

## Terms and Conditions of Software Development

This Master Service Agreement and its terms govern Software Development Service for you (the “Customer”) provided by Logmore Oy, Ahjokatu 18, 40320, Jyväskylä, Finland (“Logmore”). By using the Service(s), you acknowledge and agree that your use of the Service(s) is subject to these terms.

The Customer and Logmore are hereinafter each referred to as a “**Party**” and jointly as the “**Parties**”.

### 1 Definitions

- 1.1 “**Affiliate**” means an entity which is a subsidiary or parent of, or under common control with, the Party. For these purposes, an entity shall be treated as being controlled by another if that other entity has fifty (50) per cent or more of the voting shares in such entity, or that other entity is able to direct the Party’s affairs or is able to appoint a majority of the members of the board of directors or an equivalent body.
- 1.2 “**Agreement**” means this software agreement together with its Schedules and any subsequent amendments agreed thereto between the Parties in writing.
- 1.3 “**Business Day**” means any day when banks are generally open for business in Finland.
- 1.4 “**Deliverable(s)**” means the results developed or supplied by Logmore for the Customer under an Order Form.
- 1.5 “**Documentation**” means manuals, user guides and other documentation related to the Services, or Deliverables provided by or to be provided by Logmore to the Customer as specified in the Order Form.
- 1.6 “**Effective Date**” means the date on which authorized representatives of both Parties have duly signed this Agreement or respectively an Order Form.
- 1.7 “**Error**” means any non-compliance of a Deliverable with the specifications specified in the Order Form.
- 1.8 “**Intellectual Property Rights**” means (i) patents, inventions, designs, copyright and related rights, database rights, trade marks and related goodwill, trade names (whether registered or unregistered) and rights to apply for registration; (ii) proprietary rights in domain names; (iii) knowhow and confidential information; (iv) applications, extensions and renewals in relation to any of these rights; and (v) all other rights of a similar nature or having an equivalent effect anywhere in the world.
- 1.9 “**Laws**” means (i) any legislation, regulation, by-law or subordinate legislation in force from time to time to which a Party, the Services or the Deliverables are subject and/or in any jurisdiction that the Services are provided to or in; (ii) any binding court order, judgment or decree; or (iii) any applicable direction, policy, rule, guideline or order that is binding on a Party and that is made or given by any regulatory body having jurisdiction over a Party or any of that Party’s assets, resources or business.
- 1.10 “**Personal Data**” as defined in any applicable European or foreign data protection laws (as amended) including without limitation the General Data Protection Regulation (EU) 2016/679 as well as in data protection authorities’ orders and guidelines.
- 1.11 “**Logmore Cloud Service**” means a solution, including the Software, developed by or for Logmore and which is made available for the Customer on a software as a service (SaaS) basis under the Terms

of Use. It is a service designed to collect, configure, monitor and report data gathered by Logmore's data logger devices.

- 1.12 **"Logmore Product(s)"** means any other Logmore's product than Logmore Cloud Service or the Deliverable including (without limitation) Logmore Data Loggers and Logmore ScanPoint.

**"Schedule"** means a document attached to this Agreement or an Order Form and such other documents expressly referred to in this Agreement or in an Order Form. **"Schedules"** shall be construed accordingly.

- 1.13 **"Service(s)"** means all work, tasks and services to be performed by Logmore under this Agreement, including without limitation the Services defined in Section 3.1 (a)-(b) below and/or as detailed in the Order Form.

- 1.14 **"Service Fee(s)"** means the charges payable by Customer under this Agreement in accordance with Section 7.

- 1.15 **"Software"** means Logmore's proprietary software included in the Logmore Cloud Service or Logmore Product, including any changes, updates, upgrades, modifications and enhancements made thereto, and any related modules, add-ons, tools, browser plugins, interfaces and applications.

- 1.16 **"Terms of Use"** means the terms subject to which the Customer has been granted the right to use the Logmore Cloud Service.

