

**ADDENDUM TO
CLOUDBOLT MASTER SOFTWARE LICENSE, SAAS AND SERVICES AGREEMENT**

Certain terms and conditions are required by applicable North Carolina law and regulation and are set forth below. Such terms supersede all conflicting terms in the CLOUDBOLT MASTER SOFTWARE LICENSE, SAAS AND SERVICES AGREEMENT (Licensor's Agreement) from the date of execution set forth below.

The State acknowledges that the Licensor's Agreement may include terms and conditions, hyperlinks, or similar references to additional license agreements, and that such additional license agreements address the proprietary and intellectual property rights of third parties for software or software services owned by parties other than the Licensor ("Third Parties"). The State further acknowledges that the proprietary and intellectual property rights of the Third Party are subject to a software license agreement. The Licensor shall provide the State with copies of all documentation and warranties for the Third-Party software and related services offered.

- 1) The License Agreement is modified by this Addendum, and therefore, conflicts arising among the terms of the License Agreement and the terms of this Addendum shall be resolved by the following order of precedence:
 - a) This Addendum,
 - b) The License Agreement,
 - c) Terms and other documents incorporated by reference in the License Agreement.
- 2) Notwithstanding terms and conditions, hyperlinks, or similar references to additional license agreements of third Parties presented in Licensor's Agreement, the State shall not be obligated under the Licensor's Agreement, or other agreements, to indemnify or hold harmless the Vendor, its licensors, successors, or assigns, nor arbitrate any dispute, nor pay late fees, legal fees, termination costs, costs of audits, or other similar costs.
- 3) Security Specifications
 - a) Solutions Hosted on State Infrastructure – Reserved.
 - b) Solutions Not Hosted on State Infrastructure

Refer to the North Carolina Statewide Data Classification and Handling policy for more information regarding data classification. The policy is located at the following website: <https://it.nc.gov/document/statewide-data-classification-and-handling-policy>.

To comply with the State's Security Standards and Policies, State agencies are required to perform annual security/risk assessments on their information systems using NIST 800-53 controls. This requirement additionally applies to all Vendor-provided, agency-managed Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Software as a Service (SaaS) solutions which will handle data classified as Medium Risk (Restricted) or High Risk (Highly Restricted) data.

- (a) Vendors shall provide a completed Vendor Readiness Assessment Report Non-State Hosted Solutions (“VRAR”) at offer submission. This report is located at the following website: <https://it.nc.gov/documents/vendor-readiness-assessment-report>
- (b) Upon request, Vendors shall provide a current independent 3rd party assessment report in accordance with the following subparagraphs (i)-(iii) prior to contract award. However, Vendors are encouraged to provide a current independent 3rd party assessment report in accordance with subparagraphs (i)-(iii) at the time of offer submission.
 - (i) Federal Risk and Authorization Management Program (FedRAMP) certification, SOC 2 Type 2, ISO 27001, or HITRUST are the preferred assessment reports for any Vendor solutions which will handle data classified as Medium Risk (Restricted) or High Risk (Highly Restricted).
 - (ii) A Vendor that cannot provide a preferred independent 3rd party assessment report as described above may submit an alternative assessment, such as a SOC 2 Type 1 assessment report. The Vendor shall provide an explanation for submitting the alternative assessment report. If awarded this contract, a Vendor who submits an alternative assessment report shall submit one of the preferred assessment reports no later than 365 days of the Effective Date of the contract. Timely submission of this preferred assessment report shall be a material requirement of the contract.
 - (iii) An IaaS vendor cannot provide a certification or assessment report for a SaaS provider UNLESS permitted by the terms of a written agreement between the two vendors and the scope of the IaaS certification or assessment report clearly includes the SaaS solution.
- (c) Additional Security Documentation. Prior to contract award, the State may in its discretion require the Vendor to provide additional security documentation, including but not limited to vulnerability assessment reports and penetration test reports. The awarded Vendor shall provide such additional security documentation upon request by the State during the term of the contract.

4) General Modifications to the License Agreement:

- a) The following sections of the of the Licensor’s Agreement shall have **no force or effect**:
 - i) Footer “Confidential”
 - ii) 1.17. “Order Form”
 - iii) 3. Fees; Payment Terms.
 - iv) 4. Confidentiality and Data Security.
 - v) 6. Limitation of Liability.
 - vi) 7.1 Term.
 - vii) 7.2 Termination.
 - viii) 8.2 Customer Indemnification.
 - ix) 9.1 Entire Agreement and Controlling Documents.
 - x) 9.2 Assignment.

- xi) 9.3 Governing Law.
 - xii) 9.6 Publicity.
- b) The following sections of the Licensor's Agreement shall be **modified** as follows:
- i) The first paragraph:

This Master Software License, SaaS and Services Agreement (the "Agreement"), effective the date of last signature_(the "Effective Date"), is made by and between CloudBolt Software, Inc. ("CloudBolt"), and the North Carolina Department of Information Technology (NCDIT), a North Carolina agency with a principal place of business at 3700 Wake Forest Road, Raleigh, 27609 ("Customer"). CloudBolt and Customer may each be individually referred to as a "Party" or collectively as the "Parties".
 - ii) 1. Definitions
 - 1.1 "Affiliates" is supplemented as follows: "North Carolina State agencies which have received written approval from the NCDIT to purchase the services offered and which agrees to abide by all terms and conditions of this Addendum."
 - 1.14 License Term" means the term of the license for the Software as set forth in the Reseller's ordering documents and any renewal of the License Term.
 - 1.19 "Professional Services" means those development, set-up, integration, configuration or consulting training services as specified on Reseller's ordering documents.
 - iii) 5.2 Software Warranty. CloudBolt warrants that the Software will substantially conform to the applicable Documentation, provided that the Software: (a) has been properly installed and used at all times and in accordance with the applicable Documentation; and (b) has not been modified or added to by persons other than CloudBolt or its authorized representative. CloudBolt will, at its own expense and as its sole obligation and Customer's exclusive remedy by CloudBolt for any breach of the foregoing warranty, either replace the applicable Software or correct any reproducible error in the Software reported to CloudBolt by Customer in writing. If CloudBolt determines that it is unable to correct the error or replace the Software, Customer's right to use such Software will terminate. The remedies set out in this subsection are Customer's sole remedies from CloudBolt for breach of the above warranty.
 - iv) 7.3 Effect of Termination. Upon any termination or expiration of this Agreement or any applicable Order Form, CloudBolt shall no longer provide the applicable Software and Services to Customer and Customer shall cease and cause its Users to cease using the Services and the Software. Except as expressly provided herein, termination of this Agreement by either party will be a nonexclusive remedy for breach and will be without prejudice to any other right or remedy of such party.
 - v) 8.1 CloudBolt Indemnification. Subject to Section 8.3 below, CloudBolt will indemnify, defend and hold Customer harmless from and against any and all Losses incurred arising out of or in connection with a claim, suit, action, or proceeding brought by any

- third party against Customer alleging that the use of the Services or Software as permitted hereunder infringes any patent, copyright or trademark, or constitutes a misappropriation of a trade secret of a third party. Excluded from the above indemnification obligations are claims to the extent arising from (a) use of the Services or Software in violation of this Agreement or applicable law, (b) use of the Services or Software after CloudBolt notifies Customer to discontinue use because of an infringement claim, (c) any claim relating to any third party Data or Customer Data, (d) modifications to the Services or Software made other than by CloudBolt (where the claim would not have arisen but for such modification), (e) the combination, operation, or use of the Services or Software with materials which were not provided by CloudBolt, to the extent that Customer's liability for such claim would have been avoided in the absence of such combination, operation, or use; or (f) compliance by CloudBolt with Customer's custom requirements or specifications if and to the extent such compliance with Customer's custom requirements or specifications resulted in the infringement. If the Services or Software are held to infringe, CloudBolt will, at its own expense, in its sole discretion use commercially reasonable efforts either (a) to procure a license that will protect Customer against such claim without cost to Customer; (b) to replace the Services or Software with non-infringing Services or Software; or (c) if (a) and (b) are not commercially feasible, terminate the Agreement.
- vi) 9.7 Force Majeure. Nonperformance of either party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing party.
- vii) Exhibit A Subscription Service
- a. "Order Form" shall be replaced with "the applicable IFB or Reseller ordering documents".
 - b. The beginning phrase ("Neither the Customer nor its Users shall use the Subscription Service to:") of the second (2nd) sentence of 4. Restrictions is modified as follows: "Neither the Customer nor its Users shall knowingly use the Subscription Service to:".
 - c. 10. Data Security supplements all State requirements regarding Data security.
- viii) Exhibit B Software Terms
- a. "Order Form" shall be replaced with "the applicable IFB or Reseller ordering documents".
 - b. 1. License Terms, 1.2 Third Party Agent Use. The following shall be added to the end of the paragraph: "This paragraph is applicable only to agents who do not have a separate contract with CloudBolt or Reseller for whom Customer supervises the Agent's work. It does not apply to any Affiliate of Customer."
 - c. 2. Ownership; Protection of Software, 2.4 Audit. The last sentence is hereby deleted in full.
- ix) Exhibit C Professional Service Terms
- a. The last sentence of 7. On-Hold is hereby deleted in full.
- c) Third Party Software, Open Source Software, and flow down terms: Notwithstanding terms and conditions, hyperlinks, or similar references to additional license agreements

of third parties presented in Licensor's Agreement, the State has no financial obligation or liability to Vendor or such third parties under such additional license agreements. The State will not knowingly violate the licensing limitations stated in such additional license agreements.

- d) Clickwrap / universal license by use or installation: Notwithstanding terms of the Licensor's Agreement conditioning the license grant upon acceptance of terms when downloading, installing, using, etc. the software (e.g. by using the software, you accept and agree to the terms and conditions of this agreement), such conditions shall not bind the State or its agencies, and such conditions shall be superseded by this Addendum to the License Agreement.
 - e) Notwithstanding any payment terms in the Licensor's Agreement, the State's payment obligations in its contracts with resellers shall supersede the payment terms in the Licensor's Agreement, and the State shall have no payment obligation to Licensor pursuant to the payment terms in the Licensor's Agreement.
 - f) IP Indemnity – notwithstanding the Licensor's rights to defend its IP and its obligations to indemnify the State, the State shall have the right to participate in any litigation, alternative dispute resolution and settlement of such claims to the extent the State seeks to assert any immunities or defenses applicable to the State as a sovereign government.
 - g) Neither party to this Agreement is entitled to obtain judgment from the other party for attorney fees it has incurred in any litigation between the parties or in defense of any claim asserted by a third party. Either party may seek such equitable relief, costs and fees as permitted by applicable law. Applicable law, for the purpose of this Agreement and all services shall exclude laws of foreign jurisdictions, including but not limited to the European Union General Data Protection Regulation and its implementation in European Countries.
 - h) Notwithstanding any term in the License Agreement prohibiting assignment or transfer of the agreement, transfers authorized by N.C.G.S. § 143A-6 are not prohibited or limited.
 - i) Notwithstanding any merger clauses in the License Agreement, this Addendum shall be read together with the License Agreement as the agreement of the Parties.
 - j) Notwithstanding any term in the License Agreement providing for data transfers, no data or records may be transferred outside of the United States unless specifically authorized by the State. For the avoidance of doubt, the State understands and authorizes such transfers outside of the United States for sales and technical support.
- 5) Certain terms and conditions are required by applicable North Carolina law and regulation and are set forth below. Such terms supersede all conflicting terms in the Licensor's Agreement from the date of execution set forth below. **State Terms and Conditions:**
- a) By executing this Addendum, the undersigned Vendor certifies that: the Licensor's Agreement and this Addendum are entered without collusion (N.C.G.S. § 143B-1354; False certification is a Class I felony.), that none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of

the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (N.C.G.S. § 143-59.2), and that it is not an ineligible Vendor as set forth in N.C.G.S. § 143-59.1. Furthermore, by executing this Addendum, the undersigned certifies to the best of Vendor's knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency.

b) **VENDOR UTILIZATION OF WORKERS OUTSIDE U.S.**

In accordance with N.C.G.S. § 143B-1361(b), Vendor must identify the manner in which it intends to utilize resources or workers located outside the U.S. The State of North Carolina will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award for any such Vendor's offer. The Vendor shall provide the following for any offer or actual utilization or contract performance:

The location of work performed under a state contract by the Vendor, any subcontractors, employees, or other persons performing the contract and whether any of this work will be performed outside the United States.

