

# Bitglass, Inc. Subscription Agreement and Terms of Service

IMPORTANT: This Subscription Agreement and Terms of Service (referred to herein as this “Agreement”) governs your use of the Bitglass, Inc. (“Bitglass”) products, services and website(s). Read this Agreement in full before accessing or using the Bitglass products and services (collectively, the “Services”) or the Bitglass website(s), including the software, data and other content contained in or available through such website(s) (collectively, the “Site”). You must accept this Agreement before using the Services or the Site. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU MAY NOT USE THE SERVICES OR THE SITE.

BY CLICKING THE BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU ACCEPT AND AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ABLE TO USE THE SERVICES OR ACCESS THE SITE WITHOUT CLICKING THE BOX INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT OR EXECUTING AN ORDER FORM, YOUR ACCESS OR USE OF THE SERVICES OR THE SITE WILL CONSTITUTE YOUR ACCEPTANCE OF THIS AGREEMENT. BY ACCEPTING THIS AGREEMENT, YOU REPRESENT AND WARRANT THAT YOU ARE AN AUTHORIZED REPRESENTATIVE OF THE COMPANY OR OTHER ENTITY FOR WHICH YOU ARE ENTERING INTO THIS AGREEMENT, WITH THE AUTHORITY TO BIND IT TO THE TERMS OF THIS AGREEMENT, OR THAT AN AUTHORIZED REPRESENTATIVE PREVIOUSLY HAS ACCEPTED AND AGREED TO THIS AGREEMENT ON BEHALF OF SUCH COMPANY OR ENTITY. IF YOU DO NOT HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF YOUR COMPANY OR OTHER ENTITY AND SOMEONE WITH SUCH AUTHORITY HAS NOT PREVIOUSLY ACCEPTED THIS AGREEMENT ON ITS BEHALF, YOU MAY NOT USE THE SERVICES OR THE SITE.

The capitalized terms “You” and “Your” as hereafter used in this Agreement shall refer to the company or other entity for which you are accepting this Agreement or using the Services or the Site, and its affiliated entities. For purposes of the preceding sentence, the term “affiliated entities” means any entity that directly or indirectly controls, is controlled by or under common control with such company or entity.

Upon acceptance by You, this Agreement will be a binding legal agreement between Bitglass and You governing Your use of the Services and the Site. Please note that each of the restrictions, limitations and conditions contained in this Agreement apply to You and to each individual using the Services or the Site who is employed or engaged by You, or who otherwise obtained access to the Services or the Site through his or her association with You.

IF YOU ARE A BITGLASS COMPETITOR, YOU MAY NOT USE OR ACCESS THE SERVICES OR THE SITE WITHOUT BITGLASS' PRIOR WRITTEN CONSENT.

## 1. Services.

1.1 Ordered Services. The scope or type of Services to be provided to You, the pricing for such Services and other information specific to Your order of Services will be set forth in a sales order form provided by Bitglass and accepted by You ("Your Order Form"); provided, however, that if You are a Starter License subscriber, the scope of services and pricing applicable to Your subscription will be as described in Section 1.4 . Bitglass will use its commercially reasonable efforts to provide the Services set forth in Your Order Form, or the Services described in Section 1.4 with respect to a Starter License, during Your subscription term pursuant to the terms, and subject to the conditions, set forth in this Agreement and Your Order Form. If You request modifications to the scope of Services that Bitglass provides to You either during an existing subscription term or upon the commencement of a new subscription term, and Bitglass agrees to the modifications, Bitglass thereafter will provide You with a revised version of Your Order Form (or, in the case of Starter License subscribers, a new sales order form) setting forth the modified scope of Services and, if applicable, modified pricing for such modified scope of Services and the date upon which such modified scope of Services and modified pricing will become effective. If there is a conflict between the terms of this Agreement and Your Order Form, Your Order Form will govern.

1.2 User Limits. The number of Your employees and contractors that are permitted to use the Services is set forth in Your Order Form (the "Permitted Number of Users"), unless You are a Starter License subscriber in which case the limitations on Your number of users is as set forth in Section 1.4. Your Administrator is responsible for keeping track of each unique individual within Your company or other entity who is permitted to access or otherwise utilize the Services. User passwords and account information may not be shared between multiple individuals. In no event may the Services be utilized by, or user accounts be maintained for, more than the Permitted Number of Users. If You have reached or will reach the Permitted Number of Users and desire to provide access to the Services to additional individuals, You must either (a) increase the Permitted

Number of Users under Your Order Form (and begin paying the corresponding increase in fees) or (b) reassign user account information from individuals who will no longer require access to the Services (in which case You will disable the accounts for such individuals and no longer provide them access to the Services) so that the number of Your employees or contractors who are able to access and utilize the Services does not exceed the Permitted Number of Users. You may increase the Permitted Number of Users under Your Order Form by sending an e-mail to Bitglass at [sales@bitglass.com](mailto:sales@bitglass.com) identifying the total number of additional users for whom You will be maintaining accounts, following which You will be charged for each new user at the same per-user price identified in Your Order Form. If You exceed the Permitted Number of Users at any time, Bitglass may begin charging You for such additional users at the beginning of the payment period during which such additional users were first provided access to the Services.

