

# Atombeam Terms and Conditions

**Last Updated: February 23, 2026**

Please read these Terms and Conditions ("**Terms**" and together with the Order Form or Agreement (as defined below), the "**Agreement**") carefully as they govern the access and use by the company or entity on whose behalf you entered this Agreement or that is otherwise identified on the Order Form ("**Customer**") of the products and services set out in the Order Form as made available by Atombeam Technologies, Inc. ("**Atombeam**"). Customer may be referred to herein collectively as the "**Parties**" or individually as a "**Party**". In the event of any conflict or inconsistency between these Terms and any applicable Order Form, reseller agreement, or other agreement governing Customer's access to or use of the Atombeam Solution (collectively, the "**Governing Agreement**"), the terms of the Governing Agreement shall control and prevail to the extent of such conflict or inconsistency.

## 1. ACCEPTANCE OF TERMS

### 1.1. Direct Customers, Partners, and Distributors.

This Agreement is effective, and you agree to be bound by this Agreement, the earlier of the date: (i) Customer downloaded, installed or used the Licensed Software as part of the Atombeam Solution; or (ii) the effective date specified on the applicable Order Form or Governing Agreement incorporating these Terms ("**Effective Date**"). The individual accepting this Agreement on behalf of the company or other legal entity identified as Customer on the Order Form represents and warrants that they have the authority to bind Customer to the terms and conditions of this Agreement. Direct customers, Authorized Resellers, Distributors, and channel partners shall be deemed to have accepted these Terms upon execution of the applicable Order Form or Governing Agreement, whichever occurs first.

### 1.2. End Users of Distributors, Resellers, and Direct Customers.

Where Customer is a Distributor, Authorized Reseller, or channel partner that sublicenses or otherwise makes the Atombeam Solution available to End Users, or where Customer is a direct customer that deploys the Atombeam Solution to End Users, Customer agrees and represents that:

- (a) each End User shall be required to comply with these Terms, including all applicable restrictions set forth in Section 3.5 and the Acceptable Use Policy set forth in Section 3.9;
- (b) Customer shall present these Terms, or a binding end user license agreement that is no less protective of Atombeam's rights than these Terms, to each End User prior to or at the time of providing access to the Atombeam Solution;

(c) Customer shall obtain each End User's express acceptance of such terms, whether by electronic acknowledgment, written agreement, or other legally sufficient means, prior to granting access;

(d) Customer shall require each End User to impose equivalent restrictions on any of their own downstream customers or users who access or use the Atombeam Solution or any output thereof, and shall be responsible for ensuring such downstream compliance; and

(e) Customer shall maintain records of End User acceptance and provide such records to Atombeam upon request.

Customer shall be liable to Atombeam for any breach of these Terms by its End Users and their downstream customers or users to the same extent as if Customer itself had committed such breach.

### **1.3. Electronic Acceptance.**

To the extent Customer or End Users accept these Terms electronically — including by clicking an "I Agree," "Accept," or similar button, by checking a box indicating acceptance, or by otherwise affirmatively manifesting assent through an electronic interface — such acceptance shall constitute a valid, legally binding acceptance of these Terms to the same extent as a handwritten signature. Atombeam may record the date, time, and method of electronic acceptance for evidentiary purposes.

### **1.4. Atombeam as Third-Party Beneficiary.**

Customer acknowledges and agrees that Atombeam is an express third-party beneficiary of any agreement between Customer and its End Users governing use of the Atombeam Solution, to the extent such agreement incorporates or flows down these Terms. Atombeam shall have the right, but not the obligation, to enforce these Terms directly against any End User or downstream customer or user of the Atombeam Solution, including seeking injunctive or other equitable relief, without any requirement to join Customer as a party to such enforcement action. Nothing in this Section 1.4 shall limit Atombeam's rights or remedies against Customer under this Agreement.

## **2. DEFINITIONS**

(i) "**Aggregated Statistics**" means data derived from the use and operation of the Atombeam Solution that has been aggregated, anonymized, and de-identified such that it does not identify Customer, any User, any Recipient, End User, or any individual, and which Atombeam may use for lawful business purposes including product improvement, benchmarking, and analytics.

(ii) "**API**" or "**Application Programming Interface**" means any application programming interface, endpoint, protocol, or other programmatic interface made available by Atombeam that enables software applications to interact with or access certain functionality, data, or services of the Atombeam Solution, whether designated as public, partner, or private, and as further described in the Documentation.

(iii) "**Atombeam IP**" means the Licensed Software, Control Plane Software, Aggregated Statistics, the underlying software provided in conjunction with the Atombeam Solution, algorithms, interfaces, technology, databases, tools, know-how, processes and methods used to provide or deliver the Atombeam Solution and Documentation, and all improvements, modifications or enhancements to, or derivative works of, the foregoing (regardless of inventorship or authorship), including all Intellectual Property Rights in and to any of the foregoing.

(iv) "**Atombeam Solution**" means the Licensed Software and the Control Plane Software, together with any related services, as configured and deployed as part of the Atombeam Solution. The Control Plane Software is hosted and operated by Atombeam within Atombeam-managed cloud infrastructure unless otherwise agreed in writing, in which case it may be deployed within a Customer-controlled environment.

(v) "**Authorized Reseller**" means an entity that has entered into a reseller, channel partner, or similar agreement with Atombeam or an authorized Distributor and is expressly authorized by Atombeam to market and sublicense the Atombeam Solution to End Users within the scope of such authorization.

(vi) "**Business Purpose**" means Customer's own internal business purposes, including provision of Customer's own products and services to End Users and Recipients.

(vii) "**Control Plane Software**" means the software components used to manage, configure, monitor, and administer the Atombeam Solution, including licensing, telemetry aggregation, and operational oversight functionality. Unless otherwise agreed in writing, the Control Plane Software is hosted and operated by Atombeam within Atombeam-managed cloud infrastructure. Certain deployments may permit the Control Plane Software to be hosted within a customer-controlled environment.

(viii) "**Customer**" means any entity that is a direct customer of Atombeam, an Authorized Reseller, a Distributor, or a channel partner, in each case as identified on the applicable Order Form or Governing Agreement.

(ix) "**Customer Data**" means Customer Payload Data and Customer Materials, but excluding Telemetry and Diagnostic Data, Aggregated Statistics, and any other information, data, or materials owned or controlled by Atombeam and made available through or in connection with the Atombeam Solution.

(x) "**Customer Hardware**" means any physical or virtual computing infrastructure, devices, servers, storage systems, or networking equipment owned, leased, or otherwise controlled by Customer on which the Licensed Software, Control Plane Software, or any component of the Atombeam Solution is installed, deployed, or operated.

