

Software Subscription Terms and Conditions

Effective date: October 2018

READ CAREFULLY THIS SOFTWARE SUBSCRIPTION AGREEMENT (“**AGREEMENT**”), WHICH CONTAINS THE EXCLUSIVE UNDERSTANDING BETWEEN LATCHABLE, INC. (“**LATCH**”) AND YOU (TOGETHER WITH THE ENTITY FOR WHICH YOU REGISTER, ACCESS OR USE THE SERVICES, THE “**LICENSEE**”) REGARDING ACCESS AND USE OF THE SERVICES (AS DEFINED BELOW). THIS AGREEMENT INCLUDES AND INCORPORATES THE BELOW TERMS AND CONDITIONS AND ORDERING DOCUMENTS (AS DEFINED BELOW). YOU REPRESENT AND WARRANT THAT YOU HAVE FULL LEGAL AUTHORITY TO ENTER INTO THIS AGREEMENT UNDER ALL APPLICABLE LAWS AND ON BEHALF OF LICENSEE. BY SIGNING THE ORDERING DOCUMENTS OR BY ACCESSING OR USING THE SERVICES, YOU WILL CREATE A LEGALLY ENFORCEABLE CONTRACT WHERE LICENSEE AGREES TO BE BOUND BY ALL TERMS AND CONDITIONS OF THIS AGREEMENT WITHOUT MODIFICATION.

IF YOU CANNOT OR DO NOT AGREE TO ALL TERMS IN THIS AGREEMENT, YOU SHOULD NOT SIGN THE ORDERING DOCUMENT AND YOU ARE PROHIBITED FROM ACCESSING OR USING THE SERVICES.

- **Definitions.** Certain definitions used in this Agreement are set forth below, other capitalized terms used herein shall have the respective meanings set forth elsewhere in this Agreement.
 - “Licensee Data” means all data and other content provided by Licensee to Latch in connection with using the Software and Latch’s services related thereto.
 - “License Fee” means the License Fee amount set forth in an Ordering Document.
 - “Licensed Properties” means properties owned or managed by Licensee and equipped with Latch’s Products.
 - “Minimum License Fee” shall mean the License Fee that would be due for a 2 year Subscription Period for the # of Doors set forth in the Ordering Document.

- “Ordering Document” means the mutually agreed upon order forms for Services signed by authorized representatives of Latch and Licensee, each of which will incorporate the terms and conditions of and be deemed to be a part of this Agreement.
- “Products” means Latch’s proprietary electronic lock or other access device.
- “Software” means Latch’s web-based access management platform (“Platform”) and mobile application (“App”) and all Updates (defined below) thereto.
- “Services” means the Software and all services provided by Latch in connection with the Software, and all end user documentation related to the foregoing (“Documents”).
- “Unit Discount” shall mean the amount that is equal to (i) the “per door” fee amount for a 2 year Subscription Period for the Software Type selected by Licensee in the Ordering Document, minus (ii) the “per door” fee amount for the actual Subscription Period and Software Type selected by Licensee in the Ordering Document, multiplied by (iii) the # of Doors set forth in the Ordering Document.
- “Users” means a distinct individual with rights under this Agreement to use the applicable Software.
- **Services.**
 - License Grant. Subject to all the terms of this Agreement, including the payment of all applicable fees, Latch grants Licensee a nonsublicensable, nonexclusive, revocable license to download and run the Software in object code form on Licensee’s devices solely for (a) Licensee’s purpose in managing access to and within the Licensed Properties and (b) otherwise as necessary to operate the Products.
 - Licensee Data. Licensee hereby grants Latch a worldwide, perpetual, sublicensable, nonexclusive, royalty-free license to use, copy, access, process, reproduce, perform, display, modify, distribute and transmit the Licensee Data in connection with operating and improving the Services.
 - Third Party Materials. In connection with the Services, Latch may use, or may provide Licensee with access to, software, source code or other technology licensed to Latch from third parties, and which may be owned by such third parties, including without limitation open source software which may be covered by a different license (collectively, “Third Party Materials”). Licensee acknowledges and agrees that Latch does not make any warranties or guarantees

regarding Third Party Materials and is not responsible for the operation or failure of any Third Party Materials.

