

Thinaer End User License Agreement

This End-User License Agreement (this “EULA”) is entered into by and between Thinaer, Inc (“Thinaer”) with a corporate headquarters at 1755 N Collins Blvd # 400, Richardson, TX 75080 and the person or entity (“Client”) referenced on Addendum A of this EULA (“Addendum A”) or a Thinaer order form (“Order Form”), effective the date of acceptance by THINAER following submission by Client (the “Effective Date”).

By signing Addendum A, an Order Form, or an SOW, you acknowledge your acceptance of the terms and conditions of this EULA and you are representing and warranting that you can legally enter into this EULA and satisfy all of the requirements hereunder. The parties now therefore agree as follows:

BACKGROUND

Thinaer provides software, web based technology, mobile device technology, beacons and services for asset, employee and parts tracking along with predictive analytical software (collectively, the “Products”). Client desires to obtain and THINAER desires to provide Client with access to certain of these products and services, in particular the Service, as defined in Section 2 below, pursuant to this EULA, including the right, if set forth in a Services Addendum attached hereto as Addendum.

If Client intends to offer a private labeled version of the Service or Products for use by Client’s end users, the Products and Service may be more fully described in the Services Addendum, as well as any special terms and conditions that may be applicable.

SERVICES

Subject to the terms and conditions of this EULA, including Addendum A and any Services Addendum, THINAER will provide Client with access to THINAER’s Products as identified in Addendum A or applicable Services Addendum to be delivered via the Internet at the website address: API.Thinaer.io and related web properties approved by THINAER (“Site”) (collectively, the “Service”) during the Term of this EULA. Client may use the Service solely for its intended purpose in accordance with this EULA and the terms of use agreement, if any, located on the Site, or provided to users at the time they create their Accounts (“Terms of Use”). Client may also provide access to the Service to end users in accordance with the applicable terms of use for each such user.

Client may establish accounts (“Accounts”) for end users to use the Service (“Authorized Users”). Authorized Users must agree to the applicable Terms of Use prior to any use of the Service, and shall at all times abide by the terms set forth therein. Client shall immediately notify THINAER in the event that Client becomes aware of any violation of the terms of this EULA or the Terms of Use. Client shall be liable for any breach of the Terms of Use by an Authorized User.

Client and all Authorized Users shall reasonably protect the confidentiality of all Account information, including user names and passwords. In the event that an Authorized User becomes aware that the security of such party’s login information has been breached, the party shall immediately notify Client and Client shall immediately de-activate such Account or change the Account’s login information. Client and/or Authorized Users are solely responsible for any use of their account and any resulting charges. To the extent THINAER obtains Account information, THINAER shall reasonably protect the confidentiality of all such Account information, including user names and passwords.

Client shall provide THINAER with all information, assistance and materials as reasonably required for THINAER to activate and operate the Service for Client pursuant to this EULA. Client grants and agrees to grant to THINAER a non-exclusive license to use, reproduce, display and distribute such information and materials in connection with the provision of the Service for Client. Client shall indemnify, defend and hold THINAER harmless from and against any and all third party claims or liabilities resulting from THINAER’s use of such information and materials pursuant to the terms of this EULA. Client is solely responsible for recruiting talent and/or Clients and for the quality and performance of their services. Client represents and warrants that all services provided by Client and/or the Clients and/or talent will be provided in a good and workmanlike manner, consistent with the highest industry standards. Client shall indemnify, defend and hold THINAER harmless from and against any claims, liabilities, demands or costs incurred by THINAER as a result of any breach of the foregoing.

During the term of this EULA, THINAER will have the nonexclusive, worldwide, royalty-free right to use Client’s logos for marketing purposes. During the term of this EULA, THINAER shall have the nonexclusive, worldwide, royalty-free right to use Client’s trademarks, marks, trade names, service marks, logos, and marketing messages (“Trademarks”) solely for the purpose of providing the Service. THINAER will comply with Client’s guidelines for the use of the Trademarks. THINAER agrees to reasonably cooperate with Client in facilitating the Client’s monitoring of the use of the Trademarks. Nothing herein shall grant THINAER any right, title or

interest in the Trademarks. At no time during the term of this EULA will THINAER challenge or assist others to challenge the Trademarks or the registration thereof or attempt to register or cause to be registered the Trademarks or any trademarks, marks or trade names confusingly similar to those of Client. THINAER understands and agrees that all use and goodwill associated with the Trademarks will inure to the benefit of Client. Upon termination or expiration of this EULA, THINAER will cease to use the Trademarks. Client shall have the right to immediately suspend THINAER's use of the Trademarks if such usage is improper or inconsistent with the terms of this EULA.