(xi) "**Customer Materials**" means Operational Data and any data, content and other materials provided, uploaded or transmitted to Atombeam by Customer or its Users in connection with use of the Atombeam Solution (other than Customer Payload Data), but specifically excluding Telemetry and Diagnostic Data and Aggregated Statistics.

**(xii) "Customer Payload Data"** means all data uploaded or transmitted by Customer or its Recipients, End Users, or Users, for the purpose of encoding, decoding or optimization, but specifically excluding Operational Data, and Telemetry and Diagnostic Data.

**(xiii) "Distributor"** means an entity that has entered into a distribution agreement with Atombeam and is expressly authorized to market, sublicense, and distribute the Atombeam Solution to Authorized Resellers or, where expressly permitted, directly to End Users, within the scope of such authorization.

**(xiv) "Documentation"** means the documentation relating to the Atombeam Solution if and as provided by or on behalf of Atombeam to Customer (including any revised versions thereof), which may be updated from time to time.

**(xv) "Edge Node"** means any Customer-controlled computing device, server, endpoint, or other hardware or virtual machine on which the Licensed Software is installed and operated by Customer in accordance with this Agreement, including any device designated as an edge node in the applicable Order Form or Documentation.

**(xvi) "End User"** means any individual or entity, other than Customer, that is granted access to or use of the Atombeam Solution (or any component, output, or functionality thereof) by Customer, an Authorized Reseller, or a Distributor, whether directly or indirectly, for such party's own use. For the avoidance of doubt, End Users include the customers of Authorized Resellers and Distributors, and the customers of those customers, to the extent any such party accesses or uses the Atombeam Solution or any output thereof. End Users do not have a direct contractual relationship with Atombeam unless separately agreed in writing, but are subject to these Terms by virtue of Section 1.2 and the third-party beneficiary rights set forth in Section 1.4.

**(xvii) "Fees"** means all amounts payable by Customer to Atombeam in connection with this Agreement, including subscription fees, usage-based charges, professional services fees, support fees, and any other charges set forth in the applicable Order Form or separately agreed to by the Parties in writing.

**(xviii) "Feedback"** means any suggestions, ideas, enhancement requests, recommendations, comments, or other feedback provided by Customer or its Users to Atombeam regarding the Atombeam Solution or any related products or services.

**(xix) "Intellectual Property Rights"** means any and all right, title and interest in and to any and all trade secrets, patents, copyrights, service marks, trademarks, know-how, trade names, rights in trade dress and packaging, moral rights, rights of privacy, publicity and similar rights of any type, including any applications, continuations or other registrations with respect to any of the foregoing, under the laws or regulations of any foreign or domestic governmental, regulatory or judicial authority.

**(xx) "Licensed Software"** means Atombeam's proprietary software identified on the Order Form, in object code form, including error corrections and updates as made available by Atombeam from time to time.

**(xxi) "Licensed Volume"** means the scope, capacity, quantity, and any other usage parameters and limitations applicable to Customer's use of the Atombeam Solution, as specified in the applicable Order Form, including without limitation the number of Edge Nodes, data throughput thresholds, API call limits, or other metrics by which Customer's permitted use is measured and bounded.

**(xxii) "Operational Data"** means data entered into or generated by the Atombeam Control Plane Software, whether hosted by Atombeam or, where authorized, within the Customer-controlled environment, to operate, maintain, or support the Atombeam Solution, including configuration information, user account details, and customer support submissions.

**(xxiii) "Order Form"** means the order form or other ordering document which references these Terms and sets forth the applicable Atombeam Solution configuration to be provided.

**(xxiv) "Public API"** means an API or set of APIs that Atombeam makes generally available to customers, developers, or third parties for integration purposes, as expressly identified in the Documentation or on Atombeam's developer-facing materials.

**(xxv) "Recipient"** means an End User's own customers or downstream end users who receive the benefit of products or services built upon or incorporating the Atombeam Solution, but who do not themselves directly access or operate the Atombeam Solution or Licensed Software. Recipients are subject to the flow-down obligations set forth in Section 1.2(d) and the Acceptable Use Policy in Section 3.9 to the extent applicable.

**(xxvi) "Telemetry and Diagnostic Data"** means (i) system-generated metrics or metadata transmitted from Customer-controlled nodes and Edge Nodes, such as performance statistics, node health, or license metrics; and (ii) temporary logs or traces created within Customer-controlled environments for troubleshooting purposes and which may be shared with Atombeam, in each case, which does not include Customer Payload Data. Telemetry and Diagnostic Data may be enabled by default to support service reliability, licensing, and operational insight. Where technically supported, Customer may configure, limit, or disable certain Telemetry and Diagnostic Data collection in accordance with the Documentation or applicable Order Form.

**(xxvii) "Usage Term"** means the term of Customer's subscription for the Atombeam Solution as set forth in the applicable Order Form.

**(xxviii) "User(s)"** means employees, contractors and other representatives whom Customer has authorized to access the Atombeam Solution on Customer's behalf for Customer's internal Business Purposes. Users are distinct from End Users, who access the Atombeam Solution as customers or downstream recipients of Customer's products or services.

## **3. ATOMBEAM SOLUTION**

### **3.1. Atombeam Software.**

Subject to and conditioned upon Customer's compliance with the terms and conditions of this Agreement, including payment of all Fees, Atombeam grants Customer during the applicable Usage Term a limited, non-exclusive, non-transferable, non-sublicensable (except as expressly permitted under Section 3.10 for Authorized Resellers and Distributors), revocable right and license to install and operate the Licensed Software on Edge Nodes, solely for Customer's Business Purposes in accordance with, and subject to, the Licensed Volume.

### **3.2. Control Plane Software.**

Subject to and conditioned upon Customer's compliance with the terms and conditions of this Agreement, including payment of all Fees, Atombeam may grant Customer during the applicable Usage Term a limited, non-exclusive, non-transferable, non-sublicensable, revocable right and license to deploy, host and operate the Control Plane Software on approved Customer-controlled infrastructure only where such customer-hosted deployment is expressly authorized in writing by Atombeam, and subject to, the Licensed Volume.

### **3.3. APIs.**

Subject to and conditioned upon Customer's compliance with this Agreement, Atombeam may make APIs available as part of the Atombeam Solution, including certain APIs designated as Public APIs. APIs are made available upon request and subject to Atombeam's approval, which may be granted or withheld in Atombeam's reasonable discretion. Customer may access and use such APIs solely for its Business Purposes and strictly in accordance with this Agreement and the applicable Documentation. Customers interested in API access should contact Atombeam at [www.atombeam.com](http://www.atombeam.com) or through their designated account representative.

