

LIGHTLY.AI | General Terms & Conditions

These general terms and conditions (**GTC**) form together with the terms of any subscription plan (**Subscription Plan**) or any order form (**Order Form**) referencing these GTC, and any schedule thereto (**Schedule**), a legal agreement (**Agreement**) between Lightly AG (CHE-286.361.875) c/o ETH Entrepreneur Club, Stampfenbachstrasse 56 8092 Zürich ETH-Zentrum (**Provider**) and any customer subscribing for the use of the Lightly.ai software solution (the **Solution**) whether an individual or a legal entity (**Customer**); and together with Provider, the **Parties**).

1. Scope

- 1.1. In General. These GTC govern Customer's rights and obligations with respect to the access and use of the Solution and the services available through it (the **Services**), with the functionalities, modules and limitations specified in the Subscription Plan purchased by Customer or in any an Order Form executed by Customer.
- 1.2. Delivery Mode. The Solution may be made available as an online or webapp solution (**Online Solution**) or as an on-premise solution (**On-Premise Solution**); except as otherwise specified, these GTC apply equally to the Online Solution and the On-Premise Solution.
- 1.3. No Further Obligation. Provider shall have no obligation to provide any service or software which are not expressly specified in these GTC or in an Order Form.

2. Acceptance

By subscribing for the use of the Solution, executing an Order Form, or downloading the Solution, Customer expressly agrees to be bound by the terms of the Agreement. For the avoidance of doubt, any subscription for the use of the Solution by any of Customer's employees, agents or representatives, on behalf of Customer, is deemed as acceptance of the terms of these GTC by Customer. If you are subscribing for the use of the Solution or using any Licensed Products on behalf of a legal entity, you represent and warrant that you are duly authorised to do so.

3. Right to Access and Use

- 3.1. In General. Subject to Customer's compliance with all terms and conditions of these GTC, in particular, subject to its payment of the applicable Fees in accordance with Section 11, Provider, grants to Customer, during the Term, a revocable, non-exclusive and non-transferable right to access and use the Solution and the content displayed on, or generated through, the Solution (the **Content** and together with the Solution the **Licensed Products**), strictly in accordance with the documentation provided by Provider, on its own behalf and for its own internal business purposes only. For the avoidance of doubt, Customer shall not have the right to modify, amend, or prepare derivative works based on the Licensed Products nor to copy or reproduce the Solution, except as expressly specified in the Order Form.
- 3.2. Authorised Users. Always subject to the limits of the Subscription Plan or the Order Form, Customer shall

use the Licensed Products through its own employees, agents and/or duly authorised representatives having a need to access the Licensed Products only (the **Authorised Users**), and shall take appropriate steps to ensure compliance with the GTC by such Authorised Users. Customer is expressly prohibited from using the Licensed Products on behalf or for the benefit of any third-parties, or to sublicense the Licensed Products to any third party, without Provider's express prior written consent.

- 3.3. Metrics. If the use of the Licensed Products is subject to specific restrictions (e.g. limited number of concurrent users or devices, named users, or other limitations), as specified in the Subscription Plan, the Order Form or the documentation provided by Provider, Customer must use the Licensed Product strictly in accordance with such restrictions.
- 3.4. Limited Licenses. If so specified in the applicable Order Form or Subscription Plan, and always subject to Customer's compliance with all other terms and conditions of these GTC, Provider may make the Licensed Products available under limited licenses, subject to the following additional conditions and limitations:
 - a) Free Access. Provider may offer free Subscription Plans for no fees for its Online Solution, but which have limited features, functionality, and volume tiers for the Licensed Products (**Free Plans**). Provider may modify the Free Plans at any time in its sole discretion or even discontinue them entirely without prior notice to Customer.
 - b) Trial License: if so specified in an Order Form in relation to an On-Premise Solution, the Licensed Products may be made available at a reduced rate for a limited period of time – at which time the License shall automatically be converted into a full license – exclusively for the purpose of the Licensed Products' evaluation in view of the acquisition of a full licence, to the exclusion of any commercial use (the **Trial License**).
 - c) Beta Services. From time to time, Provider may make *Beta Services* available to Customer at no additional charge. "**Beta Services**" are new or different Licensed Products or Services, or functionality thereof, made available to customers for testing and evaluation, such as pilot, limited release, early access, etc. and are clearly designated as beta or by a similar description. Customer may choose to use such Beta Services in its sole discretion. Beta Services are intended for evaluation purposes

and not for production use, are not fully supported and may be subject to additional terms and fees that may be presented to Customer. Beta Services are provided on an “as-is” and “as available” basis without any warranty, support, maintenance, storage, service-level agreement or indemnity obligation of any kind and so, which are hereby disclaimed notwithstanding anything to the contrary in the Agreement. For the avoidance of doubt, all restrictions and Customer's obligations in this Agreement shall also apply to Beta Services. Provider may discontinue Beta Services at any time in its sole discretion and may never make them generally available.

