



ALERT LOGIC, INC.

SERVICES AGREEMENT

THIS SERVICES AGREEMENT (the "SA" or the "Agreement") between Alert Logic, Inc. ("Alert Logic") or one of Alert Logic's Affiliates (as defined below) and _____ ("Customer") is made effective as of the date indicated below the Alert Logic signature on this SA ("Effective Date"). "Customer" may include Customer's Affiliates approved by Alert Logic to receive Services (as defined in Section 2 of the SA) under this SA. CUSTOMER IS RESPONSIBLE FOR CAREFULLY READING THE TERMS OF THIS AGREEMENT BEFORE SIGNING AN ORDER FORM, CLICKING "ACCEPT" AND/OR ACCESSING OR USING ANY SERVICES OF ALERT LOGIC. BY (AS APPLICABLE) SIGNING A SERVICE ORDER, CLICKING "ACCEPT" AND/OR ACCESSING OR USING SUCH SERVICES, CUSTOMER CONFIRMS THAT CUSTOMER HAS READ AND ACCEPTS THIS AGREEMENT. NOTWITHSTANDING ANY DIFFERENT OR ADDITIONAL TERMS CUSTOMER MAY REFERENCE OR PROVIDE, ALERT LOGIC'S OFFER OR ACCEPTANCE (AS APPLICABLE) TO ENTER INTO AN AGREEMENT WITH CUSTOMER WITH RESPECT TO THE SERVICES IS EXPRESSLY LIMITED TO DIR CONTRACT NO. DIR-TSO-3393, ITS APPENDICES, THIS AGREEMENT AND CONDITIONED ON CUSTOMER'S ASSENT HERETO. IF CUSTOMER ACCEPTS SERVICES PURSUANT TO AN ORDER FORM WHICH IS DESIGNATED AS A "PILOT PROGRAM", "BETA PROGRAM" OR "FREE SERVICES" SUCH SERVICES SHALL ALSO BE GOVERNED BY DIR CONTRACT NO. DIR-TSO-3393, ITS APPENDICES AND THIS AGREEMENT. As used herein, the term "Affiliates" with respect to a party means any entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such party.

SECTION 1 INTRODUCTION

1.1 *Overview of SA.* DIR Contract No. DIR-TSO-3393, its appendices and this SA sets forth the terms and conditions of Alert Logic's delivery and Customer's receipt of any or all of the Services.

1.2 *Order Forms.* The specific Services to be provided under this SA are identified and described in detail in one or more order forms or subscription quotes that (a) reference this SA, (b) are submitted by Customer for Services offered by Alert Logic, and (c) are accepted by Alert Logic (each an "Order Form" and collectively, the "Order Forms"). An Order Form is considered accepted by Alert Logic when signed by Alert Logic, whether manually or electronically through an online document handling service. The SA is incorporated into each Order Form, and each Order Form constitutes a separate order for Services.

1.3 *Definitions.* Capitalized terms used and not elsewhere defined in Appendix A to DIR Contract No. DIR-TSO-3393, this SA or the applicable Order Form, have the meanings given them in Schedule 1.1 to this SA.

SECTION 2 DELIVERY OF SERVICES AND TERM

2.1 *Services.*

(a) *General.* By submitting an Order Form, Customer agrees to take and pay for, and, by accepting the Order Form, Alert Logic agrees to provide, the Services during the applicable Service Term. The Service Commencement Date for Services is the earlier of (i) the date on which Alert Logic has established communication with the contracted Customer network environment or device(s); or (ii) the date forty-five (45) days from the date of the applicable Order Form, unless Service Commencement Date is defined otherwise on the Order Form; provided that, if the Order Form is for an increase in consumption of Services already being provided to Customer (i.e., no additional Hardware is being provided to Customer and no change in Customer network environment is required to implement the increase in consumption of Services), the Service Commencement Date regarding such Order Form is the date of the applicable Order Form.

(b) *Alert Logic Responsibilities.*

(i) *Services Not Requiring Hardware.* Upon Alert Logic's acceptance of an Order Form for Services not requiring Hardware, Alert Logic will provide a means for the Customer to directly activate the Service or will deliver to the email address specified by Customer on the Order Form a link for purposes of enabling Customer to activate the Service ("Activation Link").

(ii) *Services Requiring Hardware.* Upon Alert Logic's acceptance of an Order Form for Services requiring Hardware, Alert-Logic will deliver the applicable Hardware to Customer at the address specified by Customer on the Order Form. The Hardware is loaned, not sold, to Customer, for use solely during the applicable Service Term for the purpose of enabling the Services, and remains the property of Alert Logic at all times.

