vary from region-to-region for various reasons. Carriers may also from time-to-time suspend services. To reduce the risk of disruptions to the Cellular Connectivity Services caused by the foregoing events, we recommend that you utilize Connected Devices that support and are configured to access the Telecommunications Networks of multiple Carriers in each relevant geography, and multiple bands/frequencies. You waive all existing and future rights and claims against us and the applicable Carriers related to, or the result of, the unavailability of the Telecommunications Network of a Carrier.

- 5.5. Prohibited Uses. You may not use the Cellular Connectivity Services for communication to Telecommunications Networks that are used for any premium and special rate services, toll-free numbers, special caller assistance services or other similar services.

6. Additional Terms

The following additional terms and conditions apply to all Cellular Connectivity Services **except** Carrier+ Services.

- 6.1. Technical Requirements. Cellular Connectivity Services are provided to you on the condition that you comply with the following technical requirements for Connected Devices. The requirements are specified to assure best possible functionality for your solution and to minimize the risk of disturbances to the Telecommunications Networks. The requirements are based on, but not restricted to, GSMA "Code of conduct principles for Machine-to-Machine communications" as amended from time to time.
- 6.1.1. You shall ensure that the Connected Device does not run any visited network (V-PLMN) steering mechanism nor any IMSI management or steering mechanism, and does not generate any compatibility issue nor interference with the programs installed on SIM cards.
 - 6.1.2. You shall ensure that the Connected Devices are fully compliant with all relevant global standards of GSM/UMTS communications, e.g. ETSI and 3GPP. The Connected Devices must comply with the relevant standards from ETSI and 3GPP for remote Over-The-Air (OTA) SIM management, Card Application Toolkit (CAT) and Card Application Toolkit Transport Protocol (CAT_TP) and this functionality must always be enabled and active in every Connected Device.
 - 6.1.3. You shall ensure that the Connected Device does not include functionality resulting in time synchronized behavior causing mass load of the Telecommunications Networks. Such functionality includes, but is not restricted to, (a) time synchronized GPRS attach or PDP context, (b) time synchronized SMS traffic, (c) time synchronized restarts or termination of the customer terminal, and (d) time synchronized location update (LU) signaling. You shall ensure that such functionality, and all other mass events, will be randomly scheduled or with exponential increase of the timing between events and retry events with a jitter component.
 - 6.1.4. You shall ensure that the Connected Device is handling potential mobile network error codes in accordance with relevant 3GPP standards.
 - 6.1.5. You shall not hard code specific networks and/or network codes in the Connected Device or application.
 - 6.1.6. The specific traffic and signaling behavior of the Connected Device must be discussed and agreed in advance with us.
 - 6.1.7. You shall ensure appropriate testing (including all future releases) of the Connected Devices to comply with the requirements stated above as well as correct communication (voice, SMS, GPRS, CSD and USSD as applicable) functionality between the remote Connected Device and your systems.
- 6.2. Non-Compliance. We may change the Fees with immediate effect or suspend whole or parts of the Cellular Connectivity Services if: (a) we reasonably believes you have failed to comply with the requirements specified in Section 6.1 above, (b) the Connected Devices and technical setup are not fully compliant with the 3GPP standards and GSMA rules and practices, (c) the Connected Devices and technical setup (modem mode of operation) are not allowing proper operation of the "smart steering" feature of the SIM and on-SIM applet requiring SIM toolkit interactions, or (d) you, your Connected Devices or your use of the Cellular Connectivity Services violates applicable laws or regulations, or is non-compliant with a Carrier's rules and practices.
- 6.3. Exceptions Applicable to Certain SIMs. For SIM cards classified and bought as "Essential" subscriptions, the programs on these SIM cards are inactive and thus the prohibition of steering noted in Section 6.1.1 and the required compliance with OTA, CAT and CAT_TP in Section 6.1.2 do not apply. Notwithstanding

the foregoing, if your future solution would require activation and use of these programs, your Connected Devices must comply with the foregoing requirements.

- 6.4. SIM software. The SIM software is the Confidential Information of Semtech. You shall not modify, decompile, reverse engineer, translate or create derivative works of the SIM software or use the SIM software except in connection with the use of the associated Cellular Connectivity Services. We may from time-to-time remotely install updates or make configuration changes to the SIM software to address technical requirements or improve security. Such updates may result in a temporary suspension of the Cellular Connectivity Services. If you are incorporating the Cellular Connectivity Services into an IoT Application that you are providing to your customers, you represent that you have obtained all required consents for such updates and changes.

