

Nuclei, Inc.

Nuclei Subscription Agreement

This Nuclei Subscription Agreement (this “Agreement”) is entered into between Nuclei Inc. (“Nuclei”) and your organization (“Customer”) as of the Effective Date (as defined below). The individual accepting this Agreement on behalf of Customer represents that they have the authority to bind Customer to this Agreement. If the individual does not have such authority, or if the individual does not agree with the terms and conditions of this Agreement, such individual must not accept this Agreement and may not use the Service and/or any Free Trial.

1. Service and Professional Services.

1.1. Nuclei’s Obligations.

Nuclei shall make the Service available to Customer pursuant to this Agreement and the applicable Order Form during the Term, and grants to Customer a limited, non-sublicensable, non-exclusive, non-transferable (except as expressly permitted in Section 12.1) right during the Term to allow its Users to access and use the Service in accordance with the Documentation, solely for Customer’s business purposes. Customer agrees that its purchase of the Service or the Professional Services is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Nuclei with respect to future functionality or features. Nuclei will comply with all Laws applicable to its provision of the Service. Nuclei shall use commercially reasonable efforts to make the Service available to Customer 24 hours a day, 7 days a week, every day of each year (except for any unavailability caused by a Force Majeure event).

1.2. Customer’s Obligations.

- a) Customer is responsible for all activities conducted under its and its Users’ logins to the Service. Customer shall use the Service in compliance with this Agreement, the applicable Order Forms, Documentation, and all applicable Laws and shall not: (i) copy, rent, sell, lease, distribute, pledge, assign, or otherwise transfer, or encumber rights to the Service, or any part thereof, or make it available to anyone other than its Users; (ii) except as otherwise set forth in an Order Form, send or store infringing or unlawful material in connection with the Service; (iii) send or store Malicious Code to the Service; (iv) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Service or the data contained therein; (v) modify, copy or create derivative works based on the Service, or any portion thereof; (vi) access the Service for the purpose of building a competitive product or service or copying its features or user interface; (vii) delete, alter, add to or fail to reproduce in and on the Service the name of Nuclei and any copyright or other notices appearing in or on the Service or which may be required by Nuclei at any time.
- b) Any use of the Service in breach of this Agreement, Documentation or Order Forms by Customer or Users that in Nuclei’s judgment threatens the security, integrity or availability of the Service may result in Nuclei’s immediate suspension of Customer’s access to the Service; however, Nuclei will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to such suspension.

1.3. Professional Services.

Customer and Nuclei may enter into Statements of Work that describe the specific Professional Services to be performed by Nuclei.

1.4. Customer Affiliates.

Customer Affiliates may purchase and use the Service and Professional Services subject to the terms of this Agreement by executing Order Forms or Statements of Work hereunder that incorporate by reference the terms of this Agreement, and in each such case, all references in this Agreement to Customer shall be deemed to refer to such Customer Affiliate for purposes of such Order Form(s) or Statement(s) of Work. A Customer Affiliate agrees to be bound by this Agreement and the applicable Order Forms or Statements of Work executed by Customer Affiliate.

2. Purchasing Through a Nuclei Partner.

This Agreement specifies the terms and conditions under which Nuclei products and services will be provisioned by Nuclei to Customer, whether purchased directly through Nuclei or indirectly through a Partner. Purchases through a Partner will be placed through a separate agreement or ordering document between Customer and a Nuclei Partner (the "Partner Sales Agreement") which shall address, as between Customer and Partner, any terms and conditions relating to the quantity of products and services purchased, fees, payment (including any applicable refunds), taxes, and renewals. The Partner Sales Agreement is between Customer and the Nuclei Partner and is not binding on Nuclei, and any disputes related to the Partner Sales Agreement shall be handled directly between Customer and the Nuclei Partner. In the event of any conflict between this Agreement and a Partner Sales Agreement, this Agreement shall govern as between Nuclei and Customer.

3. Security and Support.

3.1. Security.

Nuclei shall maintain appropriate administrative, physical, and technical safeguards to protect the security and integrity of the Service and the Customer Data as described in the Nuclei Trust Center. Nuclei will conform with security protocols which are further described in the Nuclei Trust Center. Upon Customer's request, Nuclei shall provide Customer with a copy of Nuclei's then-current information security controls and any related audit reports. During the Term, Nuclei shall not materially diminish the protections provided by the controls set forth in the Nuclei Trust Center. Except with respect to a Free Trial, to the extent that Nuclei processes any Personal Data (as defined in the DPA) on Customer's behalf in the provision of the Service, a separate data processing addendum will apply and is hereby incorporated by reference. For purposes of the Standard Contractual Clauses attached to the DPA, when and as applicable, Customer and its applicable Affiliates are each the data exporter, and Customer's signing of or entering into this Agreement, and an applicable Affiliate's signing of or entering into an Order Form, shall be treated as signing of the Standard Contractual Clauses and their Appendices.

