

# Customer Agreement

Last Updated: May 10, 2022

To become a customer of the Service (as defined below), you must accept this Customer Agreement (this “**Agreement**”). When you evidence your acceptance, either by executing an initial Order Form or otherwise first accessing and using the Service on a non-trial basis (either directly or through a Reseller), this Agreement will constitute a binding agreement between Netography, Inc. (“**Netography**”) and the customer entity identified on the signature page of the applicable Order Form (“**Customer**”) regarding Customer’s access to and use of the Service, effective on the date of Customer’s acceptance. Netography and Customer may be referred to herein collectively as the “**Parties**” or individually as a “**Party**.” The individual who accepts this Agreement on Customer’s behalf represents that they have the authority to bind Customer.

**IMPORTANT NOTICE: THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION AND A WAIVER OF CLASS ACTION RIGHTS AS DETAILED BELOW IN SECTION 13(h).**

1. **Definitions.** Capitalized terms used but not defined in this Agreement shall have the meanings attributed to them in Schedule 1
2. **Access and Use.**
  1. **Customer Affiliates.** Where Customer is entering into an Order Form with Netography (and not a Reseller), this Section 2(a) shall apply. Any Affiliate of Customer will have the right to enter into an Order Form with Netography pursuant to this Agreement, in which case this Agreement will apply to each such Order Form as if such Affiliate were a signatory to this Agreement. With respect to such Order Forms, such Affiliate becomes a party to this Agreement and references to Customer in this Agreement are deemed to be references to such Affiliate. Each Order Form is a separate obligation of the

Customer Affiliate that executes such Order Form; provided, that Customer shall remain ultimately liable and responsible for the acts or omissions of any such Affiliate.

2. License Grant. Subject to Customer's compliance with the terms and conditions of this Agreement, the Reseller Agreement (if any) and timely payment of all Fees, Netography hereby grants Customer, during the Term, a revocable, non-exclusive, non-sublicensable, non-transferable (except in compliance with Section 13(i)) license and right to (i) permit its Authorized Users to access and use the Service identified in such Order Form, solely for the Permitted Use in accordance with the terms and conditions herein, the Documentation and the applicable Order Form (including any account limitations set forth therein), and (ii) access and use such other Netography Materials as Netography may supply or make available to Customer solely as necessary to enable such Authorized Users to access and use the Service for the Permitted Use.
3. Authorized Users; Credentials.
  1. Customer is responsible and liable for all uses of the Service resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Service and shall cause Authorized Users to comply with such provisions.
  2. Without limiting the foregoing, Customer covenants and agrees to (A) keep strictly confidential any credentials (including passwords, usernames, API keys, tokens, or other authorization) provided to Customer for access to the Service (or any portion thereof), whether provided directly by Netography or through a Reseller (together, the "**Credentials**"), (B) not allow any other person other than Authorized Users to access or use the Service utilizing the Credentials, (C) ensure that each Authorized User accessing the Service does so only via systems within the Customer-protected environment, to the extent available, and (D) access or use the Service (and ensure any Authorized Users access or use the Service) solely for the Permitted Use and otherwise in accordance with this Agreement.
4. Updates. Customer acknowledges and agrees that Netography may implement modifications, improvements and bug fixes to the Service and other Netography Materials at any time and in its sole discretion, including as deemed necessary or useful to (i) maintain or enhance (A) the quality or delivery of the Service, (B) the competitive strength of or market for the Service, or (C) the Service's cost efficiency or performance; or (ii) to comply with Applicable Law ("**Updates**"). Netography will use commercially reasonable efforts to give reasonable prior notice of Updates that are anticipated to

require responsive action or implementation of changes by Customer, and Customer shall implement all necessary actions or changes identified as mandatory within a reasonable timeframe specified by Netography. Notwithstanding anything to the contrary in this Agreement, Netography reserves the right, in its sole discretion, to modify the functionality or features or release a new version of the Service or to suspend or discontinue the Service, in whole or in part, at any time and without liability to Customer.

5. Third-Party Products. Customer acknowledges and understands that (i) the Service may include or depend on Third-Party Products, and (ii) Customer Data may be processed or stored on hardware owned or controlled by third parties.
6. Use Restrictions. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized User or third party to (i) use any Netography Materials for any purposes beyond the scope of the access granted in this Agreement or any Documentation, (ii) except as expressly authorized under this Agreement, distribute, publish, copy, modify, or create derivative works of, or provide to any third parties, any Netography Materials, in whole or in part, (iii) rent, lease, lend, sell, resell (including to Authorized Users), license, sublicense, assign, or otherwise transfer any of the rights granted to Customer in Section 2(b) to any third party, (iv) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Service or Netography Systems, in whole or in part, (v) remove, obscure or alter any proprietary notices related to the Service, Netography Systems, API or any other Netography Materials or circumvent any securities measures or use restrictions in any of the foregoing, (vi) use Netography Materials in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any Applicable Law, (vii) use Netography Materials for any unauthorized purpose or in any manner that damages or interferes with the Service's, API's or Netography Systems' operations or Netography's customers' or partners' access to or use of the same, (viii) use any Netography Materials for competitive or benchmarking purposes, (ix) input, upload, transmit or otherwise provide to or through the Service or Netography Systems, any information or materials that are unlawful or injurious, or contain, transmit or activate any harmful code, or (x) attempt to do any of the
7. Suspension. Notwithstanding anything to the contrary in this Agreement, Netography may temporarily suspend or disable the access or right of Customer or any Authorized User to use any portion or all of the Service if: (i) Netography reasonably determines that (A) there is a threat or attack on the Service requiring suspension, (B) Customer's or any Authorized User's use of Netography Materials disrupts or poses a security risk to any Netography Materials, or (C) Netography's provision of the Service to Customer or any Authorized User is prohibited by Applicable Law or could expose Netography or its network to third-party liability or cause Netography or its network to violate any

