

Version 2.1, dated 5 May 2023

## 1. GENERAL

1.1. These Terms of Use ("**Terms**"), together with the Order and the data processing agreement ("**DPA**") govern Customer's use of the Product (as defined below) and form a legal contract between the Lansweeper entity designated in clause 1.3 below ("**Lansweeper**") and Customer (as defined below). These Terms are accessible via Lansweeper's website.

1.2. By purchasing, installing, or otherwise using all or any portion of the Product, Customer indicates that it has read, understood, and agreed to be legally bound by these Terms.

1.3. If Customer is incorporated or has its primary place of business anywhere in the world except for the United States and any US territory, the Lansweeper entity with whom Customer will be contracting is Lansweeper NV, a limited liability company existing under Belgian law, with registered address at Belgium, 9820 Merelbeke, Fraterstraat 212, registered under enterprise number 0538.668.417. If Customer is incorporated in or has its primary place of business in any location within the United States or any US territory, including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, Customer will be contracting with Lansweeper Inc., with offices at 11044 Research Blvd, Building D, Suite D-500, Austin, TX 78759.

1.4. The individual accepting the Agreement on behalf of a company or other legal entity ("**Customer**") represents and warrants that he or she has full authority to bind the Customer to this Agreement.

1.5. Customer may not accept the Agreement or use the Product if Customer or anyone it represents is barred from using the Product under the (export control) laws of the European Union, United States or any other country, and/or any applicable trade sanctions or embargoes.

## 2. DEFINITIONS

2.1. The terms and expressions written with a capital letter shall have the meaning given to them in this clause 2.1, unless the context in which they are used requires a different meaning.

**"Administrator"** means the End-User creating a Site;

**"Affiliate"** means an entity that owns or controls, is owned or controlled by or is under common control or ownership with Customer or Lansweeper as applicable,

where 'control' is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity through majority ownership of voting securities or otherwise;

**"Agreement"** means these Terms together with the Order and the DPA;

**"Aggregate Data"** means any data that is the result of aggregation and/or de-identification of Customer Content and Device Fingerprints or derivations thereof, and which does not or no longer relates to an identified or identifiable natural person. Aggregate Data does not constitute Confidential Information of Customer;

**"Applicable Data Protection Legislation"** has the meaning given to it in the DPA;

**"Application"** means any application developed to interact with the Cloud API or otherwise interact with the Product (including the Cloud Platform);

**"Asset"** means (i) any IT device scanned, using the Product on Customer's local systems; (ii) any IT resource scanned by the Product in Customer's cloud environment; and (iii) any IT assets that are created by/added to the Product by Customer;

**"Beta Release"** means a feature of the Product on a "beta" free of charge pre-release, owned by Lansweeper and licensed and made available to Customer solely for testing purposes;

**"Billing Contact Email"** means the email address provided by Customer to which Lansweeper may send all billing-related information and the License Key;

**"Business Day"** means every day except Saturdays, Sundays and public holidays in the jurisdiction where Lansweeper is incorporated;

**"Charges"** means the amounts due by Customer to Lansweeper for the delivery of the Product;

**"Cloud API"** means an application programming interface, including updates and including any API offered by Lansweeper to its Customer through its Cloud Platform;

**"Cloud API Key"** means the security key Lansweeper creates and makes available to Customer, to access the Cloud API;

**"Cloud Platform"** means a cloud-hosted platform on a multi-tenant basis, managed by Lansweeper, which connects to Customer's Lansweeper Installation and which allows Customer to view its Customer Content available within its Lansweeper Installation(s) via its Lansweeper Account;

**"Cloud Services"** means cloud-based services made available through the Product;

**"Confidential Information"** means all information which is disclosed by one Party to the other whether before or after Effective Date, which is designated in writing as confidential or would appear to a reasonable person to be confidential and which relates to a Party's business including its products, operations, processes, plans or intentions, developments, trade secrets, know how, design rights, market opportunities, personnel, suppliers and/or customers, all information derived from any of the above (including but not limited to these Terms) but excludes information which (i) at the Effective Date is, or becomes at any time after that date, within the public domain (other than as result of a breach of clause 12 of these Terms); (ii) is obtained, free from any restrictions as to its use or disclosure from a third party who was free to divulge it; and (iii) is developed by, or for, the receiving Party independently of any information received under the Agreement and by persons who had no access to, or knowledge of, that Confidential Information;

**"Contract Year"** means each twelve (12) month period beginning on the Effective Date and on each subsequent anniversary thereof during the Term;

**"Customer"** means the legal entity validly subscribing to the Product under the Agreement;

**"Customer Content"** means any data (in electronic form) collected through the Product or uploaded to the Product by Customer or its Affiliates (including their respective End-Users) for the purpose of using the Product or facilitating the Customer's use of the Product, including outputted data by the Cloud API but excluding Aggregate Data and Installation Metadata;

**"Device Fingerprint"** means a set of information elements obtained through network protocols used to recognize Assets;

**"Documentation"** means any documentation, instructions, Lansweeper's Knowledge Base or other information provided by Lansweeper in relation to the Product regardless of the manner in which it has been made available to the Customer (including via e-mail or Lansweeper's website) and as may be updated from time to time;

**"DPA"** means the data processing agreement available at <https://www.lansweeper.com/terms-of-use/> (or any other hyperlink Lansweeper may provide);

**"Effective Date"** means either (i) the date of online acceptance of the Agreement or (ii) the Effective Date as identified otherwise in the Agreement;

**"End Users"** means the ultimate end users (natural person) of the Product;

**"Error"** means any material, verifiable and reproducible failure of the Product to conform in all material respects to features and functions as described in the Documentation (excluding any nonconformity resulting from a use that is not in compliance with the Agreement and/or the Documentation);

**"Feedback"** means comments, information, questions, data, ideas, description of processes, or other information related to the Product and/or Beta Releases provided by Customer to Lansweeper. Feedback does not constitute Confidential Information of Customer;

**"Foss Components"** has the meaning given to it in clause 9.11 of these Terms;

**"Force Majeure"** means any event which is beyond the reasonable control of a Party and which impacts the execution of its obligations under the Agreement, including, but not limited to, natural disasters, epidemics, pandemics, extreme weather conditions, fire, riots, war and military operations, national or local emergency situations, acts or negligence of the government, economic disputes of any nature whatsoever, strikes, unannounced labour actions, fire, flooding, lightning, explosions, collapses, disruptions in traffic, the reduced or non-functioning of networks, systems or equipment of third parties as well as any act of negligence of a person or entity which is outside of the reasonable control of a Party. For the avoidance of doubt, failure by Customer to correctly or timely pay the Charges shall not be excused by a Force Majeure event;

**"Free Trial"** means a free plan of the Product offered to the Customer for testing purposes at no charge for a limited period of time, with limited features and functionalities, and subject to the license metrics as determined in Lansweeper's sole discretion;

**"Freeware"** means a free plan of the Product offered to the Customer at no charge for an undetermined period of time, with limited features and functionalities, and subject to the license metrics as determined in Lansweeper's sole discretion;

**"Help Desk"** a feature of the Product that allows Customer to organize a limited first line help desk using the Lansweeper knowledge database within its organization through *inter alia* a ticketing system;

**"Help Desk Agents"** means those of Customer's End-Users with a Help Desk-agent subscription;

**"Installation Metadata"** means data retrieved by Lansweeper from Customer's Lansweeper Installation, such as but without limitation the license details, software version, IP address, email address, Install-ID, installation status, Asset count, database server type and web server type;

