SaaS Terms of Service

THESE TERMS ARE ENTERED INTO AS OF _____, 2024 (THE **"EFFECTIVE DATE")** BETWEEN _____ (**"YOU" OR "CLIENT"**) AND CLOUDFICIENT SOLUTIONS INC. and its affiliates (collectively and individually, as applicable, **"CLOUDFICIENT"**). CLOUDFICIENT DEVELOPS, MAINTAINS AND LICENSES ADVANCED PROPRIETARY WEB-BASED SOLUTIONS INCLUDING THAT ENABLE BUSINESSES TO (I) MIGRATE AND FACILITATE DIGITAL TRANSFORMATIONS SUCH AS RESTRUCTURING, MERGERS, ACQUISITIONS, OR DIVESTITURES (THE **"CLOUDFICIENT REMAD PLATFORM"**) AND/OR (II) MANAGE AND DISCOVER HISTORICAL DATA (THE **"EXPIREON PLATFORM"**). THE CLOUDFICIENT REMAD PLATFORM AND THE EXPIREON PLATFORM , AND ANY OTHER CLOUDFICIENT WEB-BASED SOLUTIONS PROVIDED TO CLIENT PURSUANT TO AN ORDER, ARE, COLLECTIVELY, THE **"PLATFORMS"**. THESE TERMS OF SERVICE (THESE **"TERMS"**) GOVERN THE PLATFORMS' SUBSCRIPTION SERVICES (**"SERVICES"**) PROVIDED BY CLOUDFICIENT PURSUANT TO ORDERS PLACED BY YOU WITH CLOUDFICIENT. **YOU MUST HAVE CONFIRMATION OF YOUR ORDER FROM CLOUDFICIENT OR A MUTUALLY EXECUTED ORDER FORM OR STATEMENT OF WORK (THE "ORDER") IN ORDER TO USE THE SERVICES. THE TERMS OF SUCH ORDER ARE INCORPORATED INTO AND MADE PART OF THESE TERMS. IF YOU DO NOT HAVE AN ORDER, YOU MAY NOT ACCESS AND USE THE SERVICES.** IF YOU ARE ENTERING INTO THESE TERMS ON BEHALF OF AN ENTITY, SUCH AS YOUR EMPLOYER OR THE COMPANY YOU WORK FOR, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ENTITY.

License

1. **License Grant.** Subject to these Terms, Cloudficient hereby grants to Client and its Affiliates (as defined below) a limited, non-transferable, non-sublicensable, nonexclusive license during the Term: (i) to access the Services described on the applicable Order subject to any other restrictions or limitations identified in these Terms or the applicable Order, together with the related Documentation (as defined below) for Client's own internal business purposes in accordance with all applicable laws. The Services may be used by Client for the benefit of the number of units (e.g., TBs, Users, etc.) specified on the applicable Order. **"Authorized Users"** include Client's authorized directors, officers, and employees. Client and its Affiliates are permitted to make a reasonable number of copies of the Documentation in connection with use of the Services. For purposes of these Terms, **"Affiliates"** means any entity that directly or indirectly controls, is controlled by, or is under common control with Client; and **"Documentation"** means all specifications, user manuals, and written materials and documentation provided by Cloudficient relating to the performance, operation and/or use of the applicable Platform.

2. **Environment.** The software used to provide the Services (the **"Software"**) is located in Tier-IV ISO 27001 certified datacenters like Microsoft Azure (the **"Certified Datacenters"**). The servers/services running the **CLOUDFICIENT REMAD PLATFORM** are maintained by operators of the Certified Datacenters. The servers/services running the **EXPIREON PLATFORM** are maintained by operators of the Certified Datacenters OR the Client, depending on the selected deployment model. The provision of the Services is subject to the performance of the Certified Datacenters and Client agrees to comply with any use restrictions or other obligations in their terms and conditions.

