

Service and License Agreement

1. **GENERAL.** This Service and License Agreement (“Agreement”) which Client reviewed and assented to, governs the Software and Services provided by Company to Client along with separate Scope of Works, which are governed by the terms of this Agreement.

2. LICENSE AND SERVICES

2.1. Definitions

2.1.1. “**Company**” means LockThreat, LLC or “LockThreat”

2.1.2. “**AWS**” means Amazon Web Services, a cloud computing platform (“**AWS Platform**”), along with any and all related corporate entities, subsidiaries, affiliates and agents thereto (“**AWS Entities**”) that own, operate, host, promote, market, and provide access to for the purchase of services and products to any third parties that utilize the AWS Platform.

2.1.3. “**Client**” means _____.

2.1.4. “**Licensees**” means LockThreat Software end user licensees designated by Client and authorized by Company (“**Authorized Users**”), who agree prior to using the Software - via click-through - access to be bound by and subject to the terms of LockThreat’s Terms of Use and Privacy Policy, which are subject to changes and amendments at Company’s sole discretion in addition to any and all AWS Terms and Conditions (“**AWS T&C’s**”) for utilization of the AWS Platform, which are subject to AWS’s sole discretion.

2.2. **Software.** Subject to all terms and conditions of the Contract, including compliance with the Terms of Use and Privacy Policy, and AWS T&C’s and payment of all applicable Fees (as defined in Section 6.1), Company grants Client a limited, non-exclusive, non-sublicensable, non-transferable (except as set forth below under Section 13.4 (**Assignment**) right during the License Term (as defined in Section 5.3) to access and use the software set forth in the applicable Statement of Work (the “**Software**”), and the accompanying documentation, in accordance with this Contract and any additional use restrictions, including any limitations on the number of authorized users identified by Client and approved by Company, which shall not exceed the number of Authorized Users stated in the Contract. Company will make available the Software for authorized use by Client, except for (a) scheduled downtime (of which Company shall give advance electronic notice); (b) service downtime or degradation due to a Force Majeure Event (as defined in Section 12); (c) Client’s use of Third Party Materials (as defined in Section 3.3); (d) use of the Software other than in accordance with this Contract; or (e) any suspension or termination of Client’s use of the Services as contemplated by this Contract.

2.3. **Restrictions.** Client shall not, nor shall it permit others including, but not limited to, its Licensees to (a) allow the Software to be accessed or made available over the Internet or other public network, or use the Software for or in connection with any other purpose; (b) publish, rent, sell, lease, license, sublicense, retransmit, or otherwise transfer or disclose the Software or any part thereof, nor shall Client reverse engineer, reverse assemble or otherwise attempt to discover the underlying Software source code; (c) re-install, copy (other than one backup copy for archival purposes), modify or enhance the Software without the prior written consent of Company; (d) use the Software to conduct any type of service bureau or time-sharing operation or to provide remote processing, network processing, network telecommunications or similar services to any individual or entity, whether on a fee basis or otherwise; (e) use the Software, as part of any effort either (i) to develop a program having any functional attributes, visual expressions or other features similar to those of the Software or (ii) to compete with Company; (f) knowingly input, upload, transmit or otherwise provide to or through the Software (or any related systems, software, hardware, data, materials or services) any information or materials that are unlawful or injurious or any virus, worm, malware or other malicious computer code designed to disrupt, disable or harm the Company Materials (defined below in Section 3.1) or the Software; or (g) use the Company Materials, including the Software, in any manner or for any purpose that knowingly infringes, misappropriates or otherwise violates any intellectual property right or other right of any third party or that violates any applicable law or in any way violates AWS T&C’s. Client agrees to use the Software in a manner that complies with all applicable laws including intellectual property, copyright and export laws. Client will be responsible for maintaining the security of logins and passwords in its and its Authorized Users’ possession in accordance with industry standards and applicable law. Any breach of the terms and conditions of this Contract by any Authorized User (including any Authorized User that gains unauthorized access) shall constitute Client’s breach. Client shall notify Company immediately if it learns of any unauthorized disclosure, access or use of the Software or any login or password assigned to Client or its Authorized Users.

2.4. **Security Measures.** The Software may contain technological measures designed to prevent unauthorized or illegal use of the Software. Client acknowledges and agrees that: (a) Company may use these and other lawful measures to verify Client’s compliance with the terms of this Contract and enforce Company’s rights, including all intellectual property rights, in and to the Software; and (b) Company may deny any individual access to and/or use of the Software if Company, in its reasonable discretion, believes that such person’s use of the Software would violate any provision of this Contract, regardless of whether Client designated that person as an Authorized User.

