

NATIONAL COMPUTE TERMS OF SERVICE

Last Updated: October 6, 2026

These Terms of Service (this “**Agreement**”) are entered into between National Compute Labs PBC, a Delaware public benefit corporation (“**National Compute**”), and the individual or entity that registers for an account with National Compute or otherwise accesses or uses the Services (“**Customer**”) (Customer and National Compute, each a “**party**” and collectively the “**parties**”). By clicking “I agree” (or a similar button or checkbox), registering for an account, executing an Order (as defined below), or accessing or using the Services, Customer accepts and agrees to be bound by this Agreement and that Customer has read and understood how personal information will be collected, used, and shared, as set forth in National Compute’s Privacy Notice available at <https://nationalcompute.com/documents/PrivacyNotice>. If Customer is an entity, the individual accepting this Agreement on behalf of Customer represents that he or she has authority to bind Customer. An individual who registers using an institutional email address without authority to bind the institution is the Customer in his or her individual capacity. If Customer does not agree to this Agreement, Customer may not access or use the Services. This Agreement is effective as of the date Customer first accepts it (the “**Effective Date**”).

This Agreement sets forth the terms and conditions under which Customer may receive compute services and related products and services of National Compute, whether purchased through Customer’s account or under one or more online or written ordering documents that reference this Agreement and are accepted or executed by both parties (each, an “**Order**”). Each Order is incorporated into, and fully governed by, this Agreement. In the event of any conflict or inconsistency between this Agreement and an Order, this Agreement shall control unless the Order expressly provides that the inconsistent provision in the Order shall apply.

1. ACCESS AND USE OF SERVICES

1.1 Services Description. National Compute provides an offering to its customers, such as Customer, consisting of: (a) hosted proprietary orchestration software that enables customers to consume, manage, and optimize compute resources (the “**National Compute Technology**”), including, where available, National Compute’s infrastructure engineering agent powered by artificial intelligence that helps customers manage compute through plain-language prompts and instructions (the “**Marshall Agent**”); and (b) access to compute services provided by National Compute or its third-party compute suppliers (such suppliers, “**Suppliers**”, and such combined offering, the “**Services**”). National Compute may also provide additional professional services related to the integration, configuration, and support of the Services.

1.2 Access and Use of the Services.

(A) **Access to and Use of the Services.** During the Term (as defined in [Section 5.2](#)), National Compute shall provide Customer with nonexclusive, non-transferable, non-sublicensable access to and use of the Services (including any Services set out in an applicable Order), solely for its internal business or research purposes in developing, supporting and delivering its products, services and business in accordance with the terms and conditions of this Agreement, any applicable Order, and any end user technical documentation provided by National Compute for such Services (“**Documentation**”). To the extent National Compute provides Customer with any downloadable software, agents, SDKs, APIs, or other code in connection with the Services (the “**National Compute Software**”), the Services include the National Compute Software and National Compute grants to Customer a non-exclusive, non-transferable, non-sublicensable, limited right and license to use the National Compute Software during the Term solely as reasonably necessary for Customer’s use of the Services in accordance with this Agreement. Such National Compute Software is considered National Compute Technology. National Compute represents and warrants to Customer that it holds all rights, licenses, and consents necessary to provide the Services and the access and use rights to Customer as set forth in this Agreement and each applicable Order.

(B) **Services Deployment.** National Compute will ensure that the Services are provided to Customer in accordance with mutually agreed-upon configurations and, where an Order specifies a “**Service Location**,” only from such Service Location.

(C) **Account; Permitted Users.** Customer must register for an account to use the Services and shall provide accurate and complete registration information and keep it current. Each individual registering for or accessing an account must be at least eighteen (18) years old and have legal capacity to enter into this Agreement. Customer may designate certain of Customer’s employees, agents, independent contractors and consultants authorized by Customer (“**Permitted Users**”) to access the Services on its behalf. Customer will remain responsible for the acts and omissions of each such Permitted User and for Permitted Users’ compliance with this Agreement and any and all National Compute policies

provided to Customer. Use of the Services by Customer in the aggregate must be within the restrictions set forth in the applicable Order (if any). Customer shall require that all Permitted Users keep user ID and password information strictly confidential and not share such information with any unauthorized person. Customer shall be responsible for any and all actions taken using Customer's accounts and passwords. Customer agrees to immediately notify National Compute: (i) if Customer has reason to suspect that any user ID or password has been lost, stolen, compromised, or misused, and (ii) of any unauthorized access to or use of the Services.

1.3 Customer Equipment. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, be compatible with, access, or otherwise use the Services, including, without limitation, hardware, servers, laptops, desktops, virtual machines, cloud services, infrastructure software, operating systems, and the like (collectively, "**Equipment**"). Customer shall be responsible for maintaining the security of the Equipment, and for all uses of the Equipment with or without National Compute's knowledge or consent. Customer acknowledges that the provision of the Services may be contingent upon Customer's timely provision of access to Customer's Equipment and any other assistance or materials reasonably necessary for National Compute or its Suppliers to provide the Services.