3. **Restrictions.** Use of the Services is subject to the following restrictions unless otherwise expressly set forth in these Terms or on the applicable Order: (a) the Software will not be used on a stand-alone basis; (b) Client will not, directly or indirectly: (i) reverse engineer, disassemble, decompile, otherwise attempt

to derive the source code of the Software or the Platforms; (ii) copy, modify, translate, or create derivative works based on the Platform, Services or Documentation (except to the extent expressly permitted by Cloudficient), in whole or in part, (iii) use the Services to send or store material containing software viruses, worms, Trojan horses or other harmful computer code; (iv) interfere with or disrupt the integrity or performance of the Services or the data contained therein; (v) attempt to gain unauthorized access to the Services or related systems or networks; (vi) use the Services for any benchmarking purposes; (vii) rent, lease, lend, sell, resell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services, in whole or in part; (viii) use the Services to build a competitive product or service using similar ideas, features, functions or graphics of the Services, or copy any ideas, features, functions or graphics of the Services; (ix) "frame" or "mirror" any portion of the Services; (x) use any robot, spider, site search/retrieval application or other manual or automatic device or process to retrieve, index, "data mine" or in any way reproduce or circumvent the navigational structure or presentation of the Platforms; (xi) probe, scan or test the vulnerability of the Services, or breach the security or authentication measures on the Services, or take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Services, such as a denial of service attack; or (xii) use the Services, Platform or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

4. **Access.** Client is responsible for all use of the Services by its Authorized Users. Client controls access to and the management of the Client Data through Client's account.

5. **Upgrades.** From time to time during the Term, Cloudficient may upgrade or enhance the Platforms, and such upgrades or enhancements may result in changes to the appearance and/or functionality of the Services; provided, however, Client shall not be subject to any additional fees for such upgrades or enhancements unless mutually agreed by the parties.

6. **Applicable Law/Export.** Client must comply with all applicable laws with respect to the Services, including without limitation export control laws and regulations, and will not export or re-export or permit access to the Services, in whole or in part, directly or indirectly, to any country to which such export or re-export is restricted by any laws or regulations of the U.S. unless properly authorized by the U.S. Government. Client represents that it is not named on any U.S. or other applicable government denied-party list.

Data

1. **Client Data.** Client must provide or otherwise make available to Cloudficient all data for use in the Services (the "**Client Data**"), and Cloudficient will not modify or add to the Client Data except as may be required to provide the Services. As between Client and Cloudficient, Client is solely responsible for the content, legality, quality and accuracy of the Client Data. Client owns and retains all right, title and interest in and to any and all Client Data. Client hereby grants Cloudficient a nonexclusive, nontransferable, non-sublicensable, worldwide license to use, copy and display Client Data solely for purposes of the performance of the Services; provided, however, Cloudficient may access and use Client Data (i) as necessary to identify or resolve technical problems or respond to complaints about the Services; (ii) to improve the Services, and (iii) to identify trends and publish reports on its findings

provided the reports include data aggregated from more than one customer site and do not identify Client. For the avoidance of doubt, Client Data includes all data generated or supplied by Client's Affiliates and Authorized Users.

2. **Data Protection.** Cloudficient uses technical and organizational measures in compliance with applicable laws to keep Client Data secure and to protect against accidental loss or unlawful destruction, alteration, disclosure or access as set forth in the Data Protection Agreement executed by the parties effective _____. Furthermore, Cloudficient will treat all Client Data in compliance with Cloudficient's then current privacy policy (the current version of which is set forth at **https://www.cloudficient.com/privacy-policy**) and applicable law.

3. **CCPA.** For purposes of the California Consumer Privacy Act ("CCPA"), Client acknowledges and agrees that Cloudficient is a "service provider" as defined in the CCPA and its regulations and is receiving the 'Personal Information' for a business purpose. As a service provider, Cloudficient may use such Personal Information (i) to process or maintain Client Data received through the Services in compliance with this Agreement; (ii) for internal use by Cloudficient to build or improve the quality of the Platforms, provided that Cloudficient's use of such Personal Information does not include building or modifying household or consumer profiles to use in providing services to another business, or correcting or augmenting data acquired from another source; or (iii) to detect data security incidents, or protect against fraudulent or illegal activity. If any consumer (as defined under the CCPA) sends a request to exercise rights under the CCPA to Cloudficient, Cloudficient shall refer the consumer to Client and inform the consumer that the request cannot be acted upon because the request has been sent to a service provider.