3.2. Support Services.

During the applicable Term, Nuclei shall provide Support Services to Customer in accordance with Nuclei's then-current support policy and Service Level Agreements, and as identified in the applicable Order Form. Any updates or modifications to the Support Services will not materially diminish Nuclei's responsibilities under the support policy during the applicable Term.

4. Confidentiality.

Each party agrees to protect the Confidential Information (as defined below) of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event using less than a reasonable standard of care. A party shall not disclose or use any

Confidential Information of the other party for any purpose outside the scope of this Agreement, without the disclosing party's prior written permission. A party may disclose the other party's Confidential Information to its employees, contractors, agents, and Affiliates that have signed an agreement containing disclosure and use provisions substantially similar to those set forth herein and have a "need to know" in order to carry out the purpose of this Agreement. Confidential Information shall not include any information that (a) is or becomes generally known to the public, other than as a result of the act or omission of the receiving party; (b) was rightfully known to a party prior to its disclosure by the other party without breach of any obligation owed to the other party; (c) is lawfully received from a third party without breach of any obligation owed to the other party; or (d) was independently developed by a party without breach of any obligation owed to the other party. If a party is compelled by law to disclose Confidential Information of the other party, it shall provide prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure. Due to the unique nature of the parties' Confidential Information disclosed hereunder, there may be no adequate remedy at law for a party's breach of its obligations hereunder, and any such breach may result in irreparable harm to the non-breaching party. Therefore, upon any such breach or threat thereof, the party alleging breach shall be entitled to seek injunctive and other appropriate equitable relief in addition to any other remedies available to it. Confidential Information is and shall remain the property of the disclosing party.

5. Ownership and Feedback

5.1 Customer Data.

As between Nuclei and Customer, Customer owns its Customer Data. Customer grants to Nuclei, its Affiliates and applicable contractors a worldwide, limited-term license to host, copy, transmit and display Customer Data, as reasonably necessary for Nuclei to provide the Service in accordance with this Agreement. Subject to the limited licenses granted herein, Nuclei acquires no right, title or interest in any Customer Data. Customer shall be responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired Customer Data.

5.2 Nuclei Ownership of the Service.

Except for the rights expressly granted under this Agreement, Nuclei and its licensors retain all right, title, and interest in and to the Service, Documentation and Professional Services, including all related intellectual property rights inherent therein. If Customer purchases Professional Services, Nuclei grants to Customer a worldwide, non-exclusive, non-transferable (except as expressly permitted in Section 12.1), non-sublicensable right to use the Professional Services solely for Customer's use with the Service. No rights are granted to Customer hereunder other than as expressly set forth in this Agreement.

5.3. Feedback.

Nuclei shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into its products and services any Feedback. Nuclei shall have no obligation to use Feedback, and Customer shall have no obligation to provide Feedback.

6. Fees, Expenses, and Taxes.

6.1. Fees.

Customer agrees to pay Nuclei all fees set forth in the applicable Order Form ("Fees") in accordance with this Agreement and the Order Form. If not otherwise specified on an Order Form, all such Fees (except Fees subject to a good faith dispute) will be due within thirty (30) days of the invoice date. Except as otherwise

specifically provided in this Agreement, all Fees paid and payable to Nuclei hereunder are non-cancelable and non-refundable. If Customer fails to pay any Fees due under this Agreement by the due date, in addition to any other rights or remedies it may have under this Agreement or by matter of Law, (i) Nuclei reserves the right to suspend the Service upon thirty (30) days written notice, until such amounts are paid in full, and (ii) Nuclei will have the right to charge interest at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable Law until Customer pays all amounts due; provided that Nuclei will not exercise its right to charge interest if the applicable charges are under reasonable and good faith dispute and Customer is cooperating diligently to resolve the issue.

6.2. Expenses.

Unless otherwise specified in the applicable Statement of Work, upon invoice from Nuclei, Customer will reimburse Nuclei for all pre-approved, reasonable expenses incurred by Nuclei while performing the Professional Services, including without limitation, transportation services, lodging, and meal and out-of-pocket expenses related to the provision of the Professional Services. Nuclei will include reasonably detailed documentation of all such expenses with each related invoice.

