

Argmax, Inc.
LICENSE AGREEMENT

Archived License Agreement:

- [March 2025 – December 2025](#)

THIS LICENSE AGREEMENT GOVERNS CUSTOMER'S ACQUISITION AND USE OF ARGMAX'S SOFTWARE AND SERVICES. IF CUSTOMER PARTICIPATES IN AN EVALUATION (DEFINED BELOW), THE APPLICABLE PROVISIONS OF THIS AGREEMENT WILL ALSO GOVERN THAT EVALUATION.

THIS AGREEMENT IS A LEGALLY BINDING CONTRACT BETWEEN ARGMAX, INC. ("ARGMAX") AND CUSTOMER, CUSTOMER ACCEPTS THIS AGREEMENT, BY (1) EXECUTING AN ORDER THAT REFERENCES THIS AGREEMENT; (2) CLICKING A BOX INDICATING ACCEPTANCE; OR (3) USING ARGMAX'S SOFTWARE OR SERVICES, CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT.

IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "**CUSTOMER**" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SOFTWARE OR SERVICES.

1. SOFTWARE AND SERVICES

- 1.1.** Definitions. Unless otherwise defined herein, capitalized terms used in this Agreement shall have the meanings ascribed to them in Appendix I attached hereto.
- 1.2.** Orders. The parties will enter into one or more Orders. Each Order will specify relevant terms and expressly refer to this Agreement and form a part of, and be subject to the terms and conditions of, this Agreement. If there is a conflict between the terms of this Agreement and the terms of an Order, the terms of this Agreement will control unless the Order states in a section entitled "variance" that a specific provision of this Agreement will be superseded by a specific provision of the Order (but those variances will apply only to that Order).
- 1.3.** Software and Integration Services. Customer may license Software and receive Integration Services set forth in an Order. Argmax will provide integration success engineering services identified in an Order, which may include configuration technical support, and other services related to the Software ("**Integration Services**"). Argmax will perform the Integration Services in a professional manner in accordance with industry standards. To support Integration Services under an applicable Order, Customer will give Argmax timely access to Customer Materials reasonably necessary for the performance of Integration Services and provide Argmax with the necessary technical support. Argmax will use the Customer Materials solely: (i) to perform the Integration Services, or (ii) as otherwise licensed in this Agreement or applicable Order.
- 1.4.** Support Services. Argmax will provide technical support for Customer inquiries related to the Software and the reporting of errors or other issues with the Software per the support levels set forth in Exhibit A.
- 1.5.** Exclusions and Dependencies. Argmax does not provide support for or warrant the operation of the Customer Application, Devices, Customer's computer hardware, or the OS or software systems running on such Devices or hardware. Issues identified as relating to such products must be handled by the Customer or Customer's established support channel for such products.
- 1.6.** Change Order. If Customer requests modifications to the Software due to changes in the Customer Application, hardware, software, or needs, the parties may enter into a Change Order and Customer will pay Argmax the applicable Service Fee for such modifications and support that may be required.
- 1.7.** Software Upgrades. During the License Term, Argmax will provide Customer all Updates when available for no additional Fees. From time to time, Argmax, in its sole discretion, may make available Upgrades. Argmax will only make Upgrades available to Customer as specifically included in an Order. The implementation of Upgrades by Customer may require additional Fees.
- 1.8.** Personnel. Argmax will assign employees, contractors, consultants, and subcontractors ("**Personnel**") with qualifications suitable for the work described in the relevant Order. Argmax may replace or change Personnel in its sole discretion with

other suitably qualified individuals. Personnel who perform the Integration Services are a valuable asset to Argmax and are difficult to replace. Accordingly, Customer agrees that, during the Term and for a period of two years thereafter, it will not solicit for employment or engagement (whether as an employee, independent contractor or consultant) any Personnel who performed any of the Integration Services under this Agreement. Customer is not restricted from hiring any Personnel that respond to public job advertisements or similar general solicitations.

2. INTELLECTUAL PROPERTY AND LICENSE RESTRICTIONS

2.1. Ownership. Neither party grants the other any rights or licenses not expressly set out in this Agreement. Except for the licenses granted to Customer pursuant to this Agreement, Customer acknowledges that, as between the parties, Argmax retains all right, title, and interest in all Intellectual Property Rights and other rights in the Argmax Technology, FMOD Framework, Software, Argmax Checkpoint, Documentation, and any Argmax modifications or improvements to the foregoing (collectively "**Argmax Property**"). Customer and their respective employees and agents will not remove or alter any trademark, trade name, copyright, patent, patent pending, or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Software or Documentation. Except for the licenses granted hereunder, Argmax acknowledges that, as between the parties, Customer retains all right, title, and interest in and to, including all Intellectual Property Rights and other rights in Customer Materials.