Support

1. **Support Services.** During the Term of the applicable Order, Cloudficient will provide Client with technical support and maintenance for the Services (the **"Support Services"**) in accordance with the service level agreement set forth in Section Exhibit A – Service Level Agreement to these Terms (the **"Service Level Agreement"**).

2. **Service Levels.** Access to the Services will meet or exceed the service and performance level terms set forth in the Service Level Agreement.

3. **Backup.** During the Term, Cloudficient, at its expense, shall make a daily backup of Client metadata stored by Cloudficient under these Terms and will retain each such backup for a minimum of ninety (90) days. The foregoing does not require Cloudficient to backup information that can be recreated or acquired through other means.

4. **Disaster Recovery Plan.** Cloudficient has implemented and maintains a comprehensive Disaster Recovery Plan (the **"DRP"**). The DRP addresses the policies and procedures in the event of a disaster event (a **"Disaster"**) which affects the ability of Cloudficient to provide the Services in accordance with these Terms. Non-Disaster events that impact the Services are handled by industry standard practices including backups, snapshots, virtualization, and other appropriate technologies. In the event of a Disaster or other event affecting Client's access to the Services, Cloudficient will execute the DRP procedures in accordance with the terms and recovery times therein, and provide Client with an email notice verifying activation of the Cloudficient DRP procedures as necessary or addressing the impact of a non-Disaster on the Service and the plan for reestablishing access to the Services. Following a Disaster, Cloudficient will use reasonable efforts to reinstate access to the Services within five (5) business days.

Cloudficient will update and test the DRP periodically, and certify to Client annually on request that the DRP is operational.

Limited Warranties & Disclaimers

1. **Generally.** Each party warrants that it has the authority to enter into this Agreement and it will comply with all applicable local, state, national and foreign laws, treaties and regulations in connection with delivery or use of the Services, including laws and regulations related to privacy.

2. **Client Data.** Client represents and warrants to Cloudficient that Client has the right to deliver the Client Data to Cloudficient and to allow Cloudficient to use, copy, modify, distribute, display and publicly perform Client Data for purposes of these Terms.

3. **Specific to the Services.** Cloudficient warrants that the Services will be provided (i) in a good, professional, timely and workmanlike manner with reasonable skill and care by competent and trained personnel; (ii) in material accordance with the Documentation and Service Level Agreement; and (iii) with industry standard protections againstviruses, worms, time-bombs, disabling features, tracking devices, trap doors, or other code that would enable access to the Client's systems;

4. **Intellectual Property.** Cloudficient warrants that it owns, or has obtained all rights in, the intellectual property necessary to allow Client to use the Services , and Client's use of the Services in compliance with these Terms will not infringe, violate or misappropriate any intellectual property rights or other rights of any third party. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by Cloudficient to be infringing, Cloudficient may, at its option and expense and as Client's sole remedy (A) replace or modify the Services to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (B) obtain for Client, at no additional cost, the right to continue using the Services, or (C) if neither of the foregoing is commercially practicable, terminate this Agreement and Client's rights hereunder and provide Client a refund of any prepaid, unused fees for the Services.

5. Disclaimer. THE CLOUDFICIENT WARRANTIES MADE IN THIS SECTION ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE CLOUDFICIENT PLATFORMS AND THE SERVICES, OR ANY INFORMATION RELATING TO THE PLATFORMS OR THE SERVICES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE, ALL OF WHICH ARE HEREBY DISCLAIMED. CLOUDFICIENT DOES NOT WARRANT THAT THE PLATFORMS OR THE SERVICES OR ANY INFORMATION MADE AVAILABLE IN CONNECTION WITH THESE TERMS OR THE PLATFORMS WILL BE ERROR OR DEFECT-FREE, UNINTERRUPTED, COMPLETELY SECURE, OR THAT ERRORS, DEFECTS OR BUGS CAN OR WILL BE CORRECTED.

