

## GENERAL TERMS

### 1. STRUCTURE; SERVICES

- 1.1. General Terms; Order Forms. These General Terms sets forth the terms and conditions on which Kloud Stax will perform certain professional Services to Customer as further described in the Order Form above upon execution. Each Order Form is subject to the terms of, and is deemed incorporated into, this Agreement. Kloud Stax will not be bound by any term, condition, or other provision that is different from or in addition to the Order Form (whether or not it would materially alter the Order Form) that is provided by Customer in any receipt, acceptance, confirmation, correspondence, or otherwise.
- 1.2. Subcontractors. Kloud Stax may utilize independent contractors to perform all or part of the Services. Kloud Stax will remain solely responsible for the performance of all the Services that are subcontracted.
- 1.3. Order of Precedence. Any conflict between an Order Form, an Addendum, or the General Terms, the conflict will be resolved according to the following order of precedence: (a) Order Form; and (b) the General Terms.

### 2. FEES

- 2.1. Fees. Customer will pay Kloud Stax for Services as specified in the Order Form (“Fees”).
- 2.2. Payment. Unless otherwise specified in an Order Form: (a) Kloud Stax will issue invoices for Fees for Services that have been performed; and (b) Customer will pay any undisputed amount set forth in an invoice no later than 15 days after receipt of Kloud Stax’s invoice. Any amount not paid when due will be subject to finance charges equal to 1.5% per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Unless otherwise provided in the applicable Order Form, the Fees will include a three percent (3%) credit (or the maximum amount permitted by law, if less) card fee if Customer elects to pay by credit card. Customer agrees that Kloud Stax may seek pre-authorization of the credit card or ACH account Customer provides to Kloud Stax for payment prior to any purchase to verify that such account is valid and has the necessary funds or credit available to cover such purchase, Customer will also reimburse any costs or expenses (including, but not limited to, reasonable attorneys’ fees) incurred by Kloud Stax to collect any amount that is not paid when due. All Fees and other expenses are non-refundable.
- 2.3. Taxes. Other than federal and state net income taxes imposed on Kloud Stax by the United States, Customer will bear all taxes, duties, and other governmental charges (collectively, “taxes”) resulting from this Agreement. Unless otherwise specified in the applicable Order Forms, the Fees payable to Kloud Stax under this Agreement do not include any taxes or other amounts assessed or imposed by any governmental authority.

### 3. TERM; TERMINATION

- 3.1. Term. The Agreement will commence on the specified Order Effective Date and will continue until the completion of the Services, or the Agreement is terminated, in accordance with this Section 3.
- 3.2. Notice of Material Breach. If either party commits a material breach in the performance of any of its obligations under any Order Form, then the other party may give the breaching party written notice of the breach and the non-breaching party’s intent to terminate this Agreement pursuant to this Section 3.2 if the breach is not cured within 30 days after the date of the notice (or a later date as may be specified in the notice). Without limitation, any failure by Customer to timely pay to Kloud Stax any amounts to be paid under the Order Form will constitute a material breach of this Agreement, and Kloud

Stax may, without limitation of any of its other rights and remedies available, suspend performance of any Services then in progress during any time that Customer fails to pay any amounts owed to Kloud Stax.

- 3.3. Notice of Termination. If the breaching party fails to cure any material breach specified in any notice under Section 3.2 within 30 days after the date of the notice (or a later date as may be specified in the notice), then the non-breaching party may terminate the Order Form covering the Services with respect to which the breach or default occurred by giving the breaching party written notice of termination.
- 3.4. Effect of Termination. If this Agreement is terminated in accordance with this Section 3, then, unless otherwise specifically provided for in the applicable Order Form, the following will apply: (a) the parties will cooperate to effect an orderly, efficient, effective, and expeditious termination of the parties’ respective activities under the terminated Order Form; (b) Kloud Stax will have no obligation to perform any Services under the terminated Order Form after the effective date of the termination; (c) Customer will pay to Kloud Stax any Fees and other amounts payable for the Services performed under the Order Form through the effective date of the termination; (d) Kloud Stax will deliver to Customer all Customer Materials (defined below) that are in Kloud Stax’s possession or control; (e) any and all liabilities accrued prior to the effective date of the termination will survive; and (f) the parties’ respective rights and obligations under Sections 3.4, 4, 6, 7, 8, and 9 of these General Terms, including the obligation to pay for the Services that were to be performed, will survive.

