

## CUSTOMER AGREEMENT

This Customer Agreement (the “**Agreement**”) governs the access to and use of the Services to be provided or made available by Antimetal Inc. (“**Antimetal**”) to you or the entity you represent (“**Customer**”). By clicking “I agree,” completing the registration progress, and/or entering into an Order Form with Antimetal, Customer and the individual submitting the Order Form or accepting this Agreement on Customer’s behalf represent that: (i) Customer agrees to be bound by this Agreement; and (ii) such individual has the authority to enter into this Agreement on behalf of Customer, and to bind Customer to this Agreement. If Customer does not agree to be bound by this Agreement, Customer may not access and use the Services.

**1. DEFINITIONS.** Capitalized terms will have the meanings set forth in this Section 1, or in the section where they are first used.

**1.1. “Access Protocols”** means the passwords, access codes, technical specifications, connectivity standards or protocols, or other relevant procedures, as may be necessary to allow Customer or any Authorized Users to access the Antimetal Platform.

**1.2. “Antimetal Platform”** means the Antimetal software-as-a-service platform designed to help Customer analyse its usage of its AWS Resource(s) to identify potential cost saving measures thereto.

**1.3. “Authorized User”** means an employee or independent contractor engaged by Customer who is authorized to access the Antimetal Platform pursuant to Customer’s rights under this Agreement.

**1.4. “AWS Resource”** means the Customer’s AWS service account(s), savings plan(s) and environment(s).

**1.5. “Cost Reduction”** means the net cost reduction in Customer’s aggregate costs associated with its AWS Resource(s) resulting from the adoption, integration, implementation and/or placing into effect of an Optimization.

**1.6. “Customer Data”** means any data and information provided or submitted by, or on behalf of, Customer or its Authorized Users for use with the Services, including any such data and information residing on its AWS Resource(s). For the avoidance of doubt, Customer Data does not include Usage Data.

**1.7. “Documentation”** means the technical materials provided by Antimetal to Customer in hard copy or electronic form describing the use and operation of the Antimetal Platform.

**1.8. “Error”** means a reproducible failure of the Antimetal Platform to substantially conform to the Documentation.

**1.9. “Error Corrections”** means bug fixes or workarounds intended to correct Errors in the Antimetal Platform.

**1.10. “Intellectual Property Rights”** means any and all now known or hereafter existing (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights; (c) trade secret rights; (d) patents, patent rights, and industrial property rights; (e) layout design rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (f) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world.

**1.11. “Optimization”** means any suggestion, change and/or recommendation provided by Antimetal for purposes of optimizing Customer’s AWS Resource(s) resulting in a Cost Reduction if adopted, integrated, implemented and/or placed into effect by Customer.

**1.12. “Order Form”** means an order form that is signed by both parties and references this Agreement.

**1.13. “Professional Services”** means professional services provided by Antimetal to Customer as described in any Order Form (as may be further elaborated in any statement of work), including services relating to implementation.

**1.14. "Services"** means any services provided by Antimetal to Customer under this Agreement as set forth in an Order Form, including, but not limited to, provision of the Antimetal Platform and Professional Services.

**1.15. "Supported Environment"** means the minimum hardware, software, and connectivity configuration specified from time to time by Antimetal as required for use of the Antimetal Platform. The current requirements are described in the Documentation.

**1.16. "Usage Data"** means any data collected by or on behalf of Antimetal relating to usage of the Antimetal Platform and its AWS Resource(s), including e.g., device and connection information; crash and error information; browser and operating system information; clickstream data; user conduct, engagement, intent, and interaction information; traffic logs; haptic, and positional data; and monitoring information.

## **2. PROVISION OF SERVICES**

**2.1. Access.** Antimetal will provide Customer with access to the Antimetal Platform. On or as soon as reasonably practicable after the Effective Date Antimetal will provide to Customer the necessary passwords, security protocols and policies and network links or connections and Access Protocols to allow Customer and its Authorized Users to access the Antimetal Platform in accordance with the Access Protocols, and subject to the restrictions imposed, depending on the type of Authorized User, if any (as described on the applicable Order Form). Customer will use commercially reasonable efforts to prevent unauthorized access to, or use of, the Antimetal Platform, and notify Antimetal promptly of any such unauthorized use known to Customer.

