

1 Jade Smart Cloud Terms of Service

These terms of service (“Terms of Service”), together with other documents attached to a quotation, acknowledgement of order, order receipt or contract acknowledgement (“Order”), govern and explain the terms under which the Vaisala entity identified in the quotation and/or acknowledgement of order (“Vaisala”, “we”, “us”) agrees to grant rights to access and use Vaisala Jade Smart Cloud data service (“Service”) to Vaisala’s customer (“Customer”, “you”), unless the transaction is subject to a separate agreement. Vaisala may update these Terms of Service from time to time.

As we strive to improve the Service, we welcome feedback from you. Any feedback by our customers or users will be used by us internally in order to improve your user experience.

By submitting a service request, responding to our quotation, placing an order for the Service or otherwise requesting, procuring or accepting any access to the Service from us, you acknowledge a) your complete comprehension and acceptance of these Terms of Service, Order as well as Service Description (“Agreement”); and b) that any terms accompanying your document(s) related to the given transaction have no effect and shall not apply. Each party represents, warrants and covenants that a) it has the full right, power, and authority to render the performance and obligations as set forth herein; and b) the representative whose signature is affixed to this Agreement (when applicable) has full capacity and authority to bind that party to the terms hereof.

For Service Description, please see: <http://www.vaisala.com/DOC244304EN>

2 Definitions

Agreement refers to Order, these Terms of Service, Service Description, and other documents attached hereto, entered into by and between us and you.

Customer Data means all electronic data that is submitted, posted or otherwise transmitted directly or indirectly from Users, Customer or Customer Devices to or through the Service.

Customer Devices mean Vaisala products that are compatible with the Service, listed in the Service Description.

Information means information that is based on or derived from Customer Data, for example estimates regarding concrete drying conditions.

Intellectual Property Rights mean any and all registered and unregistered rights related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property, and all similar or equivalent rights or forms of protection, in any part of the world.

Subscription Term refers to the subscription term stated in the Order.

Third Party Materials refer to any material and information, including software, related or incorporated to the Service that are not proprietary to Vaisala, for example services provided by Amazon Web Services.

User means a user who is authorized by Vaisala, Customer, or another user to access or use the Service under the rights granted to Customer pursuant to this Agreement.

3 Service

3.1 Provision of Service

We shall provide you access to the Service as set forth in this Agreement and all Orders executed hereunder.

3.2 Users

After registering and gaining access to the Service as a User, you may create additional user accounts to the Service. You may modify and limit your Users’ rights regarding access to or use of the Service. The number of Users shall be reasonable considering the purpose of this Service. Each login details of a User may be used only by one individual.

You shall assume responsibility for compliance of this Agreement by your Users.

3.3 Security

We employ security measures in providing the Service as set out in the Service Description.

As a data controller, we implement technical and organizational measures to secure that personal data is processed in the Service in accordance with applicable data protection law.

3.4 Minimum Requirements

You acknowledge and agree that for Users and Customer Devices to access the Service, minimum requirements set out in the Service Description have to be complied with.

4 Use of Service

4.1 Grant of Right

We grant you and your Users a limited, non-exclusive and world-wide right to access and use the Service and the Information contained therein for your business purposes in accordance with the terms of this Agreement.

4.2 Customer Responsibilities

Customer shall use the Service only in accordance with the Agreement.

Customer shall use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service and notify Vaisala promptly of such unauthorized use. The foregoing efforts include maintaining security in respect of passwords to the Service.

4.3 Use Restrictions

With respect to the Service, Customer and Users shall not:

- a) infringe or breach someone else’s rights, including the Intellectual Property Rights of Third Party Materials;
- b) upload content, including comments and images, that is inappropriate considering the purpose of the Service (for example content that endangers the safety of others or spreads misinformation);
- c) remove any proprietary notices of the Service;
- d) license, sublicense, lease, rent, sell or resell the Service, unless explicitly permitted by the Agreement; or
- e) use the Service in a manner that violates any laws or leads to any unlawful, misleading or fraudulent activities.

With respect to Information provided by the Service, Customer and Users shall not:

- a) make Information publicly available or remove Information from its context, for purposes contravening this Agreement;
- b) remove any proprietary notices of Information;
- c) decompile, disassemble, or reverse engineer Information or its associated software; or
- d) use Information in a manner that violates any laws or leads to any unlawful, misleading or fraudulent activities.

If Customer's and/or Users' use of the Service results in material breach of this Agreement or material harm to Vaisala, Customer's and/or Users' right to access and use the Service may be restricted.

5 Customer Data

5.1 Customer Data

Customer shall own all right, title and interest in and to Customer Data.