- 1.17 **"VAT"** means value added tax under the applicable Laws (or any subsequent replacement tax or taxes of a like nature).

## **2 Scope of this Agreement**

- 2.1 Logmore has developed and made commercially available the Logmore Cloud Service. This Agreement includes the terms and conditions under which the Parties may agree on Services related to the Logmore Cloud Service. The Services may include (without limitation):

- (a) integration of the Logmore Cloud Service and its APIs,
- (b) development of additional and/or new functionalities to the Logmore Cloud Service.

- 2.2 The Services may also include (without limitation):

- (c) development of additional and/or new functionalities to Logmore Products.

- 2.3 This Agreement main body does not in itself create any obligation for Logmore to perform the Services or deliver the Deliverables for the Customer. A firm and legally binding commitment by Logmore to perform the Services and/or deliver the Deliverables requires that the Parties have entered into an Order Form under this Agreement.

- 2.4 The terms and conditions of this Agreement shall apply to each Order Form. In the event of any conflict or discrepancy between the terms and conditions of this Agreement on the one hand and the terms and conditions of an Order Form on the other hand, the terms and conditions of this Agreement shall prevail over the Order Form(s) unless specifically otherwise agreed in the Order Form by making reference to the specific section of this Agreement which the Parties intend to amend for the purposes of that particular Order Form.

- 2.5 All changes to the specifications and other changes to the Services and/or the Deliverables and the possible effects of such changes on the time schedule, Service Fees and other terms and conditions of the Agreement and/or an Order Form must be agreed in writing in advance in order to be valid.

### **3 Obligations of the Parties**

- 3.1 Logmore shall perform the Services in accordance with this Agreement, with due care and with the professional skills required for the Services in question.
- 3.2 The Customer shall be responsible for ensuring that the tasks for which the Customer is responsible are performed in accordance with this Agreement and with due care. Furthermore, the Customer shall, upon Logmore's request, provide Logmore with sufficient and correct information required for the performance of the Services in question. The Customer shall be responsible for the information and instructions it provides to Logmore.
- 3.3 Each Party shall contribute to the Services with respect to factors under the command or control of the Party. Each Party undertakes to take such decisions as are necessary for the performance of the Services and delivery of the Deliverables without undue delay.

### **4 Service Organization**

- 4.1 Each Party shall nominate a contact person responsible for monitoring and supervising the implementation of the Agreement and providing information both within its own organisation and to the other Party in respect of matters related to the implementation of the Agreement.
- 4.2 Each Party shall assign the necessary personnel for the Services to be performed under each Order Form and reserve sufficient working time for them for the performance of the tasks under the Order Form.
- 4.3 The Services shall be performed using Logmore's working methods.

### **5 Testing and Acceptance**

- 5.1 Unless otherwise agreed in an Order Form, the provisions of this Section 6 shall be applied to the testing and acceptance of the Deliverables.
- 5.2 Prior to the delivery of the Deliverables to the Customer, Logmore shall test the Deliverables in accordance with Logmore's practices.
- 5.3 The Customer shall perform the acceptance test for the Deliverables promptly and at the latest within fourteen (14) Business Days of the date of delivery of the Deliverable to the Customer for the acceptance test. If the Deliverables contain an Error which prevents the Customer's acceptance test, the Customer is entitled to suspend the test by notifying Logmore thereof in writing. The time period reserved for the acceptance test shall be extended by a time period corresponding to the time during which the acceptance test cannot be made due to correction of the Error which has prevented the Customer's acceptance test.
- 5.4 The Customer shall without undue delay inform Logmore in writing of all Errors detected in the Deliverables and shall identify such Errors in sufficient detail to allow and enable Logmore to rectify the same.
- 5.5 Errors in the Deliverables, that do not substantially prevent the use of the Logmore Cloud Service in accordance with the Terms of Use or Logmore Product, shall not prevent the acceptance of the Deliverables.

