

ACCESSLINK LIMITED LICENSE AGREEMENT

This AccessLink Limited License Agreement is made between you (“You”) and Polar Electro Oy, whose registered address is at Professorintie 5, 90440 Kempele, Finland (“Polar”).

The parties of this Agreement may be referred together as to ”Parties”; or a “Party”, when only one party is referred to.

Licensed Materials are made available to You by Polar subject to the terms and conditions of this Agreement, which terms incorporate by reference the *Polar Privacy Policy* ([link](#)). Read this Agreement carefully before using the Licensed Materials. By clicking on the "I Agree to the AccessLink Limited License Agreement" -button, and/or by accessing, developing on, or using the Licensed Materials, You agree to the terms and conditions of this Agreement. If You do not agree to all of the terms and conditions of this Agreement, please leave the site and/or discontinue the use of Licensed Materials. YOU AGREE THAT YOUR USE OF THE LICENSED MATERIALS ACKNOWLEDGES THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

This Agreement replaces all prior agreements between the Parties concerning the Licensed Materials.

1 DEFINITIONS

In this Agreement, unless the context requires otherwise, the following words and phrases shall have the following meanings:

“AccessLink”	shall mean the Polar AccessLink application programming interface, which enables transfer of certain data from Polar Ecosystem to other applications, including but not limited to Your Software.
“Agreement”	shall mean this AccessLink Limited License Agreement, its Appendices and any amendments and extensions thereof.
“Your Software”	shall mean software owned or licensed by You, which software is compatible with AccessLink. You confirm having provided an accurate description of Your Software and how it uses AccessLink when accepting this AccessLink Limited License Agreement.
“Corporate Customer”	means external corporate party to this relationship for which You act as an aggregator and for which party You may have been granted by Polar the right to open access via AccessLink to receive Data of such Members who are also end-user customers of particular Corporate Customer, subject to You having provided required information of the Corporate Customer when accepting this AccessLink Limited License Agreement. You will have to accept AccessLink Limited License Agreement for each Corporate Customer separately.
“Data”	The data made available from time to time by Polar via AccessLink. Data may include and consists of heart rate training data, activity data, program data and/or user settings, or other data of a Member, collected by a Polar device which enables the collection of such data, or data otherwise receivable from the Polar Ecosystem.
“Intellectual Property Rights”	shall mean any and all patent, copyright, trademark, design right, petty patent, chip topography, service mark, domain-name or any other right or trade secret whether registered or not.
“Licensed Materials”	means certain components of Polar AccessLink software limited strictly to application programming interfaces, which consists of series of functions that application programmers may use to retrieve certain Data from Polar Ecosystem, and possible documentation related thereto, which materials may be delivered to You by Polar
“Member”	shall mean an owner or authorized user of Polar Ecosystem account, a person who is using Polar Ecosystem.
“Polar Ecosystem”	shall mean Polar Flow web service or any subsequent service of Polar in which Data is stored in a database maintained by or for Polar, and from which Data may be transferred to You via AccessLink.
“Your Customer”	means Your end-user customers which are also Members.

2 LICENSE AND USE

2.1 Subject to the terms and conditions of this Agreement, Polar hereby grants You, and You accept, a royalty-free, non-transferable, non-exclusive, worldwide and limited license to use the Licensed Materials solely for the purposes of proprietary application or services development and/or setting their priorities in application development purposes interacting through AccessLink with Polar Ecosystem, as well as to distribute the software parts of the Licensed Materials in binary form and grant sublicense to use Licensed Materials to Your Corporate Customers, if applicable, but then always under Your own license terms and conditions protecting sufficiently, but in no case with less stringent terms than in this Agreement Polar's Intellectual Property Rights, the use and handling of Data and Licensed Materials and Member's privacy settings. Any other use of the AccessLink is strictly prohibited.

