

CLUTCH SECURITY END USER SUBSCRIPTION AGREEMENT

PLEASE READ THE FOLLOWING CAREFULLY BEFORE ACCESSING AND/OR USING THE PLATFORM (DEFINED BELOW). BY CLICKING "I AGREE", "ACCEPT" OR OTHER SIMILAR BUTTON, OR BY ACCESSING AND/OR USING THE SERVICE, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOU, ON BEHALF OF YOURSELF OR YOUR ORGANIZATION ("YOU" OR "CUSTOMER"), ARE ENTERING INTO A LEGAL AGREEMENT WITH CLUTCH SECURITY, INC. ("COMPANY") (EACH OF COMPANY AND CUSTOMER SHALL BE REFERRED AS A "PARTY" AND COLLECTIVELY, THE "PARTIES"), AND HAVE UNDERSTOOD AND AGREE TO COMPLY WITH, AND BE LEGALLY BOUND BY, THE TERMS AND CONDITIONS OF THIS END USER SUBSCRIPTION AGREEMENT, INCLUDING ANY OF ITS EXHIBITS, ANNEXES AND APPENDIXES (COLLECTIVELY "AGREEMENT") (THE DATE OF SUCH OCCURRENCE BEING THE "EFFECTIVE DATE"). BY CLICKING "I AGREE", "ACCEPT" OR OTHER SIMILAR BUTTON, YOU HEREBY WAIVE ANY APPLICABLE RIGHTS TO REQUIRE AN ORIGINAL (NON-ELECTRONIC) SIGNATURE OR DELIVERY OR RETENTION OF NON-ELECTRONIC RECORDS, TO THE EXTENT NOT PROHIBITED UNDER APPLICABLE LAW. IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, PLEASE DO NOT USE THE PLATFORM.

If Customer has purchased a subscription granted hereunder from a partner, reseller or distributor authorized by Company ("Partner") to the extent there is any conflict between this Agreement and the agreement entered between Customer and the respective Partner, including any purchase order or other ordering document ("Partner Order Form"), then, as between Customer and Company, this Agreement shall prevail. Any rights granted to Customer in such Partner Order Form, which are not contained in this Agreement, apply only in connection with such Partner. In that case, Customer must seek redress or realization or enforcement of such rights solely with such Partner and not Company.

1. **Definitions.** The following capitalized terms have the meanings set forth below:

- 1.1 "**Affiliate**" with respect to any entity, means any other entity controlling, controlled by or under common control with such entity, where "control" means direct or indirect ownership or voting control of fifty percent (50%) or more of the equity or voting securities of the entity in question or having the power, by commitment or otherwise, to elect a majority of the Board of Directors (or similar governing body) of the entity in question.
- 1.2 "**Customer Data**" means electronic data and content that originates, resides on, or is otherwise processed through Customer's systems and processed by Company in the provision of the Service by Customer excluding Analytics Information (defined below).
- 1.3 "**Feature**" means any module, tool, functionality, or feature of the Service.
- 1.4 "**Order Form**" means a written or electronic order form, to/in which this Agreement is attached or incorporated, and which is agreed by the Parties. The Order Form shall include the commercial terms, including the Subscription Scope, agreed between the Parties.
- 1.5 "**Subscription Scope**" means any Service usage and/or limitations set forth in the Order Form.
- 1.6 "**Subscription Term**" means either the Service subscription period specified in the Order Form or Partner Order Form, as the case may be.
- 1.7 "**Users**" means an employee of Customer authorized to access and use the Service.

