

## SaaS

### END-USER LICENSE AGREEMENT

Version 20220315

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This End User License Agreement (“Agreement”) is entered into between the Customer (either an individual or a single entity, sometimes referred to herein as “Customer”) and Cloud9 Discovery LLC (dba CloudNine), for the number of Authorized Users (as defined below) as referenced in a corresponding Software Order, the terms of which are incorporated by reference as if fully set forth herein.

Capitalized terms used in this Agreement, which are incorporated herein by reference, are defined in the last section of this Agreement.

#### 1. RIGHT TO USE

CloudNine will provide the Customer with the use of CloudNine Review Software-as-a-Service (“SaaS”). The Customer use of the Service shall be deemed to be Customer agreement to abide by this Agreement. With respect to CloudNine SaaS products use includes a browser interface and data encryption, transmission, access, and storage.

CloudNine permits the Customer to use the Program(s) only in accordance with the terms of this Agreement. Subject to the Customer’s payment of the Subscription Fees set forth in the Order Agreement and the Customer’s compliance with the other terms of this Agreement, CloudNine grants to the Customer a limited, personal, non-exclusive, non-transferable, and non-assignable (except as this Agreement otherwise provides) right to use the Program and Documentation during the Term as set forth in this Agreement.

#### 2. USE RESTRICTIONS AND LIMITATIONS

2.1. **License.** By accepting the License granted by CloudNine, the Customer may not access the Program if the Customer is a direct competitor of CloudNine with a product competitive to CloudNine or a product powered by CloudNine except with CloudNine’s prior written consent. In addition, the Customer may not access the Program for purposes of monitoring its availability, performance, or functionality, or for any other benchmarking for competitive purposes.

The Customer agree that the Customer will not, without the prior written consent of CloudNine, (a) sell, license, sublicense, distribute, lease or otherwise transfer or allow the transfer of the Program, or any backup copy, to third parties; (b) use the Program in any manner inconsistent with the rights granted above, including but not limited to use of the Program in a service bureau, renting, leasing, lending or using the Program to provide commercial hosting services, or using more than the number of Licenses or permit access to the Program by more than the number of Authorized Users; (c) modify or create derivative works of the Program or Documentation or separate the Program’s component parts for use on more than one device; or (d) unless specifically permitted under applicable law without the possibility of contractual waiver, attempt to decompile, disassemble or reverse engineer the Program, or otherwise attempt to (i) derive source code or underlying ideas, algorithms, structure or organization from the Program or (ii) defeat, avoid, bypass, remove, deactivate or otherwise circumvent any software protection mechanisms in the Program, including without limitation any such mechanism used to restrict or control the functionality of the Program.

The Customer may use the Program only for the Customer internal business purposes and shall not

interfere with or disrupt the integrity or performance of the Program or the data contained therein or attempt to gain unauthorized access to the Program.

- 2.2. **Right to Use for Service Providers.** Notwithstanding the terms herein limiting use to the licensee's internal business purposes or prohibiting use thereof in a Service Provider, unless the service provider is a CloudNine Partner Program Member, then the Customer is hereby granted the additional revocable right to use the Authorized Products to provide services to their end-clients in the ordinary course of Customer business. Customer may permit Customer customers' use of the Licensed Software only in accordance with the rights and restrictions of the terms set forth herein.
- 2.3. **Reactivation.** THERE MAY BE TECHNOLOGICAL MEASURES IN THE PROGRAM THAT ARE DESIGNED TO PREVENT UNLICENSED USE OF THE PROGRAM. Customers understand that the Customer may need to activate or reactivate the Program from time to time to continue the use of the Program.
- 2.4. **Transfer or Assignment.** This Agreement may not be assigned by the Customer without the prior written approval of CloudNine but may be assigned without the Customer consent by CloudNine to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of the Customer that results or would result in a direct competitor of CloudNine directly or indirectly owning or controlling 50% or more of the Customer shall entitle CloudNine to terminate this Agreement for cause immediately upon written notice.

Any permitted transfer of the Program must include the Program and Documentation, any backup copies, any Updates, and Upgrades, if applicable, and a copy of this Agreement. Written notice of the permitted transfer must be sent by the Customer to CloudNine within fifteen (15) business days of the transfer, specifying the new licensee, who must agree in writing to be bound by the terms and conditions of this Agreement.