### 4. PROPRIETARY RIGHTS

- 4.1. Customer Materials. Any materials provided by Customer to Kloud Stax (“Customer Materials”) will be used and disclosed solely as required to perform the Services. Customer hereby grants Kloud Stax the non-exclusive, worldwide, sublicensable right to use reproduce, perform, display, and modify (solely for technical and formatting purposes), the Customer Materials to perform the Services. Customer owns and will retain all rights to the Customer Materials, except for Kloud Stax’s limited use rights granted herein. Customer represents and warrants that Customer has all rights necessary, to grant Kloud Stax the licenses set forth in this Agreement to enable Kloud Stax to exercise its rights under the same without violating or infringing applicable laws, third-party rights, or terms or policies that apply to the Customer Materials.
- 4.2. Inventions. Except as expressly set forth to the contrary in an Order Form, all works of authorship, inventions, discoveries, improvements, methods, processes, formulas, designs, techniques, and information (a) conceived, discovered, developed or otherwise made (as necessary to establish authorship, inventorship, or ownership) by Kloud Stax, solely or in collaboration with others, in the course of performing the Services; or (b) that form all or part of a deliverable provided as part of the Services, whether developed as part of the Services or separately, but excluding Customer Materials (collectively, “Inventions”) will be the sole property of Customer. Upon and subject to final payment by Customer of all amounts owing to Kloud Stax under the applicable Order Form, (i) Kloud Stax hereby irrevocably assigns Customer all right, title, and interest in and to the Invention; provided however that Kloud Stax will retain all intellectual property rights that Kloud Stax owns or has an interest in, prior to, or separate from the Invention, including any Kloud Stax IP (defined below); and (ii) to the extent any Invention provided to Customer includes any embedded Kloud Stax IP, then Kloud Stax grants a license to Customer solely to the extent necessary for Customer to use such Invention in accordance with this Agreement.
- 4.3. Customer Accounts. Upon reasonable request, Customer will allow Kloud Stax to access and use Customer’s systems and any account credentials to third-party platforms reasonably required for Kloud Stax to perform the Services.

4.4. Reservation of Rights. Except for Customer's use rights in this Agreement, Kloud Stax and its licensors retain all intellectual property rights and other rights in the Service, and any other Kloud Stax technology, templates, formats, and dashboards, including any modifications or improvements to these items made by Kloud Stax ("Kloud Stax IP").

4.5. Third Party Products. Any third-party products that are provided by Kloud Stax in connection with the Services are provided pursuant to the terms of the applicable third-party agreement, and Kloud Stax assumes no responsibility for, and specifically disclaims any liability or obligation with respect to, any third-party products.

## 5. WARRANTIES AND DISCLAIMER

5.1. Mutual Warranties. Each party represents and warrants to the other that: (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms; (b) no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of this Agreement; and (c) the execution, delivery, and performance of this Agreement does not violate the laws of any jurisdiction or the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

5.2. Limited Warranty. Kloud Stax warrants to Customer that Kloud Stax will perform the Services in a professional and workmanlike manner in accordance with the terms of this Agreement and any specifications within the Order Form ("Services Warranty"). The "Warranty Period" begins on the date the applicable Services are provided and ends 30 days' thereafter.

5.3. Warranty Remedy. If Kloud Stax breaches the Services Warranty during the applicable Warranty Period and Customer makes a reasonably detailed warranty claim in the manner required by Kloud Stax within 30 days of discovering a breach of the Services Warranty, then Kloud Stax will use reasonable efforts to correct the non-conformity or reperform the non-conforming part of such Service. This Section 5.3 sets forth Customer's exclusive remedy and Kloud Stax's entire liability for breach of the Services Warranty.

5.4. Disclaimer. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION 5, KLOUD STAX MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. KLOUD STAX EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT.