(c) *Customer Responsibilities.*

(i) *Provisioning.* Customer will ensure (A) knowledgeable Customer personnel are available to assist with the provisioning of Services; and (B) information provided by Customer to Alert Logic regarding Customer systems is accurate and complete.

(ii) *Alert Logic Assistance.* When requesting Alert Logic assistance regarding Services under this Agreement, Customer agrees to: (A) follow Alert Logic's procedures when requesting Services; (B) provide Alert Logic reasonable access to knowledgeable personnel to answer questions or resolve problems reported by Customer regarding the Services; (C) promptly implement all updates and error corrections provided by Alert Logic under this Agreement; and (D) maintain Alert Logic supported versions of required third party hardware and software, if any.

(iii) *Contact People.* Customer shall designate certain individuals (the “*Customer Contacts*”) within Customer's organization to serve as contacts between Customer and Alert Logic, and shall keep Alert Logic informed as to any changes in the names or contact information for the Customer Contacts. These Customer Contacts shall have been adequately trained on the Services and shall have technical expertise, training and experience to discuss the Services.

(d) *Pilot Programs, Beta Services or Free Trials.* If Customer registers on Alert Logic's website or enters into an Order Form for Services which are designated as either “Pilot Program,” “Beta Services” or “Free Trial,” (collectively, “*Free Trial*”) Alert Logic will make such Services available to Customer on a trial basis free of charge until the end of the free period designated on the Order Form or on the website.

ANY DATA ENTERED INTO THE SERVICES, AND ANY CUSTOMIZATIONS MADE TO THE SERVICES BY OR FOR CUSTOMER DURING THE FREE TRIAL WILL BE PERMANENTLY LOST UNLESS CUSTOMER PURCHASES THROUGH DIR CONTRACT NO. DIR-TSO-3393 A SUBSCRIPTION TO THE SAME SERVICES AS THOSE COVERED BY THE TRIAL, PURCHASES UPGRADED SERVICES, OR EXPORTS SUCH DATA, BEFORE THE END OF THE TRIAL PERIOD. CUSTOMER CANNOT TRANSFER DATA ENTERED OR CUSTOMIZATIONS MADE DURING THE FREE TRIAL TO A SERVICE THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL; THEREFORE, IF CUSTOMER PURCHASES A SERVICE THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL, CUSTOMER MUST EXPORT ITS DATA, AS APPLICABLE, BEFORE THE END OF THE TRIAL PERIOD OR SUCH DATA WILL BE PERMANENTLY LOST.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, DURING A FREE TRIAL (I) SERVICES ARE PROVIDED “AS-IS” WITHOUT ANY WARRANTY OR LIABILITY OF ALERT LOGIC AND (II) THE SERVICE LEVEL AGREEMENT IN SCHEDULE 1.2 HEREOF DOES NOT APPLY TO FREE TRIAL SERVICES.

2.2 Term of SA and Services.

(a) *Term of SA.* The term of this SA commences on the Effective Date and unless terminated earlier in accordance with Appendix A, Section 11 to DIR Contract No. DIR-TSO-3393, this SA, continues for one (1) year following the Service Commencement Date or the expiration and non-renewal or termination of the last Service Term, whichever is longer.

(b) *Service Term.* The term for each Service ordered under an Order Form commences on the Service Commencement Date and unless terminated earlier in accordance with Appendix A, Section 11 to DIR Contract No. DIR-TSO-3393, this SA or the applicable Order Form, continues for the Initial Term or the Renewal Term, as applicable.

SECTION 3 PAYMENT TERMS FOR FEES AND EXPENSES

3.1 *Late Payments.* Late Payments will be handled in accordance with Appendix A, Sections 8 and 11 to DIR Contract No. DIR-TSO-3393.

(a) *Billing for Tier.* Customer shall be billed for the entire number of devices in the tier being purchased (as outlined in the applicable Order Form) upon the Service Commencement Date for the initial device. If there are any devices remaining to be integrated thereafter, Customer shall be responsible for initiating the integration of such devices via the Alert Logic network portal or through the Alert Logic customer service desk.

(b) *Usage in Excess of Tier.* In the event Customer utilizes Recurring Services in excess of the tier entitlement identified on the Order Form and does not bring usage within the entitlement identified on the Order Form within thirty (30) days and remain within its entitlement for the following sixty (60) days, Customer will be billed an overage charge for such excess usage (from the first month of excess usage) during the at the end of the month of service during which the Customer's excess usage is determined to have not been brought back to the entitlement level. If the Order Form does not specify the rates for excess usage, the per-unit rate for the contracted Recurring Services will be equal to the then-current list price for the contracted Recurring Services plus ten percent (10%).

