

PLEASE REVIEW THIS AGREEMENT CAREFULLY AS IT DETAILS IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, CERTAIN RESTRICTIONS AND LIMITATIONS AND EXCLUSIONS TO OUR LIABILITY. IT IS INTENDED TO BE A LEGALLY BINDING AGREEMENT. BY AGREEING TO THESE TERMS OR PROCEEDING TO USE THE TORCH.AI PLATFORM, NEXUS-AS-A-SERVICE, AND/OR RECEIVING SERVICES FROM TORCH.AI, WHETHER DIRECTLY OR THROUGH ANY SERVANT OR AGENT: (1) YOU ACKNOWLEDGE THIS IS A LEGALLY BINDING AGREEMENT, (2) YOU ACKNOWLEDGE THAT YOU HAVE READ ALL OF THE TERMS AND CONDITIONS, AND (3) YOU AGREE TO BE BOUND BY ALL SUCH TERMS AND CONDITIONS AS A PARTY TO THIS AGREEMENT AND, IF YOU ARE AN EMPLOYEE OR AGENT, YOU CONFIRM, REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO DO SO BY YOUR EMPLOYER OR PRINCIPAL.

**END USER LICENSE AGREEMENT
AND TERMS OF SERVICE**

DATED AUGUST 5, 2021, AND CURRENT UNLESS SUPERSEDED.

1. **Agree to be Bound.** Torch Research, LLC (“**TORCH.AI**”, “**We**”, or “**Us**”) and its customer (Your employer or Principal) (“**Customer**”) have entered into an agreement (“**Agreement**”) which authorizes Customer and its authorized users to access and use certain TORCH.AI-provided software (“**Software**”) and services (“**Services**”, with Software and Services, collectively “**TORCH.AI Platform**”), each as more particularly described in such Agreement. That Agreement permits Customer to allow certain of its servants or agents to access and use the TORCH.AI Platform, in full or in part, upon each of the same agreeing to the terms and conditions contained within this End User License Agreement (“**EULA**”). You (hereinafter “**You**”) have been identified by Customer as someone to whom such access and use should be granted, provided You agree that such access and use shall be in accordance with, and You further agree to be bound by the terms and conditions of this EULA. Your acceptance of and agreement to be bound by the terms of this EULA, without any right of modification or variation of them (with any attempt to do so being void), is complete upon You performing any of the following actions:
 - 1.1 Clicking on any applicable “**I Agree**” button (or equivalently titled button); or
 - 1.2 Signing this EULA; or
 - 1.3 Proceeding to use of the Software or the TORCH.AI Platform, or any part thereof.
2. **Licensed Software.**
 - 2.1 **Licensed Software.** The Software is being licensed, and not sold, to You for use by You on behalf of the Customer, as contemplated by the terms of the Agreement and in accordance with this EULA. TORCH.AI reserves all rights not expressly granted to You by this EULA, and no rights in the TORCH.AI Platform arise by implication, estoppel or otherwise.

