



## **Terms of Use WIKAI IIoT Platform and Services**

(as of August 12, 2025)

### **1 Subject Matter and Scope**

- 1.1 These Terms of Use ("**Terms of Use**") shall solely apply to the version of the IIoT digital technology platform (the "**WIKAI IIoT Platform**") operated by WIKAI Holding LP and its affiliates ("**WIKAI**") and the services offered by WIKAI hereunder (such services along with the WIKAI IIoT Platform are sometimes referred to collectively as the "**WIKAI IIoT Services**") that are subscribed for by the Customer ("**Customer**") in the United States of America as the end user of the WIKAI IIoT Services. For certain services offered by WIKAI, additional terms and conditions of use ("**Special Conditions**") may also apply and which Special Conditions will be provided at the time of ordering by Customer. In the event, that hardware products are sold to the Customer, the sale is governed by the General Terms and Conditions of Sale of WIKAI. For the use of the WIKAI IIoT Services, these Terms of Use shall apply as a framework agreement ("**Agreement**") without WIKAI having to refer to them again in each individual case. Any applicable Special Conditions apply in addition to these Terms of Use. Other contractual terms and conditions proposed by Customer in an ordering document (whether or not conflicting) shall not become part of the agreement between WIKAI and Customer, even if WIKAI does not expressly object to such other terms and conditions.
- 1.2 The WIKAI IIoT Services offered are intended for use exclusively by Customers for business or commercial purposes and not for use by consumers. Before using the WIKAI IIoT Services, the Customer must be activated by WIKAI in accordance with Section 3 below.
- 1.3 The sole contractual partner of WIKAI is the Customer (and none of Customer's individual employees, representatives or affiliates). If, in the course of the registration process or use, the Customer sets up individual user accounts for the WIKAI IIoT Services for selected adult users (e.g. employees, employees of affiliates and related companies, service providers of the Customer or other authorized persons) (each an "**Authorized User**"), the use of the WIKAI IIoT Services shall be exclusively governed by the contractual relationship between WIKAI and the Customer. No separate contractual relationship is established between WIKAI and any individual Authorized User. The Customer is responsible for the use of the WIKAI IIoT Services by the Authorized Users and may grant access to the WIKAI IIoT Services only to Authorized Users. If any particular Authorized User is allowed to make binding decisions on behalf of the Customer in relation to use of the WIKAI IIoT Services, the Customer must ensure that such Authorized User is appropriately authorized to make such binding decisions.

### **2 Services**

- 2.1 The WIKAI IIoT Services are a digital technology platform offering IIoT solutions for industrial use. The WIKAI IIoT Services enables sensors and other hardware ("**Sensor**



**Equipment"**) to be connected to the WIKAI IIoT Services via a gateway provided or otherwise approved by WIKAI. Through the WIKAI IIoT Services, the data collected by the sensors is analyzed, processed and made available to the Authorized Users via an online user interface ("**Cockpit**"). The Customer can access the Cockpit via a Customer Administrator Account or a User Account (each as noted in Section 3.1 below), view measurement data and adjust configuration settings using access equipment such as computers, tablets or smartphones (an "**Access Device**").

- 2.2 The Customer and its Authorized Users have an upload option in the Cockpit to store additional supporting documents that can be accessed through the WIKAI IIoT Services. WIKAI shall have no custodial or safekeeping obligations with regard to the data transmitted and processed through the WIKAI IIoT Services by the Customer and Authorized Users and the Customer shall be responsible for compliance with any relevant statutory retention periods.
- 2.3 Disclaimers. WIKAI has no influence on the quality of the data stored on the WIKAI IIoT Services or transmitted by the Customer's connected Sensor Equipment and Access Devices. There is no evaluation or validation by WIKAI of the transmitted data, in particular not for content, quality, completeness and/or correctness.

