

**ARMOR DEFENSE INC.  
TERMS OF SERVICES AGREEMENT**

This Terms of Services Agreement, the Acceptable Use Policy (“AUP”) (which is incorporated herein by reference), any applicable schedule(s), and any executed amendments thereto (collectively, the “Agreement”), govern Armor Defense Inc.’s (“Armor”) provision of the Services (as defined below) to the person or entity that is a party to this Agreement (“you” or “Customer”).

BY EXECUTING AND DELIVERING THE SOLUTIONS ORDER, CLICKING THE “ACCEPT” BUTTON, SIGNING AN AGREEMENT THAT REFERENCES THESE TERMS, OR ACCESSING OR USING ANY OF THE SERVICES, YOU EXPRESSLY AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT AS OF THE DATE YOU TAKE SUCH ACTION. SHOULD THE PARTIES SIGN A SEPARATE AGREEMENT (INCLUDING BUT NOT LIMITED TO A NEGOTIATED VERSION OF THESE TERMS) THAT DEVIATES FROM THIS AGREEMENT (LOCATED AT <https://www.armor.com/terms-of-services/>) THE TERMS OF THAT NEGOTIATED AGREEMENT SHALL GOVERN YOUR USE OF THE SERVICES AS OF THE EFFECTIVE DATE OR DATE OF YOUR SIGNATURE TO THAT AGREEMENT.

**1. Definitions Applicable to all Services Subscriptions.**

Acceptable Use Policy or “AUP”: the Armor AUP posted at <https://www.armor.com/terms-of-services/>.

Account Data: (i) your general Services account information (including usage statistics, billing, support tickets and other use/ support history), and (ii) any employee or User contact information provided by you that is required to establish User accounts for the Services, to the extent that Armor in each case tracks and stores such data on its own separate administrative servers.

Affiliates: any entity that a party directly or indirectly controls, is controlled by or is under common control of that party.

Beta Services: any pre-production version of services that are offered by Armor to certain customers for the sole purpose of testing and evaluating such services. The terms and conditions for your participation in any Beta Services is set forth in Schedule 1.

Confidential Information: this definition is set forth in Section 11 below.

Fees: the Setup Fees, Recurring Fees, and Non-Recurring Fees set forth in this Agreement and the Solutions Order.

Infrastructure Platform: (i) your own servers and platforms and/or (ii) the separate servers and platforms of a third party (the “Infrastructure Provider”) on which you store Services Data pursuant to a separate agreement (the “Infrastructure Agreement”) between you and the Infrastructure Provider.

Non-Recurring Fees: one-time Fees set forth on an invoice that may include, but are not limited to, additional infrastructure services, implementation fees, overage fees, or custom development work used by you during the Term.

Recurring Fees: the Fees invoiced and due monthly throughout the Term.

Services: the services provided to you by Armor set forth in the Solutions Order.

Services Commencement Date: the date Armor first provisions the Services to you and the date the Recurring Fees commence.

Services Data: the data or information transmitted to or from, stored on or otherwise processed by the Infrastructure Platform or servers provided to you by Armor in connection with the provision of the Services. For clarification, Account Data is excluded from this definition.

Solutions Order: the form that sets forth the Services requested and the associated Fees.

Setup Fees: the fees for initial setup, provisioning, or configuration of the Services set forth in the Solutions Order.

Support: telephone and online technical support provided in connection with the Services.

Term: the Initial Term and any Renewal Term, as defined by the Solutions Order, for the Services.

User: you or any other person or entity that you permit to access or otherwise use the Services, including where applicable, any separate business customers or individual (each, an “End User”) on whose behalf you may use the Services.

**2. Armor Responsibilities.** Armor will begin provisioning the Services and Support once a Solutions Order has been executed for the Term in accordance with this Agreement. Armor has, and will maintain during the Term, the following certifications:

- HITRUST Certification (to the extent the HITRUST organization continues to offer such certification or until an official HHS/OCR certification becomes available);
- PCI-DSS Level 1 Service Provider;

- SSAE 16 SOC 2 Type II; and
- ISO 27001.

### **3. Your Responsibilities.**

A. You are solely responsible for (i) the content of any postings, data or transmissions from your use of the Services, or any other use of the Services by a User, (ii) keeping your account permissions, billing, and other account information up to date using the Armor customer portal, and (iii) using reasonable security precautions in connection with your use of the Services.

B. You agree to comply with all laws applicable to your use of the Services and the restrictions set forth in the AUP. To the extent you use the Services to provide hosting services to End Users, you must ensure that your End Users comply with the AUP. You agree to immediately notify Armor of any unauthorized use of your account or any other breach of security as it relates to the Services, and to reasonably cooperate with Armor's investigation of service outages or security issues.