**"Intellectual Property Rights"** means (i) copyright (including software rights), patents, database rights and rights in trademarks, designs, know-how and confidential information (whether registered or unregistered); (ii) applications for registration, and the right to apply for registration, for any of these rights; and (iii) all other intellectual property rights and equivalent or similar forms of protection existing anywhere in the world;

**"Invalid Support Request"** means a support request from Customer which does not comply with the conditions for a Valid Support Request provided for in clause 7.4 of the Terms;

**"IP Claim"** has the meaning given to it in clause 15.1 of these Terms;

**"IT Asset Discovery Software"** means (i) the machine-readable object code of Lansweeper's software (including database software) to run on Customer's systems, developed and owned by Lansweeper and licensed to Customer under the provisions of this Agreement; (ii) the related Documentation; and (iii) any updates, supplements, modifications, enhancements, corrections, fixes and revisions thereof, as made available to Customer at Lansweeper's discretion;

**"Lansweeper Account"** means a unique identity tied to an email address that is used by an individual to log into the Cloud Platform. A Lansweeper Account can have access to multiple Sites, for which it is authorized through a linking process;

**"Lansweeper Data"** means the data and other information created, stored, processed and used by or on behalf of Lansweeper, and which may be accessible through the Product;

**"Lansweeper Installation"** means a single deployment of the IT Asset Discovery Software consisting out of i) a single Local Scanning Database installed on Customer's systems, (ii) a single Local Web Console installed on Customer's systems, and (iii) unless restricted by Customer's subscription plan, multiple Scanning Engines installed on the Customers and/or Customer's Affiliates

systems, all connected to the same and sole Local Database;

**"Lansweeper's Knowledge Base"** means Lansweeper's knowledge base available at <https://www.lansweeper.com/kb/> (or any other hyperlink Lansweeper may provide);

**"Lansweeper's Support Page"** means Lansweeper's support page available at <https://www.lansweeper.com/contact-support/> (or any other hyperlink Lansweeper may provide);

**"License Key"** means a unique key-code issued to Customer by Lansweeper to activate and use the Product. For Paid Subscriptions, Lansweeper will first issue a temporary license key with a duration equal to the payment term as described in clause 3.6 of these Terms, followed by a full license key covering the remainder of the Paid Subscription Term sent upon Lansweeper's receipt of payment from Customer;

**"Local Scanning Database"** means either a SQL local database or a full SQL server which serves as the on-premises repository where all Customer Content is federated. Multiple Scanning Engines should connect to a single Local Scanning Database;

**"Local Web Console"** means a website hosted on-premises with the Customer which is used to interface with the local deployment of the Product;

**"Means of Access"** has the meaning given to it in clause 9.5 of these Terms;

**"Order"** means any purchase order or other electronic or paper ordering document accepted by Lansweeper that identifies (among others) the following order by Customer: Product, Customer's selected Paid Subscription with the features and functionalities described therein, quantity based on Lansweeper's applicable license metrics (e.g., number of Assets, number of Help Desks Agents, number of Lansweeper Installations, number of Scanning Engines, ...), Charges, and subscription Term;

**"Paid Subscription"** means a plan of the Product offered to the Customer for purchase against payment of Charges and as further described in an Order;

**"Party"** and **"Parties"** mean Lansweeper and/or Customer, as applicable;

**"Preview Feature"** means a feature that is not part of Customer's subscription plan but made available on a "preview" basis;

**"Privacy Policy"** means the privacy policy available at <https://www.lansweeper.com/privacy-policy/> (or any other hyperlink Lansweeper may provide);

**"Product"** means IT Asset Discovery Software, the Cloud Platform, any Applications that interface with the Product developed and provided by Lansweeper through the Cloud Platform (excluding third-party applications developed and/or provided by third parties), and any other Lansweeper proprietary software, software-as-a-service or tool which the Customer has subscribed to in accordance with the Agreement;

**"Reseller"** means a party authorized by Lansweeper to resell Paid Subscriptions to the Lansweeper Product;

**"Scanning Engine"** means an application that performs the agentless scanning of the Assets in Customer's network in a one-to-many fashion. Such Scanning Engines may be installed on different systems of Customer or its Affiliates, unless restricted by Customer's subscription plan;

**"Second Line Support"** means monitored email support services whereby Lansweeper undertakes reasonable efforts to resolving Customer's Valid Support Requests;

**"Site"** means a unique tenant created in the Cloud Platform which can collect Customer Content from Customer's Lansweeper instance(s), through a linking process or manually entered via the Cloud Platform;

**"Support Hours"** means the hours during which second and third line Support Services will be made available to Customer in accordance with the conditions set forth in clause 7 of these Terms. For hours noted in CET, Central European Summer Time (CEST) will be used during spring to summer months;

**"Support Services"** means reasonable advice and guidance concerning the use of the Product, and troubleshooting of the Product allowing Lansweeper to resolve issues, either by providing Customer with the possible steps to resolve the Error, or undertaking the necessary measures on Lansweeper's end and informing Customer thereupon;

**"Term"** has the meaning given to it in clause 17 of these Terms;

**"Terms"** means these Terms of Use Lansweeper; and

**"Valid Support Request"** means a support request from Customer in accordance with the conditions set forth in clause 7.4 of these Terms.

The terms and expressions written with a capital letter used in this Agreement but not defined above, are defined throughout this Agreement.

### 3. SUBSCRIPTION, AFFILIATES' USE, ORDERS, CHARGES, PAYMENT TERMS AND EXTENSION OF PAID SUBSCRIPTION

3.1. The Product can be subscribed to, based on the following different subscription plans: (i) Free Trial, (ii) Freeware, and (iii) Paid Subscription. Free Trial and Freeware subscriptions are made available for download. Paid Subscriptions are offered for purchase and can be ordered through Lansweeper's website or a Lansweeper or Reseller sales representative. The Customer's selected Paid Subscription shall be identified in the Order (for purchases through a Lansweeper sales representative) or the online order confirmation page (for purchases through Lansweeper's website).

3.2. Subject to the applicable usage limitations, Customer will be entitled to have the Product used by its Affiliates (and their End-Users). Customer undertakes that any Affiliate using or accessing any Product hereunder, or benefitting from the Customer's use of a Product, will comply with all terms and conditions of this Agreement. The Customer will remain responsible for Customer's Affiliates' acts and omissions unless Customer's Affiliate has entered into its own agreement with Lansweeper.

3.3. The Customer's Affiliate use of the Product needs be based upon the same number Lansweeper Installations as permitted under this Agreement which have been installed at Customer. Use by the Customer's Affiliate shall not entitle the Affiliate to a separate Lansweeper Installation. It is thus understood that use by an Affiliate of the Product will be subject to the procedure set forth in clause 3.16 of these Terms, where use of the Affiliate would imply usage of the Product beyond the license metrics agreed upon with Customer.

3.4. Only the Agreement (and for the avoidance of doubt, specifically excluding any pre-printed terms on a Customer or Reseller purchase order) will have any force or effect unless a particular Order is executed by an authorized signer of Lansweeper and returned to Customer (or the applicable Reseller). If any such Order is so executed and delivered, then only those specific terms on such Order that expressly identify those portions of this Agreement that are to be superseded will prevail over any conflicting terms herein but only with respect to those Products ordered on such Order. Orders are non-cancellable. Any Order through a

Reseller is subject to, and Lansweeper obligations and liabilities to Customer are governed by, this Agreement.

3.5. Lansweeper quotes are only valid when issued by a Lansweeper sales representative and are noncommittal and do not create any agreement between Customer and Lansweeper, until the quote and these Terms (which are incorporated by reference into the quote) are acknowledged and accepted by Customer. quotes are valid for thirty (30) days as of the date of the quote, unless otherwise indicated.

