

MinIO Inc.
OEM AND MSP AGREEMENT
Effective April 22, 2024

This OEM and MSP Agreement (the “**Agreement**”) is entered into as of the earlier of the date you start to use the Software or the date of the Order substantially in the form of Exhibit A (“**Effective Date**”) by and between the **Vendor** listed on the Order and MinIO, Inc., a Delaware corporation with a principal place of business at 275 Shoreline Dr, Suite 100, Redwood Shores, CA 94065 (“**MinIO**”). Each of Vendor and MinIO are referred to herein individually as a “**Party**,” and collectively the “**Parties**.”

1. DEFINITIONS.

1.1. “Documentation” means user manuals, reference manuals, installation guides, and other technical material that are provided with the Software.

1.2. “End User” means any Vendor customer that purchases or acquires the right to use a Vendor Combined Product or a Vendor Service Product.

1.3. “Order” means one or more ordering documents executed by the Parties that reference this Agreement, in the form of which is substantially as attached hereto as Exhibit A.

1.4. “Software” means MinIO’s proprietary object storage software application in object code form, including any Updates and Upgrades.

1.5. “Support Services” means any support services that MinIO makes available to Vendor under this Agreement.

1.6. “Term” is as defined in each Order.

1.7. “Unit” means the amount of data under management by the Software as identified in the Order.

1.8. “Updates and Upgrades” means subsequently released versions of the Software. Updates and Upgrades will not include any products that MinIO licenses separately from the Software or for an additional fee.

1.9. “Usage Limit” means the number of Units that Vendor has purchased, as identified in an Order.

1.10. “Vendor Content” is as defined in Section 3.

1.11. “Vendor Combined Product” is as defined in each Order.

1.12. “Vendor Service Product” is as defined in each Order.

2. DELIVERY; LICENSE; RESTRICTIONS.

2.1. Delivery. MinIO has delivered, or will deliver within a reasonable time after Effective Date, one copy of the Software and Documentation to Vendor.

2.2. License to Software and Documentation. Subject to the terms and conditions of this Agreement, MinIO grants to Vendor a limited, worldwide, non-exclusive, non-transferable, non-assignable license, without the right to sublicense (except as set forth in Section 2.3) to do the following during the Term of the applicable Order: (i) if permitted by an Order, integrate, without modification, the Software (in object code form) and related Documentation with a Vendor Combined Product, and distribute such Software and related Documentation as part of selling such Vendor Combined Product; (ii) if permitted by an Order, use the Software and related Documentation on Vendor-controlled infrastructure as part of its provision of the Vendor Service Product; and (iii) internally use the Software and related Documentation solely to support Vendor’s rights and obligations under this Agreement.

2.3. **End User Sublicensing.** Vendor may grant End Users (a) of a Vendor Combined Product a sublicense to use the Software and related Documentation as part of such Vendor Combined Product solely as permitted by the terms of this Agreement; and (b) a right to use the Software as part of receiving the Vendor Service Product solely as permitted by the terms of this Agreement, and for each of (a)-(b), subject to the restrictions in each Order, and under the terms of a license agreement (“**End User Agreement**”) that contains terms and conditions that are at least as restrictive, and protective of MinIO as are the terms and conditions contained in Exhibit B. Vendor acknowledges that it is not an agent of MinIO and has no right to make commitments to third parties on MinIO’s behalf. Nothing in this Agreement shall create any relationship or other obligation between MinIO and an End User. Vendor will not hold itself out as an agent of MinIO or purport to make any representations or warranties on behalf of MinIO to an End User.

2.4. **Enforcement of End User Agreements.** Vendor will enforce each End User Agreement with at least the same degree of diligence used in enforcing similar agreements governing others, which in any event will be sufficient to adequately enforce each End User Agreement. Vendor will use its best efforts to protect MinIO’s proprietary intellectual property rights, notify MinIO of any breach of a material obligation under an End User Agreement related to the Software and Documentation, and cooperate with MinIO in any legal action to prevent or stop unauthorized use, reproduction, or distribution of the Software.

