



## TwinThread, Inc. Buyer Terms of Use & Master Subscription Agreement

*THIS AGREEMENT GOVERNS BUYER'S ACQUISITION AND USE OF SELLER's Platform Services, effective as of the Subscription Start Date described in Seller's Quote and acknowledged in Buyer's corresponding Order Form.*

*BY ACCEPTING THIS AGREEMENT, EITHER BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT OR BY SIGNING THIS AGREEMENT OR BY USING THE PLATFORM SERVICES, BUYER AGREES TO THE TERMS OF THIS AGREEMENT. IF BUYER IS ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, BUYER REPRESENTS THAT BUYER HAS THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "BUYER" OR "BUYER'S" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF BUYER DOES NOT HAVE SUCH AUTHORITY, OR IF BUYER DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, BUYER MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE PLATFORM SERVICES*

*Buyer may not access the Platform Services if Buyer is Seller's direct competitor, except with Seller's prior written consent. In addition, Buyer may not access the Platform Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. This Agreement was executed on \_\_\_\_ (Date)\_\_\_\_\_, if signed, or either the Order Form issue date or Platform Services installation date. It is effective between Buyer and Seller as of the execution date*

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### 1. DEFINITIONS



subject entity.

“Agreement” means this Master Subscription Agreement.

“Beta Platform Services” means Seller’s Platform Services that are not generally available to customers.

“Buyer” or “Buyer’s” means the company or other legal entity for which Buyer is accepting this Agreement, and Affiliates of that company or entity.

“Buyer’s Data” means electronic data and information submitted by or for Buyer to the Platform Services or collected and processed by or for Buyer using the Platform Services (including electronic data and information the Platform Services may obtain from Non-TwinThread Applications).

“Designated Support Users” means Buyer employees authorized by Buyer to contact TwinThread Technical Support.

“Hosting Infrastructure” means technologies providing hosting in a cloud platform, including but not limited to SQL server, Azure, GCP. Kubernetes cluster. Hosting Infrastructure may be provided by Seller, or by Buyer

“Malicious Code” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

“Non-TwinThread Offerings” means products, Platform Services or information provided by third parties and not by Seller. “Non-TwinThread Applications” means the mechanisms by which Buyer consumes or utilizes Non-TwinThread Offerings.

“On-Premise Software” means Software that is installed on hardware owned or arranged by and under the control of Buyer, such as hardware owned by Buyer, a private cloud or a public cloud. On-Premise Software is managed by Buyer. Examples of On-Premise Software include the TwinThread Agent.

“Order Form” means an ordering document specifying the Platform Services to be provided hereunder that is entered into between Buyer and Seller, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

“PII” means information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context.

“Platform Services” means TwinThread’s cloud based platform, available as a subscription and ordered by Buyer under an Order Form and made available online by Seller. “Platform Services” exclude Non-TwinThread Applications and includes On-Premise Software. Platform Services may also include Hosting Infrastructure.

“Quote” means the TwinThread approved form with details of Buyer’s purchase including Buyer’s subscription term, items purchased, Buyer’s fees and any other subscription parameters, and confirmed by Buyer’s Order Form to Seller.

“Seller” or “Seller’s” means the TwinThread entity described in Section 12 (Who Buyer Is Contracting With, Notices, Governing Law and Jurisdiction). “Subscription License” means a license allowing Buyer to access Platform Services, and to copy, install and use On-Premise Software, for the period of the Subscription Term.

“Subscription Term” means the period of time specified in an Order Document during which the Subscription License is in effect.

“TwinThread Technical Support” means the service available to Designated Support Users

“User” means an individual who is authorized by Buyer to use the Platform Services, for whom Users may include, for example, Buyer’s employees, consultants and contractors.

## 2. SELLER RESPONSIBILITIES

2.1. Provision of Platform Services. Seller will (a) make the Platform Services available to Buyer pursuant to this Agreement and the applicable Order Forms, (b) provide Seller standard Technical Support for the Platform Services to Buyer at no additional charge, and (c) use commercially reasonable efforts to make the online Platform Services available 24 hours a day, 7 days a week, except for any unavailability caused by circumstances beyond Seller’s reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Seller employees), failure or



Support" means answering and logging requests for technical support; confirming that the entities requesting technical support are paid subscribers and are eligible to receive technical support for the Platform Services; directly answering questions and resolving issues that can be addressed through use of Documentation and similar resources; tracking and reporting technical support requests and resolution statuses; translating communications, if any, to and from technical support.

2.2.2. "Level Two Support" means providing all required technical support directly to Users, duplicating problems described in technical support requests, exercising best efforts to develop workarounds to problems, generating detailed descriptions of problems and requests.

2.2.3. "Level Three Support" means developing complex workarounds to Platform problems, fixing problems in the Platform code and manufacturing updates and upgrades to the Platform, and bug fixes, patches and service packs for the Platform.

