

NanoCo Master Services Agreement
(Marketplace Version)

This NanoCo Master Services Agreement (this "**Agreement**") between NanoCo and the Customer is made effective as of the later of two dates Customer accepts the Order or subscribes to the Product via an online marketplace or Reseller ("**Effective Date**"). By subscribing to the Product or clicking "I Accept" (or similar acceptance mechanism), Customer agrees to be bound by this Agreement. If Customer does not agree to the terms of this Agreement, Customer may not access or use the Product.

WHEREAS, NanoCo is the owner or licensee of NanoClaw, an AI-powered software framework enabling users to deploy and interact with AI agents running in isolated containers ("**Product**"); **AND WHEREAS**, Customer wishes to obtain from NanoCo, and NanoCo is willing to grant to Customer, a right and license to access and use the Product, together with related services (the "**Services**"), in accordance with the scope and for the consideration set out in any Product Listing or any order form by and between NanoCo and Customer entered into pursuant to this Agreement (each, an "**Order**"); **NOW, THEREFORE**, the parties hereby agree as follows:

1. PRODUCT AND SERVICES

1.1. Definitions. In this Agreement and the Order(s):

(1) "**Affiliate**" with respect to NanoCo or Customer (as applicable), means an entity holding 50% or more of a legal entity's voting securities, having the right to appoint or remove a majority of a legal entity's board or equivalent organ or having the right to direct and determine another legal entity's business.

(2) "**Agent**" means a single AI agent instance deployed and running in an isolated container. Agents are part of the Product.

(3) "**Company**" or "**NanoCo**" means, in accordance with the specific NanoCo entity identified in the applicable Order or Product Listing, either (i) NanoCo AI Inc., a Delaware corporation with address at 131 Continental Dr, Suite 305, Newark, DE 19713, United States or (ii) NanoCo Ltd., an Israeli limited liability company with address at Itamar 12, Ramat Gan, Israel. For purposes of any Reseller terms, NanoCo is the "Licensor."

(4) "**Confidential Information**" means any proprietary, non-public, or trade secret information disclosed by one party to the other, including any code, software, techniques, business plans, or other financial, technical or business information of such party, which can be reasonably understood under the circumstances to be confidential, but excluding any information that: (i) was known to the receiving party prior to the date it was received; (ii) was known to or generally available to the public prior to the date it was received; (iii) became known to the public or generally available to the public subsequent to the date it was received without the receiving party being responsible for it; or (iv) was independently developed or already known by the receiving party.

(5) "**Customer**" means the business organization or legal entity subscribing to the Services under this Agreement, whose name, address and other applicable details are set out in the Order or Product Listing. For purposes of any Reseller terms, Customer is the "Buyer."

(6) "**Customer Materials**" means (i) Input; and (ii) the content, business data, documentation, API specifications,

business logic, customer data, operational processes, access-control policies, proprietary methods, shared or made available by Customer to NanoCo.

(7) "**Customer Accounts**" means certain tools and accounts of Customer with third party platforms and systems that Customer may permit NanoCo to access, integrate with and perform actions on, solely at the scope determined by Customer.

(8) "**Deliverables**" means any custom agent templates, custom agent instructions, custom skills, and custom connectors developed by Company for Customer, which are specific to Customer's business, workflows or proprietary processes. The Deliverables under each Order must be identified in a separate, mutual writing.

(9) "**Documentation**" means any manuals or other technical materials that NanoCo provides or makes available to Customer which describe the functionality, components, features or requirements of the Services and Product.

(10) "**Feedback**" means suggestions, comments or any other feedback regarding the Product and Services, their functionality or performance.

(11) "**Input**" means prompts and instructions shared with the Product in order to generate Output.

(12) "**Models**" mean third party LLMs and other artificial intelligence and machine learning models.

(13) "**Output**" means outputs and reports generated by the Services based on Customer's Input.

(14) "**Product Listing**" means the Product's description and other Product-related information listed on an online marketplace (such as AWS Marketplace, Google Cloud Marketplace or Microsoft Azure Marketplace), as offered by NanoCo or its authorized reseller to the Customer. A Product Listing is deemed an Order for purposes of this Agreement.

(15) "**Professional Services**" mean any additional professional services, including managed services, team training, setup and implementation services, except for the Product's offering and functionalities.

(16) "**Third Party Services**" means software and tools by third parties other than NanoCo offered together with the Services.

(17) "**Usage Data**" means metadata and settings information, as well as other statistical and analytics data in connection with the Product's deployment and usage.

(18) "**Users**" mean Customer's and its Affiliates' employees and contractors that Customer permits using the Services and Product.