1.3 Free Trial. If You are provided with a free trial of any Services, You are permitted to use the designated Services and the Site on a trial basis, free of charge, until the earlier of (a) the stated conclusion of Your free trial period, (b) the commencement of Your paid subscription for such Services or (c) the termination of this Agreement in accordance with Section 8.2 below. Any such free trial will be subject to the additional limitations and requirements set forth in the free trial offer including restrictions on duration of use, accessible features/functionality and number of users. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT OR OTHERWISE, ALL SERVICES PROVIDED UNDER A FREE TRIAL ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND. ANY DATA YOU ENTER INTO THE SITE, AND ANY CUSTOMIZATION MADE TO THE SERVICES BY OR FOR YOU, DURING THE FREE TRIAL PERIOD MAY BE LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SERVICES AS THOSE COVERED BY THE TRIAL OR EXPORT SUCH DATA BEFORE THE TRIAL PERIOD ENDS.

1.4 Starter License. Bitglass offers a starter license program whereby You can obtain a free license to the Bitglass Breach Discovery (limited to one breach discovery run), Mobile, Standard and Enterprise Edition services for up to twenty (20) users ("Starter License") under the terms, and subject to the restrictions, of this Agreement. The initial term of the Starter License is one year. If You are a Starter License subscriber and exceed 20 users as of the end of any three-month period during Your subscription term, Bitglass will send You an invoice, dated as of such date, in an amount equal to \$240 for each user above 20, prorated from the date of the invoice through the end of the one-year subscription term. In the event that, at the end of any subsequent three-month period during the same one-year term of Your Starter License subscription, Your total number of users exceeds the number for which You have previously paid, Bitglass will similarly send You an invoice for such additional excess users, prorated as described above. If Your Starter License subscription is renewed for an additional year (pursuant to Section 8.1), Bitglass will provide You an invoice in an amount equal to \$240 for each user above 20 as of the start of the new subscription term and, as applicable, will send You invoices during such additional term in the manner described above for any additional users. Starter License subscribers will be required to make payment on these invoices in

accordance with Section 4.2 below. The terms of the Starter License program, including the fees for excess users, are subject to change upon prior notice at Bitglass' discretion.

1.5 Support. During the term of this Agreement, Bitglass shall use its commercially reasonable efforts to provide you with support and maintenance for the Services and the Site as set forth in the Bitglass Service Level Agreement ("Bitglass SLA") located at [www.bitglass.com/service-level-agreement](http://www.bitglass.com/service-level-agreement) as such Bitglass SLA may be updated and modified from time to time.

2 Registration and Access. In connection with Your use of the Site, You are required to provide certain registration information including the name, phone number and e-mail address for Your designated Bitglass account administrator ("Your Administrator"). Your Administrator is responsible for providing access information (other than user passwords) to Your authorized personnel who can then use such information to access the Services and the Site during the term of this Agreement (or until their access is earlier terminated as set forth in this Agreement). Your authorized personnel will be responsible for creating their own individual passwords for access to the Services and the Site. You are responsible for ensuring that Your personnel maintain the confidentiality of all passwords that they create and/or use to access the Services and the Site. You shall ensure that any of Your employees or contractors having access rights to the Services or the Site who are terminated (either voluntarily or involuntarily) or who no longer require access to the Services or the Site will have their access rights terminated. You shall use commercially reasonable efforts to prevent unauthorized use of the Services and the Site by Your employees, contractors and other third parties and agree to report to Bitglass promptly any unauthorized access to or use of the Services or the Site of which You become aware during the term of this Agreement. Each of Your employees and contractors who access the Services and the Site, upon accepting this Agreement or accessing the Services or the Site, agree to comply with all of the terms and restrictions related to use of the Services and the Site as set forth herein. Notwithstanding the immediately preceding sentence, You must ensure compliance with the terms of this Agreement by each of Your employees and contractors, and other individuals under Your control, who access or use the Services or the Site. In addition to any other remedies available to it hereunder, Bitglass reserves the right to terminate the account and access rights of any individual if Bitglass believes in good faith that such individual has violated the terms of Section 3.2 or Section 5.2 of this Agreement. You are responsible for all access to and use (or misuse) of the Services and the Site under Your account or by any individual who gained access to the Services or the Site as a result of his or her association with You and for any damage to the Site or Bitglass that occurs as a result of such access or use.

