



## PLUTO7 SOLUTIONS TERMS OF SERVICE

These Pluto7 Solutions Terms of Service (the “**Agreement**”) is a legal agreement governing the access to and use of the Pluto7 Solutions by each person or entity accessing or using the Pluto7 Solutions (“**Customer**”) and either Pluto7 Consulting Inc. (if Customer is located in the US, Europe, Middle East, or Africa), or Pluto Seven Business Solutions Private Ltd., (if Customer is located in Asia Pacific) (each referred to individually and collectively herein as “**Pluto7**”).

**By clicking “I Agree” or using the Pluto7 Solutions you agree to this Agreement (and any referenced Pluto7 policy (ies)). If you are agreeing to this Agreement for use by an organization, you are agreeing to this Agreement on behalf of that organization, and you represent and warrant that you have the authority to bind that organization to this Agreement.**

1. **DEFINITIONS.** For purposes of this Agreement:

1.1 “**Authorized User**” means an end user or employee, agent or representative of Customer.

1.2 “**Customer Data**” means all electronic data, content or other information that is stored or transmitted by Customer through the Pluto7 Solutions or collected and processed by or on behalf of Customer through the Pluto7 Solutions, including without limitation audio files or other sounds, videos, photographs or other images, data files, written text, software, and music that Customer submits, displays, or posts on or through the Pluto7 Solutions. Customer Data may include Personal Data (as defined in Section 5.1).

1.3 “**Google Cloud Marketplace**” is an online storefront operated by Google Cloud providing customers with access to software applications, solutions and services that are built on, integrate with or complement Google cloud offerings for cloud-based applications from third-party vendors that lets users deploy them in Google’s cloud with just a few clicks.

1.4 “**Feedback**” shall have the meaning as described in Section 4.3 hereunder.

1.5 “**Intellectual Property Rights**” means any and all worldwide proprietary rights in and to any patents, patent applications, copyrights, data rights, trademarks, trade names, service marks, trade secrets, or other similar right.

1.6 “**Service Description**” means the formal description of the Pluto7 Solutions provided by Pluto7 as described on its website or on Google Cloud Marketplace and typically made available through either Google Cloud Marketplace or Pluto7 Website.

1.7 “**Software**” means the software used by Pluto7 to provide the Pluto7 Solutions.

1.8 “**Pluto7 Solutions**” means the Pluto7 branded solutions and/or solution families generally made available by Pluto7 in Google Cloud Marketplace, whether accessed by Customer via Google Cloud Marketplace or otherwise, including without limitation hosting of the Software and Customer Data in connection therewith.

2. **PLUTO7 SOLUTIONS.** Subject to the terms and conditions of this Agreement and the Service Description, Pluto7 shall make the Pluto7 Solutions available to Customer and its Authorized Users.

3. **ACCESS TO AND USE OF THE PLUTO7 SOLUTIONS.**

3.1 **Access to the Pluto7 Solutions.**

(a) **Customer Access to the Pluto7 Solutions.** Customer’s Authorized Users may access the Pluto7 Solutions, solely for Customer’s internal business purposes and only as permitted by this Agreement. Customer acknowledges and agrees that any breach of the terms and conditions of this Agreement by an Authorized User or any other employee, agent, contractor, or participant of Customer shall be deemed a breach of this Agreement by Customer. Customer shall make no attempt to, and shall not permit any Authorized User to, make any

attempt to: (i) download, reproduce, copy, alter, adapt, modify, improve, translate, create derivative works from, reverse engineer, disassemble, decompile or otherwise attempt to reveal the source code, trade secrets or know how underlying the Software; (ii) interfere in any manner with the hosting of the Pluto7 Solutions; (iii) use the Pluto7 Solutions to benchmark or otherwise obtain or develop performance metrics for the Pluto7 Solutions or Software; or (iv) sublicense, resell, sublease or transfer any of Customer's rights under this Agreement or otherwise use the Pluto7 Solutions or Software for the benefit of a third party; or (v) use the Pluto7 Solutions to develop a product that is similar to the Pluto7 Solutions or the Software or to operate a service bureau.

(b) **Necessary Equipment.** Customer shall be solely responsible, at its own expense, for acquiring, installing and maintaining all connectivity equipment, hardware, software, endpoints and other equipment as may be necessary for it to connect to, access, and use the Pluto7 Solutions.