- 2.5. **Services.** Company shall provide the Services described in this Contract and any Statement of Work covered by this Contract, as may be added or amended by written Contract of the parties, and which may include the delivery of certain work product provided in connection therewith. Each Statement of Work shall be deemed a part of this Contract upon signing and subject to all of its terms and provisions. In the event of any conflict or inconsistency between the terms of this Contract and any Statement of Work, the terms of the Statement of Work shall prevail solely with respect to the subject matter of that Statement of Work. Client agrees to provide Company with reasonable access and use of Client's applications, programs, data, internet, intranet, and other network resources in order to perform the Services, which may include access to such network resources remotely.
- 2.6. **Changes.** If either party proposes a change to the scope of the Services set forth in the Statement of Work, the other party will reasonably and in good faith consider and discuss with the other party the proposed change. Upon Contract of a proposed change, if the changes are significant and substantial in nature, Company reserves the right to require that the additional work be committed to writing in a new Statement of Work. Further, Client acknowledges that any requested additional work from Company may increase costs and extend any applicable schedules set prior to the change request. Any increased costs or extended schedules shall require the prior written Contract of the parties.

3. PROPRIETARY RIGHTS

- 3.1. **Ownership.** Client acknowledges that the Software and all specifications, documentation, systems, information, data, documents, materials, designs, plans, works, content, devices, methods, processes, hardware, software and other technologies that are provided or made available in connection with, or that otherwise comprise or relate to, the Software or Services, and all improvements, enhancements or modifications thereto or derivative works thereof (collectively, the "**Company Materials**"), are the sole property of Company or its licensors. As between Company and Client, ownership and title to (a) the Company Materials; (b) any software, applications, inventions, technology, materials or other deliverables developed or delivered in connection with the Software or Services; and (c) all intellectual property rights related to any of the foregoing (as well as all intellectual property rights in the Software) shall remain with Company. The Software is made available for authorized use, not sold, to Client, and Client shall have no intellectual property rights therein, other than the limited rights expressly granted hereunder. Client acknowledges and agrees that the Company Materials contain valuable proprietary information and trade secrets of Company and are protected intellectual property rights of Company.

3.2. Data

- 3.2.1. **Client Data.** As between Company and Client, ownership and title to data, content and other materials provided by Client or Authorized Users in connection with the Software or Services ("**Client Data**"), including all intellectual property rights thereto, shall remain solely and exclusively with Client. Client grants Company a limited, non-exclusive, non-transferable, worldwide, royalty-free license during the Term to host, copy, transmit and display Client Data solely as is necessary for Client's and its Authorized User's use as contemplated by this Contract. Subject to the limited licenses granted herein, neither Company nor its subcontractors acquire any right, title or interest from Client or Client licensors under this Contract in or to any of Client Data. "Client Data" does not include Usage Data (as defined below in Section 3.2.2).
- 3.2.2. **Usage Data.** Company may collect, maintain, process and use diagnostic, technical, and usage, and other information related to Client's use of the Software and Services, including information about Client's and its Authorized User's computers, systems and software ("**Usage Data**").
- 3.2.3. **Third Party Materials.** The Software and Services may enable Authorized Users to link to, transmit data to or otherwise access applications, specifications, documentation and systems and other information, data, documents, materials, works and other content that are provided by any third party and specified identified as Third-Party Materials in the applicable documentation or Statement of Work ("**Third Party Materials**"). Client acknowledges that (a) the nature, type, quality and availability of Third-Party Materials may change at any time; and (b) if any third-party ceases to make its Third Party Materials available on reasonable terms, Company may cease providing access to the affected Third Party Materials without any liability to Client. Third Party Materials may be subject to separate license Contracts or terms. Except as expressly stated otherwise in this Contract, licenses, warranties and support for Third Party Materials, if any, will be set forth in the applicable Contract.

4. DATA PRIVACY AND SECURITY

- 4.1. **Data Processing.** Each of Client and Company acknowledges and understands that information that is defined as "personal data" or "personal information" or similar terms ("**Personal Data**") under any applicable data protection, data privacy, security breach notification, and data security laws, rules, and regulations (collectively, the "**Data Protection Laws**") may be collected, used and/or disclosed pursuant to this Contract and during the course of Authorized User's use of the Software. With respect to data submitted by, or processed on behalf of, Authorized Users by Company during the course of Authorized Users' use of the Software, including Usage Data and Personal Data, Company acts as a "controller" or "business", as defined in applicable Data Protection Laws. Company and Client will comply with all applicable Data Protection Laws applicable to their respective processing of Personal Data. Company represents, warrants, and covenants that it has the right and authority under applicable Data Protection Laws to process Personal Data regarding Authorized Users for purposes of performing the

Services. Company shall provide all notices to, and obtain all consents from, Authorized Users that are required by applicable Data Protection Laws for the use, disclosure, or other processing of Personal Data about such end users. Company shall not disclose any Personal Data about Authorized Users to Client.

