



## Cloudwick Technologies, Inc.

### Terms of Service

PLEASE READ THESE ENTERPRISE TERMS (“TERMS”) CAREFULLY BEFORE USING THE SERVICES OFFERED BY CLOUDWICK TECHNOLOGIES, INC. (“CLOUDWICK”). BY MUTUALLY EXECUTING ONE OR MORE ORDER FORMS WITH CLOUDWICK WHICH REFERENCE THESE TERMS (EACH, AN “ORDER FORM”), YOU (“CUSTOMER”) AGREE TO BE BOUND BY THESE TERMS (TOGETHER WITH ALL ORDER FORMS, THE “AGREEMENT”) TO THE EXCLUSION OF ALL OTHER TERMS. IN ADDITION, ANY ONLINE ORDER FORM WHICH YOU SUBMIT VIA CLOUDWICK’S STANDARD ONLINE PROCESS AND WHICH IS ACCEPTED BY CLOUDWICK SHALL BE DEEMED TO BE MUTUALLY EXECUTED. IF THE TERMS OF THIS AGREEMENT ARE CONSIDERED AN OFFER, ACCEPTANCE IS EXPRESSLY LIMITED TO SUCH TERMS.

- Order Forms; Access to the Service. Upon mutual execution, each Order Form shall be incorporated into and form a part of the Agreement. For each Order Form, subject to Customer’s compliance with the terms and conditions of this Agreement (including any limitations and restrictions set forth on the applicable Order Form) Cloudwick grants Customer a nonexclusive, limited, personal, nonsublicensable, nontransferable right and license to internally access and use the Cloudwick product(s) and/or service(s) specified in such Order Form (collectively, the “Service,” or “Services”) during the applicable Order Form Term (as defined below) for the internal business purposes of Customer, only as provided herein and only in accordance with Cloudwick’s applicable official user documentation for such Service (the “Documentation”).
- Service Provision and Access; Client Software. Cloudwick will make the Service available to Customer for the Subscription Term solely for use by Customer and its Users in accordance with the terms and conditions of this Agreement, the Documentation, and the Order Form. Customer may permit its Contractors and Affiliates to serve as Users provided that any use of the Service by each such Contractor or Affiliate is solely for the benefit of Customer or such Affiliate. Customer shall be responsible for each User’s compliance with this Agreement. To the extent use of a Service requires Customer to install Client Software, Cloudwick grants to Customer a limited, non-transferable, non-sublicensable, non-exclusive license during the Subscription Term to use the object code form of the Client Software internally in connection with Customer’s and its Affiliates use of the Service, subject to the terms and conditions of this Agreement and the Documentation.
- Implementation. Upon payment of any applicable fees set forth in each Order Form, Cloudwick agrees to use reasonable commercial efforts to provide standard implementation assistance for the Service only if and to the extent such assistance is set forth on such Order Form (“Implementation Assistance”). If Cloudwick provides Implementation Assistance in excess of any agreed-upon hours estimate, or if Cloudwick otherwise provides additional services beyond those agreed in an Order Form, Customer will pay Cloudwick at its then-current hourly rates for consultation.
- Customer Obligations. User ID and Password Protection. Customer will require that all permitted Users keep user ID and password information strictly confidential and not share such information with any unauthorized person. Amorphic will have no liability for actions taken using Customer’s user IDs and passwords, including any unauthorized use or access caused by misuse or misappropriation of such user IDs and passwords. Customer will be responsible for restricting access by any User who is no longer authorized to access the Service.



5. Support; Service Levels. Subject to Customer's payment of all applicable fees, Cloudwick will provide support, maintenance service, and uptime for each Service in accordance with (i) the support package selected by Customer on the applicable Order Form (if any) and (ii) Cloudwick's then-current standard Support and Availability Policy (the current version of which is set forth at [www.amorphicdata.com/legal](http://www.amorphicdata.com/legal)).

6. Service Updates. From time to time, Cloudwick may provide upgrades, patches, enhancements, or fixes for the Services to its customers generally without additional charge ("Updates"), and such Updates will become part of the Services and subject to this Agreement; provided that Cloudwick shall have no obligation under this Agreement or otherwise to provide any such Updates. Customer understands that Cloudwick may cease supporting old versions or releases of the Services at any time in its sole discretion; provided that Cloudwick shall use commercially reasonable efforts to give Customer reasonable prior notice of any major changes.

