

Schedule 1 – KeyShot General Terms and Conditions

1. General

- 1.1 The KeyShot Group provides industry-leading 3D rendering and visualization software used by, among others, 3D professionals, product teams, and consumers.
- 1.2 These KeyShot General Terms and Conditions (GTC) govern the Customer's and its User(s)' Subscription(s) to and licensing of the Supplier's Software as listed in the Quote(s) and related Services identified in the Quote(s).
- 1.3 The Customer's use of and access to the Software is conditioned upon the Customer's acceptance of these GTC.

2. Definitions

Capitalized terms and expressions shall have the meaning that is attributed to them in the definitions below in this clause 2 and in the Agreement.

"Affiliate" shall mean any legal entity controlling, controlled by, or under common control with a Party. The term "control" shall mean the ability to vote fifty percent (50 %) or more of the voting securities of any entity or otherwise having the ability to influence and direct the policies and direction of an entity.

"Agreement" shall mean these GTC, Schedules, Quote(s), and any amendments thereto.

"Confidential Information" shall mean any and all information which (i) by its nature should be treated confidentially, (ii) has been marked or otherwise designated by the disclosing Party as confidential prior to or after disclosure or receipt, or (iii) regards the existence, nature, subject matter of the Agreement. Confidential Information includes, but is not limited to, the Software, the Documentation, Customer Data, financial information, product information, trade secrets, methods, processes, and pricing.

"Consumer" means a natural person who enters into the Agreement for purposes that are outside that person's trade, business, craft or profession.

"Customer" shall mean the Customer pursuant to the Quote and any Affiliate of the Customer. The Customer has the legal and contractual relationship with the Supplier.

"Customer Data" shall mean Customer information or data provided to or made available to the Supplier by the Customer, including, without limitation, the data that is uploaded or imported by User(s) to the Software (input) and exportable data based on the input and generated by the User(s)' use of the Software (output). Customer Data excludes the Software, Services, Documentation, Supplier's Confidential Information and Intellectual Property Rights, usage statistics, performance

data, telemetry, diagnostic information, metadata, or other data generated by or collected through operation of the Software.

“Documentation” shall mean the manuals and information relating to the Software available at manual.keyshot.com or other documentation made available to the Customer by the Supplier.

“Effective Date” shall mean whichever comes first of (i) the date of the Customer’s acceptance of the Agreement by completing and agreeing to the Agreement via the Supplier’s automated web order flow for Subscription(s); (ii) the date of the Customer’s acceptance of the Quote (whether by written confirmation (such as email confirmation), by provision of a PO (purchase order) no. related to the Quote or by other means); (iii) the date of the Customer’s download, installation, use of and/or access to the Software; or (iv) any other valid means of acceptance.

“GTC” shall mean these KeyShot General Terms and Conditions governing the use of the Software and related Services and any subsequent amendments hereto.

“Intellectual Property Rights” shall mean any intellectual property right (whether registered or unregistered), including, but not limited to, copyrights, design rights, trademarks, patent rights, utility model rights, catalogue rights, database rights, *sui generis* rights, domain rights, trade secrets, Confidential Information, goodwill, know-how, and similar rights, as well as applications for and the right to apply for such rights in any country or jurisdiction in the world.

“KeyShot Group” shall mean KeyShot Inc. (US), KeyShot_ A/S (DK), KeyShot ApS (DK), KeyShot Group ApS (DK) and any other legal entities in the Supplier group at any given time.

“Personal Data Breach” shall mean (a) the accidental, unauthorized, or unlawful destruction, loss, alteration, disclosure of, or access to, Customer Data transmitted, stored or otherwise processed by Supplier or any sub-processor; and (b) any other broader circumstance defined by applicable US Privacy Laws as a “breach,” “data breach,” “personal data breach” or other similar term and a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed as defined in the GDPR.

“Party” shall mean the Supplier or the Customer.

“Parties” shall mean the Supplier and the Customer together.

“Quote(s)” shall mean the quote(s)/order forms on KeyShot Software Products and Services entered into between the Supplier and the Customer concerning the Customer’s Subscription(s) to the Software and/or provision of related Services.

“Services” shall mean the services identified in the Quote to be provided by the Supplier to the Customer in accordance with the Agreement.

“Software” shall mean the Supplier’s software product(s) specified in the Quote(s) and made available to the Customer during the Subscription Term for either (i) on-premise installation and use

on a Customer computer (“**Desktop Software**”) or (ii) the Customer’s access via the cloud and hosted by Supplier, including via the Supplier’s underlying cloud providers (“**Cloud Software**”).

“**Subscription(s)**” shall mean the Customer’s non-exclusive right or license to use and access the Software identified in the Quote(s) during the Subscription Term and pursuant to this Agreement and the subscription limitations set forth in the Quote(s). Subscriptions(s) may either be (i) subject to a limited subscription term (i.e. non-perpetual Subscription(s) which may be subject to Renewal Term(s) (if applicable)) or (ii) subject to a perpetual license period (i.e. Subscription(s) explicitly subject to a perpetual license period pursuant to a Quote shall be deemed perpetual licenses), cf. the definition of “Subscription Term” below. Subscription(s) to Trial Licenses and Beta Testing Licenses are not subject to Quotes and are licensed as set out in clause 3.3(d).

“**Subscription Fee(s)**” shall mean the fees for Subscription(s) to the Software during the Subscription Term to be paid by the Customer to the Supplier and set forth in the Quote(s).

“**Subscription Term**” shall unless otherwise stated in the Quote(s) mean (i) the applicable Initial Subscription Term and Renewal Term(s) (if applicable) for Customer’s Subscription(s) subject to such limited subscription term or (ii) a perpetual license period for Customer’s Subscription(s) if explicitly set out in the Quote(s). The Subscription Term for Trial Licenses and Beta Testing Licenses follows from clause 3.3(d).

“**Supplier**” shall mean the KeyShot Group entity specified in the Quote who is the supplier of the Software and Services pursuant to the Agreement.

“**Switching Notice Period**” shall have the meaning as set out in clause 17.4.3 in these GTC.

“**Term**” shall mean the period from the Effective Date until effective termination or expiration of the Agreement.

“**Transition Period**” shall have the meaning as set out in clause 17.4.5 in these GTC.

“**User(s)**” shall mean the Consumer, or if Customer is an entity, any individual who is authorized by Customer to use the Software in accordance with the Agreement and the Subscription license quantities or other parameters stated in the Quote. User(s) may only include the Consumer, Customer’s employees and, where applicable, Customer’s officers, directors, consultants, contractors, agents, and other personnel of the Customer acting on Customer’s behalf, provided that such individuals use the Software solely for the benefit of Customer and in accordance with the terms of the Agreement, and Customer remains responsible for their access to and use of the Software.

3. Subscription(s) to and licensing of the Software

3.1 Subscription(s) to the Software

- 3.1.1 Subject to Customer’s and its Users’ compliance with clause 3.2 (Software use restrictions) and clause 3.3 (applicable for special Subscription license types), Supplier grants the Customer a non-

exclusive, non-perpetual, non-transferable, non-sublicensable, revocable, and limited right to use and access, through its User(s), the Software during the applicable Subscription Term and solely for the Customer's own internal purposes and in accordance with the Agreement, the Documentation, and the Subscription license type and license quantities stated in the applicable Quote.

3.1.2 Unless otherwise stated in clause 3.3 (Special Subscription license types):

- (i) each Subscription license is allocated to a single named User and must not be shared, reassigned, transferred, pooled, or used by any other person. For example, a quantity of one (1) Subscription license entails that one (1) named User has the right to use and access the Software;
- (ii) a Subscription license allows the named User to use the Software on different computers, subject to (i) a maximum of three computer authorizations for the same User at any one time and (ii) no more than one concurrent use by such named User at any one time; and
- (iii) Customers that are legal entities may only switch a named User to another named User, provided that (i) the Customer's Subscription package allows switching of named User (only allowed for KeyShot Studio Business and Enterprise packages); (ii) such switch is in connection with actual administrative changes where a User is no longer employed by, engaged by, or otherwise acting on behalf of the Customer; and (iii) a maximum of one (1) switch to another named User within a period of three (3) consecutive months. The Supplier may (without limiting other remedies) reject, restrict or suspend named User switching where the Supplier reasonably determines that such switching is being used to circumvent the Subscription license quantities or otherwise in breach of the Agreement.

3.1.3 All Subscriptions require the User(s) to establish a KeyShot account to use the Software and require the User(s) to be signed in with a KeyShot account and an internet connection for verification, activation, management, security, and compliance purposes, except for certain offline licenses, which may not require an account.

3.1.4 The Software is licensed and not sold to the Customer.

3.2 Software use restrictions

3.2.1 The Customer and its User(s) may only use the Software within the scope of the Agreement and solely for the Customer's own internal purposes.