2.2 In no event You may copy, export, re-export, sublicense, rent, loan, lease, disclose, sell, market, commercialize, re-license, otherwise transfer to any third party (other than Your Corporate Customers) or use or permit use of the Licensed Materials in any manner inconsistent with or not expressly permitted under this Agreement. You shall not (or attempt to) itself or permit others to decompile, reverse engineer, or disassemble, derive or determine the source code (including the logic, protocols or specifications incorporated or implemented therein) of the Licensed Materials or enable any disabled logic, protocols or specifications incorporated or implemented in the Licensed Materials. You may not use, or permit others use the Licensed Materials in creating a service similar to or competing with Polar Ecosystem and the primary purpose of your application and service shall be extending and improving the Member's experience. There are no implied licenses or other implied rights granted under this Agreement, and all rights, save for those expressly granted hereunder, shall remain with Polar and its licensors. Also, any and all licenses with respect to Polar or third party patents (including essential patents) are specifically excluded from the scope of this Agreement, and those licenses need to be acquired separately from Polar or the respective right holders, as the case may be.

2.3 Your application or service must not interfere or attempt to interfere in any manner with the proper working of Polar Ecosystem, or any related Polar service, application or activity. Load testing without prior approval by Polar will be construed as interfering with the proper working of Polar Ecosystem and may result in blacklisting of Your application or service by Polar. Polar may use any technical means to overcome such interference, including without limitation, suspending or terminating access to the Polar Ecosystem. Your application or service must pass a consistent and accurate identification of itself to Polar Ecosystem as outlined in the Polar *AccessLink API documentation* ([link](#)).

Except as expressly permitted by Polar, You may not use any automated means (e.g., scraping and robots) other than Your application or software to access, query or otherwise collect Data or any other information from Polar Ecosystem, or any Web site owned or operated by Polar.

3 USE OF DATA

3.1 You shall ensure and warrant that You and Your possible Corporate Customers

3.1.1 shall transmit, receive and use Data only pursuant to the Member's explicit authorization and in accordance with any requirements of applicable law (including but not limited, if applicable to Your Software, General Data Protection Regulation of the European Union), ensuring that no Data is distributed to external sources without the explicit Member permission;

3.1.2 shall state clearly to the Member what Data is retrieved from or submitted to Polar Ecosystem when Member use Your application and/or service;

3.1.3 shall not use or disclose any Data in any manner that violates the Member's authorization, Polar policies set forth at www.polar.com, this Agreement and/or applicable law;

3.1.4 shall provide the Member and make available with a privacy policy that clearly discloses what You are doing with Member Data and any additional information You may collect;

- 3.1.5 shall credit Polar Ecosystem as the source of Data when displaying any Data, or any data derived from Data in Your application or service, as further instructed in Polar Brand Guidelines;
- 3.1.6 shall inform the Member clearly if Your application or service collects and/or stores Data.

3.2 You shall be responsible towards Polar on behalf of You and Your Corporate Customers of the above stated in 3.1 and of the proper handling, using and storage of Data, taking into consideration all applicable laws and regulations, including but not limited to the privacy laws in question, and, if applicable to Your Software, General Data Protection Regulation of the European Union.

3.3 Upon Member's request and in any cases where the Member's relationship with You or with Your Corporate Customer is terminated for whatever reason, You shall cease Your, and your possible Corporate Customer's access to the Member's account(s), revoke the token issued by Polar to access the Member's account(s), and delete related token(s) and Data from Your database(s) and server(s) and ensure that Your possible Corporate Customers acts accordingly. After the termination of a Member account Your and Your Corporate Customers' right to use the Data terminates.