1.4 Use Restrictions. Customer will at all times comply with National Compute's Acceptable Use Policy made available from time to time at <https://nationalcompute.com/documents/AcceptableUsePolicy> (the "**AUP**"), which is hereby incorporated by reference.

1.5 Suspension. National Compute reserves the right to suspend Customer's access to or use of the Services: (i) to maintain the security or integrity of National Compute's network, hardware, or associated systems or those of National Compute's Suppliers, (ii) if National Compute is directed to do so by a court or competent authority, (iii) for emergency maintenance, or (iv) for any material breach of this Agreement. In such cases, National Compute will (x) suspend Customer's access only to the extent and duration reasonably necessary to prevent any harm to National Compute's network (for example, blocking offending source IP addresses); (y) use commercially reasonable efforts to promptly contact Customer and give Customer the opportunity to promptly resolve the issues that may cause or are causing the suspension of such access; and (z) reinstate any suspended access promptly after any issue is abated. Without limiting the foregoing, National Compute reserves the right to manage bandwidth or route traffic across the internet in a commercially optimal way.

1.6 Third-Party Services. Customer may be able to access and use certain third-party services or products through or in connection with its use of the Services ("**Third-Party Services**"). If Customer integrates, or directs National Compute to integrate, the Services with any Third-Party Service, each such Third-Party Service is provided by the applicable Third-Party Service provider and not National Compute and is subject to such Third-Party Service's separate applicable terms and conditions. Customer is solely responsible for the use of such Third-Party Services and any data loss or other losses it may suffer as a result of using any such Third-Party Services. IF CUSTOMER USES ANY THIRD-PARTY SERVICES, NATIONAL COMPUTE WILL NOT BE RESPONSIBLE FOR ANY ACT OR OMISSION OF ANY PROVIDER OF SUCH THIRD-PARTY SERVICES. NATIONAL COMPUTE DOES NOT WARRANT OR PROVIDE DIRECT SUPPORT FOR ANY THIRD-PARTY SERVICES AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING FROM, OR IN CONNECTION WITH, ANY THIRD-PARTY SERVICES.

1.7 Reserved Capacity.

(A) **Interruptible Use of Idle Reserved Capacity.** Customer acknowledges and agrees that National Compute may make available Reserved Capacity (as defined below) on which Customer has no workload scheduled, as determined by National Compute's scheduling and orchestration systems ("**Idle Reserved Capacity**") to other customers of National Compute ("**Borrowing Customers**") on an interruptible basis, in whole or in part, without notice to Customer. National Compute's provision of Idle Reserved Capacity to Borrowing Customers is solely between National Compute and the Borrowing Customers. As used herein, "**Reserved Capacity**" means compute capacity purchased by Customer as a fixed-term reservation through Customer's account or under an Order, including capacity described in the Documentation as base load capacity.

(B) **Local Storage.** Idle Reserved Capacity made available to Borrowing Customers is removed from Customer's cluster. Customer Data on the local disks of Idle Reserved Capacity is deleted when the Idle Reserved Capacity is made available to Borrowing Customers and is not restored when the Idle Reserved Capacity is returned to Customer. Customer is responsible for storing any Customer Data Customer wishes to retain on network-attached or other persistent storage.

(C) **Return of Capacity.** Customer may reclaim Idle Reserved Capacity by scheduling a workload requiring the Idle Reserved Capacity. National Compute will use commercially reasonable efforts to make the reclaimed Idle

Reserved Capacity available to Customer within four (4) business hours after Customer schedules the workload (the “**Return Period**”). Time during which Idle Reserved Capacity is in use by Borrowing Customers, or is being returned to Customer within the Return Period, is not downtime or unavailability under any service level or availability commitment applicable to Customer’s Reserved Capacity.

(D) **Sharing Credits.** National Compute will credit Customer’s account with credits (“**Sharing Credits**”) equal to the amounts charged by National Compute to Borrowing Customers for use of Customer’s Idle Reserved Capacity, excluding taxes, as recorded by National Compute (“**Sharing Revenue**”), less National Compute’s management fee and any other deductions displayed in Customer’s account or otherwise confirmed by National Compute in writing at or before Customer’s purchase of the applicable Reserved Capacity. National Compute does not guarantee any use of Idle Reserved Capacity by Borrowing Customers or any amount of Sharing Credits. Sharing Credits are subject to the Credit Terms (as defined in Section 4.1(A)). The fees for Customer’s Reserved Capacity remain payable in full for the term of the Reserved Capacity regardless of Sharing Credits.

