



# Terms and Conditions

**Last Updated on 27th May 2025.**

These Terms & Conditions apply to new Order Forms (or renewals of existing Order Forms) effective on or after 27th May 2025. If you are an existing Customer and agreed to the previous Qargo Terms & Conditions before 27th May 2025, these Terms & Conditions will go into effect on the renewal date of your next Order Form. The prior Terms & Conditions can be found **here**.

**If you have a separate written agreement with Qargo, these online Terms & Conditions will not apply to you.**

These Terms and Conditions govern the Customer's purchase and use of Qargo's Services.

These Terms and Conditions incorporate the Service Level Agreement ("SLA") at Schedule 1 and Data Processing Addendum ("DPA") at Schedule 2 (collectively, "the Agreement").

A PDF version of this Agreement is available to download [here](#). You are advised to print and retain a copy of these Terms and Conditions for Your future reference. Our Terms in French are available [here](#).

## 1. Definitions & Interpretations

### 1.1. Definitions

**"Add-on Features"** means any optional, additional features provided by Qargo to the Customer within the Qargo TMS, as further described in the Ordering Document, where applicable;

**"App"** means the mobile application available to the Customer via an app-store for use with Qargo TMS;

**"Authorised User"** means any of the Customer's employees, agents and independent contractors and other individuals or entities who are authorised by the Customer to use the Services (wholly or in part) and the Documentation;

**"Business Day"** means each day which is not a Saturday or Sunday or a bank or public holiday in England;

**"Charges"** means the Pre-payment Charge, Subscription Charge and any other charges (including but not limited to, charges for Professional Services and Add-on Features) as may be set out in an Ordering Document and agreed between the parties from time to time;

**"Claim(s)"** means all demands, claims and liability (actual and consequential and direct and indirect and whether known and unknown, suspected and unsuspected, disclosed and undisclosed, criminal or civil, in contract, tort or otherwise) for all losses including any other expenses of any nature whatsoever;

**"Confidential Information"** means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10;

**"Contract Commencement Date"** means the date on which the Ordering Document is signed by the Customer, creating a legally binding Agreement;

**"Customer" or "You"** means the entity purchasing the Services whose details are outlined in the Ordering Document;

**"Customer Data"** means all data, information and material input or uploaded to the Qargo TMS or otherwise provided to Qargo by the Customer's Authorised Users;

**"Documentation"** means any information made available to the Customer by Qargo from time to time (online or otherwise) which is produced by Qargo and which describes the functionality, use or operation of the Services, to provide general help and assistance to Qargo's customers;

**"Force Majeure Event"** means any happening or event beyond the reasonable control of the party concerned, which results in a failure or delay in the performance of that party's obligations under this Agreement;

**"Initial Term"** means the initial period of the Subscription Services as set out in the Ordering Document, commencing on the Subscription Effective Date and as further described in Clause 3.2;

**“Intellectual Property”** means patents, rights to inventions, copyright and neighbouring and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**“Modifications”** means changes to the Qargo TMS provided as Professional Services, as agreed upon in an Ordering Document;

**“Onboarding Period”** means the period beginning upon the Customer’s payment of the Pre-payment Charge, and ending on the Subscription Effective Date, during which Qargo will configure and prepare the Qargo TMS for the Customer’s use;

**“Ordering Document”** means a statement of work, quotation, proposal, written notice or other similar ordering document describing the Services to be provided by Qargo to the Customer and their related Charges;

**“Pre-payment Charge”** means a percentage of the total Subscription Charges for the Initial Term, as specified in the Ordering Document, payable by the Customer upon signing the Ordering Document and prior to the commencement of the Onboarding Period;

**“Professional Services”** means any Modification, Third Party Integration, training or onboarding services related to the Qargo TMS as requested and paid for by the Customer and defined in a related Ordering Document;

**“Renewal Term”** means each successive twelve (12) month period following the Initial Term;

**“Services”** means any services provided by Qargo to Customer, including but not limited to the Qargo TMS, Support Services, Professional Services and any Add-on Features as set out in the Ordering Document;

**“Qargo”** means Qargo Tech Limited, a company registered in England and Wales under company number 11390525, whose registered office is at 1 The Willows, Mill Farm Courtyard, Beachampton, Bucks, MK19 6DS;

