Safer Terms and Conditions

Safer

Effective: February 27, 2023

These Terms and Conditions ("Terms and Conditions"), when taken together with an Order Form, constitute the Safer Enterprise Agreement (the "Agreement") entered into between Thorn and Company. Capitalized terms used by not defined in these Terms and Conditions have the meanings given to them in the Order Form.

1   DEFINITIONS

1.1   "Company Clients" means clients of Company on whose behalf Company is authorized in an Order Form to use the Services as set forth in these Terms and Conditions.

1.2   "Company Data" means information that identifies Company or Company Clients in combination with: (i) Queries Company has submitted to the Matching Service; or (ii) Results Company has received from the Matching Service.

1.3   "CSAM" means child sexual abuse material, including materials that involve sexual trafficking, exploitation, endangerment or abuse of children.

1.4   "Feature" means identifying or descriptive information algorithmically generated from an item of digital imagery or a video, where such information does not include such digital imagery/video or sufficient information to recreate such digital imagery/video. Features include both Hashes and other identifying or descriptive information (such as, for example, the set of colors used in a particular item of digital imagery/video).

1.5   "Hash" means a numeric identifier that is algorithmically generated from an item of digital imagery or video.

1.6   "Matching Service" means the service provided by Thorn which compares Hashes submitted by Company against Hash sets of known or suspected CSAM, and returns Results.

1.7   "Metrics" means usage, performance and detection statistics produced in connection with Company's use of the Services, and either submitted by Company to Thorn or captured automatically by the Matching Service.

1.8   "Mission" means the detection, removal and reporting of CSAM from online platforms and services.

1.9   "Query" means a request for information from the Matching Service that is based upon a Hash and/or other Feature arising from a particular item of digital imagery or video.

1.10   "Result" means the information returned by the Matching Service in response to a Query.

1.11   "Services" means collectively, the services and Software provided by Thorn to Company as identified in an Order Form, which may include, without limitation, the Matching Service and Support Services, and which may be used by Company solely to further the Mission.

1.12   "Software" means any and all software provided as part of the Services, and includes any related updates, upgrades, and documentation.

1.13   "Support Services" means the support and maintenance services offered by Thorn to assist Company's access to and use of the Services.

1.14   "Term" has the meaning set forth in Section 11.1.

2   MATCHING SERVICE

2.1   **Access by Company.** Subject to the provisions of the Agreement, Company may, on its own behalf and on behalf of Company Clients, submit Queries to the Matching Service and receive Results in response, in each case, through the application programming interfaces and other interfaces provided by Thorn for that purpose.

2.2   **Usage Restrictions.** Company will not: (i) make the Matching Service available to any third party, or use or include the Matching Service (or any portion thereof) in any service bureau or outsourcing offering; (ii) interfere with or disrupt the integrity or performance of the Matching Service; or (iii) attempt to access the Matching Service or its related systems, data, or networks, except as expressly authorized by the Agreement.

3   SOFTWARE

3.1   **Software License.** Thorn grants Company a non-exclusive, non-transferable (except as set forth in Section 12.1), non-sublicensable, fully-paid, royalty-free, revocable, worldwide license during the Term to reproduce and use the Software provided by Thorn to Company hereunder, only: (i) internally, on Company-owned or licensed systems; (ii) in compliance with the Agreement; and (iii) for the purpose of identifying, preventing, removing, and/or reporting CSAM from Company's and Company Clients' online platforms and services. Except as set forth in this Section 3.1, Company acknowledges that, as between Thorn and Company, Thorn owns all right, title and interest, including all intellectual property rights, in and to the Services, including without limitation the Software.

3.2   **License Restrictions.** Company will not, and will not encourage or assist any third party to: (i) distribute, sell, lease, license, or sublicense the Software; (ii) use or export the Software in any manner that violates any applicable law; (iii) reverse engineer, decompile, disassemble, or otherwise

attempt to derive the source code or algorithms of the Software; or (iv) combine or incorporate the Software together with any software that is subject to a license requiring that software so combined or incorporated be: (a) disclosed or distributed in source code form; (b) licensed for the purpose of making derivative works; or (c) redistributable at no charge.

3.3   **Feedback License.** If Company provides bug reports, feature ideas, results, or other feedback ("Feedback") to Thorn regarding the operation, content, design, interfaces, or other features and functionality of the Software or the Services, Thorn may use such Feedback without restriction, and Company hereby grants Thorn a non-exclusive, non-transferable (except as set forth in Section 12.1), perpetual, irrevocable, fully-paid, royalty-free, worldwide license to use such Feedback for any purpose.