C. You are responsible for understanding the regulatory requirements applicable to your business and for selecting and using the Services in a manner that satisfies those requirements. Additionally, if you will use the Services to transmit, process, or store payment card information ("cardholder data" as defined in the current version of the Payment Card Industry Data Security Standard ("PCI DSS")), or protected health information ("PHI") as defined under the HIPAA/HITECH/Omnibus Rule regulations, you must disclose such intended use to Armor prior to any such transmission and/or storage and execute a Business Associate Agreement (BAA) and/or PCI Addendum to meet our respective obligations under federal regulations.

D. To the extent that you elect to opt out of, remove, or disable any aspect or component of a Service provided by Armor, you assume the risk and any associated liability of a security related incident and/or breach of the environment that may result.

E. Armor may offer you the ability to configure and/or manage a specific Service via self-service options. To the extent you use a self-service option, you assume the risk and any associated liability of a security related incident and/or breach of the environment that may result.

F. You acknowledge that some components of the Services are not fault-tolerant and are not guaranteed to be error-free or to operate uninterrupted. You shall not use the Services in any application or situation where the Services' failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("High Risk Use"). High Risk Use does not include utilization of the Services for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or severe physical or environmental damage.

Your obligations under this Section 3 extend to your Users and any entities or persons authorized by you or your affiliates to access your data (including Account Data and Services Data) or any programs or applications stored on or transmitted and/or processed through the Services.

#### **4. Invoicing/Billing.**

A. Your initial invoice will include the pro-rated Recurring Fees and Non-Recurring Fees incurred by you between the Services Commencement Date and the initial invoice's date, if applicable, plus the subsequent month's Recurring Fees. Thereafter, Armor will invoice you monthly in advance for the Recurring Fees (and where applicable for Non-Recurring Fees that are fixed and determinable in advance) and in arrears for any other Non-Recurring Fees.

B. The Recurring Fees set forth in the Solutions Order will remain fixed during the Initial Term. Upon commencement of any Renewal Term, the Recurring Fees for the Services will be subject to the fees then in-effect at the date of such renewal.

#### **5. Payments.**

A. Payment for Services is due on the invoice date. If payment is not made on the invoice date, you will be required to maintain a balance in your account for the first and last month of Services at the commencement of the Term. Any amount not fully paid within thirty (30) days when due will bear late payment interest at the rate of the lesser of one and one-half percent (1.5%) per month or the highest rate permitted by law from the due date until paid. You will be liable for all costs and expenses incurred by Armor in collecting past due amounts, including reasonable attorneys' fees.

B. You agree to be responsible for and to pay and/or reimburse Armor on request if Armor is required to pay any sales, use, value-added or other tax (excluding any tax that is based on Armor's net income), assessment, duty, tariff, or other fee or charge of any kind or nature that is levied or imposed by any governmental authority for the Services.

C. You agree to notify Armor in writing of any good-faith disputed Fees within thirty (30) days of the invoice date. If you fail to do so, then (absent mathematical error) you waive any right to dispute such amounts in any action by Armor to collect amounts due. Upon timely notification of a dispute, the parties will agree to meet and discuss disputed fees in good faith with the intention of resolving the dispute within ninety (90) days of notice.

**6. Suspension of Services.** To the extent permissible under applicable laws, Armor reserves the right to suspend your Services to the extent one or more of the conditions set forth below arise:

A. Armor may suspend providing the Services to you, in whole or in part, upon advance written notice if (i) you fail to timely pay the Fees due Armor in accordance with Section 5 (“Payments”) or (ii) you, or any of your Users, are in violation of and fail to resolve such violation of the AUP.

B. Armor may immediately suspend the Services to you without notice if (i) you fail to reasonably cooperate with Armor’s investigation of any suspected breaches of this Agreement or security concerns relating to the Services; (ii) Armor reasonably believes, in its sole discretion, that suspension of the Services is necessary to protect the Armor environment generally; or (iii) Armor is obligated to suspend Services via subpoena, court order or otherwise as required by law, which may require Armor to restrict your access to the data stored on or transmitted and/or processed through the Services.

C. In the event of any suspension of Services pursuant to subsections A(i) or (ii), or B(i), you agree to pay Armor a reconnection fee of \$150.00 (USD) as a condition of reactivation of the Services, in addition to full payment of any balance due on the account, including any interest charged for late payment.

D. TO THE EXTENT ARMOR TAKES ANY SUSPENSION ACTION AS AUTHORIZED BY THIS SECTION, IT SHALL NOT BE LIABLE TO YOU OR ANYONE CLAIMING BY OR THROUGH YOU FOR ANY DAMAGES AS A RESULT OF SUCH SUSPENSION. The suspension remedies set forth in this Section will not preclude Armor from pursuing other remedies available by statute or otherwise permitted by law.