The corporate structure and location of corporate employees and activities of the Vendors, its affiliates, or any other subcontractors.

Notice of the relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing Services under a state contract outside of the United States.

Any Vendor or subcontractor providing call or contact center Services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center Services are being provided.

Will any work under this contract be performed outside the United States?

X **YES** **NO**

India, Australia, and UK

c) **E-VERIFY Pursuant to N.C.G.S. § 143B-1350(k), the State shall not enter into a contract unless the awarded Vendor and each of its subcontractors comply with the E-Verify requirements of N.C.G.S. Chapter 64, Article 2. Vendors are directed to review the foregoing laws. Any awarded Vendor must submit a certification of compliance with E-Verify to the awarding agency, and on a periodic basis thereafter as may be required by the State.**

d) **EXCLUSIVE REMEDIES AND LIMITATION OF LIABILITY**

For purposes of the exclusive remedies and limitations of liability set forth herein, Vendor shall be deemed to include the Vendor and its employees, agents, representatives, subcontractors, and suppliers and damages shall be deemed to refer collectively to all injuries, damages, losses, liabilities, expenses, or costs incurred.

The Vendor's liability for damages to the State arising under the contract shall be limited to fees paid, or due, according to the Purchase Order.

The foregoing limitation of liability shall not apply to claims covered by other specific provisions including but not limited to Service Level Agreement or Deliverable/Product Warranty compliance, or to claims for injury to persons or damage to tangible personal property caused by Vendor's gross negligence or willful or wanton conduct. This limitation of liability does not apply to contributions among joint tortfeasors under N.C.G.S. § 1B-1 *et seq.*, the receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract. For avoidance of doubt, the Parties agree that the Service Level Agreement and Deliverable/Product Warranty Terms in the Contract are intended to provide the sole and exclusive remedies available to the State under the Contract for the Vendor's failure to comply with the requirements stated therein.

For delays in the delivery or successful Product or Software installation, whichever is applicable, Vendor shall only have liability if the delivery or successful installation date is delayed by more than thirty (30) days by causes not attributable either to the State or to Force Majeure conditions, in which case the State shall have the right, as its remedies:

- To cancel the order without incurring cancellation charges.

Vendor shall only have liability for the default in delivery of Services if such default is occasioned by causes not attributable either to the State or to Force Majeure conditions.

- e) TRANSPORTATION: Shipments of Deliverables shall be made by the Reseller unless the Deliverable is Software delivered electronically directly from the Vendor.
- f) TRAVEL EXPENSES: In the event that the Vendor may be eligible to be reimbursed for travel expenses arising under the performance of this Contract, reimbursement will be at the out-of-state rates set forth in N.C.G.S. § 138-6; as amended from time to time.
- g) PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES: Vendor warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the State for the purpose of obtaining any contract or award issued by the State. Subsequent discovery by the State of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding Agreements. Violations of this provision may result in debarment of the Vendor or Vendor(s) as permitted by 9 NCAC 06B.1206, or other provision of law.
- h) AVAILABILITY OF FUNDS: Any and all payments by the State are expressly contingent upon and subject to the appropriation, allocation, and availability of funds to the Agency for the purposes set forth in this Agreement. If this Agreement or any Purchase Order issued hereunder is funded in whole or in part by federal funds, the Agency's performance and payment shall be subject to and contingent upon the continuing availability of said federal funds for the purposes of the Agreement or Purchase Order. If the term of this Agreement extends into fiscal years subsequent to that in which it is approved, such

continuation of the Agreement is expressly contingent upon the appropriation, allocation, and availability of funds by the N.C. Legislature for the purposes set forth in the Agreement. If funds to effect payment are not available, the Agency will provide written notification to Vendor. If the Agreement is terminated under this paragraph, Vendor agrees to take back any affected Products and software not yet delivered under this Agreement, terminate any Services supplied to the Agency under this Agreement, and relieve the Agency of any further obligation thereof. The State shall remit payment for Services accepted prior to the date of the aforesaid notice in conformance with the payment terms.

- i) **ACCESS TO PERSONS AND RECORDS:** Pursuant to N.C.G.S. § 147-64.7, the Agency, the State Auditor, appropriate federal officials, and their respective authorized employees or agents are authorized to examine all books, records, and accounts of the Vendor insofar as they relate to transactions with any department, board, officer, commission, institution, or other agency of the State of North Carolina pursuant to the performance of this Agreement or to costs charged to this Agreement. The Vendor shall retain any such books, records, and accounts for a minimum of three (3) years after the completion of this Agreement. Additional audit or reporting requirements may be required by any Agency, if in the Agency's opinion, such requirement is imposed by federal or state law or regulation.
- j) **Confidentiality:** In accordance with N.C.G.S. §§ 143B-1350(e) and 143B-1375, and 09 NCAC 06B.0103 and 06B.1001, the State may maintain the confidentiality of certain types of information described in the NC Public Records Act: N.C.G.S. § 132-1 *et seq.* Such information may include trade secrets defined by N.C.G.S. § 66-152 and other information exempted from the Public Records Act pursuant to N.C.G.S. § 132-1.2. Materials must be identified as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type "CONFIDENTIAL". By so marking any page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors that the portions marked confidential meet the requirements of the Rules and Statutes set forth above. **However, under no circumstances shall price information be designated as confidential.** The State may serve as custodian of Vendor's confidential information and not as an arbiter of claims against Vendor's assertion of confidentiality. If an action is brought pursuant to N.C.G.S. § 132-9 to compel the State to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Vendor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys' fees awarded against the State in the action. The State agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor's confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Vendor with respect to the disclosure of Vendor's

confidential information ordered by a court of competent jurisdiction pursuant to N.C.G.S. § 132-9 or other applicable law.

- i) The State may exercise its rights under this subparagraph as necessary or proper, in its discretion, to comply with applicable security regulations or statutes including, but not limited to 26 USC § 6103 and IRS Publication 1075, (Tax Information Security Guidelines for Federal, State, and Local Agencies), HIPAA, 42 USC § 1320(d) (Health Insurance Portability and Accountability Act), any implementing regulations in the Code of Federal Regulations, and any future regulations imposed upon the Department of Information Technology or the N.C. Department of Revenue pursuant to future statutory or regulatory requirements.
 - ii) The Vendor shall protect the confidentiality of all information, data, instruments, studies, reports, records, and other materials provided to it by the Agency or maintained or created in accordance with this Agreement. No such information, data, instruments, studies, reports, records, or other materials in the possession of Vendor shall be disclosed in any form without the prior written consent of the State Agency. The Vendor will have written policies governing access to and duplication and dissemination of all such information, data, instruments, studies, reports, records, and other materials.
- k) **ASSIGNMENT:** Vendor may not assign this Agreement or its obligations hereunder except as permitted by 09 NCAC 06B.1003 and this Paragraph. Any assignee shall affirm this Agreement accepting the terms and conditions and duties as previously agreed, and that Vendor shall affirm that the assignee is fully capable of performing all obligations of Vendor under this Agreement. An assignment may be made, if at all, in writing by the Vendor, Assignee and the State setting forth the foregoing obligation of Vendor and Assignee.
- l) **TERMINATION:** Any notice or termination made under the Agreement shall be transmitted via US Mail, Certified Return Receipt Requested. The period of notice for termination shall begin on the day the return receipt is signed and dated.
- i) The parties may mutually agree to terminate the Agreement by written agreement at any time.
 - ii) Termination For Convenience Without Cause. RESERVED
- m) **GOVERNING LAWS, JURISDICTION, AND VENUE:** This Agreement is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. The place of this Agreement or purchase order, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation, and enforcement shall be determined. Vendor agrees and submits, solely for matters relating to this Agreement, to the jurisdiction of the courts of the State of North Carolina and stipulates that Wake County shall be the proper venue for all matters. Except to the extent the provisions of the Contract are clearly inconsistent therewith, the applicable provisions of the Uniform Commercial Code as modified and adopted in North Carolina shall govern the Agreement. To the extent the Contract entails both the supply of "goods" and "Services," such shall be deemed "goods"

within the meaning of the Uniform Commercial Code, except when deeming such Services as "goods" would result in a clearly unreasonable interpretation.

- n) Attachment A: North Carolina Department of Information Technology Software as a Service (SaaS) Terms and Conditions

Executed by authorized officials as of the day and date indicated below.

CloudBolt Software, Inc. DocuSigned by:
Lucia DeMatteo
99D1971F9198448...
By: _____
Name: Lucia DeMatteo
Title: Senior Director of Legal
Date: 4/13/2023

North Carolina Department of Information Technology

By: *Jim Weaver*
Name: Jim Weaver
Title: Secretary and State CIO
Date: 04/14/2023

ATTACHMENT A

NORTH CAROLINA DEPARTMENT of INFORMATION TECHNOLOGY SOFTWARE as a SERVICE (SaaS) TERMS and CONDITIONS

1) DEFINITIONS:

- a) "Data" includes means information, formulae, algorithms, or other content that the State, the State's employees, agents, and end users upload, create or modify using the Services pursuant to this Agreement. Data also includes user identification information and metadata which may contain Data or from which the State's Data may be ascertainable.
- b) "Deliverable/Product Warranties" shall mean and include the warranties provided for products or deliverables licensed to the State as included in Paragraph 7) c) of these Terms and Conditions unless superseded by a Vendor's Warranties pursuant to Vendor's License or Support Agreements.
- c) "Services" shall mean the duties and tasks undertaken by the Vendor to fulfill the requirements and specifications of this solicitation, including, without limitation, providing web browser access by authorized users to certain Vendor online software applications identified herein, and to related services, such as Vendor hosted Computer storage, databases, Support, documentation, and other functionalities, all as a Software as a Service ("SaaS") solution.
- d) "State" shall mean the State of North Carolina, the Department of Information Technology as an agency, or the agency identified in this solicitation as the Purchasing Agency and Award Authority.
- e) "Support" includes provision of ongoing updates and maintenance for the Vendor online software applications, and as may be specified herein, consulting, training, and other support Services as provided by the Vendor for SaaS tenants receiving similar SaaS Services.

2) **ACCESS AND USE OF SAAS SERVICES:** Reserved.

3) **WARRANTY OF NON-INFRINGEMENT; REMEDIES.** Reserved.

4) **ACCESS AVAILABILITY; REMEDIES:** Reserved,

5) **EXCLUSIONS:** Reserved.

6) **PERFORMANCE REVIEW AND ACCOUNTABILITY.** Reserved.

7) **LIMITATION OF LIABILITY: Limitation of Vendor's Contract Damages Liability:**

- a) Where Services are under the State's exclusive management and control, the Vendor shall not be liable for direct damages caused by the State's failure to fulfill any State responsibilities of assuring the proper use, management and supervision of the Services and programs, audit controls, operating methods, office procedures, or for establishing all proper checkpoints necessary for the State's intended use of the Services.
- b) The Vendor's liability for damages to the State arising under the contract shall be limited to the amount of fees paid for the twelve (12) months prior to the claim.
- c) The foregoing limitation of liability shall not apply to claims covered by other specific provisions including but not limited to Service Level Agreement or Deliverable/Product Warranty compliance, or to claims for injury to persons or damage to tangible personal property, gross negligence or willful or wanton conduct. This limitation of liability does not apply to contributions among joint tortfeasors under N.C.G.S. § 1B-1 et seq., the

receipt of court costs or attorney's fees that might be awarded by a court in addition to damages after litigation based on this Contract. For avoidance of doubt, the Parties agree that the Service Level Agreement and Deliverable/Product Warranty Terms in the Contract are intended to provide the sole and exclusive remedies available to the State under the Contract for the Vendor's failure to comply with the requirements stated therein.