3.4   **Third-Party Technologies.** The Software may support certain third-party software, including without limitation, certain software algorithm implementations provided by third parties, such as Microsoft's PhotoDNA software and Google's CSAI Match software and/or certain proprietary formats, such as High Efficiency Image File Format (HEIF) files or High Efficiency Image Container (HEIC) files, (collectively, "Third-Party Technologies"). If Company wishes to use Third-Party Technologies, Company is solely responsible for obtaining appropriate licenses and compatible software from the respective third party licensors. Third-Party Technologies are not products of Thorn, and Thorn does not guarantee their function or their interoperability with the Software. Unless explicitly prohibited in the Agreement, nothing in the Agreement limits or is intended to limit Company's rights to obtain or use such Third-Party Technologies under such applicable third-party license terms.

3.5   **Third-Party Software.** The Software may contain third-party software components that are provided under applicable third-party license terms, including open source license terms.

3.6   **Reservation of Rights.** Except for the license expressly set forth in this Section, Thorn does not grant any other licenses to Company, whether by implication, estoppel, or otherwise.

4   SUPPORTIVE SERVICES

4.1   **Description of Support Services.** If Company is receiving Support Services pursuant to an Order Form, then in addition to any Support Services set forth on the Order Form Thorn will provide the following to Company:

   (i) Software Updates and Upgrades. During the Term, Thorn will provide Company with bug fixes, error corrections, updates, improvements, enhancements and patches (collectively, "Updates'") that it makes generally available from time to time at no additional charge to Safer Support Services clients. Company agrees to promptly install all Updates, and any upgrades provided to Company. Thorn will provide Support Services only for the current Software version, and versions that have been released

in the preceding 12 month period.

(ii) Error Correction. If the Software or Services are not operating according to the documentation provided by Thorn to Company (an "Error"), Company will alert Thorn's technical contacts in writing. If upon investigating the cause of the potential Error, Thorn determines that there is a defect in the Software or any Service, Thorn will provide either, in its sole discretion, a remedy in the form of a workaround or an updated version of the affected Software or Service. The Support Services are dependent upon Company providing the information necessary for Thorn to reproduce, diagnose and resolve any Error, which may include log files, configuration files, error messages, and a description of the steps necessary to reproduce the Error.

4.2 **Availability of Support Services.** Support Services are provided only to Company and not to Company Clients, and not for Errors which are caused by networks, equipment, systems, software, or personnel not provided by Thorn.

5   COMPANY CLIENTS

If an Order Form authorizes Company to use the Services on behalf of a Company Client(s), then Company: (i) will provide the name and URL of each Company Client to Thorn no later than 30 days after use of any Services on behalf of such Company Client to AccountManagement@wearethorn.org; (ii) represents and warrants to Thorn that it has all necessary authorizations and consents to use the Services to process data received from Company Clients, including without limitation, to submit Queries and Metrics on behalf of Company Clients to the Matching Service, and receive back Results; (iii) may report back to the respective Company Clients the Results of Queries submitted to the Matching Service by Company on behalf of Company Clients; and (iv) in addition to and not in limitation of Section 10.2, and subject to Section 10.3, will defend, indemnify and hold Thorn harmless against any and all Damages arising from any Claim brought by, on behalf of or in connection with any Company Clients and based on or related to the Services provided or any obligations undertaken by Thorn under the Agreement.

6   FEES

6.1   **Fees.** Company will pay Thorn the amounts set forth in the Order Form commencing as of the Service Start Date ("Fees").

6.2   **Payment Terms.** Thorn will invoice Company for the Fees pursuant to the Order Form, and Company will pay each invoice within 30 days of the date thereof. If Company disputes any portion of an invoice, it will pay the undisputed portion of that invoice within 30 days of the date thereof, and the parties will use commercially reasonable efforts to resolve the disputed portions. If the parties are unable to resolve the disputed portions of the invoice within 60 days of the date thereof, Thorn may suspend the portion of the Service that is the subject of the dispute without penalty or offset. Any

failure or delay by Thorn to invoice Company in a timely manner for owed Fees, including but not limited to any overage amount, will not be deemed a waiver of any such Fees.

6.3   **Taxes.** Fees are payable without deduction for taxes or duties of any kind. Company will pay any taxes (including value-added, sales and use, and withholding taxes) arising from Company's payments made under the Agreement or Company's use of the Services or receipt of the Software, but not including any taxes based on Thorn's net income. If Company is required under any applicable law or regulation to withhold or deduct any portion of the Fees, then the sum payable to Thorn will be increased by the amount necessary so that Thorn receives an amount equal to the sum it would have received had Company made no withholdings or deductions.

