



## SERVICE AGREEMENT

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1.3.2023/ PL  
Version 2.6

### SPARKLIKE CARE™ SERVICE AGREEMENT TERMS AND CONDITIONS FOR SPARKLIKE HANDHELD™

#### 1. Applicability

These Service Agreement (“**Agreement**”) Terms (“**Terms**”) and Conditions for Sparklike CARE™ are applied between Sparklike Oy (“**Supplier**”) and the purchaser of the service agreement (“**Purchaser**”).

The Purpose of this Agreement and these Terms is to set out and agree the terms and conditions for the Service agreement.

In this Agreement and Terms the Supplier and the Purchaser may jointly also be referred to as the “**Parties**” or individually as the “**Party**” as required by the context.

#### 2. Sparklike CARE™

Sparklike CARE™ Service Agreement is not valid in South Korea and North America region and it covers only Sparklike Handheld devices

The Sparklike CARE™ Service Agreement includes:

- Yearly preventive maintenance and replacement, if needed, of wear and tear parts (see 3.1.)
- Incoming inspection
- Calibration and calibration certificate
- Software updates
- Technical support
- Inspection and adjustment of optics
- Quality testing and verification
- Mail reminder of approaching calibration

The Sparklike CARE™ (“**Sparklike CARE™**”) Service Agreement contract period starts when Purchaser has accepted and signed this agreement and these terms and Purchaser has fully paid the Sparklike CARE™ Service Fee to the Supplier.

Sparklike CARE™ is an annually and automatically renewing service agreement unless Purchaser declares a cancellation as stipulated in the paragraph 11.2.

Freight, Necessary and Additional Services are excluded from the Sparklike CARE, due to their secondary nature on the Product functions.



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### 3. The Services Provided by the Supplier

#### 3.1. Yearly preventive maintenance cover by Sparklike CARE™

The Supplier provides, subject to these Terms, the preventive maintenance and support as specified herein. The Preventive maintenance includes:

- Sparklike Handheld: One (1) annual calibration and yearly preventive maintenance process.
  - If operational performance requires, the following components and work are included in the Preventive maintenance:
    - Replacing optical filters
    - Replacing the C92 capacitor
    - Replacing the optical fiber
    - Replacing the electrode
    - Replacing the safety cap
    - Replacing the USB cover
    - Replacing the encoder button

All maintenance and support for the Products not included in the Preventive maintenance shall be considered as Necessary and Additional Service and subject to separate fees. The Preventive maintenance shall in all cases cover only service and parts which are included in Sparklike CARE agreement sections 2, and 3.1. It is explicitly noted that the packaging is done according to the Supplier's instructions.

The annual time slot for the Preventive maintenance and calibration is defined by the Supplier based on the calibration interval and its due date. If the Purchaser needs to change the time slot for internal reasons, the new time slot can be agreed with the Supplier separately in advance.

The Supplier shall perform the Preventive maintenance within three (3) weeks (unless the Purchaser is separately informed of delays thereof) from receiving the Products and within the same period inform the Purchaser in case it considers some Necessary and Additional Services being needed. The possible Necessary and Additional Services may add to the service time.

#### 3.2. Necessary and Additional Service

In addition to the Preventive maintenance, the Supplier provides necessary and additional maintenance, repair and support services ("Necessary and Additional Service") and spare components for the Products, which are not included in Sparklike CARE™. The Necessary and Additional Service and components are subject to separate list price fees. (The supplier won't proceed with Necessary and Additional Services or component replacements without consent of the Purchaser.)

The Supplier shall, within three (3) weeks from receiving the Product for Sparklike CARE™, inform the Purchaser of the defects it has detected in the Product and of the costs (or estimate of costs if the accurate amount cannot be given at the time) of the Necessary and Additional Service recommended. The Supplier shall conduct the Necessary and Additional Service only after the Purchaser has confirmed it wishes to order the Service as offered by the Supplier. Delay in the response by the Purchaser will affect the service time.



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### **4. Supplier's Right to Inspect the Products**

#### **4.1. Approval Inspection**

The Supplier shall have the right to inspect the Product for ensuring that they can be approved to Sparklike CARE™. That will be done when Product comes to first yearly maintenance to supplier after agreement has been signed and paid. The Supplier shall have then the right to reject the Product from Sparklike CARE™ if the Product doesn't meet Sparklike CARE™ conditions. In that case the Service Fee for the first year shall be reimbursed by the Supplier to the Purchaser less any costs incurred to the Supplier.