2. **Subscription.**

- 2.1 **Access Right.** Subject to the terms and conditions of this Agreement, Company hereby grants Customer a limited, worldwide, non-exclusive, non-sublicensable, non-transferable and revocable right to remotely access (i.e. on a SaaS basis) the Company's software-as-a-service (the "**Service**") during the Subscription Term, solely for Customer's internal purposes (collectively, the "**Subscription**"). Unless otherwise indicated, the term "**Subscription**" also includes any appliance and any manual or documentation provided or made available to Customer in connection with the operation of the Service ("**Documentation**"). Customer may use the Service subject to the use limitations specified in this Agreement and the respective Order Form and applicable laws and regulations. Customer shall be solely responsible for providing all equipment, systems, assets, access, and ancillary goods and services needed to access and use the Service, for ensuring their compatibility with the Service.
- 2.2 **Additional Purchases.** Purchases of access to additional Features and/or purchases of additional volume under the Subscription Scope (collectively, "**Additional Purchases**"), shall be made by mutually signed written addendum to the Order Form or by executing a new order form, in each case according to the pricing agreed between the Parties (or the pricing pre-agreed in the Order Form, if any). If Additional Purchases take effect during a Subscription Term, the Subscription Fees and the

term therefor will be prorated to be coterminous with said Subscription Term.

- 2.3 **Account Setup.** In order to access the Service, Customer is required to set up an administrative account with Company, by submitting the information requested in the applicable Service interface (“**Account**”), and each User may need to set up a user account (each, a “**User Account**”, and references herein to the “Account” shall be deemed to include all such User Accounts if applicable). Customer warrants that all information submitted during the registration process is, and will thereafter remain, complete and accurate. Customer shall be responsible and liable for all activities that occur under or in the Account. Customer will require that all Users keep user ID and password information strictly confidential and not share such information with any unauthorized person. Customer will be fully responsible and liable for any breach of this Agreement by a User. Customer must ensure that each User complies with the terms of this Agreement. Any unauthorized access or use of the Service must be immediately reported to the Company.
- 2.4 **Hosting.** The Service is hosted by a third party hosting services provider selected by Company (“**Hosting Provider**”), and accordingly the availability of the Service shall be in accordance with the Hosting Provider’s then-current uptime commitments.

3. **Support Services**

- 3.1 Company shall provide support and maintenance services in accordance with Company’s then current Service Level Agreement attached hereto as **Exhibit A (“SLA”)**. The support and maintenance services may be performed by Company and/or Company’s certified third party providers. Company shall be responsible for such service providers’ performance of the support and maintenance services. The term Subscription shall include the services provided under the SLA.

4. **Subscription Fees.**

- 4.1 **Subscription Fees.** If Customer has purchased the Subscription directly from Company, this Section 4.1 shall apply.
Customer shall pay Company the Subscription fees and other related fee (if any) specified in the Order Form (“**Fees**”).
- 4.2 **General.** Unless expressly stated otherwise in the Order Form: (a) all Fees are stated, and are to be paid, in U.S. Dollars; (b) all payments under this Agreement are non-refundable, and are without any right of set-off or cancellation; (c) all Fees are payable, and shall be invoiced, in advance, and shall be paid within thirty (30) days of receipt of invoice; and (d) any amount not paid when due will accrue interest on a daily basis until paid in full, at the lesser of the rate of one and a half percent (1.5%) per month and the highest amount permitted by applicable law.
- 4.3 **Suspension.** Company reserves the right to temporarily suspend provision of Service: (a) if Customer is seven (7) days or more overdue on a payment; (c) if Company deems such suspension necessary as a result of Customer’s breach under Section 5 (Subscription Restrictions); (c) if Company reasonably determines suspension is necessary to avoid material harm to Company or its other customers, including if the Service’s cloud infrastructure is experiencing denial of service attacks or other attacks or disruptions outside of Company’s control, or (d) as required by law or at the request of governmental entities.
- 4.4 **Taxes.** Amounts payable under this Agreement are exclusive of all applicable sales, use, consumption, VAT, GST, and other taxes, duties or governmental charges, except for taxes based upon Company’s net income. In the event that Customer is required by any law applicable to it to withhold or deduct taxes for any payment under this Agreement, then the amounts due to Company shall be increased by the amount necessary so that Company receives and retains, free from liability for any deduction or withholding, an amount equal to the amount it would have received had Customer not made any such withholding or deduction. If a purchase order (or purchase order number) is required by Customer in order for an invoice to be paid, then Customer shall promptly provide such purchase order (or number) to Company. Any terms or conditions (whether printed, hyperlinked, or otherwise) in a purchase order or related correspondence, which purport to modify or supplement this Agreement (or the corresponding Order Form), shall be void and of no effect.
- 4.5 If Customer purchased the Subscription via a Partner, the Subscription is subject to the full payment of the applicable fees as set forth in the Partner Order Form between Customer and the respective Partner. All payments shall be made directly to Partner, as agreed between Customer and Partner. If Customer is entitled to a refund under the terms and conditions of this Agreement, then, unless Company specifies otherwise, Company will refund any applicable fees to the Partner, and the Partner alone will be responsible for refunding the appropriate amounts to Customer.