**2.2. Support Services.** Subject to the terms and conditions of this Agreement, Antimetal will exercise commercially reasonable efforts to (a) provide support for the use of the Antimetal Platform to Customer, and (b) keep the Antimetal Platform operational and available to Customer, in each case in accordance with its standard policies and procedures.

**2.3. Hosting.** Antimetal will, at its own expense, provide for the hosting of the Antimetal Platform, provided that nothing herein will be construed to require Antimetal to provide, or bear any responsibility with respect to, any telecommunications or computer network hardware required by Customer or any Authorized User to access the Antimetal Platform from the Internet.

## **3. INTELLECTUAL PROPERTY**

**3.1. Grant of Rights.** Subject to the terms and conditions of this Agreement, Antimetal grants to Customer a non-exclusive, non-transferable (except as permitted under Section 12.5) right during the Term (as defined below), for Customer's internal business purposes and in accordance with the limitations (if any) set forth in the Order Form, (a) to access and use the Antimetal Platform within the Supported Environment, and in accordance with the Documentation; and (b) to use and reproduce a reasonable number of copies of the Documentation solely to support Customer's use of the Antimetal Platform. Customer may permit any Authorized Users to access and use the features and functions of the Antimetal Platform as contemplated by this Agreement.

**3.2. Restrictions.** Customer will not, and will not permit any Authorized User or other party to: (a) allow any third party to access the Antimetal Platform, or Documentation, except as expressly allowed herein; (b) modify, adapt, alter or translate the Antimetal Platform, or Documentation; (c) sublicense, lease, sell, resell, rent, loan, distribute, transfer or otherwise allow the use of the Antimetal Platform or Documentation for the benefit of any unauthorized third party; (d) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Antimetal Platform, except as permitted by law; (e) interfere in any manner with the operation of the Antimetal Platform or the hardware and network used to operate the Antimetal Platform; (f) modify, copy or make derivative works based on any part of the Antimetal Platform or Documentation; (g) access or use the Antimetal Platform to build a similar or competitive product or service; (h) attempt to access the Antimetal Platform through any unapproved interface; or (i) otherwise use the Antimetal Platform, or Documentation in any manner that exceeds the scope of use permitted under Section 3.1 or in a manner inconsistent with applicable law, the Documentation, or this Agreement. Customer acknowledges and agrees that the Antimetal Platform will not be used, and are not licensed for use, in connection with any of Customer's time-critical or mission-critical functions.

**3.3. Ownership.** The Antimetal Platform and Documentation, all Usage Data and all worldwide Intellectual Property Rights in each of the foregoing, are the exclusive property of Antimetal and its suppliers. All rights in and to the Antimetal Platform and Documentation not expressly granted to Customer in this Agreement are reserved by Antimetal and its suppliers. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Customer regarding the Antimetal Platform, Documentation, or any part thereof.

**3.4. Open Source Software.** Certain items of software may be provided to Customer with the Antimetal Platform and are subject to “open source” or “free software” licenses (“**Open Source Software**”). Some of the Open Source Software is owned by third parties. The Open Source Software is not subject to the terms and conditions of Sections 3.1 or 10. Instead, each item of Open Source Software is licensed under the terms of the end-user license that accompanies such Open Source Software. Nothing in this Agreement limits Customer’s rights under, or grants Customer rights that supersede, the terms and conditions of any applicable end user license for the Open Source Software. If required by any license for particular Open Source Software, Antimetal makes such Open Source Software, and Antimetal’s modifications to that Open Source Software, available by written request at the notice address specified below.

**3.5. Feedback.** Customer hereby grants to Antimetal a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including Authorized Users, relating to the Services. Antimetal will not identify Customer as the source of any such feedback.