2.2. License Grants. Each of the following licenses are granted to the extent applicable under an Order:

- (i) ***Software License***. Subject to Customer's complete and ongoing compliance with this Agreement and limited to the Instantiations set forth in an Order, Argmax hereby grants to Customer, non-exclusive, non-sublicensable (except as permitted in this Section 2.2(ii)), non-transferable (except as permitted under Section 11.2) right and license, solely during the License Term, to: (a) use and reproduce the Software for Customer's development of the Customer Application; (b) excluding under an Evaluation, support, market, and demonstrate (demonstrations not to exceed 90 consecutive days) of the Software to Users solely as part of the Customer Application; and (c) reproduce, distribute and sublicense the Software to Users solely as part of the Customer Application (the "**Software License**").
- (ii) ***Documentation License***. Argmax hereby grants to Customer, a non-exclusive, non-sublicensable, non-transferable (except as permitted under Section 11.2) right and license to use, copy, and internally distribute the Documentation solely for Customer's internal business purposes.
- (iii) ***Customer Checkpoint License***. If Customer provides Argmax with a Customer Checkpoint, then Customer hereby grants to Argmax, a revocable, non-exclusive, non-sublicensable, non-transferable (except as permitted under Section 11.2) right and license for the License Term to use and reproduce the Customer Checkpoint to (a) build the Custom FMOD; and (b) provide Integration Services.
- (iv) ***Usage Data License***. Customer hereby grants Argmax, a non-exclusive, non-sublicensable, non-transferable (except as permitted under Section 11.2) right and license to the Usage Data to: (a) provide Integration Services; (b) analyze the performance and stability of the Software; (c) improve the Argmax Property; and (d) for internal analytics, benchmarking, and providing reports to Customer. Argmax will not attempt, and will not allow third parties to attempt, to reidentify Usage Data.

2.3. License Restrictions. Except as otherwise explicitly provided in this Agreement or as may be expressly permitted by applicable Law, Customer will not, and will not permit or authorize third parties to: (i) knowingly use, host or distribute the Software for any illegal purpose; (ii) use the Software for High Risk Activity; (iii) circumvent or disable any security or other technological features or measures of the Software; or (iv) modify, translate, reverse engineer, decompile, or disassemble the Software (except to the extent that applicable Law prevents the prohibition of such activities).

2.4. Feedback. Customer may provide Argmax with comments, feedback or issues regarding the Argmax Property of which Customer becomes aware (collectively, the "**Feedback**"). Customer grants Argmax an unrestricted, perpetual, irrevocable, non-exclusive, fully paid, royalty-free right and license to exploit the Feedback in any manner and for any purpose without any remuneration. For clarity, nothing in this Section 2.4 is intended to interfere with Customer's rights in its Customer Materials or Confidential Information.

3. COMMERCIAL TERMS

3.1. Fees. Customer will pay all Fees owed to Argmax as specified in an Order. For the avoidance of doubt, Licensed Devices are used in the determination of Fees as specified in an Order. Customer will pay to Argmax the Service Fees for Integration Services set forth in an Order at mutually agreed hourly or fixed rates as well as any other costs and expenses

as agreed to in the applicable Order. Argmax may from time-to-time update or amend its Fees. Services Fees are non-cancellable and non-refundable.

3.2. Invoicing. Unless otherwise set forth in an Order, Argmax will invoice Customer as follows:

- (i) **Committed Volume.** Argmax will invoice the Customer the total License Fees (equal to the License Fee multiplied by the Committed Volume) on the first day of each month during the License Term.
- (ii) **On-Demand Volume.** At the end of each month, if the Customer's actual usage of Licensed Devices exceeds the Committed Volume (creating On-Demand Volume), Argmax will calculate and invoice the corresponding On-Demand Fees in arrears. The invoice date will be the last day of such month.

3.3. Rollover Balance. If the Customer's actual Device usage is less than the Committed Volume in any given month, the unused number of licenses (the "**Rollover Balance**") will be carried forward and applied to offset future On-Demand Volume usage. Any Rollover Balance that remains unused 12 months after its original accrual will automatically expire and be forfeited. Furthermore, if the current License Term expires or terminates without the parties having entered into a new Order, any remaining Rollover Balance will automatically expire and be forfeited upon the expiration of the current License Term.

3.4. Payment of Fees. Unless otherwise set forth in an Order, all amounts in the applicable invoices are payable by Customer within 30 days of the date Customer receives an invoice.

3.5. Cost and Expenses. Customer will reimburse Argmax for expenses solely to the extent: (i) Argmax receives Customer's written approval before incurring a specific expense, (ii) the nature of the reimbursed expense is specified in the Order, and (iii) Argmax provides Customer documentation of such expenses, including itemized receipts.

3.6. Taxes. Each party will be solely responsible for the calculation and payment of all taxes, levies, duties, or other governmental charges arising from or relating to this Agreement.

4. TERM AND TERMINATION

4.1. Term. This Agreement will commence upon the first Order Effective Date and will continue in effect for the entire period during which at least one active Order remains in effect (the "**Term**"), unless terminated earlier in accordance with the terms herein. This Agreement shall automatically and immediately terminate upon the expiration or termination of the last remaining active Order, unless the parties enter into a subsequent Order prior to that date.