### 3. Licenses, Restrictions and Proprietary Rights.

3.1 License to Use Services and Site. Subject to the terms and conditions of this Agreement and, if applicable, Your Order Form (including the restrictions and limitations set forth in Section 3.2 below and the user limits described in Section 1.2 above), Bitglass hereby grants You a limited, non-exclusive, non-transferable right and license under its applicable intellectual property rights to use the Site and the Services described in Your Order Form (or, with respect to Starter License subscribers, the Services described in Section 1.4) during the term of this Agreement.

3.2 Restrictions. The rights granted to You in this Agreement are subject to the following restrictions: You (including each of Your employees, consultants and other individuals affiliated with You) shall not (a) copy, modify, make derivative works based on, or publicly display or perform the Services or the Site (or any portion thereof), other than as expressly permitted under this Agreement and, if applicable, Your Order Form, (b) distribute, sell, rent, lease, transfer or sublicense or provide access to third parties to the Services or the Site (or any portion thereof); (c) decompile, reverse engineer, disassemble or otherwise determine or attempt to determine the source code of any software included in the Services or the Site; (d) copy, frame or mirror any part or content of the Site or the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes; (e) analyze, use or otherwise access the Services or the Site to build a similar or competitive product or service, to copy its features or functionality or for any other benchmarking or competitive purpose; (f) access or attempt to access the Services or the Site improperly or use the Services or the Site other than as permitted by this Agreement and, if applicable, Your Order Form, (g) use the Services with any application not supported by Bitglass, (h) disrupt, interfere with, or intentionally damage or impede the Services or the Site (or attempt to do so) , (i) provide or submit to Bitglass, post to the Site, or use the Services to store or transmit, any content or information that is libelous, defamatory, vulgar, obscene, harassing, abusive, harmful to children, or unlawful or that violates the privacy or intellectual property rights of a third party, (j) modify the Services or the Site, or any software or other content included therein, in any way that infringes the intellectual property rights of a third party, (k) upload or transmit to the Site or through the Services any computer virus, worm, Trojan horse or other malicious code, (l) advertise or offer to sell any products or services or conduct surveys or contests through the Services or the Site, (m) harvest, mine or otherwise collect data from others through the Services or the Site without their consent, (n) use the Bitglass proxy to transmit spam, chain letters or other similar unsolicited e-mails, hack into a third party website, or mask an identity or location, or (o) permit, or provide assistance to, any other party in doing any of the foregoing. You (including each of Your employees, consultants and other individuals affiliated with You) agree to use the Services and the Site only in compliance with all applicable laws and regulations.

3.3 Ownership. Bitglass and its licensors retain ownership of the Services, the Site and all software, data and other content contained therein or provided by Bitglass in connection with the Services or the Site. Subject to the limited rights and licenses expressly granted under this Agreement, all right, title and interest in and to the Services and the Site (and all software, data and other content contained therein or provided by Bitglass in connection therewith), including all intellectual property rights therein, is owned by, and shall remain the exclusive property of, Bitglass

and its licensors. As between You and Bitglass, You retain sole ownership of, and retain all right, title and interest in, Your data and other information that You post or provide to Bitglass in connection with Your use of the Services and the Site (“Your Information”), subject to Bitglass’s right to use Your Information in the provision of Services to You and as otherwise set forth in this Agreement.

3.4 License to Bitglass to Use Suggestions and Modifications. You grant to Bitglass a royalty-free, worldwide, sub-licensable, transferable, irrevocable, perpetual right and license to use and/or incorporate into the Services and/or the Site (or any component thereof), any modifications, enhancements, ideas or suggestions that You or Your employees, contractors, agents, or customers request, recommend, suggest or otherwise provide to Bitglass relating in any way to the operation, features or functionality of the Services or the Site (including the right to copy, modify, distribute and publicly perform and display any such modifications, enhancements, ideas and/or suggestions).

3.5 Trademarks and Copyright Notices. All trademarks, logos and service marks contained in the Site or the software or other content associated with the Services (“Marks”) are the property of Bitglass or other third parties. You are not permitted to use any Mark without the prior written consent of its owner except as otherwise expressly permitted under this Agreement. You may not delete or falsify any copyright notices, author attributions or other proprietary designations contained in content located on the Site or accessed through the Services.

3.6 Copyright Policy. Bitglass respects the intellectual property of others and asks that its customers do the same. Bitglass has adopted and implemented a policy respecting copyright law that provides for removal of infringing materials. If You believe that one of our users is, through the use of our Site or Services, unlawfully infringing the copyright(s) in a work, and You wish to have the allegedly infringing material removed, please refer to our procedure for making a claim of copyright infringement located at [www.bitglass.com/copyright\\_claim/](http://www.bitglass.com/copyright_claim/).