3.6. The Charges for the Product are published on the Lansweeper website and exclude VAT and other applicable taxes. Charges are payable within thirty (30) calendar days of the invoice date, unless otherwise specified on the Order. The available payment methods are specified on the Order (for purchases through a Lansweeper sales representative) or the online order confirmation page (for purchases through Lansweeper's website). Invoices may be sent through electronic means, via the Billing Contact Email.

3.7. All payment obligations are non-cancellable and non-creditable and all Charges paid are non-refundable except as otherwise set forth in the Agreement.

3.8. Lansweeper reserves the right to increase the Charges at the start of each Contract Year up to Lansweeper's then-current list price set out on Lansweeper's website.

3.9. In the event as described in clause 3.8 of these Terms, Lansweeper will inform Customer thereof by email at the latest forty-five (45) days before the expiry of the then-current Contract Year. In the event Customer refuses to accept such Charges, Customer should terminate the Agreement in accordance with clause 17.3 of these Terms. In the event this was not timely done, the updated Charges shall apply as from the start of the next Contract Year.

3.10. From the due date, the invoice shall automatically and without notice accrue an interest of 1% for every month commenced of the due invoiced amount. Additionally, a flat-rate indemnity of 10% of the invoice amount is due, with a minimum of 250 EUR, which shall be payable automatically and without notice, notwithstanding Lansweeper's right to claim for a higher indemnity, subject to reasonable proof provided by Lansweeper of higher incurred damages.

3.11. In the case of non-payment of an invoice on the due date, all unexpired claims on the Customer resulting from any agreement between Lansweeper and Customer become due, automatically and without

notice. If instalments of payment are made or bills of exchange are signed, either subject to the Agreement or in another agreement between Lansweeper and Customer, then all amounts owed by Customer become due, automatically and without notice.

3.12. Customer must pay any applicable taxes and third-party fees (including, for example, telephone toll charges, mobile carrier fees, ISP charges, data plan charges, credit card fees, foreign exchange fees, foreign transaction fees, and bank charges). Lansweeper is not responsible for these fees. If Customer is located in a different country than Lansweeper or Lansweeper's e-commerce partner, Customer's payments will be made to a foreign entity. In the event any withholding tax (meaning any income, sales, use, gross receipts, business, occupation and other taxes and similar charges imposed by any government or other authority on Lansweeper in which Customer is required by law to withhold or deduct on the Charges payment to Lansweeper) is levied on the Charges, then Customer shall increase the sums paid to Lansweeper so the amount received by Lansweeper after the withholding tax is deducted is the full amount Lansweeper would have received if no withholding or deduction had been made. Lansweeper may apply and charge these withholding taxes back to Customer, after Customer has made the payment (*gross-up*) where withholding taxes were withheld by Customer. Notwithstanding the foregoing, Customer and Lansweeper will cooperate to avoid any withholding tax if exemptions, or a reduced treaty withholding rate, are available. If Lansweeper qualifies for a tax exemption, or a reduced treaty withholding rate, Lansweeper will provide Customer with reasonable documentary proof. However, in the event the Charges are charged via Lansweeper's e-commerce partner, their tax provisions apply and prevail.

3.13. Customer is not allowed to set off invoices unless expressly agreed otherwise in writing by Lansweeper.

3.14. Unless explicitly otherwise agreed upon, Lansweeper shall apply the currency for the Charges as provided in the Order (for purchases through a Lansweeper sales representative) or the online order confirmation page (for purchases through Lansweeper's website).

3.15. Any costs or losses incurred by Lansweeper due to Customer's payment in another currency as agreed upon, shall be borne by Customer and, as the case may be, refunded by Customer to Lansweeper.

3.16. During the Term, a Paid Subscription Customer may increase the agreed upon license metrics. In such case, Customer can request a quote through the Lansweeper website or a Lansweeper or Reseller sales representative.

3.17. At the start of the next Renewal Period, a Paid Subscription Customer may change the agreed upon license metrics. In such case, Customer should request a quote through the Lansweeper website or a Lansweeper or Reseller sales representative at least thirty (30) days before the expiry date of the current Term of Customer's subscription.

#### **4. USE OF THE PRODUCT**

4.1. The Product and the limitations associated with the Product are described in the Documentation.

4.2. Subject to full compliance with the Agreement (including timely payment of all applicable Charges to Lansweeper or where applicable, the Reseller), Lansweeper hereby grants Customer a limited, worldwide, revocable, non-transferable, non-sublicensable, non-exclusive right during the Term to (i) access and use the Product for Customer's internal business purposes on compatible devices in accordance with the agreed upon license metrics, (ii) deploy one single Lansweeper Installation, except if Customer's Paid Subscription allows for multiple Lansweeper Installations and upon the condition that those are linked to one single Site; (iii) deploy an additional Lansweeper Installation for testing purposes and to evaluate new releases, and (iv) update the Product to the latest updated version made available by Lansweeper under Customer's subscription plan. For the avoidance of doubt, Customer is not allowed to distribute or commercialize the Product. Lansweeper has the right to take all steps required in order to monitor the use of the Product and to verify whether the use is in compliance with the Terms.

4.3. Customer may solely use the Product as and in a way as expressly allowed under the Agreement and in accordance with Lansweeper's instructions. For example, but without limitation, Customer shall not (nor will allow or facilitate a third party to): (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party (except to the End Users as permitted under the Agreement) the Product or access to the Product in any way; (ii) modify, alter, translate, tamper with or make derivative works based upon the Product; (iii) unless to the extent allowed under applicable law, reverse

engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Product or access the Product in order to: (a) build a competitive product or service; (b) build a product using similar ideas, features, functions or graphics of the Product; or (c) copy any ideas, features, functions or graphics of the Product; (iv) access or use the Product in a way intended to avoid incurring Charges, exceeding license metrics, or avoiding any restrictions imposed under the Agreement; or (v) remove any titles or trademarks, copyrights or restricted rights notices in the Product.

4.4. Customer may use certain Cloud Services based on its Product configuration preferences. By using such Cloud Services, Customer acknowledges and agrees that Customer Content and/or Device Fingerprints are transmitted to Lansweeper in order to enable Lansweeper to provide such Cloud Services.

4.5. If Lansweeper provides a Beta Release of the Product, Customer acknowledges and agrees that the Beta Release is for evaluation purposes only and may contain Errors, fail, return inaccurate results, and/or be subject to other malfunctions. A Beta Release will be subject to the same license metrics as provided for in the Agreement. Lansweeper does not guarantee that a Beta Release will be commercially released and Lansweeper may change the Beta Release or terminate the Customer's use thereof at any time without prior notice. Use of the Beta Release is at Customer's own risk and Lansweeper shall not be liable for any damages resulting from Customer's use of the Beta Release.

4.6. If Lansweeper provides a Preview Feature, Customer acknowledges and agrees that the Preview Feature is for evaluation purposes only and that Lansweeper does not guarantee that the Preview Feature will remain available throughout Customer's subscription plan Term. Lansweeper may change the Preview Feature or terminate the Customer's use thereof at any time without prior notice.

4.7. In addition to any remedies Lansweeper may have by law or as specified in the Agreement, Lansweeper may exercise the following remedies, at Lansweeper's option and in Lansweeper's discretion, in case Customer does not comply with the Agreement: (i) suspend Customer's access to the Product; (ii) remove Customer's Customer Content from the Product; and/or (iii) report the concerned breach to the relevant authorities when such is required by law.

