



## ENTERPRISE TERMS OF SERVICE

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BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT OR ACCESSING OR USING ANY LANDINGAI SOLUTION, YOU ARE ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING THE BINDING ARBITRATION TERMS SET FORTH IN SECTION 13.3(b) (U.S. CUSTOMER) BELOW FOR U.S. CUSTOMERS. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, YOU MAY NOT USE ANY LANDINGAI SOLUTION. YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY YOU.

IF YOU ARE USING ANY LANDINGAI SOLUTION AS AN EMPLOYEE, CONTRACTOR, OR AGENT OF A CORPORATION, PARTNERSHIP OR SIMILAR ENTITY, THEN YOU MUST BE AUTHORIZED TO SIGN FOR AND BIND SUCH ENTITY IN ORDER TO ACCEPT THE TERMS OF THIS AGREEMENT, AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO DO SO. THE RIGHTS GRANTED UNDER THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON ACCEPTANCE BY SUCH AUTHORIZED PERSONNEL.

These LandingAI Terms of Service for Enterprise Accounts are entered into by and between LandingAI Inc., a Delaware corporation (LandingAI) and the entity or person (other than a Reseller) placing an order for, or accessing, any LandingAI Solution (“Customer”, “You” or “Subscriber”). This Agreement consists of the terms and conditions set forth below and any ancillary documents (e.g., attachments, addenda, exhibits) expressly referenced as part of the Agreement, and any Order Forms that reference this Agreement.

The “Effective Date” of this Agreement is the date which is the earlier of (a) Customer’s initial access to any LandingAI Solution (as defined below) through any online provisioning, registration or order process or (b) the effective date of the first Order Form referencing this Agreement.

Modifications to this Agreement: From time to time, LandingAI may modify this Agreement. Unless otherwise specified by LandingAI, changes become effective for Customer upon renewal of the then-current Subscription Term or upon the effective date of a new Order Form after the updated version of this Agreement goes into effect. LandingAI will use reasonable efforts to notify Customer of the changes through communications via Customer’s Account, email or other means. Customer may be required to click to accept or otherwise agree to the modified Agreement before renewing a Subscription Term or upon the effective date of a new Order Form, and in any event continued use of any LandingAI Solution after the updated version of this Agreement goes into effect will constitute Customer’s acceptance of such updated version.

This Agreement supersedes any other agreement (including any click-through or electronic agreements within the Solution) between LandingAI and Customer with respect to the Solution. Any references in the Order to an “agreement” or “EULA” or other similar term will be deemed to refer to this Agreement.

This Agreement governs each order, order form, statement of work or purchase order that references this Agreement (each an “Order”). Each Order will form a separate contract between the parties.

### General Terms and Conditions

#### **1. Definitions.**

- 1.1. "Account" means Your account on the Solution.
- 1.2. "Affiliate" means, with respect to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with such Party, whereby "control" (including, with correlative meaning, the terms "controlled by" and "under common control") means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract, or otherwise.
- 1.3. "Authorized User" means Customer's employees, consultants, contractors, and agents (i) who are authorized by Customer to access and use the Solution under the rights granted to Customer pursuant to this Agreement and (ii) for whom access to the Solutions has been purchased hereunder. Only Authorized Users may access and use the Solution under Your account. You will not allow any person other than Authorized Users to access or use the Solution and any use of the Solution by each such Authorized user must be solely for the benefit of You or Your Authorized Users. Customer shall ensure that its Authorized Users comply with the terms of this Agreement and will remain liable for all acts and omissions of such Authorized Users.
- 1.4. "Customer Data" means any data (including all electronic data, images, text, messages, communications or other materials) that Customer uploads to the Solution or is output from Customer's Models.
- 1.5. "Customer Models" means any predictive fine-tuned models generated by Customer as result of processing Customer Data (excluding account and contact information) through the Solution.
- 1.6. "Documentation" means LandingAI's user manuals, handbooks, guides, FAQs, instructional videos, relating to the Solution provided by LandingAI to Customer electronically and relating to the Solution available at <https://www.landing.ai>, provided, however, that Documentation shall specifically exclude any "community moderated" forums as provided or accessible through such knowledge base(s). LandingAI may modify the Documentation from time to time.
- 1.7. "Service Plan" or "Plan" means the feature set described as the Enterprise Plan on the Plan & Pricing page of the Site located at <https://landing.ai/pricing/>.
- 1.8. "Site" means LandingAI's website located at <https://www.landing.ai>.
- 1.9. "Solution" means a term-based subscription to LandingAI's cloud-based multi-tenant computer vision software platform that is generally available to the public, referred to as LandingLens™, which provides access to machine learning capabilities for processing images to create, train models and/or generate inferences based on those models and, when applicable, LandingEdge™.
- 1.10. "Subscription Fees" mean the applicable fees and charges set forth in a fully executed Order.
- 1.11. "Subscription Term" means the period set forth in a fully executed Order.
- 1.12. "Tier" means the number of credits and authorized downloads that you purchase pursuant to a fully executed Order that you will have reserved and available to you under the Plan.
- 1.13. "Usage Data" means LandingAI's technical logs, account and login information, and other data about Customer's use of the Solution such as frequency of logins, volume of Customer Data collected, number of models deployed, feature usage and engagement.
2. Solution. The Solution is LandingAI's computer vision cloud platform and related technology that may be used to create and deploy computer vision models based on Customer's images ("Customer Models"), without complex programming or artificial intelligence (AI) experience. When subscribing

to the Solution, each Order will provide at a minimum (a) the Subscription Term, (b) the Service Plan, and (c) the Tier.

**2.1. Platform Access.** Subject to the terms and conditions of this Agreement, LandingAI grants You access to the Solution during the Subscription Term as provided in the Order(s) on a non-exclusive, non-transferrable, non-sublicensable basis. We will use commercially reasonable efforts to make the Solution available twenty-four (24) hours a day, seven (7) days a week, except during (a) planned downtime (for which LandingAI will give advance notice via our Site or to the Account Owner); and (b) Force Majeure events as defined in section 16.18 below.

**2.2. Login for Authorized Users.**

**2.2.1.** Each Authorized User must create and use its own login credentials to access the Solution. You are responsible for all actions of Your Authorized Users in connection with the Solution and their compliance with the terms of this Agreement. You will, and will require all Authorized Users to, use reasonable means to secure usernames and passwords, and access to the Subscriptions in accordance with customary security protocols, and will promptly notify LandingAI if You know or reasonably suspect that access to the Solution has been compromised.

**2.2.2.** Absent a written license from LandingAI expressly stating otherwise, You agree and acknowledge that You may not use the Solution, including but not limited to the application programming interface (“API”), to circumvent the requirement for an individual Authorized User login for each individual who (a) leverages the Solution to create, train or deploy models; (b) processes data related to interactions with the Solution; or (c) processes data related to interactions originating from a non-LandingAI Solution that provides functionality in connection with or similar to functionality provided by the Solution and which would, pursuant to this Agreement, require an individual Authorized User login, if utilizing the Solution for such interaction.

