bitdrift Terms of Service

Last Updated: November 25, 2025

These bitdrift Terms of Service ("**Agreement**") are between you ("**Customer**") and bitdrift, Inc. ("**bitdrift**") and is effective upon the earlier of when Customer enters into an order form with bitdrift or when Customer begins accessing or using bitdrift Services ("**Effective Date**").

BY ACCESSING OR USING THE SERVICES, CUSTOMER IS EXPRESSLY ACCEPTING AND AGREEING TO THESE TERMS AND CONDITIONS. IF YOU ARE AN INDIVIDUAL AGREEING TO THESE TERMS ON BEHALF OF AN ENTITY, SUCH AS YOUR EMPLOYER, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS, YOU MAY NOT USE THE SERVICES EITHER YOURSELF OR ON BEHALF OF THE ENTITY. BITDRIFT MAY MODIFY THIS AGREEMENT FROM TIME TO TIME WITH NOTICE TO CUSTOMER. TOGETHER WITH SUCH MODIFIED TERMS, BITDRIFT WILL IDENTIFY THE EFFECTIVE DATE OF THE MODIFICATIONS BY INDICATING WHEN THIS AGREEMENT WAS LAST UPDATED.

1.   **Definitions**. Capitalized terms shall have the meanings defined herein.

"**Customer Data**" means any data, information or other material provided, uploaded, or submitted by Customer to the Services in the course of using the Services. For avoidance of doubt, Customer Data does not include Usage Data.

"**Documentation**" means the Services documentation, manuals, and guides made available by bitdrift to Customer and updated from time to time.

"**Order Form**" means the digital or physical ordering document identifying the Services and related fees as applicable for Customer's authorized purchases from bitdrift. Order Forms shall be deemed incorporated herein by reference.

"**SDK**" means the bitdrift software development kit, including any Updates thereto, ordered by Customer and provided by bitdrift pursuant to an applicable Order Form.

"**Services**" means bitdrift's software-as-service platform, SDK, and related technology and software, including any Updates thereto, ordered by Customer and provided by bitdrift pursuant to an applicable Order Form.

"**Update(s)**" means any update, upgrade, release, or other adaptation or modification of the Services or SDK, as applicable, including any updated Documentation, that bitdrift may provide to Customer from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements, or other changes to the functionality, compatibility, capabilities, performance, efficiency, or quality of the Services or SDK.

"**Usage Data**" means data collected by or made available to bitdrift regarding Customer's use of the Services, including but not limited to data regarding Services features used by Customer and the performance of the same, data logs, and configuration information with respect to the Services.

2.   **Scope of Services and Restrictions**.

2.1.   Access to Services. Subject to Customer's compliance with the terms and conditions of this Agreement and the applicable Order Form, bitdrift hereby grants Customer a limited, non-exclusive, non-transferable, non-sublicensable right to access and use the Services and Documentation during the applicable Order Form term for Customer's internal business purposes.

2.2.   SDK License. Customer acknowledges that the SDK is licensed pursuant to the Polyform Shield license available at https://polyformproject.org/licenses/. In the event of any conflict between the terms contained in this Agreement and the Polyform license, the terms of the Polyform license shall control, but only to the extent applicable to the SDK.

2.3.   Use Restrictions. Customer shall not use the Services for any purposes beyond the scope of the rights granted in this Agreement. Without limiting the foregoing and except as expressly set forth in this Agreement, Customer shall not and shall not permit any third party to: (a) modify, adapt, alter, translate, or create derivative works of the Services; (b) reverse-engineer, decompile, disassemble, or attempt to derive the source code for the Services, in whole or in part, except to the extent that such activities are permitted under applicable law; (c) distribute, license, sublicense, lease, rent, loan, or otherwise transfer the Services to any third party; (d) remove, alter, or obscure in any way any notices (including copyright, patent, and trademark notices and symbols) of bitdrift or its licensors or suppliers contained on or within any copies of the Services or Documentation; (e) use the Services for the purpose of creating a product or service competitive with the Services; (f) combine or distribute any of the Services with any third party software that is licensed under terms that seek to require that any of portion of the Services (or any associated intellectual property rights) be provided in source code form (e.g., as "open source"), licensed to others to allow the creation or distribution of derivative works, or distributed without charge; or (g) use the Services other than as described in this Agreement or the applicable Documentation, or for any unlawful purpose.

