

# SIGHT MACHINE SOFTWARE AND SERVICES AGREEMENT

BY EXECUTING A SIGHT MACHINE APPROVED ORDER OR STATEMENT OF WORK (“**SOW**”) THAT INCORPORATES THIS SIGHT MACHINE SOFTWARE AND SERVICES AGREEMENT (“**AGREEMENT**”), THE INDIVIDUAL EXECUTING ON BEHALF OF THE CLIENT SPECIFIED IN SUCH ORDER OR SOW REPRESENTS THAT SHE OR HE HAS THE AUTHORITY TO BIND THE CLIENT TO THIS AGREEMENT AND THE APPLICABLE ORDER OR SOW, AND AGREES ON BEHALF OF THE CLIENT TO THE AGREEMENT’S AND THE ORDER’S OR SOW’S TERMS AND CONDITIONS. IF THE INDIVIDUAL EXECUTING THE ORDER OR SOW DOES NOT HAVE AUTHORITY TO BIND THE CLIENT, OR DOES NOT AGREE TO ALL OF THE APPLICABLE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT EXECUTE THE ORDER OR SOW INCORPORATING THIS AGREEMENT, AND NEITHER THE CLIENT NOR ITS PERSONNEL MAY ACCESS OR USE THE SOFTWARE OR SERVICES, AS APPLICABLE.

CAPITALIZED TERMS NOT DEFINED IN THE BODY OF THIS AGREEMENT WILL HAVE THE MEANINGS SET FORTH IN SECTION 11 (DEFINITIONS) OF THIS AGREEMENT, OR IN THE APPLICABLE ORDER OR SOW.

This Agreement was last updated on and is effective as of October 1, 2025.

## 1. SCOPE OF AGREEMENT.

**1.1 Terms and Conditions.** This Agreement sets forth the terms and conditions applicable to all SMI-approved Orders and SOWs that incorporate this Agreement by reference therein.

**1.2 Order of Precedence.** In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of: (i) the applicable Order or SOW, the terms and conditions of such Order or SOW shall govern, and the conflicting or inconsistent provision(s) in this Agreement will have no force or effect with respect to such Order or SOW; and (ii) an exhibit that is attached to this Agreement or such Order or SOW, the terms and conditions of the applicable exhibit shall govern with respect to the subject matter of such exhibit, and the conflicting or inconsistent provision(s) in this Agreement will have no force or effect.

## 2. LICENSE AND SUPPORT

**2.1 License.** Subject to and conditioned upon Client’s compliance with the terms and conditions of this Agreement and the applicable Order or SOW:

(a) SMI hereby grants to Client a non-exclusive, worldwide license to access and make use of the Software and the Services that are specified in such Order or SOW, during the Term, solely for the purposes of supporting the Client’s internal manufacturing operations at the specified number of manufacturing lines or plants set forth in the Order or SOW and not on behalf of, or for the benefit of, any Third Party (the “**License**”); and

(b) Client may access and use the Software with an unlimited number of concurrent machines in connection with an unlimited amount of Client’s equipment and at a specified number of Client’s manufacturing lines or plants set forth in the applicable Order or SOW, all further subject to the technical limitations of the Software and Client’s own infrastructure.

### 2.2 Account Access, Credentials and Users.

(a) SMI will provide Client with an Account for the applicable Service(s);

(b) Client will not: (i) share Credentials with anyone other than its Authorized Users, (ii) let anyone other than its Authorized Users access its Account, or (iii) do anything else that might reasonably be expected to jeopardize the security or confidentiality of its Account or Credentials.

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**2.3 Security Notifications.** Client agrees to notify SMI promptly if:

- (a) Credentials are lost, stolen, or disclosed to any unauthorized Third Party;
- (b) there is any unauthorized access to or use of its Account; or
- (c) it learns of any other breach of security in relation to any SMI Materials. Client is solely responsible and liable for all activities that occur through the use of its Account, and all acts and omissions of users of its Account.

**2.4 Proprietary Rights.**

(a) Client Rights. As between Client and SMI, and with the exception of the limited rights granted expressly herein (or in an Order or SOW incorporating this Agreement by reference), Client owns and will retain all right, title and interest in and to Intellectual Property Rights in the Client-Furnished Materials, whether such rights are registered or unregistered, present or future, and wherever in the world those rights may exist ("**Client Rights**"). Client does not intend to grant and does not actually grant in connection with this Agreement (or any Order or SOW incorporating this Agreement by reference) any license or other right that is not expressly stated in this Agreement (or in the applicable Order or SOW), whether by implication, statute, inducement, estoppel or otherwise; and SMI shall not commit any act or omission, or permit or induce any Third Party to commit any act or omission, inconsistent with the Client Rights.

(b) SMI Rights. SMI and its Third Party licensors, as applicable, own and will retain all right, title and interest in and to Intellectual Property Rights in the Software and Services and all other SMI Materials and other technology used to deliver the Services, whether such rights are registered or unregistered, present or future, and wherever in the world those rights may exist ("**SMI Rights**"). Neither SMI nor its Third Party licensors, as applicable, intends to grant, and neither SMI nor its Third Party licensors, as applicable, does actually grant in connection with this Agreement any license or other right that is not expressly stated in this Agreement with respect to any Intellectual Property Rights licensed by SMI or such Third Party licensor, whether by implication, statute, inducement, estoppel or otherwise. Client shall not commit any act or omission, or permit or induce its Affiliates or any Third Party to commit any act or omission, inconsistent with the SMI Rights.

(c) All materials embodied in, or comprising, the SMI Materials, including application programming and visual interfaces, graphics, images, code, applications, and text, as well as the design, structure, selection, coordination, expression, "look and feel," arrangement of such SMI Materials, as well as the associated SMI Marks, are owned by SMI or its Third Party licensors. Title to SMI Materials shall not pass from SMI to Client, and, as between Client and SMI, SMI Materials shall at all times remain the sole and exclusive property of SMI.

