

These Bloodhound Terms of Service (this “**Agreement**”) is entered into by and between Specter Ops, Inc., a Delaware corporation (“**SpecterOps**”), and Company (“**Customer**”). If Customer has signed a Master Services Agreement with SpecterOps (or an authorized SpecterOps reseller) that differs from this Agreement, that signed Master Services Agreement will apply in place of this Agreement.

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT AND WARRANT TO US THAT YOU HAVE THE LEGAL AUTHORITY TO BIND SUCH LEGAL ENTITY AND ITS AFFILIATES TO THIS AGREEMENT, AND THAT ALL REFERENCES TO “CUSTOMER,” IN THIS AGREEMENT SHALL MEAN SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY OR IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU MUST NOT ACCEPT THIS AGREEMENT AND YOU MAY NOT USE THE SERVICE.

## **1. SOFTWARE AS A SERVICE AND SUPPORT SERVICES.**

1.1 **Access.** Commencing on the Effective Date of this Agreement, SpecterOps may make available to Customer certain SpecterOps software as hosted by SpecterOps (the “**Service**”) for use by Customer within the use limitations set forth in this Agreement and in the Service itself, or as set forth in one or more orders accepted by SpecterOps (each an “**Order**”).

1.2 **Restrictions and Conditions.** Customer shall not, directly, indirectly: (a) attempt to sell, transfer, assign, rent, lend, lease, sublicense or otherwise provide third parties rights to the Service; (b) “frame,” “mirror,” copy or otherwise enable third parties to use the Service (or any component thereof) as a service bureau or other outsourced service; (c) allow access to the Service by multiple individuals impersonating a single end user; (d) use the Service in a manner that interferes with, degrades, or disrupts the integrity or performance of any SpecterOps technologies, services, systems or other offerings, including data transmission, storage and backup; (e) use the Service for the purpose of developing a product or service that competes with the SpecterOps online products and services; (f) circumvent or disable any security features or functionality associated with Service; or (g) use the Service in any manner prohibited by law. All rights not expressly granted to Customer are reserved by SpecterOps, its suppliers and licensors.

1.3 **Support Services.** Additional support services, such as onboarding, custom configuration, consulting, training and system integration, may be purchased from SpecterOps under an applicable Order or in a Statement of Work referencing this Agreement (“**Support Services**”). For clarity, SpecterOps has no obligation to support Customer’s own technology, internal infrastructure, provide free training, or provide consulting on Customer created content or third-party technologies and services unless mutually agreed to in writing via an approved sales agreement and or statement of work.

## **2. PROPRIETARY RIGHTS**

2.1 **Bloodhound Enterprise Service.** As between SpecterOps and Customer, all right, title and interest in the Service, and any other materials furnished or made available hereunder, and all modifications and enhancements thereof, including all copyright rights, patent rights and other intellectual property rights in each of the foregoing, belong to and are retained solely by SpecterOps or SpecterOps’ licensors and providers, as applicable. Customer hereby does and will grant an unrestricted, non-exclusive, royalty-free, perpetual license to SpecterOps with respect to any and all evaluations, ideas, feedback and suggestions made by Customer to SpecterOps regarding the Service (collectively, “**Feedback**”) and all intellectual property rights therein, for use and exploitation in connection with SpecterOps’ business.

2.2 **Customer Data.** As between SpecterOps and Customer, all right, title and interest in Customer Data and all intellectual property rights thereto belong to and are retained solely by Customer. Customer hereby grants to SpecterOps a limited, non-exclusive, royalty-free, worldwide license to use the Customer Data and perform all acts with respect to the Customer Data as may be necessary for SpecterOps to provide the Service or Support Services (if applicable) to Customer.

