

## TERMS AND CONDITIONS

Please read these Terms & Conditions (the “Terms”) carefully before using Alinia Guard.

### 1. Definitions

1.1 “**Additional Services**” means any Services to be provided by Company to Customer under a Statement of Work, including, without limitation, customization of elements having an impact for the Customer’s AI system in the Platform.

1.2 “**Agreement**” means the subscription services agreement entered into between the Company and the Customer by the acceptance of these Terms and Conditions (the “**Terms**”) by the Customer. Agreement includes also any Statement of Work for Additional Services, if any.

1.3 “**Authorized Purposes**” means Customer’s internal business purposes, which Customer may elect to make publicly available subject to the limitations of this Agreement.

1.4 “**Company**” means Alinia AI Inc., a US company, domiciled at 1111b South Governors Avenue, Dover, Delaware, USA and TAX ID 93-3928247.

1.5 “**Customer**” means individual or entity that enters into the Agreement with the Company for the contracting of the Services.

1.6 “**Customer Content**” means all data submitted, stored, posted, displayed, or otherwise transmitted by or on behalf of Customer or any User and received, processed, or analyzed by the Platform.

1.7 “**Customer System**” means Customer’s internal website(s), servers and other equipment and software used in the conduct of Customer’s business.

1.8 “**Deliverable**” means insights or other data derived from the Platform using an Input, and any work product or other deliverables to be provided to Customer specified in a SOW.

1.9 “**Documentation**” means the printed, paper, electronic or online user instructions and help files made available by Company for use with the Platform, as may be updated from time to time by Company.

1.10 “**Effective Date**” means the date on which the Customer enters into the Agreement by accepting the Terms.

1.11 “**Input**” means Customer Content that is submitted to the Platform.

1.12 “**Intellectual Property Rights**” means all intellectual property rights or similar proprietary rights, including (a) patent rights and utility models, (b) copyrights and database rights, (c) trademarks, trade names, domain names and trade dress and the goodwill associated therewith, (d) trade secrets, (e) mask works, and (f) industrial design rights; in each case, including any registrations of, applications to register, and renewals and extensions of, any of the foregoing in any jurisdiction in the world.

1.13 “**Malicious Code**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

1.14 “**Open Source Software**” means all software that is available under a license that is approved by the Open Source Initiative ([www.opensource.org](http://www.opensource.org)) or other licenses complying with the Open Source Definition.

1.15 “**Order**” means the online subscription order form for Services purchased from Company and agreed to by Customer from time to time.

1.16 “**Other Information**” means information other than Customer Content that is input into the Platform by Customer during use of the Services.

1.17 “**Platform**” means the portion of the Services, provided by Company to Customer pursuant to these Terms, also known as the Alinia Alignment Platform, which permits Customer to analyze and modify the performance of large language models (“**LLM**”) and generative AI systems based on their business information and policies, with software and LLMs. For all purposes of these Terms, such the definition of Platform includes data created or derived by Company in the Platform and used for providing the Services (excluding therefore Customer Content).

1.18 “**Services**” means the Platform (including Local Software), Support Services, and any Additional Services.

1.19 “**Statement of Work**” or “**SOW**” means a written statement of work entered into and signed by the parties describing Additional Services to be provided by Company to Customer.

1.20 “**Support Services**” means the Services provided by the Company regarding technical support to Customer via both telephone and electronic mail to solve any malfunction or error in the Platform performance..

1.21 “**Taxes**” means all taxes, levies, imposts, duties, fines or similar governmental assessments imposed by any jurisdiction, country or any subdivision or authority thereof including, but not limited to state or local sales, use, property, excise, service, transaction or similar taxes, in any way connected with these Terms or any instrument, SOW, or agreement required hereunder, and all interest, penalties or similar liabilities with respect thereto, except such taxes imposed on or measured by a party’s net income.

1.22 “**Term**” means the duration of the Agreement until one of the Parties gives notice of termination in accordance with these Terms. Term shall include any trial period, pilot project, beta version, etc., (collectively, “**Pilot Term**”)

1.23 “**Users**” means Customer’s employees, consultants, contractors and agents (a) for whom access to the Platform has

been purchased pursuant to an Order, (b) who are authorized by Customer to access and use the Platform, and (c) where applicable, who have been supplied API Keys, user identifications and passwords for such purpose by Customer (or by Company at Customer's request).

## **2. Licenses And Restrictions.**

**2.1 Licenses.** Subject to Customer's compliance with the terms and conditions contained in these Terms, Company hereby grants to Customer a limited, non-exclusive, non-transferable right for its Users to access and use the Platform in accordance with the Documentation, solely for Customer's Authorized Purposes and not for the benefit of any other person or entity. Customer's use of the Platform may be subject to certain specifications and limitations, such as, for example, manner and frequency of access to Customer Content. Any such requirements or limitations will be specified in the Documentation.

**2.2 Restrictions.** Customer shall not, directly or indirectly, and Customer shall not permit any User or third party to: (a) reverse engineer, decompile, disassemble or otherwise attempt to discover the object code, source code or underlying algorithms of the Platform; (b) modify, translate, or create derivative works based on any element of the Platform or any related Documentation; (c) rent, lease, distribute, sell, resell, assign, or otherwise transfer its rights to use the Platform; (d) use the Platform for time sharing purposes or otherwise for the benefit of any person or entity other than for the benefit of Customer and Users; (e) remove any proprietary notices from the Documentation; (f) use the Platform for any purpose other than Authorized Purposes or contravening the Acceptable Use Policy in section 4.2; (g) interfere with or disrupt the integrity or performance of the Platform (or attempt to do so); (i) introduce any Open Source Software into the Platform; or (j) attempt to gain unauthorized access to the Platform or its related systems or networks.