4.2. Termination. Either party may terminate this Agreement (including any or all Orders) if the other party: (i) fails to cure a material breach of this Agreement (including a failure to pay Fees) within 30 days after notice; (ii) ceases operation without a successor; or (iii) seeks protection under a bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if such a proceeding is instituted against that party and not dismissed within 60 days.

4.3. Effect of Termination. Immediately upon expiration or termination of this Agreement, any and all rights and licenses granted to the other party under this Agreement, including in or to any Intellectual Property Rights, will immediately and automatically cease and revert, and each party will deliver to the other party all of the other party's Confidential Information that they have in their possession or control, or destroy all such Confidential Information and, if requested, provide written certification of such destruction.

4.4. Survival. All in-line definitions, Annex I (*Definitions*) and the following Sections survive expiration or termination of this Agreement: Section 2.1 (*Ownership*), Section 2.3 (*License Restrictions*), Section 2.4 (*Feedback*), Section 3.4 (*Payment of Fees*), Section 4.4 (*Survival*), Section 5 (*Confidentiality*), Section 6.4 (*Disclaimer of Warranties*), Section 7 (*Indemnification*), Section 8 (*Limitation of Liability*), Section 10 (*Dispute Resolution*), and Section 11 (*General Terms*). Except where an exclusive remedy is provided in this Agreement, exercising a remedy under this Agreement, including termination, does not limit other remedies a party may have.

5. CONFIDENTIALITY

5.1. Definition. "**Confidential Information**" means information disclosed to the receiving party ("**Recipient**") under this Agreement that is designated by the disclosing party ("**Discloser**") as proprietary or confidential or that should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure. Argmax's Confidential Information includes Argmax Property. Customer's Confidential Information includes Customer Materials.

- 5.2. Obligations. As Recipient, each party will: (i) hold the Discloser's Confidential Information in confidence and not disclose it to third parties except as permitted in this Agreement; (ii) only use Confidential Information to fulfill its obligations and exercise its rights in this Agreement; and (iii) safeguard the confidentiality of the Discloser's Confidential Information using at least the same degree of care as the Recipient would protect its own Confidential Information of a similar nature, but in no event less than a reasonable degree of care. At Discloser's request, Recipient will delete all Confidential Information. Recipient may disclose Confidential Information to its Representatives having a legitimate need to know (including, for Argmax, the subcontractors permitted in Section 11.9), provided it remains responsible for their compliance with this Section 5 and they are bound to confidentiality obligations no less protective than this Section 5. "**Representative**" means a party's or its Affiliate's employee, officer, director, or agent, or other person acting on behalf of a party, whether or not employed by such party, who has access to Confidential Information.
- 5.3. Exclusions. Confidential Information will not include any information that the Recipient can show: (i) were, at the date of disclosure, or have subsequently become, generally known or available to the general public through no act or failure to act by the Recipient; (ii) were rightfully known by the Recipient prior to receiving such information or materials from the Discloser; (iii) are rightfully acquired by the Recipient without restrictions on use or disclosure from a third party who has the right to disclose such information or materials without breach of any confidentiality or non-use obligation; or (iv) are independently developed by or for the Recipient without use of or access or reference to any Confidential Information of the Discloser. Either party may use for any purpose any general learning, skills, ideas, concepts, techniques, know-how, or other information retained in the unaided memory of its personnel who had access to or worked with Confidential Information disclosed under this Agreement ("**Retained Know-how**"), provided that this right to Retained Know-how does not represent a license under any patents, copyrights, or trademarks. A person's memory is unaided if he or she makes no effort to retain and has made no efforts to retain his or her recollection of the information for subsequent use.
- 5.4. Remedies. Unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone are an insufficient remedy. Each party may seek appropriate equitable relief, in addition to other available remedies, for breach or threatened breach of this Section 5 without the need to post bond or other security.
- 5.5. Required Disclosures. If required by Law to disclose any of the Discloser's Confidential Information, the Recipient will provide the Discloser prompt notice to the extent legally permitted. The Recipient will provide reasonable assistance in contesting or protecting the required disclosure, at the Discloser's request and cost. The Recipient may only disclose the Confidential Information that it is legally required to disclose, and such information will continue to be the Discloser's Confidential Information.
- 5.6. Notice. The Recipient will: (i) promptly advise the Discloser in writing if the Recipient becomes aware of any actual or suspected unauthorized use or disclosure of the Discloser's Confidential Information and (ii) provide such reasonable assistance as the Discloser requests regarding remediation, mitigation, or taking enforcement action (which assistance will be at no charge to the Discloser).