1.2. **Right and License.** During the term of this Agreement, subject to Customer's compliance with this Agreement and in accordance with the scope set out in the Order(s), Company hereby grants Customer, its Affiliates and their Users, a non-exclusive, limited, non-transferable and non-sub-licensable, revocable, royalty-free right and license to (i) access and use the Product and Services, including deployment of Agents at the scope set forth in the Order; and (ii) use and make a reasonable number of copies of the Documentation, each of (i)-(ii), solely for Customer's internal business purposes. *The Services and Product are licensed, not sold.*

1.3. **Order and Product Listing: Deployment.**

(1) The Product, Fees, Subscription Term, deployment method, and other commercial terms applicable to Customer's subscription are as set forth in the applicable Order or Product Listing on the online marketplace through which Customer subscribes. For private offers on an online marketplace, the parties may execute a separate Order or amendment setting forth additional or modified terms, which shall supplement and, to the extent of any conflict, supersede the prior Product Listing with respect to such Customer.

(2) As determined in the Order, the Product may be deployed in either (i) the Company's cloud environment (with Customer's instance segregated from NanoCo's other customers) ("**SaaS Deployment**"), provided that certain components and application programming interfaces (APIs) may be deployed on Customer's environment as necessary to provide the Services; or (ii) on Customer's own cloud environment or on premises environment ("**Customer-Hosted Deployment**").

1.4. **Modifications and Updates.**

(1) The Company may change or update the Product from time to time, including, without limitation, the availability, removal or update of any feature, and may impose limitations on or discontinue parts of the Product, provided such modifications do not materially and adversely affect Customer's use or unilaterally change the scope of Services under an Order. Notwithstanding the foregoing, the addition and replacement of Third Party Services is governed by Section 8 (subject to Section 1.4(2)).

(2) With respect to API changes, NanoCo will provide at least thirty (30) days' prior written notice for any breaking changes or deprecation of API versions and will maintain backward compatibility for deprecated API versions for a minimum of sixty (60) days following such notice, unless such changes are required for security or legal compliance purposes.

(3) NanoCo may provide Customer with patches, bug fixes, updates and new versions. Such updates will become part of the Product (and so subject to all this Agreement's provisions governing the Product) following deployment.

1.5. **Support.** Subject to any express service level agreement between the Parties (if any), NanoCo shall make commercially reasonable efforts to provide support for the Services, with all support requests to be sent by Customer to [REDACTED].

1.6. **Use Restrictions.** Customer shall not, directly or indirectly and shall not permit or aid others to: (i) sell, resell, or distribute the Product; or (ii) modify, create any derivative work of (except Output), reverse engineer or decompile the Product or use the Product or Company's Confidential Information to develop a competing product or service; (iii) publish, sell, distribute, assign, pledge or transfer (by any means), display, sublicense, rent, lease or otherwise share the rights granted to Customer under this Agreement to any third party, or use the Product to provide managed services or as a service bureau arrangement; (iv) use the Product for benchmarking purposes without NanoCo's express prior written approval; (v) take any action intended to circumvent or disable the operation of the Product's security measures; (vi) use the Product to transmit any content that is harmful or illegal, or use it to develop, transmit or make available any malicious or harmful code, including any virus, worm, trojan horse, time bomb, web bug or spyware; or (vii) remove, deface, obscure, or alter Company's or any third party's identification, attribution or copyright notices, trademarks, or other proprietary rights affixed to or provided as part of the Product, or use the name, trademarks, trade-names, and logos of NanoCo.

2. CUSTOMER'S RESPONSIBILITIES

2.1. **Responsibilities and Operations.** The Customer (a) is responsible for the instructions, prompts, guidelines, configurations and access-control policies it provides or selects, for the Customer Accounts it chooses to connect, and for the Customer Materials and data it chooses to share with the Product; (b) acknowledges that the performance and accuracy of the Product depend on the quality, completeness and timeliness of the Customer Materials and Customer's cooperation with the Services; and (c) retains control over, and is responsible for approving and reviewing the Product agent's actions and permissions. Before deploying any agent, Customer shall use the Product's administrator dashboard to configure: (i) the categories of actions that agent may take

autonomously; and (ii) the categories of actions that require a human to review and confirm before the agent proceeds. Agents may act autonomously within any parameters Customer sets in the Product dashboard, and no further approval is required. Any action outside those parameters requires Customer's prior written consent before Company may implement it

2.2. Users and Affiliates. Customer remains responsible towards NanoCo for the acts and omissions of its Users and Affiliates (and such Affiliates' respective Users) making use of the Services or Product.

2.3. Compliance. Customer shall: (i) not provide the Company with Customer Materials for which Customer does not have all the rights necessary to grant Company the licenses as described in Section 5.1 below; and (ii) only use the Product, the Services, the Output and the Deliverables, in compliance with all applicable laws and regulations, including but not limited to export control, data security and privacy laws.

2.4. Customer Infrastructure. Customer is solely responsible for the maintenance, security and operation of Customer's and its Users' devices (including smartphones, and computers), and any related equipment, infrastructure, environment and systems.

2.5. Deployment-Specific Provisions.

(1) Account (SaaS Deployment only). Where the Order specifies SaaS Deployment, Customer must register and create an account with NanoCo ("**Account**"), which may be used by Customer's and its Affiliates' Users. Customer is responsible that each User shall provide the Company with accurate, complete, and updated registration information, and shall (i) not allow anyone other than Users to access and use Customer's Account; (ii) not register an Account via automated means; (iii) keep, and ensure that Users keep all Account credentials secure; and (iv) promptly notify the Company in writing if Customer becomes aware of any unauthorized access or use of the Account.

