

# Terms & Conditions to Agreement for Supply of Software as a Service

## 1. Definitions

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**Agreement** means the Agreement for Supply of Software as a Service including the attached Schedule.

**Access Agreement** means the then current terms and conditions of use set out on the application website.

**Additional Services** means any out-of-scope services including but not limited to:

- (i) work which requires physical presence on the Customer's premises.
- (ii) work carried out at the Customer's request out of Business Hours; and
- (iii) any custom software development work provided by the Supplier from time to time at the request of the Customer.

**Business Day** means any day which is not a weekend or public holiday and

**Business Hours** means between 8.00 am and 6.00 pm local UAE time, each Business Day.

**Charges** means the amounts payable by the Customer for the Services (including any Additional Services, charges for any additional services will be quoted for and approved by the customer before billing) provided by the Supplier pursuant to this Agreement.

**Effective Date** means the date the Supplier will make the Services available to the Customer, as specified in the Schedule to the Agreement.

**Intellectual Property Rights (IPR)** means patents (including patent applications, registered designs, trademarks and service marks whether registered or otherwise), copyrights, database rights, design rights and other intellectual property rights, including in other jurisdictions that grant similar rights as the foregoing, including those subsisting in inventions, drawings, performance, software, semiconductor topographies, improvements, discussions, business names, goodwill and the style of presentation of goods or services, and in the applications for the protection thereof throughout the world.

**Module** means a module of the LimoConnect247 Service for which the Customer has purchased a Subscription.

**Services** means the Modules to be provided by the Supplier as more fully described in the Schedule to the Agreement.

**Software** means the software applications used by the Supplier to make the Services available to the Customer and its Users.

**Source Code** means all logic, logic diagrams, flowcharts, orthographic representations, algorithms, routines, sub-routines, utilities, modules, file structures, coding sheets, coding, source codes, listings, functional specifications and program specifications and all other materials and documents necessary to enable a reasonably skilled programmer to maintain, amend and enhance the software in question without reference to any other person or document and whether in eye-readable or machine-readable form.

**Subscription** means the right for the Customer to access and use certain Modules of the Services in accordance with the Agreement.

**Subscription Fee** means the amount payable by the Customer for the Subscription, as set out in the Schedule to the Agreement.

**User** means an employee or contractor of the Customer who has been authorized by the Customer to access and use the Services

**Website** means the website at limoconnect247.net through which the Customer and Users may access the Services.

## 2. Subscriptions: Restrictions

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- 2.1 Except to the extent expressly permitted by the Agreement or Terms & Conditions the Customer shall not:
- (a) Copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or
  - (b) Reverse compile, disassemble, reverse engineer all or any part of the Software; or
  - (c) Access all or any part of the Services in order to build a product or service which competes with the Services; or
  - (d) Use or offer to use the Services to provide services to third parties; or
  - (e) License, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Users; or
  - (f) Attempt (or permit any third party to attempt) to do any of those acts described in (a) through (e) above.
- 2.2 The Customer shall use best endeavors to prevent any unauthorized access to, or use of, the Services and, in the event of any such unauthorized access or use, promptly notify the Supplier in writing.

## 3. Services

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- 3.1 The Supplier will use commercially reasonable endeavors to make the Services available during Business Hours except for:
- (a) Planned maintenance carried out during the maintenance window of 8pm to 6am;
  - (b) Unscheduled maintenance performed outside Business Hours in which event the Supplier will use reasonable endeavors to give the Customer at least twenty four hours advance notice; and
  - (c) Circumstances outside the reasonable control of the Supplier.
- 3.2 The Supplier will, as part of the Services and at no additional cost to the Customer, provide the Customer with access to the Supplier's standard online customer support services.
- 3.3 Any Additional Services provided by the Supplier at the request of the Customer will be charged on a time and materials basis at the Supplier's standard hourly rates.

## 4. Supplier's Obligations

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- 4.1 The Supplier undertakes that the Services will be provided substantially in accordance with the description of the Services set out in the Schedule to the Agreement and with reasonable skill and care.