Fees; Payment Terms

1. **Generally.** Client must pay the fees listed in the applicable Order within thirty (30) days after the date of the invoice unless otherwise set forth in the applicable Order. Unless otherwise indicated in the applicable Order, Services will be billed annually in advance. The fees set forth on the applicable Order will be invoiced on the effective date of the applicable Order and are exclusive of all taxes, levies, and duties imposed by taxing authorities, and Client is responsible for all such taxes, excluding taxes based

solely on Cloudficient's income. Except as otherwise expressly provided in these Terms, the fees are non-refundable.

2. **Late Fees.** Delinquent payments are subject to late payment fees in the amount of 1.5% of the overdue balance per month (or the maximum permitted by law, whichever is lower), plus any expenses associated with collections.

3. **Suspension of Access.** Cloudficient reserves the right to suspend access to the Services if Client's use of the Services is in breach of this Agreement and such breach may adversely affect the Platform(s) or payment is overdue. Cloudficient will make reasonable efforts to notify Client of any suspension in advance and Service will be reinstated upon receipt of payment or when the breach is eliminated.

4. **Excess Utilization.** If Client exceeds the volume specified on the applicable Order by more than 5%, Cloudficient reserves the right to invoice Client for the incremental Services for the remainder of the then current Term. Client will remit payment for such invoice in accordance with these Terms.

Indemnification

1. **Indemnification by Client.** Client shall indemnify, defend and hold Cloudficient, its Affiliates and licensors, and their respective officers, directors, employees and agents harmless from any losses, damages, costs and expenses directly or indirectly arising out of any claim from any third party arising out of or relating to (i) Client's or its Authorized Users' use of the Services other than in accordance with these Terms,; (ii) use of the Client Data in the Services, or (iii) Client's noncompliance with applicable laws.

2. **Indemnification by Cloudficient.** Cloudficient shall indemnify, defend and hold Client, its Affiliates and licensors, and their respective officers, directors, employees and agents harmless from any losses, damages, costs and expenses directly or indirectly arising out of any claim from any party arising out of or relating to (i) personal injury or property damage caused by the fault or negligence of Cloudficient or a Cloudficient employee; (ii) any gross negligence or willful misconduct by Cloudficient or its agent; and (iii) any third party claim against Client, its Affiliate or any Authorized User alleging the Services (excluding Client Data) infringe any patent, copyright, or trademark, or otherwise misappropriates any trade secret or intellectual property right of such third party (an **"IP Claim"**). If the Services, or in Cloudficient's reasonable opinion might, infringe as set forth above, Cloudficient may, at its sole option and expense, procure the right to use the Services or replace or modify the Services so as to avoid infringement; provided, that such replacement or modification will operate materially in the same manner as to functionality, performance and reliability. If neither of such alternatives is, in Cloudficient's reasonable opinion, commercially reasonable, Cloudficient shall refund to Client any unearned prepaid amounts for such Services, in which event these Terms will terminate immediately.

3. **Indemnification Process.** The indemnified party shall provide (i) prompt written notice of any claim subject to indemnification under this Section (each, a **"Claim"**); (ii) the indemnifying party with sole control over the defense or settlement of such Claim; provided, that the indemnifying party will not settle any Claim or consent to any final judgment with respect to any Claim, without the indemnified party's prior written consent, unless such settlement or judgment (x) unconditionally releases the indemnified party from all liability, (y) does not adversely affect the rights of the indemnified party, and (z) does not require any payment or any admission of fault by any indemnified party; and (iii) all reasonable information and assistance to settle or defend any such Claim. The failure of an indemnified

party to comply with the foregoing requirements shall not relieve the indemnifying party of its obligations under this Section except to the extent the indemnifying party is prejudiced by such failure.