- 3.5. **SaaS.** Except for the subscription of an On-Premise Solution, as must be specified in an Order Form, the Licensed Products are provided as a SaaS offering (Software as a Service); therefore, Provider shall only grant to Customer a right to access and use the Licensed Products and shall not deliver any copy of the Licensed Products.
- 3.6. **Modifications.** Customer acknowledges that Provider may implement modifications to the Licensed Products which may include modifications to the layout or functionalities of the Licensed Products as Provider determines, and Provider will have the unfettered right to remove any Content from the Solution or change its functionalities at its sole discretion.

4. Credentials

- 4.1. **User Credentials.** If Provider issues user credentials on a named user basis, such user credentials shall be used exclusively by the individual Authorised Users for which they have been issued, on behalf and for the benefit of Customer. If user credentials are issued to Customer without specifying the individual users, such user credentials may be used by any Authorised User, strictly on behalf and for the benefit of Customer.
- 4.2. **Confidentiality.** Customer shall be fully responsible for the confidentiality of any user credentials issued by Provider and immediately inform Provider of any loss or unauthorised disclosure of such user credentials, which shall then be deactivated and replaced by Provider. Provider may charge an appropriate fee for the replacement of any user credentials. Customer shall further immediately notify Provider if any named user for whom Provider has issued user credentials quits Customer's organization.

5. Maintenance, Availability and Additional Services

- 5.1. **Maintenance and Availability.** As part of providing the Licensed Products, Provider shall continuously seek to identify and attempt to resolve problems which may negatively affect the proper functioning and availability of the Licensed Products (the **Maintenance Services**). Such Maintenance Services comprises repairs (rectification of faults and errors to restore functionality) and servicing

(maintenance to maintain functionality). Further development, adaptation or improvement of the Licensed Products (evolutive maintenance), as well as additional Services (as described in Section 5.3), do not form part of the Maintenance Services.] As part of the Maintenance Services, Provider shall use reasonable endeavours to maintain the availability or continued function of the Licensed Products, but does not guarantee it.

- 5.2. **Maintenance Windows.** For the Online Solution, Maintenance Services are generally deployed once a week during maintenance windows (i.e. on Thursdays between 2pm and 5pm CET or during the weekend, during which the Licensed Products may be fully or partly unavailable. Provider shall inform reasonably in advance Customer if Maintenance Services have to be performed outside of such timeframe. For the On-Premise Solution, Customer will be made available of the release of updates and patches, which Customer is responsible to install.
- 5.3. **Additional Services.** To the extent specified in an Order Form, and subject to the payment of the Fees and costs associated therewith (including travel, lodging, communications, shipping charges and out-of-pocket expenses) Provider may provide additional Services for the Licensed Products (such as implementation, integration of content and/or consulting services).
- 5.4. **Obligation of means.** By default, Provider is only bound by an obligation of means for the supply of Services. Provider will supply the Services in accordance with standard professional practice, with the care and diligence required from a supplier of similar services.
- 5.5. **Planning.** Provider will endeavour to supply the Services within the deadlines set out in the Order Form. However, if the agreed deadlines are not expressly stipulated as binding in an Order Form, they will only be indicative in nature.

