



# Terms of Service

Effective January 1, 2016

## 1. SAAS Services and Support

1.1 Subject to the terms of this Agreement, LogDNA will use commercially reasonable efforts to provide Customer the Services part of the registration process, Customer will identify an administrative user name and password for Customer's LogDNA account. LogDNA reserves the right to refuse registration of, or cancel passwords it deems inappropriate.

1.2 Subject to the terms hereof, LogDNA will endeavor to provide Customer with reasonable support services, through electronic mail or another online mechanism, in accordance with LogDNA's standard practice.

1.3 LogDNA acknowledges that in performing services for company pursuant to the agreement that it will have access to information about Company and its customers that is confidential ("Confidential Information") and will take the action necessary to secure confidential information in storage. LogDNA shall undergo ongoing validation by an approved Qualified Security Assessor ("QSA") to ensure continued secured storage of Confidential Information and data as defined in the Payment Card Industry Data Security Standard (PCI-DSS).

## 2. Restrictions and Responsibilities

2.1 This is a contract for Services and any software that is provided (regardless of the premises location) will be installed, accessed and maintained only by or for LogDNA and no license is granted thereto. Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how, algorithms relevant to the Services or any software, documentation or data related to the Services ("Software"); modify, translate or create derivative works based on the Services or any Software (except to the extent expressly permitted by LogDNA or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.

2.2 Customer represents, covenants, and warrants that Customer will use the Services only in compliance with LogDNA's standard published policies then in effect (the "Policy") and all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless LogDNA against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer's use of Services. Although LogDNA has no obligation to monitor Customer's use of the Services, LogDNA may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.



passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

### 3. Confidentiality; Proprietary Rights

3.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of LogDNA includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to LogDNA to enable the provision of the Services ("Customer Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted hereunder) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can demonstrate (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

3.2 Customer shall own all right, title and interest in and to the Customer Data, as well as any data that is based on or derived from the Customer Data and provided to Customer as part of the Services. LogDNA shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Professional Services or support, and (c) all intellectual property rights related to any of the foregoing.

3.3 Notwithstanding anything to the contrary, LogDNA shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and LogDNA will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other LogDNA offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

### 4. Payment of Fees

4.1 Customer will pay LogDNA the then applicable fees described in the Order Form for the Services and Professional Services in accordance with the terms therein (the "Fees"). LogDNA reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or then current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that LogDNA has billed Customer incorrectly, Customer must correct LogDNA no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to LogDNA's customer support department.

4.2 LogDNA may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by the end of the month following the month of the invoice.



## 5. Termination

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term") unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, LogDNA will make all Customer Data available to Customer for retrieval for a period of thirty (30) days, but thereafter LogDNA may, but is not obligated to, delete stored Customer Data. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

## 6. Warranty and Disclaimer

LogDNA shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Professional Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by LogDNA or by third-party providers, or because of other causes beyond LogDNA's reasonable control, but LogDNA shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, LOGDNA DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND PROFESSIONAL SERVICES ARE PROVIDED "AS IS" AND LOGDNA DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

## 7. Limitation of Liability

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, LOGDNA AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND LOGDNA'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS EXCEED THE FEES PAID BY CUSTOMER.



## 8. Government Matters

Customer may not remove or export from the United States or allow the export or re-export of the Services, Software or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign government or authority. As defined in FAR section 2.101, the Software and documentation are “commercial items” and according to DFAR section 252.227 7014(a)(1) and (5) are deemed to be “commercial computer software” and “commercial computer software documentation.” Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

## 9. Miscellaneous

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with LogDNA's prior written consent. LogDNA may transfer or assign any of its rights and obligations under this Agreement without consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind LogDNA in respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions.

## 10. Data Retention

All customer data is confidential. Customers must submit written request for removal of customer data. All customer data disposal requests must be tracked in a ticket. All customer data disposal requests must be completed and confirmed within 30 days. LogDNA will erase customer log data immediately after termination of services, but not Customer Metadata (email accounts, phone number, etc.). The metadata will be kept until customer request to delete all metadata. Customer has until this 90-day request period for data disposal. After this period, LogDNA may retain or remove data according to business needs and capacity planning.

Announcing beta access to Log Data Restoration



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