7. Carrier+ Services

The following additional terms and conditions apply **only** to Carrier+ Services.

- 7.1. Prohibited Applications. Without limiting the prohibitions contained elsewhere in these Terms of Service, you shall not use or permit anyone else to use the Carrier+ Services for or in connection with: (a) feature phones, smart phones, tablets, laptops, Wi-Fi hotspots, drones, or inmate locators; (b) mobile personal emergency response services; or (c) any primarily non-data purpose, including but not limited to services which primarily offer voice communications (i.e., where voice is sold, or available, as a stand-alone offering).
- 7.2. AT&T Services. The following additional terms and conditions apply to all Cellular Connectivity Services that incorporate services provided by AT&T Mobility II, LLC or its affiliates ("**AT&T Services**"): (a) You must comply with the provisions of the AT&T Internet of Things Wireless Communications Service Guide, found at http://serviceguidenew.att.com/sg_flashPlayerPage/M2M, and (b) you shall not (i) resell the AT&T Services, either alone or as part of your product or solution, to a customer outside the United States, or (ii) permit your customers to resell the A&T Services, either alone or as part of their solution, to customers outside the United States.
- 7.3. Mandatory Flow-Through Clauses. If you are incorporating the Cellular Connectivity Services into an IoT Application that you are providing to your customers, then you must make disclosures in substantially the form set forth in Section 8.1 to 8.3 to each of your customers.

8. Mandatory Carrier Terms.

- 8.1. Carrier Terms. YOU EXPRESSLY UNDERSTAND, ACKNOWLEDGE AND AGREE THAT (A) YOU HAVE NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH ANY CARRIER; (B) YOU ARE NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN US AND ANY CARRIER; (C) NO CARRIER SHALL HAVE ANY LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO YOU, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, AND YOU HEREBY WAIVE ANY AND ALL CLAIMS OR DEMANDS THEREFOR; (D) DATA TRANSMISSIONS AND MESSAGES MAY BE DELAYED, DELETED OR NOT DELIVERED; (E) 911 OR SIMILAR EMERGENCY CALLS MAY NOT BE COMPLETED; AND (F) CARRIERS CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE CELLULAR CONNECTIVITY SERVICES.
- 8.2. Availability. YOU ACKNOWLEDGE THAT CELLULAR CONNECTIVITY SERVICES ARE MADE AVAILABLE ONLY WITHIN THE OPERATING RANGE OF THE TELECOMMUNICATIONS NETWORKS. SERVICE MAY BE TEMPORARILY REFUSED, INTERRUPTED, OR LIMITED BECAUSE OF: (A) FACILITIES LIMITATIONS; (B) TRANSMISSION LIMITATIONS CAUSED BY ATMOSPHERIC, TERRAIN, OTHER NATURAL OR ARTIFICIAL CONDITIONS ADVERSELY AFFECTING TRANSMISSION, WEAK BATTERIES, SYSTEM OVERCAPACITY, MOVEMENT OUTSIDE A SERVICE AREA OR GAPS IN COVERAGE IN A SERVICE AREA AND OTHER CAUSES REASONABLY OUTSIDE OF THE CONTROL OF THE APPLICABLE CARRIERS SUCH AS, BUT NOT LIMITED TO, INTENTIONAL OR NEGLIGENT ACTS OF THIRD PARTIES THAT DAMAGE OR IMPAIR THE NETWORK OR DISRUPT SERVICE; OR

(C) EQUIPMENT MODIFICATIONS, UPGRADES, RELOCATIONS, REPAIRS, AND OTHER SIMILAR ACTIVITIES NECESSARY FOR THE PROPER OR IMPROVED OPERATION OF SERVICE.