2.5. **Restrictions.** Except as explicitly provided in this Agreement (e.g., in connection with the provision of a Vendor Combined Product or a Vendor Service Product) or expressly permitted by applicable law, Vendor will not, and will not permit or authorize End Users or other third parties to, directly or indirectly (a) copy, modify, enhance, or otherwise create derivative works of the Software or related Documentation, in whole or in part; (b) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part; (c) write or develop any program based upon or use the Software to create a competitive product; (d) sell, sublicense, transfer any rights in, use for the benefit of or to provide services (e.g., as a service bureau) the Software, or allow access to unauthorized persons; (e) transmit unlawful, infringing or harmful data or code to or from the Software; (f) replicate significant portions of the Software; or (g) remove or otherwise interfere with any part of the Software designed to monitor Vendor’s compliance with this Agreement and Usage Limits; or (h) otherwise use the Software except as expressly permitted hereunder. Without limiting the foregoing, Vendor will not, and will not permit or authorize End Users or other third parties to, use the Software in a way that (x) imposes or could impose a requirement or condition that any Software or part thereof (i) be disclosed or distributed in source code form, (ii) be licensed for the purpose of making modifications or derivative works, or (iii) be redistributable at no charge, or (y) otherwise imposes or could impose any other material limitation, restriction, or condition on the right or ability of MinIO to use or distribute the Software. Vendor will use the Software and Documentation in compliance with all applicable laws and regulations, and refrain from any unethical conduct or any other conduct that tends to damage the reputation of MinIO. Nothing in the foregoing limits the Vendor’s rights under the open-source version of MinIO software. Excluding the Vendor Content, Vendor agrees not to give MinIO access to any other content, materials, data or information of Vendor. Vendor shall ensure that Vendor Combined Products and Vendor Service Products provide material, additional functionality in addition to the functionality of the Software.

2.6. **Restrict Acquisition of Rights by Government.** Vendor will comply with all applicable laws, rules, and regulations to (a) ensure that any government users only receive ordinary end user rights to the Software, (b) preclude the acquisition of unlimited rights to technical data, software, and documentation provided with the Software to a governmental agency, including by ensuring the addition of the appropriate “Restricted Rights” or “Limited Rights” notices required by the U.S. Government agencies or other relevant governmental entities.

2.7. **Non Exclusive Relationship.** MinIO reserves the unrestricted right to market, distribute, and sell the Software worldwide, including without limitation through original equipment manufacturers, value added resellers, managed service provider, and other third party intermediaries and directly to end users.

2.8. **Proprietary Rights.** The Software and Documentation are licensed, not sold, by MinIO to Vendor, and nothing in this Agreement will be interpreted or construed as a sale or purchase of the Software or Documentation. Vendor will not have any rights in or to the Software or Documentation except as expressly granted in this Agreement. MinIO reserves to itself all rights to the Software and Documentation not expressly granted to Vendor in

accordance with this Agreement. MinIO retains all intellectual property rights in and to the Software, Documentation, and any work product resulting from the Support Services. Vendor acknowledges that the Software and Documentation, all copies of the Software and Documentation are the sole and exclusive property of MinIO and contain MinIO's confidential and proprietary materials.

3. SUPPORT.

3.1 **Support Services.** Subject to Vendor's payment of all applicable Fees, MinIO will use commercially reasonable efforts to provide to Vendor the support services described in the attached Exhibit C, at the level of support indicated in each Order in effect (if any) (the "**Support Services**"). Vendor is authorized to receive Support Services from MinIO solely in respect of instances of the Software that are: (i) operated, managed and used for the sole benefit of an End User; and (ii) distributed or hosted in accordance with this Agreement.

3.2 **Vendor Content.** If pursuant to the Support Services, Vendor provides MinIO any Software-related logs ("**Vendor Content**"), then Vendor hereby provides (and shall ensure that Vendor has the right to provide) MinIO a limited, irrevocable, fully paid-up license to use such Vendor Content solely as necessary to provide support for, maintain and improve the Software.

4. **FEEDBACK.** If Vendor provides any feedback, advice, suggestions or guidance related to MinIO's business, products or services, or any technology therein (collectively, "**Feedback**"), then Vendor grants to MinIO a perpetual, irrevocable, sublicensable, assignable, fully paid-up license to freely use and otherwise exploit such Feedback and, notwithstanding anything to the contrary in this Agreement, such Feedback shall be the Confidential Information of MinIO.