3.2.2 The Customer may not (unless and to the extent permitted by mandatory applicable law):

- a) use the Software in breach of the Agreement;

- b) make a copy of the Software, except for one (1) copy of the Desktop Software for backup purposes only, and provided that such copy is kept within Customer's possession or control and includes all proprietary and restricted rights notices, and remains subject to the Agreement;
- c) resell, distribute, sublicense, make available to the public, communicate to the public, disclose, demonstrate, or otherwise make the Software available or accessible to any person or entity other than a User;
- d) attempt to discover, defeat, or bypass the protection mechanisms of the Software;
- e) attempt to disrupt the environment in which the Cloud Software is running or disturb the use of the Cloud Software by any other of the Supplier's customers;
- f) remove, obscure, or alter any proprietary rights or notices affixed or contained in the Software or Documentation;
- g) reverse engineer or discover the underlying code or functionality of the Software;
- h) create modifications, adaptations or derivative works of the Software;
- i) use the Software for anything unlawful, defamatory, obscene, disruptive, abusive or threatening to others, or otherwise inappropriate or damaging;
- j) disrupt the operation or performance of the Software, including any action to circumvent, disable, interfere with, or remove any license management, authentication, entitlement verification, usage metering, audit, or security mechanism of the Software;
- k) submit content through the Software that infringes third party Intellectual Property Rights or violates applicable law;
- l) use the Software in connection with, incorporate in the Software or submit content through the Software containing malware, computer viruses, ransomware, adware, trojan horses, trap doors, back doors or similar malicious or compromising elements, programs or code;
- m) exceed the entitlement under the applicable Subscription(s) or licenses or Subscription parameters or limitations (such as overuse or breach of license terms);
- n) use the Software for service bureau, outsourcing, timesharing, managed services, application service provider, or similar purposes; or
- o) use the Software, Documentation, output, or underlying data to train or develop artificial intelligence models or to develop, train, improve, benchmark, test, market, or support any product or service competitive with the Supplier.

3.2.3 The Customer is responsible and liable for the Users' acts and omissions, and must ensure that the User(s) comply with the Agreement, and Customer acknowledges and agrees that any breach of the Agreement by a User or any other employee, agent or contractor of Customer will be deemed a breach of the Agreement by Customer.

3.2.4 Suspension

The Supplier may suspend the Customer's and Users' access to the Software (i) in the event of the Customer's or any User's use of the Software in breach of this Agreement, breach of the Software Subscription(s) and/or license terms and restrictions and/or other breaches of the Agreement and (ii) if the Customer has not paid any undisputed amount due under the Agreement. The Supplier shall notify the Customer prior to suspending access and provide the Customer with thirty (30) days from such notice to remedy the relevant non-compliance. Notwithstanding the foregoing, the Supplier may suspend access immediately, without prior notice, where the Supplier reasonably determines it to be necessary, including, without limitation, in the event of breaches of applicable law, fraudulent activities, infringement of Intellectual Property Rights, or risk of compromising security and/or integrity of the Software.

3.3 Special Subscription license types

The following Subscription rights shall apply if the Customer has subscribed to or purchased any of the below special Subscription license types as specifically stated in the Quote(s) or other agreement between the Parties. The general Subscription provisions in clause 3.1 (such as named User restrictions) apply the extent not specifically deviated from in this clause 3.3.

(a) **Node Locked License**

Subject to Customer's and its Users' compliance with clause 3.2, the Supplier grants the Customer a non-exclusive, perpetual (unless terminated in accordance with the Agreement), non-transferable (except if and to the extent assignment of the license is permitted by copyright principles of exhaustion pursuant to mandatory applicable law), non-sublicensable, and limited right to install the object code form of the Software identified in the Quote as comprised by and subject to a node locked license Subscription and use and access the applicable Software solely for the Customer's own internal purposes. Each node locked license may only be installed on one (1) computer owned or controlled by Customer and may only be used by the Customer's Users on such computer. Node locked licenses do not require a connection to a KeyShot account.

(b) **Floating License**

Irrespective of whether a Floating License is perpetual or subject to a Subscription Term, cf. below, a floating license permits the Customer's authorized User(s) to use and access the Software (in object code form) concurrently on any device, provided that the number of User(s) using or accessing the Software at the same time does not exceed the total number of floating license Subscriptions subscribed to by the Customer and set forth in the Quote ("**Floating License**"). For example, if the Customer has a Subscription for ten (10) Floating Licenses, any number of authorized User(s) may be set up to use the Software, but no more than ten (10) Users may access or use the Software concurrently.

As part of the Customer's purchase of Floating Licenses, the Supplier provides the Customer with the following license management server and client software (which utilizes Flexera software as backend) to be used by the Customer solely for the license management purposes stated below:

- KeyShot License Server (license manager): To be installed by the Customer on a central computer that stores the license and manages how many Users that can use it at once.
- KeyShot Pro Floating: To be installed by the Customer on each User's computer to use the Software with a Floating License.

The Customer is responsible for installing the license management server and client software on the Customer's own computers and for maintaining the network environment in which it is installed.

Subscription Floating License

Subject to Customer's and its Users' compliance with clause 3.2, the Supplier grants the Customer a non-exclusive, non-transferable, non-sublicensable, revocable, limited right to access and use, through its Users, the Software designated in the Quote as subject to a Floating License Subscription during the Subscription Term on a Floating License basis and solely for the Customer's own internal purposes.

Perpetual Floating Subscription License

Subject to Customer's and its Users' compliance with clause 3.2, the Supplier grants the Customer a non-exclusive, perpetual (unless terminated in accordance with the Agreement), non-transferable (except if and to the extent assignment of the license is permitted by copyright principles of exhaustion pursuant to mandatory applicable law), non-sublicensable, and limited right to use and access, through its Users, the Software identified in the Quote as subject to a perpetual Floating Subscription License on a Floating License basis and solely for the Customer's own internal purposes.

(c) **Education License and Lab License**

Subscriptions for Education Licenses may be purchased (i) by individual full-time students or (ii) by academic institutions for students or academic staff as individual User(s) ("**Education License**").

Subscriptions for lab licenses may be purchased by academic institutions for students or academic staff on a Floating License basis ("**Lab Licenses**").

Education Licenses and Lab Licenses may solely be used for educational and learning purposes, and not for any commercial purposes, cf. below.

Subscription Education License

Subject to Customer's and its Users' compliance with clause 3.2, the Supplier grants the Customer a non-exclusive, non-transferable, non-sublicensable, revocable, and limited right to access and use the Software identified in the Quote as subject to an Education License Subscription, through its Users, during the Subscription Term and solely for the Customer's and its User(s) own internal educational and learning purposes, and not for any commercial purposes.

1-year Education License

Subject to Customer's and its Users' compliance with clause 3.2, the Supplier grants the Customer a non-exclusive, non-transferable (except if and to the extent assignment of the license is permitted by copyright principles of exhaustion pursuant to mandatory applicable law), non-sublicensable, revocable, and limited right to use and access the Software, through its Users, for a period of one (1) year from the start date in the Quote and solely for the Customer's and its User(s) own internal educational and learning purposes, and not for any commercial purposes. 1-year Education Licenses are non-renewable and will automatically expire at the end of the one (1) year period.

Lab License

Subscriptions for Lab licenses are granted on a Floating License basis subject to clause 3.3 (b), except that the Supplier grants the Customer a right to use, through its User(s) (students or academic staff), the Software as subject to Lab Licenses solely for the Customer's and its User(s) own internal educational and learning purpose, and not for any commercial purposes. The Lab licenses will automatically expire at the end of the Initial Subscription Term unless the Lab licenses are renewed.

(d) **Trial License and Beta Testing License**

Trial License

If Supplier makes a trial version of Software available to Customer, the Supplier grants the Customer a non-exclusive, non-transferable, non-sublicensable, revocable, right to use and access, through its Users, the generally available Software identified as subject to a Trial License Subscription for evaluation purposes and solely for the Customer's own internal purposes (a "**Trial License**") and for a trial period of fourteen (14) days unless otherwise agreed.

ANY DATA CUSTOMER OR ITS USERS ENTER INTO THE SOFTWARE, DURING CUSTOMER'S USE OF SOFTWARE UNDER A TRIAL LICENSE SUBSCRIPTION OR BETA TESTING SUBSCRIPTION WILL BE PERMANENTLY LOST UNLESS CUSTOMER PURCHASES A NON-TRIAL LICENSE SUBSCRIPTION TO THE SAME SOFTWARE AS THOSE COVERED BY THE TRIAL LICENSE SUBSCRIPTION.

Beta Testing License

If Supplier makes a beta or pre-release version of Software available to Customer, the Supplier grants the Customer a non-exclusive, non-transferable, non-sublicensable, revocable, right to use and access, through its Users, a beta or pre-release version of the Software identified as such and solely for the Customer's own internal purposes and in order to provide Feedback to the Supplier ("**Beta Testing License**") and during the applicable Beta Testing License period determined by the Supplier in its sole discretion, unless earlier terminated in accordance with this clause 3.3 (d).

Trial License and Beta Testing License terms

Trial License(s) or Beta Testing License(s) automatically terminate upon expiration of the Subscription Term for the applicable Subscription for a Trial License or Beta Testing License or upon the Supplier's termination as set out below in this paragraph 3.3 (d).

The Supplier may terminate Customer's Subscription to a Trial License or Beta Testing License for any reason by written notice to the Customer, whereafter the Customer must immediately cease, and must cause each of its Users to immediately cease, such use.