## 5. CLOUD PLATFORM, SIGN-UP AND ACCESS THERETO

5.1. In the Agreement, Parties may agree that Customer will be provided with access to the Cloud Platform, which constitutes a specific feature of the Product containing a set of functionalities. In addition to the other terms of the Agreement, this clause 5 shall apply to the extent Customer enjoys such access under the Agreement.

5.2. Customer's End-Users can sign up and access the Cloud Platform by creating a Lansweeper Account via [app.lansweeper.com](http://app.lansweeper.com) (or any other hyperlink as provided by Lansweeper).

5.3. It is Customer's sole responsibility to manage the creation of Sites by its End-Users and which End-Users can therefore become Administrator of such Site. In the event Customer deletes a Site, Customer acknowledges that it will not be able to recover the Customer Content that was available in such deleted Site.

5.4. Customer should successfully perform a linking process before being able to use the functionalities of the Cloud Platform. Specifically, to enable the proper functioning of the Cloud Platform, a minimum version of the IT Asset Discovery Software may be required. Based upon Customer's configuration preferences, certain updates to the IT Asset Discovery Software may be automatically downloaded and installed without further notice to Customer. Such automatic updates are without prejudice to the need for performing manual updates from time to time.

5.5. Lansweeper undertakes commercially reasonable efforts to make the Cloud Platform available at a monthly uptime percentage as applicable under Customer's Paid Subscription ("**Uptime Service Level**"). The uptime percentage is calculated on a monthly basis ("**Monthly Period**"), according to the following formula:  $\text{Uptime Service Level} = ((\text{total hours in Monthly Period} - \text{Downtime in Monthly Period}) / \text{total hours in Monthly Period}) * 100\%$ , where 'Downtime in Monthly Period' means the total number of hours outside of Scheduled Downtime (as defined below) during the Monthly Period that the Cloud Platform was unavailable and Customer was unable to access its Lansweeper Account.

5.6. In the event the Cloud Platform was unavailable due to unscheduled downtime, Customer is entitled to request a report via [outagereport@lansweeper.com](mailto:outagereport@lansweeper.com) (or any other communication medium chosen by Lansweeper), showing how Lansweeper is performing

against the Uptime Service Level in the then-current Monthly Period.

5.7. The Uptime Service Level will exclude unavailability of the Cloud Platform due to or resulting out of: (i) Customer or Customer's End-User's use in a way that is not compliant with the Agreement (including the Documentation); (ii) Customer's failure to follow the instructions resulting out of Lansweeper's Support Services (if applicable); (iii) modifications or customizations to Customer's Lansweeper Installation; (iv) incorrect use of Lansweeper's API; (v) integrations with third party software or hardware (vi) Force Majeure events; (vii) Lansweeper's cloud hosting provider failure to comply with their own applicable service levels; and (viii) routine scheduled maintenance or reasonably emergency maintenance to provide Customer with new features or fixes ("**Scheduled Downtime**").

5.8. The Uptime Service Level does not apply to: (i) Beta Releases of the Cloud Platform's functionalities; (ii) any non-public available features, whether or not in a beta free-release, within the Cloud Platform that may be made available to Customer in Lansweeper's sole discretion; and (iii) Free Trial and Freeware subscriptions.

## 6. CLOUD API

6.1. Subject to Customer being provided with access to the Cloud Platform per clause 5 of these Terms and Customer's full compliance with the Agreement (including timely payment of all applicable Charges to Lansweeper or where applicable, the Reseller), Lansweeper hereby grants Customer a limited, worldwide, revocable, non-transferable, non-sublicensable, non-exclusive right during the Term to access, make calls to and use the Cloud API for developing Applications that may interoperate with the Product.

6.2. To access, make calls to or use the Cloud API, through a specific Application, Customer must obtain a Cloud API Key through the process as presented in the Cloud Platform and further documented in the Documentation. Customer will be fully responsible for keeping its Cloud API Key(s) for each Application safe and secure and will not share such Cloud API Key with any third parties. Customer may replace a Cloud API Key for a specific Application at any time, with a newly generated Cloud API Key, which will irreversibly replace the original Cloud API Key. Customer will not access or otherwise use the Cloud API than through the respective Cloud API Key(s) for each Application.

6.3. Lansweeper may from time to time at its own discretion provide for rate-limitations on the use of the Cloud API, as provided in the API Documentation.

6.4. Customer may use Lansweeper developed Applications provided in Lansweeper's discretion subject to Customer's compliance with these Terms. Customer further may use Applications developed by third parties, whether or not provided through the Cloud Platform or third parties directly, provided that: (i) such use may be dependent on the acceptance of terms provided by such third parties related to the use of such third-party Applications (in which case the present Terms will prevail over the third-party terms in the event of any conflict or inconsistency), (ii) such third-party Application developers may have access to the Customer Content, (iii) Lansweeper disclaims any warranty related to such third-party Applications and their usability, whether or not 'authorized' or 'certified' by Lansweeper, (iv) Lansweeper shall not be liable for any damages Customer may incur related to its use of such third-party Applications. Customer shall not rely on the future availability of any Applications.

6.5. Customer may provide its developed Applications to third parties, whether provided directly to third parties or through the Cloud Platform, subject to Lansweeper's prior approval (as applicable). Lansweeper may disable or revoke Customer's provisioned Applications or revoke any Cloud API Key for any Application when Customer breaches its obligations under these Terms. Customer will be solely liable for the third parties' compliance with the Agreement and the applicable legislation. Customer acknowledges that it may have access to such third parties' Asset data through providing its Applications. Customer will provide and adhere to: (i) relevant terms regulating the use of its Applications by the third parties, and (ii) relevant privacy policies to inform the third parties about which Asset data is used and in what manner.

6.6. Lansweeper hereby grants Customer a royalty-free, non-exclusive, non-transferable license to display the Lansweeper Trademarks only for attribution of Customer's use of the Cloud API and Customer's Applications. Customer acknowledges and agrees that Customer's use of the Lansweeper Trademarks will not create any right, title or interest in or to the Lansweeper Trademarks in Customer's favour and all goodwill associated with it will inure to the benefit of Lansweeper.

## 7. SUPPORT SERVICES

7.1. Except as expressly stated otherwise herein, all subscription plans are eligible for software support according to the following support lines:

- (a) First line support: is made available to Customer via the Documentation (available via the Lansweeper website);
- (b) Second line support: subject to the below-mentioned requirements and exclusions, second line Support Services are provided via support@lansweeper.com (or any other communication medium chosen by Lansweeper) except for Freeware Customers;
- (c) Third line support: subject to the below-mentioned requirements and exclusions third line Support Services are provided by Lansweeper via an online meeting only for (i) Paid Subscriptions if made available under Customer's selected Paid Subscription plan and (ii) Valid Support Request qualifying for the highest severity level as described on Lansweeper's Support Page.

7.2. Lansweeper only provides Support Services in relation to the Product. For the avoidance of doubt, Lansweeper does not provide Support Services in relation to (i) Customer's "custom actions" and "automated software deployment" as defined and described in Lansweeper's Knowledge Base (part of the Documentation), (ii) the Cloud API, and (iii) any Applications. Lansweeper further only provides Support Services to Free Trial Customers who provided a business email address as Billing Contact Email.

7.3. To the extent Support Services are available to the Customer under the Agreement, they will be available during the Support Hours as described on Lansweeper's Support Page.

