

End User Licensing Agreement for AWS Marketplace

This End User Licensing Agreement (“**Agreement**”) is by and between LakeFusion.ai (“**LakeFusion**” or “**Licensor**”) and purchasers of the Product and associated services as listed AWS Marketplace (“**you**” or “**Buyer**”), valid and in effect as of May 26th, 2025 (“**Effective Date**”).

1. Scope.

- 1.1 Terms and Conditions.** This Agreement sets forth the terms and conditions applicable to the licensing of Product by the Buyer, deployed into Buyer’s Computing Environment. The offer of Product pursuant to this Agreement, and Buyer’s purchase of the corresponding Subscription, constitutes each Party’s respective acceptance of, and entry into, this Agreement, from the latter of the Effective Date or the date of the Buyer’s purchase of the Subscription. Unless defined elsewhere in this Agreement, terms in initial capital letters have the meanings set forth in Section 12. Buyer and Licensor may be referred to collectively as the “**Parties**” or individually as a “**Party**”.
- 1.2 Product Subscription.** Licensor will fulfill the Subscription to Buyer. A Subscription, as described in the applicable Product Listing and the corresponding purchase transaction, shall be for Product deployed in Buyer’s Computing Environment. The pricing and term of the Subscription (if not on demand) are set forth in the Product Listing. Additional information concerning the Product and included services that are referenced in the Product Listing are a part of the Product Listing; such information may include but is not limited to: intended geographic use of the Product, any technical requirements for use of the Product, Support Services (which may vary by geography), information regarding Open Source Software and a description of Licensor’s security practices.
- 1.3 Agreement.** Each Subscription is subject to and governed by this Agreement, the applicable Product Listing, the terms and conditions of the NDA (if any and as defined in Section 6.4), the Customer Privacy Terms as published on the Licensor’s website: (<https://www.LakeFusion.ai/privacy-policy>), and any amendments to any of the foregoing as may be published by the Licensor from time to time as deemed necessary under its sole discretion, which together constitute the entire agreement between Buyer and Licensor (the “**Agreement**”). Each Subscription is a separate agreement between Buyer and Licensor. In the event of any conflict between the terms and conditions of the various components of this Agreement, the following order of precedence will apply: (a) the NDA (if any); (b) the Product Listing; (c) the Customer Privacy Terms; and (d) this Agreement (inclusive of any amendments).

2. Licenses.

2.1 Licensed Materials.

- a. Licensor hereby grants to Buyer during the term of the Subscription, subject to Section 2.1(b) below, a nonexclusive, worldwide (subject to Section 11.5), nontransferable (except in connection with an assignment permitted under Section 11.2), non-terminable (except as provided in Section 10) license under all Proprietary Rights in and to the Product, or the applicable Product component, to deploy, operate and use the Product in Buyer's Computing Environment and to allow its Users to access and use the Product, or the applicable Product component, as so deployed, in accordance with the Product Listing, the usage purchased in the Subscription, and the terms and conditions of the Agreement.
- b. Notwithstanding Section 2.1(a) above, the Buyer may use the Product only: (i) in support of the internal operations of Buyer's and its Affiliates' business(es) or organization(s); (ii) in connection with Buyer's and its Affiliates' products and services (but, for clarity, not as a stand-alone product or service of Buyer or its Affiliates); and/or (iii) in connection with Buyer's and its Affiliate's interactions with Users.
- c. Buyer may make a reasonable number of copies of the Documentation as necessary to use such Product in accordance with the rights granted under this Agreement, provided that Buyer includes all proprietary legends and other notices on all copies. Licensor retains all rights not expressly granted to Buyer under this Agreement.

2.2 Affiliates and Contractors. With respect to Affiliates and Contractors that Buyer allows to use the Licensed Materials: (a) Buyer remains responsible for all obligations hereunder arising in connection with such Affiliate's or Contractor's use of the Licensed Materials; and (b) Buyer agrees to be directly liable for any act or omission by such Affiliate or Contractor to the same degree as if the act or omission were performed by Buyer such that a breach by an Affiliate or a Contractor of the provisions of this Agreement will be deemed to be a breach by Buyer. The performance of any act or omission under this Agreement by an Affiliate or a Contractor for, by or through Buyer will be deemed the act or omission of Buyer.

2.3 Restrictions. Except as specifically provided in this Agreement, Buyer and any other User of any Licensed Materials, in whole or in part, may not: (a) copy the Licensed Materials, in whole or in part; (b) distribute copies of Licensed Materials, in whole or in part, to any third party; (c) modify, adapt, translate, make alterations to or make derivative works based on Licensed Materials or any part thereof; (d) except as permitted by Law, decompile, reverse engineer, disassemble or otherwise attempt to derive source code, algorithms or the underlying structure of the Product; (e) use, rent, loan, sub-license, lease, distribute or attempt to grant other rights to any part of the Licensed Materials to third parties; (f) use the Licensed Materials to act as a consultant, service bureau or application service provider; or (g) permit access of any kind to the Licensed Materials to any third party.

2.4 Open Source Software. Subject to the requirements of Section 5.1(b) Product may contain or be provided with Open Source Software, subject to the copyright terms contained in the Open-Source Notice published on LakeFusion's website (<https://www.LakeFusion.ai/>), as applicable. In addition to the license terms hereunder, the Buyer's License to the Product shall be subject to the Open-Source Notice.

