



Mitsubishi Logisnext Americas
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Grand Rapids, MI 49544
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www.logisnextamericas.com

Lift Link SaaS Order Form

Mitsubishi Logisnext Americas (“Logisnext”) hereby grants the Customer a limited, non-exclusive, non-transferable, right to access and use the Services, solely for Customer’s own internal business purposes and subject to the terms and conditions set forth in the Terms of Use & Service. All rights not expressly granted to Customer are reserved by Logisnext and its licensors.

Subscription Term

Initial Subscription Term is from date of device connectivity through defined billing term. Subscription will automatically renew in 1-year increments unless You notify Logisnext 60 days in advance of license expiration **and** the device is deactivated prior to the term expiration date.

Upon expiration of the Initial Subscription Term, Logisnext reserves the right to adjust the Subscription Fees rate.

Lift Link Software Terms of Use

These Terms and Conditions (these “Terms” or this “Agreement”) sets forth the terms and conditions under which Mitsubishi Logisnext Americas (Logisnext) a Delaware corporation will provide its application, materials, and services described on the applicable order (the “Services”). “You” or “Your” as used in this Agreement refers to you, or your company, firm or entity, your officers, directors, shareholders, and employees. Capitalized terms used herein and not defined have the meaning assigned in the applicable order (as defined below).

1. GRANT OF LICENSE

Logisnext hereby grants You a limited, non-exclusive, non-transferable, non-sublicensable, right to access and use the Services, solely for Your own use in conjunction with Mitsubishi forklift trucks, Cat® Lift Trucks, and/or UniCarriers® industrial equipment and subject to these Terms and the terms set forth on the applicable order (each, an “Order”). All rights not expressly granted to You are reserved by Logisnext and its licensors.

2. COPYRIGHT

Title and copyrights in and to the Services, including any images, “applets,” photographs, animations, video, audio, music, and text incorporated into or made a part of the Services, and all accompanying electronic materials, are owned by Logisnext or its licensors and are protected by the United States copyright laws and international treaty provisions. You are permitted to make copies of the training materials accompanying the Services solely for use as reference guides for authorized users using the Services pursuant to these Terms. All such copies shall contain the copyright and other proprietary notices of Logisnext. You are prohibited from any other copying of the printed materials accompanying the Services without the express written permission of Logisnext.

The Services may interoperate with various third-party platforms (“**Third-Party Platforms**”). You acknowledge that such integration features may be unavailable or may not work properly if the Third-Party Platform (or its API) is unavailable or if the service provider modifies its API or services in a way that impacts the Logisnext integration feature. Continued interoperation of the Services with any Third-Party Platform is dependent upon the availability of each such platform and Logisnext may cease to provide such functionality if access to any Third-Party Platform is not available to Logisnext on commercially reasonable terms.

3. YOUR USE OF THE SERVICES

You agree to use the Services solely in conjunction with the operation of your business. You control access to and the management of the Your Data through Your account.

You acknowledge and understand that You are solely responsible for the use of and the results obtained from the Services. You will comply with any and all applicable laws regarding Your use of the Services including applicable international export rules and regulations, laws and treaties governing Your use of the Services, laws related to data privacy, international communications, and the transmission of technical or personal data.

You will not (a) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any unrelated third party or competitor of Logisnext the Services in any way; (b) modify or make derivative works based upon the Services; (c) “frame” or “mirror” the Services on any other server or wireless or Internet-based device; (d) reverse engineer or access the Services in order to (i) build or offer a competitive product or service, (ii) build or offer a product or service using similar ideas, features, functions or graphics of the Services, or (iii) copy any ideas, features, functions or graphics of the Services; (e) use the Services (i) for any illegal purpose, (ii) for unauthorized access or distribution of any software, data, or material protected by copyright, patent, or trade secret, or (iii) to post or transmit any hateful, vulgar, threatening, libelous, abusive, harassing, defamatory, racially, ethnically, or otherwise unlawful or tortious material, including material harmful to children.

You shall not: (a) intentionally interfere with or disrupt the integrity or performance of the Services; or (b) attempt to gain unauthorized access to the Services, (c) intentionally send or store software viruses, worms, Trojan horses, or other harmful computer code, files, scripts, agents or programs intended to interfere with the Services or other users of the Services.