## 6. CONFIDENTIALITY

6.1. Definition. "Confidential Information" means information disclosed to the receiving party ("Recipient") under this Agreement that is marked by the disclosing party ("Discloser") as proprietary or confidential or, if disclosed orally, is designated as proprietary or confidential at the time of disclosure. Kloud Stax's Confidential Information includes the terms and conditions of this Agreement, Kloud Stax IP, and any technical or performance information about the Service.

6.2. Obligations. As Recipient, each party will: (a) hold Confidential Information in confidence and not disclose it to third parties except as permitted in this Agreement; and (b) only use Confidential Information to fulfill its obligations and exercise its rights in this Agreement. At Discloser's request, Recipient will delete all Confidential Information, except, in the case where Kloud Stax is the Recipient, Kloud Stax may retain the Customer's Confidential Information to the extent required to continue to provide the Services. Recipient may disclose Confidential Information to its employees, agents, contractors, and other representatives having a legitimate need to know, provided it remains responsible for their compliance with

this Section 6, and they are bound to confidentiality obligations no less protective than this Section 6.

6.3. Exclusions. These confidentiality obligations do not apply to information that Recipient can document: (a) is or becomes public knowledge through no fault of the receiving party; (b) it rightfully knew or possessed prior to receipt under this Agreement; (c) it rightfully received from a third party without breach of confidentiality obligations; or (d) it independently developed without using Confidential Information of the Discloser.

6.4. Remedies. Unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone are an insufficient remedy. Each party may seek appropriate equitable relief, in addition to other available remedies, for breach or threatened breach of this Section 6.

6.5. Required Disclosures. Nothing in this Agreement prohibits either party from making disclosures, if required by law, subpoena, or court order, provided (if permitted by applicable law) it notifies the other party in advance and cooperates in any effort to obtain confidential treatment.

## 7. INDEMNIFICATION

7.1. Indemnification by Kloud Stax. Kloud Stax will defend Customer from and against any third-party claim to the extent alleging that the Services as performed by Kloud Stax, when used by Customer as permitted under the applicable Order Form infringe or misappropriate a third party's patent, copyright, trademark, or trade secret, and will indemnify and hold harmless Customer against any damages and costs awarded against Customer (including reasonable attorneys' fees) or agreed in a settlement by Kloud Stax resulting from the claim.

7.2. Indemnification by Customer. Customer will defend Kloud Stax from and against any third-party claim to the extent resulting from the Customer Materials and will indemnify and hold harmless Kloud Stax against any damages and costs awarded against Kloud Stax (including reasonable attorneys' fees) or agreed in a settlement by Customer resulting from the claim.

7.3. Procedures. The indemnifying party's obligations in this Section 7 are subject to it receiving: (a) prompt written notice of the claim; (b) the exclusive right to control and direct the investigation, defense, and settlement of the claim; and (c) all reasonably necessary cooperation of the indemnified party, at the indemnifying party's expense for reasonable out-of-pocket costs. The indemnifying party may not settle any claim without the indemnified party's prior consent if settlement would require the indemnified party to admit fault or take or refrain from taking any action (other than relating to use of the Service, when Kloud Stax is the indemnifying party). The indemnified party may participate in a claim with its own counsel at its own expense.

## 8. LIMITATIONS OF LIABILITY

8.1. Disclaimer of Consequential Damages. EXCEPT FOR A PARTY'S BREACH OF SECTION 6 (CONFIDENTIALITY) AND THE PARTY'S OBLIGATIONS PURSUANT TO SECTION 7 (INDEMNIFICATION) (THE "EXCLUDED CLAIMS"), NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, KLOUD STAX WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO CUSTOMER FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE TRANSACTION CONTEMPLATED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF KLOUD STAX IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

8.2. Cap on Liability. EXCEPT FOR THE EXCLUDED CLAIMS, UNDER NO CIRCUMSTANCES WILL KLOUD STAX'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND

REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO KLOUD STAX UNDER THE APPLICABLE ORDER FORM (DETERMINED AS OF THE DATE OF ANY FINAL JUDGMENT IN AN ACTION).