#### **4. FEES AND EXPENSES; PAYMENTS**

**4.1. Fees.** In consideration for the access rights granted to Customer and the Services performed by Antimetal under this Agreement, Customer will pay to Antimetal ten percent (10%) of the Cost Reduction resulting from any Optimization that is adopted, integrated, implemented and/or placed in effect by Customer (the “**Fees**”). Except as otherwise provided in the Order Form, all Fees are billed at the end of the month due and payable within thirty (30) days of the date of the invoice. Company reserves the right to modify the Fees payable hereunder upon written notice to Customer at least ninety (90) days prior to the end of the then-current term. Company will be reimbursed only for expenses that are expressly provided for in an Order Form or SOW or that have been approved in advance in writing by Customer, provided Company has furnished such documentation for authorized expenses as Client may reasonably request. Company reserves the right (in addition to any other rights or remedies Company may have) to discontinue the Company Solution and suspend all Authorized Users’ and Customer’s access to the Services if any Fees are more than thirty (30) days overdue until such amounts are paid in full. Customer will maintain complete, accurate and up-to-date Customer billing and contact information at all times.

**4.2. Third Party Provider.** Antimetal uses Stripe, Inc. (“**Stripe**”) as the third party service provider for payment services (e.g., card acceptance and related services). By selecting a credit card as the payment method for paying the Fees, Customer agrees to be bound by Stripe’s Privacy Policy: <https://stripe.com/privacy> and hereby consents and authorizes Antimetal to share any information and payment instructions provided herein with Stripe to the minimum extent required to complete Customer’s transactions hereunder.

**4.3. Taxes.** The Fees are exclusive of all applicable sales, use, value-added and other taxes, and all applicable duties, tariffs, assessments, export and import fees, or other similar charges, and Customer will be responsible for payment of all such taxes (other than taxes based on Antimetal’s income), fees, duties, and charges and any related penalties and interest, arising from the payment of the fees, the provision of the Services, or the license of the Antimetal Platform to Customer. Customer will make all payments of Fees to Antimetal free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments of Fees to Antimetal will be Customer’s sole responsibility, and Customer will provide Antimetal with official receipts issued by the appropriate taxing authority, or such other evidence as the Antimetal may reasonably request, to establish that such taxes have been paid.

**4.4. Interest.** Intentionally omitted.

**4.5. Credits.** Customer shall be entitled to the credits issued by Antimetal to Customer in connection with any unused AWS Reserved Instance capacity and/or unused AWS Savings Plans by Customer at any point during an applicable month (“**Credits**”), as set forth in Exhibit A.

#### **5. CUSTOMER DATA AND RESPONSIBILITIES**

**5.1. License; Ownership.** Customer is solely responsible for any and all obligations with respect to the accuracy, quality and legality of Customer Data. Customer will obtain all third party licenses, consents and permissions needed for Antimetal to use the Customer Data to provide the Services. Without limiting the foregoing, Customer will be solely responsible for obtaining from third parties all necessary rights for Antimetal to use the Customer Data submitted by or on behalf of Clients for the purposes set forth in this Agreement. Customer grants Antimetal a non-exclusive, worldwide, royalty-free and fully paid license to (a) during the Term, use distribute, reproduce, modify, adapt, perform, and display Customer Data as necessary for purposes of providing, enhancing, improving, supporting and maintaining the Services for Customer, and (b) in perpetuity, use and otherwise exploit in any manner any Customer Data that does not contain personally identifiable information solely for the purpose of operating, improve, and enhancing the Services and any new services Antimetal creates. The Customer Data, and all worldwide Intellectual Property Rights in it, is the exclusive property of Customer. All rights in and to the Customer Data not expressly granted to Antimetal in this Agreement are reserved by Customer.