(2) Self-Host Provisions. Where the Order specifies Self-Hosted Deployment: (i) Company shall provide Customer with the downloadable software, container images, and configuration requirements necessary to deploy the Product in Customer's environment; (ii) to the extent agreed in the Order, Customer may deploy their own Models; (iii) Company shall have no access to Customer Materials or Personal Data (as defined below), other than contact details of Users contacting Company for support and billing purposes; (iv) any Product uptime obligation in a service level agreement between the parties will not apply; and (v) Sections 5.6, 7.1(2) and 12.3 of this Agreement will not apply.

3. PROFESSIONAL SERVICES

If Professional Services are specified in the Order, Company will provide such services at the scope and for the Fees described therein. Company and Customer will cooperate to enable Company to perform the Professional Services and shall timely cooperate with Company, and Company will not be liable to the extent its performance of Professional Services is affected by Customer's failure to cooperate. Any change in Professional Services scope, sequencing, assumptions, or dependencies shall be handled through a written amendment to the Order. Company will assign personnel with appropriate skills and experience for the performance of Professional Services, and Company may use subcontractors and Affiliates, provided it remains responsible for their acts and omissions.

4. FEES & PAYMENTS

4.1. Fees. Customer shall pay the Company the fees for the Product and Services as set forth in the applicable Order (the "**Fees**"). Unless expressly indicated otherwise in the Order, Fees are stated in US\$. Customer hereby authorizes the Company, either directly or through the Company's payment processing services or applicable online marketplace, channel partners or resellers, to charge the Fees via Customer's selected payment method, upon the due date. Unless expressly set forth herein or in the Order, or restricted by applicable law, Fees are non-cancelable and non-refundable.

4.2. Taxes. Fees are exclusive of any and all taxes (including value added tax, sales tax, use tax, excise, goods and services tax, etc.), levies, or duties, except for income tax imposed on the Company, and are to be paid free and clear of any such amounts.

4.3. Payment Terms. Unless otherwise specified in the applicable Order, Fees are payable in advance for the applicable billing period. All Fees are due and payable within thirty (30) days of the date of receipt of NanoCo's invoice, or as otherwise specified in the Order or processed automatically through the applicable marketplace. Delinquent payments may bear compounded interest, as of the payment due date and until paid in full, at a rate equal to the lower of (i) 1.5% per month, or (ii) the highest rate permitted by law.

4.4. Additional Agents. Customer may choose to exceed the minimum no. of Agents listed in an Order and pay additional Fees per Agent as set out therein. For the avoidance of doubt, Fees will not be reduced if Customer's number of active Agents is lower than the minimum number of Agents in the Order.

5. INTELLECTUAL PROPERTY & ARTIFICIAL INTELLIGENCE

5.1. License to Company. During the term of this Agreement, Customer hereby grants Company and its Third Party Service providers directly involved in the provision of

the Services a worldwide, non-exclusive, limited, royalty-free, non-transferable and non-sublicensable, revocable license to (i) use, modify, translate, process, copy, store, distribute, display, and prepare derivative works from the Customer Materials; and (ii) access, integrate with and perform actions in the Customer Accounts, solely at the scope determined by the Customer, including with respect to Customer-determined security and access control requirements; for each of (i-ii), solely to deliver the Services and Product to Customer (including generation of Output and Deliverables), support and maintain the Services and comply with requirements under applicable law, regulation or subpoena.

5.2. Customer Materials; No Training. As between the parties, Customer is, and shall be, the sole and exclusive owner of (i) Customer Materials; (ii) Output; and (iii) Deliverables (with Output and Deliverables deemed Customer Materials); in each case - except for Feedback, and the Product's underlying algorithms, inferences, generic skills, connectors, templates and workflows, and know-how, which remain Company's property. Subject to Company's license in the Deliverables (for Deliverables, only if granted) and Usage Data, Company shall not use Customer Materials or allow its third party Model providers to use Customer Materials to train, fine-tune or otherwise improve or develop any machine learning, neural network, or Model.

5.3. Input and Output. Subject to Customer's compliance with this Agreement, as between the parties the Customer shall own all rights, title and interest in the Output generated by the Product based on the Input. NanoCo relinquishes to the Customer all rights, title and interests it might have in the Output, without making any representation or warranty as to the nature of such rights. Customer should evaluate the accuracy and appropriateness of the Output in each case, including by conducting human review as necessary, and acknowledges that due to the nature of the Models and machine learning, different users may get similar outputs and the Output may not be unique.