**7. Term; Termination.** This Agreement and your subscription(s) for the Services will be for the Term and shall each automatically renew for successive Renewal Terms for a period equal to the Initial Term at the end of the Initial Term and each Renewal Term; provided, however, that either party may terminate this Agreement or the Services subscription(s) effective at the end of the Initial Term or then-current Renewal Term by providing the other with written notice of non-renewal at least thirty (30) days prior to the commencement of the next Renewal Term. You will not be entitled to any credits or refunds for any prepaid Fees. Both parties will communicate any non-renewal notice in the Armor customer portal.

**8. Termination for Breach.** Without limiting Armor’s rights to suspend Services pursuant to Section 6 (“Suspension of Services”), either party may terminate this Agreement for material breach if upon fifteen (15) days’ written notice the breaching party fails to cure such material breach. Notwithstanding the foregoing, Armor reserves the right to terminate this Agreement immediately in the event of a breach of the AUP by you or a User that threatens Armor or threatens its systems or environments, as determined in Armor’s sole discretion.

**9. Transition Assistance After Termination.** To the extent applicable to your Services, should you at or following termination of the Services or this Agreement desire assistance from Armor in migrating your Services Data stored on the servers provided

to you by Armor to an alternative service or vendor, Armor agrees to provide reasonable migration assistance subject to you (i) requesting such assistance in writing prior to or immediately following such termination, (ii) entering into a separate Professional Services Agreement; (iii) agreeing to pay Armor's then standard professional Fees; (iv) and reimburse Armor for any actual and reasonable out of pocket expenses incurred in providing such migration services.

**10. Maintenance.** Armor may from time to time conduct routine tests, maintenance, upgrade or repair on any part of its networks, infrastructure, or the Services ("Scheduled Maintenance"), and will use commercially reasonable efforts to provide prior notice (including at least fourteen (14) days' prior notice for any customer-impacting maintenance). Armor will seek to perform scheduled maintenance outside of business hours (defined as Monday to Friday 09:00 to 18:00 of the time zone of the relevant datacenter). You acknowledge that in some instances it may not be practical for Armor to give advance notice of maintenance, for example, in the event of an unforeseen disruption of Services ("Emergency Maintenance"). In these cases, Armor has the right to disrupt Services without prior notice.

**11. Confidential Information; Data Security.** The parties agree that "Confidential Information" means any information disclosed by the disclosing party to the receiving party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation documents, trade secrets, prototypes, samples, equipment, customer lists or other customer information not known to the general public), which is designated as "Confidential", "Proprietary" or some similar designation, or is the type of information which should be reasonably be recognized as Confidential or Proprietary. For purposes of clarity, the terms of this Agreement, any Addendum, and any Solutions Order(s) are Confidential Information. Confidential Information shall not, however, include any information which (i) is already publicly known and generally available in the public domain at the time of disclosure by the disclosing party, (ii) becomes publicly known and generally available after disclosure by the disclosing party to the receiving party through no act or omission of the receiving party, (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party, as evidenced by the receiving party's contemporaneous written records, (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality, or (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information.

All Confidential Information disclosed by either party to the other pursuant to this Agreement is and will be disclosed to it in confidence solely for its use in its performance hereunder. Each party will safeguard and keep confidential all Confidential Information of the other and will return the other's Confidential Information upon request, except to the extent further retention of such Confidential Information is necessary for a party to perform any post-termination obligations or exercise any post-termination rights under this Agreement. Each party agrees to safeguard the other's Confidential Information using measures that are equal to the standard of performance



used by the receiving Party to safeguard its own Confidential Information of comparable value, but in no event less than reasonable care. Each party agrees to keep such information secret and confidential indefinitely or until such time the disclosing party makes the Confidential Information publicly known, and not to disclose it to any other person or entity or use it during the term of this Agreement or after its termination except in carrying out its obligations hereunder. Notwithstanding the foregoing, a party or its legal representatives may disclose Confidential Information in response to obligations imposed by law or order of a court or regulatory body; provided, however, that party or its legal representatives must promptly notify the other party (unless prohibited by such law or order) of such request or requirement so that the other party may seek an appropriate protective order or other appropriate relief and/or waive compliance with provisions of this Agreement, and if, in the absence of such relief or waiver hereunder, a party, in the opinion of its counsel, is legally compelled to disclose Confidential Information, then that party may disclose so much of the Confidential Information as is, according to such opinion, required, without liability hereunder.

