cloudsmith

MASTER SUBSCRIPTION AGREEMENT

This Cloudsmith Master Subscription Agreement (this "Agreement"), effective as of _____, 2025 ("Effective Date"), between Cloudsmith, Ltd. ("Cloudsmith") and Customer, and governs Customer's access to and use of the Subscription Services and Support Services that Customer receives from Cloudsmith. This Agreement includes and incorporates the initial Order Form, and any additional Order Forms entered into by the Parties, which are incorporated by reference. Cloudsmith and Customer may be referred to collectively as the "Parties" or individually as a "Party." For good and valuable consideration, which is hereby acknowledged, the Parties agree as follows:

Definitions.

"Authorized User" means any User permitted to access the Subscription Services, for whose actions Customer accepts liability and responsibility. Customer must authorize such Users to access the applicable Subscription Services.

"**Customer Materials**" means all information, data, content and other materials, in any form or medium, that is transmitted or otherwise provided by or on behalf of Customer or its customers through the Subscription Services or to Cloudsmith in connection with Customer's Use of the Subscription Services, but excluding, for clarity, any other Cloudsmith IP.

"**Documentation**" means the introductory presentation, user training, training materials, knowledge center, and other similar materials in hard copy or electronic form if and as provided by Cloudsmith to Customer (including any revised versions) relating to the Subscription Services, which may be updated from time to time upon notice to Customer.

"**Feedback**" means any suggestions, comments, feedback or the like with regard to the Subscription Services that Customer or its employees, contractors, or representatives may provide to Cloudsmith.

"**Licensed Volume**" means the limits, number of seats, volume or other measurement or conditions of permitted Use for the applicable Subscription Service as set forth in the applicable Order Form.

"**Order Form**" means a mutually executed order form or other mutually agreed upon ordering document, which references this Agreement and sets forth the applicable Subscription Services and/or Support Services to be provided by Cloudsmith.

"**Subscription Services**" means Cloudsmith's subscription products and services, as more particularly described or identified in the applicable Order Form.

"**Support Services**" means technical assistance and customer service provided by Cloudsmith in connection with the Subscription Services as set forth in this Agreement. The level of Support Services provided to Customer and related Fees, as applicable, are set forth in the Order Form.

"**Use**" means to use and access the Subscription Services in accordance with this Agreement and the Documentation.

"**Cloudsmith IP**" means the Subscription Services, the underlying software, algorithms, interfaces, technology, databases, tools, know-how, processes and methods used to provide or deliver the Subscription Services or any Support Services, Documentation and all improvements, modifications or enhancements to, or derivative works of, the foregoing (regardless of inventorship or authorship), and all intellectual property rights in and to any of the foregoing.

1 **Subscription Services**.