3.7 Additional Duties Related to Your Use of the Services and the Site. As between You and Bitglass, You shall be solely responsible for the accuracy, integrity and legality of Your Information. You agree to indemnify and hold harmless Bitglass, its subsidiaries, and their respective affiliates, officers, directors, employees, contractors and agents, from and against any losses, costs (including attorney’s fees), damages, claims, suits, proceedings, settlements and causes of action arising out of or related to (a) Your Information, (b) any breach by You of Section 3.2 of this Agreement, (c) the misuse of the Services or the Site by Your employees, contractors or other individuals who gained access to the Services or the Site as a result of their association with You, or (d) any breach or alleged breach by You of an agreement between You and a third party (including, without limitation,

Your customers, clients, suppliers, employees and contractors) or any other claim from a third party related to Your relationship with, or duties owed to, such party.

#### 4. Fees and Billing.

4.1 Fees. You shall pay to Bitglass the fees set forth on Your Order Form on the dates or at the intervals set forth therein. Starter License subscribers are responsible for paying the fees described in Section 1.4. In the event that the pricing as set forth in Your Order Form is revised pursuant to Section 1.1 or 1.2 above, You shall pay the revised pricing thereafter (as required by the revised order form and prorated, as applicable, for the payment period during which the pricing is revised). All payment obligations are non-cancelable and all fees (a) are quoted and payable in US dollars, (b) are non-refundable (other than as expressly provided in Section 8.3 below), and (c) reflect services purchased and not actual usage. You agree that Your purchase of Services under this Agreement is not contingent on the availability of any future features or functionality. Bitglass may unilaterally modify the fee for the Services (or any portion thereof) by providing written notice to You of such modifications at least thirty-five (35) days prior to the end of the then-current subscription term, with the modified pricing to be effective upon the start of the immediately succeeding subscription term.

4.2 Invoicing and Payment. Bitglass will issue invoices to You in advance for all Services purchased under Your Order Form during the initial subscription term and all renewal subscription terms (as contemplated by Section 8.1 below) in accordance with the billing frequency set forth in Your Order Form. Invoices for Starter License subscribers will be issued, if at all, in accordance with Section 1.4. All invoiced charges are due 30 days following the invoice date or such number of days following the invoice date as is set forth in Your Order Form. Invoices will be sent to Your Administrator (or other individual identified by You) at the e-mail address specified for that individual and You will be responsible for providing Bitglass with updated contact information as applicable. Alternatively, You may pay by credit card in which case You will provide Bitglass with valid company credit card information and will ensure that such credit card information remains valid and updated until all of Your payment obligations are satisfied under this Agreement. If paying by credit card, You authorize Bitglass to charge the credit card for all purchased Services listed in Your Order Form or fees due in accordance with section 1.4 above for the initial subscription term and all renewal subscription terms (as contemplated by Section 8.1 below). Such charges will be made in advance in accordance with the billing frequency set forth in Your Order Form, if applicable.

4.3 Taxes. You are responsible for paying any and all taxes, duties, levies, tariffs and other governmental assessments imposed or assessed by any federal, state, local or foreign jurisdiction (collectively, "Taxes") related to or arising out of Your use of the Site and Your purchase and use of the Services (other than taxes assessable against Bitglass based on its income, property or

employees). The amount of any such Taxes, which You hereby agree to pay, will be added to Your next invoice or payment or subsequently billed to You. In the event Bitglass is required to pay any such Taxes, You agree to promptly reimburse Bitglass in full for such amount following notice from Bitglass. To the extent that You have a valid tax exemption for any such Taxes, You must provide Bitglass with a valid tax exemption certificate authorized by the applicable taxing authority in lieu of payment of such Taxes.

4.4 Late Charges and Penalties. If You do not make timely payment in accordance with the terms of this Agreement and, if applicable, Your Order Form, Bitglass reserves the right to charge interest at the rate of 1.5% of the outstanding balance per month, or, if lower, the maximum rate permitted by applicable law, from the date such payment was due until the date paid. In the event that any payment is more than thirty (30) days late, Bitglass may, without limiting any other right or remedy available to it, suspend Your access to the Site and Bitglass' provision of the Services hereunder until such amounts are paid in full. Bitglass shall not assess a late charge or suspend access to the Site or provision of the Services under this Section 4.4 if the past-due charges are, in Bitglass' discretion, under reasonable and good-faith dispute and You are working diligently with Bitglass to resolve the dispute.

## 5. Confidentiality.

5.1 Definition. As used herein, "Confidential Information" means all confidential information disclosed or made available by a party ("Disclosing Party") to the other party ("Receiving Party") in connection with Bitglass' provision of the Services to You, 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. Without limiting the foregoing, (a) each party's Confidential Information shall include its business, marketing and sales plans, financial and technical information and information related to its current or planned products and services, (b) Your Confidential Information shall include Your Information and (c) Bitglass Confidential Information shall include all software, technology, information and other content contained in the Site or provided in connection with the Services, along with any Bitglass third party information entrusted to Bitglass and shared with You in the course of Bitglass' provision of the Services.

