

SHINOBICONTROLS LICENCE AGREEMENT

IMPORTANT NOTICE: PLEASE READ CAREFULLY BEFORE DOWNLOADING THIS SOFTWARE: This licence agreement (the “**Agreement**”) is a legal agreement between you (the “**Licensee**” or “**you**”) and Scott Logic Limited (Company Number: 05377430) of 6 Charlotte Square, Newcastle upon Tyne, United Kingdom NE1 4XF (the “**Licensor**” or “**we**” or “**us**”) for the use of the ShinobiControls software product in object code form (the “**Software**”) which includes computer software, together with any data, media, printed materials and electronic documentation (the “**Documentation**”) which is supplied with it. This Agreement only applies to Version 1 of the Software and any releases to Version 1 which will be identified by a change in the secondary version number (i.e. 1.1, 1.2, 1.3 etc).

To use of the Software you require Apple iOS® version 4.3.3 or later. Minimum requirements for this platform can be found at <http://support.apple.com/kb/DL1358>.

By clicking on the "I AGREE" checkbox below or by downloading or using this Software, you are agreeing to the terms of this Agreement which will bind you and your employees. If you do not agree to the terms of this Agreement, we are unwilling to license the Software to you and you must not download or use the Software.

1 Grant and scope of licence

- 1.1 In consideration of the Licensee paying the applicable licence fees and agreeing to abide by the terms of this Agreement, the Licensor hereby grants to the Licensee, a perpetual, personal, non-exclusive, non-transferable licence to do the following:
 - 1.1.1 download and store a copy of the Software and Documentation on the Licensee's own internal computer systems; and
 - 1.1.2 permit the Licensee's Licensed Developers (as defined and detailed in Clause 1.2 below) to use the Software as a component in developing the Licensee's own software applications (“**Licensee Applications**”); and
 - 1.1.3 publish or redistribute the Software in object code form only and only as a fully integrated part of a complete Licensee Application.
- 1.2 The Licensee must purchase a separate licence for each of its developers who are permitted to use the Software in accordance with Clause 1.1.1 above. Each licence purchased enables the Licensee to permit a single named developer who is employed by the Licensee or working as a contractor for the licence (a “**Licensed Developer**”) to use the Software to develop Licensee Applications for the Licensee. Each Licensed Developer working directly with the Software must hold a licence. The Licensee agrees to keep up to date records of all Licensed Developers who it has permitted to use the Software and to make such records available to the Licensor on request. The Licensee also agrees to ensure that all Licensed Developers, who it permits to use the Software, comply with the terms and conditions of this Agreement.
- 1.3 Except as expressly set out in Clause 1.1 and Clause 1.2 above no other rights or licences to use the Software or Documentation are granted to the Licensee under the terms of this Agreement. In particular, but without limitation, the Licensee may not redistribute or

transfer the Software, other than as part of a bona fide complete Licensee Application and the Licensee may not (without the Licensor's prior written consent) do the following:

- 1.3.1 Use the Software to develop any Licensee Application which is directly or indirectly competitive with the Software, or publish or redistribute any part of the Software as part of such a product; or
- 1.3.2 Use the Software to develop any Licensee Application which does not contain significant value added features, or publish or redistribute any part of the Software as part of such a product;
- 1.4 If the Licensee redistributes the Software (or any part thereof) as part of a Licensee Application it agrees that the Licensee Application must be made available under the terms of an end user licence agreement which, to the maximum extent permitted by law; (i) prohibits the end user from modifying, disassembling, decompiling or reverse engineering the Software; (ii) prohibits the end user from using or distributing the Software other than as part of the Licensee Application; and (iii) disclaims on behalf of Scott Logic Limited all warranties in respect of the Software and all liability in respect of any losses which may arise from the end user's use of the Software.
- 1.5 If the Licensee wishes to use the Software in ways which are not permitted by this Clause 1 or the terms and conditions of this Agreement, it must obtain the Licensor's prior written permission. The Licensor may (in its absolute discretion) grant the Licensee such permission (subject to such terms as the Licensor may require) or refuse to do so.

