

END USER LICENSE AND SERVICES AGREEMENT

This End User License and Services Agreement (“**Agreement**”) governs the license of software (the “**Software**”) and the cybersecurity, identity theft, and privacy risk mitigation services (collectively, the “**Services**”) provided by BlackCloak, Inc. (“**BlackCloak**”).

“**You**” includes the individual who has procured access to the BlackCloak Software and Services and any other individuals within Your household on whose behalf you have done so (collectively, the “**Covered Parties**”).

You agree to be bound by the terms of this Agreement by creating an account with BlackCloak, accessing the Software, availing yourself of the Services, or by electronically consenting to be bound by the terms of this Agreement.

BLACKCLOAK VALUES YOUR TRUST AND RESPECTS YOUR PRIVACY. Visit <https://blackcloak.io/blackcloak-applications-privacy-policy-last-edited-9-15-2020/> to learn how BlackCloak collects, uses, processes and protects the data it receives from and about You.

IMPORTANT NOTICE REGARDING ARBITRATION FOR U.S. CUSTOMERS: WHEN YOU AGREE TO THESE TERMS YOU ARE AGREEING (WITH LIMITED EXCEPTION) TO RESOLVE ANY DISPUTE BETWEEN YOU AND BLACKCLOAK THROUGH BINDING, INDIVIDUAL ARBITRATION RATHER THAN IN COURT. PLEASE REVIEW CAREFULLY THE “DISPUTE RESOLUTION” SECTION BELOW FOR DETAILS.

1. Term & Payment

- 1.1. **Term.** Unless otherwise agreed to by the parties in writing, the initial term of a BlackCloak subscription shall be one (1) year, and the subscription will automatically renew at the end of each term for successive one-year terms until you cancel your subscription in writing to renewals@blackcloak.io at least thirty (30) days before any automatic renewal. Renewal fees will automatically be charged to the credit card or other billing source authorized by you on the first day of each successive term until you provide proper notice of cancellation.
- 1.2. **Suspension.** BlackCloak may suspend or restrict your access to the Software or Services prior to the end of a term, if, in BlackCloak’s sole discretion, your use thereof violates applicable law, infringes upon another person’s rights, violates this Agreement, or becomes legally impractical or unfeasible.
- 1.3. **Early Termination.** BlackCloak may terminate your subscription upon written notice prior to the end of a term, and BlackCloak’s sole obligation in such a case will be to issue a pro-rata refund of any prepaid fees.
- 1.4. **Fees.** You agree to pay the fees due in connection with your use of the Software and Services, unless such fees are paid by a third party. Even if the fees are paid by a third party, your use of the Software and Services is governed by this Agreement. The fees are subject to change, but no changes to the fees shall be effective during an existing subscription term or without prior written notice of such change.
- 1.5. **Taxes.** All fees set forth on BlackCloak materials are exclusive of taxes and other charges imposed by government authorities. You are solely responsible for all sales, service, value-added, use, excise or other tax payable by you under applicable law, and BlackCloak reserves the right to collect such taxes and remit them on your behalf. In no event shall you be responsible for taxes on BlackCloak’s income, revenue, personnel, assets or other tax owed by BlackCloak.

- 1.6. **Credit Cards.** BlackCloak uses a third-party credit card processor. You agree that such third-party payment processor may credit/debit card payments prior to completing your subscription purchase, obtain and continue using updated credit card account information electronically from the card issuer, and retry failed payments to complete transactions.
- 1.7. **Free Trials.** BlackCloak may provide free use of the Software or the Services for a limited time. your feedback, acknowledgement of BlackCloak's ownership of the Software and Services, and any other consideration you provide shall serve as your consideration to be bound by this Agreement. BlackCloak reserves the right to modify or terminate a free trial at any time in its sole discretion. BlackCloak does not provide any warranties, service level commitments, or indemnification for any free trials.
- 1.8. **Upon Termination.** Upon termination, the Software will be deactivated and may be removed from certain devices, and you will not be entitled to receive any additional Services. You agree that if you fail to pay fees due, BlackCloak has no further obligation to provide the Software and Services. Once the Software is deactivated, your devices will cease to be protected by BlackCloak and may be exposed to cybersecurity risks (e.g. ransomware, malware, loss, corruption, etc.). It is your responsibility to install and maintain appropriate cybersecurity controls following the termination of this Agreement. Under no circumstances will BlackCloak be responsible for uninstalling the Software or to install or reinstall any other third-party protection software, whether in person or remotely.