(d) Other than as set forth expressly herein, or in the applicable Order or SOW, there are no other rights or licenses granted in connection with the SMI Materials. All SMI Rights are expressly reserved by SMI and its Third Party licensors, as applicable.

**2.5 Restrictions.** As a condition of the License, Client shall not (and shall not allow or induce any Affiliate or any of its or its Affiliates' Personnel, or any other Third Party to), without the prior written consent of SMI: (a) access or use any SMI Materials in a manner not expressly authorized under this Agreement; (b) attempt to breach, disable or circumvent any security mechanisms used by or on SMI Materials or otherwise attempt to gain unauthorized access to any portion or feature of SMI Materials by any means; (c) fail to cooperate reasonably with SMI regarding, or otherwise cause unreasonable delay in connection with, applicable Service(s) integration(s) and/or other production go live requirements specified in the applicable Order or SOW; (d) use any SMI Materials in commercial timesharing, rental or other sharing arrangements; (e) copy all or any portion of the Documentation relating to the Software or the Services; (f) decompile, disassemble or otherwise reverse engineer the Software or the Services, or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Software or the Services, or any portion thereof; (g) distribute, disclose, market, rent, lease, assign, sublicense, make

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available, pledge, encumber or otherwise transfer the Software or the Services, in whole or in part, to any Third Party; (h) otherwise make the Software or the Services available to any Third Party or use the Software or Services for any purpose other than Client's internal business purposes; or (i) use the Software or Services in manner that is prohibited by the applicable Order or SOW, this Agreement, the Documentation, or Applicable Law.

**2.6 Use by Affiliates.** The Software and the Services may also be used by the Client's Affiliates in either of the manners set forth in this Section 2.6 (but solely in accordance with the applicable Order or SOW). Specifically, Client Affiliates may either:

(a) provide Legal Notice to SMI that it intends to make use of an existing Order or SOW signed by Client, in which case Client will be responsible for such Affiliates' compliance with the terms and conditions hereof, including Fee payment obligations; or

(b) execute an Affiliate Participation Agreement, in which case such Affiliate will, for purposes of such Order or SOW, be deemed a "Client" for all purposes under this Agreement and will be jointly responsible and liable with the Client for its compliance with the terms and conditions of this Agreement and such Order or SOW.

**2.7 Documentation.** SMI will enable access to the applicable Documentation, and Client may make a reasonable number of copies of the Documentation solely in connection with exercise of its rights under this Agreement.

**2.8 Client Data.**

(a) As between Client and SMI, Client retains all right (other than the limited license rights expressly granted herein or in the applicable Order or SOW), title and interest in, and is responsible for the accuracy and quality of all Client Data. Client is also responsible for ensuring that its collection, use, processing, and disclosure of Client Data complies with Applicable Law.

(b) Client hereby grants to SMI a non-exclusive, limited license to the Client Data solely for the purposes of: (i) providing the Services and the Software to Client; and (ii) improving SMI's products and services, performing analyses, and developing and publishing broadly applicable insights (such as industry benchmarks) but only when the Client Data has been aggregated or de-identified such that the results cannot reasonably be used to identify Client or its Affiliates.

**2.9 Mutual Reciprocal Rights to Feedback.**

(a) Client Feedback.

(i) Client hereby grants to SMI a non-exclusive, royalty-free, worldwide, transferable, sub-licensable (through multiple tiers of sub-licensees), irrevocable, perpetual license to Client Feedback, including the right to use, reproduce, adapt, distribute, and display, and make Derivative Works of, such Client Feedback in connection with, or incorporate it into, SMI Materials. All Client Feedback is provided "as is," and without warranties of any kind.

(ii) Client hereby irrevocably assigns and agrees to assign Client Feedback and all related Intellectual Property Rights to SMI. Client will execute (or make reasonable efforts to cause to be executed, as applicable), any documents and take any additional actions SMI may reasonably request to effect such assignment.

(b) SMI Feedback.

(i) SMI hereby grants to Client a non-exclusive, royalty-free, worldwide, transferable, sub-licensable (through multiple tiers of sub-licensees), irrevocable, perpetual license to SMI Feedback, including the right to use, reproduce, adapt, distribute, and display, and make Derivative Works of, such

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SMI Feedback in connection with, or incorporate it into, Client Materials. All SMI Feedback is provided “as is,” and without warranties of any kind.

(ii) SMI hereby irrevocably assigns and agrees to assign SMI Feedback and all related Intellectual Property Rights to Client. SMI will execute (or make reasonable efforts to cause to be executed, as applicable) any documents and take any additional actions Client may reasonably request to effect such assignment.

**2.10 Support and Monitoring.** SMI will monitor its provision of Services via automated monitoring with automatic escalation to on-call human resources. SMI will staff a front line technical support desk to receive issue reports from Client via web and email during normal business hours.

## 3. TERM; TERMINATION.

**3.1 Term.** Unless otherwise specified in the applicable Order or SOW, the term of this Agreement will commence on the Effective Date and will remain in effect for a period of three (3) years, and automatically renew for successive one (1) year terms (collectively, the “**Term**”) unless: (a) this Agreement is terminated for breach under Section 3.2; or (b) this Agreement expires when all applicable Orders and SOWs have expired and no additional Orders or SOWs are executed within a six-month period after the last-to-expire Order or SOW. Any Orders or SOWs then in effect as of the expiration of the Term will remain in full force and effect until the end of the term of such Order or SOW, unless earlier terminated pursuant to this Section 3 or the terms of such Order or SOW.

### 3.2 Termination.

(a) Termination for Convenience. Unless otherwise specified in the applicable Order or SOW, Client may terminate this Agreement for convenience at the end of each year of the Term by providing Legal Notice at least sixty (60) days prior to each one (1) year anniversary date of the Effective Date.

(b) Termination for Breach. Either Party may terminate this Agreement, in whole or in part (including any affected Orders or SOWs), immediately upon Legal Notice to the other Party, if such other Party breaches its obligations hereunder and does not cure such breach within thirty (30) days after receiving Legal Notice from the non-breaching Party specifying the breach.