2 Licensee's undertakings

- 2.1 Except as expressly set out in this Agreement or as permitted by any local law, the Licensee undertakes:
 - 2.1.1 not to copy the Software or Documentation except where such copying is incidental to or strictly necessary for the licensed use of the Software or where it is necessary for the purpose of back-up or operational security;
 - 2.1.2 not to rent, lease, sub-license, loan, sell, resell, translate, merge, adapt, vary modify the Software or Documentation except to the extent expressly permitted under Clause 1.1 above;
 - 2.1.3 not to make alterations to, or modifications of, the whole or any part of the Software;
 - 2.1.4 not to disassemble, de-compile or reverse engineer nor attempt to do any such things except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by the Licensee during such activities: (i) is used only for the purpose of achieving inter-operability of the Software with another software program; (ii) is not disclosed or communicated without the Licensor's prior written consent to any third party to whom it is not necessary to disclose or communicate it; and (iii) is not used to create any software which is substantially similar to, or competitive with, the Software.

Notwithstanding this Clause 2.1.4, the Licensee agrees that it is required to contact the Licensor prior to undertaking any of the activities set out in this Clause in order to establish whether such activities are in fact required to achieve the desired inter-operability;

- 2.1.5 to keep all copies of the Software secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Software;
 - 2.1.6 to supervise and control use of the Software and ensure that the Software is used by its Licensed Developers, employees and representatives and (if appropriate) licensees in accordance with the terms of this Agreement;
 - 2.1.7 to include the copyright notice of the Licensor on all entire and partial copies of the Software in any form;
 - 2.1.8 not to remove or hide by any means, any watermark images or references to ShinobiControls or the Software from any software which uses the Software.
- 2.2 The Licensee must permit the Licensor its representatives, at all reasonable times and on reasonable advance notice, to inspect and have access to any premises, and to the computer equipment located there, at which the Software or the Documentation is being kept or used, and any records kept pursuant to this Agreement, for the purpose of ensuring that the Licensee is complying with the terms of this Agreement.

3 Intellectual property rights

- 3.1 The Licensee acknowledges that all intellectual property rights in the Software and the Documentation throughout the world belong to the Licensor, that rights in the Software are licensed (not sold) to the Licensee, and that the Licensee has no rights in, or to, the Software or the Documentation other than the right to use them in accordance with the terms of this Agreement.
- 3.2 The Licensee acknowledges that it has no right under this Agreement to have access to the Software in source code form or in unlocked coding or with comments.
- 3.3 The integrity of this Software may be protected by technical protection measures (“TPM”) so that our intellectual property rights, including copyright, in the Software are not misappropriated. The Licensee must not attempt in any way to remove or circumvent any such TPM, nor to apply, manufacture for sale, hire, import, distribute, sell, nor let, offer, advertise or expose for sale or hire, nor have in its possession for private or commercial purposes, any means whose sole intended purpose is to facilitate the unauthorised removal or circumvention of such TPM

4 Limited Warranty

- 4.1 The Licensor warrants that for a period of thirty (30) days after the Licensee downloads the Software (the “**Warranty Period**”) the Software will, when properly used, perform substantially in accordance with the functions described in the accompanying Documentation.

- 4.2 The Licensee acknowledges that the Software has not been developed to meet the Licensee's individual requirements and that it is therefore the Licensee's responsibility to ensure that the facilities and functions of the Software, as described in the Documentation, meet the Licensee's requirements.
- 4.3 The Licensee acknowledges that the Software may not be free of bugs or errors and the Licensee agrees that the existence of any minor errors shall not constitute a breach of this Agreement.
- 4.4 If, within the Warranty Period, the Licensee notifies the Licensor in writing of any defect or fault in the Software in consequence of which it fails to perform substantially in accordance with the Documentation, and such defect or fault does not result from the Licensee having amended the Software or used it in contravention of the terms of this Agreement, the Licensor will, at its sole option, either (i) repair or replace the Software (provided that the Licensee makes available all information that may be necessary to assist the Licensor in resolving the defect or fault, including sufficient information to enable the Licensor to recreate the defect or fault); or (ii) refund to the Licensee any licence fees paid to use the Software. This Clause sets out the Licensee's sole remedy and the Licensor's sole liability for any breach of the warranty detailed in Clause 4.1.

5 Support and Maintenance

- 5.1 Following the Warranty Period, the Licensee shall only be entitled to receive support and maintenance services ("**Support and Maintenance Services**") in relation to the Software if the Licensee has purchased a Support and Maintenance Agreement for the Software and paid the applicable Annual Support and Maintenance Fee.
- 5.2 Subject to the Licensee paying the applicable Annual Support and Maintenance Fee and continuing to comply with the terms and conditions of this Agreement, Support and Maintenance Services shall be provided in accordance with the provisions of Schedule 1 ("**Support and Maintenance Agreement**").