4. **Exceptions.** Cloudficient shall have no liability for any IP Claim based on (i) the unauthorized modification of the Services, (ii) use of the Services other than in accordance with the provided Documentation and these Terms, or (iii) Client Data.

5. **Sole Remedy.** THIS SECTION STATES THE ENTIRE LIABILITY OF CLOUDFICIENT AND ITS AFFILIATES TO CLIENT OR ANY THIRD PARTY WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF ANY PATENT, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHTS.

Confidentiality

1. **Confidential Information Defined.** "Confidential Information" means all non-public or proprietary information and material of a technical, economic, financial or business nature, whether or not reduced to writing or other tangible form and whether or not marked as "confidential" or "proprietary", including without limitation trade secrets and other information concerning the business affairs of the disclosing party, compositions, data, designs, drawings, formulae, graphs, inventions, ideas, know-how, models, photographs, processes, product prototypes and specifications; current and anticipated customer requirements; customer lists, price lists, and supplier lists; past, current and planned research and development; past, current and planned manufacturing, development, marketing or distribution strategies, methods and processes; market studies; business plans; computer software and programs (including object code and source code); and database technologies, systems, structures and architectures; and any other information, howsoever documented, that may be disclosed by the parties during the Term. Confidential Information of Client shall include the Client Data. Confidential Information does not include information which (a) was in the public domain at the time it was disclosed or becomes in the public domain through no fault of the receiver or the receiver's affiliates or their respective employees, directors, officers, agents, subcontractors and other representatives (collectively, the **"Representatives"**); (b) can be shown by written documentation to have been known to the receiver, without restriction or obligations of confidentiality, at the time of disclosure; (c) was independently developed by the receiver without any use of or reference to the discloser's Confidential Information, as can be proven by documentary evidence; or (d) becomes known to the receiver, without restriction, from a source other than the discloser without breach of any confidentiality agreement and otherwise not in violation of the discloser's rights.

2. **Nondisclosure of Confidential Information.** Each party will hold the other party's Confidential Information in strict confidence and treat the Confidential Information of the other party in a confidential manner with the same degree of care as such party treats its own proprietary information of like importance, which will be no less than a reasonable degree of care. Each party may disclose the other party's Confidential Information to its Representatives who have a "need-to-know" such Confidential Information in order to carry out these Terms, and only if such persons are, prior to disclosure, advised of the confidential nature of the disclosure and are bound by written agreement or by legally enforceable code of professional responsibility to protect against the disclosure of the Confidential Information. Each party will be responsible for the acts and omissions of its Representatives. This Section will not prohibit disclosure of Confidential Information pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, the receiver (i) will furnish prompt notice thereof to enable the discloser to seek a protective order or

otherwise prevent such disclosure, (ii) reasonably cooperate with the discloser in the event the discloser seeks to obtain a protective order or similar remedy to cause such Confidential Information not to be disclosed, and (iii) use commercially reasonable efforts to limit disclosure to only that portion that the receiver is legally required to disclose and otherwise obtain confidential treatment or a protective order for such disclosure.

3. **Remedies.** The parties agree that each party shall be entitled to seek equitable relief to protect its interests under this Section, including preliminary and permanent injunctive relief, as well as money damages. Nothing stated herein shall be construed to limit any other remedies available to the parties for breach of this Section.

Termination

1. **Term.** These Terms will commence on the Effective Date and continue in full force and effect until the last to expire of the Order(s). Unless otherwise specified in an Order, the initial term of each Order is one year from the date of execution of the applicable Order (the **"Initial Term"**). Unless otherwise specified in an Order, after expiration of the Initial Term, the term will renew for successive one (1) year periods (each, a **"Renewal Term"**) unless either party provides written notice of its intent to terminate at least thirty (30) days prior to the end of the then-current term. Unless otherwise specified in an Order, Cloudficient reserves the right to increase the applicable fees for like Services upon written notice at the commencement of each Renewal Term. As used in these Terms, **"Term"** means, collectively, the Initial Term and each Renewal Term.