- **Accounts.** Subject to the terms of this Agreement, Latch will provide Licensee with access privileges that permit Licensee to access and manage the Services and access Licensee Data and other related data (an "Account"). Licensee may create additional Accounts for its employees, agents, and customers that require access management capability for the Licensed Properties. Licensee must take reasonable steps to protect access to the Services and Licensee's Account and will be responsible for (a) maintaining the security of Licensee's Account and all passwords and files associated therewith; (b) all uses of Licensee's Account, with or without Licensee's knowledge or consent and (c) for the acts or omissions of any person who accesses the Services using Accounts, passwords or access procedures provided to or created by Licensee.
- **Additional Terms.** Purchase of the Products will not be permitted without an accompanying Latch Software subscription in accordance with this Agreement. Licensee agrees to abide by, and to use the Services in accordance with, the Documentation, and any additional terms of service provided or posted by Latch and associated with the Services, including without limitation, to the extent applicable, the Terms of Service available at <https://www.latch.com/terms-of-service> ("Terms of Service"), Privacy Policy available at <https://www.latch.com/privacy-policy> ("Privacy Policy") and such other terms, conditions and instructions that maybe provided by Latch from time to time.
- **Restrictions.** Licensee's use of the Services is subject to the following restrictions: (a) Licensee shall use the Services solely as licensed above, and shall not license, sell, rent, lease, transfer, assign, distribute, host, outsource, disclose or otherwise commercially exploit the Services or make the Services available to any third party for any use;(b) Licensee shall not modify, make derivative works of, disassemble, reverse compile or reverse engineer or otherwise attempt to discover any source code or underlying ideas or algorithms of, any part of the Services (except solely to the extent affirmatively required under applicable statutory law); (c) Licensee shall not use or access the Services for benchmarking or competitive analysis, or in order to build a similar or competitive product or service; (d) except as expressly stated herein, Licensee shall not copy, reproduce, distribute, republish, download, display, post, or transmit the Services in any form or by any means, including but not limited to electronic, mechanical, photocopying, recording or other means; (e) Licensee

shall only use the Services in compliance with all applicable local laws, rules and regulations, including without limitation all building codes and regulations.

Licensee agrees to ensure that there is no breach, compromise or violation, by Licensee's employees, consultants, agents, customers, suppliers or independent contractors, of such obligations.

- **Modifications.** Latch reserves the right to modify or discontinue the Services (in whole or in part) at any time by giving 90 days' prior written notice to Licensee, provided that in the event such modification or discontinuance materially reduces the functionality of the Services used by Licensee in accordance with this Agreement, Licensee may terminate this Agreement upon at least 15 days' prior written notice to Latch and receive a prorated portion of License Fee amounts prepaid by Licensee for the remainder of the Subscription Period.
- **Services Updates.** Latch may from time to time develop patches, bug fixes, updates, upgrades and other modifications to the Services and may, in its discretion, make them generally publicly available to its Users (collectively, "Updates"). Licensee acknowledges that such Updates may be required to use certain features or components of the Services, and Licensee agrees (a) that Licensee will promptly install any Updates Latch requires or makes available to Licensee and (b) to the automatic installation of the Updates if performed by or on behalf of Latch.

- **Ownership**

- Licensee. Except for the limited rights and licenses expressly granted hereunder, no other license is granted, no other use is permitted and Licensee (and its licensors) shall retain all rights, title and interest (including all intellectual property and proprietary rights) in and to Licensee Data.
- Latch. Except for the limited rights and licenses expressly granted hereunder, no other license is granted, no other use is permitted and Latch (and its licensors) shall retain all rights, title and interest (including all intellectual property and proprietary rights) in and to the Services, all copies, modifications and derivative works thereof, and all Latch trademarks, names, logos, all rights to patent, copyright, trade secret and other proprietary or intellectual property rights. The Services (and all copies thereof) are licensed to Licensee, not sold, under this Agreement.
- Feedback. Licensee acknowledge that any suggestions, ideas, comments or other feedback ("Feedback") Licensee provides to Latch regarding the Services shall become Latch's sole and exclusive property without any compensation to Licensee, and Latch may, in its sole discretion, decide whether and how to use

such Feedback. Licensee hereby assigns to Latch all of Licensee's right, title and interest in the Feedback, including but not limited to all intellectual and proprietary rights.