6.3. Taxes.

Fees do not include and may not be reduced to account for any taxes including any local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder (excluding taxes based on Nuclei's net income or property), unless Customer provides Nuclei with a valid tax exemption certificate authorized by the appropriate taxing authority.

7 Warranties and Disclaimer.

7.1. Warranties.

a) Service. Each party warrants that it has the authority to enter into this Agreement. Nuclei warrants that during the applicable Term: (i) the Service shall perform materially in accordance with the applicable Documentation; (ii) Nuclei will employ then-current, industry-standard measures to test the Service to detect and remediate Malicious Code designed to negatively impact the operation or performance of the Service, and (iii) the overall functionality of the Service will not be materially decreased as described in the applicable Documentation. Nuclei shall use commercially reasonable efforts to correct the non-conforming Service at no additional charge to Customer, and in the event Nuclei fails to successfully correct the Service within a reasonable time of receipt of written notice from Customer detailing the breach, then Customer shall be entitled to terminate the applicable Order Form as to the non-conforming Service and receive an immediate pro rata refund of any prepaid, unused Fees for the non-conforming Service. The remedies set forth in this subsection will be Customer's sole remedy and Nuclei's entire liability for breach of these warranties unless the breach of warranties constitutes a material breach of this Agreement and Customer elects to terminate this Agreement in accordance with Section 11.2 entitled "Termination." The warranties set forth in this subsection shall apply only if the applicable Service has been utilized in accordance with the Documentation, this Agreement and applicable Law.

b) Professional Services. Nuclei warrants that the Professional Services will be performed in a good and workmanlike manner consistent with applicable industry standards. As Customer's sole remedy and Nuclei's entire liability for any breach of the foregoing warranty set forth in this Section 7.1(b), Nuclei will, at its sole option and expense, promptly re-perform the non-conforming Professional Services or refund to Customer the fees paid for the non-conforming Professional Services; provided that Customer notifies Nuclei no later than thirty (30) days after delivery of such Professional Services.

7.2. Disclaimer.

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH UNDER SECTION 7.1(A) AND (B), NUCLEI AND ITS SUPPLIERS HEREBY DISCLAIM ALL WARRANTIES RELATING TO THE SERVICE, PROFESSIONAL SERVICES OR OTHER SUBJECT MATTER OF THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TITLE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE PARTIES ARE NOT RELYING AND HAVE NOT RELIED ON ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER REGARDING THE SUBJECT MATTER OF THIS AGREEMENT, EXPRESS OR IMPLIED. NUCLEI MAKES NO WARRANTY REGARDING ANY NON-NUCLEI APPLICATION WITH WHICH THE SERVICE MAY INTEROPERATE.

8. Limitation of Liability.

8.1. Limitation of Liability.

IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES TO NUCLEI OR TO AN NUCLEI PARTNER HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE (12)-MONTH PERIOD PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION SHALL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT CUSTOMER'S AND CUSTOMER'S AFFILIATES' PAYMENT OBLIGATIONS UNDER THE 'FEES' SECTION ABOVE AND WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

8.2. Excluded Damages.

IN NO EVENT WILL EITHER PARTY (OR NUCLEI'S THIRD PARTY LICENSORS) BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY FOR ERROR OR INTERRUPTION OF USE, LOSS OR INACCURACY OR CORRUPTION OF DATA, COVER, LOST PROFITS OR REVENUES, OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING EXCLUSIONS WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

9. Indemnification.

9.1. Nuclei Indemnification Obligation.

Subject to Section 9.3, Nuclei will defend Customer from any and all Claims brought against Customer alleging that the Service, as provided by Nuclei to Customer under this Agreement, infringes any patent, copyright, or trademark or misappropriates any trade secret of any third party (each, an "Infringement Claim"). Nuclei will indemnify Customer for all damages, costs, reasonable attorneys' fees finally awarded by a court of competent jurisdiction, or paid to a third party in accordance with a settlement agreement signed by Nuclei, in connection with an Infringement Claim. In the event of any such Infringement Claim, Nuclei may, at its option: (i) obtain the right to permit Customer to continue using the Service, (ii) modify or replace the relevant portion(s) of the Service with a non-infringing alternative having substantially equivalent performance within a reasonable period of time, or (iii) terminate the applicable Order Form as to the infringing Service and provide a pro rata refund of any prepaid, unused Fees for such infringing Service. Notwithstanding the foregoing, Nuclei will have no liability for any Infringement Claim of any kind to the extent that it results from: (1) modifications to the Service made by a party other than Nuclei, (2) the

combination of the Service with other products, processes or technologies (where the infringement would have been avoided but for such combination), or (3) Customer's use of the Service other than in accordance with the Documentation or this Agreement. The indemnification obligations set forth in this Section 9.1 are Nuclei's sole and exclusive obligations, and Customer's sole and exclusive remedies, with respect to infringement or misappropriation of third-party intellectual property rights of any kind.