- 4.2 The undertaking at clause 4.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier. If the Services do not conform with clause 4.1 the Supplier will use all reasonable commercial endeavors to correct any such non-conformance promptly or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 4.1. Notwithstanding the above, the Supplier:
- (a) Does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services and/or the information obtained by the Customer through the Services will be fit for any particular purpose or meet the Customer's requirements; and
  - (b) Is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet and geolocation services, and the Customer acknowledges that the Services may be subject to limitations, delays, and other problems inherent in the use of such communications and geolocation facilities.
- 4.3 The Supplier will comply with the Vxceed Code of Ethics set out in the Schedule to the Agreement (as updated from time to time on written notice to the Customer).
- 4.4 The Supplier reserves the right to suspend or withdraw all or any part of the Services at any time and for any reason, provided however that (subject to clause 6.2) the Supplier will only exercise this right under exceptional circumstances and will attempt to provide as much notice as possible in advance of suspending or terminating the Services.

## 5. Customer's obligations

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- 5.1 The Customer will:
- (a) Provide access to such information and resources as the Supplier reasonably requires in order to provide access to the Services, including but not limited to security access information and configuration services.
  - (b) Obtain and maintain all necessary licenses, consents, and permissions necessary for the Supplier to perform its obligations under this Agreement;
  - (c) Ensure that its equipment, network and systems comply with the minimum specifications set out in the Schedule;
  - (d) Be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's hosted services provider, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
  - (e) Ensure that its use of the Services (and the use of the Services by its Users) is fully compliant with all relevant legislation, regulations and industry codes of practice; and
  - (f) Comply (and ensure that its Users comply) with the Supplier's standard policies and procedures in relation to the use of the Services as notified to the Customer in writing from time to time.

## 6. Invoicing and Payment

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- 6.1 Subscription Fees are based upon minimum Subscription term of two (2) year and will be invoiced in accordance with the payment terms set out in the Schedule to the Agreement. Charges for Additional Services will be invoiced monthly in arrears. The Supplier will invoice the Customer and the Customer will pay invoiced amounts by the 20<sup>th</sup> day of the month of the invoice date.
- 6.2 If the Supplier has not received payment within 10 calendar days of the due date, then without prejudice to any other rights and remedies of the Supplier, the Supplier may, without liability to the Customer, suspend the Services and/or disable access to all or any part of the Services and the Supplier shall be under no obligation to provide any or all of the Services while the invoiced amounts remain unpaid.

## 7. Proprietary rights

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- 7.1 The Customer acknowledges and agrees that subject only to the Customer's rights in the Customer Data as set out in clause 7.2 below, the Supplier owns all intellectual property rights and source code in and associated with the Software and Services. Except as expressly stated herein, the Agreement does not grant the Customer any rights or title to, or in, patents, copyrights, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licenses in respect of the Software or the Services.
- 7.2 All right, title or interest in any Customer supplied data (including any images, information, data or materials provided and/or input and/or transmitted by a User in the course of utilizing the Services ('Customer Data')) shall be held by and the responsibility of the Customer.

## 8. Confidentiality

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- 8.1 Except in the proper performance of the Agreement neither party shall at any time (whether during or after the termination of the Agreement) use or divulge to any person or entity any information which it may acquire in the course of the performance of the Agreement concerning the business, operations, intellectual property, customers, clients or principals of the other party ("Confidential Information") except:
- (a) With the consent of the other party.
  - (b) In respect of Confidential Information which has become public knowledge other than as a result of unauthorized disclosure by either of the parties or their directors, officers, employees, agents, contractors or representatives; or
  - (c) Confidential Information which shall be required to be disclosed to the auditors of either party or to any governmental agency or otherwise as required by law.
- 8.2 Each party shall use its best endeavors to ensure that its directors, officers, employees and contractors who are at any time in possession of Confidential Information are made aware of the obligations set out in this clause and do not disclose or permit the disclosure or use of such Confidential Information except as specifically provided below.

## 9. Limitation of Liability

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- 9.1 Except to the extent expressly provided in clause 4.1 all liability of the Supplier to the Customer or to any User or to any other person, whether in tort (including negligence), in contract, under statute or otherwise is expressly excluded to the fullest extent permitted by law.