- **Services**. Cloudsmith will provide access to the Subscription Services and the Support Services to Customer in accordance with the terms and conditions set forth in the applicable Order Form and this Agreement and any limitations, including without limitation, in connection with the Licensed Volume.
- **Right to Use the Subscription Services**. Subject to Customer's compliance with the terms and conditions of this Agreement, Cloudsmith grants to Customer a limited, non-exclusive, non-transferable (except pursuant to this Agreement) right to Use the Subscription Services in accordance with, and subject to, the Licensed Volume during the applicable Term for Customer's internal business purposes. As between Customer and Cloudsmith, Cloudsmith owns and retains all right, title and interest in and to the Subscription Services, the Support Services and the Documentation, including all intellectual property rights, and Customer further assigns to Cloudsmith any Feedback provided by or on behalf of Customer. Subject to the limited rights expressly granted hereunder, Cloudsmith reserves and, as between the Parties will solely own, the Cloudsmith IP and all rights, title and interest in and to the Cloudsmith IP. No rights are granted to Customer hereunder (whether by implication, estoppel, exhaustion or otherwise) other than as expressly set forth in this Agreement.
- **Use Restrictions**. Customer will not and will not permit any person or entity (including, without limitation, Authorized Users and its clients) to, directly or indirectly: (i) copy, modify or create any derivative work of any portion of the Subscription Services or the Documentation; (ii) reverse engineer, decompile, decode, or disassemble or otherwise attempt to derive or gain improper access to any software component of the Subscription Services, in whole or in part; (iii) frame, mirror, sell, resell, market, sublicense, publish, distribute, reproduce, assign, transfer, rent, lease or loan any portion of the Subscription Services to any other person or entity, or otherwise allow any person or entity to Use the Subscription Services for any purpose other than for the benefit of Customer in accordance with this Agreement; (iv) Use the Subscription Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property rights or other right of any person or entity, or that violates any applicable law; (v) Use the Subscription Services, Documentation or any other Cloudsmith Confidential Information for benchmarking or competitive analysis with respect to competitive or related products or services, or to develop, commercialize, license or sell any product, service or technology that could, directly or indirectly, compete with the Subscription Services, or (vi) collect or upload any personally identifiable information from or to the Subscription Services, except as authorized by the relevant subject.
- **Authorized Users**. Cloudsmith does not impose seat limitations on Subscription Services. Customer is permitted to issue a potentially indefinite number of Authorized Users. However, Customer must act reasonably and in good faith. All Authorized Users must be using the Subscription Services for purposes associated with the Customer's lawful business. Customer may not invite Authorised Users in order to circumvent the subscription fees such users would otherwise need to pay for the use of the Subscription Services for other purposes. Cloudsmith shall exercise its sole reasonable discretion in assessing whether Customer has adhered to these restrictions. Customer acknowledges that each Authorized User it adds will increase its data and other usages. Customer will be responsible for paying for excess use that exceeds its current plan. Customer will not allow any person or entity other than its Authorized Users to Use the Subscription Services on its behalf. Cloudsmith may suspend or terminate any Authorized User's access to the Subscription Services upon notice to Customer in the event that Cloudsmith reasonably determines that such Authorized User has violated this Agreement. Customer is responsible for all acts or omissions by its Authorized Users in connection with their Use of the Subscription Services. Each account for the Subscription Services may only be accessed and used by the specific Authorized User for whom such account is created.

2 **Professional Services, Support Services & Availability**

- **Professional Services.** Upon Customer's request for Professional Services that Cloudsmith provides, Cloudsmith will provide an Order Form detailing such Professional Services. Cloudsmith will control the manner and means by which the Professional Services are performed (but these shall all be performed remotely) and reserves the right to determine the personnel assigned. Customer acknowledges and agrees that Cloudsmith retains all right, title, and interest in and to anything used or developed to perform the Professional Services, including but not limited to software, tools, specifications, ideas, concepts, inventions, processes, techniques, know-how, and other intellectual property rights. To the extent, Cloudsmith delivers any deliverable to the Customer while performing the Professional Services, Cloudsmith grants to the Customer a non-exclusive, non-transferable, worldwide, royalty-free, limited-term license to use such deliverable during the term of the Agreement, solely in conjunction with Customer's use of the Subscription Service.
- **Support.** As standard and at no additional cost other than the relevant subscription fees, Cloudsmith offers a basic level of support via email, in-Service communications, and electronic messages. Support is subject to reasonable usage requirements and any support services policy Cloudsmith may introduce. Cloudsmith typically deals with Support tickets between 9 am and 5 pm GMT on Mondays to Fridays (excluding public holidays)
- **Availability.** Cloudsmith will use commercially reasonable efforts to maintain availability of the Services 24 hours a day, 7 days per week, subject to planned maintenance, Force Majeure Events and other terms of this Agreement. Cloudsmith will endeavor to schedule planned maintenance affecting the availability of the Services at non-peak times, and will endeavor to send advance notice (which may be posted within the Services or otherwise) of such planned maintenance. Cloudsmith will use commercially reasonable efforts to notify you as soon as reasonably practical of any unplanned downtime of the Services and resolve the issue as soon as practical.