7. Ownership; Feedback. As between the parties, Cloudwick retains all right, title, and interest in and to the Services, and all software, products, works, and other intellectual property and moral rights related thereto or created, used, or provided by Cloudwick for the purposes of this Agreement, including any copies and derivative works of the foregoing. Any software which is distributed or otherwise provided to Customer hereunder (including without limitation any software identified on an Order Form) shall be deemed a part of the "Services" and subject to all of the terms and conditions of this Agreement. No rights or licenses are granted except as expressly and unambiguously set forth in this Agreement. Customer may (but is not obligated to) provide suggestions, comments or other feedback to Cloudwick with respect to the Service ("Feedback"). Feedback, even if designated as confidential by Customer, shall not create any confidentiality obligation for Cloudwick notwithstanding anything else. Cloudwick acknowledges and agrees that all Feedback is provided "AS IS" and without warranty of any kind. Customer shall, and hereby does, grant to Cloudwick a nonexclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid up license to use and exploit the Feedback for any purpose. Nothing in this Agreement will impair Cloudwick's right to develop, acquire, license, market, promote or distribute products, software or technologies that perform the same or similar functions as, or otherwise compete with any products, software or technologies that Customer may develop, produce, market, or distribute.

8. Fees; Payment. For Amorphic DLaaS Customer will be billed monthly by Amazon Marketplace for any applicable tiered Amorphic DLaaS consumption fees as set forth in each Order Form ("Fees"). Amazon Inc. Marketplace terms and conditions apply for all Amorphic DLaaS subscriptions purchased by Customer using the Amazon Marketplace. For Amorphic DLaaS Managed Subscription Customer will be billed monthly by Cloudwick for any applicable tiered Amorphic DLaaS Managed Subscription fees as set forth in each Order Form ("Fees") and are payable in U.S. dollars within in (30) days from date of invoice. For Cloudwick Professional Services purchased by Customer all invoices will be issued by Cloudwick under this Agreement and are payable in U.S. dollars within (30) days from date of invoice. Past due Cloudwick invoices are subject to interest on any outstanding balance of the lesser of 1.5% per month or the maximum amount permitted by law. Customer shall be responsible for all taxes associated with Service (excluding taxes based on Cloudwick's net income). All Fees paid are non-refundable and are not subject to set-off. If Customer exceeds any user or usage limitations set forth on an Order Form, then (i) Amazon Marketplace or (ii) Cloudwick shall invoice Customer for such additional users or usage at the overage rates set forth on the Order Form (or if no overage rates are set forth on the Order Form, at Cloudwick's



then-current standard overage rates for such usage), in each case on a pro-rata basis from the first date of such excess usage through the end of the Order Form Initial Term or then-current Order Form Renewal Term (as applicable), and (ii) if such Order Form Term renews (in accordance with the section entitled "Term; Termination", below, such renewal shall include the additional fees for such excess users and usage.

9. Restrictions. Except as expressly set forth in this Agreement, Customer shall not (and shall not permit any third party to), directly or indirectly: (i) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of the Service (except to the extent applicable laws specifically prohibit such restriction); (ii) modify, translate, or create derivative works based on the Service; (iii) copy, rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Service; (iv) use the Service for the benefit of a third party; (v) remove or otherwise alter any proprietary notices or labels from the Service or any portion thereof; (vi) use the Service to build an application or product that is competitive with any Cloudwick product or service; (vii) interfere or attempt to interfere with the proper working of the Service or any activities conducted on the Service; or (viii) bypass any measures Cloudwick may use to prevent or restrict access to the Service (or other accounts, computer systems or networks connected to the Service). Customer is responsible for all of Customer's activity in connection with the Service, including but not limited to uploading Customer Data (as defined below) onto the Service. Customer (a) shall use the Service in compliance with all applicable local, state, national and foreign laws, treaties and regulations in connection with Customer's use of the Service (including those related to data privacy, international communications, export laws and the transmission of technical or personal data laws), and (b) shall not use the Service in a manner that violates any third party intellectual property, contractual or other proprietary rights.