(c) Termination for Insolvency. Either Party may, but is under no obligation to, terminate this Agreement immediately by giving Legal Notice to the other Party in the event that an order is made or resolution passed for the other Party to be wound up (other than for the purposes of a business reorganization or other solvent restructuring); the other Party is otherwise an insolvent entity or unable to pay its debts; the other Party makes an assignment for the benefit of creditors or an arrangement pursuant to any insolvency law; the other Party discontinues or dissolves its business; or a trustee, receiver, examiner or administrator is appointed in respect of the insolvency of the other Party.

(d) Effect of Termination. In the event of any termination of this Agreement or any Order or SOW by Client pursuant to Section 3.2(b) or 3.2(c), SMI will promptly refund to Client any pre-paid Fees for unused Software or Services (i.e., the portion of Fees that would otherwise have been applicable had the Term continued absent such a termination by Client for SMI’s uncured breach or insolvency). Within thirty (30) days following any termination or expiration of this Agreement or any Order or SOW: (i) each Party will return to the other Party any Confidential Information of the other Party or if and as instructed by the other Party in writing, destroy all such Confidential Information using commercially reasonable methods; (ii) Client shall stop using the Software and the Services, except as otherwise set forth in Section 3.2(e). Notwithstanding anything to the contrary, Client’s right to use the Software and the Services will terminate as of the effective date of termination or expiration of this Agreement or the effective date of termination or expiration of the underlying Order or SOW under which Client is authorized to use such Software or Service, whichever comes first.

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(e) Transition Support. At Client's request, commencing upon notice of any termination in whole or in part or of non-renewal or expiration of this Agreement, and continuing for a period of up to three (3) months after such termination or expiration (the "**Transition Period**"), at Client's then-current standard rates, SMI will allow Client to continue to use any Software already deployed at Client's premises. SMI shall make all Client Data available for secure download by Client in a standard flat file format. During the Transition Period, SMI may provide additional Services to be agreed in good faith in an applicable Order or SOW.

(f) Survival. The following terms and conditions shall survive the termination of this Agreement, together with any other terms and conditions which by their nature are reasonably intended by the Parties to survive such termination: Sections 1, 2.4, 2.8, 2.9, 3.2(d) - 3.2(f), 4 (until all Fees due and owing have been paid), 5 and 7-12.

## 4. PAYMENT

4.1 **Fees**. Unless otherwise specified in the applicable Order or SOW, all Fees are:

- (a) payable in United States dollars, and
- (b) exclusive of all Taxes now or hereafter levied against the provision of access to or use of SMI Materials.

4.2 **Collection of Taxes**. If and to the extent required by any applicable taxing jurisdiction, Taxes will be invoiced and collected by SMI, and Client will bear ultimate financial responsibility for the payment of any such Taxes. SMI will use commercially reasonable efforts to invoice the Fees to Client in a manner that enables Client to reclaim such Taxes from the appropriate government authority (where applicable). Nothing in this Agreement, however, will require Client to pay any payroll, franchise, corporate, partnership, succession, transfer, income, excise, profits, property, or income tax of SMI.

4.3 **Invoicing**. Client will pay all Fees within thirty (30) days from the date that SMI issues an applicable invoice to Client. SMI will invoice Client for Fees at the frequency and in the manner set forth in the applicable Order or SOW. In order to be deemed correct, each invoice will include, at a minimum, SMI's name and address, a list of the Software or Services covered by such invoice and the total Fees billed. Subscription Fees are non-cancelable and non-refundable; and any other Fees are non-cancelable and non-refundable other than as explicitly stated in this Agreement, or in the applicable Order or SOW.

4.4 **Fee Payment Delays**. Payments of Fees not reasonably in dispute that are received later than thirty (30) days after the invoice due date will accrue late charges at a rate of one percent (1.00%) per month until such amounts are paid; and, under such circumstances, Client will also be liable for SMI's reasonable attorneys' fees and costs in connection with enforcing Client's payment obligations, initiating any legal and/or arbitration proceedings, and/or enforcing any orders, awards, or judgments for the recovery of monies determined to be owed to SMI.

4.5 **Books and Records; Audit**. SMI will maintain at its offices reasonably complete and accurate books, records and supporting data relating to the provision of SMI Materials and Services hereunder, in accordance with its standard record retention policies. During the Term and for one (1) year thereafter, SMI will maintain such books and records reasonably necessary to provide Client with a duplicate copy of any previously-issued invoice under any Order or SOW. At Client's request, SMI shall provide any such previously-issued invoice within thirty (30) days of receiving such a request.

## 5. REPRESENTATIONS AND WARRANTIES

5.1 **Mutual Representations and Warranties**. Each Party represents and warrants to the other Party that it: (i) has the full power and authority to enter into and carry out its obligations under this Agreement (and the applicable Order or SOW); and (ii) is currently in compliance, and will in the future comply, with

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all Applicable Law in connection with the execution, delivery and performance of this Agreement (and the applicable Order or SOW).

**5.2 SMI Warranty.** SMI warrants that the Software and the Services will be made available and/or performed in a manner that is substantially consistent with the performance standards set forth in the Documentation or the applicable Order or SOW (the “**SMI Warranty**”).

**5.3 Refund: Failure of Software.** Upon receipt of Legal Notice of a SMI Warranty failure with respect to Software, SMI will provide a correction at no additional charge. If SMI cannot correct the failure within forty-five (45) days of the warranty notice, then Client may terminate its use of the affected portions of the Software and Services at any time within the next thirty days and receive a prorated refund of any Fees from the date of the warranty failure notice. SMI is not responsible for Software-related failures caused by the Client, an Affiliate of the Client, or Third Parties acting at the direction of Client.

