

Cloudmore Master Agreement

Version 2023-06

This Cloudmore Master Agreement outlines the general terms and conditions regarding Your use of Cloudmore's Services including ordering of Third-party Products through the Cloudmore Marketplace.

This Cloudmore Master Agreement is between the entity You represent, ("**You**" or "**Your**"), and Cloudmore AB, a Swedish corporation, ("**Cloudmore**", "**Us**" or "**We**"). It consists of the terms and conditions below, as well as the Service specific Subscription Agreements, Service specific SLA's, and Cloudmore Data Processing terms (together, the "**Agreement**").

This Agreement takes effect when You click to accept it, or at the time of signing a Service Subscription Agreement (the "**Effective Date**"). You represent and warrant that (a) You represent an economic entity, (b) that You have the legal authority to enter into this agreement on that entity's behalf, and (c) that You are not engaged in activities which could potentially require Cloudmore to obtain any export license, permit, or other approval under applicable laws and regulations including, but not limited to, export control or sanctions regulations.

1 Definitions

"Affiliate" means any person, partnership, joint venture, corporation, or other form of enterprise, domestic or foreign, including but not limited to subsidiaries, that directly or indirectly, control, are controlled by, or are under common control with a party.

"API" means an Application Program Interface.

"Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including, but not limited to, Your Content and Personal Data, the terms of this Agreement, and Your End-User account authentication credentials. Confidential Information does not include information that (1) becomes publicly available without a breach of a confidentiality obligation; (2) the receiving party received lawfully from another source without a confidentiality obligation; (3) is independently developed; or (4) is a comment or suggestion volunteered about the other party's business, products, or services ("**Feedback**")

"Data Processing Terms" means the Cloudmore Data Processing terms located at <http://web.cloudmore.com/privacy>, as it may be updated by Us from time to time.

"End-User" refers to any person or device You permit to access the Services.

"Indirect Taxes" means applicable taxes and duties, including, without limitation, VAT, Service Tax, GST, excise taxes, sales and transactions taxes, and gross receipts tax.

"Intellectual Property Rights" means any current and future worldwide rights under patent, copyright, trade secret, trademark, and moral rights laws, and other similar rights.

"Personal Data" means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.

"Representatives" means a party's employees, Affiliates, contractors, advisors and consultants.

"Services" refers to products and services provided by Cloudmore. It does not include Third-party Products.

"Subscription" refers to an enrolment for a Service or a Third-party Product for a defined term.

"Third-party Product" refers to products or services made available through the Cloudmore Marketplace by a third party, e.g. for discovery, ordering, contracting, provisioning, and management.

"Your Content" means all content, including text, sound, video, or image files that You or any of Your End-User transfers to Us for processing in connection to Your use of the Services. Your Content does not include Your Personal Data.

2 Use of the Services

2.1 Right to use

You may access and use the Services in accordance with the Agreement. You will comply with the terms of this Agreement and all laws, rules, and regulations applicable to Your use of the Services.

Cloudmore will provide You with support for the Services as set out in the respective Service Level Agreements.

2.2 Additional Software for use with the Services

We may provide You with certain software in connection with Your use of the Services. We only license such software to You, We do not sell it.

You may install and use such software only for use with the Services. The Services terms may limit the number of copies of the software You may use, or the number of devices on which You may use it. Your right to use the software begins when the Service is activated and ends when Your right to use the Service ends. You must uninstall the software when Your right to use it ends.

3 Your Responsibilities

3.1 Your End-Users

You control access to the Services by Your End-Users, and You are responsible for their use of the Services in compliance with this Agreement. Each End-User account must be associated with an individual identified by name and a valid email address, and the End-User log-in credentials and private keys are to be kept private and are for individual use only.

You are responsible for Your End-Users' use of Your Content, Personal Data, and the Services, and for all acts or omissions that occur under any of Your End-User accounts. We are not responsible for unauthorized access to any of Your End-User accounts.

3.2 Restrictions

You shall only make the Services available to authorized End-Users in furtherance of Your internal business purposes as expressly permitted by this Agreement, unless agreed to otherwise in writing by Cloudmore.

You shall not at any time, directly or indirectly: (a) copy, modify, or create derivative works of the Services, in whole or in part; (b) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services, except as authorized in writing by Us; (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services; (d) use the Services 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; (e) input, upload, transmit any Harmful Code; (f) access or use the Services for purposes of competitive analysis or development of a competing service; or (g) access or use the Services in a way that circumvents or exceeds Service account limitations or requirements.