3. **Fees.** In consideration for Cloudsmith providing the Subscription Services and the Support Services, Customer will pay Cloudsmith the non-refundable fees set forth in the applicable Order Form ("Fees") in accordance with the payment terms set forth below and without offset or deduction. Payments will be billed to Customer in U.S. dollars. Except as otherwise provided in the relevant Order Form or agreed by the Parties, Cloudsmith will issue invoices to Customer during the Term, and Customer will pay all amounts set forth on any such invoice no later than fifteen (15) days after the date of such invoice. If Customer fails to make any payment when due, late charges will accrue at the rate of 1.5% per month and Cloudsmith may suspend Subscription Services and Support Services until all payments are made in full. Customer will reimburse Cloudsmith for all costs and expenses incurred (including reasonable attorneys' fees) in collecting any late payments or interest. Cloudsmith reserves the right to change the Fees upon ninety (90) days' notice prior to the end of the then-current Term. Customer is responsible for all taxes, fees, duties, and governmental assessments other than those based upon Cloudsmith's income.

4. **Customer Materials.** Cloudsmith acknowledges that, as between Customer and Cloudsmith, Customer owns and retains all right, title and interest in and to all Customer Materials. Cloudsmith may use, display and modify the Customer Materials solely to provide and improve the Subscription Services and Support Services during the Term (as defined below).

5. **Representations & Warranties**
   - Each Party represents and warrants to the other Party that: (a) it has full power and authority to enter into this Agreement; and (b) the execution, delivery and performance of this Agreement by it have been duly authorized by all necessary actions and do not violate its organizational documents.
   - Customer represents and warrants that Cloudsmith's use of the Customer Materials in accordance with this Agreement will not violate any applicable laws or regulations or cause a breach of any agreement or obligations between Customer and any third-party.
   - Cloudsmith uses reasonable endeavors to protect (where applicable) the data processed with the Subscription Services. However, Customer understands and agrees that the use of the Subscription Services necessarily involved the transmission of data (including Customer Materials) over networks that are not owned, operated or controlled by Cloudsmith and that Cloudsmith is not responsible for Customer Data lost, altered, intercepted or stored across such networks. Cloudsmith does not guarantee that its security procedures will be error-free, that Customer Materials' transmissions will always be 100% secure of that unauthorized third-parties will never be able to defeat Cloudsmith's security measures or those of Cloudsmith's third-party service providers.

6. **Term & Termination.** The initial term of this Agreement begins on the Effective Date and expires upon expiry of the term as set forth in the Order Form (the "Initial Term"). Except as otherwise set forth in the Order Form, following the Initial Term, this Agreement will automatically renew for additional periods of the same duration as the Initial Term (each, a "Renewal Term," and together with the Initial Term, the "Term") with 10% increase in pricing, unless either Party provides the other with at least ninety (90) days' written notice of its intent not to renew this Agreement prior to the end of the then-current Term. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and, if able to be cured, such breach remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach. Notwithstanding the foregoing, there is no cure period if Customer infringes or otherwise violates Cloudsmith's intellectual property rights.

7. **Effect of Termination.** Upon expiration or termination of an Order Form, each other Order Form that is then-in effect will remain in effect for the duration of the then-current Term of such Order Form. Upon expiration or termination of each Order Form: (i) each Party will make no further use of any Confidential Information belonging to the other Party, and will promptly return to the other Party (or destroy) all Confidential Information of the other Party in its possession or control, except for any archived electronic communications which may be stored confidentially, (ii) Customer's and its Authorized Users' right to Use the Subscription Services pursuant to such Order Form will immediately terminate; and (iii) all Fees owed by Customer to Cloudsmith pursuant to such Order Form will be immediately due. The rights and obligations of Cloudsmith and Customer contained in the Sections labeled ("Fees") ("Customer Materials"), ("Effect of Termination"), ("Confidentiality"), ("Disclaimer; Limitation of Liability"), ("Indemnification"), and ("Miscellaneous") will survive any expiration or termination of this Agreement and Order Forms.