**(a) Public APIs.** Public APIs are provided to enable integration with the Atombeam Solution and may be accessed only in accordance with the usage limits, authentication requirements, technical specifications, and acceptable use policies described in the Documentation. Atombeam may modify, suspend, or discontinue any API, including any Public API, at any time in its discretion.

**(b) Restrictions.** Customer shall not (and shall not permit any third party to): (i) use any API in a manner that exceeds applicable rate limits or usage thresholds; (ii) attempt to bypass authentication, security, or access controls; (iii) use APIs for benchmarking, competitive analysis, or to develop or enhance competing products or services; (iv) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code, underlying structure, ideas, or algorithms of any API; or (v) use APIs in any manner inconsistent with applicable law or the Documentation.

**(c) No Separate License.** Except as expressly stated in this Section 3.3, no rights or licenses are granted with respect to any API. APIs form part of the Atombeam Solution and are subject to all applicable license limitations, confidentiality obligations, and restrictions set forth in this Agreement.

For clarity, authorized use of APIs in accordance with the Documentation will not be deemed prohibited automated access under this Agreement.

### **3.4. Users.**

Customer may permit its Users to access and use the Atombeam Solution, provided such use is for Customer's Business Purposes. Customer must ensure each User complies with all applicable terms and conditions of this Agreement and Customer is responsible for acts or omissions by Users in connection with their use of the Atombeam Solution. Customer will not allow any person other than its Users or authorized End Users to access or use the Licensed Software or Control Plane Software, or any component thereof.

### **3.5. General Restrictions.**

Customer's use of the Licensed Software must be in accordance with the terms and conditions of this Agreement and the Documentation. Customer will not (and will not allow any third party, including Users, End Users, and Recipients to), directly or indirectly: (i) gain or attempt to gain unauthorized access to the Atombeam Solution, or any element thereof, or circumvent or interfere with any authentication or security measures of the Atombeam Solution; (ii) interfere with or disrupt the integrity or performance of the Atombeam Solution; (iii) transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs through the Atombeam Solution; (iv) decompile, disassemble, scan, reverse engineer, or attempt to discover any source code or underlying ideas or algorithms of the Atombeam Solution (except to the extent that applicable law prohibits or restricts reverse engineering restrictions, and in such case only upon prior written notice to Atombeam); (v) sell, rent, provide, lend, use for timesharing or service bureau purposes, or lease the Atombeam Solution (or any portion thereof), except as expressly permitted under Section 3.10; (vi) remove any copyright or proprietary notices contained in the Atombeam Solution; (vii) copy the Atombeam Solution (or any component thereof) or develop any improvement, enhancement, modification, or derivative work thereof; (viii) allow the transfer, transmission, export, or re-export of the Atombeam Solution (or any portion thereof) or any Atombeam technical data; (ix) perform penetration tests on the Atombeam Solution unless authorized by Atombeam in advance and in writing; (x) use, evaluate or view the Atombeam Solution for the purpose of designing, modifying, or otherwise creating any environment, software, models, algorithms, products, program, or infrastructure, or any portion thereof, which performs functions similar to the functions of the Atombeam Solution; (xi) use the Atombeam Solution 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; or (xii) access or search any software component of the Atombeam Solution through the use of any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers or any other similar data mining tools) other than software or Atombeam Solution features provided by Atombeam for use expressly for such purposes.

### **3.6. Updates, Patches, and Support Eligibility.**

**(a) Update Requirement.** As a condition of receiving support services under this Agreement, Customer is required to install all updates, patches, and fixes to the Licensed Software made available by Atombeam, no less frequently than once every six (6) months from the date such update is made available. Failure to install updates within this timeframe may result in the suspension or termination of support services, or the assessment of additional Fees for troubleshooting or remediating issues attributable to Customer's use of outdated software versions, at Atombeam's discretion.

**(b) Supported Versions.** Atombeam's support obligations under this Agreement extend to the then-current version of the Licensed Software and up to two (2) immediately preceding major versions (i.e., an N-2 support policy), subject to any version-specific end-of-life notices published by Atombeam. Software versions that have reached end-of-life status are excluded from standard support coverage unless the Parties have executed a separate Statement of Work ("SOW") expressly providing for such extended support, which may be subject to additional Fees.

**(c) Notification.** Atombeam will use commercially reasonable efforts to notify Customer of available updates, patches, and fixes through the Documentation, the Atombeam customer portal, or such other communication channel as Atombeam may designate from time to time.

### **3.7. Feedback.**

Customer acknowledges and agrees that any Feedback provided to Atombeam is entirely voluntary. To the extent Customer or its Users provide any Feedback, Customer hereby assigns and agrees to assign to Atombeam all right, title, and interest in and to such Feedback, including all Intellectual Property Rights therein. Atombeam may use, disclose, reproduce, modify, license, distribute, and otherwise exploit Feedback for any purpose without restriction, payment, attribution, or obligation to Customer. Customer represents and warrants that it has the right to provide such Feedback and that the Feedback does not include any information that Customer is obligated to keep confidential.

### **3.8. Third Party Service Providers.**

Atombeam may engage third-party service providers in the ordinary course of operating and supporting the Atombeam Solution. Such providers have no access to Customer Payload Data and may process only Operational Data, and where applicable Telemetry and Diagnostic Data as necessary to provide infrastructure, security, support, or administrative functions. Atombeam maintains a vendor management program that includes due diligence, security assessments, and contractual safeguards designed to protect Customer Data. Information regarding Atombeam's material third-party service providers may be made available on Atombeam's legal or security webpage, as updated from time to time. Such information is provided for transparency and does not limit Atombeam's obligations under this Agreement. Atombeam requires its third-party service providers to be subject to confidentiality and security obligations appropriate to the nature of the services provided and the data processed, consistent with industry standards.