**5.2. Customer Warranty.** Customer represents and warrants that any Customer Data will not (a) infringe any copyright, trademark, or patent; (b) misappropriate any trade secret; (c) be deceptive, defamatory, obscene, pornographic or unlawful; (d) contain any viruses, worms or other malicious computer programming codes intended to damage Antimetal's system or data; and (e) otherwise violate the rights of a third party. Antimetal is not obligated to back up any Customer Data; the Customer is solely responsible for creating backup copies of any Customer Data at Customer's sole cost and expense. Customer agrees that any use of the Antimetal Platform contrary to or in violation of the representations and warranties of Customer in this Section 5.2 constitutes unauthorized and improper use of the Antimetal Platform.

**5.3. Customer Responsibility for Data and Security.** Customer and its Authorized Users will have access to the Customer Data and will be responsible for all changes to and/or deletions of Customer Data and the security of all passwords and other Access Protocols required in order to access the Antimetal Platform. Customer will have the ability to export Customer Data out of the Antimetal Platform and is encouraged to make its own back-ups of the Customer Data. Customer will have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data.

**6. PROFESSIONAL SERVICES.** Where the parties have agreed to Antimetal's provision of Professional Services, the details of such Professional Services will be set out in an Order Form or a mutually executed statement of work ("**SOW**"). The Order Form or SOW, as applicable, will include: (a) a description of the Professional Services; (b) the schedule for the performance of the Professional Services; and (c) the Fees applicable for the performance of the Professional Services. The Fees payable for any Professional Services hereunder shall not be calculated and applied toward the Minimum Monthly Amount. Each Order Form or SOW, as applicable, will incorporate the terms and conditions of this Agreement. To the extent that a conflict arises between the terms and conditions of an Order Form or SOW and the terms of this Agreement, the terms and conditions of this Agreement will govern, except to the extent that the Order Form or SOW, as applicable, expressly states that it supersedes specific language in the Agreement.

## **7. WARRANTIES AND DISCLAIMERS**

**7.1. Limited Warranty.** Antimetal represents and warrants that it will provide the Services and perform its other obligations under this Agreement in a professional and workmanlike manner substantially consistent with general industry standards. Provided that Customer notifies Antimetal in writing of the breach within thirty (30) days following performance of the defective Services, specifying the breach in reasonable detail, Antimetal will, as Customer's sole and exclusive remedy, for any breach of the foregoing, re-perform the Services which gave rise to the breach or, at Antimetal's option, refund the fees paid by Customer for the Services which gave rise to the breach. Antimetal further warrants to Customer that the Antimetal Platform will operate free from Errors during the Term, provided that such warranty will not apply to failures to conform to the Documentation to the extent such failures arise, in whole or in part, from (a) any use of the Antimetal Platform not in accordance with this Agreement or as specified in the Documentation; (b) any use of the Antimetal Platform in combination with other products, equipment, software or data not supplied by Antimetal; or (c) any modification of the Antimetal Platform by any person other than Antimetal or its authorized agents. Provided that Customer notifies Antimetal in writing of any breach of the foregoing warranty during the Term, Antimetal will, as Customer's sole and exclusive remedy, provide the support described in Section 2.2.

**7.2. Disclaimer.** THE LIMITED WARRANTY SET FORTH IN SECTION 7.1 IS MADE FOR THE BENEFIT OF CUSTOMER ONLY. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 7.1, AND TO

THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES, AND DOCUMENTATION ARE PROVIDED "AS IS," AND ANTIMETAL MAKES NO (AND HEREBY DISCLAIMS ALL) OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, COURSE OF DEALING, TRADE USAGE OR PRACTICE, SYSTEM INTEGRATION, DATA ACCURACY, MERCHANTABILITY, TITLE, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. ANTIMETAL DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF THE ANTIMETAL PLATFORM WILL BE UNINTERRUPTED OR ERROR-FREE.