5.4. Deliverables. Solely to the extent set forth in an Order or otherwise mutually agreed by the parties in writing, Company may develop Deliverables for Customer. The parties may add additional Deliverables by mutual written consent. Subject to Customer's prior written consent for each Deliverable (for clarity, applying to all uses going forward), Customer may choose to grant Company a worldwide, perpetual, irrevocable, non-exclusive, sublicensable and transferable, royalty-free license to use and otherwise commercialize the Deliverables to deliver and maintain the Product and Services, and improve and develop the Product or any other product or service, provided that such use will not identify Customer, its Users or any individual.

5.5. Feedback. Customer may notify the Company of any and all design or functional errors, anomalies, and problems associated with the Product discovered or brought to its

attention by its Users, and may provide the Company with Feedback. The Company may use the Feedback at its sole discretion and for any purpose, and Customer hereby assigns to Company all right, title, and interest in the Feedback and any intellectual property rights related thereto. To the extent provided, Feedback is not considered Customer Confidential Information.

5.6. Usage Data. In the course of this Agreement, the Company may monitor and analyze Customer's use of the Product and collect Usage Data in connection with the Product's deployment and use. Customer hereby grants Company a worldwide, perpetual, irrevocable, non-exclusive, sublicensable and transferable, royalty-free license to use and otherwise commercialize the Usage Data to deliver and maintain the Product and Services, and improve and develop the Product or any other product or service, provided that Usage Data will be aggregated and anonymized and that it will not include Customer Materials or Confidential Information, nor identify Customer, its Users or any individual.

5.7. Open Source. The Product may include third party files, libraries or components subject to open source license terms, meaning any license approved as an open source license by the Open Source Initiative or the Free Software Foundation, or any substantially similar licenses ("**Open Source License**"). If an Open Source License conflicts with this Agreement, the Open Source License prevails, solely with respect to the component(s) it governs. In addition, certain underlying components of the Product are made publicly available by Company under an Open Source License (currently the MIT License), including at <https://github.com/nanocoai/nanoclaw>. The Open Source License version is a separate offering governed solely by its applicable Open Source License: the rights, warranties, support and indemnities under this Agreement apply only to the Product and Services provided under this Agreement, and nothing in the Open Source License grants Customer any right to the Product, the Services or Company's trademarks.

6. CONFIDENTIALITY

6.1. Confidentiality Provisions. To the extent Confidential Information of a party is shared with or accessed by the other Party during the performance of the Services, the receiving party agrees (i) not to disclose the disclosing party's Confidential Information to any third parties other than to its employees, directors, officers, agents, or contractors (collectively, its "**Representatives**") who require access to it in the Agreement's performance, provided that such Representatives are bound by confidentiality obligations not less restrictive than those contained herein, and provided, further, that the receiving party shall remain liable for any act or omission of its Representatives; (ii) not to use or reproduce any of the disclosing party's Confidential Information for any purposes except to carry out its rights and responsibilities

under this Agreement; and (iii) to keep the disclosing party's Confidential Information in confidence using at least the same degree of care it uses to protect its own confidential information, and in any event not less than a reasonable degree of care. Notwithstanding the foregoing, if the receiving party is required by law or a valid court order to disclose any of the disclosing party's Confidential Information, then, to the extent legally permissible, the receiving party will give prompt written notice to the disclosing party so that it may seek a protective order or other appropriate relief, and the receiving party shall provide reasonable cooperation if the disclosing party seeks protective arrangements for the production of such Confidential Information.

6.2. Confidentiality Survival. The confidentiality obligations set forth in this Section 6 shall survive the expiration or termination of this Agreement for three (3) years thereafter, or indefinitely with respect to trade secrets, for as long as the respective information is deemed a trade secret under applicable law.

6.3. NDA. If there is an existing nondisclosure agreement between the parties as of the Effective Date (the "**NDA**"), the NDA governs the exchange of Confidential Information (or an equivalent term, as defined in the NDA) between the Parties and will apply in lieu of the foregoing provisions of this Section 6.

7. PRIVACY AND SECURITY

7.1. Privacy.

(1) NanoCo will process any Customer personal data, personal information or personally identifiable information, as such terms are defined under applicable privacy and data protection laws ("**Personal Data**"), in accordance with said laws. Customer understands that the Product is not intended to be used with, and Customer will not share with the Product, any "protected health information," personal data that constitutes "sensitive personal data," or other data subject to special regulation under applicable law, and any such sharing and use is at Customer's own risk.

(2) To the extent NanoCo is deemed a "processor" or "service provider" (or a substantially similar role) under applicable data protection and privacy laws, and if requested by Customer, the parties shall enter into a data processing addendum in connection NanoCo's processing of Personal Data on Customer's behalf in the Services' performance.

7.2. Data Security.

(1) Company shall implement and maintain appropriate technical and organizational measures to (a) protect the Product and Customer Materials against accidental, unauthorized or unlawful loss, access, disclosure, or destruction; (b) identify reasonably foreseeable internal and external risks to Customer Materials' security and

unauthorized access; and (c) minimize such risks; in each case, consistent with industry standard practices.