**5.4 Refund: Professional Services-related Failures.** Upon receipt of Legal Notice of a SMI Warranty failure with respect to Professional Services, SMI will re-perform the Professional Services as reasonably necessary to correct the failure. If SMI cannot reasonably correct the failure within forty-five (45) days of the warranty notice, then Client may terminate the affected SOW or Order at any time within the next thirty (30) days and receive a refund of Fees paid for unperformed Professional Services.

**5.5 Disclaimer of Other Warranties.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE WARRANTY REMEDIES SET FORTH IN SECTIONS 5.3 AND 5.4 ARE THE CLIENT’S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF THE SMI WARRANTY IN SECTION 5.2, AND SMI MAKES NO WARRANTY OF ANY KIND EXPRESS OR IMPLIED WITH REGARD TO THE SOFTWARE AND THE SERVICES OR ANY OTHER MATTER UNDER THIS AGREEMENT AND DISCLAIMS ALL OTHER WARRANTIES, SUCH AS: (I) ANY WARRANTY THAT THE SOFTWARE OR THE SERVICES WILL BE ERROR FREE OR UNINTERRUPTED; OR (II) THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT.

## 6. PRIVACY AND SECURITY

**6.1 Physical Security.** Client Data will generally be stored on Client- or SMI-controlled instances of industry leading cloud providers, such as Microsoft Azure, Amazon Web Services, or Google Cloud Services.

**6.2 Network Security.** Client Data will be encrypted during transmission from Client to SMI (e.g., Transport Layer Security). SMI will: (i) provide the applicable cloud services providers’ then-current System and Organization Controls (SOC) Report upon request, and (ii) utilize industry standard practices for protection against and detection of common network attacks, and monitor its network for attacks and deploy both scheduled and ad hoc vulnerability testing (e.g. penetration testing).

**6.3 Host/Access Management.** Access to any Software or Services made available to the Client will be controlled through Single Sign On (SSO) via SMI’s selected protocol. SMI’s administrative access to the Software and Services will be controlled by multi-factor authentication. All access will be role based, and all privilege escalations, file transfers, and shell access will be logged. Client is responsible for maintaining the security and integrity of all Authorized User passwords.

**6.4 Workstation Security.** SMI’s workstations will be secured using industry standard technology and practices (e.g., firewalls, disk encryption, inactivity timeouts / system locks, and asset tracking).

**6.5 Stability and Disaster Recovery.** SMI will take all reasonable steps to ensure that it or the cloud services provider, as applicable, will use industry standard technology and practices for stability and recovery, and maintain an industry standard disaster recovery plan.

**6.6 Additional Security Measures.** Client and SMI will agree in good faith to any additional compatible security requirements designed to render the Client- or SMI-controlled cloud hosting environment, as

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applicable, reasonably secure; and SMI will use all commercially reasonable efforts implement any compatible requirements and changes reasonably requested by Client.

**7. CONFIDENTIAL INFORMATION.** The applicable Order or SOW will specify which of the following two options regarding Confidential Information has been selected by the Parties. Notwithstanding the foregoing, if the applicable Order or SOW does not specify such a selection, then Section 7.2 (Confidentiality Option No. 2) shall apply to such Order or SOW.

**7.1 Confidentiality Option No. 1.** The Parties hereby agree that the Mutual Non-Disclosure Agreement executed previously by the Parties (as specified on the applicable Order or SOW) shall govern SMI's provision of the Services and Software under this Agreement as well as all other rights and obligations of the Parties hereunder.

**7.2 Confidentiality Option No. 2.** Confidential Information includes, without limitation, Services, Fees and other pricing information, computer programs, source code, algorithms, names and expertise of Personnel, know-how, trade secrets, and other technical, business, financial and Software or Service development information, but does not include any information that the Receiving Party can demonstrate by its written records: (i) was rightfully known to it without obligation of confidentiality prior to its disclosure hereunder by the Disclosing Party; (ii) is or becomes publicly known through no wrongful act of the Receiving Party; (iii) has been rightfully received from a Third Party authorized to make such disclosure without any obligation of confidentiality to the Disclosing Party; or (iv) is independently developed by the Receiving Party without reference to confidential information disclosed hereunder. SMI's Confidential Information includes SMI Materials, and any other aspect of the business or operations of SMI, including any information or materials relating to the operations, clients, Personnel, distributors, or marketing plans of SMI.

**7.3 Obligation of Confidentiality.** Neither Party will use any Confidential Information of the other Party except as expressly permitted by this Agreement or the applicable Order or SOW, or as expressly authorized in writing by the Disclosing Party, provided that SMI may use Client's Confidential Information as reasonably necessary to improve and enhance its Software or Services and develop aggregated analytics, provided such use does not reveal Client's or any Client Affiliate's identity or Confidential Information.

**7.4 Standard of Care.** The Receiving Party shall use the same degree of care to protect the Disclosing Party's Confidential Information as it uses to protect its own Confidential Information of like nature, but in no circumstances less than a reasonable standard of care.

**7.5 Disclosure Restrictions.** The Receiving Party may not disclose the Disclosing Party's Confidential Information to any person or entity other than to those of its Personnel who: (i) are subject to a written agreement with the Receiving Party that includes use and confidentiality restrictions that are at least as protective as those set forth in this Agreement, and (ii) reasonably require access to such Confidential Information solely for the purpose of fulfilling the Receiving Party's obligations or exercising the Receiving Party's rights hereunder. The Receiving Party will remain fully responsible and liable for any noncompliance by such Personnel with the confidentiality obligations set forth in this Agreement.

**7.6 Permissible Disclosures.** The foregoing obligations will not restrict the Receiving Party from disclosing Confidential Information of the Disclosing Party: (i) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the Receiving Party required to make such a disclosure gives reasonable notice to the Disclosing Party prior to such disclosure (if reasonably permissible under Applicable Law) and cooperates with the Disclosing Party's efforts to obtain confidential treatment or a protective order; and (ii) on a confidential basis to its legal and financial advisors who have a need to know such information and are bound by professional obligations of confidentiality. With respect to any Confidential Information disclosed after the Effective Date, the terms of this Agreement supersede any previous non-disclosure agreements or any other preliminary representations or

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understandings that have been entered into by the Parties. A Party may disclose the existence and terms of this Agreement to Third Parties in connection with a Change of Control affecting such Party.