8) Vendor's Liability for Injury to Persons or Damage to Property:

- a) The Vendor shall be liable for damages arising out of personal injuries and/or damage to real or tangible personal property of the State, employees of the State, persons designated by the State for training, or person(s) other than agents or employees of the Vendor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Deliverables either at the Vendor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Vendor.
- b) The Vendor agrees to indemnify, defend and hold the Agency and the State and its Officers, employees, agents and assigns harmless from any liability relating to personal injury or injury to real or tangible personal property, accruing or resulting to any other person, firm or corporation furnishing or supplying work, Services, materials or supplies in connection with the performance of this Agreement, whether tangible or intangible, arising out of the ordinary negligence, willful or wanton negligence, or intentional acts of the Vendor, its officers, employees, agents, assigns or subcontractors.
- c) Vendor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Vendor.

9) MODIFICATION OF SERVICES: If Vendor modifies or replaces the Services provided to the State and other tenants, and if the State has paid all applicable Subscription Fees, the State shall be entitled to receive, at no additional charge, access to a newer version of the Services that supports substantially the same functionality as the then accessible version of the Services. Newer versions of the Services containing substantially increased functionality may be made available to the State for an additional subscription fee. In the event of either of such modifications, the then accessible version of the Services shall remain fully available to the State until the newer version is provided to the State and accepted. If a modification materially affects the functionality of the Services as used by the State, the State, at its sole option, may defer such modification.

10) TRANSITION PERIOD:

- a) For ninety (90) days, either prior to the expiration date of this Agreement, or in the event of termination of the contract by the State with cause or Vendor without cause, upon notice of termination of this Agreement, Vendor shall assist the State, upon written request, in extracting and/or transitioning all Data in the format determined by the State ("Transition Period").
- b) RESERVED.
- c) During the Transition Period, Services access shall continue to be made available to the State without alteration.
- d) RESERVED.

- e) Upon termination, and unless otherwise stated in an SLA, and after providing the State Data to the State as indicated above in this section with acknowledged receipt by the State in writing, the Vendor shall permanently destroy or render inaccessible any portion of the State Data in Vendor's possession or control following the completion and expiration of all obligations in this section. Within thirty (30) days, Vendor shall issue a written statement to the State confirming the destruction or inaccessibility of the State's Data.
- f) The State, at its option, may purchase additional Transition services as may be agreed upon in a supplemental agreement.

11) **TRANSPORTATION:** Reserved.

12) **TRAVEL EXPENSES:** Reserved.

13) **PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES:** Reserved.

15) **PAYMENT TERMS:** Reserved.

16) **ACCEPTANCE CRITERIA:** Reserved.

17) **CONFIDENTIALITY:** Reserved.

18) **SECURITY OF STATE DATA:**

- a) All materials, including software, Data, information, and documentation provided by the State to the Vendor (State Data) during the performance or provision of Services hereunder are the property of the State of North Carolina and must be kept secure and returned to the State or destroyed. The Vendor will protect State Data in its hands from unauthorized disclosure, loss, damage, destruction by natural event, or other eventuality. Proprietary Vendor materials shall be identified to the State by Vendor prior to use or provision of Services hereunder and shall remain the property of the Vendor. A license to any derivative works of any Vendor proprietary materials prepared or created during the performance of provision of Services hereunder shall be provided to the State as part of the Services and ownership of all Deliverables shall remain with the Vendor. The Vendor shall not access State User accounts, or State Data, except (i) during data center operations, (ii) in response to service or technical issues, (iii) as required by the express terms of this contract, or (iv) at State's written request. The Vendor shall protect the confidentiality of all information, Data, instruments, studies, reports, records, and other materials provided to it by the State or maintained or created in accordance with this Agreement. No such information, Data, instruments, studies, reports, records, and other materials in the possession of Vendor shall be disclosed in any form without the prior written agreement with the State. The Vendor will have written policies governing access to and duplication and dissemination of all such information, Data, instruments, studies, reports, records, and other materials.
- b) The Vendor shall not store or transfer non-public State data outside of the United States. This includes backup data and Disaster Recovery locations. The Service Provider will permit its personnel and contractors to access State of North Carolina data remotely only as required to provide technical support.
- c) Protection of personal privacy and sensitive data. The Vendor acknowledges its responsibility for securing any restricted or highly restricted data, as defined by the Statewide Data Classification and Handling Policy (<https://it.nc.gov/document/statewide-data-classification-and-handling-policy>) that is collected by the State and stored in any

- Vendor site or other Vendor housing systems including, but not limited to, computer systems, networks, servers, or databases, maintained by Vendor or its agents or subcontractors in connection with the provision of the Services. The Vendor warrants, at its sole cost and expense, that it shall implement processes and maintain the security of data classified as restricted or highly restricted; provide reasonable care and efforts to detect fraudulent activity involving the data; and promptly notify the State of any breaches of security within 24 hours of confirmation as required by N.C.G.S. § 143B-1379.
- d) The Vendor will provide and maintain secure backup of the State Data. The Vendor shall implement and maintain secure passwords for its online system providing the Services, as well as all appropriate administrative, physical, technical and procedural safeguards at all times during the term of this Agreement to secure such Data from Data Breach, protect the Data and the Services from loss, corruption, unauthorized disclosure, and the introduction of viruses, disabling devices, malware and other forms of malicious or inadvertent acts that can disrupt the State's access to its Data and the Services. The Vendor will allow periodic back-up of State Data by the State to the State's infrastructure as the State requires or as may be provided by law.
 - e) The Vendor shall certify to the State:
 - i) The sufficiency of its security standards, tools, technologies, and procedures in providing Services under this Agreement.
 - ii) That the system used to provide the Subscription Services under this Contract has and will maintain a valid 3rd party security certification not to exceed 1 year and is consistent with the data classification level and security controls appropriate for low or moderate information system(s) per the National Institute of Standards and Technology NIST 800-53 revision 4. The State reserves the right to independently evaluate, audit, and verify such requirements.
 - iii) That the Services will comply with the following:
 - (1) Any DIT security policy regarding Cloud Computing, and the DIT Statewide Information Security Policy Manual; to include encryption requirements as defined below:
 - (a) The Vendor shall encrypt all non-public data in transit regardless of the transit mechanism.
 - (b) For engagements where the Vendor stores sensitive personally identifiable or otherwise confidential information, this data shall be encrypted at rest. Examples are social security number, date of birth, driver's license number, financial data, federal/state tax information, and hashed passwords. The Vendor's encryption shall be consistent with validated cryptography standards as specified in National Institute of Standards and Technology FIPS140-2, Security Requirements. The key location and other key management details will be discussed and negotiated by both parties. When the Service Provider cannot offer encryption at rest, it must maintain, for the duration of the contract, cyber security liability insurance coverage for any loss resulting from a data breach. Additionally, where encryption of data at rest is not possible, the Vendor must describe existing security measures that provide a similar level of protection;
 - (2) Privacy provisions of the Federal Privacy Act of 1974;

- (3) The North Carolina Identity Theft Protection Act, N.C.G.S. Chapter 75, Article 2A (e.g., N.C.G.S. §§ 75- 65 and -66);
 - (4) The North Carolina Public Records Act, N.C.G.S. Chapter 132; and
 - (5) Applicable Federal, State and industry standards and guidelines including, but not limited to, relevant security provisions of the Payment Card Industry (PCI) Data Security Standard (PCIDSS) including the PCIDSS Cloud Computing Guidelines, Criminal Justice Information, The Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA);
 - (6) Any requirements implemented by the State under N.C.G.S. §§ 143B-1376 and - 1377.
- f) Security Breach. "Security Breach" under the NC Identity Theft Protection Act (N.C.G.S. § 75-60 *et seq.*) means (1) any circumstance pursuant to which applicable Law requires notification of such breach to be given to affected parties or other activity in response to such circumstance (e.g., N.C.G.S. § 75-65); or (2) any actual, attempted, suspected, threatened, or reasonably foreseeable circumstance that compromises, or could reasonably be expected to compromise, either Physical Security or Systems Security (as such terms are defined below) in a fashion that either does or could reasonably be expected to permit unauthorized Processing (as defined below), use, disclosure or acquisition of or access to any the State Data or state confidential information. "Physical Security" means physical security at any site or other location housing systems maintained by Vendor or its agents or subcontractors in connection with the Services. "Systems Security" means security of computer, electronic or telecommunications systems of any variety (including data bases, hardware, software, storage, switching and interconnection devices and mechanisms), and networks of which such systems are a part or communicate with, used directly or indirectly by Vendor or its agents or subcontractors in connection with the Services. "Processing" means any operation or set of operations performed upon the State Data or State confidential information, whether by automatic means, such as creating, collecting, procuring, obtaining, accessing, recording, organizing, storing, adapting, altering, retrieving, consulting, using, disclosing, or destroying.
- g) Breach Notification. In the event Vendor becomes aware of any Security Breach due to Vendor acts or omissions other than in accordance with the terms of the Agreement, Vendor shall, at its own expense, (1) immediately notify the State's Agreement Administrator of such Security Breach and perform a root cause analysis thereon, (2) investigate such Security Breach, (3) provide a remediation plan, acceptable to the State, to address the Security Breach and prevent any further incidents, (4) conduct a forensic investigation to determine what systems, data and information have been affected by such event; and (5) cooperate with the State, and any law enforcement or regulatory officials, credit reporting companies, and credit card associations investigating such Security Breach. The State shall make the final decision on notifying the State's persons, entities, employees, service providers and/or the public of such Security Breach, and the implementation of the remediation plan. If a notification to a customer is required under any Law or pursuant to any of the State's privacy or security policies, then notifications to all persons and entities who are affected by the same event (as reasonably determined by the State) shall be considered legally required.

- h) Notification Related Costs. Vendor shall reimburse the State for all Notification Related Costs incurred by the State arising out of or in connection with any such Security Breach due to Vendor acts or omissions other than in accordance with the terms of the Agreement resulting in a requirement for legally required notifications. "Notification Related Costs" shall include the State's internal and external costs associated with addressing and responding to the Security Breach, including but not limited to: (1) preparation and mailing or other transmission of legally required notifications; (2) preparation and mailing or other transmission of such other communications to customers, agents or others as the State deems reasonably appropriate; (3) establishment of a call center or other communications procedures in response to such Security Breach (e.g., customer service FAQs, talking points and training); (4) public relations and other similar crisis management services; (5) legal and accounting fees and expenses associated with the State's investigation of and response to such event; and (6) costs for credit reporting services that are associated with legally required notifications or are advisable, in the State's opinion, under the circumstances. If the Vendor becomes aware of any Security Breach which is not due to Vendor acts or omissions other than in accordance with the terms of the Agreement, Vendor shall immediately notify the State of such Security Breach, and the parties shall reasonably cooperate regarding which of the foregoing or other activities may be appropriate under the circumstances, including any applicable Charges for the same.
- i) Vendor shall allow the State reasonable access to Services security logs, latency statistics, and other related Services security data that affect this Agreement and the State's Data, at no cost to the State.
- j) In the course of normal operations, it may become necessary for Vendor to copy or move Data to another storage destination on its online system, and delete the Data found in the original location. In any such event, the Vendor shall preserve and maintain the content and integrity of the Data, except by prior written notice to, and prior written approval by, the State.
- k) Remote access to Data from outside the continental United States, including, without limitation, remote access to Data by authorized Services support staff in identified support centers, is prohibited unless approved in advance by the State Chief Information Officer or the Using Agency.
- l) In the event of temporary loss of access to Services, Vendor shall promptly restore continuity of Services, restore Data in accordance with this Agreement and as may be set forth in an SLA, restore accessibility of Data and the Services to meet the performance requirements stated herein or in an SLA. As a result, Service Level remedies will become available to the State as provided herein, in the SLA or other agreed and relevant documents. Failure to promptly remedy any such temporary loss of access may result in the State exercising its options for assessing damages under this Agreement.
- m) In the event of disaster or catastrophic failure that results in significant State Data loss or extended loss of access to Data or Services, Vendor shall notify the State by the fastest means available and in writing, with additional notification provided to the State Chief Information Officer or designee of the contracting agency. Vendor shall provide such notification within twenty-four (24) hours after Vendor reasonably believes there has

been such a disaster or catastrophic failure. In the notification, Vendor shall inform the State of: (1) The scale and quantity of the State Data loss; (2) What Vendor has done or will do to recover the State Data from backups and mitigate any deleterious effect of the State Data and Services loss; and (3) What corrective action Vendor has taken or will take to prevent future State Data and Services loss. (4) If Vendor fails to respond immediately and remedy the failure, the State may exercise its options for assessing damages or other remedies under this Agreement. Vendor shall investigate of the disaster or catastrophic failure and shall share the report of the investigation with the State. The State and/or its authorized agents shall have the right to lead (if required by law) or participate in the investigation. Vendor shall cooperate fully with the State, its agents and law enforcement.