Customer grants Vaisala (including Vaisala Oyj, its affiliates and subcontractors) a limited, non-exclusive right to collect, process and analyze Customer Data for providing, supporting, modifying and improving the Service and for other development, diagnostic and corrective purposes in connection with the Service and other Vaisala services and products. Vaisala may disclose Customer Data to third parties solely in aggregate or other de-identified form in connection with its business. Other than as expressly set forth in this Agreement, no license or other right in or to Customer Data is granted to Vaisala.

The foregoing right survives expiry or termination of this Agreement. However, after the expiry or termination of this Agreement, Vaisala may use Customer Data only in aggregate or other de-identified form in connection with its business. Vaisala acknowledges and agrees that Customer Data remains as Customer's confidential information.

5.2 Access to Customer Data

During the Subscription Term, you may access your Customer Data at any time subject to service availability. You may export and retrieve your Customer Data in a standard format as described in the Service Description.

You acknowledge that collection of Customer Data may be interrupted by local conditions that may be beyond Vaisala's control. Vaisala shall not be responsible for loss of data transmitted on networks or services not owned or operated by Vaisala, including the internet or Third Party Materials.

After the termination or expiry of this Subscription Term, we will preserve your Customer Data for thirty (30) days. If you do not renew the Subscription Term or purchase the Service for a new subscription term within the said period, we may delete your Customer Data unless applicable law requires retention.

5.3 Customer Data Back-up

Unless otherwise agreed by Vaisala and Customer, Customer shall be responsible for any necessary back-up of Customer Data.

6 Intellectual Property Rights

Vaisala owns all right, title and interest in and to a) the Service and Information, including all improvements, enhancements or modifications thereto; b) any software, applications, inventions or other technology developed in connection with the Service and Information; and c)

all Intellectual Property Rights related to any of the foregoing ("Vaisala Intellectual Property Rights").

Other than as expressly set forth in this Agreement, no license or other right in or to Vaisala Intellectual Property Rights are granted to Customer.

With respect to Third Party Materials, the applicable third party owns all right, title and interest in and to Third Party Materials.

7 Confidentiality

Neither party shall disclose, transfer, transmit or otherwise make available to a third party documentation related to the given transaction or any confidential information submitted in connection with the provision of the Service, including but not limited to information relating to pricing or customers, without the written consent of the other party, unless such disclosure is required by law, regulation or any governmental or other competent regulatory authority. Vaisala may disclose Customer Data if it is in aggregate or other de-identified form in connection with its business.

Each Party retains all rights to its confidential information. For the avoidance of doubt, Customer Data is considered to be confidential information of Customer.

8 Personal Data

Parties shall comply with the applicable data protection law in connection with processing of personal data.

You and your Users disclose personal data only to the extent it is necessary for the operation of the Service, such as Users' email addresses. When applicable, You and your Users shall under no circumstance disclose any special categories of personal data as defined in article 9 of the EU General Data Protection Regulation.

Customer warrants there is a legitimate interest to process personal data of Users.

Vaisala collects and processes personal data of Users, including their email addresses, to the extent necessary in providing access for Customer and Users to the Service. Any processing of personal data shall take place in accordance with Vaisala Privacy Policy, which is available at <https://www.vaisala.com/en/vaisala-policies>.

9 Fees and Payment

9.1 Prices

The quoted prices are exclusive of all taxes, duties and charges of any kind, which shall be added to the fees in accordance with applicable law or paid directly by Customer to appropriate authorities, as the case may be.

9.2 Fees and Invoicing

Customer will pay fees as stated in the Order. Fees are based on the services purchased such as the tier and number of logger connection subscriptions, not the extent of actual usage.

Vaisala may demand an increase of the fees annually by informing Customer in writing of the revised fees two (2) months prior to the commencement of a renewed subscription term.

Upon Vaisala's acceptance of Customer's credit application, payment terms shall be net 30 days, unless otherwise agreed by the parties. Any payment outstanding after the due date shall accrue interest at the

rate of twelve percent (12%) per annum on the unpaid amount from the date such payment becomes due. Vaisala is entitled to suspend provision of Service to Customer until any unpaid amount, including interest, has been paid in full.

Invoicing period is as stated in the Order.

10 Term and Termination

10.1 Term

The Subscription Term is 12 months, unless otherwise stated in the Order.

The Subscription Term shall be automatically renewed upon two (2) months' prior written notice to Customer, unless terminated by either party as set out in Section 10.2. The renewed subscription term shall be the same length as the preceding subscription term, unless otherwise agreed by the parties.

If you wish to amend the Order, for example change tier or number of subscribed loggers during the Subscription Term, a new subscription term shall commence from the execution of amendment and the then-current Subscription Term shall be reimbursed accordingly.

10.2 Termination

A party may terminate this Agreement by submitting a written notice to the other party at least one (1) month before the expiry of the then-current Subscription Term.