In the ordinary course of the use of the Services, you will maintain access to and administrative domain and control of your Services Data, including any cardholder data, PHI, personally identifiable information ("PII") or other Confidential Information that may reside within your Services Data. You acknowledge that as a result of Armor accessing your Services, Armor may also have the ability to view or control your Services Data and in such an event, Armor will maintain your Services Data as Confidential Information and will not make any use of your Services Data other than as requested by you or necessary to perform the Services. Nothing in this Agreement shall impose any duty or obligation on Armor's behalf to supervise or advise you on the manner in which you administer access to and control of your Services Data. Armor does have access to limited PII (typically name, address, telephone number and email addresses for your contact personnel involved in the receipt of the Services) and similar Confidential Information to the extent included within your Account Data, and Armor agrees to protect such information per the provisions in this Section.

**12. Limited Warranty.** Armor represents that it will provide the Services in a professional manner in accordance with industry standards. ARMOR DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, RELATING TO THE SERVICES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. ARMOR SPECIFICALLY DISCLAIMS ANY WARRANTY OR REPRESENTATION THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE. FURTHER, ARMOR MAKES NO REPRESENTATIONS OR WARRANTIES CONCERNING, AND WILL HAVE NO LIABILITY WITH RESPECT TO, THE ACCURACY, DEPENDABILITY, PRIVACY, SECURITY, AUTHENTICITY OR COMPLETENESS OF DATA TRANSMITTED OVER THE INTERNET, OR ANY INTRUSION, VIRUS, DISRUPTION, LOSS OF COMMUNICATION, LOSS OR CORRUPTION OF DATA, OR OTHER ERROR OR

EVENT CAUSED OR PERMITTED BY OR INTRODUCED THROUGH THE INTERNET, THE INFRASTRUCTURE PLATFORM, OR THE SERVERS UPON WHICH THE SERVICES ARE PROVIDED. YOU ARE SOLELY RESPONSIBLE FOR IMPLEMENTING ADEQUATE FIREWALL, PASSWORD AND OTHER SECURITY MEASURES TO PROTECT YOUR SYSTEMS, DATA AND APPLICATIONS FROM UNWANTED INTRUSION, WHETHER OVER THE INTERNET OR BY OTHER MEANS. IN ADDITION, YOU ACKNOWLEDGE THAT THIS AGREEMENT CONVEYS NO WARRANTIES, EXPRESS OR IMPLIED, BY ANY THIRD-PARTY VENDORS OF SOFTWARE PRODUCTS MADE AVAILABLE TO YOU BY ARMOR AND THAT THOSE VENDORS DISCLAIM ANY AND ALL LIABILITY, WHETHER DIRECT, INDIRECT OR CONSEQUENTIAL, ARISING FROM THE SERVICES.

**13. Limitation of Liability.** EXCEPT FOR EITHER PARTY'S (i) GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (ii) YOUR PAYMENT OBLIGATIONS FOR THE SERVICES, OR (iii) YOUR INDEMNIFICATION OBLIGATIONS, A PARTY AND ITS LICENSORS' AGGREGATE LIABILITY FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE USE OF THE SERVICES, OR ANY FAILURE OR DELAY IN PROVISIONING THE SERVICES SHALL NOT EXCEED THE TOTAL FEES PAID OR PAYABLE BY YOU FOR THE SERVICES DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE EVENT GIVING RISE TO THE CLAIM OCCURRED. EXCEPT TO THE EXTENT SET FORTH IN ANY APPLICABLE SERVICE LEVEL AGREEMENT, ARMOR WILL HAVE NO LIABILITY SHOULD THERE BE ANY DELAY IN THE DELIVERY OF THE SERVICES.

ARMOR ASSUMES NO RESPONSIBILITY FOR THE BACK UP OR INTEGRITY OF YOUR SERVICES DATA, AND, EXCEPT FOR ARMOR'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL ARMOR BE LIABLE FOR ANY DAMAGES OF ANY KIND RESULTING FROM LOSS OF YOUR SERVICES DATA.

NOTWITHSTANDING THE FOREGOING, IN NO EVENT, WHETHER BASED IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY AND NEGLIGENCE), WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, INDIRECT, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, OR FOR LOSS PROFITS, LOSS OF REVENUE, LOSS OF BUSINESS OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT AND ALL SOLUTIONS ORDERS ISSUED HEREUNDER, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**14. Indemnification.**

A. By Armor. Armor will defend, indemnify and hold harmless you and your Affiliates and each's respective directors, officers, employees, contractors, agents, or representatives, from and against any and all costs, liabilities, judgments, actions and



expenses including, but not limited to, reasonable attorneys' fees and fees of experts) (collectively, "Losses") arising out of any threatened or actual third party claim, suit, action, arbitration, or proceeding (collectively, "Claims") arising out of or relating to (i) Armor's gross negligence or willful misconduct as it relates to the Services, or (ii) a Claim that the Services as provided by Armor under this Agreement misappropriate or infringe upon the United States patent or copyrights of a third party; provided in each case that (a) you give Armor prompt written notice of the Claim, (b) you permit Armor sole control over the defense and/or settlement of the Claim, and (c) you reasonably cooperate with Armor in the defense and or settlement of the Claim.