### 3.2 Use of the Pluto7 Solutions.

(a) **Customer Data.** Customer grants Pluto7 an irrevocable, worldwide license to and authorizes Pluto7 to use Customer Data as necessary for Pluto7 to provide the Pluto7 Solutions and engage in use and disclosure of Customer Data in accordance with the Privacy, Data Collection and Use provisions set forth below. Customer covenants, represents and warrants that it has any and all authorizations and has fulfilled all legal obligations as may be necessary or appropriate for Pluto7's use as permitted by this Agreement. Pluto7's obligation to maintain any Customer Data obtained in the course of performance of the Pluto7 Solutions shall not extend beyond the performance of the applicable Pluto7 Solutions. Customer authorizes any third party vendor to have access to and to use Customer Data as necessary for Pluto7, or its vendor, to provide the Pluto7 Solutions and any related services and more generally to fulfill its obligations to Customer in relation to the provision of the Pluto7 Solutions to Customer as well as its obligations to Pluto7.

(b) **Certain Obligations and Restrictions.** Customer (i) is responsible for ensuring that each Authorized User is bound by the terms and conditions of this Agreement and for Authorized Users' compliance with, and any breach of, the terms and conditions of this Agreement, (ii) is responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired Customer Data, (iii) will use reasonable efforts to prevent unauthorized use of the Pluto7 Solutions or their related systems or networks, and will notify Pluto7 promptly of any unauthorized use, and (iv) will use the Pluto7 Solutions only in accordance with the documentation, and applicable laws and government regulations. Customer will not (A) make the Pluto7 Solutions available to anyone other than Authorized Users on a need basis, (B) sell, resell, rent or lease the Pluto7 Solutions, or any access to or use thereof (in whole or in part), (C) interfere with or disrupt the integrity or performance of the Pluto7 Solutions or third-party data contained in the Pluto7 Solutions, (D) attempt to gain unauthorized access to the Pluto7 Solutions or its related Software, systems or networks, or (E) exceed any established usage limits, if applicable, for the Pluto7 Solutions.

(c) **Acceptable Use Policy.** Customer shall at all times be responsible for ensuring that its Authorized Users adhere to any applicable Customer use policy. Without limiting the foregoing, Customer shall not, and shall not permit any Authorized User to, store, transmit or otherwise provide Customer Data or other information or content in a manner that: (i) infringes or violates any intellectual property rights, publicity/privacy rights, or other third party rights; violates any law or regulation (including without limitation, export control laws and regulations and laws and regulations requiring consent to recordation of communications); or is defamatory, tortious, abusive, threatening, obscene, harmful to minors, child pornographic or otherwise illegal under any applicable law or regulation; (ii) contains any viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents, programs or programming routines intended to damage, surreptitiously intercept or expropriate any system, data or personal information; or (iii) is materially false or misleading.

(d) **Remedial Action; Suspension of Service.** Pluto7 shall be entitled, in its discretion, to take remedial action, automatically and as of right without prior notice, including without limitation to suspend or terminate Customer's access to and use of the Pluto7 Solutions if (i) Pluto7 does not receive all fees related to Customer's use of the Pluto7 Solutions as set forth in this Agreement, or applicable SOW or purchase order, (ii) Customer fails to comply with any term, condition or restriction of this Agreement or the applicable Service Description, SOW or Purchase Order, or (iii) Pluto7 determines that Customer, or an Authorized User, has used or is using the Pluto7 Solutions to transmit or store, or otherwise with respect to, Customer Data or other content or information that Pluto7 determines to be objectionable, including without limitation in violation of Section 3.2(c) or Section 3.2(d). Pluto7, however, is under no obligation to review Customer Data or other content or information for accuracy, potential liability, or compliance with these or any other terms and conditions of this Agreement.

#### 4. PROPRIETARY RIGHTS.

4.1 **Customer.** Subject to the rights granted herein, Customer retains all of its worldwide right, title and interest in and to the Customer Data.

4.2 **Pluto7.** Subject to the access rights set forth herein, Pluto7 and its licensors retain all worldwide right, title and interest in and to the Pluto7 Solutions and all software, materials, and Pluto7 confidential information made available to Customer via the Internet or Google Cloud Marketplace or otherwise, in connection with the Pluto7 Solutions, and all Intellectual Property Rights with respect thereto, including without limitation, the Software, documentation, and any and all Feedback, improvements, derivative works, updates, and modifications thereto, whether made in conjunction with this Agreement or otherwise. There are no implied licenses or rights granted by Pluto7 under this Agreement; any rights not expressly granted by Pluto7 hereunder are reserved.

4.3 **Feedback.** Customer grants to Pluto7 and its Affiliates a royalty-free, fully paid, worldwide, irrevocable, perpetual license to use and incorporate into the Pluto7 Solutions any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Authorized Users relating to the Pluto7 Solutions, or the operation thereof.

#### 5. PRIVACY, DATA COLLECTION AND USE.

5.1 **Definitions.** The terms “Controller”, “Data Subject”, “Personal Data”, “Processor” and “Processing” shall have the meanings given to these terms in applicable data protection, privacy and similar laws and regulations, including without limitation the EU Data Protection Directive 95/46/EC, as implemented into national law and as amended by the EU General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) when it comes into effect (collectively, “**Data Protection Laws**”).