2. Professional Services

- 2.1. **Your Account.** You must create an account to access the Software and Services. You agree to provide accurate, complete, and current information and keep this information up to date. If you are enrolling a parent, senior, minor, child, spouse, domestic partner, or other member of your household, you agree that the information you provide about yourself and others is true and accurate and that you are duly authorized to provide this information and to monitor others' accounts on their behalf.
 - 2.1.1. **Covered Devices & Networks.** You must advise BlackCloak of devices owned by you and any Covered Parties that are to be covered by the Software and Services, including any new devices that are purchased after the initial onboarding ("**Covered Devices**"). You must advise BlackCloak of networks owned by you and any Covered Parties that are to be covered by the Software and Services, including any new networks created after the initial onboarding. If you no longer own or want protection for a Covered Device or network, you should notify BlackCloak.
 - 2.1.2. **Cooperation.** You acknowledge that your timely provision of and BlackCloak's access to your equipment, assistance, cooperation, data, information and materials is essential to the performance of the Services, and that BlackCloak shall not be liable for any deficiency in performing the Services if such deficiency results from your failure to provide the same.
 - 2.1.3. **Lawful Purposes.** You agree to use the Services in compliance with all applicable law and not to use the Services for any unlawful purpose. You may not use the Services to gain unauthorized access, to upload, transmit, transfer data or information to BlackCloak or third parties.
 - 2.1.4. **Agent.** You hereby designate BlackCloak as an authorized agent to take actions consistent with the Services included in your subscription or as specifically requested by you.

Examples include, but are not limited to, submitting various opt-out registries, Do Not Call or Do Not Mail registries, placing fraud alerts on credit reports, communicating with credit reporting agencies or similar data aggregators/brokers, conducting searches on the dark web/deep web, procuring stolen or cracked credentials or information, and submitting specific requests under the California Consumer Privacy Act, General Data Protection Regulation or other relevant privacy laws.

- 2.1.5. **Permissions.** You acknowledge that the Software may send status information regarding Covered Devices and networks to BlackCloak and that Covered Devices may receive and execute commands from BlackCloak tools. You hereby grant BlackCloak the right to monitor, locate, lock, wipe, scan traffic, protect, manage, update, clean, install software on, block threats to, remediate damage to, remove malware from, rebuild or reinstall operating systems and software on, reapply controls to Covered Devices, and any such other action necessary to perform the Services. You hereby grant BlackCloak the right to map, scan, and conduct penetration tests on internal and external network connections.
- 2.1.6. **System Degradation.** You acknowledge that by installing Software or taking other measures recommended by BlackCloak, including but not limited to, use of a virtual private network (“VPN”), you may experience Internet connectivity degradation or loss, and Covered Devices may not operate as quickly or seamlessly as they might without such Software or measures in place. Furthermore, you acknowledge that numerous websites and email providers may not function correctly with a VPN enabled (e.g. Hulu, Netflix, Disney+, etc.).
- 2.1.7. **Existing Antivirus or Virtual Machine Software.** You agree to advise BlackCloak prior to onboarding if your Covered Device has any existing antivirus, VPN, endpoint management, or similar programs (e.g. network monitoring, intrusion prevention/detection, parental monitoring, mobile device management (“MDM”) as well as any virtual machine software (e.g., Citrix, VMware)), as these programs could interfere with the performance of the Software.
- 2.1.8. **Notification.** You agree to notify BlackCloak as soon as reasonably possible if you believe you have been the victim of a cybersecurity incident or if you believe there has been some other compromise of your personal information, accounts, or devices.
- 2.2. **Intellectual Property Rights.** The text, graphics, images, video, design, organization, compilation, look and feel, and all other protectable intellectual property, including any usernames and email addresses utilizing any BlackCloak propriety domain name (the “Content”) available through the Services, as well as the Services themselves, are BlackCloak’s property or the property of BlackCloak’s licensors and are protected by copyright and other intellectual property laws. BlackCloak or its licensors retains any and all rights, title and interest in and to such Content or Services. Unless BlackCloak provides you with its written consent, you may not sell, publish, distribute, retransmit or otherwise provide access to the Content, Software or Services.
- 2.3. **Third Parties.** The Services may include features and functionality that are owned and controlled by a third party and may be subject to third-party terms of service and privacy policies. To the extent such features or functionalities require you to set up a separate account to access those features and functionality, you agree that you assume the risk of engaging such third parties.