If you object to any term or condition of the Agreement or any subsequent modifications thereto, or become dissatisfied with the Service in any way, your only recourse is to immediately discontinue the use of the Service.

A party may terminate this Agreement with immediate effect if a) it notifies the other party of such other party's material breach of its obligations under this Agreement and such breach is not remedied within thirty (30) days from the date of notice; or b) the other party files for bankruptcy, makes arrangements with creditors due to financial difficulties, goes into voluntary or compulsory liquidation other than for the purpose of reconstruction, or has a receiver appointed.

Vaisala may terminate this Agreement with immediate effect if Customer fails to pay any fees under this Agreement.

10.3 Effect of Termination

Upon the effective date of expiration or termination of this Agreement: a) Customer's right to use the Service will end; and b) termination of this Agreement does not affect other agreements between the parties.

No expiration or termination of this Agreement will affect Customer's obligations to pay fees that have become due before such expiration or termination.

11 Warranty and Disclaimer

11.1 Warranty

Vaisala warrants to use commercially reasonable efforts consistent with prevailing industry standards to maintain the Service in a manner which minimizes errors and interruptions in the Service. The Service may be temporarily unavailable for scheduled maintenance as set out in the Service Description, or for unscheduled emergency maintenance, either by Vaisala or providers of Third Party Materials, or because of other causes beyond Vaisala's reasonable control.

The warranty will not apply if the Service is not used in accordance with this Agreement, especially if any non-

conformity is due to failure to comply with minimum requirements set out in the Service Description, or due to any hardware, software or service not provided by Vaisala.

11.2 Disclaimer

EXCEPT AS EXPRESSLY PROVIDED HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE", AND VAISALA MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE WARRANTY OF MERCHANTABILITY, THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS OR USEFULNESS OF THE SERVICE OR THE INFORMATION. VAISALA DOES NOT WARRANT THAT THE SERVICE WILL BE ERROR FREE OR UNINTERRUPTED. THE LIMITED WARRANTIES PROVIDED IN SECTION 11.1 ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER IN CONNECTION WITH THE PROVISION OF THE SERVICE.

Although Vaisala strives for excellence in industrial measurements, the parties acknowledge that any Customer Data or Information contained in or provided by the Service is advisory only and that any use or application of such Customer Data or Information shall be the sole responsibility of Customer and/or Users, who shall assume all liabilities and obligations with respect to such use or application. Customer acknowledges that Vaisala does not assume any risk in connection with the business of the Customer. When making decisions based on Customer Data or Information, Customer and Users agree to comply with applicable building regulations.

12 Indemnification and Limitation of Liability

12.1 Indemnity by Vaisala

Vaisala shall hold harmless, defend and indemnify Customer, and each of its directors, officers, members, managers, employees, and agents (collectively, the "Customer Indemnified Parties") from and against any and all damages, losses, liabilities, costs and expenses suffered or incurred by any of Customer Indemnified Parties in any action, suit, litigation, arbitration or dispute brought by a third party arising or resulting from any claim that the Service provided to Customer infringe any copyright, patent, or trademark, constitute a misappropriation of any trade secret, or violate any other intellectual property or proprietary right of any third party (a "Claim"). The Customer Indemnified Parties shall without delay notify Vaisala in writing about any such action, suit, litigation, arbitration or dispute, and they shall not settle or make any admissions in respect of the same. Vaisala shall be given the option, at its expense, to control the action, suit, litigation, arbitration or dispute, and shall be given all necessary information, authorization and assistance to defend the same.

The foregoing indemnity shall not apply to a) a Claim, damage, loss, liability, cost or expense to the extent attributable to the negligent activities or intentional misconduct of any of Customer Indemnified Parties; b) where any such infringement, misappropriation, or violation would not have occurred but for Customer's

modification of the Service or Customer's combination of the Service with any hardware, software or service not provided by Vaisala; or c) Claims by entities belonging to the same group of companies with Customer or otherwise associated with any of the Customer Indemnified Parties.

The foregoing states Vaisala's entire liability and Customer's sole and exclusive remedies with respect to any infringement or misappropriation of any Intellectual Property Rights of any third party.

12.2 Indemnity by Customer

Customer shall hold harmless, defend and indemnify Vaisala from and against any and all damages, losses, liabilities, costs and expenses in connection with claims, demands, actions, or proceedings made or brought against Vaisala by a third party related to Customer Data.

12.3 Limitation of Liability

NOTWITHSTANDING SECTIONS 7 (CONFIDENTIALITY) AND 12.1 (INDEMNITY BY VAISALA), THE MAXIMUM AGGREGATE LIABILITY OF A PARTY TO THE OTHER PARTY FOR ANY AND ALL DAMAGES, LOSSES, LIABILITIES, COSTS AND EXPENSES ("DAMAGES") ARISING FROM OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL BE LIMITED TO AND UNDER NO CIRCUMSTANCES EXCEED THE FEES FOR THE LAST 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO LIABILITY.