6. WARRANTIES AND DISCLAIMERS

- 6.1. Mutual Warranties. Each party represents and warrants to the other party that: (i) it is duly organized, validly existing and in good standing under its jurisdiction of organization and has the right to enter into this Agreement and (ii) the execution, delivery and performance and consummation of this Agreement are within the corporate powers of such party and have been duly authorized by all necessary corporate action on the part of such party, and constitute a valid and binding agreement of such party.
- 6.2. Argmax Warranties. Argmax represents and warrants to Customer that: (i) Argmax has the necessary rights to grant the rights in the Software and Documentation under this Agreement; (ii) Argmax will perform the services in a professional, workmanlike manner consistent with the industry standards; and (iii) the Software will not contain a virus or other program or technology designed to disrupt, damage, interfere with or provide unauthorized access to any software, hardware or system (collectively, the "**Limited Warranty**").
- 6.3. Customer Warranties. Customer represents and warrants to Argmax that: (i) the Customer Materials and Usage Data provided by Customer to Argmax will not infringe or misappropriate any third party's Intellectual Property Rights; (ii) Customer has the necessary rights, to provide Argmax with Customer Materials and Usage Data; and (iii) Customer will not use the Software to violate any Laws.
- 6.4. Disclaimer of Warranties. THE LIMITED WARRANTY SET FORTH IN SECTION 6.2 DOES NOT APPLY TO ISSUES TO THE EXTENT CAUSED BY: (I) CUSTOMER'S MISUSE OF OR UNAUTHORIZED MODIFICATIONS TO THE SOFTWARE IN BREACH OF THIS AGREEMENT; (II) USE OF THE SOFTWARE IN CONNECTION WITH A HIGH RISK ACTIVITY; (III) CUSTOMER

CHECKPOINTS (IF APPLICABLE); OR (IV) EVALUATION OR OTHER UNPAID USE. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY OTHER WARRANTIES OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. EACH PARTY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, OR ACCURACY. ARGMAX (A) MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE INFORMATION A USER RECEIVES IN CONNECTION WITH SUCH USER'S USE OF THE CUSTOMER APPLICATION THAT INTEGRATES THE SOFTWARE; AND (B) DISCLAIMS ALL LIABILITY FOR ANY DAMAGES OF ANY NATURE WHATSOEVER, DIRECTLY OR INDIRECTLY, RESULTING FROM USERS USE OF OR RELIANCE ON ANY INFORMATION PROVIDED BY THE CUSTOMER APPLICATION THAT INTEGRATES THE SOFTWARE.

7. INDEMNIFICATION

- 7.1.** By Argmax. Excluding the Excluded Claims provided in Section 7.2, Argmax will defend any third-party claims, demands, proceedings, suits, or causes of action of any kind, whether asserted or threatened ("**Claims**") brought against the Customer Indemnified Parties arising out of or related to: (i) any grossly negligent or intentionally wrongful act or omission of Argmax, its Personnel, or agents in performance under this Agreement; or (ii) any infringement of a third party's US Patent or Copyright by the Software (collectively, "**Argmax Claims**"). Argmax will indemnify the Customer Indemnified Parties from: (a) all damages, fines, costs, and attorneys' fees awarded against the Customer Indemnified Parties in any Claim under this Section 7.1, (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by the Customer Indemnified Parties in connection with the defense of an Argmax Claim under this Section 7.1, and (c) all amounts that Argmax agrees to pay to any third party to settle any Claim under this Section 7.1. This Section 7 states the entire liability and obligation of Argmax, and the sole and exclusive remedy of Customer, with respect to any actual or alleged infringement of any Intellectual Property Right by the Software.
- 7.2.** Exceptions. Argmax will have no liability for Argmax Claims under Section 7.2 to the extent such Claims are attributable to: (i) the negligence or willful misconduct of Customer; (ii) any aspect of a Customer Checkpoint, except to the extent that Argmax made modifications to the Customer Checkpoint if no liability would have arisen but for such modifications; (iii) modification of the Software, in whole or in part, by anyone other than Argmax or at Argmax's direction; (iv) use of the Software in connection with a High Risk Activity or outside the Instantiations; or (v) a Customer Application (collectively, "**Excluded Claims**").
- 7.3.** By Customer. Customer will defend any Claims brought against Argmax or its Affiliates or their directors, officers, or employees, (collectively, the "**Argmax Entities**") arising out of or related to: (i) any grossly negligent or intentionally wrongful act or omission of Customer or Customer's employees, and contractors in performance under this Agreement; or (ii) any infringement, violation, or misappropriation of a third party's Intellectual Property Rights by the Customer Materials used in the performance of services. Customer will indemnify the Argmax Entities from: (a) all damages, fines, costs, and attorneys' fees awarded against the Argmax Entities in any Claim under this Section 7.3, (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by the Argmax Entities in connection with the defense of a Claim under this Section 7.3, and (c) all amounts that Customer agrees to pay to any third party to settle any Claim under this Section 7.3.
- 7.4.** Process. In the event of a Claim under this Section 7, the indemnitee will provide the indemnitor with: (i) prompt written notice of such a Claim; (ii) sole control over the defense and settlement of such a Claim; and (iii) all necessary information and assistance (at the indemnitor's expense and reasonable request) to defend or settle such a Claim. The indemnitee may participate, with separate counsel of its own choosing, in the defense of a Claim asserted hereunder after the indemnitor has assumed the defense or settlement, provided that the indemnitee will bear any legal fees and expenses or other costs it incurs in so participating. The indemnitor will not settle or compromise any Claim under this Section 7 without the indemnitees prior written consent unless such settlement or compromise: (a) unconditionally and completely releases all indemnified parties, (b) does not contain any stipulation to, admission, or acknowledgement of any wrongdoing by any indemnified party, and (c) does not impose any obligations on the indemnified parties other than solely the payment of money damages paid wholly by the indemnitor.