- 2.5** Notwithstanding Section 2.4 above, nothing in this Agreement or the Open-Source Notice shall affect the Licensor's right to offer the Buyer a license to the Product under this Agreement.
- 2.6 No Additional Terms.** No shrink-wrap, click-acceptance or other terms and conditions outside this Agreement provided with any Licensed Materials or any part thereof ("**Additional Terms**") will be binding on Buyer or its Users, even if use of the Licensed Materials, or any part thereof, requires an affirmative "acceptance" of such Additional Terms before access to or use of the Licensed Materials, or any part thereof, is permitted. All such Additional Terms will be of no force or effect and will be deemed rejected by Buyer in their entirety. For clarity, the Product Listing and or Documentation are not Additional Terms subject to this Section.
- 2.7 High-Risk Activities.** The Product is not designed or developed for use in high-risk, hazardous environments requiring fail-safe performance, including without limitation in the operation of nuclear facilities, aircraft navigation or control systems, air traffic control, or weapons systems, or any other application in which the failure of the Product could lead to severe physical or environmental damages ("**High-Risk Activities**"). Buyer will not use the Product for any High-Risk Activities.
- 3. Services.**
- 3.1 Access to Buyer's Computing Environment.** The Buyer undertakes to provide the Licensor an exclusive, royalty-free, assignable license to access the Buyer's Computing Environment for the purpose of making the Product available to the Buyer for the Subscription term.
- 3.2 Support Services.** The Licensor's further availability and support obligations for the Product and Subscription are contained in the Incident Response Plan (IRP), as available through the LakeFusion website: (<https://www.LakeFusion.ai/>), and updated from time to time. Any reference to a Service Level Agreement (SLA) under the terms of the Agreement or otherwise shall be interpreted as a reference to the IRP.
- 4. Proprietary Rights.**
- 4.1 Licensed Materials.** Subject to the licenses granted herein, Licensor will retain all right, title and interest it may have in and to the Licensed Materials, including all Proprietary Rights therein. Nothing in this Agreement will be construed or interpreted as granting to Buyer any rights of ownership or any other proprietary rights in or to the Licensed Materials or any Proprietary Rights therein.
- 4.2 Feedback.** Buyer may, at its option, provide suggestions, ideas, enhancement requests, recommendations or feedback regarding the Licensed Materials or Support Services ("**Feedback**"), provided however, that Feedback does not include any Proprietary Rights of Buyer or Buyer's Affiliates or any Buyer Data or Buyer Materials. Licensor may use and incorporate Feedback in Licensor's products and services without compensation or accounting to Buyer, provided that neither Licensor nor its use of the Feedback identifies Buyer as the source of such Feedback. Feedback is not confidential to Buyer. Buyer will

have no obligation to provide Feedback, and all Feedback is provided by Buyer “as is” and without warranty of any kind.

5. Warranties.

- 5.1 Licensed Materials.** Licensor represents and warrants to Buyer that: (a) Licensor will use industry standard practices designed to detect and protect the Product against any viruses, “Trojan horses”, “worms”, spyware, adware or other harmful code designed or used for unauthorized access to or use, disclosure, modification or destruction of information within the Product or interference with or harm to the operation of the Product or any systems, networks or data, including as applicable scanning the Product for malware and other security vulnerabilities and with up to date scanning software or service prior to making the Product (including any Product provided through Support Services) available to Buyer; and (b) the Product, and Buyer’s use thereof as permitted under this Agreement, will not be subject to any license or other terms that require that any Buyer Data, Buyer Materials or any software, documentation, information or other materials integrated, networked or used by Buyer with the Product, in whole or in part, be disclosed or distributed in source code form, be licensed for the purpose of making derivative works, or be redistributable at no charge.
- 5.2 Services.** Licensor represents and warrants that any Support Services will be performed in a professional manner with a level of care, skill and diligence performed by experienced and knowledgeable professionals in the performance of similar services and in accordance with the Product Listing and Documentation.
- 5.3 Remedies.** If any Product or Service fails to conform to the foregoing warranties, Licensor promptly will, at its option and expense, correct the Product and re-perform the Services as necessary to conform to the warranties, to the extent practicable. If Licensor does not correct the Product or re-perform the Services to conform to the warranties within a reasonable time, not to exceed 30 days (or such other period as may be agreed upon by the Parties) (the “**Cure Period**”), as Buyer’s sole remedy and Licensor’s exclusive liability (except as provided in Section 9), Buyer may for a period of 30 days following the conclusion of the Cure Period (or such other period as may be agreed upon by the Parties), elect to terminate the Subscription and this Agreement without further liability and Licensor will provide Buyer with a refund of any fees prepaid to Licensor by Buyer, prorated for the portion of the Subscription unused at the time Buyer reported the breach of warranty to Licensor.
- 5.4 Warranty Exclusions.** Licensor will have no liability or obligation with respect to any warranty to the extent attributable to any: (a) use of the Product by Buyer in violation of this Agreement or applicable Law; (b) modifications to the Licensed Materials not provided by Licensor or its Personnel; (c) use of the Product in combination with third-party equipment or software not provided or made accessible by Licensor or contemplated by the Product Listing or Documentation; (d) use by Buyer of Product in conflict with the Documentation, to the extent that such nonconformity would not have occurred absent such use or modification by Buyer; and (d) loss, breach, or corruption of Buyer Data, Buyer Materials or any software, documentation, information or other materials integrated, networked or used by Buyer with the Product, whether or not such breach was foreseeable.