2.2.4. Buyer's Support Obligations. Buyer (either directly or indirectly through an authorized User) may provide Level One Support directly to Buyer's Users as Buyer determines necessary.

2.2.5. Seller's Support Obligations: Seller will provide Level One Support through Level Three Support directly to Buyer and Buyer's Designated Support Users. Access methods and service levels are defined in Appendix C of this Agreement.

2.3. Protection of Buyer's Data. Seller will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Buyer's Data located on Seller's servers. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification and disclosure of Buyer's Data by third parties lacking a valid username and password and by Seller's personnel, except for actions by Seller's personnel (a) to provide the Platform Services and prevent or address service or technical problems, (b) as compelled by law in accordance with Section 7.3 (Compelled Disclosure) below, (c) as provided in Section 6.4, or (d) as Buyer expressly permit in writing. Additionally, Seller conforms to various privacy standards as described in Appendix A.

2.4. Seller's Personnel. Seller will be responsible for the performance of Seller's personnel (including Seller's employees and contractors) and their compliance with Seller obligations under this Agreement.

2.5. Beta Platform Services. From time to time, Seller may invite Buyer to try Beta Platform Services at no charge. Buyer may accept or decline any such Beta Platform Services in Buyer's sole discretion. Beta Platform Services will be clearly designated as beta, limited release, developer preview, non-production, evaluation or by a description of similar import. Beta Platform Services are for evaluation purposes and not for production use, are not considered "Platform Services" under this Agreement, are not supported, and may be subject to additional terms. Seller may discontinue Beta Platform Services at any time in Seller's sole discretion and may or may not make them generally available. Seller will have no liability for any harm or damage arising out of or in connection with a Beta Service.

### 3. USE OF PLATFORM SERVICES

3.1. Subscriptions. Unless otherwise provided in Seller's Quote, (a) Platform Services are purchased as subscriptions, (b) additional consumption or features may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions.

3.2. Usage Limits. Platform Services are subject to usage limits as described in Seller's Quote and Acknowledged in Buyer's corresponding Order Form. Unless otherwise specified, the Platform Services may not be applied to more than the limits described in Seller's Quote and Acknowledged in Buyer's corresponding Order Form. If Buyer exceeds a contractual usage limit at any time in the subscription period, Seller may work with Buyer to seek to reduce Buyer's usage so that it conforms to that limit. If, notwithstanding Seller's efforts, Buyer is unable or unwilling to abide by a contractual usage limit, Buyer will execute an Order Form



services for the overage consumption until such corrections have been made to bring the usage within the subscription limits.

3.3. Buyer's Responsibilities. Buyer will (a) be responsible for Users' compliance with this Agreement, (b) be responsible for the accuracy, quality and legality of Buyer's Data and the means by which Buyer acquired Buyer's Data and provided it to Seller, (c) use commercially reasonable efforts to prevent unauthorized access to or use of Platform Services, and notify Seller promptly of any such unauthorized access or use, (d) use Platform Services only in accordance with applicable laws and government regulations, (e) comply with terms of service of Non-TwinThread Applications with which Buyer uses Platform Services and (f) use the Platform Services to the limits described in as described in Seller's Quote and Acknowledged in Buyer's corresponding Order Form.

3.4. Usage Restrictions. Buyer will not (a) make the Platform Services available to, or use the Platform Services for the benefit of, anyone other than Buyer or Buyer's Users, (b) sell, resell, license, sublicense, distribute, rent or lease the Platform Services, or include the Platform Services in a service bureau or outsourcing offering except as described in this Agreement, (c) use the Platform Services to store or transmit Customer Data that infringes the intellectual property rights or other proprietary rights of any third party or violates third-party privacy rights, (d) use the Platform Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Platform Services or third-party data contained therein, (f) attempt to gain unauthorized access to or perform security testing on the Platform Services or its related systems or networks without Seller's prior written consent, (g) permit direct or indirect access to or use of the Platform Services in a way that circumvents a contractual usage limit, (h) copy the Platform Services or any part, feature, function or user interface thereof, (i) frame or mirror any part of the Platform Services, other than framing on Buyer's own intranets or otherwise for Buyer's own internal business purposes, (j) access the Platform Services in order to build a competitive product or service, (k) reverse engineer the Platform Services (to the extent such restriction is permitted by law), or (l) decompile, disassemble or otherwise attempt to obtain the source code for the Platform Services or On-Premise Software.

3.5 Suspension. Seller retains the right to suspend the Platform Services, Buyer's accounts and User accounts in the event of any security threat or Buyer's breach or threatened breach of any of the restrictions in Section 3.4. Seller will terminate any such suspension as soon as Seller determines that the risk underlying the suspension has been mitigated to Seller's satisfaction and except with regard to a breach by Buyer of Section 3.4, Buyer shall be entitled to a refund of prepaid fees based upon the duration of such suspension. Should any suspension under this Section 3.5 endure for thirty (30) or more days, then Buyer shall have the right to terminate this Agreement, in whole or in part, with only the obligation to pay for the Platform Services received through the effective date of such termination, and Buyer shall be entitled to a refund of any prepaid fees related to Platform Services not performed as of such termination.