- **Fees and Payment.**
 - Fees. Upon execution of this Agreement, Licensee shall pay Latch the License Fees as set forth in the Ordering Document, in accordance with the terms set forth therein. All payments shall be made in US Dollars. Any payments more than 30 days overdue will bear a late payment fee of 1.5% per month, or, if lower, the maximum rate allowed by law.
 - Taxes. Prices do not include any tax, value added tax or other governmental charge or assessment on the sale, shipment, production or use of any products sold to Licensee hereunder. Licensee agrees to bear and be responsible for the payment of all such charges, excluding taxes based upon Latch's net income.
 - Fee Changes. Latch reserves the right to change the fees due for the Services upon notice to Licensee; provided that such change will not become effective until the next Renewal Term (defined below). Upon receipt of such notice, if Licensee does not agree to such fee change, Licensee may terminate this Agreement, with such termination to become effective as of the next Renewal Term.
- **Privacy.** The Services may automatically transmit personal, usage and status data to Latch's servers to enable its functionality. Information provided to Latch in connection with Licensee use of the Services is covered by the Latch Privacy Policy. By entering into this Agreement and using the Services, Licensee is agreeing to the collection and use of Licensee's information as set forth in the Privacy Policy.
- **Warranties.** Each party represents that it has full power, right and authority to enter into this Agreement, to carry out its obligations under this Agreement, and to grant the rights granted to the other party herein.
- **Exclusions/Restrictions.** Latch shall have no obligations to Licensee with respect to the Services for errors that (a) result from alteration, modification or damage to the Services not performed by Latch; (b) result from any combination of the Services with any computer hardware or software not provided by Latch; (c) result from use of the Services other than in accordance with its documentation; (d) result from use of other than the most-current release of the Services; (v) result from the installation of the Services on any hardware that is not supported by Latch or (e) are not reproducible in standalone form.
 - **Indemnity.** Licensee shall defend, indemnify and hold harmless Latch and its employees, from any third party claims, damages, liabilities, costs and

fees (including reasonable attorney fees) arising from Licensee's use of the Services in a manner that does not comply with the terms of this Agreement.

- **Warranty Disclaimer.** THE SERVICES ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND LATCH DOES NOT MAKE ANY, AND HEREBY DISCLAIMS ALL, EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY, AND NON-INFRINGEMENT. LICENSEE EXPRESSLY ACKNOWLEDGES AND AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, USE OF THE SERVICES IS AT LICENSEE'S SOLE RISK. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT.
- **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER LATCH NOR ITS SUPPLIERS, DISTRIBUTORS, OR LICENSORS SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS OR CONDITIONS RELATED THERETO UNDER BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY FOR ANY (A) LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (B) INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, BUSINESS INTERRUPTION, LOSS OF REVENUES AND LOSS OF PROFITS OR (C) ANY AMOUNTS THAT EXCEED, IN THE AGGREGATE, THE AMOUNT PAID BY LICENSEE FOR THE SERVICES THAT CAUSED SUCH DAMAGE IN THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO SUCH CLAIM ARISING. THE FOREGOING SHALL APPLY EVEN IF LATCH KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.
 - **Term; Termination.**
 - Term; Termination. This Agreement shall commence on the Effective Date set forth on the Ordering Document and continue for the duration of the Subscription Period set forth in the Ordering Document, unless terminated earlier as described in this Section 15 (the "Initial Term"). After the Initial Term, this Agreement shall automatically renew for additional subsequent terms that are equal in length to the Subscription Period (each, a "Renewal Term"), unless and until (a) either party provides the other party of written notice of its intent not to renew at least 120 days of the end of the then-current term or (b) Licensee selects a different Subscription Period term by providing Latch of written notice thereof at least 120

days of the end of the then-current term. Either party may terminate this Agreement upon written notice for the other party's material breach, provided, however, that the terminating party has given the other party at least 7 days written notice of and the opportunity to cure the breach. Furthermore, Latch may terminate this Agreement for Licensee's failure to pay any amounts due pursuant to this Agreement within 30 days of such payment becoming due. Termination for breach will not alter or affect the terminating party's right to exercise other remedies for breach.

- Early Termination Fee. If Licensee terminates this Agreement prior to the end of the Initial Term, except in accordance with Section 5 or 8.3 herein, Licensee shall pay to Latch a termination fee as follows ("Termination Fee"):
 - If Licensee selected a 2 year Subscription Period in the Ordering Document, upon such early termination, Licensee shall pay to Latch (i) the amount equal to the Minimum License Fee minus the amount of License Fees actually paid by Licensee during the Initial Term, plus (ii) the amount equal to \$49 multiplied by the # of Doors set forth in the Ordering Document, which, for clarity, is intended to cover Latch's reasonable costs and expenses associated with the processing of such early termination and not as a penalty to Licensee.
 - If Licensee selected a 5 or 10 year Subscription Period in the Ordering Document, upon such early termination, Licensee shall pay to Latch (i) the amount equal to the Minimum License Fee minus the amount of License Fees actually paid by Licensee during the Initial Term, plus (ii) the Unit Discount, plus (iii) a termination fee of \$99 multiplied by the # of Doors set forth in the Ordering Document, which, for clarity, is intended to cover Latch's reasonable costs and expenses associated with the processing of such early termination and not as a penalty to Licensee.
- Effect of Termination. Upon termination of this Agreement, Licensee agrees to pay Latch all amounts due or accrued as of the date of such termination, including without limitation, the Termination Fee if applicable. Upon termination of this Agreement, (a) or either party's request at any time, each party shall return to the other party or destroy (and so certify to the other party) any Confidential Information obtained from the other party and (b) Licensee's license to the Services will terminate. Sections 1, 2.3, 3, 4, 7, 8 (to the extent any payment obligations remain outstanding), 9, 11-14, 15.2,