2.3 **Confidentiality.** Each party agrees that, without the express consent of the other party, none of its employees or agents will disclose to any third party any information or material that (i) the other party designates as confidential or (ii) should be reasonably understood to be confidential (including without limitation the terms and conditions of this Agreement) unless such information or material (a) is or becomes publicly known through no wrongful act of the receiving party, (b) is received from a third party without restriction and without breach of any confidentiality obligation to the other party, (c) is independently developed by the receiving party, or (d) is required by law to be disclosed (provided that the other party is given advance notice of, and an opportunity to, contest any such requirement).

## **3. CUSTOMER OBLIGATIONS.**

3.1 **Fees.** Customer will pay SpecterOps the amounts specified in each applicable Order. All amounts shall be paid to SpecterOps within 30 days of receipt of an undisputed invoice unless indicated otherwise in the applicable Order. An invoice shall be deemed undisputed if, within such 30 day period, Customer fails to notify SpecterOps in writing of any disputed amounts. Except as otherwise specified in this Agreement, fees are based on services purchased and not actual usage, payment obligations are non-cancelable, fees paid are non-refundable, and the scope of the subscription cannot be decreased during the relevant subscription term. Fees are exclusive of any applicable sales, use, import or export taxes, duties, fees, value-added taxes, tariffs or other amounts attributable to Customer’s execution of this Agreement or use of the Service (collectively, “**Sales Taxes**”). Customer shall be solely responsible for the payment of any Sales Taxes. In the event SpecterOps is required to pay Sales Taxes on Customer’s behalf, Customer shall promptly reimburse SpecterOps for all amounts paid. Fees not paid when due shall be subject to the lower of (i) a late fee equal to one and one half percent (1.5%) of the unpaid balance per month or (ii) the highest monthly rate permitted by applicable law. SpecterOps further reserves (among other rights and remedies) the right to suspend access to the Service or Support Services in the event of an unpaid and undisputed invoice. Amounts payable to SpecterOps shall continue to accrue during any period of suspension and must be paid as a condition precedent to reactivation, which reactivation is at the sole discretion of SpecterOps.

3.2 Compliance with Laws. The SpecterOps software and Service are of U.S. origin. Customer shall adhere to all applicable state, federal, local and international laws and treaties in all jurisdictions in which Customer uses the Service, including all end-user, end-use and destination restrictions issued by U.S. and other governments and the U.S. Export Administration Act and its associated regulations. Customer will not upload any data or information to the Service for which Customer does not have full and unrestricted rights, or that would subject SpecterOps to any third party obligations. Customer will indemnify and hold SpecterOps harmless from and against any and all claims, costs, damages, losses, liabilities and expenses arising out of Customer's use of the Service or Support Services in a manner that violates third party rights or applicable law.

3.3 No Legal or Professional Advice. The Service and Support Services should be used for informational purposes only and are not intended as legal advice. If Customer makes decisions in reliance on information it receives in connection with the Service or Support Services, it does so at its own risk and SpecterOps, its employees, and its agents will not be liable for any losses that it may sustain. Customer should not make any business or legal decision without first conducting its own research and due diligence, and consulting with a legal professional. To the maximum extent permitted by law, SpecterOps disclaims any and all liability in the event any information, commentary, analysis, opinions, advice or recommendations on the Service are inaccurate, incomplete or unreliable or result in any specific decision or other losses. Customer alone is solely responsible for determining its compliance with applicable law.

#### **4. INDEMNIFICATION.**

4.1 SpecterOps Indemnification. SpecterOps shall indemnify and hold Customer harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of a third-party claim that the Service infringes or misappropriates any U.S. patents issued as of the Effective Date or any copyright or trade secret of any third party during the term of this Agreement. SpecterOps shall have no indemnification obligation, and Customer shall, to the extent permitted by applicable law, indemnify SpecterOps pursuant to this Agreement, for claims of infringement to the extent arising from the combination of Service with any unique aspects of Customer's business, for instance Customer's content, products, services, hardware or business processes, or for any use of the Service or any SpecterOps software not expressly authorized herein or in SpecterOps documentation, if such claims of infringement would have been avoided had such combination not occurred.