Notwithstanding the foregoing, Armor shall have no obligation under this Agreement for any Claim of infringement, hold harmless, or misappropriation to the extent that it results from: (i) combination or use of the Services with equipment, products, or processes not furnished by Armor; (ii) modifications or configurations to the Services made other than by Armor; (iii) your failure to use updated or modified Services provided by Armor to avoid a claim of infringement or misappropriation; or (iv) compliance by Armor with requests, designs, plans, configurations, or specifications furnished by you or a User or made on behalf of you or a User.

B. By You. In addition to your indemnification obligations set forth in Sections 15E and 17 (Export Laws), you agree that you will defend, indemnify and hold harmless Armor, its Affiliates or any of its directors, officers, employees, contractors, agents, suppliers, or representatives from and against any and all Losses arising out of any threatened or actual or actual third party Claim arising out of or relating to (i) your gross negligence or willful misconduct as it relates to the Services, (ii) your violation of the AUP or the law applicable to your use of the Services, and (iii) property damage (including damage to or misappropriation or misuse of the third party's intellectual property); provided in each case that (a) Armor gives you prompt written notice of the Claim, (b) Armor permits you sole control over the defense and settlement of the Claim and (c) Armor reasonably cooperates with you in the defense and/or settlement of the Claim. Your obligations under this Section 14 include Claims arising out of acts or omissions by your employees, Users and any other person who gains access to the Services as a result of your failure to use reasonable security measures.

## **15. Ownership of Intellectual Property; Software; Hardware and IP Addresses.**

A. Each party shall retain all right, title and interest in and to its respective intellectual property rights, including without limitation, all patents, inventions, trademarks, copyrights, and trade secrets. Any intellectual property used, developed or otherwise reduced to practice by Armor in providing the Services shall be the sole and exclusive property of Armor and/or its licensors. You shall not access or use any aspect of the Services for the purposes of reverse engineering, decompiling, or disassembling the Services or any of their components, or developing a competing product or service, except to the extent that such activity is expressly permitted by applicable law. You also agree not to remove, modify or obscure any copyright, trademark or other proprietary

rights notices that may be displayed or contained within the Services or any components of the Services.

B. Unless otherwise agreed in writing by the parties, if Armor provides you with any software, hardware, or servers to be used for the provisioning of the Services, you do not acquire any ownership interest in any of the servers, software, or other hardware. Similarly, Armor does not acquire any ownership interest in your Services Data.

C. Some hardware and software components of the Services are provided through or licensed from third parties. Your use of all such components is subject to the terms of this Agreement, as well as the terms and conditions of any applicable end user license or any similar agreements. In some cases, Armor, and not those third parties, will provide Support related to the Services, including support related to those third-party components. Under certain circumstances, pursuant to the terms of applicable third-party license or services agreements, Armor may be obligated to provide certain information to those third parties regarding the Services and/or regarding your identity. You consent to such disclosures.

D. The Service may allow you to download, access, and use software applications and software services not included in the Service. Such applications and services may be offered by Armor, its suppliers or other third parties. Armor is not responsible for applications and services not licensed by Armor. ANY THIRD-PARTY TECHNOLOGY DOWNLOADED OR OTHERWISE OBTAINED BY YOU IN CONNECTION WITH YOUR USE OF THE SERVICE IS USED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR AND HEREBY WAIVE ANY AND ALL CLAIMS AND CAUSES OF ACTION WITH RESPECT TO ANY DAMAGE TO YOUR SYSTEMS, INTERNET ACCESS, DOWNLOAD OR DISPLAY DEVICE, OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH THIRD-PARTY TECHNOLOGY. In addition, Armor may provide software through the Service that is governed by an open source license. If there are provisions in those open source licenses that expressly conflict with this Agreement, then the relevant open source license terms will apply.

E. You acknowledge that if you install and host Customer-owned software licenses (each a "License") on Armor's infrastructure or to be used in conjunction with your use of the Services, you warrant and represent that you have and will continue to have the right, license and power under all relevant Licenses and related agreements to which you are a party or subject to have such Licenses installed and hosted on Armor's infrastructure or the Services for your benefit and that you are and will continue to remain in full compliance with such Licenses' terms and conditions. You further warrant and represent that you have satisfied any and all conditions required for you to exercise such right, license and power. In addition, you agree to indemnify, defend and hold Armor and its Affiliates harmless from (i) any and all third party claims, and any related losses, liabilities, fines or expenses (including reasonably attorneys' fees) incurred by Armor, relating to your compliance with such License agreements or your alleged

unauthorized use or installation of such Licenses, and (ii) any other costs or expenses incurred by Armor in connection with or as a result of any software audit performed on Armor on the Licenses by the software vendor or any of its authorized resellers or agents, regardless of your compliance with the Licenses.