7   CONFIDENTIALITY

7.1   **Definitions.** "Discloser" means either party, when disclosing its Confidential Information to the other party hereunder. "Recipient" means either party, when receiving Discloser's Confidential Information hereunder. "Confidential Information" means the terms of the Agreement, as well as any other non-public information that a party provides to the other in connection with the Agreement that the Recipient knew or reasonably should have known was confidential, and: (i) with respect to Thorn, the features, functionality, components and performance of the Services; and (ii) with respect to Company, the Company Data and identity of Company Clients. Notwithstanding the foregoing sentence, Confidential Information will not include any information that: (a) is or becomes publicly known or generally available without a duty of confidentiality through no wrongful action or inaction of Recipient; (b) is in the rightful possession of Recipient without confidentiality obligations at the time of disclosure; (c) is obtained by Recipient from a third party without an accompanying duty of confidentiality and without a breach of such third party's obligations of confidentiality; or (d) is independently developed by Recipient without use of or reference to Discloser's Confidential Information.

7.2   **Maintenance of Confidentiality.** Except as expressly set forth in this Section or except with the prior written permission of Discloser, Recipient will not: (i) use the other party's Confidential Information for any purpose except in connection with its rights and obligations under the Agreement; or (ii) disclose the other party's Confidential Information to any third party except as expressly set forth in this Section. Recipient may disclose Confidential Information: (a) to Recipient's employees, contractors and representatives who have a "need to know" such information to perform the obligations set forth in the Agreement and for the Mission, subject in each case to reasonable contractual confidentiality obligations no less protective of the Confidential Information than Recipient employs to protect its own confidential information of a similar nature, but in no event less than reasonable care; and (b) to the extent such disclosure is legally compelled by judicial order or applicable law if Recipient uses commercially reasonable efforts to: (1) promptly notify Discloser of

such legal request before making any disclosure; and (2) comply with Discloser's reasonable requests to oppose or limit the disclosure (at no cost to Recipient). If no such protective order or other remedy is sought or obtained pursuant to this Section, Recipient may disclose only that portion of Confidential Information that is legally required to disclose and will use reasonable efforts to ensure that the Confidential Information disclosed will be accorded confidential treatment.

7.3 **Use and Disclosure of Company Data and Metrics.** In addition and not in limitation of Section 7.2, Thorn may use and disclose Company Data internally to: (i) improve the Services; or (ii) further the Mission. Thorn may also collect and use Metrics internally to improve the Services, as well as disclose Metrics externally to third parties if: (a) such data is anonymized and aggregated with the data of at least three other users of the Services; and (b) in furtherance of the Mission.

7.4 **Duration.** The obligations set forth in this Section 7 will continue during the Term and for five years thereafter.

8 DISCLAIMERS

8.1 **Disclaimer Regarding Results.** Thorn obtains CSAM Hash sets from various sources, which may be used to generate Results provided to Company hereunder. Thorn does not corroborate or confirm that any CSAM hash sets or Results are correct. Further, it is mathematically possible for two different digital images to produce similar Hash or other Features, which can theoretically lead to incorrect Results. COMPANY ACKNOWLEDGES THAT RESULTS OBTAINED THROUGH THE MATCHING SERVICE MAY NOT BE COMPLETE, RELIABLE, OR TRUE, AND THAT THE IMAGERY FROM WHICH A HASH OR OTHER FEATURE IS GENERATED MAY OR MAY NOT CONSTITUTE CSAM REGARDLESS OF WHETHER A QUERY TO THE MATCHING SERVICE GENERATES A NEGATIVE RESULT OR A POSITIVE RESULT. THE MATCHING SERVICE IS INTENDED ONLY AS AN INITIAL SCREENING TOOL TO TRIGGER APPROPRIATE FURTHER REVIEW AND/OR MEASURES IN ACCORDANCE WITH APPLICABLE LAW AND COMPANY'S POLICIES.

8.2 **Disclaimer Regarding Software and Services.** The Software and Services are provided "as is", with all faults, and without any warranty of any kind, including as to accuracy or completeness. Each party is solely responsible for its own use of all Hashes, Features, Queries, Results, Metrics, and other information exchanged hereunder. THORN EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THORN DOES NOT WARRANT THAT THE SOFTWARE OR SERVICES WILL MEET COMPANY'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, IS ACCURATE, ERROR-FREE, SUITABLE FOR ANY PARTICULAR PURPOSE,

OR THAT ANY FLAWS WILL BE CORRECTED.