5. Subscription Restrictions. As a condition to the Subscription, and except as expressly permitted otherwise under this Agreement, Customer shall not do (or permit or encourage to be done) any of the following subscription restrictions (in whole or in part): (a) copy, “frame” or “mirror” the Service; (b) sell, assign, transfer, lease, rent, sublicense, or otherwise distribute or make available the Service to any third party (such as offering it as part of a time-sharing, outsourcing or service bureau environment); (c) publicly perform, display or communicate the Service; (d) modify, alter, adapt, arrange, or translate the Service; (e) decompile, disassemble, decrypt, reverse engineer, extract, or otherwise attempt to discover the source code or non-literal aspects (such as the underlying structure, sequence, organization, file formats, non-public APIs, ideas, or algorithms) of, the Service; (f) remove, alter, or conceal any proprietary rights notices displayed on or in the Service; (g) circumvent, disable or otherwise interfere with security-related or technical features or protocols of the Service; (h) make a derivative work of the Service, or use it to develop any service or product that is the same as (or substantially similar to) it; (i) store or transmit any robot, malware, Trojan horse, spyware, or similar malicious item intended (or that has the potential) to damage or disrupt the Service; or (j) take any action that imposes or may impose (as determined in Company’s reasonable discretion) an unreasonable or disproportionately large load on the servers, network, bandwidth, or other cloud infrastructure which operate or support the Service, or otherwise systematically abuse or disrupt the integrity of such servers, network, bandwidth, or infrastructure.

6. Intentionally Omitted.

7. Mutual Warranties. Each Party represents and warrants that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; and that the execution and performance of this Agreement will not conflict with other agreements to which it is bound or violate applicable law.

8. Intellectual Property Rights.

8.1 Service. As between the Parties, Company is, and shall be, the sole and exclusive owner of all intellectual property rights in and to: (a) the Service and all related software and intellectual property; and (b) any and all improvements, derivative works, and/or modifications of/to the foregoing, regardless of inventorship or authorship. Customer shall make, and hereby irrevocably makes, all assignments necessary or reasonably requested by Company to ensure and/or provide Company the ownership rights set forth in this paragraph. Company shall be entitled, from time to time, to modify and replace the Features (but not material functionalities, unless it improves the material functionality) and user interface of the Service. Nothing herein constitutes a waiver of Company’s intellectual property rights under any law.

8.2 Feedback. If Company receives any feedback (which may consist of questions, comments, suggestions or the like) regarding any of the Services (collectively, “**Feedback**”), all rights, including intellectual property rights in such Feedback shall belong exclusively to Company and such shall be considered Company’s Confidential Information. Customer hereby irrevocably and unconditionally transfers and assigns to Company all intellectual property rights it has in such Feedback and waives any and all moral rights that Customer may have in respect thereto. It is further understood that use of Feedback, if any, may be made by Company at its sole discretion, and that Company in no way shall be obliged to make use of the Feedback.

8.3 Analytic Information. Any anonymous information, which is derived from the use of the Service (i.e., metadata, aggregated and/or analytics information and/or intelligence relating to the operation, support, and/or Customer’s use, of the Service) which is not personally identifiable information and which does not identify Customer (“**Analytics Information**”) may be used for providing the Service, for development, and/or for statistical purposes. Such Analytics Information is Company’s exclusive property.