- 2.2 **Scope of License.** TORCH.AI hereby grants to You a revocable, non-exclusive, non-transferable, non-sublicensable license to use or access the Software on any stationary (e.g., desktop, kiosk) or mobile device (e.g. smartphone, tablet, laptop computer) that you own or control. Unlicensed access is unauthorized. You may not rent, lease, lend, sell, redistribute, make derivative works of, or sublicense the Software. You may not copy (except as expressly permitted by this EULA), decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Software, any updates, or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open-sourced components included with the Software). Any attempt to do so is a violation of the rights of TORCH.AI and/or its licensors.
- 2.3 **Updates/Upgrades.** The terms of the license in this Section 2 will govern any updates or upgrades provided by TORCH.AI that supersede and/or supplement a previous version unless such upgrade is accompanied by a separate license provided by TORCH.AI in which the terms of that license will govern.
- 2.4 **Software Access and Third Parties.** You acknowledge and agree that your access to the Software may, as a consequence of the system architecture employed by You and/or Customer, be effected through third-party electronic distribution channels, including but not limited to third-party internet providers You use to access the internet (“**Third-Party Channels**”). As between You and TORCH.AI, You acknowledge that all Third-Party Channels remain your sole responsibility and are separate from and outside of the scope of this EULA.
- 2.5 **Feedback and Support.** If you contact TORCH.AI for support, or provide Us feedback, We may collect your name and email address as well as any other content within your feedback or request for support for the purposes of sending You a reply. If You contact Us for support, we collect and store certain technical diagnostic data, (e.g. your phone or device model) in order that We may assist You better. You hereby agree to the collection and storage of such information for such purposes.
- 2.6 **Services; Third-Party Materials.** The Software may enable access to TORCH.AI services which include, but are not limited to, access by You to User Content which You acknowledge to be outside of TORCH.AI responsibility and for which You acknowledge TORCH.AI has no liability. Use of the Services may require Internet access which remains Your sole responsibility to obtain. The Services are subject to the terms of service set forth in Section 3 of this EULA.
3. **Terms of Service.**
- 3.1 **Age Restrictions.** No persons under the age of Eighteen (18) years (or Twenty-One (21) years in any jurisdiction where Eighteen (18) years is not the age of majority) may use the Services. You represent and warrant that You are currently Eighteen (18) years of age or older or Twenty-One (21) years of age or older in any jurisdiction where Eighteen (18) is not the legal age of majority.
- 3.2 **Account Registration.** You may be required to create an account in order for You to access certain portions of the Services. If You register for an account (“**Your TORCH.AI Account**”), You represent and warrant that: (A) all required registration information You submit is truthful and accurate; and (B) You will maintain the accuracy of such information. You are responsible for maintaining the confidentiality of Your TORCH.AI Account login information and the security of your device and are fully responsible for all activities that occur under Your TORCH.AI Account. You agree to immediately notify TORCH.AI of any unauthorized use or suspected unauthorized use of Your TORCH.AI Account or any other breach of security. Each TORCH.AI account can be granted various access right privileges that can vary from account to account. You agree to accept and comply with the access rights granted to You and Your TORCH.AI Account, and You will not attempt to gain unauthorized access to access

rights not granted to Your TORCH.AI Account. You acknowledge and agree that TORCH.AI will not be liable for any loss or damage arising from Your failure to comply with the above requirements.

3.3 **Usage Restrictions.** You acknowledge and agree to the following usage restrictions, that:

- 3.3.1 You will not access the TORCH.AI accounts of other users of the Services other than to access data permitted by the Software that has been submitted by other users of the Services;
- 3.3.2 You will not impersonate any other person or entity or falsely claim an affiliation with an entity or person;
- 3.3.3 You will not misrepresent the source or identity of any information or material or the content thereof that is communicated using the Services;
- 3.3.4 You will not disable, circumvent, damage, destroy or otherwise interfere with any: (A) security-related functions of the Service; (B) functions that limit or restrict use or copying of content accessible through the Services; or (C) functions that restrict or limit use of the Services;
- 3.3.5 You will not intentionally interfere with or damage operation of the Services or any other user's enjoyment of them, by any means, including but not limited to uploading or otherwise disseminating viruses, worms, or other malicious code;
- 3.3.6 You will not post, store, send, communicate, or disseminate any information or material which infringes any trademarks, trade secrets, copyrights, or any other proprietary or intellectual property rights;
- 3.3.7 You will not attempt to gain unauthorized access to the Services, or any part of it, other accounts, computer systems or networks connected to the Services, or any part of it, through hacking, password mining or any other means or interfere or attempt to interfere with the proper working of the Services or any activities conducted on the Services;
- 3.3.8 You will not use any robot, spider, scraper or other automated means to access the Services for any purpose or bypass any measures TORCH.AI may use to prevent or restrict access to the Services;
- 3.3.9 You will not modify the Services in any manner or form, nor use modified versions of the Services, including but not limited for the purpose of obtaining unauthorized access to the Services; and
- 3.3.10 You will additionally comply with all usage policies posted by TORCH.AI with respect to use of the Services or TORCH.AI Platform, as such policies may be updated from time to time.

