

Terms and conditions for SmartUpload

Last update: 11 january 2023

The service "SmartUpload" is offered over the internet in the form of Software-as-a-Service by the company Verelst IT Consulting. The use of SmartUpload is subject to the below terms and conditions. Using SmartUpload constitutes acceptance of these terms and conditions. Deviations from these terms and conditions is possible only by means of written confirmation by Verelst IT Consulting.

Article 1. Use of the service

- 1.1 With SmartUpload, you can import data from Excel spreadsheets into Salesforce, using predefined mapping templates.
- 1.2 To use SmartUpload, you first need to register. After completing registration, you can directly log into your account and use the service.
- 1.3 You must secure access to your account using the username and password against third parties. In particular you must keep the password strictly confidential. Verelst IT Consulting may assume that all actions undertaken from your account after logging in with your username and password is authorized and supervised by you. This means you are liable for these actions, unless and until you have notified Verelst IT Consulting that someone else knows your password.
- 1.4 SmartUpload processes data, subject to the Privacy Statement of Verelst IT Consulting and the Data Processing Agreement. Please consult these for more information on data privacy and protection.

Article 2. Terms of use

- 2.1 It is not permitted to use SmartUpload for any purpose that violates Dutch or other applicable law or regulation. This includes (among others) the storage or transmission of data using the service that is slanderous, libelous or racist.
- 2.2 Should Verelst IT Consulting discover that you violate any of the above, or receive a complaint alleging the same, Verelst IT Consulting will issue a warning. If the warning does not lead to an acceptable resolution, then Verelst IT Consulting may intervene to end the violation. In urgent of serious cases Verelst IT Consulting may intervene without warning.
- 2.3 If in the opinion of Verelst IT Consulting the continued functioning of the computer systems or network of Verelst IT Consulting or third parties is actually or under threat of being damaged or jeopardized, for example through excessive transmission of e-mail or other data, leaks of personal data or virus activity, Verelst IT Consulting may take all steps it deems reasonably necessary to end or avert such damage or jeopardy.
- 2.4 Verelst IT Consulting is at all times entitled to file a criminal complaint for any offenses committed through or using the service.
- 2.5 Verelst IT Consulting may recoup from you all damages it suffers as a result of your violation of these terms of use. You agree and hold harmless Verelst IT Consulting from all third-party claims arising out of your violation of these terms of use.

Article 3. Availability and maintenance

- 3.1 Verelst IT Consulting uses its best efforts to have the service available at all times but makes no guarantees about uninterrupted availability.
- 3.2 Verelst IT Consulting actively maintains SmartUpload. Maintenance can take place at any time, even if this may negatively impact the availability of the service. Maintenance is announced in advance whenever possible.
- 3.3 Verelst IT Consulting may from time to time adapt SmartUpload. Your feedback and suggestions are welcome but ultimately Verelst IT Consulting decides which adaptations to carry out (or not).
- 3.4 Verelst IT Consulting uses its best efforts to secure the service against unlawful 3rd party access, as described in article 6 of the Data Protection Agreement. In case of unlawful access or hacks, Verelst IT Consulting will notify the Client according to the procedure described in article 7 of the Data Protection Agreement.

Article 4. Intellectual property

- 4.1 The service SmartUpload, the accompanying software as well as all information and images on the website is the intellectual property of Verelst IT Consulting. None of these items may be copied or used without prior written permission of Verelst IT Consulting, except and to the extent permitted by mandatory law.
- 4.2 Information you store or process using the service is and remains your property (or the property of your suppliers or licensors). Verelst IT Consulting receives a limited license to use this information for the service. You can cancel this license by removing the information in question and/or terminating the agreement. Verelst IT Consulting shall only receive a license for further use (for instance for service improvements) after prior written consent by the Client.
- 4.3 If you send information to Verelst IT Consulting, for example a bug report or suggestion for improvement, you grant Verelst IT Consulting a perpetual and unlimited license to use this information for the service. This does not apply to information you expressly mark as confidential.
- 4.4 Verelst IT Consulting shall refrain from accessing data you store or transfer using SmartUpload, unless this is necessary for a good provision of the service or Verelst IT Consulting is forced to do so by law or order of competent authority. In these cases Verelst IT Consulting shall notify the Client within one business day, and shall use its best efforts to limit access to the information as much as possible.

Article 5. Compensation for the service

- 5.1 The use of SmartUpload is subject to a fee which is due every month. The fee is charged upon expiry of each applicable period.
- 5.2 SmartUpload has the right to adjust prices annually. SmartUpload shall announce through e-mail any price changes at least thirty days before their taking effect.
- 5.3 For users that subscribe through the SmartUpload website, the App is billed and fulfilled by Paddle.com using credit card or PayPal.
- 5.4 If the customer does not pay on time, SmartUpload may suspend its obligations until the customer has fulfilled his payment obligation.
- 5.5 Because the service is started directly at your express request, a payment cannot be refunded under the Distance Selling Act.