2. **Termination for Cause.** These Terms or any Order Form may be terminated by a party if the other party commits any material breach of these Terms or any Order which is not remedied within thirty (30) days of notice of such breach to the breaching party.

3. **Effect of Termination.** Upon the earlier of termination of an Order or these Terms: (a) except as expressly provided in this Section, all rights and obligations of the parties hereunder will immediately terminate; (b) each party will return or destroy all copies of the Confidential Information of the other party in its possession or under its control (except each party may retain all copies of Confidential Information that are embedded in archival backups or if required by law); (c) Cloudficient shall cease providing access to the Services and the Services; (d) without limiting either party's indemnification obligations herein, each party's obligation to pay all amounts due to the other party that have accrued prior to termination will not be affected. Except as otherwise set forth herein, the Fees are non-refundable; provided, however, that if these Terms are terminated under Section Termination.2 by Client following breach by Cloudficient, Cloudficient will refund to Client any prepaid amounts for Services not yet delivered. Cloudficient will retain Client Data for up to thirty (30) days after termination of these Terms (the **"Data Retention Period"**). Client may request an extended Data Retention Period at additional cost to be agreed by the parties. During the Data Retention Period, Client may download a copy of the Client Data at no additional charge. Following the earlier of (i) expiration of the Data Retention Period, (ii) the date upon which Client retrieves Data, or (iii) Client confirms it will not download its Data, Cloudficient shall delete the Data from any systems on which Data is present without further notice to Client.

4. **Survival.** The provisions of these Terms, which by their nature survive expiration or termination of these Terms, shall survive.

Limitation of Liability

1. **Exclusion.** IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES BE LIABLE TO THE OTHER PARTY, ITS AFFILIATES OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION LOSS OF OR DAMAGE TO DATA, LOSS OF PROFITS, OR OTHER ECONOMIC LOSS, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH CLAIM.

2. **Limitation.** The aggregate and cumulative liability of either party to the other for direct damages arising out of or relating to these Terms shall not exceed the amount of fees paid by Client to Cloudficient under the applicable Order during the twelve (12) months immediately preceding the applicable claim.

3. **Exceptions.** The foregoing exclusions and limitations do not apply to either party's obligations under Section Fees; Payment Terms, Section Indemnification, Section Confidentiality (excluding data breach) or claims resulting from death or personal injury or gross negligence or fraud.

Ownership

Cloudficient reserves all rights not expressly granted to Client in these Terms. Without limiting the generality of the foregoing, Client acknowledges and agrees that any implementation, customization, configuration or deployment of the Services for Client shall not affect or diminish Cloudficient's rights, title, and interest in and to the Platforms, Software and any other intellectual property. As between the parties, Cloudficient and its licensors and suppliers retain all worldwide right, title and interest in and to the Software and the Platforms, including all worldwide intellectual property rights therein, and derivative works and enhancements thereof. If Client suggests any new features, functionality, or improvements to the Platforms (**"Feedback"**), Client acknowledges that all Feedback and products or services incorporating such Feedback are the sole and exclusive property of Cloudficient, and Client hereby irrevocably assigns to Cloudficient all intellectual property rights and all other rights and title to such Feedback.

General Terms

1. **Interpretation.** All headings in these Terms are included solely for convenience, and shall not affect their interpretation. If any provision of these Terms is determined by a court of competent jurisdiction to be invalid or unenforceable as drafted, that provision shall be severed and the enforceability of other provisions shall not be affected.

2. **Waiver.** The failure by a party to exercise any right or remedy hereunder will not operate as further waiver of such right or remedy in the future or any other right or remedy. No waiver of any default, condition or breach of these Terms shall be deemed to imply or constitute a waiver of any other default, condition or breach of these Terms, whether of a similar nature or otherwise.