CloudNine may assign this Agreement to any Affiliate or successor on notice to the Customer. As a condition to assignment, each party's assignee must agree in writing to assume and be bound by all terms and conditions of this Agreement.

- 2.5. **Internet-Based Services.** If the Program accesses a CloudNine internet-based service associated with the Program, the Customer agrees that the Customer will not use the Program in any manner that could damage, disable, overburden, or impair such services or interfere with any other party's use and enjoyment of them.
- 2.6. **Customer Responsibilities.** The Customer is responsible for all activity occurring under the Customer User accounts and shall abide by all applicable local, state, national and foreign laws, treaties, and regulations in connection with the Customer use of the Program, including those related to data privacy, international communications, and the transmission of technical or personal data. The Customer shall: (i) notify CloudNine or the Customer authorized CloudNine Reseller ("CloudNine Reseller") immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to CloudNine or the Customer CloudNine Reseller immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by the Customer or Customer Users; and (iii) not impersonate another CloudNine user or provide false identity information to gain access to or use the Program.

### 3. **ACCOUNT INFORMATION AND DATA**

CloudNine or a CloudNine Reseller does not own any data, information, or material that the Customer submit to the Service while using the Service ("Customer Data"). The Customer, not CloudNine or Customer CloudNine Reseller, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all the Customer Data, and CloudNine or CloudNine Reseller shall not be responsible or liable for the deletion, correction, destruction, damage, loss, or failure to store any Customer Data. In the event, this Agreement is terminated (other than by reason of Customer

breach), CloudNine will make available to the Customer a file(s) of the Customer Data within 30 days of termination of the Customer so requests at the time of termination of the Customer account balance is paid. CloudNine reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, the Customer non-payment. Upon termination for cause, the Customer's right to access or use of its data immediately ceases, and CloudNine or a CloudNine Reseller shall have no obligation to maintain or forward any Customer Data.

#### **4. CONFIDENTIALITY**

In connection with providing and performing the Services, a party (the "Discloser") may disclose to the other party (the "Recipient") information that is non-public, proprietary, a trade secret, or confidential in nature ("Confidential Information"). Notwithstanding anything to the contrary herein, Confidential Information shall be deemed to include, but not limited to: (a) information of or regarding Customer or CloudNine's business and customers; (b) the Program and documentation; and (c) either party's technical and business information relating to inventions or software, research and development, future product specifications, implementation methodologies, engineering processes, costs, profit or margin information, and marketing and future business plans. The parties agree, unless required by law, to refrain from disclosing any Confidential Information to any third party for any purpose other than as necessary to perform under this Agreement. The Recipient shall use the same degree of care as it uses to protect its own confidential information of a similar nature, but no less than reasonable care, to prevent the unauthorized use, dissemination, or publication of the Confidential Information. Each Recipient may disclose Confidential Information to its representatives, which shall include its officers, directors, members, agents, employees, contractors, on a need-to-know basis only, and Recipient shall advise each such representative of these confidentiality obligations. The parties acknowledge that any breach of its obligations with respect to Confidential Information may cause the other irreparable injury for which there may be inadequate remedies at law and that Discloser shall be entitled to seek equitable relief in addition to all other remedies available to it. A party's Confidential Information shall not include information that: (i) is or becomes publicly available through no act or omission of Recipient; (ii) was in the Recipient's lawful possession prior to the disclosure and was not obtained by Recipient either directly or indirectly from the Discloser; (iii) is lawfully disclosed to the Recipient by a third party without restriction on Recipient's disclosure, and where the Recipient was not aware that the information was the confidential information of Discloser; or (iv) is independently developed by the Recipient without reference to or use of Discloser's Confidential Information. To the minimum extent use or disclosure is required by court order or other mandatory regulatory or governmental request or as otherwise required by law (collectively, "Order"), Recipient shall promptly notify the Discloser of such Order (to the extent permissible) prior to making any such use or disclosure to provide Discloser the opportunity to challenge the Order or seek confidential treatment of the affected Confidential Information. The parties agree to hold each other's Confidential Information in confidence for a period of three (3) years following the termination of this Agreement.

#### **5. DATA PROCESSOR**

To the extent CloudNine's SaaS or Professional Services team is used by Customer as a Processor, CloudNine and its employees shall act only on instructions from the Customer.

