

# Terms of use

*Effective 1 May 2014*

Hi. Welcome to our Terms & Conditions of use. By using the Logmate service you are implicitly, explicitly and comprehensibly bound to the following conditions, policies and legal mumbo jumbo. So best you take a gander eh.

## Introduction

Thanks for choosing Logmate (“**Logmate**”, “**we**”, “**us**”, “**our**”, “**Tierra Technologies Ltd**”, “**Tierra**”). By using the Logmate service, websites, or software applications (together, the “**Logmate Service**”, or “**Service**”), including by purchasing or receiving Subscriptions or Licenses, you are entering into a binding contract with our company. Your agreement with us includes these Terms and Conditions of Use (“**Terms**”) and our Privacy Policy (together with the Mobile Terms where applicable, the “**Agreements**”). If you don’t agree with these Terms, then please don’t use the Service.

We’re pleased to make our Service available to you.

In order to use the Logmate Service, you need to:

1. Hold a current New Zealand commercial drivers license,
2. Have the power to enter a binding contract with us and are not barred from doing so under any applicable laws, and
3. Be a resident in New Zealand.

You also warrant that any registration information that you submit to Logmate is true, accurate and complete, and you agree to keep it that way at all times.

## Changes to the Agreements

Occasionally we may, at our discretion, make changes to the Logmate Service and Agreements. When we make changes to the Agreements that we consider material, we’ll notify you through the Service. By continuing to use the Service after changes are made, you are expressing and acknowledging your acceptance of the changes.

## Using Logmate

Logmate account holders may interact with the Logmate Service only when in possession of one of the following Subscriptions:

1. **Free Trial:** a free-of-charge subscription which enables you to log your work-time for 21 days, and gain access to those records after the trial period has ended;
2. **Driver Service:** a subscription fee-based service which enables you to log your work-time for the subscribed amount of time (i.e. on a monthly basis, or annually)
3. **Operator Service:** a subscription fee-based service which enables you to track and communicate with the driver of your vehicles and access their work-time records as they are logged.

# Trials

From time to time, we may offer trials of the Logmate application for a specified period without payment (a “**Trial**”). Logmate reserves the right, at our absolute discretion, to determine your eligibility for a Trial, and to withdraw or to modify a Trial at any time without prior notice and with no liability.

For some Trials, we’ll require you to provide your payment details to start the Trial. At the end of such Trials, we may automatically start to charge you for the Service on the first day following the end of the Trial, on a recurring monthly or annual basis depending on the Trial. By providing your payment details in conjunction with the Trial, you agree to this charge.

# License and Assignment

The Logmate Service is the property of Tierra Technologies Ltd. The data recorded by the Logmate Service on your behalf remains the property of the Driver, however, by using the Service you grant Tierra Technologies Ltd the rights to this data.

The Logmate software applications are licensed, not sold, to you and Logmate retains ownership of all copies of the Logmate software applications even after installation on your Devices. Logmate may assign these Agreements or any part of them without restrictions. You may not assign these Agreements or any part of them, nor transfer or sub-licence your rights under this Licence, to any third party.

All Logmate trademarks, service marks, trade names, logos, domain names, and any other features of the Logmate brand are the sole property of Tierra Technologies Ltd. This Licence does not grant you any rights to use the Logmate trademarks, service marks, trade names, logos, domain names, or any other features of the Logmate brand, whether for commercial or non-commercial use.

You agree to abide by our User Guidelines and not to use the Logmate Service (including but not limited to its content) in any manner not expressly permitted by the Terms.

Third party software libraries included in the Logmate Service are licensed to you either under these Terms, or under the relevant third party software library’s licence terms as published on our website.

# Third Party Applications

The Logmate Service may provide a platform for third party applications, websites and services to make available products and services to you (“**Third Party Applications**”), and your use of these Third Party Applications is subject to their terms of use. You understand and agree that Logmate is not responsible or liable for the behaviour, features, or content of any Third Party Application.

# Consideration

In consideration for the rights granted to you under these Terms, you grant us the right (a) to allow the Logmate Service to use the processor, bandwidth and storage hardware on your Device(s) in order to facilitate the operation of the Service, (b) to provide advertising and other information to you, and © to allow our business partners to do the same.

These Terms are not intended to grant rights to anyone except you and Logmate, and in no event shall these Terms create any third party beneficiary rights. Any failure by Logmate to enforce these

Terms or any provision thereof shall not waive Logmate's right to do so.

## User Guidelines

We've established a few ground rules for you to follow when using the Service, to make sure Logmate stays enjoyable for everyone. Please follow these rules and encourage other users to do the same.

Your password and security pin protects your user account, and you are solely responsible for keeping your password and security pin confidential and secure. You understand that you are responsible for all use of your username and password on the Service. If your username or password is lost or stolen, or if you believe there has been unauthorised access to your account by third parties, please notify us immediately and change your password as soon as possible.