- 8.3. As-Is. CARRIERS MAKE THEIR NETWORKS AVAILABLE AS-IS AND MAKE NO WARRANTIES OR REPRESENTATIONS AS TO THE AVAILABILITY OR QUALITY OF ROAMING SERVICE PROVIDED BY THEIR CARRIER PARTNERS, AND WILL NOT BE LIABLE IN ANY CAPACITY FOR ANY ERRORS, OUTAGES, OR FAILURES OF CARRIER PARTNER NETWORKS.
- 8.4. Prohibited Conduct. You may not, and may not permit anyone else to (a) directly or indirectly identify a Carrier by name in any marketing materials or other communications, unless required to do so by applicable law; (b) use any Carrier's trade names, logos, trademarks, service marks or other indicia of origin ("**Third Party Marks**") without the prior specific written consent of the Carrier (for clarity, a Carrier's consent to allow Semtech to use Third Party Marks may not be considered consent for you to use such Third-Party Marks unless you are specifically authorized in writing by the Carrier); (c) make any comparative marketing claims regarding products or services sold by the Carrier, nor target any sales or marketing efforts towards any customer they know is a customer of a Carrier; (d) represent yourself as the federal or state certified licensee for operation of any wireless communications service; (e) represent yourself as being an agent, partner, franchisee or joint venturer of a Carrier; (f) attempt or assist another to access, alter or interfere with the communications and/or information of other subscribers; (g) rearrange, tamper or make an unauthorized connection with any Telecommunications Network; (h) use or assist others in the use of any unethical or fraudulent scheme, or by or through any other unethical or fraudulent means or devices whatsoever, with intent to avoid payment of, in whole or in part, any charges for service; (i) use any Cellular Connectivity Services in such a manner so as to interfere unreasonably with the use of the services by one or more subscribers; (j) use the Cellular Connectivity Services to convey information deemed to be obscene, salacious or prurient, or to convey information of a nature or in such a manner that renders such conveyance unlawful; or (k) use the Cellular Connectivity Services without permission on a stolen or lost device.

Appendix 2

Solution Terms – Smart Sensing

These Solution Terms – Smart Sensing (the “**Smart Sensing Terms**”) are incorporated into and form a part of the Terms of Service that governs your use of Smart Sensing Services.

1. Connected Devices

- 1.1. Regulatory Approvals. It is your responsibility to ensure that the Connected Devices comply with all applicable legal and regulatory requirements and telecommunications industry standards, and for obtaining any required approvals and certifications for the geographical markets in which they will be used. You are not permitted to connect or use Connected Devices that do not have the required approvals.
- 1.2. Semtech Approvals. You may only use Connected Devices that are on our list of approved Connected Devices or have otherwise been approved in writing by us. Our approval of a Connected Device is not a representation or warranty that (a) the Connected Device is of high quality, (b) the Connected Device is suitable for your application, (c) the Connected Device complies with applicable legal and regulatory requirements, (d) the Connected Device is compatible with all Services or in all modes of operation, (e) the Connected Device is secure, or (f) that any compatibility of the Connected Device with the Services will be maintained. Our approval of any Connected Device may be revoked at any time.
- 1.3. Your Responsibilities. You are solely responsible for the Connected Devices, including procuring, installing, maintaining, supporting, and operating the Connected Devices. In addition, use of the Smart Sensing Services requires internet connectivity and you are solely responsible for procuring internet connectivity for the Connected Devices (you may procure your own internet connectivity or Cellular Connectivity Services from Semtech). Connected Device software may need to be updated by you from time-to-time to maintain compatibility with the Services, and Services may be disrupted if the Connected Device software is not updated in a timely manner.
- 1.4. NO REPRESENTATIONS OR WARRANTIES. WE EXPRESSLY DISCLAIM ALL REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE CONNECTED DEVICES, INCLUDING ANY IMPLIED REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, EVEN IF THE CONNECTED DEVICES HAVE BEEN APPROVED FOR USE WITH THE SERVICES BY US PURSUANT TO SECTION 1.2 OF THIS APPENDIX 2.

2. Network Management Services.

- 2.1. Availability. As part of the Services, we may configure, monitor or manage a wireless or wired network (whether based on the LoRaWAN® protocol or another networking standard or protocol), which network may be used by Connected Devices to communicate with the AirVantage® Platform or with other Connected Devices (a “**Managed Network**”). We do not guarantee the availability, reliability or security of the Managed Network, and you acknowledge that access to such Managed Network may be interrupted or impaired because of atmospheric, terrain, or other natural or artificial conditions. We shall not be responsible for any associated inability to use the Smart Sensing Services.
- 2.2. Security. You acknowledge that we cannot guarantee the security of transmissions and will not be liable for any lack of security relating to the use of the Managed Network or the Smart Sensing Services.

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