

## CUSTOMER AGREEMENT

This Customer Agreement is entered into by and between ProtectWise, Inc., a Delaware corporation having its place of business at 1601 Wewatta Street, Suite 700, Denver, Colorado 80202 (“**ProtectWise**”), and the company or other legal entity accepting these terms and conditions, on behalf of itself and any entity that directly or indirectly controls, is controlled by, or is under common control with it (an “**Affiliate**”) (such company or entity and its Affiliates, collectively, “**Customer**”).

This Customer Agreement contains the terms and conditions that govern Customer’s access to and use of ProtectWise’s Platform, Network Sensors and Documentation (all as defined below and collectively, the “**Services**”). Customer shall enter into a pricing proposal with ProtectWise’s authorized reseller that further specifies the Services to be provided by ProtectWise and that contains additional terms, conditions and limitations that apply to the Services ordered by Customer (the “**Quote**”). This Customer Agreement together with any Quotes are referred to collectively as the “**Agreement**.” By entering into a Quote, the Affiliate of Customer agrees to be bound by the terms of this Agreement as if it were an original party to this Agreement.

**Please review this Agreement carefully before accessing or using the Services. By accessing or using any Service or by accepting this Agreement (whether by completing the registration process, by clicking a box that indicates acceptance or by executing a Quote that references this Agreement), Customer agrees to all of the terms and conditions of this Agreement. If Customer does not agree to all of the terms and conditions of this Agreement, Customer must not access or use the Services.**

### 1. DESCRIPTION OF THE SERVICES

- A. **Generally.** ProtectWise shall make the Services available to you pursuant to the terms and conditions of this Agreement. ProtectWise provides a cloud network DVR platform that leverages cloud economies of scale for visibility, detection and response of enterprise security threats (the “**Platform**”). The Platform is delivered as a cloud utility, enabling retention of network traffic (“**Network Data**”) which can be continuously analyzed using up-to-date threat intelligence and provides incident response teams with deep visibility into network packet data for impact analysis, investigation and response. ProtectWise’s cloud packet capture technology leverages network sensors (“**Network Sensors**”) that are installed locally on Customer’s network and passively replay optimized Network Data to the Platform for analysis and detection of threats in real time utilizing network traffic, security and threat intelligence data and information produced by ProtectWise and provided by third parties.
- B. **Usage Limits.** The Services are subject to certain usage limits that are set forth in the Quote and determine the Services pricing. The number of Network Sensors that Customer may deploy is set forth in the Quote; if no such number is specified, then Customer may deploy up to one hundred (100) Network Sensors. The period of time that Network Data is retained within the Services is set forth in the applicable Quote; if no such period is specified, such retention time is a rolling period of twenty-four (24) hours. Network Data will not be available after the retention time has passed.
- C. **Changes.** ProtectWise may choose to modify or discontinue features of the Services as offerings are updated and more features are added. ProtectWise may stop, suspend, or modify features available through the Services at any time without prior notice to Customer, provided that ProtectWise shall not materially decrease the functionality of the Purchased Services during a Subscription Period (as defined in Section 11(B) (Subscription Period) below).

### 2. OFFERINGS

- A. **Free Services.** If Customer registers on ProtectWise's web site for a free trial or no charge version of the Services ("**Free Services**"), ProtectWise shall make those Free Services available to Customer free of charge until the earlier of (1) the end of the free period for which Customer registered to use the applicable Free Service(s), or (2) the start date of any Purchased Services (as defined below in this Section 2). ANY DATA CUSTOMER ENTERS INTO THE FREE SERVICES WILL BE PERMANENTLY LOST. CUSTOMER CANNOT TRANSFER DATA ENTERED INTO FREE SERVICES TO A PURCHASED SERVICE THAT WOULD BE A DOWNGRADE FROM THE FREE SERVICES. CUSTOMER CANNOT EXPORT ANY DATA ENTERED INTO THE FREE SERVICES. NOTWITHSTANDING SECTION 8 (REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS), THE FREE SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY.
- B. **Purchased Services.** ProtectWise's Services offerings are available in various packages that offer different usage limits and varying levels of support. The Services that Customer purchases pursuant to a Quote on the parameters specified in such Quote are the "**Purchased Services**." Purchased Services exclude any Free Services or any other services made available to Customer free of charge. At any time during the Subscription Period for the Purchased Services, Customer may upgrade to an enhanced Services offering by paying the difference in Fees for such upgraded Purchased Services for the remainder of the Subscription Period. Customer may not downgrade to a lesser Services offering at any time during the Subscription Period for the Purchased Services.