Applicable Law; (ii) Customer breaches Section 2(f); (iii) any vendor of Netography suspended or terminated Netography's access to or use of any Third-Party Products required to enable Customer to access the Service; (iv) in accordance with Section 4(d); (v) Customer has failed to make payment of any Fees when due and such failure continues for more than 15 days; or (vi) a Reseller Agreement, or performance thereunder, has been suspended (any such suspension described in subclauses (i) – (vi), a "Use Suspension"). Netography shall use commercially reasonable efforts to provide written notice of any Use Suspension to Customer and to provide updates regarding resumption of access to the Service following any Use Suspension. Netography shall use commercially reasonable efforts to resume providing access to the Service as soon as reasonably possible after the event giving rise to the Use Suspension is cured.

### 3. **Professional Services; Subcontractors.**

1. **Professional Services.** Subject to Customer's compliance with the terms and conditions of this Agreement, the Reseller Agreement (if any) and timely payment of all Fees, Netography shall, during the Term, render Professional Services for Customer if and as described in the applicable Order Form.
2. **Subcontractors.** Netography may from time to time in its discretion engage third parties to assist in providing Professional Services or otherwise in the fulfillment by Netography of obligations hereunder (each, a "Subcontractor"); provided that, in each case, Netography shall be responsible for such Subcontractor's compliance with the applicable terms and conditions of this Agreement.

### 4. **Additional Customer Responsibilities.**

1. **Connectivity.** Customer is responsible for any network or Internet connectivity, equipment, or ancillary services required to connect to, access or otherwise use the Service.
2. **Customer Data.** Customer is responsible for (i) the accuracy, quality, and legality of all Customer Data, and (ii) the backing up of Customer Data. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NETOGRAPHY HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION OR RECOVERY OF CUSTOMER DATA.
3. **Compliance with Applicable Law.** Customer shall comply with, and shall ensure that its Authorized Users comply with, all Applicable Law in connection with this Agreement and Customer's and its Authorized Users' access to and use of the Service.
4. **Notification of Unauthorized Use.** If Customer becomes aware that any Credentials, Netography Data, or the Service has been compromised in any way, or if Customer suspects that they may have been so compromised, Customer shall notify Netography in writing (email suffices) immediately, but in any event no later than 24 hours, upon such knowledge or suspicion. Netography shall have the right to suspend access to the Service for any Authorized User and/or Customer and/or any other individual to the

extent Netography is notified of such compromise in accordance with the preceding sentence or to the extent Netography otherwise becomes aware or suspects that any Credentials, Netography Data or any portion of the Service have or are imminently likely to be compromised. Customer will provide Netography with such cooperation and assistance related to any such unauthorized use as Netography may reasonably request.

5. Cooperation. Customer shall cooperate in good faith with Netography in the provision and receipt of the Service. Without limitation of the foregoing, Customer shall provide Netography timely access to the Customer Systems and Customer's personnel, facilities and any Customer-furnished items as reasonably required for Netography to provide the Service and to ensure Customer's compliance with the terms and conditions of this Agreement with respect thereto.

## 5. Fees and Payment.

1. Generally. The Parties acknowledge and agree that, notwithstanding anything to the contrary herein, where Customer has entered into an Order Form with a Reseller (and not Netography), Fees and payment obligations for that underlying Subscription shall be between Customer and the Reseller, not Customer and Netography, and shall be governed by the applicable Reseller Agreement and Order Form(s) entered into between Customer and the Reseller.
2. Fees. As consideration for Netography's grant of rights and fulfillment of obligations under this Agreement, Customer shall pay Netography or the applicable Reseller (or their respective designees), as the case may be, the fees ("**Fees**") as set forth in the applicable Order Form. All Fees paid to Netography shall be without offset or deduction. Unless otherwise set forth in an applicable Order Form or authorized in writing by Netography or the applicable Reseller, as the case may be, all Fees are non-cancelable, non-refundable and non-pro-ratable.
3. Invoicing and Payment. Where Customer enters into an Order Form directly with Netography (and not a Reseller), this Section 5(c) shall apply. Unless otherwise specified in the applicable Order Form, Customer shall make all payments to Netography hereunder in U.S. dollars no later than 30 days from the date of Customer's receipt of the applicable invoice. Where Customer fails to make any payment when due, without limiting Netography's other rights and remedies: (i) Netography or its designee may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly; and (ii) Customer shall reimburse Netography or its designee for all costs incurred by Netography or its designee in collecting any late payments or interest, including reasonable attorneys' fees, court costs, and collection agency fees. The Parties will work together in good faith to promptly resolve invoice disputes made by Customer in good faith and in writing by the applicable payment due

date. Notwithstanding any dispute over Fees, Customer shall pay all undisputed amounts on any invoice as required above.