You agree that the Services are not intended for use in the storage, processing, or handling of data that is (i) Protected Health Information subject to the Health Insurance Portability and Accountability Act, as amended (“HIPAA”), (ii) Sensitive Personal Data or (iii) the following data elements (a) Social Security number; (b) driver’s license number or government-issued identification card number; or (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to an individual’s financial account. “Protected Health Information” has the meaning set forth in HIPAA, and “Sensitive Personal Data” has the meaning set forth in Article 9 of the European Union General Data Protection Regulation or other applicable data protection legislation.

4. DISCLAIMER OF WARRANTIES

EXCEPT AS EXPRESSLY PROVIDED HEREIN, LOGISNEXT MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

5. PERFORMANCE

You understand that normal maintenance and backup procedures will cause temporary downtime during which the Services cannot be used. It is possible that there will be interruptions of Services during non-scheduled maintenance. Logisnext will make commercially reasonable efforts to address errors and omissions in the Services and to ensure the Service is performing in a manner materially in compliance with the Documentation.

Your access to the Services is through the Internet, and you understand that your ability to use the Services is dependent on the global telecommunications infrastructure involving the reliability and performance. The Services may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications. Logisnext is not responsible for any delays, delivery failures, or other damage resulting from such problems.

6. CELLULAR COMMUNICATIONS *(if applicable)*

You agree with Logisnext, its communications suppliers (the “Communications Suppliers”) being express third party beneficiaries, as follows:

These terms may be amended from time to time by Logisnext and the Communications Suppliers, as the case may be with respect to the communications services that form a part of the Services. Logisnext will inform You of any material changes to the terms and conditions of any Communications Supplier.

You agree to abide by the rules and regulations of the Communications Supplier, as applicable with respect to the Services, as from time to time promulgated by the Communications Suppliers as the case may be. Logisnext will use commercially reasonable efforts to distribute from time to time such rules and regulations to You.

Equipment used on wireless communications networks must be certified by the carrier and Logisnext’s agreements with its Communications Suppliers require that Logisnext enforce this requirement. Logisnext has obtained such certification for the Services with the relevant carrier.

7. SERVICES UPGRADES, ENHANCEMENTS, AND FEEDBACK

Logisnext makes regular changes and improvements to the Services from time to time but in no event will such changes materially reduce the functionality provided by the Services as of the date of the applicable order. Logisnext will communicate with You about planned changes as may be necessary to ensure Your efficient use of the Services.

Logisnext may use any feedback or suggestion it receives from You with respect to the Services (“Feedback”) for the purpose of optimizing, improving, enhancing, and/or creating derivative products. Logisnext shall have no obligation to compensate You in connection with the use of such Feedback nor shall Logisnext identify You as the source of any such Feedback. All Feedback shall be owned by Logisnext and You shall and hereby do, assign all of Your right, title, and interest in and to such feedback to Logisnext.

8. YOUR INFORMATION

Logisnext does not own any data, information, or material that is submitted to the Service by You (“Your Content”). You retain all right, title, and interest (including, where appropriate, copyright and other proprietary or intellectual property rights) in Your Content, and Logisnext explicitly disclaims any ownership of, or right, title, and interest in such content.

As between Logisnext and You, You have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership of, or right to use, Your Content. Logisnext will only use Your Content solely for purposes of providing the Services, providing support for the Services, and confirming Your compliance with these Terms. In addition, You acknowledge that Logisnext may collect and analyze Your Content and other information about Your usage of the Services to improve and enhance the Services, provide support, and for other development purposes including industry-wide benchmarking; provided, however, Your Content used for benchmarking will be aggregated and anonymized and Logisnext will not disclose any personally identifiable information provided by You.

Your Content is considered Your Confidential information. You are responsible for exporting Your Content from the Services prior to termination of the applicable Order.

9. FEES; PAYMENT TERMS

The fees payable for the Services (the “Fees”) shall be stated and paid in the currency specified in the applicable Order and are non-refundable. Unless otherwise specified in the applicable Order, You shall pay the Fees within thirty (30) days from the invoice date, without setoff or deductions and otherwise in accordance with the terms of the Order.

If any invoiced amount is not received by Logisnext by the due date, then those amounts Logisnext may accrue late interest at a rate of one and a half percent (1.5%) per month or the highest rate permitted by applicable law, whichever is lower, commencing on the date that payment was due.

All Fees are exclusive of federal, state, local and foreign taxes, duties, levies, withholdings and similar assessments ("Taxes") and You are responsible for the payment of all Taxes, excluding Taxes on Logisnext's net income.