6 Licensor's Liability

- 6.1 Nothing in this Agreement shall limit or exclude the liability of either party for death or personal injury resulting from negligence or for fraud, fraudulent misrepresentation.
- 6.2 Subject to Clause 6.1, the Licensor's liability for losses suffered by the Licensee arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall (to the fullest extent permitted by law) exclude: (a) loss of income; (b) loss of business profits or contracts; (c) business interruption; (d) loss of the use of money or anticipated savings; (e) loss of information; (f) loss of opportunity, goodwill or reputation; (g) loss of, damage to or corruption of data; or (h) any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise.
- 6.3 Subject to Clause 6.1, the Licensor's maximum aggregate liability under or in connection with this Agreement, or any collateral contract, whether in contract, tort (including

negligence) or otherwise, shall be limited to a sum equal to the Licence Fees paid by the Licensee for use of the Software.

- 6.4 This Agreement sets out the full extent of the Licensor's obligations and liabilities in respect of the supply of the Software and Documentation. In particular, there are no conditions, warranties, representations or other terms, express or implied, that are binding on the Licensor except as specifically stated in this Agreement. Any condition, warranty, representation or other term concerning the supply of the Software and Documentation which might otherwise be implied into, or incorporated in, this Agreement, or any collateral contract, whether by statute, common law or otherwise, is hereby excluded to the fullest extent permitted by law.

7 Term and Termination

- 7.1 The Agreement is effective until terminated. The Licensee may terminate this Agreement at any time by destroying the Software and Documentation together with all copies in any form. The Licensor may terminate this Agreement immediately by written notice to the Licensee if the Licensee fails to comply with any term or condition set out in this Agreement or commits a material or persistent breach of this Agreement.

- 7.2 Upon termination of this Agreement for any reason: (i) all rights granted to the Licensee under this Agreement shall cease; (ii) the Licensee must cease all activities authorised by this Agreement; (iii) the Licensee must immediately pay to the Licensor any sums due to the Licensor under this Agreement; and (iv) the Licensee must immediately delete or remove the Software and Documentation from all computer equipment in its possession or under its control and immediately destroy or return to the Licensor (at the Licensor's option) all copies of the Software and Documentation then in the Licensee's possession, custody or control and, in the case of destruction, certify to the Licensor that this has been done.

8 Transfer of rights and obligations

- 8.1 This Agreement is binding on the parties and on their respective successors and assigns.
- 8.2 Except as expressly provided in this Agreement, the Licensee may not transfer, assign, charge, sell, resell or otherwise dispose of this Agreement, or any of its rights or obligations arising under it, without the Licensor's our prior written consent.
- 8.3 The Licensor may transfer, assign, charge, sub-contract or otherwise dispose of this Agreement, or any of its rights or obligations arising under it, at any time during the term of the Agreement.

9 Notices

- 9.1 All notices given by the Licensee to the Licensor under this Agreement must be sent to "ShinobiControls Support" by email to info@shinobicontrols.com or by post to Scott Logic Limited, 6 Charlotte Square, Newcastle upon Tyne, United Kingdom NE1 4XF. The Licensor may give notice to the Licensee using any email address or postal address provided when the Licensee downloaded the Software or by contacting the Licensee at its principal place of business. Notice will be deemed received and properly served 24 hours after an e-mail is

sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail that such e-mail was sent to the specified e-mail address of the addressee.

10 Waiver

- 10.1 If the Licensor fails, at any time during the term of this Agreement, to insist on strict performance of any of the Licensee's obligations under this Agreement, or if the Licensor fails to exercise any of the rights or remedies to which the Licensor is entitled under this Agreement, this shall not constitute a waiver of such rights or remedies and shall not relieve the Licensee from compliance with such obligations.
- 10.2 A waiver by the Licensor of any default shall not constitute a waiver of any subsequent default.
- 10.3 No waiver by the Licensor of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to the Licensee in writing.

11 Severability

- 11.1 If any of the terms of this Agreement are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

12 Entire agreement

- 12.1 This Agreement and any document expressly referred to in it represents the entire agreement between the parties in relation to the licensing of the Software and Documentation, supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing.
- 12.2 The parties to this Agreement each acknowledge that, in entering into this Agreement, neither party has relied on any representation, undertaking or promise given by the other or implied from anything said or written in negotiations between the parties before entering into this Agreement except as expressly stated in this Agreement.
- 12.3 Neither of the parties shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date we entered into this Agreement (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in this Agreement.

13 Rights of Third Parties

- 13.1 No person who is not a party to this Agreement may enforce any term of this Agreement and the parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

14 Law and jurisdiction

14.1 This Agreement, its subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and submitted to the non-exclusive jurisdiction of the English courts.