NO SUPPORT OR WARRANTIES ARE PROVIDED BY SUPPLIER IN CONNECTION WITH SOFTWARE PROVIDED UNDER A TRIAL LICENSE SUBSCRIPTION OR BETA TESTING LICENSE SUBSCRIPTION. SOFTWARE PROVIDED UNDER A TRIAL LICENSE SUBSCRIPTION OR BETA TESTING SUBSCRIPTION, AND ANY SOFTWARE AND SERVICES PROVIDED UNDER A TRIAL LICENSE OR BETA TESTING LICENSE OR FREE OF CHARGE MAY INVOLVE INCOMPLETE OR ERRONEOUS VERSIONS OF THE SOFTWARE AND THE CUSTOMER AGREES THAT USE OF SUCH SOFTWARE AND ANY BETA TESTING IS AT ITS OWN RISK. SOFTWARE PROVIDED UNDER A TRIAL LICENSE SUBSCRIPTION OR A BETA TESTING LICENSE SUBSCRIPTION, AND ANY SOFTWARE AND SERVICES PROVIDED FREE OF CHARGE ARE PROVIDED "AS IS," AND "AS AVAILABLE" EXCLUSIVE OF ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND (INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AVAILABILITY, ACCURACY, RELIABILITY, SECURITY, OR THAT THE SOFTWARE WILL BE UNINTERRUPTED, ERROR-FREE OR FREE FROM HARMFUL COMPONENTS), AND THE SUPPLIER WILL HAVE NO INDEMNIFICATION OBLIGATIONS RELATED THERETO AND DISCLAIMS ANY AND ALL LIABILITY OF ANY TYPE TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND UNDERTAKES NO OBLIGATIONS WITH RESPECT THERETO, EXCEPT FOR GRANTING THE CUSTOMER ACCESS TO THE SOFTWARE DURING THE APPLICABLE TRIAL LICENSE SUBSCRIPTION TERM OR BETA TESTING LICENSE SUBSCRIPTION TERM. THE CUSTOMER SHALL BE SOLELY LIABLE FOR ITS AND ITS USERS' USE AND TESTING OF THE SOFTWARE UNDER THE TRIAL OR BETA TESTING. THESE GTC SHALL APPLY WITH SAID DEVIATIONS UNDER THE TRIAL OR BETA TESTING. IF ANY SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW, SUPPLIER'S TOTAL LIABILITY WITH RESPECT TO ANY SOFTWARE PROVIDED UNDER A TRIAL LICENSE SUBSCRIPTION OR A BETA TESTING LICENSE SUBSCRIPTION, AND ANY SOFTWARE AND SERVICES PROVIDED FREE OF CHARGE WILL NOT EXCEED \$100 USD.

3.4 KeyShot API

3.4.1 If the KeyShot API is made available to the Customer, these additional terms apply:

- (i) The Customer is granted a non-exclusive right to use the KeyShot API in connection with the Software for the Customer's own internal purposes during the applicable Subscription Term and excluding any external commercial use.

- (ii) If the Customer, subject to clause 3.4.1(i), uses the KeyShot API to connect to third party services and/or content (such as enabling AI assistants to control the Software via Model Context Protocol (MCP)), the Customer must adhere to the terms imposed by third parties.
- (iii) The Customer must have a privacy and data protection policy that protects third party content.
- (iv) The Customer must comply with applicable law, including but not limited to data protection legislation.
- (v) The Customer may not use the API to replicate or replace functions included in the Software.
- (vi) No use of the API may conceal or obscure the Customer's identity.
- (vii) Supplier may impose reasonable limits on Customer's and its Users' use of the KeyShot API, including API call volumes, request rates, bandwidth, and concurrent connections. Customer will not exceed or circumvent such limits or use the KeyShot API in a manner that impairs the security, integrity, availability, or performance of the KeyShot API, Software or Supplier's systems. Supplier may monitor usage and throttle, suspend, or restrict KeyShot API access for violations of this clause 3.4.

4. Audit

- 4.1 The Supplier, and any third party appointed by the Supplier to conduct an audit on its behalf, may conduct an audit of the Customer in accordance with this clause 4 to determine whether the Customer is in breach of the Agreement, including but not limited to the license or Subscription terms and restrictions (e.g. whether there is any overuse and/or unauthorized use of the Software), cf. clause 3.
- 4.2 The Supplier may access and collect any relevant information and/or data from the Customer and use such for the purposes of the audit.
- 4.2.1 The Supplier may invoice the Customer for any overuse and/or unauthorized use at the then current list price of the Subscription(s) or the applicable Subscription Fees for the Software prorated from the date of the start of such overuse and/or unauthorized use.
- 4.3 **Remote access audit**
- 4.3.1 The Supplier may at any time and without prior notice remotely (via online access to data, pings etc.) audit the Customer for the purposes set out in clause 4.1.
- 4.4 **Audit at Customer's premises**
- 4.4.1 The Supplier may, subject to fifteen (15) days' prior written notice, conduct an audit at the Customer's premises for the purposes set out in clause 4.1.

- 4.4.2 The audit shall be conducted during the Customer's normal business hours and shall not unreasonably interfere with the Customer's business activities. The Customer must meet any reasonable request for information during the audit.

5. Services

5.1 Support, maintenance and updates.

- 5.1.1 The Supplier shall provide support, maintenance and updates of the Software for which Customer has a Subscription that is subject to a limited Subscription Term. Any support, maintenance, or update provided by Supplier for Software for which Customer has a perpetual Subscription license will be limited to and solely provided under an active maintenance and support agreement entered into by the Parties for the applicable Software and this clause 5 will not apply to such Software.
- 5.1.2 The Supplier will, at its own discretion, provide updates, fixes, patches, upgrades, new versions, and new releases of the Software to be installed by the User(s). The Supplier will provide updates of the Cloud Software as set out in clause 17.2.3 and Schedule 3 (Service Level Agreement (SLA)). Customer has no rights to any updates, upgrades or extensions or enhancements to Software provided to Customer for a perpetual Subscription Term unless Customer separately purchases support services.
- 5.1.3 New software products or add-ins not included in the Quote are separately payable, and the Customer will not receive such new software products or add-ins as part of its current Subscription(s) or active maintenance and support agreements.
- 5.1.4 The Supplier's general support page (<https://support.keyshot.com/>) allows the Customer to access knowledgebase articles and to submit support tickets.
- 5.1.5 The Supplier provides technical support services and maintenance for the Software as set out in its Technical Support Policies.
- 5.1.6 The Supplier's support obligations are subject to its end-of-life policies (KeyShot Studio Product Life Cycle Roadmap).

5.2 Onboarding Services

- 5.2.1 The Supplier shall provide assistance with onboarding, setup and use of the Software to the extent agreed in the Quote ("**Onboarding Services**").

5.3 Service Requests (applicable for KeyShot DAM only)

- 5.3.1 The Customer may request additional services from the Supplier to assist the Customer in the use of the Software by using the Supplier's online support portal (each, a "**Service Request**"). The Supplier will respond to the Service Request with task descriptions, pricing, an estimate of the hours to be provided, and estimated travel expenses (if any), to be accepted by the Customer.

- 5.3.2 Service Requests are provided on an hourly time and material basis at the Supplier's then applicable rates. Fees for Service Requests shall be invoiced monthly in arrears based on the time actually spent and any agreed expenses incurred. If the Supplier has provided an estimate for the Service Request, the Supplier shall use reasonable efforts to perform the relevant Services within the fee estimate and shall notify the Customer if the Supplier reasonably expects that the estimate will be materially exceeded. The Supplier shall not continue work materially beyond the stated estimate without the Customer's prior written approval.
- 5.3.3 Any Onboarding Services, Service Requests and any response thereto provided by or on behalf of Supplier, and any training, consulting, implementation, configuration, recommendations, reports, documentation, deliverables, work product, materials, developments, modifications, or other results, deliverables or work provided by or on behalf of Supplier under the Agreement are performed as independent contractor services and do not constitute a "work made for hire." As between the Parties, Supplier and its licensors retain all right, title, and interest, including all Intellectual Property Rights, in and to such results, deliverables, and work. Except for the limited rights under the Software and Documentation expressly granted under the Agreement, no Intellectual Property Rights are assigned, transferred, or conveyed or licensed to Customer.

6. Intellectual Property Rights

6.1 Supplier's proprietary IP rights

- 6.1.1 KeyShot Group and/or its licensors own and retain all rights, title and interest, including but not limited to any Intellectual Property Rights, in and to the Software, Documentation, Services, KeyShot API, and all related materials. Nothing in the Agreement entails any transfer or assignment of proprietary or Intellectual Property Rights to the Customer. Except for the limited rights expressly granted to Customer under this Agreement, no rights, licenses, or interests in any Intellectual Property Rights are granted, assigned, transferred, or conveyed to Customer, whether by implication, estoppel, exhaustion, or otherwise. The Customer is solely granted a limited right of use and access to the Software, KeyShot API, and Documentation subject to the rights and restrictions in clause 3 and the Agreement, and all rights not expressly granted to Customer are reserved by the KeyShot Group and its licensors.
- 6.1.2 The Customer is not permitted to remove or have removed, copy or have elements copied, or modify or have modified materials and/or indications comprised by the Intellectual Property Rights of the Supplier.