8.4 Customer Data. Customer hereby grants Company and its Affiliates a worldwide, non-exclusive, non-assignable (except as provided herein), non-sublicensable (except to Company’s subcontractors, if applicable), non-transferable right and license, to access and use the Customer Data, including without limitation for Company’s provision of the Services and related services hereunder. As the exclusive owner of the Customer Data, Customer represents, warrants and covenants that to the extent the Customer Data includes any personally identifiable information, Customer has received and/or obtained any and all required consents or permits and has acted in compliance with any and all applicable privacy laws, including, without limitation privacy laws, as to allow us to receive, transfer and use the Customer Data solely in order to perform the Service. Company may however be required to disclose the Customer Data: (a) to satisfy any applicable law, regulation, legal process, subpoena or governmental request; or (b) to collect, store, transfer, and/or process the Customer Data through Company’s affiliates, subsidiaries, third party service providers and vendors as reasonably necessary to provide the Service. Company will maintain commercially reasonable administrative, technical, and physical safeguards designed to protect the security, confidentiality, and integrity of the Customer Data.

9. **Third Party Components.** The Service may use or include third party open source software, files, libraries or components that may be distributed to Customer and are subject to third party open source license terms. A list of such components is available on demand and may be updated from time to time by Company. If there is a conflict between any open source license and the terms of this Agreement, then the open source license terms shall prevail but solely in connection with the related third party open source software. Company makes no warranty or indemnity hereunder with respect to any third party open source software.

10. **Confidentiality.** “**Confidential Information**” means any non public information disclosed by or on behalf of one Party (“**Discloser**”) to the other Party (“**Recipient**”) pursuant to this Agreement that is marked as “confidential,” or in some other manner to indicate its confidential nature or which is confidential by its nature. Confidential Information does not include any information which: (i) is or becomes generally known and available to the public through no act of the Recipient; (ii) was already in the Recipient’s possession without a duty of confidentiality owed to the Discloser at the time of the Discloser’s disclosure; (iii) is lawfully obtained by the Recipient from a third party who has the express right to make such disclosure; or (iv) is independently developed by the Recipient without breach of an obligation owed to the Discloser. The Recipient may use the Discloser’s Confidential Information solely to perform its obligations under this Agreement. Except as set forth in the immediately following sentence, the Recipient will not disclose the Discloser’s Confidential Information to any third party except to its employees, consultants, affiliates, agents, and subcontractors having a need to know such information to perform its obligations under this Agreement who have signed a non-disclosure agreement with the Recipient containing terms at least as protective of the Discloser’s Confidential Information as those contained herein. The Recipient may disclose the Discloser’s Confidential Information to the extent that such disclosure is required by law or by the order of a court of similar judicial or administrative body, provided that it notifies the Discloser of such required disclosure to enable Discloser to seek a protective order or otherwise to prevent or restrict such disclosure. All right, title, and interest in and to Confidential Information are and will remain the sole and exclusive property of the Discloser. The Recipient will use no less than commercially reasonable efforts to protect the Discloser’s Confidential Information from unauthorized access, use, or disclosure. Notwithstanding anything to the contrary in this Agreement, Company’s obligations with respect to the protection of Customer Data are solely as set forth in Section 8.4 (*Customer Data*).