- 5.5 Compliance with Laws.** Each Party represents and warrants to the other Party that it will comply with all applicable international, national, state and local laws, ordinances, rules, regulations and orders, as amended from time to time (“**Laws**”) applicable to such Party in its performance under this Agreement.
- 5.6 Power and Authority.** Each Party represents and warrants to the other Party that: (a) it has full power and authority to enter in and perform this Agreement and that the execution and delivery of this Agreement has been duly authorized; and (b) this Agreement and such Party’s performance hereunder will not breach any other agreement to which the Party is a party or is bound or violate any obligation owed by such Party to any third party.
- 5.7 Disclaimer.** Except for the warranties specified in this agreement, neither Party makes any warranties, either express or implied, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose, regarding the licensed materials, services, buyer materials and buyer data, and each party hereby disclaims all other warranties, express or implied, including without limitation, warranties of merchantability, fitness for a particular purpose and noninfringement. Licensor does not warrant: (a) that the licensed materials will meet Buyer’s requirements; or (b) that the operation of the Product will be uninterrupted or error free.
- 6. Confidentiality.**
- 6.1 Confidential Information.** “**Confidential Information**” means any nonpublic information directly or indirectly disclosed by either Party (the “**Disclosing Party**”) to the other Party (the “**Receiving Party**”) or accessible to the Receiving Party pursuant to this Agreement that is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential, including without limitation technical data, trade secrets, know-how, research, inventions, processes, designs, drawings, strategic roadmaps, product plans, product designs and architecture, security information, marketing plans, pricing and cost information, marketing and promotional activities, business plans, customer and supplier information, employee and User information, business and marketing plans, and business processes, and other technical, financial or business information, and any third party information that the Disclosing Party is required to maintain as confidential. Confidential Information will not, however, include any information which: (a) was publicly known or made generally available to the public prior to the time of disclosure; (b) becomes publicly known or made generally available after disclosure through no fault of the Receiving Party; (c) is in the possession of the Receiving Party, without restriction as to use or disclosure, at the time of disclosure by the Disclosing Party; (d) was lawfully received, without restriction as to use or disclosure, from a third party (who does not have an obligation of confidentiality or restriction on use itself); or (e) is developed by the Receiving Party independently from this Agreement and without use of or reference to the Disclosing Party’s Confidential Information or Proprietary Rights. Except for rights expressly granted in this Agreement, each Party reserves all rights in and to its Confidential Information. The Parties agree that the Licensed Materials are Confidential Information of Licensor.

6.2 Obligations. The Parties will maintain as confidential and will avoid disclosure and unauthorized use of Confidential Information of the other Party using reasonable precautions. Each Party will protect such Confidential Information with the same degree of care that a prudent person would exercise to protect its own confidential information of a like nature, and to prevent the unauthorized, negligent, or inadvertent use, disclosure, or publication thereof or access thereto. Each Party will restrict Confidential Information to individuals who need to know such Confidential Information and who are bound to confidentiality obligations at least as protective as the restrictions described in this Section 6. Except as otherwise permitted under this Agreement, neither Party will use Confidential Information of the other Party for any purpose except in fulfilling its obligations or exercising its rights under this Agreement or as necessary for proper use of the Product. Each Party will promptly notify the other Party if it becomes aware of any unauthorized use or disclosure of the other Party's Confidential Information and reasonably cooperate with the other Party in attempts to limit disclosure.

6.3 Compelled Disclosure. If and to the extent required by applicable Law, including regulatory requirements, discovery request, subpoena, court order or governmental action, the Receiving Party may disclose or produce Confidential Information but will give reasonable prior notice (and where prior notice is not permitted by applicable Law, notice will be given as soon as the Receiving Party is legally permitted) to the Disclosing Party to permit the Disclosing Party to intervene and to request protective orders or confidential treatment therefor or other appropriate remedy regarding such disclosure. Disclosure of any Confidential Information pursuant to any legal requirement will not be deemed to render it non-confidential, and the Receiving Party's obligations with respect to Confidential Information of the Disclosing Party will not be changed or lessened by virtue of any such disclosure. Notwithstanding any provisions herein, if Buyer is a Government Entity, Buyer will comply with all Laws applicable to it with respect to disclosure of public information.

6.4 NDA. Buyer and Licensor may agree to a separate nondisclosure agreement between Buyer and Licensor (or the respective Affiliates of Buyer and Licensor) ("NDA") that applies to disclosures occurring during the term of the Subscription, in which case the terms and conditions thereof are incorporated herein by reference and will apply in accordance with Section 1.3.

7. Product Use, Data Collection, and Processing.

7.1 Acceptable Use and Suspension Rights.

- a. Buyer will not intentionally use the Product to: (i) store, download or transmit infringing or illegal content, or any viruses, "Trojan horses" or other harmful code; (ii) engage in phishing, spamming, denial-of-service attacks or fraudulent or illegal activity; (iii) interfere with or disrupt the integrity or performance of the Product, component or data contained therein or on Licensor's system or network or circumvent the security features of the Product; or (iv) perform penetration testing, vulnerability testing or other security testing on the Product, component or Licensor's systems or networks or otherwise attempt to gain unauthorized access to the Licensor's systems or networks.