2.4.   Ownership. The Services are made available for use or licensed, not sold. Customer acknowledges and agrees that this Agreement does not transfer to Customer any bitdrift or third-party intellectual property rights. Customer acknowledges and agrees that, as between Customer and bitdrift, bitdrift and its licensors owns all right, title, and interest in and to the Services, and bitdrift and its licensors shall, notwithstanding any other term of this Agreement, remain the owners of the Services. All rights not expressly granted by bitdrift herein are reserved.

2.5.   Updates. During the Term, bitdrift will make available Updates to Customer that bitdrift may, in its sole discretion, make generally available to its clients at no additional charge. Customer will install all Updates as soon as practicable after release, but in no event later than within (a) thirty (30) days of the release of such Update, or (b) ten (10) days of release if such Update relates to a security vulnerability. Customer acknowledges and agrees that bitdrift will have no liability to Customer or any third party in the event Customer fails to timely implement any Update made available to Customer in accordance with this Section.

2.6.   Customer Data. bitdrift acknowledges that, as between bitdrift and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to Customer Data. Customer hereby grants to bitdrift a non-exclusive, royalty-free, worldwide license to use Customer Data as necessary to provide the Services to Customer in accordance with this Agreement. Customer will: (a) be solely responsible for the nature, quality and accuracy of Customer Data; (b) ensure that Customer Data complies with the terms of this Agreement and all applicable laws; (c) promptly handle and resolve any notices and claims relating to Customer Data; and (d) ensure that it has the rights to the Customer Data necessary to grant bitdrift the rights contemplated by this Agreement. Customer acknowledges and agrees that Customer Data may be irretrievably deleted if Customer's account is terminated.

2.7.   Usage Data. bitdrift owns all Usage Data. bitdrift may freely use Usage Data in connection with improving, testing, and operating the Services, provided that Usage Data is in aggregate and/or de-identified form and cannot be linked specifically to Customer.

2.8.   Personal Data. Customer acknowledges and agrees that it will not make available or otherwise expose bitdrift to any personally identifiable information or similar data subject to applicable law or regulation unless bitdrift expressly agrees otherwise in writing.

2.9.   Feedback. Upon submitting any suggestions, proposals, ideas, recommendations, bug reports, ideas, improvements or other feedback regarding bitdrift's products and services ("**Feedback**"), Customer grants to bitdrift a royalty-free, fully paid, sub-licensable, transferable, non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import, and otherwise exploit Feedback without restriction. Feedback expressly excludes any Customer Confidential Information and Customer Data.

2.10.   Suspension. bitdrift may suspend Customer's use of the Services if (a) bitdrift reasonably believes that the use of the Services by Customer poses a security risk to the Services, (b) Customer has failed to pay the applicable Fees in accordance with Section 4, or (c) Customer is otherwise is in violation of the terms of this Agreement. bitdrift will give Customer notice before suspending Customer's use of the Services, unless a security risk is immediate or notice is prohibited by law in, which case bitdrift will provide Customer with notice as soon permitted. Customer's access to the Services will be reinstated promptly once the issue causing the suspension has been resolved.

3.   No Fee Access. If Customer is accessing or using the Services on a no-fee, evaluation, proof-of-concept, or trial basis ("**NFA Services**"), Customer acknowledges and agrees that bitdrift may modify or terminate the NFA Services at any time in its sole discretion and the NFA Services may be subject to certain limitations and restrictions, or additional terms, as specified by bitdrift. Customer is only permitted to use NFA Services during the limited period as designated by bitdrift (or, if not designated, until terminated in accordance with this Section). To the maximum extent permitted by law, bitdrift disclaims all obligations and liabilities with respect to NFA Services, including but not limited to any warranty or indemnity obligations. NFA SERVICES ARE PROVIDED ON AN "AS-IS" BASIS. NOTWITHSTANDING SECTION 10, OR ANY OTHER TERM TO THE CONTRARY IN THIS AGREEMENT, BITDRIFT'S TOTAL LIABILITY TO CUSTOMER ARISING FROM THE NFA SERVICES WILL NOT EXCEED ONE THOUSAND DOLLARS ($1,000).

4.   Fees and Payment.

4.1.   Fees. Customer shall pay to bitdrift the fees as set forth in each applicable Order Form ("**Fees**") and will provide accurate and current billing contact information. Customer acknowledges and agrees that, except as otherwise expressly set forth in this Agreement, Fees are non-refundable.

4.2.   Invoicing and Payment. bitdrift will invoice Customer monthly in advance or as otherwise specified in the applicable Order Form. Unless otherwise set forth in an applicable Order Form, Customer shall pay all invoices within thirty (30) days of the invoice date. Customer shall make all payments hereunder in US dollars. If any invoiced amount is not received by bitdrift by the due date, then without limiting bitdrift 's rights or remedies those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower.