3.4 **User Content.**

- 3.4.1 **Personally Identifiable Information (PII).** Except as provided in conjunction with providing You support or a response to your feedback, or notifications under the Digital Millennium Copyright Act, as set forth in Section 7, TORCH.AI does not solicit PII. To the extent Your User Content includes PII, You acknowledge and agree TORCH.AI is under no obligation to monitor the access or use of such PII by other users of the Services, or otherwise, remove or disable access to such PII by other users, even if You request its removal or disabling. You bear the entire risk associated with any PII that you include in Your User Content. To the extent Your User Content includes PII of others, You acknowledge that you are solely responsible for

the accuracy and right to use such information, including obtaining the express written consent of others whose PII is submitted as part of Your User Content.

- 3.4.2 **Loss of Data.** TORCH.AI shall not be responsible for any loss resulting from the loss of Your Content stored within the Software or Services, and it is Your responsibility to maintain a backup of any Content submitted or used in connection with the Software or Services.
- 3.5 **Third-Party Materials.** Certain Services may display, include, or make available content, data, information, applications, or materials from third-parties (“**Third-Party Materials**”). By using the Services, You acknowledge and agree that TORCH.AI is not responsible for examining or evaluating the content, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect of such Third-Party Materials. TORCH.AI does not warrant or endorse and does not assume and will not have any liability or responsibility to You or any other person for any services offered by any third-party, Third-Party Materials, or for any other materials, products, or services of third-parties. Access to Third-Party Materials is provided solely as a convenience to You. Neither Company, nor any of its content providers, guarantees the availability, accuracy, completeness, reliability, or timeliness location data displayed by any Services.
- 3.6 **Use of Proprietary Content.** You agree that Services may contain proprietary content, information and material that is protected by applicable intellectual property and other laws, including but not limited to copyright and trademark, and that You will not use such proprietary content, information, or materials in any way whatsoever except for permitted use of the Services. No portion of the Services may be reproduced in any form or by any means. You agree not to modify, rent, lease, loan, sell, distribute, or create derivative works based on the Services, in any manner, and You shall not exploit the Services in any unauthorized way whatsoever, including but not limited to, by trespass or burdening network capacity. TORCH.AI is not in any way responsible for any such use by You, nor for any harassing, threatening, defamatory, offensive, or illegal messages or transmissions that You may receive as a result of using any of the Services.
- 3.7 **TORCH.AI Intellectual Property.** The Intellectual Property Rights in the TORCH.AI Platform including all and any Software and/or Services are owned by TORCH.AI and/or its licensors. For the avoidance of doubt, the Intellectual Property Rights in the TORCH.AI supplied content, visual interfaces, web pages, designs, logos, and databases (“**Materials**”) are also owned by TORCH.AI and/or its licensors. Except as expressly granted in this EULA, You agree not to copy, modify, publicly perform, publicly display, distribute, or make unauthorized use of the Materials.

4. **Disclaimer of Warranties & Limitation of Liability**

- 4.1 **NO WARRANTY: YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF SOFTWARE AND/OR SERVICES IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND SAVE AS SPECIFICALLY SET FORTH IN CLAUSE 10 OF THE LICENSE , THE SOFTWARE AND THE SERVICES ARE PROVIDED "AS IS" AND “AS AVAILABLE”, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND TORCH.AI HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SOFTWARE AND ANY SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. TORCH.AI DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE SOFTWARE OR SERVICES, THAT THE FUNCTIONS**

CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY, OR IN CONJUNCTION WITH THE SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT THE SOFTWARE OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE SOFTWARE OR SERVICES WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY TORCH.AI OR AN AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

4.2 **LIMITATION OF LIABILITY: LIABILITY UNDER OR IN CONNECTION WITH THIS EULA IS AS SET FORTH IN CLAUSE **Error! Reference source not found.** OF THE AGREEMENT.**

5. Representations, Warranties; Indemnification

5.1 **Representations and Warranties.** You represent and warrant that:

5.1.1 You have the legal capacity to enter into this EULA;

5.1.2 You have the right to provide any User Content to TORCH.AI and grant the licenses set forth above;

5.1.3 TORCH.AI will not need to obtain licenses from third-parties or pay royalties to any third-party with respect to Your User Content;

5.1.4 Your User Content does not infringe rights of any third-party including but not limited to the intellectual property rights or privacy rights of such Party;