**7.7 Injunctive Relief and Other Equitable Remedies.** The Parties may seek to specifically enforce the breach or any threatened breach of any agreement contained in this Section 7 through an injunction or otherwise. Such remedies will be in addition to all others that may be available.

## 8. INDEMNIFICATION; LIMITATIONS OF LIABILITY

### 8.1 Indemnification.

(a) *Indemnification by Client.* Client shall defend SMI and its directors and officers (collectively, the “**SMI Indemnitees**”) against any Third Party claims, actions, demands, proceedings and suits against any Client Indemnitee (“**SMI Indemnitee Claims**”) and indemnify SMI Indemnitees for all related liabilities, damages, settlements, penalties, fines, costs or expenses (including reasonable attorneys’ fees and other litigation expenses) incurred by such SMI Indemnitees arising out of any SMI Indemnitee Claims, to the extent such SMI Indemnitee Claims allege: (i) Client’s violation of this Agreement or Applicable Law in connection with this Agreement; (ii) Client’s or its Personnel’s gross negligence, willful misconduct, fraud or misrepresentation; or (iii) Client’s breach of any representation or warranty made herein. SMI will make reasonable commercial efforts to: (i) promptly notify Client in writing of the SMI Indemnitee Claim; (ii) grant Client sole control of the defense and settlement of the SMI Indemnitee Claim; and (iii) provide Client, at Client’s reasonable cost and expense, with all assistance, information and authority reasonably required for the defense and settlement of the SMI Indemnitee Claim. Client will not enter into a settlement of any SMI Indemnitee Claim that would result in liability to, or adversely affect the rights of, SMI without SMI’s prior written consent, which SMI shall not delay or withhold unreasonably.

(b) *Indemnification by SMI.* SMI shall defend Client and its directors and officers (collectively, the “**Client Indemnitees**”) against any Third Party claims, actions, demands, proceedings and suits against any Client Indemnitee (“**Client Indemnitee Claims**”) and indemnify Client Indemnitees for all related liabilities, damages, settlements, penalties, fines, costs or expenses (including reasonable attorneys’ fees and other litigation expenses) incurred by such Client Indemnitees arising out of any Client Indemnitee Claims, to the extent such Client Indemnitee Claims allege: (i) that SMI Materials infringe or misappropriate any U.S. patent issued prior to the Effective Date, copyright, or trade secret, (ii) SMI’s violation of Applicable Law in connection with this Agreement; (iii) SMI’s or its Personnel’s gross negligence, willful misconduct, fraud or misrepresentation; or (iv) SMI’s breach of any representation or warranty made herein. Client will make reasonable commercial efforts to: (i) promptly notify SMI in writing of the Client Indemnitee Claim; (ii) grant SMI sole control of the defense and settlement of the Client Indemnitee Claim; and (iii) provide SMI, at SMI’s reasonable cost and expense, with all assistance, information and authority reasonably required for the defense and settlement of the Client Indemnitee Claim. SMI will not enter into a settlement of any Client Indemnitee Claim that would result in liability to, or adversely affect the rights of, Client without Client’s prior written consent, which Client shall not delay or withhold unreasonably.

**8.2 Indemnification Exceptions.** Notwithstanding Section 8.1(b), SMI shall have no liability or obligation to indemnify or defend the Client Indemnitees to the extent the alleged infringement is based on (a) the use of Third Party open source software or any other Third Party software; (b) modifications developed by Client, a Client Affiliate, or a Third Party acting at the direction of Client; (c) a combination of the SMI Materials with other software or services by or at the direction of Client or its Affiliate; or (d) use of the Software or Services other than in accordance with this Agreement and the Documentation, as applicable.

**8.3 Infringing Materials.** Further with respect to Section 8.1(b), upon establishing a reasonable belief that use of the Software or Services will be enjoined, SMI will use commercially reasonable efforts to substitute the affected functionality with a non-infringing alternative or to procure a license to allow for the continued use of the affected functionality. If use of the Software or the Services is enjoined and if SMI

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has not provided a non-infringing alternative, then Client and SMI may, within thirty (30) days of the date of the injunction, terminate the affected Order, SOW or this Agreement immediately upon written notice and Client will receive a refund of the unused portion of prepaid fees.

**8.4 Exclusive Remedy.** THIS SECTION 8 STATES THE PARTIES' ENTIRE LIABILITY AND EXCLUSIVE REMEDY FOR ANY ACTUAL OR ALLEGED INFRINGEMENT CLAIMS RELATED TO THIS AGREEMENT, THE SOFTWARE OR THE SERVICES AND THE PARTIES HEREBY EXPRESSLY WAIVE ANY OTHER LIABILITIES OR OBLIGATIONS OF WITH RESPECT THERETO.

## 9. EXCLUSIONS AND LIMITATIONS OF LIABILITY.

**9.1 Exclusions of Liability.** NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES OR FOR LOST PROFITS, LOST REVENUES OR THE COSTS OF PROCURING REPLACEMENT SERVICES, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE. THIS LIMITATION WILL APPLY TO ALL CLAIMS UNDER ALL THEORIES OF LAW AND EQUITY, EXCEPT WHERE PROHIBITED BY LAW.

**9.2 Limitations of Liability.** THE CUMULATIVE LIABILITY OF EITHER PARTY TO THE OTHER WILL BE LIMITED TO: (I) TWO TIMES THE FEES PAID OR PAYABLE FOR THE TWELVE (12) MONTHS PRECEDING THE FILING OF THE CLAIM, FOR CLAIMS ARISING FROM A BREACH OF SECTION 6 (PRIVACY AND SECURITY) OR SECTION 7 (CONFIDENTIAL INFORMATION) AND (II) THE FEES PAID OR PAYABLE FOR THE TWELVE (12) MONTHS PRECEDING THE FILING OF THE CLAIM, FOR ALL OTHER CLAIMS. THE LIMITATIONS OF LIABILITY IN THIS SECTION 9.2 AND IN SECTION 9.1 WILL APPLY TO DAMAGES ARISING UNDER ALL THEORIES OF LAW AND EQUITY, EXCEPT: (I) FOR A PARTY'S INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY THAT BELONGS TO THE OTHER PARTY UNDER THIS AGREEMENT; OR (II) FOR FEES OWED IN EXCESS OF THIS LIMIT.