**The alerts, information and evaluations output provided via the WIKAI IIoT Services do not represent real-time information and are intended only as a support and aid to Customer. The WIKAI IIoT Services (i) should not be used in or for any safety-related, health-related and/or other critical operational or production processes, and (ii) are not a substitute for Customer's independent examination and/or critical judgment concerning appropriate organizational and technical measures that Customer should take with regard to Customer's operations (including, without limitation, the safety of its personnel, its machines and systems, and production processes). In addition, WIKAI does not undertake any legal review or assessment about whether the purposes pursued by Customer with the use of the WIKAI IIoT Services are lawful, appropriate or effective. In this respect, the Customer is solely responsible for the manner of use of the WIKAI IIoT Services and the results obtained from such use.**

- 2.4 WIKAI reserves the right to modify from time to time the WIKAI IIoT Services with updates and new releases, including to impose additional limitations on the use thereof. The Customer has no right to use any prior versions or releases. In addition, WIKAI is entitled at any time to change the services provided free of charge via the WIKAI IIoT Services, to make new services available free of charge or against payment and to stop the provision of free services.
- 2.5 Except for scheduled maintenance, WIKAI strives to ensure that WIKAI IIoT Services are available without interruption; however, WIKAI can provide no guarantee to this effect. Without limitation of the foregoing, temporary access or use restrictions or interruptions may occur due to technical matters (such as power supply interruptions, hardware and software faults, technical problems in the data lines, or data loss in radio transmissions). In addition, WIKAI notes that the WIKAI IIoT Services may also not be available in the following cases:



- (i) The outages were caused by a force majeure event (as described in Section 17 below), planned interruptions or emergency maintenance by WIKAI, due to non-conforming services, software or hardware of the Customer or third parties, or missing or disrupted network or cellular communications connectivity at the Customer's location;
- (ii) The disruptions were caused due to Customer's (or an Authorized User's) violation of these Terms of Use or by the misuse of the WIKAI IIoT Services; or
- (iii) Outages of pre-release, beta or trial versions of the WIKAI IIoT Services.

### **3 Activation of Accounts**

- 3.1 For the use of the WIKAI IIoT Services, the Customer shall receive from WIKAI, unless otherwise agreed by WIKAI, at least one (1) access authorization for a Customer administrator for the WIKAI IIoT Services (the "**Customer Administrator Account**"). To activate the Customer Administrator Account, the Customer must set an administrator password via an activation link provided by WIKAI. The Customer may then create further accounts for individual Authorized Users ("**User Accounts**") via the Customer Administrator Account. WIKAI reserves the right to offer the Customer and its Authorized Users other methods of secure login to the WIKAI IIoT Services in the future (e.g., via a single sign-on procedure). The Customer and its Authorized Users may not impersonate another person or company or use a name or company that he or she is not authorized to use.
- 3.2 The Customer shall be responsible for the use of the WIKAI IIoT Services by its Authorized Users.
- 3.3 If user or profile data change during the term of this Agreement, the Customer and its Authorized Users must immediately correct such data on the WIKAI IIoT Services through the account's personal settings. This applies both to the Customer with the Customer Administrator Account and to Authorized Users with User Accounts. If costs are incurred by WIKAI because of incorrect data provided by Customer or an Authorized User, the Customer shall be obliged to reimburse WIKAI for these costs.
- 3.4 Each Customer Administrator Account and each User Account may be accessed only by the respective Authorized User(s) assigned to such accounts, provided that for each User Account only one (1) Authorized User may be assigned to such an account. When an Authorized User is no longer employed or engaged by Customer, such Authorized User and their data should be removed from the WIKAI IIoT Services. The Customer Administrator Account is bound to the Customer and therefore not transferable to Third Parties.
- 3.5 WIKAI reserves the right to verify the identity and information of Authorized Users during registration or at any time thereafter. Because of this, Customer and each Authorized User are deemed to allow WIKAI to use all account registration information to verify user identities and the accuracy of the information provided.