**“Qargo TMS”** means Qargo’s Transportation Management System Software, access provided on a Software-as-a-Service (SaaS) basis, available at [app.qargo.com](http://app.qargo.com) (inclusive of related features such as the App, Add-On Features, Third Party Integrations and Modifications);

**“Software”** means the proprietary software owned or licensed by Qargo which forms part of, or is used in the provision of, the Qargo TMS and is made available to the Customer under the terms of this Agreement. For clarity, the Customer does not receive a copy of the Software, nor does it acquire any rights to the Software beyond those expressly granted in this Agreement;

**“Subscription Charges”** means the fees for the Customer’s subscription to Qargo TMS, Support Services and any Add-On Features, of which a portion will be paid as an Pre-payment Charge in the Initial Term, as set out in the Ordering Document;

**“Subscription Effective Date”** means the date, specified in the Ordering Document or as otherwise agreed between the parties, when the Subscription Services will commence, granting the Customer access to the Qargo TMS;

**“Support Services”** means the technical support provided by Qargo to the Customer related to the Qargo TMS, as further detailed in the SLA in Schedule 1;

**“Third Party Integrations”** means the integration of software from Third Party Provider with Qargo TMS;

**“Third Party Provider”** means a party that is not the Customer or Qargo, that provides software, products, services, data or a platform which may be used in connection with the Services;

**“Virus”** means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by rearranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2. In this Agreement unless the context otherwise requires:
  - a) reference to a person includes a legal person (such as a limited company) as well as a natural person;
  - b) Clause headings are for convenience only and shall not affect the construction of this Agreement;
  - c) reference to "including" or any similar terms in this Agreement shall be treated as being by way of example and shall not limit the general applicability of any preceding words; and
  - d) reference to any legislation shall be to that legislation as amended, extended or re-enacted from time to time and to any subordinate provision made under that legislation.
  - e) In the event of any conflict between the documents that form this Agreement, the following order of precedence shall apply: (i) any Ordering Document document; (ii) this Agreement; and (iii) any additional Schedules as may be agreed from time to time.

## 2. Commencement and duration

- 2.1. This Agreement shall commence on the Contract Commencement Date.
- 2.2. Access to the Services will commence on the Subscription Effective Date and shall continue for the Initial Term (which shall be set out on the Ordering Document), unless terminated sooner in accordance with clause 12.
- 2.3. On expiry of the Initial Term, this Agreement shall renew automatically for successive Renewal Terms unless terminated in accordance with clause 12, or unless either party gives no less than 30 days' prior written notice of non-renewal (such notice to expire at the end of the Initial Term or any subsequent Renewal Term only).

## 3. Onboarding Services

- 3.1. Upon receipt of the Pre-payment Charge, Qargo and the Customer will enter the Onboarding Period, during which Qargo and the Customer will work together to configure and prepare the Qargo TMS for the Customer's specific requirements. The details of the onboarding process, any related Professional Services purchased will be outlined in the Ordering Document.

## 4. Qargo's Obligations

- 4.1. Subject to the terms of this Agreement and your compliance with it, Qargo grants to the Customer a non-exclusive, non-transferable, non-sublicenseable right for Authorised Users to use the Services and Documentation for internal business purposes, as laid out in the Ordering Document.

- 4.2. Qargo shall provide the Services to the Customer with reasonable skill and care subject to the terms of this Agreement. If Qargo fails to meet this commitment, and this failure is not caused by the Customer's use of the Services contrary to the Documentation, Qargo will use commercially reasonable efforts to correct the issue or provide the Customer with a suitable workaround. This correction or workaround will be performed free of charge and is the Customer's sole remedy for any failure by Qargo to meet this commitment.
- 4.3. Qargo warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.
- 4.4. Qargo warrants that the Services, when used in accordance with the Documentation and under normal operating conditions, will materially function as described in the specifications outlined in the Ordering Document.
- 4.5. Qargo may make changes to the Services from time to time, with such changes not materially reducing the functionality, performance, or security of the Services. Notification of significant changes will be provided via the Qargo TMS.
- 4.6. Qargo agrees to comply with the obligations set out in the SLA at Schedule 1, the DPA at Schedule 2, and all applicable laws and regulations in connection with the Services.