Schedule 1

SHINOBICONTROLS SUPPORT AND MAINTENANCE AGREEMENT

This Support and Maintenance Agreement is a legal agreement between you (the "**Licensee**" or "**you**") and Scott Logic Limited (Company Number: 05377430) of 6 Charlotte Square, Newcastle upon Tyne, United Kingdom NE1 4XF (the "**Licensor**" or "**we**" or "**us**") and details the terms and conditions on which we agree to provide support and maintenance services (the "**Services**") to you in relation to our ShinobiControls components software product (the "**Software**"). This Support and Maintenance Agreement should be read in conjunction with our ShinobiControls Software Licence Agreement (the "**Licence Agreement**").

By clicking on the "I AGREE" checkbox below, or by purchasing a Support and Maintenance Agreement with us, or by using our support and maintenance Services, you are agreeing to the terms of this Support and Maintenance Agreement which will bind you and your employees. If you do not agree to the terms of this Support and Maintenance Agreement, we are unwilling provide the Services to you.

1. Duration of Services

For a period of one (1) year from the date on which the Licensee purchases a Support and Maintenance Agreement with the Licensor, or (where applicable) renews its Support and Maintenance Agreement with the Licensor, the Licensor will supply the services detailed in Clause 2 below in relation to the Software.

The Licensee must hold a valid licence to use the Software, in order to receive the Services. Accordingly, the Licensor shall have the right to refuse to provide the Services, or to terminate this Support and Maintenance Agreement, if the Licensee does not hold a valid licence to use the Software, or if the Licensee breaches the terms of its Licence Agreement, or if the Licensee's Licence Agreement is terminated for any reason.

2. Services Provided

The Services provided under this Support and Maintenance Agreement shall comprise the following:

- Access to any new releases of the Software (in object code form only) which the Licensor makes generally available from time to time
- Unlimited email support for the Licensed Developers (as defined in the Licence Agreement) in relation to their use of the Software;
- Initial response on receipt of a support request within one (1) business day (in the UK);
- Escalation to the product development team for the resolution of issues where required;
- Provision of emergency hotfixes in the event of critical bugs.

Any new releases of the Software which are made available to the Licensee under this Support and Maintenance Agreement shall be subject to the terms and conditions set out in the Licence Agreement.

All Services detailed in this Clause 2 shall be provided only in respect of the Software (as defined in the Licence Agreement) and not in relation to any other software products developed, licensed or sold by the Licensor. In addition, all Services detailed in this Clause 2 shall be provided only to the Licensed Developers (as defined in Licence Agreement).

3. Hours of Support

Barring unforeseen interruptions or planned exceptions, access to all web-based online documentation and receipt of email support requests will usually be accepted 24 hours a day, 365 days a year. However, unless otherwise agreed in writing between the parties, the Licensor gives no guarantees as to such availability. Email support requests will only be dealt with during business hours (in the UK).

4. Response Times

The Licensor undertakes to use reasonable endeavours to respond to email support requests by the end of the following business day (in the UK). This time is the elapsed time between the receipt of the support request and a written or verbal confirmation of its receipt being made to the Licensee. The time taken to resolve the subject of the support request, if such resolution is undertaken, is not specified or guaranteed.

5. Licensor's Responsibilities

The Licensor will use reasonable endeavours to resolve support requests made by the Licensee to the Licensee's satisfaction. The Licensor, however, gives no guarantee that it can or will solve all support requests presented by the Licensee (beyond the warranties explicitly provided to the Licensee in the Licence Agreement).

The Licensor shall not be responsible for any issue which is caused by: (i) the Licensee's improper use, improper configuration, or custom alteration or extension or modification of the Software; (ii) the Licensee's use of the Software with hardware or software outwith the specifications defined in the Licence Agreement or Documentation, or not supplied or supported by the Licensor; (iii) the Licensee's failure to install an update to the Software which includes a fix to the issue; or (iv) the Licensee's use of the Software in a manner outwith the terms of the Licence Agreement or this Support and Maintenance Agreement.

The Licensor shall not be responsible for providing support in relation to any issue to the extent that the Licensee has modified the Software in any way.

6. Customer's Responsibilities

The Licensee is deemed to be responsible for all issues not directly related to the Software including, but not limited to, other software, hardware, operating systems, networking, file systems and databases.

Where appropriate documentation exists to adequately cover the support request, the Licensee may be directed to such documentation as a resolution of the support request.