8. LIMITATION OF LIABILITY

- 8.1.** ALLOCATION OF RISK. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE TERMS OF THIS AGREEMENT AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. THE LIMITATIONS IN THIS SECTION 8 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

8.2. DISCLAIMER OF CONSEQUENTIAL DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR (I) THE BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER SECTION 5, (II) CUSTOMER'S OBLIGATIONS UNDER SECTION 7, (III) CUSTOMER OBLIGATION TO PAY ALL FEES OWED TO ARGMAX UNDER THIS AGREEMENT INCLUDING ALL APPLICABLE ORDERS, AND (IV) CUSTOMER'S BREACH OF RESTRICTIONS UNDER SECTION 2.3, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING LOST PROFITS, LOSS OF BUSINESS, OR LOSS OF REVENUES, EVEN IF SUCH PARTY IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

8.3. CAP ON LIABILITY. EXCEPT FOR (I) THE BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER SECTION 5, (II) CUSTOMER'S OBLIGATIONS UNDER SECTION 7, (III) CUSTOMER OBLIGATION TO PAY ALL FEES OWED TO ARGMAX UNDER THIS AGREEMENT INCLUDING ALL APPLICABLE ORDERS, AND (IV) CUSTOMER'S BREACH OF RESTRICTIONS UNDER SECTION 2.3, EACH PARTY'S AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE TOTAL AMOUNTS PAID OR PAYABLE TO ARGMAX UNDER THIS AGREEMENT (INCLUDING ALL ORDERS) IN THE 12 MONTHS PRIOR TO THE LAST CLAIM ARISING.

9. EVALUATION

Customer may receive access to Software that is expressly identified in an Order as an alpha or beta offering on a free or trial basis ("**Evaluation**"). Use of an Evaluation is limited to Customer's non-commercial, internal evaluation during the period designated by Argmax in an Order (or if not designated, 30 days). Evaluations are optional and either party may terminate Evaluation at any time for any reason. Evaluation may be inoperable, incomplete, or include features that Argmax may never release, and their features and performance information are Argmax's Confidential Information. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, ARGMAX PROVIDES NO WARRANTY, INDEMNITY, OR SUPPORT FOR AN EVALUATION, AND ARGMAX'S AGGREGATE LIABILITY FOR AN EVALUATION WILL NOT EXCEED \$500.

10. DISPUTE RESOLUTION

10.1. Good Faith Resolution. The parties agree to resolve all disputes arising under or in connection with this Agreement through confidential binding arbitration. A party who intends to seek arbitration must first send a written notice of the dispute to the other party. The parties will use good faith efforts to resolve the dispute directly, but if the parties do not reach an agreement to do so within 30 days after the notice is received, either party may commence an arbitration proceeding as described in this Section 10. Notwithstanding the foregoing, either party may, at its sole discretion, elect to pursue legal action in a court of competent jurisdiction (rather than arbitration) to seek injunctive or other equitable relief to enforce or protect its Intellectual Property Rights.

10.2. JAMS Arbitration. The arbitration will be conducted in accordance with JAMS (<https://www.jamsadr.com/>) then-current rules ("**Rules**"). The arbitration will be conducted in English in San Francisco, California. If the parties do not agree on an arbitrator, the arbitrator will be selected in accordance with the applicable Rules for the appointment of an arbitrator. The arbitrator must be independent of the parties. The selection of an arbitrator under the Rules will be final and binding on the parties.

10.3. Confidential, Final and Binding. The arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator will have full power and authority to determine issues of arbitrability and to interpret or construe the provisions of the agreement documents and to fashion appropriate remedies (including temporary, preliminary, interim, or permanent injunctive relief); provided that the arbitrator will not have any right or authority: (i) in excess of the authority that a court having jurisdiction over the parties and the dispute would have absent this arbitration agreement; and (ii) to award damages in excess of the types and limitation of damages found in this Agreement. The arbitrator's decision will be kept confidential and is final and binding on both parties. Judgment upon the award may be entered into any court of competent jurisdiction.

10.4. Cost and Expenses. The costs and expenses of the arbitration will be shared equally by both parties; however, if the arbitrator finds that either the substance of the claim or the relief sought in arbitration is frivolous or brought for an improper purpose, then the payment of all costs and expenses of the arbitration will be governed by the Rules.