## 5. Customer's Obligations

- 5.1. The Customer shall:
  - 5.1.1. Provide Qargo with all necessary co-operation in relation to this Agreement;
  - 5.1.2. Provide Qargo with all necessary access to such information as may be required by Qargo; in order to provide Qargo TMS, including but not limited to Customer Data, security access information, access to the Customer's IT system (including but not limited to its server(s)) and configuration services;
  - 5.1.3. Comply with all applicable laws and regulations;
  - 5.1.4. ensure that the Authorised Users use Qargo TMS and the Documentation in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;
  - 5.1.5. obtain and shall maintain all necessary licences, consents, and permissions necessary for Qargo, its contractors and agents to perform their obligations under this Agreement, including without limitation the provision of Qargo TMS and all or any Maintenance and Upgrade Services, Software Support and/or Professional Services and integration to Third Party Software;
- 5.2. The Customer shall not:
  - 5.2.1. copy, translate, modify, adapt or create derivative works from any Services;
  - 5.2.2. except as expressly permitted by this Agreement, permit any third party to access or use the Services or use the same on behalf of any third party;
  - 5.2.3. attempt to discover or gain access to the source code for the Software or reverse engineer, modify, decrypt, extract, disassemble or decompile the Software (except strictly to the extent that You are permitted to do so under applicable law in circumstances under which Qargo is not lawfully entitled to restrict or prevent the same);
  - 5.2.4. attempt to interfere with the proper working of the Services or Software and, in particular, must not attempt to circumvent security, license control or other protection mechanisms, or tamper with, hack into, introduce a Virus or otherwise disrupt the Services or Software or any associated website, computer system, server, router or any other internet-connected device;
  - 5.2.5. access all or any part of Qargo TMS or the Documentation in order to build a product or service which competes with Qargo's;
  - 5.2.6. Manipulate identifiers in order to disguise the origin of any Customer Data transmitted through the Service.

## 6. Data Ownership and Rights

- 6.1. The Customer retains all right, title, and interest in and to Customer Data, including any intellectual property rights therein. the Customer shall have sole responsibility for the legality, reliability, integrity, accuracy, quality and use of the Customer Data. Nothing in this Agreement shall be construed to transfer ownership of Customer Data to Qargo.
- 6.2. the Customer grant Qargo a non-exclusive, worldwide, royalty-free license to use, store, process and display Customer Data solely for the purposes of:
  - 6.2.1. Providing the Services, including storage, transmission, and display of Customer Data;
  - 6.2.2. Fulfilling Qargo's obligations under this Agreement; and
  - 6.2.3. Preventing technical issues, improving service quality, and ensuring security.
- 6.3. Customer acknowledges and agrees that it is solely responsible for verifying the accuracy, completeness, and suitability of any outputs, reports, or information generated or provided by the Qargo TMS, including but not limited to any data analysis, suggestions, or insights. Qargo does not warrant the accuracy or completeness of any outputs and shall not be liable for any errors or omissions in such outputs or for any consequences resulting from Customer's reliance on unverified outputs.
- 6.4. Qargo takes the security of its systems and Customer Data seriously. As part of our commitment to security, our Information Security Management System (ISMS) governing the Services is certified compliant with the ISO/IEC 27001:2022 standard.
- 6.5. the Customer shall promptly give notice in writing to Qargo when the Customer becomes aware of any claim that any of the Customer Data infringes the rights of any third party. In such an event, the Customer shall indemnify Qargo for any amounts awarded against Qargo in judgement or settlement of such Claims, provided that: (a) the Customer is given prompt notice of any such Claim, (b) Qargo provides the Customer with reasonable co-operation in the defence and settlement of such Claim, at the Customer's expense; and (c) the Customer is given sole authority to defend or settle the Claim.

## 7. Third Party Integrations and Modifications

- 7.1. Where the Customer requires Professional Services from Qargo to assist with integration of Third Party Software or to make Modifications to the Qargo TMS, such agreed Services and related Charges will be set out in an Ordering Document.
- 7.2. The Intellectual Property Rights in the Modifications are, and shall remain, the property of Qargo, and Qargo reserves the right to grant a licence to use such Modifications to any other party or parties.
- 7.3. For the avoidance of doubt, Qargo shall not be liable to the Customer for the failure of any Third Party Software integrated to Qargo TMS, that is not directly related to the act or omission of Qargo, its employees, contractors or agents.