**2.3. Use Restrictions.**

**2.3.1. General Use Restrictions.** You will not and will not permit any person or entity (including, without limitation, Authorized Users) to, directly or indirectly: (i) copy, modify or create any derivative work of any portion of the Services or the Documentation; (ii) reverse engineer, decompile, decode, disassemble, engage in model extraction or stealing attacks, prompt injection attacks or any other adversarial attacks set forth in the NIST AI 100-2 E2023 publication available at <https://nvlpubs.nist.gov/nistpubs/ai/NIST.AI.100-2e2023.pdf> or otherwise attempt to derive or gain improper access to any software components, models, algorithms or systems of the Services, in whole or in part; (iii) frame, mirror, sell, resell, market, sublicense, publish, distribute, reproduce, assign, transfer, rent, lease or loan any portion of the Services to any other person or entity, or otherwise allow any person or entity to use the Services for any purpose other than for the benefit of Customer in accordance with these Terms; (iv) use the Services, Output or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Rights or other right of any person or entity, or that violates any applicable law; (v) interfere with, or disrupt the integrity or performance of, the Services, or any data or content contained therein or transmitted thereby; (vi) access or search the Services (or download any data or content contained therein or transmitted thereby) 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 Services features provided by LandingAI for use expressly for such purposes; (vii) utilize the Services (including Fine-Tuned Models or derivatives thereof), Documentation, Input or Output to

train, improve or have trained or improved an AI model (e.g., engage in “model scraping”); or (viii) use the Services, Documentation, Output or any other LandingAI Confidential Information for benchmarking or competitive analysis with respect to competitive or related products or services, or to develop, commercialize, license or sell any product, service or technology that could, directly or indirectly, compete with the Services.

**2.3.2. Responsible AI.** LandingAI fully supports the principles of Responsible AI. Consistent with these principles, You agree not to use the Solution or any model or derivatives of the models used by the Solution:

- 2.3.2.1. In any way that violates any applicable national, federal, state, local or international law or regulation;
- 2.3.2.2. For the purpose of exploiting, harming or attempting to exploit or harm minors in any way;
- 2.3.2.3. To generate or disseminate verifiably false information and/or content with the purpose of harming others;
- 2.3.2.4. To generate or disseminate personal identifiable information that can be used to harm an individual;
- 2.3.2.5. To defame, disparage or otherwise harass others;
- 2.3.2.6. For fully automated decision making that adversely impacts an individual’s legal rights or otherwise creates or modifies a binding, enforceable obligation;
- 2.3.2.7. For any use intended to or which has the effect of discriminating against or harming individuals or groups based on online or offline social behavior or known or predicted personal or personality characteristics;
- 2.3.2.8. To exploit any of the vulnerabilities of a specific group of persons based on their age, social, physical or mental characteristics, in order to materially distort the behavior of a person pertaining to that group in a manner that causes or is likely to cause that person or another person physical or psychological harm;
- 2.3.2.9. For any use intended to or which has the effect of discriminating against individuals or groups based on legally protected characteristics or categories;
- 2.3.2.10. To generate or disseminate information for the purpose to be used for administration of justice, law enforcement, immigration or asylum processes, such as predicting an individual will commit fraud/crime commitment (*e.g.* by text profiling, drawing causal relationships between assertions made in documents, indiscriminate and arbitrarily-targeted use).

**2.4. Support.** LandingAI shall provide the technical support services described in Appendix 1 (Support Policy) (“Support”).

**2.5. Professional Services.** Upon Your request and subject to a separate statement of work agreed upon by the Parties (“Statement of Work”) together with payment of fees agreed in the Statement of Work, LandingAI may provide professional services to You.

**2.5.1.** LandingAI will provide training, enablement and/or other professional services (“Professional Services”) as described in an Order.

- 2.5.2. Professional Services will be performed on business days (a business day means Monday through Friday, excluding national holidays, during working hours, in the location where the Professional Services are delivered).
- 2.5.3. LandingAI grants to Customer, during the Subscription Term a non-exclusive, non-transferable, non-sublicensable license to use any training and other informational materials resulting from the Professional Services to the extent necessary to enable Customer's use of the Service. Unless otherwise agreed, if not used, pre-purchased Professional Services and expenses expire 12 months after the date purchased.
- 2.5.4. Customer agrees to provide reasonable cooperation and information as necessary to permit LandingAI to perform the Professional Services. Customer will be charged at cost for travel and expenses incurred in providing the Professional Services (if any).
- 2.5.5. LandingAI will own any intellectual property rights in anything provided or created by it in the performance of the Professional Services.
- 2.6. Modifications. You acknowledge that LandingAI may modify the features and functionality of the Solution during the Subscription Term. LandingAI shall provide You with thirty (30) days' advance notice of any deprecation of any material feature or functionality. LandingAI will not materially decrease the overall functionality of the Solution purchased by You during the Subscription Term.
- 2.7. Additional Features. LandingAI will notify You of applicable supplemental terms or alternate terms and conditions prior to Your activation of any additional features. The activation of any additional features by You in Your Account will be considered acceptance of the applicable supplemental terms or alternate terms and conditions where applicable.
- 2.8. Third-Party Services. Third-Party Services. Certain features and functionalities within the Solution may allow You and Your Authorized Users to interface or interact with, access and/or use compatible third-party services, products, technology and content (collectively, "Third-Party Services"). LandingAI does not provide any aspect of the Third-Party Services and is not responsible for any compatibility issues, errors or bugs in the Services or Third-Party Services caused in whole or in part by the Third-Party Services or any update or upgrade thereto. You are solely responsible for maintaining the Third-Party Services and obtaining any associated licenses and consents necessary for You to use the Third-Party Services in connection with the Solution.
- 2.9. Reservation of Rights. LandingAI reserves all rights not expressly granted to You in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party, any intellectual property rights or other right, title, or interest in or to the LandingAI IP as defined in Section 9.1.2 below.

### 3. Use of the Solution

- 3.1. System Requirements. A high-speed Internet connection is required for proper transmission of the Solution. You are responsible for procuring and maintaining the network connections that connect Your network to the Solution including, but not limited to, browser software that supports protocols used by LandingAI, including the Transport Layer Security (TLS) protocol or other protocols accepted by LandingAI, and to follow procedures for accessing services that support such protocols. We are not responsible for notifying You, Your Authorized Users of any upgrades, fixes or enhancements to any such software or for any compromise of data, including Customer Data or Customer Models, transmitted across computer networks or telecommunications facilities (including but not limited to the Internet) which are not owned,

operated or controlled by LandingAI. We assume no responsibility for the reliability or performance of any connections as described in this Section.