2. DATA

2.1 Certain Definitions.

(A) **“Customer Data”** means information, data, and other content, in any form or medium, that is provided, directly or indirectly (including via a third-party provider), by Customer in connection with the Services.

(B) **“Personal Data”** means “personal data,” “personal information,” “personally identifiable information,” or information of a similar character regulated under applicable data protection laws.

(C) **“Usage Data”** means infrastructure and software usage metrics (such as, by way of example, bandwidth utilization, hardware health telemetry, error and outcome classifications, and similar operational data, metadata describing Customer’s Customer Data and models, summary statistics, run times, model usage (tokens) and cost, and the like) collected by National Compute in connection with Customer’s use of the Services that have been aggregated and anonymized such that any Personal Data has been deleted, masked, or suppressed in a manner such that it: (a) does not identify a particular natural person; (b) does not identify, by network IP address or other identifier, a particular device or computer associated with or used by a person; and (c) is not reasonably linkable to a particular natural person due to technical, legal, or other controls.

2.2 Data Rights.

(A) National Compute shall not access or use Customer Data for any purpose except to the extent expressly requested or authorized by Customer (such as, by way of example, providing support) or as necessary to provide the Services.

(B) National Compute may use Usage Data for any lawful purpose.

(C) Where Customer chooses to use the Marshall Agent, Customer may choose to input or make available Customer Data and other information, prompts or instructions into the Marshall Agent (the “**Marshall Input**”) and receive information or recommendations from the Marshall Agent (the “**Marshall Output**”) and, collectively with the Marshall Input, the “**Marshall Content**”). In addition to accessing and using Marshall Content to provide the Services, National Compute may access and use Marshall Content to evaluate, train, fine-tune, or otherwise improve the Marshall Agent in accordance with Customer’s designated permissions (the “**Marshall Improvement Purposes**”). By default, the Marshall Agent’s permissions are set to allow access to and use of the transcript of a Customer’s conversation with the Marshall Agent (including the applicable prompts, messages, calls and results provided or produced during the session), as well as usage and operational records relating to the Marshall Agent, including the associated account identifier (“**Marshall Usage Records**”), and Feedback, for the Marshall Improvement Purposes (the “**Default Data-Sharing Tier**”). By changing Customer’s designated permissions, Customer may choose to (i) further restrict the data made available to National Compute for the Marshall Improvement Purposes to solely include Marshall Usage Records and Feedback (the “**Restricted Data-Sharing Tier**”), or (ii) authorize National Compute to use all Marshall Content (including files and datasets from Customer’s shared storage, Permitted User workspaces, and the cluster’s shared volume) for the Marshall Improvement Purposes (the “**Expanded Data-Sharing Tier**”). The Default Data-Sharing Tier, Restricted Data-Sharing Tier, and Expanded Data-Sharing Tier are collectively referred to herein as the “**Marshall Data-Sharing Tiers**”. Customer’s designated Marshall Data-Sharing Tier may be set or changed by any Permitted User or administrator of Customer (unless otherwise agreed between the parties), and the designated Marshall Data-Sharing Tier will apply to Customer in its entirety, including all of Customer’s Permitted Users; provided, however, designation of the Expanded Data-Sharing Tier may require execution of

a separate agreement between the parties (which will also govern how Customer may change the designated Marshall Data-Sharing Tiers in the future). All Marshall Content collected before a change in the Customer's designated Marshall Data-Sharing Tier will continue to be subject to the previous Marshall Data-Sharing Tier designated at the time of collection. Marshall Content authorized for the Marshall Improvement Purposes by Customer is referred to herein as the **"Approved Marshall Content"**. Marshall Usage Records and Feedback are Approved Marshall Content at every Marshall Data-Sharing Tier. Notwithstanding the foregoing, Customers whose accounts are created using a ".gov" or ".mil" email address will have their Marshall Data-Sharing Tier set to the Restricted Data-Sharing Tier by default, and Customers whose accounts are created using a ".edu" email address will have their Marshall Data-Sharing Tier set to the Expanded Data-Sharing Tier by default. For accounts created using a ".edu" email address, the Expanded Data-Sharing Tier is a condition of participation in National Compute's public research program, Customer may not change the designated Marshall Data-Sharing Tier through the Services, and Customer may request a change by contacting National Compute, which may condition the change on Customer's withdrawal from the public research program.

(D) Customer grants National Compute a perpetual, irrevocable, worldwide, royalty-free, non-exclusive license to use, reproduce, adapt and create derivative works of Approved Marshall Content, including to train and evaluate models, for the Marshall Improvement Purposes and to operate and improve the Services. Models, evaluations and improvements developed by National Compute using Approved Marshall Content are National Compute IP notwithstanding Section 3.1. Customer represents that it has all rights necessary to authorize the Marshall Improvement Purposes and will not make available for the Marshall Improvement Purposes any Sensitive Data, third-party confidential information or export-controlled materials.