3.6 Use of the Platform Services. Buyer is responsible for identifying and authenticating all licensable elements as described in Seller's Quote and Acknowledged in Buyer's corresponding Order Form, for approving access by such elements to the Platform Services, and for maintaining the confidentiality of usernames, passwords and account information. By federating or otherwise associating Buyer's and Buyer's Users' usernames, passwords and accounts with Seller, Buyer accepts responsibility for the confidentiality and timely and proper termination of user records in Buyer's local (intranet) identity infrastructure or on Buyer's local computers. Seller is not responsible for any harm caused by unauthorized access to the Platform Services due to Buyer's failure to deactivate usernames, passwords or accounts on a timely basis in Buyer's local identity management infrastructure or Buyer's local computers. Buyer is responsible for all activities that occur under Buyer's and Buyer's Users' usernames, passwords or accounts or as a result of Buyer's or Buyer's Users' access to the Platform Services.

3.7 License. Seller grants Buyer a worldwide, non-exclusive, non-transferable, non sublicensable (except as described in this document) right to copy, install and use the On-Premise software for the duration of the Subscription term, subject to the terms and conditions of this agreement. Seller does not license On-Premise Software on a perpetual basis.

## 4. NON-TWINTHREAD OFFERINGS



their providers, and may be required to grant Seller access to Buyer's account(s) on the Non-TwinThread Offerings. Any acquisition by Buyer of Non-TwinThread Offerings, any exchange of data between Buyer and any provider of a Non-TwinThread Offering, and any governing terms are solely between Buyer and the applicable provider. Seller does not warrant or support Non-TwinThread Offerings, whether or not they are recommended by Seller or otherwise. If the provider of a Non-TwinThread Offering ceases to make the Non-TwinThread Offering available for interoperation with the corresponding Platform Services features on reasonable terms, Seller may cease providing those Platform Services features without entitling Buyer to any refund, credit, or other compensation.

4.2 Special Terms. Some Non-TwinThread Offerings are subject to specific terms if Buyer uses them.

## 5. FEES AND PAYMENT FOR PLATFORM SERVICES

5.1. Fees. Buyer will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on Platform Services purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the relevant subscription term.

5.2. Invoicing and Payment. Buyer will provide Seller with a valid purchase order or alternative document reasonably acceptable to Seller. Seller will invoice Buyer in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due per the payment schedule defined in Seller's Quote and acknowledged in Buyer's corresponding Order Form. Buyer is responsible for providing complete and accurate billing and contact information to Seller and notifying Seller of any changes to such information.

5.3. Suspension of Platform Services and Acceleration. If any amount owed by Buyer under this or any other agreement for the Platform Services is 60 or more days overdue, or if Buyer has exceeded their subscription limits for more than 60 days, Seller may, without limiting Seller's other rights and remedies, accelerate Buyer's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Seller's Platform Services to Buyer until such amounts are paid in full. Seller will give Buyer at least 20 days prior notice that Buyer's account is overdue, in accordance with Section 12.2 (Manner of Giving Notice), before suspending Platform Services to Buyer.

5.4. Payment Disputes. Seller will not exercise Seller's rights under 5.3 (Suspension of Platform Services and Acceleration) above if Buyer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

5.5. Taxes. Seller's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Buyer is responsible for paying all Taxes associated with Buyer's purchases hereunder. If Seller has the legal obligation to pay or collect Taxes for which Buyer is responsible under this Section, Seller will invoice Buyer and Buyer will pay that amount unless Buyer provides Seller with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Seller is solely responsible for taxes assessable against Seller based on Seller income, property and employees.

5.6. Future Functionality. Buyer agrees that Buyer's purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Seller regarding future functionality or features.

## 6. PROPRIETARY RIGHTS AND LICENSES

6.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, Seller and Seller's licensors reserve all of Seller's/their right, title and interest in and to the Platform Services, including all of Seller's/their related intellectual property rights. No rights are granted to Buyer hereunder other than the right to receive and use Platform Services as expressly set forth herein.

6.2. License by Buyer to Host Buyer's Data and Applications. Buyer grants Seller and Seller's Affiliates a worldwide, limited-term license to host, configure, copy, transmit and display Buyer's Data as necessary for Seller to provide the Platform Services in



6.3. License by Buyer to Use Feedback; Marketing. Buyer grants to Seller and Seller's Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Platform Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Buyer or Users relating to the operation of the Platform Services. Notwithstanding the foregoing, Seller may, during Term of Agreement, reference Buyer as a customer or user of the Platform Services subject to any trademark or logo usage guidelines that Buyer may provide to Seller.