## 8. LIMITATION OF LIABILITY

**8.1. Types of Damages.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, ANY FAILURE OF DELIVERY, BUSINESS INTERRUPTION, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION UPON DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

**8.2. Amount of Damages.** THE MAXIMUM LIABILITY OF EITHER PARTY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT WILL NOT EXCEED THE FEES PAID BY CUSTOMER TO ANTIMETAL DURING THE TWELVE (12) MONTHS PRECEDING THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. IN NO EVENT WILL ANTIMETAL'S SUPPLIERS HAVE ANY LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT. NOTHING IN THIS AGREEMENT WILL LIMIT OR EXCLUDE EITHER PARTY'S LIABILITY FOR GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF A PARTY OR ITS EMPLOYEES OR AGENTS OR FOR DEATH OR PERSONAL INJURY.

**8.3. Basis of the Bargain.** The parties agree that the limitations of liability set forth in this Section 8 will survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy. The parties acknowledge that the prices have been set and the Agreement entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

## 9. CONFIDENTIALITY

**9.1. Confidential Information.** "Confidential Information" means any nonpublic information of a party (the "Disclosing Party"), whether disclosed orally or in written or digital media, that is identified as "confidential" or with a similar legend at the time of such disclosure or that the receiving party (the "Receiving Party") knows or should have known is the confidential or proprietary information of the Disclosing Party. The Services, Documentation, and all enhancements and improvements thereto will be considered Confidential Information of Antimetal.

**9.2. Protection of Confidential Information.** The Receiving Party agrees that it will not use or disclose to any third party any Confidential Information of the Disclosing Party, except as expressly permitted under this Agreement. The Receiving Party will limit access to the Confidential Information to Authorized Users (with respect to Customer) or to those employees who have a need to know, who have confidentiality obligations no less restrictive than those set forth herein, and who have been informed of the confidential nature of such information (with respect to Antimetal). In addition, the Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At the Disclosing Party's request or upon termination or expiration of this Agreement, the Receiving Party will return to the Disclosing Party or destroy (or permanently erase in the case of electronic files) all copies of the Confidential Information that the Receiving Party does not have a continuing right to use under this Agreement, and the Receiving Party will, upon request, certify to the Disclosing Party its compliance with this sentence.

**9.3. Exceptions.** The confidentiality obligations set forth in Section 9.2 will not apply to any information that (a) is at the time of disclosure or becomes generally available to the public through no fault of the Receiving Party; (b) is lawfully provided to the Receiving Party by a third party free of any confidentiality duties or obligations; (c) was already known to the Receiving Party at the time of disclosure free of any confidentiality duties or obligations; or (d) the Receiving Party can demonstrate, by clear and convincing evidence, was independently developed by employees and contractors of the Receiving Party who had no access to the Confidential Information. In addition, the Receiving Party may disclose Confidential Information to the extent that such disclosure is necessary for the Receiving Party to enforce its rights under this Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that (to the extent legally permissible) the Receiving Party promptly notifies the Disclosing Party in writing of such required disclosure and cooperates with the Disclosing Party if the Disclosing Party seeks an appropriate protective order.

## **10. INDEMNIFICATION**

**10.1. By Antimetal.** Antimetal will defend at its expense any suit brought against Customer, and will pay any settlement Antimetal makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim by any third party alleging that the Antimetal Platform infringes such third party's patents, copyrights or trade secret rights under applicable laws of any jurisdiction within the United States of America. If any portion of the Antimetal Platform becomes, or in Antimetal's opinion is likely to become, the subject of a claim of infringement, Antimetal may, at Antimetal's option: (a) procure for Customer the right to continue using the Antimetal Platform; (b) replace the Antimetal Platform with non-infringing software or services which do not materially impair the functionality of the Antimetal Platform; (c) modify the Antimetal Platform so that it becomes non-infringing; or (d) terminate this Agreement and refund any unused prepaid Fees for the remainder of the term then in effect, and upon such termination, Customer will immediately cease all use of the Antimetal Platform and Documentation. Notwithstanding the foregoing, Antimetal will have no obligation under this Section 10.1 or otherwise with respect to any infringement claim based upon (i) any use of the Antimetal Platform not in accordance with this Agreement or as specified in the Documentation; (ii) any use of the Antimetal Platform in combination with other products, equipment, software or data not supplied by Antimetal; or (iii) any modification of the Antimetal Platform by any person other than Antimetal or its authorized agents (collectively, the **"Exclusions"** and each, an **"Exclusion"**). This Section 10.1 states the sole and exclusive remedy of Customer and the entire liability of Antimetal, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for infringement claims and actions.