3.2 *Payment Disputes.* If Customer in good faith disputes a portion of any invoice, Customer will complete a Billing Dispute Form within 30 days of receiving an invoice containing a disputed charge, a form of which may be obtained from Alert Logic upon request. Such form will be submitted to Alert Logic via email to AR@alertlogic.com. Alert Logic will promptly work to reconcile any submitted disputes. Customer is obligated to pay all non-disputed items when due, regardless of whether an invoice contains disputed charges.

SECTION 4 – CONFIDENTIAL INFORMATION; INTELLECTUAL PROPERTY; OWNERSHIP; LICENSE GRANTS

4.1 *Confidential Information.* Confidential Information will be handled in accordance with Appendix A to DIR Contract No. DIR-TSO-3393.

4.2 *Intellectual Property.* Intellectual Property will be handled in accordance with Appendix A to DIR Contract No. DIR-TSO-3393.

4.3 *Access Rights.*

(a) *General.* Subject to the terms of this SA and to the extent required to receive the Recurring Services during the applicable Service Term, Alert Logic hereby grants to Customer a non-transferable, non-exclusive, limited license for Customer's employees (each referred to herein as a “*User*”) to access and use the applicable Recurring Services (and Alert Logic Technology made available therein) solely for Customer's internal business use.

(b) *User Identifications and Passwords.* Each User may be provided with a specific user identification and password combination solely for the use by such User of the applicable Recurring Service and Alert Logic Technology. Customer and each User will: (i) be responsible for the security and/or use of his or her user identification and password; (ii) not disclose such user identification and password to any third person or entity; and (iii) not permit any other person or entity to use his or her user identification and password. Customer will be responsible for: (i) advising each User of his or her obligations under this SA and of the restrictions set forth in this SA; and (ii) each User's use of his or her user identification and password, the Recurring Services and Alert Logic Technology, including, without limitation, failure to comply with the terms of this SA (including but not limited to any Order Form) or any of Alert Logic's other policies regarding use of any of the Recurring Services and Alert Logic Technology. Alert Logic reserves the right to deny or revoke access to any of the Recurring Services and Alert Logic Technology if Alert Logic believes Customer and/or its Users are in breach of this SA (including but not limited to any Order Form) or are otherwise engaged in unauthorized or unlawful use of any of the Recurring Services and Alert Logic Technology. Customer will be responsible solely for any damages to any of the Recurring Services and Alert Logic Technology caused by Customer and/or its Users.

(c) *Restrictions.* Customer agrees that Customer and its Users will not: (i) sell, lease, license or sublicense access to, or use of, any of the Recurring Services and Alert Logic Technology; (ii) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile any of the Recurring Services and Alert Logic Technology in any way for any reason; (iii) provide, disclose, divulge or make available to, or permit use of any of the Recurring Services and Alert Logic Technology by, any third party; (iv) copy or reproduce all or any part of the Recurring Services and Alert Logic Technology; (v) interfere with the Recurring Services in any way; (vi) engage in spamming, mailbombing, spoofing or any other fraudulent, illegal or unauthorized use of the Recurring Services; or (vii) intentionally introduce into or transmit through any of the Recurring Services and Alert Logic Technology any virus, worm, trap door, back door, timer, clock, counter or other limiting routine, instruction or design.

SECTION 5 – ALERT LOGIC REPRESENTATIONS, WARRANTIES AND COVENANTS

5.1 *Authority and Performance.* Alert Logic represents and warrants that (i) it has the legal right and authority to enter into this SA and perform its obligations under this SA, and (ii) the performance of its obligations and delivery of the Services to Customer will not violate, or cause a breach of, any agreements between Customer and any third parties.

5.2 *Hardware.* THE HARDWARE IS PROVIDED ON AN “AS IS/WHEREAS” BASIS. In the event the Hardware fails to operate substantially in accordance with its technical specifications and such failure causes a material adverse effect on Customer's ability to use the Recurring Services, then Customer's sole and exclusive remedy and Alert Logic's sole and exclusive liability is for Customer to return the Hardware to Alert Logic and for Alert Logic to provide replacement Hardware. In the event the Hardware fails to operate due to misuse, negligence or damages caused while in the possession of Customer, the Customer will be responsible for all replacement costs (including shipping and handling fees).