## 8. Intellectual Property

- 8.1. Qargo and/or its licensors retain ownership of all rights, title, and interest in and to the Services, including any modifications, enhancements, or derivative works thereof. This Agreement does not grant the Customer any ownership rights in the Services, and the Customer's use of the Services is limited to the rights expressly stated in this Agreement.
- 8.2. Qargo shall promptly give notice in writing to the Customer in the event that Qargo becomes aware of any claim that any of Qargo Intellectual Property Rights infringe the rights of any third party. In such an event, Qargo shall indemnify the Customer for any amounts awarded against the Customer in judgement or settlement of such Claims, provided that (a) Qargo is given prompt notice of any such Claim, (b) the Customer provide reasonable co-operation to Qargo in the defence and settlement of such Claim, at Qargo's expense; and (c) Qargo is given sole authority to defend or settle the Claim.

## 9. Charges & Payments

- 9.1. The Customer shall pay the Charges for the Services as set out in the Ordering Document in accordance with this Agreement.
- 9.2. Charges will be due and payable within thirty (30) days of invoice date, in the currency set out in the Ordering Document and in full without set-off, deduction or counterclaim.
- 9.3. Charges for the Initial Term:
  - 9.3.1. Upon signing the Ordering Documentation and as a prerequisite to commencing the Onboarding Period, the Customer shall pay the Pre-payment Charge as specified in the Ordering Document. This Pre-payment Charge is non-refundable.
  - 9.3.2. Following the completion of the Onboarding Period and the passing of the Subscription Effective Date, the Customer will be invoiced for the remaining Subscription Charges.
- 9.4. Charges for each Renewal Term:
  - 9.4.1. The Subscription Charges will be adjusted on an annual basis, unless agreed otherwise, as set out on the Ordering Document. The adjusted Subscription Charges will be calculated and invoiced at the beginning of each Renewal Term.
- 9.5. No payment shall be deemed to have been made until Qargo has received such payment in cleared funds from the Customer.
- 9.6. Qargo will issue invoices electronically to the email address provided by the Customer in the Ordering Document or as otherwise updated by the Customer in writing.
- 9.7. If the Customer fails to pay Qargo any Charges due pursuant to this agreement, or otherwise breaches its obligations, then without prejudice to its other rights and remedies, Qargo shall be entitled, following provision of written notice, to:
  - 9.7.1. Suspend the Customer's access to the Services until such time as any outstanding invoices have been settled in full in cleared funds, whereupon the access will be reinstated; and/or
  - 9.7.2. Charge interest on the outstanding amount at the rate permitted by law from time to time, accruing on a daily basis and compounded quarterly, from the due date until the outstanding amount is paid in full; or
- 9.8. All Charges quoted to the Customer for the provision of the Services are exclusive of any VAT or other applicable taxes, which shall be added to the invoice.
- 9.9. In addition to the annual adjustments provided for in 9.4.1, Qargo reserves the right to adjust Subscription Charges for Renewal Terms to account for changes in market conditions, operating costs, or inflation. Qargo will provide the Customer with at least sixty (60) days written notice of any such price changes prior to the start of the Renewal Term. Any such general price adjustment shall not exceed the Retail Price Index increase published by the [Office for National Statistics](#) over the previous 12 months plus 2%.
- 9.10. If the Customer disputes an invoice, they must notify Qargo in writing within fourteen (14) days of invoice date. They shall pay the undisputed amount in full pending resolution of the dispute. Upon resolution, any necessary adjustments will be made within thirty (30) days.

## 10. Confidentiality

- 10.1. Each party undertakes to the other that during the Initial Term, each Renewal Term and thereafter it shall keep secret and shall not without the prior written consent of the other party disclose to any third party (except to its legal and professional advisors) any Confidential Information learned by the recipient party or disclosed to the recipient party by such other party pursuant to, or otherwise in connection with this Agreement, except to the extent that any Confidential Information: (a) is in the public domain (other than by breach of this Agreement) or (b) was already independently known by the recipient party; or (c) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 10.2. To the extent that it is necessary to give effect to this Agreement, the recipient party may disclose Confidential Information to its employees as may reasonably be necessary

provided that the recipient party shall: (a) before disclosure, make such employees aware of their obligations of confidentiality under this Agreement, and (b) at all times procure compliance with such obligations of confidentiality.