If You become aware of any End-Users that are in violation of the obligations under this Agreement, any possible misuse of Your User accounts or authentication credentials, or any security incident related to the Services, You shall immediately notify Cloudmore and suspend access to the Services by such End-User.

3.3 Privacy

You are responsible for any consents and notices required to permit (a) Your use and receipt of the Services and (b) our accessing, storing, and processing of Your Content and Personal Data, under the Agreement.

4 The Cloudmore Marketplace and Third-party Products

The Cloudmore Marketplace allows Services as well as Third-party Products to be offered, bought, and managed. Products offered by a third-party seller are governed by the terms and conditions provided by such third-party seller and Cloudmore is not a party to the terms of any such Third-party Product. Upon ordering Third-party Products through the Cloudmore Marketplace, orders shall be effective immediately upon acceptance by the Third-party Product Seller.

For any Third-party Product, the third-party seller is the seller of record. Whilst Cloudmore may help facilitate the resolution of disputes between You and a Third-party Product seller, Cloudmore is not responsible for Third-party Products and We have no control over, and do not guarantee the quality, safety, or legality of items advertised, the truth or accuracy of Third-party Products or listings, or the ability of the seller to offer such Third-party Product. The respective Third-party Product sellers are responsible for providing You with support for their Third-party Product and Cloudmore will not provide any assistance or support in relation to Third-party Products.

4.1 Payment for Third-party Products

Cloudmore may bill You for some Third-party Products and You authorize Us, our Affiliates, and our payment processors to charge the payment method associated with Your Cloudmore account for such Third-party Products.

4.2 Sharing of VAT Data with Third-party Product Sellers

If You have provided Your value added tax (VAT) registration number to Us so that it can be applied to Your purchases, that information You provide with Your registration (including Your VAT registration number and the name and address associated with Your VAT registration) will be shared with the Third-party Product seller to the extent necessary for such Third-party Product seller to comply with VAT invoicing regulations and requirements.

5 Fees and Payments

5.1 Service Fees

The Service Fees and associated currency are set out in the Service Subscription Agreements.

5.2 Billing and Payments

You will pay Us the applicable fees and charges for use of the Services and any Third-party Products using one of the payment methods We support. The payment terms are provided in the Service Subscription Agreement. Cloudmore reserves the right to change the payment terms if Your account repeatedly becomes overdue. You are liable for any additional processing fees, exchange losses, and other charges that may apply in connection with Your payments and You will pay such additional amounts as are necessary so that the net amount received by Us is equal to the amount then due and payable under this Agreement.

5.3 Taxes

Our prices exclude applicable taxes unless identified as tax inclusive. Each party will be responsible, as required under applicable law, for identifying and paying all taxes and other governmental fees and charges (and any penalties, interest, and other additions thereto) that are imposed on that party upon or with respect to the transactions and payments under this Agreement. All fees payable by You are exclusive of Indirect Taxes, except where applicable law requires otherwise. We may charge and You will pay applicable Indirect Taxes that We are legally obligated or authorized to collect from You. You will provide such information to us as reasonably required to determine whether We are obligated to collect Indirect Taxes from You. We will not collect, and You will not pay, any Indirect Tax for which You furnish us a properly completed exemption certificate or a direct payment permit certificate for which We may claim an available exemption from such Indirect Tax.

All payments made by You to Us under this Agreement will be made free and clear of any deduction or withholding, as may be required by law. If any such deduction or withholding (including but not limited to cross-border withholding taxes) is required on any payment, You will pay such additional amounts as are necessary so that the net amount received by Us is equal to the amount then due and payable under this Agreement. We will provide you with such tax forms as are reasonably requested in order to reduce or eliminate the amount of any withholding or deduction for taxes in respect of payments made under this Agreement.

5.4 Overdue amounts

We may elect to charge You interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) on all late payments from the payment due date until paid in full. You are responsible for all reasonable expenses incurred by Us in collecting such overdue amounts. Further, if Your payment for the Services is overdue, We may suspend the Services. A Service reactivation fee, as indicated in the Service Subscription Agreement, will be charged for reestablishing access to the Services after such a suspension.

6 Invoice Disputes and Refunds

6.1 Refund Policy

Unless otherwise provided by law, all purchases are final and non-refundable. If You believe that there is an error on Your Cloudmore invoice, You must submit a claim within 60 days to support@cloudmore.com, including all information necessary for Us to validate the claim, whereby We will promptly investigate the charge. If We have identified an error We will correct that error within 60 days.

No refunds will be given for any charges more than 60 days old, unless otherwise required by law. We reserve the right to issue refunds or credits at our sole discretion. If We issue a refund or credit, We are under no obligation to issue the same or similar refund in the future.