F. You acknowledge and agree that any IP addresses that Armor may assign to you in connection with the Services are registered to and owned by Armor and upon any expiration or termination of this Agreement, you agree to release and cease using any such IP addresses.

## **16. API License.**

A. To the extent your Services includes a license to the Armor application program interface (“API”) and any sample code or scripts (“Sample Code”), Armor hereby grants to you and your authorized Users, during the Term, a non-exclusive, non-transferable license (without the right to sublicense) to use the API components to (i) develop and implement applications to assist you and your authorized Users to access and use various Services (the “API Applications”); and (ii) use, copy and modify any Sample Code provided as part of the API for the sole purposes of designing, developing, and testing your API Applications. You may not generally distribute (commercially or otherwise) your API Applications, without expressed written consent from Armor, but you may make copies of and make the API Applications available to your authorized Users for the purpose of accessing and using the Services. You may not use the API for or in conjunction accessing and using any product or service offerings of third parties that are competitive with the Services.

B. You agree not to remove or destroy any copyright notices, other proprietary markings or confidentiality legends placed upon or contained within the API components. You may not use, copy, modify, display, rent, lease, loan, transfer, distribute, download, merge, make any translation or derivative work or otherwise deal with the API, except as expressly provided in this Agreement. In no event may you cause or permit the disassembly, reverse compilation or other decoding of any portion of the API that is provided in object code only format, or otherwise attempt to obtain, derive or modify the source code or architecture of such portions of the API; provided, however, that the foregoing restriction is not intended to apply to Sample Code specifically provided for the purpose of modification and inclusion in your API Applications. You may not use the API in any manner that would breach this Agreement. Armor may not provide Support for your use of a specific API. Armor may revise or cease to provide the API, Sample Code or its functionality or any part thereof, or support for an API from time to time without notice.

**17. Export Laws.** The Services may be subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree to strictly comply with all such laws and regulations and acknowledge that you are responsible for obtaining such licenses to export, re-export, or import as may be required. You will

indemnify and hold Armor harmless from any and all claims, losses, liabilities, damages, fines, penalties, costs and expenses (including reasonable attorney's fees) arising from or relating to any breach by you or your Users of your obligations under this Section 16. Your obligations under this paragraph will survive the expiration or termination of this Agreement.

## **18. Miscellaneous.**

A. Non-Solicitation. During the Term, and for a period of twelve (12) months thereafter, each party agrees not to solicit for a permanent or other position any employee or subcontractor of the other party to whom that party was introduced or who worked on a project involving the parties without the prior written consent of the non-hiring party. This non-solicitation clause shall not apply to nor prohibit either party from posting job openings on its web site or otherwise advertising job openings through industry or mass-media publications, recruitment web sites, or generally advertised job fairs, or from responding to and hiring individuals who initiate contact with such party concerning job opportunities.

B. Force Majeure. Neither party will be deemed to be in breach of this Agreement and will have no liability hereunder if its obligations are delayed or prevented by any reason of any act of God, war, terrorism, fire, natural disaster, accident, riots, acts of government, shortage of materials or supplies, failure of any transportation or communication system, non-performance of any of your agents or your third party providers (including, without limitation, the failure or performance of common carriers, interchange carriers, local exchange carriers, internet service providers, suppliers, subcontractors) or any other cause beyond its reasonable control.

C. Marketing. Commencing with your subscription of the Services, you agree that Armor may publish and make immediate mention of your status as a customer on Armor's website and marketing collateral.

D. Notices. Except to the extent that notices may be sent by electronic mail or via the Armor customer portal as specifically set forth in this Agreement, notices under this Agreement will be sufficient only if (i) mailed by certified or registered mail, return receipt requested, (ii) sent by internationally recognized overnight carrier or (iii) personally delivered. Notices will be deemed delivered upon receipt by the other party. Notices to you will be sent to the mailing address then set forth on the account tab in the Armor customer portal. Notices to Armor will be sent to Armor Defense Inc., 2360 Campbell Creek, Suite 525, Richardson, TX 75082, Attn: Legal. Either party may change its notice address from time to time by written notice to the other party (you may also change your notice address through updates to your account information in the Armor customer portal).

E. Survival. The provisions of Sections 1, 5, 9, 11, 12, 13, 14, 15, 17, and 18 will survive any termination or expiration of this Agreement.