10.5. Enforceability. Notwithstanding the foregoing, this Section 10 will not prohibit either party from: (i) bringing an individual action in small claims court; (ii) seeking injunctive or other equitable relief in a court of competent jurisdiction; (iii) pursuing an enforcement action through the applicable federal, state, or local agency if that action is available; or (iv) filing suit in a court of law to address an intellectual property infringement or misappropriation claim. If this Section 10 is found to be unenforceable, the parties agree that the exclusive jurisdiction and venue described in Section 11.4 will govern any action arising out of or relating to this Agreement.

11. GENERAL TERMS

- 11.1. Interpretation.** The headings set forth in this Agreement are for convenience of reference purposes only and will not affect or be deemed to affect in any way the meaning or interpretation of this Agreement or any term or provision hereof. References to "\$" and "dollars" are to the currency of the United States of America. For purposes of this Agreement, (i) the words "include," "includes" and "including" will be deemed to be followed by the words "without limitation;" (ii) the words "such as," "for example", "e.g.", and any derivatives of those words will mean by way of example and the items that follow these words will not be deemed an exhaustive list; (iii) the word "or" is used in the inclusive sense of "and/or" and the terms "or," "any," and "either" are not exclusive; (iv) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (v) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (vi) whenever the context may require, any pronouns used in this Agreement will include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns will include the plural, and vice versa. References to a statute means such statute as amended and includes any successor legislation and any regulations or other Laws promulgated under such statute.
- 11.2. Assignment.** Neither party will assign its rights or obligations under this Agreement without the written consent of the other party, except that either party may assign to a successor to its business, including a successor by way of merger, acquisition, sale of all or substantially all of its assets, or operation of law. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns. Any assignment in violation of the foregoing will be null and void.
- 11.3. Independent Contractors.** The parties are independent contractors, not agents, partners, or joint venturers. Neither party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any agreement with any third party.
- 11.4. Governing Law, Jurisdiction and Venue.** This Agreement will be interpreted, construed, and enforced in all respects in accordance with the laws of the State of California, without reference to its choice of law rules and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. Any action arising out of or in connection with this Agreement will be heard in the federal, state, or local courts in San Francisco County, California, and each party hereby irrevocably consents to the exclusive jurisdiction and venue of these courts.
- 11.5. Notices.** Except as set forth in this Agreement, any legal notice or legal consent under this Agreement must be in writing to the addresses on the first page and will be deemed given as follows: (i) upon receipt if by personal delivery, (ii) 3 business days if by certified or registered U.S. mail (return receipt requested), or (iii) one business day after dispatch if by a commercial overnight delivery service, together with an email copy sent to the email address provided below. Non-legal notices and consents may be sent via email. Either party may update its address with notice to the other party. Argmax may also send operational notices to Customer by email.
- 11.6. Amendments.** Any amendments, modifications, or supplements to this Agreement must be in writing and signed by each party's authorized representatives. No additional, different or conflicting terms, provisions, or conditions provided with any acknowledgement, invoice, payment or other documentation exchanged, or any click-through, browse-wrap, or similar terms presented, during the course of dealing between the parties will have any effect on the rights, duties, or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of a receiving party to object to such terms, provisions, or conditions.
- 11.7. Waivers and Severability.** Waivers must be signed by the waiving party's authorized representative and cannot be implied from conduct. If any provision of this Agreement is held invalid, illegal, or unenforceable, then the parties will replace such provision with a substitute that as closely as possible reflects the parties' original intent (including economics and allocations of risk) and is enforceable, and the validity of the other provisions and of this Agreement as a whole will not be affected.
- 11.8. Force Majeure.** Except for obligations to pay Fees, neither party is liable for any delay or failure to perform any obligation under this Agreement to the extent due to a Force Majeure Event; provided, that the Force Majeure Event could not have been anticipated or mitigated through appropriate planning and that the impacted party: (i) gives the other party prompt written notice of the Force Majeure Event, (ii) uses commercially reasonable efforts to end the failure or delay and minimize the effects of the Force Majeure Event on the other party, and (iii) resumes full performance upon the remedy or removal of the Force Majeure Event. If the impacted party's performance fails or is delayed due to the Force Majeure Event, in the aggregate, for 30 or more days, then the other party may terminate this Agreement immediately upon written notice.

- 11.9. Subcontractors.** Argmax may use subcontractors and permit them to exercise Argmax's rights, but Argmax remains responsible for their compliance with this Agreement and for its overall performance under this Agreement.
- 11.10. Export Compliance.** The Software and derivatives thereof may be subject to the Export Administration Regulations (EAR) and the sanctions laws administered by the Office of Foreign Assets Control (OFAC) of the United States and other applicable jurisdictions. Each party represents and warrants that it is not: (i) Named on any U.S. sanctioned or restricted-party list (including, but not limited to, the Specially Designated Nationals (SDN) List, the Denied Persons List, or the Entity List); (ii) Located in, organized under the laws of, or a resident of any territory subject to a comprehensive U.S. embargo (currently Cuba, Iran, North Korea, Russia, or the Crimea, Donetsk, Luhansk, Kherson, and Zaporizhzhia regions of Ukraine); or (iii) owned or controlled by a party included in (i) or (ii) above.
- 11.11. Publicity.** Neither party may publicly announce that the parties have entered into this Agreement, except with the other party's prior written consent or as required by Law. Notwithstanding the foregoing, Argmax is permitted to identify the Customer as a client on its website and in marketing and promotional materials. If the Customer wishes to prohibit such use, the Customer must opt-out by expressly stating this limitation in the Order.
- 11.12. Entire Agreement.** This Agreement (which includes all Orders, Appendices and Exhibits) is the parties' entire agreement regarding its subject matter and supersedes any prior or contemporaneous agreements regarding its subject matter. This Agreement may be executed in counterparts (including electronic copies and PDFs), each of which is deemed an original and which together form one and the same agreement.