5. FEES AND PAYMENT.

5.1. **Fees.** In consideration of MinIO's provision of the Software and Support Services to Vendor, Vendor will pay all applicable fees set forth in each Order (the "**Fees**"). Vendor acknowledges and agrees that MinIO does not accept checks or credit cards for payment, and MinIO will not be required to sign up for vendor portals or similar applications to receive payment. Fees are exclusive of taxes, duties and the like, which shall be paid by Vendor. For Vendors outside of the United States, i. the Fees will be grossed up to include any local withholding tax due which, if due, will be payable by the Vendor to the relevant tax authorities; ii. any Value Added Taxes (VAT) due is the responsibility of the Vendor under any local reverse charge mechanism; iii. Vendor must provide evidence of its VAT registration status to support the application of the reverse charge mechanism.

5.2. **Reporting; True Up.** Except where the Software is used in an "air-gapped" environment, Vendor will not interfere (and will not allow any End User to interfere) with any feature or function that reports usage of the Software. If MinIO is unable to remotely monitor usage of the Software, then Vendor will submit a report (the "**Report**") specifying Vendor's actual usage of the Software at the frequency specified in the Order, including any usage in excess of the Usage Limit. Reports will include all documentation necessary for MinIO to verify the amounts in the Report and Vendor will promptly provide any documentation reasonably requested by MinIO.

6. TERM; TERMINATION.

6.1. **Term.** This Agreement shall commence on the Effective Date and continue until the date on which all Orders have expired or terminated for a period of ninety (90) consecutive days, unless otherwise terminated earlier as set forth herein.

6.2. **Termination for Breach.** Either Party may terminate this Agreement or any Order at any time if the other Party fails or defaults in the performance of any of its obligations under this Agreement and such failure or default remains uncured for a period of thirty (30) days after receipt by the other Party of a written notice thereof.

6.3. **Termination for Non-Payment.** MinIO may, without limitation to any of its other rights or remedies, terminate this Agreement or any Order upon ten (10) days notice if Vendor fails to timely pay any fees specified in an Order, or any other amounts owing under this Agreement.

6.4. **Suspension of Service.** MinIO may immediately suspend Vendor's accessibility to use to any or all of the Software if: (a) Vendor or an End User breaches Section 2.5 (Restrictions), Section 5.2 (Reporting; True Up) or any other provision of this Agreement that would cause MinIO material risk; or (b) Vendor's account is 10 days or more overdue. Where practicable, MinIO will use reasonable efforts to provide Vendor with prior notice of the suspension (email sufficing). If the issue that led to the suspension is resolved, MinIO will promptly restore Vendor's access to the Software.

6.5. **Effect of Termination.**

6.5.1. Unless this Agreement is terminated by MinIO under Sections 6.2, or 6.3, all Orders will survive the termination of this Agreement, along with the necessary rights and obligations for the fulfillment of such Orders.

6.5.2. Subject to Section 6.5.1, upon any termination or expiration of this Agreement each Party will promptly destroy any Confidential Information of the other Party, in the other Party's possession.

6.5.3. If MinIO terminates for Vendor's breach or non-payment, Vendor will also pay all Fees for the remainder of the current term for any active Orders, whether or not such Fees have accrued.

6.5.4. Subject to Section 6.5.1, any termination of this Agreement shall terminate all Orders then in effect. Sections 2.5 (Restrictions), 2.8 (Proprietary Rights), 3.2 (Vendor Content), 4 (Feedback), 5 (Fees and Payment), 6.4 (Suspension of Service), 6.5 (Effect of Termination), 7 (Confidentiality), 8.3 (Disclaimer), 9 (MinIO Indemnification), 10 (Vendor Indemnification), 11 (Limitation of Liability), and 12 (General) shall survive termination or expiration of this Agreement.

7. **CONFIDENTIALITY.**

7.1. **Definition.** "Confidential Information" means: any information disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") during the term of this Agreement that: (a) is marked as "confidential," or in some other manner to indicate its confidential nature; (b) is disclosed orally and described as confidential at the time of disclosure and subsequently set forth in writing, marked "confidential," and sent to the Receiving Party within thirty (30) days following the oral disclosure; or (c) should reasonably be considered confidential given the nature of the information and the circumstances of its disclosure. In addition, any software provided by MinIO that is not made generally available to the public without an obligation of confidentiality and any information, technical data, product roadmaps, business information or other non-public information concerning MinIO's products, services, customers or business to which Vendor has access in connection with the activities contemplated by this Agreement will be considered the Confidential Information of MinIO. However, Confidential Information does not include any information that: (i) is or becomes generally known and available to the public through no act or omission of the Receiving Party; (ii) was already in the Receiving Party's possession at the time of disclosure by the Disclosing Party, as shown by the Receiving Party's contemporaneous records; (iii) is lawfully obtained by the Receiving Party from a third party who has the express right to make such disclosure; or (iv) is independently developed by the Receiving Party without use of, or reference to, the Disclosing Party's Confidential Information.