5.3 *Viruses.* Alert Logic will take commercially reasonable actions and precautions to screen for the introduction of viruses and similar programs designed to impede or harm use of the systems used by Alert Logic to provide the Services. In the event viruses or such similar programs are identified, Alert Logic will take commercially reasonable actions to eliminate and reduce the adverse effects of such viruses or programs on Customer's use of the Services.

5.4 *No Other Warranty.* EXCEPT AS SET FORTH IN THIS AGREEMENT, THE SERVICES AND ALERT LOGIC TECHNOLOGY ARE PROVIDED "AS IS" AND WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES AS TO ACCURACY, FUNCTIONALITY, PERFORMANCE, MERCHANTABILITY OR NON-INFRINGEMENT. ALERT LOGIC AND ITS THIRD PARTY LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM TRADE USAGE, COURSE OF DEALING OR COURSE OF PERFORMANCE. ALERT LOGIC AND ITS THIRD PARTY LICENSORS MAKE NO REPRESENTATION, WARRANTY OR COVENANT CONCERNING THE ACCURACY, COMPLETENESS, SEQUENCE, TIMELINESS OR AVAILABILITY OF THE SERVICES OR ALERT LOGIC TECHNOLOGY. NO SALES PERSONNEL, EMPLOYEES, AGENTS OR REPRESENTATIVES OF ALERT LOGIC OR ANY THIRD PARTY ARE AUTHORIZED TO MAKE ANY REPRESENTATION, WARRANTY OR COVENANT ON BEHALF OF ALERT LOGIC OR ANY OF ITS THIRD PARTY LICENSORS. ACCORDINGLY, ADDITIONAL ORAL STATEMENTS DO NOT CONSTITUTE WARRANTIES AND SHOULD NOT BE RELIED UPON AND ARE NOT PART OF THIS AGREEMENT. NEITHER ALERT LOGIC NOR ANY OF ITS AFFILIATES OR THIRD PARTY LICENSORS REPRESENT OR WARRANT THAT THE SERVICES OR ALERT LOGIC TECHNOLOGY WILL BE UNINTERRUPTED OR ERROR-FREE. CUSTOMER EXPRESSLY AGREES THAT USE OF THE SERVICES OR ALERT LOGIC TECHNOLOGY IS AT CUSTOMER'S SOLE RISK AND THAT ALERT LOGIC AND ITS THIRD PARTY LICENSORS SHALL NOT BE RESPONSIBLE FOR ANY INTERRUPTION OF SERVICES, DELAYS OR ERRORS CAUSED BY ANY TRANSMISSION OR DELIVERY OF THE SERVICES, DATA OR ANY OTHER INFORMATION OR CAUSED BY ANY COMMUNICATIONS SERVICE PROVIDERS. DEPLOYMENT OF ALERT LOGIC SERVICES IN A CUSTOMER NETWORK DOES NOT ACHIEVE THE IMPOSSIBLE GOAL OF RISK ELIMINATION, AND THEREFORE, ALERT LOGIC MAKES NO GUARANTEE THAT INTRUSIONS, COMPROMISES, OR ANY OTHER UNAUTHORIZED ACTIVITY WILL NOT OCCUR ON A CUSTOMER NETWORK. THIS SECTION SHALL SURVIVE TERMINATION OR EXPIRATION AND NON-RENEWAL OF THE SA.

5.5 *Disclaimer of Actions Caused by or Under the Control of Third Parties.* ALERT LOGIC DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM ALERT LOGIC'S DATA CENTERS AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S OR ALERT LOGIC'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH ALERT LOGIC WILL USE COMMERCIALY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, ALERT LOGIC CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, ALERT LOGIC DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

5.6 Disclaimer with Regard to Certain Data. Alert Logic has implemented a variety of security measures for the purpose of maintaining reasonable safety of customer data which is sent to Alert Logic for processing and storage. However, Alert Logic does not interpret or segment data based upon its contents as a component of the Services it provides to Customer. As a result, Customer must be aware of all data that it chooses to send to Alert Logic for processing. As Customer is responsible for the information which is sent to Alert Logic, Customer is responsible for ensuring that any data which should be protected or restricted on a need to know basis such as payment card information (“*PCI*”) or protected health information (“*PHI*”, as defined under the Health Insurance Portability and Accountability Act of 1996 “*HIPPA*”), cardholder data (as defined by the PCI Security Council), classified government information or private individual data should not be sent to Alert Logic or specifically should not be transmitted outside of Customer’s network perimeter. Any data which is sent to Alert Logic is considered data which does not require additional security measures or segmentation based upon its contents. If Customer elects to send this data to Alert Logic, Customer will indemnify and hold Alert Logic harmless for any additional requirements that may be required to protect that data in addition to the security measures that Alert Logic applies to all customer data to validate that it is secured and maintained with data security standards. In any instances where the aforementioned data is discovered by Alert Logic personnel when performing their services to Customer, (i) Alert Logic will make a reasonable effort to contact the client to notify Customer that the aforementioned data has been sent to Alert Logic; (ii) Alert Logic will make reasonable effort to develop with Customer a mutually agreeable remediation plan to ensure that additional sensitive data is not sent to Alert Logic in an ongoing basis; and (iii) Alert Logic will mask or purge the sensitive data from the record and inform the client contact that the data has been removed from the Alert Logic systems.