- 5.6 The Deliverables shall be deemed to be accepted, (a) when the Customer notifies Logmore of the acceptance of the Deliverables in writing; (b) when Logmore has demonstrated that it has corrected all Errors reported by the Customer in writing, which Errors prevented earlier acceptance; (c) if the Customer has not informed Logmore (in accordance with Section 6.4) of an Error which prevents acceptance within the time period specified in Section 6.3; or (d) if the Customer takes the the Deliverable into production (or a like) use.

## **6 Price and Payment Terms**

- 6.1 The Service Fees and payment milestones (if any) are defined in the respective Order Form.
- 6.2 The Service Fees do not include VAT or any other duties or taxes. Should applicable Laws require payment of VAT or any other local indirect sales taxes and/or duties by Logmore, Logmore shall have a right to add such taxes and/or duties to its rates and Service Fees set forth in the applicable invoice in accordance with the applicable Laws.
- 6.3 Reasonable travel and accommodation expenses shall be invoiced on a time and material basis and reimbursed by the Customer against receipts thereof and against a detailed invoice. Any travel arrangements shall be agreed in advance between the Parties in writing.
- 6.4 Logmore's invoices will be due and payable by Customer within thirty (30) days net from the receipt of invoice. Late payments will accrue interest pursuant to the applicable law.

## **7 Intellectual Property Rights**

- 7.1 Subject to the terms and conditions of this Agreement, Logmore grants to the Customer a limited, non-exclusive, non-transferable, non-sublicensable right, to internally access and use the Deliverables solely in combination with and for the use of the Logmore Cloud Service and/or the Logmore Product. The aforementioned right is subject to the Customer having a valid license to the relevant Logmore Cloud Service and/or Logmore Product. Use for any other purposes is prohibited without a separate written agreement duly signed by the Parties.
- 7.2 The Customer acknowledges that Logmore or a third party owns and retains all Intellectual Property Rights in and to the Deliverables. Nothing contained in this Agreement shall be construed to convey to the Customer any rights or ownership in or to the Deliverables, other than the limited rights expressly provided in Section 8.1.
- 7.3 This Agreement shall not affect the rights related to such materials that the Parties furnish to each other for the performance of the Services.

## **8 Data Protection**

- 8.1 The Parties shall comply with applicable data protection Laws (including the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data) in connection with their processing of personal data under this Agreement.
- 8.2 In case the performance of this Agreement requires a Party to act as a data processor with regard to any personal data controlled by the other Party, such entity is deemed to process such data strictly on behalf of the other Party and shall act only on the written instructions of the other Party. In such case, the Parties shall apply the Data Processing Agreement applied in the contract concerning Logmore Cloud Service (which is available on [logmore.com/legal](https://logmore.com/legal)).

## **9 Warranties**

- 9.1 Logmore undertakes that the Deliverables will substantially comply with the specifications as set out in the respective Order Form.
- 9.2 The warranty stated in Section 10.1 above shall not apply to the extent of any non-conformance which is caused by (i) Logmore's compliance with the Customer's instructions, (ii) use of the Deliverables contrary to Logmore's instructions, or (iii) modification or alteration of the Deliverable by any party other than Logmore.
- 9.3 If the Deliverable does not conform with the warranty stated in Section 10.1 above, Logmore will, at its expense, use commercially reasonable endeavours to correct such non-conformance without undue delay. Such correction of the non-conformance constitutes the Customer's sole and exclusive remedy for any breach of the warranty set out in Section 10.1 above. Notwithstanding the foregoing, Logmore:
- (a) does not warrant that the Customer's use of the Deliverables or the Logmore Cloud Service or the Logmore Product will be uninterrupted or error-free, and
  - (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the use of the Deliverables and/or the Logmore Cloud Service and/or the Logmore Product may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 9.4 To the extent allowed by mandatory Laws, Logmore does not have any other responsibility or liability for the Deliverables. The Deliverables are provided "as is" and Logmore expressly disclaim all warranties, express or implied, including without limitation, all warranties of merchantability, fitness for a particular purpose, title, compliance with Laws, results to be obtained or non-infringement.