**9.3 Insurance Coverage.** During the Term, SMI will use commercially reasonable efforts to obtain and maintain in full force industry standard insurance coverage commensurate with the size and scope of SMI's operations, at its own cost and expense.

## 10. GENERAL PROVISIONS.

**10.1 Compliance with Law.** The Parties will each comply with applicable laws and regulations in the performance of their obligations and the exercise of their rights under this Agreement and each applicable Order or SOW.

**10.2 Interpretation.** In this Agreement, unless where otherwise specified: (i) headings are included for ease of reference only and shall not affect the construction; (ii) a reference to writing or written includes email; (iii) references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees; (iv) references to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise; (v) any phrase introduced by "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding them; (vi) the words "include," "including" and "for example," and variations thereof, will not be deemed to be terms of limitation, but rather will be deemed to be followed by the words "without limitation;" and (vii) words used herein in the singular, where the context so permits, shall be deemed to include the plural and vice versa. The definitions of words in the singular herein shall apply to such words when used in the plural where the context so permits and vice versa.

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**10.3 Notices.** All Legal Notices required or permitted to be given by a Party must be in writing and sent by commercial delivery service or certified mail, return receipt requested and shall be deemed to have been given on the date set forth in the records of the delivery service or on the return receipt. Email Notices will be deemed to have been given upon receipt of the email (regardless of whether the email is opened), provided that no automated response indicating delivery failure is received by the sender.

**10.4 Force Majeure.** Neither Party will be liable for any failure or delay in performing any obligation (except the requirement to pay Fees) to the extent such failure or delay is attributable to a Force Majeure Event.

**10.5 Permitted Affiliates.** Client shall remain responsible and liable for the acts and omissions of any Permitted Affiliates in respect of this Agreement and shall absolutely, unconditionally and irrevocably guarantee such Permitted Affiliate's performance and discharge of its obligations with the terms of this Agreement. Client's obligations shall be independent of its Permitted Affiliate's obligations and separate actions may be brought against Client. As guarantor, Client authorizes amendments to and waivers of provisions of this Agreement without affecting its guarantee. Client waives any right to require SMI to pursue any other remedy before enforcing Client's guarantee. Client's guarantee shall not be affected by (i) any disability or defense of its Permitted Affiliate, (ii) the cessation for any reason of its Permitted Affiliate's liability under this Agreement, (iii) the impairment or loss of Client's reimbursement, subrogation or similar rights against its Permitted Affiliate, (iv) any law providing that a guarantor's obligations to a lender may not be greater than the obligations of the principal debtor whose obligations are guaranteed, and (v) any law providing that a guarantor is released from liability for guaranteed obligations to the extent that the principal debtor is not liable for such obligations. Where a Permitted Affiliate ceases to be an Affiliate of the Client, any rights of such Permitted Affiliate to enjoy the benefit of this Agreement shall also cease.

**10.6 Assignment.** Neither this Agreement nor any Order or SOW incorporating this Agreement by reference may be assigned by a Party without written consent of the other Party and any such attempted assignment will be void, except for: (i) an assignment to an entity that controls, is controlled by, or is under common control of a Party; or (ii) an assignment made to a successor entity resulting from a merger, acquisition, reorganization or a sale of all or substantially all of a Party's assets. This Agreement will inure to the benefit of its successors and/or assigns.

**10.7 Client List and Publicity.** SMI may include the Client's name and logo on its client lists subject to Client's review and approval for adherence to its trademark use guidelines. Client agrees to participate in a press release announcing this Agreement, subject to Client's reasonable review and approval.

**10.8 Client Reference.** In consideration of the terms granted to the client under this document, the client agrees to become part of SMI's reference program during the period covered by our licensing agreement. The program includes allowing the use of the Client company name, Client executive quote, and Client Mark (in accordance with Client's then-current guidelines) on the SMI website and in cross-promotional marketing efforts. Written and video case study (including contributed quotes and data) for use in sales and marketing. Case study to be published only after final approval by the client. Client shall make key personnel available to serve as a reference with prospective accounts/clients upon SMI's reasonable request, with a minimum of three reference calls or meetings per calendar year. Client shall participate in at least one industry event annually (such as user conferences, analyst briefings, or press events) as mutually agreed upon by the parties, provided that SMI gives at least 30 days advance notice.

**10.9 Governing Law.** This Agreement, and any disputes arising hereunder, will be governed by and interpreted in accordance with the laws of the State of California, without regard to its choice of law principles. All disputes arising hereunder will be submitted and exclusively settled by binding arbitration administered by JAMS under its Comprehensive Arbitration Rules & Procedures and the substantive law of the United States of America and the State of California. The arbitration will take place in San Francisco, California, and will be conducted in English by a single arbitrator, and judgment on the award rendered by the arbitrator may be entered in any court with jurisdiction. This Section 10.10 will not impair either party's ability to seek and receive injunctive or other equitable relief from any court with jurisdiction relating to a

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violation or misappropriation of Intellectual Property Rights, Confidential Information, or other proprietary rights.

**10.10 Relationship of Parties.** For all purposes under this Agreement, SMI will be and act as an independent contractor of Client, and nothing in this Agreement will be construed to create any partnership, joint venture, agency or other relationship between the Parties.

**10.11 Severability.** If any provision of this Agreement is determined to be illegal, unenforceable, null, void or otherwise invalid by any court of competent jurisdiction, (a) such provision will be modified to the least extent necessary to render it valid, enforceable and consistent with the Parties' original intent, (b) if such modification is not possible, such provision shall be severed from this Agreement, and (c) the remaining terms and provisions of this Agreement will not be affected and will remain in full force in effect.