Logisnext reserves the right to modify the Fees for the Services, effective upon commencement of the next Renewal Term, by notifying You of such change in writing at least sixty (60) days before the end of the then-current Term,

10. TERM AND TERMINATION

The term of this Agreement shall be for so long as there are then current orders attached to and made a part hereof unless earlier terminated as provided herein. The term of each Order will be as stated in the applicable Order.

Either party may, at its option, terminate this Agreement and/or any then-current Order(s) if the other party materially breaches the terms of this Agreement or the applicable Order and fails to cure the same within thirty (30) days after notice.

Logisnext may suspend your access to the Services and Your Content during any period that you are in material breach of this Agreement or your access to and use of the Services or Your Content creates a material security vulnerability. Where practicable, Logisnext will give you at least two (2) days' advance notice of the suspension unless the suspension is made under emergency circumstances. Logisnext will reinstate your access to the Services when the grounds for suspension are cured.

Upon termination of Your access to or use of the Services for any reason, Logisnext will retain Your Content for up to sixty (60) days from the effective date of termination. If you wish to export Your Content following a termination for breach, Logisnext will either, at its option, enable short-term access to the Services at a scheduled time so that you may export Your Content, or export Your Content using its standard export tools. Logisnext has no obligation to retain Your Data after the sixty (60) day period and may destroy Your Content any time thereafter.

The following sections survive expiration or termination of this Agreement: Section 8 (Your Information); Section 9 (Fee; Payment Terms); Section 10 (Termination); Section 11 (Confidentiality); Section 12 (Indemnification); Section 13 (Limitation of Liability); Section 17 (Governing Law; Export Compliance); and any other terms that by their nature are intended to survive expiration or termination.

11. CONFIDENTIALITY

You and Logisnext may disclose information to one another, and You may access information in connection with the Services, which is considered by the disclosing party to be proprietary or confidential information ("Confidential Information"). Confidential Information includes any information or data, in any form, including, but not limited to oral, written, graphic or electromagnetic forms, models, or samples, which the disclosing party identifies as confidential or which is of such a nature that the receiving party should reasonably understand that the disclosing party desires to protect such information or data against unrestricted disclosure or use, including business information, financial data, and marketing data. All Confidential Information shall remain the sole property of the disclosing party and its confidentiality shall be maintained and protected by the receiving party with the highest degree of care during the term of this Agreement and for a period of three years following the expiration or termination of this Agreement. The receiving party shall not use the Confidential Information of the other party except as necessary to fulfill its obligations under this Agreement, nor shall it disclose such Confidential Information to any third party without the prior written consent of the disclosing party; provided, however, the receiving party may disclose the disclosing party's Confidential Information to its employees, consultants, and agents who are bound by obligations of confidentiality no less protective than those set forth in these Terms, and receiving party shall be responsible for any unauthorized disclosure of any Confidential Information by such persons as if receiving party had made such unauthorized disclosure itself.

The restrictions on the use or disclosure of Confidential Information shall not apply to any Confidential Information: (i) after it has become generally available to the public without breach of this Agreement by the receiving party; (ii) is rightfully in the receiving party's unrestricted possession prior to disclosure to it by the disclosing party; (iii) is independently developed by the receiving party; (iv) is rightfully received by the receiving party from a third party without a duty of confidentiality; or (v) is disclosed under operation of law. Further, in the event such disclosure is required of either party under judicial order or requirement of law, such party will promptly notify the disclosing party of such order or requirement.

You understand that Logisnext implementation and support personnel may need to access Your Account to assist You in Your implementation, as well as to address support requests that may occur from time to time, but such access shall be on a need-to-know basis. You permit Logisnext's implementation and support personnel to access Your Account with the understanding that all information in Your Account shall be considered Confidential Information by Logisnext personnel. Logisnext and its partners, agree to hold in confidence and not reproduce, distribute, infringe on, transmit, or transfer, directly or indirectly, in any form, by any means, the Confidential Information.

12. INDEMNIFICATION

You shall indemnify, defend and hold harmless Logisnext and Logisnext officers, directors, employees and agents (each a "Logisnext Indemnitee") against any and all Losses incurred by a Logisnext Indemnitee in any action between such Logisnext Indemnitee and any third party arising out of or in connection with Your use of the Services.