### **4 Responsibility for the Access Data**

- 4.1 If Customer learns that anyone other than its Authorized Users have accessed the WIKAI IIoT Services, Customer must inform WIKAI immediately about such matter.



- 4.2 The Customer is fully responsible for any use and/or other activity on the WIKAI IIoT Services performed with its user credentials, as well as for the activities of its Authorized Users.

## **5 Use of the WIKAI IIoT Services**

- 5.1 Unless otherwise stated in the Special Conditions for individual services, use of the WIKAI IIoT Services requires at least one item of Sensor Equipment, a gateway (if applicable), an Access Device and registration on the WIKAI IIoT Services in order to connect all components via the WIKAI IIoT Services and to be able to use them via the Cockpit. If one of these components is missing, use of the WIKAI IIoT Services may be unavailable or limited.
- 5.2 Subject to Customer's and its Authorized Users' compliance with these Terms of Use and any Special Conditions, WIKAI grants Customer and its Authorized Users the non-exclusive, non-transferable and non-sublicensable right, limited to the term of the Customer's applicable subscription, to use the WIKAI IIoT Services exclusively for Customer's own internal business purposes. In this regard, the Customer may:
- (i) grant access to and use of the WIKAI IIoT Services to the contractually agreed number of Authorized Users, and
  - (ii) with the prior approval by WIKAI in writing (which may be via e-mail), develop its own applications that can be connected to the WIKAI IIoT Services, provided that it is ensured that only APIs provided by WIKAI are used and that no derivative work(s) of the WIKAI IIoT Services is created as a result.

Any use beyond the aforementioned scope must be approved by WIKAI in writing and in each individual case. In particular, the Customer is not entitled to offer the WIKAI IIoT Services to third parties, to make them accessible to third parties, to publish them or to provide them in any other way to third parties, either free of charge or subject to a charge, in whole or in part.

- 5.3 The WIKAI IIoT Services are provided to the Customer for use on a software as a service basis or, in the case of WIKAI-approved on-premises hosting by the Customer, in executable form only. No source code for any part of the WIKAI IIoT Services is provided to Customer.
- 5.4 The WIKAI IIoT Services may only be used in accordance with the applicable laws. In particular, such use by Customer or its Authorized Users must not infringe on the rights of third parties (e.g., personal rights or industrial property rights) or violate laws related to the protection of minors and other individuals.
- 5.5 Without limitation of the foregoing restrictions or restrictions set forth elsewhere in these Terms of Use, the following activities are also prohibited in relation to the WIKAI IIoT Services:
- (i) interfering with or disrupting the integrity or performance of the WIKAI IIoT Services or the data contained therein in any way, including but not limited to: (a) conducting penetration tests without WIKAI's prior written consent; (b) attempting to gain unauthorized access to the WIKAI IIoT Services or the systems or networks connected to it; (c) storing or transmitting any computer or software virus



or other malicious code via the WIKAI IIoT Services; or (d) any action that is likely to impair the continuous operation of the WIKAI IIoT Services, in particular placing of excessive loads on the WIKAI IIoT Services and the related network and system components through which it is made available;

- (ii) the sending of junk, spam or chain e-mails;
- (iii) the dissemination of offensive, sexually oriented, obscene or defamatory content or communications, as well as content or communications that promotes racism, fanaticism, hatred, physical violence or illegal acts (in each case explicitly or implicitly);
- (iv) harassing other customers and users, as well as encouraging or supporting such harassment;
- (v) requesting other Authorized Users to disclose passwords or personal data for commercial or illegal purposes;
- (vi) the distribution and/or public reproduction of content available through the WIKAI IIoT Services, unless such activities are expressly permitted by the respective author or expressly made available as functionality on the WIKAI IIoT Services;
- (vii) disassembling, reverse engineering, reverse compiling, translating, modifying, adapting, altering, copying any part of, or creating derivative works from, the WIKAI IIoT Services, unless otherwise expressly permitted by law;
- (viii) the publication of information about the performance of the WIKAI IIoT Services; and
- (ix) the storage or processing of sensitive personal data (including, without limitation, information on racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health matters, sex life, bank or credit card account information).