**10.2. By Customer.** Customer will defend at its expense any suit brought against Antimetal, and will pay any settlement Customer makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim arising out of or relating to (a) an Exclusion, or (b) Customer's breach or alleged breach of Sections 5.2. This Section 10.2 states the sole and exclusive remedy of Antimetal and the entire liability of Customer, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for the claims and actions described herein.

**10.3. Procedure.** The indemnifying party's obligations as set forth above are expressly conditioned upon each of the foregoing: (a) the indemnified party will promptly notify the indemnifying party in writing of any threatened or actual claim or suit; (b) the indemnifying party will have sole control of the defense or settlement of any claim or suit; and (c) the indemnified party will cooperate with the indemnifying party to facilitate the settlement or defense of any claim or suit.

## **11. TERM AND TERMINATION**

**11.1. Term.** This Agreement will begin on the Effective Date and continue in full force and effect until terminated in accordance with the Agreement (the **"Term"**).

**11.2. Termination for Convenience.** Either party may terminate this Agreement for convenience on thirty (30) days' prior written notice to the other party.

**11.3. Termination for Breach.** Either party may terminate this Agreement immediately upon notice to the other party if the other party: (a) commits a material breach (including any non-payment of fees due) and, in the case of a material breach capable of being cured, failed to cure that breach within thirty (30) days after the receipt of a request in writing to cure such breach; or (b) (i) files for bankruptcy; (ii) becomes or is declared insolvent, or is the subject of any proceedings related to its liquidation, insolvency or the

appointment of a receiver or similar officer for it; (iii) makes an assignment for the benefit of all or substantially all of its creditors; or (iv) enters into an agreement for the cancellation, extension, or readjustment of substantially all of its obligations; provided, however, if the non-terminating party provides adequate assurances regarding its ability to continue performing the other party may not terminate.

**11.4. Effect of Termination.** Upon termination or expiration of this Agreement for any reason: (a) all licenses granted hereunder will immediately terminate; (b) promptly after the effective date of termination or expiration, each party will comply with the obligations to return all Confidential Information of the other party, as set forth in the Section 9; and (c) any amounts owed to Antimetal under this Agreement will become immediately due and payable. Sections 1, 3.2, 3.3, 3.5, 4, 7.2, 8, 9, 10, 11.3, 11.4, and 12 will survive expiration or termination of this Agreement for any reason.

**11.5. Data Extraction.** For twenty (20) days after the end of the Term, as applicable, Antimetal will make Customer Data available to Customer through the Antimetal Platform on a limited basis solely for purposes of Customer retrieving Customer Data, unless Antimetal is instructed by Customer to delete such data before that period expires. After such period, Antimetal will discontinue all use of Customer Data and destroy all copies of Customer Data in its possession.

## **12. MISCELLANEOUS**

**12.1. Governing Law and Venue.** This Agreement and any action related thereto will be governed and interpreted by and under the laws of the State of New York, without giving effect to any conflicts of laws principles that require the application of the law of a different jurisdiction. Customer hereby expressly consents to the personal jurisdiction and venue in the state and federal courts located in New York, New York for any lawsuit filed there against Customer by Antimetal arising from or related to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

**12.2. Export.** Customer agrees not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from Antimetal, or any products utilizing such data, in violation of the United States export laws or regulations.

**12.3. Severability.** If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will remain enforceable and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

**12.4. Waiver.** Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**12.5. No Assignment.** Neither party will assign, subcontract, delegate, or otherwise transfer this Agreement, or its rights and obligations herein, without obtaining the prior written consent of the other party, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void; provided, however, that either party may assign this Agreement in connection with a merger, acquisition, reorganization or sale of all or substantially all of its assets, or other operation of law, without any consent of the other party. The terms of this Agreement will be binding upon the parties and their respective successors and permitted assigns.