2.3 Customer Responsibilities.

(A) **Beneficial Ownership Attestation.** Within five (5) business days of National Compute's request, Customer shall provide National Compute a written attestation accurately and completely identifying: (i) each individual or entity that, directly or indirectly, owns 50% or more of Customer's voting securities; and (ii) with respect to any entity that, directly or indirectly, owns 50% or more of Customer's voting securities, each individual that, directly or indirectly, owns 50% or more of such entity's voting securities.

(B) **Customer Responsibility for Customer Data.** Customer covenants, represents, and warrants to National Compute that: (i) it is and will be solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (ii) its use of the Services is and will be at all times compliant with Customer's privacy policies and all applicable laws, rules, and regulations, including without limitation data protection laws and export control laws; and (iii) prior to using the Services, it has obtained all rights, licenses, consents, and authorizations necessary to authorize the processing of Customer Data in connection with such Services.

(C) **DPAs and Other Required Privacy Agreements.** If Customer Data includes Personal Data, to the extent required by National Compute or otherwise pursuant to applicable data protection laws, such processing is subject to National Compute's Data Processing Agreement made available from time to time at <https://nationalcompute.com/documents/DPA> ("DPA"), which is hereby incorporated by reference. Customer may not upload or otherwise process Customer Data that includes protected health information, government data subject to special handling requirements (such as classified information, controlled unclassified information or export-controlled technical data), or other similar sensitive data ("**Sensitive Data**"), unless and until Customer and National Compute have first entered into relevant privacy-related documentation (such as, by way of example, a Business Associate Agreement) governing such processing, which upon mutual execution shall be (and is hereby) incorporated herein by reference. If Customer desires to upload or otherwise process Sensitive Data through the Services, Customer must contact National Compute via email at privacy@nationalcompute.com with the subject line "Sensitive Data Processing Request for [CUSTOMER NAME]" for the required documentation.

2.4 National Compute Responsibilities.

(A) **Compliance with Laws.** National Compute shall provide the Services in compliance with all applicable laws, rules, and regulations.

(B) **Security Safeguards.** National Compute shall implement and maintain commercially reasonable administrative, technical, and physical safeguards designed to protect Customer Data against unauthorized access, use, disclosure or loss when processed or stored within the Services. More information regarding National Compute's safeguards and security standards can be found at National Compute's Trust Center, available at <https://docs.nationalcompute.com/trust/> (the "**National Compute Security Requirements**").

2.5 Zero Data Retention. Upon Customer's written request, National Compute will enable a zero data retention configuration for designated workloads, under which National Compute will not retain Customer Data, or Trained Models or Model Outputs (each as defined in [Section 3.1](#)) processed or generated in connection with those workloads beyond the duration of the applicable real-time computing session, except as required by applicable law. Zero data retention does not apply to Customer's network-attached storage, in which data and other materials are retained until Customer requests their deletion. More information regarding National Compute's zero data retention configuration can be found at National Compute's Trust Center, available at <https://docs.nationalcompute.com/trust/>.

3. INTELLECTUAL PROPERTY.

3.1 Customer Ownership. As between the parties, Customer owns and retains all right, title, and interest in and to the Customer Data and any and all (i) machine learning or artificial intelligence models, including all model architectures, model weights, parameters, hyperparameters, and configurations, that are trained, fine-tuned, distilled, or otherwise developed by or on behalf of Customer using the Services (collectively, "**Trained Models**"), (ii) outputs, inferences, predictions, and results generated by any Trained Models (collectively, "**Model Outputs**"), (iii) Customer Data consisting of datasets, training data, evaluation data, annotations, labels, and any derivatives or modifications thereof that are uploaded, created, or compiled by or on behalf of Customer in connection with the use of the Services, and (iv) Marshall Output, excluding any National Compute IP contained therein (collectively, and together with all Trained Models, Model Outputs, and Customer Data, "**Customer IP**"). To the extent National Compute is deemed to own any right, title, or interest in or to Customer IP, National Compute agrees to assign (and hereby assigns) to Customer any and all such right, title, and interest, and National Compute shall execute any documents and take any actions reasonably requested by Customer to evidence or perfect such assignment.

3.2 National Compute Ownership. As between the parties, all right, title, and interest in and to the Services and Documentation, including all copies of the foregoing in any form or medium, whether now known or existing or hereafter developed and all intellectual property rights therein and relating thereto (collectively "**National Compute IP**"), belong exclusively to National Compute, its affiliates, and its Suppliers and other licensors. No rights are granted to Customer other than as expressly set forth in this Agreement. Without limiting the foregoing, any developments, additions, custom features, modifications, configurations, enhancements, improvements or derivatives of National Compute IP developed pursuant to this Agreement shall be deemed to constitute part of National Compute IP of which National Compute is and shall be the sole owner. To the extent Customer is deemed to own any right, title, or interest in or to National Compute IP, Customer agrees to assign (and hereby assigns) to National Compute any such right, title, and interest.