11. **DISCLAIMER OF WARRANTIES.** Company represents and warrants that, under normal authorized use, the Service shall substantially perform in conformance with its Documentation. As Customer’s sole and exclusive remedy and Company’s sole liability for breach of this warranty, Company shall use commercially reasonable efforts to repair the Service. The warranty set forth herein shall not apply if the failure of the Service results from or is otherwise attributable to: (i) repair, maintenance or modification of the Service by persons other than Company or its authorized contractors; (ii) accident, negligence, abuse or misuse of the Service; (iii) use of the Service other than in accordance with the Documentation; or (iv) the combination of the Service with equipment or software not authorized or provided by Company. OTHER THAN AS EXPLICITLY STATED IN THIS AGREEMENT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND THE RESULTS THEREOF ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. COMPANY DOES NOT WARRANT THAT: (i) THE SERVICES WILL MEET CUSTOMER’S REQUIREMENTS, OR (ii) THE SERVICE WILL OPERATE ERROR-FREE. EXCEPT AS SET FORTH IN SECTION 7 AND THIS SECTION 11, THE COMPANY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING MERCHANTABILITY, SATISFACTORY QUALITY TITLE, NON- INFRINGEMENT, NON-INTERFERENCE, FITNESS FOR A PARTICULAR PURPOSE. COMPANY WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR FOR ISSUES RELATED TO PUBLIC NETWORKS OR CUSTOMER’S HOSTING SERVICES.

12. **LIMITATION OF LIABILITY.** NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE, REPUTATION, PROFITS, DATA, OR DATA USE, OR THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICES; EITHER PARTY’S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNTS ACTUALLY PAID OR PAYABLE TO COMPANY BY CUSTOMER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT. FOR CLARITY, THE LIMITATIONS IN THIS SECTION DO NOT APPLY TO PAYMENTS DUE TO COMPANY UNDER THIS AGREEMENT (INCLUDING ITS EXHIBITS).

13. **Indemnification.**

13.1 Company agrees to defend, at its expense, any third party action or suit brought against Customer alleging that the Services, when used as permitted under this Agreement, infringes intellectual property rights of a third party (“**IP Infringement Claim**”); and Company will pay any damages finally awarded

by court against Customer that are attributable to any such IP Infringement Claim, provided that (i) Customer promptly notifies Company in writing of such claim; and (ii) Customer grants Company the sole authority to handle the defense or settlement of any such claim and provides Company with all reasonable information and assistance in connection therewith, at Company's expense. Company will not be bound by any settlement that Customer enters into without Company's prior written consent.

13.2 If the Service becomes, or in Company's opinion is likely to become, the subject of an IP Infringement Claim, then Company may, at its sole discretion: (a) procure for Customer the right to continue using the Service; (b) replace or modify the Service to avoid the IP Infringement Claim; or (c) if options (a) and (b) cannot be accomplished despite Company's reasonable efforts, then Company may terminate this the affected Order Form(s) upon written notice to Customer, and Customer shall be entitled to receive a pro-rated refund of any prepaid Subscription Fees under such Order Form(s) based on the remaining period of the corresponding Subscription Term(s).

13.3 Notwithstanding the foregoing, Company shall have no responsibility for IP Infringement Claims resulting from or based on: (i) Company's compliance with Customer's instructions or specification; or (ii) combination or use of the Services with equipment, devices or software not supplied by Company.

13.4 This Section 13 states Company's entire liability, and Customer's exclusive remedy, for any IP Infringement Claim.

14. Term and Termination.

14.1 Term. This Agreement commences on the Effective Date and, unless terminated in accordance herewith, shall continue in full force and effect for the duration of the Subscription Term.

14.2 Termination for Breach. Each Party may terminate this Agreement immediately upon written notice to the other Party if the other Party commits a material breach under this Agreement and, if curable, fails to cure that breach within sixty (60) days after receipt of written notice specifying the material breach (except that for payment defaults, such cure period will be seven (7) days).

14.3 Termination for Bankruptcy. Each Party may terminate this Agreement upon written notice to the other Party upon the occurrence of any of the following events in respect of such other Party: (a) a receiver is appointed for the other Party or its property, which appointment is not dismissed within sixty (60) days; (b) the other Party makes a general assignment for the benefit of its creditors; (c) the other Party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief Law, which proceedings are not dismissed within sixty (60) days; or (d) the other Party is liquidating, dissolving or ceasing normal business operations.