6. Customer's Obligations

- 6.1. **Payment of Fees.** Except for Free Plans pursuant to Section 3.4.a), Customer shall pay the Fees as indicated in the Subscription Plan or the Order Form or by any other appropriate means (e.g. pricing schedules provided to Customer by Provider) (the **Fees**), in accordance with the payment terms set forth in Section 11.
- 6.2. **Proper Use.** Customer shall – and shall cause its Authorised Users to – at all times comply with all laws and regulations applicable to the use of the Licensed Products, as well as the conditions and limitation of any license or other right granted, as set out in the Agreement or as otherwise specified in writing by Provider. In particular, Customer or the Authorised Users shall not, without the prior consent of Provider, and either during or after the Term: (i) use the Licensed Products for any illegal purposes (ii) republish or redistribute any Content or material from the Licensed Products; (iii) attempt to copy, modify, duplicate, create derivative works from,

frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Licensed Products or of its infrastructure; (iv) make any alteration to the Licensed Products, or insert any malicious software into the Solution or its infrastructure; (v) access the Solution's code, attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Solution or its infrastructure (vi) access or use the Solution for the purpose of building a competitive product or service or copying its features or user interface; (vii) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Licensed Products or any part of their infrastructure available to any third party other than its Authorized Users.

- 6.3. Licenses and Authorization. Customer shall maintain all permits and licenses that are required for the use of the Licensed Products.
- 6.4. SPoC. If so specified in an Order Form, Customer shall make available to Provider a reliable single point of contact to provide feedback and up-to-date information on Customer's business, as may be required by Provider for providing the Licensed Products and Services and to ensure effective communication in support of a successful collaboration.
- 6.5. Assistance. Customer shall provide to Provider the assistance and information reasonably required by Provider for the proper performance of the Services, as may be relevant for the performance of the Services or Licensed Products.
- 6.6. Customer Default. In case of default by Customer to comply with its obligations set forth in the Agreement, Provider shall be excused from the performance of its obligations under the Agreement and assume no liability in relation therewith (without prejudice to Provider's other rights under this Agreement).

7. Audits and Verifications

- 7.1. Verifications. The Licensed Products may contain tools allowing Provider to verify Customer's compliance with these GTC and Provider shall have the right to temporarily or permanently suspend the access to the Licensed Products and/or the Solution.
- 7.2. Audits. Additionally, Provider shall have the right to audit Customer's compliance with these GTC once a year during usual office hours. Customer undertakes to provide all necessary assistance and information for the purposes of such audit, at no cost. If an audit shows that Customer has exceeded the metrics or other limitation specified in an Order Form or Subscription Plan, it shall pay the difference between the Fees actually paid (if any) and the Fees it would have had to pay for its actual use and/or access of the Licensed Products, plus 5% interest, from the first time it exceeded its rights. In this case, Customer shall further pay the costs incurred for the

audit. The right of termination pursuant to Section 18.3 shall apply additionally.

8. Customer Materials

- 8.1. Customer Materials. Customer and its Authorized Users may provide images, thumbnails, embeddings and other data through their use of the Solution and the Services (**Customer Materials**). As between the Parties, subject only to Section 9.2, Customer Materials is and shall remain the sole and exclusive property of Customer and nothing herein shall be construed or interpreted as a transfer of ownership in any Customer Materials to Provider.

Use of Customer Materials. Customer grants to Provider a global, royalty-free, irrevocable, non-exclusive license to use the Customer Materials for the sole and exclusive purpose of providing or improving the Licensed Products and/or the Services, including a license to collect, process, store, generate, modify, as well as to train algorithms using Customer Materials, only to the extent necessary to provide or improve the Licensed Products. Furthermore, Customer may, through the Platform, choose to use certain third party service providers (e.g. annotation companies, and other services integrated into the Platform), in which case Provider will make the Customer Materials available to such third parties. For the avoidance of doubt, Provider will not sell the Customer Data.

- 8.2. Warranty. Customer warrants that (i) it has valid grounds and, if required, it has obtained all authorisations and consents for the processing of any Customer Materials within the frame of these GTC and (ii) Customer Materials do not infringe on any law or regulation, these GTC, or any third party rights.
- 8.3. Deletion and Return of Customer Materials. During the Term, Customer has access to Customer Materials and may delete it directly. Upon termination of the Agreement, Provider shall, within reasonable time following a written request by Customer, provide Customer with a final extract of the Customer Materials and permanently delete any copies of such Customer Materials still under its control. In any case, Provider shall be allowed to permanently delete Customer Materials (i) 60 days after termination or non-renewal of the Agreement or (ii) if an account has been inactive for 12 months or more.