### 3. USE OF THE SERVICES

- a. **Registration.** Customer agrees to provide true, accurate, current and complete information as prompted by ProtectWise's registration process, and to maintain and promptly update such information to keep it true, accurate, current and complete. Customer represents and warrants that (1) Customer has read, understands, and agrees to be bound by this Agreement; (2) the person assenting to this Agreement has the authority to enter into this Agreement on behalf of the company or other entity named as the user, and to bind that company or entity to this Agreement; and (3) Customer is not barred from using the Services under the laws of the United States, its place of residence or any other applicable jurisdiction.
- b. **Right to Use the Platform.** Subject to Customer's compliance with this Agreement, ProtectWise grants to Customer a limited, personal, non-assignable, non-transferable, non-sublicensable, revocable, non-exclusive right to access and use the Platform during the Subscription Period solely for Customer's internal business purposes. If Customer retains a third party to manage Customer's networks or to provide forensics services related to security threats ("**Authorized Service Provider**"), Customer may permit such Authorized Service Provider to use the Platform on Customer's behalf, provided that the Authorized Service Provider only uses the Platform for Customer's internal operations and the Authorized Service Provider agrees to comply with this Agreement.
- c. **Right to Use the Network Sensors.** Subject to Customer's compliance with this Agreement, ProtectWise grants to Customer a personal, limited, revocable, non-exclusive, non-transferable, non-sublicensable license during the Subscription Period to (1) use ProtectWise's printed or online written end user guides and documentation made available to Customer in conjunction with the Network Sensors (the "**Documentation**"), and (2) install and use the Network Sensors, in object code form only, solely in accordance with this Agreement and the Documentation, and for the sole purpose of passively replaying Network Data to the Platform to enable ProtectWise to deliver Services to Customer. Customer is solely responsible for all activity that occurs through its Network Sensors. Customer shall comply with all laws, regulations, rules, ordinances and government orders ("**Laws**") applicable to its use of the Network Sensors and the Documentation.
- d. **Customer's Responsibilities in Using the Services.** Customer shall (1) use the Services only in accordance with this Agreement and applicable Laws; (2) be responsible for Customer's users' compliance with this Agreement; and (3) prevent unauthorized access to or use of Services, and notify ProtectWise promptly of any such unauthorized access or use. Customer is responsible for any activity originating from Customer's account, regardless of whether such activity is authorized by Customer.
- e. **Restrictions.** Customer's use of the Services and the rights granted to Customer in this Agreement are subject to compliance with the restrictions set forth in this subsection. Customer shall not, and it shall not permit, assist, authorize or encourage any third party to:

- i. use any Network Sensor to collect any network traffic or data from any network that is not Customer's network;
  - ii. sell, resell, license, sublicense, distribute, copy, reproduce, rent or lease any Service, or include any Service in a service bureau or outsourcing offering, or otherwise make any Service available to, or use any Service for the benefit of, anyone other than Customer;
  - iii. access any Service for purposes of monitoring availability, performance or functionality, to build a competitive product or service, or for any other benchmarking or competitive purposes;
  - iv. use any Service to store or transmit (1) infringing, libelous, or otherwise unlawful or tortious material, (2) material in violation of third-party privacy rights, or (3) code, files, scripts, agents or programs intended to do harm, including without limitation viruses, worms, time bombs, Trojan horses, malware, vulnerabilities, advanced persistent threats, exploits, code injections and targeted attacks;
  - v. disrupt, disable, or interfere with the integrity or performance of any Service or third-party data contained therein;
  - vi. permit direct or indirect access to or use of any Service in a way that circumvents any usage limit;
  - vii. copy, modify, translate, adapt, merge, or make derivative works of any Service, or frame or mirror any part of any Service (other than framing on Customer's own intranets);
  - viii. reverse engineer, decompile, disassemble, or otherwise reduce to human perceivable form any Network Sensor or any other software made available via any Service, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation;
  - ix. remove or alter ProtectWise's copyright notices, trademarks or other proprietary rights notices affixed to or contained within any Service;
  - x. use any manual or automated software devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to "scrape" or download data from any Service; and
  - xi. use any Service to violate any applicable Law.
- f. **Sensor Optimization.** You agree to allow ProtectWise to modify your deployment and use of the Network Sensors for the purpose of optimizing the quantity and quality of the Network Data received by ProtectWise.
- g. **Open Source.** The Services and Network Sensors may include programs or code that are licensed under an open source software ("OSS") license model. OSS programs and code are licensed under and are subject to the terms and conditions of the applicable OSS license, and are specifically excluded from all license grants, warranty and support obligations described in this Agreement. Nothing in this Agreement limits Customer's rights under, or grants rights that supersede, the terms and conditions of any applicable end user license for the OSS. If required by any license for particular OSS, ProtectWise makes such OSS, and ProtectWise's modifications to that OSS, available by written request at its principal business address.