6.4. Use of Data. Seller may collect, use and store data concerning the operation of the Platform Services provided such data not reveal Buyer's identity, any user of the Platform Services, contain any personal information or any of Buyer's Confidential Information. Data collection by Seller must consider privacy laws of the United States and other countries. Any data obtained by Buyer through any collection method, including the Platform Services, is owned exclusively by Buyer. In the event Seller becomes aware of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal information stored in the Platform Services, Seller will inform Buyer promptly (providing reasonable details), reasonably cooperate with Buyer and take all reasonably necessary steps within its control to mitigate the breach and prevent it from recurring. In the event Seller is contacted by a third party about personal information stored in the Platform Services (a "Third-Party Request"), Seller shall inform Buyer as soon as reasonably possible, providing reasonable details. In the event Buyer is unable to respond to a Third-Party Request using the functionality available to Buyer in the Platform Services, Seller will provide reasonable assistance.

6.5. Third-Party Open Source Software. The On-Premise software incorporates third-party open source software. All such software must comply with TwinThread's Third Party Open Source License Policy. Buyer may request a list of such third-party software and a copy of the Policy at any time

6.6. Federal Government End Use Provisions. Seller provides the Platform Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Platform Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Seller to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

## 7. CONFIDENTIALITY

7.1. Definition of Confidential Information. "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Buyer's Confidential Information includes Buyer's Data; Seller's Confidential Information includes the Platform Services; and Confidential Information of each party includes the terms and conditions of this Agreement and all Quotes and Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party or any other party, or (iv) was independently developed by the Receiving Party.

7.2. Protection of Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes of performing under this Agreement and who have signed



perform its obligations under this Agreement, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this Section 7.2.

7.3. Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil or administrative proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

## 8. REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

8.1. Representations. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

8.2. Seller's Warranties. Seller warrants that the Platform Services will operate in substantial conformity with the then current version of the applicable published documentation provided by Seller. For any breach of such warranty, Buyer's sole remedies are those described in Sections 11.3 (Termination) and 11.4 (Refund or Payment upon Termination). Subject to the foregoing, Seller reserves the right to make changes or updates to the Platform Services (such as infrastructure, security, technical configurations, application features, Platform Services descriptions, etc.) during Buyer's subscription, including to reflect changes in technology, industry practices, and patterns of system use.

8.3. Mutual Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. BETA PLATFORM SERVICES ARE PROVIDED "AS IS," EXCLUSIVE OF ANY WARRANTY WHATSOEVER. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS INCLUDING PROVIDERS OF HOSTING INFRASTRUCTURE.

8.4 Additional Disclaimers. SELLER DOES NOT WARRANT THAT THE PLATFORM SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT SELLER WILL CORRECT ALL PLATFORM SERVICES ERRORS. SELLER IS NOT RESPONSIBLE FOR DATA QUALITY ISSUES AND BUYER WILL MAINTAIN BACKUP COPIES OF BUYERS DATA ON BUYER'S OWN SYSTEMS. SELLER IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE PLATFORM SERVICES THAT ARISE FROM BUYER'S CONTENT OR THIRD PARTY OFFERINGS. SELLER HAS NO RESPONSIBILITY FOR THE PERFORMANCE OR OTHER OBLIGATIONS OF ANY PROVIDERS OF THIRD PARTY OFFERINGS.

## 9. MUTUAL INDEMNIFICATION

9.1. Indemnification by Seller. Seller will indemnify, defend and hold harmless Buyer against any damages awarded by a court incurred in connection with claims, demands, suits or proceedings made or brought by a third party ("Claims") against Buyer alleging that Buyer's use of the Platform Services, as contemplated hereunder, infringes any valid patent, copyright or trademark of a third party in the United States. Notwithstanding the foregoing, if Seller reasonably believes that Buyer's use of any portion of the Platform Services is likely to be enjoined by reason of a Claim of infringement, violation or misappropriation of any third party intellectual property rights then Seller may, at Seller's expense and in Seller's sole discretion: (i) procure for Buyer the right to continue using the Platform Services; (ii) replace the same with other non-infringing software or Platform Services of substantially equivalent functions; or (iii) modify the applicable software or Platform Services so that there is no longer any infringement, violation





sole discretion, terminate this Agreement and refund Buyer a prorated amount equal to the pre-paid fees covering the whole months that would have remained, absent such early termination, following the effective date of such early termination. Seller's foregoing indemnification obligation will not apply: (1) if the Platform Services are modified by any party other than Seller, to the extent the alleged infringement is caused by such modification; (2) if the Platform Services are combined with other products, applications, or processes not provided by Seller, to the extent the alleged infringement is caused by such combination; (3) to Claims arising out of any unauthorized use of the Platform Services; (4) to Claims arising out of any Non-TwinThread Offerings; or (5) to Claims arising out of Buyer's Data. THIS SECTION 9.1 SETS FORTH SELLER'S SOLE LIABILITY AND BUYER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT OR MISAPPROPRIATION.

9.2. Indemnification by Buyer. Buyer will indemnify, defend and hold Seller and Seller's Affiliates, and Seller and their officers, directors, employees, agents and contractors, harmless from and against any damages and losses incurred in connection with Claims arising from or relating to Buyer's use of Buyer's Data or other use of the Platform Services, in each case except to the extent Seller is obligated to indemnify Buyer under Section 9.1.