## 11. Limitations & Exclusions of Liability

- 11.1. This section 10 sets out the entire financial liability of each party (including any liability for the acts or omissions of its employees, agents and subcontractors) to the other party:
  - 11.1.1. arising under or in connection with this Agreement;
  - 11.1.2. in respect of any use made by the Customer of the Services and Documentation or any part of them;
  - 11.1.3. in respect of any use made by Qargo of the Customer Data; and
  - 11.1.4. in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 11.2. Subject to clause 11.1, neither party shall be liable to the other in contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement.
- 11.3. Each party's total aggregate and maximum liability, in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with this Agreement shall be limited to the total Subscription Charges payable by the Customer to Qargo during the twelve (12) continuous Months immediately preceding the date on which the Claim arose.
- 11.4. All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement.
- 11.5. Except as expressly set out in this Agreement:
  - 11.5.1. The Documentation and Services and anything else supplied or provided by Qargo under this Agreement to the Customer are done so on an 'as is' basis. While Qargo warrants it will use commercially reasonable endeavours to deliver the Service free from defects, the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such information services;
  - 11.5.2. the Customer assumes sole responsibility for the results obtained from the use of the Services and the Documentation and for conclusions drawn from such use.
- 11.6. Neither party shall be in breach of any of its obligations under this Agreement which arise or occur due to the act, omission, and default of the other party or the Customer's failure to comply with any of its obligations under this Agreement.
- 11.7. Nothing in this Agreement will:
  - 11.7.1. limit or exclude any liability for death or personal injury resulting from negligence;
  - 11.7.2. limit or exclude any liability for fraud or fraudulent misrepresentation;
  - 11.7.3. limit any liabilities in any way that is not permitted under applicable law; or
  - 11.7.4. exclude any liabilities that may not be excluded under applicable law.

## 12. Termination

- 12.1. Either party may terminate this Agreement, at any time, by giving the other written notice if the other:
  - 12.1.1. materially breaches any term of this Agreement and it is not possible to remedy that breach;



- 12.1.2. materially breaches any term of this Agreement and it is possible to remedy that breach, but the other fails to do so within 30 days of being requested in writing to do so; or
- 12.1.3. becomes insolvent, makes composition with its creditors, has a receiver or administrator of its undertaking or the whole or a substantial part of its assets appointed, or an order is made, or an effective resolution is passed, for its administration, receivership, liquidation, winding-up or other similar process, or has any distress, execution or other process levied or enforced against the whole or a substantial part of its assets (which is not discharged, paid out, withdrawn or removed within 28 days), or is subject to any proceedings which are equivalent or substantially similar to any of the foregoing under any applicable jurisdiction, or ceases to trade or threatens to do so.
- 12.2. For the purposes of this Clause 12.1.2, in order for it to be possible to remedy a breach it must be possible to take steps so as to put the other party into the same position which (save as to the date) it would have been in if the breach had never occurred.
- 12.3. Upon termination of this Agreement for any reason:
  - 12.3.1. Qargo will immediately revoke the Customer's access to the Services; and
  - 12.3.2. the Customer shall immediately cease to access, and discontinue all use of the Services; and
  - 12.3.3. all amounts payable to Qargo by the Customer shall become immediately due and owing. For the avoidance of doubt, no refund of Charges paid in advance shall be due in respect of any unexpired portion of the then-current term if termination is due to the Customer's breach.
  - 12.3.4. all amounts payable to Qargo by the Customer shall become immediately due and owing. For clarity, in the case of termination due to:
    - 12.3.4.1. The Customer's material breach, no refund of Charges paid in advance shall be due in respect of any unexpired portion of the then-current term if termination is due to the Customer's breach.
    - 12.3.4.2. Qargo's material breach, Qargo shall provide the Customer with a pro-rata refund of any prepaid Subscription Charges for the remaining, unused portion of the Subscription Term.
- 12.4. The termination of this Agreement for any reason will not affect any accrued rights or liabilities which either party may have by the time termination takes effect.
- 12.5. Qargo may suspend the Customer's access to the Services with immediate effect at any time during the Subscription Term if the Customer is in material breach of any obligation in this Agreement. This includes, but is not limited to, where any delinquent payment is not received by Qargo within thirty (30) days after notice to Customer. The Customer will continue to be charged for and be liable for all Charges during any period of suspension.

## 13. Force Majeure

- 13.1. Neither Party shall have any liability to the other under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by one or more Force Majeure Events provided that, to the extent reasonably possible, the non-affected Party is notified of such and the expected duration.