#### 4. NETWORK DATA AND PRIVACY

- a. **Protection of Network Data.** ProtectWise shall maintain appropriate and reasonable administrative, operational, physical, and technical safeguards designed to protect the security, confidentiality and integrity of Network Data. ProtectWise shall only process Network Data to provide the Purchased Services, to prevent or address service or technical problems, as compelled by law in accordance with Section 7(C) (Compelled Disclosure) below, or as otherwise expressly permitted in this Agreement, including but not limited to Section 6(C) (Threat Intelligence) below.

- b. **Customer's Responsibilities for Network Data.** Customer represents and warrants that (1) Customer has the necessary rights and licenses required to provide its Network Data to ProtectWise in connection with the Services, (2) Customer has obtained, from each of its own customers, employees, contractors, and other end users, appropriate and informed prior consent to the processing of their personal data by ProtectWise for purposes of providing the Services, and (3) Customer's provision of Network Data to ProtectWise does not violate any intellectual property or privacy rights of third parties, confidential relationships, contractual obligations or Laws. Customer shall be responsible for the accuracy, quality and legality of Customer's Network Data and the means by which Customer acquires its Network Data, including any personally identifying information of end users ("**Customer PII**"). Without limiting the generality of the foregoing, Customer shall provide all notices to, and obtain any consents from, any data subject as required by any applicable Law in connection with the transfer and processing of any personally identifiable information of such data subjects via the Services by ProtectWise and/or by Customer. Customer shall be solely responsible for ensuring that any processing of Network Data by ProtectWise and/or by Customer via the Services does not violate any applicable Laws. ProtectWise will not be liable for any liabilities arising from Customer's provision of Network Data to ProtectWise (including transmission of Network Data over the internet or other network).
- c. **Cross-Border Data Transfers.** ProtectWise agrees that, in performing those aspects of the Services that include the processing of personal data, it shall act in accordance with Customer's instructions provided in accordance with this Agreement. To the extent Customer provides Customer PII to ProtectWise, such Customer PII may be stored and processed in the United States or other countries in which ProtectWise maintain facilities. By using the Services, Customer consents to the transfer of such Customer PII outside of the country in which Customer provides the Customer PII.
- d. **Prohibited Uses.** Customer understands that ProtectWise is not a consumer reporting agency and does not collect Network Data for credit purposes, and that Network Data is not intended to be indicative of any consumer's credit worthiness, credit standing, credit capacity, or other characteristics listed in Section 603(d) of the Fair Credit Reporting Act ("**FCRA**"), 15 USC Section 1681a. Customer represents and warrants that it shall not use any Network Data or the Services as a factor in establishing any consumer's eligibility for (1) credit or insurance used primarily for personal, family or household purposes, (2) employment purposes, or (3) other purposes authorized under Section 604 of the FCRA, 15 USC Section 1681b.

## 5. FEES AND PAYMENT

- a. **Fees and Payment.** Customer shall pay all fees specified in the Quotes. Except as otherwise specified in a Quote, (1) fees are based on Services purchased and not actual usage, (2) payment obligations are noncancelable and fees paid are non-refundable, and (3) quantities purchased cannot be decreased during the relevant Subscription Period. Customer will be invoiced in advance and otherwise in accordance with the relevant Quote. Unless otherwise stated in the Quote, invoiced charges are due net 30 days from the invoice date. If any invoiced amount is not received by the due date, then without limiting other rights or remedies, those amounts may accrue late interest at the rate of 1.5% per month or the maximum rate permitted by law.
- b. **Suspension of Service.** If any amount owing by Customer is 30 or more days overdue, ProtectWise may, upon at least 10 days' prior notice and without limiting any other rights and remedies, suspend Services to Customer until such amounts are paid in full.