9.2. Customer Indemnification Obligation.

Subject to Section 9.3, Customer will defend Nuclei from any and all Claims brought against Nuclei alleging a violation of a third party's rights arising from Customer's provision or use of the Customer Data. Customer will indemnify Nuclei for all damages, costs, reasonable attorneys' fees finally awarded by a court of competent jurisdiction, or paid to a third party in accordance with a settlement agreement signed by Customer, in connection with such Claims.

9.3. Indemnity Requirements.

The party seeking indemnity under this Section 9 ("Indemnitee") must give the other party ("Indemnitor") the following: (a) prompt written notice of any Claim for which the Indemnitee intends to seek indemnity, (b) all cooperation and assistance reasonably requested by the Indemnitor in the defense of the Claim, at the Indemnitor's sole expense, and (c) sole control over the defense and settlement of the Claim, provided that the Indemnitee may participate in the defense of the Claim at its sole expense and any settlement by the Indemnitor does not include an admission of liability by the Indemnitee.

10. Customer Mention.

Nuclei may, upon Customer's prior written consent, use Customer's name to identify Customer as a Nuclei customer of the Service, including on Nuclei's public website. Nuclei agrees that any such use shall be subject to Nuclei complying with any written guidelines that Customer may deliver to Nuclei regarding the use of its name and shall not be deemed Customer's endorsement of the Service.

11. Term, Termination, and Effect of Termination.

11.1. Term.

The term of this Agreement commences on the Effective Date and continues until the stated term in all Order Forms have expired or have otherwise been terminated. Subscription to the Service commence on the subscription start date and are for the Term as set forth in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions to the Service will automatically renew for additional terms equal to the expiring Term, unless and until either party gives the other notice of non-renewal at least thirty (30) days prior to the end of the then-current Term.

11.2. Termination.

Either party may terminate this Agreement by written notice to the other party (i) in the event the other party materially breaches this Agreement and does not cure such breach within thirty (30) days of such notice, or (ii) immediately in the event the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Upon any termination for cause by Customer pursuant to this Section 11.2, Nuclei will refund Customer a pro-rata portion of any prepaid fees that cover the remainder of the applicable Term after the effective date of termination and a pro-rata portion of any prepaid Professional Services fees that cover Professional Services that have not been delivered as of the effective date of termination. For clarity, a breach or termination of any Statement of Work shall not be considered a breach or termination of this Agreement or any Order Form.

11.3. Effect of Termination.

Upon expiration or termination of this Agreement for any reason, all rights and subscriptions granted to Customer (including all Order Forms) will immediately terminate and Customer will cease using the Service and Nuclei Confidential Information. Termination for any reason other than termination for cause by Customer pursuant to Section 11.2(i) shall not relieve Customer of the obligation to pay all future amounts due under all Order Forms. The sections titled "Definitions," "Confidentiality," "Ownership and Feedback," "Fees, Expenses, and Taxes," "Disclaimer," "Limitation of Liability," "Indemnification," "Term, Termination, and Effect of Termination," and "General" shall survive any termination or expiration of this Agreement.

12. General

12.1. Assignment.

Neither the rights nor the obligations arising under this Agreement are assignable or transferable by Customer or Nuclei without the other party's prior written consent, which shall not be unreasonably withheld or delayed, and any such attempted assignment or transfer shall be void and without effect. Notwithstanding the foregoing, either party may freely assign this Agreement in its entirety (including all Order Forms), upon notice and without the consent of the other party, to its successor in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided that all fees owed and due have been paid (in the case of an assignment by Customer) and the assignee agrees to be bound by all the terms of this Agreement.