9.3 Procedures. Each party's indemnity obligations are subject to the following: (i) the indemnified party will promptly notify the indemnifying party in writing of the applicable Claim; (ii) the indemnifying party will have sole control of the defense and all related settlement negotiations with respect to the Claim (provided that the indemnifying party may not settle or defend any Claim unless it unconditionally releases the indemnified party of all liability); and (iii) the indemnified party will cooperate fully to the extent necessary, and execute all documents necessary for the defense of such Claim.

## 10. LIMITATION OF LIABILITY

10.1. Limitation of Liability. IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AMOUNT PAID BY BUYER HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT GIVING RISE TO THE LIABILITY. THE ABOVE LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT OR APPLY TO BUYER'S PAYMENT OBLIGATIONS UNDER SECTION 5 (FEES AND PAYMENT FOR PLATFORM SERVICES). The foregoing limitations shall not apply to liability for personal injury or arising out of fraud or gross negligence except to the extent such limitations are permitted by applicable law. No action against Seller arising out of this Agreement may be brought more than one (1) year after the cause of action has arisen.

10.2. Exclusion of Consequential and Related Damages. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

## 11. TERM AND TERMINATION

11.1. Term of Agreement. This Agreement commences on the date Buyer first accepts it and continues until all subscriptions hereunder have expired or have been terminated.

11.2. Term of Subscriptions. The term of each subscription shall be as specified in Seller's Quote and Acknowledged in Buyer's corresponding Order Form.

11.3. Termination. A party may terminate this Agreement for cause (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

11.4. Refund or Payment upon Termination. If this Agreement is terminated by Buyer in accordance with Section 11.3 (Termination), Seller will refund Buyer any prepaid fees covering the remainder of the term of all Order Forms after the effective date of





Seller for the period prior to the effective date of termination.

11.5. If Seller is providing Hosting Infrastructure, Buyer authorizes Seller to retain Buyer's Data for 30 days after any termination or expiration of this Agreement. Notwithstanding the foregoing, following any such termination or expiration Seller has no obligation to maintain Buyer's Data, and will delete or destroy all copies of Buyer's Data in Seller's systems or otherwise in Seller's possession or control, unless legally prohibited. Upon request and at Buyer's sole cost Buyer has the right to receive a copy of Buyer's data within 30 days after termination of this Agreement.

11.5.1 If Buyer is providing Hosting Infrastructure, and Buyer terminates this Agreement or this Agreement expires, Buyer grants Seller a 30 day window to remove Seller's IP from Buyer's subscription.

11.6. Surviving Provisions. The Sections titled "Fees and Payment for Platform Services," "Proprietary Rights and Licenses," "Confidentiality," "Disclaimers," "Mutual Indemnification," "Limitation of Liability," "Refund or Payment upon Termination," "Buyer's Data Portability and Deletion," "Who Buyer Is Contracting With, Notices, Governing Law and Jurisdiction," and "General Provisions" will survive any termination or expiration of this Agreement.

## 12. WHO BUYER IS CONTRACTING WITH, NOTICES, GOVERNING LAW AND JURISDICTION

12.1. General. Buyer is contracting with TwinThread, Inc., a Delaware corporation. Buyer should direct notices under this Agreement to TwinThread, Inc., 609 East Market Street Suite 104, Charlottesville, VA 22902; Attn: Erik Udstuen, Chief Executive Officer.

12.2. Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, or (iii) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to Buyer shall be addressed to the relevant billing contact designated by Buyer. All other notices to Buyer shall be addressed to the relevant Platform Services system administrator designated by Buyer.

12.3. Agreement to Governing Law and Jurisdiction. Each party agrees to the governing law of the State of Virginia without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of federal and state courts sitting in Charlottesville, Virginia.

## 13. GENERAL PROVISIONS

13.1. Export Compliance. The Platform Services may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Buyer shall not permit Users to access or use any Platform Services in a U.S.-embargoed country (currently Belarus, Cuba, Iran, North Korea, Russia, Syria, Crimea and covered regions of the Ukraine) or in violation of any U.S. export law or regulation.

13.2. Anti-Corruption. Buyer has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Seller's employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Buyer learns of any violation of the above restriction, Buyer will use reasonable efforts to promptly notify Seller.

13.3. Entire Agreement and Order of Precedence. This Agreement is the entire agreement between Buyer and Seller regarding Buyer's use of Platform Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Seller may modify this Agreement by updating the Agreement as it appears on Seller's website. Additionally, the parties may modify or amend this Agreement in a written instrument signed by both parties. Changes or amendments to Buyer's Order Form(s) may be accomplished only in a written instrument signed by both parties. The parties agree that any term or condition stated in Buyer's purchase order or in any other of Buyer's order documentation (excluding Quotes and Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) Seller's Quote (2) a written instrument signed by both parties (3) this Agreement.