3. **Counterparts.** These Terms may be executed in two (2) or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

4. **Force Majeure.** Each party will be excused from performance for any period during which, and to the extent that, it or its supplier(s) is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including, but not limited to, acts of God, power outages, or failures of the Internet, provided that the party affected by such event will immediately begin or resume performance as soon as practicable after the event has abated. This clause only applies if: (i) the claiming party could not have avoided the effect of the force majeure event by taking precautions that, having regard to all matters known to it before the occurrence of the force majeure event, it ought reasonably to have taken but did not take; and (ii) the claiming party has used all reasonable efforts to mitigate the effect of the force majeure event and to carry out its obligations under these Terms in any other way that is reasonably practicable.

5. **Governing Law.** The interpretation of these Terms shall be governed by the laws of the State of Delaware, USA, without regard to its conflict of laws principles. The United Nations Convention for the International Sale of Goods is excluded. The parties agree that any dispute arising from or relating to the subject matter of these Terms shall be governed by the exclusive jurisdiction and venue of the state and federal courts in County of New Castle, Delaware, USA.

6. **Amendments.** These Terms may be modified or amended only by a written agreement signed by both parties.

7. **Notices.** All notices under these Terms will be in writing and mailed, or delivered (including by email) to each party at the address set forth in the applicable Order (as it may be modified by the recipient by notice to the other). All such notices will be effective upon delivery, but when emailed, such notices will be effective only upon confirmation of receipt.

8. **Publicity.** Client agrees that Cloudficient may include identification of Client as a customer on Cloudficient's website, provided that the identification of Client is no more prominent than the identification of Cloudficient's other customers and is otherwise consistent with Cloudficient's practice of identifying its customers on Cloudficient's website at the time. Except as otherwise provided herein, each party agrees to submit to the other party all press releases and other publicity matters or materials relating to these Terms, or mentioning or implying the trade names, logos, trademarks or service marks of the other party, and each party further agrees not to publish or use such press releases or publicity matters or materials, without the other party's prior written consent except to the extent that a party determines that a disclosure is required by applicable law.

9. **Entire Agreement.** These Terms constitute the entire agreement between the parties concerning its subject matter and supersedes any prior or separate agreements between the parties concerning the subject matter of these Terms, and supersede the terms of any Client purchase order, and such terms are rejected by the parties.

IN WITNESS WHEREOF, the parties hereto have caused these Terms to be executed by their duly authorized representatives, effective as of the Effective Date.

<div style="display:flex;">

<div>

_____

By:

Name: _____

Title _____

Date _____

</div>

<div>

CLOUDFICIENT SOLUTIONS INC.

By:

Name: _____

Title _____

Date _____

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Exhibit A – Service Level Agreement

1. **Availability of Services**. Cloudficient will ensure that the Services shall be available to Client at least 99.5% of the time during any calendar month excluding Excusable Downtime (the **"Availability Commitment"**). **"Excusable Downtime"** means time that the Services may not available to Client because of (a) maintenance which is scheduled (i) each week between 12:01 a.m. and 6:00 a.m. Saturday Greenwich Mean Time (GMT), or (ii) during the third week of each month between 6:00 p.m. Saturday and 6:00 a.m. Sunday GMT (collectively, the **"Standard Windows"**) or planned maintenance which cannot be reasonably scheduled during the Standard Windows for which at least 24 hours advance notice is given, (b) outages caused by misuse of the Services by Client in breach of these Terms, (c) outages caused by Certified Datacenters or other third party providers or (c) Force Majeure Events. The Services are considered to be available when any authorized user can successfully log-in.

2. **Service Credits**. If, in any calendar month during the Term, the Availability Commitment is not met, Cloudficient will grant Client a service credit (a "Service Credit") for that month in accordance with the chart below. Without limiting the foregoing, if Cloudficient fails to meet the Availability Commitment for any four (4) consecutive calendar months, Client shall have the right to terminate the Agreement for cause and without further liability, in accordance with Section Termination of the Agreement.