7 Changes

7.1 To the Services

In order to continuously improve the Services, We may make commercially reasonable changes to the Services at any time.

7.2 To the APIs

In order to continuously improve the Service APIs We may change or discontinue the availability of some, or all, of the Service APIs.

For any material change to a Service API, We will use commercially reasonable efforts to continue supporting the previous version of such API for six months after the change or discontinuation, except if doing so (a) would pose a security or intellectual property issue, (b) is economically or technically burdensome, or (c) would cause Us to violate the law or requests of governmental entities.

Our Service APIs are provided on a fair use basis, and We reserve the right to set and enforce limits on Your use of the Service APIs.

7.3 To the Service Fees

We may change the Service Fees from time to time. Changes to the Service Fees will become effective upon 30 days' notice at next Service Subscription Term renewal.

7.4 To the Agreement

We may update and amend the terms and conditions of this Cloudmore Master Agreement and the Service specific Service Level Agreements from time to time. Changes to the Cloudmore Master Agreement and Service specific Service Level Agreements become effective at next Service Subscription Term renewal. We may update and amend the Cloudmore Data Processing terms from time to time as provided in the Cloudmore Data Processing Terms.

Use of the Services after any such change will conclusively be regarded as a general acceptance of such change. If You do not accept certain changes, You may terminate this Agreement, subject to the terms and conditions contained herein.

8 Temporary Suspension

8.1 Generally

We may suspend Your, or any of Your End-User's, right to access or use of the Services immediately upon notice to You if We determine that:

- a) Your, or Your End-User's, use of the Services (i) poses a security risk to the Services or any third party, (ii) could adversely impact the Services, (iii) could subject Us, our Affiliates, or any third party to liability, or (iv) could be fraudulent;
- b) You have ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of Your assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding;
- c) You, or any of Your End-Users, are in breach of this Agreement; or
- d) if Your account is overdue by more than 15 days.

8.2 Effect of Suspension

If We suspend any Service You remain responsible for all fees and charges You incur during the period of suspension and You will not be entitled to any Services credits under any Service Level Agreements for any period of suspension.

8.3 Urgent Security Issues

In the event of an urgent security issue, Cloudmore may suspend the Services or associated End-User account. Suspension will be to the minimum extent required, and for the minimum duration, to prevent or resolve the security issue. If Cloudmore suspends the Services or End-User account without prior notice to You, We will, at Your request, provide You the reason for the suspension as soon as is reasonably possible.

9 Term and Termination

9.1 Cloudmore Master Agreement Term

The Cloudmore Master Agreement Term begins on the Effective Date and continues until You have no active Service Subscriptions Terms, or Third-party Product Subscriptions Terms, whereby it will automatically terminate after 90 days.

9.2 Service Subscription Term and Termination

The Service Subscription Terms are set out in the Service Subscription Agreements. A Service Subscription automatically renews for another term of equal length unless terminated. You may terminate any Service Subscription Agreement at the end of a current Term by providing Us at least 30 days' notice.

9.3 Termination by Us

Cloudmore may terminate any Service Subscription Agreement at the end of a current Term by providing You at least 30 days' notice. Cloudmore may also terminate this Agreement and, or, any Service Subscription Agreement, immediately upon notice to You:

- a) in order to comply with the law or requests of governmental entities;
- b) if our relationship with a third party who provides software, or other technology, We use to provide the Services expires, terminates, or requires Us to change the way We provide any part of the Services;
- c) if Your access to a Service has been suspended according to Paragraph 8.1 and You do not fully address the reasons for the suspension within 30 days.

The termination of this Agreement by Us shall not affect any current Third-party Product Subscription Terms.

9.4 Termination for Cause

Either party may terminate this Agreement upon notice to the other party for cause if:

- a) the other party is in material breach of the Agreement and fails to cure that breach within thirty days after receipt of notice;
- b) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within ninety days; or
- c) a change in control of the majority of voting equity shares or interests (as determined by reference to the ultimate parent entity), which involves a direct competitor, or one of its Affiliates, gaining control of the other party.

9.5 Effect of Termination

Upon termination You must stop using, and Cloudmore will stop providing, the Services. You are responsible to pay all fees until the date of the termination. In the event that Cloudmore terminates the contract, unless this is done with reference to section 9.3 a) or b), You will forfeit any amounts paid in advance for any usage period after the termination date.

10 Intellectual Property Rights, Your Content and Personal Data

10.1 Intellectual Property Rights

Each Party shall retain all rights, title and interest in any Intellectual Property Rights. You own all Intellectual Property Rights in Your Content, and Cloudmore owns all Intellectual Property Rights in the Services.