(2) Customer will determine, in its discretion, which Customer Materials, Customer Accounts, tools, users, permissions and access-control policies are made available to the Product and Services. Where Company has access to such Customer Materials and Customer Accounts, Company shall access and use Customer Materials and Customer Accounts only to the extent authorized by Customer, only through access credentials and permissions approved by Customer, and on a least-privilege basis.

8. THIRD PARTY SERVICES AND MODELS. Certain features of the Product integrate with or link to Third Party Services, including Models and Customer Accounts. Third Party Services are beyond NanoCo's control and are subject to their own terms and policies. Where Customer procures, designates, or provides its own account, keys or subscription with Third Party Services to be used with the Product (including Customer Accounts and Models), then Customer is solely responsible for such Third Party Services, including their availability, performance, security, and fees, and for ensuring that NanoCo is given the necessary rights by Customer to interoperate with them in providing the Product. NanoCo does not endorse any Third Party Service, and its integration with a Third Party Service does not imply any sponsorship, approval, or affiliation. Except as expressly set out in this Agreement or in a data processing addendum between the parties, NanoCo is not responsible for Third Party Services, including their availability, performance, security, modification, or discontinuation, or for changes to their terms. Customer acknowledges that third-party APIs and connectors used to interact with Third Party Services and Customer Accounts may have a lower security level than the Product, and that the Models, as Third Party Services, may affect the accuracy, latency, and reliability of the Output. NanoCo may add, modify, replace, or discontinue Third Party Service integrations, provided that any discontinuance by NanoCo will not materially restrict Customer's ability to use the Product, except where resulting from the provider's own actions, security or compliance reasons. NanoCo will use commercially reasonable efforts to offer a reasonable alternative to such removed services.

9. REPRESENTATIONS AND WARRANTIES

9.1. Mutual Representation. Each party represents and warrants to the other party that: (i) it is a duly organized legal entity, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; (ii) the person accepting this Agreement on its behalf has authority to do so; and (iii) that the acceptance and performance of this Agreement will not conflict with other agreements or obligations under which it is bound.

9.2. Customer's Representations and Warranties.

Customer represents, warrants and undertakes that (i) it owns or has all the necessary licenses, rights, consents, approvals, permissions, power and authority, necessary to grant the Company the rights and licenses under Section 5.1; (ii) it will only use the Product, the Services, the Deliverables and Output in compliance with all applicable laws; and (iii) to the extent the Customer Materials contain Personal Data, Customer possesses sufficient legal bases to share such Personal Data with and permit its processing by NanoCo in accordance with this Agreement, applicable privacy laws, and any data processing addendum between the parties.

9.3. NanoCo's Representations and Warranties. NanoCo represents, warrants and undertakes to Customer as follows:

(1) The Services and Product will conform, in all material respects, to any technical specifications provided to Customer in connection with this Agreement as part of the Documentation; *provided that* the warranty set forth in this Section 9.3(1) shall not apply if the failure of the Services to conform results from or is otherwise attributable to: (i) repair, maintenance or modification of the Product by persons other than NanoCo or its authorized contractors; (ii) negligent use or misuse of the Product by Customer; (iii) use of the Product other than in accordance with the Documentation, or in violation of this Agreement; (iv) the combination of the Product with equipment or software not authorized or provided by Company; in each of clauses (i)-(iv), if such nonconformity would not have occurred absent such excluded use or modification by the Customer.

(2) NanoCo will use industry standard tools and measures designed to detect and protect the Services and Product against any viruses, "trojan horses", "worms", spyware, adware or other harmful code, and scan the Services and Product on a regular basis;

(3) Any support and Professional Services will be performed in a professional and workmanlike manner; and

(4) The Services and Customer's use thereof as permitted under this Agreement, will not be subject to any Open Source License that requires that any Customer Materials or any software, information or other materials integrated, networked or used by Customer with the Services, be disclosed or distributed in source code form, be licensed for the purpose of making derivative works, or be redistributable at no charge.

9.4. Remedies. In the event the Services fail to conform with the warranty set out in Section 9.3(1), subject to receipt of written notice of such nonconformity from Customer, NanoCo will promptly, at its option and expense, make commercially reasonable efforts to cure such nonconformity, replace or re-perform the affected Services within a reasonable period of time not to exceed 30 days of Customer's notice. To the extent NanoCo fails to cure such nonconformity within the aforementioned cure period, as

Customer's sole remedy and NanoCo's sole liability in connection therewith, Customer may elect, within no later than 30 days of the lapse of NanoCo's 30-days' cure period, to terminate this Agreement and any Order(s), and NanoCo will refund Customer any Fees prepaid to NanoCo for the remaining Subscription Term(s) under terminated Order(s), prorated for the portion of time unused by Customer after Customer's notice of nonconformity.