7.4. Lansweeper will only provide the Support Services for support requests meeting all of the following conditions ("**Valid Support Request**"):

- (a) Customer uses the Product according to the Agreement (including the Documentation);
- (b) Customer has updated the Product to the latest and most current version;
- (c) Customer has not modified the Product contrary to the Agreement, the Documentation or the Product's configuration settings; and
- (d) Lansweeper received the support request in English from valid End-Users who have identified themselves by providing their Order reference number;

7.5. Subject to prior notification to Customer, Lansweeper reserves the right to invoice Customer any fees for Support Services provided by Lansweeper to Customer which, after examination of the support request by Lansweeper within a reasonable period upon provision of the Support Services to Customer, proves to be an Invalid Support Request.

7.6. Upon receipt of a Valid Support Request, Lansweeper shall determine in good faith the severity level of the request in accordance with the severity levels as described on Lansweeper's Support Page. Without prejudice to the foregoing, Customer is allowed to give an indication of the severity level Customer deems applicable to Customer's Valid Support Request, which may be taken into account by Customer when Lansweeper determines the severity level of Customer's Valid Support Request.

7.7. Lansweeper undertakes reasonable efforts to meet the initial response times as described on Lansweeper's Support Page to respond to Valid Support Requests, according to the severity levels as described on Lansweeper's Support Page and as applicable under Customer's Paid Subscription.

7.8. For clarity, support requests related to Beta Releases or coming from Free Trial Customers are handled by Lansweeper, but any initial response times provided for in the Agreement will not apply in that regard.

7.9. The initial response time starts to run, during the Support Hours, as from the moment that Customer receives an automated confirmation of receipt email from Lansweeper. Said automated email will entail: (i) first guidance on how to possibly resolve the issue; and (ii) an overview of the additional information Customer may submit to Lansweeper to facilitate the resolution of Customer's Valid Support Request.

7.10. The initial response to the concerned Valid Support Request will entail, at Lansweeper's discretion: (i) possible solutions which should allow Customer to resolve the issue; and/or (ii) a request for more information, if no possible solutions can be provided based on the information available at that point.

## 8. SERVICE DELIVERY

8.1. All obligations of Lansweeper under the Agreement constitute obligations of means. Lansweeper will use commercially reasonable efforts to provide the Product in material conformity to what has been set out in the Agreement and the Documentation.

8.2. Lansweeper does not guarantee that the Product shall be without Errors and/or any other defects and shall function without interruption. Lansweeper has an obligation of means to repair Errors in the Product within a reasonable time. Lansweeper is entitled to apply problem avoiding restrictions and/or workarounds. Lansweeper does not carry any responsibility for repairing defects in software or other items that are not developed by Lansweeper or not part of the Product.

8.3. Lansweeper has the right to suspend access to the Product for security and maintenance purposes (including to issue updates to the Product).

8.4. In its own full discretion and according to its own timetable, Lansweeper may change the form and nature of the Product, including through the issuing of updates to the Product. Lansweeper reserves the right, when issuing an update to the Product, to remove existing feature or functionality from the Product and Customer has no right to demand those features or functionalities to be supported. Where such removal would have a material impact on Customer's subscription plan to the Product, Lansweeper will inform Customer thereof reasonably in advance but no later than forty-five (45) days prior to implementing the update unless where such notice would be impossible or impractical due in particular but not exclusively to legal or security requirements or performance related issues. In case Customer has reported an Error, Lansweeper can postpone repair until an update is issued. All costs associated with the implementation of updates on Customer's side, will be borne by Customer.

8.5. Lansweeper is not responsible for checking the accuracy and completeness of the (i) Customer Content and (ii) decisions made by Customer on the basis of the use of the Product.

## 9. CUSTOMER'S OBLIGATIONS

9.1. Customer shall be solely responsible for (i) Customer (and its Affiliate's) actions and the actions of Customer's (and its Affiliate's) End Users while using the Product; (ii) any End User's breach of the Agreement or any applicable laws; and (iii) any data, content, or resources that Customer (or its Affiliates) or its End Users create transmit, or display.

9.2. Customer ensures that, to the extent applicable and necessary, all of its (and its Affiliate's) End Users are provided with full information of and comply with the obligations under the Agreement (including but not limited to clause 4 of these Terms). Customer agrees, and, to the extent applicable, agrees to have its End

Users agree: (i) to abide by all laws applicable to the use of the Product, including but not limited to all national and international export laws and regulations that apply to the Product and the restrictions on destinations and end use set forth therein; (ii) not to upload (knowingly or by negligence) or distribute content that contains malware, viruses, malicious files or other harmful code or any other similar software or programs that may access or damage the operation of the Product, the related systems and networks or any other computer or device, including a third party's computer or device; (iii) not to interfere with or disrupt the Product; (iv) not to attempt to gain unauthorized access to the Product; (v) not to work around any technical limitations in the Product; (vi) not to use the Product to provide any type of product to third parties, including or incorporating the Product into another product or service; (vii) not to provide Product credentials or other log-in information to any third party; (viii) not to share with any third party non-public features or content of the Product, inaccurate information about the Product, or vulnerabilities found in the Product; (ix) not to engage in web scraping or data scraping on or related to the Product, including without limitation collection of information through any software that simulates human activity or any bot or web crawler; (x) upload, in part or on full, the machine-readable object code of Lansweeper's software and/or non-public facing Documentation to artificial intelligence based products; or (xi) not to use the Product, even if not prohibited by law, for gambling, prostitution, alcohol, drug, pharmaceutical or healthcare businesses or services. In case of a breach of this clause, Customer will fully assist Lansweeper, at its own cost and expense, in mitigating the effects and restoring incidental losses, without prejudice to Lansweeper's other rights and remedies in accordance with applicable law and/or this Agreement.

9.3. Customer shall duly cooperate with Lansweeper in order to enable Lansweeper to provide the Product according to the Agreement. Customer shall in particular supply Lansweeper with all information and materials required by Lansweeper to enable Lansweeper to provide the Product according to the Agreement.

9.4. Customer shall be responsible for the installation of the Product and acknowledges that Lansweeper has no further obligation with respect to the installation of the Product after delivery of the License Key.

9.5. Access to and use of the Cloud Platform requires the creation of an account, by entering the requested information and choosing a login and a password

(referred to hereinafter as "**Means of Access**"). Customer is responsible for the safeguarding, confidentiality, security and appropriate use of the Means of Access and Customer undertakes to take all steps to prevent any unauthorized third party from gaining knowledge and making use thereof. Customer will notify Lansweeper immediately by email of the loss, theft, breach of confidentiality or any risk of misuse of the Means of Access. Customer undertakes to comply strictly with and to ensure the compliance by Customer's End Users with the appropriate procedures regarding access to the Product. The latter is without prejudice to the fact that Customer is responsible for all actions taken using Means of Access as well as the consequences of such actions, including any unauthorized use of the Cloud Platform or security breach. Lansweeper will not assume any liability in this respect.

9.6. Customer, and not Lansweeper, is responsible for taking all appropriate steps to back-up or otherwise secure or protect the Customer Content. For the avoidance of doubt, Customer acknowledges and agrees that Lansweeper does not endorse any third party websites, resources, and/or content.

9.7. Customer warrants that the Customer Content, and Lansweeper's access to and processing of the Customer Content in the framework of the Agreement, do not violate any laws and/or any third party rights.

9.8. Customer will be solely responsible and liable for the accuracy of data it uploads to the Product, including without limitation Customer Content and any other data uploaded by End-Users.

9.9. By using the Cloud Platform, at Customer's discretion, Customer consents to the transmission of the Customer Content to the Cloud Platform for Lansweeper's use to provide Customer with (i) access to the Cloud Platform, (ii) the Cloud Platform functionalities (iii) Support Services for Valid Support Requests related to the Cloud Platform (subject to Customer's prior consent of that of Customer's End Users).