### **3.9. Acceptable Use Policy.**

Customer shall use the Atombeam Solution only for lawful purposes and in accordance with this Agreement. Customer shall not, and shall ensure that its Users, End Users, and Recipients do not, use the Atombeam Solution to:

- (a) violate any applicable local, state, national, or international law or regulation, including without limitation laws governing data privacy, export controls, intellectual property, anti-spam, and consumer protection;
- (b) transmit, store, process, or facilitate any data or content that: (i) is unlawful, harmful, threatening, abusive, harassing, defamatory, obscene, or otherwise objectionable; (ii) infringes or misappropriates any Intellectual Property Right or other right of any third party; (iii) constitutes or facilitates unsolicited commercial communications (spam); or (iv) contains personally identifiable information of minors in violation of applicable law;
- (c) engage in any activity that interferes with or disrupts the Atombeam Solution, its infrastructure, or the systems or networks of any third party, including distributed denial-of-service attacks, unauthorized scanning, or network probing;
- (d) transmit any malware, ransomware, spyware, adware, or other malicious or harmful code;
- (e) impersonate any person or entity or falsely represent an affiliation with any person or entity;
- (f) collect, harvest, scrape, or aggregate data from the Atombeam Solution for any unauthorized purpose, including the training of artificial intelligence or machine learning models without Atombeam's prior written consent;
- (g) circumvent, disable, or interfere with any security features, access controls, or usage monitoring of the Atombeam Solution;
- (h) use the Atombeam Solution to process or transmit data classified as export-controlled, classified government information, or data subject to heightened regulatory requirements (such as HIPAA-protected health information or payment card data under PCI-DSS) unless expressly authorized in writing by Atombeam and subject to such additional terms as Atombeam may require; or
- (i) use the Atombeam Solution in any manner that could damage, disable, overburden, or impair Atombeam's ability to provide the Atombeam Solution to other customers.

Atombeam reserves the right to investigate suspected violations of this Section 3.9 and, upon confirmation of a violation, to suspend or terminate Customer's access to the Atombeam Solution immediately and without prior notice, in addition to any other remedies available to Atombeam at law or in equity.

### **3.10. Reseller and Distributor Obligations.**

This Section 3.10 applies solely to Customers that are Authorized Resellers or Distributors and supplements (but does not replace) all other obligations in this Agreement.

**(a) Scope of Authorization.** Authorized Resellers and Distributors are permitted to sublicense access to the Atombeam Solution to End Users solely within the scope of their authorization as set forth in the applicable Governing Agreement or Order Form. Any sublicensing beyond the authorized scope — including by geography, vertical market, product line, or customer type — is strictly prohibited without Atombeam's prior written consent. Distributors may sublicense to Authorized Resellers only where expressly permitted by Atombeam in writing; Distributors may not authorize sub-distributors without Atombeam's written approval.

**(b) No Additional Rights.** Authorized Resellers and Distributors receive no greater rights in the Atombeam Solution than those granted to direct customers under Section 3.1. Any sublicense granted by an Authorized Reseller or Distributor to an End User must be no broader in scope than the rights granted hereunder, and must expire no later than the expiration or termination of Customer's own Usage Term.

**(c) Mandatory End User Flow-Down.** Prior to granting any End User access to the Atombeam Solution, Authorized Resellers and Distributors must:

- (i) present these Terms, or a written end user license agreement containing provisions no less protective of Atombeam's rights, to each End User;
- (ii) obtain each End User's legally binding acceptance of such terms before access is provided;
- (iii) require each End User to impose equivalent restrictions on their own downstream customers and users who may access or use the Atombeam Solution or its outputs; and
- (iv) maintain written records of each End User's acceptance and provide such records to Atombeam upon request within ten (10) business days.

**(d) Minimum Contractual Standards.** Any agreement between an Authorized Reseller or Distributor and an End User governing use of the Atombeam Solution must include, at minimum, provisions substantially equivalent to: (i) the license restrictions in Section 3.5; (ii) the Acceptable Use Policy in Section 3.9; (iii) the intellectual property ownership provisions in favor of Atombeam; (iv) confidentiality obligations no less protective than those in Section 4.6; (v) a prohibition on sublicensing or further distribution without Atombeam's written consent; and (vi) Atombeam's rights as a third-party beneficiary under Section 1.4.

**(e) Channel Audit Rights.** In addition to the audit rights set forth in Section 4.7, Atombeam reserves the right to audit Authorized Resellers' and Distributors' compliance with this Section 3.10, including review of End User agreements and acceptance records. Atombeam may, at its option, also audit End User compliance directly without requiring Customer's participation, where Atombeam has a reasonable basis to suspect a violation.

**(f) Responsibility for Channel.** Authorized Resellers and Distributors are fully responsible and liable to Atombeam for the acts and omissions of their End Users and, where applicable, the downstream customers of those End Users, in connection with use of the Atombeam Solution, to the same extent as if

such acts or omissions were committed by the Authorized Reseller or Distributor itself. This responsibility is not limited by any indemnification cap or limitation of liability in favor of Customer, and Atombeam may pursue remedies against Customer directly for downstream violations without first pursuing remedies against the End User.

**(g) No Channel Conflict Rights.** Unless expressly stated in the applicable Governing Agreement, nothing in this Agreement grants any Authorized Reseller or Distributor any exclusive rights, geographic territory, vertical market protection, or right of first refusal. Atombeam reserves the right to sell and license the Atombeam Solution directly to any customer, including customers within an Authorized Reseller's or Distributor's existing account base, without liability or obligation to such Authorized Reseller or Distributor.

**(h) Termination Effect on Channel.** Unless otherwise agreed to in Order Form or Governing Agreement, upon termination or expiration of an Authorized Reseller's or Distributor's agreement with Atombeam for any reason, all sublicenses granted by such Authorized Reseller or Distributor to End Users shall automatically terminate, unless Atombeam elects, in its sole discretion, to assume direct responsibility for such End Users. Authorized Resellers and Distributors must promptly notify their End Users of any such termination and assist in transitioning End Users as Atombeam may reasonably direct.

## **4. DATA SECURITY AND CONFIDENTIALITY**

### **4.1. Safeguards and Security Incidents.**

Customer hereby acknowledges and agrees that Customer is solely responsible for all Customer Data it submits or transmits using or through the Atombeam Solution, including determining the nature, classification, and regulatory status of such Customer Data, and for ensuring that such data is transmitted and processed in accordance with all applicable laws. Customer is responsible for properly configuring and using the Atombeam Solution (including, if applicable, the Control Plane Software), Customer Hardware and other Customer-controlled infrastructure, and information technology and communication networks used in connection therewith, and otherwise taking appropriate action to secure, protect and backup Customer Data in a manner that will provide adequate security and protection. Customer will promptly notify Atombeam of confirmed or reasonably suspected unauthorized access to or disclosure of Customer Data (a "**Security Incident**") within or involving Customer Hardware or any Customer-controlled environments when such Security Incident impacts or could foreseeably impact the Atombeam Solution or any component thereof. Atombeam will notify Customer without undue delay after becoming aware of a confirmed Security Incident affecting Atombeam-managed systems that materially impacts the security, confidentiality, or availability of Customer Data. Such notification will include information reasonably available to Atombeam regarding the nature of the incident and remediation steps taken or planned. Atombeam will work with Customer to ensure notification to End Users and Users of the Atombeam Solution.