- c. **Taxes.** All amounts payable by Customer do not include any levies, duties, similar governmental assessments of any nature, value-added, use, withholding or other taxes (other than sales tax), assessable by any jurisdiction whatsoever (collectively, “**Taxes**”). Applicable sales tax shall be a separate line item on invoices issued to Customer. Unless Customer provides ProtectWise with a valid tax exemption certificate authorized by the appropriate taxing authority, Customer shall pay the sales tax amount. Customer is responsible for paying all Taxes, and any related penalties and interest, associated with the fees and Services. Customer shall make all payments free and clear of, and without reduction for, any Taxes. If ProtectWise has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section, ProtectWise will invoice Customer and Customer shall pay such amounts unless Customer provides ProtectWise with a valid tax exemption certificate authorized by the appropriate taxing authority. Customer shall indemnify and hold ProtectWise harmless from any claims, losses, costs (including reasonable attorneys’ fees), damages or liabilities arising out of or relating to Customer’s failure to pay any Taxes or sales tax as set forth in this Section. ProtectWise is solely responsible for taxes on ProtectWise’s income, property and employees.

## 6. PROPRIETARY RIGHTS

- a. **Network Data.** Customer is the sole owner of Customer’s Network Data, including but not limited to all Customer PII and all intellectual property rights therein. Customer grants ProtectWise and its service providers a non-exclusive, worldwide license to use, host, copy, transmit, display, optimize, compress and de-duplicate the Network Data as necessary to provide the Services in accordance with this Agreement. If ProtectWise retains a third party services provider to assist in hosting or otherwise providing the Services, ProtectWise may permit such service providers to use, host, copy, transmit, display, optimize, compress and de-duplicate the Network Data, provided that such service providers only use the Network Data for provision of the Services to Customer. Subject to the limited licenses granted herein, ProtectWise acquires no right, title or interest in or to the Network Data.
- b. **Feedback.** Customer grants to ProtectWise a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or its users relating to the Services.
- c. **Threat Intelligence.** ProtectWise reserves the rights to: (1) collect information about Customer’s use of the Services, (2) analyze Customer’s Network Data using threat detection tools, and (3) aggregate such information and analysis (on an anonymous basis that does not attribute such information or analysis to Customer or its users) with network traffic, security and threat intelligence data and information provided by third parties or produced by ProtectWise (subsections (1), (2) and (3) collectively, the “**Threat Intelligence**”). Customer acknowledges and agrees that Threat Intelligence does not constitute Customer’s Confidential Information (as defined below) and may be shared by ProtectWise with third parties.
- d. **Reservation of Rights.** ProtectWise is the sole owner of the Services (excluding any Network Data stored in the Services), the Network Sensors, the Documentation, the Threat Intelligence and all intellectual property rights in or to any of the foregoing. Subject to the limited rights expressly granted hereunder, ProtectWise and its licensors reserve all right, title and interest in and to the Services, the Network Sensors, the Documentation and the Threat Intelligence. No rights are granted to Customer hereunder other than as expressly set forth herein.

## 7. CONFIDENTIALITY

- a. **Definition. “Confidential Information”** means all information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of its disclosure. Customer’s Confidential Information includes the Network Data. ProtectWise’s Confidential Information includes the Services and pricing. Confidential Information of each party includes the terms and conditions of this Agreement, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (1) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (2) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (3) is received from a third party without breach of any obligation owed to the Disclosing Party, or (4) was independently developed by the Receiving Party without use of or reference to the Disclosing Party’s Confidential Information.
  
- b. **Protection of Confidential Information.** The Receiving Party shall (1) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, (2) not disclose any Confidential Information of the Disclosing Party to any third party without the Disclosing Party’s prior written consent, except as otherwise permitted by this Section 7, (3) use the same degree of care to protect the Confidential Information of the Disclosing Party that the Receiving Party uses to protect the confidentiality of its own like confidential information (but not less than reasonable care), and (4) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. The Receiving Party may disclose the terms of this Agreement or any Quote to its legal counsel and accountants, and to its Affiliates and current and prospective investors and financing sources, and their respective legal counsel and accountants, and the Receiving Party shall be responsible for the compliance of such entities with this Section 7.
  