**10.12 No Waiver.** No delay or failure of either Party to exercise any right or remedy, enforce any obligation, or exercise any option under this Agreement will be construed as a waiver of such right, remedy, provision or option, or of any other term or condition of this Agreement, and no waiver will be effective unless consented to in a writing signed by an authorized representative of the waiving Party.

**11. DEFINITIONS.** Unless otherwise defined in this Agreement (or in an Order or SOW incorporating this Agreement by reference), the following capitalized terms will have the following meanings:

**11.1 "Affiliate"** means any entity that directly or indirectly (through one or more intermediaries) Controls, is Controlled by, or is under common Control with SMI or Client, as applicable.

**11.2 "Applicable Law"** means all applicable national, state, provincial and/or local laws, regulations, rules, ordinances and other decrees of any governmental authority.

**11.3 "Authorized Users"** means Client's Personnel who have been issued Credentials to access and use the applicable Service(s) in accordance with this Agreement.

**11.4 "Confidential Information"** means all information or materials provided or otherwise disclosed by or on behalf of the Disclosing Party to the Receiving Party hereunder, whether orally or in writing, that are designated as confidential or proprietary or that reasonably should be understood to be confidential or proprietary, given the nature of the information disclosed and the circumstances of such disclosure.

**11.5 "Control"** means ownership or control, directly or indirectly, of more than fifty percent (50%) of the voting interests of the subject entity, or the legal power to direct or cause the direction of the general management of such entity, whether by contract or otherwise.

**11.6 "Client Data"** means data that Client transmits, submits or otherwise discloses to SMI in connection with the Services, including data relating to Client's or its Affiliates' manufacturing operations, capacities, systems, processes, technologies, procedures, security practices and products.

**11.7 "Client Feedback"** means any information, suggestions, ideas, enhancement requests, recommendations, comments and other feedback that Client, Client's Affiliates or any of Client's or its Affiliates' Personnel may disclose, transmit, provide or offer to SMI with respect to SMI Materials.

**11.8 "Client-Furnished Materials"** means all Client Data, content, documentation, information, materials, instructions, configurations, or other outputs that SMI receives from Client, Client's systems, a Client Affiliate, a Client Affiliate's systems, or any Third Party's systems under Client's control or direction in connection with this Agreement, whether directly or indirectly, and in any form (including written, electronic, or oral), for purposes of onboarding, implementing, accessing, or using the Services.

**11.9 "Client Mark"** means any name, logo, trademark, service mark, or other distinctive service brand features, owned by Client.

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11.10 “**Credentials**” means any log-in credentials (e.g., usernames and passwords) and any other security information that may be required to access and use the applicable Service(s) or other SMI Materials in accordance with this Agreement.

11.11 “**Dashboard**” means the then-current SMI user interface through which Client may access Client’s Account, including for viewing and downloading Reports and Analytics Data.

11.12 “**Derivative Work**” means a work of authorship based upon one or more preexisting works, such as revision, modification, translation, abridgement, condensation, expansion or any other form in which the preexisting works may be recast, transformed or adapted and that, if prepared without authorization of the owner of the preexisting work, would constitute infringement of Intellectual Property Rights of that owner.

11.13 “**Disclosing Party**” means the Party that provides Confidential Information to the Receiving Party (or on behalf of which Confidential Information is provided) in connection with this Agreement.

11.14 “**Documentation**” means all materials and information provided or made available by or on behalf of SMI under this Agreement that describes the Software, Services and their installation, configuration, interoperability and/or use, including user manuals, training materials, sales and marketing literature, guides, and functional or technical specifications.

11.15 “**Email Notice**” means: (i) in the case of notice from Client to SMI, emails to the email address of the SMI Primary Contact specified in the applicable Order or SOW, as well as legal@sightmachine.com; or (ii) in the case of notice from SMI to Client, an email to the email address of the Client Primary Contact specified in the applicable Order or SOW, or the email address that SMI has on file with respect to the applicable Services.

11.16 “**Fees**” means any amounts due and payable from Client to SMI pursuant to the applicable Order or SOW, including Subscription fees and any other fees stated on such Order or SOW.

11.17 “**Force Majeure Event**” means a circumstance whereby a Party’s delay in performing its obligations hereunder is due to causes beyond such Party’s reasonable control, including fire, flood, earthquake, acts of God, acts of war, acts of a public enemy, labor disruptions affecting employers generally, acts of a nation or any state, territory, or other political division, terrorism, riots, civil disorders, pandemics, epidemics, theft, quarantine restrictions, and internet or other service disruptions involving hardware, software or power systems that are not within such Party’s possession or reasonable control, including unauthorized network intrusions and denial of service attacks. For the avoidance of doubt, Force Majeure Event shall not include events primarily: (a) relating to a Party’s financial distress or inability to make a profit or avoid a financial loss, (b) caused by changes in market prices or conditions, or (c) limited to a Party’s financial inability to perform its obligations hereunder.

11.18 “**Intellectual Property Rights**” means any and all rights in or to: (a) patents, patent applications, statutory invention registrations, and divisions, continuations, continuations-in-part and substitute applications of the foregoing and any extensions, reissues, restorations and reexaminations of the foregoing; (b) works of authorship, whether copyrightable or not, including mask work rights, software, databases and compilations and all registered and unregistered copyrights; and (c) trademarks, service marks, logos, trade names, and other indicia of origin, ((a) through (c), collectively, “**Intellectual Property**”).

11.19 “**Legal Notice**” means written notification to the following addressees: (i) if from Client to SMI, then to “Sight Machine, Inc., Attention: Legal Affairs, 243 Vallejo Street, San Francisco, CA 94111,” with a copy via Email Notice; or (ii) if from SMI to Client, then to the address that Client has specified in the applicable Order or SOW, “Attention: Legal Department,” with a copy via Email Notice.