## Technology limitations and modifications

Logmate will make reasonable efforts to keep the Logmate Service operational. However, certain technical difficulties or maintenance may, from time to time, result in temporary interruptions. Logmate reserves the right, periodically and at any time, to modify or discontinue, temporarily or permanently, functions and features of the Logmate Service, with or without notice, all without liability to you for any interruption, modification, or discontinuation of the Logmate Service or any function or feature thereof. You understand and agree that Logmate has no obligation to maintain, support, upgrade, or update the Service.

## Payments and Cancellations

If you have a Paid Subscription, your payment to Logmate will automatically renew at the end of the subscription period, unless you cancel your Paid Subscription through your subscription page before the end of the current subscription period. The cancellation will take effect the day after the last day of the current subscription period. After this you will no longer be able to use Logmate to log your work-time. You will however, still have access to your existing work history.

Logmate may change the price for the Paid Subscriptions from time to time, and will communicate any price changes to you. Price changes for Paid Subscriptions will take effect at the start of the next subscription period following the date of the price change. By continuing to use the Logmate Service after the price change takes effect, you accept the new price.

## Term and Termination

These Terms will continue to apply to you until terminated by either you or Logmate. Logmate may terminate the Terms or suspend your access to the Logmate Service at any time, including in the event of your actual or suspected unauthorised use of the Logmate Service or non-compliance with the Terms. If you or Logmate terminate the Terms, or if Logmate suspends your access to the Logmate Service, you agree that Logmate shall have no liability or responsibility to you and Logmate will not refund any amounts that you have already paid, to the fullest extent permitted under applicable law. To learn how to terminate your Logmate account, please contact us.

## Warranty

We endeavor to provide the best service we can, but you understand and agree that THE LOGMATE SERVICE IS PROVIDED "AS IS", WITHOUT EXPRESS OR IMPLIED WARRANTY OR

CONDITION OF ANY KIND. YOU USE THE LOGMATE SERVICE AT YOUR OWN RISK. LOGMATE DISCLAIMS ANY WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. In addition, Logmate does not warrant, endorse, guarantee or assume responsibility for any Third Party Applications, Third Party Application content, User Content, or any other product or service advertised or offered by a third party on or through the Logmate Service or any hyperlinked website, or featured in any banner or other advertising. You understand and agree that Logmate is not responsible or liable for any transaction between you and third-party providers of Third Party Applications or products or services advertised on or through the Logmate Service. As with any purchase of a product or service through any medium or in any environment, you should use your judgment and exercise caution where appropriate. No advice or information whether oral or in writing obtained by you from Logmate shall create any warranty on behalf of Logmate in this regard. Some aspects of this section may not apply in some jurisdictions.

## Limitation

You agree that, to the extent permitted by applicable law, your sole and exclusive remedy for any problems or dissatisfaction with the Logmate Service, the Third Party Applications or the Third Party Application content is to uninstall any Logmate software and to stop using the Logmate Service, the Third Party Applications or the Third Party Application content.

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL LOGMATE, ITS OFFICERS, SHAREHOLDERS, EMPLOYEES, AGENTS, DIRECTORS, SUBSIDIARIES, AFFILIATES, SUCCESSORS, ASSIGNS, SUPPLIERS OR LICENSORS BE LIABLE FOR (i) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL (INCLUDING LOSS OF USE, DATA, BUSINESS, OR PROFITS) DAMAGES, ARISING OUT OF THE USE OR INABILITY TO USE THE LOGMATE SERVICE, THIRD PARTY APPLICATIONS OR THIRD PARTY APPLICATION CONTENT, REGARDLESS OF LEGAL THEORY, WITHOUT REGARD TO WHETHER LOGMATE HAS BEEN WARNED OF THE POSSIBILITY OF THOSE DAMAGES, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE; (ii) AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THE LOGMATE SERVICE, THIRD PARTY APPLICATIONS OR THIRD PARTY APPLICATION CONTENT MORE THAN THE AMOUNTS PAID BY YOU TO LOGMATE DURING THE PRIOR THREE MONTHS IN QUESTION.

## Entire Agreement

These Agreements constitute all the terms and conditions agreed upon between you and Logmate and supersede any prior agreements in relation to the subject matter of these Agreements, whether written or oral. Any additional or different terms or conditions in relation to the subject matter of the Agreements in any written or oral communication from you to Logmate are void. You represent that you have not accepted the Agreements in reliance on any oral or written representations made by Logmate that are not contained in the Agreements.

Please note, however, that other aspects of your use of the Logmate Service may be governed by additional agreements. That could include, for example, access to the Logmate Community for customer support, or free or discounted Trials. You will agree to separate terms and conditions in those circumstances, which are listed in full on our website. Those terms and conditions shall govern only with regard to the aspect of the Service to which they apply, and are distinct from and supplemental to these Agreements, and do not supersede these Agreements. To the extent that there is any conflict between those agreements and these Agreements, these Agreements shall control, except as otherwise provided in these Terms

## Severability

Should any provision of the Terms be held invalid or unenforceable for any reason or to any extent, such invalidity or enforceability shall not in any manner affect or render invalid or unenforceable the remaining provisions of the Terms, and the application of that provision shall be enforced to the extent permitted by law.

Thank you for reading our Terms. We hope you enjoy Logmate.