## 14. Notices

- 14.1. Any notice given under this Agreement shall be in writing, in English and sent by email to:
  - 14.1.1. Notices for Qargo: [legal@qargo.com](mailto:legal@qargo.com).
  - 14.1.2. Notices for the Customer: The email specified for legal notices in the Ordering Document. If this is not present, notice will be sent either to (a) an email as otherwise specified by the Customer or (b) the emails of Administrators of the Customer's Qargo TMS account.

## 15. General

- 15.1. This Agreement together with any Ordering Documents constitutes the sole and complete understanding between the Parties and both Parties acknowledge that neither relied on any additional representations (written or oral) in entering into this Agreement. Any terms and conditions contained in Customer's purchase order or other similar document that are inconsistent with or in addition to this Agreement shall be deemed null and void and of no effect.
- 15.2. This Agreement supersedes any previous agreements between the Customer and Qargo, unless otherwise agreed between the Customer and Qargo.
- 15.3. This Agreement is not intended to create any partnership or joint venture relationship between the Parties. Neither Party has the authority to act on behalf of, or bind the other.
- 15.4. Unless otherwise agreed in writing, the Customer authorises Qargo to reference Customer and use Customer's Logo in marketing and promotional materials.
- 15.5. Nothing in this Agreement is intended to confer any enforceable rights or benefits on anyone other than the Parties to this Agreement.
- 15.6. Qargo may modify the terms of this Agreement from time to time, with notice to the Customer in accordance with clause 14. The Customer agrees that Qargo will treat their continued use of the Services as acceptance of the Terms herein, including the Customer's continued use subsequent to any changes.
- 15.7. The following provisions shall survive the termination or expiration of this Agreement for any reason: Data Ownership and Rights (5.2 & 5.5), Third Party Integrations and Modifications (6.2), Intellectual Property (7.1 & 7.2), Confidentiality (10), Limitations & Exclusions of Liability (13), Notices (14), General (15), and Schedule 2: Data Processing Agreement (4.1, 5.1 & 6).
- 15.8. This Agreement applies to both parties and their successors and assigns. The Customer may not transfer the Customer's rights and obligations under this Agreement without obtaining Qargo's prior written consent, which will not be unreasonably withheld.
- 15.9. If any provision of this Agreement is deemed invalid, illegal or unenforceable, the validity of the remaining provisions contained in this Agreement will not be affected. Both parties will work together to replace the invalid provision with a new provision that is legally permissible and has the same effect.
- 15.10. A waiver by any party of any of the terms or conditions of this Agreement in any instance shall not be deemed or construed to be a waiver of such term or condition for the future, or of any subsequent breach thereof. No waiver of any right shall constitute a waiver of any other right or be effective unless made in writing and signed by an authorised signatory of the party making the waiver.
- 15.11. This Agreement is governed by the laws of England and Wales, and any disputes arising in relation to this Agreement are subject to the exclusive jurisdiction of the English Courts.

## Schedule 1: Service Level Agreement (“SLA”)

This Service Level Agreement (SLA) is incorporated into Qargo’s Terms and Conditions and applies to all customers of Qargo. It contains provisions on service availability, maintenance, and response times for the Qargo TMS and Support Services.

### 1. Definitions

“**Downtime**” means any period the Qargo TMS is not operational and accessible by the Customer.

“**Monthly Uptime**” means the percentage of total possible minutes Qargo was available, excluding factors laid out in section 2.3, in a given month and is calculated as follows:

*Monthly Uptime = 1 - (monthly Downtime minutes / total possible monthly minutes);*

“**Normal Business Hours**” means between the hours of 8:00 AM to 6:00 PM local UK time on Business Days;

“**Service Credits**” are calculated as follows: *Service Credits = (99 - actual monthly uptime) x 1/12 of yearly Subscription Charge paid.*

### 2. Scope of SLA

- 2.1. This SLA shall apply to the Qargo TMS and Support Services. Qargo makes every possible endeavor to provide the Customer with constant access to the Qargo TMS platform. This SLA contains the provisions on the rights and remedies for the Customer in the event that it experiences a service interruption as a result of failure on Qargo's behalf.

### 3. Support Services

- 3.1. Qargo will, as part of the Services and at no additional cost to the Customer, provide the Customer with Support Services during Normal Business Hours whereby the Customer may submit support queries to Qargo by emailing [support@qargo.io](mailto:support@qargo.io) or via the online chat box. Qargo may amend the nature of its Support Services from time to time.