8. **Confidentiality.**
   - **Confidentiality.** As used in this Agreement, "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 Subscription Services, and Documentation will be deemed Confidential Information of Cloudsmith. The Receiving Party will not use or disclose any Confidential Information of the Disclosing Party except as necessary to perform its obligations or exercise its rights under this Agreement;. The Receiving Party may disclose Confidential Information of the Disclosing Party only: (i) to those of its employees, contractors, agents and advisors who have a bona fide need to know such Confidential Information to perform under this Agreement and who are bound by written agreements with use and nondisclosure restrictions at least as protective of the Confidential Information as those set forth in this Agreement, or (ii) as such disclosure may be required by the order or requirement of a court, administrative agency or other governmental body, subject to the Receiving Party providing to the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or otherwise contest the disclosure. The terms and conditions of this Agreement will constitute Confidential Information of each Party but may be disclosed on a confidential basis to a Party's advisors, attorneys, actual or bona fide potential acquirers, investors or other sources of funding (and their respective advisors and attorneys) for due diligence purposes.
   - **Exclusions.** Confidential Information shall not include any information: (i) is or becomes generally known to the public through no fault or breach of this Agreement by the Receiving Party; (ii) is rightfully known by the Receiving Party at the time of disclosure without an obligation of confidentiality; (iii) is independently developed by the Receiving Party without access to or use of any Confidential Information of the Disclosing Party that can be evidenced in writing; or (iv) is rightfully obtained by the Receiving Party from a third-party without restriction on use or disclosure.
   - **Security & Data Privacy.** Cloudsmith shall maintain an information security program for the protection of Customer Materials including commercially reasonable administrative, physical and technical measures designed to (i) protect the confidentiality, availability and integrity of Customer Materials, and (ii) ensure the appropriate storage, disposal and destruction of Customer Materials in compliance with applicable data privacy laws and Cloudsmith's data processing agreement.

9. **Disclaimer & Limitation of Liability.**
   - **Disclaimer.** THE SUBSCRIPTION SERVICES, SUPPORT SERVICES, AND OTHER CLOUDSMITH IP ARE PROVIDED ON AN "AS IS" BASIS, AND CLOUDSMITH MAKES NO WARRANTIES OR REPRESENTATIONS TO CUSTOMER, ITS AUTHORIZED USERS, OR TO ANY OTHER PARTY REGARDING THE CLOUDSMITH IP, THE SUBSCRIPTION SERVICES, SUPPORT SERVICES OR ANY OTHER SERVICES OR MATERIALS PROVIDED HEREUNDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CLOUDSMITH DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, CLOUDSMITH DISCLAIMS ANY WARRANTY THAT USE OF THE SUBSCRIPTION SERVICES OR SUPPORT SERVICES WILL BE ERROR-FREE, BUG-FREE OR UNINTERRUPTED. ADDITIONALLY, CLOUDSMITH DOES NOT GIVE PROFESSIONAL ADVICE AS PART OF THE SUBSCRIPTION SERVICES AND THE SUPPORT SERVICES. CLOUDSMITH IS NOT IN THE BUSINESS OF PROVIDING LEGAL, FINANCIAL, ACCOUNTING, TAX, HEALTH CARE, REAL ESTATE OR OTHER PROFESSIONAL SERVICES OR ADVICE. CUSTOMER ACKNOWLEDGES THAT IT SHOULD CONSULT THE SERVICES OF A COMPETENT PROFESSIONAL WHEN IT NEEDS THIS TYPE OF ASSISTANCE.
   - **Exclusion of Damages.** NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF INCOME, DATA, PROFITS, REVENUE OR BUSINESS INTERRUPTION, OR THE COST OF COVER OR SUBSTITUTE SERVICES OR OTHER ECONOMIC LOSS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE CLOUDSMITH IP OR THE PROVISION OF THE SUBSCRIPTION SERVICES AND SUPPORT SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
   - **Total Liability.** EXCEPT LIABILITY ASSOCIATED WITH FEES, IN NO EVENT WILL EITHER PARTY'S TOTAL LIABILITY TO THE OTHER PARTY OR ITS AUTHORIZED USERS IN CONNECTION WITH THIS AGREEMENT, THE CLOUDSMITH IP OR THE PROVISION OF THE SUBSCRIPTION SERVICES OR SUPPORT SERVICES EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO CLOUDSMITH IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE CLAIM OR LIABILITY IS BASED, AND WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION AGREEMENT ARE AN ESSENTIAL PART OF THE BASIS OF THE BARGAIN BETWEEN CLOUDSMITH AND CUSTOMER, AND WILL APPLY EVEN IF THE REMEDIES AVAILABLE UNDER THIS AGREEMENT ARE FOUND TO FAIL THEIR ESSENTIAL PURPOSE.