- b. Licensor may suspend Buyer's or a User's right to access or use any portion or all of the Product immediately upon notice to Buyer (a) if Licensor, after reasonable due diligence given the nature and severity of the issue, reasonably determines that: (i) Buyer or a User's use of the SaaS Service violates this Section 7.1 or is illegal or fraudulent; or (b) if Buyer fails to pay any undisputed amounts within 30 days after notice of past due amounts. To the extent reasonably practicable, Licensor will limit the Buyer's suspension to the Product to the extent the Licensor deems necessary and will promptly restore the access to the Subscription upon resolution of the issue and/or payment of the outstanding amounts (as applicable).

7.2 Buyer Data and Buyer Materials.

- a. Buyer is and will continue to be the sole and exclusive owner of all Buyer Materials, Buyer Data and other Confidential Information of Buyer, including all Proprietary Rights therein. Nothing in this Agreement will be construed or interpreted as granting to Licensor any rights of ownership or any other proprietary rights in or to the Buyer Data and Buyer Materials.
- b. Buyer will have full access to, and has the right to review and retain, the entirety of Buyer Data contained in the Product, made available through the Buyer's Computing Environment. At no time will any computer or electronic records containing Buyer Data be stored or held by the Licensor in a form or manner not readily accessible to Buyer through the ordinary operation of the Product.

7.3 No Use, Collection, and Processing of Data. The Buyer acknowledges and agrees that in no event shall the Licensor use, collect, or process any personal or private data of the Buyer, including Buyer Data, Buyer Materials or any software, documentation, information or other materials integrated, networked or used by Buyer with the Product, whether as part of performance of the Subscription and provision of the Product, or otherwise. All Buyer Data, Buyer Materials and any other information pertaining to the Buyer's business and operations shall be held within the Buyer's Computing Environment. Any personally identifiable non-public data which the Buyer shares with the Licensor is done so voluntarily and may be subject to the confidentiality terms contained in Section 6 above.

7.4 Data Processor and Sub-Processor. The Licensor expressly disclaims processing of any personal, non-public, and/or identifiable data of the Buyer and shall not be deemed as a "Processor" or "Sub-processor" of Personal Data under definitions of the General Data Protection Regulation, California Consumer Privacy Act, or any other applicable Data Protection Law. For all intents and purposes, the Buyer consents to processing their own Personal Data, and that of its Users, as applicable.

7.5 Data Security. The Buyer undertakes to abide by and maintain adequate data security measures, consistent with industry standards and technology best practices, to protect their data from unauthorized access, use, or disclosure. The Buyer acknowledges that the Licensor shall not be bound by any data security measures for Buyer Data, Buyer Materials, and/or any other information or materials uploaded to the Product as such data

shall not be collected or hosted on the Licensor's platform as part of the Subscription or this Agreement.

- 7.6 Meta Data.** The Licensor may, from time to time, through the Buyer's use of the Product over the term of the Subscription, collect and store Meta Data. The Buyer hereby grants to the Licensor a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid up, sublicensable right and license to collect, copy, distribute, display, create derivative works of, and otherwise use the Meta Data under their sole discretion, provided that at all times such data is anonymized (i.e. no personally identifiable information including, without limitation, name, age, phone number and email address and no identification of the specific source of such data).
- 7.7 Use of Other Data.** Notwithstanding the foregoing, nothing in this Agreement will restrict either Party's use of any data, records, files, content or other information related to any third party that is collected, received, stored or maintained by a Party independently from this Agreement.
- 7.8 Security; Breach Notification.** The Buyer undertakes to inform the Licensor promptly upon discovery of any material unauthorized access to, any unauthorized loss, use or disclosure of any Buyer Data (a "**Security Incident**") which may have occurred through the Product platform, as hosted on the Buyer's Computing Environment, provided that such notification is not prohibited by Law. At Buyer's request and cost, Licensor will reasonably cooperate with Buyer in complying with its obligations under applicable law pertaining to responding to a Security Incident. Licensor's obligation to report or respond to a Security Incident under this Section is not an acknowledgement by Licensor of any fault or liability with respect to the Security Incident.
- 7.9 Data Protection Legislation.** Each Party will comply with all Data Protection Laws, and any implementations of such Laws, applicable to its performance under this Agreement. The Parties acknowledge and agree that they will consider in good faith implementing any codes of practice and best practice guidance issued by relevant authorities as they apply to applicable country specific Data Protection Laws or their implementations.
- 7.10 Remedies.** Each Party agrees that in the event of a breach or threatened breach of this Section 7, the non-breaching Party will be entitled to injunctive relief against the breaching Party in addition to any other remedies to which the non-breaching Party may be entitled.
- 8. Limitations of Liability.**
- 8.1 Exclusion of Liability for Data Security.** In no event shall the Licensor be held liable or responsible for data security and non-disclosure obligations, direct or indirect, pertaining to toward Buyer Data, Buyer Materials, or any software, documentation, information or other materials integrated, networked or used by Buyer with the Product.
- 8.2 Disclaimer; General Cap.** Subject to sections 8.3 and 8.4, in no event will (a) either Party be liable to the other Party for any indirect, special, punitive, incidental or consequential damages arising out of or in connection with this Agreement, whether

such damages are based in contract, tort or other legal theory, even if advised of the possibility of such damages, and (b) either Party's aggregate liability under this agreement, whether such liability arises from claims based in contract, tort or other legal theory, shall not exceed the fees and other amounts paid and required to be paid under this Agreement in the 12 months preceding the event giving rise to the liability.