- 4.2. **Data Security.** To the extent applicable, Company will implement and maintain an information security program that is consistent with applicable Data Protection Laws and that includes reasonable administrative, physical, and technical safeguards to: (a) protect the security and confidentiality of Personal Data; (b) protect against any foreseeable threats or hazards to the security of integrity of Personal Data; (c) protect against the accidental, unauthorized or unlawful access, acquisition, use, alteration, disclosure, loss or destruction of Personal Data; and (d) ensure secure and appropriate disposal of Personal Data.
- 4.3. **Security Incident Notification.** "Security Incident" means any unauthorized or unlawful use, destruction, loss, alteration, disclosure of, or access to, any Client Data. If Company becomes aware of a Security Incident affecting Client Data including Personal Data, Company will (a) notify Client of the Security Incident within thirty-six (36) hours of having become aware, such notice will include information regarding the nature and scope of the Security Incident, any reports to law enforcement related to the Security Incident to the extent possible under applicable law and/or permitted by law enforcement, the actual or suspected cause of the Security Incident, the measures being taken by Company to investigate the Security Incident, correct or mitigate the Security Incident, and prevent future Security Incidents; (b) investigate the Security Incident and cooperate with all reasonable requests from Client (and any law enforcement or regulatory official, as may be required) to investigate and mitigate the effects of the Security Incident; and (c) promptly take commercial reasonable steps to remedy the cause of such Security Incident. Company shall be responsible, at its expense, for providing all notices required by any Data Protection Law with respect to any Security Incident.
- 4.4. **Audits.** Company will, upon Client's reasonable advance written request, allow for and contribute to audits, including inspections, of those books and records reasonably necessary and relevant to verify Company's compliance with this Section 4, conducted by Client (or a third party on Client's behalf) provided (a) Company is given a minimum of thirty (30) days advance written notice of such audit, (b) such audits or inspections are not conducted more than once per year (unless required by Data Protection Laws); (c) are conducted only during Company's normal business hours and at a time agreed upon by Company; and (d) are conducted in a manner that causes minimal disruption to Company's operations and business. Client agrees that all information, documents, and other materials collected during the course of any audits constitutes Confidential Information (defined below in Section 8.1) of Company, and may not be used for any purpose other than to verify Company's compliance with this Section 4. Client shall remain liable and responsible for any acts and omissions of any third party retained to conduct such an audit.

5. TERM AND TERMINATION

- 5.1. **Term.** This Contract shall commence upon the Effective Date continue until expiration of the Services Term and the License Term. The Services Term and the License Term may be collectively referred to herein as the "**Term**". Expiration or termination of any Statement of Work shall constitute the expiration or the termination of such Statement of Work only and shall not affect this Contract or any other Statements of Work outstanding under this Contract. Notwithstanding the foregoing, unless otherwise mutually agreed by the parties in writing, any Statement of Work outstanding as of the date of termination or expiration of this Contract shall remain in effect and continue to be governed by the terms of this Contract and its own terms until such time as such Statement of Work is completed, expires or is otherwise terminated.
- 5.2. **Services Term.** The term of the Services shall be as set forth in the applicable Statement of Work, and in any event shall continue while any Statement of Work is in effect, subject to earlier termination in accordance with this Section 5 (as extended by any renewal, the "**Services Term**"). Except as expressly stated otherwise in the Statement of Work, the Services Term may automatically renew for additional periods of the same duration as the initial Services Term upon written Contract of the parties.
- 5.3. **License Term.** The term of the Software license shall be as set forth in the applicable Statement of Work, and in any event shall continue while any subscriptions are in effect, subject to earlier termination in accordance with this Section 5 (as extended by any renewal, the "**License Term**"). Except as expressly stated otherwise in the Statement of Work, the License Term may automatically renew for additional periods of the same duration as the initial License Term upon written Contract of the parties.
- 5.4. **Termination.** In addition to any other remedies either party may have, either party may terminate this Contract (a) upon thirty (30) days' prior written notice if the other party materially breaches any of the terms or conditions of this Contract and such breach remains uncured at the expiration of such period (*provided, however*, with respect to Client's failure to pay Fees, upon five (5) business days' prior written notice and such breach remains uncured at the expiration of such period); (b) immediately if the other party (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law (which proceeding, if involuntary, is not dismissed within thirty (30) days); (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of

competent jurisdiction to take change of or sell any material portion of its property or business; (c) notwithstanding clause (a) above, immediately if the other party's breach directly relates to any of Section 3 (**Proprietary Rights**) or Section 8 (**Confidentiality**); and (iv) in accordance with Section 12 (**Force Majeure**) upon a Force Majeure Event.