**2.3 Reservation of Rights.** Except as expressly granted in these Terms, there are no other licenses granted to Customer, express, implied or by way of estoppel. All rights not granted in these Terms are reserved by Company.

## **3. Passwords; Security.**

**3.1 Passwords.** Company will issue Customer logins for Users authorized to access and use the Platform. Customer is solely responsible for any and all access and use of the Platform that occurs using API Keys, logins, passwords issued to Customer or any of Customer's Users ("Credentials"). Customer shall use reasonable security measures to ensure the confidentiality of the Credentials, and restrict its Users from sharing Credentials with any third party. Customer agrees to immediately notify Company of any unauthorized use of any Credential issued for Customer's Users, or any other breach of security known to Customer. Company shall have no liability for any loss or damage arising from Customer's failure to comply with the terms set forth in this Section.

**3.2 No Circumvention of Security.** Customer shall not, and shall ensure that its Users shall not circumvent, attempt to

circumvent or otherwise interfere with any user authentication or security of the Platform. Customer will immediately notify Company of any breach, or attempted breach, of security known to Customer.

**3.3 Security.** Company will use commercially reasonable efforts to maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Customer Content in a manner consistent with what Company supplies generally to its other customers. Notwithstanding the foregoing, Customer acknowledges that, notwithstanding any security precautions deployed by Company, the use of or connection to the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to the Platform and Customer Content. Company cannot and does not guarantee the privacy, security, integrity or authenticity of any information transmitted over or stored in any system connected to or accessible via the Internet or otherwise or that any such security precautions will be adequate or sufficient. Company shall not (a) modify Customer Content, (b) disclose Customer Content except as compelled by law or as expressly permitted in writing by Customer, or (c) access Customer Content except to provide and improve the Services and prevent or address service or technical problems, or at Customer's request in connection with customer support matters.

## **4. Customer Obligations.**

**4.1 Customer System.** Customer is responsible for (a) obtaining, deploying and maintaining the Customer System, and all computer hardware, software, modems, routers and other communications equipment necessary for Customer and its Users to access and use the Platform via the Internet or, if using Local Software, for such Customer System as may be required to use the Local Software; (b) contracting with third party ISP, telecommunications and other service providers to access and use the Platform via the Internet; and (c) paying all third party fees and access charges incurred in connection with the foregoing. Except as specifically set forth in these Terms, or a Statement of Work, Company shall not be responsible for supplying any hardware, software or other equipment to Customer under these Terms.

**4.2 Acceptable Use Policy.** Customer shall be solely responsible for its actions and the actions of its Users while using the Platform. Customer acknowledges and agrees: (a) to abide by all local, state, national, and international laws and regulations applicable to Customer's use of the Platform, including without limitation the provision and storage of Customer Content; (b) not to send or store data on or to the Platform which violates the rights of any individual or entity established in any jurisdiction; (c) not to upload in any way any information or content that contain Malicious Code or data that may damage the operation of the Platform or another's computer or mobile device; (d) not to use the Platform for illegal, fraudulent, unethical or inappropriate purposes; (e) not to interfere or disrupt networks connected to the Platform or interfere with other ability to access or use the Platform; (f) not to distribute, promote or transmit through the

Platform any unlawful, harmful, obscene, pornographic or otherwise objectionable material of any kind or nature; (g) not to transmit or post to the Platform any material that encourages conduct that could constitute a criminal offense or give rise to civil liability; (h) not to access another customer's data or Credentials or otherwise interfere with another customer's use and enjoyment of the Platform; (i) not to use the Platform in any manner that impairs the Platform, including without limitation the servers and networks on which the Platform is provided; (j) to comply with all policies and procedures provided by Company for use of the Platform; (k) to use the Platform and set up and use the Customer System only in accordance with the Documentation. Company does not assume any responsibility nor will be held liable for any Customer Content or Other Information nor any offensive material contained therein, any infringement of third party Intellectual Property Rights arising therefrom or any crime facilitated thereby where this is caused by the Customer's particular use or configuration of the Platform. Platform may remove any violating Customer Content or Other Information posted or stored using the Platform or transmitted through the Platform, as a part of its functionalities. In accordance with these Terms, Customer shall be responsible and liable for the use of the Platform and the completeness, integrity, quality and accuracy of Customer Content and Other Information input into the Platform resulting from such Customer's use of the Platform. Company reserves the right to amend, alter, or modify Customer's conduct requirements as set forth in these Terms at any time. Company may deliver notice of such updated requirements to Customer via e-mail or through the Platform. Customer's continued access to and use of the Platform following issuance of such updated Customer requirements shall constitute Customer's acceptance thereof. Company may upon written notice to Customer amend this Section 4.2. This Acceptable Use Policy shall be interpreted as not being mutually exclusive with other applicable Third Party Acceptable Use Policies available in Company's documentation website ([link](#)). By acceptance of this Terms, the Customer acknowledges having read and accepted these applicable Third Party Acceptable Use Policies, and understands that it is legally obliged to comply with these Third Party Acceptable Use Policies, being liable for any breach of the same to the Company and any third party claiming against the Company for such breach.

**4.3 Accuracy of Customer's Contact Information; Email Notices.** Customer agrees to provide accurate, current and complete information as necessary for Company to communicate with Customer from time to time regarding the Services, issue invoices or accept payment, or contact Customer for other account-related purposes. Customer agrees to keep any online account information current and inform Company of any changes in Customer's legal business name, address, email address and phone number. Customer agrees to accept emails from Company at the e-mail addresses used by its Users for login. In addition, Customer agrees that Company may rely and act on all information and instructions provided to Company by Users from the above-specified e-mail addresses.