9. Provider Intellectual Property

- 9.1. Licensed Products. As between Provider and Customer, Provider shall be and remain the sole owner of all rights, title and interest, registered or not, whether arising from Swiss or any other national or international legislation, in copyright, databases, trademark, domain names, designs and patents of invention, know-how, confidentiality and/or business secrets, and all other intellectual property or similar proprietary rights of whatever nature (**Intellectual Property Rights**) in and to the Licensed Products, the Solution and other Services provided in

connection therewith, including any developments made to it (except only for Customer Materials). Nothing in these GTC shall operate any assignment or transfer of any Intellectual Property Rights to Customer.

- 9.2. Usage Data. Provider shall own all rights and titles on, and may freely use for any purpose (including without limitation for data mining, benchmarking and analytics purposes, or for developing and marketing new services), any data or information (i) collected, processed, developed, produced or obtained from cookies or other tracking and analytics technology present on the Solution (including any tracking data related to user traffic), (ii) relating to Customer's or Authorised Users' access to and use of the Licensed Products, including *inter alia* the number and duration of visits to the Contents, and (iii) provided that reasonable efforts is taken to suppress any reference to Customer and Authorised User, aggregated data inputs from Authorised Users (**Usage Data**).
- 9.3. Notice of Infringement. Should Customer become aware of any infringement or imminent risk of any infringement of any Intellectual Property Rights pertaining to the Licensed Products or Services, Customer shall immediately inform Provider and provide all useful information on such infringement or risk of infringement. Provider shall have the exclusive power to decide on any action to be taken with respect to such infringement or risk of infringement. Customer shall, at its own costs, provide Provider with all reasonable assistance required by Provider to protect its Intellectual Property Rights, in accordance with its instructions.
- 9.4. Intellectual Property Rights Infringement. In the event that Provider is enjoined from providing the Licensed Products or Services due to any third-party Intellectual Property Rights claims and such injunction is not dissolved within thirty (30) calendar days, or in the event that Customer is adjudged, in any final order of a court of competent jurisdiction from which no appeal is taken, to have infringed upon or misappropriated any third-party Intellectual Property Rights due to the use of the Licensed Products or Services as permitted hereunder, then Provider shall, at its expense: (a) obtain for Customer the right to continue using such Licensed Products or Services; (b) replace or modify such Licensed Products or Services so that they do not infringe upon or misappropriate such Intellectual Property Rights and are free to be used by Customer; or, (c) in the event that Provider is unable or determines, in its reasonable judgment, that it is commercially unreasonable to do either of the aforementioned, Provider may terminate the Agreement, with immediate effect, reimbursing Customer any prepaid Fees for the period during which the latter is thus unable to use the Licensed Products or Services, as its sole and exclusive remedy.
- 9.5. Relief. Customer expressly acknowledges that any infringement of Provider's Intellectual Property

Rights will cause irreparable harm to Provider, for which monetary damages alone would be inadequate, and that Provider may thus seek injunctive relief or any other remedy available at law in any jurisdiction, in case of such infringement.

10. Third-Party Content

- 10.1. In General. The Licensed Products and Services may contain Content and/or software components incorporated into the Licensed Products or provided therewith, developed, distributed and/or licensed by third parties (**Third-Party Content**). Such Third-Party Content shall be licensed, and Customer shall use such Third-Party Content under, and strictly in accordance with, the applicable terms and conditions by the respective third-party. Provider shall use its best efforts to identify any Third-Party Content in the documentation of the Licensed Products.
- 10.2. OSS. Nothing in these GTC shall restrict, limit or otherwise affect any rights or obligations that Customer may have, or conditions to which Customer may be subject, under any applicable open source licenses to any open source software which may be incorporated in and/or provided together with the Licensed Products.

11. Financial Terms

- 11.1. Payment. Subscription Fees shall be due and payable in advance of their respective terms, as indicated in the Subscription Plan or Order Form, and non-refundable in case of termination. Additional Fees as incurred pursuant to the Provider's provision of Services, or through Customer's use of the Licensed Products are invoiced in arrears, on a monthly basis or otherwise specified in the Order Form.
- Services Fees. Except as otherwise specified in the Order Form, Fees for the providing of Services shall be due and payable in advance and non-refundable in case of termination.
- 11.2. Currency and Taxes. Except as indicated otherwise, Fees are expressed and payable in U.S. Dollars. Fees and rates shall be exclusive of all taxes (in particular, VAT) if and as applicable.
- 11.3. Disbursement. Payment of the Fees shall be made by credit card or wire transfer to Provider's bank account, as indicated from time to time to Customer. In case of payment by credit card, Customer authorizes the card issuer to pay all such amounts and authorizes Provider (or its billing agent) to charge the credit card account until the Agreement is terminated as set forth herein. Customer must provide current, complete and accurate billing and credit card information. Customer agrees to pay all costs of collection, including administrative and attorney's fees and costs, on any outstanding balance. In certain instances, the bank or the issuer of the credit card may charge a foreign transaction fee or related charges, which Customer shall be responsible to pay.