- 3.2. Internal Business Purposes Only. Unless otherwise authorized by LandingAI in this Agreement or expressly agreed to otherwise in writing by LandingAI, You may not use the Solution in any manner where You act as a service bureau or to provide any outsourced business process services on behalf of more than one (1) third party (other than Affiliates) through a single Account. This provision is not intended to prevent or inhibit the use of the Solution to provide business support to multiple Authorized Users; however, You agree not to license, sublicense, sell, outsource, rent, lease, transfer, assign, distribute, time-share or otherwise commercially exploit or resell the Solution to any third party, other than Authorized Users in furtherance of Your internal business purposes as expressly permitted by this Agreement, unless expressly agreed to otherwise in writing by LandingAI. Without limiting the foregoing, Your right to access and use the API is also subject to the restrictions and policies implemented by LandingAI from time to time with respect to the API as set forth in the Documentation or otherwise communicated to You in accordance with this Agreement.
- 3.3. Customer Models. You are solely responsible for Your use of downloaded Customer Models.
- 3.4. No Competitive Access. You may not access the Solution or downloaded models for competitive purposes or if You are a competitor of LandingAI.
- 3.5. Usage Data. Notwithstanding anything to the contrary in this Agreement, LandingAI may monitor Your use of the Solution and collect and compile Usage Data. As between LandingAI and You, all right, title, and interest in Usage Data, and all intellectual property rights therein, belong to and are retained solely by LandingAI. You acknowledge that LandingAI may compile Usage Data statistics based on Your Content input into the Solution.

#### 4. Billing, Plan Modifications and Payments

- 4.1. Customer will be invoiced for the fees for the Solution and Professional Services as set out in the Order. Customer shall pay invoices within 30 days of the invoice date.
- 4.2. All amounts due under this Agreement shall be paid by Customer in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). If requested by LandingAI, Customer shall promptly provide tax receipts or other documents issued by the relevant tax office showing the payment of any withholding tax. Following no less than 14 days' written notice, LandingAI may suspend Customer's access to the Solution if any payments are not received within 60 days of the invoice date.
- 4.3. Automatic Renewal of Subscription Fees. AT THE EXPIRATION OF YOUR SUBSCRIPTION TERM, YOUR SUBSCRIPTION WILL AUTOMATICALLY RENEW ON A CONTINUOUS BASIS ON THE SAME COMMERCIAL TERMS UNLESS AND UNTIL EITHER PARTY PROVIDES NOTICE THAT AUTO RENEWAL WILL BE CANCELLED. ANY NOTICE OF CANCELLATION MUST BE SUBMITTED PURSUANT TO THE NOTICE PROVISION IN SECTION 16.14 BELOW. CANCELLATION WILL BE EFFECTIVE AT THE END OF BILLING CYCLE IN WHICH YOU PROVIDE US NOTICE.
- 4.4. Taxes. You will pay all sales, use, VAT and other taxes imposed by any applicable laws and regulations as a result of the payments under this Agreement, other than taxes based upon LandingAI's net income. Without limiting the foregoing, in the event that You are required to deduct or withhold any taxes from the amounts payable to LandingAI hereunder, You will pay an additional amount, so that LandingAI receives the amounts due to it hereunder in full, as if there were no withholding or deduction.

- 4.5. Payment Information. Company will issue an invoice to You for any approved fees along with any expenses actually incurred and chargeable to Company as provided in the Agreement. Payment on undisputed charges will be due and payable no later than thirty (30) days from the date of receipt of Company's invoice. We accept various payment methods. In addition to direct payment, You may opt to pay through Stripe, which can process payments via Mastercard, Visa, and American Express. By using the Solution and in the event You choose to pay by credit card, you agree to be bound by Stripe's services agreement available at <https://stripe.com/us/legal>. All information that you provide in connection with a purchase or transaction or other monetary transaction interaction with the Solution must be accurate, complete, and current. You agree to pay all charges incurred by users of your credit card, debit card, or other payment method used in connection with a purchase or transaction or other monetary transaction interaction with the Solution at the prices in effect when such charges are incurred. You will pay any applicable taxes, if any, relating to any such purchases, transactions or other monetary transaction interactions.
- 4.6. Promotional Credits. Any promotional credits issued hereunder will be subject to the LandingAI Promotional Credits Policy applicable at the time the promotional credits are issued.

## 5. Term, Cancellation and Termination

- 5.1. Subscription Term. Unless otherwise agreed in writing, the initial term of your Subscription shall be as set forth in a fully executed Order. Unless Your Account and subscription to a Solution are terminated in accordance with this Agreement or the applicable Order (a) Your subscription to the Solution will automatically renew for a Subscription Term equivalent in length to the then-expiring Subscription Term; and (b) the Subscription Fees applicable to any subsequent Subscription Term shall be LandingAI's standard Subscription Fees for the applicable Service Plan at the time of such renewal.
- 5.2. Cancellation. You may cancel your Account at any time; however, there are no refunds for cancellation. Cancellation will terminate Your access to the Solution at the end of the current Subscription Term and discontinue any automatic renewals.
- 5.3. Mutual Termination for Cause. A Party may terminate this Agreement for cause (a) upon written notice to the other Party of a material breach by the other Party if such breach remains uncured after thirty (30) days from the date of receipt of such notice; or (b) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. However, LandingAI may immediately terminate this Agreement for cause without notice if You violate the terms of this Agreement or LandingAI's [Community Participation Terms of Use and Code of Conduct](#).

If this Agreement is terminated by You in accordance with this Section for LandingAI's uncured material breach, LandingAI will refund any prepaid fees covering the remainder of the Subscription Term as of the effective date of termination.

If LandingAI terminates this Agreement for Your material breach in accordance with this Section, You must pay any unpaid fees covering the remainder of the Subscription Term pursuant to all applicable Orders. In no event will LandingAI's termination for cause relieve You of Your obligation to pay any fees payable to LandingAI for the period prior to termination.

- 5.4. Suspension. LandingAI shall be entitled to suspend the Solution or to remove or block any Customer Data or Customer Models at any time where:
- 5.4.1. Customer Data or Customer's use of the Solution is in breach of this Agreement; or
  - 5.4.2. Removal or blocking is necessary to protect the security, or integrity of the Solution, LandingAI, or any third party; or

**5.4.3.** In order to respond to law enforcement or any other governmental authority.

When possible, LandingAI will give Customer reasonable notice of such suspension.

**5.5. Payment Upon Termination.** Except for Your termination under Section 5.3, if You terminate Your subscription to a Solution or cancel Your Account prior to the end of Your then-effective Subscription Term, or if LandingAI terminates or cancels Your Account pursuant to Section 5.3, in addition to any other amounts You may owe LandingAI, You must immediately pay any and all unpaid Subscription Fees associated with the remainder of such Subscription Term.

**5.6. No Refunds.** Except for Your termination rights under Section 5.3, you understand and agree that you shall receive no refund or exchange for any unused time on a subscription, any license or subscription fees for any portion of the Solution, any content or data associated with Your Account, or for anything else.

**5.7. Export of Customer Data and Customer Models.**

**5.7.1.** Customer Data. Upon Your written request and subject to Section 5.7.3 below, LandingAI will make Customer Data available to You for export or download as provided in the Documentation for thirty (30) days after the effective date of termination or expiration of Your Account. Thereafter, LandingAI may delete Your Customer Data.

**5.7.2.** Customer Models. Upon Your written request and subject to (i) the availability of authorized downloads as provided in the applicable order form or subscription, (ii) compliance with the terms of this Agreement, and (iii) Section 5.7.3 below, LandingAI will make Customer Models available to You for export or download as provided in the Documentation for thirty (30) days after the effective date of termination or expiration of Your Account. Thereafter, LandingAI may delete Your Customer Models.