7. Limited Warranty

The Licensor warrants that it shall perform the Services in accordance with this Agreement using reasonable skill and care.

If the Licensor fails to perform the Services accordance with this warranty, the Licensor will, at its sole option, either (i) remedy or resolve the defective performance of the Services or re-perform the Services in question for no additional charge (provided that the Licensee makes available all

information that may be necessary to assist the Licensor to do so); or (ii) refund to the Licensee any fees the Licensee has paid for the Services in question. This paragraph sets out the Licensee's sole remedy and the Licensor's sole liability for any breach of the warranty detailed in this Clause 7.

8. Licensors' Liability

Nothing in this Support and Maintenance Agreement shall limit or exclude the liability of either party for death or personal injury resulting from negligence, fraud, fraudulent misrepresentation.

Save as provided above in the case of death or personal injury or fraud, the Licensor's liability for losses suffered by the Licensee arising out of or in connection with this Support and Maintenance Agreement, whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall (to the fullest extent permitted by law) exclude: (a) loss of income; (b) loss of business profits or contracts; (c) business interruption; (d) loss of the use of money or anticipated savings; (e) loss of information; (f) loss of opportunity, goodwill or reputation; (g) loss of, damage to or corruption of data; or (h) any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise.

Save as provided above in the case of death or personal injury or fraud, the Licensor's maximum aggregate liability under or in connection with this Support and Maintenance Agreement, or any collateral contract, whether in contract, tort (including negligence) or otherwise, shall be limited to a sum equal to the fees paid by you for the Services in question.

This Support and Maintenance Agreement sets out the full extent of the Licensor's obligations and liabilities in respect of the supply of the Services. In particular, there are no conditions, warranties, representations or other terms, express or implied, that are binding on the Licensor except as specifically stated in this Support and Maintenance Agreement. Any condition, warranty, representation or other term concerning the supply of the Software and Documentation which might otherwise be implied into, or incorporated in, this Support and Maintenance Agreement, or any collateral contract, whether by statute, common law or otherwise, is hereby excluded to the fullest extent permitted by law.

9. Transfer of rights and obligations

This Support and Maintenance Agreement is binding on the Licensee and the Licensee may not transfer or assign any of its rights or obligations arising under it, without the Licensor's prior written consent. The Licensor may transfer or assign any of our rights or obligations arising under it at any time.

10. Notices

All notices given by the Licensee to the Licensor under this Support and Maintenance Agreement must be sent to "ShinobiControls Support" by email to info@shinobicontrols.com or by post to Scott Logic Limited, 6 Charlotte Square, Newcastle upon Tyne, United Kingdom NE1 4XF. The Licensor may give notice to the Licensee using any email address or postal address provided when the Licensee downloaded the Software or purchased or renewed its Support and Maintenance Agreement or by contacting the Licensee at its principal place of business. Notice will be deemed received and properly served 24 hours after an e-mail is sent, or three days after the date of posting of any letter.

In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail that such e-mail was sent to the specified e-mail address of the addressee.

11. Waiver

If the Licensor fails, at any time during the term of this Support and Maintenance Agreement, to insist on strict performance of any of the Licensee's obligations under this Agreement, or if the Licensor fails to exercise any of the rights or remedies to which the Licensor is entitled under this Support and Maintenance Agreement, this shall not constitute a waiver of such rights or remedies and shall not relieve the Licensee from compliance with such obligations.

A waiver by the Licensor of any default shall not constitute a waiver of any subsequent default.

No waiver by the Licensor of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to the Licensee in writing.

12. Severability

If any of the terms of this Support and Maintenance Agreement are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

13. Entire agreement

This Support and Maintenance Agreement and any document expressly referred to in it represents the entire agreement between the parties in relation to the provision of the Services, supersedes any prior agreement, understanding or arrangement between the parties, whether oral or in writing.

The parties to this Support and Maintenance Agreement each acknowledge that, in entering into this Support and Maintenance Agreement, neither party has relied on any representation, undertaking or promise given by the other or implied from anything said or written in negotiations between the parties before entering into this Support and Maintenance Agreement except as expressly stated herein.

Neither of the parties shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date we entered into this Support and Maintenance Agreement (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in this Support and Maintenance Agreement.

14. Rights of Third Parties

No person who is not a party to this Support and Maintenance Agreement may enforce any term of this Support and Maintenance Agreement and the parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Support and Maintenance Agreement.

15. Law and jurisdiction

This Support and Maintenance Agreement, its subject matter or its formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and submitted to the non-exclusive jurisdiction of the English courts.