- n) In the event of termination of this contract, cessation of business by the Vendor or other event preventing Vendor from continuing to provide the Services, Vendor shall not withhold the State Data or any other State confidential information or refuse for any reason, to promptly return to the State the State Data and any other State confidential information (including copies thereof) if requested to do so on such media as reasonably requested by the State, even if the State is then or is alleged to be in breach of the Agreement. As a part of Vendor's obligation to provide the State Data pursuant to this Paragraph 18) n), Vendor will also provide the State documentation for the State to use, translate, interpret, extract and convert the State Data.
 - o) Secure Data Disposal. When requested by the State, the Vendor shall destroy all requested data in all of its forms, for example: disk, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST) approved methods and certificates of destruction shall be provided to the State.
- 19) **ACCESS TO PERSONS AND RECORDS:** Reserved.
 - 20) **ASSIGNMENT:** Reserved.
 - 21) **NOTICES:** Any notices required under this Agreement should be delivered to the Agreement Administrator for each party. Unless otherwise specified in the Solicitation Documents, any notices shall be delivered in writing by U.S. Mail, Commercial Courier, email, facsimile or by hand.
 - 22) **TITLES AND HEADINGS:** Titles and Headings in this Agreement are used for convenience only and do not define, limit, or proscribe the language of terms identified by such Titles and Headings.
 - 23) **AMENDMENT:** This Agreement may not be amended orally or by performance. Any amendment must be made in written form and signed by duly authorized representatives of the State and Vendor.
 - 24) **TAXES:** Reserved.
 - 25) **GOVERNING LAWS, JURISDICTION, AND VENUE:** Reserved.
 - 26) **DEFAULT:** Reserved.
 - 27) **FORCE MAJEURE:** Reserved.
 - 28) **COMPLIANCE WITH LAWS:** The Vendor and the State shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and the provision of Services hereunder, including those of federal, state, and local agencies having jurisdiction and/or authority.

29) **TERMINATION:** Reserved.

30) **DISPUTE RESOLUTION:** The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the State shall be submitted in writing to the Vendor's Agreement Administrator for decision. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Agreement. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Agreement, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

31) **SEVERABILITY:** In the event that a court of competent jurisdiction holds that a provision or requirement of this Agreement violates any applicable law, each such provision or requirement shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Agreement shall remain in full force and effect. All promises, requirement, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable federal or State statute, including statutes of repose or limitation.

32) **FEDERAL INTELLECTUAL PROPERTY BANKRUPTCY PROTECTION ACT:** The Parties agree that the State shall be entitled to any and all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. § 365(n), and any amendments thereto.

33) **ELECTRONIC PROCUREMENT:** Reserved.

CLOUDBOLT

MASTER SOFTWARE LICENSE, SAAS AND SERVICES AGREEMENT

This Master Software License, SaaS and Services Agreement (the “Agreement”), effective April 18, 2023 (the “Effective Date”), is made by and between CloudBolt Software, Inc. (“CloudBolt”), and North Carolina Department of Information Technology, a North Carolina State Agency with a principal place of business at 3700 Wake Forest Road, Raleigh, NC 27609 (“Customer”). CloudBolt and Customer may each be individually referred to as a “Party” or collectively as the “Parties”.

1. DEFINITIONS

1.1 “Affiliates” means any corporation, partnership or other entity now existing or hereafter organized that directly or indirectly controls, is controlled by or under common control with a Party. For purposes of this definition “control” means the direct possession of a majority of the outstanding voting securities of an entity.

1.2 “Client Software” is any desktop client software included in the Subscription Service that is made available to Customer by CloudBolt for installation on end user computers.

1.3 “CloudBolt Data” means all Data made available by CloudBolt to Customer in connection with the Customer’s use of the Subscription Service.

1.4 “CloudBolt Technology” means all of CloudBolt’s proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer by CloudBolt in providing the Subscription Service.

1.5 “Confidential Information” has the meaning given to it in Section 4.1.

1.6 “Connector” means a component of the Software that connects the Software to technologies and resources the Software manages.

1.7 “Data” means text, images, documents, materials and all other forms of data or communication.

1.8 “Documentation” means the documentation for the Software or Subscription Service generally supplied by CloudBolt to assist its customers in the use of the Software or Subscription Service, including user and system administrator guides and manuals and other written materials, including the software functional specifications.

1.9 “Employee” means a full-time or part-time employee of Customer.

1.10 “Feedback” means any Customer provided feedback and reports about any errors, problems, or defects in, or suggestions for changes and improvement to the Software or Subscription Service.

1.11 “HIPAA” means the Health Insurance Portability and Accountability Act, as amended and supplemented.

1.12 “Intellectual Property Rights” means all worldwide intellectual property rights, including without limitation, copyrights, trademarks, service marks, trade secrets, know how, inventions, patents, patent applications, moral rights and all other proprietary rights, whether registered or unregistered.

1.13 “License Key” means a serial number that enables Customer to activate and use the Software for the License Term and quantity of VMs licensed.

1.14 “License Term” means the term of the license for the Software as set forth in the Order Form and any renewal of the License Term.

1.15 “Losses” means all claims, actions, proceedings, damages, losses, liabilities and expenses, including reasonable attorney fees.

1.16 “Open Source Software” or “OSS” means software components that are licensed under a license approved by the Open Source Initiative or similar open source or freeware license.

1.17 “Order Form” means each CloudBolt ordering document signed by duly authorized representatives of both Parties which references this Agreement, identifies the specific Software, Subscription Service or Professional Service ordered by Customer from CloudBolt, sets forth the prices for the Software license, Subscription Service and/or Professional Services and contains other applicable terms and conditions. The initial Order Form and any additional Order Forms entered into by the Parties are incorporated herein by reference.

1.18 “Maintenance Services” means CloudBolt’s maintenance and support services for the Software as set forth in Section 3 of Exhibit B hereto.

1.19 “Professional Services” means those development, set-up, integration, configuration, consulting training services and/or standard project packages defined on CloudBolt’s website and the applicable Order Form, if and as specified on an Order Form to be provided by CloudBolt.

1.20 “Server” or “VM” means any physical computer, hardware based device, virtual machine or cloud compute instance, that is capable of running an operating system or serves as a software container that can run a virtualized instance of an operating system.

1.21 “Services” means the Subscription Service, Maintenance Services and any Professional Services provided by CloudBolt pursuant to Section 2.1 hereof. Customer may order the Subscription Service, Maintenance Services and/or Professional Services from CloudBolt via an Order Form.

1.22 “Software” means the object or interpreted code of the computer software listed in the Order Form, together with any fixes, updates or other software code relating to the foregoing that is provided to Customer pursuant to Maintenance Services and that is not subject to a separate license agreement.

1.23 “Subscription Service” means CloudBolt’s proprietary subscription-based software-as-a-service offering set forth and described on the applicable Order Form.

1.24 “Subscription Service Term” means the set term for the Subscription Service designated on an Order Form and any renewal of the Subscription Service Term.

1.25 “Third Party Agent” means a third party outsourcer providing information technology services for Customer’s internal use, pursuant to a written contract.

1.26 “Users” mean individuals who are authorized by the Customer to use the Subscription Service and who have been supplied passwords by the Customer (or by CloudBolt at the Customer’s request). Users consist of any employee of the Customer or its Affiliates and any independent contractor of the Customer or its Affiliates.

2. SUBSCRIPTION SERVICES, SOFTWARE, PROFESSIONAL SERVICES

2.1 Subscription Services; Software, Professional Services. CloudBolt shall provide Customer with a license to use the Software, Subscription Services and/or Professional Services as specified on the Order Form. Customer acknowledges that (i) the Subscription Service is provided in accordance with and is subject to the provisions set forth in this Agreement, the applicable Order Form as well as the additional terms and conditions set forth on Exhibit A hereto, (ii) the Software is provided in accordance with and is subject to the provisions set forth in this Agreement, the applicable Order Form as well as the additional terms and conditions set forth on Exhibit B hereto and (iii) the Professional Services are provided in accordance with and are subject to the provisions set forth in this Agreement, the applicable Order Form, a Statement of Work (if applicable) and the additional terms and conditions set forth in Exhibit C. Any conflict between the terms and conditions set forth in this Agreement and any Order Form or SOW shall be resolved in favor of this Agreement unless such Order Form or SOW is intended to control pursuant to the terms of this Agreement.

2.2 Changes to Order Form. Either party may request a change to an Order Form, and for such purpose shall submit to the other party a written notice (“Change Request”) setting forth the requested change and the reason for such request. Within five (5) business days (or such other period of time as agreed by the parties) after the receipt of such Change Request, the parties shall discuss the necessity, desirability and/or acceptability of the Change Request. When and if both parties have agreed in writing upon the changes, and any resulting change in the estimated (or fixed) fees for the Services, the parties shall complete and execute a new or amended Order Form. In the event that Customer elects to upgrade to a new version of the Software or Subscription Service or elects to license additional functionality and features offered by CloudBolt, the parties will enter into a new or amended Order Form specifying such new version and/or such additional functionality and the additional fees to be paid by Customer.

3. FEES; PAYMENT TERMS

3.1 Fees. Unless payment is being made through a CloudBolt partner, Customer agrees to pay CloudBolt for the Software and Services provided and expenses incurred on the basis and at the rates specified in each Order Form, as the case may be. Unless otherwise set forth on the Order Form, payment shall be due within thirty (30) days after the date of CloudBolt’s invoice and shall be made in US Dollars. Customer agrees to pay a late charge of one and half percent (1 1/2%) per month (or part of a month), or the maximum lawful rate permitted by applicable law, whichever is less, for all amounts, not subject to a good faith dispute, and not paid when due. In addition to paying the applicable fees, Customer shall also pay all pre-approved reasonable travel and out-of-pocket expenses incurred by CloudBolt in connection with any Services rendered.

3.2 Taxes. Customer shall be solely and exclusively responsible for the payment of required federal, state and local taxes arising from or relating to the Software and Services rendered hereunder, except for taxes related to the net income of CloudBolt and any taxes or obligations imposed upon CloudBolt under federal, state and local wage laws.

4. CONFIDENTIALITY AND DATA SECURITY

4.1 Confidential Information. During the Agreement Term (as defined in Section 7), each party will regard any information provided to it by the other party and designated in writing as proprietary or confidential to be confidential (“Confidential Information”). Confidential Information shall also include information which, to a reasonable person familiar with the disclosing party’s business and the industry in which it operates, is of a confidential or proprietary nature. The receiving party shall hold in confidence, and shall not disclose (or permit or suffer its personnel to disclose) any Confidential Information to any person or entity *except* to a director, officer, employee, outside consultant, or advisor of the receiving party or its Affiliates (collectively “Representatives”) who have a need to know such Confidential Information in the course of the performance of their duties for the receiving party and who are bound by a duty of confidentiality no less protective of the disclosing party’s Confidential Information than this Agreement. The receiving party and its Representatives shall use such Confidential Information only for the purpose for which it was disclosed and shall not use or exploit such Confidential Information for its own benefit or the benefit of another without the prior written consent of the disclosing party. Each party accepts responsibility for the actions of its Representatives and shall protect the other party’s Confidential Information in the same manner as it protects its own valuable confidential information, but in no event shall less than reasonable care be used. The parties expressly agree that the terms and pricing of this Agreement are Confidential Information and the Software and Subscription Service are CloudBolt’s Confidential Information. A receiving party shall promptly notify the disclosing party upon becoming aware of a breach or threatened breach hereunder and shall cooperate with any reasonable request of the disclosing party in enforcing its rights. Upon request, a party shall promptly return or destroy all Confidential Information of the other party in its possession.