9.5. Disclaimer. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET OUT IN THIS SECTION 9, NEITHER PARTY MAKES ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND, AND EACH PARTY DISCLAIMS ALL WARRANTIES - EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ACCURACY. THE PRODUCT, SERVICES, PROFESSIONAL SERVICES, DOCUMENTATION, DELIVERABLES AND OUTPUT ARE PROVIDED "AS IS" AND "AS AVAILABLE", AND NANOCO DOES NOT WARRANT THAT THEY WILL BE UNINTERRUPTED, ERROR-FREE, OR MEET CUSTOMER'S REQUIREMENTS. NANOCO IS NOT RESPONSIBLE FOR ANY ACTIONS, DECISIONS, EXECUTIONS, MODIFICATIONS, TRANSMISSIONS, OR OTHER ACTIVITIES PERFORMED BY THE PRODUCT BASED ON CUSTOMER'S CONFIGURATIONS, PERMISSIONS, OR PROMPTS, OR RELATED TO THE CUSTOMER ACCOUNTS, WHICH ARE UNDER CUSTOMER'S CONTROL. NANOCO DOES NOT GUARANTEE ANY BUSINESS OUTCOMES OF THE PRODUCT. THESE DISCLAIMERS APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

10. **LIMITATION OF LIABILITY**

10.1. General Cap. OTHER THAN IN CASE OF THE OTHER PARTY'S FRAUD OR WILLFUL MISCONDUCT, BREACH OF SECTION 6 (CONFIDENTIALITY), INFRINGEMENT OR MISAPPROPRIATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS (INCLUDING BREACH OF SECTION 1.6) AND THE PARTIES' INDEMNIFICATION OBLIGATIONS ("**EXCLUSIONS**"), AND OTHER THAN CUSTOMER'S OBLIGATION TO PAY DUE FEES:

(1) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR LOST PROFITS, LOSS OF USE, LOSS OF DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND, REGARDLESS OF WHETHER SUCH PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES WERE REASONABLY FORESEEABLE; OR THE THEORY OR BASIS OF LIABILITY (SUCH AS BREACH OF CONTRACT OR TORT); AND

(2) EITHER PARTY'S AGGREGATE AND CUMULATIVE LIABILITY FOR ALL DIRECT CLAIMS, DAMAGES AND LOSSES (WHETHER IN CONTRACT, TORT OR OTHERWISE), IS LIMITED TO THE FEES PAID OR PAYABLE BY THE CUSTOMER TO THE

COMPANY IN THE TWELVE (12) MONTHS PERIOD PRECEDING THE LAST EVENT GIVING RISE TO THE CLAIM.

10.2. Super Cap. Notwithstanding the foregoing and anything to the contrary in this Agreement, NanoCo's total aggregate liability for breach of obligations relating to Customer Personal Data and the obligations pursuant to Section 7 (Privacy and Security) will be limited to a total aggregate amount equal to the greater of (i) three (3) times the Fees paid or payable by the Customer to the Company in the twelve (12) months period preceding the last event giving rise to the claim; or (ii) US\$ 100,000; *provided that*: (1) a breach of Section 7 (Privacy and Security) will not be deemed a breach of Section 6 (Confidentiality) by itself; and (2) no cap will apply to Company's fraud or willful misconduct. For the avoidance of doubt, any cap set out herein is in lieu of and not in addition to the amount set forth in Section 10.1.

10.3. General Liability Provisions. Any limitations of liability in this Section 10 are cumulative and not per incident and will apply to the maximum extent permitted by law.

11. INDEMNIFICATION

11.1. NanoCo's Indemnity. NanoCo shall defend, indemnify and hold harmless Customer, its Affiliates and their respective directors, officers, employees and agents from and against any judgments, claims, damages, costs, liabilities and expenses (including reasonable attorneys' fees) arising out of or related to any claim, demand, suit or proceeding by a third party alleging that Customer's use of the Services, Product, Deliverables or Output infringes or misappropriates a third party's intellectual property rights.

11.2. Customer's Indemnity. Customer will defend, indemnify and hold harmless NanoCo, its Affiliates and their respective directors, officers, employees, agents and resellers from and against any judgments, claims, damages, costs, liabilities and expenses (including reasonable attorneys' fees) arising out of or related to any claim, demand, suit or proceeding by a third party (1) arising out of the Customer Materials (except for Output and Deliverables); (2) arising out of or relating to Customer's violation of this Agreement, or use of the Services or Output in violation of this Agreement.

11.3. General Conditions to Indemnity. Indemnification under Sections 11.1-11.2 is conditioned upon: (a) the indemnified party notifying the indemnifying party of the claim immediately upon becoming aware thereof, (b) the indemnified party allowing the indemnifying party to assume full control of the defense and settlement of such claim, provided that the indemnifying party will not enter into any settlement without the indemnified party's prior written consent (not to be unreasonably withheld or delayed), and (c) the indemnified party reasonably cooperating with the indemnifying party in the defense and settlement of the claim, at the indemnifying party's expense.