**12.6. Compliance with Law.** Customer will always comply with all international and domestic laws, ordinances, regulations, and statutes that are applicable to its purchase and use of the Services, and Documentation.

**12.7. Force Majeure.** Any delay in the performance of any duties or obligations of either party (except the payment of Fees owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the cause of such delay and to resume performance as soon as possible.

**12.8. Independent Contractors.** Customer's relationship to Antimetal is that of an independent contractor, and neither party is an agent or partner of the other. Customer will not have, and will not represent to any third party that it has, any authority to act on behalf of Antimetal.

**12.9. Notices.** All notices required or permitted under this Agreement must be delivered in writing, and such notice will be effective upon delivery as follows: (a) if to Antimetal, when sent via email to [admin@antimetal.com](mailto:admin@antimetal.com); and (b) if to Customer, when sent via email to the email address on record for

Customer. Each party may change its email address and/or address for receipt of notice by giving notice of such change to the other party.

**12.10. Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument.

**12.11. Entire Agreement.** This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matters hereof and supersedes and merges all prior discussions between the parties with respect to such subject matters. No modification of or amendment to this Agreement, or any waiver of any rights under this Agreement, will be effective unless in writing and signed by an authorized signatory of Customer and Antimetal.



## Exhibit A

### Credits

**Credits Eligibility.** Any unused [AWS Reserved Instance](#) capacity (“**AWS Reserved Instance**”) or unused [AWS Savings Plan](#) (“**AWS Savings Plan**”) that is not purchased directly from Antimetal is not eligible and will not be considered for purposes of the Credits. Each AWS Reserved Instance and AWS Savings Plan must: (i) be unused, purchased from Antimetal, and with respect to AWS Reserved Instances, not be in the *GovCloud* region; (ii) have a remaining term of at least one (1) month; (iii) have been active for at least thirty (30) days; and (iv) be fully paid up with no outstanding balances due and payable to Amazon.

**Maximum Credits.** Customer shall only be entitled to Credits in an amount equal to one hundred percent (100%) of fees paid by Customer to Antimetal under the Agreement during the applicable month (“**Monthly Credits Cap**”). For the avoidance of doubt, Credits in excess of the Monthly Credits Cap shall not carry over to any subsequent months. Credits (i) are assessed on a monthly basis; and (ii) may either be redeemed, converted or exchanged for monetary amounts or be applied to any fees due by the Customer in a subsequent invoice issued by Antimetal. THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT CREDITS ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND ANTIMETAL'S SOLE AND EXCLUSIVE OBLIGATION WITH RESPECT TO ANY UNUSED AWS RESERVED INSTANCES AND/OR AWS SAVINGS PLANS.

**Cost Explorer.** When Antimetal calculates Customer's savings, if the AWS Reserved Instance coverage exceeds Customer's usage, Antimetal assumes that the cost is subsidized equally across all eligible AWS Reserved Instances. If Customer requests an exact savings metric, Antimetal will use the AWS Cost Explorer API at a cost of \$0.01 per call, which shall be charged to Customer directly by AWS. When collecting Customer's usage and coverage data, Antimetal will conduct up to fifteen (15) attempts to obtain the data; provided, however, if all fifteen (15) attempts fail, Antimetal will use the AWS Cost Explorer API at a cost of \$0.01 per call, and if the Cost Explorer calls fail, Antimetal will interpolate the missing data using existing data points.

**Disclaimer.** Customer agrees and acknowledges that it will remain liable and responsible for the performance of any obligations or liabilities under the agreement for the AWS Reserved Instance and/or AWS Savings Plan between Customer and Amazon. ANTIMETAL HEREBY DISCLAIMS ALL IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE CREDITS, AND WITH RESPECT TO THE USE OF SUCH CREDITS.