4 THE RIGHTS AND OBLIGATIONS OF POLAR

- 4.1 Polar shall have the right to further develop the Licensed Materials independently and make changes to content and technical realisation without any form of compensation to You. Polar aims to notify You of such changes as soon as reasonably possible, as well as of the dates of any possible updates.
- 4.2 It is Your sole responsibility at all times to back-up your data and conduct Your business without access to Polar Ecosystem.
- 4.3 Polar has the right to change the terms and conditions of this Agreement and applicable Privacy Policy from time to time in its sole discretion. Such changes shall become effective upon posting a notification on this site and you agree to be bound to any and all of the changes when you use the Service.
- 4.4 Polar shall have the right to use Your name and logo in marketing and the right to make reference to the co-operation of the parties during the term of the Agreement in accordance with good manners.
- 4.5 For the avoidance of any doubt, Polar shall be considered as a third party to the relationship between You and Your Customers and/or Corporate Customers and between Corporate Customers and their end-users. Polar shall only provide with the possibility to the co-operation with Members. All understandings, agreements, or warranties regarding to the relationship, Your application(s) and/or services or content, if any, shall take place directly between You and Your Customers/Your Corporate Customers. Polar shall have no responsibility with regard to the services provided by You to Your Customers/Your Corporate Customers.
- 4.6 For the avoidance of any doubt, Polar shall have the right to open AccessLink connection directly with any party, also parties that are Your Corporate Customers.

5 YOUR APPLICATION AND/OR SERVICE AND INDEMNIFICATION

- 5.1 You are solely responsible and liable for Your own business and Your application and/or service developed for the AccessLink in all matters, as well of ensuring that You are acting according to the laws, regulations and instructions of the officials, including but not limited to the Personal Data Act. You are solely responsible for your customer register and of the correctness and lawfulness of keeping such data.
- 5.2 You are solely responsible for developing Your application and/or service and that Your application and/or service and any related products are safe, free of defects in design, materials and workmanship, and comply with

applicable laws and regulations, and for the testing, labeling, distributing, promoting, selling, and if necessary, recalling Your products; and any costs related to the aforementioned actions. The fact that Polar or a third party test facility may have reviewed, tested, approved, or certified Your application and/or service will not relieve You of any of these obligations. Polar's possible approval of the Your application and/or service will not constitute endorsement of the fitness for a particular purpose or that it will work properly.

5.3 You warrant that You shall conduct proper testing of Your application(s) and/or service.

5.4 You agree to indemnify, defend, and hold Polar its agents, affiliates, and licensors harmless from any liability incurred by Polar, or claims, causes of action, damages, costs, fines, fees or expenses (including reasonable attorney's fees) asserted against Polar, by reason of or related third party claims, suits, actions, demands and proceedings for:

- i) product liability, product safety and security, personal injury and / or death;
- ii) loss of and / or damage to property;
- iii) alleged and / or actual infringement of any patent, right of patent, trade-marks, copyrights or designs or other industrial or intellectual property rights; and / or
- iv) violation of any applicable privacy or data protection laws

which are attributable to You, or Your use of any Intellectual Property Rights of Polar.

You shall also indemnify, defend and hold Polar, its agents, affiliates, and licensors harmless from any claim, costs, losses, damages, liabilities, judgments and expenses (including reasonable fees of attorneys and other professionals), arising out of or in connection with any claims arising out of or related to: (i) Your application and/or service; (ii) use of Your application and/or service; (iii) use of Your application and/or service in combination with Polar Ecosystem or any other Polar device or service; (iv) Your (or any user of Your application and/or service) or Your Corporate Customer's use of Data in any manner inconsistent with or in breach of the terms of this Agreement or applicable laws (including but not limited, if applicable to Your Software, General Data Protection Regulation of the European Union); or (v) content provided by or through You to Polar Ecosystem, Polar and/or to the Member(s).

6 FEES

At the moment Polar offers the use and activation of AccessLink free of charge. However, Polar reserves the right to charge fees from time to time at its discretion.

7 INTELLECTUAL PROPERTY RIGHTS

7.1 All Intellectual Property Rights in and to the Licensed Materials, and any and all modifications thereof, are and shall at all times remain the sole and exclusive property of Polar.

7.2 Any input, ideas, suggestions or feedback ("Feedback") that You provide to Polar regarding the Licensed Materials, Polar products and/or services or content related thereto will be given by You on a non-confidential basis and You hereby waive any confidentiality restrictions for such Feedback. In addition, You shall grant to Polar and its affiliates a worldwide, non-exclusive, perpetual, irrevocable, sublicensable, royalty-free right and license under Your copyrights to copy, reproduce, modify, create derivative works and directly or indirectly distribute, make available and communicate to public the Feedback in or in connection to any Polar products, software and/or services.