9.10. Customer, and not Lansweeper, is responsible for obtaining, maintaining and paying for all hardware, software and communications equipment necessary to access and use the Product and comply with the requirements as set out in the Documentation. Customer will thus also be responsible for (i) obtaining the third-party hardware and software licenses and any other systems required to run the Product; and (ii) complying with the applicable license terms of such third-party hardware and software. Lansweeper has no

responsibility for issues caused by third-party hardware or software.

9.11. The Product includes free and open-source software developed by third parties ("**FOSS Components**"), of which a list can be found in the Documentation. Notwithstanding the Agreement which governs Customer's use of the Product, the license terms of the FOSS Components need to be respected by Customer.

9.12. If Customer becomes aware of a vulnerability in the Product, it will not reveal such vulnerability to third parties or the general public. Customer will disclose the discovered vulnerability to Lansweeper by contacting [security@lansweeper.com](mailto:security@lansweeper.com) and include a proof of concept, the list of tools used (including versions), and the output of the tools.

9.13. Lansweeper only supports and maintains the latest version of the Product. It is Customer's obligation to timely implement any update to a new version of the Product, and to maintain any other software and/or hardware to continue their support of the Product. If Customer does not timely update any such update, Lansweeper may no longer be able to provide the Product to Customer, which shall be without prejudice to Customer's payment obligations under the Agreement.

9.14. Customer will not, and will not permit others to: (i) combine or integrate the Cloud API with any software, technology, services or materials that have been black-listed by Lansweeper; (ii) design or permit Applications to disable, override, or otherwise interfere with any Lansweeper implemented communications to End-Users including, without limitation, consent dialogs, End-User settings, alerts and notifications; (iii) remove, obscure, or alter any Lansweeper Terms or any links to or notices of those Terms; (iii) use the Cloud API or Applications to replicate or attempt to replace the user experience of the Product; (iv) seek to conceal Customer's or End-User's identity or the identity of the Applications when connecting with or setting up the Cloud API; (v) use the Cloud API in deviation of any other restrictions imposed by Lansweeper in the API Documentation; (vi) misrepresent the source of the ownership of the Customer Content, the Product and Lansweeper trademarks; or (vii) undertake or permit removal or alteration of any patent numbers, trademarks, (copyright) notices, or other labels of origin related to the Customer Content, the Products and Lansweeper trademarks.

9.15. Customer may choose to use, procure or enable other third party products or services in connection with the Product (including the Cloud Platform and Applications). Customer's use of any third party products or services (and the third party provider's access and use of any of the Customer Content) shall be subject to a separate agreement between Customer and the third party provider. Lansweeper disclaims all liability and responsibility for any third party products or services or for the acts or omissions of any third party providers (including the third party provider's security and privacy practices). Customer is responsible for its decision to allow the third party provider to access and use the Customer Content. Lansweeper is not a legal representative or agent of the third party provider, nor shall the third party provider have the right to create any liability or obligation on the part of Lansweeper.

## **10. SALES THROUGH RESELLERS**

10.1. In case Customer purchases a Paid Subscription for the Product from a Reseller, this section applies and takes priority over any contrary provisions in the Agreement.

10.2. If Customer's current Reseller is no longer authorized to resell the Product, Customer has the obligation to continue purchasing via another Reseller or purchase directly from Lansweeper.

10.3. Lansweeper can suspend or terminate Customer's subscription if Customer fails to pay Reseller within the payment term as determined by Reseller.

10.4. The amount paid or payable by Customer's Reseller to Lansweeper for Customer's use of the Product, will be deemed the Charges paid or payable to Lansweeper for purposes of interpreting the limits set forth in clause 16 of these Terms.

10.5. The following must be established by Customer's Reseller: (i) prior notice terms for cancellation of Customer's Paid Subscription; (ii) delivery of License Key; and (iii) provisions regarding order placement, payment and taxes.

## **11. INTELLECTUAL PROPERTY RIGHTS**

11.1. Lansweeper (and its licensors, where applicable) owns all right, title and interest, including all Intellectual Property Rights in and to the Product.

11.2. The Agreement does not convey any rights of ownership in or related to the Product or the Intellectual Property rights owned by Lansweeper (or its licensors, where applicable) other than the use rights explicitly provided in these Terms. Customer acknowledges that it has no rights whatsoever to access the Product in

source code form. Any trademarks used by Lansweeper or its licensors within or associated with the Product, are trademarks of Lansweeper or third parties, and no right or license is granted to Customer to use them. Customer is not allowed to remove or change any Intellectual Property Rights, including logos and trademarks in the Product and Documentation.

11.3. The Customer (or its licensors in the event applicable) shall be the sole and exclusive owner of all (rights related to the) Customer Content including any modification of such Customer Content.

11.4. During and after the Term, Customer grants to Lansweeper a non-exclusive, worldwide, royalty-free, perpetual right and license to extract and use, adapt, display, process, perform and distribute any Aggregate Data and/or Installation Metadata at Lansweeper's sole discretion, for any purpose, including but not limited to (i) Lansweeper's provision of the Product and granting the Customer access thereto; (ii) verify Customer's compliance with the Agreement; (iii) provide Support Services, where applicable and (iv) improvement, modification and testing of the Product.

11.5. Where Aggregate Data relates to a specific End-User and allows for identification of that End-User, such Aggregate Data shall only be used for internal Lansweeper purposes.

11.6. Customer may choose to submit Feedback to Lansweeper which Lansweeper may, in connection with any of its products or services, freely use, copy, disclose, license, distribute and exploit in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise. Nothing in this Agreement limits Lansweeper's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

## 12. CONFIDENTIALITY

12.1. Unless otherwise provided in the Agreement, the receiving Party shall keep the Confidential Information of the disclosing Party confidential and shall in particular (i) use the disclosing Party's Confidential Information only for the purposes of fulfilling its obligations under the Agreement; (ii) protect the confidentiality of the Confidential Information of the disclosing Party by using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind, but in no event less than reasonable care; (iii) not disclose the disclosing Party's Confidential Information to any other person except as expressly set out in the Agreement or without obtaining the disclosing Party's

prior written consent; and (iv) immediately notify the disclosing Party if it suspects or becomes aware of any unauthorised access, copying use or disclosure in any form or any of the disclosing Party's Confidential Information.

12.2. Notwithstanding clause 12.1, the receiving Party may disclose Confidential Information of the disclosing Party to its employees or third parties who are directly involved in and need to know such Confidential Information for the purpose of the provision or use of the Product. The receiving Party has or agrees to put in place confidentiality terms no less onerous than those set out in the Agreement. The disclosing Party assumes full responsibility for the acts or omissions of such person or entity.

12.3. Notwithstanding clause 12.1, the receiving Party may also disclose Confidential Information to individuals who are subject to professional or statutory obligations of confidentiality for the purpose of the Agreement.

12.4. Neither Party shall be in breach of clause 12.1 where it is required to disclose the other Party's Confidential Information by law or by a court or regulatory authority of competent jurisdiction. Where a Party is so required to make such a disclosure, it shall, where practicable and/or permissible, consult with the disclosing Party as to the terms, content or timing of the disclosure, and shall use reasonable endeavours to limit the scope of the required disclosure.

12.5. This clause 12 shall survive five (5) years after the termination or expiry of the Agreement.

## 13. PERSONAL DATA

13.1. The Parties agree that to the extent Applicable Data Protection Legislation applies to personal data processed under the Agreement they will comply with their obligations with respect to the processing of personal data as set out in the DPA.