5.6 If the Customer or one of its Authorized User becomes aware of any illegal, abusive, or other unauthorized use of the WIKAI IIoT Services, the Customer should report such unauthorized use (which may be done by contacting IIOT-SUPPORT-AM@WIKAI.com or by other means available to Customer).

5.7 WIKAI may monitor usage activity on the WIKAI IIoT Services for unauthorized activity to the extent such monitoring is permitted by law or if WIKAI has a legal obligation to do so.

## **6 Support**

6.1 WIKAI provides the Customer with general support services ("**WIKAI Support**") on week-days (except for public and bank holidays) between 9:00 a.m. and 5:00 p.m. ET, which can be reached via e-mail, telephone or the WIKAI IIoT Ticket System, as specified from time to time by WIKAI.

6.2 WIKAI support of the Customer includes addressing technical questions and malfunctions of the WIKAI IIoT Services, provided that Customer is able to describe the technical problem in reasonable and appropriate detail.



## 7 Obligations of the Customer to cooperate

- 7.1 The Customer is responsible for providing appropriate equipment and network connectivity for access and use of the WIKAI IIoT Services (in particular terminal devices, web browsers and internet access, positioning of the gateways, connection via WLAN or WAN, provision of suitable machines and Sensor Equipment) and WIKAI shall not have any obligation in regard to such matters. If an app for use of the WIKAI IIoT Services is provided to Customer and its Authorized Users such app usage must be of the then current version.
- 7.2 If such testing is allowed for Customer's order of the WIKAI IIoT Services, it is Customer's responsibility to test the WIKAI IIoT Services before go live use of the WIKAI IIoT Services.
- 7.3 Notwithstanding any alerts, notices or other recommendations issued via the WIKAI IIoT Services with regard to the machines and systems operated by the Customer that may be monitored through use of the WIKAI IIoT Services, the Customer remains responsible for the operation, monitoring and maintenance of its machines and other systems as well as any actions taken by Customer as a result of monitoring alerts and information provided through the WIKAI IIoT Services.
- 7.4 In the case of authorized on-premises hosting of the WIKAI IIoT Services, the Customer is responsible for backing up its data in the WIKAI IIoT Services, unless such backing up activity is the subject of an express contractual undertaking by WIKAI.
- 7.5 If required for maintenance and support purposes, the Customer agrees to perform certain actions at the request of WIKAI, such as a restart, on Customer's machines, Sensor Equipment and Access Devices. These actions must be carried out by the Customer with its own personnel and at its own expense.

## 8 Technical Data

- 8.1 When providing the WIKAI IIoT Services, operating and status information (collectively, "**Metadata**") and measurement data are processed automatically.
- 8.2 The measurement data includes in particular:
  - (i) Measured values of the Sensor Equipment. The scope depends on the type of Sensor Equipment. For example, it can be measured values about temperature, pressure, level, density, humidity, force or flow;
  - (ii) Date and time stamp of the measured value acquisition; and
  - (iii) Unique identification numbers of the gateway and the Sensor Equipment.
- 8.3 In particular, the Metadata includes:
  - (i) Date and time stamp of the data transmission;
  - (ii) Quality of the radio connection during data transmission; and
  - (iii) Radio cell(s) used for data transmission.
- 8.4 In addition to the measurement data and Metadata that is processed automatically, Authorized Users can manually enter further technical data into the WIKAI IIoT Services. This can include, in particular, a description of the measuring point, additional data on



the measuring point (e.g. year of manufacture of a machine, type, serial number, the most recent technical assessment or certification or last inspection by a TÜV organization) or documentation of on-site inspections, including GPS position and identification number of the inspector.