4.2 Customer Indemnification. Customer shall indemnify and hold SpecterOps, its suppliers and licensors harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with a claim which, if true, would constitute a breach of Customer's obligations under this Agreement.

#### **5. TERM AND TERMINATION.**

5.1 Term. This Agreement will begin on the date that Customer first accesses the Service and shall continue for the duration set forth in the applicable Order, or until terminated by either party as specified below (the "**Term**"). Each subscription term specified in an applicable Order is a binding financial commitment by Customer, however, customer may request that SpecterOps stop the Service and the collection of new data, and SpecterOps will accommodate this request, provided that Customer pays for the originally scheduled subscription term.

5.2 Termination. Either party may terminate this Agreement if the other party materially breaches this Agreement and such breach is not cured within thirty (30) days of providing notice thereof.

5.3 Effect of Termination. Upon expiration or termination for any reason, Customer shall discontinue all use of the Service, and return any and all software and documentation provided to Customer by SpecterOps.

#### **6. WARRANTY/ LIABILITY.**

6.1 Mutual Warranties. Each party represents and warrants to the other that it is duly authorized to execute this Agreement and perform the obligations set forth herein.

6.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICE AND ANY SPECTEROPS TRAINING, INSTRUCTION AND SUPPORT OR OTHER SUPPORT SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED STRICTLY ON AN "**AS IS**" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR SATISFACTORY RESULTS ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY SPECTEROPS, ITS SUPPLIERS AND ITS LICENSORS.

6.3 Limitation. SPECTEROPS' TOTAL AGGREGATE LIABILITY RELATING TO, ARISING OUT OF, IN CONNECTION WITH, OR INCIDENTAL TO THIS AGREEMENT, WHETHER FOR BREACH OF CONTRACT, BREACH OF WARRANTY, INDEMNIFICATION OR ANY OTHER CLAIM SHALL BE LIMITED TO THE ACTUAL DIRECT DAMAGES INCURRED, UP TO THE AMOUNTS PAID BY THE CUSTOMER DURING THE 12 MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO THE APPLICABLE CLAIM. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT WILL NOT ENLARGE OR EXTEND THIS LIMITATION OF DAMAGES.

6.4 Exclusion of Certain Damages and Limitations of Types of Liability. IN NO EVENT WILL SPECTEROPS BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES, OR LOST PROFITS OR LOST REVENUE ARISING OUT OF OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE SERVICE OR SUPPORT SERVICES. THE FOREGOING EXCLUSION AND LIABILITY LIMITATIONS APPLY EVEN IF SPECTEROPS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IN THE EVENT OF STRICT OR PRODUCT LIABILITY.

7. **SPECIAL TERMS FOR UNPAID USERS**. This Section 8 will only apply if Customer is accessing the Service at no charge, for instance as part of an evaluation or trial (a "**Trial Customer**"). Notwithstanding anything to the contrary in this Agreement, if Customer is a Trial Customer: (i) SpecterOps obligations in Section 5.1 do not apply; (ii) SpecterOps may terminate this Agreement and the licenses granted hereunder at any time upon notice to Customer; and (iii) SpecterOps's total aggregate liability relating to, arising out of, in connection with, or incidental to this Agreement, whether for breach of contract, breach of warranty, indemnification or any other claim shall be limited to the actual direct damages incurred up to

one million dollars (\$1,000,000).

**8. GENERAL.** This Agreement shall be governed by Virginia law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction to the contrary. No joint venture, partnership, employment, agency or exclusive relationship exists between the parties as a result of this Agreement or use of the Service or Support Services. The failure of SpecterOps to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision. All disclaimers, limitations, payment obligations and restrictions of warranty shall survive termination of this Agreement, as well as the provisions of this "General" section shall survive termination of this Agreement. If any part of this Agreement is found to be illegal, unenforceable, or invalid, Customer's right to use the Service or applicable Support Services will immediately terminate, except for those provisions noted above which will continue in full force and effect.