### **4.2. Shared Responsibility.**

The Parties acknowledge that security and compliance responsibilities under this Agreement are allocated based on control of the relevant systems and environments. Atombeam is responsible for implementing and maintaining appropriate safeguards for the Atombeam-managed components of the Atombeam Solution. Customer is responsible for implementing and maintaining appropriate safeguards for Customer Hardware, Customer-controlled environments, and Customer Data processed or stored within such environments. This allocation of responsibility is intended to reflect the operational and security boundaries of the Atombeam Solution.

### **4.3. Customer Data and Customer Materials, and Telemetry and Diagnostic Data.**

Atombeam acknowledges that, as between Atombeam and Customer, Customer owns all Customer Data and, except as provided in this Section 4.3, Atombeam obtains no rights under this Agreement to Customer Data from Customer. Customer hereby consents to Atombeam's use of Customer Data to provide the Atombeam Solution to Customer, its Users, End Users, and Recipients, and Customer may, at its option, elect to opt-out of sharing, or have shared, Customer Materials and Telemetry and Diagnostic Data with Atombeam in connection with the operation and support of the Atombeam Solution. Customer hereby grants Atombeam a license to (i) host, store, transfer, display, perform, reproduce and modify Customer Materials and Telemetry and Diagnostic Data made available to Atombeam to provide, support and improve the Atombeam Solution, and (ii) host, store, transfer, display, perform, reproduce and modify Telemetry and Diagnostic Data to provide, support and improve the Atombeam Solution, and generate Aggregated Statistics.

Atombeam does not access, store, or interpret the substantive content of Customer Payload Data. All encoding, decoding, and compaction processing occurs entirely within Customer-controlled environments. The Atombeam Solution may apply automated processing — including algorithmic or machine-learning techniques — to generate compacted representations solely for performance optimization purposes; such processing is content-agnostic and does not involve human review or semantic interpretation.

Customer is solely responsible for determining the nature, classification, and regulatory status of its Customer Payload Data and for ensuring that such data is transmitted and processed in accordance with applicable laws and internal policies. Atombeam does not access, store, or interpret Customer Payload Data and assumes no responsibility for its content, classification, or compliance characteristics. Atombeam has no ability to view Customer Payload Data through the Atombeam Solution.

### **4.4. Customer Data Provided to Atombeam.**

Without limiting Section 5.1, to the extent Customer Data is provided to Atombeam, Atombeam will use commercially reasonable efforts to implement appropriate administrative, technical and physical safeguards designed to prevent unauthorized access to or disclosure of such Customer Data. Information regarding Atombeam's security practices may be made available on Atombeam's legal or security webpage at [www.atombeam.com](http://www.atombeam.com) or available upon request, and may be updated from time to time; provided that such information is intended to be descriptive and does not limit Atombeam's obligations under this Agreement.

## 4.5. Privacy Policy.

Atombeam's collection, use, and handling of personal data in connection with the Atombeam Solution is governed by Atombeam's Privacy Policy, available at [www.atombeam.com/privacy](http://www.atombeam.com/privacy) (as may be updated from time to time), which is incorporated herein by reference. To the extent Customer provides or makes available any personal data to Atombeam in connection with this Agreement, Customer represents and warrants that it has obtained all necessary consents and has the legal authority to do so under applicable privacy and data protection laws, including without limitation the California Consumer Privacy Act ("CCPA"), the General Data Protection Regulation ("GDPR"), and any other applicable regional privacy laws. If the Parties require a separate data processing agreement ("DPA") in connection with the processing of personal data under applicable law, the Parties agree to negotiate and execute such DPA in good faith.

## 4.6. Agreement Confidential Information.

(i) As used herein, "**Confidential Information**" means any information that one Party (the "**Disclosing Party**") provides to the other Party (the "**Receiving Party**") in connection with this Agreement, whether orally or in writing, that is designated as confidential or that reasonably should be considered to be confidential given the nature of the information and/or the circumstances of disclosure. For clarity, the Licensed Software (including all components and configurations thereof) and the Documentation will be deemed to be Confidential Information of Atombeam. However, Confidential Information will not include any information or materials that: (a) were, at the date of disclosure, or have subsequently become, generally known or available to the public through no act or failure to act by the Receiving Party; (b) were rightfully known by the Receiving Party prior to receiving such information or materials from the Disclosing Party; (c) are rightfully acquired by the Receiving Party from a third party who has the right to disclose such information or materials without breach of any confidentiality or non-use obligation to the Disclosing Party; or (d) are independently developed by or for the Receiving Party without use of or access to any Confidential Information of the Disclosing Party.

(ii) The Receiving Party agrees that at all times and notwithstanding any expiration or termination of this Agreement it and its employees, contractors and other personnel (a) shall hold in strict confidence and not disclose to any person or entity any Confidential Information of the Disclosing Party, except as approved in writing by the Disclosing Party, (b) shall not use the Confidential Information for any purpose except as necessary to perform its obligations or exercise its rights under this Agreement, and (c) shall not copy or transmit in any manner to any person any Confidential Information of the Disclosing Party; provided, however, that the Receiving Party may disclose Confidential Information (x) to those employees, representatives, or contractors of the Receiving Party who have a *bona fide* need to know such Confidential Information to perform under this Agreement and who are bound by written agreements with use and nondisclosure restrictions at least as protective as those set forth in this Agreement or (y) as such disclosure may be required by the order or requirement of a court, administrative agency or other governmental body, subject to the Receiving Party providing to the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or otherwise contest the disclosure. Without limiting the foregoing, the Receiving Party shall protect Confidential Information of the Disclosing Party with at least the same degree of care that the Receiving Party uses to protect its own Confidential

Information, but in no case less than reasonable care. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five (5) years following the expiration or termination of this Agreement; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

(iii) Upon expiration or termination of this Agreement for any reason, Customer will return or destroy, at Atombeam's sole option, all Atombeam Confidential Information in its possession or control, including permanent removal of Atombeam Confidential Information (consistent with customary industry practice for data destruction) from any storage devices or other hosting environments that are in Customer's possession or under Customer's control, and at Atombeam's request, certify in writing to Atombeam that the Atombeam Confidential Information has been returned, destroyed or, in the case of electronic communications, deleted.

(iv) Atombeam may align elements of its information security program with generally recognized industry frameworks (such as SOC 2 or NIST standards); however, unless expressly stated in an Order Form, this Agreement does not require Atombeam to maintain any specific certification or compliance status.