Platforms Availability (Monthly)	Service Credit % of Monthly Fees
99.50%	0%
99.00%	10%
Below 98.99%	20%

3. **Customer Care Center**. Cloudficient will make available to Clients a cloud-based customer service and support center (the "**Customer Care Center**") for use by the Client for obtaining Support Services. Client can access the Customer Care Center twenty-four hours a day at the following address: **http://support.cloudficient.com**. Clients are expected to use the Customer Care Center to access Cloudficient knowledge resources, and request support by logging a Support Case. A Client's Support Case will receive a unique tracking number and a confirmation sent to the Client by electronic mail. Prior to opening a Support Case, Clients are expected to perform reasonable troubleshooting and problem analysis to determine if the problem can be resolved by the Client without the need for additional support. Cloudficient is not responsible for responding to a Client's request for support that is not properly submitted using the Customer Care Center.

4. **Delivery of Support Services**. Cloudficient Support Services are provided virtually and online. The Customer Care Center allows for customers to log issues twenty-four hours a day, except during the hours of scheduled maintenance. The help desk is monitored by the Cloudficient Customer Care Team who are experienced and knowledgeable about Cloudficient products and services and work to provide reasonably timely and satisfactory resolutions or workarounds. The Customer Care Center is available for customers to access product Documentation, release notes, news and alerts, and other valuable information, customers are expected to rely on these online resources. Clients can also purchase

Consulting, Education and higher level of Support Services by execution of an Order or a mutually agreed statement of work.

5. **Hours of Support**. The Customer Care Center is available sixteen hours a day, except during the hours of scheduled maintenance and on holidays. Normal hours of operation are weekdays between 7:00 AM to 11:00 PM GMT. The schedule of Cloudficient's holiday closures can be found on the Customer Care Center. Cloudficient will use reasonable efforts to ensure that a member of its support staff can be reached outside of the hours set forth above to address a critical issue. Client may also purchase higher levels of Support Services as mutually agreed by the parties pursuant to an Order.

6. **Response to Support Issues**. Customers submitting an issue through the Customer Care Center are asked to provide an assessment of the issue's severity (business impact) (**"Severity"**) and urgency (speed of resolution). Based in the information provided by the Client, the Customer Care Center will designate a Severity level and tracking number for the issue (the **"Support Case"**). Support Cases can be tracked online via the Customer Care Center.

7. **Service Level Agreements**. Cloudficient will respond during normal hours of operation to Support Cases based on priority according to the following table listing the business hour/day response time:

Severity	Initial Response Time
1	2 hrs
2	24 hrs
3	48 hrs

- Severity 1: A suspected critical error that: (1) renders the Platform inoperative; or (2) causes the Platform or the Client's network to fail catastrophically (system down condition); and (3) can be reproduced in more than one instance.
- Severity 2: A suspected high impact error that materially restricts the use or performance of the Platform or the Client's network; or (2) suspected error that renders the Platform or Client's network inoperative but the error cannot be reproduced
- Severity 3: A Platform error that causes a minor impact on the use of the Platform or a documentation error; or (2) an issue that materially restricts or impacts the use of the Platform; or (3) a question about Platform uses or implementation.
- Initial Response Time: Initial response time is a measure of the number of business hours or business days that elapse between when Client submits a ticket and when Cloudficient responds.

Cloudficient will determine, acting reasonably, if any adjustments are required to the Severity of any Support Case submitted by Client. Any such adjustment will be documented within the Support Case and the Client notified.

8. **Limits on Support Service**. Cloudficient shall have no obligation under this Agreement to provide Support Services in respect of any fault or error caused by:

   o   The improper use of the Services;
   o   Issues arising from the actions of a third-party;

- o Issues impacting the Platforms that are outside of Cloudficient's control
- o The infrastructure in hybrid deployment scenarios where the customer is providing on-premise components (e.g. storage, appliance, server); or
- o The use of the Services otherwise than in accordance with the Platform's documentation