## **10 Limitation of Liability**

- 10.1 Neither Party shall be liable for any indirect or consequential damages, loss of profit, loss of revenue, loss of opportunity, loss of anticipated savings, loss of goodwill or reputation.
- 10.2 Notwithstanding anything to the contrary in this Agreement, Logmore is not deemed to (i) be in breach of this Agreement due to any failure, delay, or other defect in providing any of the Services or Deliverables (or a part thereof) caused by the Customer, or (ii) assume liability for any damage, loss, costs or expenses incurred or suffered by the Customer due to such event.
- 10.3 The total aggregate liability of a Party towards the other Party under an Order Form, including possible liquidated damages, shall not exceed one hundred per cent (100%) of the Service Fees paid to Logmore under the Order Form to which the claim relates.
- 10.4 The limitations of liability under this Section 11 shall not apply to: (i) wilful misconduct or gross negligence; (ii) breach of Logmore's Intellectual Property Rights; or (iii) breach of confidentiality obligations.

## **11 Notices**

- 11.1 Any notices or other communication arising out of or relating to this Agreement shall be made in writing in English and shall be sent by first class mail or e-mail to the relevant Party. Notices and other communication shall be deemed to have been received by the relevant Party (i) on the third

(3<sup>rd</sup>) Business Day after the day of mailing if sent by first class mail; or (ii) on the day of transmission if sent by e-mail, unless a delivery failure message has been received by the sender of the e-mail.

11.2 Each Party shall inform the other Party of a change of contact person in good time.

## **12 Confidentiality**

12.1 Each Party shall keep in confidence all material and information received from the other Party and marked as confidential or which should be understood to be confidential and may not use such material or information of the other Party for any purpose other than for the proper fulfilment of the Agreement. The confidentiality and non-use obligations shall not, however, be applied to material and information: (a) which is generally available or otherwise public; or (b) which the receiving Party has received from a third party without any obligation of confidentiality; or (c) which was in the possession of the receiving Party prior to receipt of the same from the other Party without any obligation of confidentiality related thereto or breach of confidentiality obligations.

12.2 Notwithstanding anything to the contrary in this Agreement, Logmore may collect, analyse, and use aggregated, de-identified technical data, and related information (such as product or feature usage, device metrics/metadata etc.) collected during the performance of the Services for development purposes as long as the information is in a form that does not identify or is not attributable to any individual or company.

12.3 Each Party shall promptly upon termination of the Agreement (or when the Party no longer needs the material or information in question for the purposes under this Agreement) cease using confidential material and information received from the other Party and, unless the Parties separately agree on destruction of such material, return the material in question (including all copies thereof). Each Party shall, however, be entitled to retain the copies required by Laws.

12.4 The confidentiality and non-use obligations set out herein will remain in force for five (5) years from the disclosure of each respective confidential material and/or information.

## **13 Force Majeure**

Neither Party shall be liable for any delays or non-performance of its obligations, or any damages caused by an impediment beyond its reasonable control, which it could not have reasonably taken into account at the time of entering into the Agreement, and whose consequences it could not reasonably have avoided or overcome. Without limiting the generality of the foregoing, force majeure events include errors in public communication networks or electricity supply, natural disasters, riots, fire, heavy snowfalls, flood, wars, accidents, acts of terrorism, sabotage, strikes, lock-outs, embargo or other government actions, cyber attacks and any other similar occurrence beyond the non-performing Party's control. A force majeure event suffered by a subcontractor of Party shall also discharge such Party from liability, if the work to be performed under subcontracting cannot be done or acquired from another source without incurring unreasonable costs or significant loss of time. Each Party shall without delay inform the other party in writing of a force majeure event and the termination of the force majeure event.

## **14 Term and Termination**

14.1 This Agreement shall become effective on the Effective Date and shall remain in force until further notice. The Agreement may be terminated by either Party for convenience, in whole or in part upon three (3) months prior written notice to the other Party.