13.2. Lansweeper may process personal data in connection with (the execution of) these Terms. Further, Lansweeper continuously strives to improve and personalise its Product and in order to do so, Lansweeper processes End-User Product usage data by using analytics techniques. Such processing activities are carried out in accordance with Lansweeper's Privacy Policy and where applicable, relevant cookie policy.

## 14. WARRANTIES

14.1. Other than as provided in the Agreement, the Product (including the Lansweeper Data) are provided "as is" and Lansweeper makes no representations or warranties, express or implied, of any kind whatsoever

(including, without limitation, satisfactory quality, fitness for a particular purpose, accuracy, correctness, security, completeness, non-infringing nature, title, custom or usage in trade). Lansweeper further makes no representations or warranties regarding, without limitation, the security, integrity, efficiency or capabilities of the Product. The Product is not personalized or customized to fit Customer's particular needs and Lansweeper may not be able to respond to or resolve all of Customer's issues, and makes no promises, guarantees or assurances to that extent. There is no warranty that the Product will be free of Error, that access will be continuous or uninterrupted, that any information provided or used with the Product will be secure, accurate, complete or timely, or that any content will be preserved or maintained without loss. Lansweeper's exclusive remedy for damage or loss arising from breach of the warranty as set out in this clause shall be, at Lansweeper's option, (i) the replacement of the Product (or part thereof) concerned at no cost to Customer; (ii) a workaround and/or update to address the Error in a manner that provides Customer with reasonably equivalent functionality as provided in the Documentation, at no cost to Customer or (iii) in the event Lansweeper is unable to replace or correct such failure by exercising commercially reasonable efforts within a reasonable period of time, Lansweeper may terminate the Agreement and Customer's sole additional remedy shall be for Lansweeper to provide a *pro-rata* refund of any pre-paid Charges for periods after the effective date of termination.

14.2. The Product does not qualify as a firewall, antivirus, VPN, 'password manager', a SCAP compliant tool, or other product that may be used to enhance Customer's information security. Customer is solely responsible for maintaining its information security systems, to prevent unauthorized access to its network, computers, and applications.

## 15. INDEMNITIES

15.1. Lansweeper shall indemnify, defend and hold Customer harmless in accordance with the provisions of this clause 15 from and against any third-party claim asserted against it that the Product (when used in accordance with the Agreement) directly infringes or misappropriates the Intellectual Property Rights of such claimant (an "IP Claim"). Lansweeper will pay those costs and damages finally awarded or settled (upon terms acceptable to Lansweeper) against Customer based on such IP Claim, within the limits set forth in clause 16 and provided that: (i) Customer promptly notifies

Lansweeper in writing of such IP Claim; (ii) Lansweeper has sole control of the IP Claim; (iii) Customer reasonably cooperates in all respects in the defence of each such IP Claim and all related settlement negotiations and Customer does not make any admission or disclosure or otherwise take any action prejudicial to Lansweeper; and (iv) such IP Claim does not relate to any act by Customer, including (without limitation) a change by Customer to the Product, a non-compliance with the Agreement or Lansweeper's instructions (including the Documentation), a combination of the Product (with or the addition of the Product to products or other software which has not been developed and supplied by Lansweeper, or failure to install an update where installation would have removed the cause of the infringement, or any breach of the Agreement by Customer.

15.2. If a final judgment is entered against Customer on any such IP Claim, or if in Lansweeper's reasonable opinion Customer is likely to become subject to a successful IP Claim, then Customer shall permit Lansweeper, at Lansweeper's option and expense, either: (i) to procure the right to continue using the Product; (ii) to replace or modify the same so that it becomes non-infringing, with functionality essentially being equal; or (iii) to terminate the Agreement and provide a *pro-rata* refund of any pre-paid Charges for periods after the effective date of termination of the Agreement.

15.3. The foregoing provisions of this clause 15 set forth the entire and exclusive liability of Lansweeper with respect to any IP Claim.

15.4. Without prejudice to Lansweeper's other rights and remedies under applicable law and the Agreement, Customer will indemnify, defend and hold harmless Lansweeper from any claims, demands, actions and losses arising from or created by (i) any of Customer's acts or omissions and/or Customer's End Users' acts or omissions related to the access or use of the Product; and (ii) any Applications developed by Customer (and third parties' use thereof).

## 16. RISK ALLOCATION

16.1. Except in case of Lansweeper's fraud or wilful default, Lansweeper is only liable for a breach of its obligations under the Agreement if Customer notifies Lansweeper in writing through a notice of default with observance of a reasonable period for remedy of at least ten (10) Business Days calculated as from the breach and Lansweeper fails to remedy the breach

within a reasonable period. The notice must contain a complete and detailed description of the breach in order to allow Lansweeper to act adequately.

16.2. Without prejudice to clause 16.1, Lansweeper's liability for a failure to comply with an obligation under the Agreement which is imputable to Lansweeper, is limited to compensation of proven direct losses in accordance with the following principles, which apply cumulatively: (i) the cumulative total aggregate liability of Lansweeper per Contract Year is limited to the greater of (a) the Charges paid by Customer in such Contract Year or (b) one (1) hundred euros (EUR 100); and (ii) without prejudice to clause 16.1, Lansweeper is not liable for any indirect damage and/or consequential damage, such as but not limited to loss of profit, loss of income, loss of revenue, loss of anticipated savings, loss of opportunity, loss of customers, claims of third parties, damage as a result of loss and/or corruption of data, loss of goodwill and reputational damage.

16.3. Without prejudice to clause 16.1, Lansweeper shall have no liability or responsibility for problems in the Product caused by misuse, misuse of Means of Access, the alteration or modification of the Product by Customer, for problems arising out of the malfunction of Customer's (internal or external) hardware, firewalls, network services, Errors caused by third party software or hardware or other infrastructure, or the configuration of such items, or for any (management) decisions that Customer or the End Users takes on the basis of the Product or for the consequences of such decisions.

16.4. Lansweeper shall not be liable due to delay or failure to comply with its obligations under the Agreement, if this delay or failure was the result of Force Majeure. In such a case, Lansweeper may suspend or terminate Customer's access to the Product by giving Customer a prior written reasonable notice to the extent possible. In such case, Charges for Product features delivered until the termination date will be due on a pro rata basis.

## **17. TERM, SUSPENSION AND TERMINATION OF THE PRODUCT SUBSCRIPTION**

17.1. Free Trial subscriptions are entered into for a period defined in Lansweeper's sole discretion. The Free Trial will automatically expire and not be renewed upon expiry of that period, in which case Customer's Free Trial subscription shall revert to Freeware.

17.2. Freeware is offered to Customer for an undetermined period and can be terminated by either Party by notifying the other Party at any time and for

any reason without liability to Customer and Lansweeper.

17.3. Paid Subscriptions are subscribed to for an initial term of one (1) Contract Year as of the delivery of the License Key to the Billing Contact Email, which shall be automatically extended for additional Contract Years ("**Renewal Period**") unless a Party has notified the other Party by e-mail at least thirty (30) days before the end of the then-current Contract Year ("**Term**") that it does not wish to extend the subscription to the Product, in which case Customer's Paid Subscription shall revert to Freeware. For each subsequent Renewal Period, a new License Key will be delivered to Customer, starting from the Renewal Period start date.