5.5. Effect of Termination. In the event of termination or expiration of the License Term, (a) Client shall immediately cease use of any Company Materials and return or destroy (and certify such destruction of) all Company Confidential Information; and (b) all Authorized Users' access to the Software, including any portal, reporting or other functionality, will be disabled. All Fees are non-cancellable and all amounts paid are non-refundable; *provided, however*, that if this Contract is terminated by Client in accordance with Section 5.2 (**Termination**), Company will refund to Client any prepaid Fees under the Statement of Work on a prorated basis covering the remainder of the Statement of Work after the effective date of termination. In no event will termination or expiration relieve Client of Client's obligation to pay any Fees payable to Company for periods prior to the effective date of termination or expiration. All sections of this Contract which by their nature should survive termination will survive termination, including Section 3, 6, 8, 9, and 10.

6. FEES

6.1. Fees. As a condition of Client's license of the Software and receipt of the Services hereunder, Client shall pay to Company the fees and other amounts set forth in the Statement of Work ("**Fees**") in the manner specified in the Statement of Work. Company reserves the right to change the Fees and to institute new charges and Fees at the end of the initial Term or then-current renewal Term, as applicable, upon sixty (60) days prior written notice to Client (which may be sent by email). If Client believes that Company has billed Client incorrectly, Client must contact Company no later than ninety (90) days after the closing date on the first billing statement in which the error or problem appeared in order to receive an adjustment or credit (without limiting Client's other rights or remedies at law or in equity). Inquiries should be made in accordance with the notice provisions of Section 13.9 (**Notice**). Client agrees that it is solely and exclusively responsible for any federal, state, or local taxes that might apply in connection with this Contract (excluding any taxes based on Company's income); provided that any such taxes shall be set forth on the applicable invoice.

6.2. Method of Payment. Unless otherwise specified in the Statement of Work, Client shall pay in advance on an annual basis for the Software, including any support and maintenance, in each case in U.S. dollars (by check, wire transfer or ACH in accordance with the instructions set forth in the Statement of Work). All payments shall be received by Company within thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of one and one-half percent (1.5%) per month on any outstanding balance, or the maximum rate permitted by the laws of the State of Georgia, whichever is lower, plus all costs and expenses incurred in connection with collection of unpaid amounts. All late fees are in addition to other charges and are non-refundable.

7. SUPPORT.

During the License Term, Company will provide to Client, at no additional charge, support services for the Software as set forth in the Service Level Contract attached hereto as Schedule A.

8. CONFIDENTIALITY

8.1. Confidential Information. For purposes of this Contract, the term "**Confidential Information**" means any information disclosed by one party ("**Disclosing Party**") to the other party ("**Recipient**"), regardless of format or medium, including the Disclosing Party's financial information, technical and non-technical data, services, products, processes, operations, reports, analyses, test results, technology, samples, specifications, protocols, performance standards, formulations, compounds, know-how, methodologies, trade secrets, trade practices, marketing plans and materials, strategies, forecasts, research, concepts, ideas, and names, addresses and any other characteristics or identifying information of the Disclosing Party's existing or potential licensors, suppliers, clients or employees, the terms of this Contract (including pricing terms) or any information derived from any of the foregoing; *provided* that such information is confirmed in writing within thirty (30) days of disclosure. Confidential Information shall not include any information which (a) is or becomes available to the public other than as the consequence of a breach of this Contract; (a) is actually known to or in the possession of Recipient without any limitation on use or disclosure prior to receipt from the Disclosing Party; (c) is rightfully received from a third party in possession of such information who is not under obligation to the Disclosing Party not to disclose the information; or (d) is independently developed by Recipient without use of or reference to the Disclosing Party's Confidential Information. The burden of proving the applicability of these exceptions shall be on the Recipient.

8.1.1. Client Confidential Information includes Client Data, Services and Company Materials (including any benchmarking results or data).

8.1.2. Non-Disclosure of Confidential Information. Recipient shall (a) hold in strict confidence and trust all Confidential Information, using the same degree of care that it uses to protect the confidentiality of its own confidential information of similar type, and in any event no less than a reasonable degree of care; and (b) not disclose, sell, rent or otherwise provide or transfer, directly or indirectly, any Confidential Information to any third party without the

prior written consent of the Disclosing Party. Notwithstanding the preceding sentence to the contrary, Recipient may disclose Confidential Information to its or its affiliates' employees, agents, contractors, legal counsel and accountants who need to know such information, only to the extent reasonably necessary, consistent with the obligations of the parties under this Contract and who are bound by confidentiality obligations no less stringent than those set forth in this Contract. Recipient shall use the Confidential Information only in connection with the intent of this Contract and not for any other purpose whatsoever. Recipient shall require any of its representatives who obtain Confidential Information to comply with this Contract and shall be responsible for any breach of this Contract by such representatives.