- 11.4. Suspension of Services. The continued use of the Licensed Products and Services by Customer is subject to the timely payment of all the Fees. Provider may temporarily stop providing the Services or suspend any right to access or use any Licensed Product and/or any user credentials issued to Customer, if applicable, if Customer is in default for payment of any Fees due.
- 11.5. Changes. Subject to pricing terms agreed in an Order Form, Provider may modify the pricing of its services at any time, e.g. by adding new services for additional Fees, or amending current plans, at any time and in its sole discretion, provided that if the change concern Customer's current Subscription Plan, Provider will notify Customer in advance and the increase in Fees shall only become effective upon the forthcoming term of the Subscription Plan.
- 11.6. Legacy Services. From time to time Provider will cease to offer certain Subscription Plans. Provider shall use commercially reasonable efforts to support such legacy Subscription Plans until the end of the term during which the Subscription Plan is deprecated or as otherwise terminated. Notwithstanding the foregoing, Provider reserves the right to discontinue supporting legacy Subscription Plans at any time without prior notice.

12. Data Protection

- 12.1. Customer Personal Data. If the provision of the Licensed Products or other related services implies the processing by Provider of (i) any personal data forwarded by Customer (**Customer Personal Data**), in particular as part of Customer Materials, or (ii) personal data relating to Usage Data (**Usage Personal Data**), Provider and Customer shall fully comply with their respective obligations under applicable data protection laws and regulations.
- 12.2. Customer Data. Provider shall process Customer Personal Data, as data processor of Customer, acting as data controller, and the Parties shall comply with the terms of **Annex 1** to these GTC.
- 12.3. Usage Data. Provider shall process Usage Personal Data as sole data controller thereof. Provider shall, if and to the extent possible, Provider will suppress any reference to identified individuals from Usage Data. Usage Data may be transferred to and processed on servers located outside of its jurisdiction. Requests, investigations, or actions relating to Usage Personal Data shall be addressed by Provider only.
- 12.4. Provider Privacy notice. Provider has issued a privacy notice, accessible at <https://www.lightly.ai/footer/privacy-policy> (**Privacy Notice**), which describes how personal data is collected through the Solution and for what purposes. That privacy notice, as amended from time to time, forms an integral part of these GTC.

13. Confidentiality

- 13.1. Definition. **Confidential Information** shall mean any information disclosed by either Party (as the

context requires, the **Disclosing Party**) to the other (as the context requires, the **Receiving Party**), either directly or indirectly, in writing, orally, or by inspection of tangible objects that is designated as "confidential", "proprietary", or some similar designation or can reasonably be considered of confidential nature. Confidential Information includes the content of the Agreement, (but not the fact that the Parties are collaborating), all information about the Disclosing Party's business and operations, and more generally all information relating to or owned or controlled by the Disclosing Party of which the Receiving Party shall acquire knowledge in the performance of their agreement. The Licensed Products, Services, as well as any Usage Data, shall be deemed Confidential Information and the property of Provider only, Provider acting as Disclosing Party in relation to such data. Confidential Information shall not, however, include any information which: (i) was made public without restriction prior to the time of disclosure by the Disclosing Party; (ii) becomes publicly known without restriction after disclosure by the Disclosing Party through no action or inaction of the Receiving Party; (iii) is already in the possession of the Receiving Party at the time of disclosure by the Disclosing Party as shown by the Receiving Party's files, records, and/or other competent evidence immediately prior to the time of disclosure; (iv) is obtained by the Receiving Party from a third party without a breach of such third party's obligations of confidentiality; or (v) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, as shown by the Receiving Party's records.