**5.7.3.** In the event that LandingAI has suspended or terminated Your Account due to Your breach of the Agreement, You will no longer be able to download Your Customer Data or Customer Models and LandingAI may delete Your Customer Data and Customer Models at any time after 30 days from the notice date of such suspension or termination unless prohibited by law or legal order.

**5.8.** On termination or expiration of this Agreement for any reason:

**5.8.1.** this Section 5.8, Section 7 (Confidential Information), Section 9 (Intellectual Property Rights), Section 12 (Indemnification), Section 13 (Limitation of Liability), and Section 16 (General) will survive alongside any other clauses that are intended to survive termination or expiration or expiration of this Agreement in order to achieve the fundamental purposes of this Agreement;

**5.8.2.** all rights to access the Solution granted under this Agreement will immediately terminate and Customer shall immediately cease use of the Solution;

**5.8.3.** each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party;

**5.8.4.** LandingAI may destroy or otherwise dispose of any Customer Data and Customer Models in its possession unless LandingAI receives written notice requesting the return of the Customer Data no later than 10 days following the date of termination of this Agreement; and

**5.8.5.** any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination which existed at or before the date of termination will not be affected.



## **6. Customer Data**

- 6.1.** Each party shall comply with all data protection laws applicable to it.
- 6.2.** LandingAI may collect and analyze Usage Data. LandingAI uses Usage Data to:
  - 6.2.1.** review trends and performance;
  - 6.2.2.** improve the Solution and develop new functionality and products; and
  - 6.2.3.** assist with diagnostic and corrective purposes in connection with the Solution,
  - 6.2.4.** and Usage Data is not Customer Confidential Information or Customer Data.
- 6.3.** Rights to Customer Data
  - 6.3.1.** Customer retains all rights, title and interest in any Customer Data input into the Solution, and
  - 6.3.2.** Subject to Customer's compliance with the terms of this Agreement, LandingAI assigns to Customer its right, title and interest in and to the data output from Customer's Models.
- 6.4.** LandingAI shall only use Customer Data as necessary to perform its obligations under this Agreement.
- 6.5.** Customer confirms that it has the necessary rights and permissions to provide the Customer Data to LandingAI.
- 6.6.** Where Customer is using the Solution as SaaS, Customer shall not use the Solution to store or process any:
  - 6.6.1.** data regulated by the Payment Card Industry Data Security Standards, or other financial account numbers or credentials;
  - 6.6.2.** information regulated by the U.S. Health Insurance Portability and Accountability Act;
  - 6.6.3.** social security numbers, driver's license numbers or other government ID numbers;
  - 6.6.4.** sensitive personal data (as defined under the E.U. General Data Protection Regulation);
  - 6.6.5.** personal data of individuals under 16 years old; or
  - 6.6.6.** information subject to regulation or protection under the U.S. Gramm-Leach-Bliley Act, U.S. Children's Online Privacy Protection Act or similar foreign or domestic laws.

## **7. Confidential Information.**

- 7.1.** "Confidential Information" means any information that one party provides to the other party in connection with this Agreement, which is in tangible form and 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. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is or becomes generally known to the public through no fault or breach of this Agreement by the receiving party; (ii) is rightfully known by the receiving party at the time of disclosure without restrictions on use or disclosure; (iii) is independently developed by the receiving party without use of the disclosing party's Confidential Information; or (iv) is rightfully received by the receiving party from a third party who has the right to provide such information and who provides it without restrictions on use or disclosure.
- 7.2.** Duty to Protect Confidential Information. In connection with the Solution, each Party will protect the other's Confidential Information from unauthorized use, access or disclosure in the same manner as each Party protects its own Confidential Information, but with no less than reasonable care. Except as otherwise expressly permitted pursuant to this Agreement, each Party

may use the other Party's Confidential Information solely to exercise its respective rights and perform its respective obligations under this Agreement and shall disclose such Confidential Information (a) solely to the employees and/or non-employee service providers and contractors who have a need to know such Confidential Information and who are bound by terms of confidentiality intended to prevent the misuse of such Confidential Information; (b) as necessary to comply with an order or subpoena of any administrative agency or court of competent jurisdiction; or (c) as reasonably necessary to comply with any applicable law or regulation.

8. Free Trials. If You register for a free trial of the Solution, LandingAI will make the Solution available to You on a trial basis free of charge until the earlier of (a) the end of the free trial period for which You registered to use the applicable Solution; (b) the start date of any subscription to such Solution purchased by You for such Solution; or (c) termination of the trial by LandingAI in LandingAI's sole discretion. Specific Free Trial and Freemium terms and conditions, if any, may be found on the Site. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding. Please review the applicable Documentation during the trial period so that You become familiar with the features and functions of the Solution under applicable Service Plans before You make Your purchase. ANY CUSTOMER DATA YOU ENTER INTO THE SOLUTION, ANY CUSTOMER MODELS AND ANY CONFIGURATIONS OR CUSTOMIZATIONS MADE TO THE SOLUTION BY OR FOR YOU, DURING YOUR FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SOLUTION AS COVERED BY THE TRIAL, PURCHASE THE APPLICABLE SOLUTION, OR EXPORT SUCH CUSTOMER DATA AND CUSTOMER MODELS IF AUTHORIZED, BEFORE THE END OF THE TRIAL PERIOD.

9. Intellectual Property Rights.

9.1. Intellectual Property Rights.

9.1.1. "Intellectual Property Rights" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction.

9.1.2. "LandingAI IP" means the (i) Solution, including all materials therein or transferred thereby, including, without limitation, software, images, text, graphics, illustrations, logos, patents, trademarks, service marks, copyrights, photographs, audio, videos, and music, (ii) all code in its machine learning platform used to produce Customer Models, (iii) the Documentation, (iv) and all intellectual property provided to Customer or any other Authorized User in connection with the foregoing. For the avoidance of doubt, LandingAI IP includes Usage Data and any information, data, or other content derived from LandingAI's monitoring of Customer's access to or use of the Solution but does not include Customer Data input into the Solution.

- 9.2. Retention of Respective Intellectual Property Rights. Each Party shall retain all rights, title and interest in any of its respective Intellectual Property Rights. The rights granted to You and Your Authorized Users to use the Solution under this Agreement do not convey any additional rights in the Solution or in any LandingAI IP associated therewith. Subject only to limited rights to access and use the Solution as expressly stated herein and for the avoidance of doubt, all rights, title and interest in and to the Solution and all hardware, software and other components of or used to provide the Solution, including all related Intellectual Property Rights, will remain with LandingAI and belong exclusively to LandingAI.

**9.3. Rights to Customer Models Created or Trained on the Solution.** LandingAI grants to Customer a worldwide, perpetual, irrevocable, non-exclusive, royalty-free, assignable, sublicensable right and license to:

- 9.3.1.** subject to Section 2.8 above, use, reproduce, distribute, modify, prepare derivative works of and publicly display the non-downloaded Customer Models solely within the confines of the Solution, for Customer's business purposes, in accordance with the Documentation and the terms and conditions of this Agreement;
- 9.3.2.** to the extent available and authorized pursuant to the applicable order form(s) executed in connection with this Agreement, download, use, reproduce, distribute, modify, prepare derivative works of and publicly display the downloaded Customer Models for Customer's business purposes, in accordance with the Documentation and the terms and conditions of these Terms.