- 8.5 The technical data collected in accordance with Sections 8.21 through 8.4 will be processed and made available via the Cockpit.
- 8.6 The technical data mentioned in Sections 8.1 to 8.4 are also processed by WIKAI for its own purposes in aggregate and de-identified form ("**Aggregate Data**"). Such Aggregate Data may be used by WIKAI for product improvement and development, among other uses. Access to or disclosure to third parties by WIKAI of Customer technical data that is not Aggregate Data will only be made to WIKAI's subcontractors who assist WIKAI with the provision of services by WIKAI, including the WIKAI IIoT Services.
- 8.7 If, in individual cases, the data is related to persons (e.g. location data, identification number of the verifier), Section 9 of this Agreement shall apply.

## **9 Personal data**

- 9.1 All personal data provided by the Customer and its Authorized Users shall be processed by WIKAI in accordance with the applicable provisions of data protection law.
- 9.2 The processing of the Customer's personal data (including that of its Authorized Users) is necessary for the performance of the WIKAI IIoT Services. In addition, WIKAI may use such personal data to the extent necessary for the execution of support and maintenance measures, for the improvement of the services, to provide promotions about the WIKAI IIoT Services, and for product improvement and development. Among other grounds for the processing of Customer's personal data (and that of its Authorized User) is the performance of the WIKAI IIoT Services in accordance with these Terms of Use and the legitimate interests of WIKAI. Where such personal data use is based on Customer consent, the Customer may revoke such consent at any time via IIOT-SUPPORT-AM@WIKAI.com or by contacting WIKAI by other reasonable means.
- 9.3 Insofar as WIKAI is provided with personal data in the context of the provision of services, for which the Customer is the controller of such personal data under applicable, WIKAI shall process this data only as a processor that is bound by Customer's related instructions.
- 9.4 Details about personal data collected by WIKAI, its respective use and the rights of data subjects can be found in WIKAI's Privacy Policy, which may be accessed here: [Privacy notice - WIKAI USA](#).

## **10 Confidentiality**

- 10.1 Each party undertakes to keep confidential all business and other confidential information, including any trade secrets (collectively, "**Confidential Information**"), which such party (the "**Receiving Party**") receives or becomes aware of from the other party (the "**Disclosing Party**") during the performance of the WIKAI IIoT Services. The Confidential Information of a Disclosing Party may not be disclosed or made accessible by the Receiving Party to third parties not involved in the performance of the WIKAI IIoT Ser-



vices. The Receiving Party shall use reasonable measures to store and secure the Confidential Information of a Disclosing Party in such a way that the risk of unauthorized access or use by or disclosure to third parties is minimized.

- 10.2 Confidential Information excludes information and documents which are generally known to the public and generally accessible at the time of disclosure hereunder by the Disclosing Party or which were already known to the Receiving Party at the time of disclosure by the Disclosing Party or which were later legitimately made accessible to the Receiving Party by third parties that are not subject to an obligation of confidentiality to the Disclosing Party.

## 11 Remuneration

- 11.1 Both free and paid services may be made available from time to time as part of the WIKAI IIoT Services. The respective services subject to a charge as well as the amount of the charges to be paid by the Customer can be found in the applicable offer and order document for such services. All fees payable by Customer are exclusive of any applicable sales tax, value added tax or other charges required by applicable law.
- 11.2 Unless otherwise agreed in writing by WIKAI, WIKAI shall invoice the Customer for contractually agreed usage-independent charges in advance and for usage-dependent charges in arrears. The billing periods shall be communicated together with the other terms of payment prior to the first use of the WIKAI IIoT Services. Invoicing shall be carried out exclusively electronically by sending the invoice to Customer by e-mail.
- 11.3 During any agreed test or trial period, the chargeable services shall be provided free of charge to the extent so agreed by WIKAI. If applicable, the use of the WIKAI IIoT Services ends automatically after expiry of the test or trial period.