9   LIMITATIONS OF LIABILITY

9.1   **Limitation on Type of Damages.** EXCLUDING DAMAGES THAT RESULT FROM A PARTY'S BREACH OF USE AND LICENSE RESTRICTIONS UNDER SECTIONS 2 AND 3, CONFIDENTIALITY OBLIGATIONS UNDER SECTION 7, INDEMNIFICATION OBLIGATIONS UNDER SECTION 10, OR NON-DISCLOSURE/PUBLICITY OBLIGATIONS UNDER SECTION 12.8, (COLLECTIVELY, "CARVE-OUT CLAIMS"), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, OR PUNITIVE DAMAGES, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHER THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2   **Limitation on Aggregate Liability.** EXCLUDING CARVE-OUT CLAIMS, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY ARISING UNDER THE AGREEMENT EXCEED THE GREATER OF $10,000 OR THE AGGREGATE FEES PAID OR PAYABLE TO THORN IN RESPECT OF THE 12 MONTHS IMMEDIATELY PRECEDING THE ACTS OR CIRCUMSTANCES FROM WHICH SUCH LIABILITY AROSE.

9.3   **Application.** But for the provisions of Sections 8 and 9, the Services and the Software would not be provided under these terms. Accordingly, such provisions are an essential element of the bargain between the parties, and will apply to the maximum extent allowed by law and regardless of the failure of essential purpose of any limited remedy. For clarity, nothing in Section 8 or 9 purports to waive any liability that cannot be waived by applicable law.

10   INDEMNITY

10.1   **Thorn Indemnity.** Subject to Section 10.3, Thorn will defend, indemnify, and hold Company harmless against any and all claims, damages, costs, losses, liabilities, and expenses (including reasonable attorneys' fees) (collectively, "Damages"), arising from any third-party claim, suit, action or proceeding ("Claim"), to the extent the Software or Services, when used in the manner authorized by the Agreement, infringes or misappropriates any intellectual property right of such third party. This Section 10.1 will not apply if the alleged infringement or misappropriation arises from: (i) use of the Software or Services in connection or combination with either data, software, hardware, equipment, or technology not provided by Thorn, or any Third-Party Technologies; or (ii) modifications to the Software or Services not made by Thorn.

10.2   **Company Indemnity.** Subject to Section 10.3, Company will defend, indemnify, and hold Thorn harmless against any and all Damages arising from any Claim based on: (i) Company's negligence, willful misconduct, breach of the Agreement, or violation of law; or (ii) use of the

Software or Services in connection or combination with either data, software, hardware, equipment, or technology not provided by Thorn, or any Third-Party Technologies.

10.3   **Procedure.** Either party that is indemnified under this Section 10 ("Indemnitee") will give to the other party ("Indemnifying Party"): (i) prompt written notice of any claim for which indemnification may be sought; (ii) sole control over the defense and settlement of such claim, but Indemnifying Party will not, without Indemnitee's prior written consent, settle such claim in a manner that admits wrongdoing by Indemnitee, imposes any obligation on Indemnitee, or otherwise negatively impacts Indemnitee's reputation; and (iii) all information and assistance reasonably requested by Indemnifying Party in connection with the defense or settlement of such claim. Indemnitee may (but is not required to) participate in such defense, at its own expense and with counsel of its choosing.

10.4.   **Sole Remedy.** THIS SECTION 10 SETS FORTH COMPANY'S SOLE REMEDIES AND THORN'S SOLE LIABILITY AND OBLIGATIONS FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIMS THAT THE SOFTWARE AND/OR SERVICES INFRINGE, MISAPPROPRIATE OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHT OF ANY THIRD PARTY.

11   TERM, TERMINATION & SUSPENSION

11.1   **Term and Automatic Renewal.** The initial term of the Agreement will commence on the Services Start Date and will continue for the period of time set forth in the Order Form, or if no such period is set forth, then a period of one year (the "Initial Term"); but if the last day of the Initial Term is not the last day of a calendar month, then the Initial Term will be extended by up to 30 additional days such that the Initial Term ends on the last day of a calendar month. Thereafter, the Agreement will automatically renew for additional consecutive 12 month terms (each, a "Renewal Term") pursuant to the terms herein until either party gives notice at least 30 days before the end of the then-current Initial Term or Renewal Term that such party does not wish to renew the Agreement, or unless the Agreement is earlier terminated as provided in Section 11.2 (the Initial Term and all Renewal Terms collectively, the "Term").