2.4. Best Practices.

2.4.1. **Acknowledgement.** You acknowledge that the use of the Internet is inherently dangerous, subjecting your information and devices to cybersecurity and privacy risks. You acknowledge that no cybersecurity or privacy tool can protect you from all threats at all times. You acknowledge that protecting your information and devices and maintaining a strong cybersecurity and privacy posture require your active participation, vigilance, diligence, and continued education.

2.4.2. **Passwords.** Best practices for password security include (i) using a combination of at least 14 alphabetic, numeric, upper/lowercase, and wildcard characters (example, \$, !, #), (ii) using a unique password for each account, (iii) not sharing passwords with third parties, (iv) not using default passwords, (v) using a password safe or other secure method for storing passwords, (vi) resetting passwords if a third party, including BlackCloak, assists with password or other access-control issues on any account.

2.4.3. **Links and Attachments.** Avoiding clicking on links or opening attachments in emails, texts, or other messages if the source is unknown, unsolicited, or suspicious.

2.4.4. **Multi Factor Authentication.** Always use multi factor authentication for access to sensitive accounts where available. This may also be referred to as two-factor authentication, dual-factor authentication, 2FA, or similar terms.

2.4.5. **Updates & Patching.** Ensure all software, operating systems, and firmware for all devices, including routers, modems, and firewalls, are up to date and are secured with a password where applicable. This means updating the device and all the programs on it.

2.4.6. **Public Internet Access.** Ensure all Internet access on public or untrusted Wi-Fi is performed using a VPN.

2.4.7. **Backup.** The only surefire way to prevent the loss of data due to ransomware or malware is to have an offline backup of your data on a device that is disconnected from other devices and the Internet.

2.5. **Specific Service Features.** Certain subscription features are subject to additional terms and conditions, which vary depending on the nature of the feature, as provided below:

2.5.1. **Opt-Out.** If your subscription includes the removal or suppression of your information from third-party sites (“**Opt-Out**”), BlackCloak will use good faith, reasonable efforts, utilizing automated and manual methods to request that your information be removed or suppressed. This includes complying with instructions posted on third-party sites and communicating with third-party sites but does not include initiating a legal proceeding on your behalf. You acknowledge that the third-parties’ opt-out procedures and business practices are subject to change, and BlackCloak cannot guarantee that such third parties will honor requests to remove or suppress your information, and cannot guarantee that all of your information will become completely unavailable from all sources or any particular source or that new information will not become available on third-party sites.

- 2.6. **Excluded from Services.** You acknowledge that the Services do not include the following:
- 2.6.1. Setup, upgrading, or administration of operating systems, servers, printers, third-party hardware or software, at any point during the subscription or upon or after termination of the subscription.
 - 2.6.2. Data backup or recovery or reinstallation of data stored on any hardware or storage device.
 - 2.6.3. Anything related to the Internet service provider (ISP) or hardware providing the same functionality, including availability or speed issues.
 - 2.6.4. The administration, configuration, maintenance, or setup of any modems, firewalls, routers or other networking equipment.
 - 2.6.5. Troubleshooting regarding any of the above.

3. License

- 3.1. **Ownership.** The Software is the proprietary property of BlackCloak or its licensors and is protected by copyright and other intellectual property law. BlackCloak and its licensors retain any and all rights, title and interest in and to the Software, including in all copies, improvements, enhancements, modifications and derivative works of the Software.
- 3.2. **Grant.** Subject to your compliance with this Agreement, BlackCloak hereby grants you and only you a non-exclusive, limited, non-assignable, non-transferable, non-sublicensable license to use Software. You may run a copy of the Software solely for your own personal non-commercial use on a Covered Device during your subscription term. Your rights to use the Software shall be limited to those expressly granted in this Agreement. All rights not expressly granted to you are retained by BlackCloak and/or its licensors.
- 3.3. **Limitations.** You may not copy, reproduce, sub-license, rent, sell, lease or share any Software or any materials accompanying the same. You may not reverse engineer, recompile, disassemble, create derivative works, modify, translate, or make any attempt to discover the source code for Software.

4. Warranties & Limitation of Liability

- 4.1. **Services Warranty.** BlackCloak warrants that its employees have the necessary knowledge, skills, experience, qualifications, and resources to provide and perform the Services in accordance with this Agreement and that the Services will be performed in a good, diligent, workmanlike manner.
- 4.2. **Services Warranty Remedy.** BlackCloak's ability to successfully perform the Services is dependent upon your provision of timely and accurate information, access to resources, and participation. If the Services do not conform to the foregoing warranty through no fault or delay by you, and you provide written notice to BlackCloak within thirty (30) days of nonconformance, BlackCloak shall reperform the nonconforming portions of the Services as your sole and exclusive remedy.
- 4.3. **Software Warranty.** BlackCloak warrants only that the Software will perform substantially in accordance with its accompanying explanatory materials for the duration of the subscription

term. This limited warranty is void if any failure of the Software results from any accident, abuse, misapplication, or modification of the Software by you or any third party.