3.3 Feedback. If a party provides the other with any suggestions, recommendations, or other feedback regarding the other party's products, services, or offerings ("**Feedback**"), the recipient of such Feedback may use such Feedback freely without restriction and without any attribution or compensation to the other party. The recipient is not obligated to use any such Feedback. For the avoidance of doubt, feedback provided by Customer through the Marshall Agent (including thumbs up or down, and feedback text and labels) qualifies as Feedback.

4. FEES AND CREDITS

4.1 Advance Payment.

(A) **Generally.** Each Order may require that Customer pay National Compute a one-time advance payment within three (3) business days of the effective date of the applicable Order (the "**Advance Payment**"). The Advance Payment is acknowledged as a means of Customer reserving the ability to begin utilizing the Services and shall be applied to Customer's account as credits subject to National Compute's Credit Terms, made available from time to time at <https://nationalcompute.com/documents/CreditTerms> (the "**Credit Terms**"), which are hereby incorporated by reference.

(B) **Limited Advance Payment Refunds.** If this Agreement or any Order is terminated by Customer pursuant to [Section 5.3\(a\)](#) or by either party pursuant to [Section 10.3](#), National Compute shall refund to Customer the entire unused balance of the remaining unapplied Advance Payments within ninety (90) days of the effective date of termination. Otherwise, Advance Payments are non-refundable and are deemed earned upon receipt. This [Section 4.1\(B\)](#) applies notwithstanding anything to the contrary in the Credit Terms.

4.2 Additional Fees and Credits. To utilize the Services, Customer must at all times have a sufficient amount of credits in its account to pay for the applicable Services. Customer may purchase credits through its account or under an Order, in each case subject to the Credit Terms. Further detail regarding National Compute's credit system is set forth in the Credit Terms.

4.3 Taxes; Late Charges. Fees are exclusive of taxes, and Customer is required to pay any sales, use, value-added, withholding, or similar taxes or levies, whether domestic or foreign, other than taxes based on the income of National Compute. If Customer's payment of an amount (that is not under reasonable dispute) is overdue, then National Compute may (x) charge interest from the due date at the lesser of 1.5% per month or the highest rate allowed by law until paid in full, and (y) suspend the Services if Customer's payment is overdue for more than thirty (30) days. The Credit Terms govern cessation of Services due to insufficient Credits. If any fees or other amounts due (that are not under reasonable dispute) under this Agreement are past due, Customer shall be responsible for all reasonable expenses (including attorneys' fees) incurred by National Compute in collecting such past due amounts. Customer shall provide National Compute with complete and accurate account, billing and payment information and keep such information up to date during the Term (as defined in Section 5.2).

5. TERM AND TERMINATION

5.1 Order Term. Unless otherwise terminated as set forth below, each Order will have a term as set forth therein (the "**Order Term**").

5.2 Agreement Term. This Agreement shall commence on the Effective Date and continue until terminated in accordance with this Agreement (the "**Term**").

5.3 Termination. Either party may terminate this Agreement if the other party: (a) fails to cure any material breach of this Agreement within thirty (30) days after written notice (such notice must contain sufficient detail as to the nature of the breach and state the intent to terminate); (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter). Termination of this Agreement will automatically terminate all Orders and termination by National Compute shall not relieve Customer of its obligation to pay any fees set forth in the Order(s).

5.4 Effect of Termination. Upon the termination or expiration of this Agreement for any reason: (a) Customer shall immediately cease all access to and use of the Services and National Compute may deactivate Customer's account; (b) any fees or amounts accrued or payable to National Compute that are not then reasonably under dispute prior to the effective date of termination shall become immediately due and payable; and (c) all rights and licenses granted to Customer under this Agreement shall immediately terminate.

5.5 Survival. The following sections shall survive termination or expiration of this Agreement: 1.4, 2.1, 2.2(B), 2.2(C), 2.2(D), 2.3(A), 3, 4.1, 5.5, 6, 7.2, 8, 9, and 10.

6. CONFIDENTIAL INFORMATION

6.1 Definition. "Confidential Information" means all non-public information disclosed by or on behalf of one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**"), whether orally, in writing, electronically, or by any other means, that is designated as confidential or proprietary or that, given the nature of the information or the circumstances of disclosure, ought reasonably to be understood as confidential or proprietary. Confidential Information includes, without limitation, trade secrets, business plans, financial data, pricing, customer lists, technical data, product roadmaps, software, source code, algorithms, inventions, know-how, and any other proprietary information. Confidential Information does not include information that the Receiving Party can demonstrate by competent evidence: (a) was already lawfully known to the Receiving Party without obligation of confidentiality at the time of disclosure; (b) becomes publicly available through no fault or breach by the Receiving Party; (c) was independently developed by the Receiving Party without any reference to or use of the Disclosing Party's Confidential Information; or (d) was rightfully obtained by the Receiving Party from a third party who was not bound by any obligation of confidentiality with respect to such information.