**4.4 Temporary Suspension.** Company may temporarily suspend Customer's or its Users' access to the Platform in the event that either Customer any of its Users is engaged in, or Company in good faith suspects Customer or any of its Users is engaged in any unauthorized conduct (including, but not limited to any violation of these Terms). Company will attempt to contact Customer prior to or contemporaneously with such suspension; provided, however, that Company's exercise of the suspension rights herein shall not be conditioned upon Customer's receipt of any notification. Customer agrees that Company shall not be liable to Customer, any of its Users, or any other third party if Company exercises its suspension rights as permitted by this Section. Upon determining that Customer has ceased the unauthorized conduct leading to the temporary suspension to Company's reasonable satisfaction, Company shall reinstate Customer's and its Users' access and use of the Platform without extending the term of the Agreement. Notwithstanding anything in this Section to the contrary, Company's suspension of Platform is in addition to any other remedies that Company may have under these Terms or otherwise, including but not limited to termination of these Terms for cause.

## **5. Availability; Enhancements; Support Services.**

**5.1 Availability.** Subject to the terms and conditions of these Terms, Company will use commercially reasonable efforts to make the Platform available with minimal downtime 24 hours a day, 7 days a week; provided, however, that the following are excepted from availability commitments: (a) planned downtime (with regard to which Company will use commercially reasonable efforts to provide at least 72 hours advance notice) and weekly maintenance times, or (b) any unavailability caused by circumstances enumerated under Section 14.8(g).

**5.2 Enhancements.** Certain enhancements to the Platform made generally available at no cost to all customers during the applicable Term will be made available to Customer at no additional charge. However, the availability of some new enhancements to the Platform may require the payment of additional Fees, and Company will determine at its sole discretion whether access to any other such new enhancements will require an additional Fee. These Terms will apply to, and the Platform includes, any enhancements, updates, upgrades and new modules to the Platform provided in connection therewith, subsequently provided by Company to Customer hereunder.

**5.3 Support.** Company provides the Support Services via both telephone and electronic mail on weekdays during the hours of 9:00 am through 5:00 pm Central European time, with the exclusion of Public Holidays ("Support Hours"). Customer may initiate a helpdesk ticket during Support Hours by emailing [support@alinia.ai](mailto:support@alinia.ai). Company will use commercially reasonable efforts to respond to all Helpdesk tickets within one (2) business day. Unless agreed in an Order Form, Technical Support does not include any onsite support.

## 6. Additional Services.

The Company may offer Additional Services from time to time at its sole discretion or when requested by a Customer and the Company expressly accepts such request for Additional Services. In the event, Company shall use commercially reasonable efforts to perform the Additional Services as set forth in applicable mutually executed SOWs. Each SOW will include, at a minimum: (a) a description of the scope of Additional Services, (b) Deliverables to be provided under the SOW and their ownership, (c) the schedule for the provision of Additional Services, and (d) the applicable Fees and payment terms for such Additional Services. All SOWs shall be deemed part of and subject to these Terms. If there is any inconsistency between an SOW and these Terms, the SOW shall control. If either Customer or Company requests a change to the scope of Additional Services described in a SOW, the party seeking the change shall propose such change by written notice. Company and Customer shall cooperate to enable Company to perform the Additional Services according to the dates of performance and delivery terms set forth in each SOW. In addition, Customer shall diligently perform any Customer obligations specified in each SOW. In the event the Additional Services are not performed in accordance with the terms of the applicable SOW, Customer shall notify Company in writing no later than thirty (30) calendar days after performance of the affected Additional Services by Company, Customer's notice shall specify the basis for non-compliance with the SOW and if Company agrees with the basis for non-compliance, then Company shall re-perform the Additional Services at no additional charge to Customer or refund to Customer the applicable Fees for the affected Deliverable or Additional Services. **The foregoing constitutes Customer's sole and exclusive remedy and Company's sole and exclusive liability with respect to performance or non-performance of the Additional Services.**

## 7. Fees And Payment.

7.1 **Fees.** Customer agrees to pay all fees specified in all Orders and SOWs (collectively, "Fees") using one of the payment methods indicated in the Service Order or invoices. Customer acknowledges and agrees that quoted Fees are based on the assumption that the Customer Content will comply with the applicable specifications and limitations set forth in the Documentation or SOW and that failure to comply with such specifications may result in an increase in Fees. Except as specifically stated in an Order, the fixed Fees and other Fees expressed as stated euro amounts in these Terms and Order shall be increased annually, commencing on the one-year anniversary date of the date Customer first acquired the right to use the Services, by the amount of applicable annual inflation in the domicile of the Customer. Except as otherwise specified in these Terms or in an Order, (a) Fees are quoted and payable in Euros, and (b) payment obligations are non-cancelable and Fees paid are non-refundable. All amounts payable under these Terms will be made without setoff or counterclaim, and without any deduction or withholding.

7.2 **Payment.** Payment shall be made by wire transfer to the account indicated in the invoice, or by credit card when agreed in the SOW. When Customer elects to pay by credit card, Company will charge Customer's credit card on the date that Customer submits the Order, or on the basis agreed. By providing a payment method, Customer expressly authorizes Company and/or Company's third-party payment processor to charge the applicable Fees on said payment method as well as taxes and other charges incurred thereto. Customer agrees that Company may invoice Customer for any unpaid Fees, including without limitation any amounts owed by Customer that cannot be processed. Customer is responsible for providing complete and accurate billing and contact information to Company and notifying Company of any changes to such information. Fees for Additional Services will be invoiced as set forth in an applicable SOW or Order. Except as otherwise set forth in the applicable Order or SOW, Customer agrees to pay all invoiced amounts within thirty (30) calendar days of the invoice date. Customer is responsible for providing complete and accurate billing and contact information to Company and notifying Company of any changes to such information.