Appendix I **Definitions**

1. **"Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control with a party (where "control," for purposes of this definition, means direct or indirect ownership or control of 50% or more of the voting interests of the subject entity).
2. **"Argmax Checkpoint"** means a Argmax-provided Checkpoint.
3. **"Argmax Technology"** means Argmax's proprietary (i) technology, tools, software, and applications, (ii) custom Foundation Model, and (iii) Argmax's Checkpoints, that Argmax uses to build FMODs.
4. **"Change Order"** means a material change or amendment to an active Order that is requested by Customer and subsequently mutually agreed upon and signed in writing by both parties after the Order Effective Date.
5. **"Checkpoint"** means a snapshot of the weights of a trained model and other related information but does not contain any description of the computation that the model performs. An underlying trained model may have different Checkpoints as it relates to different training, fine-tuning, or optimization processes that have been applied to such model.
6. **"Committed Volume"** means the minimum number of per-device licenses the Customer is obligated to purchase and pay for each month throughout the License Term, as specified in the applicable Order.
7. **"Custom FMOD"** means a customized FMOD built integrating and employing Argmax Technology that embodies an applicable Checkpoint's attributes.
8. **"Customer Application"** means Customer's proprietary software application described in an Order that can be resident, installed, and distributed on Users' Devices.
9. **"Customer Checkpoint"** means a Customer-provided Checkpoint.
10. **"Customer Indemnified Parties"** means Customer, and any of its or their respective officers, directors, employees, and agents.
11. **"Customer Materials"** means any data, information, Customer Application (including credentials, materials, systems, application provisioning and access for such Customer Application); Customer Checkpoints (if applicable); test conditions and test results, and other materials, software, resources, works of authorship, and inventions that Customer provides or makes available to Argmax in connection with this Agreement. For clarity, Customer Materials expressly excludes Argmax Property.
12. **"Device"** means smartphones, tablets, laptop computers, smartwatches, e-readers, or similar mobile hardware devices.

13. **"Documentation"** means any information, integration guides, usage guidelines and technical documentation for the Software that Argmax makes available to Customer.
14. **"Fees"** means, collectively, the total monetary amounts due from Customer to Argmax under an Order, including, the License Fees, On-Demand Fees, and Service Fees.
15. **"FMOD"** means a Foundation Model and its associated workloads that have been implemented to perform on a constrained hardware Device.
16. **"FMOD Framework"** means the necessary technology for efficient integration by Customer of the Custom FMOD into its Customer Application.
17. **"Force Majeure Event"** means an event beyond the reasonable control of, and without fault or negligence of, a party.
18. **"Foundation Model"** means a machine learning model that is trained on a broad dataset, so it can be applied across a wide range of use cases.
19. **"High Risk Activity"** means use of the Software for any high risk activity including use of the Software that could lead to death, personal injury, environmental damage, or could be used (or misused) for: (1) biometric identification; (2) critical infrastructure (e.g., use with life support systems, emergency services, nuclear facilities, autonomous vehicles, or air traffic control systems); (3) employment or student bias; (4) access to and enjoyment of essential private services and essential public services and benefits; (5) law enforcement; (6) migration, asylum, and border control management; (7) addictive recommender systems of social media platforms; (8) administration of justice, (9) democratic processes; or (10) any other system that when deployed, makes, or is a substantial factor in making, a consequential decision.
20. **"Instantiation"** means the combination of attributes with respect to the Devices (e.g., OS and chipset) specified in an Order, for which the Customer Application may be deployed on.
21. **"Intellectual Property Rights"** means any and all rights in, related to, under, or arising out of patents, copyrights, corporate and trade names, trademarks, service marks, and logos, Confidential Information, trade secrets, know how, and other intellectual property or proprietary rights, in any jurisdiction, and all related applications and registrations.
22. **"Law"** means any statute, law, regulation, ordinance, rule, code, order, constitution, treaty, common law, judgment, decree, or governmental requirement enacted, promulgated, or imposed by any governmental authority at any level (including municipal, county, province, state, national, or foreign).
23. **"License Fees"** means the fixed price per Licensed Device, per month, that the Customer pays to Argmax for each license included in the Committed Volume, as set forth in the Order.
24. **"License Term"** means the duration of the license grant to the Software set forth in an Order.
25. **"Licensed Device"** means any Device upon or through which the Customer Application is installed, accessed, utilized, or otherwise operated by or on behalf of the Customer or its Users.
26. **"On-Demand Fees"** means the charges for the On-Demand Volume, calculated based on the separate, per-unit, per-month pricing specified in the applicable Order. On-Demand Fees are billed monthly according to the actual usage volume.
27. **"On-Demand Volume"** means the quantity of per-device licenses used or activated by the Customer in any given month that exceeds the Committed Volume for that same month.
28. **"Order"** means a written document, signed by both parties, that specifies Software or Upgrades to be licensed and services to be provided under this Agreement, including Fees, timelines, and any other relevant terms.
29. **"Order Effective Date"** means the date upon which the Customer signs and executes an Order.
30. **"Order Term"** means the period commencing on the Order Effective Date and ending on the last day of the License Term.
31. **"OS"** means a Device's operating system.
32. **"Service Fees"** means the fees for Integration Services set forth in an Order or fees associated with a Change Order.
33. **"Software"** means the Custom FMOD combined with the FMOD Framework packaged for integration and use in a Customers Application.
34. **"Updates"** means any updates, modifications, or bug fixes to the Software provided by Argmax.