4.2 Exclusions. Information will not be deemed Confidential Information hereunder if such information: (i) is known prior to receipt from the disclosing party, without any obligation of confidentiality; (ii) becomes known to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (iii) becomes publicly known or otherwise publicly available, except through a breach of this Agreement; or (iv) is independently developed by the receiving party without use of the disclosing party’s Confidential Information. The receiving party may disclose Confidential Information pursuant to the requirements of applicable law, legal process or government regulation, provided that, to the extent legally permissible, it gives the disclosing party reasonable prior written notice to permit the disclosing party to contest such disclosure, and such disclosure is otherwise limited to the required disclosure.

4.3 Injunctive Relief. Notwithstanding any other provision of this Agreement, both parties acknowledge that any use of the disclosing party’s Confidential Information in a manner inconsistent with the provisions of this Agreement may cause the disclosing party irreparable and immediate damage for which remedies other than injunctive relief may be inadequate. Therefore, both parties agree that, in addition to any other remedy to which the disclosing party may be entitled hereunder, at law or equity, the disclosing party shall be entitled to seek injunctive relief to restrain such use in addition to other appropriate remedies available under applicable law.

5. LIMITED WARRANTY

5.1 Subscription Service Warranty. CloudBolt warrants that during the Subscription Service Term, the Subscription Service will conform, in all material respects, with the Documentation. CloudBolt does not warrant that it will be able to correct all reported defects or that use of the Subscription Service will be uninterrupted or error free. CloudBolt makes no warranty regarding features or services provided by third parties. For any breach of the above warranty, CloudBolt will, at no additional cost to Customer, provide remedial services necessary to enable the Subscription Service to conform to the warranty. The Customer will provide CloudBolt with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. Such warranty shall only apply if the Subscription Service has been utilized by the Customer in accordance with the Order Form and this Agreement.

5.2 Software Warranty. CloudBolt warrants that the Software will substantially conform to the applicable Documentation, provided that the Software: (a) has been properly installed and used at all times and in accordance with the applicable Documentation; and (b) has not been modified or added to by persons other than CloudBolt or its authorized representative. CloudBolt will, at its own expense and as its sole obligation and Customer's exclusive remedy for any breach of the foregoing warranty, either replace the applicable Software or correct any reproducible error in the Software reported to CloudBolt by Customer in writing. If CloudBolt determines that it is unable to correct the error or replace the Software, CloudBolt will refund to Customer the license fees actually paid by for the applicable Software (as depreciated over the License Term) and Customer's right to use such Software will terminate. The remedies set out in this subsection are Customer's sole remedies for breach of the above warranty.

5.3 Professional Services Warranty. CloudBolt warrants that any Professional Services provided hereunder shall be provided in a competent and professional manner and in accordance with any specifications set forth in the Order Form in all material respects. If the Professional Services are not performed as warranted, then, upon the Customer's written request, CloudBolt shall promptly re-perform, or cause to be re-performed, such Professional Services, at no additional charge to the Customer. Such warranties and other obligations shall survive for thirty (30) days following the completion of the Professional Services.

5.4 No Other Warranty. CLOUDBOLT DOES NOT REPRESENT THAT THE SERVICES OR SOFTWARE WILL BE ERROR-FREE OR THAT THE SERVICES OR SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT ALL ERRORS IN THE SERVICES OR SOFTWARE WILL BE CORRECTED OR THAT THE OVERALL SYSTEM THAT MAKES THE SUBSCRIPTION SERVICE AVAILABLE (INCLUDING BUT NOT LIMITED TO THE INTERNET, OTHER TRANSMISSION NETWORKS, AND CUSTOMER'S LOCAL NETWORK AND EQUIPMENT) WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE WARRANTIES STATED IN SECTION 5 ABOVE ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY CLOUDBOLT. THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE SERVICES AND SOFTWARE ARE ACCURATE OR SUFFICIENT FOR CUSTOMER'S PURPOSES.

6. LIMITATION OF LIABILITY.

6.1 Consequential Damage Waiver. Except for a violation by Customer of any of CloudBolt's intellectual property rights, a party's breach of Section 4, or damages resulting from a party's gross negligence or willful misconduct, neither party will be liable to the other or any third party for loss of profits, or special, indirect, incidental, consequential or exemplary damages, including lost profits and costs, in connection with the performance of the Services, or the performance of any other obligations under this Agreement, even if it is aware of the possibility of the occurrence of such damages.

6.2 Limitation of Liability. Except as may arise out of CloudBolt's breach of Section 4, the total cumulative liability of CloudBolt to Customer for any and all claims and damages under this Agreement, whether arising by statute, contract, tort or otherwise, will not exceed the Services or Software fees paid by Customer to CloudBolt under the Order Form for the Services or Software which form the subject of the claim during the twelve (12) month period immediately preceding the event giving rise to the claim. The provisions of this Agreement allocate risks between the parties. The pricing set forth in each Order Form reflects this allocation of risk and the limitation of liability specified herein.

7. TERM

7.1 Term. This Agreement will commence on the Effective Date and will continue until otherwise terminated in accordance with this Section 7 ("Agreement Term"). The Subscription Term and/or License Term shall be the term set forth on the Order Form. Unless either Party provides thirty (30) days prior written notice to the other Party of its intent not to renew an Order Form, upon the expiration of the initial Subscription Term, License Term or any renewal term of such Order Form, the Order Form will automatically renew for a term equal in duration to the initial Subscription Term and/or License Term of such Order Form. For any renewal term, CloudBolt reserves the right to change or reasonably increase the rates, applicable charges and usage policies and to introduce new charges for the renewing Order Form by providing Customer written notice thereof (which notice may be provided by e-mail) at least thirty (30) days prior to the renewal term for which the changes or increases will take effect.

7.2 Termination. Notwithstanding the foregoing, either party may terminate this Agreement or any Order Form (i) immediately in the event of a material breach of this Agreement or any such Order Form by the other party that is not cured within thirty (30) days of written notice thereof from the other party, or (ii) immediately if the other party ceases doing business or is the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding, that is not dismissed within sixty (60) days of filing. Termination of an Order Form shall not be deemed a termination of this Agreement. Termination of this Agreement shall, however, terminate all outstanding Order Forms. Either party may also terminate this Agreement upon no less than thirty (30) days' prior written notice to the other party for any reason, if at such time there are no outstanding Order Forms then currently in effect. All rights and obligations of the parties which by their nature are reasonably intended to survive such termination or expiration will survive termination or expiration of this Agreement and each Order Form.

7.3 Effect of Termination. Upon any termination or expiration of this Agreement or any applicable Order Form, CloudBolt shall no longer provide the applicable Software and Services to Customer and Customer shall cease and cause its Users to cease using the Services and the Software. Upon termination of this Agreement or any applicable Order Form for the Subscription Service by CloudBolt due to Customer's uncured breach, in addition to any other remedies CloudBolt may have for such breach at law or in equity, Customer shall pay CloudBolt for all fees that had accrued prior to the termination date and, as liquidated damages and not as a penalty, Customer shall continue to pay CloudBolt for all monthly license fees that would have continued to accrue through the end of the then current term of the Order Form had it not been so terminated. Except as expressly provided herein,

termination of this Agreement by either party will be a nonexclusive remedy for breach and will be without prejudice to any other right or remedy of such party.

8. INDEMNIFICATION

8.1 CloudBolt Indemnification. Subject to Section 8.3 below, CloudBolt will indemnify, defend and hold Customer harmless from and against any and all Losses incurred arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against Customer alleging that the use of the Services or Software as permitted hereunder infringes any patent, copyright or trademark, or constitutes a misappropriation of a trade secret of a third party. Excluded from the above indemnification obligations are claims to the extent arising from (a) use of the Services or Software in violation of this Agreement or applicable law, (b) use of the Services or Software after CloudBolt notifies Customer to discontinue use because of an infringement claim, (c) any claim relating to any third party Data or Customer Data, (d) modifications to the Services or Software made other than by CloudBolt (where the claim would not have arisen but for such modification), (e) the combination, operation, or use of the Services or Software with materials which were not provided by CloudBolt, to the extent that Customer's liability for such claim would have been avoided in the absence of such combination, operation, or use; or (f) compliance by CloudBolt with Customer's custom requirements or specifications if and to the extent such compliance with Customer's custom requirements or specifications resulted in the infringement. If the Services or Software are held to infringe, CloudBolt will, at its own expense, in its sole discretion use commercially reasonable efforts either (a) to procure a license that will protect Customer against such claim without cost to Customer; (b) to replace the Services or Software with non-infringing Services or Software; or (c) if (a) and (b) are not commercially feasible, terminate the Agreement or the applicable Order Form and refund to the Customer any prepaid unused fees paid to CloudBolt for the infringing Services or Software and any license fees paid for the Software (as depreciated over a three year straight line basis). The rights and remedies granted Customer under this Section 8.1 state CloudBolt's entire liability, and Customer's exclusive remedy, with respect to any claim of infringement of the intellectual property rights of a third party, whether arising under statutory or common law or otherwise.

8.2 Customer Indemnification. Subject to Section 8.3 below, Customer shall indemnify, defend, and hold CloudBolt harmless from and against any and all Losses resulting from a claim, suit, action, or proceeding brought by any third party against CloudBolt (i) alleging that the Customer Data, or any use thereof, infringes the intellectual property rights or proprietary rights of others, or has caused harm to a third party, or (ii) arising out of Customer's breach of Section 4 of Exhibit A and Sections 2.2 and 2.3 of Exhibit B.

8.3 Indemnification Procedure. The indemnified party shall (i) promptly notify the indemnifying party in writing of any claim, suit or proceeding for which indemnity is claimed, provided that failure to so notify will not remove the indemnifying party's obligation except to the extent it is prejudiced thereby, and (ii) allow the indemnifying party to solely control the defense of any claim, suit or proceeding and all negotiations for settlement; provided that the indemnifying party shall not settle any claim without the indemnified party's prior written consent (such consent not to be unreasonably withheld or delayed). The indemnified party shall also provide the indemnifying party with reasonable cooperation and assistance in defending such claim (at the indemnifying party's cost).

9. GENERAL PROVISIONS

9.1 Entire Agreement and Controlling Documents. This Agreement, including all Exhibits hereto and all Order Forms, contains the entire agreement between the parties with respect to the subject matter hereof, and supersedes all proposals, understandings, representations, warranties, covenants, and any other communications (whether written or oral) between the parties relating thereto and is binding upon the parties and their permitted successors and assigns. Only a written instrument that refers to this Agreement or the applicable Order Forms and that are duly signed by the authorized representatives of both parties may amend this Agreement or such Order Forms. Any inconsistent or conflicting terms and conditions contained in any purchase order issued by Customer shall be of no force or effect, even if the order is accepted by CloudBolt. This Agreement shall be construed and interpreted fairly, in accordance with the plain meaning of its terms, and there shall be no presumption or inference against the party drafting this Agreement in construing or interpreting the provisions hereof.

9.2 Assignment. Neither Party may assign this Agreement or delegate its performance under this Agreement to any third party without obtaining the other Party's prior consent, except that either Party may assign this Agreement in its entirety to (a) its affiliate, or (b) by operation of law or to any successor entity in the event of a Party's transfer of all or substantially all of its assets or stock, merger, spin-off, consolidation, reorganization or other business combination or change of control, so long as the assigning Party provides notice thereof to the other Party. Any attempted assignment or transfer in violation of the foregoing is void. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the Parties and their respective permitted successors and permitted assigns.

9.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, USA without regard to its conflict of law provisions.

9.4 Headings. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

9.5 Relationship of the Parties. CloudBolt and Customer are independent contractors, and nothing in this Agreement shall be construed as making them partners or creating the relationships of employer and employee, master and servant, or principal and agent between them, for any purpose whatsoever. Neither party shall make any contracts, warranties or representations or assume or create any obligations, express or implied, in the other party's name or on its behalf.