4. **Taxes.** Where Customer enters into an Order Form directly with Netography (and not a Reseller), this Section 5(d) shall apply. All Fees and other amounts payable by Customer to Netography under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer to Netography hereunder, other than any taxes imposed on Netography's net income, including any penalties and interest that may be assessed on the Fees.

## 6. Confidential Information; Data Security.

1. **No Use or Disclosure.** From time to time during the Term, either Party may disclose or make available Confidential Information to the other Party. The receiving Party shall not use the disclosing Party's Confidential Information except to the extent necessary to fulfill its obligations under this Agreement. In addition, the receiving Party shall not disclose the disclosing Party's Confidential Information to any third party and shall maintain such Confidential Information using methods at least as protective as it uses to protect its own information of a similar nature, but in no event using less than a reasonable degree of care. Notwithstanding the foregoing, the receiving Party may disclose the disclosing Party's Confidential Information (i) on an "as-needed" basis to its directors, officers, employees, advisors, agents, subcontractors and/or consultants who are bound by obligations materially similar to this Section 6, provided that the receiving Party will remain liable for any breach by any such parties of these provisions and for any damages caused thereby, and (ii) to the limited extent required (A) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with Applicable Law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order, or (B) to establish a Party's rights under this Agreement, including to make required court filings.
2. **Return or Destruction.** On the expiration or termination of this Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or, at the disclosing Party's request, destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed.
3. **Expiration.** Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date (as defined below) and will expire five years from expiration or termination of this Agreement; provided, however, that such obligations with regard to the terms of this Agreement and any Order Form, together with the Service, shall survive in perpetuity; provided, further, that with respect to any

Confidential Information that constitutes a trade secret (as determined under Applicable Law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under Applicable Law.

4. **Data Security.** During the Term, each Party will implement and maintain appropriate administrative, technical and physical safeguards to protect the security, confidentiality and integrity of the other Party's Data in its possession or control as well as any systems integrated pursuant to this Agreement. Such safeguards should be commensurate with the type and amount of such Data being stored, processed or otherwise used by such Party and should, at a minimum, protect such Data against reasonably anticipated threats or hazards, including from unauthorized access, destruction, use, modification, or disclosure.

## 7. **Intellectual Property Ownership; Feedback.**

1. **Netography Materials.** Except for the limited license granted in Section 2(b), as between the Parties, Netography owns all right, title, and interest, including all intellectual property rights therein, in and to all Netography Materials.
2. **Customer Data.** As between the Parties, Customer owns all right, title, and interest, including all intellectual property rights therein, in and to the Customer Data. Customer hereby grants to Netography a non-exclusive, non-transferable (except as set forth herein), worldwide, royalty-free right and license to, and to permit its Subcontractors and all applicable Resellers (if any) to, access, receive, download (as applicable), store, reproduce, distribute, modify and otherwise use the Customer Data to (i) provide the Service to Customer and the Authorized Users and to provide the Professional Services (if any); (ii) to improve the Service or the Professional Services (if any); (iii) for all internal purposes; and (iv) as otherwise permitted by this Agreement, an applicable Reseller Agreement or an applicable Order Form.
3. **Performance Data.** Without limiting Section 7(a), as between the Parties, Netography owns all data (i) regarding installation, registration, and use of the Service, and (ii) related to performance of the Service, including response times, load averages, usage statistics, and activity logs (collectively, "**Performance Data**"). Performance Data does not include any Customer Data or Customer-specific output resulting from the use of the Service ("**Customer Output**"), but may include aggregated or anonymized information derived from Customer Output. Netography may use Performance Data as a part of analytical models created to monitor and improve the Service, to develop additional services and offerings, and for all other internal purposes. In addition, Netography may make such Performance Data commercially available; provided, that Netography (A) will take steps to ensure that Customer's identity will not be discernable to third parties in any such Performance Data, and (B) will not include any Personal Data in any such Performance Data.