SECTION 6 – CUSTOMER REPRESENTATIONS, WARRANTIES AND OBLIGATIONS

6.1 Authority and Performance; No Third Party Beneficiaries. Customer represents and warrants that (i) it has the legal right and authority to enter into this SA and perform its obligations under this SA (and to permit Alert Logic to perform the Services), (ii) the performance of its obligations and use of the Services (by Customer, its customers and users) will not violate, or cause a breach of, any agreements between Customer and any third parties and (iii) no consent of any third party shall be required for Customer to receive the Services.

In the event of any breach of any of the foregoing warranties, in addition to any other remedies available at law or in equity, Alert Logic will have the right, in its sole reasonable discretion, to suspend immediately any Services if deemed reasonably necessary by Alert Logic to prevent any harm to Alert Logic and its business. Alert Logic will provide notice and opportunity to cure if practicable depending on the nature of the breach. Once cured, Alert Logic will promptly restore the Services.

6.2 Hardware. If Customer is using Hardware, Customer will maintain and protect the Hardware in good working condition with the exception of any reasonable wear and tear. Customer will not modify, disassemble, decompile, reverse engineer, rent, lease, loan, transfer, or copy the Hardware (including any software or firmware that is part of, incorporated into or running on the Hardware). Customer assumes all risk of, loss, damage, theft, or destruction of the Hardware while it is in the Customer’s possession or control or that of its agents, including any carrier (except any carrier transporting the Hardware from the possession of Alert Logic to Customer), and Customer will reimburse Alert Logic for any costs of necessary repair or replacement (including shipping costs). Customer has no right to sell, give away, transfer, pledge or mortgage the Hardware. Customer will keep the Hardware free of all security interests, liens, and other encumbrances.

SECTION 7 – INSURANCE

7.1 Alert Logic Minimum Levels. Alert Logic agrees to keep in full force and effect during the term of this SA: (i) comprehensive general liability insurance in an amount not less than US\$2 million per occurrence for bodily injury and property damage, combined single limit and (ii) workers’ compensation insurance in an amount not less than that required by applicable law. In addition, Alert Logic will maintain an umbrella policy in an amount not less than US\$5 million.

SECTION 8 – LIMITATIONS OF LIABILITY

8.1 Consequential Damages Waiver; Limitation of Liability. Limitation of Liability shall be as stated in Appendix A, Section 10, to DIR Contract No. DIR-TSO-3393.

8.2 Basis of the Bargain; Failure of Essential Purpose. The parties agree that the limitations and exclusions of liability and disclaimers specified in this SA represent the parties’ agreement as to the allocation of risk between the parties in connection with Alert Logic’s obligations under this SA, and that such limitations, exclusions and disclaimers will survive and apply even if found to have failed of their essential purpose. The parties acknowledge that Alert Logic has set its prices and entered into this SA in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth in this SA, and that the same form an essential basis of the bargain between the parties.

SECTION 9 – INDEMNIFICATION

INDEMNIFICATION. INDEMNIFICATION WILL BE HANDLED IN ACCORDANCE WITH APPENDIX A, SECTION 10, TO DIR CONTRACT NO. DIR-TSO-3393.

SECTION 10 – TERMINATION

10.1 Termination. Termination will be handled in accordance with Appendix A, Section 11, to DIR Contract No. DIR-TSO-3393.

10.2 Survival. The following provisions will survive any expiration, cancellation or termination of this SA: Sections 3, 4.1, 4.2, 5.2, 8, 9, 10 and 11 (excluding Section 11.2).

SECTION 11 – MISCELLANEOUS PROVISIONS

11.1 *Force Majeure.* Force Majeure will be handled in accordance with Appendix A, Section 11, to DIR Contract No. DIR-TSO-3393.

11.2 *Marketing.* Customer agrees that during the term of this SA, Alert Logic may publicly refer to Customer, orally and in writing, as a customer of Alert Logic. Any other reference to Customer by Alert Logic in press releases requires the written consent of Customer.