7.2. **Use; Maintenance.** Neither Party shall use the Confidential Information of the other Party for any purpose except to exercise its rights and perform its obligations under this Agreement. Neither Party shall disclose, or permit to be disclosed, either directly or indirectly, any Confidential Information of the other Party, except: (a) to its officers, employees, consultants and legal advisors who have a "need to know" such Confidential Information, who have been apprised of this restriction and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Agreement; or (b) where the Receiving Party becomes legally compelled to disclose Confidential Information. Each Party will take reasonable measures to protect the secrecy of, and avoid disclosure and unauthorized use of, the Confidential Information of the other Party, and will take at least those measures that it takes to protect its own confidential information of a like nature. The Receiving Party will use reasonable efforts to provide timely notice of any legally compelled disclosure to facilitate confidential treatment of Disclosing Party's Confidential Information and will furnish only that portion of Confidential Information that it is legally required to disclose after exercising reasonable efforts to obtain assurance that such information will receive confidential treatment.

8. WARRANTIES.

8.1. Mutual Warranties. Each party represents and warrants to the other that: (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms; (b) no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of this Agreement; and (c) the execution, delivery, and performance of this Agreement does not violate the laws of any jurisdiction or the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

8.2. Vendor Warranty. Vendor represents and warrants that it will use the Software in compliance with all applicable laws, rules and regulations. Notwithstanding the foregoing, reference is made to the U.S. Export Administration Regulations ("EAR") and the Commerce Control list therein and Vendor agrees that software, technology and services exchanged under this Agreement may be subject to U.S. export/re-export control laws and regulations. Vendor is knowledgeable with, and is and will remain in full compliance with all applicable export and import laws, regulations, orders, and policies (including, but not limited to, securing all necessary clearance requirements, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the release or transfer of technology and software to non U.S. nationals in the U.S., or outside the U.S., release or transfer of technology and software having U.S. content or derived from U.S.-origin software or technology); is knowledgeable with and remain in full compliance in connection with any exports/imports or re-exports/imports, it will not export, directly or indirectly, any technology, software or commodities of U.S. origin or having U.S. content to any of the countries or to nationals of those countries, wherever located, listed in the EAR, as modified from time to time, unless authorized by appropriate government license or regulations or otherwise in conformity with applicable law; agree that in relation to any exports/re-exports undertaken to perform this Agreement, if required by applicable law, they shall not (A) transfer without U.S. Government permission (i) U.S. origin products, technology, or software of any type, (ii) products, technology, or software having more than a de minimus level of U.S. content (as determined in accordance with the EAR), or (iii) any direct products thereof, including release of technology and software to nationals of a country, wherever located if (B) the transferring Party knows that the products, technology, or software will be (i) used by the transferee in the design, development, production, or use of missiles, chemical or biological weapons, sensitive nuclear end uses in certain specific countries of concern designated from time to time by the Commerce Department in the U.S. Export Administration Regulations, as amended from time to time, or (ii) exported by the transferees to any countries and entities, or for any other uses, in either case, in a manner prohibited under the EAR, and U.S. Office of Foreign Assets Control or U.S. Department of State regulations. Vendor agrees that it is not, will not permit End Users who are the following to use the Software: (i) named on any sanctioned or restricted-party list of the U.S. or other applicable foreign government, sanctioned or restricted-party list, (ii) located in a prohibited country or territory (such as Cuba, Iran, North Korea, Syria or sanctioned regions of Ukraine including Crimea, Luhansk People's Republic, and Donetsk People's Republic), or (iii) owned or controlled by anyone included in (i) or (ii) of the foregoing.

8.3. Disclaimer. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION 8, MINIO MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. MINIO EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. MINIO DOES NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE SOFTWARE OR AGAINST INFRINGEMENT. MINIO DOES NOT WARRANT THAT THE SOFTWARE OR SUPPORT SERVICES ARE ERROR-FREE OR THAT OPERATION OF THE SOFTWARE WILL BE SECURE OR UNINTERRUPTED. MINIO EXERCISES NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF OR BASED UPON THE VENDOR'S OR END USER'S USE OF THE SOFTWARE OR ANY DECISIONS VENDOR OR END USER MAKES AS A RESULT OF USING THE SOFTWARE. VENDOR AND END USERS WILL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF MINIO TO ANY THIRD PARTY.