#### **4.7. Audit Rights.**

During the Usage Term and for a period of two (2) years thereafter, Atombeam or its designated third-party auditor may, upon no less than ten (10) business days' prior written notice to Customer, audit Customer's use of the Atombeam Solution to verify Customer's compliance with the terms of this Agreement, including the Licensed Volume limitations and any applicable restrictions. Any such audit shall be conducted during Customer's normal business hours in a manner designed to minimize disruption to Customer's operations and shall be subject to reasonable confidentiality obligations. If an audit reveals that Customer has exceeded its Licensed Volume or is otherwise in material breach of this Agreement, Customer shall promptly pay any underpaid Fees and Atombeam's reasonable costs of conducting the audit. Atombeam shall not conduct more than one (1) audit per calendar year unless a prior audit revealed a material underpayment or breach. For Authorized Resellers and Distributors, the additional channel audit rights set forth in Section 3.10(e) apply.

## **5. REPRESENTATIONS AND DISCLAIMERS**

### **5.1. Atombeam Representations.**

Atombeam represents and warrants to Customer that (i) Atombeam has the required power and authority to enter into this Agreement and to perform its obligations hereunder; (ii) performing its obligations hereunder do not violate any other agreement to which Atombeam is a party; **(iii) for a period of thirty (30) days after the shipment date, the Licensed Software will perform in all material respects in accordance with the functional specifications in the applicable Documentation; and (iv) Atombeam**

**has taken commercially reasonable steps designed to ensure the Licensed Software does not contain any viruses, worms, Trojan horses, malware, or other malicious code intended to disrupt, damage or gain unauthorized access to Customer Data. As Customer's sole and exclusive remedy and Atombeam's entire liability for a breach of Section 5.1(iii), Atombeam will promptly correct any non-conformity in the Licensed Software in all material respects or, if unable to do so, Atombeam may terminate the impacted portion of this Agreement and refund to Customer the pro-rata amount of pre-paid and unused Fees for the affected portion of the Usage Term.**

## **5.2. Customer Representations.**

Customer represents and warrants to Atombeam that (i) Customer has the required power and authority to enter into this Agreement and to perform its obligations hereunder; (ii) entering this Agreement and performing its obligations hereunder do not and will not violate any other agreement to which it is a party; (iii) this Agreement constitutes a legal, valid and binding obligation of Customer when signed by both Parties; (iv) it has the legal authority and all rights necessary to provide the Customer Data to Atombeam hereunder, and Customer's provision of the Customer Data to Atombeam does not and will not violate or conflict with or result in a breach of any terms, conditions, duties or obligations Customer has to any third party or any other rights of any third party or any applicable law, rule or regulation; and (v) where Customer is an Authorized Reseller or Distributor, Customer has the authority and capacity to bind its End Users to these Terms or equivalent terms as required by Section 3.10.

## **5.3. Disclaimers.**

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE ATOMBEAM SOLUTION, AND OTHER ATOMBEAM IP ARE PROVIDED ON AN "AS IS" BASIS, AND ATOMBEAM MAKES NO WARRANTIES OR REPRESENTATIONS TO CUSTOMER, ITS USERS, END USERS, RECIPIENTS, OR TO ANY OTHER PERSON REGARDING THE ATOMBEAM SOLUTION, ATOMBEAM IP OR ANY OTHER SERVICES OR MATERIALS PROVIDED HEREUNDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ATOMBEAM HEREBY DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, ATOMBEAM HEREBY DISCLAIMS ANY WARRANTY THAT USE OF THE LICENSED SOFTWARE WILL BE ERROR-FREE, BUG-FREE OR UNINTERRUPTED.

# **6. TERM AND TERMINATION**

## **6.1. Term and Auto-Renewal.**

Unless otherwise specified in the applicable Order Form or Governing Agreement, the initial Usage Term shall commence on the Effective Date and continue for a period of one (1) year (the "**Initial Term**"). Thereafter, this Agreement shall automatically renew for successive one (1) year periods (each, a

"**Renewal Term**" and together with the Initial Term, the "**Usage Term**") unless either Party provides the other Party with written notice of non-renewal no less than sixty (60) days prior to the end of the then-current term. The terms and conditions of this Agreement shall apply during each Renewal Term, provided that Atombeam reserves the right to adjust Fees for any Renewal Term upon no less than sixty (60) days' prior written notice to Customer. Notwithstanding the foregoing, the Usage Term and any renewal provisions specified in an applicable Order Form or Governing Agreement shall control and govern to the extent they differ from this Section 6.1.

## **6.2. Termination for Convenience.**

Unless otherwise agreed to in Order Form or Governing Agreement, either Party may terminate this Agreement or any applicable Order Form for convenience upon sixty (60) days' prior written notice to the other Party, unless a different notice period is expressly specified in the applicable Order Form or Governing Agreement. For the avoidance of doubt, such termination shall not relieve Customer of its obligation to pay any Fees that accrued prior to the effective date of termination, and Atombeam shall not be obligated to refund any pre-paid Fees except as expressly set forth in this Agreement.

## **6.3. Termination for Cause.**

Either Party may terminate this Agreement immediately upon written notice if: (i) the other Party materially breaches this Agreement and fails to cure such breach within thirty (30) days after receiving written notice thereof; or (ii) the other Party becomes insolvent, makes an assignment for the benefit of creditors, or becomes subject to bankruptcy, receivership, or similar proceedings. Atombeam may additionally terminate this Agreement immediately upon written notice if Customer violates Section 3.9 (Acceptable Use Policy), Section 3.5 (General Restrictions), or, in the case of Authorized Resellers and Distributors, Section 3.10.

## **6.4. Effect of Termination; Data Retention.**

Upon expiration or termination of this Agreement for any reason: (i) all licenses and rights granted to Customer hereunder shall immediately terminate; (ii) Customer shall immediately cease all use of the Atombeam Solution and uninstall and destroy all copies of the Licensed Software in its possession or control; (iii) each Party shall return or destroy the other Party's Confidential Information in accordance with Section 4.6(iii); and (iv) any Fees accrued and unpaid as of the date of termination shall become immediately due and payable.

With respect to Customer Data specifically: (a) to the extent any Customer Data resides within Atombeam-managed systems or infrastructure, Atombeam shall, within thirty (30) days following the effective date of termination or expiration, permanently delete or destroy such Customer Data using industry-standard data destruction methods, except to the extent Atombeam is required by applicable law to retain such data for a longer period; (b) upon Customer's written request submitted within fifteen (15) days following termination or expiration, Atombeam will use commercially reasonable efforts to provide Customer with a one-time export of any retrievable Customer Materials in a commonly used format prior

to deletion; (c) Telemetry and Diagnostic Data and Aggregated Statistics, having been anonymized and de-identified, may be retained by Atombeam indefinitely; and (d) Atombeam shall, upon Customer's written request, provide written confirmation that Customer Data deletion has been completed. Where Customer is an Authorized Reseller or Distributor, Customer must comply with Section 3.10(h) with respect to the effect of termination on its End Users.