6.2 Obligations. The Receiving Party agrees: (a) to hold and maintain all Confidential Information of the Disclosing Party in strict confidence using at least the same degree of care it uses to protect its own confidential information, but in no event less than a reasonable degree of care; (b) not to use the Confidential Information for any purpose other than to exercise its rights and fulfill its obligations under this Agreement; (c) not to disclose Confidential Information to any third party except to its affiliates, employees, contractors, and agents who have a need to know and who are bound by confidentiality obligations at least as restrictive as those set forth herein ("**Representatives**"); and (d) to be responsible for any breach of this Section 6 by any Representative to whom it has disclosed Confidential Information. The Receiving Party may disclose Confidential Information to the extent required by applicable law, regulation, or court order, provided that the Receiving Party provides the Disclosing Party with prompt prior written notice of such requirement (to the extent legally permissible) and cooperates with the Disclosing Party to obtain confidential treatment or a protective order.

Unauthorized disclosure of Confidential Information may cause irreparable harm not compensable by monetary damages alone, and the Disclosing Party shall be entitled to seek injunctive or other equitable relief in any court of competent jurisdiction, without the necessity of posting a bond or proving actual damages, in addition to all other remedies available at law or in equity.

6.3 Return of Confidential Information. Upon expiration or termination of this Agreement, or upon the Disclosing Party's earlier written request, the Receiving Party shall promptly return or destroy all Confidential Information of the Disclosing Party in its possession or control (including all copies, extracts, and summaries thereof) and, upon request, certify in writing that it has done so; provided that (a) the Receiving Party may retain one archival copy solely for legal compliance and regulatory purposes, subject to continued confidentiality obligations and (b) National Compute may retain Usage Data, Approved Marshall Content, and Feedback for as long as permitted under applicable law for the purposes set forth herein.

7. WARRANTIES

7.1 Mutual Representations and Warranties. Each party represents and warrants to the other party that: (a) if it is an entity, it is duly organized, validly existing, and in good standing under the laws of its jurisdiction of incorporation or formation; (b) it has full power and authority to enter into and perform this Agreement; (c) its acceptance and performance of this Agreement have been duly authorized by all necessary action; and (d) entering into and performing this Agreement does not violate any applicable law, regulation, or agreement to which it is a party.

7.2 Disclaimers. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY WARRANTY WHATSOEVER. NATIONAL COMPUTE EXPRESSLY DISCLAIMS, TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, ALL WARRANTIES, EXPRESS, IMPLIED, AND STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OR NONINFRINGEMENT, OR ANY WARRANTIES ARISING FROM COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE. NATIONAL COMPUTE MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OF CUSTOMER'S OR ANY THIRD PARTY'S SOFTWARE, SYSTEM OR OTHER SERVICES, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED. NATIONAL COMPUTE DOES NOT REPRESENT, WARRANT OR COVENANT THAT ANY SPECIFIC SUPPLIERS WILL SUPPLY ALL OR ANY PORTION OF THE SERVICES, AND THE PARTIES ACKNOWLEDGE AND AGREE THAT THE FOREGOING DISCLAIMER IS AN ESSENTIAL ELEMENT OF THIS AGREEMENT, AND THAT, BUT FOR THIS DISCLAIMER, NATIONAL COMPUTE WOULD NOT HAVE AGREED TO ENTER INTO THIS AGREEMENT. MARSHALL OUTPUT IS GENERATED BY ARTIFICIAL INTELLIGENCE AND MAY BE INACCURATE OR INCOMPLETE. CUSTOMER IS RESPONSIBLE FOR EVALUATING MARSHALL OUTPUT BEFORE RELYING ON IT AND FOR ALL ACTIONS TAKEN THROUGH THE MARSHALL AGENT ON CUSTOMER'S BEHALF.

8. INDEMNITY

8.1 National Compute Indemnity.

(A) **Obligation and Exceptions.** National Compute will indemnify, defend and hold Customer harmless from and against any costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising from a claim, suit, action or proceeding brought by an unaffiliated third party arising from: (i) an allegation that the Services infringe any third party's intellectual property rights; or (ii) National Compute's breach of the National Compute Security Requirements. In no event will National Compute have obligations or liability under this Section arising from: (i) use of the Services or any part thereof in a modified form or in combination with materials not furnished by National Compute; (ii) National Compute's compliance with Customer's specifications; (iii) Customer's use of the Services in violation of this Agreement; (iv) Customer Data or Customer IP; or (v) any Third-Party Services. THIS SECTION 8.1 STATES NATIONAL COMPUTE'S ENTIRE LIABILITY AND CUSTOMER'S SOLE REMEDY WITH RESPECT TO ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS BY THE SERVICES.