- 9.2 Insofar as the Supplier may be liable notwithstanding clause 9.1, the total liability of the Supplier, whether in tort (including negligence), in contract, under statute or otherwise for any loss, damage or injury arising directly or indirectly from any breach of the Supplier's obligations under the Agreement is, except where statute expressly requires otherwise, limited to in the aggregate an amount equal to the Subscription Fees paid by the Customer during the three month period immediately preceding the date the event giving rise to the claim first occurred.
- 9.3 The Customer will indemnify the Supplier from and against all actions, proceedings, damages, fines, penalties, liabilities, losses, costs and expenses (including any third-party claims and legal expenses on a solicitor and own client basis) of the Supplier resulting from the Customer's use of the Services.

## 10. Termination

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- 10.1 Either party may terminate this Agreement immediately on written notice to the other party if:
- (a) The other party commits a material breach of any of the terms of the Agreement and fails to remedy such breach within 20 Business Days of written notice to do so; or
  - (b) The other party has a liquidator (other than a liquidator appointed in connection with a solvent reconstruction or amalgamation), receiver, receiver manager, administrator, statutory manager or similar officer appointed in respect of that party or any of its assets, or is unable to pay its debts as they fall due in the ordinary course of business.
- 10.2 Upon termination or expiry of the Agreement for any reason –
- (a) The Customer's right to access or use the Services shall immediately cease;
  - (b) The Customer shall promptly pay all Charges due and payable as at the date termination becomes effective; and
  - (c) Each party shall upon demand return any Confidential Information of the other party including for the avoidance of doubt any Customer Data.
  - (d) The Supplier will provide any Customer Data to the Customer in machine readable form. Where the Customer requires that the Supplier continues to hold any Confidential Information (including for the avoidance of doubt any Customer Data) on its systems after the effective date of termination and the Supplier agrees to do so, the Customer will enter into a separate data storage agreement with the Supplier and shall pay the Supplier's then current charges for storing such information.

## 11. General

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- 11.1 A waiver of any breach will not be, or be deemed to be, a waiver of any other, or subsequent, breach.
- 11.2 The Agreement, together with these Terms & Conditions, constitutes the entire agreement between the parties and supersedes all prior agreements, arrangements and understandings

in relation to its subject matter. The Agreement may be varied only by mutual written agreement.

11.3 Neither party may assign its rights or obligations under the Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld.

11.4 The Agreement is governed by the laws of United States and each party submits to the non-exclusive jurisdiction of the New Jersey courts.

## Service management Service levels and Service Credits

### Availability

We offer an availability Service level of 99.97% uptime

We use multiple redundancy technologies for our hardware, networks, data centers and infrastructure. These ensure that if any component fails, our application will keep on running – with little or no disruption to your service.

### Disaster recovery and readiness

We perform real-time data replication between our geographically diverse, protected facilities, to ensure your data is available and safely stored. This means that should even an unlikely event occur, such as an entire hosting facility failure, we can switch over quickly to a backup site to keep our Application and your business running. We transmit data securely, across encrypted links.

### Data backup and retention

We provide daily data backups that are retained for 7 days and monthly and yearly backups that are retained for 7 years. The backup data can be accessed via special request and there may be a cost associated with recovery of the backup data

### Constant updates and innovation

We're constantly enhancing the application, delivering new features and performance improvements. Updates are delivered frequently, with the majority of them being delivered without interrupting our service and disrupting users.

**Maintenance Window:** Sundays from 00:00 to 06:00hrs

**Update Window:** Weekdays from 00:00 to 06:00hrs

### Severity Levels will be as follows:

Severity Level	Impact analysis	Max Response Time	Target Resolution Time	Hours of cover
Top/Critical <b>(Severity 1)</b>	The Software has failed to perform substantially as implemented resulting in Critical Impact.	Thirty (30) Minutes	4 Hours	24 x 7 x 365
High / Important <b>(Severity 2)</b>	The software has failed to perform substantially as implemented resulting in a degradation of business operations	One (1) Hour	8 Hours	Monday to Friday 09:00 – 18:00

Severity Level	Impact analysis	Max Response Time	Target Resolution Time	Hours of cover
Medium / Normal (Severity 3)	The Platform or Software has failed to perform as implemented but the failure has not had an impact on business operations.	Eight (8) Hours	3 Working Days	Monday to Friday 09:00 – 18:00
Other (Severity 4)	The fault is cosmetic.	Twelve (12) Hours	10 Working Days	09:00 – 18:00 Monday to Friday