4. **Feedback.** If Customer or any of its employees, contractors or agents sends or transmits any communications or materials to Netography by mail, email, telephone, in person or otherwise, suggesting or recommending changes to or providing its experience with the Netography Materials or any Beta Services (as defined below), including new features or functionality relating thereto, or any comments, questions, suggestions, or the like (collectively, “**Feedback**”), Netography shall be free to exercise all rights in such Feedback without restriction and without compensating Customer.
5. **Open Source Software.** Customer acknowledges and agrees that (i) certain elements of the Service may be subject to “open source” or “free software licenses” (“**Open Source Software**”) owned by third parties, (ii) such Open Source Software is not licensed under Section 2(b), and (iii) such Open Source Software is instead licensed under the terms of the end-user license that accompanies such Open Source Software. Nothing in this Agreement limits Customer’s rights under, or grants Customer rights that supersede, the terms and conditions of the applicable end-user license for such Open Source Software.
6. **No Implied Licenses.** No licenses are granted by either Party except for those expressly set forth in this Agreement and all rights not expressly licensed hereunder are expressly reserved. Nothing in this Agreement restricts, or should be deemed to restrict, either Party’s right to exercise any rights or licenses received from any third parties or, except as expressly stated herein, to grant other or similar rights or licenses to any third party.
8. **Beta Services.** From time to time, Netography may invite Customer to try alpha or beta services at no charge or reduced charges (collectively, “**Beta Services**”). Customer may accept or decline any such invitation in Customer’s sole discretion. Beta Services will be designated by Netography as beta, pilot, limited release, developer preview, evaluation, or by a description of similar import. Beta Services are for evaluation purposes, are not considered a “Service” under this Agreement, are not supported except that system level issues will be addressed in Netography’s (or its licensors’) discretion, and may be subject to additional terms. Unless otherwise stated, any Beta Services trial period will expire upon the earlier of one year from the trial start date or the date that such version of the Beta Services is converted to general release non-beta. Netography (or its licensors) may discontinue Beta Services at any time in Netography’s (or its licensors’) sole discretion and may never make them generally available. Neither Netography nor any of its licensors will have any liability for any harm or damage arising out of or in connection with the Beta Services, and Customer accepts all risk associated with use of the Beta Services. Customer agrees to diligently report any issues or Feedback with the Beta Services to Netography.
9. **Warranties; Disclaimer.**
  1. **Mutual.** Each Party represents and warrants that: (i) it is duly organized, validly existing and in good standing under the laws of its state of organization, and it has the right to enter into and perform its obligations under this Agreement; (ii) the execution, delivery and performance of this Agreement does not and will not conflict with any other

agreement of such Party or any judgment, order, or decree by which it is bound; (iii) will comply with all Applicable Law, and satisfy all obligations owed to third parties and/or any governmental authority, in connection with the performance of its obligations hereunder; and (iv) it has and shall maintain all rights, authorizations and licenses that are required for it to grant the rights and licenses herein, and to perform its obligations set forth herein.

2. **Customer.** Customer further represents and warrants that: (i) it owns or has the right to make all Customer Data available to Netography; (ii) the posting and use of the Customer Data by or on behalf of Netography hereunder in accordance with this Agreement, including on or through the Service, will not (A) infringe, misappropriate or otherwise violate the intellectual property, privacy, publicity, or other rights of any person or entity or Applicable Law, or (B) breach any contract between Customer and a third party, (iii) the Customer Data is accurate, and (iv) Customer Data will not include Personal Data.
3. **Disclaimer.** NETOGRAPHY MAKES THE NETOGRAPHY MATERIALS AND ANY BETA SERVICES AVAILABLE TO CUSTOMER ON AN “AS IS” AND “AS AVAILABLE” BASIS. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, NETOGRAPHY DOES NOT MAKE, AND NETOGRAPHY EXPRESSLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH THIS AGREEMENT, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING BY COURSE OF PERFORMANCE OR TRADE USAGE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NETOGRAPHY DOES NOT WARRANT THAT THE SERVICE OR ANY OTHER NETOGRAPHY MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER’S OR ANY OTHER PERSON’S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES (EXCEPT IF AND TO THE EXTENT EXPRESSLY SET FORTH IN THE DOCUMENTATION), BE ENTIRELY SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERRORS, OR BE FREE FROM LOSS OR DELETION OF DATA. ALL THIRD-PARTY PRODUCTS ARE PROVIDED “AS IS” AND “AS AVAILABLE” AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY PRODUCTS IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY PRODUCTS. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NETOGRAPHY DOES NOT PROVIDE ANY REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH THE BETA SERVICE, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