4.3.   Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on bitdrift's income.

4.4.   Marketplace Purchases. For Customer's purchase of the Services is through a marketplace (e.g. AWS Marketplace) or reseller, Customer understands it will pay the applicable marketplace or reseller in lieu of paying bitdrift directly. Customer's acceptance of the marketplace or reseller pricing and terms and conditions shall bind Customer to the obligations of this Agreement and any applicable Order Form. If Customer purchases through a marketplace or reseller, Customer will be responsible for full payment of the Fees for the Term, regardless of usage, payment or billing terms between Customer and the marketplace or reseller.

5.   Term and Termination.

5.1.   Term. The term of this Agreement begins on Effective Date and, unless earlier terminated in accordance with the terms of this Agreement, will continue for the period of time set forth in the applicable Order Form ("**Initial Term**"). Other than with respect to NFA Services, this Agreement and the applicable Order Forms will automatically renew for additional twelve (12) month periods unless a party provides at least thirty (30) days written notice prior to the expiration of the then-current term (each additional term together with the Initial Term, the "**Term**").

5.2.   Termination. This Agreement and the Order Forms, may be terminated by: (a) either party, effective on written notice to the other party, if the other party materially breaches this Agreement, and such breach (i) is incapable of cure, or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching party provides the breaching party with written notice of such breach; or (b) by bitdrift upon written notice to Customer if Customer (i) has made or attempted to make any assignment for the benefit of its creditors or any compositions with creditors, (ii) has any action or proceedings under any bankruptcy or insolvency laws taken by or against it which have not been dismissed within sixty (60) days, (iii) has effected a compulsory or voluntary liquidation or dissolution, or (iv) has undergone the occurrence of any event analogous to any of the foregoing under the law of any jurisdiction.

5.3.   Effect of Termination. Upon any expiration or termination of this Agreement, Customer shall (a) immediately cease use of the Services, and (b) return all bitdrift Confidential Information and other materials and information provided by bitdrift. Any termination or expiration shall not relieve Customer of its obligation to pay all Fees accruing prior to termination.

5.4.   Survival. This Section 5.4 and Sections 1, 2.4, 2.7, 2.9, 7, 10 and 12 survive any termination or expiration of this Agreement.

6.   Data Security. bitdrift will maintain appropriate administrative, physical, and technical safeguards to protect the security and integrity of the Services and Customer Data as described in the applicable documentation. bitdrift will conform with security protocols which are further described in bitdrift's most recently completed Service Organization Control 2 (SOC 2) audit reports or other similar independent third-party annual audit report. Upon Customer's request, bitdrift provide Customer with a copy of its then-current audit report. During the Term, bitdrift shall not materially diminish the protections provided by the controls set forth in its then-current audit report.

7.   Confidentiality.

7.1.   Confidentiality. As used herein, "**Confidential Information**" means any information that one party (the "**Disclosing Party**") provides to the other party (the "**Receiving Party**") in connection with this Agreement, whether orally or in writing, that is designated as confidential or that reasonably should be considered to be confidential given the nature of the information and/or the circumstances of disclosure. For clarity, the Services, Documentation, and pricing will be deemed Confidential Information of bitdrift. The Receiving Party will not use or disclose any Confidential Information of the Disclosing Party except as expressly permitted herein and as necessary to perform its obligations or exercise its rights under this Agreement. The Receiving Party shall exercise the same degree of care to prevent unauthorized use or disclosure of the Disclosing Party's Confidential Information to others as it takes to preserve and safeguard its own information of like importance, but in no event less than reasonable care. The Receiving Party may disclose Confidential Information of the Disclosing Party only to those of its employees, contractors, agents and advisors (collectively, "**Representatives**") who have a bona fide need to know such Confidential Information to perform under this Agreement, who have been informed of its confidential nature, and who are bound by confidentiality obligations at least as protective as those set forth in this Agreement. The Receiving Party shall be responsible for any breach of this Section 7 caused by its Representatives.

7.2.   Exceptions. The confidentiality obligations in this Section 7 shall not apply with respect to any information which the Receiving Party can demonstrate: (a) was in the public domain at the time it was disclosed to the Receiving Party or has become in the public domain through no act or omission of the Receiving Party or its Representatives; (b) was known to the Receiving Party, without restriction, at the time of disclosure as shown by the files of the Receiving Party in existence at the time of disclosure; (c) was disclosed by the Receiving Party with the prior written approval of the Disclosing Party; (d) was independently developed by the Receiving Party without any use of the Disclosing Party's Confidential Information; or (e) became known to the Receiving Party, without restriction, from a source other than the Disclosing Party without breach of this Agreement by the Receiving Party and otherwise not knowingly in violation of the Disclosing Party's rights.