6.2 Customer Data

- 6.2.1 The Customer owns and retains all rights, title and interest, including but not limited to Intellectual Property Rights, in and to the Customer Data, and Supplier does not claim ownership of output generated for Customer by the artificial intelligence functionality of the Software in response to Customer's Users' inputs ("**AI Generated Content**"), subject to the KeyShot Group's and/or its or their licensors' Intellectual Property Rights and ownership rights in the Software and Documentation, models, algorithms, technology used to provide the Software or artificial intelligence functionality of

the Software, and the KeyShot Group's Intellectual Property Rights in the KeyShot Group's development of new features, training and improvements etc. as set out in clause 17.3.2. Such Supplier materials incorporated in AI Generated Content may be used by Customer solely as part of, and to the extent necessary for the use of, the AI Generated Content in accordance with the Agreement.

- 6.2.2 Customer acknowledges and agrees that (i) AI Generated Content may not be unique and may not qualify for intellectual property protection, (ii) content and output that is the same or similar to Customer's AI Generated Content may be produced by or generated for other customers as a result of similar requests or use of the Software, and (iii) Customer's rights to AI Generated Content may not be enforceable against other users of the Software.
- 6.2.3 The Customer grants the Supplier a non-exclusive right to use the Customer Data to provide, secure, maintain and support the Software and Services, and as otherwise permitted in the Agreement or as otherwise necessary for the Supplier's performance of the Agreement.

6.3 Feedback and input

- 6.3.1 The Customer may from time to time provide suggestions, ideas, enhancement requests, Service Requests, recommendations, comments, feedback, input or other information relating to the Software, Services or Documentation, including any proposed modifications, improvements or developments thereto ("**Feedback**"). The Customer irrevocably assigns to the Supplier all rights, title and interest, including but not limited to any and all Intellectual Property Rights, in and to such Feedback, and the Supplier may reassign the rights to the Feedback assigned herein. To the extent any rights, title, or interest in or to any Feedback cannot be assigned to Supplier or such assignment is ineffective under applicable law, Customer hereby grants the KeyShot Group a perpetual, irrevocable, worldwide, royalty-free, fully paid-up, transferable, sublicensable, exclusive license to use, reproduce, modify, adapt, distribute, communicate to the public, display, perform, disclose, make, have made, sell, offer for sale, import, commercialize, and otherwise exploit such Feedback for any purpose, including to develop, improve, operate, support, market, and commercialize Supplier's products and services, without restriction or obligation to Customer or any User.

7. **Fees and payment terms**

- 7.1 The Subscription Fee(s) and fees for Services are agreed upon in the Quote.
- 7.2 Support, maintenance and updates provided by Supplier for Software for which Customer has a Subscription that is subject to a limited Subscription Term, cf. clause 5.1.1, are included in the Subscription Fee. Support, maintenance and updates provided by Supplier for Software for which Customer has a perpetual Subscription license is subject to the annual fees in the active maintenance and support agreement (if such has been entered by the Customer).
- 7.3 The Customer shall pay to the Supplier the Subscription Fee(s) in advance of each Subscription Term. If the Customer pays by credit card, the Subscription Fee(s) for any Subscription(s) subject to Renewal Term(s) will automatically be charged to the Customer's credit card, unless the Customer

has terminated such Subscription(s) in accordance with clause 8.4. If the Customer has failed to turn off automatic renewals, cf. clause 8.4(i), the Customer is not entitled to any refunds unless required by mandatory applicable law.

7.4 All prices listed by the Supplier are exclusive of value added tax (VAT) and any duties payable in accordance with applicable law.

7.5 The Customer shall pay all taxes or duties which the Supplier is obligated by law to collect from its customers in connection with sales of its Software and Services, including but not limited to national, federal, state or local VAT, sales or use taxes, duties, fees, and levies.

7.6 All payments are due thirty (30) days from the invoice date, unless otherwise agreed in the Quote.

7.7 If the Customer has a reasonable basis to dispute an invoice, the Customer shall:

- (a) notify the Supplier in writing of the dispute within eight (8) days of its receipt of the invoice; and
- (b) work with the Supplier in good faith and in a timely way to resolve the dispute.

7.8 If the Customer fails to pay any amount due under the Agreement by the due date, the Supplier may:

- a) charge interest on the overdue amount from the due date, at a rate of 1.5 % per month or, if lower, the maximum rate permitted by applicable law. Such interest shall accrue on a daily basis and be payable by the Customer upon demand; and/or
- b) revoke the Customer's Subscription(s) or license(s).

7.9 Indexation

7.9.1 The Supplier may for each subsequent Subscription Term increase the Subscription Fee by up to five (5) % of the Subscription Fee payable for the immediately preceding Subscription Term (i.e. on a compounded basis).

7.9.2 For the avoidance of doubt, the general price indexation right in clause 7.9.1 does not limit any other price increases by the Supplier in accordance with the Agreement, whether such may exceed five (5) % (such as price increase due to expiration or termination of a discount granted to the Customer for a limited period or other price increases in accordance with the notice requirement in clause 18.1).

8. Term and termination

8.1 The Agreement shall enter into force on the Effective Date and shall continue until terminated in accordance with the Agreement.

- 8.2 The Customer's Subscription(s) for the applicable Software shall commence on the Subscription start date in the Quote and shall continue for the initial period stated in the Quote ("**Initial Subscription Term**"), unless the Subscription is a perpetual Subscription license.
- 8.3 Upon expiry of the Initial Subscription Term, the Customer's Subscription(s) for the applicable Software shall automatically renew for successive periods of the same duration as the Initial Subscription Term (each a "**Renewal Term**") unless and until terminated in accordance with the Agreement. Subscription(s) will not renew for Renewal Term(s), if Customer elects to disable automatic renewals for the applicable Software as set out in clause 8.4. The Supplier provides auto-renewal notices to the Customer before any Renewal Term(s) subject to auto-renewal.
- 8.4 The Customer may terminate all or individual Subscription(s) that are subject to a limited Subscription Term for convenience:
- (i) if the Customer is an estore customer, by disabling automatic renewals in the Customer's admin section of the Supplier's KeyShot account portal (or by contacting the Supplier's support team to disable automatic renewals) prior to the end of the applicable Initial Subscription Term or the then-current Renewal Term; or
 - (ii) if the Customer is not an estore customer but has subscribed to its Subscription directly with the Supplier (direct customer), with two (2) months' prior written notice to the Supplier to the end of the applicable Initial Subscription Term or the then-current Renewal Term.
- 8.5 The Supplier may terminate all or individual Subscription(s) for convenience with two (2) months' prior written notice to the Customer to the end of the applicable Initial Subscription Term or the then-current Renewal Term.
- 8.6 The Agreement shall automatically terminate upon effective termination or expiration of all Subscription(s), including the expiration or termination of all applicable Subscription Terms.
- 8.7 Upon termination of the Agreement or individual Subscription(s) and irrespective of the reason for such termination, the Customer's Subscription(s) and license(s) to the Software comprised by the termination will cease, and the Customer shall and will cause its Users to immediately cease all use and access of the Software, Documentation, and other property of the Supplier and promptly return or destroy the Supplier's Confidential Information in its possession or control, including the Software and Documentation. Upon termination of this Agreement or Subscription(s), the Supplier is entitled to delete the Customer's Users. The Supplier may delete all Customer Data stored in connection with Customer's use of the Cloud Software within thirty (30) days following the end of the applicable Subscription Term.
- 8.8 **Consumer rights**
- 8.8.1 Notwithstanding clause 8.4, where the Customer is a Consumer, the Customer may terminate the Subscription in accordance with mandatory applicable consumer protection law.

- 8.8.2 In case of the Customer's early termination pursuant to clause 8.8.1, the Customer is not entitled to a refund of any prepaid fees or any other compensation relating to the period after the effective termination date, unless required by mandatory applicable law.

8.9 **EU customers' rights under EU Data Act (Cloud Software Subscriptions)**

- 8.9.1 If the Customer resides in EU, the EU Data Act switching process applies for Cloud Software Subscription(s) comprised by the EU Data Act as further set out in clause 17.4.

8.10 **Material breach**

- 8.10.1 Either Party may terminate the Agreement or Subscription(s) in the event of the other Party's material breach (i) with thirty (30) days' prior written notice if the breaching Party does not remedy the material breach before the end of said thirty (30)-day notice period or (ii) with immediate effect if the breach due to its nature cannot be remedied.
- 8.10.2 The Customer's non-payment or misuse of the Software (including but not limited to breach of clause 3) shall always constitute material breach (non-exhaustive examples).