#### **4.2. Inspections in Connection with each yearly maintenance**

The Supplier shall further have the right to inspect the Product each time it is sent to service by the Purchaser for making sure it can be repaired through Services. The Supplier may reject the Product from the Service in case it can reasonably be deemed to be in such condition that it cannot be repaired or maintained as set out in these Terms, which decision shall be made by the Supplier at its sole discretion. In such case Sparklike CARE™ for the Product in question may be terminated by the Supplier's written notice with an immediate effect. Supplier shall not be obligated to return any paid Service Fees to the Purchaser.

### **5. Orders between service interval**

Outside normal Preventive maintenance, the Purchaser may, by sending the Product to the Supplier, order Services from the Supplier. In connection with such order, the Purchaser shall specify whether the order is for Preventive maintenance under Sparklike CARE™ (once a year) or for Necessary and Additional Service due to a malfunction of the Product.

### **6. Reclamations**

Reclamations for the Services are valid only when a notification of the defect in the Service is given to the Supplier within eight (8) business days from the date when the Purchaser received the Product(s) from the Supplier after the Service had been provided. The reclamation must include clear specifications of the defect in the Service.

### **7. Prices**

#### **7.1. Service Fee for Sparklike CARE™**

The yearly Service Fee for Sparklike CARE™ that includes the Preventive Service is according to the valid price list.

#### **7.2. Prices for the Necessary and Additional Services**

The fees for the Necessary and Additional Services shall be quoted separately to the Purchaser



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### **7.3. Service Fee Changes for Sparklike CARE™ Agreements**

The Supplier may at any time change the Service Fees for active agreements by giving the Purchaser a prior written notification at least two (2) months before the beginning of the new invoicing period. The renewed Service Fees shall apply to the active Services agreements from the beginning of the next invoicing period.

## **8. Payments and Invoicing**

### **8.1. Invoicing and Payment Terms**

The Service Fees for Sparklike CARE™ shall be invoiced by the Supplier in advance for a period of 12 months calculated from the date of the CARE agreement signature.

The invoices for fees for Necessary and Additional Service shall be sent by the Supplier after the Service has been performed and the Product(s) has been sent back to the Purchaser.

The payment term for the invoices sent by Supplier shall be twenty-one (21) days net from the date of the invoice.

### **8.2. Reclamations for Invoices**

Any reclamations for invoices must be submitted during twenty-one (21) days from the date of invoice, after which the Supplier's invoice shall be considered to be accepted by the Purchaser.

### **8.3. Late Payment**

The interest for late payment for any amounts due by the Purchaser to the Supplier shall be 10,5 % p.a from the due date set out in the invoice.

## **9. Liability for Services**

The Supplier shall perform the Services with due diligence and in a workmanship manner that can be accepted from a professional supplier of the Services.

The Supplier shall be liable to perform the maintenance and repair work that is included in Sparklike CARE™ and for the Necessary and Additional Service it can reasonably deem to be necessary to be performed when inspecting the Products. The Supplier shall have no liability for defects in parts of the Products that have been inspected in accordance with Sparklike CARE™ and have been found at the time of inspection not being in need for maintenance or repair.

Subject to the aforesaid, the Supplier shall be liable for clear defects in the performed Services for one (1) year from the date when the Service was performed, provided that the Purchaser notifies the Supplier of the defect with no delay when it is noticed or it reasonably should have been noticed the defect. The Supplier shall, however, not have liability for defects in case the Products have been repaired or maintained by any third party other than expressly authorized by the Supplier.



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### 10. Limitation of Liability

The Supplier shall not be liable for any claims that arise out of or results from: (ii) unauthorized modification (including, without limitation, unauthorized repairing) of the Products; (iii) combining Products with any other hardware, software, application or part not supplied by Supplier; (iv) using Products for any use other than for which they were designed or against Supplier's instructions (including but not limited to instructions given in user guides); or (v) Supplier complying with an interim, final or other industrial standard.

Except as set out in this section above, Supplier shall not be liable under or in relation to these Terms or the Services (whether such liability arises due to negligence, breach of contract, misrepresentation or for any other reason) for any indirect, punitive (including, without limitation, willful infringement), special or consequential loss or damage (including, but not limited to loss of profits, sales, turnover, contracts or customers and loss or damage to business or reputation and losses or liabilities under any other agreement).

