

## Windjammer Subscription License Agreement (through AWS Marketplace)

Last Revised: June 19, 2022

Wind Jammer technologies LLC (“Windjammer”) is willing to provide access to its software (“Software”) and accompanying documentation (“Documentation”) (the Software and Documentation are together referred to as the “Product”) to you (the individual and business entity you represent (“you”) only if you accept all the terms and conditions of this Windjammer Subscription License Agreement (“Agreement”). Such access will be provided through the software marketplace (the “AWS Marketplace”) operated by Amazon Web Services, Inc. (“AWS”). You understand and agree that Windjammer may modify this Agreement from time to time, as further provided in this Agreement. Please check Windjammer’s listing on the AWS Marketplace for the latest version of this Agreement.

BY DOWNLOADING, ACCESSING OR USING ANY PORTION OF THE PRODUCT, YOU AGREE TO AND ARE BOUND BY THIS AGREEMENT. If you do not agree to the terms of this Agreement, you are not authorized to use the Product. This Agreement incorporates by reference the order form that you are required to complete when registering for and purchasing your license subscription to the Product on the AWS Marketplace, including then-current pricing for the Product set forth or referenced on such form (together, the “Order Schedule”).

1. **LICENSE.** Subject to the terms, conditions and restrictions set forth in this Agreement, and any additional terms set forth in the applicable Windjammer and/or Marketplace order form ("Order Form"), Windjammer hereby grants, and You hereby accept, a non-exclusive, non-transferable, right and license, to access and use, solely for Your use, (i) the Windjammer software identified on the Order Form (the "Software") and (ii) the user documentation provided with the Software ("Documentation"), for the subscription term specified on the Order Form. You may use the Software and Documentation only for your internal business purposes and may not allow use or access of the Software by third parties.
2. **TERM AND TERMINATION.** The term of this Agreement is the subscription term specified on the Order Form. This Agreement may be terminated by Windjammer if You breach this Agreement and fail to cure such breach within ten (10) days or receipt of notice of the breach from Windjammer.
3. **RESTRICTIONS; PROPRIETARY RIGHTS; FEEDBACK.** You shall not: (i) decompile, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, user interface techniques or algorithms of the Software or disclose any of the foregoing; (ii) encumber, transfer, manufacture, distribute, sell, sublicense, assign, provide, lease, lend, use for timesharing or service bureau purposes, or otherwise use (except as expressly provided herein) the Software or Documentation; (iii) copy, modify, adapt, translate, incorporate into or with other software, or create a derivative work of any part of the Software or Documentation; or (iv) attempt to circumvent any user limits, timing or use restrictions that are built into the Software. The Software is the proprietary intellectual property of Windjammer that

contains trade secrets and is protected by copyright law. Subject to any license granted hereunder, Windjammer retains sole and exclusive ownership of all right, title, and interest in and to the Software and any and all enhancements, modifications, corrections and derivative works that are made to the Software, all of which will be considered part of the Software for the purposes of this Agreement and will be owned by Windjammer. You may, in your sole discretion, provide Windjammer with suggestions, enhancement requests, recommendations, or other feedback related to the Software and Documentation provided hereunder ("Feedback"). You hereby assign to Windjammer all right, title, and interest in and to any Feedback, including all intellectual property rights therein or relating thereto.

4. **OPEN SOURCE SOFTWARE.** Certain of the Software may be subject to open source or other third party terms, as identified by Windjammer in the applicable Documentation. If any such terms conflict with this Agreement, the other terms control with respect to that portion of the Software only.
5. **CONFIDENTIALITY.** Each party shall maintain as confidential and shall not disclose (except to its employees, accountants, attorneys, advisors, affiliates, outsourcers and third party service providers of recipient with a need to know in connection with recipient's performance under this Agreement, and who have been advised of the obligation of confidentiality hereunder), copy or use for purposes other than the performance of this Agreement, any information which relates to the other party's business affairs, trade secrets, technology, research, development, pricing or terms of this Agreement ("Confidential Information") and each party agrees to protect all received Confidential Information with the same degree of care that it would use with its own Confidential Information and to prevent unauthorized, negligent or inadvertent use, disclosure or publication thereof. Breach of this Section may cause irreparable harm and damage. Thus, in addition to all other remedies available at law or in equity, the disclosing party shall have the right to seek equitable and injunctive relief, and to recover the amount of damages (including reasonable attorneys' fees and expenses) incurred in connection with such unauthorized use. The recipient shall be liable to the disclosing party for any use or disclosure in violation of this Section by recipient or its affiliates, employees, third party service providers or any other related party. Confidential Information shall not include information that (a) is already known prior to the disclosure by the owning party; (b) is or becomes publicly known through no breach of this Agreement; (c) is independently developed without the use of the other party's Confidential Information and evidence exists to substantiate such independent development; (d) information that is obtained from a third party, and that third party is not, in good faith belief to the recipient, under any legal obligation of confidentiality; or (e) the recipient receives written permission from the disclosing party for the right to disclose any Confidential Information.
6. **YOUR DATA AND PRIVACY.** The Software will be located behind Your or Your cloud provider's firewall, and, as a result, Windjammer will not have access to Your data ("Customer Data"). Nevertheless, Windjammer is committed to having technical, administrative, and system safeguards in place to secure any Customer Data that You provide to us in connection with this Agreement. Windjammer has implemented industry