5.2 Obligations. The Receiving Party shall hold in confidence and not disclose to any third party the Disclosing Party's Confidential Information, except as otherwise approved in writing by the Disclosing Party. The Receiving Party shall not use the Disclosing Party's Confidential Information other than as permitted by this Agreement. The Receiving Party shall protect the Disclosing Party's Confidential Information using at least the same degree of care that it uses to protect its own confidential information of similar kind, but in no event less than a reasonable degree of care, and



shall limit access to the Disclosing Party's Confidential Information to those of its employees and consultants having a need to know and who are subject to an agreement with the Receiving Party that contains non-disclosure and non-use obligations at least as restrictive as those contained herein. Each party will promptly notify the other in the event that it becomes aware of any loss or unauthorized disclosure of the other party's Confidential Information. Notwithstanding the foregoing, a Receiving Party shall have no obligation under this Section 5.2 with respect to any Disclosing Party Confidential Information that (a) was in the public domain or generally known to the public at the time it was provided or made available to the Receiving Party by the Disclosing Party, or subsequently enters the public domain or becomes generally known through no breach of this Agreement by the Receiving Party, (b) the Receiving Party can show was either known by the Receiving Party prior to the time it was provided or made available by the Disclosing Party, or subsequently received from a third party without breach of confidentiality obligations owed to the Disclosing Party, or (c) the Receiving Party can show was independently developed by the Receiving Party (as evidenced by the Receiving Party's written records). In addition, the Receiving Party may disclose the Disclosing Party's Confidential Information to the extent such disclosure is required by law or a valid order of a court or other governmental body having jurisdiction, provided that the Receiving Party provides the Disclosing Party with reasonable prior written notice of such disclosure (to the extent legally permitted) and cooperates with the Disclosing Party in any lawful action to contest or limit such disclosure. Notwithstanding anything contained in this Section 5.2 to the contrary, Bitglass shall be permitted to (i) provide access to Your Information to providers of third-party services and/or applications utilized in Bitglass' provision of the Services and (ii) disclose Your Confidential Information to its affiliated entities (and their employees and contractors) as it deems necessary or advisable in connection with the provision of the Services to You.

5.3 Disclaimer. Certain of Your Information or other data that You provide in connection with Your use of the Site and our provision of the Services may be stored on a cloud computing platform controlled by a third party. Bitglass believes that third-party platform to be highly secure but can provide no assurance that Your Information or other data stored on such platform will be free from access or discovery by a third party. You acknowledge and agree that Bitglass is not responsible for, and shall have no liability with respect to, any dissemination or discovery of Your information or data (including Your Confidential Information) that occurs as a result of that third party platform being breached or improperly accessed or used or through the intentional misconduct or negligence of the third party's employees, contractors or agents.

## 6. Warranty and Disclaimers.

6.1 Warranty. Bitglass warrants to You that, subject to Section 13.10 below, the Services (other than those provided under a free trial) will be provided substantially in accordance with the online documentation for such Services posted by Bitglass on its web site under the "documentation" tab, as such documentation may be updated from time to time. Your exclusive remedy, and Bitglass'

sole liability, for any breach of the above warranty shall be for You to terminate this Agreement in accordance with Section 8.2 below, citing the manner in which performance does not substantially conform to the documentation, if the breach of warranty is not remedied by the end of such twenty (20) day period.

6.2 Warranty Disclaimer. BITGLASS MAKES NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SERVICES, SOFTWARE OR OTHER CONTENT, MATERIALS OR INFORMATION PROVIDED OR MADE AVAILABLE IN CONNECTION WITH THIS AGREEMENT OTHER THAN AS EXPRESSLY SET FORTH IN SECTION 6.1 AND THE BITGLASS SLA, AND BITGLASS DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OR IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE. WITHOUT LIMITING THE FOREGOING, BITGLASS PROVIDES NO WARRANTY THAT USE OF THE SERVICES OR THE SITE WILL BE SECURE OR FREE FROM BUGS, VIRUSES OR ERROR (OTHER THAN AS EXPRESSLY WARRANTED IN SECTION 6.1 ABOVE), THAT THE SERVICES OR THE SITE, OR ANY FEATURES OR FUNCTIONALITY THEREOF, WILL BE UNINTERRUPTED OR AVAILABLE WHEN NEEDED (OTHER THAN AS EXPRESSLY PROVIDED IN THE BITGLASS SLA) OR THAT THE DATA AND INFORMATION YOU PROVIDE IN CONNECTION WITH USE OF THE SERVICES AND THE SITE WILL BE SECURE, BACKED-UP OR PRESERVED. THE FOREGOING DISCLAIMERS AND LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

YOU ACKNOWLEDGE THAT, FOLLOWING THE TERMINATION OF THIS AGREEMENT, BITGLASS WILL HAVE NO OBLIGATION TO RETAIN OR STORE ANY DATA OR OTHER INFORMATION THAT YOU SUBMIT TO OR THROUGH THE SERVICES OR THE SITE. YOU ARE ADVISED TO BACK UP AND STORE ANY DATA OR OTHER INFORMATION THAT YOU SUBMIT TO OR USE WITH THE SERVICES AND THE SITE AND, SPECIFICALLY, TO BACKUP AND STORE SUCH DATA AND INFORMATION PRIOR TO THE TERMINATION OF THIS AGREEMENT.