17.4. Without prejudice to Lansweeper's other rights and remedies under applicable law and under the Agreement, in the event of a breach by Customer of the Agreement, Lansweeper shall have the right, without compensation being due, to (i) immediately suspend without prior notice a part or all of the Customer's use and access to the Product; (ii) terminate the Agreement without court intervention in case such breach has not been cured within ten (10) Business Days following Lansweeper's notice; and/or (iii) subject to a termination notice immediately terminate the Agreement in case of an irremediable breach. Without excluding any other events being considered a breach of the Agreement, the Parties agree that the following examples of events shall be considered as an irremediable material breach by Customer: (i) any form of misuse of the Product; (ii) any non-compliance with limitations on the use of the Product as stated in the Agreement or under applicable laws; (iii) any infringements on Lansweeper's Intellectual Property Rights; (iv) Customer has become insolvent or declared bankrupt, has been dissolved or entered into liquidation, or has filed a voluntary petition for proceedings in temporary relief (or composition) of creditors, provided, however, in the latter case, that Customer has not confirmed within thirty (30) days following a request by Lansweeper to that effect, that it will continue the Agreement and honor all of its obligations hereunder; or (v) Customer's subscription is restricted, suspended or terminated (whether pursuant to applicable law or core dependencies on third parties) and/or (vi) any non-compliance with Customer's payment obligations.

17.5. Subject to a notice period of forty-five (45) days Lansweeper has the right to terminate or suspend, at its sole option, the Agreement without termination compensation in the event Lansweeper ceases or is

unable to offer the Product or the Customer's subscription thereto.

17.6. In the event of expiry or termination of the Agreement, the right of use granted to Customer (and its Affiliates) in respect of the Product hereunder shall immediately cease and Customer shall, upon the effective date of such expiry or termination: (i) cease using the Product; (ii) at Lansweeper's discretion, immediately return to Lansweeper or destroy all copies of the Documentation, the Product features and Confidential Information in Customer's possession, custody or control; and (iii) immediately pay any Charges outstanding at the time of termination. The Customer's License Key will be disabled as of the expiry date of the current Term or termination of this Agreement. Where the Agreement, in case of a Paid Subscription, is terminated under clause 17.5 of these Terms, Customer is entitled to receive a pro-rated refund based on the unused portion of Customer's Paid Subscription, unless such termination happened with a prior notice of forty-five (45) days prior to the expiry date of Customer's Paid Subscription Term.

17.7. Lansweeper shall delete the Customer Content that is stored within the Cloud Platform within sixty (60) days following termination. It is Customer's obligation to export its Customer Content before termination, by making use of the export functionalities available in the Cloud Platform during Customers subscription plan Term.

## **18. AUDIT**

18.1. Lansweeper and/or its appointed third party auditor has the right to audit Customer's compliance with the Agreement. In connection with such verification, Lansweeper shall have access to all requested documents, equipment, information and personnel which are reasonably required in order to verify Customer's compliance.

18.2. Customer shall reasonably maintain the data which provides details on Customer's installation and use of the Product and this for a period of at least one (1) year following Customer's cessation of the use of the Product.

18.3. Without prejudice to Lansweeper's other rights and remedies in accordance with applicable law and/or the Agreement, if such verification or audit would reveal a non-compliance, Lansweeper has the right to invoice Customer for the costs of the audit as well as the (prior) unlicensed use of the Product during the Term of Customer's subscription.

## **19. MISCELLANEOUS**

19.1. Lansweeper reserves the right to subcontract the execution of any part of the Agreement to third parties, without prior notice or information.

19.2. Customer may only transfer its rights and obligations under the Agreement to another entity upon prior written agreement from Lansweeper. Lansweeper is entitled to transfer its rights and obligations under the Agreement to third parties subject to informing Customer.

19.3. Lansweeper may provide complementary third-party products under Customer's subscription plan. Such complementary products may be the subject matter of a separate license agreement between Customer and the third party, detailing the license conditions subject to which the complementary product is licensed.

19.4. If a Party fails to insist that the other Party performs any of its obligations under the Agreement, or if a Party does not enforce its rights against the other Party, or if a Party delays in doing so, that will not mean that this Party has waived its rights against the other Party and will not mean that this Party does not have to comply with those obligations. If a Party does waive a default by the other Party, this Party will only do so in writing, and that will not mean that this Party will automatically waive any other later default by the other Party.

19.5. If the Agreement is concluded with Lansweeper Inc., notices are to be sent by registered mail to 11044 Research Blvd, Suite 500, Austin, TX 78759 or by e-mail to [legal@lansweeper.com](mailto:legal@lansweeper.com) and if the Agreement is concluded with Lansweeper NV, notices are to be sent by registered mail to 9820 Merelbeke, Fraterstraat 212, Belgium or by email to [legal@lansweeper.com](mailto:legal@lansweeper.com). Notices by e-mail will be deemed received after Lansweeper's confirmation of receipt by Lansweeper via email. All communications and notices to be made or given pursuant to the Agreement shall be in the English language.

19.6. The provision of the Product by Lansweeper shall be governed exclusively by the Agreement and the data processing agreement. For the avoidance of doubt, the application of Customer's own terms and conditions is expressly rejected.

19.7. Termination or expiry of the Agreement, however caused, shall not affect any provision of the Agreement which is expressly or by implication intended to come into or remain in effect on or after termination or expiry

including the following clauses: 11.1, 11.4, 11.6, 12, 15.3, 16, 17.6, 18, 19.7, 19.8 and 19.9.

19.8. If the Agreement is concluded with Lansweeper Inc, the Agreement is exclusively governed by the laws of Texas, USA, without regard to its conflicts of laws rules or principles. If the Agreement is concluded with Lansweeper NV, the Agreement is exclusively governed by Belgian law, without regard to its conflicts of laws rules or principles.

19.9. In the event of any dispute, Customer agrees to first try to resolve the dispute informally with Lansweeper. In the event of failure to resolve a dispute: (i) if the Agreement is concluded with Lansweeper Inc., the courts of the State of Texas, Williamson County are competent; (ii) if the Agreement is concluded with Lansweeper NV, the courts of Lansweeper NV's registered seat are competent. The Parties agree that the UN Convention on Contracts for the International Sale of Goods (Vienna, 1980) shall not apply to the Agreement or to any dispute or transaction arising out of the Agreement. The Parties irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

19.10. These Terms are in English language. Other language versions, if provided, shall be for Customer's convenience only and shall not be binding. In case of conflict between any translation of these Terms and the English version of these Terms, the latter shall prevail.

19.11. Except where explicitly provided otherwise herein, Lansweeper may update or modify the Agreement from time to time, for specific reasons, including but not limited to (i) applicable law; (ii) changes to the Product; (iii) technical reasons; (iv) operational requirements; or (v) changes that are advantageous to Customer. If a revision meaningfully reduces Customer's rights, Lansweeper will use reasonable efforts to notify Customer (by, for example sending an email to the Customer, posting on Lansweeper's blog or in the Product itself). Customer must notify Lansweeper within fifteen (15) days of Lansweeper's notice of the modifications that Customer does not agree with such changes, and Lansweeper (at Lansweeper's option and as Customer's exclusive remedy) may either: (i) permit Customer to continue under the prior version of the Agreement until Customer's next Paid Subscription (after which the modified Agreement will apply) or (ii) allow Customer to terminate the Agreement and receive a pro-rated

refund based on the unused portion of the Term of Customer's subscription.

19.12. Lansweeper may identify Customer as Lansweeper user in Lansweeper's promotional materials. Customer may at any time request via [legal@lansweeper.com](mailto:legal@lansweeper.com) that Lansweeper stops doing so.

19.13. If any provision of the Agreement is or becomes illegal, invalid or unenforceable, in any respect it shall not affect or impair the legality, validity or enforceability of any other provision of the Agreement; and if such provision would be legal, valid or enforceable to the extent some part of it were deleted, such provision shall apply with the minimum modifications necessary to make it legal, valid or enforceable.