## 10. Indemnification.

1. **Netography.** Netography shall indemnify, defend, and hold harmless Customer and its Affiliates, and its and their respective directors, officers, employees, agents, successors and assigns (collectively, the “**Customer Parties**”) from and against any and all losses, damages, liabilities, costs (including reasonable outside attorneys’ fees and court costs) (collectively, “**Losses**”) incurred in connection with any third-party claim, suit, action, demand, investigation or other proceeding (each, a “**Claim**”) resulting from any allegation that the Service, to the extent used in accordance with the Documentation and this Agreement, infringes, misappropriates or otherwise violates a third party’s intellectual property rights (except to the extent the alleged infringement, misappropriation or violation arises out of (i) Customer’s failure to use an Update that Netography communicated was required, (ii) Customer Data, (iii) use of the Service in combination with data, software, hardware, equipment, or technology not provided by Netography or authorized by Netography in writing, or (iv) modifications to the Service not made by Netography). If Netography reasonably believes (or is notified) that the Service infringes, misappropriates or otherwise violates a third party’s intellectual property rights, then Netography may, at Netography’s sole discretion, (A) modify or replace the Service, or component or part thereof, to make it non-infringing, or (B) obtain the right for Customer to continue use of the Service, provided that, if Netography determines that neither alternative is reasonably available, then either Party may terminate this Agreement, in its entirety or with respect to the affected component or part, by giving the other Party at least 30 days’ prior written notice thereof. This **Section 10(a)** sets forth Customer’s sole remedies and Netography’s sole liability and obligation for any actual, threatened, or alleged claims that the Service infringes, misappropriates, or otherwise violates any intellectual property rights of any third party.
2. **Customer.** Customer shall indemnify, hold harmless, and defend (at Netography’s option) Netography and its Affiliates, and its and their respective directors, officers, employees, subcontractors, agents, successors and assigns (collectively, the “**Netography Parties**”) from and against any Losses incurred in connection with any Claim resulting from: (i) the actual or alleged material breach of any of Customer’s representations, warranties or obligations hereunder; (ii) the gross negligence or willful misconduct of Customer or its Authorized Users; (iii) use of any of the Netography Materials in a manner not authorized by this Agreement; (iv) use of any of the Netography Materials in combination with data, software, hardware, equipment or technology not provided by Netography or authorized by Netography in writing; (v) Customer Data; and/or (vi) modifications to the Netography Materials made by or on behalf of Customer.
3. **Procedure.** The party(ies) seeking indemnification under this **Section 10** (collectively, the “**Indemnified Party**”) will provide prompt written notice of the existence of the applicable Claim to the indemnifying Party (the “**Indemnifying Party**”), provided that the

Indemnified Party's failure to do so shall not diminish the Indemnifying Party's obligations under this Section 10 except to the extent that the Indemnifying Party is materially prejudiced as a result of such failure. In addition, the Indemnified Party shall (i) reasonably cooperate with the Indemnifying Party with respect to the defense and settlement of such Claim, and (ii) permit the Indemnified Party, at its option, to participate in the defense and settlement of such Claim (at its expense and with counsel of its own choosing). Customer shall not enter into any settlement or dispose of any Claim without Netography's prior written consent (not to be unreasonably withheld or delayed). Netography shall not, without the Indemnified Party's prior written consent (not to be unreasonably withheld or delayed), enter into any settlement of any Claim, unless the settlement (A) is solely for the payment of monies for which the Indemnifying Party shall be responsible, (B) does not impose injunctive or other equitable relief on any of the Customer Parties or Netography Parties, as applicable, and (C) includes a complete, unconditional release of each of the Customer Parties or Netography Parties, as applicable, from any liability relating to the settled Claim.

**11. Limitations of Liability.** EXCEPT FOR (a) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 6, (b) LIABILITY CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (c) PAYMENT OBLIGATIONS, AND (d) CUSTOMER'S BREACH OF SECTION 2(f) OR SECTION 4(c), AND WITHOUT LIMITING EITHER PARTY'S OBLIGATIONS UNDER SECTION 10, IN NO EVENT WILL: (i) EITHER PARTY BE LIABLE FOR LOST PROFITS, LOSS OF DATA OR ANY OTHER CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR INDIRECT DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY ASSERTED, ARISING OUT OF THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR (ii) NETOGRAPHY'S TOTAL AGGREGATE LIABILITY FOR ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO NETOGRAPHY UNDER THIS AGREEMENT IN THE 12 MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM AROSE.

**12. Term; Termination.**

1. Term. This Agreement commences on the date Customer first accepts its terms, either by executing an initial Order Form or otherwise first accessing and using the Service on a non-trial basis (either directly or through a Reseller) (the earlier of the foregoing, the "**Effective Date**") and continues until all Subscription Terms have expired in accordance with the terms of the applicable Order Form or have been earlier terminated in accordance with the terms hereof, the applicable Reseller Agreement (if any) or the applicable Order Form (the "**Term**"). For Order Forms entered into between Netography and Customer, unless otherwise set forth on the applicable Order Form, each Subscription Term shall automatically renew for subsequent periods of the same length as the initial Subscription Term or one year (whichever is shorter) unless either Party

gives the other written notice of nonrenewal at least thirty (30) days prior to expiration of the then-current Subscription Term.