10.2 Protection of Your Content

You may specify the regions in which Your Content will be stored, and You consent for Us to access and use Your Content as necessary to maintain and provide the Services. We will never use Your Content for advertising or similar commercial purposes. We have implemented and will maintain administrative, physical, and technical safeguards to protect Your Content as further described in the Cloudmore Security Measures.

10.3 Protection of Your Personal Data

The terms and conditions for processing of Your Personal Data are found in the Cloudmore Data Processing terms.

10.4 Feedback

At your option, You may provide Feedback or suggestions about the Services to Us. We and Our Affiliates shall be free to use, disclose, reproduce, license, or otherwise distribute, and exploit such Feedback without restriction and without any obligation to You.

11 Publicity

Both parties may state publicly that You are a customer of Cloudmore. Neither party may issue a press release or make any other public communication with respect to this Agreement or Your use of the Services without written approval by the other party.

12 Confidential information

12.1 Protection of Confidential Information

Each Party will take reasonable steps to protect the other's Confidential Information and will use the other Party's Confidential Information only for purposes of the Parties' business relationship. Neither party will disclose Confidential Information to any third Party, except to its Representatives, and then only on a need-to-know basis under non-disclosure obligations at least as protective as this Agreement. Each Party remains responsible for the use of Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.

12.2 Required Disclosure

A Party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if lawfully permitted) to enable the other party to seek a protective order.

12.3 Duration of Confidentiality Obligation

These obligations apply (a) for Your Content and Personal Data, until it is deleted from the Online Services; and (b) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

13 Warranties and Disclaimer

13.1 Cloudmore Warranties

Cloudmore warrants that the Services will perform in accordance with the applicable Service SLAs during the Term. Your remedies for breach of this warranty are described in the respective Service SLAs.

13.2 Exclusions

The warranties in this Agreement do not apply to problems caused by accident, abuse, or use inconsistent with this Agreement, including failure to meet minimum system requirements. These warranties do not apply to free, trial, preview, or prerelease Services or functionalities which are provided "as-is," "with all faults," and "as-available," and are excluded from the Service SLAs and all limited warranties provided in this Agreement and may not be covered by customer support. Cloudmore may change, or discontinue, any free, trial, preview, or prerelease Service or functionality at any time without notice.

13.3 Disclaimer

Except as expressly provided for in the Agreement, Cloudmore does not make and expressly disclaims to the fullest extent permitted by applicable law (a) any warranties of any kind, whether express, implied, statutory, or otherwise, including warranties of merchantability, fitness for a particular use, title, noninfringement, or error-free or uninterrupted use of the Services and (b) any representations about content or information accessible through the Services. We are not responsible, or liable for, the deletion of, or failure to store Your Content or Personal Data.

14 Indemnification

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

14.1 By Us

We will defend You against any third-party claim to the extent it alleges that Services made available by Us for a fee misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If We are unable to resolve a claim of infringement under commercially reasonable terms, We may: (a) modify or replace the Services or function with a functional equivalent; or (b) terminate Your Service Subscription and refund any amount paid for any usage period after the termination date. We will not be liable for any claims or damages due to Your continued use of the Services after being notified to stop due to a third-party claim.

We will defend You against any third-party claim to the extent it alleges that a Service made available for a fee and used within the scope of the license granted under this Agreement, misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party. If We are unable to resolve a claim of misappropriation or infringement, We may choose to, either (a) modify or replace the Service with a functional equivalent or (b) terminate Your Service Subscription and refund any amounts paid in advance for any usage period after the termination date.

14.2 By You

You will defend Us against any third-party claim which (a) alleges that any of Your Content or Personal Data misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (b) relates to Your, or any of Your End-Users', use of the Services in breach of this Agreement.

15 Limitations of Liability

Each party's maximum, aggregate liability to the other under this agreement is limited to direct damages finally awarded in an amount not to exceed the Service Fees paid, or payable, over the previous twelve (12) months. If the Services has been provided free of charge, the liability is limited to direct damages up to EUR 1,000.

15.1 Exclusions

In no event will either Party be liable for indirect, incidental, special, punitive, or consequential damages, or loss of use, loss of profits, or interruption of business, or loss of revenues, profits, savings, goodwill, or Your Content or Personal Data, however caused or on any theory of liability.