F. Modification. Armor may modify any aspect of this Agreement upon thirty (30) days' prior notice via the Armor customer portal.

G. Assignment. This Agreement may not be assigned by you without the prior written consent of Armor, which will not be unreasonably withheld or delayed.

H. Severability. If any provision of this Agreement is declared invalid by a court of competent jurisdiction or by an arbitrator pursuant to subsection J ("Disputes") below, such provision will be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of this Agreement will continue in full force and effect.

I. Relationship of the Parties. This Agreement does not create an agency, partnership, employment, franchise, or joint venture relationship between the parties or to authorize either party to enter any commitment or agreement binding on the other party.

J. Disputes. Any dispute between the parties arising out of or relating to this Agreement shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, including the Optional Rules for Emergency Measures of Protection. The arbitration shall be before a sole arbitrator in accordance with the Expedited Procedures of the AAA's Commercial Arbitration Rules. Arbitration will take place in a mutually agreeable location, and if the parties cannot agree on a location then the arbitration will be held in the State and County where the party defending the arbitration has its US headquarters. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitration proceedings and the arbitration award shall be maintained by the parties as strictly confidential, except as is otherwise required by a court order or as is necessary to confirm, vacate or enforce the award and for the disclosure in confidence to the parties' respective attorneys, tax advisors and senior management. The parties agree to share equally the arbitrator's fee and administrative costs of arbitration but will bear their own attorney fees, expenses, and costs. If the arbitrator determines that a party has generally prevailed in the arbitration proceeding, then the arbitrator shall award to that party its reasonable out of pocket expenses related to the arbitration, including filing fees, arbitrator compensation, attorney's fees and legal costs.

Notwithstanding any of the foregoing, a party may apply to an arbitrator seeking injunctive relief until an arbitration award is rendered or the dispute is otherwise resolved. A party also may, without waiving any other remedy, seek from a court having jurisdiction, any interim provisional relief that is necessary to protect the rights of that party pending the arbitrator's appointment or decision on the merits of the dispute.

K. Governing Law; Jurisdiction. This Agreement is governed by the laws of the State of Texas, without regards to its conflicts of law provisions. Subject to the arbitration provisions set forth above, each party submits to the exclusive jurisdiction of the federal



and state courts of the State of Texas. The United Nations Convention on Contracts for the International Sale of Goods (1980) shall not apply.

L. General. This Agreement constitutes the entire understanding between Armor and you with respect to subject matter hereof. If any terms and conditions in a Solutions Order or purchase order differ from, conflict with, or are not included in this Agreement, the terms of this Agreement shall prevail. You acknowledge that you have the authority to enter in to this Agreement on behalf of your company and that you may authorize other individuals to purchase additional Services. This Agreement binds any of your authorized Users, as well as your heirs, executors, successors, and permitted assigns.

**SCHEDULE 1:  
BETA SERVICES ADDENDUM**

If you elect to participate in any evaluation or test of any Beta Services, then the following conditions shall apply.

A. You acknowledge that: (i) such Beta Services are provided “AS IS, AS AVAILABLE” with no warranty whatsoever; (ii) the Beta Services are a pre-release, pre-production version and may not work properly and that your use of the Beta Services may expose you to unusual risks of operational failures; (iii) Beta Services should not be used in a live production environment; and (iv) you must not use the Beta Services where their use could affect any systems relating to the control of hazardous environments, life support, or weapons systems.

B. You agree to provide prompt feedback regarding your experience with the Beta Services in a form reasonably requested by us, including information necessary to enable us to duplicate errors or problems that you may experience. You agree that all information regarding your beta test, including your experience with and opinions regarding the Beta Services, will be deemed our Confidential Information, as defined above, and you agree not to disclose such testing results or experiences with any third party or use them for any purpose other than providing feedback to Armor.

C. You agree that we may use your feedback for any purpose whatsoever, including product development purposes. At our request, you will provide us with comments that we may use publicly for press materials and marketing collateral. Any intellectual property inherent in your feedback or arising from your testing of the Beta Services will be owned exclusively by Armor.

D. The commercially released version of the Beta Services may change substantially from the pre-release version, and programs that use or run with the pre-release version may not work with the commercial release or subsequent releases.

E. You are not entitled to any Service Credits under any Service Level Agreement for downtime or other problems that may result from your use of the Beta Services. Subject



to the foregoing limitations, the maximum aggregate liability of Armor and any of its employees, agents, affiliates, or suppliers, under any theory of law (including breach of contract, tort, strict liability, and infringement) for harm to you arising from your use of the Beta Services will be a payment of money not to exceed One Hundred Dollars (\$100.00).