11.4. IP Infringement Provisions.

(1) If the Services or Product become, or in Company's opinion are likely to become, the subject of an indemnified third party infringement claim pursuant to Section 11.1 then Company may, at its sole discretion: (a) procure for Customer the right to continue using the Product and Services; (b) replace or modify the Product or Services or their applicable portion(s) to avoid the third party claim; or (c) if options (a) and (b) cannot be accomplished despite Company's commercially reasonable efforts, then NanoCo may terminate this Agreement and any Order(s), and Company will refund Customer any Fees prepaid to it for the remaining Subscription Term(s) under the terminated Order(s), prorated for the portion of time unused following such termination.

(2) NanoCo shall have no obligation to defend, hold harmless or indemnify Customer or any third party under Section 11.1 to the extent the third party infringement claim is based on (i) the Customer Materials; (ii) use of the Product, Deliverables or Output in violation of this Agreement; or (iii) any use of the Product, Deliverables or the Output in combination with other products, equipment, software or data not supplied by NanoCo, or modifications to the Product or Services made by anyone other than NanoCo, where there would be no infringement but for such combination or modifications.

(3) Section 11 states NanoCo's entire liability, and Customer's exclusive remedy, for any third party intellectual property infringement or misappropriation claim.

12. TERM & TERMINATION

12.1. Agreement and Subscription Terms. This Agreement shall commence on the Effective Date and will remain in full force unless terminated earlier in accordance with this Section. The subscription period to the Product and Services under each Order ("**Subscription Term**") shall be as set forth in that applicable Order. Unless otherwise specified in the Order, the Subscription Term will automatically renew for successive periods of the same duration, unless either party provides notice of non-renewal at least thirty (30) days prior to the end of the then-current Subscription Term. To the extent there is no Subscription Term in effect, either party may terminate this Agreement for convenience by 30 days' prior written notice to the other.

12.2. Termination for Cause. Either party may terminate this Agreement and any Order(s) with immediate effect if (1) the other party materially breaches this Agreement and such breach remains uncured (if curable) for thirty (30) days after the other party received written notice from such party of its breach; or (2) the other party (i) files a petition in bankruptcy or is adjudicated bankrupt; (ii) makes an assignment for the benefit of creditors or an arrangement pursuant to any bankruptcy law; (iii) discontinues or dissolves its business; or

(iv) has a receiver appointed for it or its business. If Customer terminates this Agreement for cause pursuant to this Section 12.2, then NanoCo will refund Customer any Fees prepaid to NanoCo for the remaining Subscription Term(s) under the terminated Order(s), prorated for the portion of time unused by Customer following the termination.

12.3. **Suspension.** Without detracting from any of its other rights, Company may suspend Customer's or a User's use of and access to the Product (or any part thereof) immediately upon written notice to Customer in each of the following events: (a) if NanoCo believes, after reasonable due diligence given the nature and severity of the issue, that: (i) Customer's or a User's use of the Services or Product poses a material risk to the security or operation of NanoCo's systems, the Product or the systems, or data of any other customer or user, or (ii) Customer's or a User's use of the Services violates Section 1.6, or being illegal or fraudulent; or (iii) if Customer fails to pay any portion of the Fees within seven (7) days after NanoCo's notice of past due amounts, provided such Fees portion is not disputed by Customer in good faith. To the extent reasonably practicable, with respect to suspension under clauses (i)-(ii), NanoCo will limit such suspension as needed to mitigate the applicable risk. NanoCo will promptly restore Customer and its User(s) access to the Account, Product and Services once it has determined that the circumstances detailed in clauses (i)-(iii) no longer exist.

12.4. **Provisions upon Termination.** Upon termination or expiration of this Agreement:

(1) Customer's rights to access and use the Services, the Product and Documentation under this Agreement and the relevant Order(s) shall immediately expire, and Customer and its Users shall promptly cease to have access to the Account and Services, and will delete all copies of the Documentation, installed components and with respect to Customer-Hosted Deployment - the Product - from its environment and systems;

(2) Customer may retrieve Customer Materials stored by NanoCo (if any) in a commonly used, machine-readable format. Customer must submit a request for data retrieval within forty-five (45) days of the termination, and NanoCo will facilitate the retrieval without undue delay, provided that after such period, NanoCo may delete all Customer Materials from its environment or systems, except if required by law or agreed otherwise by the Parties in writing. During such retrieval period, NanoCo will, at Customer's request, provide reasonable assistance to facilitate an orderly migration of the Customer Materials to Customer or a Customer-designated third party;

(3) To the extent disclosed any Confidential Information of the other party, the receiving party shall return to the disclosing party, or destroy (as determined by the disclosing party) the disclosing party's Confidential Information.

12.5. **Survival.** The provisions of this Agreement that, by their nature and content, should survive the termination or expiration of this Agreement in order to achieve their fundamental purposes of this Agreement shall so survive. Without limiting the generality of the foregoing, Sections 1.1, 1.6, 5 (subject to any term-limited provisions), 6, 9.5, 10-11, this Section 12.5 and Sections 14-15 shall so survive.

13. **PUBLICITY.** During the term of this Agreement, Company may use Customer's name and list Customer amongst its customers or partners on Company's website, social media and marketing materials. In addition, subject to Customer's prior written approval of the content, Company may issue publicity or general marketing communications concerning its involvement with Customer, including at least one (1) case study, and Customer agrees to reasonably cooperate with and contribute to such case study.