standard procedures, practices and infrastructure to protect all Customer Data. Windjammer handles and protects all Customer Data, including personally identifiable information, in compliance with all applicable data protection laws. If You have any questions regarding the handling and protection of Customer Data or the Windjammer Privacy Policy, please contact us at [inf@Windjammerdata.io](mailto:inf@Windjammerdata.io).

7. **WARRANTY DISCLAIMER; NO SUPPORT.** WINDJAMMER DOES NOT MAKE OR GIVE ANY REPRESENTATION, WARRANTY, OR COVENANT OF ANY KIND, INCLUDING ANY WARRANTY THAT THE SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE, OR FREE OF HARMFUL COMPONENTS, OR THAT THE SOFTWARE WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED, IN CONNECTION WITH THE SOFTWARE HEREUNDER, AND THE SOFTWARE IS PROVIDED "AS-IS" AND "AS-AVAILABLE". WINDJAMMER MAKES NO AND DISCLAIMS ALL WARRANTIES IN RELATION TO THE SOFTWARE, DOCUMENTATION, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
8. **LIMITATION OF LIABILITY.** THE CUMULATIVE LIABILITY OF WINDJAMMER TO YOU FOR ALL CLAIMS ARISING UNDER OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID TO WINDJAMMER UNDER THE APPLICABLE ORDER FORM WITHIN THE YEAR PRECEDING THE CLAIM. NOTWITHSTANDING THE FOREGOING, IN NO EVENT WILL WINDJAMMER OR ITS SUPPLIERS BE LIABLE TO YOU OR ANY OTHER PARTY FOR DAMAGES FOR LOSS OF DATA, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, EVEN IF WINDJAMMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IS NEGLIGENT.
9. **GENERAL.**
  1. **Entire Agreement.** This Agreement is the complete and exclusive statement of the parties' agreement and supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter hereof. If these Terms and Conditions conflict with any of the terms or conditions of any Order Form or Statement of Work, then, unless otherwise provided herein, the terms and conditions of such Order Form or Statement of Work will control solely with respect to the Software covered by such Order Form or Statement of Work. Any purchase orders issued by You shall be deemed to be for your convenience only and, notwithstanding acceptance of such orders by Windjammer, shall in no way change, override, or supplement this Agreement.
  2. **Waiver.** Any waiver or modification of the provisions of this Agreement will be effective only if in writing and signed by the party against whom it is to be enforced. If any provision of this Agreement is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or

impaired thereby. A waiver of any provision, breach or default by either party or a party's delay exercising its rights shall not constitute a waiver of any other provision, breach or default.

3. Independent Contractor. The relationship between Windjammer and You is that of independent contractors. At no time shall either party make any commitments or incur any charges or expenses for or in the name of the other party, or be considered the agent, partner, joint venture, employer or employee of the other party.

4. Notices. All notices or other communications required to be given hereunder shall be in writing and delivered either by email to [info@windjammer.io](mailto:info@windjammer.io)

5. Assignment. This Agreement may not be assigned by You without Windjammer's prior written consent.

6. Compliance with Laws. Each party will be responsible for compliance with all legal requirements related to its performance under this Agreement, including all applicable U.S. export laws and those laws related to the protection, privacy and disclosure of data and information.

7. Force Majeure. Neither party will be responsible for any failure to perform due to causes beyond its reasonable control, including, but not limited to, acts of God, terrorism, war, riot, embargoes, fire, floods, earthquakes, or strikes (each a "Force Majeure Event") provided that such party gives prompt written notice to the other party of the Force Majeure Event. The time for performance will be extended for a period equal to the duration of the Force Majeure Event.

8. Governing Law and Disputes. This Agreement and any dispute arising hereunder shall be governed by and interpreted and construed in accordance with the laws of the State of California, without regard to conflict of law principles, and shall be subject to the exclusive jurisdiction of the federal and state courts located in Boston, Massachusetts, and each party consents to the exclusive personal jurisdiction and venue of such courts.

8.9 Survival. Sections 3 through 8 of this Agreement shall survive any termination hereof.