- c. **Compelled Disclosure.** The Receiving Party may preserve and disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so or in a good faith belief that such preservation or disclosure is reasonably necessary to comply with legal process or protect the rights, property or personal safety of the public. The Receiving Party shall give the Disclosing Party prompt notice of the compelled disclosure (to the extent legally permitted). If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil or criminal claim, action or proceeding to which the Disclosing Party is a party, the Disclosing Party shall reimburse the Receiving Party for its reasonable costs of compiling and providing secure access to that Confidential Information.

## 8. REPRESENTATIONS, WARRANTIES, AND DISCLAIMERS

- a. **ProtectWise Warranty.** ProtectWise warrants that during a Subscription Period the Purchased Services shall perform materially in accordance with the Documentation. ProtectWise’s sole obligation and Customer’s exclusive remedy for any breach of warranty under this Agreement is for ProtectWise to modify the Purchased Services to conform to the warranty.

- b. **Disclaimers.** PROTECTWISE PROVIDES THE SERVICES “AS IS” (EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED IN SECTION 8(B) ABOVE) AND ON AN “AS AVAILABLE” BASIS. CUSTOMER’S USE OF THE SERVICES IS AT CUSTOMER’S OWN RISK. PROTECTWISE MAKES NO WARRANTY REGARDING RESULTS THAT MAY BE OBTAINED FROM CUSTOMER’S USE OF THE SERVICES. EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED IN SECTION 8(B) ABOVE, PROTECTWISE DOES NOT MAKE ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. PROTECTWISE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

## 9. INDEMNIFICATION

- a. **Indemnification by ProtectWise.** ProtectWise shall defend Customer against any claim, demand, suit or proceeding (“Claim”) brought against Customer by a third party alleging that the use of a Purchased Service infringes or misappropriates such third party’s copyright or trade secret rights, and shall indemnify Customer from any damages, attorney fees and costs finally awarded against Customer as a result of, or for amounts under a court-approved settlement of, such a Claim. If ProtectWise receives information about an infringement or misappropriation claim related to a Service, ProtectWise may in its discretion and at no cost to Customer (1) modify the Service so that it no longer infringes or misappropriates, without breaching the warranty under Section 8(A) (ProtectWise Warranty), (2) obtain the necessary rights for Customer’s continued use of that Service in accordance with this Agreement, or (3) terminate Customer’s subscriptions for that Service upon 30 days’ written notice and refund Customer any prepaid fees covering the remainder of the terminated Subscription Period. ProtectWise shall not be obligated to defend or indemnify Customer pursuant to this Section for any Claim arising from Customer’s breach of this Agreement. This Section 9(A) states ProtectWise’s sole liability to, and Customer’s exclusive remedy against ProtectWise, for any claim of intellectual property infringement.
- b. **Indemnification by Customer.** Customer shall defend ProtectWise against any Claim brought against ProtectWise by a third party alleging that the Network Data (or provision thereof by Customer to ProtectWise), or Customer’s use of any Service, infringes, misappropriates or violates such third party’s intellectual property rights, privacy rights or violates any applicable Law, and shall indemnify ProtectWise from any damages, attorney fees and costs finally awarded against ProtectWise as a result of, or for any amounts paid under a court-approved settlement of, such a Claim. Customer shall not be obligated to defend or indemnify ProtectWise pursuant to this Section for any Claim that is the responsibility of ProtectWise pursuant to Section 9(A) above.
- c. **Procedures.** The party seeking indemnification for a Claim under this Section 9 agrees that it shall give the indemnifying party (1) prompt written notice of the Claim, (2) sole control of the defense and settlement of the Claim (except that the indemnifying party may not settle any Claim unless it unconditionally releases the indemnified party of all liability), and (3) all reasonable assistance, at the indemnifying party’s request and expense, in the defense and settlement of the Claim.

## 10. LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL PROTECTWISE, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL (INCLUDING LOSS OF USE, DATA, BUSINESS, OR PROFITS) DAMAGES, REGARDLESS OF LEGAL THEORY, WHETHER OR NOT PROTECTWISE HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE. PROTECTWISE'S AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THE SERVICES OR THIS AGREEMENT WILL AT ALL TIMES BE LIMITED TO THE GREATER OF FIFTY U.S. DOLLARS (U.S. \$50) OR THE AMOUNTS CUSTOMER PAID TO PROTECTWISE FOR THE AFFECTED SERVICE IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE INCIDENT GIVING RISE TO THE CLAIM. THESE LIMITATIONS ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN PROTECTWISE AND CUSTOMER.