7.3 You and Your Corporate Customers shall have the right to refer to Polar and its products to indicate interoperability between Your Software and Polar Ecosystem. When making such references, you agree to follow Polar's applicable Brand Guidelines.

- 7.4 In addition Your right set forth in Section 7.3 above and 3.1.5, You or Your Corporate Customer may not use Polar, Polar logo, Polar's product names or any other trademarks or trade names, whether registered or not, of Polar, or any similar mark or name, as a trademark or trade name or for marketing or advertising purposes without Polar's specific written consent.
- 7.5 You shall not at any time do or cause to be done any such act or thing which in any way impairs, or intends to impair, any right, title, interest or any Intellectual Property Rights of Polar or it's licensors. You shall not in any manner represent that it has any ownership of any kind in any of the above mentioned Intellectual Property Rights.

8 TERM AND TERMINATION

- 8.1 This Agreement and the licenses granted under this Agreement become effective from the date You have accepted the terms and conditions of this Agreement, or when You have started to use the Licensed Materials, whichever is earlier ("Effective Date").
- 8.2 This Agreement shall remain in force until terminated by either Party by providing a thirty (30) days prior written notice to the other Party.
- 8.3 In addition, Polar has the right, and without prejudice to any other rights or remedies, to suspend or terminate Your, Your Corporate Customer's or any Member's access to Polar Ecosystem for any or no reason, with immediate effect and Polar will bear no liability for such decisions to You or any other party.
- 8.4 If and when this Agreement is terminated due to any reason or cause whatsoever, then You shall cease the use of Licensed Materials, access to Polar Ecosystem and Data and Your rights under Section 2 shall cease, and You shall destroy and delete all copies of the Licensed Materials and Data.
- 8.5 Provisions of the Agreement which, by their nature, are intended to survive its termination or expiration, shall survive its termination or expiration.

9 AVAILABILITY AND NO WARRANTY BY POLAR

THE LICENSED MATERIALS AND ACCESS TO POLAR ECOSYSTEM ARE PROVIDED "AS IS." POLAR AND ITS AFFILIATES AND LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE LICENSED MATERIALS, INCLUDING ANY WARRANTY THAT LICENSED MATERIALS AND/OR ACCESS TO POLAR ECOSYSTEM WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, OR THAT ANY CONTENT AND/OR DATA, INCLUDING CONTENT PROVIDED BY YOU OR ANY THIRD PARTY, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED.

FURTHER, NEITHER POLAR NOR ANY OF ITS AFFILIATES OR LICENSORS WILL BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH: (A) YOUR INABILITY TO USE THE LICENSED MATERIALS AND/OR ACCESS TO POLAR ECOSYSTEM, INCLUDING AS A RESULT OF ANY (I) TERMINATION OR SUSPENSION OF THIS AGREEMENT OR YOUR USE OF OR ACCESS TO POLAR ECOSYSTEM, (II) YOUR DISCONTINUATION OF OR YOUR USE OF OR ACCESS TO POLAR ECOSYSTEM, (III) ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF THE POLAR ECOSYSTEM FOR ANY REASON, INCLUDING AS A RESULT OF POWER OUTAGES, SYSTEM FAILURES OR OTHER INTERRUPTIONS; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICE; (C) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY YOU IN CONNECTION WITH THIS AGREEMENT OR YOUR USE OF OR ACCESS TO POLAR ECOSYSTEM; OR (D) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF YOUR CONTENT OR OTHER DATA.