(B) **Mitigation.** For any claim covered by Section 8.1(A)(i), National Compute may, at its election (i) procure the rights to use the portion of the Services alleged to be infringing, (ii) replace the alleged infringing portion of the Services with a non-infringing alternative without material degradation in functionality, or (iii) terminate the allegedly infringing portion of the Services, or this Agreement, and provide Customer with a pro rata refund of prepaid fees for the affected Services.

8.2 Customer Indemnity. Customer will indemnify, defend, and hold harmless National Compute and its officers, directors, employees, agents, successors and assigns from and against any costs, damages, losses, liabilities and expenses

(including reasonable attorneys' fees and costs) arising from a claim, suit, action or proceeding brought by an unaffiliated third party (including a Supplier) arising from: (a) Customer Data or Customer IP, including (i) an allegation that the Customer Data or Customer IP, or National Compute's permitted use thereof hereunder, infringes or otherwise violates the intellectual property or other rights of any third party, or (ii) Customer's use of or reliance on any Marshall Output; or (b) Customer's use of the Services or any part thereof in violation of this Agreement or applicable law.

8.3 Process. If any claim, demand, action, or proceeding is made or brought against a party entitled to indemnification under this Section 8 (the "**Indemnified Party**"), the Indemnified Party shall promptly notify the other party (the "**Indemnifying Party**") in writing of such claim, specifying the nature of and estimated amount of the claim, and providing all relevant information and documentation. Upon receipt of such notice, the Indemnifying Party shall have the right to assume the defense of the claim with counsel reasonably satisfactory to the Indemnified Party, at its own expense. The Indemnified Party shall cooperate fully in the defense and shall have the right to participate, at its own expense, in such defense. The Indemnifying Party shall not settle any claim without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed.

9. LIMITATION OF LIABILITY

9.1 Consequential Damages Waiver. EXCEPT WITH RESPECT TO: (A) A PARTY'S INDEMNIFICATION OBLIGATIONS; (B) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS, (C) A PARTY'S GROSS NEGLIGENCE, FRAUD, OR WILLFUL MISCONDUCT, OR (D) CUSTOMER'S BREACH OF SECTION 1.4 (COLLECTIVELY, "**EXCLUDED LIABILITIES**"), TO THE FULLEST EXTENT PERMITTED BY LAW, REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, EACH PARTY AGREES THAT IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUES, LOSS OF PROFITS OR LOSS OF REPUTATION, BUSINESS INTERRUPTION, OR SIMILAR DAMAGES, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 Liability Cap. EXCEPT WITH RESPECT TO CUSTOMER'S PAYMENT OBLIGATIONS AND EXCLUDED LIABILITIES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE AND MAXIMUM LIABILITY OF EACH PARTY ARISING FROM OR OTHERWISE RELATING TO AN ORDER (OR, FOR SERVICES NOT PURCHASED UNDER AN ORDER, THIS AGREEMENT) (REGARDLESS OF THE FORM OF ACTION OR CLAIM) SHALL NOT EXCEED THE FEES PAID AND/OR PAYABLE UNDER SUCH ORDER (OR, AS APPLICABLE, FOR SUCH SERVICES) IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.

10. GENERAL PROVISIONS

10.1 Construction. The terms "for example," "including" and/or "includes" shall be deemed to mean "for example, but not limited to," "including, but not limited to" or "includes, but is not limited to," as applicable.

10.2 Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign this Agreement except upon the advance written consent of the other party, except that either party may assign this Agreement without such consent in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of such party's assets or voting securities. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section 10.2 will be null and void.

10.3 Force Majeure. Except for fees that become due and payable, neither party shall be liable for delay or non-performance of its obligations hereunder (or part thereof) if the cause of delay or non-performance is due to an event which is unforeseeable, beyond the control of the party affected, and cannot be remedied by the exercise of reasonable diligence, including without limitation: acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes, computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within National Compute's possession or reasonable control, and denial of service attacks ("**Force Majeure Event**"). The party affected shall be relieved from its obligations (or part thereof) as long as the Force Majeure Event lasts and hinders the performance of said obligations (or part thereof). The party affected shall promptly notify the other party and make reasonable efforts to mitigate the effects of the Force Majeure Event. If the party affected cannot resolve the Force Majeure Event after thirty (30) consecutive days or forty-five (45) non-consecutive days in a sixty (60) day period, either party may terminate this Agreement, effective immediately on written notice to the other party.