## 11. Term and Termination.

- a. **Term of Agreement.** This Agreement commences on the date that Customer accepts this Agreement or the date that Customer first accesses the Services (whichever date occurs first), and continues until all subscriptions hereunder have expired or have been terminated.
- b. **Subscription Period.** The term of each subscription shall be as specified in the applicable Quote. Except as otherwise specified in a Quote, subscriptions will automatically renew for additional periods equal to one year, unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The fees during any automatic renewal term will be the same as that during the immediately prior term unless ProtectWise has given Customer written notice of a price change at least 30 days before the end of that prior term, in which case the price change will be effective upon renewal and thereafter. The initial subscription term specified in the Quote plus any applicable renewal periods for that Quote are referred to herein as the "**Subscription Period.**"
- c. **Termination.** A party may terminate this Agreement for cause (1) upon 30 days written notice to the other party of a material breach if such breach is curable and remains uncured at the expiration of such period, (2) immediately upon written notice to the other party of a material breach that is not curable, or (3) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- d. **Effects of Termination.** Upon termination or expiration of this Agreement for any reason (1) any amounts owed to ProtectWise under this Agreement before such termination or expiration will be immediately due and payable by Customer, (2) all rights granted to the Services in this Agreement will immediately cease to exist, and (3) Customer must promptly discontinue all access to and use of the Services. The following provisions shall survive any termination of this Agreement: 2(A) (Trial or Free Service), 3(A) (Registration), 3(D) (Customer's Responsibilities in Using the Services), 3(E) (Restrictions), 4 (Network Data and Privacy), 5 (Fees and Payment), 6 (Proprietary Rights), 7 (Confidentiality), 8(B) (Disclaimers), 9 (Indemnification), 10 (Limitation of Liability), 11(D) (Effects of Termination), 11(E) (Network Data Portability and Deletion), 12 (Compliance with Laws), 13 (Governing Law) and 14 (General Terms).



- e. **Network Data Portability and Deletion.** Due to the size and volume of Network Data transmitted to and stored with ProtectWise, ProtectWise cannot return or make the Network Data available to Customer. Therefore, ProtectWise will have no obligation to maintain or provide Customer's Network Data to Customer upon the termination of this Agreement. ProtectWise will continue to maintain the confidentiality of the Network Data in accordance with Section 7 (Confidentiality) above. Within 30 days after the effective date of termination or expiration of this Agreement, ProtectWise will delete or destroy Customer's Network Data in its systems or otherwise in its possession or control as provided in the Documentation, unless legally prohibited.

## **12. Compliance with Laws.**

Customer acknowledges and agrees that the technology made available by ProtectWise is subject to U.S. export control Laws. Customer shall comply with these Laws and shall not, without prior U.S. government authorization, export, re-export, or transfer the Services, or any portion thereof, either directly or indirectly, in violation of such Laws. In particular, the Services may not be exported or re-exported (a) into any United States embargoed countries, or (b) to anyone of the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using the Services, Customer represents and warrants that (1) Customer is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (2) Customer is not listed on any U.S. Government list of prohibited or restricted parties. Customer also will not use the Services for any purpose prohibited by Law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons.

## **13. Governing Law.**

This Agreement will be governed and construed in accordance with the laws of the State of Colorado without regard to any conflict of laws principles that would require the application of the laws of another jurisdiction. Any dispute arising under or in connection with this Agreement will be heard exclusively in the state and federal courts for the City and County of Denver, Colorado. Each party hereby expressly and irrevocably consents, and waives any objection, to the personal jurisdiction, venue and convenience of such courts.