Agreement in its entirety (including all Order Forms), following written notice to but without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, Seller will refund to Buyer any prepaid fees covering the remainder of the term of all subscriptions. Subject to the foregoing, this Agreement will bind and ensure to the benefit of the parties, their respective successors and permitted assigns.

13.4. Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

13.5. No Third-Party Beneficiaries. There are no third-party beneficiaries under this Agreement.

13.6. Waiver. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

13.7. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void or, preferably, 'blue-penciled' and scaled back until it is no longer contrary to law, and the remaining provisions of this Agreement will remain in effect.

13.8. Force Majeure Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events, which occur after the signing of this Agreement and which are beyond the reasonable control of the parties, such as strikes, blockade, war, terrorism, riots, natural disasters, refusal of license by the government or other governmental agencies, in so far as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost.

#### Master Subscription Agreement Acceptance

TwinThread (Seller)

Name\_\_\_\_\_

Title\_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_

Company (Buyer)

Name\_\_\_\_\_

Title\_\_\_\_\_

Signature\_\_\_\_\_

Date\_\_\_\_\_

## Appendix A - Privacy Policy

Last updated: September 1, 2022

This policy lays out: what data Seller collects and why; how Buyer's data is handled; and Buyer's rights to Buyer's data. This policy applies to all products built and maintained by TwinThread. Those items not applicable when Buyer is providing Hosting Infrastructure are noted in each section.

#### What Seller collects and why

Seller's guiding principle is to collect only what Seller needs. Here's what that means in practice:

#### Identity & access



essential information. Seller sometimes also gives Buyer the option to add a profile picture that displays in Seller products, but Seller does not normally look at or access that picture. Seller never sells Buyer's personal info to third parties, and Seller won't use Buyer's name or company in marketing statements without Buyer's permission either.

#### **Geolocation data**

Seller logs all access to all accounts by full IP address so that Seller can always verify no unauthorized access has happened. Seller keeps this login data for as long as Buyer's product account is active.

Seller also logs full IP addresses used to sign up a product account. Seller keeps this record forever because they are used to mitigate spammy signups.

#### **Website interactions**

When Buyer browses Seller's marketing pages or applications, Buyer's browser automatically shares certain information such as which operating system and browser version Buyer is using. Seller tracks that information, along with the pages Buyer is visiting, page load timing, and which website referred Buyer for statistical purposes like conversion rates and to test new designs. Seller sometimes tracks specific link clicks to help inform some design decisions. These web analytics data are tied to Buyer's IP address.

#### **Cookies and Do Not Track**

Seller does use persistent first-party cookies to store certain preferences, make it easier for Buyer to use Seller's applications, and support some in-house analytics. A cookie is a piece of text stored by Buyer's browser to help it remember Buyer's login information, site preferences, and more. Buyer can adjust cookie retention settings in Buyer's own browser. To learn more about cookies, including how to view which cookies have been set and how to manage and delete them, please visit: <https://allaboutcookies.org/>.

#### **Voluntary correspondence**

When Buyer writes TwinThread with a question or to ask for help, Seller keeps that correspondence, including the email address, so that Seller has a history of past correspondences to reference if Buyer reaches out in the future.

Seller also stores any information Buyer volunteers like surveys. Sometimes when Seller conducts customer interviews, Seller may ask for Buyer's permission to record the conversation for future reference or use. Seller only does so if Buyer gives Buyer's express consent.

#### **Information Seller does not collect**

Seller doesn't collect any characteristics of protected classifications including age, race, gender, religion, sexual orientation, gender identity, or gender expression. Buyer may provide these data voluntarily, such as if Buyer includes a pronoun preference in Buyer's email signature when writing into Seller's Support team.

Seller also does not collect any biometric data. Buyer is given the option to add a picture to Buyer's user profile, which could be a real picture of Buyer or a picture of something else that represents Buyer best. Seller does not extract any information from profile pictures: they are for Buyer's use alone.

#### **When Seller access Buyer's information**

Seller's default practice is to not access Buyer's information. The only times Seller will ever access Buyer's info are:

- To provide products or Platform Services Buyer has requested. Seller does use some third-party Platform Services to run Seller applications and only to the extent necessary process some or all of Buyer's personal information via these third parties. Having sub-processors means Seller is using technology to access Buyer's data. No TwinThread human looks at Buyer's data for these purposes.



- To investigate, prevent, or take action regarding restricted uses. Accessing a customer's account when investigating potential abuse is a measure of last resort. Seller has an obligation to protect the privacy and safety of both Seller's customers and the people reporting issues to Seller. Seller does its best to balance those responsibilities throughout the process. If Seller does discover Buyer is using Seller products for a restricted purpose, Seller will report the incident to the appropriate authorities.
- When required under applicable law. If the appropriate law enforcement authorities have the necessary warrant, criminal subpoena, or court order requiring Seller to share data, Seller has to comply. Otherwise, Seller rejects requests from local and federal law enforcement when they seek data. And unless Seller is legally prevented from it, Seller will always inform Buyer when such requests are made. Seller has never received a National Security Letter or Foreign Intelligence Surveillance Act (FISA) order.