- 3.2. Service Level Requests will be broken into 3 priority levels with associated response times:

Service Level Request	Priority Level	Response Time	Description
SLR1	High	Within 1 hour from the initial request	Where some function of the Service is unavailable causing significant impact to business operations

SLR2	Medium	Within 4 hours from the initial request	Non-critical part of the Service is unavailable
SLR3	Low	Within 2 working days from the initial request	Minor problem or inconvenience

3.3. Support Services excludes diagnosis and rectification of any problems resulting from any of the following:

- 3.3.1. modifications to the Qargo Software not performed or directed by Qargo;
- 3.3.2. the failure by the Customer to implement recommendations and solutions to problems previously advised by Qargo; or
- 3.3.3. deficiencies of the Customer's facilities.

## 4. Availability of the Service & Service Level Credits

- 4.1. Qargo commits to a 99% Monthly Uptime.
- 4.2. Scheduled maintenance of the Qargo TMS will generally be conducted outside of Normal Business Hours to minimize disruption. In cases where scheduled maintenance is required during Normal Business Hours, Qargo will provide at least forty-eight (48) hours' advance notice via email. If such maintenance is expected to result in Downtime of more than thirty (30) minutes during Normal Business Hours, this will be explicitly stated in the advance notice. Upon a Customer's reasonable request, Qargo will consider postponing the announced maintenance if it is technically and economically feasible to do so.
- 4.3. The following forms of Downtime are excluded from Monthly Uptime calculations:
  - 4.3.1. Downtime resulting from scheduled maintenance as set out in 4.2;
  - 4.3.2. Downtime caused by acts or omissions of the Customer, or a third party, including, but not limited to, the Customer's internet service provider issues, the Customer's equipment or software failures, or misuse of the Services;
  - 4.3.3. Downtime caused by a Force Majeure event; and
  - 4.3.4. Downtime resulting from any suspension or termination of the Service in accordance with the Agreement.
- 4.4. Any Downtime must be reported by the Customer without undue delay after it has become known. In case of reports and Downtime received within Normal Business Hours, Qargo commits to the response times laid out in 3.2.

## 5. Service Credits

- 5.1. If Qargo does not meet the Monthly Uptime, Qargo will provide the Customer, as the sole and exclusive remedy, with a Service Credit, going towards the Customer's next invoice.
- 5.2. In no event shall any Service Credit exceed the Subscription Charges paid by the Customer in respect of the Term to which the Service Credit relates. The Customer shall not be entitled to receive any Service Credits if the Customer's account is past due or otherwise in default.

## 6. Limitations and exclusions from this SLA

- 6.1. This SLA does not apply to:
  - 6.1.1. Trial accounts and non-production instances, including but not limited to test, disaster recovery, training, Q&A, or development;
  - 6.1.2. Services, programs, enabling software or agents running on client systems or third-party-provided systems; and

- 6.1.3. Customers that have breached any material obligations under the Customer Agreement, including, without limitation, breach of any payment obligations.

## Schedule 2: Data Processing Agreement

This Data Processing Agreement (DPA) is incorporated into Qargo's Terms and Conditions. It outlines Qargo's obligations as a Processor of Customers' Personal Data.

Capitalised terms not defined in this DPA can be found in the Terms & Conditions. The DPA's purpose is to ensure such processing is conducted in accordance with Data Protection Laws and respects the Customer's rights where the Customer's Personal Data is processed under the Agreement.

### 1. Definitions

**"Data Controller"** means the entity that determines the purposes and means of the Processing of Personal Data, as defined in the Data Protection Laws;

**"Data Processor"** means the entity which Processes Personal Data on behalf of the Data Controller, as defined in the Data Protection Laws;

**"Data Protection Laws"** means the Data Protection Act 2018, the United Kingdom General Data Protection Regulation (UK GDPR), and any legislation implemented in connection with these legislations. Where data processed comprises the data of people in the European Union, it also includes the EU General Data Protection Regulations (EU GDPR), including any replacement legislation coming into force from time to time.

**"Data Subject"** means the individual to whom Personal Data relates, as defined in the Data Protection Laws;

**"Personal Data"** means data about a natural person processed by the Data Processor in relation to the provision of the Services under the Agreement, from which that person is identified or identifiable, as defined in the Data Protection Laws.