9. **Warranties**

9.1 Software warranties and disclaimers

- 9.1.1 THE SUPPLIER PROVIDES THE SOFTWARE ON AN "AS IS" AND AS AVAILABLE BASIS, IN THE VERSION MADE AVAILABLE BY THE SUPPLIER FROM TIME TO TIME. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE SUPPLIER DISCLAIMS ALL WARRANTIES, REPRESENTATIONS, GUARANTEES, UNDERTAKINGS AND CONDITIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AVAILABILITY, ACCURACY, RELIABILITY, SECURITY, OR THAT THE SOFTWARE WILL BE UNINTERRUPTED, ERROR-FREE OR FREE FROM HARMFUL COMPONENTS. THE CUSTOMER ACKNOWLEDGES THAT IT IS RESPONSIBLE FOR DETERMINING WHETHER THE SOFTWARE IS SUITABLE FOR ITS INTENDED USE AND FOR THE USE OF THE SOFTWARE BY ITS USER(S). THE SUPPLIER SHALL HAVE NO LIABILITY ARISING FROM OR IN CONNECTION WITH ANY RELIANCE ON, USE OF, OR INABILITY TO USE THE SOFTWARE, EXCEPT TO THE EXTENT EXPRESSLY SET OUT IN THIS CLAUSE 9.1.

- 9.1.2 During the applicable Subscription Term, the Supplier warrants that:

- a) it has the rights needed to provide the Software to Customer under the terms of the Agreement for the applicable Subscription Term;
- b) the Software does not infringe the intellectual property rights of a third party. However, this warranty shall not apply if the infringement is caused by or has been alleged to have been caused by (i) a combination of the Software with a third party item not provided by the

Supplier, unless that third party item has been expressly stated in the Documentation or Services documents as being compatible with or required for the use of the Software, (ii) a modification or change of the Software, AI Generated Content, or Services not made by the Supplier, (iii) Customer or its User(s)' use of the Software other than as authorized in the Agreement or Documentation, (iv) Customer's or its User(s)' use of the Software after Supplier has notified Customer to discontinue such use due to an actual or alleged infringement claim, (v) Customer's failure to implement, install, or use any update, upgrade, patch, replacement, modification, or correction provided or made available by Supplier that would have avoided or mitigated the alleged infringement, or (vi) Customer Data, AI Generated Content, or materials provided by Customer or any of its Users ("**Infringement Warranty Exception**").

- c) the Software, when used as authorized by Supplier, will operate substantially in accordance with the Documentation. This warranty shall not apply to any non-conformity caused by misuse of the Software, use of the Software other than in accordance with the Documentation or the Agreement, modification of the Software by anyone other than the Supplier, third-party systems or services, or any failure by the Customer to implement updates, configurations or instructions reasonably required by the Supplier. Furthermore, this warranty does not cover errors in the operation of the Software caused by factors outside the Supplier's control such as the Customer's systems or environments, Customer Data, or Customer's incorrect use and/or configuration of the Software.

9.1.3 Customer's sole and exclusive remedy, and Supplier's entire liability, for a breach of the warranties provided in clause 9.1.2 a) and b) shall be for the Supplier to perform its obligations under clause 10.1 (Supplier indemnities).

9.1.4 The Customer's sole and exclusive remedy, and the Supplier's entire liability, for any breach of the warranty in clause 9.1.2 c) shall be that the Supplier will, at its own expense and for any reproducible error in the Software, use reasonable efforts to:

- a) correct the error;
- b) provide a reasonable workaround for the error; or
- c) if the Supplier is unable, using reasonable efforts, to correct the error or provide a reasonable workaround within a reasonable period and no more than thirty (30) days having regard to the nature and impact of the error on the Customer, permit the Customer to terminate the affected Subscription immediately after said period and refund any prepaid fees for the affected Software covering the remainder of the Subscription Term following the effective date of termination.

10. Indemnities

10.1 Supplier indemnities

- 10.1.1 The Supplier shall defend, indemnify, and hold the Customer harmless from claims by a third party which allege that the Software, when used as authorized under the Agreement, infringes the Intellectual Property Rights of the third party. The Supplier's obligations to defend, indemnify, and hold the Customer harmless from any such claim shall consist solely and exclusively of: (i) defending the claim at its sole expense, (ii) paying any final judgment or settlement of the claim, and (iii) reimbursing the Customer for any reasonable expenses it necessarily incurs in responding to the claim, including attorney's fees. The Supplier's indemnification obligation under this clause 10.1 excludes any claims arising out of or relating to (a) AI Generated Content, or (b) an Infringement Warranty Exception. The Supplier's indemnification obligation under this clause 10.1 is subject to the liability cap in clause 11.9.1.
- 10.1.2 The Customer agrees that it shall (a) promptly provide written notice to the Supplier following its receipt of a claim, (b) authorize the Supplier to assume sole control of the defense and settlement of the claim, and (c) provide the Supplier with such assistance with the claim as the Supplier may reasonably request.
- 10.1.3 If the Customer's use of the Software is enjoined or if the Supplier reasonably believes it will be, the Supplier shall, at the Supplier's sole discretion, either (a) obtain the right for the Customer to continue to use the enjoined component(s) of the Software, (b) replace the enjoined components of the Software with non-infringing components, or (c) if neither of the preceding options are commercially reasonable for the Supplier to provide, then the Supplier may terminate the Subscription immediately and refund to the Customer the fees paid for the unused portion of the Subscription Term.
- 10.1.4 THIS CLAUSE 10.1 STATES THE SUPPLIER'S ENTIRE OBLIGATION AND THE CUSTOMER'S SOLE REMEDY IN CONNECTION WITH AN INFRINGEMENT CLAIM.

10.2 Customer indemnities

- 10.2.1 The Customer shall defend, indemnify, and hold the KeyShot Group and its licensors harmless against all losses, costs, fines, damages, fees (including reasonable attorneys' fees, court costs and costs of experts) with regard to or arising from claims, actions, or disputes brought by a third party (i) relating to the Customer Data or alleging that the Customer Data infringes the Intellectual Property Rights or other rights of the third party; (ii) arising out of or relating to any breach of applicable law or act or omission by or on behalf of Customer or any User; and (iii) arising from the Customer's breach of the Software use restrictions in clause 3.2.

11. **Liability**

- 11.1 The Parties are liable according to the general rules of the law governing the Agreement, cf. clause 16, with the limitations and exclusions set out in this clause 11 and in the Agreement.
- 11.2 The Parties are only liable for direct losses.
- 11.3 EXCEPT WITH RESPECT TO CUSTOMER'S BREACH OF OR VIOLATION OF THE INTELLECTUAL PROPERTY RIGHTS OF ANY OF THE KEYSHOT GROUP OR BREACH OF

CLAUSE 3, AND WITHOUT LIMITING ANY RIGHTS OR REMEDIES AVAILABLE TO SUPPLIER PURSUANT TO CLAUSE 18.9, TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY IS LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL LOSSES, SPECIAL, PUNITIVE, INCIDENTAL, OR ANY OPERATING LOSSES, LOSS OF REVENUE, LOSS OF PROFITS, BUSINESS INTERRUPTIONS, LOSS OR CORRUPTION OF DATA, LOSS OF GOODWILL, LOST OPPORTUNITY, LOSS OF USE FOR ANY REASON (INCLUDING POWER OUTAGES AND SYSTEM FAILURES), OR LOSS OF SAVINGS OR OTHER INDIRECT LOSSES UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE. THIS LIMITATION WILL APPLY REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE FOREGOING LIMITATION MAY NOT APPLY.

- 11.4 In case of loss of data in systems within the Supplier's control, the Supplier will use reasonable endeavors to recover the Customer Data from accessible backup files.
- 11.5 The Supplier will make reasonable efforts to ensure operating reliability but cannot be held liable for breakdowns, incidents, failures, operational disruptions, and/or attacks caused by events outside the Supplier's reasonable control, including but not limited to power outages, errors on equipment, failure of internet- or telecommunications connections, cyber-attacks and/or cyber incidents (such as ransomware attacks), leak of data or similar.
- 11.6 In the event of breakdowns, incidents, failures, operational disruptions, and/or attacks, the Supplier will use reasonable endeavors to restore normal operations as soon as possible.
- 11.7 The Customer is solely responsible for User(s)' input and use of output and AI Generated Content created by the User(s) using the artificial intelligence functionality of the Software.
- 11.8 The Supplier is not responsible for and shall not be liable for any AI Generated Content. The Supplier does not control, verify, review, endorse, approve, warrant, or assume responsibility for any AI Generated Content, including its accuracy, completeness, legality, reliability, originality, suitability, non-infringement, or fitness for any particular purpose.
- 11.9 Liability cap
 - 11.9.1 EACH PARTY'S TOTAL AGGREGATE LIABILITY UNDER THIS AGREEMENT IS LIMITED TO THE FEES PAID OR PAYABLE UNDER THE AGREEMENT FOR THE TWELVE (12) MONTHS PRECEDING THE EVENT(S) GIVING RISE TO THE CLAIM(S). IF TWELVE (12) MONTHS HAVE NOT ELAPSED FROM THE EFFECTIVE DATE, THE LIABILITY CAP SHALL BE CALCULATED BASED ON THE AVERAGE OF MONTHLY FEES PAID OR PAYABLE BY CUSTOMER MULTIPLIED BY 12.
 - 11.9.2 Exclusions to the liability cap (uncapped liability)

11.9.3 The cap on liability set out in clause 11.9.1 does not apply in case of (i) fraud; (ii) willful misconduct; (iii) gross negligence; (iv) personal injury or property damage (excluding loss of data); (v) the Customer's breach of or violation of the Intellectual Property Rights of any of the KeyShot Group or breach of clause 3; or (vi) the Customer's breach of clause 13 (Confidentiality).