7.3 **Overdue Charges.** If Company does not receive Fees by the due date, Company may (a) charge late payment interest at statutory rate in the domicile of the Customer and (b) condition future purchases of Services and Orders on payment terms shorter than those specified in Section 7.2 (Payment).

7.4 **Suspension of Service.** If any amounts owed by Customer for the Services are 15 (fifteen) or more days overdue, Company may, without limiting Company's other rights and remedies, suspend Customer's and its Users' access to the Services until such amounts are paid in full.

7.5 **Payment Disputes.** Company agrees that it will not exercise its rights under Section 7.3 (Overdue Charges) or Section 7.4 (Suspension of Service) if the applicable charges are under reasonable and good-faith dispute and Customer is cooperating diligently to resolve the dispute.

7.6 **Taxes.** Fees and charges imposed under these Terms or under any Order or similar document ancillary to or referenced by these Terms shall not include Taxes except as otherwise provided herein. Customer shall be responsible for all of such Taxes. If, however, Company has the legal obligation to pay Taxes and is required or permitted to collect such Taxes for which Customer is responsible under this section, Customer shall promptly pay the Taxes invoiced by Company unless Customer has furnished Company with valid tax exemption documentation regarding such Taxes at the execution of these Terms or at the execution of any subsequent instrument, Order or agreement ancillary to or referenced by these Terms. Customer shall comply with all applicable tax laws and regulations. Customer hereby agrees to indemnify Company for any Taxes and related costs paid or payable by Company attributable to Taxes that would have been Customer's responsibility under this Section 7.6 if invoiced to Customer. Customer shall promptly pay or reimburse Company for all costs and damages related to any liability incurred by Company as a result of Customer's non-compliance

or delay with its responsibilities herein. Customer's obligation under this Section 7.6 shall survive the termination or expiration of these Terms.

## **8. Representations And Warranties; Disclaimer.**

**8.1 Mutual Representations and Warranties.** Each party represents, warrants and covenants that: (a) it has the full power and authority to enter into these Terms and to perform its obligations hereunder, without the need for any consents, approvals or immunities not yet obtained; and (b) its acceptance of and performance under these Terms shall not breach any oral or written agreement with any third party or any obligation owed by it to any third party to keep any information or materials in confidence or in trust.

**8.2 Customer Representations.** Customer represents, covenants, and warrants that Customer will use the Services only in compliance with Company's standard published policies then in effect (the "**Policy**"), these Terms and all applicable laws and regulations. In addition, Customer represents it owns all right, title, and interest, including all intellectual property rights, consents/authorization for data processing, where applicable (including compliance with Article 22 GDPR), in and to the Customer Content. Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer's use of Services. Although Company has no obligation to monitor Customer's use of the Services, Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

**8.3 Company warranties.** Company warrants to Customer that (a) the Platform shall operate materially in conformance with the Documentation and (b) the Support and Additional Services will be performed diligently and professionally in accordance with the Orders and this Agreement.

**8.4 Third Party Providers and Open Source Software.** Company may use Open Source Software, openly licensed AI components and the services of one or more third parties to deliver any part of features of the Services (e.g. through APIs), including LLM technologies. In the event that any third party LLM is made available to Customer through the service (whether in its original or modified version), Customer agrees to comply with all license terms and any acceptable use policies and other terms of any third-party service provider available in Company's documentation webpage ([link](#)), according with Section 4.2.

**8.5 Assessments of New Services.** From time to time Company may invite Customer to try, at no charge, Company products or services that are not generally available to Company customers ("**Assessment Services**"). Customer may accept or decline any such trial in its sole discretion. Any Assessment Services will be clearly designated as beta, pilot, limited release, developer preview, non-production or by a description of similar import. Assessment Services are provided for evaluation purposes and not for production use, are not supported, may

contain bugs or errors (but shall not knowingly contain any undisclosed Malicious Code), and may be subject to additional terms that shall be provided by Company to Customer prior to or concurrent with Company's invitation to the applicable Assessment Services. Assessment Services are not considered "Services" hereunder. Company has the right to discontinue Assessment Services at any time in its sole discretion and may never make them generally available.

**8.6 Disclaimer.** To the maximum extent permitted by applicable law, except for the warranties set forth in this Section 8, the Platform, Support Services, Additional Services, any Assessment services are provided on an AS-IS basis. Customer's use of the Platform, Support Services, Additional Services and Assessment Services, is at its own risk. Company does not make, and hereby disclaims, any and all other express, statutory and implied representations and warranties, including, but not limited to, warranties of satisfactory quality, fitness for a particular purpose, accuracy (of data or any other information or content), absence of defects, whether latent or patent, and any warranties arising from a course of dealing, usage, or trade practice. The express warranties made by Company in Section 8 are for the benefit of the Customer only and not for the benefit of any third party. No warranties of any kind whatsoever are made for Customer's benefit if Customer is using the Platform under an assessment license or beta/pilot license.