- 4.4. **Software Warranty Remedy.** If the Software does not conform to the foregoing warranty through no fault by you, and you provide written notice to BlackCloak within thirty (30) days of nonconformance, BlackCloak shall replace or repair the Software as your sole and exclusive remedy.
- 4.5. **Disclaimer.** YOU AGREE THAT YOUR ACCESS TO, AND USE OF, THE SERVICES AND ANY ACCOMPANYING SOFTWARE IS ON AN "AS-IS", "AS AVAILABLE" BASIS.
- 4.6. **Disclaimer.** EXCEPT AS PROVIDED ABOVE, BLACKCLOAK MAKES NO OTHER WARRANTY OR GUARANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, BLACKCLOAK SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER IMPLIED, EXPRESS, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.
- 4.7. **Disclaimer.** THE SOFTWARE IS NOT FAULT-TOLERANT AND IS NOT DESIGNED OR INTENDED FOR USE IN ANY HAZARDOUS ENVIRONMENT REQUIRING FAIL-SAFE PERFORMANCE OR OPERATION. THE SOFTWARE IS NOT FOR USE IN THE OPERATION OF AIRCRAFT NAVIGATION, NUCLEAR FACILITIES, COMMUNICATION SYSTEMS, WEAPONS SYSTEMS, DIRECT OR INDIRECT LIFE-SUPPORT SYSTEMS, AIR TRAFFIC CONTROL, OR ANY APPLICATION OR INSTALLATION WHERE FAILURE COULD RESULT IN DEATH, SEVERE PHYSICAL INJURY OR PROPERTY DAMAGE.
- 4.8. **Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST SAVINGS AND LOST REVENUES, LOSS OF GOODWILL, WORK STOPPAGE, LOSS OF DATA, DEVICE FAILURE OR MALFUNCTION, RESULTING FROM OR IN ANY WAY CONNECTED TO YOUR ACCOUNT WITH BLACKCLOAK, OR ACCESS TO, USE, OR INABILITY TO USE THE SOFTWARE OR SERVICES, WHETHER OR NOT CHARACTERIZED IN NEGLIGENCE, TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, AND WHETHER FORESEEABLE OR NOT AND HOWEVER CAUSED, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THOSE DAMAGES. SOME JURISDICTIONS EITHER DO NOT ALLOW OR PLACE RESTRICTIONS UPON THE EXCLUSION OR LIMITATION OF DAMAGES IN CERTAIN TYPES OF AGREEMENTS; FOR THESE JURISDICTIONS, THE AFOREMENTIONED LIMITATION ON LIABILITY SHALL BE TO THE MAXIMUM DEGREE PERMITTED BY APPLICABLE LAW.
- 4.9. **Limitation of Liability.** WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, YOU AGREE BLACKCLOAK'S TOTAL LIABILITY TO YOU FOR ANY OR ALL OF YOUR LOSSES OR INJURIES FROM BLACKCLOAK'S ACTS OR OMISSIONS, REGARDLESS OF THE NATURE OF THE LEGAL OR EQUITABLE CLAIM, SHALL NOT EXCEED THE AMOUNT PAID TO BLACKCLOAK FOR YOUR SUBSCRIPTION DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE OF THE EVENT GIVING RISE TO THE LIABILITY.

5. Dispute Resolution

- 5.1. **Mandatory Arbitration of Disputes.** Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof or the use of the Software and Services (collectively, "**Disputes**") will be resolved solely by binding, individual arbitration and not in a class, representative or consolidated action or

proceeding. The U.S. Federal Arbitration Act governs the interpretation and enforcement of this Agreement. You and BlackCloak agree to each waive the right to a trial by jury or to participate in a class action. This arbitration provision shall survive termination of this Agreement.