12.2 Controlling Law, Attorneys' Fees and Severability.

This Agreement and any disputes arising out of or related hereto shall be governed by the laws of the State of Delaware, without giving effect to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods. With respect to all disputes arising out of or related to this Agreement, the parties consent to exclusive jurisdiction and venue in the state and Federal courts located in Delaware. In any action to enforce this Agreement the prevailing party will be entitled to reasonable costs and attorneys' fees. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

12.3 Notices.

All legal notices shall be in writing and effective upon: (i) personal delivery, (ii) one (1) business day after deposit with a recognized overnight courier for U.S. deliveries (or three (3) business days for international deliveries), or (iii) the day of sending by email (except for notices of termination and indemnifiable Claims), if to Nuclei then to "legal@nuclei.ai", or if to Customer then to the email address on the applicable Order Form or the Service system administrator designated by Customer, with the words "Legal Notice" in the subject line. Billing-related notices to Customer may be provided by email to the relevant billing contact designated by Customer.

12.4. Force Majeure.

If the performance of this Agreement or any obligation hereunder (other than obligations of payment) is prevented or restricted by reasons beyond the reasonable control of a party including but not limited to computer related attacks, hacking, or acts of terrorism (a "Force Majeure Event"), the party so affected shall be excused from such performance and liability to the extent of such prevention or restriction.

12.5. Independent Contractors.

The parties shall be independent contractors under this Agreement, and nothing herein shall constitute either party as the employer, employee, agent, or representative of the other party, or both parties as joint venturers or partners for any purpose. There are no third-party beneficiaries under this Agreement.

12.6. Export Compliance.

Each party represents that it is not named on any U.S. government list of persons or entities with which U.S. persons are prohibited from transacting, nor owned or controlled by or acting on behalf of any such persons or entities, and Customer will not permit any User to access or use the Service in any manner that would cause any party to violate any U.S. or international embargo, export control law, or prohibition.

12.7. U.S. Federal Government End Use Provisions.

The Service, including any software or technology provided hereunder for ultimate federal government end use, or that are otherwise subject to the Federal Acquisition Regulations (FAR), are "Commercial Items" as defined in 48 C.F.R. 2.101 and are being provided as commercial computer software and commercial computer software documentation subject to restricted rights described in 48 C.F.R. 2.101, 12.211 and 12.212. If such items are acquired by or on behalf of any agency within the Department of Defense ("DOD"), then they are subject to the terms of the Agreement as specified in 48 C.F.R. 227.7202-3 of the DOD FAR Supplement ("DFARS") and its successors. This Section 12.7 is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses government rights in computer software or technical data. If a government agency needs additional rights beyond those customarily given by Nuclei to the public, Customer must negotiate with Nuclei a mutually acceptable written addendum to this Agreement specifically granting those rights.

12.8 Anti-Corruption.

Customer agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Nuclei's employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Customer learns of any violation of the above restriction, Customer will use reasonable efforts to promptly notify Nuclei.

12.9 Free Trials.

If Customer uses a Free Trial, then the applicable provisions of this Agreement will govern that Free Trial, and Nuclei will make such Free Trial available to Customer on a trial basis, free of charge, until the earlier of (a) the end of the free trial period for which Customer agreed to use such Free Trial, (b) the start date of any Service subscription purchased by Customer for such Service, or (c) termination of the Free Trial by Nuclei in its sole discretion. A free trial period may be extended upon mutual agreement by Nuclei and Customer. Notwithstanding anything to the contrary in this Agreement, a Free Trial is provided "AS IS". NUCLEI MAKES NO REPRESENTATION OR WARRANTY AND SHALL HAVE NO INDEMNIFICATION OBLIGATIONS WITH RESPECT TO A FREE TRIAL. NUCLEI SHALL HAVE NO LIABILITY OF ANY TYPE WITH RESPECT TO A FREE TRIAL, UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE NUCLEI'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO A FREE TRIAL IS US\$1,000.00. NOTWITHSTANDING ANYTHING TO THE CONTRACTION IN SECTION 8 ("LIMITATION OF LIABILITY"), CUSTOMER SHALL NOT USE THE FREE TRIAL IN A MANNER THAT VIOLATES APPLICABLE LAWS AND WILL BE FULLY LIABLE FOR ANY DAMAGES CAUSED BY USE OF ITS FREE TRIAL. ANY DATA AND CONFIGURATION ENTERED INTO CUSTOMERS FREE TRIAL ACCOUNT MAY BE PERMANENTLY LOST UPON TERMINATION OF THE FREE TRIAL.