11.20 “**Modifications**” means changes, upgrades, updates, modifications, fixes or enhancements to, or derivative works of, SMI Materials.

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11.21 “**Party**” means Client or SMI, individually, as applicable; and “**Parties**” means Client and SMI, collectively.

11.22 “**Permitted Affiliate**” means an Affiliate of Client that has entered into an Affiliate Adoption Agreement with SMI that entitles such Affiliate to enjoy the benefit of this Agreement, other than as may be expressly modified in such Affiliate Adoption Agreement.

11.23 “**Personnel**” means agents, employees, officers, directors or contractors of a Party who are employed, engaged or appointed by such Party hereunder. For avoidance of doubt, Client’s Personnel include Authorized Users.

11.24 “**Personal Data**” means any information that: (i) identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with any particular consumer or household, and (ii) is defined as “personal data,” “personal information,” “personally identifiable information,” or other substantially similar terminology under Applicable Laws.

11.25 “**Processing Software**” means SMI Software and Modifications thereto that analyze Client Data, Third Party Data and SMI Data, as applicable, and generate Reports therefrom.

11.26 “**Professional Services**” means the implementation, configuration, integration, training, consulting, engineering, and other professional services (excluding Software and Subscription Services) that SMI Personnel provide to Client or its Affiliates under this Agreement, as further described in an applicable Order or SOW.

11.27 “**Receiving Party**” means the Party that receives Confidential Information from the Disclosing Party in connection with this Agreement.

11.28 “**Reports**” means Processing Software output, including the organization and presentation structure of such output, which is made available to Client via the Dashboard(s) or is otherwise transmitted to Client by SMI.

11.29 “**Services**” means the Professional Services, technical support, cloud or software-as-a-service (SaaS) services or other services provided or made available by SMI under this Agreement and the accompanying Documentation, as more fully described in the applicable Order or SOW. Services include the SMI-developed or SMI-procured infrastructure and tools used to deliver, deploy and support such SMI software service(s), as specified in the applicable Order or SOW.

11.30 “**SMI**” means Sight Machine, Inc., a Delaware corporation with offices at 243 Vallejo St, San Francisco, CA 94111.

11.31 “**SMI Data**” means any data, other than Client Data, that is generated or received by SMI hereunder, including usage, log, and performance data.

11.32 “**SMI Feedback**” means any information, suggestions, ideas, recommendations, comments and other feedback that SMI or any of SMI’s Personnel may disclose, transmit, provide or offer to Client with respect to Client Materials.

11.33 “**SMI Mark**” means any name, logo, trademark, service mark and other distinctive brand features of any SMI Materials or otherwise owned by SMI.

11.34 “**SMI Materials**” means SMI Data, Services, Dashboards, Reports, Analytics Data, Software and Documentation, and includes Modifications to any of the foregoing.

11.35 “**Software**” means those certain applications, operating systems, utility programs, communications software, interfaces and other executable computer software that SMI makes available through a delivery of on-premise object code to Client under this Agreement and the accompanying Documentation, as more fully described in the applicable Order or SOW.

11.36 “**Subscription**” means the right to access and use a Service during the applicable Term, subject to and conditioned upon payment of Fees as set forth in the applicable Order or SOW.

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11.37 **“Taxes”** means any direct or indirect federal, state and/or local sales, use, excise, withholding, stamp, value-added tax (VAT), goods and services tax (GST) or similar taxes and any duties, tariffs, levies and other similar governmental assessments or charges, but excluding income tax assessed against the actual or potential income of SMI.

11.38 **“Third Party”** means an entity or person that is neither a Party, nor an Affiliate of a Party.

11.39 **“Third Party Data”** means data that a Third Party transmits, submits or otherwise discloses to SMI in connection with an Order or SOW that incorporates this Agreement by reference.

## 12. INTERPRETATION; ENTIRE AGREEMENT; EXECUTION; COUNTERPARTS; ELECTRONIC SIGNATURE; AND CONSTRUCTION.

12.1 **Interpretation.** In this Agreement, unless where otherwise specified: (a) headings are included for ease of reference only and shall not affect the construction; (b) a reference to writing or written includes email; (c) references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees; (d) references to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise; (e) any phrase introduced by “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding them; (f) the words “include,” “including” and “for example,” and variations thereof, will not be deemed to be terms of limitation, but rather will be deemed to be followed by the words “without limitation;” and (g) words used herein in the singular, where the context so permits, shall be deemed to include the plural and vice versa. The definitions of words in the singular herein shall apply to such words when used in the plural where the context so permits and vice versa.

12.2 **Entire Agreement.** This Agreement represents the entire agreement between the Parties relating to its subject matter and supersedes all prior and/or contemporaneous representations, discussions, negotiations and agreements, whether written or oral, except to the extent SMI makes any software or other services available to Client under separate written terms. SMI shall have the right to, in its sole discretion, update this Agreement from time to time by posting updated terms to the SMI website at the following URL: <https://www.sightmachine.com/legal>. If such changes have a materially adverse effect on your use of the Software or Services, you shall promptly notify SMI of your objection to such modifications and the previous Agreement shall continue to apply until the end of the then current Initial Period or Renewal Period, as applicable. Each Party acknowledges and agrees that it does not rely on, and shall have no remedy in respect of, any representation made (whether innocently or negligently) by the other Party or any other person except as set out in this Agreement. The terms on any purchase order, confirmation, or similar document submitted by Client to SMI will have no effect and are hereby rejected.

12.3 **Execution; Counterparts; Electronic Signature; and Construction.** Orders and SOWs incorporating this Agreement by reference may be: (i) executed and delivered by electronic signature (including, without limitation, via DocuSign, Adobe Sign, or other similar electronic means), and any such electronic signature shall be deemed to have the same legal effect as delivery of an original manually executed signature; and (ii) entered into in one or more counterparts, each of which will be deemed an original, and all of which taken together shall constitute one and the same instrument. The Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.