10. Customer Data. For purposes of this Agreement, "Customer Data" shall mean any data, information or other material provided, uploaded, or submitted by Customer to the Service in the course of using the Service. Customer shall retain all right, title and interest in and to the Customer Data, including all intellectual property rights therein. Customer, not Cloudwick, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data. Cloudwick shall use commercially reasonable efforts to maintain the security and integrity of the Service and the Customer Data. Cloudwick is not responsible to Customer for unauthorized access to Customer Data or the unauthorized use of the Service unless such access is due to Cloudwick's gross negligence or willful misconduct. Customer is responsible for the use of the Service by any person to whom Customer has given access to the Service, even if Customer did not authorize such use. Customer agrees and acknowledges that Customer Data may be irretrievably deleted if Customer's account is ninety (90) days or more delinquent. Notwithstanding anything to the contrary, Customer acknowledges and agrees that Cloudwick may (i) internally use and modify (but not disclose) Customer Data for the purposes of (A) providing the Service to Customer and (B) generating Aggregated Anonymous Data (as defined below), and (ii) freely use and make available Aggregated Anonymous Data for Cloudwick's business purposes (including without limitation, for purposes of improving, testing, operating, promoting and marketing Cloudwick's products and services). "Aggregated Anonymous Data" means data submitted to, collected by, or generated by Cloudwick in connection with Customer's use of the Service, but only in aggregate, anonymized form which can in no way be linked specifically to Customer.

11. Third Party Services. Customer acknowledges and agrees that the Service may operate on, with or using application programming interfaces (APIs) and/or other services operated or provided by third



parties (“Third Party Services”), including without limitation through integrations or connectors to such Third Party Services that are provided by Cloudwick. Cloudwick is not responsible for the operation of any Third Party Services nor the availability or operation of the Service to the extent such availability and operation is dependent upon Third Party Services. Customer is solely responsible for procuring any and all rights necessary for it to access Third Party Services (including any Customer Data or other information relating thereto) and for complying with any applicable terms or conditions thereof. Cloudwick does not make any representations or warranties with respect to Third Party Services or any third party providers. Any exchange of data or other interaction between Customer and a third party provider is solely between Customer and such third party provider and is governed by such third party’s terms and conditions.

12. Term; Termination. This Agreement shall commence upon the date of the first Order Form, and, unless earlier terminated in accordance herewith, shall last until the expiration of all Order Form Terms. For each Order Form, unless otherwise specified therein, the “Order Form Term” shall begin as of the effective date set forth on such Order Form, and unless earlier terminated as set forth herein, (x) shall continue for the initial term specified on such Order Form (the “Order Form Initial Term”), and (y) following the Order Form Initial Term, [shall automatically renew for additional successive periods of equal duration to the Order Form Initial Term (each, a “Order Form Renewal Term”) unless either party notifies the other party of such party’s intention not to renew no later than thirty (30) days prior to the expiration of the Order Form Initial Term or then-current Order Form Renewal Term, as applicable]. In the event of a material breach of this Agreement by either party, the non-breaching party may terminate this Agreement by providing written notice to the breaching party, provided that the breaching party does not materially cure such breach within thirty (30) days of receipt of such notice. Without limiting the foregoing, Cloudwick may suspend or limit Customer’s access to or use of the Service if (i) Customer’s account is more than sixty (60) days past due, or (ii) Customer’s use of the Service results in (or is reasonably likely to result in) damage to or material degradation of the Service which interferes with Cloudwick’s ability to provide access to the Service to other customers; provided that in the case of subsection (ii): (a) Cloudwick shall use reasonable good faith efforts to work with Customer to resolve or mitigate the damage or degradation in order to resolve the issue without resorting to suspension or limitation; (b) prior to any such suspension or limitation, Cloudwick shall use commercially reasonable efforts to provide notice to Customer describing the nature of the damage or degradation; and (c) Cloudwick shall reinstate Customer’s use of or access to the Service, as applicable, if Customer remediates the issue within thirty (30) days of receipt of such notice. All provisions of this Agreement which by their nature should survive termination shall survive termination, including, without limitation, accrued payment obligations, ownership provisions, warranty disclaimers, indemnity and limitations of liability. In the case of expiration or termination of this Agreement, upon request by Customer made before, or within [thirty (30)] days after, the effective date of expiration or termination, Cloudwick shall make available to Customer a complete transfer of all Customer Data to a Customer’s Amazon S3 bucket in a file or database format in Cloudwick’s discretion. For clarity, any services provided by Cloudwick to Customer, including the data export set out above, and any assistance in exporting the Customer Data, shall be billable at \$250 per hour.