In the event additional services are needed for setup and implementation of the Service, THINAER shall develop and provide to Client a statement of work (the "SOW") describing the necessary services, including any applicable schedules, Client obligations, and payments, for Client's review and approval. THINAER shall have no obligation to provide any such services to Client, and Client shall have no payment obligations, unless and until a SOW has been duly executed by authorized representatives of each party. In the event of any conflict between the terms and conditions of a SOW and the terms and conditions of this EULA, the terms and conditions of the SOW shall govern with respect to the services provided thereunder. The parties may, by mutual agreement, make changes ("Changes") to the scope, schedule, fees or other substantive aspects of the services agreed to in any SOW. The party requesting a Change shall prepare a written "Change Order," specifying in adequate detail the requested Change(s), and shall submit it to the other party for review and, if accepted, approval thereof. In no event shall any Change be effective or acted upon in any way or implemented until a Change Order defining such Change has been approved in writing by the duly authorized representatives of both parties.

Client shall designate one technical contact as the responsible party for communication with THINAER during provision of the Service. Client may change such contact upon written notice to THINAER.

THINAER may host the Service using its own infrastructure or it may engage a third party to host the Service on its behalf. In either case, THINAER will use commercially reasonable efforts to make the Service reasonably available for use by Client through the use of redundant systems, power backups, redundant Internet connections, etc. Thinaer will be backed up on at least a daily basis.

THINAER will provide Client with a reasonable amount of maintenance and support for the Service during the Term. Updates to the Service will be provided in THINAER's discretion at no charge to Client. Scheduled system maintenance shall take place during a normal maintenance window, as reasonably determined by THINAER. During such time, the Service may be unavailable. Emergency maintenance may be required at other times in the event of system failure. THINAER will use commercially reasonable efforts to promptly remedy any system failure and restore the Service.

Except as expressly permitted in this EULA or otherwise by agreement of the parties, Client and any Authorized Users may not, and may not permit any third party to, (i) copy, reproduce, modify, translate, prepare derivative works of, de-compile, reverse engineer, disassemble or otherwise attempt to derive source code from the Service; (ii) use, evaluate or view the Service for the purpose of designing, modifying, or otherwise creating any environment, program, or infrastructure or any portion thereof, which performs functions similar to the functions performed by the Service; (iii) use the Service in violation of the Terms of Use; (iv) use the service to violate and law or regulation, or (v) use the Service in a service bureau or any other manner to provide services for a third party. Neither Client nor an Authorized User shall remove, obscure, or alter any copyright notice, trademarks, logos and trade names, or other proprietary rights notices affixed to, or contained within the Service. Except for the express rights granted herein, THINAER does not grant any other licenses, whether express or implied, to any THINAER software, services, or intellectual property.

FEES AND PAYMENT

Client and its Authorized Users shall pay THINAER Service fees and Fees to purchase beacons. Client shall pay THINAER subscription or transaction based fees for use of the Service in accordance with the fees and charges presented by THINAER within net 30 days

All fees payable hereunder are exclusive of applicable sales, excise, use or similar taxes. Client shall pay all such taxes either directly or to THINAER, as required by applicable law or regulation.

In the event that Client believes any Quarterly Report for transaction or usage fees contains an error, miscalculation, missing revenues, or other such mistake, Client shall inform THINAER, in writing, of the perceived error within thirty (30) days of receipt of the Quarterly Report. THINAER shall have thirty (30) days to respond, in writing, either agreeing with the error and providing a corrected Quarterly Report, or stating the basis for which THINAER believes there

is no error. If Client fails to notify THINAER within thirty (30) days of the perceived error, Client waives its right to subsequently complain of any such errors, other than for errors based upon THINAER's actual fraud.