9.6 Publicity. Neither party will use, publicize, or issue any press release which includes the name, trademarks, or other proprietary identifying symbol of the other party without the prior written consent of the other party; provided, that CloudBolt may include Customer's name and logo on lists of selected Customers.

9.7 **Force Majeure.** Except for the obligation to make payments, nonperformance of either party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing party.

9.8 **Notices.** Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes (i) on the delivery date if delivered personally to the party to whom the same is directed; (ii) one (1) business day after deposit with a nationally recognized overnight carrier, with written verification of receipt, (iii) five (5) business days after the mailing date whether or not actually received, if sent by U.S. certified mail, return receipt requested, postage and charges pre-paid or any other means of rapid mail delivery for which a receipt is available, to the address of the party set forth on the applicable Order Form; or (iv) upon receipt of confirmation of delivery if sent by email to the email address on the Order Form. Either party may change its physical address or email address by giving written notice of such change to the other party.

9.9 **No Third Party Beneficiaries.** Nothing contained in this Agreement is intended or shall be construed to confer upon any person any rights, benefits or remedies of any kind or character whatsoever, or to create any obligation of a party to any such person.

9.10 **Counterpart and Facsimile Execution.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" (".pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

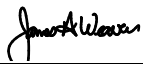
9.11 **Waiver and Severability.** Performance of any obligation required by a party hereunder may be waived only by a written waiver signed by an authorized representative of the other party, which waiver shall be effective only with respect to the specific obligation described therein. The failure of either party to exercise any of its rights under this Agreement will not be deemed a waiver or forfeiture of such rights. The invalidity or unenforceability of one or more provisions of this Agreement will not affect the validity or enforceability of any of the other provisions hereof, and this Agreement will be construed in all respects as if such invalid or unenforceable provision(s) were omitted.

9.12 **Aggregate Data.** CloudBolt shall have the unrestricted right to collect, process, use, distribute, share, disclose, market, exploit, commercialize and display Aggregate Data for any lawful purpose during and after the Agreement Term. "Aggregate Data" means any non-attributable, deidentified, non-regulated analytical information, data, analysis and statistics generated by Customer's use of the Software or Subscription Services, including, but not limited to, the license serial number, the Software's unique identifier, a total count of managed resources, Connectors or total count of users, other pieces of data including compilation of aggregated statistics about the Software, Subscription Services and use thereof, and any anonymous data and learnings regarding use of the Software and/or Subscription Service. As between the parties, CloudBolt owns all right, title and interest in and to the Aggregate Data. CloudBolt will not distribute Aggregate Data in a manner that personally identifies Customer.

CloudBolt and Customer have caused this Agreement to be executed as a document under seal by their duly authorized representatives as of the Effective Date.

Customer:

STATE OF NORTH CAROLINA]

By : 
Name : Jim Weaver
Title : Secretary and State CIO
Date: 04/14/2023

CloudBolt:

CloudBolt Software, Inc.
DocuSigned by:

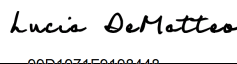
By : 
Name : Lucia DeMatteo
Title : Senior Director of Legal
Date: 4/13/2023

Exhibit A

SUBSCRIPTION SERVICE

In the event that Customer licenses any of CloudBolt's Subscription Services, the following additional terms shall apply:

1. **Subscription Service.** Subject to the terms and conditions of this Agreement, CloudBolt will make the Subscription Service available to Customer for the Subscription Service Term solely for access and use by Customer and its Users in accordance with the terms and conditions of this Agreement, the Documentation, and the Order Form. Customer shall be responsible for each User's compliance with this Agreement. To the extent use of a Subscription Service requires Customer to install Client Software, CloudBolt grants to Customer a limited, non-transferable, non-sublicensable, non-exclusive license during the Subscription Service Term to use the object code form of the Client Software internally in connection with Customer's use of the Subscription Service, subject to the terms and conditions of this Agreement and the Documentation. Any conflict between the terms and conditions set forth in this Agreement and any Order Form shall be resolved in favor of this Agreement. The Customer agrees that purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written comments made by CloudBolt regarding future functionality or features. CloudBolt may provide all or a portion of the Services hereunder through any of its Affiliates.
2. **CloudBolt Technology.** In connection with the performance of the Subscription Service, CloudBolt shall operate and support the Subscription Service's environment, including, without limitation, the CloudBolt Technology, all applicable server hardware, disk storage, firewall protection, server operating systems, management programs, Web server programs, Web Applications, Graphical User Interface, documentation and all other information developed or provided by CloudBolt or its suppliers under the Agreement, as well as all other documents, software, products and services contained or made available to Customer in the course of using the Subscription Service (collectively, the "Subscription Materials").
3. **SLA.** The Subscription Service will also be provided in accordance with the Service Level Agreement attached as Attachment I to Exhibit A hereto.
4. **Restrictions.** Customer is responsible for procuring and maintaining the network connections that connect the Customer to the Subscription Service. The Customer agrees: (a) that only authorized Users are permitted to use the Subscription Service; (b) that it is responsible for authorized Users' actions or failures to act in connection with activities contemplated under this Agreement; and (c) to otherwise take all commercially reasonable steps to protect the Subscription Service and the Documentation from unauthorized use and/or access. Customer is also responsible for all activities conducted under its User logins and for its Users' compliance with this Agreement. Neither the Customer nor its Users shall use the Subscription Service to: (a) send, upload or otherwise transmit any Customer Data that is unlawful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable; (b) upload or otherwise transmit, display or distribute any Customer Data that infringes any trademark, trade secret, copyright or other proprietary or intellectual property rights of any person; (c) upload or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (d) interfere with or disrupt the Subscription Service or networks connected to the Subscription Service; or (e) violate any applicable law or regulation. Customer will also not (and will not permit any third party to): (a) sell, rent, lease, license, distribute, provide access to, sublicense, or otherwise make available any Subscription Service to a third party (except as Affiliates) or in a service bureau or outsourcing offering; (b) use any Subscription Service to provide, or incorporate any Subscription Service into, any general purpose data warehousing service for the benefit of a third party; (c) reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to any Subscription Service, except to the extent expressly permitted by applicable law (and then only upon advance written notice to CloudBolt); or (d) remove or obscure any proprietary or other notices contained in any Subscription Service. Customer agrees not to upload to the Subscription Service any patient, medical or other protected health information regulated by HIPAA or any similar federal or state laws, rules or regulations.
5. **Ownership.** Customer acknowledges and agrees that (i) as between CloudBolt and Customer, all right, title and interest in and to the Subscription Service, the Subscription Materials, including the CloudBolt Technology and all derivatives thereof (including any and all patents, copyrights, trade secret rights, trademarks, trade names and other proprietary rights embodied therein or associated therewith) are and shall remain CloudBolt's or its licensors', and CloudBolt in no way conveys any right or interest in the Subscription Materials, the CloudBolt Technology or the Subscription Service other than a limited license to use them in accordance herewith, and (ii) the Subscription Materials, the CloudBolt Technology and the Subscription Service are works protected by copyright, trade secret, and other proprietary rights and laws. As between the parties, Customer or its licensors retain all right, title and interest (including any and all intellectual property rights) in and to the Customer Data and any modifications made thereto in the course of the operation of the Subscription Service. Subject to the terms of this Agreement, Customer hereby grants to CloudBolt a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, modify, create derivative works of, and display the Customer Data solely to the extent necessary to provide the Subscription Service to Customer, or to prevent or address service or technical problems under this Agreement, or as may be required by law.
6. **Handling of Customer Content Upon Termination.** Customer agrees that following termination of Customer's account and/or use of the Subscription Service, CloudBolt may immediately deactivate Customer's account and that following a reasonable period of not less than 30 days shall be entitled to delete Customer's account from CloudBolt's "live" site. Customer further agrees that CloudBolt shall not be liable to Customer nor to any third party for any termination of Customer access to the Subscription Service or deletion of Customer Content, provided that CloudBolt is in compliance with the terms of this Section 6.
7. **Users: Passwords, Access and Notification.** Customer shall authorize access to and assign unique passwords to the Users. Customer will be responsible for the confidentiality and use of User's passwords. Customer agrees to immediately notify CloudBolt if Customer becomes aware of any loss or theft or unauthorized use of any of Customer's passwords.

8. Modifications to Subscription Service. CloudBolt may make modifications to the Subscription Service or particular components of the Subscription Service from time to time provided that such modifications do not materially degrade any functionality or features of the Subscription Service and CloudBolt will use commercially reasonable efforts to notify Customer of any material modifications.

9. Sufficient Rights in Customer Data. Customer will ensure that its use of the Subscription Service and all Customer Data is at all times compliant with this Agreement, Customer's privacy policies, and all applicable laws and regulations and conventions. Customer is solely responsible for the accuracy, content and legality of all Customer Data. Customer represents and warrants that Customer has sufficient rights in the Customer Data to grant the rights granted to CloudBolt hereunder and that the Customer Data does not infringe or violate the intellectual property, publicity, privacy or other rights of any third party.

10. Data Security. CloudBolt will implement and maintain administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of, and prevention of any unauthorized use, access, processing, destruction, loss, alteration, or disclosure of, the Customer Data, in accordance with applicable industry standards. CloudBolt will notify Customer immediately following discovery of any suspected breach or compromise of the security, confidentiality, or integrity of any Customer Data. Written notification provided pursuant to this paragraph will include a brief summary of the available facts, the status of CloudBolt's investigation, and if known and applicable, the potential number of persons affected by release of data relating to such person.

**ATTACHMENT I
To
Exhibit A**

Service Level Agreement

1. Service Level

1.1 Availability. The Subscription Service will be available 99.9% of the time per quarter, except for any downtime due to Maintenance or a Force Majeure Event (“*Uptime Availability*”). For any partial calendar quarter during which Customer subscribes to the Subscription Service, Uptime Availability will be calculated based on the entire calendar quarter, not just the portion for which Customer subscribed. In addition, unavailability for some specific features or functions within the Subscription Service, while others remain available, will not constitute unavailability of the Subscription Service, so long as the unavailable features or functions are not, in the aggregate, material to the Subscription Service as a whole.

1.2 Maintenance. “Maintenance” shall mean any scheduled maintenance on the Subscription Service or any unplanned maintenance lasting less than 15 minutes.

2. Service Credits. If the Subscription Service does not meet the Uptime Availability in any given calendar quarter (excluding any Maintenance or Force Majeure Event) and this downtime significantly affected Customer’s ability to use the Subscription Service, then CloudBolt will credit Customer with an amount equal to five percent (5%) of the Subscription Service monthly fee for each two hours of general Subscription Service unavailability below 99.9%, up to a maximum of thirty percent (30%) of the Subscription Service monthly fee. Any such credit shall be applied to Customer’s next invoice (or refunded if there are no forthcoming invoices). This credit is Customer’s sole and exclusive remedy. Any obligations of CloudBolt under this Exhibit shall become null and void upon any breach by Customer of the Agreement, including any failure by Customer to meet payment obligations to CloudBolt.

3. Reporting. To file a claim under this Exhibit, Customer must send an email to support@cloudboltsoftware.com with the following details:

- Billing information, including company name, billing address, billing contact and billing contact phone number;
- Downtime information with dates and time periods for each instance of downtime during the relevant period; and
- An explanation of the claim made under this Exhibit, including any relevant calculations.

Claims may only be made on a calendar quarter basis and must be submitted within 10 business days after the end of the relevant quarter, except for periods at the end of a subscription period that do not coincide with a calendar quarter, in which case Customer must make any claim within 10 business days after the end of the subscription period.

All claims will be verified against CloudBolt’s applicable system records. Should any periods of downtime submitted by Customer be disputed, CloudBolt will provide to Customer a record of the Subscription Service availability for the period in question. CloudBolt will only provide records of system availability in response to good faith Customer claims.