8.2. Compelled Disclosure. Notwithstanding the foregoing, Recipient shall be permitted to disclose Confidential Information pursuant to a court order, government order or any other legal requirement of disclosure, or pursuant to the listing rules of any stock exchange to which such party is subject, in each case if no suitable protective order or equivalent remedy is available; *provided* that, to the extent permitted, Recipient gives the Disclosing Party written notice of such court order, government order, legal requirement or listing rule requiring disclosure immediately upon knowledge thereof and allows the Disclosing Party a reasonable opportunity to seek to obtain a protective order or other appropriate remedy prior to such disclosure to the extent permitted by law; and *further provided* that Recipient shall furnish only that portion of the Confidential Information which it is advised by a written opinion of counsel is legally required, and will exercise its best efforts to obtain a protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information so disclosed.

9. WARRANTY AND DISCLAIMER

9.1. Company Warranty. Company warrants that (a) the Services will be performed in a professional and competent manner by appropriately qualified personnel in substantial accordance with the Statement of Work and Company's applicable specifications and documentation and (b) the Software shall materially perform in substantial accordance with Company's applicable specifications and documentation. To the fullest extent permitted under applicable law, any warranty under this Contract shall be void, and Company shall have no responsibility or liability under this Contract, to the extent that performance of the Software or Services has been affected by (i) accident, abuse, misuse or neglect; (ii) a delay of more than sixty (60) days in properly reporting to Company, in writing, any relevant non-conformance; (iii) operation in or connection to any unauthorized, incompatible or third party software, hardware, network, configuration, system or operating environment, as set forth in the applicable documentation; (iv) installation, implementation, repair, or modification of the Software by any person other than Company or its authorized subcontractors; or (v) the performance of (or failure to perform by) third parties engaged by Client, and is expressly conditioned on Client compliance with any applicable specifications, as made available to Client, as they may be updated by Company from time to time. Company's entire liability and Client's exclusive remedy with respect to any breach of the above warranty shall be, at Company's option in its sole discretion, either (x) substantial correction of nonconformities in or replacement of materially nonconforming Software, at no charge to Client; (y) reperformance, substantial correction of nonconformities in or replacement of materially nonconforming Services, at no charge to Client; or (z) refund of Fees paid for materially nonconforming Software or Services, as applicable. Company further represents and warrants that: (a) it has the right, power, and authority to provide the Services and Software and to grant and perform all rights and licenses granted or required to be granted by it under this Contract; (b) Company shall at all times comply with all applicable laws, rules and regulations with respect to providing the Software and Services and (c) the Services and Software will not introduce or cause to be introduced into Client's systems any viruses, Trojan horses, worms, spyware, time bombs, corrupted files or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any systems, data, personal information or property of another or other such malicious code.

9.2. Client Warranty. Client represents and warrants that (a) Client shall at all times comply with all applicable laws, rules and regulations with respect to using the Software and Services and (b) Client (i) owns all right, title and interest in and to all data and information included in the Client Data provided to Company under this Contract or (ii) as to data not owned by Client, has the valid and enforceable right to provide to Company all such data and information included in the Client Data for Company's use in accordance with this Contract and the applicable Statement of Work.

10. LIMITATIONS

10.1. Disclaimer. COMPANY DOES NOT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE COMPANY MATERIALS, SOFTWARE OR SERVICES. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE COMPANY MATERIALS, SOFTWARE AND SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL REPRESENTATIONS, CONDITIONS, GUARANTEES OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, AVAILABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL THIRD-PARTY MATERIALS MADE ACCESSIBLE THROUGH THE SOFTWARE AND SERVICES ARE PROVIDED "AS IS" AND ANY REPRESENTATION, CONDITION, GUARANTEE OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY MATERIALS IS STRICTLY AS SET FORTH IN THE APPLICABLE Contract FOR SUCH THIRD PARTY MATERIALS.

10.2. Limitation on Liability. EXCEPT AS IT RELATES TO (a) THE INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; (b) A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER; (c) A PARTY'S BREACH OF CONFIDENTIALITY OBLIGATIONS; OR (c) A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT (COLLECTIVELY, "EXCEPTIONAL CIRCUMSTANCES"), IN NO EVENT WILL EITHER PARTY, ITS SUBSIDIARIES OR AFFILIATES, OR ITS OR THEIR RESPECTIVE DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, SUCCESSORS OR ASSIGNS, BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, INTERRUPTION OF BUSINESS, OR OTHER SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS Contract, AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. EXCEPT AS IT RELATES TO EXCEPTIONAL CIRCUMSTANCES, IN NO EVENT SHALL EITHER PARTY BE LIABLE IN THE AGGREGATE FOR ANY CLAIMS OR DAMAGES IN ANY AMOUNT EXCEEDING THE GREATER OF (A) THREE TIMES (3X) AMOUNT PAID BY CLIENT TO COMPANY DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE THE CAUSE OF ACTION GIVING RISE TO THE LIABILITY AROSE OR (B) ONE HUNDRED THOUSAND DOLLARS (\$100,000), whichever is more.