11.10 Liability for subcontractors

11.10.1 The Supplier is entitled to use subcontractors in the performance of the Agreement.

11.10.2 The Supplier is responsible for its subcontractors, and their services, as if these were provided by the Supplier itself.

11.10.3 Clause 11.10.2 shall not apply in relation to underlying public cloud service providers utilized by the Supplier in connection with the Cloud Software. The Supplier shall in the relationship between the Customer and the Supplier only be liable for any impact on the Cloud Software caused by underlying public cloud services:

- (i) if and to the extent the Supplier, using reasonable commercial efforts, is able to receive remediation, damages, and/or compensation by the public cloud service provider in relation to defects or losses suffered by the Customer. If the amounts received relate to the Customer and other customers of the Supplier, the recovered amounts shall be distributed on a proportionate basis across the Supplier's affected customers; and
- (ii) always subject to the at any time applicable terms and conditions of such public cloud service providers ("back-to-back" principle, meaning that the Customer is not granted better rights than provided by the public cloud service provider to the Supplier), except that the Supplier's liability in all circumstances cannot exceed the Supplier's limitation of liability set out in clause 11, and the Supplier's liability shall be limited to the lower of the cap in clause 11.9.1 or in the public cloud terms.

12. **Assignment**

12.1 The Customer must not assign the Agreement, without the Supplier's prior written consent. Any attempted assignment in conflict with this clause 12.1 shall be considered ineffective and void.

12.2 The Supplier is entitled to assign the Agreement without the Customer's consent, provided that the Supplier gives the Customer written notice of such assignment.

12.3 If a Party assigns the Agreement subject to this clause 12, the assignee undertakes the assignor's rights and obligations in accordance with the Agreement.

13. Confidentiality

- 13.1 Each Party must observe strict confidentiality obligations with respect to Confidential Information received from the other Party.
- 13.2 A Party may disclose Confidential Information:
- (a) to its employees, representatives, contractors, affiliates, auditors, investors, insurers, legal advisors, and financial advisors on a need-to-know basis, provided that those recipients are subject to confidentiality obligations no less stringent than those set out in this clause 13; and
 - (b) as required by law, regulation, court order, or other legal process, provided that, to the extent legally permitted, the Party required to make the disclosure gives the other Party prompt written notice and a reasonable opportunity to challenge or narrow the disclosure requirement.
- 13.3 Confidential Information may be used and stored only in the course of the performance of obligations under the Agreement.
- 13.4 Confidential Information does not include information that:
- (a) is or becomes publicly available other than as a result of any breach of the Agreement by the receiving Party or any person to whom the receiving Party disclosed the information;
 - (b) was lawfully in the receiving Party's possession before it was disclosed by or on behalf of the disclosing Party, and was not subject to any obligation of confidentiality;
 - (c) is lawfully received by the receiving Party from a third party without restriction on disclosure and without breach of any obligation of confidentiality; or
 - (d) is independently developed by the receiving Party without use of, or reference to, the disclosing Party's Confidential Information.
- 13.5 The duty of confidentiality will remain in force for a period of five (5) years after the Agreement has been terminated, irrespective of the reason for termination, except that the duty of confidentiality shall remain indefinitely with respect to any trade secrets.

14. Precedence

- 14.1 The Parties agree that the Agreement constitutes the entire and exclusive set of terms governing the Software and Services.
- 14.2 In case of conflict or discrepancy between the GTC, Schedules and Quote(s), the descending order of precedence shall be as follows, unless the Parties explicitly agree otherwise:
- (a) Quote(s)

- (b) KeyShot General Terms and Conditions
 - (c) Schedules (must be ranked equally)
 - (d) The Customer's own terms and conditions if the Parties explicitly have agreed that such shall apply, cf. clause 14.3.
- 14.3 Any of the Customer's own terms and conditions, including any terms or conditions contained in or referenced by any purchase order, order form, procurement portal, vendor onboarding document, acknowledgement, or other Customer document or process, shall not apply and are hereby rejected unless explicitly agreed between the Parties in writing and subject to clause 14.2(d). Any such Customer terms and conditions shall be void and of no effect notwithstanding the Supplier's acceptance, acknowledgement, fulfilment, or processing of any purchase order, order form, or other Customer document or process. In case of conflict or discrepancy between the Customer's own terms and conditions and the Agreement, the Agreement shall prevail, unless the Parties explicitly have agreed in writing and stated specific provisions from the Customer's own terms and conditions that shall take precedence over the Agreement.
- 14.4 In case of conflict or discrepancy between the provisions on EU Data Act in clause 17.4 and 17.5 and the Agreement, clause 17.4 and 17.5 shall take precedence and be construed in accordance with the EU Data Act.
- 14.5 Resellers or merchant of records
- 14.5.1 Where a Subscription or license is purchased by a Customer through a Supplier reseller, the reseller's terms and conditions shall apply in the contractual relationship between the Customer and the reseller with respect to (i) the Customer's obligation to pay the reseller, (ii) the Customer's cancellation rights, and (iii) provisions in the reseller terms and conditions explicitly stating that they take precedence over the Agreement. In case of conflict between the Agreement and other reseller terms and conditions not comprised by limb (i) and (ii) in this clause 14.5.1, the Agreement shall prevail, unless otherwise stated in the Supplier's agreement with the reseller (e.g. based on the Customer's acceptance of these GTC via the reseller, the Supplier is among other things entitled to enforce any breach of Software use restrictions in the contractual relationship established between the Supplier and the Customer by the Customer's acknowledgement and acceptance of the Agreement).
- 14.5.2 2Checkout (merchant of record)
- The merchant of record 2Checkout is responsible for payment, billing, and cancellation rights of any Subscription(s), subject to applicable law, cf. the terms and conditions of 2Checkout (<https://www.2co.com/terms.html>). The terms and conditions of 2Checkout shall take precedence over the Agreement with respect to said provisions on payment, billing and cancellation. In case of other conflicts or inconsistencies between the Agreement and the terms and conditions of 2Checkout, the Agreement shall prevail.

15. Consumer rights

15.1 Right of withdrawal

- 15.1.1 If the Customer is a Consumer, the Customer has the right to cancel and withdraw from the Subscription(s) without giving any reason within 14 days from the Effective Date. If, before expiry of that 14-day period, the Customer activates, expressly requests access to, uses or downloads the Software during that 14-day period, the Customer expressly consents to the commencement of performance during the withdrawal period and acknowledges that the Customer thereby loses the right to cancel and withdraw from the Subscription(s) on the date of the activation.
- 15.1.2 The Supplier shall provide the Customer with confirmation of such consent and acknowledgement on a durable medium in accordance with applicable law.
- 15.1.3 To exercise the right of withdrawal, the Customer must notify the Supplier of the decision to withdraw by an unequivocal statement before expiry of the withdrawal period.

16. Disputes, governing law and venue

- 16.1 When the Supplier in the Quote is KeyShot Inc., the Agreement shall be governed, construed and enforced in accordance with the laws of Delaware, USA, irrespective of whether any conflict of law rules or rules of private international law could otherwise result in the application of the laws of another jurisdiction.
- 16.2 When the Supplier in the Quote is KeyShot_ A/S, the Agreement shall be governed, construed and enforced in accordance with the laws of Denmark, irrespective of whether any conflict of law rules or rules of private international law could otherwise result in the application of the laws of another jurisdiction.
- 16.3 If the Customer is a Consumer, this choice of law in accordance with clauses 16.1 and 16.2 and shall not deprive the Customer of any mandatory consumer protection rights afforded under the laws of the country in which the Customer has his or her habitual residence.
- 16.4 If the Customer is a Consumer and wishes to submit a complaint regarding the Software or the Subscription, the Customer may first contact the Supplier using the contact details provided in the Agreement.
- 16.5 If the complaint cannot be resolved directly with the Supplier, the Customer may be entitled to submit the complaint to a competent consumer dispute resolution body in the Customer's country of residence, where available under applicable law. The European Commission's Online Dispute Resolution platform is available at <https://ec.europa.eu/consumers/odr/>.
- 16.6 Parties shall attempt to settle any disputes arising out of or in connection with the Agreement by negotiation in good faith.