LandingAI will not provide access to or share any Customer Models with any of LandingAI's other customers.

**9.4. Feedback.** LandingAI shall have a fully paid-up, royalty-free, worldwide, transferable, sub-licensable (through multiple layers), assignable, irrevocable and perpetual license to implement, use, modify, commercially exploit, incorporate into the Solution or otherwise use any suggestions, enhancement requests, recommendations or other feedback regarding the Solution that LandingAI receives from You, Your Authorized Users, or other third parties acting on Your behalf. LandingAI also reserves the right to seek intellectual property protection for any features, functionality or components that may be based on or that were initiated by suggestions, enhancement requests, recommendations or other feedback regarding the Solution that LandingAI receives from You, Your Authorized Users, or other third parties acting on Your behalf.

**9.5. Use of LandingAI Marks.** Unless otherwise authorized in writing, You may not use the LandingAI Marks. You will not attempt, now or in the future, to claim any rights in the LandingAI Marks, dilute or degrade the distinctiveness of the LandingAI Marks, or use the LandingAI Marks to disparage or misrepresent LandingAI or LandingAI's Solution. LandingAI's ability, if any, to use Subscriber's trademarks, service marks, service or trade names or logos will be set forth in a mutual agreement of the Parties.

## **10. Privacy Policy**

LandingAI complies with its Privacy Policy in providing the Solution. The Privacy Policy is subject to change as described therein. By accessing, using, and providing information to or through the Solution, you acknowledge that you have reviewed and accepted our Privacy Policy, and you consent to all actions taken by us with respect to your information in compliance with the then-current version of our [Privacy Policy](#).

## **11. Representations, Warranties and Disclaimers**

**11.1. General Warranty.** Each party hereby represents and warrants to the other party that: (i) if other than an individual, it is duly organized, validly existing and in good standing under its jurisdiction of organization; (ii) it has the right to enter into this Agreement; (iii) if the party is other than an individual, the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby are within the corporate powers of such party and have been duly authorized by all necessary corporate action on the part of such party, and constitute a valid and binding agreement of such party; and (iii) the execution, delivery and performance of the Agreement does not and will not violate the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

**11.2. Subscription Warranties.** LandingAI warrants that:

- 11.2.1.** during the first 90 days following the date the Solution is purchased, the Solution will, in all material respects, conform to the functionality described in the then-current Documentation;
- 11.2.2.** it shall comply with all laws applicable to the provision of the Solution, Support, Maintenance and Professional Services;
- 11.2.3.** the Professional Services will be provided in accordance with good industry standards by appropriately qualified personnel using reasonable skill and care; and
- 11.2.4.** it has all the rights in relation to the Solution that are necessary to grant all the rights it grants under this Agreement.

**11.3. Remedy for Breach of Warranty.** In the event of a breach of Section 11.2, Customer's sole and exclusive remedy is that LandingAI shall use commercially reasonable efforts to correct any reproducible nonconformity. If such efforts are unsuccessful within 30 calendar days of written notice from Customer, Customer may terminate the Subscription to the Solution. LandingAI shall then promptly provide a pro-rata refund of the Subscription Fee that have been paid in advance for the remainder of the Subscription Term for the Solution, calculated from the date of termination.

**11.4. Warranty Exclusions.** The warranty in Section 11.2 will not apply where:

- 11.4.1.** Customer uses the Solution with an application or in an environment other than as described in the Documentation;
- 11.4.2.** modifications are made to the Solution that were not made by LandingAI, LandingAI's authorized representatives or with the express written authorization of LandingAI; or
- 11.4.3.** there is misuse, fault or negligence by Customer.

**11.5.** Customer acknowledges that the Solution provides prediction capabilities based on Customer Data. LandingAI gives no warranty as to the accuracy, correctness, or completeness of any predictive model used by the Solution or predictions made by the Solution.

**11.6. International Trade Compliance.**

- 11.6.1.** In connection with 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, without limitation, the U.S. Foreign Corrupt Practices Act ("FCPA"); (ii) anti-money laundering, including, without limitation the Bank Secrecy Act of 1970 and the USA PATRIOT Act of 2001, and (iii) economic or financial sanctions, export controls, trade embargoes or other similar prohibitions or restrictions on activity imposed by a government authority having jurisdiction over such party, including without limitation the U.S. Office of Foreign Assets Control ("OFAC") sanctions and the U.S. Export Administration Regulations ("EAR").
- 11.6.2.** Customer represents that it is not, nor is it 50% or more owned or otherwise controlled by a party or parties, subject to Trade Restrictions defined as follows: (i) located, ordinarily resident, or legally organized any embargoed country (presently including Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk and Luhansk regions of Ukraine); (ii) listed on, or 50% or more owned or otherwise controlled by a party or parties listed on, any sanctions asset blocking list other prohibited transactions list or directive; or (iii) engaged in activities prohibited by export controls or sanctions laws. 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 OFAC sanctions or

export control regulations under the EAR, then Customer shall notify the Company immediately. The Company's Solution shall not be used to circumvent or facilitate any export control or sanctions violations, or to facilitate any transaction with any party subject to Trade Restrictions.

- 11.7. Disclaimers.** EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 11.2, THE SITES AND THE SOLUTION ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND TO THE FULLEST EXTENT PERMITTED BY LAW, AND LANDINGAI EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT WE DO NOT WARRANT THAT THE SOLUTION WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE OR FREE FROM VIRUSES OR OTHER MALICIOUS SOFTWARE, AND NO INFORMATION OR ADVICE OBTAINED BY YOU FROM US OR THROUGH THE SOLUTION SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

## **12. Indemnification**

- 12.1. LandingAI Indemnification.** LandingAI will defend You against any claim, suit or proceeding brought by a third party ("Claims") alleging that Your access to or use of the Solution as permitted hereunder infringes or misappropriates such third party's valid patent, copyright, trademark or trade secret (an "IP Claim"), and will indemnify and hold You harmless against any damages and costs awarded against You or agreed in settlement by LandingAI (including reasonable attorneys' fees) resulting from such Claim, provided that (a) You promptly notify LandingAI of the threat or notice of such IP Claim; (b) LandingAI will have sole, exclusive control and authority to select defense attorneys, defend and/or settle any such IP Claim; and (c) You fully cooperate with LandingAI in connection with this defense. Notwithstanding the foregoing, LandingAI will not settle or compromise any claim that results in liability or admission of any liability by You without Your prior written consent. LandingAI's obligation to indemnify Customer pursuant to this Section 12.1 will not apply to the extent any Claim results from or is based on: (i) any combination, operation or use the Solution with any product, system, device, method or data not provided by LandingAI, if such claim would have been avoided but for such combination, operation or use; (ii) any Your Data; or (iii) Your access of the Solution other than in compliance with this Agreement. If Customer's access of the Solution is, or in LandingAI's opinion is likely to be, enjoined due to the type of claim specified in this Section 12.1, then LandingAI may at its sole option and expense: (i) replace or modify the Subscriptions to make them non-infringing and of equivalent functionality; (ii) procure for You the right to continue using the Subscriptions under the terms of this Agreement; or (iii) terminate Your rights and LandingAI's obligation under this Agreement with respect to such Subscriptions and refund to You a pro-rata portion of the Fees paid for such Subscriptions for the time You are unable to use the Subscriptions. THE PROVISIONS OF THIS SECTION 12.1 SET FORTH LANDINGAI'S SOLE AND EXCLUSIVE OBLIGATIONS, AND YOUR SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.
- 12.2. Indemnification by You.** You will indemnify, defend and hold LandingAI harmless against any claim brought by a third party against LandingAI (a) arising from or related to use of the Solution (and not arising solely from the Solution itself) by You or Your Authorized Users in breach of this Agreement; or (b) alleging that Your use of the Solution, Your Customer Data or Your Customer Models infringes or misappropriates a third party's valid patent, copyright, trademark or trade secret; provided that (i) LandingAI promptly notifies You of the threat or