12.4 No Indirect Damages

NEITHER PARTY SHALL UNDER NO CIRCUMSTANCES BE LIABLE TO THE OTHER PARTY FOR ANY DAMAGES WHICH ARE INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY, INCLUDING, WITHOUT LIMITATION, ANY LOSS OF PROFITS OR REVENUE (EXCLUSIVE OF THE FULL PAYMENT FOR THE SERVICE PROVIDED PURSUANT TO THE TERMS OF THIS AGREEMENT) INCURRED BY EITHER PARTY WHETHER IN AN ACTION BASED ON CONTRACT OR TORT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER FORESEEABLE OR UNSEEABLE. DAMAGES RESULTING FROM ANY LOSS OF CUSTOMER DATA OR INFORMATION SHALL BE DEEMED INDIRECT DAMAGES, AND SHALL BE SUBJECT TO THIS SECTION.

13 General

13.1 Relationship of the Parties

None of the Sections of this Agreement will be deemed to constitute a partnership, joint venture or any other such relationship between the parties, and no party will have any authority to bind the other in such manner as a result of any Section of this Agreement.

13.2 Force Majeure

Neither party shall be liable for failure to duly fulfil its obligations due to a Force Majeure event. Force Majeure events are events beyond control of both parties and may include events affecting either party or any of its suppliers or subcontractors, or any other cause or circumstance beyond either party's reasonable control.

13.3 Export Control and Compliance

Customer agrees to comply with all applicable export laws, restrictions and regulations, including those of the jurisdiction in which the Service was obtained or will be used.

13.4 Severability

If any Section of this Agreement is held to be invalid or unenforceable, the invalidity or unenforceability will not affect the other Sections of this Agreement.

13.5 Assignment

Notwithstanding the right to create additional user accounts to access and use the Service, neither party may assign or transfer any of its rights or obligations hereunder without the prior express written consent of the other party. Such authorization shall not be unreasonably withheld.

13.6 Non-waiver

Failure to enforce any right under this Agreement will not be deemed a waiver of future enforcement of that or any other right.

13.7 Entire Agreement

This Agreement, including all Orders, these Terms of Service and the Service Description, is the complete agreement between the parties, and supersedes all prior agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the other party, except as otherwise provided herein. Vaisala reserves the right to amend and update the Service Description and these Terms of Service from time to time.

13.8 Precedence of Documents

If there is ambiguity or inconsistency between any of the documents comprising this Agreement, the documents shall take precedence as follows:

- a) Order;
- b) Terms of Service;
- c) Service Description; and
- d) other documents.

This Agreement shall take precedence over Vaisala General Terms & Conditions.

13.9 Governing Law and Dispute Resolution

13.9.1. Governing Law

Depending on the contracting Vaisala entity, this Agreement shall be governed by the laws specified below.

In all events, it is expressly agreed that the application of United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

When **Vaisala Oyj** is the Agreement party:

This Agreement shall be governed by the laws of Finland, without regard to its conflict of laws rules.

When **Vaisala Inc.** is the Agreement party:

This Agreement shall be governed by the laws of the State of Colorado, without regard to its conflict of laws rules.

When **Vaisala Canada Inc.** is the Agreement party:

This Agreement shall be governed by the laws of the Province of British

Columbia, without regard to its conflict of laws rules.

13.9.2. Dispute Resolution

Depending on the contracting Vaisala entity, all disputes shall be resolved by arbitration proceedings as specified below. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator.

In all events, the parties shall first try to resolve any dispute relating to or arising from this Agreement through good faith negotiations.

When **Vaisala Oyj** is the Agreement party:

If the parties are unable to resolve the dispute through negotiations, the dispute shall be submitted to, and settled by, binding arbitration by a single arbitrator in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The place of arbitration shall be Helsinki, Finland, and the language of the arbitration shall be English.

When **Vaisala Inc.** is the Agreement party:

If the parties are unable to resolve the dispute through negotiations, the dispute shall be submitted to, and settled by, binding arbitration by a single arbitrator chosen by the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The arbitrator shall apply the laws of the State of Colorado.

When **Vaisala Canada Inc.** is the Agreement party:

If the parties are unable to resolve the dispute through negotiations, the dispute shall be submitted to, and settled by, binding arbitration by a single arbitrator in accordance with the National Arbitration Rules of the ADR Institute of Canada, Inc. The place of arbitration shall be the City of Vancouver in the Province of British Columbia, and the language of the arbitration shall be English.