F. Armor may terminate the Beta Services at any time without notice, in its sole discretion.

**SCHEDULE 2:  
ARMOR ANYWHERE CORE SERVICES ADDENDUM**

If you have subscribed to the Armor Anywhere CORE Services, then, in addition to the terms and conditions set forth in the Agreement the following terms and conditions shall also apply and are incorporated into the Agreement by reference.

This Addendum for the Armor Anywhere CORE Services (the “Anywhere Services”) outlines your use of the Anywhere Services during the Term as specified in the Solutions Order. All capitalized terms used herein but not defined will have definitions in accordance with the Agreement. BY EXECUTING AND DELIVERING THE SOLUTIONS ORDER, CLICKING THE “I ACCEPT” BUTTON, SIGNING AN AGREEMENT THAT REFERENCES THESE TERMS, OR ACCESSING OR USING ANY OF THE ARMOR ANYWHERE SERVICES, YOU EXPRESSLY AGREE TO BE BOUND BY THE TERMS OF THIS ADDENDUM AS OF THE DATE YOU TAKE SUCH ACTION

1. Definitions. For the purposes of this Addendum, the following definitions apply and are incorporated into the Agreement by reference.

**Agent:** the Armor Anywhere CORE agent. The Agent is a component of the Anywhere Services that will run on your-designated Hosts. A single instance of an Agent will only run on one (1) Host at a time; an Agent may be installed on both active and inactive Hosts during the Term.

**Base Subscription:** the minimum number of Hosts permitted to concurrently run Agents as initially determined in the Solutions Order (and as may be increased thereafter by you through a new Solutions Order pursuant to Section 5). The Base Subscription will be used to calculate the Recurring Fees.

**Burst:** the usage of the Services on Hosts more than the Base Subscription, calculated on a per hour basis based on the number of Hosts that concurrently run an Agent more than the Base Subscription in each month.

**Burst Fee:** the Fees incurred by you each month for any Burst. The Burst Fee is calculated on a per hour basis based on the relevant tier pricing applicable to the then-current Base Subscription as set forth in the Solutions Order.

**Host:** either a physical or virtual machine instance that is part of your Infrastructure Platform running an Anywhere Services-supported operating system.

2. **Infrastructure Platform Provider Requirement.** Notwithstanding anything to the contrary contained in the Agreement, Armor will not provide you with any servers or Infrastructure Platform for the Anywhere Services. You acknowledge that Armor is neither an agent of nor responsible for the actions of the Infrastructure Provider and shall not be liable for the acts or omissions, or any breach of the Infrastructure Agreement, by the Infrastructure Provider or its personnel.

3. **Security Services.** You acknowledge and agree that during the term of this Addendum, Armor has access to your Infrastructure Platform's operating system solely for the purposes of maintaining the Agent, and for assisting you in the diagnosis of security related incidents and their causes relating to such operating system. Such diagnostic services (the "Security Services") may initially include a limited assessment of your Infrastructure Platform's operating systems. If you request Armor provide Security Services consisting of active incident response of the security issues applicable to the servers operating systems (which typically will include more extensive assessment and scanning, as well as testing, forensics, and active remediation efforts), you and Armor must first enter a separate Professional Services Agreement and Work Order, which shall govern the performance of such Security Services. You are solely responsible for identifying the Hosts that will utilize the Services.

4. **Effect of Termination of the Anywhere Services.** Upon the effective date of termination of your subscription for the Anywhere Services or of the Agreement, regardless of the cause of such termination, you agree to logically remove and uninstall all Agents from any of your-designated Hosts, including both active and inactive Hosts. In the event you fail to fulfill the aforementioned obligation, Armor shall have no liability for any damages resulting from any such failure.

5. **Payments.** In addition to its obligations set forth in Section 5 ("Payments") of the Agreement, the following payment terms and obligations for the Anywhere Services shall apply:

A. Your Base Subscription is established upon the Services Commencement Date and can be increased at any time during the Initial Term or Renewal Term by executing a new Solutions Order. The Base Subscription will not change in the event you only run a subset of Agents on the permitted number of Hosts included in the Base Subscription. In no event will the Base Subscription decrease during the Initial Term or Renewal Term.

B. Your initial invoice will be dated for the Armor bill cycle immediately following the Services Commencement Date and will include the pro-rated Recurring Fees and Non-Recurring Fees incurred by you between the Services Commencement Date and the initial invoice's date plus the subsequent month's Recurring Fees. Thereafter, Armor will invoice you monthly in advance for the Recurring Fees (and where applicable for Non-Recurring Fees that are fixed and determinable in advance) and in arrears for any Non-Recurring Fees.

6. Survival. In addition to the survival provisions set forth in Section 18 of the Agreement, the provisions of Sections 1, 3, 4, and 5 of this schedule will survive any termination or expiration of the Agreement or this Addendum.