## 12 IP Rights and Protected Content

- 12.1 The WIKAI IIoT Services and the content that is available through it (the “**Protected Content**”) are predominantly protected by copyright, trademark and competition law or by other intellectual property rights laws and in each case is the property of WIKAI, its service providers and suppliers, or other third parties who have made the respective content available to WIKAI for the use via the WIKAI IIoT Services by the Customer. The compilation of the Protected Content is also protected by such intellectual property rights laws. The Customer and its Authorized Users are only entitled to use the WIKAI IIoT Services and the Protected Content in accordance with these Terms of Use and the functionalities specified in the WIKAI IIoT Services.
- 12.2 Without limitation of the foregoing, the Customer and its Authorized Users:
- (i) may use the Protected Content and the WIKAI IIoT Services exclusively for Customer’s own internal business purposes. Any commercial or other use of the WIKAI IIoT Services or Protected Content beyond this authorization is prohibited without the express written consent of WIKAI. This right of use is limited to the duration of Customer’s applicable subscription term for the WIKAI IIoT Services;
  - (ii) are prohibited from editing, modifying, translating, presenting or performing, publishing, exhibiting, reproducing or distributing (including the use of so-called framing) the WIKAI IIoT Services or Protected Content in whole or in part.



- (iii) are prohibited from removing or changing any copyright notices, logos and other marks or protective notices on any of the WIKAI IloT Services or Protected Content.

- 12.3 The Customer and its Authorized Users are only entitled to download Protected Content, to send Protected Content by e-mail, and to print Protected Content if the Customer and its Authorized Users are provided with the corresponding functionality (e.g., by means of a download button) via the WIKAI IloT Services.
- 12.4 The Customer is granted a non-exclusive, limited right to use the WIKAI IloT Services and Protected Content during the applicable subscription term for Customer's own internal purposes, unless a different use is expressly permitted in the applicable WIKAI-approved ordering document.
- 12.5 Content available on the WIKAI IloT Services that originates from third parties is referred to as "**Third-Party Content**". WIKAI does not check the completeness, accuracy and legality of Third-Party Content and assumes no responsibility or warranty for the completeness, accuracy, legality and timeliness of any Third-Party Content, including its quality or suitability for a specific purpose.

### **13 Blocking access to WIKAI IloT Services**

- 13.1 WIKAI may block the Customer's or its Authorized User's access to the WIKAI IloT Services as a whole, or to individual sub-areas, at WIKAI's discretion, either temporarily or permanently, if WIKAI believes that the Customer or its Authorized User are violating or have violated these Terms of Use and/or applicable law, or if WIKAI has another legal basis for blocking such access. Without limitation of the foregoing, if the Customer or any of its Authorized Users repeatedly violates these Terms of Use despite being notified of such violations by WIKAI, WIKAI reserves the right to permanently block access.
- 13.2 If WIKAI undertakes the permanent blocking of the Customer from the WIKAI IloT Services, WIKAI shall be entitled to terminate the contractual arrangement with Customer for cause.

### **14 Disposal of Hardware**

If the Customer sells or transfers to a third party the Sensor Equipment, the gateway or other hardware components required for the use of the WIKAI IloT Services, the Customer must remove such hardware components from its Customer Administrator Account and from use of the WIKAI IloT Services.

### **15 Term, Termination**

- 15.1 Unless otherwise agreed in the applicable service order or Special Conditions, the WIKAI IloT Service will be provided for the defined period of time specified in the service order and will renew annually thereafter unless such renewal term is terminated by either WIKAI or Customer with at least sixty (60) calendar days' written notice prior to the commencement of such renewal term.
- 15.2 WIKAI may also terminate Customer's use of the WIKAI IloT Services immediately upon written notice to Customer and the failure of Customer to cure any notified breach within



the notified cure period, if any. In the event of termination by WIKAI for breach by Customer, WIKAI is entitled to demand immediate payment of the outstanding agreed charges for the remaining term of the paid services offered by WIKAI and affected by the termination.