notice of such claim; (ii) You will have the sole and exclusive control and authority to select defense attorneys, and to defend and/or settle any such claim. Notwithstanding the foregoing, You shall not settle or compromise any claim that results in liability or admission of any liability by LandingAI without LandingAI's prior written consent); and (iii) LandingAI fully cooperates with You in connection therewith.

### **13. Limitation of Liability**

- 13.1. EXCLUSION OF DAMAGES.** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) SHALL EITHER PARTY TO THIS AGREEMENT, OR THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SOLUTION PROVIDERS, SUPPLIERS OR LICENSORS, BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA (WHERE SUCH DATA IS LOST IN THE COURSE OF TRANSMISSION VIA YOUR SYSTEMS OR OVER THE INTERNET THROUGH NO FAULT OF LANDINGAI), BUSINESS INTERRUPTION, LOSS OF GOODWILL, COSTS OF COVER OR REPLACEMENT, OR FOR ANY OTHER TYPE OF INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGES, OR FOR ANY OTHER INDIRECT LOSS OR DAMAGES INCURRED BY THE OTHER PARTY OR ITS AFFILIATES IN CONNECTION WITH THIS AGREEMENT, THE SOLUTION OR PROFESSIONAL SOLUTIONS, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.
- 13.2. LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, LANDINGAI'S AGGREGATE LIABILITY TO YOU, YOUR AFFILIATES, OR ANY THIRD PARTY ARISING OUT OF THIS AGREEMENT OR THE SOLUTION, SHALL IN NO EVENT EXCEED THE SUBSCRIPTION FEES AND/OR PROFESSIONAL SERVICES FEES PAID BY YOU DURING THE TWELVE (12) MONTHS PRIOR TO THE FIRST EVENT OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. YOU ACKNOWLEDGE AND AGREE THAT THE ESSENTIAL PURPOSE OF THIS SECTION 13.2 IS TO ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE SUBSCRIPTION FEES, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF LANDINGAI WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. LANDINGAI HAS RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO PROVIDE YOU WITH THE RIGHTS TO ACCESS AND USE THE SOLUTION PROVIDED FOR IN THIS AGREEMENT. THE LIMITATIONS SET FORTH IN THIS SECTION 13.2 SHALL NOT APPLY TO CLAIMS OR DAMAGES RESULTING FROM LANDINGAI'S IP CLAIMS INDEMNITY OBLIGATIONS IN SECTION 12.1 OF THIS AGREEMENT.
- 13.3. LIMITATION OF LIABILITY IN THE AGGREGATE.** THE LIMITATION OF LIABILITY PROVIDED FOR HEREIN APPLIES IN AGGREGATE TO ANY AND ALL CLAIMS BY SUBSCRIBER AND ITS AFFILIATES, AND SHALL NOT BE CUMULATIVE.
- 13.4. Jurisdiction-specific exclusions.** Some jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages or for a party's own fraud, willful injury to the person or property of another, or violation of law which means that some of the above limitations may not apply to You. IN THESE JURISDICTIONS, LANDINGAI'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

- 13.5. Enforceable against LandingAI.** Any claims or damages that You may have against LandingAI shall only be enforceable against LandingAI and not any other entity, nor any officers, directors, representatives or agents of LandingAI or any other entity.

**14. Arbitration, and Class Action/Jury Trial Waiver.**

- 14.1. Arbitration.** Read this Section carefully because it requires the parties to arbitrate their disputes and limits the manner in which you can seek relief from LandingAI. This Arbitration Agreement applies to and governs any dispute, controversy, or claim between you and LandingAI that arises out of or relates to, directly or indirectly: (a) this Agreement, including the formation, existence, breach, termination, enforcement, interpretation, validity, or enforceability thereof; (b) access to or use of the Solution, including receipt of any advertising or marketing communications; (c) any transactions through, by, or using the Solution; or (d) any other aspect of your relationship or transactions with LandingAI, directly or indirectly, as a consumer (“Claim” or collectively, “Claims”). The Arbitration Agreement shall apply, without limitation, to all Claims that arose or were asserted before or after your agreement to this Agreement.

If you are a new LandingAI user, you can reject and opt-out of this Arbitration Agreement within 30 days of accepting this Agreement by emailing LandingAI at [legal@landing.ai](mailto:legal@landing.ai) with your first and last name and stating your intent to opt-out of the Arbitration Agreement. Note that opting out of this Arbitration Agreement does not affect any other part of this Agreement, including the provisions regarding controlling law or in which courts any disputes must be brought.

For any Claim, you agree to first contact us at [legal@landing.ai](mailto:legal@landing.ai) and attempt to resolve the dispute with us informally. In the unlikely event that LandingAI has not been able to resolve a Claim after sixty (60) days, we each agree to resolve any Claim exclusively through binding arbitration by AAA before a single arbitrator (the “Arbitrator”), under the Expedited Procedures then in effect for AAA (the “Rules”), except as provided herein. In the event of any conflict between the Rules and this Arbitration Agreement, this Arbitration Agreement shall control. AAA may be contacted at [www.adr.org](http://www.adr.org), where the Rules are also available. The arbitration will be conducted in the U.S. county where you live or California, unless you and LandingAI agree otherwise. If you are using the Solution for commercial purposes, each party will be responsible for paying any AAA filing, administrative and arbitrator fees in accordance with AAA rules, and the award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys’ fees and reasonable costs for expert and other witnesses. If you are an individual using the Solution for non-commercial purposes: (i) AAA may require you to pay a fee for the initiation of your case, unless you apply for and successfully obtain a fee waiver from AAA; (ii) the award rendered by the arbitrator may include your costs of arbitration, your reasonable attorney’s fees, and your reasonable costs for expert and other witnesses; and (iii) you may sue in a small claims court of competent jurisdiction without first engaging in arbitration, but this does not absolve you of your commitment to engage in the informal dispute resolution process. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. You and LandingAI agree that the Arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any disputes relating to the interpretation, applicability, enforceability or formation of this Arbitration Agreement, including any claim that all or any part of this Arbitration Agreement is void or voidable. The Arbitrator shall also be responsible for determining all threshold arbitrability issues, including issues relating to whether the Agreement, any provision of the Agreement, is unconscionable or illusory and any defense to arbitration, including waiver, delay, laches, unconscionability, or estoppel.