10 LIMITATION OF LIABILITY

POLAR WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSS, DAMAGE, COST OR EXPENSE OF ANY KIND WHATSOEVER AND HOWSOEVER CAUSED (INCLUDING BUSINESS INTERRUPTION, OR ANY LOSS OF BUSINESS, ANTICIPATED SAVINGS, REVENUE, GOODWILL, ADMIN TIME, LOSS OF PROFITS OR OF CONTRACTS, LOSS OF OPERATION TIME, LOSS OF REPUTATION OR OF DATA) INCLUDING NEGLIGENCE, WHETHER IN CONTRACT OR TORT, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY. YOU SHALL USE REASONABLE EFFORTS TO MITIGATE THE LOSS SUFFERED. POLAR'S AGGREGATE TOTAL LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO FIVE HUNDRED EUROS (500 €).

11 NO UPDATES, VERSIONS, MAINTENANCE OR SUPPORT

Polar shall not have any obligations to provide any updates or new versions of Licensed Material, or maintenance or support for Licensed Materials. Polar shall, however, have the right, within its sole discretion, to provide updates or new versions and offer support services. In such case fees, if any, payable by You to Polar shall be agreed separately.

12 CONFIDENTIALITY

You agree to keep confidential all information (written or oral) concerning the Licensed Materials as well as confidential information of Polar's business, products and affairs You have obtained as a result of discussions leading up to the entering into of this Agreement or which You have obtained during the course of this Agreement except information which is:

- (1.1.a.i) subject to an obligation to disclose under law or any regulatory authority entitled to require disclosure by notice or otherwise;
- (1.1.a.ii) already in Your possession other than as a result of a breach of this Section 12; or
- (1.1.a.iii) in the public domain other than as a result of a breach of this Section 12.

You undertake to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of this Section 12 by Your employees and subcontractors and/or Corporate Customers.

13 MISCELLANEOUS

13.1 No Waiver

The failure of Polar to exercise any of its rights under this Agreement or to require the performance of any term or provision of this Agreement, or the waiver by either Party of such breach of this Agreement, shall not prevent a subsequent exercise or enforcement of such right or be deemed a waiver of any subsequent breach of the same or any other term or provision of this Agreement. Any waiver of the performance of any of the terms or conditions of this Agreement shall be effective only if in writing and signed by the Party against such waiver is to be enforced.

13.2 Headings

The headings in this Agreement are for the convenience of the Parties only, and are not intended to define or limit the scope or interpretation of the Agreement or any provision hereof.

13.3 Severability

If any term of this Agreement is invalid or unenforceable, such terms or provisions shall not invalidate the rest of the Agreement which shall remain in full force and effect as if such invalidated or unenforceable terms or conditions had not been made a part of this Agreement. In the event this section (Severability) becomes operative, Parties agree to attempt to negotiate settlement that carries out the economic intent of the terms or provisions found invalid or unenforceable.

13.4 Export Control

Licensed Materials may be subject to import and export controls in other countries. You agree to strictly comply with all applicable import and export regulations and acknowledge that You have the responsibility to obtain licenses export, re-export, transfer or import the Licensed Materials.

13.5 Notices

The person named by You as being the Agreement Signatory will be regarded as a person being duly authorized to represent You and being a person to be proper addressee of any and all communications related to this Agreement as well as Your use of the AccessLink as well as for the purposes of any and all communication required by applicable laws (such as General Data Protection Regulation of the European Union).

13.6 Entire Agreement and Assignment

This Agreement sets forth the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior proposals and representations, whether written or oral. Neither party shall have the right to assign this Agreement to a third party without the prior written consent of the other party. However, Polar shall have the right to assign this Agreement and all of the rights and obligations contained therein to a company belonging to the same group of companies as Polar, and also to a third party to which the business of Polar is transferred.

13.7 Applicable law and settlement of disputes

This Agreement and its terms and conditions shall be governed exclusively by and construed according to the laws of Finland. The official text of the Agreement or any notices given or accounts or statements required hereby shall be in English.

Any dispute or controversy or claim arising out of or relating to this Agreement involving the Parties, shall be resolved by final and binding arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce by one (1) arbitrator appointed according to the aforementioned rules. The arbitration shall be conducted in Oulu, Finland in the English language and the process as well as the results of the proceedings shall be considered as confidential.