- 15.3 In the event of a termination of Customer's use of the WIKAI IIoT Services, WIKAI is entitled to irretrievably delete all Customer data stored through use of the WIKAI IIoT Services upon the expiry of 30 calendar days after the termination becomes effective; provided that with respect to any data that is personal data under applicable law, the regulations on personal data protection shall take precedence (and which may provide for a shorter period for deletion).
- 15.4 Notices of termination shall be made in writing and sent by certified or registered mail/return receipt or by overnight delivery service to Customer, at the address last provided by Customer to WIKAI, and if to WIKAI, at the following address:

WIKAI Instrument, LP  
1000 Wiegand Boulevard  
Lawrenceville, GA 30043  
Attention: Vice President, Sales & Marketing

## **16 Warranty Disclaimers; Limitation of Liability**

- 16.1 THE WIKAI IIOT SERVICES AND ALL CONTENT AVAILABLE THROUGH THE WIKAI IIOT SERVICES ARE PROVIDED "AS IS" AND WIKAI HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. PROVIDER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WIKAI MAKES NO WARRANTY OF ANY KIND THAT THE WIKAI IIOT SERVICES OR THE RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.
- 16.2 IN NO EVENT WILL WIKAI BE LIABLE UNDER OR IN CONNECTION WITH THESE TERMS OF USE UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION;; OR (d) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER WIKAI WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE.



16.3 EXCEPT AS A RESULT OF (I) BREACH BY A PARTY OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER, (II) BREACH BY CUSTOMER OF WIKAI'S INTELLECTUAL PROPERTY RIGHTS IN THE WIKAI IIOT SERVICES, (III) THE WILFUL MISCONDUCT OF A PARTY, OR (IV) A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 18 BELOW, IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS OF USE UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS ACTUALLY PAID TO WIKAI UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

## **17 Force Majeure**

17.1 WIKAI shall not be liable for failure to deliver or any delay in delivery of the WIKAI IIoT Services occasioned by a cause beyond WIKAI's control (each a „force majeure event“), which includes, without limitation, strikes, lockouts, fires, embargoes, pandemics, epidemics, quarantines, terrorist attacks, war or other breakouts of hostilities, acts of God, inability to obtain shipping, space, machinery breakdowns, delays of carriers, raw material providers or other suppliers or subcontractors, and domestic or foreign governmental acts or regulations, riots, civil unrest, expropriation, restrictions due to a pandemic or epidemic (including officially ordered plant closures), storms, floods and other natural disasters.-

17.2 WIKAI shall promptly notify the Customer of the occurrence of a force majeure event that prevents WIKAI's performance of the WIKAI IIoT Services and shall inform the Customer in the same manner once the force majeure event ceases to exist.

## **18 Indemnification**

18.1 The Customer shall indemnify WIKAI from all costs and claims asserted by a third party against WIKAI due to (i) the breach by Customer of its obligations under these Terms of Use, (ii) any unauthorized use of the WIKAI IIoT Services by Customer or its Authorized Users, or (iii) a violation of applicable law by Customer or an Authorized User.

18.2 The obligations of indemnification above shall be subject to each party providing prompt notice to the indemnifying party of the applicable claim and of the ability of the indemnifying party to control the defense of such matter. In addition, in the event that a third party asserts a claim that the WIKAI IIoT Services infringes the intellectual property rights of the third party, WIKAI, at its option, may (A) modify or replace the WIKAI IIoT Services, or any component or part thereof, to make it non-infringing, or (B) obtain the right for Customer to continue use of the WIKAI IIoT Services. If WIKAI determines that neither alternative is reasonably available, WIKAI may terminate Customer's use of the WIKAI IIoT Services, in its entirety or with respect to the affected component or part, effective immediately on written notice to Customer.