11.2   **Termination for Breach or Bankruptcy.** Either party may terminate the Agreement immediately upon notice to the other party if such other party: (i) materially breaches the Agreement and fails to cure such breach within 30 days after receiving notice thereof; (ii) files for any form of bankruptcy or protection from creditors, becomes insolvent or otherwise unable to pay bills when due, makes an assignment for the benefit of creditors, or has a bankruptcy trustee, receiver, or similar official appointed to manage such other party's assets; or (iii) is the subject of a bankruptcy petition filed by a third party, which petition is not dismissed in such other party's favor within 60 days after the filing thereof. Notwithstanding the above, Thorn may terminate the Agreement immediately without notice if Thorn has reasonable basis to believe that Company has violated the provisions of

Section 2 (Matching Service); Section 3 (Software), Section 7 (Confidentiality) or Section 12.8 (Non-Disclosure/Publicity).

11.3   **Effect of Termination.** Upon termination of the Agreement, Company will immediately cease use of the Software and any Services, and any amounts owed by Company under the Agreement will become immediately due in full and any amounts paid for the Term will be forfeited. Without limiting the foregoing, Company will pay all reasonable attorneys' fees and other costs incurred by Thorn arising from any breach of Section 2, 3, 7, and 12.8.

11.4   **Suspension.** Thorn may suspend access to the Services at any time without notice if Thorn reasonably believes, in its sole and absolute discretion, that the security, integrity, or performance of the Services or the underlying data is threatened.

11.5   **Survival.** The following provisions will survive any termination of the Agreement: (i) any obligation of either party accrued prior to the date of such termination to pay money to the other party; and (ii) Sections 2, 3, 7, and 8 through 12.

12 GENERAL PROVISIONS

12.1   **Assignment.** Company may not assign the Agreement without the prior written consent of Thorn, except that Company may assign the Agreement in its entirety to Company's successor in interest in connection with a merger, acquisition, restructuring, or change of control of Company, or to a purchaser of substantially all of the Company's assets to which the Agreement pertains, upon notice to Thorn. Thorn may assign the Agreement without notice to or consent of Company. Any assignment in violation of this Section is void.

12.2   **Governing Law.** The Agreement is governed in accordance with the laws of the State of California, without regard to conflict of law principles. All actions brought in connection with the Agreement will be brought exclusively in the state and federal courts located in Los Angeles County, California, and the parties hereby consent to personal jurisdiction in such courts and waive all motions and claims regarding inconvenient forum or venue in such courts.

12.3   **Relationship Between the Parties.** The relationship between the parties is that of independent contractors. Nothing in the Agreement creates a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

12.4   **Third Party Beneficiaries.** There are no third party beneficiaries to the Agreement, including without limitation Company Clients, and nothing in the Agreement provides or is intended to provide any right or remedy to any person other than Thorn and Company.

12.5   **Entire Agreement; Severability; Modification; Waiver.** The Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and

supersedes all prior written and oral agreements between the parties to the extent related to the subject matter hereof. If any provision of the Agreement, or portion thereof, is found to be invalid or unenforceable, such provision will be enforced to the maximum extent permissible and the remainder of the Agreement will continue in full force and effect. Except as expressly set forth in the Agreement, no modification of or amendment to the Agreement will be effective unless in writing signed by both parties; nor will any waiver of any provision of the Agreement be effective unless in writing and signed by the party against whom such waiver is asserted.

12.6   **Notice.** Any notice required or expressly permitted under the Agreement will be in writing and will be deemed given: (i) when personally delivered; (ii) two days after being sent via overnight delivery through a nationally recognized courier service with delivery confirmation and all fees prepaid; (iii) five days after being mailed to the party by U.S. certified mail; or (iv) upon acknowledgement of receipt after being sent in an email with a subject header that begins with the capitalized words LEGAL NOTICE, in each case, to receiving party at the address specified for such party in the Order Form or such other address as such party specifies by notice. Thorn's address for notice by email is legal@wearethorn.org.

12.7   **Force Majeure.** Except for the obligation to pay money, neither party will be liable for any failure or delay in its performance under the Agreement due to any cause beyond its reasonable control, including without limitation acts of war, pandemic, acts of terror, natural disasters, embargo, riot, sabotage, labor shortage or dispute, governmental act, or failure of infrastructure including electrical systems, communication systems, and the internet.

12.8   **Non-Disclosure/Publicity.** Company may use Thorn's name in verbal discussions with its clients and potential clients regarding Company's ability to use the Services to Hash their data and Query against known or suspected CSAM data sets. However, neither party will, without the other party's prior written consent, publicly use the other party's name or logo in any written materials, for any purpose, whether marketing, promotional or otherwise, and regardless of its distribution method, except that Thorn may include Company's name and logo on lists of customers who use the Services.

12.9   **Prevailing Party.** In the event of any dispute between the parties arising out of or in connection with the Agreement, the prevailing party shall be entitled to recover its costs incurred in connection therewith from the non-prevailing party, including reasonable attorneys' fees.

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

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