#### **6. INTELLECTUAL PROPERTY OWNERSHIP**

CloudNine alone shall own all right, title, and interest, including all related Intellectual Property Rights, in and to the CloudNine technology, the Content, and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by the Customer or any other party relating to the Service. This agreement is not a sale and does not convey to the Customer any rights of ownership in or related to the Service, the CloudNine technology, or the Intellectual Property Rights owned by CloudNine. The CloudNine name, the CloudNine™ or CloudNine logo, and the product names associated with the Service are trademarks of CloudNine or third parties, and no right or license is granted to use them.

Each party shall retain ownership of all its Marks and other intellectual property rights. Subject to the terms and conditions of this Agreement, each party grants to the other a limited, non-exclusive, and non-transferable right and license to use, reproduce and display each other's Marks in connection with the

performance of this Agreement. A party's use of the other's Marks shall be in accordance with the specifications provided for such use by the party whose Marks are being used. In the event such specifications are not provided, the party whose Marks are being used may provide specifications regarding the use of their Mark.

## **7. COPYRIGHT AND PROPRIETARY INFORMATION**

- 7.1. CloudNine and its suppliers reserve all the rights with respect to the Program, Documentation, and any copies under all applicable national and international laws and treaties for the protection of Intellectual Property Rights, including, but not limited to, trade secrets, copyrights, trademarks, and patents. Any rights not expressly granted to Customer in this Agreement are retained by CloudNine and its suppliers.
- 7.2. Except as otherwise provided in this Agreement, Customer shall not cause or permit unauthorized copying, reproduction, or disclosure of any portion of the Program or Documentation, or the delivery or distribution of any part thereof, to any third party, for any purpose, without the prior written permission of CloudNine. This restriction shall continue beyond the termination of this Agreement.

## **8. EXPORT**

CloudNine uses software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies. The user of this software ("User") acknowledges and agrees that the software shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the United States maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Program, the Customer represents and warrants that Customer are not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. The Customer agrees to comply strictly with all U.S. export laws and assumes sole responsibility for obtaining licenses to export or re-export as may be required.

This software may use encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774 and Council Regulation (EC) No. 1334/2000

CloudNine and its licensors make no representation that the Program is appropriate or available for use in other locations. If Customer uses the Program from outside the United States of America the Customer is solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. Any diversion of the Content contrary to United States law is prohibited. None of the Content, nor any information acquired using the Program, is or will be used for nuclear activities, chemical or biological weapons, or missile projects unless specifically authorized by the United States government for such purposes.

The Customer will not ship, transfer, or export the Program to any country, nor will the Customer use the Program, in any manner prohibited by the United States Export Administration Act or any other export laws national or international, restrictions or regulations that apply to the Program. The Customer agrees to indemnify and hold CloudNine harmless for any violation of this provision.

## **9. U.S. GOVERNMENT RIGHTS**

The Program and Documentation are "Commercial Items" as that term is defined at 48 CFR 2.101 consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation" as such terms are used in 48 CFR 12.212 or 48 CFR 227.7202, as applicable. The rights to the Program and Documentation are granted to U.S. Government end users (a) only as Commercial Items and (b) only with those rights as are granted to all other end users pursuant to the terms and conditions of this Agreement.

## 10. LIMITED WARRANTY

10.1. CloudNine warrants that it has sufficient rights to grant the rights in the Program pursuant to this Agreement; CloudNine further warrants that the Program will operate substantially in accordance with its written specifications. No warranty is made that the Program will run uninterrupted or error-free. The warranty period for the Program and Documentation is ninety (90) days from the date the Program is first made available for Customer use ("Warranty Period").

10.2. CloudNine's and its suppliers' entire liability and the Customer exclusive remedy for any breach of this limited warranty or for any other breach of this Agreement or for any other liability relating to the Program shall be, at CloudNine's option from time to time exercised subject to applicable law, (a) repair, or (b) replacement. The Customer will receive the remedy elected by CloudNine without charge, except that the Customer is responsible for any expenses the Customer may incur (e.g., cost of shipping the Program to CloudNine). This limited warranty is void if failure of the Program has resulted from accident, abuse, misapplication, abnormal use, or malware. Any replacement Program will be warranted for the remainder of the original warranty period or forty-five (45) days, whichever is longer, and CloudNine will use commercially reasonable efforts to provide the Customer with a remedy within a commercially reasonable time of the Customer compliance with CloudNine's warranty remedy procedures. Outside of the United States or Canada, neither these remedies nor any product support services offered by CloudNine are available without proof of subscription from an authorized international source.