9. MINIO INDEMNIFICATION. This Section 9 only applies with respect to Orders by Vendor for Enterprise Plus services.

9.1. Infringement Defense. MinIO will defend Vendor from any third party claim that the Software, Support Services or Documentation infringes or misappropriates any intellectual property right of any third party if: (a) Vendor gives MinIO prompt written notice of the claim; (b) MinIO has full and complete control over the defense and settlement of the claim; (c) Vendor provides assistance in connection with the defense and settlement of the claim as MinIO may reasonably request; and (d) Vendor complies with any settlement or court order made in connection with the claim (e.g., relating to the future use of any infringing materials).

9.2. Indemnification. MinIO will indemnify Vendor against (a) all damages, costs, and attorneys' fees finally awarded against Vendor in any settlement entered into by MinIO under Section 9.1; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by Vendor in connection with the defense of such proceeding (other than attorneys' fees and costs incurred without MinIO's consent after MinIO has accepted defense of such claim); and (c) if any proceeding arising under Section 9.1 is settled, all amounts paid to any third party agreed to by MinIO in settlement of any such claims.

9.3. Mitigation. In response to an actual or potential infringement or misappropriation claim or otherwise relating to violation of intellectual property rights, if required by settlement or injunction or as MinIO determines necessary to avoid material liability, MinIO may at its option: (a) procure rights for Vendor's continued use of the applicable Software, Support Services or Documentation; (b) replace or modify the allegedly infringing portion of the applicable Software, Support Services or Documentation to avoid infringement or misappropriation without reducing the Software's, Support Services' or Documentation's overall functionality; or (c) terminate access to the affected Software, Support Services or Documentation and refund to Vendor any pre-paid, unused fees for the terminated portion of the Term for the affected Order.

9.4. Exceptions. MinIO will have no obligation under this Section 9 for any alleged infringement or misappropriation to the extent that it arises out of or is based upon (a) use of the Software in combination with other products if such alleged infringement or misappropriation would not have arisen but for such combination; (b) the Software that is provided to comply with designs, requirements, or specifications required by or provided by Vendor, if the alleged infringement or misappropriation would not have arisen but for the compliance with such designs, requirements, or specifications; (c) use of the Software for purposes not intended or outside the scope of the license granted to Vendor; (d) Vendor's failure to use the Software in accordance with instructions provided by MinIO; or e) any modification of the Software not made or authorized in writing by MinIO. Vendor is responsible for any costs or damages that result from these actions.

9.5. Exclusive Remedy. This Section 9 states MinIO's sole and exclusive liability, and Vendor's sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third party intellectual property right by the Software, Support Services or Documentation.

10. VENDOR INDEMNIFICATION.

10.1. Defense of Claims. Vendor will defend MinIO and its affiliates and its employees, directors, agents, and representatives ("**MinIO Indemnified Parties**") from any actual or threatened third party claim arising out of or based upon (a) Vendor's performance or failure to perform under this Agreement, (b) any claims by an End User or based on a Vendor Combined Product or a Vendor Service Product, except where such claim is based on MinIO's breach of this Agreement, or (c) any claim that a Vendor Combined Product or a Vendor Service Product, infringes or misappropriates the intellectual property rights of any person (except to the extent such infringement is based on the Software or Documentation). The MinIO Indemnified Parties will: a) give Vendor prompt written notice of the claim; b) grant Vendor full and complete control over the defense and settlement of the claim; and c) assist Vendor with the defense and settlement of the claim as Vendor may reasonably request.

10.2. Indemnification. Vendor will indemnify each of the MinIO Indemnified Parties against a) all damages, costs, and attorneys' fees finally awarded against any of them in any proceeding under Section 10.1; b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by any of them in connection with the defense of such proceeding (other than attorneys' fees and costs incurred without Vendor's consent after Vendor has accepted defense of such claim); and c) if any proceeding arising under Section 10.1 is settled, Vendor will pay any amounts to any third party agreed to by Vendor in settlement of any such claims.