5.2 **Roles of the parties.** Pluto7 also may obtain Customer Data as a Processor, when providing the Pluto7 Solutions on behalf of Customer. The parties acknowledge that Customer acts as a Controller and has the sole and exclusive authority to determine the purposes and means of the Processing of Personal Data by Pluto7 to provision the Pluto7 Solutions under this Agreement. Pluto7 confirms and warrants that it acts as a Processor and uses, discloses, retains or otherwise Processes the Personal Data only on behalf of and in accordance with the instructions of the Controller, this Agreement, the applicable Statement of Work or purchase order and the Pluto7 privacy policy located at [its website at https://www.pluto7.com/privacy-policy/#:~:text=Pluto7%20is%20committed%20to%20maintaining,our%20products%2C%20solutions%20or%20service](https://www.pluto7.com/privacy-policy/#:~:text=Pluto7%20is%20committed%20to%20maintaining,our%20products%2C%20solutions%20or%20service). The Pluto7 privacy policy is expressly incorporated into this Agreement.

5.3 **Suppliers and subcontractors.** Customer acknowledges and agrees that Pluto7 reserves the right to use suppliers and subcontractors including without limitation for processing, hosting and storage of Personal Data.

5.4 **Obligations of the parties.** Customer confirms and warrants that it will ensure compliance with applicable Data Protection Laws with regard to the Personal Data that is Processed under this Agreement by Pluto7 and any supplier or subcontractor, in particular by providing information to, collecting consent of, and providing access to Data Subjects when and as required under applicable law. Each party agrees to cooperate as reasonably requested by the other party to ensure compliance with this Agreement. Should a party fail to cooperate with the other party as reasonably requested, the other party may suspend this Agreement, upon reasonable notice to the party that fails to cooperate.

5.5 **International transfers of Personal Data.** To provide the Pluto7 Solutions, Pluto7 may need to transfer Personal Data to recipients in countries other than the country in which the data were originally collected, including without limitation the United States. Customer agrees to such Personal Data transfers and confirms and warrants that it will comply with any requirements under applicable Data Protection Laws with regard to such Personal Data transfers.

5.6 **Notice.** If applicable law requires that Authorized Users must be informed of or must consent prior to any recording of their communications, Customer and/or Authorized Users shall be solely liable for complying with such laws and shall obtain required consent and undertake any necessary formalities prior to using any recording functions.

5.7 **Requests from individuals.** Pluto7 will assist Customer in responding to Data Subjects exercising their rights to their Personal Data processed under this Agreement.

5.8 **Security.** Each party shall take adequate technical and organizational measures against unauthorized or unlawful processing or further processing of Personal Data, and against accidental loss or destruction of, and damage to, Personal Data.

6. **Disclaimer.** The Pluto7 Solutions, Software, documentation, and all other data and materials made available via the Internet or otherwise provided to Customer in connection with this Agreement by Pluto7 are provided "AS IS" and "AS AVAILABLE," without representations or warranties of any kind. Pluto7 AND ITS SUPPLIERS MAKE NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY, BY OPERATION OF LAW, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING OUT OF, OR IN THE COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. PLUTO7 DOES NOT WARRANT THAT THE PLUTO7 SOLUTIONS OR SERVICES WILL BE PROVIDED ERROR-FREE, UNINTERRUPTED, SECURE, OR VIRUS-FREE. WITHOUT LIMITING THE FOREGOING, TO THE EXTENT PLUTO7 MAY NOT AS A MATTER OF LAW DISCLAIM ANY WARRANTY, THE PARTIES AGREE THAT THE SCOPE AND DURATION OF ANY SUCH WARRANTY SHALL BE THE MINIMUM PERMITTED UNDER APPLICABLE LAW. Neither Pluto7, nor its third-party service or software providers, suppliers or subcontractors shall have any liability whatsoever for the accuracy, completeness, timeliness, security, or integrity of the Customer Data, or for any decision made or action taken by Customer in reliance upon any Customer Data. The parties agree and acknowledge that Pluto7 shall in no event be held responsible for any problems with the Pluto7 Solutions attributable to the public Internet infrastructure or Customer's ability to be connected to the Internet.