5.1.5 Your User Content is not in contravention of any applicable law;

5.1.6 Your User Content is accurate.

5.2 **Indemnification for failure to Comply.** You hereby indemnify and hold Company, its directors, officers, employees, agents, suppliers, licensors, licensees, and other users harmless from and against any and all claims, suits actions liabilities, injuries, damages, losses or expenses (including but not limited to attorney's fees and costs) to the extent that they arise under or from:

5.2.1 Your failure to comply with any provision of this EULA;

5.2.2 Your use of the Software and/or Services, including but not limited to economic, physical, emotional, psychological or privacy related considerations; and

5.2.3 A violation or infringement of a third-party intellectual property right caused by Your User Content or Your acts or omissions.

6. **Termination.** Clause 9 of the Agreement governs termination of the Agreement and/or any particular EULA. Additionally, TORCH.AI may terminate this EULA for any or no reason, in its absolute unfettered discretion.

7. Miscellaneous.

- 7.1 **Export Control.** You may not use or otherwise export or re-export the Software except as authorized by United States law and the laws of the jurisdiction in which the Software was obtained. In particular, but without limitation, the Software may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. You represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use these products for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture, or production of nuclear, missiles, or chemical or biological weapons.
- 7.2 **Governing Law.** The EULA will be governed by and construed in accordance with the Law of the United States, and the laws of the State of Kansas, without regard to its conflicts of law provisions. The Uniform Commercial Code (UCC), Uniform Computer Information Transaction Act (UCITA) and the United Nations Convention of Controls for International Sales of Goods (CISG) shall not apply to this EULA.
- 7.3 **Jurisdiction and Venue.** In any dispute arising out of or in connection with this EULA, jurisdiction and venue shall be any court of competent jurisdiction within the State of Kansas. Both You and TORCH.AI hereby irrevocably waive any right to trial by jury.
- 7.4 **Amendment, Modification.** This EULA may not be modified by You.
- 7.5 **Severability; Waiver.**
- 7.5.1 If any provision of this EULA is determined to be unenforceable as a result of any proceeding (which shall include any arbitration or other proceeding, including any legal proceeding in court or before an administrative agency), that provision shall be deemed to be modified to the extent necessary to allow it to be enforced to the extent permitted by law, or if it cannot be so modified, that provision will be severed and deleted from this EULA, and the remainder of the EULA will continue in effect.
- 7.5.2 Any waiver of any provision of this EULA, intentional or otherwise, shall not be deemed a waiver of any other provisions of this EULA and any waiver in respect to any part of this EULA must be in writing to be effective.
- 7.6 **No Rule of Strict Construction.** Notwithstanding the fact TORCH.AI drafted this EULA, no rule of strict construction shall be applied against TORCH.AI.
- 7.7 **Assignment; No Third-Party Beneficiaries.** This EULA or any rights and obligations under it may be transferred or assigned by TORCH.AI without your prior written consent. You may not transfer or assign this EULA or any rights and obligations under it absent the prior written consent of TORCH.AI and any purported transfer or assignment shall be void ab initio. This EULA is not intended to benefit or be enforceable by any third-party, save for the Customer.
- 7.8 **Entire Agreement.** This EULA shall constitute the entire agreement between You and TORCH.AI in relation to its subject matter and shall supersede all previous agreements and understandings between You and TORCH.AI with respect to them.
- 7.9 **Headings.** Section and paragraph headings used in this EULA are intended primarily for reference and shall not by themselves determine the construction or interpretation of this EULA or any portion hereof.

- 7.10 **Confidentiality.** During the Term of this EULA or the Agreement or at any time thereafter, You shall not disclose and shall take the necessary steps to prevent the disclosure of these License Terms, either directly or indirectly, to third parties.
- 7.11 **Survival.** Termination of this EULA for any reason shall not relieve either party of any liability arising out of this EULA that shall have accrued and remain to be performed as of the date of such termination. Upon any termination of the Agreement, the parties hereto shall have no further liability or obligation under this EULA other than (a) as provided in the preceding sentence and (b) Sections **Error! Reference source not found., Error! Reference source not found.,** and this Section 7.11, which provisions shall survive any such termination.