## **6.5. Survival.**

The following provisions shall survive any expiration or termination of this Agreement: Section 2 (Definitions), Section 3.5 (General Restrictions), Section 3.7 (Feedback), Section 3.9 (Acceptable Use Policy), Section 3.10(f) (Reseller/Distributor Channel Responsibility), Section 4.6 (Agreement Confidential Information), Section 4.7 (Audit Rights), Section 5.3 (Disclaimers), Section 6.4 (Effect of Termination; Data Retention), Section 7 (Indemnification), Section 8 (Limitation of Liability), and Section 9 (Miscellaneous).

# **7. INDEMNIFICATION**

## **7.1. Indemnification by Atombeam.**

Atombeam shall defend Customer against any third-party claim, suit, or proceeding alleging that the Atombeam Solution, as provided by Atombeam and used by Customer in accordance with this Agreement, directly infringes any patent, copyright, trademark, or trade secret of such third party (each, an "**IP Claim**"), and shall indemnify and hold Customer harmless from and against any damages, costs, and attorneys' fees finally awarded by a court of competent jurisdiction or agreed to in a settlement with respect to such IP Claim. Notwithstanding the foregoing, Atombeam shall have no obligation under this Section 7.1 to the extent an IP Claim arises out of or relates to: (i) Customer's use of the Atombeam Solution in combination with any product, service, or technology not provided or authorized by Atombeam; (ii) any modification to the Atombeam Solution made by or on behalf of Customer; (iii) Customer's failure to implement updates or patches made available by Atombeam; (iv) use of the Atombeam Solution in a manner not permitted by this Agreement or the Documentation; or (v) Customer Data. If the Atombeam Solution becomes, or in Atombeam's opinion is likely to become, the subject of an IP Claim, Atombeam may, at its option and expense: (a) procure for Customer the right to continue using the Atombeam Solution; (b) modify the Atombeam Solution to make it non-infringing; or (c) if neither (a) nor (b) is commercially practicable, terminate this Agreement and refund to Customer any pre-paid, unused Fees for the remainder of the Usage Term. This Section 7.1 states Atombeam's sole and exclusive liability, and Customer's sole and exclusive remedy, with respect to any IP Claim.

## **7.2. Indemnification by Customer.**

Customer shall defend Atombeam, its officers, directors, employees, agents, and successors against any third-party claim, suit, or proceeding arising out of or relating to: (i) Customer's or any User's, End User's, or Recipient's use of the Atombeam Solution in violation of this Agreement or applicable law; (ii) Customer Data, including any claim that Customer Data infringes or misappropriates the Intellectual

Property Rights or other rights of a third party; (iii) Customer's breach of any representation, warranty, or obligation under this Agreement, including any failure to obtain valid End User acceptance as required by Sections 1.2 and 3.10; (iv) any gross negligence or willful misconduct by Customer, its Users, End Users, or Recipients; or (v) any claim by an End User or Recipient arising from Customer's acts or omissions in connection with the sublicensing or distribution of the Atombeam Solution. Customer shall indemnify and hold Atombeam harmless from and against any damages, costs, and attorneys' fees finally awarded or agreed to in a settlement with respect to any such claim.

### **7.3. Indemnification Procedure.**

The Party seeking indemnification (the "**Indemnified Party**") shall: (i) promptly notify the indemnifying party (the "**Indemnifying Party**") in writing of the applicable claim; (ii) grant the Indemnifying Party sole control over the defense and settlement of the claim, provided that the Indemnifying Party shall not settle any claim in a manner that admits liability on behalf of or imposes obligations on the Indemnified Party without prior written consent; and (iii) provide the Indemnifying Party with reasonable cooperation and assistance. The Indemnified Party may participate in the defense of any claim at its own expense with counsel of its choice.

## **8. LIMITATION OF LIABILITY**

### **8.1. Exclusion of Consequential Damages.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF DATA, LOSS OF BUSINESS OPPORTUNITY, OR COST OF SUBSTITUTE GOODS OR SERVICES, ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER THEORY, AND REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### **8.2. Cap on Liability.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY'S TOTAL CUMULATIVE LIABILITY TO THE OTHER PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION OR THE THEORY OF LIABILITY, SHALL NOT EXCEED THE TOTAL FEES PAID OR PAYABLE BY CUSTOMER TO ATOMBEAM DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

### **8.3. Exceptions.**

The exclusions and limitations set forth in Sections 8.1 and 8.2 shall not apply to: (i) either Party's indemnification obligations under Section 7; (ii) either Party's breach of its confidentiality obligations under Section 4.6; (iii) Customer's breach of Section 3.5 (General Restrictions), Section 3.9 (Acceptable Use Policy), or Section 3.10 (Reseller and Distributor Obligations); (iv) damages arising from a Party's gross negligence or willful misconduct; or (v) any liability that cannot be excluded or limited under applicable law.

#### **8.4. Basis of the Bargain.**

The Parties acknowledge that the limitations of liability set forth in this Section 8 reflect a reasonable allocation of risk and form an essential basis of the bargain between the Parties, without which Atombeam would not have entered into this Agreement.