7. **LIMITATION OF LIABILITY.** IN NO EVENT WILL PLUTO7 (OR ITS SUPPLIERS AND LICENSORS) BE LIABLE FOR COSTS OF SUBSTITUTE PRODUCTS OR SERVICES OR FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (HOWEVER ARISING, INCLUDING BUT NOT LIMITED TO NEGLIGENCE), INCLUDING, BUT NOT LIMITED TO, DAMAGES THAT RESULT FROM INTERRUPTED COMMUNICATIONS, LOST OR ALTERED DATA, OR LOST PROFITS, OR DAMAGES THAT RESULT FROM INCONVENIENCE, DELAY OR LOSS OF USE OF ANY INFORMATION OR DATA OR OF THE PLUTO7 SOLUTIONS OR RELATED PRODUCTS OR SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN. Pluto7's entire liability arising out of or in connection with this Agreement shall not exceed the amounts actually received by Pluto7 for the Pluto7 Solutions in the three (3) month period immediately preceding the date the cause of action arose ("**Cap**"). This Cap is an aggregate for all causes of action and shall not be increased by multiple causes of action subject to the same, or overlapping causes or claims. In addition, Pluto7's aggregate liability arising out of or in connection with this Agreement, for all causes and claims, shall not exceed the amounts received by Pluto7 for Customer's use of the Pluto7 Solutions during the 12 months period preceding the claim.

8. **INDEMNITY.** Customer shall indemnify, defend and hold Pluto7 (and its affiliates, officers, directors, employees, agents and representatives) harmless from and against all claims, suits, losses, expenses, judgments and liabilities (including but not limited to Pluto7's reasonable attorney's fees) to the extent arising out of (i) breach of this Agreement, including without limitation the Privacy, Data Collection and Use provisions, by Customer or any failure of any Authorized User to comply with the terms and conditions of this Agreement, including without limitation use of the Pluto7 Solutions or any Software other than as permitted by this Agreement or (ii) Customer Data.

9. **SUPPORT.** Customer is entitled to Pluto7 Solutions support services directly from Pluto7. To the extent Customer has separately requested or purchased the Support Services, Pluto7 shall have no responsibility in providing Customer support services associated with the Pluto7 Solutions except as set forth in the applicable Service Description or Support agreement.

## 10. **GENERAL PROVISIONS.**

10.1 **Entire Agreement; Modification; Waiver.** This Agreement sets forth the entire understanding and agreement of the parties, and supersedes any and all prior or contemporaneous oral or written agreements or understandings between the parties, as to the subject matter of the Agreement. Pluto7 reserves the right, in its sole discretion, to modify this Agreement at any time without further notice. It is Customer's responsibility to periodically review the current Terms of Service as Customer's continued use of the Pluto7 Solutions after any such changes constitutes Customer's acceptance of the new Terms of Service. All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. Pluto7 reserves the right, in its sole discretion, to modify or discontinue, temporarily or permanently, the Pluto7 Solutions (or any part thereof) at any time without further notice. Customer agrees that Pluto7 will not be liable to you or to a third party for any modification, suspension or discontinuance of the Pluto7 Solutions.

10.2 **Assignment.** Pluto7 may assign or transfer this Agreement solely in connection with a transfer of all or substantially all of that party's business assets, whether by merger, sale of assets, sale of stock or otherwise, upon notice to the other party. Any other attempted assignment or transfer by Customer in violation of the foregoing will be void.

10.3 **Compliance with Laws.** Customer represents and warrants that it will comply with all applicable laws and regulations (including but not limited to export regulations), and communications common carrier tariffs, and use the Pluto7 Solutions solely for lawful purposes. Pluto7 reserves the right to take all actions, including but not limited to termination of the Pluto7 Solutions, which it believes necessary to comply with applicable laws and regulations.

10.4 **Independent Contractors.** The relationship established by this Agreement is that of independent contractors. Customer shall not incur any obligation or commitment on behalf of Pluto7 unless specifically approved in writing in advance by an authorized Pluto7 executive.

10.5 **Force Majeure.** If the performance of this Agreement, or any obligation hereunder, except the making of payments hereunder, is prevented, restricted or interfered with by any act or condition whatsoever beyond the reasonable control of the affected party, including, but not limited to, acts of God, acts of civil or military authority, third party illegal activity, failure or interruption of utilities, fires, floods, earthquakes, riots, wars, sabotage, computer hacking or computer crime, or governmental actions, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, restriction or interference.

10.6 **Governing Law; Venue.** This Agreement will be governed by the laws of the State of California, USA, without giving effect to any choice of law principles that would require the application of the laws of a different state. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement must be brought exclusively in a court of competent jurisdiction, federal or state, located within the City and County of Santa Clara, California, and in no other jurisdiction. The parties hereby consent to personal jurisdiction and venue in, and agree to service of process issued or authorized by such court. This Agreement shall be written and construed in the English language. Notwithstanding the foregoing, either party may bring an action for injunctive relief in any jurisdiction pending final disposition of the dispute.

10.7 **Notice.** Except as otherwise specified, all notices shall be in writing and may be delivered by facsimile, USPS, or overnight delivery service, to the address indicated on the first page of this Agreement or to such other address as the parties shall specify by written notice. Any such notices to Pluto7 shall be sent to the attention of the Chief Operating Officer, with a copy sent to admin@pluto7.com.

10.8 **Severability.** If any provision of this Agreement is adjudicated to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.