11. INDEMNIFICATION

11.1. Indemnification by Company. Company will defend, indemnify, and hold harmless Client and its affiliates, officers, directors, managers, members, agents and employees from and against any and all third-party claims, losses, damages, actions, demands, liabilities, judgments, penalties, fines, costs or expenses, including reasonable attorneys' costs and fees, arising out of or in connection with (i) the Software's infringement or misappropriation of any third-party intellectual property rights, (ii) any breach by Company of its obligations under this Contract, and (iii) any Security Incident. The foregoing obligation of Company does not apply (a) to the extent the Software is combined with any non-Company software, processes or materials where the alleged infringement would not have occurred without such combination; (b) where Client's use of the Software is not for the purposes set forth in this Contract and its Terms and Conditions; or (c) to any infringement or alleged infringement arising from any content, software, information or data provided by Client or any Authorized User, including any Client Data. If any applicable infringement claim is initiated, or, in Company's reasonable opinion, is likely to be initiated, then Company shall, at its option and at its sole cost and expense, (i) modify or replace the infringing part of such products or services so that it is no longer infringing; (ii) procure for Client the right to continue using the infringing part of such products or services; or (iii) if Company can neither acquire the right to continue using nor replace or modify the infringing part of such products or services then remove the infringing part of such products or services. The foregoing in this Section 11.1 states Client's sole and exclusive remedy, and Company's sole liability, with respect to claims of infringement of proprietary rights of any kind.

11.2. Indemnification by Client. Client will defend, indemnify, and hold harmless Company, its licensors, and its and their affiliates, officers, directors, managers, members, agents and employees from and against any and all third party claims, losses, damages, actions, demands, liabilities, judgments, penalties, fines, costs or expenses, including reasonable attorneys' costs and fees, arising out of or in connection with (a) Client's access to and use of the Software or Services in a manner not authorized by this Contract, or in violation of any applicable restrictions or law or (b) Client Data in accordance with this Contract and its Terms and Conditions.

11.3. Indemnification Process. The indemnifying party shall assume the defense or settlement of any claim with counsel of its choice; provided that the indemnified party shall have the right to participate in the defense or settlement of such claims at their own cost and expense. The indemnifying party shall not consent to entry into judgment or enter into any settlement that admits liability of the indemnified party, provides for injunctive or other non-monetary relief affecting the indemnified party, or that does not include as an unconditional term the giving by each claimant or plaintiff to the indemnified party of a release from all liability with respect to such claim without the prior consent of the indemnified party, which consent shall not be unreasonably withheld. The indemnifying party's liability under this Section 10 shall be reduced to the extent that the indemnifying party is actually prejudiced by the indemnified party's failure to give notice promptly after the indemnified party learns of such claim.

12. FORCE MAJEURE. Client acknowledges that Company may be interrupted, delayed, or prevented from completing performance of any or all of Company's obligations under this Contract due to an occurrence outside of Company's reasonable control, including fire, flood, explosion, pandemic, natural disaster or act of God, war, riot, terrorist act, malicious attack, action or inaction of government, strike, labor dispute, materials shortage, shortage of adequate power, internet or telecommunications ("Force Majeure Event"). Company will provide prompt written notice to Client of any Force Majeure Event and use reasonable efforts to mitigate the effects of a Force Majeure Event, but shall not be liable or responsible to Client, or be deemed to have defaulted under or breached this Contract, as a result of a Force Majeure Event.

13. MISCELLANEOUS

13.1. Governing Law. This Contract will be governed by, and construed in accordance with, the laws of the State of Georgia, without regard to conflicts of laws provisions thereof. The application of the Uniform Computer Information Transactions Act is expressly excluded. In any dispute arising under this Contract shall be submitted exclusively to binding arbitration to

be conducted in the State of Georgia before one (1) arbitrator mutually selected by the parties, in accordance with the rules of the American Arbitration Association, and each party consents to such exclusive forum; *provided* that nothing herein shall prevent either party from seeking a preliminary injunction or other equitable relief in a judicial proceeding to prevent irreparable harm pending arbitration. EACH PARTY HEREBY IRREVOCABLY (a) CONSENTS AND SUBMITS TO THE PERSONAL JURISDICTION OF THE SPECIFIED FORUMS, AND VENUE THEREIN AND (b) VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BETWEEN THEM BASED DIRECTLY OR INDIRECTLY ON THIS Contract, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY RELATED TO THIS Contract.