12.10 Entire Agreement.

This Agreement, together with the Order Form(s) between Nuclei and Customer, constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all prior or contemporaneous written or oral agreements existing between the parties hereto, including any non-disclosure agreement(s), and related to the subject matter hereof are expressly superseded hereby. The parties agree that any term or condition stated in Customer's purchase order or in any other Customer's order documentation is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form between Nuclei and Customer, (2) this Agreement, and (3) the Documentation. No modification, amendment or waiver of any provision of this Agreement will be effective unless in writing and signed by both parties hereto. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision.

13. Definitions.

13.1. Affiliate

"Affiliate" means, with respect to Nuclei or Customer, any entity that directly or indirectly controls, is controlled by, or is under common control with Nuclei or Customer, respectively. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

13.2. Free Trial

"Free Trial" means any Nuclei service or functionality that Nuclei makes available to Customer to try at Customer's option, at no additional charge, and which is clearly designated as "beta," "trial," "pre-GA," "pilot," "developer preview," "free trial," "evaluation," "proof of concept (POC)," or by a similar designation.

13.3. Claims

"Claims" mean any third-party claims, demands, suits or proceedings.

13.4. Confidential Information

"Confidential Information" means (a) Customer Data; (b) the Service, Documentation, and the terms and conditions of this Agreement and all Order Forms including pricing; and (c) each party's technical and business information (including but not limited to hardware, software, designs, specifications, techniques, processes, procedures, research, development, projects, products or services, business and marketing plans or opportunities, finances, vendors, penetration test results and other security information, defect and support information and metrics, and third party audit reports and attestations) that is designated by the disclosing party as confidential or the receiving party should reasonably know is confidential given the nature of the information and circumstances of disclosure.

13.5. Customer Data

"Customer Data" means all electronic data submitted by or on behalf of Customer to the Service.

13.6. Documentation

"Documentation" means Nuclei's user guides and other end user documentation for the applicable Service available on the online help feature of the Service, as may be updated by Nuclei from time to time, including without limitation the materials available at <https://support.nuclei.ai>, and the 'Trust and Compliance' Documentation available at the Nuclei Trust Center.

13.7. Effective Date

"Effective Date" means the earlier of the last date this Agreement is executed or the first date of Customer's access or use of the Service or Free Trial in any manner, as applicable.

13.8. Feedback

"Feedback" means suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or its Users relating to the features, functionality or operation of the Service, or the Professional Services.

13.9. Laws

"Laws" means any local, state, or national law, treaties and/or regulations applicable to a respective party.

13.10. Malicious Code

"Malicious Code" means viruses, worms, time bombs, Trojan horses and other malicious code, files, scripts, agents or programs.

13.11. Non-Nuclei Application

"Non-Nuclei Application" means a web-based, offline, mobile, or other software application functionality that is provided by Customer or a third party and interoperates with a Service.

13.12. Nuclei Partner

"Nuclei Partner" means authorized reseller, distributor or other partner of Nuclei.

13.13. Order Form

"Order Form" means an ordering document provided to Customer (directly by Nuclei or indirectly by an Nuclei Partner in connection with a Partner Sales Agreement) that specifies the products or services purchased by Customer or any of its Affiliates under this Agreement, including any product specific terms, supplements, or addenda thereto. Order Forms do not include the terms of any preprinted terms on a Customer purchase order or other terms on a purchase order that are additional or inconsistent with the terms of this Agreement.

13.14. Professional Services

"Professional Services" means implementation and configuration services provided by Nuclei in connection with the Service, as described more fully in a Statement of Work. Professional Services shall not include the Service.

13.15. Service

"Service" means the products and services subscribed to by Customer under an Order Form and made available online by Nuclei, including associated Nuclei offline or mobile components, as described in the Documentation. "Service" excludes Professional Services, Support Services, Free Trials, training services, and Non-Nuclei Applications.

13.16. Statement of Work

"Statement of Work" means a document that describes certain Professional Services purchased by Customer under this Agreement and/or pursuant to an Order Form. Each Statement of Work shall incorporate this Agreement by reference.

13.17. Support Services

"Support Services" means the support services provided by Nuclei in accordance with Nuclei's then-current support policy and as identified in an Order Form.

13.18. Term

"Term" means the term of each subscription to the Service as specified in the applicable Order Form.

13.19. Users

"Users" means individuals (including non-human devices, such as applications or services) who are authorized by Customer to use the Service, for whom a subscription to the Service has been procured. Users may include, for example, Customer's and its Affiliates' employees, consultants, clients, external users, contractors, agents, and third parties with which Customer does business.