7.3.   Compelled Disclosures. If the Receiving Party is compelled by a court or other competent authority or applicable law to disclose Confidential Information of the Disclosing Party, it shall, to the extent permitted by applicable law, give the Disclosing Party prompt written notice and shall provide the Disclosing Party with reasonable cooperation so that the Disclosing Party may take steps to oppose such disclosure or obtain a protective order. If after providing such notice and assistance the Receiving Party remains required to disclose the Disclosing Party's Confidential Information, the Receiving Party shall use all reasonable efforts to limit the disclosure and maintain the confidentiality of such Confidential Information.

7.4.   Equitable Relief. Each party acknowledges and agrees that a breach or threatened breach by such party of its obligations in this Section 7 or, in the case of Customer, its breach of the restrictions in Section 2.3, may cause the other party irreparable harm for which monetary damages may not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

8.   Limited Warranty and Disclaimer.

8.1.   Limited Warranty. bitdrift warrants that, when used by Customer in accordance with the terms of this Agreement and the Documentation, the Services will materially perform and function as described in the applicable Documentation during the Term. The foregoing warranty does not apply and becomes null and void if Customer breaches any material provisions of this Agreement or fails to implement any Updates. If the Services fail to comply with the limited warranty in this Section 8.1, Customer shall promptly notify bitdrift of such failure, and bitdrift will, as Customer's sole and exclusive remedy, correct any material non-conformance in the Services in order to minimize any material adverse effect on Customer's business.

8.2.   Disclaimer. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 8.1, THE SERVICES ARE PROVIDED "AS IS" AND BITDRIFT HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. BITDRIFT SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 8.1, BITDRIFT MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

9.   Indemnification.

9.1.   Indemnification by bitdrift. Subject to Section 9.2, bitdrift will defend, indemnify and hold Customer harmless from and against any and all losses, damages, liabilities, costs, and expenses, including reasonable attorneys' fees ("**Losses**") incurred by Customer resulting from a claim, suit or proceeding brought by a third-party ("**Claims**") to the extent such Losses arise or result from allegations that the Services infringes or misappropriates such third party's intellectual property rights. If bitdrift reasonably believes the Services (or any component thereof) could infringe any third party's intellectual property rights, bitdrift may, at its sole option and expense use commercially reasonable efforts to: (a) modify or replace the Services, or any component or part thereof, to make it non-infringing; or (b) procure the right for Customer to continue using the Services. If bitdrift determines that neither alternative is commercially practicable, bitdrift may terminate this Agreement, in its entirety or with respect to the affected component, by providing written notice to Customer. In the event of any such termination, bitdrift will refund to Customer a pro-rata portion of the Fees that have been paid for the unexpired portion of the then current Term. THE RIGHTS AND REMEDIES SET FORTH IN THIS SECTION 9.1 WILL CONSTITUTE CUSTOMER'S SOLE AND

EXCLUSIVE REMEDY FOR ANY INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS IN CONNECTION WITH THE SERVICES.

9.2.   Exclusions. bitdrift's obligations under Section 9.1 will not apply if the underlying Claim arises from or as a result of: (a) Customer's breach of this Agreement, negligence, willful misconduct or fraud, or failure to use the Services in accordance with the Documentation; (b) any Customer Data; (c) Customer's failure to timely implement any Updates; (d) modifications to or configuration of the Services by anyone other than bitdrift; or (e) combinations of the Services with software, data or materials not provided by bitdrift.

9.3.   Indemnification by Customer. Customer will defend, indemnify and hold bitdrift and its affiliates, officers, directors, agents, and employees ("**bitdrift Indemnitees**") harmless from and against any and all Losses incurred by bitdrift Indemnitees arising or resulting from Claims arising or relating from: (a) allegations that the Customer Data, or its use by bitdrift in accordance with this Agreement, infringes, misappropriates, or violates a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation; and (b) Customer's use of the Services in violation of the terms and conditions of this Agreement or violation of appliable laws.

9.4.   Procedure. The party seeking defense and indemnity (the "**Indemnified Party**") will provide the other party (the "**Indemnifying Party**") with prompt written notice of such Claim. The Indemnifying Party will have the right to defend or settle such Claim, provided it will not make any settlement of a Claim that results in any liability or imposes any obligation on the Indemnified Party without the prior written consent of such party, which will not be unreasonably withheld. The Indemnified Party will reasonably cooperate with the Indemnifying Party, at the Indemnifying Party's expense, in the defense and settlement of such Claim. The Indemnified Party may participate in the defense of any Claim at its own expense. An Indemnified Party's failure to perform obligations under this Section 9.4 will not relieve the Indemnifying Party of its obligations under Section 9 except to the extent that Indemnifying Party is materially prejudiced as a result of such failure.