## 7. Limitation of Liability.

IN NO EVENT SHALL BITGLASS' AGGREGATE LIABILITY ARISING UNDER OR RELATED TO THIS AGREEMENT (INCLUDING THE BITGLASS SLA) ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EXCEED THE GREATER OF (1) THE AGGREGATE AMOUNT PAID TO BITGLASS BY YOU FOR THE SERVICES PROVIDED DURING THE 6 MONTHS PRECEDING THE DATE

THE CAUSE OF ACTION AROSE OR (2) \$100.00 (U.S.). IN NO EVENT SHALL BITGLASS, OR ITS LICENSORS, BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST BUSINESS, LOST DATA, FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY SERVICES PROVIDED HEREUNDER HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY EVEN IF BITGLASS HAS BEEN ADVISED, OR SHOULD HAVE BEEN AWARE, OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

## 8. Term and Termination.

8.1 Term of Agreement. This Agreement commences and becomes effective on the date it is first accepted by or on behalf of You and, unless otherwise terminated in accordance with this Section 8, remains in effect until the conclusion of the initial subscription term set forth on Your Order Form, or for a period of one year in the case of a Starter License; provided, however, that the term of this Agreement and Your subscription to the Services listed on Your Order Form (as such order form may be amended per this Agreement), or the Services set forth in Section 1.4 with respect to a Starter License, shall be extended automatically for additional, successive, one-year periods unless either party provides written notice of termination to the other party no later than thirty (30) days prior to the conclusion of the then-current subscription term. If such notice of termination is timely provided, this Agreement shall terminate upon the end of such then-current subscription term.

8.2 Termination for Cause. Either party may terminate this Agreement for cause upon twenty (20) days written notice to the other party of a material breach of this Agreement by such other party if such breach remains uncured at the expiration of such period. Additionally, Bitglass may terminate this Agreement for cause immediately if Bitglass believes that You or any of Your employees or other individuals under Your control have breached, in any material respect, any of the provisions of Sections 3.2 or 5.2 of this Agreement.

8.3 Effect of Termination. Upon termination of this Agreement, all rights and licenses granted to You (and any employee, contractor or individual under Your control) to access and use the Services and the Site shall cease immediately and Your (and their) access to the Services and the Site will be disabled and discontinued. YOU ACKNOWLEDGE THAT FOLLOWING TERMINATION OF THIS AGREEMENT YOU MAY LOSE INFORMATION AND DATA THAT YOU STORED IN, OR

OBTAINED THROUGH USE OF, THE SERVICES AND THE SITE. IT IS YOUR SOLE RESPONSIBILITY TO BACKUP AND PRESERVE THIS INFORMATION AND DATA PRIOR TO THE TERMINATION OF THIS AGREEMENT. Notwithstanding the foregoing, the following sections (or portions thereof) of this Agreement, and the rights and obligations thereunder, shall survive any expiration or termination of this Agreement: 3.2 through 3.7 (inclusive), 4 (as it relates to any unpaid fees owed for Services), 5, 6, 7, 8.3, 11 and 13, along with the final sentence of Section 2 and the disclaimers contained in Sections 1.3 and 9. In no event shall termination of this Agreement relieve You of the obligation to pay Bitglass any fees payable with respect to the Services provided by Bitglass prior to the effective date of termination. If You terminate this Agreement in accordance with Section 8.2, Bitglass will refund to You any prepaid fees for the period of time following the effective date of termination of this Agreement.

## 9. Third-Party Applications.

The Services are designed to interoperate with certain third-party applications and services (“Third-Party Applications”). You acknowledge and agree that Your use of, and any warranties respecting, any such Third-Party Applications are governed by a separate agreement between You and the provider of such Third-Party Application and that Bitglass has no responsibility or liability related to the performance or Your use of Third-Party Applications. If You install or enable a Third-Party Application for use with the Services or the Site, you hereby (a) grant Bitglass the right to permit the provider of such Third-Party Application to access Your Information and accounts and (b) agree to grant Bitglass access to Your accounts for such Third-Party Applications, in each case as required for the interoperation of the Third-Party Applications with the Services and/or the Site. Bitglass is not responsible for any disclosure, loss, or corruption of Your Information resulting from access by a Third-Party Application.