- 13.2. Obligation of Confidentiality. The Receiving Party shall not, and shall cause its employees, agents, subcontractors or representatives not to (a) disclose, sell, license, transfer, or otherwise make available to any person or entity any Confidential Information of the Disclosing Party, except to its employees, agents, subcontractors or representatives having a legitimate need to know such Confidential Information for the performance of the Receiving Party's obligations under the Agreement (and only to such extent), and/or (b) use, reproduce, or copy any Confidential Information of the Disclosing Party, except as necessary to perform its obligations hereunder.
- 13.3. Ownership. All Confidential Information shall remain the Disclosing Party's property and all documents, electronic media, and other tangible items or portions thereof, which contain Confidential Information of the Disclosing Party will be delivered to the Disclosing Party promptly upon the Disclosing Party's written request.
- 13.4. Cooperation and Assistance. Each Party shall use its best efforts to assist the other Party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each Party shall advise the other Party immediately in the event either Party learns or has

reason to believe that any person who has had access to Confidential Information has violated or intends to breach confidentiality and each Party shall cooperate with the other Party in seeking injunctive or other equitable relief against any such person.

- 13.5. **Compliance.** Nothing contained in the Agreement shall prevent Provider or Customer from complying with applicable laws. The Receiving Party may disclose Confidential Information of the Disclosing Party in connection with subpoenas, court orders, other legal processes, or as otherwise required by law, provided that the Receiving Party gives the Disclosing Party prompt written notice of such requirement (unless expressly prohibited in writing in such subpoena, court order, or other legal process) prior to such disclosure and takes reasonable steps to protect the Confidential Information from public disclosure, and provided further that any such disclosure is limited to the minimum extent necessary to comply with the legal requirement.
- 13.6. **Reliefs.** Customer acknowledges that breach of its obligation of confidentiality may give rise to irreparable harm to Provider, which might not be adequately compensated in the form of monetary damages. Accordingly, Provider may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, in contract or at law.
- 13.7. **Feedbacks.** Provider has not agreed to and does not agree to treat as confidential any Feedback (as defined below) Customer provides to Provider, and nothing in the Agreement or in the Parties' dealings arising out of or related to the Agreement will restrict Provider's right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting Customer. ("Feedback" refers to any suggestion or idea for improving or otherwise modifying any of Provider's Licensed Products or other products or services.)

14. Advertising and Publicity

Provider may refer to Customer as a customer of Provider for the Solution and Customer grants to Provider a limited license to use its name, logos and trademarks for the sole purpose of referring to it within the frame of its marketing activities.

15. Limited Warranty

- 15.1. **As IS/AS AVAILABLE.** The Licensed Products and Services are provided AS IS and AS AVAILABLE. To the maximum extent permitted by applicable law, Provider disclaims all warranties with respect to the Licensed Products or Services, whether express, implied or statutory, including any warranties of merchantability, fitness for a particular purpose, quiet enjoyment and non-infringement of third-party rights.
- 15.2. **Exclusions.** In particular, Provider does neither represent nor warrant that the Licensed Products or

Services shall meet Customer's requirements, that the operation of the Licensed Products or Services will be uninterrupted or error-free, that the Content will be error-free, that any errors in the Licensed Products will be corrected, that it will ensure continued compatibility of the Licensed Products or Services with any third-party products, even if they were compatible at any given moment, that the Licensed Products or Services will always be available and remain available unchanged or that certain subscription models for the Licensed Products or Services available at any given moment will remain available for renewal at the end of the applicable subscription period. The use of the Licensed Products and Services is entirely at Customer's own risk, and Provider expressly disclaims any warranties regarding Customer's use thereof and/or any decisions taken by Customer based on the insights gained from its use of the Licensed Products or Services.

- 15.3. **Internet.** The use of the Internet involves risks, in particular that the data transmitted may be intercepted, altered or deleted. By using the Solution, Customer accepts these risks. Provider declines all responsibility in this respect.

16. Limited Liability

- 16.1. **Limited Liability.** Provider's liability under the Agreement, whether in contract, tort or any other theory of liability, shall be excluded to the maximum extent permitted under applicable law.
- 16.2. **Disclaimer.** In particular, without prejudice to the generality of the foregoing, to the extent permitted under applicable law, Provider disclaims any liability for simple negligence as well as for any damages or losses, whether foreseen or foreseeable, or whether Provider has been advised of the risk thereof, related to the loss of use, interruption of business, loss of actual or anticipated profit, loss of revenue, loss of anticipated savings, loss of opportunity, loss of goodwill, loss of reputation, loss of, damage to or corruption of data, or any other indirect, special, incidental, exemplary, or consequential damages or losses of any kind, regardless of the form of action, whether in contract, tort, strict liability or otherwise.
- 16.3. **Limited Amount.** In no event, Provider's total liability during any period of 12 months shall exceed the amount of the Fees actually paid by Customer during the 12 months preceding the event giving rise to Customer's claims.
- 16.4. **Auxiliaries.** The exclusions and limitations under this Section 16 shall extend to Provider's directors, officers, employees, agents, representatives and auxiliaries.