If TwinThread is acquired by or merged with another company — Seller doesn't plan on that, but if it happens — Seller will notify Buyer well before any info about Buyer is transferred and becomes subject to a different privacy policy.

### Location of Site and Data

Seller's products and other web properties are operated in the United States. If Buyer is located in the European Union or elsewhere outside of the United States, please be aware that any information Buyer provides to Seller will be transferred to the United States. By using Seller's Site, participating in any of Seller's Platform Services and/or providing Seller with Buyer's information, Buyer consents to this transfer. Note: This does not apply when Buyer is providing Hosting Infrastructure.

### Buyer's Rights With Respect to Buyer's Information

At TwinThread, Seller applies the same data rights to all customers, regardless of their location. Currently some of the most privacy-forward regulations in place are the European Union's General Data Protection Regulation ("GDPR") and California Consumer Privacy Act ("CCPA") in the United States. TwinThread recognizes all of the rights granted in these regulations, except as limited by applicable law. These rights include:

- Right to Know. Buyer has the right to know what personal information is collected, used, shared or sold. Seller outlines both the categories and specific bits of data Seller collects, as well as how they are used, in this privacy policy.
- Right of Access. This includes Buyer's right to access the personal information Seller gathers about Buyer, and Buyer's right to obtain information about the sharing, storage, security and processing of that information.
- Right to Correction. Buyer has the right to request correction of Buyer's personal information.
- Right to Erasure / "To be Forgotten". This is Buyer's right to request, subject to certain limitations under applicable law, that Buyer's personal information be erased from Seller's possession and, by extension, all of Seller's service providers. Fulfillment of some data deletion requests may prevent Buyer from using Platform Services because Seller applications may then no longer work. In such cases, a data deletion request may result in closing Buyer's account.
- Right to Complain. Buyer has the right to make a complaint regarding Seller's handling of Buyer's personal information with the appropriate supervisory authority. To identify Buyer's specific authority or find out more about this right, EU individuals should go to [https://edpb.europa.eu/about-edpb/board/members\\_en](https://edpb.europa.eu/about-edpb/board/members_en).
- Right to Restrict Processing. This is Buyer's right to request restriction of how and why Buyer's personal information is used or processed, including opting out of sale of personal information (Again: Seller never has and never will sell Buyer's personal data).
- Right to Object. Buyer has the right, in certain situations, to object to how or why Buyer's personal information is processed.
- Right to Portability. Buyer has the right to receive the personal information Seller has about Buyer and the right to transmit it to another party.



based on Buyer's explicit consent.

- **Right to Non-Discrimination.** This right stems from the CCPA. Seller will not charge Buyer a different amount to use Seller's products, offer Buyer different discounts, or give Buyer a lower level of customer service because Buyer has exercised Buyer's data privacy rights. However, the exercise of certain rights (such as the right "to be forgotten") may, by virtue of Buyer's exercising those rights, prevent Buyer from using the Platform Services.

Many of these rights can be exercised by signing in and directly updating Buyer's account information. If Buyer has questions about exercising these rights or need assistance, please contact Seller at Seller's USA office at [services@twinthread.com](mailto:services@twinthread.com) or at 609 East Market Street Suite 104, Charlottesville, VA 22902, or at Seller's Canada office at 1597 Bedford Hwy #307, Bedford, NS B4A 1E7, Canada.

To identify Buyer's specific authority to file a complaint or find out more about GDPR, EU individuals should go

[https://edpb.europa.eu/about-edpb/board/members\\_en](https://edpb.europa.eu/about-edpb/board/members_en).

#### How Seller secures Buyer's data

All data is encrypted via [SSL/TLS](#)

when transmitted from Seller's servers to Buyer's browser. The database backups are also encrypted. Most data is not encrypted while they live in Seller's database (since it needs to be ready to send to Buyer when Buyer needs it), but Seller goes to great lengths to secure Buyer's data at rest.

#### EU-US and Swiss-US Privacy Shield policy

The GDPR requires that data transfer out of the EU must only happen to countries deemed as having adequate data protection laws. The United States generally doesn't meet that requirement. [Privacy Shield](#) is an agreement between certain European jurisdictions and the United States that allows for the transfer of personal data from the EU to the US. Participation in the Privacy Shield program is voluntary. Seller complies with the frameworks for EU, UK, and Swiss data that are transferred into the United States

TwinThread complies with the EU-U.S. Privacy Shield Framework and the Swiss-U.S. Privacy Shield Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union, the United Kingdom, and Switzerland to the United States, respectively. Seller has certified to the Department of Commerce that Seller adheres to the Privacy Shield Principles. If there is any conflict between the terms in this privacy policy and the Privacy Shield Principles, the Privacy Shield Principles take precedent. To learn more about the Privacy Shield program, and to view Seller's certification please visit <https://www.dataprivacyframework.gov/>.