- 14.2. Injunctive Relief.** Nothing in this Section shall be deemed as: preventing LandingAI from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of our data security, Intellectual Property Rights or other proprietary rights; or preventing you from asserting claims in small claims court, if your claims qualify and so long as the matter remains in such court and advances on only an individual (non-class, non-representative) basis.
- 14.3. Severability of Arbitration Provision.** If this Arbitration Agreement is found to be void, unenforceable, or unlawful, in whole or in part, the void, unenforceable, or unlawful provision, in whole or in part, shall be severed. Severance of the void, unenforceable, or unlawful provision, in whole or in part, shall have no impact on the remaining provisions of the Arbitration Agreement, which shall remain in force, or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to the Arbitration Agreement. Notwithstanding the foregoing, if the Class Action/Jury Trial Waiver is found to be void, unenforceable, or unlawful, in whole or in part, because it would prevent you from seeking public injunctive relief, then any dispute regarding the entitlement to such relief (and only that relief) must be severed from arbitration and may be litigated in a civil court of competent jurisdiction. All other claims for relief subject to arbitration under this Arbitration Agreement shall be arbitrated under its terms, and the parties agree that litigation of any dispute regarding the entitlement to public injunctive relief shall be stayed pending the outcome of any individual claims in arbitration.
- 14.4. Class Action/Jury Trial Waiver.** WITH RESPECT TO ALL PERSONS AND ENTITIES, REGARDLESS OF WHETHER THEY HAVE OBTAINED OR USED THE SOLUTION FOR PERSONAL, COMMERCIAL OR OTHER PURPOSES, ALL CLAIMS MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION, AND, UNLESS WE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. YOU AND LANDINGAI AGREE THAT THE ARBITRATOR MAY AWARD RELIEF ONLY TO AN INDIVIDUAL CLAIMANT AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF ON YOUR INDIVIDUAL CLAIM(S). ANY RELIEF AWARDED MAY NOT AFFECT OTHER LANDINGAI USERS. YOU AND LANDINGAI FURTHER AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND LANDINGAI ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO BRING, JOIN, OR PARTICIPATE IN A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE PROCEEDING OF ANY KIND AS A PLAINTIFF OR CLASS MEMBER.

## **15. RESELLERS**

- 15.1.** If Customer makes any purchases through an authorized partner of LandingAI ("Partner"):
- 15.1.1.** instead of paying LandingAI, Customer will pay the applicable amounts to the Partner, as agreed between Customer and the Partner; and
  - 15.1.2.** Customer order details (e.g., the Solution that Customer is entitled to use, how Customer's entitlements are measured, the Subscription Term, etc.) will be as stated in the order placed between Partner and Customer and communicated to LandingAI.
- 15.2.** Partners are not authorized to modify this Agreement or make any promises or commitments on LandingAI's behalf, and LandingAI is not bound by any obligations to Customer other than as set out in this Agreement or in writing by an authorized LandingAI representative.



- 15.3. The amount paid or payable by the Partner to LandingAI for Customer's use of the applicable Solution under this Agreement will be deemed the amount actually paid or payable by Customer to LandingAI under this Agreement for purposes of calculating the liability cap in Section 13 (Limitation of Liability).

## **16. GENERAL.**

- 16.1. **Assignment.** Neither Party may assign or transfer this Agreement, by operation of law or otherwise, without the other Party's prior written consent. Any attempt to assign or transfer this Agreement without such consent will be void. Notwithstanding the foregoing, either Party may assign or transfer this Agreement to a third party that succeeds to all or substantially all of the assigning Party's business and assets relating to the subject matter of this Agreement, whether by sale, merger, operation of law or otherwise. Subject to the foregoing, this Agreement is binding upon and will inure to the benefit of each of the Parties and their respective successors and permitted assigns.
- 16.2. **No Election of Remedies.** Except as expressly set forth in this Agreement, the exercise by either party of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or available at law or in equity or otherwise. Unless it expressly states otherwise, this Agreement does not give rise to any rights for a third party to enforce any term of this Agreement.
- 16.3. **Conflict with Order(s).** If this Agreement conflicts with any of the terms of any Order, then, unless otherwise set out in this Agreement, the terms of the Order will control solely with respect to the Solution and Professional Services covered by the Order. Any purchase orders issued by Customer shall be deemed to be for Customer's convenience only and, notwithstanding acceptance of purchase orders by LandingAI, shall in no way change, override, or supplement this Agreement.
- 16.4. **Modification and Waiver.** Any waiver or modification of the provisions of this Agreement will only be effective if in writing and signed by both parties. Waivers and amendments to this Agreement shall be effective only if made by non-pre-printed agreements clearly understood by both parties to be an amendment or waiver to this Agreement.
- 16.5. **Severability.** If the whole or any part of a provision of this Agreement is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will be unaffected. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 16.6. **Laches.** No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.
- 16.7. **Contractor.** LandingAI is an independent contractor and not an employee of Customer. At no time shall either party make any commitments or incur any charges or expenses for or in the name of the other party, or be considered the agent, partner, joint venture, employer or employee of the other party.
- 16.8. **UCC & UCITA.** Neither the Uniform Commercial Code (UCC) nor the Uniform Computer Information Transactions Act (UCITA) will apply to this Agreement.
- 16.9. **FAR.** As defined in U.S. Federal Acquisition Regulation (FAR) section 2.101, the Solution and Documentation are "commercial items" and according to U.S. Defense Federal

Acquisition Regulation Supplement (DFARS) section 252.227 7014(a)(1) and (5) are deemed to be “commercial computer software” and “commercial computer software documentation.” Consistent with DFARS section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

- 16.10. Logo.** Customer agrees that LandingAI may refer to Customer by its trade name and logo, and may briefly describe Customer’s business, in LandingAI’s marketing materials and website.
- 16.11. Authority.** The person signing this Agreement for each party represents that they are duly authorized to enter into this Agreement on behalf of the party they are signing for.
- 16.12. Governing Law.** You agree that: (i) the Solution shall be deemed solely based in California; and (ii) the Solution shall be deemed a passive one that does not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than California. This Agreement shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. The parties acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding the preceding sentences with respect to the substantive law, the Federal Arbitration Act (9 U.S.C. §§ 1-16) (“FAA”) governs the interpretation and enforcement of the Arbitration Agreement in Section 14.1 and preempts all state laws to the fullest extent permitted by law. If the FAA is found to not apply to any issue that arises from or relates to the Arbitration Agreement, then that issue shall be resolved under and governed by the law of your state of residence. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. You agree to submit to the exclusive personal jurisdiction of the federal and state courts located in California for any actions for which we retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a our copyrights, trademarks, trade secrets, patents, or other intellectual property or proprietary rights, as set forth in the Arbitration provision below, including any provisional relief required to prevent irreparable harm. You agree that California is the proper and exclusive forum for any appeals of an arbitration award or for trial court proceedings in the event that the arbitration provision below is found to be unenforceable.
- 16.13. Severability.** If the whole or any part of a provision of this Agreement is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will be unaffected. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 16.14. Notices.**
- 16.14.1. Notice to LandingAI.** All Legal Notices provided by You to LandingAI under this Agreement must be delivered in English and in writing by (a) Courier or U.S. mail to 195 Page Mill Rd, Suite 115, Palo Alto, California 94306 U.S.A. Attn: Legal Department; or (b) electronic mail to [legal@landing.ai](mailto:legal@landing.ai).
- 16.14.2. Notices to Subscriber.** All notices provided by LandingAI to You under this Agreement may be delivered in writing by (a) nationally recognized overnight delivery service (“Courier”) or U.S. mail to the contact mailing address provided by

You on any Order; or (b) electronic mail to the electronic mail address provided for Your Account owner.