15.2 Exceptions to Limitations

The limits of liability in this section 15 will apply to the fullest extent permitted by applicable law, but do not apply to: (a) the parties' obligations under section 14 (Indemnification); or (b) violation of the other's Intellectual Property Rights; (c) confidentiality obligations (except for liability related to Your Content or Personal Data, which will remain subject to the limitations and exclusions above), or (d) if a party is guilty of gross misconduct, fraud or fraudulent misrepresentation.

16 Miscellaneous

16.1 Assignment

Either party may assign this Agreement to an Affiliate, but it must notify the other party in writing of the assignment. You consent to the assignment to a Cloudmore Affiliate or third-party, without prior notice, of any rights Cloudmore may have under this Agreement to receive payment and enforce Your payment obligations, and all assignees may further assign such rights without further consent. Any other proposed assignment of this Agreement must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned Agreement. Any attempted assignment without required approval will be void.

16.2 Notices

We may provide notice to You under this Agreement by sending an email to Your notification email address. You may provide notice to Us under this Agreement by sending an email message to legal@cloudmore.com. Notice will be treated as given on receipt, as verified by written or automated receipt. All communications and notices made or given pursuant to this Agreement must be in the English language.

16.3 Force Majeure

Except with respect to obligations to make payments hereunder, neither party will be liable for any failure in performance due to causes beyond that party's reasonable control, including, but not limited to: earthquake, flood, fire, storm or other natural disaster, act of God, labor controversy or threat thereof, civil disturbance or commotion, disruption of the public markets, war or armed conflict or the inability to obtain sufficient material, supplies, labor, transportation, power or other essential commodity or service required in the conduct of its business, including internet access, or any change in or the adoption of any law, ordinance, rule, regulation, order, judgment or decree.

16.4 Governing Law

This contract is governed by the substantive law of Sweden, without its conflict of law rules.

16.5 Disputes

Any dispute, controversy or claim arising out of or in connection with this Agreement or the breach, termination or invalidity thereof, where the amount in dispute does not exceed EUR 50,000 shall be settled by a Swedish court of general jurisdiction and the Stockholm District Court shall be the court of first instance.

Where the amount in dispute exceeds EUR 50,000 the dispute shall be finally settled by arbitration administered by the arbitration institute of the Stockholm Chamber of Commerce.

The Rules for Expedited Arbitrations shall apply where the amount in dispute does not exceed EUR 100,000. Where the amount in dispute exceeds EUR 100,000 the Arbitration Rules shall apply. The Arbitral Tribunal shall be composed of a sole arbitrator where the amount in dispute exceeds EUR 100,000 but not EUR 1,000,000. Where the amount in dispute exceeds EUR 1,000,000, the Arbitral Tribunal shall be composed of three arbitrators. The amount in dispute includes the claims made in the Request for Arbitration and any counterclaims made in the Answer to the Request for Arbitration. The seat of arbitration shall be Stockholm, Sweden.

The language to be used in the arbitral proceedings shall be English, if not otherwise agreed in writing prior to the initial day of proceedings.

16.6 Survival

Provisions contained in this Agreement that are expressed, or by their sense and context are intended, to survive the expiration or termination of this Agreement, shall survive the expiration or termination.

16.7 Entire agreement

This Agreement is the entire agreement between You and Us regarding the subject matter of this Agreement. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between You and Us, whether written or verbal, regarding the subject matter of this Agreement. This Agreement may not otherwise be amended except in a written side letter signed by authorized representatives of both Parties.

16.8 Precedence

In the event of a conflict between the terms of this Agreement and the terms of any Service specific Subscription Agreement, exhibit, or purchase order, a negotiated term takes precedence over a standard term.

16.9 Independent Contractors

Cloudmore and You are independent contractors, and this agreement does not create an agency, partnership, or joint venture.

16.10 No Third-party Beneficiaries

There are no third-party beneficiaries to this Agreement.

16.11 No Waiver

Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under this Agreement. All waivers must be in writing and signed by authorized representatives of both Parties to be effective.

16.12 Waiver of right to void online purchases

To the maximum extent permitted by applicable law, You waive Your rights to void purchases under this agreement pursuant to any law governing distance selling or electronic or online agreements, as well as any right or obligation regarding prior information, subsequent confirmation, rights of withdrawal, or cooling-off periods.

16.13 Severability

If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect. Any invalid or unenforceable portions will be interpreted to effect and intent of the original portion. If such construction is not possible, the invalid or unenforceable portion will be severed from this Agreement, but the rest of the Agreement will remain in full force and effect.

16.14 Special, Government and Educational customers

If You are an entity subject to additional legal requirements relating to data privacy or procurement processes, such as government, educational, or health care providers, You are not permitted to use a Service without a separate Agreement with Us to assure full compliance with local laws and procurement processes.

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