11. LIMITATION OF LIABILITY. EXCLUDING THE VENDOR'S PAYMENT OBLIGATIONS, EACH PARTY'S INDEMNIFICATION OBLIGATIONS, BREACHES OF CONFIDENTIALITY, AND VENDOR'S BREACH OF SECTION 2, TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOSS OF DATA, LOSS OF INCOME, LOSS OF OPPORTUNITY OR PROFITS, COST OF RECOVERY OR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY. EXCLUDING THE VENDOR'S PAYMENT OBLIGATIONS, EACH PARTY'S INDEMNIFICATION OBLIGATIONS, BREACHES OF CONFIDENTIALITY, AND VENDOR'S BREACH OF SECTION 2, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EITHER PARTY EXCEED THE PORTION OF FEES PAID BY VENDOR CORRESPONDING TO THE SERVICES RENDERED DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE FIRST DATE ON WHICH THE CAUSE OF ACTION AROSE. THE LIMITATIONS OF LIABILITY IN THIS SECTION 11 WILL APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY DAMAGE. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION 11 REFLECT THE APPROPRIATE ALLOCATION OF RISK BETWEEN THE PARTIES AND THAT THESE LIMITATIONS OF LIABILITY SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE.

12. GENERAL.

12.1. Assignment. Neither Party may assign this Agreement or any of its rights or obligations under this Agreement without the prior written consent of the other Party; provided that MinIO may assign this Agreement without the written consent of Vendor as part of a corporate reorganization, upon a change of control, consolidation, merger, reincorporation, sale of all or substantially all of its assets related to this Agreement, or a similar transaction or series of transactions. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns. MinIO may freely subcontract the Support Services to be provided under this Agreement to third parties.

12.2. Independent Contractor. MinIO is an independent contractor, and nothing in this Agreement or related to MinIO's performance hereunder will be construed to create an employment or agency relationship between Vendor and MinIO.

12.3. Force Majeure. Except for the obligation to pay money, neither Party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including, without limitation, an act of war, government, terrorism, an earthquake, flood, weather, accident, embargo, riot, sabotage, or labor shortage or dispute, or the failure of the Internet, phone system, or any public utility. The delayed party shall give the other party notice of such cause and shall use commercially reasonable efforts to correct such failure or delay in performance.

12.4. Publicity. MinIO may use Vendor's name and logo in MinIO's vendor lists, on MinIO's website, and in MinIO's marketing materials, in each case in substantially the same manner in which MinIO uses the names and/or logos of its other vendors. MinIO may use Vendor's name and logo in connection with the exercise of its rights under this Section 12.4. If requested by Vendor MinIO will promptly cease such usage.

12.5. Privacy Policy. Vendor acknowledges and consents to MinIO's privacy policy, available at <https://min.io/privacy-policy>, which describes MinIO's use of personal information.

12.6. Entire Agreement; Amendment. This Agreement, including any attached Exhibits, and together with any Orders contains the entire agreement relating to the subject matter contained herein and supersedes all prior or contemporaneous agreements, written or oral, between the Parties. Except as set forth herein, neither this Agreement nor any Order may be modified or amended except in a written amendment signed by both Parties. No terms of any purchase order, acknowledgement, or other form provided by Vendor will modify this Agreement, regardless of any failure of MinIO to object to such terms. In the event of a conflict the following order of precedence shall apply: (i) the Order; (ii) the main body of Agreement; (iii) any Exhibits.

12.7. Export Restrictions. MinIO may supply Vendor with technical data that is subject to export control restrictions. MinIO will not be responsible for Vendor's compliance with applicable export obligations or requirements for this technical data. Vendor agrees to comply with all applicable export control restrictions. MinIO

may terminate this Agreement if Vendor breaches this Section 12.7 or any export provisions of an applicable end user license agreement for the Software.

12.8. Notice. All notices under this Agreement will be in writing and will reference this Agreement. Notices will be deemed given when sent by e-mail to the following.

All notices relating to this Agreement shall be sent to MinIO at: legal@minio.io

All notices relating to this Agreement shall be sent to Vendor at the email address listed on the Order.

12.9. Waiver. No term of this Agreement shall be considered waived and no breach excused by either Party unless made in writing. No consent, waiver, or excuse by either Party, express or implied, of any provision of this Agreement shall constitute a consent, waiver or excuse of any other breach of that or any other provision of this Agreement.

12.10. Severability. If any provision of this Agreement is held illegal or unenforceable by any court of competent jurisdiction, such provision shall be deemed severed from the remaining provisions of this Agreement and shall not affect or impair the validity or enforceability of the remaining provisions of this Agreement. The Parties hereto agree to replace any such illegal or unenforceable provision with a new provision that has the most nearly similar permissible economic or other effect.