Except as set out in this section above, Supplier's total liability arising from or in connection with the Services (whether the liability arises because of breach of contract, negligence or for any other reason) shall be limited to a maximum amount equal to the one-year yearly fee of Service agreement

Except as expressly set out in these Terms, the Supplier expressly disclaims and excludes all representations, conditions, warranties or guarantees, express or implied, statutory or otherwise, oral or written, with respect to these Terms and the Services.

### 11. Terms and Termination

#### 11.1. Agreement Terms of Sparklike CARE™

These Agreement Terms shall apply to Sparklike CARE™ when agreement has been accepted and fully paid by Purchaser and confirmed by Supplier. Sparklike CARE™ is not valid for customers located in South Korea and North America and it is annually and automatically renewed service agreement unless Purchaser declares a cancellation as stipulated in the paragraph 11.2.

The Supplier has the right to modify this Agreement and these Terms upon two (2) months prior Notification to the Purchaser.

#### 11.2. Termination Rights

The Purchaser may terminate Sparklike CARE™ by giving a notification to the Supplier two (2) months before the beginning of the next invoicing period. The Purchaser can terminate Sparklike CARE™ also during an invoicing period but in such case the Supplier shall not be obligated to return the paid Service Fees for the remaining portion of the invoicing period.

The Supplier may further terminate Sparklike CARE™ with immediate effect if the Purchaser is in breach of these terms and does not rectify such breach within thirty (30) days from Supplier's notification thereof, in which case the Supplier shall not be obligated to reimburse any paid Service Fees.

The Supplier shall further have the right to terminate Sparklike CARE™ in case the Product is beyond repair or found to be non-approvable for the Sparklike CARE™ as set out in section 4 above.



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### 12. Force Majeure

Supplier shall not be liable for any failure to perform its obligations under this Agreement where the failure arises from an event beyond the reasonable control of Supplier (a "**Force Majeure Event**"). Such causes may include, but are not limited to, acts of a public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, lockouts, industrial disputes, riots or civil commotion, acts of terror or specific threats of terrorist activity, transportation or energy shortages, freight embargoes, power failures, unforeseen shortages of components and production constraints or failure of the postal system.

If the fulfilling of a contractual obligation by the Supplier is delayed through any cause given in above in this section or through an act or omission by the Purchaser, the time for meeting the obligation shall be extended by a period which considers all relevant circumstances deemed reasonable.

The Supplier shall inform the other of any Force Majeure Event within a reasonable period of time following its occurrence. In the above instances, time for performance will be extended for the period of the delay.

The Supplier shall use all commercially reasonable efforts to reduce to a minimum and mitigate the effect of any delay occasioned by Force Majeure Event.

### 13. Miscellaneous

The language for all operations, documents, and communication between the Parties relating to these Terms or the Services in any aspect shall be English. If a translation of these Terms is prepared, the English version of these Terms shall prevail.

When a Notification or a written notice is sent by a Party to the other Party, it shall be deemed to be duly delivered when it is sent in a written form via e-mail to at least one (1) of the Representatives of the Parties to the addresses set out in connection with the initial order for the Services or as notified later to the other Party. The Notification shall be deemed to be received at the moment when it is sent, provided that it is sent to the correct addresses. The Parties shall be responsible to Notify the other Party of any changes in their e-mail addresses.

The failure of either Party to insist upon strict adherence to any term or condition of these Terms on any occasion shall not be considered a waiver of any right thereafter to insist upon strict adherence to that term or condition or any other term or condition of these Terms.

Should any term or condition of these Terms found to be partly or in whole invalid or unenforceable, it shall not affect the validity of the other terms and conditions of these Terms.

### 14. Applicable Law and Dispute Resolution

These Terms shall be governed, construed, and interpreted in accordance with the laws of Finland, excluding its choice of law provisions.

All disputes arising out of or in connection with these Terms shall be primarily solved through negotiations between the Parties. If the Parties fail to reach an agreement, the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce in accordance with the said rules. The arbitration shall be held in the city of Helsinki, Finland in English. All arbitration awards shall be final and bind on the Parties and enforceable in any court of competent jurisdiction.