10.   Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT BITDRIFT, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL IN NO EVENT BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, GOODWILL, LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, OR INTERRUPTION OF BUSINESS) ARISING FROM THIS AGREEMENT, WHETHER UNDER THEORY OF CONTRACT, TORT, INCLUDING NEGLIGENCE, OR OTHERWISE, EVEN IF BITDRIFT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. THE TOTAL LIABILITY OF BITDRIFT ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER FOR THE RELEVANT SERVICE UNDER THE APPLICABLE ORDER FORM IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.

11.   Export Restrictions. Customer understands that the Services are subject to United States export controls administered by the United States Department of Commerce and the United States Department of Treasury Office of Foreign Assets Control. Customer acknowledges and agrees that the Services may not be used, transferred, or otherwise exported or re- exported to countries as to which the United States, maintains an embargo (collectively, "**Embargoed Countries**"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Entity List, Denied Persons List, or Unverified List, or the U.S. Department of State's Nonproliferation Sanctions list (collectively, "**Designated Nationals**"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Services, Customer represents and warrants that Customer is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. Customer agrees to comply with all United States export laws and assumes sole responsibility for obtaining United States government export licenses to export or re-export as may be required. Customer will defend, indemnify, and hold bitdrift and its licensors harmless

from and against any liabilities arising from Customer's or any of its officers, directors, employees, agents, or representatives violation of such laws or regulations.

12.   Miscellaneous.

12.1.   Entire Agreement. This Agreement, including all Order Forms, constitutes the sole and entire agreement of the Parties with respect to the subject matter of herein and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. The terms of an Order Form will prevail over the general terms herein only if such Order Form expressly references this Agreement, the intent to prevail over this Agreement, and is authorized by both bitdrift and Customer. Section headings are for convenience only and shall not affect interpretation of the relevant section. No provision of any purchase order or other form employed or provided by Customer will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will continue in full force and effect.

12.2.   Modifications; Waivers. Customer acknowledges and agrees that bitdrift has the right, in its sole discretion, to modify this Agreement from time to time, and that such modified terms will become effective upon posting. bitdrift will notify Customer of modifications through Customer's account in the Services or email address provided to bitdrift by Customer. Customer's continued use of the Services after the effective date of the modifications will be deemed acceptance of the modified terms. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived.

12.3.   Assignment. Neither party may assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld), provided that bitdrift may assign this Agreement, without Customer's consent, to an affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.

12.4.   Publicity. Customer hereby grants bitdrift the right to identify Customer as a bitdrift Customer, and use Customer's name, mark and logo on bitdrift's website and in bitdrift's marketing materials with respect to the same.

12.5.   Force Majeure. Except for the inability to meet financial obligations, neither party shall be responsible for failure or delay in performance by events out of their reasonable control, including but not limited to, pandemics, Internet outage, terrorism, war, fires, earthquakes, and other disasters. The parties agree to use their best efforts to minimize the effects of such failures or delays.

12.6.   Notices. All notices between the parties shall be in writing and shall be deemed to have been given if personally delivered or sent by registered or certified mail (return receipt), or by recognized courier service. Customer agrees that all notices, disclosures, and other communications that are electronically provided satisfy any legal requirement that such communications be in writing. Notices from bitdrift will be considered delivered to Customer and effective as of the time it is sent to the email address Customer provides through the Services, or from which they otherwise email bitdrift. Customer will provide notice to bitdrift at 600 California Street, 11th Floor, San Francisco, CA 94108 with a copy emailed to legalnotices@bitdrift.io.

12.7.   Relationship. The parties are independent contractors. This Agreement shall not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties.

12.8.   Governing Law. This Agreement shall be governed exclusively by, and construed exclusively in accordance with, the laws of the State of California, without regard to its conflict of laws provisions. Any legal suit, action, or proceeding arising out of this Agreement will be instituted exclusively in the federal courts of the United States in the Northern District of California or the state courts of the State of California, and each party irrevocably submits to the exclusive jurisdiction of such courts.

12.9.   <u>Third Party Beneficiaries</u>. Nothing in this Agreement shall confer, or is intended to confer, on any third party any benefit or the right to enforce any term or condition contained herein.