8.3 Exception for Gross Negligence, Willful Misconduct or Fraud. The exclusions of and limitations on liability set forth in section 8.1(a) and (b) will not apply to a Party's gross negligence, willful misconduct, or fraud.

8.4 Exception for Certain Indemnification Obligations. The exclusions of and limitations on liability set forth in sections 8.1(a) and (b) will not apply to any costs of defense and any amounts awarded against the Indemnified Party by a court of competent jurisdiction or agreed upon pursuant to settlement agreement that are subject to such Party's indemnification and defense obligations under this Agreement.

9. Indemnification.

9.1 Licensor Indemnity. Licensor will, at its expense, defend Buyer and its Affiliates and their respective officers, directors, employees, agents and representatives (collectively "**Buyer Indemnified Parties**") from and against any and all claims, actions, proceedings and suits brought by a third party (including government investigations), ("**Claims**") to the extent arising out of or alleging of any of the following: (a) infringement, misappropriation or violation of any Proprietary Rights by the Licensed Materials or Buyer's use thereof as permitted under this Agreement. Licensor will pay all costs, damages and amounts finally awarded by a court or agreed upon in settlement (as set forth in Section 9.3 below) and any government fines and penalties assessed against or incurred by Buyer in any such Claims.

9.2 Buyer Indemnity. Buyer will, at its expense, defend Licensor and its Affiliates and their respective officers, directors, employees, agents and representatives (collectively "**Licensor Indemnified Parties**") from and against any and all Claims to the extent arising out of or alleging of any of the following: (a) infringement, misappropriation or violation of any Proprietary Rights by the Buyer Materials or Buyer Data or Licensor's use thereof as permitted under this Agreement; and (b) any unauthorized access or use of the Product enabled by the Buyer (inclusive of its Users) to any person or entity not a party to this Agreement. Buyer will pay all costs, damages and amounts finally awarded by a court or agreed upon in settlement (as set forth in Section 9.3 below) and any government fines and penalties assessed against or incurred by Licensor in any such Claims. Notwithstanding any provisions herein to the contrary, if Buyer is a Government Entity, this Section 9.2 will not apply except as permitted by applicable Law.

9.3 Process. The party(ies) seeking indemnification pursuant to this Section 9 (each, an "**Indemnified Party**" and collectively, the "**Indemnified Parties**") will give the other Party (the "**Indemnifying Party**") prompt notice of each Claim for which it seeks indemnification, provided that failure or delay in providing such notice will not release

the Indemnifying Party from any obligations hereunder except to the extent that the Indemnifying Party is prejudiced by such failure. The Indemnified Parties will give the Indemnifying Party their reasonable cooperation in the defense of each Claim for which indemnity is sought, at the Indemnifying Party's expense. The Indemnifying Party will keep the Indemnified Parties informed of the status of each Claim. An Indemnified Party may participate in the defense at its own expense. The Indemnifying Party will control the defense or settlement of the Claim, provided that the Indemnifying Party, without the Indemnified Parties' prior written consent: (a) will not enter into any settlement that; (i) includes any admission of guilt or wrongdoing by any Indemnified Party; (ii) imposes any financial obligations on any Indemnified Party that Indemnified Party is not obligated to pay under this Section 9; (iii) imposes any non-monetary obligations on any Indemnified Party; and (iv) does not include a full and unconditional release of any Indemnified Parties; and (b) will not consent to the entry of judgment, except for a dismissal with prejudice of any Claim settled as described in (a). The Indemnifying Party will ensure that any settlement into which it enters for any Claim is made confidential, except where not permitted by applicable Law.

9.4 Infringement Remedy. In addition to Licensor's obligations under Section 9.1, if the Product or other Licensed Materials is held, or in Licensor's opinion is likely to be held, to infringe, misappropriate or violate any Proprietary Rights, or, if based on any claimed infringement, misappropriation or violation of Proprietary Rights, an injunction is obtained that would prohibit or interfere with Buyer's use of the Licensed Materials under this Agreement, then Licensor will notify the Buyer and either Party may terminate the Subscription and this Agreement, in which case Licensor will refund to Buyer any fees prepaid to Licensor by Buyer, prorated for the unused portion of the Subscription.