### 1. Modifications to Features and Functionality.

You acknowledge and agree that Bitglass has the right to modify the features and functionality of the Services and the Site from time to time without prior notice to You, including the right to discontinue any feature or functionality. Without limiting the foregoing, Bitglass has the right to discontinue any features of the Services or the Site that rely on third-party tools and/or applications (including APIs, content delivery networks and computational tools) in the event that such tools and/or applications are no longer available to Bitglass or are no longer available on terms that Bitglass deems to be commercially reasonable. Bitglass will not modify or discontinue features or functionality in a manner that, in its good faith judgment, substantially diminishes the Services for which You have a paid subscription without making an appropriate adjustment to the fees You are paying for the Services during the period of time that Bitglass deems such Services to be substantially diminished. You

acknowledge that the preceding sentence does not apply to temporary unavailability of features or functionality as a result of site maintenance, outages, bugs, the circumstances specified in Section 13.10 below, or otherwise.

## 1. User Forums; Third-Party Links.

In the event that Bitglass hosts or otherwise provides access to any user forums, chat rooms, bulletin board services, news groups or other information or message sharing services through the Site or the Services (collectively, "User Forums"), You (including each of Your employees, consultants and other individuals affiliated with You) acknowledge that Bitglass has no obligation to monitor such User Forums but that it reserves the right to review materials posted to or included in such User Forums, to remove any such materials in its sole discretion, and to terminate Your access to such User Forums without notice if it determines in its sole good faith discretion that You have violated any of the terms of this Agreement in connection with Your use of such User Forums. Bitglass also reserves the right to terminate the access of any individual user without notice if it determines in its sole good faith discretion that such individual has violated any of the terms of this Agreement in connection with his or her use of the User Forums. Additionally, Bitglass reserves the right to report to law enforcement authorities any illegal activities conducted by You or Your personnel through, or in connection with, User Forums. Bitglass does not control or endorse any information posted to or included in User Forums and disclaims any liability with regard to information posted to or included in a User Forum or any actions taken or decisions made in reliance on any information contained in a User Forum.

The Site, including any available User Forums, may include hyperlinks to third party websites or resources. Bitglass has no control over and is not responsible in any way for any such third-party websites or resources or their availability. You (including each of Your employees, consultants and other individuals affiliated with You) use all links to third-party websites and resources at Your/your own risk and You/you acknowledge and agree that Bitglass is not liable for any loss or damage that may occur to You/you or Your/your data, computer or systems, or for any objectionable material You/you may access, through or as a result of Your/your use of such third-party websites or resources. Bitglass does not endorse any products, services, advertising, or other materials on or available through such third-party websites or resources. Your/your use of third-party websites and resources will be governed by separate terms of use between You/you and the applicable third party. You/you should review applicable terms and policies, including privacy and data gathering practices, of any third-party websites You/you access.

## 2. Federal Government Use.

If the Services or the Site, or any portion thereof, are provided or made available for use by a federal government agency or body, the rights granted in the Services and the Site (and all technical data and software associated therewith) to such government agency or body include only those rights customarily provided to the other users of the Services and the Site as described in this Agreement. All technical data, software and content included within the Services and the Site were developed exclusively at private expense. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Computer Software) or, if applicable, under equivalent DFAR provisions. If a government agency or body has a need for rights not conveyed under these terms, it must negotiate with Bitglass to determine if there are acceptable terms for transferring such rights, and a mutually accepted written addendum specifically conveying such rights must be included in any applicable agreement.

### 13. General Provisions.

13.1. Governing Law and Venue. This Agreement and performance by the parties hereunder shall be construed in accordance with the laws of the State of California, U.S.A., without regard to conflicts of laws provisions thereof. You and Bitglass consent to the exclusive jurisdiction of, and venue in, the state and federal courts within the Northern District of California for any action or proceeding arising from or relating to this Agreement. Notwithstanding the foregoing, Bitglass may seek injunctive or other equitable relief to protect its intellectual property rights in any court of competent jurisdiction.

13.2 Export Compliance. You acknowledge and agree that the Site and the Services provided by Bitglass under this Agreement may be subject to restrictions and controls imposed by the United States Export Administration Act and the regulations thereunder. You represent and warrant that (a) You will not export or provide any software or other information or data provided or made available by Bitglass under this Agreement into any country or to any individual (including Your employees and other personnel) in violation of such restrictions or controls, or any other applicable export laws, rules or regulations and (b) You are not named on any U.S. government list of persons or entities prohibited from receiving exports.