10.4 Independent Contractors. The parties to this Agreement are independent contractors. Notwithstanding anything to the contrary, there is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

10.5 Subcontractors. National Compute may use the services of subcontractors to perform its obligations hereunder; provided that National Compute remains responsible for such subcontractors' compliance with the terms of this Agreement.

10.6 Severability. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Agreement shall otherwise remain in effect.

10.7 Governing Law; Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. Except for claims for injunctive or equitable relief or claims regarding intellectual property rights (which may be brought in any competent court in Santa Clara County, California), any dispute arising under this Agreement shall be finally settled in binding arbitration. The Judicial Arbitration and Mediation Service, Inc. ("JAMS") will administer the arbitration in accordance with its Comprehensive Arbitration Rules and Procedures (though to the extent JAMS' Expedited Arbitration Procedures are available, they will apply), and the arbitration will be held in Santa Clara County, California. Subject to the foregoing provisions of this Section 10.7, the jurisdiction and venue for actions related to the subject matter hereof shall be the state and United States federal courts located in Santa Clara County, California and both parties hereby submit to the personal jurisdiction of such courts.

10.8 Notice. Any notice or communication required or permitted under this Agreement shall be in writing. Customer agrees to receive notices electronically. Notices to Customer shall be sent by email to the email address associated with Customer's account and shall be deemed received upon receipt. National Compute may also post notices within the Services. Notices to National Compute shall be given by email to legal@nationalcompute.com, or by hand, overnight courier, or registered or certified mail (postage prepaid, return receipt requested) to National Compute Labs PBC, 410 Townsend St. #350, San Francisco, CA 94107, Attn: Legal, and shall be deemed received (a) if given by email, upon receipt; (b) if given by hand, immediately upon receipt; (c) if given by overnight courier service, the first business day following dispatch; or (d) if given by registered or certified mail, the second business day after deposit in the mail. Either party may update its notice address by notice in accordance with this Section. A copy of all legal notices to National Compute must also be delivered by email to nationalcompute@orrick.com.

10.9 Modifications; Waivers. National Compute may modify this Agreement from time to time by posting the modified Agreement at <https://nationalcompute.com/documents/TOS> and updating the "Last updated" date above. Modifications take effect upon posting, and Customer's continued access to or use of the Services after that date constitutes acceptance of the modified Agreement; provided that modifications will not apply to any Order then in effect until the end of its Order Term unless Customer agrees in writing or the modification is required by applicable law. Continued use of Services solely under an Order to which a modification does not apply will not constitute acceptance of that modification. Modifications will not retroactively affect accrued rights or obligations or disputes arising before their effective date. Notwithstanding anything to the contrary in this Agreement, modifications to the AUP, Credit Terms, or DPA shall be in accordance with the terms of the applicable document. Except as set forth in this Section 10.9, no supplement, modification, or amendment of this Agreement shall be binding unless in a writing that references this Agreement and is agreed to by a duly authorized representative of each party. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. Purchase orders (and similar documents) are for administrative purposes only (e.g. setting forth products and services ordered and associated fees) and any additional or different terms or conditions contained in any such order shall not apply.

10.10 Export Compliance. The Services and other software or components which National Compute may provide or make available to Customer may be subject to United States export control and economic sanctions laws and other foreign trade controls. Both parties agree to comply with applicable laws in connection with its performance hereunder, including without limitation, applicable U.S. and foreign export controls, economic sanctions, and other trade controls. Neither party, nor any of its subsidiaries or any person acting on its behalf or owning 50% or more of its equity securities or other equivalent voting interests, is (a) a person on the List of Specially Designated Nationals and Blocked Persons or any other list of sanctioned persons administered by OFAC or any other governmental entity, or (b) a national or resident of, or a segment of the government of, any country or territory for which the United States has embargoed goods or imposed trade sanctions.

10.11 U.S. Government Restricted Rights. The Services and Documentation are "commercial items," "commercial computer software" and "commercial computer software documentation," pursuant to DFAR section 227.7202 and FAR

section 12.212, as applicable. The Services and Documentation are and were developed solely at private expense. Any use, modification, reproduction, release, performance, display or disclosure of the Services or Documentation by the United States Government shall be governed solely by this Agreement and shall be prohibited except to the extent expressly permitted by this Agreement.

10.12 Entire Agreement. This Agreement, including all documents referenced herein or incorporated by reference, is the complete and exclusive statement of the mutual understanding of the parties, and supersedes and cancels all previous written and oral agreements and communications, relating to the subject matter of this Agreement. Orders may be executed electronically and in counterparts.

10.13 Publicity. Neither party shall, except as otherwise required by applicable laws or stock exchange requirements, issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement or otherwise use the other party's marks or logos without the prior written consent of the other party; provided, however, that National Compute may include Customer's name and logo for the purpose of identifying Customer as a customer, including on National Compute's public website and other promotional materials.