9.5 Limitations.

- a. Licensor will have no liability or obligation under this Section 9 with respect to any infringement Claim to the extent attributable to any: (a) modifications to the Licensed Materials not provided by Licensor or its Personnel; (b) use of the Product in combination with third-party equipment or software not provided or made accessible by Licensor or not specifically referenced for use with the Licensed Materials by the Product Listing or Documentation; or (c) use of the Licensed Materials by Buyer in breach of this Agreement. Licensor's liability under this Section 9 with respect to any infringement Claim that is attributable to use of the Product in combination with third-party equipment or software provided or made accessible by Licensor or specifically referenced by the Product Listing or Documentation is limited to Licensor's proportional share of defense costs and indemnity liability based on the lesser of: (i) the value of the contribution of the Licensed Materials to the total value of the actual or allegedly infringing combination; or (ii) the relative contribution of the Licensed Materials to the actual or allegedly infringed claims (e.g., the Licensed Materials are alleged to satisfy one limitation of a claim with four separate limitations and Licensor would be responsible for a 25% share of the defense and indemnity obligations).
- b. Buyer will have no liability or obligation under this Section 9 with respect to any infringement Claim to the extent attributable to any: (a) modifications to the Buyer Materials or Buyer Data not provided by Buyer or its Personnel; or (b) use of the Buyer Materials or Buyer Data by Licensor in breach of this Agreement.

- c. This Section 9 states the entire liability of Licensor with respect to infringement, misappropriation or violation of Proprietary Rights of third parties by any Licensed Materials or any part thereof or by any use thereof by Buyer, and this Section 9 states the entire liability of Buyer with respect to infringement, misappropriation or violation of Proprietary Rights of third parties by any Buyer Materials, Buyer Data or any part thereof or by any Processing thereof by Licensor.

9.6 Not Limiting. The foregoing indemnities will not be limited in any manner whatsoever by any required or other insurance coverage maintained by a Party.

10. Term and Termination.

10.1 Term. This Agreement will continue in full force and effect until conclusion of the Subscription, unless terminated earlier by either Party as provided by this Agreement.

10.2 Termination. Either Party may terminate the Subscription or this Agreement if the other Party materially breaches this Agreement and does not cure the breach within 30 days following its receipt of written notice of the breach from the non-breaching Party.

10.3 Effect of Termination.

- a. Upon termination or expiration of the Subscription or this Agreement, Buyer's right to use the Product licensed under such Subscription will terminate, and Buyer's access to the Product and Service provided under such Subscription may be disabled and discontinued. Termination or expiration of any Subscription purchased by Buyer from Licensor will not terminate or modify any other Subscription purchased by Buyer from Licensor.
- b. The Buyer undertakes to ensure it maintains regular backups of any Buyer Data and/or Buyer Materials integrated to the Product system during the Subscription Term. In the event the Buyer is unable to access its data from the Product systems following Termination of the Subscription Term, the Licensor shall support such retrieval of Buyer Data and/or Buyer Materials to the extent practicable up to a period of 30 days following the Termination date.
- c. Sections 4 (Proprietary Rights), 6 (Confidentiality), 7.2(a) (Buyer Data and Buyer Materials), 8 (Limitations of Liability), 9 (Indemnification), 10.3 (Effect of Termination), 11 (General), and 12 (Definitions) and any perpetual license granted under this Agreement, together with all other provisions of this Agreement that may reasonably be interpreted or construed as surviving expiration or termination, will survive the expiration or termination of this Agreement for any reason; but the nonuse and nondisclosure obligations of Section 6 will expire five years following the expiration or termination of this Agreement, except with respect to, and for as long as, any Confidential Information constitutes a trade secret.

11. General.

- 11.1 Applicable Law.** This Agreement will be governed and interpreted under the laws of the State of Texas, excluding the principles of conflict of laws thereof and of any other jurisdiction. The Parties agree that any legal action or proceeding relating to this Agreement will be instituted solely in the state and federal courts located in Austin, Texas. Each Party irrevocably submits to the jurisdiction of such courts, and each Party waives any objection that it may have to the laying of the venue of any such action or proceeding in the manner provided in this Section. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.
- 11.2 Assignment.** Neither Party may assign or transfer this Agreement or any rights or delegate any duties herein without the prior written consent of the other Party, which will not be reasonably withheld, delayed or conditioned. Notwithstanding the foregoing, and without gaining the other Party's written consent, Licensor may assign this Agreement, in its entirety, and delegate its obligations to its Affiliates or to any entity acquiring all or substantially all of its assets, whether by sale of assets, sale of stock, merger or otherwise and Buyer may assign this Agreement, in its entirety, to any Affiliates or entity acquiring all or substantially all of its assets related to Buyer's account or the Buyer's entire business, whether by sale of assets, sale of stock, merger or otherwise. Any attempted assignment, transfer or delegation in contravention of this Section will be null and void. This Agreement will inure to the benefit of the Parties hereto and their permitted successors and assigns.
- 11.3 Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and there are no other representations, understandings or agreements between the Parties relating to the subject matter hereof. This Agreement is solely between Buyer and Licensor. Neither Amazon Web Services, Inc. nor any of its Affiliates are a party to this Agreement and none of them will have any liability or obligations hereunder. **Neither Party will be bound by, and each specifically objects to, any provision that is different from or in addition to this agreement (whether proffered orally or in any quotation, purchase order, invoice, shipping document, online terms and conditions, acceptance, confirmation, correspondence, or otherwise), unless such provision is specifically provided under this Agreement in the form of an amendment to this Agreement and uploaded to the AWS Marketplace.**
- 11.4 Modifications.** The Buyer agrees and acknowledges that the Licensor may, from time to time, modify and amend this Agreement, as deemed applicable and necessary by the Licensor under its sole discretion ("**Amendment**" or "**Modified Terms**"). In the event of an Amendment, the Buyer shall be notified through the AWS Marketplace platform, and the Buyer is encouraged to review the Modified Terms as soon as practicable. Continued use of the Products after publication of the Amendment(s) shall be deemed as consent of the Buyer to the Modified Terms.
- 11.5 Export Laws.** Each Party will comply with all applicable customs and export control laws and regulations of the United States and/or such other country, in the case of Buyer, where Buyer or its Users use the Product or Services, and in the case of Licensor, where Licensor provides the Product or Services. Each Party certifies that (i) it and its Personnel are not on any of the relevant U.S. Government Lists of prohibited persons, including but