No agent of Company is authorized to alter or expand the warranties of Company as set forth herein. Company does not warrant that: (a) the use of the Services or Assessment Services will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data; (b) the services will meet Customer's requirements or expectations; (c) any stored data will be accurate or reliable; (d) the quality of any information or other material obtained by Customer through the Services or Assessment Services will meet customer's requirements or expectations; (e) the Services and Assessment Services will be error-free or that errors or defects in the services and evaluation services will be corrected; or (f) the server(s) that make the services and evaluation services available are free of viruses or other harmful components. The Services and Assessment Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. Company is not responsible for any delays, delivery failures, or other damages resulting from such problems.

**Customer accepts full responsibility for any and all decisions or transactions made by Customer and its Authorized Users based on or in using the Services and any Deliverables. Customer acknowledges and agrees that (a) use of the Services is at the sole risk of Customer and its Authorized Users; or, (b) Company shall not be responsible for any interruption in use of the services, delays or errors caused by Customer's use of the Services, or any part thereof. Customer shall hold Company and its directors, members, shareholders, officers, employees and agents harmless from and against any and all claims, losses, damages, liabilities,**



costs and/or expenses (including reasonable legal fees) arising out of Customer's use of the Services including, without limitation, the transmission of any order using the Services.

## **9. Indemnification.**

### **9.1 Company Indemnity.**

(a) General. Company, at its expense, shall defend Customer and its officers, directors and employees (the "**Customer Indemnified Parties**") from and against all actions, proceedings, claims and demands by a third party (a "**Third-Party Claim**") alleging that the Platform infringes any copyright or misappropriates any trade secret and shall pay all damages, costs and expenses, including reasonable attorneys' fees and costs awarded in final decision (whether by settlement or award of by a final judicial judgment) paid to the Third Party bringing any such Third-Party Claim. Company's obligations under this Section are conditioned upon

(i) Company being promptly notified in writing of any claim under this Section,

(ii) Company having the sole and exclusive right to control the defense and settlement of the claim, and

(iii) Customer providing all reasonable assistance (at Company's expense and reasonable request) in the defense of such claim. In no event shall Customer settle any claim without Company's prior written approval. Customer may, at its own expense, engage separate counsel to advise Customer regarding a Third-Party Claim and to participate in the defense of the claim, subject to Company's right to control the defense and settlement.

(b) Mitigation. If any claim which Company is obligated to defend has occurred, or in Company's determination is likely to occur, Company may, in its sole discretion and at its option and expense (a) obtain for Customer the right to use the Platform, (b) substitute a functionality equivalent, non-infringing replacement for such the Platform, (c) modify Platform to make it non-infringing and functionally equivalent, or (d) terminate these Terms and refund to Customer any prepaid amounts for Services not provided.

(c) Exclusions. Notwithstanding anything to the contrary in these Terms, the foregoing obligations shall not apply with respect to a claim of infringement if such claim arises out of (i) Customer's use of infringing Customer Content; (ii) use of the Platform in combination with any software, hardware, network or system not supplied by Company where the alleged infringement relates to such combination, (iii) any modification or alteration of the Platform other than by Company, (iv) Customer's continued use of the Platform after Company notifies Customer to discontinue use because of an infringement claim, (v) Customer's violation of applicable law; and (vi) Customer System.

(d) Sole Remedy. **The foregoing states the entire liability of Company with respect to the infringement of any third party Intellectual Property Rights by the Platform or otherwise, and Customer hereby expressly waives any other liabilities or obligations of Company with respect thereto. No**

**indemnities of any kind whatsoever are made for Customer's benefit if Customer is using the Platform under a beta/pilot or assessment license.**

9.2 **Customer Indemnity.** Customer shall defend Company and its licensors and their respective officers, directors and employees ("**Company Indemnified Parties**") from and against any and all Third-Party Claims which arise out of or relate to: (a) a claim or threat that the Customer Content (and the exercise by Company of the rights granted herein with respect thereto) infringes, misappropriates or violates any third party's privacy rights or Intellectual Property Rights; (b) Customer's use or alleged use of the Platform other than as permitted under these Terms; or (c) arising from the occurrence of any of the exclusions set forth in Section 9.1(c). Customer shall pay all damages, costs and expenses, including reasonable attorneys' fees and costs (whether by settlement or award in final judgment) paid to the Third Party bringing any such Third-Party Claim. Customer's obligations under this Section are conditioned upon (x) Customer being promptly notified in writing of any claim under this Section, (y) Customer having the sole and exclusive right to control the defense and settlement of the claim, and (z) Company providing all reasonable assistance (at Customer's expense and reasonable request) in the defense of such claim. In no event shall Company settle any claim without Customer's prior written approval. Company may, at its own expense, engage separate counsel to advise Company regarding a Third-Party Claim and to participate in the defense of the claim, subject to Customer's right to control the defense and settlement.

## **10. Confidentiality.**

10.1 **Confidential Information.** "**Confidential Information**" means any and all non-public technical and non-technical information disclosed by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") in any form or medium, whether oral, written, graphical or electronic, pursuant to these Terms, that is marked confidential, or that the Disclosing Party identifies as confidential, or that by the nature of the circumstances surrounding the disclosure or receipt ought to be treated as confidential information, including but not limited to: (a) techniques, sketches, drawings, models, inventions (whether or not patented or patentable), know-how, processes, apparatus, formulae, equipment, algorithms, software programs, software source documents, APIs, and other creative works (whether or not copyrighted or copyrightable); (b) information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, customer lists, business forecasts, sales and merchandising and marketing plans and information; (c) proprietary or confidential information of any third party who may disclose such information to Disclosing Party or Receiving Party in the course of Disclosing Party's business; and (d) the terms of these Terms and any Order or Statement of Work. Confidential Information of Company shall include the Platform, the documentation, the pricing, and the terms and conditions of this agreement. Confidential Information also includes all summaries and abstracts of Confidential Information.