2. Termination. In addition to any other express termination rights set forth in this Agreement: (i) either Party may terminate this Agreement, effective upon written notice to the other party, if there are no Order Forms then in effect; (ii) either Party may terminate this Agreement or any applicable Order Form entered into between the Parties, effective on written notice to the other Party, if the other Party materially breaches this Agreement and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured 30 days after the non-breaching Party provides the breaching Party with written notice of such breach; (iii) either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

3. Effect of Expiration or Termination.

1. Upon expiration or earlier termination of this Agreement, subject to Section 12(c)(ii), Customer shall immediately discontinue use of the Service and any other Netography Materials and, without limiting Customer's obligations under Section 6, Customer shall delete, destroy, or return (at Netography's option) all copies of any Netography Materials in its possession or control and certify in writing to Netography that all such Netography Materials have been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle Customer to any refund from Netography (except as otherwise expressly agreed to herein or an applicable Order Form). For up to 15 days after any expiration or termination of this Agreement, upon Customer's written request, Netography will make Customer Data available to Customer for download. Netography shall have no obligation to maintain or provide any Customer Data after 15 days of expiration or termination of the Agreement and may thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control. There is no additional charge for delivery of Customer Data to Customer within such 15-day period in standard data formats recognized by Netography. If Customer makes unusual requests for Netography's assistance in retrieving Customer Data, such as requiring the provision of data in nonstandard formats, Customer may acquire Professional Services at Netography's then-current hourly rates.

2. If Customer purchases a Subscription through a Reseller, then this Section 12(c) shall apply:
  1. Notwithstanding anything to the contrary herein, this Agreement shall survive the expiration or earlier termination of any Reseller Agreement.
  2. Except as otherwise specified in an applicable Order Form or Reseller Agreement, if the Reseller Agreement expires or is terminated in accordance with its terms and Customer no longer wishes to renew its Subscription, either directly with Netography or indirectly through a successor Reseller, then Customer may continue to have access to the Service (in accordance with and subject to this Agreement) until the expiration or earlier termination of any then-active Subscription Term.
3. Survival. Notwithstanding expiration or earlier termination of this Agreement, the following provisions (and the definitions applicable thereto) will survive: Sections 5 (to the extent Fees remain unpaid), 6, 7, 9(c), 10, 11, 12(c) and 13, this Section 12(d), and any other provision of this Agreement that, by its nature, is intended to survive.

### 13. Miscellaneous.

1. Entire Agreement. This Agreement, together with any Order Forms issued hereunder, constitutes the sole and entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, between the Parties with respect to such subject matter.
2. Interpretation. In the event of an express conflict between this Agreement and any Order Form between Netography and Customer, the terms of this Agreement shall govern except to the extent such Order Form expressly states that it supersedes the specific provision of this Agreement. The section headings used in this Agreement are intended for convenience only, and will not be deemed to affect in any manner the meaning or intent of this Agreement or any provision hereof. Whenever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation”, whether or not they are in fact followed by those words or words of like import. Customer has been given the opportunity to have its legal counsel review this Agreement on its behalf. If an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party because of the authorship of any provision of this Agreement. Unless otherwise expressly provided in this Agreement, each Party shall be solely responsible for any and all costs and expenses incurred by such Party in connection with its performance hereunder.

3. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a “**Notice**”) must be in writing and addressed to the Parties at the addresses set forth on the applicable Order Form (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section 13(c)). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), electronic mail (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (i) upon receipt by the receiving Party; and (ii) if the Party giving the Notice has complied with the requirements of this Section 13(c).
4. **Force Majeure.** In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond such Party’s reasonable control, including acts of God, flood, fire, earthquake, explosion, war, terrorism, epidemic, pandemic (including the novel coronavirus, Covid-19 pandemic, which is ongoing as of the Effective Date), invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo (collectively, “**Force Majeure Events**”). In the event of such failure or delay, the date of delivery or performance will be extended for a period not to exceed the time lost by reason of the failure or delay; provided that the Party affected by such delay or failure is using reasonable commercial efforts to mitigate or eliminate the cause of such delay failure or its effects and, if events in the nature of the Force Majeure Event were foreseeable, used commercially reasonable efforts prior to its occurrence to anticipate and avoid its occurrence or effect. Each Party shall notify the other in writing promptly of any failure or delay in, and the effect on, its performance.
5. **Amendment; Waiver.** Netography reserves the right to modify this Agreement at any time and in its sole discretion. Netography will notify Customer of any changes to this Agreement by: (i) posting an updated version of to the Service; (ii) emailing a copy of the updated version of this Agreement to Customer at the email address associated with Customer’s account; or (iii) sending Customer a copy of the updated version through Customer’s account, or otherwise notifying Customer when Customer is logged into its account. Customer should regularly review the Service, Customer’s account and the email associated with Customer’s account for any such notices or messages, as Customer’s or its Authorized Users’ continued use of the Service after any such changes were so posted or sent to Customer (as applicable) constitutes Customer’s agreement to such changes. Except as otherwise set forth in this Agreement, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this

Agreement will operate or be construed as a waiver thereof, and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

6. Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
7. Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of Maryland without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Maryland.
8. Disputes; Arbitration. Any claim, dispute or controversy between the Parties arising out of or relating to this Agreement, or the making, performance, breach or interpretation of the rights and obligations set forth in this Agreement, including any issue concerning the extent to which a claim, dispute or controversy is subject to arbitration, or any claim, dispute or controversy concerning the applicability, interpretation, or enforceability of these dispute resolution procedures, including any contention that all or part of these procedures is invalid or unenforceable (each, a “**Dispute**”) shall be resolved exclusively in accordance with the following procedure:
  1. On written request from either Party, appropriate executive representatives from each Party shall meet and attempt to resolve the Dispute through good faith discussions.
  2. If such representatives are unable to resolve the Dispute within 30 days after their initial meeting pursuant to Section 13(h)(i), or if ten days have passed from the initial meeting request therefor, then the Parties shall endeavor to settle the Dispute by confidential mediation conducted in Ann Arundel County, Maryland and administered by the Judicial Arbitration and Mediation Service or its successor (“**JAMS**”). Each Party shall be responsible for any out-of-pocket costs it incurs in connection with such mediation, provided that any amounts payable to JAMS (including administrative costs and mediator compensation) shall be borne equally by the Parties.
  3. If the Dispute is not successfully resolved within 30 days after commencement of mediation pursuant to Section 12(h)(ii), then, at the initiation by either Party, the Dispute will be resolved by binding arbitration in Ann Arundel County, Maryland, before a single arbitrator from JAMS mutually agreeable to the Parties, and, if no

agreement is reached on an arbitrator, before the arbitrator from JAMS selects an arbitrator in accordance with JAMS' Comprehensive Arbitration Rules and Procedures. The arbitration will be administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures. The arbitration proceedings and arbitration award shall be maintained by the Parties and by all participants as strictly confidential, except as is otherwise required by court order or as is necessary to confirm, vacate or enforce the award and for disclosure in confidence to the Parties' respective attorneys, tax advisors and senior management. The arbitrator shall require exchange by the Parties to the arbitration of documents relevant to the issues raised by any claim, defense or counterclaim or on which the producing Party may rely in support of or in opposition to any claim, defense or counterclaim, with due regard for eliminating undue burden and expense and the intended lower cost nature of arbitration. At the request of a Party, the arbitrator may at his or her discretion order the deposition of witnesses. The decision of the arbitrator shall be binding on all of the Parties to the arbitration, and any right to judicial action on any matter subject to arbitration hereunder is hereby waived, unless otherwise provided by applicable law. The arbitrator shall be bound by the terms and conditions of this Agreement and shall not extend, modify or suspend any of the provisions of this Agreement. The decision of the arbitrator, which will be issued in a reasoned award, will be enforceable according to the applicable provisions of the Maryland Rules Civil Procedure. The prevailing Party in any arbitration conducted hereunder shall be entitled to recover from the losing Party all reasonable fees, costs and expenses for outside attorneys, experts and other third parties (including its share of JAMS administrative costs and arbitrator compensation) incurred by the prevailing Party in connection with such arbitration (including any motion to compel arbitration and costs of enforcement of the arbitration award).

4. The parties further agree that the arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. THE PARTIES AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.
5. If for any reason the provisions of this Agreement requiring arbitration are declared unenforceable, void, or voidable, or with respect to any action or judicial proceeding permitted under section 13(h)(iii), each party HEREBY KNOWINGLY AND IRREVOCABLY waives any right it may have to trial by jury.

9. Assignment. Customer may not assign this Agreement or assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of Netography, which

consent shall not be unreasonably withheld, conditioned, or delayed. Any purported assignment or delegation in violation of this Section 13(i) will be null and void. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

10. Export Regulation. The Service utilizes software and technology that may be subject to US export control laws, including the US Export Administration Act and its associated regulations. Customer shall not, directly or indirectly, export, re-export, or release the Service or the underlying software or technology to, or make the Service or the underlying software or technology accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Customer shall comply with all Applicable Laws, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Service or the underlying software or technology available outside the US.
11. US Government Rights. Each of the Documentation and the software components that constitute the Service is a “commercial item” as that term is defined at 48 C.F.R. § 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. § 12.212. Accordingly, if Customer is an agency of the US Government or any contractor therefor, Customer only receives those rights with respect to the Service and Documentation as are granted to all other customers, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other US Government customers and their contractors.
12. Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 6 or, in the case of Customer, Section 2(f), would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.
13. Relationship of the Parties. The relationship of Netography and Customer established by this Agreement is that of independent contractors, and nothing contained in this Agreement will create or be construed to create any partnership, joint venture, agency, franchise, sales representative, employment or fiduciary relationship between the Parties.

14. No Third-Party Beneficiaries. Except as expressly set forth herein, this Agreement is the sole benefit of the Parties and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
15. Publicity; Attribution. Neither Party may issue a public statement, public announcement, press release or publicity or marketing materials regarding this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, Netography may indicate that Customer is a customer and display Customer's logo for such purposes on Netography's website and standard marketing materials. Any such attribution will be consistent with Customer's brand usage guidelines as communicated to Netography in writing.