not limited to the Treasury Department's List of Specially Designated Nationals and the Commerce Department's list of Denied Persons and (ii) neither it nor its Personnel are the subject or target of any sanctions program, including but not limited to the sanctions programs of the U.S., the European Union, and UN Security Council. Neither Party will export, re-export, ship, or otherwise transfer the Licensed Materials, Services or Buyer Data to any country subject to an embargo or other sanction by the United States or other applicable jurisdiction.

- 11.6 Force Majeure.** Neither Party will be liable hereunder for any failure or delay in the performance of its obligations in whole or in part, on account of riots, fire, flood, earthquake, explosion, epidemics, war, strike or labor disputes (not involving the Party claiming force majeure), embargo, civil or military authority, act of God, governmental action or other causes beyond its reasonable control and without the fault or negligence of such Party or its Personnel and such failure or delay could not have been prevented or circumvented by the non-performing Party through the use of alternate sourcing, workaround plans or other reasonable precautions (a "**Force Majeure Event**"). If a Force Majeure Event continues for more than 14 days for any Subscription with Entitlement Pricing, Buyer may cancel the unperformed portion of the Subscription and receive a pro rata refund of any fees prepaid by Buyer to Licensor for such unperformed portion.
- 11.7 Government Rights.** As defined in FARS §2.101, the Product and Documentation are "commercial items" and according to DFARS §252.227 and 7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation". Consistent with FARS §12.212 and DFARS §227.7202, any use, modification, reproduction, release, performance, display or discourse of such commercial software or commercial software documentation by the U.S. government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.
- 11.8 Headings.** The headings throughout this Agreement are for reference purposes only, and the words contained therein will in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
- 11.9 No Third-Party Beneficiaries.** Except as specified in Section 9 with respect to Buyer Indemnified Parties and Licensor Indemnified Parties, nothing express or implied in this Agreement is intended to confer, nor will anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations or liabilities whatsoever.
- 11.10 Notices.** To be effective, notice under this Agreement must be given in writing. Each Party consents to receiving electronic communications and notifications from the other Party in connection with this Agreement. Each Party agrees that it may receive notices from the other Party regarding this Agreement: (a) by email to the email address designated by such Party as a notice address for the Agreement; (b) by personal delivery; (c) by registered or certified mail, return receipt requested; or (d) by nationally recognized courier service. Notice will be deemed given upon written verification of receipt.

- 11.11 Nonwaiver.** Any failure or delay by either Party to exercise or partially exercise any right, power or privilege under this Agreement will not be deemed a waiver of any such right, power or privilege under this Agreement. No waiver by either Party of a breach of any term, provision or condition of this Agreement by the other Party will constitute a waiver of any succeeding breach of the same or any other provision hereof. No such waiver will be valid unless executed in writing by the Party making the waiver.
- 11.12 Publicity.** Neither Party will issue any publicity materials or press releases that refer to the other Party or its Affiliates, or use any trade name, trademark, service mark or logo of the other Party or its Affiliates in any advertising, promotions or otherwise, without the other Party's prior written consent.
- 11.13 Relationship of Parties.** The relationship of the Parties will be that of independent contractors, and nothing contained in this Agreement will create or imply an agency relationship between Buyer and Licensor, nor will this Agreement be deemed to constitute a joint venture or partnership or the relationship of employer and employee between Buyer and Licensor. Each Party assumes sole and full responsibility for its acts and the acts of its Personnel. Neither Party will have the authority to make commitments or enter into contracts on behalf of, bind, or otherwise obligate the other Party.
- 11.14 Severability.** If any term or condition of this Agreement is to any extent held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement will not be affected thereby, and each term and condition will be valid and enforceable to the fullest extent permitted by law.
- 11.15 Subcontracting.** Licensor may use Subcontractors in its performance under this Agreement, provided that: (a) Licensor remains responsible for all its duties and obligations hereunder and the use of any Subcontractor will not relieve or reduce any liability of Licensor or cause any loss of warranty under this Agreement; and (b) Licensor agrees to be directly liable for any act or omission by such Subcontractor to the same degree as if the act or omission were performed by Licensor such that a breach by a Subcontractor of the provisions of this Agreement will be deemed to be a breach by Licensor. The performance of any act or omission under this Agreement by a Subcontractor for, by or through Licensor will be deemed the act or omission of Licensor. Upon request, Licensor will identify to Buyer any Subcontractors performing under this Agreement, including any that have access to Buyer Data, and such other information reasonably requested by Buyer about such subcontracting.