**10.2 Non-Disclosure.** Each party acknowledges that in the course of the performance of these Terms, it may obtain the Confidential Information of the other party. The Receiving Party shall, at all times, both during the Term and thereafter, keep in confidence and trust all of the Disclosing Party's Confidential Information received by it. The Receiving Party shall not use the Confidential Information of the Disclosing Party other than as necessary to fulfill the Receiving Party's obligations or to exercise the Receiving Party's rights under these Terms. Each party agrees to secure and protect the other party's Confidential Information with the same degree of care and in a manner consistent with the maintenance of such party's own Confidential Information (but in no event less than reasonable care), and to take appropriate action by instruction or agreement with its employees, contractors or other agents who are permitted access to the other party's Confidential Information to satisfy its obligations under this Section. The Receiving Party shall not disclose Confidential Information of the Disclosing Party to any person or entity other than its officers, employees, contractors and agents who need access to such Confidential Information in order to effect the intent of these Terms and who are subject to confidentiality obligations at least as stringent as the obligations set forth in these Terms.

**10.3 Exceptions to Confidential Information.** The obligations set forth in Section 10.2 (Non-Disclosure) shall not apply to the extent that Confidential Information includes information which: (a) was known by the Receiving Party prior to receipt from the Disclosing Party either itself or through receipt directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (b) was developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or (c) becomes publicly known or otherwise ceases to be secret or confidential, except as a result of a breach of these Terms or any obligation of confidentiality by the Receiving Party. Nothing in these Terms shall prevent the Receiving Party from disclosing Confidential Information to the extent the Receiving Party is legally compelled to do so by any governmental investigative or judicial agency pursuant to proceedings over which such agency has jurisdiction; provided, however, that prior to any such disclosure, the Receiving Party shall (x) assert the confidential nature of the Confidential Information to the agency; (y) immediately notify the Disclosing Party in writing of the agency's order or request to disclose; and (z) cooperate fully with the Disclosing Party in protecting against any such disclosure and in obtaining a protective order narrowing the scope of the compelled disclosure and protecting its confidentiality.

**10.4 Injunctive Relief.** The parties agree that any unauthorized disclosure of Confidential Information may cause immediate and irreparable injury to the Disclosing Party and that, in the event of such breach, the Receiving Party will be entitled, in addition to any other available remedies, to seek immediate injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages.

## **11. Proprietary Rights.**

**11.1 Platform.** As between Company and Customer, all right, title and interest in the Platform, and any other Company materials furnished, used in the provision of the Services or made available to Customer hereunder, and all modifications and enhancements thereof, and all suggestions, ideas and feedback proposed by Customer regarding the Platform, including all copyright rights, patent rights and other Intellectual Property Rights in each of the foregoing, belong to and are retained solely by Company or Company's licensors and providers, as applicable. Customer shall periodically provide Company with written feedback regarding Customer's use of the Platform, the functionality and accuracy of the Platform, any bugs, errors or deficiencies that Customer encounters regarding the operation and functionality of the Platform and any suggestions that Customer may have regarding improvement of such operation and functionality ("**Feedback**"). Additionally, Customer shall promptly respond to any questions that Company may have regarding such Feedback or to any other questions Company may have regarding Customer's use of the Platform. Customer hereby does and will irrevocably assign to Company all Feedback and all Intellectual Property Rights in the Feedback.

**11.2 Customer Content.** As between Company and Customer, all right, title and interest in (a) the Customer Content, (b) Other Information input into the Platform by Customer and (c) all Intellectual Property Rights in each of the foregoing, belong to and are retained solely by Customer. Customer hereby grants to Company a limited, non-exclusive, royalty-free, worldwide license to reproduce, distribute, use and display the Customer Content and perform all acts with respect to the Customer Content as may be necessary for Company to provide and improve the Services; and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify and distribute the Other Information as a part of the Aggregated Data (as defined in Section 11.3 below). To the extent that receipt of the Customer Content requires Company to utilize any account information from a third party service provider, Customer shall be responsible for obtaining and providing relevant account information and passwords, and Company hereby agrees to access and use the Customer Content solely for Customer's benefit and as set forth in these Terms. As between Company and Customer, Customer is solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Content.

**11.3 Aggregated Data.** Notwithstanding anything else in these Terms or otherwise, Company may monitor Customer's use of the Services, including the LLMs or Generative AI systems, and use metadata and information related to such use and to Customer Content and to Other Information, in an aggregate and anonymous manner, including to improve and compile statistical and performance information related to the provision and operation of the Services ("**Aggregated Data**"). As between Company and Customer, all right, title and interest in the Aggregated Data and all Intellectual Property Rights therein, belong to and are retained solely by Company. Customer acknowledges that Company will be compiling Aggregated Data

based on Customer's use of the Service and input by other customers into the Platform and Customer agrees that Company may (a ) make such Aggregated Data publicly available, and (b) use such information to the extent and in the manner required by applicable law or regulation and for purposes of data gathering, analysis, service enhancement and marketing, provided in both cases that such data and information does not identify Customer or its Confidential Information.

**11.4 Company Developments.** All inventions, works of authorship and developments, methods, data and datasets conceived, created, written, or generated by or on behalf of Company, whether solely or jointly, including without limitation, in connection with Company's performance of the Services and Additional Services hereunder ("**Company Developments**") and all Intellectual Property Rights therein, shall be the sole and exclusive property of Company.