### Service Credits

Service level	Service level metrics	Service Level Credit %
Severity Level 1	Critical faults not resolved within SLA	0.5 % of monthly total Monthly billing
Severity Level 2	Faults not resolved within SLA	0.2 % of monthly total Monthly billing



## Vxceed - Latitude247 Application Platform Data Privacy

Vxceed Technologies / Latitude247/ ("we" or "us") is committed to maintaining the privacy of users of this using our application Latitude247 Application Platform and will hold all personal information in accordance with the provisions of the New Zealand Privacy Act 1993. Where you are accessing this application from a country other than New Zealand you understand and accept that we are unable to confirm that this Privacy Policy is compliant with the laws, regulations and policies of your jurisdiction and to the extent that this Privacy Policy is not fully compliant, your will use of this application is at your own risk. This Privacy Policy describes how we collect and use your personal information. By accessing and using this application, you consent to us collecting, using, storing and processing your personal information in accordance with the terms of this Privacy Policy.

### Collection of Personal Information

The following information may be automatically collected, used, stored and processed by us when you access and use this application:

- a) your name and email address; and
- b) the date and time of your visit; and
- c) the pages you accessed and any files downloaded; and
- d) your IP address; and
- e) your server address; and
- f) your domain name; and
- g) your geographical location (where you have not disabled this functionality); and
- h) any other information you provide to us when you complete the registration process, use and/or make a transaction using this Application; and
- i) Information we may collect from various mobile apps and devices including but not limited to information about vehicle speed, location and routes travelled, driving behavior data, photos, driver identification and other RFID data.
- j) We may use analytics to collect device specific information (Device Model, Operating System)

Personal information may also be collected and stored by us where you voluntarily supply personal information for the purposes of subscribing to or interacting with this application including any e-mail newsletters or updates and notifications.

This application is currently hosted and managed by Latitude247/Vxceed Technologies and so we will also have access to any information collected or generated through your use of this application, for the sole and exclusive process of hosting and managing the application including the processing of payments made and/or received through this application where applicable.

Personal information collected in accordance with this Privacy Policy may be used by us:

For the administration and operation of this application;

- a) To provide us with usage tracking data for web and mobile devices; and
- b) to enable you to access, pay for and/or use the information or services available on or through this application; and
- c) to provide us with application performance and experience tracking; and
- d) to improve the usability of this application; and
- e) to enable us to provide products and/or services to you., including the provision of products or services by our third party service providers; and
- f) To communicate with you and/or provide you with any promotional material you have subscribed to;

### Your Rights and Choices

Provided we are satisfied with verification of your identity , you may request access to your personal information held by us, and/or request us to correct any errors in that information. If your personal information is updated, we may keep a copy of the prior version for our records. Our contact details are provided below.

Where you register/opt in to receive promotional material we may send you information we consider may be of interest to you. You may opt out of receiving future promotional material from us by clicking the "unsubscribe" link provided with such communications.

### **Use of Cookies**

We use common internet technologies including "cookies" which are stored on your browser, to hold the information specific to you from your browsing session. You can modify your browser settings to prevent this from happening, although this will have a negative impact on your usability of this and other applications.

### **Disclosure of Personal Information**

Except as expressly stated in this Privacy Policy above personal information collected and held by us will only be disclosed or made available to third parties with your consent, except or where we are required or permitted to disclose your personal information by law or by any Court or Tribunal of competent jurisdiction.

### **Security**

We take reasonable precautions to guard against the unauthorized access to and use of your confidential and personal information including the loss, misuse and alteration of information held by us. All personal information supplied to us will be stored on secure servers and your personal information will be transmitted using encrypted software.

### **Changes**

We reserve the right to update or change this Privacy Policy any time by posting an updated Privacy Policy on the application.

### **Contact**

If you have any questions concerning this Privacy Policy or the treatment of your personal information, please contact [privacy@latitude247.aero](mailto:privacy@latitude247.aero)

### **Last Updated**

This Privacy Policy was last updated in 2019

## Vxceed - Latitude247 Application Platform Data protection

Vxceed Technologies / Latitude247 ("we" or "us") is committed to the security of our customers' data and provide multiple layers of protection for the data you trust to us.