12. Definitions.

- 12.1 "Affiliate"** means, with respect to a Party, any entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with such Party.
- 12.2 "AWS Marketplace"** means the marketplace operated by Amazon Web Services, Inc., which is currently located at <https://aws.amazon.com/marketplace/>, as it may be updated or relocated from time to time.
- 12.3 "Buyer Data"** means all data, Personal Data, records, files, information or content, including text, sound, video, images and software, that is (a) input or uploaded by Buyer

or its Users to or collected, received, transmitted, processed, or stored by Buyer or its Users using the Product in connection with this Agreement, or (b) derived from Buyer Data and which is deemed as Confidential Information of the Buyer.

- 12.4 “Buyer Materials”** means any property, items or materials, including Buyer Data, furnished by Buyer to Licensor for Licensor’s use in the performance of its obligations under this Agreement.
- 12.5 “Buyer’s Computing Environment”** means the Buyer computing environment in which Licensor authorizes use of the Subscription.
- 12.6 “Contractor”** means any third-party contractor of Buyer or other third-party performing services for Buyer, including outsourcing suppliers.
- 12.7 “Data Protection Law(s)”** means all data protection and privacy laws and regulations, now in effect or hereinafter enacted, in any jurisdiction of the world, and applicable to the Processing of Personal Data under the Agreement, including Regulation 2016/679 (General Data Protection Regulation) (“**GDPR**”), and Cal. Civ. Code 1798.100 et seq. (California Consumer Privacy Act) (“**CCPA**”).
- 12.8 “Documentation”** means the user guides, manuals, instructions, specifications, notes, documentation, printed updates, “read-me” files, release notes and other materials related to the Product (including all information included or incorporated by reference in the applicable Product Listing), its use, operation or maintenance, together with all enhancements, modifications, derivative works, and amendments to those documents, that Licensor publishes or provides under this Agreement.
- 12.9 “Entitlement Pricing”** means any Subscription pricing model where Buyer purchases a quantity of usage upfront, including prepaid and installment payment pricing models.
- 12.10 “Governmental Entity”** means the government of any nation or any political subdivision thereof, whether at the national, state, territorial, provincial, municipal, or any other level, including any agency, authority, regulatory body, court, central bank, or other governmental entity exercising executive, legislative, judicial, taxing, regulatory, or administrative powers or functions of government (including any supra-national bodies such as the European Union or the European Central Bank).
- 12.11 “Licensed Materials”** means the Product, Documentation and any other items, materials or deliverables that Licensor provides, or is obligated to provide, as part of a Subscription.
- 12.12 “Meta Data”** means the structural or descriptive information derived from data, including Buyer Data and Confidential Information, such as (without limitation) content, format, source, rights, accuracy, provenance, frequency, periodicity, granularity, publisher or responsible party, contact information, and the method of collection
- 12.13 “Open-Source Software”** means software distributed under a licensing or distribution model that is publicly available and makes the source code to such software available to licensees for use, modification and redistribution.

- 12.14 “Personal Data”** means information the Buyer Data that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a natural person. “Personal Data” includes equivalent terms in other Data Protection Law, such as the CCPA-defined term “Personal Information,” as context requires, to the extent such information forms part of the Buyer Data.
- 12.15 “Personnel”** means a Party or its Affiliate’s directors, officers, employees, nonemployee workers, agents, auditors, consultants, contractors, subcontractors and any other person performing services on behalf of such Party (but excludes the other Party and any of the foregoing of the other Party).
- 12.16 “Process” or “Processing”** means any operation or set of operations that are performed on Personal Data, whether or not by automated means, including, but not limited to, accessing, collecting, recording, organizing, structuring, using, storing, transferring, retaining, disclosing, selling, sharing, deleting, and destroying Personal Data.
- 12.17 “Product Listing”** means the description of Product and other product information listed on the AWS Marketplace and offered by Licensor, including Support Services and Licensor’s policies and procedures incorporated or referenced in the product information. The Product Listing may also describe, incorporate or reference Licensor’s security practices or disclosures concerning Open Source Software.
- 12.18 “Product”** means the computer software and any associated data, content and/or services identified in the applicable Product Listing that Licensor provides as part of a Subscription, including any patches, bug fixes, corrections, remediation of security vulnerabilities, updates, upgrades, modifications, enhancements, derivative works, new releases and new versions of the foregoing that Licensor provides as part of the Subscription.
- 12.19 “Proprietary Rights”** means all intellectual property and proprietary rights throughout the world, whether now known or hereinafter discovered or invented, including, without limitation, all: (a) patents and patent applications; (b) copyrights and mask work rights; (c) trade secrets; (d) trademarks; (e) rights in data and databases; and (f) analogous rights throughout the world.
- 12.20 “Services”** means all services and tasks that Licensor provides or is obligated to provide under this Agreement, including without limitation Support Services.
- 12.21 “Subcontractor”** means any third-party subcontractor or other third party to whom Licensor delegates any of its duties and obligations under this Agreement.
- 12.22 “Subscription”** means a Product subscription for a specific use capacity purchased by Buyer and fulfilled by Licensor for the licensing and provision of Product, deployed in Buyer’s Computing Environment.
- 12.23 “Support Services”** means the support and maintenance services for the Product that Licensor provides, or is obligated to provide, as described in the Product Listing.

12.24 “User” means Buyer, its Affiliates and any person or software program or computer systems authorized by Buyer or any of its Affiliates to access and use the Product as permitted under this Agreement, including Contractors of Buyer or its Affiliates.