- 14.2 Termination of this Agreement, in whole or in part, for any reason will not as such terminate the Order Form(s), if any, in force at the time of such termination, and notwithstanding the termination of this Agreement, the terms and conditions of this Agreement shall continue to govern any Order Form(s) in force at the time of termination of this Agreement until the Parties have fulfilled all of their obligations under the applicable Order Form(s).
- 14.3 Each Party may terminate this Agreement and/or the relevant Order Form with immediate effect by giving written notice to the other Party if:
- (a) the other Party is in material breach of its obligations and, if capable of remedy, fails to remedy such breach within thirty (30) days after the receipt of the non-breaching Party's written notice thereof, or
  - (b) the other Party files for bankruptcy, is declared bankrupt, is appointed an administrator in restructuring proceedings, enters into an arrangement with its creditors, is placed into liquidation, or is dissolved and the bankruptcy estate does not commit to comply with this Agreement within thirty (30) days from the other Party's written notice.
- 14.4 If it becomes evident that the fulfilment of the relevant Order Form will be delayed for more than forty-five (45) days due to a force majeure event as set out in Section 14, each Party shall have the right to terminate the relevant Order Form by notifying the other Party thereof in writing without either Party having the right to claim damages for such termination.
- 14.5 Termination of the Agreement and/or an Order Form shall be without prejudice to the rights and obligations of the Parties, which have accrued up to the date of termination.

## **15 Miscellaneous**

- 15.1 This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matters covered and supersedes all prior negotiations, understandings, and agreements, whether written or oral, relating to the subject matters covered.
- 15.2 Logmore shall have the right to use subcontractors in the performance of the Services under this Agreement. Logmore shall be liable for the performance of its subcontractors as for its own performance.
- 15.3 Any amendment to this Agreement shall be in writing and shall have no effect before signed by duly authorised representatives of both Parties.
- 15.4 The Parties are entering into this Agreement as independent contractors, and the Agreement will not be construed to create a partnership, joint venture, or employment relationship between them (or between a Party and any employee of the of the other Party). Neither Party (nor any their employees) shall have the right or authority to assume, create, or enlarge any obligating or commitment on behalf of the other and shall not represent itself as having the authority to bind the other in any manner.
- 15.5 Neither Party may assign the Agreement without other Party's prior written consent. Logmore shall, however, be entitled to assign the Agreement in whole or in part to its Affiliates and in connection with a merger or acquisition process including but not limited to the transfer of business and/or any other corporate transaction or restructuring without the Customer's prior written consent.
- 15.6 Any failure or delay by a Party in exercising any right or remedy will not constitute a waiver. No waiver of any term or condition of this Agreement or of any right or remedy arising in connection

therewith shall constitute a continuing waiver. A waiver is not valid or binding on the Party granting that waiver unless made in writing.

- 15.7 If any part of this Agreement is determined to be invalid or unenforceable, such determination shall not invalidate any other provision of this Agreement. The Parties shall attempt, through negotiations in good faith, to replace any such invalid or unenforceable part of the Agreement with a comparable provision that is enforceable and valid. The failure of the Parties to reach an agreement on such a replacement provision shall not affect the validity of the remaining provisions of this Agreement.
- 15.8 This Agreement may be executed electronically in any number of counterparts and all of the counterparts taken together is deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by e-mail is effective as delivery of a manually executed counterpart of this Agreement.

## **16 Governing Law and Dispute Resolution**

- 16.1 This Agreement, including the arbitration clause, and any dispute, claim or controversy arising out of or relating to this Agreement, or the breach, termination or validity thereof, are governed by the laws of Finland without regard to its principles and rules on conflict of laws and without regards to the provisions of the United Nations Convention on Contracts for the International Sale of Goods.
- 16.2 Dispute resolution. Any dispute, controversy or claim arising out of or in connection with this contract, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the SCC Arbitration Institute. The seat of arbitration shall be Helsinki, Finland. The language to be used in the arbitral proceedings shall be English.