- 13.2. Insurance.** Through the term of this Contract and for at least three (3) years thereafter for any insurance written on a claims-made basis, Company shall obtain and maintain privacy and cyber security insurance coverage providing standard comprehensive first-party and third-party (liability) coverages, with third-party coverage limits of not less than \$1,000,000 for each claim. Company shall provide Client with a certificate of insurance evidencing the required insurance.
- 13.3. Independent Contractor.** In making and performing this Contract, the parties act and will act at all times as independent contractors and nothing contained in this Contract will be construed or implied to create the relationship of principal-agent, partner, joint venturer, franchisor-franchisee or employer-employee between the parties. At no time will either party have any right, power or authority to create any obligation or responsibility on behalf of the other party.
- 13.4. Assignment.** This Contract, and all rights and obligations under this Contract, may be assigned by the Company. This Contract, and all rights and obligations under this Contract, may not be assigned by the Client. Any attempted assignment in violation of this Section shall be void. This Contract will be binding upon and inure to the benefit of the parties and their permitted successors and assignees.
- 13.5. Entire Contract; Amendment.** This Contract, including its Terms and Conditions along with any Schedules and the applicable Statement(s) of Work, is the complete and exclusive Contract between Client and Company concerning the subject matter of this Contract and supersedes any and all prior or contemporaneous proposals, Contracts, verbal or written, and may not be modified except in writing executed by Company and Client (or as otherwise expressly set forth in this Contract). This Contract shall take precedence over any additional or different terms and conditions Client may provide, including any Contract of purchase, to which notice of objection is hereby given. In the event of any conflicts or inconsistencies, the following order of precedence shall apply, but only with respect to the specific subject matter of each: (a) the Statement of Work then (b) this Contract (for the avoidance of doubt, where a Statement of Work includes additional and more specific terms and conditions with respect to a concept addressed generally in this Contract or does not address a concept addressed herein, no conflict shall be deemed to exist).
- 13.6. Authority.** Each of Client and Company acknowledges that (a) it has read and understands, and has had an opportunity to provide its comments to, the terms and conditions set forth in this Contract and intends to be legally bound hereby; (b) the representatives accepting or executing the Statement of Work incorporating this Contract are authorized representatives; and (c) the execution, delivery and performance of this Contract will not result in any breach of or default under any provision of any Contract, instrument, judgment, decree, order, statute, rule or governmental regulation to which it is a party or by which it is bound or which applies to its obligations hereunder.
- 13.7. Compliance with Applicable Laws.** Each of Client and Company shall comply with any law or regulation applicable, in the case of Company, to the delivery or provision of the Software and Services and, in the case of Client, to the receipt and use of the Software and Services. Any legal or regulatory compliance obligations shall remain Client's sole responsibility, and nothing herein is intended to shift such burden from Client to Company. For the avoidance of doubt, the Software is not intended to serve as a substitute for, or method of, compliance with any legal or compliance obligations to which Client may be subject (including with respect to employee recordkeeping), and under no circumstances shall Company have any liability to Client arising from Client non-compliance with such obligations.
- 13.8. Waiver; Severability.** The failure to enforce at any time the provisions of this Contract or to require at any time performance by the other party of any of the provisions of this Contract shall in no way be construed to be a waiver of such provisions or to affect either the validity of this Contract, or a party's right thereafter to enforce provisions in accordance with the terms of this Contract. If any provision of this Contract is held to be invalid or unenforceable by a judicial or regulatory authority, the meaning of such provision shall be construed, to the extent feasible, so as to render the provision enforceable. If no feasible interpretation would save the provision, it shall be severed and the remainder shall not be affected and shall be enforced as nearly as possible according to its original terms and intent.
- 13.9. Notice.** All notices required under this Contract shall be given and made in writing and shall be delivered to the respective addresses identified in this Contract and deemed received (a) when received, if hand delivered; (b) the day after it is sent, if delivered by an internationally-recognized common carrier's overnight delivery service providing proof of delivery; or (c) the third (3rd) business day following deposit in the U.S. Mail, registered or certified mail, with prepaid postage thereon.
- 13.10. Construction.** For purposes of this Contract: (a) the words "include," "includes" and "including" are deemed to be followed

by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Contract as a whole; and (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa. The Statement of Work and the schedules and exhibits attached hereto are an integral part of this Contract to the same extent as if they were set forth verbatim herein. This Contract and any Statement of Work may be executed in any number of counterparts, each of which is deemed to be an original and all of which taken together constitutes one Contract.