### **Delegated access control**

As our customer you have the flexibility to invite users into your account to collaborate on your data, and the person that holds the subscription administrator account has control over who has access and what they are able to do.

### **User authentication**

We provide standard access to the application through a login and password. In addition, we offer the option of using SAML SSO authentication. We recommend you use SSO and two-step authentication as it reduces the risk of your account being accessed if your password is compromised.

### **Data encryption**

We encrypt all data that goes between you and the application using industry-standard TLS (Transport Layer Security), protecting your data. Your data is also encrypted at rest when it is stored on our servers, and encrypted when we transfer it between data centers for backup and replication.

### **Network protection**

Vxceed takes a "defense in depth" approach to protecting our systems and your data. Multiple layers of security controls protect access to and within our environment, including firewalls, intrusion protection systems and network segregation. Vxceed Technologies / Latitude247 security services are configured, monitored and maintained according to industry best practice. We partner with industry-leading security vendors to leverage their expertise and global threat intelligence to protect our systems.

### **Secure data centers**

Vxceed Technologies / Latitude247 servers are located within the AWS enterprise-grade hosting facilities that employ robust physical security controls to prevent physical access to the servers they house. These controls include 24/7/365 monitoring and surveillance, on-site security staff and regular ongoing security audits. Vxceed Technologies / Latitude247 maintains multiple geographically separated data replicas and hosting environments to minimize the risk of data loss or outages.

### **Security monitoring**

Vxceed Technologies / Latitude247 DevOps Security team continuously monitors security systems, event logs, notifications, and alerts from all systems to identify and manage threats.

## Vxceed Technologies / Latitude247 code of Ethics

### Employment

- No person is employed who is below the minimum legal age for employment.
- Forced, bonded or compulsory labor is not used and employees are free to leave their employment after reasonable notice. Employees are not required to lodge deposits of money or identity papers.

### Health & Safety

- A healthy and safe working environment is provided for employees, contractors, partners or others who may be affected by company's activities, in accordance with international standards and national laws.
- Mechanisms are in place to ensure that health and safety obligations are communicated and applied to parties under their control.
- Facilities and amenities, including employee accommodation where provided by the company, shall be hygienic, safe and meet the basic needs of employees.
- The company has systems and training to prepare for and respond to accidents, health problems and foreseeable emergency situations. A means for recording, investigating and implementing learning points from accidents and emergency situations is in place.

### Freedom of Association

- Open communication and direct engagement between employees and management are used to build employee relations and resolve issues.
- The rights of employees to join or not to join trade unions, or similar representative bodies and their right to collective bargaining in accordance with local laws are respected.

### Discrimination

- No form of discrimination is engaged in, or supported by, the company in hiring, employment terms, remuneration, access to training, promotion, termination or retirement procedures or decisions.

### Disciplinary Practices

- Employees are treated with respect and dignity. Physical or verbal abuse or other harassment and any threats or other forms of intimidation are prohibited.

### Working Hours

- Working hours of employees do not exceed the maximum set by local law and a working week does not exceed 60 hours per week, including overtime.

**Payment**

- Employees understand their employment conditions and fair and reasonable pay and terms are provided.

**Individual Conduct**

- No form of bribery, including improper offers for payments to or from employees, customers, suppliers, organizations or individuals is tolerated.

**Sustainability**

We are committed to minimizing the impact of our activities on the environment and confirm that we are committed to being a sustainable business.

We take sustainability to be a way of thinking, and an approach to analysis, planning and decision making that looks at the integration of social-cultural, environmental and economic impacts of any decision or activity. Our Sustainability Policy reflects our belief that as an organization we need to provide for future generations while maintaining the well-being of today's community.

All staff members are responsible for ensuring that their and the companies activities comply with the Sustainability Policy.

**Policy Guidelines**

- Understanding and valuing the natural resources we consume and using those resources in a responsible and efficient manner.
- Seeking to reduce the amount of waste we produce.
- Taking the sustainability of goods, services and suppliers into account when purchasing products and services.
- Providing a safe and healthy working environment where employees are valued and provided with the opportunity to fulfil their potential.
- Working hard to provide for the long term financial success of the business.
- Promoting a company culture where sustainability is important.