11.3 *Government Regulations.* Customer will not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this SA without first complying with all export control laws and regulations which may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction Customer operates or does business.

11.4 *Non-Solicitation.* During the Term of this SA and continuing through the first anniversary of the expiration and non-renewal or termination of this SA, Customer agrees that it will not, directly or indirectly, solicit or attempt to solicit for employment any persons employed by Alert Logic or contracted by such parties (“Employees”) to provide Services to Alert Logic. An Employee shall be deemed covered by this Section while so employed and for a period of six (6) months thereafter.

11.5 *No Third Party Beneficiaries.* Alert Logic and Customer agree that, except as otherwise expressly provided in this SA, there shall be no third party beneficiaries to this SA, including but not limited to the insurance providers for either party or the customers of Customer.

11.6 *Governing Law; Jurisdiction.* This SA and the rights and obligations of the parties created hereby will be governed by and construed in accordance with the laws of the State of Texas without regard to its conflict of law rules and specifically excluding from application to this SA that law known as the United Nations Convention on the International Sale of Goods. The parties will endeavor to settle amicably by mutual discussions any disputes, differences, or claims whatsoever related to this SA or the Services provided hereunder in accordance with Appendix A, Section 11 to DIR Contract No. DIR-TSO-3393. Failing that, if any action is brought whatsoever related to this SA or the Services, jurisdiction and venue shall lie exclusively in the federal and state courts sitting in Travis County, Texas.

11.7 *Severability.* If any provision of this SA or an Order Form is determined to be invalid or unenforceable, that provision shall be deemed stricken and the remainder of this SA or the affected Order Form will continue in full force and effect insofar as it remains a workable instrument to accomplish the original intent and purposes of the parties, and, if possible, the parties will replace the severed provision with a provision that reflects the intention of the parties with respect to the severed provision but that will be valid and enforceable.

11.8 *Waiver.* A delay or omission by either party hereto to exercise any right or power under this SA or an Order Form shall not be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants to be performed by the other or any breach thereof will not be construed to be a waiver of any succeeding breach thereof or of any other covenant herein contained. All waivers shall be in writing and signed by the party waiving its rights.

11.9 *Assignment.* Any assignment of this SA shall take place in accordance with Appendix A, Section 4 to DIR Contract No. DIR-TSO-3393.

11.10 *Notice.* Any notice or communication required or permitted to be given under this SA may be delivered by hand, deposited with an overnight courier, confirmed facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving party as listed on the Order Form or at such other address as may hereafter be furnished in writing by either party to the other party. Such notice will be deemed to have been given as of the date it is delivered, mailed, faxed or sent, whichever is earlier.

11.11 *Relationship of Parties.* Alert Logic and Customer are independent contractors and this SA will not establish any relationship of partnership, joint venture, employment, franchise or agency between Alert Logic and Customer. Neither Alert Logic nor Customer will have the power to bind the other or incur obligations on the other’s behalf without the other’s prior written consent, except as otherwise expressly provided in this SA.

11.12 *Section Headings; Pronouns; Plural and Singular.* The article and section headings in this SA are for reference purposes only and shall not affect the meaning or interpretation of this SA. References in this SA to a designated “Article” or “Section” refer to an Article or Section of this SA unless otherwise specifically indicated. All pronouns used in this SA shall be construed as including both genders and the neuter. All capitalized defined terms used in this SA are equally applicable to their singular and plural forms.

11.13 *Entire Agreement.* DIR Contract No. DIR-TSO-3393, its appendices and this SA and all documents incorporated into this SA by reference, constitute the entire agreement between the parties with respect to the subject matter hereof, and supersede all of the prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter of this SA.

11.14 *Counterparts; Electronically Transmitted Documents and Signatures.* This SA may be executed in one or more counterparts, each of which are deemed an original and all of which together constitute one and the same instrument, it being understood that the parties need not sign the same counterpart. A manual signature on this SA, which image is transmitted electronically, will constitute an original signature for all purposes. The delivery of this SA, including signature pages, by any electronic means intended to preserve the original graphic and pictorial appearance of a document, including sending in portable document format (PDF) will have the same effect as physical delivery of the paper document bearing the original signature.

11.15 *Amendments.* This SA and any Order Form may be amended, modified, supplemented or changed only by a written document signed by authorized representatives of Alert Logic and Customer.

11.16 *Interpretation of Conflicting Terms.* In the event of a conflict between or among the terms in this SA or any Order Form, the terms of DIR Contract No. DIR-TSO-3393 shall control.