35. **“Upgrades”** means additions, enhancements, upgrades, new services, or modules that include new features and substantial increases in functionality to the Software; Upgrades may be subject to additional Fees.
36. **“Usage Data”** means (i) deidentified data relating to Users’ Device operation or use of the Customer Application on such Device, including network signal strength information, thermal profile, and battery information, (ii) information generated from use of the Software, including technical logs, data, and learnings about Customer’s use of the Software, and (iii) other usage data as may be specified in an Order; provided that, Usage Data does not and cannot be used to identify Users, or any other natural human persons, households, or Customer or any other entity, and expressly excludes Customer Materials and any content or usage information within the Customer Application.
37. **“User”** means a Customer’s end users that download, install, or uses the Customer Application.

Exhibit A
Support Levels

- 1) **Support Level Agreement:** Argmax will use commercially reasonable efforts to provide support for the Software in accordance with the support level agreement (“SLA”) provided below:
- a) **Software Issues Severity:**
- i) **Critical:** A **“Critical Level”** issue is a catastrophic production issue that severely impacts the User’s ability to use the Customer Application. Critical Level issues include the Customer Application being materially unavailable to Users. Argmax must respond to Critical Level issues in less than one business day of receipt of notice of such Critical Level issue and work with Customer to resolve the issue as soon as possible.
 - ii) **High:** A **“High Level”** issue is a major issue within the Customer Application which results in the Customer Application functioning at a reduced capacity such that there is a significant impact to User’s use of the Customer Application. Argmax must respond to High Level issues in less than two business days of receipt of notice of such High Level issue and work with Customer to resolve the issue as soon as possible.
 - iii) **Medium:** A **“Medium Level”** issue is an issue the causes the Customer Application to produce incorrect, incomplete, or inconsistent results issue such that there is an impact to User’s use of the Customer Application. Argmax must respond to Medium Level issues in less than three business days of receipt of notice of such Medium Level issue and work with Customer to resolve the issue as soon as practicable.
 - iv) **Low:** A **“Low Level”** issue has no short-term impact on the User’s use of the Customer Application, Low Level issues refer to minor or cosmetic defect that has acceptable workarounds to achieve required results. Argmax must respond to Low Level issues in less than five business days of receipt of notice of such Low Level issue and work with Customer to resolve the issue as soon as practicable.
- b) **Issue Reporting:** For issues identified by Customer, Customer will endeavor to provide sufficient information to reproduce the issue, including, as may be available, any field reporting, the evaluation conditions, the specific Devices, the specification or requirement to be tested, the dataset and or representative data, the resulting metrics, the resulting diagnostics, and any relevant crash stack tracing.
- c) **Exceptions.**
- i) Argmax will have no responsibility to provide support or SLAs for error, defect, or problem with the Customer Application not directly related to the Software.
 - ii) Argmax may refuse to provide support for Software that is at least two Updates older than the most current Update Argmax has made available to Customer.
- 2) **Operating System Updates.** For OS software updates, Argmax will meet the following service levels. For the avoidance of doubt, the OS provider determines the OS update classification:
- a) Response time of less than two business days for rapid security responses (“RSRs”). RSRs are a different type of software release for applying security fixes to Devices more frequently by not requiring a full software update.
 - b) Response time of less than four business days for software updates. Updates consist of frequently released patches that help secure or enhance the current OS and that are designed to keep Devices protected.
 - c) Response time of less than five business days for software upgrades. Upgrades typically make important changes to an OS over the previous version. This can cover functionality, the user interface, and general appearance. Upgrades are released

much less frequently than updates, and they can take a while to install because of their size. Older Devices may not be eligible for upgrades if they don't have the necessary hardware capabilities to support the new software.