## 19 Amendment of Terms of Use

- 19.1 Other than with respect to subscriptions that have a defined subscription term in the applicable services order, WIKAI reserves the right to change these Terms of Use at any time with effect 30 calendar days after written notice to Customer. The Customer will be informed of such changes by e-mail (or other means) at least 30 calendar days before the planned changes come into force.
- 19.2 The Customer's failure to reject or object to such proposed amendment in writing shall be deemed acceptance of the amendment if:
- (i) the amendment is made to comply with changed legal requirements; or
  - (ii) the Customer has not rejected the amendment by the date proposed by WIKAI for the amendment to take effect.
- 19.3 If the Customer rejects a proposed amendment in writing, these Terms of Use shall be continued on the then preexisting terms and conditions; provided that WIKAI shall be entitled to terminate the use of the WIKAI IIoT Services hereunder (a) without notice in the case of Section 19.2 (i) and (b) in all other cases with a notice period of two (2) months.

## 20 Price Adjustments

- 20.1 WIKAI is entitled to change the agreed price for the use of the WIKAI IIoT Services at any time upon a written notice period of at least three (3) months; provided that with respect to subscriptions that have a defined subscription term in the applicable services order, the notice must be provided at least three (3) months prior to the end of the subscription period and shall only be effective for the subsequent, renewal subscription period. If the Customer does not agree to the price change, it has the right to terminate its subscription for the WIKAI IIoT Services with two (2) months written notice prior to the effective date of the price change.

## 21 Export Controls

- 21.1 Customer shall comply with all laws rules and regulations administered by the US Treasury Department of Office of Foreign Assets Control or any other national, international, supranational, or foreign government, any instrumentality, subdivision, executive, legislature, administrative agency, regulatory authority or commission or other authority thereof, or any quasi-governmental, self-regulatory or private body exercising any regulatory, judicial, administrative, importing or other governmental or quasi-governmental authority imposing export controls, economic sanctions, or trade embargoes, including, but not limited to Export Control Reform Act of 2018 (50 U.S.C. 4801-4852); The Arms Export Control Act of 1976 (22 U.S.C. § 2751 et seq.); The Export Administration Regulations (15 C.F.R. § 730 et seq.); The International Traffic in Arms Regulations (22 C.F.R. § 120 et seq.); The International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq.), Council Regulation (EC) No 765/2006 of 18 May 2006 and the Council Regulation (EU) No 833/2014 of 31 July 2014 (collectively, "**Economic Sanctions Laws**"), against designated countries ("**Embargoed Countries**"), regimes, entities, and persons (collectively, "**Embargoed Targets**"). Without limiting the generality of the foregoing, Customer shall not (a) directly or indirectly export, re-export, transship, transfer, or otherwise deliver



the products or services or any portion of the products or services to an Embargoed Target or (b) broker, finance, or otherwise facilitate any transaction in violation of any Economic Sanctions Law. Failure by Customer to comply with all applicable Economic Sanctions Laws shall constitute a material breach of these Terms and Conditions. WIKAI assumes no responsibility or liability for Customer's failure to obtain required authorizations. Customer agrees to impose compliance requirements no less restrictive than the ones set forth in this Section in its contracts with third parties pertaining to the product or services. The foregoing provisions shall also, mutatis mutandis, apply to information, know-how, and intellectual property.

## **22 Governing Law**

22.1 These Terms of Use shall be governed by the laws of the State of Georgia without regard to conflicts of law provisions thereof. The parties agree that the courts of Fulton County in the State of Georgia, and the U.S. District Court for the Northern District of Georgia, Atlanta Division shall be the exclusive jurisdiction and venue for all legal proceedings that are not arbitrated under these Terms of Use. For avoidance of doubt, the UN Convention on Contracts for the International Sale of Goods shall be excluded.

## **23 Severability**

23.1 If any provision of these Terms of Use is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of these Terms of Use, and these Terms of Use shall continue in full force and effect, and be construed and enforced, as if such unenforceable provision had not been included, or had been modified as above provided, as the case may be.

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