10.3. THE PRECEDING WARRANTIES ARE THE ONLY WARRANTIES RELATED TO THE PROGRAM, DOCUMENTATION, AND SUPPORT SERVICES AND ARE MADE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

10.4. If an implied warranty or condition is created by the Customer state/jurisdiction and federal or state/provincial law prohibits disclaimer of it, the Customer also has an implied warranty or condition, BUT ONLY AS TO DEFECTS DISCOVERED DURING THE WARRANTY PERIOD. AS TO ANY DEFECTS DISCOVERED AFTER THE WARRANTY PERIOD, THERE IS NO WARRANTY OR CONDITION OF ANY KIND. Some states/jurisdictions do not allow limitations on how long an implied warranty or condition lasts, so the above limitation may not apply to the Customer. This limited warranty gives the Customer specific legal rights. The Customer may have other rights which vary from state/jurisdiction to state/jurisdiction.

10.5. CloudNine is acting on behalf of its suppliers for the purpose of disclaiming, excluding, and/or limiting obligations, warranties, and liability as provided in this Agreement, but in no other respects and for no other purpose.

## 11. LIMITATION OF LIABILITIES

IN NO EVENT WILL CLOUDNINE, ITS PROGRAM DEVELOPERS OR SUPPLIERS HAVE ANY OBLIGATION OR LIABILITY (WHETHER IN TORT, CONTRACT, WARRANTY, OR OTHERWISE AND NOTWITHSTANDING ANY FAULT, NEGLIGENCE, PRODUCT LIABILITY, OR STRICT LIABILITY), FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST REVENUE, LOSS OF OR DAMAGE TO DATA, PROFITS OR BUSINESS INTERRUPTION LOSSES, SUSTAINED OR ARISING FROM OR RELATED TO THE PROGRAM, DOCUMENTATION OR SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CLOUDNINE'S LIABILITY FOR ANY REASON AND UPON ANY CAUSE OF ACTION SHALL AT ALL TIMES AND IN THE AGGREGATE AMOUNT BE LIMITED TO THE AMOUNT ACTUALLY PAID BY THE CUSTOMER TO CLOUDNINE UNDER THIS AGREEMENT. NO ACTION OR PROCEEDING AGAINST CLOUDNINE MAY BE COMMENCED MORE THAN ONE YEAR AFTER THE CLAIM ARISES EXCEPT FOR CLOUDNINE CLAIMS RELATING TO THE COLLECTION OF FEES DUE AND PAYABLE BY THE CUSTOMER. THIS SECTION SHALL SURVIVE FAILURE OF AN EXCLUSIVE REMEDY.

Some states/jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to the Customer.

## 12. MUTUAL INDEMNIFICATION

The Customer shall indemnify and hold CloudNine, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of the a customers' data infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by the clients of the Customer representations and warranties; or (iii) a claim arising from the breach by the Customer or Customer's Users of this Agreement, provided in any such case that CloudNine (a) gives written notice of the claim promptly to the Customer; (b) gives the Customer sole control of the defense and settlement of the claim (provided that Customer may not settle or defend any claim unless the Customer unconditionally release CloudNine of all liability and such settlement does not affect CloudNine's business or Program); (c) provides to the Customer all available information and assistance; and (d) has not compromised or settled such claim.

CloudNine shall indemnify and hold the Customer and the Customer parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys, and agents harmless from and against all claims, costs, damages, losses, liabilities, and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that the Program directly infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a third party; (ii) a claim, which if true, would constitute a violation by CloudNine of its representations or warranties; or (iii) a claim arising from breach of this Agreement by CloudNine; provided that the Customer (a) promptly give written notice of the claim to CloudNine; (b) give CloudNine sole control of the defense and settlement of the claim (provided that CloudNine may not settle or defend any claim unless it unconditionally releases the Customer of all liability); (c) provide to CloudNine all available information and assistance; and (d) have not compromised or settled such claim. CloudNine shall have no indemnification obligation, and the Customer shall indemnify CloudNine pursuant to this Agreement, for claims arising from any infringement arising from the combination of the Program with any of the Customer products, service, hardware, or business process(es).