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SAMPLE

Authorized representatives of Customer and Alert Logic have read the foregoing Services Agreement and all documents incorporated into the Services Agreement and agree and accept such terms effective as of the date first referenced above.

CUSTOMER:

ALERT LOGIC, INC.

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

This Services Agreement incorporates the following documents when applicable:

- Order Form
- Statement of Work

SAMPLE

ALERT LOGIC, INC.

SERVICES AGREEMENT

SCHEDULE 1.1 – DEFINITIONS

The following defined terms are equally applicable in their singular and plural forms:

“Action” has the meaning set forth in Section 9.1 of this SA.

“Activation Link” has the meaning set forth in Section 2.1(b)(i) of this SA.

“Alert Logic Technology” means Alert Logic’s proprietary technology used by Alert Logic to provide the Services, including but not limited to, the Hardware, the software tools, scripts, parsers, hardware designs, algorithms, software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), network designs, know-how, trade secrets and any related intellectual property rights throughout the world.

“Chronic Problems” has the meaning set forth in Schedule 1.2 – Service Level Agreement of this SA.

“Cloud Insight Daily Overage Rate” means \$1.00 unless otherwise provided in an applicable Order Form.

“Confidential Information” has the meaning set forth in Section 4.1(a) of this SA.

“Custom Services” has the meaning set forth in Section 4.2(c) of this SA.

“Custom Integration Work” has the meaning set forth in Section 4.2(c) of this SA.

“Customer” has the meaning set forth in the introductory paragraph to this SA.

“Customer Technology” means Customer’s proprietary technology, including Customer’s Internet operations design, content, software tools, hardware designs, algorithms, software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), know-how, trade secrets and any related intellectual property rights throughout the world.

“Force Majeure Event” has the meaning set forth in Section 11.1 of this SA.

“Hardware” means any device provided by Alert Logic to Customer for use in connection with the Services.

“Indemnified Party” has the meaning set forth in Section 9.3 of this SA.

“Indemnifying Party” has the meaning set forth in Section 9.3 of this SA.

“Initial Term” means the minimum term for which Alert Logic will provide the Services to Customer, beginning on the Service Commencement Date as indicated on the applicable Order Form.

“Inline Device” means an Alert Logic device deployed in a way such that Customer production network traffic passes through the device for purpose of inspection or active blocking.

“Losses” has the meaning set forth in Section 9.1 of this SA.

“Monthly Aggregate Instances” has the meaning set forth in Section 3.1(b) of this SA.

“SA” has the meaning set forth in the introductory paragraph hereof.

“Order Form” has the meaning set forth in Section 1.2 of this SA.

“Recurring Services” means Services for which Alert Logic charges a recurring fee other than Cloud Insight or Custom Services.

“Renewal Term” has the meaning set forth in Section 2.2(b) of this SA.

“Services” means the specific services provided by Alert Logic as described on the Order Form.

“Service Commencement Date” has the meaning set forth in Section 2.1(a) of this SA.

“Service Term” means, with respect to each Order Form, the Initial Term and all Renewal Terms.

“Statement of Work” has the meaning set forth in Section 4.2(c) of this SA.

“Tier” means the level of Services being purchased by Customer as set forth in the applicable Order Form.

“User” has the meaning set forth in Section 4.3(a) of this SA.

The terms “written” and “in writing” mean anything reduced to a tangible form by a party, including a printed, photocopy, facsimile or hand written document, but excluding email or other electronic formats.

ALERT LOGIC, INC.

SERVICES AGREEMENT

SCHEDULE 1.2 – SERVICE LEVEL AGREEMENT

Service Warranties.

1. Service Level Warranty. Subject to the exceptions set forth herein, Alert Logic warrants that it will provide each Service at or above the service levels defined below (the “*Service Level Warranty*”):
 - a) Alert Logic will provide 99.9% reliability for its hosted services. The 99.9% reliability is calculated by determining the total time in minutes for a month, subtracting all planned maintenance time, and then dividing all unplanned downtime of the hosted services by the remaining time. Alert Logic’s obligations under this SA are in effect during all hours of operation, except during planned maintenance windows and any approved additional maintenance windows scheduled by Alert Logic.
 - b) Alert Logic will notify Customer at least 3 days in advance of any additional planned maintenance occurring outside of the standard maintenance window and make efforts to accommodate Customer’s needs regarding the additional maintenance requirement. Alert Logic will provide Customer as much notice as possible when unplanned (“*Emergency*”) maintenance occurs.
 - c) For Customers purchasing ActiveWatch, for all environments for which ActiveWatch services are deployed and properly configured (“*Protected Environments*”), Alert Logic will escalate detected security incidents for Protected Environments within 15 minutes of their

occurrence. Alert Logic 15 minute incident SLA is measured from when Alert Logic identifies an incident to the time of initial escalation to the primary customer contact via automated system log, email, or phone call.