- 16.7 If the Parties are unable to reach a settlement by negotiation, the dispute shall be resolved by binding arbitration.
- 16.8 For Customers where the Supplier is KeyShot Inc. in the Quote, the arbitration shall take place in Orange County, California, in accordance with the at any time applicable rules of the American Arbitration Association by three (3) arbitrators.
- 16.9 For Customers where the Supplier is KeyShot_ A/S in the Quote, the arbitration shall take place in Copenhagen, Denmark in accordance with the at any time applicable rules of the Danish Institute of Arbitration.
- 16.10 By submitting to arbitration, the Parties have not deprived any competent court to issue, at the request of one of the Parties, an injunctive order with respect to the use of Confidential Information and/or Intellectual Property Rights.
- 17. Supplementary terms and conditions for Cloud Software (SLA, Data Protection and EU Data Act)**
- 17.1 This clause 17 includes supplementary terms applicable to the Supplier's Cloud Software for which Customer has a Subscription.
- 17.2 Service Level Agreement
- 17.2.1 The Targeted Availability of the Cloud Software follows from Schedule 3 (Service Level Agreement (SLA)) ("**SLA**").
- 17.2.2 THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR THE SUPPLIER NOT MEETING THE TARGETED AVAILABILITY SHALL BE THE SERVICE LEVEL CREDITS STATED IN THE SLA.
- 17.2.3 The Supplier provides updates of the Cloud Software as set out in the SLA.
- 17.3 Data and security**
- 17.3.1 The Data Processing Agreement in Schedule 2 (Data Processing Agreement (KeyShot Cloud Software)) is entered and agreed between the Customer and the KeyShot entity in the Quote.
- 17.3.2 Subject to the Customer's documented instruction in Schedule 2 (Data Processing Agreement), the Supplier is entitled to anonymize and subsequently use any data which it has received as part of its performance of the Agreement, such as Customer Data, or data that the Supplier has received in connection with the performance of support and/or consultancy work for the Customer, for the purposes of the Supplier's own:
- i. preparation of anonymous statistics; and/or

- ii. testing of existing and/or development of new features in the Services, bug fixing, and provision of support; and/or
 - iii. use of anonymized data in AI tools, including for the training, testing, validation and improvement of algorithms, models and/or functionality; and/or
 - iv. commercialization of anonymized data, including selling, licensing, disclosing or otherwise making anonymized data available to third parties.
- 17.3.3 Both Parties shall comply with applicable data protection laws to which they are subject and legally obligated to comply. Supplier's data privacy policies are available at keyshot.com/legal. The parties agree that, under European Union data privacy regulations, when Customer Data is processed by the Supplier, the Supplier is the Data Processor and the Customer is the Data Controller.
- 17.4 EU Data Act switching process for customers residing in EU.
 - 17.4.1 If the Customer resides in the EU, the EU Data Act switching process applies for Cloud Software Subscription(s) comprised by the EU Data Act as further set out in clause 17.4 and clause 17.5 (unless exemptions apply in the Data Act or amendments hereto).
 - 17.4.2 The terminology in clause 17.4 and clause 17.5 shall have the same meaning as set out and/or as defined within the Data Act and/or the Agreement.
 - 17.4.3 Subject to Article 25 of the Data Act, the Customer may with two (2) months' prior written notice request the Supplier to initiate a switching process for one or more Cloud Software products for the purpose of:
 - (i) initiating a switching process for the Customer's switch to a data processing service offered by a different provider (destination provider);
 - (ii) porting the Customer's exportable data and digital assets (if any) to the Customer's on-premises ICT infrastructure; or
 - (iii) erasure of the Customer's exportable data and digital assets.
 (hereinafter the "**Switching Notice Period**").
 - 17.4.4 In the switching notice, cf. clause 17.4.3, the Customer shall notify the Supplier of its decision, upon termination of the Switching Notice Period, to switch to a different data processing service (in which case the Customer shall provide the necessary details of that provider), switch to an on-premises ICT infrastructure, and/or erase its exportable data and digital assets.
 - 17.4.5 Following the end of the Switching Notice Period, the Supplier must, without undue delay, initiate a switching process, which may not exceed thirty (30) calendar days, unless the switching process is technically unfeasible within this period, cf. clause 17.4.13 ("**Transition Period**"). However, the

Customer may request for the Transition Period to be extended once for a period that the Customer considers more appropriate, however for no longer than three (3) months.

- 17.4.6 The Customer may retrieve data for a period of thirty (30) calendar days following the end of the Transition Period ("**Retrieval Period**"). After the expiry of this Retrieval Period or the expiry of an alternative agreed period at a later date, and provided that the switching process has been completed successfully, the Supplier shall ensure full erasure of all exportable data and digital assets generated directly by the Customer, or directly relating to the Customer.
- 17.4.7 The Agreement is effectively terminated either (i) upon successful completion of the switching process (where applicable), or (ii) at the end of the Switching Notice Period, in case the Customer does not want to switch but wishes to erase its exportable data and digital assets upon service termination. The Supplier shall notify the Customer of such termination accordingly. If the Customer has one or more remaining Cloud Software products, which have not been subject to the switching process in this clause 17.4, the Agreement shall only be considered partially terminated for the specific Cloud Software comprised by the switching process.
- 17.4.8 If the Agreement has been terminated due to a material breach, the Customer may provide a switching notice, cf. clause 17.4.3, with the effect that the Agreement is extended until successful completion of the switching process.
- 17.4.9 Until 12 January 2027 the Supplier may impose reduced switching charges on the Customer, which shall not exceed the costs incurred by the provider of Supplier that are directly linked to the switching process. From 12 January 2027 the Supplier may not impose any switching charges on the Customer for the switching process. If the Cloud Software is used in parallel with another data processing service, the Supplier is entitled to pass on costs incurred for data egress to the Customer, including after 12 January 2027, without exceeding such costs, cf. Article 34 of the Data Act.
- 17.4.10 The Customer is obligated to pay, on a proportionate basis, for any continued use of the Cloud Software after expiration of a Subscription Term if and to the extent the switching process exceeds the duration of the Subscription Term (e.g. due to the timing of the Customer's switching notice being close to the end of the then-current Subscription Term or due to extensions attributable to the Customer).
- 17.4.11 The Parties shall cooperate in good faith to make the switching process effective, enable the timely transfer of data and maintain the continuity of the data processing service. The Supplier shall support any exit strategy by the Customer, including by providing all relevant information, insofar the exit strategy is relevant in relation to the Cloud Software.
- 17.4.12 To the extent that the switching process is handled by a third party on behalf of the Customer, the rights and obligations set forth in this clause 17.4 and clause 17.5, including the obligation to cooperate in good faith, shall apply correspondingly under the given circumstances.
- 17.4.13 If the switching process is technically unfeasible within the mandatory Transition Period, cf. clause 17.4.5, the Supplier may notify the Customer within fourteen (14) working days of the making

of the switching request and justify the technical unfeasibility and specify an alternative Transition Period, which may not exceed seven (7) months. During this alternative Transition Period, the Supplier will ensure continuity of the services provided.

17.4.14 During the Transition Period, the Agreement will remain in force, and the Supplier shall:

- a) cooperate in good faith, cf. clause 17.4.11;
- b) provide reasonable assistance to the Customer and third parties authorized by the Customer throughout the switching process, including provide the necessary capabilities, adequate information and technical support. If problems are identified, the Supplier and the Customer shall in good faith analyze the cause and agree on solutions;
- c) act with due care to maintain business continuity, and continue the provision of the functions or services under the Agreement;
- d) provide clear information concerning known risks to continuity in the provision of the functions or services under the Agreement; and
- e) maintain a high level of security throughout the switching process, in particular the security of the data during their transfer and the continued security of the data during the Retrieval Period specified in clause 17.4.6, in accordance with applicable EU law or national law. The Supplier shall apply appropriate technical and organizational measures to ensure that the level of security and resilience is proportionate to the risks presented by the Cloud Software and Services and their intended and reasonably foreseeable use with respect to the switching process. Furthermore, the Supplier shall strive to prevent disruptions and maintain continuity of the Cloud Software and Services during the switching process, including contingency planning and disaster recovery measures periodically reviewed and tested by the Supplier.

17.4.15 The Supplier shall not be required to develop new technologies or services or disclose or transfer digital assets protected by the Supplier's and/or its licensor's Intellectual Property Rights or trade secrets, to the Customer or to a different provider of data processing services (destination provider) or compromise the Customer's or Supplier's security and integrity of service.

17.4.16 The Customer undertakes to take all reasonable measures to achieve effective switching. The Customer is responsible for importing data and digital assets into their own systems or into the systems of the destination provider and implementing these data and digital assets within these systems, including where the Customer uses the services of a third party for these actions.

17.4.17 The Customer and any third party authorized by the Customer undertake to respect the Intellectual Property Rights and Confidential Information of any materials provided in the switching process by the Supplier. The Customer and any third party authorized by the Customer shall solely have the right to use such materials to the extent necessary for completion of and during the switching process.

17.5 Provision of information under the Data Act (Regulation (EU) 2023/2854)

17.5.1 Exhaustive specification of all categories of data and digital assets that can be ported during a switching process, including all exportable data:

a) Exportable data:

- Customer-generated KeyShot Software scene and project files, including KeyShot Studio scene files (.bip) and KeyShot Package files (.ksp), to the extent such data or digital assets are stored in, uploaded to, generated by, or otherwise made available through the Cloud Software and are exportable by the Customer during the switching process.
- Customer-generated 3D model export files created from Customer Data or Customer-configured scenes, to the extent such data or digital assets are stored in, uploaded to, generated by, or otherwise made available through the Cloud Software and are exportable by the Customer during the switching process.
- Customer-generated render, screenshot, animation, configurator, AR, and web-viewer output files created through the Software, to the extent such data or digital assets are stored in, uploaded to, generated by, or otherwise made available through the Cloud Software and are exportable by the Customer during the switching process, with related metadata and file contents, depending on the selected output type.
- Customer-created or Customer-uploaded supporting resources and libraries used in or exported with Customer projects, to the extent such data or digital assets are stored in, uploaded to, generated by, or otherwise made available through the Cloud Software and are exportable by the Customer during the switching process.