## 13. INTERNET DELAYS

CLOUDNINE AND THE CUSTOMER CLOUDNINE RESELLER'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. CLOUDNINE IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

## 14. MISCELLANEOUS

14.1. **General.** No text or information set forth on any other purchase order, preprinted form, or document (other than a CloudNine Order Agreement, if applicable) shall add to or vary the terms and conditions of this Agreement.

14.2. **Governing Law.** Any action, suit, or proceeding arising under or in connection with this Agreement must be commenced within one (1) year after the claim or cause of action arises. This Agreement shall be governed in all respects by the laws of the State of Texas without regard to conflicts of law. If the Customer acquired this Program in any other country, then local law may apply. The United Nations Convention on Contracts for the International Sale of Goods does not apply.

14.3. **Severability.** If any term of this Agreement is held invalid or unenforceable for any reason, the parties agree that such invalidity will not affect the validity of the remaining provisions of this Agreement, and further agree to substitute for the invalid provision a valid provision that most closely approximates the intent and economic effect of the invalid provision.

- 14.4. **Waiver.** The failure of CloudNine to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by CloudNine in writing. All waivers must be done in writing, and then only by persons executing this Agreement or other duly authorized agents or representatives. The waiver by either party of a breach or a violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach or violation.
- 14.5. **Compliance with Rights Granted.** The Customer agrees that, upon request from CloudNine or CloudNine's reseller, the Customer will within thirty (30) days fully document and certify all use of the Program at the time of the request is in conformity with Customer valid and authorized rights granted from CloudNine.
- 14.6. **Entire Agreement.** This Agreement is the entire agreement between The Customer and CloudNine relating to the Program and the Services (if any) and supersedes all prior or contemporaneous oral or written communications, proposals, and representations with respect to the Program, the Services, or any other subject matter covered by this Agreement.
- 14.7. **Parties Bound.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, legatees, successors, and permitted assignees.
- 14.8. **Force Majeure.** Except with respect to the Customer's obligation to make timely payments, neither party shall be held responsible for any delay or failure in performance to the extent that such delay or failure is caused by fires, strikes, embargoes, explosions, earthquakes, floods, wars, water, the elements, labor disputes, government requirements, civil or military authorities, acts of God or by the public enemy, inability to secure raw materials or transportation, facilities, acts or omissions of carriers or suppliers, or other causes beyond its control whether or not similar to the foregoing.
- 14.9. **Notices.** CloudNine may give notice by means of a general notice on the Service, electronic mail to the Customer e-mail address on record in CloudNine's or Customer CloudNine Reseller's account information, or by written communication sent by first-class mail or pre-paid post to Customer address on record in CloudNine's or Customer CloudNine Reseller's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). Customer may give notice to CloudNine (such notice shall be deemed given when received by CloudNine) at any time by any of the following: letter sent by confirmed facsimile to CloudNine at the following fax numbers (whichever is appropriate): (713) 462-6463; letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to CloudNine at the following addresses (whichever is appropriate): CloudNine, 14655 Northwest Freeway, Suite 135, Houston, Texas 77040, in either case, addressed to the attention of: President and CEO.
15. **Independent Contractor.** All work performed under the Agreement by a party shall be performed as an independent contractor and not as an agent of the other. No persons furnished by either party shall be considered the other party's employees or agents, and each party shall be responsible for its own and its employees' compliance with all laws, rules, and regulations involving the employment of labor, working conditions, payment of wages, and payment of taxes, such as unemployment, social security, and other payroll taxes, including applicable contributions from such persons when required by law.

## 16. DEFINITIONS

"Affiliate" means a corporation, partnership, or other legal entity that controls, is controlled by, or is under

common control with that party, either directly or through another Affiliate, but only while that control relationship exists; “control” of an entity means the power to direct the management and policies of that entity through a controlling vote on the board of directors or similar governing body of that entity or the ownership of interests entitled to more than fifty percent (50%) of the votes of that entity.

“**Authorized Users**” means Customer employees, agents, representatives, contractors, or customers whom Customer provide access to the Program.