## 9. MISCELLANEOUS

- 9.1. **Independent Contractor.** It is the express intention of the parties that Kloud Stax perform the Services as an independent contractor. Without limiting the generality of the foregoing, Kloud Stax is not authorized to bind Customer to any liability or obligation or to represent that Kloud Stax has any authority.
- 9.2. **Governing Law.** This Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of New York, without reference to its choice of law rules that would result in the application of the laws of another jurisdiction and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. The parties agree that any action arising out of or in connection with this Agreement will be heard in the federal, state, or local courts in New York, New York, and each party hereby irrevocably consents to the exclusive jurisdiction and venue of these courts.
- 9.3. **Assignment.** Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by either party, except that either party may assign the Agreement in connection with a merger, reorganization, acquisition, or other transfer of all or substantially all its assets or voting securities to the other party involved in such transaction. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns. Any assignment in violation of the foregoing will be null and void.
- 9.4. **Notices.** Any notice required or permitted under the terms of this Agreement or required by law in connection with this Agreement must be provided in writing to (a) Kloud Stax at Kloud Stax LLC, located at 8911 North Capital of Texas Highway, Suite 4200 #1201 Austin, Texas 78759, and email: [contact@kloudstax.com](mailto:contact@kloudstax.com); or (b) the Customer at the applicable address set forth in the Order Form, in each case through one of the following methods: (i) in person; (ii) by certified or registered mail, or air mail, as appropriate, return receipt requested; (iii) by nationally recognized overnight courier service; or (iv) via email. Notices will be considered to have been given (1) at the time of actual delivery in person, (2) three business days after deposit in the mail as set forth above, (3) one business day after delivery to an overnight courier service, or (4) for email, unless the party providing notice received a bounce-back or error in delivery, the earlier of one business day after sending or the date receipt is acknowledged by recipient. Either party may change its address for notice by providing notice of the change in accordance with this section.
- 9.5. **Waiver.** Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed as a waiver of the party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice the party's right to take

subsequent action. Exercise or enforcement by either party of any right or remedy under this Agreement will not preclude the enforcement by the party of any other right or remedy under this Agreement or that the party is entitled by law to enforce.

- 9.6. **Severability.** If any term, condition, or provision in this Agreement is found to be invalid, unlawful, or unenforceable to any extent, the parties will endeavor in good faith to agree to amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on an amendment, the invalid term, condition, or provision will be severed from the remaining terms, conditions, and provisions of this Agreement, which will continue to be valid and enforceable to the fullest extent permitted by law.
- 9.7. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed to be an original and together will constitute one and the same agreement. This Agreement may also be executed and delivered by facsimile and such execution and delivery will have the same force and effect of an original document with original signatures.
- 9.8. **Interpretation.** For purposes of this Agreement, (a) the words "include," "includes" and "including" will be deemed to be followed by the words "without limitation"; (b) the words "such as", "for example" "e.g." and any derivatives of those words will mean by way of example and the items that follow these words will not be deemed an exhaustive list; (c) the word "or" is used in the inclusive sense of "and/or" and the terms "or," "any," and "either" are not exclusive; (d) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (e) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; (f) whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa; and (g) days, months, and years refer to calendar days, months, and years unless otherwise expressly specified. The headings set forth in this Agreement are for convenience of reference purposes only and shall not affect or be deemed to affect in any way the meaning or interpretation of this Agreement or any term or provision hereof. References to "\$" and "dollars" are to the currency of the United States of America. Any law defined or referred to herein means such law as from time to time amended, modified or supplemented, including (in the case of statutes) by succession of comparable successor laws.
- 9.9. **Integration.** This Agreement and all exhibits contain the entire agreement of the parties with respect to the subject matter of this Agreement and supersede all previous communications, representations, understandings, and agreements, either oral or written, between the parties with respect to said subject matter. No terms, provisions, or conditions of any purchase order, acknowledgement, or other business form that either party may use in connection with the transactions contemplated by this Agreement will have any effect on the rights, duties, or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of a receiving party to object to these terms, provisions, or conditions. This Agreement may not be amended, except by a writing signed by both parties.

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