## SCHEDULE 1

### DEFINITIONS

1. "**Affiliate**" means, with respect to a Party, an entity that directly or indirectly Controls, is Controlled by, or is under common Control with such Party. For the purposes of this definition, "**Control**" means beneficial ownership of more than 50% of the voting power or equity in an entity.
2. "**API**" means, collectively, all application programming interfaces used by Customer or its Authorized Users to access certain functionality provided by the
3. "**Applicable Law**" means any law, statute, ordinance, order, rule, code, regulation, constitution, treaty, common law, judgment, decree or other requirement of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction, in effect from time to time and applicable to the relevant activities contemplated by this Agreement, including the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act and any other applicable anti-bribery laws, and laws governing transactions with government and public entities.
4. "**Authorized User**" means Customer's employees, consultants, contractors, third-party service providers and agents who are authorized by Customer in accordance with this

- Agreement to access and use the Service under the rights granted to Customer hereun ^ .
5. **“Confidential Information”** means nonpublic or proprietary data and other information of a Party, whether orally or in written, electronic, or other form or media, and which is either (a) marked, designated or otherwise identified as “confidential”, or (b) is of a type which a reasonable person would understand is confidential or proprietary in nature even if not so marked, designated or identified, including trade secrets, customer lists, business proposals and plans, pricing, technical data, product ideas, methods, processes, code, data, inventions, statistics, programs, research, technology, network designs, passwords and sign-on codes, personnel and staffing, and contract and financial information. Without limiting the foregoing, (i) the Netography Materials and the terms of this Agreement (including the Fees and pricing terms) are the Confidential Information of Netography, and (ii) Customer Data is the Confidential Information of Customer. Confidential Information does not include information that, at the time of disclosure is: (A) publicly available when disclosed or becomes publicly available without fault of the receiving Party; (B) known to the receiving Party at the time of disclosure; (C) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (D) independently developed by the receiving Party.
  6. **“Customer Data”** means information, data (including Personal Data), and other content, in any form or medium, that is stored, retrieved, submitted or otherwise transmitted by or on behalf of Customer or an Authorized User through the Service or otherwise provided directly to Netography under this Agreement by Customer, its Authorized Users or any third parties acting on Customer’s behalf (including a Reseller). For the avoidance of doubt, Customer Data excludes Resultant Data.
  7. **“Customer Systems”** means Customer’s information technology infrastructure, including hardware, software, databases (including database management systems) and networks, whether operated directly by Customer or through the use of a Reseller or third-party services.
  8. **“Data”** means Customer Data and/or Netography Data (if and as applicable).
  9. **“Documentation”** means any manuals, specifications, online help files or user guides relating to the Service that Netography provides or makes available to Customer or its Authorized Users.
  10. **“Netography Data”** means (a) the data and information made available by Netography to Customer through the Service, (b) Performance Data, and/or (c) Resultant Data (as applicable).
  11. **“Netography Materials”** means the API, the Service, the Documentation, the Netography Systems, the Netography Data, and any and all other information, data, documents, materials, works and other content, devices, methods, processes, flow agents, hardware, software and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans or reports, that are provided or used by Netography or any Subcontractor in connection with the Service or Professional Services,

- that otherwise comprise or relate to the Service, Professional Services or Netography Systems, or that are derived from Netography's monitoring of Customer's or its Authorized Users' access to and use of the Service (excluding Customer Data).
12. **"Netography Systems"** means the information technology infrastructure used by or on behalf of Netography in providing the Service, including all computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by Netography or through the use of third-party services.
  13. **"Order Form"** means an order form, quote or other similar document provided directly by Netography, or indirectly through a Reseller, and which specifically states that it is governed by this Agreement. No Order Form is effective unless and until it is duly executed by authorized representatives of both Parties.
  14. **"Permitted Use"** means the use of the Service by an Authorized User for the benefit of Customer solely in or for Customer's internal business operations as contemplated herein, the Reseller Agreement (if any) and the relevant Order Form(s), in accordance with the terms and conditions of this Agreement.
  15. **"Personal Data"** means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or household, or any other information that is regulated as 'personal information' or 'personal data' under Applicable Law.
  16. **"Professional Services"** means the implementation, configuration, training, maintenance and other support services as may be provided by Netography pursuant to one or more Order Forms.
  17. **"Reseller"** means an authorized reseller, distributor or other partner of Netography who enters into a Reseller Agreement with Customer for the purchase of one or more subscriptions to the Service.
  18. **"Reseller Agreement"** means, if and as applicable, the written agreement by and between Customer and a Reseller which governs Customer's purchase of subscriptions to the Service.
  19. **"Resultant Data"** means de-identified, anonymous information, data and other content that is derived by or through the Service from processing Customer Data and is sufficiently different from such Customer Data that such Customer Data cannot be reverse engineered or otherwise identified from the inspection, analysis or further processing of such information, data or content.
  20. **"Service"** means, individually and collectively, the software solution(s) provided by Netography under this Agreement as described in the applicable Order Form, as updated from time to time.
  21. **"Subscription"** means Customer's right to access and use the Service on a subscription basis, as and to the extent listed on an Order Form.
  22. **"Subscription Term"** means the duration of a Subscription as set forth on an Order Form or as specified in Section 12(a).

23. **“Third-Party Products”** means materials and information, in any form or medium, including any open-source or other software, cloud computing services, documents, data, content, specifications, products, equipment or components of or relating to the Service and/or Professional Services that are not proprietary to Netography.



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