## **14. General Terms.**

This Agreement constitutes the entire agreement between ProtectWise and Customer with respect to the Services and supersedes and replaces any other agreements, terms and conditions applicable to the Services. Any terms stated in Customer's purchase order shall have no force or effect. This Agreement may be amended only upon written agreement of both parties. This Agreement creates no third party beneficiary rights. ProtectWise's failure to enforce a provision is not a waiver of its right to do so later. If a provision is found unenforceable the remaining provisions of the Agreement will remain in full effect and an enforceable term will be substituted reflecting the intent as closely as possible. Customer may not assign any of Customer's rights in this Agreement, and any such attempt is null and void. ProtectWise may assign its rights to any of its affiliates or subsidiaries, or to any successor in interest of any business associated with the Services. The parties hereto are independent contractors. ProtectWise will not be responsible for any failure to perform or delay in performing any of its obligations under this Agreement to the extent that such failure or delay results directly or indirectly from an event beyond ProtectWise's reasonable control. If Customer is a U.S. government entity, Customer acknowledges that any Services provided are "Commercial Items" as defined at 48 C.F.R. 2.101, and are being provided as commercial computer software subject to the restricted rights described in 48 C.F.R. 2.101 and 12.212. Notices by Customer shall be deemed delivered when received by ProtectWise by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address. Customer (1) consents to receive communications from ProtectWise in an electronic form; and (2) agrees that all notices and other communications provided by ProtectWise electronically satisfy any legal requirement that such communications would satisfy if they were to be in writing. In the event that the last e-mail address Customer provided to ProtectWise is not capable of delivering to Customer any notices required by this Agreement, ProtectWise's dispatch of the e-mail containing such notice will nonetheless constitute effective notice as of the date sent.

## SERVICE LEVEL AGREEMENT (SLA)

### 1. Issue Remediation Process.

- a. An "Issue" means a material failure of the Services to conform to its published specifications as described in the Documentation, which failure is demonstrable in the environment for which the Services were designed and causes them to be inoperable, to operate improperly, or produces results different from those described in the Documentation. ProtectWise is not required to resolve any Issue or otherwise provide any support relating to problems arising out of: (i) use of the Services in a manner not specified in the Agreement or Documentation; (ii) use of the Services in combination with any third party software not provided or specified by ProtectWise; or (iii) alterations or modifications to the Services by anyone other than ProtectWise.
- b. The specific Severity Levels for Issues are set forth below. Upon notice from Customer of an Issue, ProtectWise shall classify such Issue according to the following Severity Levels. ProtectWise defines the severity of an Issue based on how it impacts Customer's ability to use the Services. A severity code is associated with all service requests, failures, and enhancement requests to indicate the impact and the urgency of the request.
  - Critical - Severity 1
    - A "Severity 1" Issue shall mean that the Services are non-operational and no packets can be ingested into the system, or the functionality is significantly decreased, or back-up or other security of data can no longer be performed. The defect affects mission-critical systems or information in the production environment.
  - High - Severity 2
    - A "Severity 2" Issue shall mean that the Services are operational with functional limitations or restrictions but there is minimal business impact. Defect has a large impact on the functionality of the application, but does not require immediate resolution into the production environment.

- Medium - Severity 3
  - A “Severity 3” Issue shall mean the Services are operational with functional limitations or restrictions that are not critical to the overall system operation. Defect has a moderate impact on the functionality of the application, however the application remains usable by all groups.
- Low - Severity 4
  - A “Severity 4” Issue shall mean the Services are operational with problems or errors, which have little impact on system operations. Severity 4 shall include, but not be limited to, documentation errors. Defect has a minor impact on the functionality of the application.

c. Upon classifying an Issue, ProtectWise shall use commercially reasonable efforts to address such Issue in accordance with its classification and the table below.

Issue Severity Level	Response Time *	Escalation Time **	Update Frequency
Severity 1	Immediate	2 hours	Continuous
Severity 2	1 hour	24 hours	Daily
Severity 3	8 business hours	5 business days	Weekly
Severity 4	3 business days	10 business days	Weekly

\* S1 and S2 problems must be logged by telephone, to ensure the target response time is met.

\*\* ProtectWise will make every reasonable effort to resolve the reported Issue, provide a work-around or escalate to the next level within the times listed. ProtectWise makes no commitment to resolve an Issue within a specific time.

2. **Releases.** ProtectWise uses a continuous release methodology for ongoing product enhancements and improvements. In the event there is a scheduled maintenance that will impact the Services, ProtectWise will notify customers at least 7 days in advance. Such notification will include the estimated start time and date, estimated finish time, description of work to be performed and the potential impact to Customer.

3. **Availability.** In the event that a Severity 1 Issue causes the Services to be inoperable continuously for more than one (1) week (the “**Unavailable Period**”), Customer is eligible to receive a credit against future charges equal to fifty percent (50%) of the charges for the Unavailable Period. To be eligible for such a credit, Customer must file a claim within thirty (30) days after the month in which the claim arose. Service credits will be applied only against future payments due from Customer. Customer’s sole and exclusive remedy for any unavailability of the Services is the receipt of a service credit (if eligible) in accordance with the terms of this Section.