12.11. Controlling Law. This Agreement will be governed by the laws of the State of California, without reference to conflict of laws principles. In any dispute arising out of this Agreement, Vendor and MinIO each consent to the exclusive personal jurisdiction and venue in the state and federal courts within Santa Clara County, California. The Parties hereto exclude the provisions of the United Nations Convention on Contracts for the International Sale of Goods from this Agreement and any transaction that may be implemented in connection with this Agreement.

**EXHIBIT A TO OEM AND MSP Agreement
ORDER**

Vendor Information:	MinIO Information
Name:	Name: MinIO, Inc
Entity Type:	Address: 275 Shoreline Drive, Suite 100 Redwood Shores, CA 94065
Address:	Country: USA
Country:	Attention: Garima Kapoor Co-CEO, MinIO, Inc.
Attention:	Subscription Start Date:
Email:	Subscription End Date:
	Purchase Order #
	Quote Expiry Date:

1. **Initial Subscription Term.** The initial subscription term of this Order starts on the Subscription Start Date and ends on the Subscription End Date (“**Initial Subscription Term**”). Upon expiration of the Initial Subscription Term, the Order will automatically renew for successive terms of one (1) year (each a “**Renewal Subscription Term**”) unless either Party gives written notice of non-renewal at least thirty (30) days before the commencement of the next Renewal Subscription Term (the Initial Subscription Term together with all Renewal Subscription Terms, the “**Term**”).

2. **Pricing.**

Product Name	Units / Usage Limit	Price per TiB per Year	Total Price per Year

Total Due - Initial Subscription Term.

3. **Billing Frequency.** Annual Upfront.

4. **Payment Terms.** Fees for the Software are as indicated below. The fees are in United States dollars and are due thirty (30) days after receipt of an invoice from MinIO. All payments must be made through the payment portal specified in the invoice. All payments made by Vendor under this Order are non-refundable; provided that if Vendor terminates for MinIO’s breach, Vendor will receive a prorated refund of any prepaid fees.

5. **True Up.** Any amount used in excess of the Units purchased above (as measured as an average over the previous 90 days) will be billed at [\$ per TiB per year], as prorated for the remainder of the applicable term. The fee is not prorated for any usage less than 1 TiB. MinIO will measure and invoice excess usage at the end of each quarter of the Term. “Air-gapped” Vendors will submit Reports in accordance with the terms of the Vendor Agreement at the end of each quarter of the Term. Vendor will pay any invoice for excess usage per the Payment Terms above.

6. **Restrictions.**

(a) **Combined Product.** The Software may only be distributed by Vendor as part of product bundled with other material assets that includes additional software provided by Vendor. Vendor may only integrate the Software with the following Vendor product: [insert] (“**Vendor Combined Product**”).

(b) Combined Service. The Software may only be used by Vendor as part of service provided by Vendor, which service includes additional software provided by Vendor. Vendor may only integrate the Software with the following Vendor product: [insert] (“**Vendor Combined Product**”).

By signing this Order, Vendor hereby orders from MinIO the Software and, if specified, the other goods or services described in this Order. This Order and Vendor's use of the Software and receipt of any related services are subject to the MinIO OEM and MSP Agreement available at minio.io/legal, or as signed between the Parties (the “**Vendor Agreement**”), which is incorporated by reference. In the event of a conflict between this Order, as executed by MinIO, and a provision of Vendor Agreement, this Order will control. All terms not defined herein will be as defined in the Vendor Agreement.

MinIO Inc.	Vendor
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

EXHIBIT B TO OEM AND MSP Agreement
END USER AGREEMENT MINIMUM TERMS AND CONDITIONS

All End User Agreements must be in writing and include provisions at least as protective of MinIO as the following:

1. The End User is granted only a personal, nontransferable, and nonexclusive license to use the Software as part of the use of a Vendor Combined Product or a Vendor Service Product.
2. MinIO and its licensors retain all right, title, and interest, including all intellectual property rights, in and to the Software, and no right, title, or interest, except for the limited license to use, is transferred to the End User.
3. The End User is subject to use restrictions consistent with the Agreement between MinIO and Vendor.
4. The Software include confidential information of MinIO and the End User will keep the Software in confidence and will not use or disclose the Software, except as permitted by the End User Agreement, without MinIO's prior written consent.
5. The End User will comply with all export and re-export restrictions and regulations of any United States or foreign agency or authority, and will not transfer, or authorize the transfer of, the Software to a prohibited country or otherwise in violation of any of these restrictions or regulations.
6. MinIO makes no warranties to the End User in connection with the Software, and expressly disclaims any implied warranties of merchantability, non-infringement, or fitness for a particular purpose and the Software is provided to the End User on an "AS IS" basis.
7. MinIO will not be liable to the End User for any indirect, consequential, incidental, or special damages arising out of the use or license of the Software, regardless of the theory of liability (including negligence and strict liability).
8. The End User Agreement will contain no rights or obligations inconsistent with this Agreement.