13.3 Notices. All notices required or permitted under this Agreement will be in writing and sent as follows: (a) for notices to be provided to Bitglass - by an e-mail from Your Administrator, President or Chief Executive Officer to [legal@bitglass.com](mailto:legal@bitglass.com) and (b) for notices to be provided to You – by e-mail or physical mail to the individual that You designate as Your Administrator at the address provided for such individual. If Bitglass has not received information for such individual or if such information

is outdated, Bitglass may direct all notices to You to Your Chief Executive Officer, President or any other officer of Yours at Your principal business address (or, if applicable, Your principal business address in the United States) or to any such individual's e-mail address at the organization. Notices will be deemed received when sent by electronic mail or confirmed facsimile, three business days after having been sent by registered or certified mail, or one business day after deposit with a commercial express courier specifying next day delivery. Each party may change its address and contact person for notice by giving written notice to the other party as described herein.

13.4 Entire Agreement and Modifications to Terms. This Agreement, together with Your Order Form, if any, constitutes the entire agreement between You and Bitglass with respect to the subject matter hereof, and supersedes all prior and contemporaneous understandings and agreements, whether oral or written, pertaining to the subject matter hereof. You may not modify or amend any term or provision of this Agreement without Bitglass' written consent. Any additional or conflicting terms that may be set forth in a purchase order or other order documentation is and will be void. BITGLASS MAY MAKE CHANGES TO THIS AGREEMENT FROM TIME TO TIME, AFTER WHICH BITGLASS WILL REQUIRE YOU TO ACCEPT THE MODIFIED AGREEMENT BEFORE YOU OR YOUR PERSONNEL MAY CONTINUE TO ACCESS AND USE THE SERVICES AND THE SITE. YOU ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SERVICES OR THE SITE AFTER BITGLASS POSTS OR OTHERWISE MAKES AVAILABLE A MODIFIED AGREEMENT WILL CONSTITUTE YOUR ACCEPTANCE OF THAT MODIFIED AGREEMENT. Bitglass will not modify any pricing or the scope of Services as set forth in Your Order Form without your prior consent, other than as permitted by this Agreement.

13.5 Severability. If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such provision shall be modified to the extent necessary to make such provision valid and enforceable and the remaining provisions of this Agreement shall remain in effect and enforceable in accordance with their terms.

13.6 Assignment. You may not assign or transfer this Agreement or any rights or obligations hereunder, whether voluntary, by operation of law, or otherwise, without the prior written consent of Bitglass; provided, however, that Bitglass agrees to provide its written consent to the assignment of this Agreement to any successor in interest of You by way of merger, stock purchase, or acquisition of all or substantially all of Your business or assets to which this Agreement relates unless such successor is or will become, in the sole good faith judgment of Bitglass, a competitor of Bitglass. Any assignment made without the prior written consent of Bitglass shall be null and void. Bitglass may assign this Agreement at any time including to any successor in interest by way of merger, stock purchase, or acquisition of all or substantially all of the Bitglass business or assets to which this Agreement relates. Bitglass reserves the right to delegate any or all of its obligations under this

Agreement to a Bitglass subsidiary. Subject to the foregoing provisions of this Section, this Agreement shall be binding on and inure to the benefit of the parties' successors and assigns.

13.7 Waiver. The failure of either party to exercise any right granted herein or to require any performance of any term of this Agreement or the waiver by either party of any breach of this Agreement by the other party shall not prevent a subsequent exercise or enforcement of, or be deemed a waiver of any subsequent breach of, the same or any other term of this Agreement.

13.8 Relationship of the Parties; No Third Party Beneficiaries. Nothing in this Agreement shall constitute or create a joint venture, partnership, or any other similar arrangement between the parties. No party is authorized to act as agent for the other party hereunder except as may be otherwise expressly stated in this Agreement. There are no third-party beneficiaries to this Agreement.

13.9 Equitable Remedies. You acknowledge that the Services and the Site contain valuable trade secrets and proprietary information, that any actual or threatened breach by You of Section 3.2 or 5.2 will constitute immediate, irreparable harm to Bitglass for which monetary damages alone would be an inadequate remedy and that Bitglass may seek injunctive relief for such breach.

13.10 Force Majeure. Bitglass shall not be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond Bitglass' reasonable control, including but not limited to Acts of God (including, without limitation, earthquakes, fires, floods, landslides, tornadoes, hurricanes and severe storms), government actions, war, terrorism, civil disturbance, insurrection, sabotage, labor shortages or disputes, delays due to customs or other requirements imposed by foreign jurisdictions (or any agency or body thereof), shortage of energy or equipment, or Your fault or negligence.

13.11 Construction. The section headings in this Agreement are for convenience only and are not to be used in the interpretation of this Agreement.

13.12 Privacy Policy. For information regarding Bitglass' privacy policy and how any data or information that You (or Your employees, contractors or customers) provide will be treated, please read the Bitglass privacy policy located at [Privacy Policy](#) which is incorporated herein by reference. By accepting this Agreement, You agree to Bitglass' use of the data and other information You (or



Your employees, contractors or customers) submit through the Site or otherwise provide to Bitglass in accordance with such privacy policy and the terms of this Agreement.