- 5.2. **Exceptions.** The parties may agree to seek to resolve a Dispute in small claims court if it qualifies, and each party retains the right to seek injunctive or other equitable relief from a court to prevent (or enjoin) the infringement or misappropriation of intellectual property rights.
- 5.3. **Conducting Arbitration and Arbitration Rules.** The arbitration will be conducted by the American Arbitration Association (“AAA”) under its Consumer Arbitration Rules (the “AAA Rules”) then in effect, except as modified by this Agreement. The AAA Rules are available at www.adr.org or by calling 1-800-778-7879. A party who wishes to start arbitration must submit a written Demand for Arbitration to AAA and give notice to the other party as specified in the AAA Rules. The AAA provides a form Demand for Arbitration at www.adr.org. Any arbitration hearings will take place in the county (or parish) where you live, unless we both agree to a different location; provided, however, that if you live outside the United States, the hearings will take place in Orlando, Florida. The parties agree that the arbitrator shall have exclusive authority to decide all issues relating to the interpretation, applicability, enforceability and scope of this arbitration agreement.
- 5.4. **Arbitration Costs.** Payment of all filing, administration and arbitrator fees will be governed by the AAA Rules, and BlackCloak agrees not to seek to recover the administration and arbitrator fees it is responsible for paying, unless the arbitrator finds your Dispute frivolous. If BlackCloak prevails in arbitration, BlackCloak will pay its own attorneys’ fees and costs and won’t seek to recover them from you. If you prevail in arbitration, You will be entitled to an award of attorneys’ fees and expenses to the extent provided under applicable law.
- 5.5. **Injunctive and Declaratory Relief.** Except as provided above, the arbitrator shall determine all issues of liability on the merits of any claim asserted by either party and may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party’s individual claim. For a claim of public injunctive relief, the entitlement to and extent of such relief must be litigated in a civil court of competent jurisdiction and not in arbitration. The parties agree that litigation of any issues of public injunctive relief shall be stayed pending the outcome of the merits of any individual claims in arbitration.
- 5.6. **Class Action Waiver.** YOU AND BLACKCLOAK AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, if a Dispute is resolved through arbitration, the arbitrator may not consolidate another person’s claims with your claims and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this Dispute Resolution section shall be null and void.
- 5.7. **Severability.** With the exception of the Section labeled “Class Action Waiver”, if an arbitrator or court of competent jurisdiction decides that any part of these arbitration terms is invalid or unenforceable, the other parts of these arbitration terms will still apply.

6. General Terms

- 6.1. **Changes to This Agreement.** BlackCloak may change the terms of this Agreement from time to time. Your use of the Software or Services after notice of such changes signifies your agreement to be bound by such changed terms.
- 6.2. **Notices.** You agree that BlackCloak may provide all notices and other communications electronically by means of posts to the BlackCloak website, messages to your BlackCloak account, email, or message to your mobile device.
- 6.3. **Export Control.** You acknowledge that the Software and related technical data and services (collectively "**Controlled Technology**") are subject to the import and export laws of the United States, specifically the U.S. Export Administration Regulations (EAR), and the laws of any country where Controlled Technology is imported or re-exported. You agree to comply with all relevant laws and will not export any Controlled Technology in contravention to U.S. law nor to any prohibited country, entity, or person for which an export license or other governmental approval is required.
- 6.4. **Assignment.** You may not sell, assign or delegate any rights or obligations under this Agreement. BlackCloak may assign this Agreement and its rights and obligations under this Agreement to any successor to all or substantially all of Company's relevant assets, whether by merger, consolidation, reorganization, reincorporation, sale of assets or stock, change of control or otherwise.
- 6.5. **Entire Agreement.** This Agreement and any order form constitute the entire agreement and understanding between the parties with respect to the subject matter herein and supersede all prior written and oral agreements, discussions, or representations between the parties. To the extent any terms set forth in any order form conflict with the terms set forth in this Agreement, the terms of this Agreement shall control.
- 6.6. **Headings.** Headings are used in this Agreement for reference only and shall not be considered when interpreting this Agreement.
- 6.7. **Severability.** Except as provided in the "Arbitration" Section, if a court or other body of competent jurisdiction finds, or the parties mutually believe, any provision of this Agreement to be invalid or unenforceable, such provision will be enforced to the maximum extent permissible so as to affect the intent of the parties, and the remainder of this Agreement will continue in full force and effect.
- 6.8. **Waiver.** No waiver of any rights under this Agreement, will be effective unless in writing signed or acknowledged by the parties.
- 6.9. **Survival of Terms.** The terms and conditions of this Agreement which by their nature extend beyond termination of this Agreement shall survive the expiration or termination of this Agreement to the full extent necessary for their enforcement and for the protection of the party in whose favor they operate.