13. Indemnification. Each party (“Indemnitor”) shall defend, indemnify, and hold harmless the other party, its affiliates and each of its and its affiliates’ employees, contractors, directors, suppliers and representatives (collectively, the “Indemnitee”) from all liabilities, claims, and expenses paid or payable to an unaffiliated third party (including reasonable attorneys’ fees) (“Losses”), that arise from or relate to any claim that (i) the Customer Data or Customer’s use of the Service (in the case of Customer as Indemnitor), or (ii) the Service (in the case of Cloudwick as Indemnitor), infringes, violates, or misappropriates any third party intellectual property or proprietary right. Each Indemnitor’s



indemnification obligations hereunder shall be conditioned upon the Indemnitee providing the Indemnitor with: (i) prompt written notice of any claim (provided that a failure to provide such notice shall only relieve the Indemnitor of its indemnity obligations if the Indemnitor is materially prejudiced by such failure); (ii) the option to assume sole control over the defense and settlement of any claim (provided that the Indemnitee may participate in such defense and settlement at its own expense); and (iii) reasonable information and assistance in connection with such defense and settlement (at the Indemnitor's expense). The foregoing obligations of Cloudwick do not apply with respect to the Service or any information, technology, materials or data (or any portions or components of the foregoing) to the extent (i) not created or provided by Cloudwick (including without limitation any Customer Data), (ii) made in whole or in part in accordance to Customer specifications, (iii) modified after delivery by Cloudwick, (iv) combined with other products, processes or materials not provided by Cloudwick (where the alleged Losses arise from or relate to such combination), (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) Customer's use of the Service is not strictly in accordance herewith.

14. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE" AND ARE WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE, USAGE OF TRADE, OR COURSE OF DEALING, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.

15. Limitation of Liability. EXCEPT FOR THE PARTIES' INDEMNIFICATION OBLIGATIONS AND FOR CUSTOMER'S BREACH OF SECTION 7, IN NO EVENT SHALL EITHER PARTY, NOR ITS DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, SUPPLIERS OR CONTENT PROVIDERS, BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT (I) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, SUBSTITUTE GOODS OR SERVICES (HOWEVER ARISING), (II) FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE OF ORIGIN), OR (III) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) THE FEES PAID (OR PAYABLE) BY CUSTOMER TO Cloudwick HEREUNDER IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO A CLAIM HEREUNDER.

16. Miscellaneous. This Agreement represents the entire agreement between Customer and Cloudwick with respect to the subject matter hereof, and supersedes all prior or contemporaneous communications and proposals (whether oral, written or electronic) between Customer and Cloudwick with respect thereto. The Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflicts of law rules, and the parties consent to exclusive jurisdiction and venue in the state and federal courts located in San Francisco, California. All notices under this Agreement shall be in writing and shall be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. Notices must be sent to the contacts for each party set forth on the Order Form. Either party may update its address set forth above by giving notice in accordance with this section. Except as otherwise provided herein, no modification or amendment of any provision of this Agreement shall be effective unless agreed by both parties in writing, and no waiver of any provision of this Agreement shall be effective unless in writing and signed by the waiving party. Except for payment obligations, neither party shall be liable for any failure to perform its obligations hereunder where such



failure results from any cause beyond such party's reasonable control, including, without limitation, the elements; fire; flood; severe weather; earthquake; vandalism; accidents; sabotage; power failure; denial of service attacks or similar attacks; Internet failure; acts of God and the public enemy; acts of war; acts of terrorism; riots; civil or public disturbances; strikes lock-outs or labor disruptions; any laws, orders, rules, regulations, acts or restraints of any government or governmental body or authority, civil or military, including the orders and judgments of courts. Neither party may assign any of its rights or obligations hereunder without the other party's consent; provided that (i) either party may assign all of its rights and obligations hereunder without such consent to a successor-in-interest in connection with a sale of substantially all of such party's business relating to this Agreement, and (ii) Cloudwick may utilize subcontractors in the performance of its obligations hereunder. No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect. In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be entitled to recover costs and attorneys' fees. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable. The failure of either party to act with respect to a breach of this Agreement by the other party shall not constitute a waiver and shall not limit such party's rights with respect to such breach or any subsequent breaches.