14. **RESELLERS AND ONLINE MARKETPLACES.** Customer may purchase the right to access and use the Product through an authorized reseller, distributor, channel partner or an online marketplace (including AWS Marketplace, Google Cloud Marketplace or Microsoft Azure Marketplace) (each, a "Reseller"), as set out in the applicable Order. If Customer has purchased the Product and Services from a Reseller, then, to the extent there is any conflict between this Agreement and the agreement or purchasing document entered into between Customer and the respective Reseller, this Agreement shall prevail as between Customer and Company. This Agreement is solely between Customer and NanoCo and not with the Reseller. Any rights granted to Customer by a Reseller that are not contained in this Agreement apply solely in connection with such Reseller and between Customer and the Reseller, without any obligation or liability by the Company. Where Customer subscribes via an online marketplace, the marketplace's standard terms govern billing and payment mechanics (subject to the Order or Product Listing) and otherwise apply between Customer and Reseller.

15. MISCELLANEOUS

15.1. **Entire Agreement; Amendments and Waivers.** This Agreement and all Order(s) entered pursuant to it, together with all exhibits and other agreements and policies expressly incorporated into it, constitute the entire agreement between NanoCo and Customer and supersede any previous agreements or representations, either oral or written, with respect to the subject matter of this Agreement. Any change or modification to this Agreement or any Order will only be done in writing signed by both parties. In the event of a conflict between this Agreement and an Order, this Agreement shall prevail, provided that the Order shall prevail only with respect to the specific commercial terms set out therein. The failure of either party to enforce any right or provision in this Agreement

will not constitute a waiver of such right or provision unless acknowledged and agreed by such party in writing. The headings used in this Agreement are for convenience only and shall in no case be considered in interpretation.

15.2. Severability. If any provision of this Agreement is found to be unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from this Agreement and will not affect the validity and enforceability of any remaining provision.

15.3. Notices. All notices under this Agreement or any Order shall be in writing and delivered by (i) personal delivery; (ii) express courier service (such as FedEx or UPS) requiring proof of delivery; (iii) certified or registered mail, return receipt requested; or (iv) email. Notices shall be deemed effective: (a) if by personal delivery or courier, upon delivery; (b) if by mail, five (5) business days after mailing; and (c) if by email, upon transmission (or, if transmitted on a non-business day, on the next business day). The parties' current contact details (which may be updated by notice in accordance with this Section) shall be set forth in the Order or Product Listing.

15.4. Assignment. Neither party may transfer or assign its rights or obligations under this Agreement or Order(s) to any third party without the other party's prior written consent. Notwithstanding the foregoing, either party may assign the Agreement and any Order and any right or obligation hereunder and thereunder in connection with a merger, acquisition, purchase of all or substantially such party's assets or stock. Any prohibited assignment shall be null and void. Subject to the foregoing, this Agreement shall inure to the benefits of the parties' assignees and successors-in-interest.

15.5. Governing Law; Jurisdiction. If the NanoCo contracting entity is NanoCo AI Inc., then this Agreement shall be governed by the laws of the State of New York, without regard to its conflict of laws principles, and the courts in New York county, New York, shall have exclusive personal jurisdiction and venue. EACH PARTY AGREES THEY ARE WAIVING THE RIGHT TO A TRIAL BY JURY, AND

THE RIGHT TO JOIN AND PARTICIPATE IN CLASS ACTION, TO THE FULLEST EXTENT PERMITTED BY LAW. If the NanoCo contracting entity is NanoCo Ltd., then this Agreement shall be governed by the laws of the State of Israel, without regard to its conflict of laws principles, and any dispute arising from this Agreement shall be brought before the courts in Tel Aviv, Israel. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.

15.6. Force Majeure. Neither party will be liable for any delay or failure to perform its obligations (other than Customer's payment obligations) due to circumstances beyond its reasonable control, including acts of God, fire, flood, earthquake, war, terrorism, riot, civil unrest, epidemic or other public health crisis, strike or labor dispute (other than involving its own workforce), embargo, or act of government or compliance with law (each, a "**Force Majeure Event**"). The affected party's time for performance will be extended for the duration of the Force Majeure Event, and it will use commercially reasonable efforts to mitigate the effects and resume performance.

15.7. Equitable Relief. Each party agrees that in the event of a breach or threatened breach of Sections 1.6 or 6, the non-breaching party may seek an injunctive or equitable relief against the breaching party in addition to any other remedies to which the non-breaching party may be entitled. Notwithstanding anything to the contrary herein, the non-breaching party may seek injunctive or equitable relief from any court of competent jurisdiction anywhere in the world without need to prove actual damages or post bond or security for such relief.

15.8. Parties' Relationship; No Third-Party Beneficiaries. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Users are not, and there are no third-party beneficiaries to this Agreement (without detracting from any rights individuals might have as data subjects under applicable privacy laws).