## **9. MISCELLANEOUS**

### **9.1. Export Compliance.**

In the performance of its rights and obligations under this Agreement, Customer will comply with all laws, rules, and regulations of any jurisdiction applicable to it from time to time concerning or relating to: (i) bribery or corruption, including the U.S. Foreign Corrupt Practices Act ("**FCPA**"), (ii) anti-money laundering, including the Bank Secrecy Act of 1970 and the USA PATRIOT Act of 2001, and (iii) economic or financial sanctions, export controls, trade embargoes, anti-boycott provisions, or other similar prohibitions or restrictions on activity imposed by a U.S. or other relevant government authority, including the U.S. Department of the Treasury Office of Foreign Assets Control ("**OFAC**") sanctions, the U.S. Department of Commerce Export Administration Regulations ("**EAR**"), and the U.S. Department of State International Traffic in Arms Regulations ("**ITAR**"). If Customer learns of, or has reason to know of, any violations of the laws, rules and regulations listed above in connection with the performance of this Agreement, it will immediately notify Atombeam. Customer represents and warrants that it is not, nor is it 50% or more owned or otherwise controlled by a party or parties, subject to Trade Restrictions. If Customer becomes subject to Trade Restrictions, or if Customer becomes aware of any factors that would cause the performance of this Agreement by a U.S. person to be in violation of U.S. or other applicable export controls or sanctions, Customer will immediately notify Atombeam. Customer will not (x) use the Atombeam Solution to circumvent or facilitate any export controls or sanctions violations, (y) provide the Atombeam Solution, or any component thereof, to any party subject to Trade Restrictions or (z) use or provide the Atombeam Solution, or any component thereof, to any third party for use in a restricted end use under export controls or sanctions, except as authorized under a specific license or authorization issued by the applicable regulatory authority. "**Trade Restrictions**" means any of the following: (1) being located, ordinarily resident, or legally organized in any sanctioned jurisdiction (including Cuba, Iran, North Korea, Syria, Russia, Belarus, Venezuela, and the Crimea, Donetsk, and Luhansk regions of Ukraine); or (2) being targeted by U.S. or other applicable export controls or sanctions, including but not limited to designation on the Specially Designated Nationals and Blocked Persons List, the Entity List, or the Military End User List.

## 9.2. U.S. Government End Users.

The Licensed Software, Documentation and related services are commercial in nature and available in the open marketplace and were developed solely at private expense and are "commercial products", "commercial items", or "commercial computer software" as defined in the Federal Acquisition Regulation 2.101 and other relevant government procurement regulations including agency supplements. The Atombeam Solution is of a type customarily used by Atombeam's customers and the licenses in this Agreement are consistent with those that Atombeam customarily provides to its customers. Any use, duplication, or disclosure of the Atombeam Solution, Licensed Software and Documentation by or on behalf of Customer is subject to restrictions as set forth in this Agreement as consistent with federal law and regulations. If these terms fail to meet Customer's needs or are inconsistent in any respect with federal law, Customer will immediately discontinue its use of the Atombeam Solution and Documentation.

## 9.3. Governing Law and Dispute Resolution.

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflict of laws principles, unless the applicable Order Form or Governing Agreement expressly specifies a different governing law. Any dispute arising out of or relating to this Agreement that cannot be resolved informally shall be submitted to the exclusive jurisdiction of the state and federal courts located in San Francisco County, California, and each Party hereby consents to the personal jurisdiction and venue of such courts. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

## 9.4. Modifications to these Terms; Notice Requirements.

Atombeam reserves the right to update or modify these Terms from time to time. In doing so, Atombeam shall comply with the following notice requirements, which reflect obligations under applicable law including California and Delaware standards for commercial agreements:

**(a) Notice of Material Changes.** For any modification that materially affects Customer's rights or obligations — including changes to pricing, liability, dispute resolution, or data rights — Atombeam shall provide no less than thirty (30) days' prior written notice to Customer via email to the address on record or through a prominent notice posted on Atombeam's website and/or customer portal. Material changes shall not take effect until the expiration of such notice period.

**(b) Notice of Non-Material Changes.** For non-material updates such as corrections, clarifications, or changes required by applicable law, Atombeam shall post updated Terms to its website and update the "Last Updated" date at the top of this document. Such changes shall be effective upon posting.

**(c) Customer's Right to Object.** If Customer objects to any material modification, Customer may terminate this Agreement in accordance with Section 6.2 prior to the effective date of such modification by providing written notice to Atombeam. Continued use of the Atombeam Solution following the effective date of any modification constitutes Customer's acceptance of the updated Terms.

**(d) Record of Acceptance.** To the extent required by applicable law, Atombeam shall maintain records of the version of Terms accepted by each Customer and the date of such acceptance. Atombeam shall make prior versions of these Terms available upon reasonable written request.

## **9.5. Assignment.**

Neither Party may assign or transfer this Agreement or any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party, which shall not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement without consent in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided that the assignee assumes all obligations under this Agreement in writing and the assigning Party provides prompt written notice to the other Party. Any assignment in violation of this Section 9.5 shall be null and void. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns.

## **9.6. Notices.**

All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement shall be in writing and shall be deemed given when: (i) delivered personally; (ii) sent by nationally recognized overnight courier; (iii) sent by certified or registered mail, return receipt requested, postage prepaid; or (iv) sent by email with confirmation of receipt by the recipient. Notices to Atombeam shall be sent to the address set forth on Atombeam's website or as otherwise designated in writing. Notices to Customer shall be sent to the address set forth in the applicable Order Form.

## **9.7. Force Majeure.**

Neither Party shall be liable for any delay or failure to perform its obligations under this Agreement (other than payment obligations) to the extent such delay or failure is caused by circumstances beyond such Party's reasonable control, including acts of God, natural disasters, war, terrorism, civil unrest, labor disputes, government actions, epidemics, pandemics, or failures of third-party telecommunications or internet services ("**Force Majeure Event**"). The affected Party shall promptly notify the other Party of the Force Majeure Event and use commercially reasonable efforts to resume performance as soon as practicable. If the Force Majeure Event continues for more than sixty (60) days, either Party may terminate this Agreement upon written notice.

## **9.8. Relationship of the Parties.**

The Parties are independent contractors. Nothing in this Agreement shall be construed to create a partnership, joint venture, agency, employment, or fiduciary relationship between the Parties. Neither Party shall have the authority to bind the other Party or to incur any obligation on its behalf without the other Party's express written consent.

## **9.9. Entire Agreement; Amendment.**

This Agreement, together with all Order Forms and any other documents incorporated herein by reference, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations, and representations, whether oral or written, relating to such subject matter. No amendment or modification of this Agreement shall be effective unless made in writing and signed by authorized representatives of both Parties, except as provided in Section 9.4. No terms or conditions included in any Customer purchase order, acknowledgment, or similar document shall modify or supplement this Agreement, regardless of any failure of Atombeam to object to such terms.

#### **9.10. Waiver.**

No failure or delay by either Party in exercising any right or remedy under this Agreement shall operate as a waiver of such right or remedy. No single or partial exercise of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy. A waiver of any breach or default shall not constitute a waiver of any subsequent breach or default.

#### **9.11. Severability.**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be modified to the minimum extent necessary to make it valid, legal, and enforceable, and the remaining provisions of this Agreement shall continue in full force and effect.

#### **9.12. Counterparts; Electronic Signatures.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Electronic signatures and signatures transmitted by PDF, DocuSign, or similar electronic signature platforms shall be deemed valid and binding to the same extent as original signatures.

#### **9.13. Headings.**

Section headings are included for convenience of reference only and shall not affect the interpretation or construction of this Agreement.