Article 6. Limitation of liability

- 6.1 This article only applies to Business Customers.
- 6.2 SmartUpload is only liable for any damage suffered by the customer if and insofar as such damage is caused by intent or deliberate recklessness.
- 6.3 SmartUpload will make every effort to execute the Agreement as carefully and safely as possible. SmartUpload cannot influence the final use of the delivered goods. The Client is therefore responsible for the use of the result of the Agreement.
- 6.4 Completion of the Agreement releases SmartUpload from all liability for defects that the Client had already discovered at the time of Completion, or should reasonably have discovered.
- 6.5 The total liability of SmartUpload for direct damage suffered by the Client as a result of an attributable shortcoming in the performance of this Agreement, or due to an unlawful act by SmartUpload, its employees or third parties engaged by it, is per event or a series of related events limited to the amount paid by you in the three months prior to the moment the cause of the damage occurred (including VAT), with a maximum of € 2,000.00.
- 6.6 Direct damage is exclusively understood to mean: the reasonable costs incurred to determine the cause and extent of the damage, any reasonable costs incurred to have SmartUpload's defective performance comply with the Agreement and reasonable costs incurred to prevent or limit damage, insofar as the Client demonstrates that these costs have led to a limitation of direct damage.
- 6.7 Liability of SmartUpload towards the Client for indirect damage or consequential damage or damage due to loss of turnover or profit, damage due to delay, damage due to loss of data, damage due to delayed deadlines due to changed circumstances, damage due to the provision of inadequate cooperation, information or materials by the Client and damage due to information or advice provided by SmartUpload, the content of which is not explicitly part of the Agreement, is excluded.
- 6.8 A condition for the existence of any right to compensation is always that the Client reports the damage to SmartUpload in writing within a reasonable term, but in any case within one (1) month after it arose.
- 6.9 The liability of SmartUpload with regard to attributable shortcoming in the performance of the Agreement only arises if the Client immediately and properly gives notice of default to SmartUpload in writing, setting a reasonable term to remedy the shortcoming, and SmartUpload is also attributable to the continues to fail to fulfill its obligations. The notice of default must contain a description of the shortcoming that is as detailed as possible, so that SmartUpload is able to respond adequately.
- 6.10 The Client indemnifies SmartUpload against all claims from third parties (including clients of the Client) with regard to compensation for damage, costs or interest in connection with this Agreement and / or the Service.
- 6.11 SmartUpload cannot be held to fulfill any obligation under the Agreement if SmartUpload is prevented from performing as a result of force majeure. SmartUpload is not liable for any damage resulting from force majeure.
- 6.12 Force majeure includes, but is not limited to: disruptions the force.com platform, disruptions to public infrastructure, defectiveness of goods, equipment or software or other source material the use of which the Client has prescribed, unavailability of Employees, government measures, general transport problems, strikes, wars, terrorist attacks and civil disturbances.
- 6.13 If a force majeure situation lasts longer than 90 days, the Parties have the right to dissolve the Agreement in writing. That which has already been performed on the basis of the Agreement will in that case be settled proportionately, without the parties continuing to owe each other for the rest.

Article 7. Term and termination

- 7.1 This agreement enters into force as soon as you first use the service and then remains in force until terminated.
- 7.2 Either party can terminate the agreement at any time with a notice period of one month, calculated from the moment of the notice.
- 7.3 Verelst IT Consulting is entitled to terminate the agreement if you have not used the service at all in the last 12 months. In such an event Verelst IT Consulting shall first send a reminder mail to the e-mail address connected to your account.
- 7.4 Please note: it is not possible to export data you store or process using the service.

Article 8. Changes to terms

- 8.1 Verelst IT Consulting may change or add to these terms and conditions as well as any prices at any time.
- 8.2 Verelst IT Consulting shall announce through e-mail any changes or additions at least thirty days before their taking effect.
- 8.3 If you do not want to accept a change or addition, you can terminate the agreement before the date the changes take effect. Use of SmartUpload after the date of effect shall constitute your acceptance of the changed or added-to terms and conditions.

Article 9. Miscellaneous provisions

- 9.1 Dutch law applies to this agreement.
- 9.2 Except to the extent determined otherwise by mandatory applicable law all disputes arising in connection with SmartUpload shall be brought before the competent Dutch court for the principal place of business of Verelst IT Consulting.
- 9.3 For any clause in these terms and conditions that demand that a statement must be done "in writing" to be legally valid, a statement by e-mail shall be sufficient provided with sufficient certainty the authenticity of the sender can be established and the integrity of the statement has not been compromised.
- 9.4 The version of any communication of information as recorded by Verelst IT Consulting shall be deemed to be authentic, unless you supply proof to the contrary.
- 9.5 In case any part of these terms and conditions are declared legally invalid, this shall not affect the validity of the whole of the agreement. The parties shall in such an event agree on one or more replacement provisions that approximate the original intent of the invalid provision(s) within the limits of the law.
- 9.6 Verelst IT Consulting is entitled to transfer its rights and obligations under this agreement to a third party as part of an acquisition of SmartUpload or the associated business activities.