PROPRIETARY RIGHTS

THINAER and its licensors shall own all right, title, and interest in and to Service and all software and technology used to provide the Service, including all modifications, improvements, upgrades, derivative works, and feedback related thereto and all intellectual property rights therein. Client agrees to assign all right, title, and interest it may have in the foregoing to THINAER.

Client shall own all right, title, and interest in and to any dThinaer that is collected by THINAER from Client in connection with Client's use of the Service ("DThinaer"). Client grants and agrees to grant to THINAER a perpetual, non-exclusive no fee license to use such DThinaer (a) in order to provide the Service to Client, including without limitation providing promotions, offers, information and services to Authorized Users; (b) for statistical and commercialization use (provided that such dThinaer is not personally identifiable); and (c) as necessary to monitor and improve the Service. Upon request by Client, THINAER will provide Client with an electronic copy of all DThinaer under THINAER's control, provided that THINAER may charge a reasonable fee for such additional service.

Client acknowledges that the Service, the terms of this EULA, and any other proprietary or confidential information provided to Client by THINAER ("THINAER Confidential Information") constitutes valuable proprietary information and trade secrets of THINAER. THINAER acknowledges that the DThinaer provided to THINAER by Client ("Client Confidential Information") constitutes valuable proprietary information and trade secrets of Client. Each party agrees to preserve the confidential nature of the other party's Confidential Information by retaining and using the Confidential Information in trust and confidence, solely for its internal use, and by using the same degree of protection that such party uses to protect similar proprietary and confidential information, but in no event less than reasonable care. Each party shall have the right to obtain an injunction (without having to post a bond) to prevent any breach or continued breach of this section. Each receiving party agrees to promptly report any breaches of this section to the disclosing party.

LIMITATIONS OF LIABILITY

THINAER DISCLAIMS ALL WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL, OR WRITTEN) WITH RESPECT TO THE SERVICE OR ANY SUPPORT RELATED THERETO, INCLUDING ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, NON-INTERFERENCE, ACCURACY OF DTHINAER, AND WARRANTIES ARISING FROM A COURSE OF DEALING. THE FORGOING DISCLAIMER APPLIES EQUALLY TO ANY TECHNOLOGY, MATERIALS OR SERVICES PROVIDED BY A THIRD PARTY, WHETHER DIRECTLY OR AS A SUPPLIER TO THINAER. CLIENT UNDERSTANDS THAT NEITHER THINAER NOR ITS LICENSORS SHALL BE LIABLE FOR ANY DAMAGES RESULTING FROM OR IN CONNECTION WITH THE USE OF THE SERVICE.

EXCEPT FOR LIABILITY ARISING FROM SECTION 4.3 (CONFIDENTIALITY) OR 5.4 (CLIENT INDEMNITY), (A) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, BUSINESS INTERRUPTION, OR LOSS OF INFORMATION, REGARDLESS OF WHETHER SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING; AND (B) IN NO EVENT SHALL THE TOTAL COLLECTIVE LIABILITY OF THINAER FOR ALL CLAIMS UNDER OR IN ANY WAY RELATED TO THIS EULA EXCEED THE REVENUE SHARE PAID OR OWED TO CLIENT UNDER THIS EULA.

The warranty disclaimer and limitations of liability set forth in this EULA shall apply irrespective of any failure of essential purpose of any limited remedy. Client and THINAER each acknowledge and agree that the limitation of liability provisions of this EULA reflect an informed, voluntary allocation between them of the risk associated with Client's use of the Service and, but for these provisions, THINAER would not have made the Service available to Client at the prices and terms contemplated under this EULA.

Client shall indemnify, defend, and hold harmless THINAER and its directors, employees, agents, and distributors from and against all damages and liabilities (including reasonable attorneys' fees) that arise from a third party's claim resulting from (a) use of the Service by Client or any Authorized User, (b) use of the Service by Client or any Authorized User in violation of the Terms of Use or this EULA; (c) any content uploaded or posted by Client or an Authorized User; or (d) any activities of Client or an Authorized User through the use the Site, including without limitation any property damage or personal injury.