Exhibit B**SOFTWARE TERMS**

In the event that Customer licenses any of CloudBolt's Software for installation at a Customer location the following additional terms shall apply:

1. LICENSE TERMS.

- 1.1 **License.** Subject to the terms and conditions of this Agreement, upon the execution of an Order Form by CloudBolt and Customer, CloudBolt grants to Customer a limited, non-exclusive, non-transferable term license to use the Software, only for Customer's internal operations and during the License Term, in accordance with (a) the Documentation; (b) the number of VMs listed on the Order Form and for which have the applicable fees have been paid; and (c) other applicable limitations, if any, set forth in the Order Form. Except for the express licenses granted in this Exhibit B, no other licenses are granted by implication, estoppel or otherwise.
- 1.2 **Third Party Agent Use.** Subject to the terms and conditions of this Agreement, CloudBolt grants Customer a non-exclusive, non-transferable license to permit Customer's Third Party Agents to access, use and/or operate the Software on Customer's behalf for the sole purpose of delivering outsourcing services to Customer. Customer acknowledges and agrees that it is fully responsible for its Third Party Agents' compliance with terms and conditions of this Agreement and that any breach of this Agreement by a Third Party Agent shall be deemed to be a breach by Customer.
- 1.3 **Copies.** Customer may make one copy of the Software for archival purposes only. The copy shall: (a) be kept within Customer's possession or control; (b) include all titles, trademarks, and copyright and restricted rights notices in the original; and (c) be subject to this Agreement. Customer may not otherwise copy the Software without CloudBolt's prior written consent.
- 1.4 **Open Source Software.** The Software may include certain OSS for use in combination with the Software. Such OSS is free and distributed to Customer under the terms set forth in the respective license agreements (the "Open Source Agreements"). This Agreement in no way supplements or detracts from any term or condition of such Open Source Agreements. During the License Term, CloudBolt shall provide a complete listing of all applicable OSS included in the Software upon Customer's request. Each party represents and warrants that it will comply in all material respects with all terms of the applicable Open Source Agreements with respect to all OSS provided to Customer by CloudBolt. CloudBolt further represents and warrants that Customer's use of such OSS as permitted or contemplated by this Agreement and in accordance with the applicable Open Source Agreements shall not subject any software owned by Customer to the terms of any restricted open source license. A "restricted open source license" means any license that contains any "copy left" or other similar obligation or condition that requires (a) that the software covered by the license or any software incorporated into, based on, derived from or distributed with such software be disclosed, distributed or made available in source code form or be licensed under the terms of any Open Source Agreement or (b) the grant of any rights, immunities or covenants under any other software or intellectual property.
- 1.5 **Maintenance.** CloudBolt shall provide Maintenance Services to Customer during the License Term at no additional fee.

2. OWNERSHIP; PROTECTION OF SOFTWARE.

- 2.1 **Ownership.** The Software and Documentation, all copies and portions thereof, and all improvements, enhancements, modifications and derivative works thereof, and all Intellectual Property Rights therein, are and shall remain the sole and exclusive property of CloudBolt and its licensors. Customer's rights to use the Software and Documentation shall be limited to those expressly granted in this Agreement and any applicable Order Form. No other rights with respect to the Software or any related Intellectual Property Rights are implied. Customer is not authorized to use (and shall not permit any third party to use) the Software, Documentation or any portion thereof except as expressly authorized by this Agreement or the applicable Order Form.
- 2.2 **Restrictions.** Customer acknowledges that the Software and the structure, sequence, organization, user interface and source code of the Software constitute valuable trade secrets of CloudBolt. Accordingly, except as expressly authorized by CloudBolt in writing, Customer will not and will not permit any third party to: (a) sell, lease, license, distribute, sublicense or otherwise transfer in whole or in part the Software or Documentation to any third party; (b) decompile, disassemble, reverse engineer, or otherwise attempt to derive source code from the Software, in whole or in part; (c) copy the Software, except for archival purposes, as set out herein; (d) circumvent, enable, modify or provide access, permissions or rights which violate the technical restrictions of the Software as described in this Agreement; (e) use any Connectors that are not described, or exceed the number of VMs listed, in the Order Form; (f) translate, modify or create derivative works based upon the Software; (g) permit any use of or access to the Software by any third party other than Third Party Agents as set forth herein; (h) remove any product identification, proprietary, copyright or other notices contained in the Software; (i) operate the Software on behalf of or for the benefit of any third party; including the operation of any service that is accessed by a third party; or (j) benchmark the operation of the Software without CloudBolt's prior written consent. Customer acknowledges and agrees that Customer may not use the Software in conjunction with, or with the assistance of, any codes, keys, mechanisms, or hardware or software components that are meant to circumvent the protection and that are supplied to Customer by someone other than CloudBolt or one of its authorized distributors.
- 2.3 **Decompilation.** Customer hereby waives any right it may have under any jurisdiction to reverse engineer the Software provided, however, if European Community law is applicable, the restrictions in this Section are limited so that they prohibit such activity only to the maximum extent such activity may be prohibited without violating the EC Directive on the Legal Protection of Computer Programs. Notwithstanding the foregoing, prior to any such legally excused decompiling, disassembly or reverse engineering of the Software, Customer must first issue a written request to CloudBolt for information or assistance and Customer shall refrain from decompiling, disassembling, or otherwise reverse engineering any of the Software unless CloudBolt cannot, or fails, to comply with such request within a commercially reasonable period of time.

- 2.4 **Audit.** During the term of this Agreement and for five (5) years thereafter, CloudBolt, or its third party auditor, may, upon reasonable notice to Customer and on not more than one occasion in any 12-month period (provided that if an audit reveals that if Customer has breached any provision of this Agreement then such audit shall not count toward the limitation of the number of audits that may be conducted in a given period), audit such records to verify that Customer has: (a) used the Software solely in the manner authorized herein; (b) paid all applicable fees; and (c) otherwise complied with the terms of this Agreement and all Order Forms. Audits will be conducted during normal business hours and CloudBolt will use commercially reasonable efforts to minimize the disruption of Customer's normal business activities. Customer agrees to cooperate with CloudBolt and/or its third-party auditor and will promptly pay directly to CloudBolt any underpayments revealed by such audit. Customer will promptly reimburse CloudBolt for all reasonable costs and expenses incurred by CloudBolt for such audit if: (i) such audit reveals an underpayment by Customer of more than five percent (5%) of the fees payable by Customer to CloudBolt for the period audited; or (ii) such audit reveals Customer has materially failed to maintain accurate records of Customer's use of the Software.
- 2.5 **Electronic Reporting.** The Software may periodically transmit analytical information and data about how the Software is being used in Customer's environment. This information consists of only non-attributable, non PCI-regulated data and information, such as the license serial number, the Software's unique identifier, a total count of managed resources, Connectors or total count of users, and other pieces of data intended to help CloudBolt improve the Software. Customer acknowledge and agree that CloudBolt shall have the unrestricted right to use, distribute, market, exploit and display any information, analysis, statistics and other data generated by Customer's use of the Software, including compilation of aggregated statistics about the Software; provided, however, that CloudBolt shall not publicly disclose or distribute any such data unless such data is in an aggregated form that would not permit a third party to identify the data as associated with Customer.
- 2.6 **Export; Government Restricted Rights.** Customer acknowledges that the export of any Software is subject to export or import control and Customer agrees that any Software or the direct or indirect product thereof will not be exported (or re-exported from a country of installation) directly or indirectly, unless Customer obtains all necessary licenses from the U.S. Department of Commerce or other agency as required by law. The Software and the Documentation have been developed at private expense and are sold commercially. They are provided under any U.S. government contracts or subcontracts with the most restricted and the most limited rights permitted by law and regulation. Whenever so permitted, the government and any intermediate buyers will obtain only those rights specified in CloudBolt's standard commercial license. Thus, the Software referenced herein, and the Documentation provided by CloudBolt hereunder, which are provided to any agency of the U.S. Government or U.S. Government contractor or subcontractor at any tier shall be subject to the maximum restrictions on use as permitted by FAR 52.227-19 (June 1987) or DFARS 227.7202-3(a) (Jan. 1, 2000) or successor regulations.

3. MAINTENANCE SERVICES.

1. Definitions

"Business Hours" or **"Business Days"**: means Monday Through Friday 8:00AM to 8:00PM Eastern time, exclusive of Federal US Holidays.

"Error" means any verifiable and reproducible failure of the Software to materially conform to the Documentation. Notwithstanding the foregoing, the term "Error" shall not include any failure of the Software to materially conform to the Documentation that: (a) results from Customer's misuse or improper use of the Software; (b) does not materially affect the operation and use of the Software; (c) results from the modification or addition to the Software that is not part of the Software that CloudBolt makes generally available; or (d) results from Customer's failure to implement in a timely manner any Maintenance Services.

"M&S Period" means the annual period for which Customer has purchased Maintenance Services and any subsequent renewal periods.

"Named Contacts" means the individual(s) identified by Customer as having authority to receive Maintenance Services on behalf of Customer.

"Response Times" shall mean the time between the Customer completes and logs a supportticket with CloudBolt to request interactive technical support and the time CloudBolt responds to such request. Response Times are measured in CloudBolt Business Hours.

"Severity" means the relative impact an Error has on the production use of the Software, as determined by CloudBolt. The following Severity levels are applicable to all Software.

"Severity One" means Customer's use of the Software is completely down, with no immediately available workaround. The Software will not start, or is non-functional in all respects and is negatively affecting or impairing the remote 3rd-party provisioning of virtual instances. Severity One support requires Customer to have dedicated resources available to work on the issue on an ongoing basis during Customer's contractual hours.

"Severity Two" means when major functionality is severely impaired. Although operations may continue in a restricted fashion, a Customer's ability to use the Software has been significantly impaired, with no functional workaround possible. For example, the Software will start, but new instances cannot be provisioned.

"Severity Three" describes a partial Software outage, affecting a non-critical aspect of the functionality. In these cases, either a workaround exists, or the functionality impacted is not required for typical production use. For example, users are not able to provision new instances, but administrators will be able to.

"Severity Four" involves any general usage questions, or issues related to user interface anomalies, artifacts, or rendering issues. An example of this can include a Software user interface page looking different between two different browsers.

"Software Maintenance" means the provision of Major Releases, Minor Releases and Maintenance Releases, if any, to the Software, as well as any corresponding Documentation. Customer's use of such Major Releases, Minor Releases and Maintenance Releases shall be subject to the terms of the Agreement.

“**Maintenance Release**” means a generally available release of the Software that typically provides maintenance corrections or fixes only, designated by CloudBolt by a change in the digit to the right of the second decimal point (e.g. Software 2.0 >> Software 2.0.1).

“**Major Release**” means a generally available release of the Software that contains functional enhancements or extensions, designated by CloudBolt as a change in the digit to the left of the first decimal point (e.g. Software 2.0 >> Software 3.0).

“**Minor Release**” means a generally available release of the Software that introduces a limited amount of new features and functionality, designated by CloudBolt as a change in the digit to the right of the decimal point (e.g. Software 2.0>>Software 2.1).

2. Service Terms

2.1 Provision of M&S. CloudBolt support plans, access methods and Response Times are described in Section 5 hereto. CloudBolt shall provide Software Maintenance and support for Error Severity at the support plan level purchased during the M&S Period, subject to Section 2.2 of this Exhibit B below. CloudBolt will use reasonable efforts to respond to a request for interactive technical support within the Response Times stated in the applicable Support Plan. M&S shall be delivered solely to the Named Contact(s) identified by Customer. CloudBolt is not responsible for lost data or information in the event of Errors or other malfunction of the Software or computers on which the Software is used.

2.2 Supported Releases. Software will be supported according to the following schedule: (a) a Major Release will be supported for a period of twelve (12) months after the commercial release of the next Major Release, but no longer than 2 years and provided always that Customer makes use of the last Minor Release and Maintenance Release of the first mentioned Major Release; (b) a Minor Release will be supported for a period of six (6) months after the commercial release of the next Minor Release, provided always that Customer makes use of the last Maintenance Release of the related Minor release. Non-current Software as per the terms above will not be supported.