14.4 Effect of Termination: Survival. Upon termination of this Agreement for any reason: (a) the Subscription shall automatically terminate, (b) Customer shall cease all access and use of the Services thereunder, and (c) Customer shall (as directed) permanently erase and/or return all Confidential Information of Company in Customer's possession or control. Following termination, all outstanding Fees and other charges that accrued as of termination, which become immediately due and payable, and if necessary, Company shall issue a final invoice therefor. The provisions of this Agreement that, by their nature and content, must survive the termination of this Agreement in order to achieve the fundamental purposes of this Agreement (including limitation of liability) shall so survive. Termination shall not affect any rights and obligations accrued as of the effective date of termination.

15. **Miscellaneous**. This Agreement, including the DPA (if applicable), and any exhibits attached or referred hereto, represents the entire agreement between the Parties concerning the subject matter hereof, replaces all prior and contemporaneous oral or written understandings and statements, and may be amended only by a written agreement executed by both Parties. Any terms and conditions printed, or linked to, within any Customer's purchase order which are in addition to and/or inconsistent with the terms and conditions of this Agreement, shall be of no effect. The failure of either Party to enforce any rights granted hereunder or to take action against the other Party in the event of any breach shall not be deemed a waiver by that Party as to subsequent enforcement or actions in the event of future breaches. Any waiver granted hereunder must be in writing. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect and such provision shall be reformed only to the extent necessary to make it enforceable. Any use of the Service by an agency, department, or other entity of the United States government shall be governed solely by the terms of this Agreement. Company may use the trademarks, service marks, trade names, service names, logos or other brand designations of Customer in any promotional material or other public announcement or disclosure to state that Customer is a customer of Company. Except as stated otherwise herein, this Agreement is for the sole benefit of the Parties hereto and nothing herein, express or implied, shall give, or be construed to give, any rights hereunder to any other person. Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed.

Notwithstanding the foregoing, this Agreement may be assigned by either Party in connection with a merger, consolidation, sale of all of the equity interests of such Party, or a sale of all or substantially all of the assets of the Party to which this Agreement relates. Without derogating from and subject to the abovementioned, this Agreement will bind and benefit each Party and its respective successors and assigns. This Agreement shall be deemed to have been made in the State of New York and its form, execution, validity, construction and effect shall be determined in accordance with the laws of the State of New York, without giving effect to the principles of conflicts of law thereof and the Parties agree to the personal jurisdiction of and venue in any federal court located in the Southern District of New York or state court located in New York County, New York. The application of the United Nations Convention for Contracts for the International Sales of Goods is hereby expressly excluded. Each Party hereby waives any right to a jury trial and agrees that any dispute between them related to this Agreement shall be tried by a judge without a jury. Notwithstanding the foregoing, each Party may seek equitable relief in any court of competent jurisdiction in order to protect its proprietary rights. Each Party irrevocably waives its right to trial of any issue by jury. This Agreement does not, and shall not be construed to create any relationship, partnership, joint venture, employer-employee, agency, or franchisor-franchisee relationship between the Parties. Neither Party has any authority to enter into agreements of any kind on behalf of the other Party. Company will not be liable for any delay or failure to provide the Services resulting from circumstances or causes beyond the reasonable control of Company including, but not limited to on account of strikes, shortages, riots, insurrection, fires, flood, storms, explosions, acts of God, war, government or quasi-governmental authorities actions, riot, acts of terrorism, earthquakes, explosions, power outages, pandemic or epidemic (or similar regional health crisis), or any other cause that is beyond the reasonable control of Company. Notices to either Party shall be deemed given (a) four (4) business days after being mailed by airmail, postage prepaid, (b) the same business day, if dispatched by facsimile or electronic mail before 13:00 hour (EST time) and sender receives acknowledgment of receipt, or (c) the next business day, if dispatched by facsimile or electronic mail after the hour 13:00 (EST time) and sender receives acknowledgment of receipt. This Agreement may be executed in electronic counterparts, each of which counterpart, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same agreement.