10. **Indemnification.**
    - **Indemnity.** Subject to this Agreement, Cloudsmith will defend Customer against any claim, suit or proceeding brought by a third-party ("Claims") alleging that Customer's Use of the Subscription Services infringes or misappropriates such third party's intellectual property rights, and will indemnify Customer against any damages and costs proximately caused by and awarded against Customer or

agreed in settlement by Cloudsmith (including reasonable attorneys' fees) resulting from such Claim.

- **Exclusions.** Cloudsmith's obligations under the preceding section will not apply if the underlying Claim arises from or as a result of: (i) Customer's breach of this Agreement, negligence, willful misconduct or fraud; (ii) any Customer Materials; (iii) Customer's failure to use any enhancements, modifications, or updates to the Subscription Services that have been provided by Cloudsmith; (iv) modifications to the Subscription Services by anyone other than Cloudsmith; or (v) combinations of the Subscription Services with software, data or materials not provided by Cloudsmith.

11 Miscellaneous.

- **Assignment.** Neither Party may assign or transfer this Agreement, by operation of law or otherwise, without the other Party's prior written consent, and any attempted assignment or transfer in violation of the foregoing will be null and void; provided, however, that either Party may assign this Agreement without consent from the other Party to an affiliate or an acquirer or successor in interest in connection with a merger, acquisition or sale of all or substantially all of its assets, stock or business. Subject to the foregoing, this Agreement is binding upon and will inure to the benefit of each of the Parties' and their respective successors and permitted assigns.
- **Entire Agreement.** This Agreement, including any Order Forms, is the complete and exclusive agreement between the Parties with respect to its subject matter and supersedes any and all prior or contemporaneous agreements, communications and understandings, both oral and written, with respect to its subject matter. This Agreement may be amended or modified only by a written document executed by duly authorized representatives of the Parties. The parties agree that any alternative terms set forth in Customer's purchase order or similar document are void and of no effect.
- **Restricted Rights.** The Subscription Services and Documentation are "commercial computer software" and "commercial computer software documentation," respectively, as such terms are used in FAR 12.212 and other relevant government procurement regulations. Any use, duplication, or disclosure of the Subscription Services or Documentation by or on behalf of the U.S. government is subject to restrictions as set forth in this Agreement.
- **Export.** Customer will fully comply with all applicable federal laws, regulations and rules that prohibit or restrict the access to or the export or re-export of the Subscription Services or software, or any Customer Materials, outside the United States ("Export Rules"), and will complete all undertakings required by Export Rules, including obtaining any necessary export license or other governmental approval.
- **Force Majeure.** Neither Party will be responsible for any failure or delay in the performance of its obligations under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, which may include, without limitation, labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials or supplies, denial of service or other malicious attacks, telecommunications failure or degradation, pandemics, epidemics, public health emergencies, governmental orders and acts (including government-imposed travel restrictions and quarantines), material changes in law, war, terrorism, riot, or acts of God (each, a "Force Majeure Event").
- **Governing Law & Jurisdiction.** This Agreement and any dispute arising hereunder will be governed by and construed in accordance with the laws of the state of New York without giving effect to any principles of conflict of laws that would lead to the application of the laws of another jurisdiction. The Parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in New York, New York and the Parties irrevocably consent to personal jurisdiction and venue.
- **Third-party Beneficiaries.** Unless otherwise expressly provided, no provision of this Agreement is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any person or entity other than the Parties and their respective successors and assigns.
- **Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable, that provision will be enforced to the maximum extent permitted by law, given the fundamental intentions of the Parties, and the remaining provisions of this Agreement will remain in full force and effect.
- **Non-Exclusive Remedy.** Except as set forth in this Agreement, the exercise by either Party of any remedy under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.
- **Waiver.** Either Party's failure to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the Party granting the waiver

Customer	**Cloudsmith Ltd.**
Notice Address: Attention: Email: Signature: _____ Print Name: _____ Print Title: _____	Notice Address: Attention: General Counsel Email: gc@cloudsmith.com Signature: _____ Print Name: _____ Print Title: _____