2.3 Proper use of Software. CloudBolt’s obligation to provide Maintenance Services is contingent upon the Customer’s proper use and application of the Software. Problems caused by any of the following situations are not included in the Maintenance Services but may be addressed separately upon request at CloudBolt’s then-current hourly rates for consulting subject to then-current standard consulting services terms and conditions:

- (a) accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure of electric power, air conditioning or humidity control; failure of rotation media not furnished by CloudBolt; operation of the Software with other media not in accordance with CloudBolt specifications; or causes other than ordinary use;
- (b) improper installation by Customer or use of the Software that deviates from any operating procedures as specified in the Documentation;
- (c) actual or attempted modification, alteration or addition to the Software undertaken by Customer or any third party;
- (d) the use of third-party software or hardware not specified in the Documentation;
- (e) the failure of Customer to install and implement Software Maintenance;
- (f) any customized deliverables created by CloudBolt for Customer as part of consulting services;
- (g) installing and/or operating the Software in non-supported environments or versions of operating systems, utilities and databases;
or
- (h) any technical issue unrelated to an Error.

2.4 Change in Services. CloudBolt may change or discontinue the scope of Maintenance Services at any time without notice. CloudBolt will provide notification of discontinuance either directly to Customer or through an announcement posted on the CloudBolt website, at least 180 days in advance. CloudBolt will continue to provide Maintenance Services during the 180 days or for the remainder of the then current annual M&S Period, whichever is longer.

2.5 Open Source Software. Maintenance Services is not provided for Open Source Software.

3. Customer Responsibilities.

CloudBolt’s obligations regarding Maintenance Services are subject to the following:

- (i) Customer agrees to receive from CloudBolt communications via e--mail, telephone, and other formats, regarding renewals, quotes, and other topics relating to Maintenance Services (such as communications concerning an Error or other technical issues and the availability of new releases). Customer’s Named Contacts shall cooperate to enable CloudBolt to deliver the Maintenance Services;
- (ii) Customer will ensure that all Named Contact(s) have a reasonable understanding of the Software and the system that it is operating on, and shall be fully aware of Customer’s obligations regarding Confidential Information. Customer is solely responsible for the use of the Software by its personnel and shall properly train its personnel in the use and application of the Software;

(iii) Customer shall promptly report to CloudBolt all Errors with the Software, and shall implement any corrective procedures provided by CloudBolt reasonably promptly after receipt; and

(iv) Customer is solely responsible for protecting and backing up the data and information stored on the computers on which the Software is used and should confirm that such data and information is protected and backed up before contacting CloudBolt. Customer shall be solely responsible for any and all restoration and reconstruction of lost or altered files, data, or programs. Customer will maintain and implement a complete data backup and disaster recovery plan. Customer shall be solely responsible for any and all security of its confidential, proprietary and/or classified information.

4. Termination. CloudBolt may suspend performance of Maintenance Services if Customer fails to fulfill its responsibilities in Section 3 of this Exhibit B. CloudBolt may terminate M&S if such failure continues for thirty (30) days after CloudBolt's written notice of such failure. CloudBolt may terminate Maintenance Services at any time if it is discovered that Customer is currently in breach of the Agreement.

5. Knowledge Base. As part of the Maintenance Services, Customer is entitled to CloudBolt's support portal and knowledge base at no additional charge. The knowledge base is designed to provide 24x7x365 access to comprehensive information on known issues, workarounds, tips and tricks. CloudBolt's technical team regularly creates timely knowledge base articles to assist customers in the self-investigation and resolution of issues and queries.

6. Support Plans and Response Times.

Support Plan CloudBolt's support is defined as follows:

	Standard	24x7	Premier
Support Hours	8 AM – 8 PM ET*	24x7	24x7
Unlimited Online Knowledge Base Access	Included	Included	Included
Unlimited Online Community Support Access	Included	Included	Included
Number of Named Contacts**	Four (4)	Six (6)	Eight (8)

* Excludes Weekends and Federal US Holidays

** Online, Email and Phone support access for Named Contacts. Unlimited number of support cases opened by Named Contacts.

Initial Response

After the Customer creates a case, CloudBolt will use commercially reasonable efforts to respond to Customer within the target response time indicated below for the corresponding severity level and support package.

Severity	Standard	24x7	Premier
1	1 business hour	1 hour	30 minutes
2	2 business hours	2 hours	1 hour
3	4 business hours	4 business hours	2 business hours
4	1 business day	8 business hours	8 business hours

Resolution Process

CloudBolt will address and resolve issues that are within the control of CloudBolt based on the resolution process indicated below for the corresponding severity level. If Customer purchases a Premier Support Package, CloudBolt will provide notification of a target resolution or workaround plan, updates, and escalation based on the process for the corresponding severity level specified below, unless specified otherwise in the Agreement.

Severity	Standard & 24x7	Premier			
		Notification of Resolution Target	Updates	Escalation to CloudBolt Management	Final Resolution
1	Investigate the issue & work continuously until the error is fixed or a temporary workaround is implemented.	Within 4 hours after confirmation the issue is within CloudBolt control	Every hour	If the issue is not resolved within 8 hours after confirmation the issue is within CloudBolt control	If temporary workaround works and permanent code change is required, a dedicated sustaining engineer will be assigned to work on a software fix. A software fix in a form of a patch will be delivered based on level of effort for the fix.

2	Investigate the issue & work during standard business hours until the error is fixed or a temporary workaround is implemented.	Within 48 hours after confirmation the issue is within CloudBolt control	Every 4 hours	If the issue is not resolved within 3 business days after confirmation the issue is within CloudBolt control	If temporary workaround works and permanent code change is required, a dedicated sustaining engineer will be assigned to work on a software fix. A software fix in a form of a patch will be delivered based on level of effort for the fix.
3	Investigate the issue & work during standard business hours. Typically fixed in next release.	Within 4 days after confirmation the issue is within CloudBolt control	Every day	If the issue is not resolved within 5 business days after confirmation the issue is within CloudBolt control	If temporary workaround works and permanent code change is required, a dedicated sustaining engineer will be assigned to work on a software fix. A software fix in a form of a patch will be delivered with the next product/version release.
4	Does not require immediate response and is typically a documentation or configuration question.	Within 7 days after confirmation the issue is within CloudBolt control	Every day	As agreed by the parties	N/A

Temporary resolution and workaround will be measured from the time our support engineers have access to customer's relevant third party engineers and the CloudBolt platform. Our response times will be extended by the time in excess of fifteen minutes while the Customer provides the following: (a) access to Customer's CloudBolt environment to our Premier Support engineers within fifteen minutes (15 mins) of our initial receipt of the support request; and (b) availability and access to the relevant third party engineers within fifteen minutes (15 mins) of our initial receipt of the support request.

Support Access Methods

All access methods are subject to the Customer's account being in good standing, and are subject to the Business Hour and Business Day restrictions as defined above, in addition to Customer's purchased support level.

Email

Support requests may be sent to support@cloudboltsoftware.com. If submitting an issue via this method, Customer must include the observed Severity Level in the email subject (e.g. "Subject: Severity 1 Application will not start")

Web

The CloudBolt self-service support portal is accessible under the "Support" section on CloudBolt's Support Home page: <http://support.cloudboltsoftware.com>. In the self-service portal, Customer is able to self-select the observed Severity Levels. Although any user of Customer is able to submit a ticket via the Self-Service portal, only Named Contacts will receive a response. To enter the Self-Service Portal, Customer will need a user ID and password.

Telephone

Named Contacts may call CloudBolt Support at 703.665.1060.

Exhibit C

Professional Service Terms

In the event that Customer procures any of CloudBolt's Professional Services the following additional terms shall apply:

1. Estimates. CloudBolt does not guarantee any estimates set forth in an Order Form or Statement of Work for Professional Service provided that CloudBolt will notify Customer as soon as practicable if an estimate will be exceeded. A Statement of Work is a document which sets forth the development, set-up, integration, configuration, consulting training services and/or standard project packages defined on CloudBolt's website.
2. Work Product. Customer will have a non-exclusive, non-transferable license during the License Term or Subscription Term, as applicable, to use any Work Product developed by CloudBolt in the performance of the Professional Service and delivered to Customer, upon Customer's payment in full of all amounts due therefor. CloudBolt retains ownership of all Work Product developed by CloudBolt in the performance of this Agreement. CloudBolt may utilize any and all methods, computer software, know-how or techniques related to programming and processing of data, developed by it while providing the Professional Service and may incorporate the Work Product in future releases of any of its products or services. "Work Product" means any work product, deliverables, programs, interfaces, modifications, configurations, reports, analyses or documentation developed or delivered in the performance of Professional Services.
3. Staffing, Designated Contact and Cooperation. CloudBolt shall have sole discretion in staffing the Professional Service and may assign the performance of any portion of the Services to any Affiliate or subcontractor, provided that CloudBolt shall be responsible for the performance of any such Affiliate or subcontractor. Customer shall designate at least one employee with knowledge of Customer's business and CloudBolt's technology and services as its primary contact to be available for communication with CloudBolt in providing the Professional Service. Customer will cooperate with CloudBolt, will provide CloudBolt with accurate and complete information, will provide CloudBolt with such assistance and access as CloudBolt may reasonably request, and will fulfill its responsibilities as set forth in this Agreement and the Order Form. If CloudBolt personnel are required to be present on Customer's site, Customer will provide adequate workspace and may provide reasonable worksite safety and security rules to which such personnel are to conform. All resources and information that are required for CloudBolt to perform the Professional Service shall be provided at Customer's expense.
4. Cooperation. Customer acknowledges that CloudBolt's access to Customer's facilities, equipment, systems, networks, assistance, cooperation, data, information and materials, officers, agents and employees is essential to CloudBolt's timely performance of the Professional Services (the "Cooperation"). As part of the Cooperation, Customer will (a) designate a project manager or technical lead to liaise with CloudBolt while performing the Professional Services, (b) allocate and engage additional resources as may be required to assist in performing the Professional Services, including but not limited to, technical resources, business decision makers, and third party experts, (c) timely perform any tasks reasonably necessary to enable CloudBolt to perform the Professional Services, (d) actively participate in scheduled meetings and (e) make available to CloudBolt, at no charge to CloudBolt, any data, information and any other materials reasonably required to perform the Professional Services, including any data, information or materials specifically identified in the Order Form (collectively "Customer Materials"). Customer is responsible for ensuring that all Customer Materials are accurate and complete.
5. Scheduling, Rescheduling and Cancellation. It is expected that technical sessions will be scheduled at least five (5) business days in advance. Two (2) business days written notice is required for cancelling or rescheduling. If cancellation or rescheduling occurs with less than two (2) business days advance notice, the time allotted will be applied against the applicable Order Form. Customer will reimburse CloudBolt for any non-refundable expenses we incurred at the time of the cancellation or scheduling.
6. Delays. CloudBolt will not be liable for any delay or deficiency in performing the Professional Services if Customer does not provide the necessary Cooperation. Any delays in the performance of Professional Services caused by the Customer may result in additional applicable charges for resource time.
7. On Hold. The Professional Services will automatically be put on hold if a delay is caused by the Customer and (a) within three (3) business days of Customer's receipt of a change order from CloudBolt pertaining to such delay, the Customer decides not to execute or fails to reply to such change order or (b) within three (3) business days of being notified of the delay, the Customer fails to resolve the underlying issue causing the delay. When on hold, CloudBolt may at its sole discretion, reassign resources currently assigned to the project. Resources will be reassigned to the project only after Customer completes the interim work necessary to meet the requirements that prompted the delay. Re-engagement and the schedule will be subject to the resource availability at that time. Any project that is put on hold, by the Customer or because of the Customer's delay, for more than six (6) months will be deemed complete, any unused pre-paid fees for the Professional Services are non-refundable, and CloudBolt is not responsible for the resulting condition of any Order Form or the project.
8. Blocks of Hours. If Customer pre-purchases Professional Service credits or block hours, the prepaid credits or block hours must be redeemed within twelve (12) months from the date of the applicable Order Form. Prepaid credits or block hours may be used for any Professional Services previously defined. Prepaid credits or block hours will be credited towards Order Form issued by CloudBolt during the applicable time period. At the end of the twelve (12) month period, any remaining prepaid credits or block hours will expire, and no refunds will be provided for any unused prepaid credits or block hours. Prepaid credits and block hours are not transferrable and may not be resold.