- d) For Customers purchasing review services (e.g., LogReview), Alert Logic will (a) Review data for the prior day within 24 hours, (b) escalate potential security incidents to Customer upon detection and (c) maintain an audit trail of review activity on a daily basis that is accessible online.
- e) Alert Logic will respond to properly submitted service requests within 2 hours of receipt and either resolve or escalate properly submitted service requests within 24 hours of receipt. Service requests must be submitted via web portal, e-mail or telephone.
- f) Initial response time for support requests related to Inline Devices will be within 15 minutes. The Inline Devices must be online and accessible to Alert Logic for support to be provided. For support requests related to potential block events, Customer must provide Alert Logic with the Incident ID found on the blocking page of the Web Security Manager product.
- g) Customer must provide up-to-date SSL certificates and keys in order for Alert Logic to tune or configure the Web Security Manager and Threat Manager products for monitoring and protection of HTTPS traffic.
- h) For Web Security Manager, Log Manager or Threat Manager instances deployed on Customer hardware, Alert Logic will not be responsible for any hardware-related issues and if not deployed on minimum recommended hardware specifications, Alert Logic will not be responsible for supporting degradation of performance.

If Alert Logic Cloud Defender is fully provisioned to utilize Threat Manager, Log Manager and out-of-band Web Security Manager, Alert Logic warrants that it will provide Service at or above the service levels (i), (ii), (iii), (v), (vii) and (viii), defined above.

Reliability for Hosted Services	
Monthly Uptime Percentage	Service Credit Percentage (percentage applies to total monthly Services fee)
<99.9%	10%
<95%	25%

ActiveWatch 15-Minute Escalation Commitment	
Monthly Failures	Service Credit Percentage (percentage applies to ActiveWatch fees)
< 5	10%
5 or more	25%

Review Services 24-Hour Reporting Commitment	
Monthly Failures	Service Credit Percentage (percentage applies to Review fees)
< 5	10%
5 or more	25%

Submitted Service Requests 2-Hour Response Commitment	
Monthly Failures	Service Credit Percentage (percentage applies to total monthly fees)
< 5	1%
5 or more	2%

Inline Device Service 15-Minute Commitment	
Monthly Failures	Service Credit Percentage (percentage applies to Inline Device monthly fees)
< 5 occurrences	10%
5 or more occurrences	25%

- 2) Remedies. In the event that Alert Logic fails to provide a Service at the level required by the Service Level Warranty, Customer's only remedies are those set forth in this service Level agreement (the "Remedies"). For Services purchased as part of a suite, the Service Credit will be based on the pro-rata portion of the cost of the applicable Service, except as provided herein, as determined by Alert Logic in its reasonable discretion.
- 3) Customer Must Request Remedies. In order to receive any of the Remedies, Customer must notify Alert Logic via email to AR@AlertLogic.com within seven (7) days from the time Customer becomes eligible to receive such Remedies. Failure to comply with this requirement will forfeit Customer's right to receive such Remedies.
- 4) Remedies Shall Not Be Cumulative; Maximum Remedy; No Remedies if Delinquent. The Remedies set forth herein are not cumulative. The aggregate maximum Remedy for any and all failures to provide Services at the level required that occur in a single calendar month shall not exceed one calendar month of service credit. If Customer is late in making any payments owing pursuant to this SA at the time of the occurrence which would otherwise entitle Customer to Remedies, none of such Remedies shall be available to Customer.
- 5) Termination Option for Problems. Customer may terminate this SA if the Customer experiences Chronic Problems. "Chronic Problems" shall mean service level warranty deficiencies that are properly reported and credited in two (2) consecutive months within a three (3) month calendar period, as specified within this Service Level Agreement. The Submitted Service Requests 2-Hour Response Commitment is specifically excluded from qualifying as Chronic Problems. Customer must provide Alert Logic written notice of termination for Chronic Problems in writing within seven (7) days from the time Customer becomes eligible to terminate for Chronic Problems.
- 6) The Service Level Warranty set forth in this Service Level Agreement does not apply to (i) any Custom Services; (ii) Cloud Insight Services; or (iii) any Services that expressly exclude this Service Level Warranty (as stated in the Order Form or Statement of Work for such Services).
- 7) Service interruptions or failure to achieve the Service at the level required by the Service Level Warranty will not be subject to penalty in the event Customer does not comply with Section 2.1(c) of the SA.