- 13.11. Equitable Relief.** Client acknowledges that any breach of Section 2 (**Services and License**), Section 3 (**Proprietary Rights**) or Section 8 (**Confidentiality**) may irreparably harm Company, that the damages suffered by Company as a result of such breach may be difficult to ascertain, and that Company may not have an adequate remedy at law for such breach. Client agrees and consents that in the event of such breach, Company shall be entitled, without posting bond, in addition to all other rights and remedies to which Company may be entitled, to seek to have a decree of specific performance or an injunction issued requiring any such violation to be cured and enjoining all persons involved from continuing the violation. Client acknowledges and agrees that the restrictions in this Section 13.11 are reasonable and necessary to protect Company's legitimate business interests.
- 13.12. Counterparts.** This Contract may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same Contract. A signed copy of this Contract delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

LOCKTHREAT

BY: LockThreat, LLC

PRINTED NAME: _____

TITLE: _____

DATE: _____

BY: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

Schedule A

Service Level Contract

1. **Service Availability.** The Software shall be available 99.8% of the time measured on an annual basis.

2. **Problem Assistance.** Company shall provide to Client, during the support hours of between 8-4 EST, except for United States holidays, commercially reasonable efforts in solving Errors reported by Client. “**Errors**” shall mean failures of the latest release of the Software that is generally available to Company’s other customers to substantially perform in accordance with the documentation. Client shall provide to Company reasonably detailed documentation and explanation, together with underlying data, to substantiate any Error and to assist Company in its efforts to diagnose, reproduce and correct the Error. All service requests filed in the Company system are assigned a priority level based on the impact of the issue. Client determines the priority level when placing a service ticket, but Company may change the priority level after initial contact and assessment of the issue.

The following table defines the priority levels and the initial response time from Support.

	Essential	Professional	Enterprise
24/7 Self Help Resource	✓	✓	✓
Help Desk	✓	✓	✓
Unlimited Support tickets	✓	✓	✓
Customer Requested Meetings	✗	✓	✓
Emergency Phone Support	✗	✓	✓
Dedicated Account Team	✗	✓	✓
On-Site Support	✗	✗	✓

Priority	Response Time
Urgent Response Time – 4 Business Hours	Mission critical systems are down with no workaround immediately available.
High Response Time – 6 business Hours	Major Functionality is severely impaired.
Medium Response Time - 1 business Day	Partial, non-critical loss of functionality of the software.
Low Response Time – 3 Business Days	General usage questions.

3. **Service Credits**

- (a) **Service Credit.** As Client's sole and exclusive remedy, and Company's entire liability, for failure to comply with the requirements set forth in this Schedule B, one (1) additional day of support and maintenance ("**Service Credit**") will be given to Client upon each occurrence of an incident resulting in a period of four (4) consecutive hours of unscheduled downtime for the Software; provided that no more than one such credit will accrue per occurrence. Service Credits may not be redeemed for cash. Downtime will begin to accrue as soon as Client notifies Company that downtime is taking place and Company confirms such downtime, and continues until the availability of the Software is restored.
 - (b) **Notification.** Client must notify Company within thirty (30) days from the time Client becomes eligible to receive a Service Credit. Failure to comply with this requirement will forfeit Client's rights to receive a Service Credit. Service Credits may be used solely for future payments due for the particular Software or failure of other obligations for which the Service Credits are issued. The Service Credits may not be sold or transferred to other parties.
- 4. **Exclusions and Exceptions.** Service availability and Client's entitlement to Service Credits do not apply to the following circumstances: (a) to the performance of Internet networks or other issues controlled by entities other than Company or traffic exchange points that are controlled by entities other than Company, including any issues arising from a third-party hosting provider (see Section 5); (b) to any connections or equipment of Client that are not Company-managed and are used by Client to access the Software; (c) where the Software is unavailable or delayed as a result of the negligence or acts or omissions of Client, its employees, contractors, agents or any of its customers, including Client's breach of this Contract; (d) Company or its third party service providers performing reasonable scheduled maintenance ; or (e) where Software is unavailable as a result of any Force Majeure Event. Client acknowledges that a stabilization period will occur after the go-live date of the initial system and any upgrade ("**Stabilization Period**"). During the Stabilization Period, Client and the implementation team will resolve remaining implementation issues. The Stabilization Period will be for a period of five (5) days. Client and Company agree that Company will not be liable for payment of performance credits to Client for any Service Level Default incurred during the Stabilization Period.
- 5. **Third Party Hosting.** Client acknowledges and agrees that Company utilizes AWS Cloud as a third party host as of the Effective Date, and Client hereby agrees that the hosting of the Software will be subject to AWS Cloud's applicable terms and policies, the current versions of which are available at the following URL: <https://aws.amazon.com/agreement/>.
- 6. In the event that the hosting of the Software is to be transitioned to another third party host, Company shall provide at least sixty (60) days' written notice to Client of such transition and Company shall use commercially reasonable efforts to avoid any interruption to Software while transitioning the third party host in accordance with this Section 5.
- 7. **Support Assumptions.** The Service Levels set forth in this Schedule B are based upon the following assumptions:
 - (a) All service requests will be sent to support@lockthreat.com
 - (b) Client will provide resources and contacts with business and process specific knowledge as necessary.