EXHIBIT A
SERVICE LEVEL AGREEMENT

Standard Terms Applicable to each SLA

1. Definitions.

For purposes of this Service Level Agreement (“SLA”), the following definitions will apply:

- a. “Business Days” are Monday through Friday with the exception of Holidays (defined below).
- b. “Business Hours” are subject to change, but are currently from 9:00 AM Eastern Time to 6:00 PM Eastern Time, Monday through Friday with the exception of Holidays.
- c. “Critical Business Impact” means that the Service is down and non-operational and all Customer users are unable to use the Service.
- d. “Emergency Maintenance” means any time outside of Scheduled Maintenance Window that Clutch Security is required to apply urgent patches or fixes, or undertake other urgent maintenance activities. If Emergency Maintenance is required, Clutch Security will contact Customer and provide the expected start time and the planned duration of the Emergency Maintenance and if Clutch Security expects the Service to be unavailable during the Emergency Maintenance.
- e. “Error” means any occurrence which causes the Service not to operate in material conformance with the applicable Documentation.
- f. “Holidays” are United States federal holidays.
- g. “Scheduled Maintenance Window” means the window during which weekly scheduled maintenance of the Service may be performed. The Scheduled Maintenance Window for Customers in North and South America is between the hours of Thursday 6:00 PM to 8:00 PM and Friday 6:00 PM to Monday 5:00 AM. Pacific time. The Scheduled Maintenance Window for Customers in EMEA and APAC is between the hours of Friday 10:00 AM to Sunday 1:00 PM Pacific time.
- h. “Serious Business Impact” means that the Service is operational, but its functionality is seriously affected and where implementing a workaround is time consuming and will adversely affect Customer’s business. In addition, this Error may involve downtime, outage, serious performance degradation or other failure of one or more non-critical business systems, functions or services that adversely impacts multiple end users.
- i. “System Availability” means the percentage of total time during which the Service is available to Customer, excluding the Scheduled Maintenance Window and Emergency Maintenance. “Available” in this context means Customer may log in, view data, create reports, modify settings and similar, for substantially all licensed components.

2. Service Credits

- a. “Service Credit” means the percentage of the Calculated Monthly Subscription Fees paid or payable for the Service that is awarded to Customer for a validated claim associated with that portion of the Service related to breach of the applicable SLA during that month. The “Calculated Monthly Subscription Fee” is defined as Customer’s annual subscription fee for the Service divided by 12. For example, if the annual subscription fee for the Service is \$120,000, then the Calculated Monthly Subscription Fee is \$10,000.
- b. In any given month, Customer shall in no event be entitled to receive a credit that exceeds 25% of its Calculated Monthly Subscription Fee for the Service.
- c. Any Service Credits earned by Customer hereunder will be applied to the fees owed by Customer for the next Service subscription period. Service Credits earned by Customer hereunder will be applied against amounts due for any extension term that is mutually agreed upon by the parties in writing before the expiration or termination of the Agreement. If Service Credits cannot be applied to future Subscription Fees because the Agreement has terminated due to Clutch Security’s breach of the Agreement, or because the parties have not extended the term of the Agreement, Clutch Security will promptly pay Customer the amount of the Service Credit.

3. SLA Claims

- a. Customer must notify Clutch Security customer support within five (5) Business Days from the date of the incident that causes Customer to first believe it is entitled to receive a remedy under any one of the SLAs set forth below (“SLA Claim”). If requested by Clutch Security, Customer will provide Clutch Security sustaining documentation for analysis. Failure to comply with these reporting requirements forfeits Customer’s right to receive a remedy in connection with an SLA Claim.
- b. All SLA Claims are subject to validation by Clutch Security, at Clutch Security’s sole discretion and Clutch Security may use log files, database records, audit logs, and any other information available to validate claims and make a good faith judgment on the applicability of SLAs to said SLA Claim. Clutch Security shall make information used to validate an SLA claim available for auditing by

Customer at Customer’s request. If Clutch Security validates the SLA Claim, then Customer shall be entitled to the applicable remedy under Section 2(a) below.