“**Authorized Products**” means the products listed on executed Order Agreement(s).

“**Content**” means all materials, information, and images contained on the Site, including but not limited to, trademarks, copyrightable material, advertisements, data, text, graphics, files, photos, software, and video.

“**CPU**” means a single computer, a central processing unit, or logical partition (if a computer or server has more than one processor or logical partition).

“**Date**” means the date specified in the Order Agreement.

“**Documentation**” means written guides in any form or media describing the use and operation of a Program, together with any related supporting documentation.

“**Effective Date**” means the date the Order Agreement/quote is signed by Customer, or the day Customer accepts the EULA by using the Software.

“**Fix(es)**” means a Workaround and/or additional or replacement lines of software code provided by CloudNine to remedy a defect in the Program that caused it to not operate substantially per its written specifications.

“**Intellectual Property Rights**” means all current and future patents, patent applications (including, without limitation, all reissues, divisions, renewals, extensions, continuations, and continuations-in-part), copyrights (including but not limited to rights in audiovisual works and moral rights), trade secrets, trademarks, service marks, trade names, and all other intellectual property rights and proprietary rights, whether arising under the laws of the United States or any other country, state or jurisdiction.

“**Marks**” means collectively the domain names, trademarks, trade names, service marks, trade dress, logos, and the like used or provided by either party for use in connection with this Agreement.

“**Matter**” consists of either one case or one project database. A matter cannot include multiple cases or project databases.

“**Order Agreement**” means that document setting forth the number of units, and software associated with the Program. The Software Order may be a paper form or may be comprised of an order form, order agreement proposal, quote, or the online form Customer completed, or the information Customer provided verbally, when ordering a Program and any confirmation of the information Customer provided, including but not limited to Customer election about Term, and is a part of this Agreement. The Software Order incorporates by reference this End User License Agreements.

“**Partner Program Member**” means a legal entity or individual that has been granted permission by way of executing a Partner Program Agreement to promote, sell or otherwise distribute CloudNine’s products.

“**Program**” means all CloudNine software including, but not limited to, CloudNine Review and CloudNine Explore, as well as associated media and Internet-based services



**“Problem”** means Software that does not operate substantially per its written specifications; or Documentation that is not correct.

**“Processor”** means any entity or individual (other than an employee of a controller) that processes personal data on the controller's behalf.

**“Service Provider”** means a legal entity or individual that rents, subscribes, or licenses software applications from CloudNine or other third-party software companies and packages them with service and/or other software for sale to its customers.

**“Software”** means computer programs identified herein or on any associated Software Order, in machine-readable form for use on designated CPU(s) or by Authorized Users including (1) the original and all whole or partial copies, (2) components, (3) audiovisual content (such as images, text, recordings, or pictures), (4) related software materials, and (5) software use documents or keys, and documentation. The Software does not include any version of Source Code and any operating system software installed on the CPU.

**“Source Code”** means a high-level program that is not machine-readable.

**“Supported Data”** refers to all supported data types that can be found on the platform knowledge base.

**“Training”** refers to software use training and is all provide virtually.

**“User”** means one Named User which includes any single person with credentials to CloudNine SaaS platforms for any period within the licensed term.

**“Subscription”** means a license to access and use the Program, subject to this Agreement, for a Term specified in a Software Order, which use is conditioned on payment of a Subscription Fee for the current period. A Subscription may be renewed by paying the Subscription Fee for the succeeding period. A Subscription includes Maintenance & Support Services at no additional charge.

**“Subscription Fee”** means the amount payable by the Customer for the access and use of the Program for a period specified in a Software Order.

**“System Administrator”** means Customer employee or agent with sufficient training and experience to identify and isolate problems and to provide sufficient information and assistance to CloudNine to be able to reproduce such Problems. The System Administrator or his/her delegate shall be the single point of contact with CloudNine when reporting Problems. CloudNine may require the Customer to appoint a new System Administrator if CloudNine reasonably determines that the System Administrator does not possess the training or experience necessary to perform the required functions of the System Administrator or cannot communicate effectively with CloudNine's support personnel.

**“Workaround”** means a temporary solution to a Problem.

**“Customer”** means either an individual or a single entity, identified in the Order Agreement, that licenses the Software or uses the Software.