17. Supporting Agreements

- **"Acceptable Use Policy"**, attached or made available at <https://www.amorphicdata.com/support-services-and-legal/>
- **"Security Policy"**, attached or made available at **Acceptable Use Policy"**, attached or made available at <https://www.amorphicdata.com/support-services-and-legal/>
- **"DPA or Data Processing Addendum"** attached or made available at **Acceptable Use Policy"**, attached or made available at <https://www.amorphicdata.com/support-services-and-legal/> on the Effective Date of this Agreement.
- **"Support Policy"** attached or made available at **Acceptable Use Policy"**, attached or made available at <https://www.amorphicdata.com/support-services-and-legal/>

a.

## Appendix A

### Amorphic DLaaS Pricing

Single Tenant SaaS <small>Sold Exclusively on AWS Marketplace</small>		Your AWS Account <small>Sold Directly by Cloudwick</small>	
<b>Free Trail</b>	<b>Professional</b>	<b>Business</b>	<b>Enterprise</b>
<b>60 Days</b>	<b>Pay-As-You-Go</b>	<b>\$10,000 USD</b>	<b>\$20,000 USD</b>
Amorphic Professional	Billed Monthly	Per month billed annually	Per month billed annually
<ul style="list-style-type: none"> <li>• Deploy in minutes a POC</li> <li>• Production-Ready Amorphic data lake with zero IT required.</li> </ul>	<ul style="list-style-type: none"> <li>• Exclusive on AWS Marketplace</li> <li>• Zero IT Required.</li> </ul>	<ul style="list-style-type: none"> <li>• Pay-as-you-go Consumption</li> <li>• Advanced Security &amp; Controls</li> <li>• 24x7 Support</li> </ul>	<ul style="list-style-type: none"> <li>• Technical Account Manager</li> <li>• Pay-as-you-go Consumption</li> <li>• Faster Support Response</li> </ul>



	Professional*	Business**	Enterprise**
▶ Annual Subscription	No, Pay-as-you-go	\$10,000 USD per month / \$120,000 USD annually	\$25,000 USD per month / \$300,000 USD annually
		+	+
▶ Tier 1 Amorphic Consumption Pricing	$(\$0-10,000) \times 1.5 = \text{AU}$	$(\$0-10,000) \times .5 = \text{AU}$	$(\$0-10,000) \times .5 = \text{AU}$
	+	+	+
▶ Tier 2 Amorphic Consumption Pricing	$(\$10,001 - 25,000) \times 1.3 = \text{AU}$	$(\$10,001 - 25,000) \times .3 = \text{AU}$	$(\$10,001 - 25,000) \times .3 = \text{AU}$
	+	+	+
▶ Tier 3 Amorphic Consumption Pricing	$(\$25,001 - 50,000) \times 1.2 = \text{AU}$	$(\$25,001 - 50,000) \times .2 = \text{AU}$	$(\$25,001 - 50,000) \times .2 = \text{AU}$
	+	+	+
▶ Tier 4 Amorphic Consumption Pricing	$(\$50,001 > \times 1.1 = \text{AU}$	$(\$50,001 > \times .1 = \text{AU}$	$(\$50,001 > \times .1 = \text{AU}$

\* For Amorphic Professional SaaS Amazon will bill customer directly in Amorphic Units (AU). 1 AU = \$1 USD. The AU for Professional includes the Amazon resource charge and the Amorphic SaaS consumption fee.

\*\* For Amorphic Business and Professional SaaS Amazon will bill customer directly for AWS resource consumption and Amorphic will bill customer directly for the Amorphic Units consumed. 1 AU = \$1 USD.

**Professional Example:** For month X you consume \$5000 USD in AWS resources and \$2500 USD in Amorphic. How is this calculated? What will monthly Amorphic bill be?

\$5,000 USD	AWS resource consumption
\$2,500 USD	Amorphic consumption ( $\$5000 \text{ AWS resource consumption} \times .5$ ) = # AUs
<hr/>	
7,500 AU	Total monthly Amorphic Units

AWS will bill customer for 7500 AU's = \$7,500 for Month 3 consumption + any other applicable AWS fees.

**Business or Enterprise Example:** For month X you consume \$5,000 in AWS resources and \$2500 USD in Amorphic. How is this calculated? What will my AWS and Amorphic bills be?

\$5,000 USD	AWS resource consumption
\$2,500 USD	Amorphic consumption (Tier 1: $(\$5,000 \text{ AWS resource consumption} \times .5)$ ) = #AUs
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AWS will bill customer for \$5000 for month X.  
Amorphic will bill customer for \$2,500 for month X.