13. LIMITATION OF LIABILITY

EXCEPT FOR (I) A MATERIAL BREACH OF THE CONFIDENTIALITY PROVISIONS SET FORTH IN SECTION 10, (II) INDEMNIFICATION OBLIGATIONS, AND (III) YOUR OBLIGATION TO REMIT ALL AMOUNTS PROPERLY DUE AND OWING UNDER THIS AGREEMENT, EACH PARTY'S LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR DAMAGES FOR ANY CLAIMS ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION, WHETHER IN CONTRACT OR IN TORT (INCLUDING WITHOUT LIMITATION, BREACH OF WARRANTY AND NEGLIGENCE CLAIMS) SHALL BE LIMITED TO THE ACTUAL, AWARDED DIRECT DAMAGES, NOT TO EXCEED THE AMOUNTS ACTUALLY PAID OR PAYABLE BY YOU UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE MONTH IN WHICH THE CAUSE OF ACTION AROSE IN NO EVENT WILL EITHER PARTY, THEIR RESPECTIVE LICENSORS, OR ANY OF THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS OR AFFILIATES HAVE ANY LIABILITY TO THE OTHER PARTY FOR (1) ANY CLAIMS OR DEMANDS OF THIRD PARTIES (OTHER THAN THOSE THIRD PARTY CLAIMS COVERED BY SECTION 12); OR (2) ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO ANY DAMAGES FOR ANTICIPATED PROFITS, LOSS OF REVENUE, ECONOMIC LOSS, LOSS OF DATA, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OF EQUIPMENT, OR INTERRUPTION OF BUSINESS, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

14. FORCE MAJEURE

No party shall be considered in breach of an Order or this Agreement if prevented from performing due to a Force Majeure event, provided that it immediately notifies the other party of such event. If any period of Force Majeure preventing performance of Services continues for more than fifteen (15) days, either party may terminate the effected Order by giving five (5) days written notice to the other party, in which case, Logisnext shall be paid for all Work provided and/or performed to the date of termination. "Force Majeure" means any act or event that renders it wholly or partially impossible for the affected party to perform its obligations under this Agreement or any Order or delays such affected party's ability to do so, when such act or event (i) is beyond the reasonable control of the affected party, (ii) is not due to the fault or negligence of the affected party, and (iii) could not have been avoided by the affected party by the exercise of reasonable diligence (which may include, but is not limited to, acts of God, war, terrorist threats or acts, riots, or other civil unrest, changes in government regulations, actions, embargoes, or blockades in effect on or after the Effective Date, strikes, labor stoppages, or other industrial disturbances.)

15. INDEPENDENT CONTRACTORS

You and Logisnext are independent contractors, and no agency, partnership, joint venture, employee-employer, or franchisee-franchisor relationship is intended or created by this Agreement.

16. NOTICES

Except as explicitly stated otherwise, any notice to Logisnext shall be given in writing to Legal Counsel at

Mitsubishi Logisnext Americas
2121 W. Sam Houston Parkway N.
Houston, TX 77043
Attn: Legal Department

Any notice to You will be given to the address You provide to Logisnext during the registration and provisioning process. Either party may update its address by proper notice to the other party in the same manner as provided herein. Notice shall be deemed given twenty-four (24) hours after the notice is sent, unless the method of communication is email and the sending party is notified that the electronic mail address is invalid. Alternatively, either party may give notice by certified mail, postage prepaid and return receipt requested, to the address provided to the other party during the registration and provisioning process. In such case, notice shall be deemed given three (3) days after the date of mailing.

17. GOVERNING LAW; EXPORT COMPLIANCE

This Agreement and all Orders shall be governed, construed and interpreted in accordance with the laws of the State of Texas, which shall apply without regard to any choice of law or conflict of law provisions which would direct the application of the laws of another jurisdiction. Further, the Parties agree that the application of the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from this Agreement and shall not be applied to any Order hereunder. Venue for any litigation filed with respect to this Agreement, any Order, or the Work performed thereunder, shall be exclusive in the courts, state or federal, sitting in Houston, Harris County, Texas. Nothing herein shall prohibit a party from availing itself of a court of competent jurisdiction for the purpose of injunctive relief.

The Services may be subject to export laws and regulations of the United States and other jurisdictions. You may not permit users to access or use the Services in a U.S.- embargoed country or in violation of any U.S. export law or regulation, or in a manner that causes Logisnext to be in violation of U.S. export laws, even if the use is permitted the laws applicable to you or your user or customer. Each party represents that it is not on any restricted persons list maintained by the U.S., Canada, or any member of the European Union.