EXHIBIT C TO OEM AND MSP Agreement

SUPPORT SERVICES

This Exhibit C (this “**Exhibit**”) describes the Support Services to be provided under the Agreement. The level of Support Services provided will be as specified in the Order. Capitalized terms not defined in this Exhibit have the same meanings as such terms are defined in the Agreement.

1. Support. MinIO will provide the Support Services as described herein 24 hours a day, 7 days a week to assist in Vendor’s provision of the Software and resolve Problems in accordance with the support level purchased by Vendor pursuant to an Order. “**Problems**” means a failure of the Software to substantially conform to the functional specifications set forth in any Documentation provided by MinIO or to operate as MinIO intended. All support requests must be submitted through the MinIO Subscription Network (commonly referred to as SUBNET). For Enterprise Lite Vendors, MinIO will use commercially reasonable efforts to respond to a support request by the next business day. For Enterprise Plus Vendors, MinIO will use commercially reasonable efforts to respond to a support request within 4 hours.

2. Panic Button. If the Software is unavailable such that Vendor’s or End User’s business is critically affected and there is no workaround that Vendor or End User can implement to mitigate the issue, then Vendor may request Panic Button service. MinIO may, in its discretion, downgrade a request from a Panic Button request to a regular support request if MinIO does not believe the Problem meets the requirements for a Panic Button request. MinIO will use commercially reasonable efforts to respond to Panic Button requests within 10 minutes. Enterprise Plus Vendors may request unlimited Panic Button service and Enterprise Lite Vendors may request one Panic Button service per year of the Term.

3. If Vendor has a current Order for the Enterprise Plus product, on Vendor’s request, MinIO will provide an architectural, performance, and security review once per year.

4. Vendor Obligations. Prior to requesting Support Services from MinIO, Vendor shall (and will ensure that all End User’s shall) comply with all published operating and troubleshooting procedures for the Software, including the Documentation. To assist in expeditiously resolving Vendor’s support requests, the Vendor should record the following information for reference and should provide the information to MinIO: (i) error messages and indications that Vendor or End User received when the malfunction occurred; (ii) what the user was doing when the malfunction occurred; (iii) what steps Vendor or the End User has taken to reproduce the malfunction; (iv) what steps Vendor or End User may have already taken to solve the Problem; and (v) system logging. For certain Software Problems, MinIO may require that Vendor provide MinIO a test case and sufficient documentation to allow duplication of the Problem. Subject to Vendor’s or End User’s reasonable security and safety rules, Vendor or the End User will provide access to its information, systems, and software reasonably requested by MinIO, including remote control access to each Unit as necessary to provide the Support Services. Vendor and End Users will obtain any third party consents necessary to grant such access. MinIO will be relieved of its obligation to provide any Support Services due to Vendor’s failure to comply with this section.

5. Disclaimer. MinIO will not be responsible to provide Support Services, or any other maintenance and support to the extent that Problems arise because Vendor or the End User (i) misuses, improperly uses, misconfigures, alters, or damages the Software; (ii) uses the Software with any hardware or software not supplied or supported by MinIO; (iii) fails to install any updates or upgrades to the Software if such updates or upgrades would have resolved the Problem; or (iv) otherwise uses in a manner not in accordance with the Agreement, Documentation or MinIO’s directions. MinIO shall have no responsibility for loss of or damage to Vendor’s or End User’s data, regardless of the cause. MinIO shall provide Support Services for a release of the Software if such release was made generally available during the previous twelve (12) months. Other versions of the Software will not be supported unless MinIO and Vendor mutually agree otherwise in writing.

6. End User Support. For clarity, MinIO will provide support to Vendor only and shall not have any obligation to provide support directly to any End User. Vendor will not grant any End User direct access to MinIO’s support systems or platform, and may not share any of MinIO’s support contact information with an End User.