17. Indemnification

- 17.1. **Indemnification.** Customer shall defend, hold harmless from, and indemnify Provider, its directors, officers, employees and auxiliaries, from and against all liability, loss, cost, damage or expense, including reasonable attorney's fees, resulting from (i) Customer's use of the Licensed Products other

than as permitted under these GTC and strictly in accordance with any documentation provided for the Licensed Products; or (ii) Provider's use of any Customer Materials as permitted hereunder.

17.2. Indemnification Procedures. In case of any claims or proceedings made against Provider, its directors, officers, employees or auxiliaries in relation to Customer's use of the Licensed Products or Provider's use of Customer Material, Provider shall (i) inform Customer without undue delay; and (ii) allow Customer to assist Provider in the defence and settlement of such claims or proceedings with a counsel of its choosing and at its own expense, if and as permitted under applicable procedural rules.

18. Term and Termination

18.1. Entry into Force. The Agreement shall enter into force upon any of the following events, whichever occurs first: Customer's subscription for the use of the Solution, execution of an Order Form, or first use of the Licensed Products or Services.

18.2. Term. The Agreement shall remain in effect:

- a) for Free Plans: for an unlimited period of time, unless terminated by either Party at any time without prior notice (the **Term**). Termination by Customer occurs by deleting its account;
- b) In all other cases: for the initial term indicated in the Order Form or the Subscription Plan, or by any other appropriate means by Provider, as applicable, and in the absence of a term specified, for a initial duration of 1 year (, subject to termination in accordance with this Section 18 (the **Initial Term**). Subscriptions shall then be automatically renewed upon expiry of the Initial Term, or then current renewed term (each a **Renewed Term**, and together with the Initial Term, the **Term**), for consecutive Renewed Term of the same duration as the Initial Term, subject to prior written notice of non-renewal by either Party for the forthcoming Renewed Term. Notice of termination by Customer shall be sent by email to sales@lightly.ai.

18.3. Termination for Cause. Provider may terminate the Agreement with immediate effect, in case of any material breach by Customer, provided that, if Customer's breach may be cured, at Provider's sole judgement, Provider shall first give Customer 20 calendar days' prior written notice to cure such breach at Provider's entire satisfaction. Provider may further terminate the Agreement, in case of any infringement of third party rights or risk of infringement of such rights, through Customer's use of the Licensed Products.

18.4. Effects of Termination. Upon non-renewal or termination of the Agreement, and in addition to the consequences described elsewhere in the GTC:

- a) Provider shall stop providing and Customer shall stop using the Licensed Products and Services;
- b) all rights to use and access granted to Customer hereunder (inter alia under Section 3.1) shall

cease. All access to the Licensed Products and credentials shall be deactivated and suppressed;

- c) Customer shall permanently delete any part of the Licensed Products stored or installed on its IT systems, if any;
- d) Confidential Information shall be returned to the Disclosing Party and/or permanently deleted from any support of the Receiving Party, at the Disclosing Party's option, and Receiving Party shall cease using the Confidential Information; and
- e) all Fees already paid by Customer shall remain acquired to Provider and are not reimbursable to Customer. Customer shall immediately pay all outstanding amounts due to Provider.

All terms which are expressed or intended to survive, and any provisions of the Agreement necessary for its interpretation or enforcement will continue to apply regardless of the reason for termination or expiry of the Agreement.

18.5. Plan Conversion. In case of non-renewal or termination of a paying Subscription Plan for the Online Solution, Provider may inform Customer that such Subscription Plan is converted into a Free Plan, in which case the Agreement is not terminated and will continue under the terms of the applicable Free Plan and Section 18.4 will only apply if and to the extend relating to the Subscription Plan which is discontinued.