### 2. Roles of the Parties

- 2.1. The Parties accept and agree that the Services shall include processing of Personal Data.
- 2.2. In respect of Customer's Personal Data processed by Qargo on the Customer's behalf as part of the Services, the Parties acknowledge that Qargo shall act as Data Processor and the Customer shall act as Data Controller of such Personal Data.
- 2.3. The duration of the processing, nature, purpose, as well as types of Personal Data and categories of Data Subjects processed under this DPA are specified in Attachment 1 of this DPA.
- 2.4. Both Parties will comply with all applicable requirements of the Data Protection Legislation

### 3. Processor obligations

- 3.1. The Processor shall, in relation to the Personal Data provided by the Customer:
  - 3.1.1. act only on the Customer's instructions as set out in this Agreement or as documented elsewhere in writing;
  - 3.1.2. process such Personal Data only to the extent, and in such manner, as is necessary for the purposes of this Agreement;

- 3.1.3. notify the Customer if, in its opinion, an instruction given by the Customer breaches the Data Protection Laws;
- 3.1.4. ensure that appropriate technical and organisational measures are taken against unauthorised or unlawful processing of such Personal Data and against accidental loss, destruction or alteration to, such Personal Data, taking into account the nature of the Personal Data;
- 3.1.5. promptly notify Controller if Processor receives a request from a Data Subject under any Data Protection Legislation in respect of Personal Data;
- 3.1.6. only transfer the Personal Data provided by the Customer outside the UK, EU or a country with an adequacy agreement, with the Customer's prior authorisation and where a suitable transfer mechanism is in place in accordance with Data Protection Laws.

#### 4. Sub-processing

- 4.1. A list of Qargo's Sub-processors is available upon log-in at <https://trust.qargo.com/>.
- 4.2. The Customer consents to the Processor using sub-processors for processing Personal Data under this Agreement. The Customer also provides general authorization for the Processor to replace or add sub-processors.
- 4.3. The Processor will ensure that any sub-processor is engaged through a written agreement with data processing commitments no less stringent than those in this Agreement. The Processor remains liable to the Customer for the actions of its sub-processors.
- 4.4. The Processor must inform the Customer in line with section 14 of the Terms & Conditions of any intended changes regarding the addition or replacement of sub-processors, giving the Customer an opportunity to reasonably object. If no objection is raised within 30 days, the changes are considered accepted. If an objection is raised and no agreement is reached within 30 days, the Processor may proceed with the change, and the Customer has the right to terminate the Agreement.

#### 5. Deletion or return of Data

- 5.1. On termination of this Agreement or the end of the carrying out of data processing, Processor shall delete or return all such Personal Data to the Customer and delete existing copies unless required to retain a copy to meet its legal or regulatory obligations

#### 6. Breach identification and notification

- 6.1. Processor shall notify the Customer of any personal data breach of which it is aware without undue delay, but within 72 hours, and shall provide the Customer with reasonable assistance in responding to a personal data breach.

#### 7. Access & Audit

- 7.1. Upon request, the Processor shall allow the Controller, the ICO, the national authority of the Controller and its representatives access to the Processor's premises, records and personnel for the purposes of assessing the Processor's compliance with its obligations under this Agreement.
- 7.2. Upon request, the Processor shall provide the Customer with information necessary to demonstrate the Customer's compliance with obligations under Data Protection Laws and this DPA.

## Attachment 1

### **Categories of Data Subjects**

The categories of data subjects whose personal data is transferred are determined solely by the Data Controller.

In the normal course of the Data Processor's service, the categories of data subject might include (but are not limited to): Employees, Customers, Suppliers, Sub-contractors.

### **Categories of Personal Data**

The categories of personal data transferred are determined solely by the Data Controller. In the normal course of the Data Processor's service, the categories of Personal Data transferred might include (but are not limited to): Name, Date of Birth, Telephone Number, Address, Email address, Product details, Location data.

### **The frequency of the transfer**

Continuous with use of the Services.

### **Nature of the processing**

The provision of the Service to Customer in accordance with the Agreement.

### **Purpose(s) of the data transfer**

To provide the Service to the Customer in the manner described in the Agreement.

### **The period of data retention**

For as long as necessary to provide the Services as described in the Agreement, as legally or contractually required, or upon receipt of Customer's written request for deletion.