18. ENTIRE AGREEMENT; SEVERABILITY

This Agreement, together with the applicable Order(s) comprises the entire agreement between You and Logisnext with respect to the subject matter hereof and supersedes all prior agreements between the parties regarding the subject matter of this Agreement. In the event of a conflict between the terms of the Agreement and any Order, the terms set forth in the applicable Order govern. You acknowledge that any pre-printed terms and conditions on or attached to Your purchase orders will be of no force or effect. If one or more of the paragraphs in this Agreement are found to be unenforceable or invalid, the remaining paragraphs shall remain in effect.

19. ASSIGNMENT

This Agreement may not be assigned by a party without the prior written consent of the other party unless such assignment is to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of You that results or would result in a direct competitor of Logisnext directly or indirectly owning or controlling 50% or more of You shall entitle Logisnext to terminate this Agreement for cause immediately upon written notice.

20. AUTHORITY

If this Agreement is being accepted by any individual for You, then You represent, warrant and attest that such individual has the authority to execute this Agreement on Your behalf.

21. UPDATES

Logisnext may amend these Terms from time to time, and the revised Terms shall be effective upon the commencement of the next Renewal Term (as defined in the applicable Order). Any such revisions will apply to Logisnext's customers generally, will not impose additional fees during the applicable Term, or alter the allocation of risk between you and Logisnext.

22. PUBLICITY

You agree that Logisnext may include identification of you as a customer on Logisnext's website, provided that such identification is no more prominent than the identification of Logisnext's other customers and is otherwise consistent with Logisnext's practice of identifying its customers on its website at the time. Except as otherwise provided herein, each party agrees to submit to the other party all press releases and other publicity matters or materials relating to this Agreement, or mentioning or implying the trade names, logos, trademarks or service marks of the other party, and each party further agrees not to publish or use such press releases or publicity matters or materials, without the other party's prior written consent except to the extent that a party determines that a disclosure is required by applicable law.

23. PERSONAL DATA PROTECTION CLAUSES

Each party is responsible for complying with all applicable local, state, provincial, federal, and international laws and regulations ("Applicable Laws"), including applicable data protection legal requirements, for the purposes of this Agreement. Logisnext shall implement and maintain commercially reasonable technical, administrative, and physical safeguards and security methods designed to prevent any unauthorized release, access to, or publication of Your Content. Logisnext shall implement processes and maintain procedures designed to comply with Applicable Laws and shall facilitate your compliance with your obligations for data security and response to individual data subject requests with respect to Personal Information in Logisnext's possession or control, to the extent that you are required to comply with the following: (i) the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council ("**GDPR**") and any applicable laws enacted by an EU member state implementing the requirements of GDPR; (ii) the Canadian Personal Information Protection and Electronic Documents Act; (iii) the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100 et seq. and implementing regulations ("**CCPA**"); (iv) Texas Data Privacy and Security Act, Title 11, Chapter 541, Texas Business & Commerce Code, §§ 540.001 et seq. ("**TDPSA**") and (v) any other existing or newly enacted Applicable Laws regarding privacy; and (v) any amendments and successors to the foregoing. This Agreement and the Documentation are your instructions for processing Your Content, and Logisnext shall not process Your Content for any other purpose. Logisnext may use subcontractors to facilitate its obligations under this Agreement, and Logisnext shall use commercially reasonable measures to ensure that such subcontractors implement and comply with reasonable security measures in handling any Your Content.

If Logisnext processes Your Content on behalf of you for the provision of the Services, the parties acknowledge and agree that Logisnext is a "Service Provider" as defined in the CCPA, or a "Processor" as defined in the TDPSA, and Your Content may include personal information, as that term is defined by the CCPA and TDPSA ("**Personal Information**"). Logisnext does not sell Personal Information. When Logisnext processes Personal Information for or on your behalf, Logisnext collects, retains, uses, and discloses such Personal Information solely for the permitted purposes described in this Agreement, and for no other commercial purpose. Logisnext certifies that it understands and will comply with the restrictions set forth in this Section. For more information about CCPA and TDPSA, please see our Privacy Policy <https://www.logisnextamericas.com/en/logisnext/documents> which is incorporated into these Terms as if set forth herein.