For the avoidance of doubt, Customer Data and digital assets stored solely on the Customer's local devices, local network, or other non-Supplier-controlled environments are not subject to a Supplier-managed switching process, but may be exported, copied, transferred, or retained by the Customer independently using the applicable functionality of the Software.

b) Digital assets (elements in digital form for which the Customer has the right of use, independently from the contractual relationship with the Supplier):

- Customer Data in the form of materials uploaded by the Customer.

17.5.2 Exhaustive list of categories of data specific to the internal functioning of the Supplier's Cloud Software which are exempted from the exportable data and switching due to the risk of breaching the Supplier's trade secrets, and which may not impede or delay the switching process:

- c) Any proprietary Supplier data (including source code, object code, system information, databases, documentation and other proprietary Supplier data) which does not constitute Customer Data or exportable data.

17.5.3 Information regarding the procedures for switching and porting to the Software, including information on available switching and porting methods and formats as well as restrictions and technical limitations that are known to the Supplier, cf. Article 26(a) of the Data Act:

- d) Information on export from KeyShot can be found at [\(link\)](#).

17.5.4 The Supplier provides the following up-to-date information on its website [\(link\)](#):

- a) Information regarding the jurisdiction to which the ICT infrastructure deployed by Supplier to fulfill the Agreement is subject, cf. Article 28 (a) of the Data Act;
- b) General description of the technical, organizational and contractual measures adopted by the Supplier in order to prevent international governmental access to or transfer of non-personal data held in the EU where such access or transfer would create a conflict with EU law or the national law of the relevant EU member state, cf. Article 28 (b) of the Data Act;
- c) Information on standard service fees and any switching charges, cf. Article 29(6) of the Data Act;
- d) online register with details of all the data structures and data formats as well as the relevant standards and open interoperability specifications, in which exportable data, cf. clause 17.5.1, are available, cf. Article 26 (b) of the Data Act. Subject to Article 30(3)(4) of the Data Act, the Supplier shall update the online register in accordance with its obligation to ensure compatibility with common specifications based on interoperability specifications or harmonized standards for interoperability at least twelve (12) months after the references to those common specifications or harmonized standards for interoperability of data processing services were published in the central EU standards repository for the interoperability of data processing services following the publication of the underlying implementing acts in the Official Journal of the European Union in accordance with Article 35(8) of the Data Act. In the case of switching between services of the same service type, for which common specifications or the harmonized standards for interoperability have not been published in the central Union standards repository for the interoperability of data processing services in accordance with Data Act Article 35(8), the provider of data processing services shall, at the request of the Customer, export all exportable data in a structured, commonly used and machine-readable format.

17.6 Third-Party Materials. The Software, Services, or Documentation may contain links to or integrate with third-party websites, content, software, services, or materials. Supplier does not control, endorse, or assume responsibility for any third-party materials and disclaims all liability arising from Customer's access to or use of such third-party materials. Customer's use of third-party materials is subject to the applicable third-party terms and conditions.

18. Miscellaneous

- 18.1 **Changes to the Agreement.** Supplier is entitled to amend the Agreement with general effect for its customers, including but not limited to the conditions for use and pricing with binding effect on the Customer. Supplier shall give a notice of thirty (30) days prior to the amendment of the Agreement taking effect, except for material amendments to the Agreement or changes in prices which shall be subject to at least two (2) months' prior written notice before the end or expiry of the then current Subscription Term. Material amendments shall mean amendments adversely affecting the Customer's rights of use pursuant to the Agreement or the commercial balance between the Parties to the detriment of the Customer. Material amendments to the Agreement or changes in prices shall take effect on the commencement of the next Subscription Term.

If the Customer is unable to accept the material amendments of the Agreement or changes in prices, the Customer's sole remedy is to terminate the Agreement with written notice to the Supplier no later than the date on which the changes would otherwise take effect. In such case, the Agreement shall terminate with effect upon expiry of the then-current Subscription Term.

Where the Customer is a Consumer, any amendments to the Agreement which are to the detriment of the Customer, including changes to pricing, functionality or material terms of the Subscription, may only be made if such amendments are objectively justified and communicated to the Consumer in a clear and comprehensible manner.

The Supplier shall notify the Consumer of any material amendments with at least two (2) months' prior written notice before the amendments take effect. The notification shall include a description of the nature of the amendment, the reason for the change, and the consequences for the Consumer and the Consumer's right to terminate the Subscription prior to the effective date of the amendment. The Consumer shall be entitled to terminate the Subscription free of charge prior to the effective date of the amendment if the Consumer does not accept the amendment.

- 18.2 **Weblinks.** Links to websites contained in the Agreement may be changed at the Supplier's sole discretion. Upon the Customer's request, the Supplier shall provide updated links. A change in a link shall not constitute a breach of the Agreement in any context or under any circumstance.
- 18.3 **Force majeure.** A Party shall not be liable to the other Party for any failure or delay in performing its obligations under the Agreement (other than its payment obligations) to the extent caused by circumstances beyond that Party's reasonable control, which the Party could not reasonably have foreseen and could not reasonably have avoided or overcome, including natural disasters, war, epidemics, pandemics, terrorism, or failures of telecommunication networks, network connections, energy supply or infrastructure ("**Force Majeure**"). The Party affected by the Force Majeure event shall use reasonable efforts to mitigate its effects and resume performance. If a Force Majeure event prevents or materially delays the Supplier's performance for more than thirty (30) days, the Customer may terminate the Agreement, and the Supplier shall refund any prepaid fees on a pro rata basis for the unused portion of the Subscription Term.

- 18.4 **Notices.** Notices to the Supplier in connection with the Agreement shall be sent to the KeyShot Group entity specified in the Quote. Notices to Customer in connection with the Agreement shall be sent to the Customer contact information in the Quote or otherwise provided by the Customer.
- 18.4.1 All physical notices shall be sent by tracked delivery using a national mail service or nationally recognized delivery service such as UPS, DHL, or FedEx.
- 18.4.2 The Parties shall inform the other Party if their email address changes.
- 18.5 **Waiver and Severability.** A waiver of a breach or default under the Agreement will not be a waiver of any other default. A Party's failure to enforce its rights under the Agreement may not be construed as a waiver of its right to do so. If a provision of the Agreement is found to be unenforceable, (i) it shall be enforced to the extent possible to effectuate the Parties' intent and (ii) the other provisions of the Agreement shall remain in full force and effect without modification.
- 18.6 **Relationship of the Parties.** The Parties agree that they are independent contractors and that neither may act on behalf of the other.
- 18.7 **Privacy.** For information about how the Supplier collects, uses, shares, or otherwise processes information about you and your use of our apps and websites, including compliance with the General Data Protection Regulation EU Regulation 2016/679 ("GDPR") and California Consumer Privacy Act ("CCPA"), please see our Privacy Policy located at www.keyshot.com/privacy-policy/.
- 18.8 **Export.** The Customer acknowledges that the Software is subject to the export rules, laws, regulations, controls, and restrictions of the United States, Denmark, and the European Union ("**Export Laws**") and agrees that it shall fully abide by and comply with the Export Laws, such as not exporting any portion of the Software to a person, entity, or country to which exporting the Software is prohibited by the Export Laws. If the Customer exports any portion of the Software, it is responsible for obtaining any permits which may be required to do so and it agrees to abide by the export laws and regulations of the country to which it has made the export. The Customer warrants that the Customer is not an entity or person to which access to or possession of the Software is prohibited by the Export Laws. If the Supplier must incur any expense such as legal fees or penalties as a result of the Customer's breach of this clause, the Customer will promptly reimburse the Supplier.
- 18.9 **US patents and copyright protection.** The Supplier's Software is protected by US patents 8,913,065; 9,043,007; 9,183,654. The Software is protected by copyright laws and international treaties, as well as other intellectual property laws. Any installation, copying, or distribution of the Software absent, or that exceed(s) the terms of, a properly issued license may constitute copyright infringement. In addition, federal civil remedies pursuant to the U.S. Copyright Act for copyright infringement allow for the recovery of actual damages based on the number of copies produced or, if the Supplier so elects, statutory damages of up to USD 150,000 per work for willful copyright infringement and recovery of attorney's fees and costs at the court's discretion.
- 18.10 **UNITED STATES GOVERNMENT USERS.** The Software is provided for United States federal government end users in accordance with the following: the Software is a "commercial item", as that

term is defined at 48 C.F.R. 2.101, consisting of “commercial computer software” and “commercial computer software documentation”, as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (or an equivalent provision, e.g., in supplements of various U.S. government agencies, as applicable), all U.S. Government users acquire the Software with only those rights set forth herein. If the U.S. government or any U.S. government agency needs additional rights, it must negotiate a mutually acceptable written amendment or exhibit to the Agreement specifically granting those rights.

- 18.11 **U.S. Government Restricted Rights.** The Software and Documentation are provided with RESTRICTED RIGHTS. Use, modification, reproduction, release, performing, displaying, duplication, or disclosure of the Software and Documentation by the U.S. Government is subject to and will be governed by the terms of the Agreement and the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19 and successors thereof, as applicable. If the U.S. government or any U.S. government agency needs additional rights, it must negotiate a mutually acceptable written amendment or exhibit to the Agreement specifically granting those rights.