19. Miscellaneous

19.1. Independent Contractors. The Parties acknowledge and agree that they shall be considered as independent contractors with no authority to contract for the other or in any way to bind or to commit the other or in a way to bind or to commit the other to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of the other. Under no circumstances shall either Party, or any of its staff, if any, hold itself out as or be considered an agent employee, joint venture, or partner of the other. Neither Party shall pay any contributions to social security, unemployment insurance, federal or state withholding taxes, any other applicable taxes whether federal, state, or local, or provide any other contributions or benefits which might be expected in an employer-employee relationship.

19.2. Subcontractors. Provider may use subcontractors for the provision of the Licensed Products and Services. Provider's use of subcontractors shall not relieve Provider of any of its duties or obligations hereunder, which shall be imposed on subcontractors.

19.3. Force Majeure. Neither Party shall be liable for any delay or failure to perform its obligations hereunder due to causes beyond its reasonable control, such as natural catastrophes, war, strikes, black-outs, Internet failure, virus outbreaks, or similar events. Any such excuse for delay shall last only as long as

the event remains beyond the reasonable control of the delayed Party. However, the delayed Party shall use its best efforts to minimize the delays caused by any such event beyond its reasonable control. The delayed Party must notify the other Party promptly upon the occurrence of any such event, or performance by the delayed Party will not be considered excused pursuant to this Section, and inform the other Party of its plans to resume performance.

- 19.4. Amendment. The Order Form may be amended only by written instrument signed by both Parties. Provider reserves the right to amend these GTC by written notice to Customer at least 1 month prior to the end of the Initial Term or any Renewed Term, in which case Customer's sole remedy shall be to terminate the Agreement in accordance with Section 18.2.b). In the absence of termination, such amendments shall become effective as of the beginning of the Renewed Term.
- 19.5. Entire Agreement. The Agreement constitutes, together with the End-user Documentation, the entire agreement between the Parties and supersedes any and all previous representations, understandings, or agreements between them, as to the subject matter hereof.
- 19.6. Hierarchy. In the event of a conflict or contradiction between the provisions of the GTC and those of any other contractual documents such as the Order Form, any Schedule, or the End-user Documentation, the GTC shall take precedence, subject to express and specific deviations, deletions or additions contained in the proper section of the Order Form to that effect, citing the section(s) of these GTC it shall amend..
- 19.7. Severability. If any provision of the Agreement is held to be invalid or unenforceable for any reason, the Parties hereby agree to replace such provision with a valid and fully enforceable provision reflecting the original intent of the Parties to the fullest extent possible. In any event, all other provisions of the Agreement shall remain valid and enforceable to the fullest extent possible.
- 19.8. Electronic Form. The words "execution", "signature" and similar words in the Agreement shall be deemed to include unqualified electronic signatures (e.g. Docusign or any equivalent e-signature provider) which shall be of the same legal effect, validity or enforceability as a manually executed signature; while the term "in writing" shall include communications by email or other electronic forms.
- 19.9. No Waiver. The failure of either Party at any time to require performance by the other Party of its obligations hereunder shall in no way affect that Party's right to fully enforce the other Party's obligations thereafter.
- 19.10. Assignment. Except for transfers or assignments authorized pursuant to the terms of the GTC, Neither Party shall assign and transfer any or all of its rights and obligations hereunder, in whole

or in part, to any third party without the other Party's prior written consent; provided however, that Provider may assign and transfer all of its rights and obligations hereunder to any third party acquiring all or substantially all of its business related to the Licensed Products or Services, without Customer's consent.

- 19.11. No Third Party Beneficiaries. Except pursuant to Section 17 GTC, this Agreement shall be binding and inure solely to the benefit of the Parties (and their respective lawful successors and assigns). Nothing in the Agreement is intended to or shall confer upon any third party any rights, benefits or remedies of any nature whatsoever under or by reason of these GTC or any Order Form.

20. Governing Law and Jurisdiction

- 20.1. Governing Law. The Agreement and/or any use of the Licensed Products shall be governed by and construed in accordance with Swiss substantive law, at the exclusion of its conflict of laws provisions.

- 20.2. Jurisdiction. Any dispute or controversy arising out of or in relation to the Agreement and/or Customer's use of the Licensed Products shall be subject to the exclusive jurisdiction of the competent ordinary courts at the place of the registered office of the Provider. Notwithstanding the preceding, nothing in these GTC shall prevent Provider from seeking injunctive relief or any other remedy available at law in any jurisdiction in case of any infringement of its Intellectual Property Rights.