- 16.14.3.** All notices provided by either Party to the other shall be deemed to have been given immediately upon delivery by electronic mail; or upon the earlier of proof of receipt or three (3) business days after being deposited in the mail or with a Courier as permitted above.
- 16.15.** Waiver. The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. The failure or delay of any Party in enforcing any of its rights under this Agreement shall not be deemed a continuing waiver of such right. The waiver of one breach hereunder shall not constitute the waiver of any other or subsequent breach.
- 16.16.** Entire Agreement. This Agreement, together with all Orders, constitutes the complete and exclusive agreement of the parties with respect to its subject matter and supersedes all prior understandings and agreements, whether written or oral. Any waiver, modification or amendment of any provision of this Agreement or any Order will be effective only if in writing and signed by the parties hereto.
- 16.17.** Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute one and the same document, binding on all parties notwithstanding that each of the parties may have signed different counterparts. The parties agree that this Agreement may be electronically signed by one or more parties. Any electronic signature used by a party to sign this Agreement shall be treated the same as handwritten signatures for the purposes of validity, enforceability and admissibility. Without limiting the foregoing, nothing in this Agreement shall be construed to require a party to sign this Agreement by electronic signature.
- 16.18.** Force Majeure. Except for Customer's payment obligations, if either party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials, governmental restrictions, regulation or controls, judicial orders, enemy or hostile governmental action, terrorist act, civil commotion, riot, fire, earthquake, or natural disaster, or other causes (except financial causes) beyond the reasonable control of the party obligated to perform, then that party's failure to perform shall be excused.

## EXHIBIT A - SUPPORT

This LandingAI support policy (“Support Policy”) describes the support provided by LandingAI to its customers.

Unless otherwise defined, all capitalized definitions will have the same meaning as those described in the Master Subscription Agreement (MSA).

### 1. DEFINITIONS

“Business Day” means Monday through Friday (Pacific Time), excluding United States federal and public holidays.

“Business Hours” means 9:00 a.m. to 5:00 p.m. (Pacific Time) on Business Days.

“Solution” means LandingAI’s cloud-based computer vision software platform, referred to as LandingLens™, which provides access to machine learning capabilities for processing images to create, train models and/or generate inferences based on those models and, when applicable, LandingEdge™.

“Support Contact” means a LandingAI user who has received applicable training or certification on LandingAI products and has been designated as an authorized support contact.

“User” means a user of the Solution.

### 2. CONTACTING LANDINGAI SUPPORT

2.1 Support Contacts shall use the Feedback section of the LandingLens app (“Feedback”) to report any suspected bug, error or malfunction in the Solution (“Error”) as well as to provide any product feedback (feature requests, suggestions, etc. collectively “Product Feedback”). From time to time, the LandingAI team may also direct Support Contacts to report Errors and Product Feedback via additional channels (e.g. Slack channel message, email, etc.).

2.2 Each reported Error or Product Feedback will be logged as a case into LandingAI’s support and ticketing system (“Case”). Customer may suggest the priority level when submitting a Case. At its discretion, LandingAI shall be entitled to adjust the priority of the Case based on the definitions in Paragraph 3.5.

### 3. SUPPORT SERVICES AND PRIORITY

3.1 During Business Hours, LandingAI will use commercially reasonable efforts, commensurate with the type of request and/or the priority of the Error, to correct the Error so that the Solution will substantially perform in accordance with the Documentation.

3.2 Customer shall conduct reasonable and adequate research with respect to any suspected Error prior to reporting the Error. Customer will respond promptly to all reasonable requests from LandingAI for information and assistance regarding an Error.

3.3 LandingAI does not provide Support for any customizations of the Solution nor any scripts, extensions, APIs or similar that are created for Customer unless agreed otherwise in writing.

### 3.4 Priority definitions.

PRIORITY	DEFINITION
Priority 1 (“P1”)	The Solution is (i) down, inoperable, inaccessible, or unavailable; (ii) otherwise materially ceases operation; or (iii) performs or fails to perform so as to prevent useful work from being done.
Priority 2 (“P2”)	The Solution has major functions that are performing improperly, and the situation is significantly impacting certain portions of User’s operations or productivity.
Priority 3 (“P3”)	A minor or cosmetic issue or problem with the Solution that: (i) is an irritant, affects non-essential functions, or has minimal business operations impact; (ii) is localized or has isolated impact; (iii) is an operational nuisance; (iv) results in documentation errors.
Priority 4 (“P4”)	The Solution is performing as documented/expected but the User is requesting some additional functionality/capability of the Solution.

3.5 Response Times. LandingAI shall use commercially reasonable efforts to respond and address an Error or Product Feedback as follows:

PRIORITY	INITIAL RESPONSE TARGET	UPDATE FREQUENCY TARGET
P1	Within 1 hour	Continuous effort with written updates at least every 4 hours
P2	Within 2 Business Hours	Updates every Business Day
P3	Within 1 Business Day	Updates every 3 Business Days
P4	Within 3 Business Days	N/A

3.6 LandingAI may access Customer error and application logs for the sole purpose of providing proactive support and fixes to the affected Solution. This may require a connection to Customer’s system, or Customer can establish a means of getting this information to LandingAI personnel in a manner conducive to providing efficient support (e.g., posting logs to a secure ftp site).

## 4. MAINTENANCE & ENHANCEMENTS

4.1 LandingAI shall make available to Customer copies of all new versions, updates, and upgrades of the Solution made generally available to its customer base (“Upgrades”) without additional charge.

4.2 LandingAI shall be entitled to make any new features and functionality available for a separate fee. LandingAI will not be required to develop or provide Customer with any specific updates or upgrades to the Solution that are not generally available to all customers.

4.3 LandingAI shall be entitled to perform maintenance to the Solution or any elements of its infrastructure as LandingAI deems necessary for the provision of the Solution. LandingAI will give Customer no less than 48 hours’ notice of any standard Maintenance and as much notice as possible for non-standard emergency Maintenance (collectively “Scheduled Maintenance”). During Scheduled Maintenance, Customer may not be able to access the Solution. LandingAI will use commercially reasonable efforts to keep the frequency and duration of impeded access during Scheduled Maintenance to a minimum.

## 5. EXCLUSIONS

This Support Policy does not apply to any software, equipment, or solutions not purchased from LandingAI. This Support Policy does not apply if the Customer is in breach of this Agreement.