- c. In the event that more than one aspect of the Service is affected by the same root cause, the single SLA applicable to the Service of Customer’s choosing may be claimed and no other claim will be validated or otherwise allowed for that event.
- d. Notwithstanding anything to the contrary in the Agreement, except for gross negligence or willful misconduct, the remedies set forth herein represent Customer’s sole and exclusive remedy for Clutch Security’s breach of the SLAs defined in this SLA.

4. Exclusions

- a. Customer shall not have any remedies under any SLA to the extent any SLA Claim is due to: (1) use of the Service outside the scope described in the Agreement; (2) Customer equipment and/or third party software, hardware or network infrastructure outside of Clutch Security’s infrastructure and/or not under the direct control of Clutch Security; (3) failure of Customer to meet the configuration requirements for Customer systems and/or equipment set forth in the documentation provided by Clutch Security for the Service; or (4) a force majeure event (as described in the “General Provisions” section of the Agreement).

2. SLAs

The following SLAs apply to the Service:

a. System Availability SLA

- 1. Clutch Security will provide at least 99.5% System Availability for the Services portal during each calendar month, excluding any Scheduled Maintenance Windows and Emergency Maintenance.
- 2. **Remedy.** If the System Availability is less than 99.00%, and if Customer has fulfilled all of its obligations under the Agreement and Section 1(c) of this SLA, Clutch Security will provide Customer with a Service Credit for the month in which the failure to meet the System Availability SLA has occurred. The Service Credit will be calculated in accordance with the table below.

% of Service Availability per Calendar Month	Service Credit
< 99.5%	10%
< 98.00%	15%
<97.00%	20%

b. Support SLA

- 1. Pursuant to the applicable Customer Success Plan (Standard or Premium), Support tickets for the Service filed by or on behalf of the Customer will be addressed by Clutch Security as follows:

Type	Priority	Standard Response Time	Premium Response Time
An Error causing a Critical Business Impact to Customer.	1	1 Business Day	4 Business Hours
An Error causing a Serious Business Impact to Customer.	2	2 Business Days	8 Business Hours
General support questions regarding issues with data or setting in the Service portal.	3	3 Business Days	1 Business Day
General information requests.	4	5 Business Days	3 Business Days
Requests for Service enhancements.	5	10 Business Days	5 Business Days

All Priority Level issues are addressed during business hours.

2. Clutch Security, at its sole discretion may change the priority of a support incident if it does not meet the definitions above in Section 2.b.i. The SLA of the new priority in the event the priority is changed is the only SLA that will be considered.
3. **Customer Obligations.** To enable identification and correction of Errors, Customer is required to assist Clutch Security technical support staff until the Error is resolved. Required Customer activities may include, but are not limited to, the following: (i) logging into Customer systems for diagnosis of problems; (ii) downloading and installing of Clutch Security provided updates or upgrades to the Services; (iii) collecting and sending system logs/files to Clutch Security; (iv) modification of Services configuration; (v) re-installation of existing Services; and (vi) assistance with installation of, and participating in, tests for Error fixes.
4. **Escalations.** Customer shall follow Clutch Security's escalation process and procedures ("Escalation" or "Escalated"). When Escalation for an issue with resolving an Error is reported by Customer, the following procedures shall apply:
 1. **Status Updates.** Each Customer support contact shall establish a schedule of follow-up, status updated communications with their Clutch Security counterpart that shall ensure timely exchange of information.
 2. **Monitor Phase.** The purpose of the monitor phase is to evaluate the Customer environment over some period of time to verify that the Escalation has been resolved. Both parties shall co-ordinate monitoring activities and mutually agree to close the monitor phase when it is clear the problem requiring Escalation is resolved.
 3. **Closing Escalation.** When both parties agree that the issue necessitating Escalation is resolved, the Escalation is closed. Each designated contact shall exchange final reports with their counterpart summarizing the Customer issues, actions taken, results of those actions, likelihood of issue recurrence, and recommended future actions.