TwinThread is subject to the investigatory and enforcement powers of the Federal Trade Commission (FTC) with regard to the Privacy Shield Frameworks.

The Privacy Shield Frameworks uphold specific principles, many of which are already outlined in the section on Buyer's Rights. For clarity, pursuant to the Privacy Shield Frameworks, the following principles apply to all EU, UK, and Swiss data that has been transferred into the United States:

- Individuals have the right to access their personal data and to update, correct, and/or amend information that is incomplete. Individuals also have the right to request erasure of personal information that has been processed in violation of the principles. Individuals wishing to exercise these rights may do so by signing in and directly updating Buyer's account information. If Buyer has questions about exercising these rights or need assistance, please contact Seller at [services@twinthread.com](mailto:services@twinthread.com), or 609 East Market Street, Suite 104, Charlottesville, VA 22902, or at Seller's Canada office, 1597 Bedford Hwy #307, Bedford, NS B4A 1E7, Canada.
- Seller remains liable for the onward transfer of personal data to third parties acting as Seller's agents unless Seller can prove Seller was not a party to the events giving rise to the damages.



- Seller may be required to release personal data in response to lawful requests from public authorities including to meet national security and law enforcement requirements.

#### Seller commits to resolving all complaints

In compliance with the EU-US and Swiss-US Privacy Shield Principles, Seller commits to resolve complaints about Buyer's privacy and Seller's collection or use of Buyer's personal information. European Union, United Kingdom, or Swiss individuals with inquiries or complaints regarding this privacy policy should first contact Seller by mail at 609 East Market Street Suite 104, Charlottesville, VA 22902, or at Seller's Canada office at 1597 Bedford Hwy #307, Bedford, NS B4A 1E7, Canada.

TwinThread (the company) has further committed to refer unresolved privacy complaints under the EU-US and Swiss-US Privacy Shield Principles to an independent dispute resolution mechanism, the BBB EU PRIVACY SHIELD, operated by BBB National Programs. If Buyer does not receive timely acknowledgment of Buyer's complaint, or if Buyer's complaint is not satisfactorily addressed, please visit <https://bbbprograms.org/programs/bbb-privacy-shield/eu-dispute-resolution> for more information and to file a complaint. This service is provided at no cost to Buyer. Please do not submit GDPR complaints to BBB EU Privacy Shield.

If Buyer's Privacy Shield complaint cannot be resolved through these described channels, under certain conditions, Buyer may invoke binding arbitration for some residual claims not resolved by other redress mechanisms. To learn more, please view the Privacy Shield Annex 1 at <https://www.privacyshield.gov/article?id=ANNEX-I-introduction>.

#### Changes & questions

Seller may update this policy as needed to comply with relevant regulations and reflect any new practices.

Have any questions, comments, or concerns about this privacy policy, Buyer's data, or Buyer's rights with respect to Buyer's information? Please get in touch by emailing Seller at [services@twinthread.com](mailto:services@twinthread.com).

## Appendix C: Support Obligations

#### Standard Business Hours

M-F 8AM-6PM EST, excluding Canadian and US public holidays

#### Access

- Via the TwinThread Product: <https://app.twinthread.com> - RECOMMENDED
- Via: [support@twinthread.com](mailto:support@twinthread.com)
- Via Website: <https://issues.twinthread.com>
- P1 (Emergency) Only
  - By Phone - 1-434-218-7856, press '3'

#### Support Level Definitions and Response:

The Technical Support Team makes every attempt to respond to customer cases submitted during Standard Business Hours, as soon as possible. Depending on the level of priority of the Issues, they commit to an initial response per the table below

**Priority:** describes the severity of the issue and its impact on operations



guarantee a time frame to correct the issue but indicates the effort we will expend to correct or alleviate the issue.

**Update Frequency:** defines the frequency of updates on the state of the issue that will be provided to customers until the issue is corrected.

Prior	Initial Response	Work Approach	Update Frequency
P1*	60 Minutes	24x7	Daily
P2	4 Business Hours	5x10	Daily
P3	1 Business Day	Scheduled	As Determined
P4	2 Business Days	Scheduled	As Determined
*P1 Issues Must Be Called In			
Priority Definitions			
P1 - Total system is unavailable			
P2 - Feature is inoperable, work around is not possible; problem could impact many users			
P3 - Feature is inoperable and work around is possible; operational question			
P4 - Informational question; product use question			

The goal of the initial contact is to solve the problem, however, if that is not possible, the goal is to gather the information needed to research the solution. This information includes:

- The symptoms of the problem, including any relevant data and/or log files
- The priority of the problem as defined above



Why TwinThread

- Platform Overview
- Digital Twins
- AI Modeling
- Operationalization
- Virtual Operations Center
- Continuous Improvement
- Platform
- Perfect Quality
- Perfect Energy
- Perfect Batch





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