**11.5 Further Assurances.** To the extent any of the rights, title and interest in and to Feedback or Company Developments or Intellectual Property Rights therein cannot be assigned by Customer to Company, Customer hereby grants to Company an exclusive, royalty-free, transferable, irrevocable, worldwide, fully paid-up license (with rights to sublicense through multiple tiers of sublicensees) to fully use, practice and exploit those non-assignable rights, title and interest. If the foregoing assignment and license are not enforceable, Customer agrees to waive and never assert against Company those non-assignable and non-licensable rights, title and interest. Customer agrees to execute any documents or take any actions as may reasonably be necessary, or as Company may reasonably request, to perfect ownership of the Feedback and Company Developments. If Customer is unable or unwilling to execute any such document or take any such action, Company may execute such document and take such action on Customer's behalf as Customer's agent and attorney-in-fact. The foregoing appointment is deemed a power coupled with an interest and is irrevocable.

**11.6 License to Deliverables.** Subject to Customer's compliance with these Terms, and unless the SoW indicates that the Deliverables are Customer Intellectual Property, Company hereby grants Customer a limited, non-exclusive, non-transferable license to use the Deliverables solely in connection with Customer's authorized use of the Platform. Notwithstanding any other provision of these Terms: (i) nothing herein shall be construed to assign or transfer any Intellectual Property Rights in the proprietary tools, source code samples, data, templates, libraries, know-how, techniques and expertise ("**Tools**") used by Company to develop the Deliverables, and to the extent such Tools are delivered with or as part of the Deliverables, they are licensed, not assigned, to Customer, on the same terms as the Deliverables; and (ii) the term "Deliverables" shall not include the Tools.

## **12. Data Protection.**

**12.1** Each Party will process the personal data of the signatories and other representatives of the other Party that are necessary for the purposes of the signature and administrative management of the Contract solely for that purpose, in

accordance with the terms of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 ("**GDPR**") and other applicable legislation on data protection (Spanish law 1/2018 for the Company) and keep such data only for the duration of these Terms, without prejudice to longer term preservation for the purpose of complying with legal obligations or where personal data are required for the declaration, exercise or defense of a right in a proceeding judicial.

**12.2** The provision of the Services involves the access of personal data and consequently the parties shall comply with the provisions established in the Data Processing Addendum annexed to these Terms.

## **13. Limitation Of Liability.**

**13.1 No Consequential Damages.** Neither Company nor its licensors or suppliers shall be liable for any indirect damages, including without limitation any damages for lost data, business interruption, lost profits, lost revenue or lost business, arising out of or in connection with this Agreement, and any such damages arising out of the licensing, provision or use of the platform, additional services, support services, outputs or the LLM or generative AI systems. Company will not be liable for the cost of procurement of substitute goods or services.

**13.2 Limits on Liability.** Neither Company nor its licensors or suppliers shall be liable for cumulative, aggregate damages greater than an amount equal to the amounts paid by Customer to Company under these terms during the period of six (6) months preceding the date on which the claim first accrued.

**13.3 Essential Purpose.** Customer acknowledges that the terms in this section 13 (limitation of liability) shall apply to the maximum extent permitted by applicable law and shall apply even if an exclusive or limited remedy stated herein fails of its essential purpose without regard to whether such claim is based in contract, tort (including negligence), product liability or otherwise.

## **14. Term and Termination.**

**14.1 Term.** The Term of the Agreement commences on the date they are accepted by Customer continues until terminated as provided herein.

**14.2 Termination for Cause.** A party may terminate these Terms and any Statement of Work upon written notice to the other party in the event the other party (a) to the extent permitted by applicable law, files a petition for bankruptcy or has a petition for bankruptcy filed against it that is not dismissed within sixty (60) days after filing or admits its inability to pay its debts as they mature, makes an assignment for the benefit of its creditors or ceases to function as a going concern or to conduct its operations in the normal course of business and such termination shall occur immediately upon notice; or (b) commits a material breach of any provision of these Terms and does not remedy such breach within thirty (30) days after receipt of notice from the other party or such other period as the parties may agree. Upon any termination for cause by Customer, Company shall refund Customer any prepaid Fees for any Services not yet provided.



Upon any termination for cause by Company, Customer shall pay any unpaid Fees covering the remainder of the term of all Orders after the effective date of termination. In no event shall any termination relieve Customer of the obligation to pay any Fees payable to Company for the period prior to the effective date of termination.

**14.3 Effects of Termination.** Upon expiration or termination of the Agreement, (a) Customer's use of and access to the Platform and Company's performance of all Support Services and Additional Services shall cease; (b) all Orders and Statements of Work shall terminate; and (c) all Fees and other amounts owed to Company shall be immediately due and payable by Customer, including without limitation, all Fees incurred under any outstanding Statement of Work up through the date of termination for any Additional Services completed and a pro-rated portion of the Fees incurred for any partially completed Additional Services. Company shall have no obligation to maintain or provide any Customer Content or Outputs and may thereafter, unless legally prohibited, delete all Customer Content and/or Outputs in its systems or otherwise in its possession or under its control. In addition, within ten (10) days of the effective date of termination each Receiving Party shall: (a) return to the Disclosing Party, or at the Disclosing Party's option, the Receiving Party shall destroy, all items of Confidential Information (other than the Customer Content) then in the Receiving Party's possession or control, including any copies, extracts or portions thereof, and (b) upon request shall certify in writing to Disclosing Party that it has complied with the foregoing.

**14.4 Survival.** This Section and Sections 1, 2.2, 2.3, 8, 9, 10, 11, 12, 13, 14.3, and 15 shall survive any termination or expiration of the Agreement.