THINAER shall indemnify, defend, and hold harmless Client and its directors, employees, agents, and distributors from and against all damages and liabilities (including reasonable

attorneys' fees) that arise from a third party's claim resulting from THINAER's provision of the Service in violation of any third party's intellectual property rights.

TERM

This EULA will commence on the Effective Date of the Client's first registered user and will continue for a period of one (1) year (the "Term"). After the initial term, the EULA will be automatically renewed on an annual basis unless one party notifies the other party in writing at least sixty (60) days prior to the end of the then current Term of its desire not to renew.

In the event that either party is in material breach of this EULA, and the non-breaching party does not cure such breach within ten (10) days following notice of such breach, then the non-breaching party may immediately terminate this EULA by sending written notice to the breaching party. In addition, THINAER may terminate this EULA for any reason upon thirty (30) days prior notice to Client.

Upon termination of this EULA, Client and any Authorized Users must immediately stop using the Service, return or destroy all documentation, and certify such return or destruction in writing. Upon termination or expiration of this EULA, all terms and conditions which by their terms or their nature should survive, including, without limitation, Sections 2.4, 2.10, 4, 5, and 7, shall survive and remain in full force and effect.

GENERAL

Client agrees that THINAER may include the name, logo, and success stories of Client or Authorized Users on THINAER's website, press releases, promotional and sales literature, and advertising materials.

In performing under this EULA, each party is acting as independent contractor, and in no way are the parties to be construed as partners, joint venturers, or agents of one another in any respect.

Neither party shall be in default for failing to perform any obligation hereunder, other than the payment of monies, if such failure is caused solely by supervening conditions beyond the parties' respective control, including without limitation acts of God, civil commotion, strikes, terrorism, failure of third party networking equipment, failure of the public Internet, power outages, labor disputes or governmental demands or restrictions.

THINAER may assign this EULA in connection with a merger, joint venture, acquisition or sale of all or substantially all of its assets related hereto without the consent of Client. Client may not assign this EULA in connection with a merger, joint venture, acquisition or sale of all or substantially all of its assets related hereto without the prior written consent of THINAER. Except as expressly stated in this section, neither party may assign its rights or obligations under this EULA without obtaining the other party's prior written consent. Any assignment in contravention of this subsection shall be void.

This EULA shall be governed by the laws of the State of Texas, U.S.A. (excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction). Further, the parties agree that any claim or cause of action under or relating to this EULA shall be brought in the state or federal courts located in Dallas, Texas, United States and the parties agree to submit to the exclusive personal jurisdiction of such courts.

This EULA, including the exhibits attached hereto, constitutes the entire agreement between the parties regarding the subject matter stated herein, and supersedes all previous communications, representations, understandings, and agreements, either oral, electronic, or written. Any amendments to this EULA shall only be valid if in writing and signed by an executive of both parties. Headings herein are for convenience of reference only and shall in no way affect interpretation of this EULA. Nothing contained in any purchase order or other document shall in any way modify this EULA or add any additional terms or conditions. If any provision of this EULA, or the application thereof, shall for any reason and to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable under applicable law, a valid provision that most closely matches the intent of the original shall be substituted and the remaining provisions of this EULA shall be interpreted so as best to reasonably effect its original intent. This EULA is in the English language only, and the English language version shall control in all respects. In the event that this EULA is translated into another language, such translation shall not be binding upon the parties. No delay or omission by a party to exercise any right or power occurring upon any breach or default by the other party with respect to any of the terms of this EULA shall impair any such right or power or be construed to be a waiver thereof. This EULA may be executed in two counterparts and facsimile signatures shall be binding.

In performing under this EULA client agrees not to reverse engineer or decompile, decrypt, disassemble or otherwise reduce the THINAER software to human-readable. Further any

decompilation or reverse engineering of hardware provided by THINAER shall constitute a breach of this EULA.

Performing under this EULA Client agrees not to duplicate, develop, create or release same type of solution including THINAER software or hardware components without express consent by THINAER for the period specified within the terms set forth by Section 6 of this EULA.

This Agreement has been executed by the duly authorized representatives of the parties as of the Effective Date and constitutes a binding agreement with full force and effect as per the terms stated herein.