## **15. Miscellaneous.**

**15.1 Notices.** All notices which any party to these Terms may be required or may wish to give may be given by addressing them to the other party at the addresses set forth below (or at such other addresses as may be designated by written notices given in the manner designated herein) by (a) personal delivery, (b) sending such notices by commercial overnight courier with written verification of actual receipt, (c) by email, effective (A) when the sender receives an automated message from the recipient confirming delivery or (B) one hour after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered, whichever happens first, but if the delivery or receipt is on a day which is not a business day or is after 5:00 pm (addressee's time) it is deemed to be received at 9:00 am on the following business day, or (d) sending them by registered or certified mail. If so mailed or otherwise delivered, such notices shall be deemed and presumed to have been given on the earlier of the date of actual receipt or three (3) days after mailing or authorized form of delivery. All communications and notices to be made or given pursuant to these Terms shall be in the English language.

**15.2 Governing Law.** These Terms and the rights and obligations of the Parties to and under this agreement shall be governed by and construed under the laws of the United States and the State of Delaware as applied to agreements entered into and to be performed in such State without giving effect to conflicts of laws rules or principles. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to these Terms. Any dispute arising out of or in connection with these Terms, including but not limited to any question regarding its existence, interpretation, validity, performance, or termination, or any dispute between the Parties arising from the Parties' relationship created by these Terms, shall be referred to and finally resolved by arbitration administered by the American Arbitration Association ("AAA") under its rules. The number of arbitrators shall be one (1). The Parties shall endeavor to agree upon the sole arbitrator and jointly nominate the arbitrator. If the Parties cannot agree upon the sole arbitrator within a time prescribed by AAA, the Parties shall request the AAA to propose five (5) arbitrators and each Party shall rank the proposed arbitrators. The AAA shall appoint an arbitrator from the list of five (5), based upon the Parties' rankings. The seat, or legal place of arbitration shall be Boston, Delaware, United States. Notwithstanding the foregoing, Company has the right to pursue equitable relief in the state and federal courts located in Washington, and Customer agrees to the exclusive jurisdiction and venue of such courts.

## **15.3**

**15.4 Publicity.** Company has the right to reference and use Customer's name and trademarks and disclose the nature of the Services provided hereunder in each case in Company business development and marketing efforts, including without limitation Company's web site.

**15.5 Non-Discrimination.** In the performance of the Services, Company agrees that it will not engage in discrimination in employment of persons because of age, race, color, sex, national origin or ancestry, sexual orientation, or religion of such persons.

**15.6 No Solicitation of Employees.** Customer agrees that, so long as these Terms remain in effect, and for a period of one (1) year following their termination, it will not directly solicit for employment the employees of Company without Company's prior written consent; provided, however, that the foregoing prohibition shall not preclude the hiring by Customer of any individual who responds to a general solicitation or advertisement, whether in print or electronic form, only job postings and social networking sites.

**15.7 Export.** The Platform utilizes software and technology that may be subject to European, United States and other foreign export controls. Customer acknowledges and agrees that the Services shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the European Union and United States maintains an embargo (collectively, "**Embargoed Countries**"), or to or by a national or

resident thereof, or any person or entity on an EU or US list of nationals with whom it is illegal to transact any business (collectively, “**Designated Nationals**”). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Platform, Customer represents and warrants that it is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. The Platform may use encryption technology that is subject to licensing requirements under applicable EU and U.S. export control regulations including US Export Administration Regulations, 15 C.F.R. Parts 730-774 and Council Regulations (EC) No. 428/2009 and 2021/821. Customer agrees to comply strictly with all applicable export laws and assume sole responsibility for obtaining licenses to export or re-export as may be required. Company and its licensors make no representation that the Platform is appropriate or available for use in other locations. None of the Customer Content, Deliverables, nor any information and other results acquired through the use of the Platform, is or will be used for nuclear activities, chemical or biological weapons, or missile projects.

#### 15.8 General.

(a) Customer shall not assign its rights hereunder, or delegate the performance of any of its duties or obligations hereunder, whether by merger, acquisition, sale of assets, operation of law, or otherwise, without the prior written consent of Company. Any purported assignment in violation of the preceding sentence is null and void. Subject to the foregoing, these Terms shall be binding upon, and inure to the benefit of, the successors and assigns of the parties thereto.

(b) Except as otherwise specified in these Terms, these Terms may be amended or supplemented only by a writing that refers explicitly to these Terms and that is signed on behalf of both parties.

(c) No waiver will be implied from conduct or failure to enforce rights. No waiver will be effective unless in a writing signed on behalf of the party against whom the waiver is asserted.

(d) If any of these Terms is found invalid or unenforceable that term will be enforced to the maximum extent permitted by law and the remainder of the Terms will remain in full force.

(e) The parties are independent contractors and nothing contained herein shall be construed as creating an agency, partnership, or other form of joint enterprise between the parties.

(f) These Terms, including all applicable Statements of Work, constitute the entire agreement between the parties relating to this subject matter and supersedes all prior or simultaneous understandings, representations, discussions, negotiations, and agreements, whether written or oral.

(g) In the event of any occurrence or circumstance beyond either party’s reasonable control (each a “**Force Majeure Event**”), including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, computer, telecommunications,

Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within Company’s possession or reasonable control, and denial of service attacks, but excluding financial inability, that makes it impossible to perform under this Agreement, the party unable to perform shall not have any liability to the other party for the prevented performance; provided that such performance shall resume promptly at such time as such Force Majeure Event ceases to exist and that all obligations unaffected by such Force Majeure Event shall remain in place.

(h) The headings used for the Sections of this Agreement are for information purposes and convenience only and in no way define, limit, construe or describe the scope or extent of the sections.

(i) This Agreement may be executed in separate counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same instrument.