15.3, 16, and 17-20 shall survive any termination or expiration of this Agreement. For clarity, there will be no refunds in the event this Agreement is terminated.

- **Export.** Licensee agrees to comply with all U.S. and foreign export laws and regulations to ensure that neither the Services, nor any technical data related thereto nor any direct product thereof is exported or re-exported directly or indirectly in violation of, or used for any purposes prohibited by, such laws or regulations.
- **Confidential Information.**
 - Definition. Each party agrees that the business, technical and financial information of the other party, including without limitation, all software, source code, inventions, algorithms, know-how and ideas, that is designated in writing as confidential, or is disclosed in a manner that a reasonable person would understand the confidentiality of the information disclosed, shall be the confidential property of the disclosing party and its licensors (“Confidential Information”). Confidential Information does not include information that (a) is previously rightfully known to the receiving party without restriction on disclosure; (b) is or becomes known to the general public, through no act or omission on the part of the receiving party; (c) is disclosed to the receiving party by a third party without breach of any separate nondisclosure obligation or (d) is independently developed by the receiving party. Latch’s Confidential Information shall include the Services and all Documentation and the terms and conditions of this Agreement.
 - Confidentiality. Except as expressly and unambiguously allowed herein, the receiving party will hold in confidence and not use or disclose any Confidential Information and shall similarly bind its employees, consultants, independent contractors and clients in writing. For the avoidance of doubt, Latch may use Licensee’s Confidential Information in connection with providing the Services.
 - Return of Confidential Information. Upon the expiration or termination of this Agreement, all of the Confidential Information (including any copies) will be returned to the disclosing party, and receiving party will make no further use of such materials.
 - Required Disclosure. If required by law, the receiving party may disclose Confidential Information of the disclosing party, but will give adequate prior notice of such disclosure to the disclosing party to permit the disclosing party to intervene and to request protective orders or other confidential treatment therefor.

- Relief. Money damages will not be an adequate remedy if this Section 17 is breached and, therefore, either party may, in addition to any other legal or equitable remedies, seek an injunction or other equitable relief against such breach or threatened breach without the necessity of posting any bond or surety.
- **U.S. Government End Users.** The Software is a “commercial item,” as that term is defined at 48 C.F.R. 2.101 (OCT 1995), and more specifically is “commercial computer software” and “commercial computer software documentation,” as such terms are used in 48 C.F.R. 12.212 (SEPT 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (JUNE 1995), the Software is provided to U.S. Government Users only as a commercial end item and with only those rights as are granted to all other customers pursuant to the terms and conditions herein.
- **Governing Law; Jurisdiction & Venue; Attorneys’ Fees.** This Agreement and the transactions contemplated hereby shall be governed by and construed in accordance with the laws of the State of New York without taking into account its principles on conflicts of law. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Exclusive jurisdiction and venue for any litigation arising under this Agreement is in the federal and state courts located in New York, NY and both parties hereby consent to such jurisdiction and venue for this purpose. In any such action, suit or proceeding, the successful or prevailing party shall be entitled to recover its reasonable attorneys’ fees and other costs incurred in connection with that action, suit or proceeding, in addition to any other relief to which such party may be entitled.
- **Miscellaneous.** This Agreement, together with the Terms of Service and Privacy Policy and any other applicable Documentation provided to Licensee by Latch, are the entire agreement between Licensee and Latch with respect to the Services and supersede all prior or contemporaneous communications and proposals (whether oral, written or electronic) between Licensee and Latch with respect to the Services. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder. This Agreement is personal to Licensee, and is not assignable, transferable or sublicensable by Licensee except with Latch’s prior written consent. Latch may assign, transfer or delegate any of Latch’s rights and obligations hereunder without consent. Latch shall not be liable for any failure to perform Latch’s obligations hereunder where such failure results from any cause

beyond Latch's reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation. No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. Electronic notices should be sent to contact@latchaccess.com. Latch's failure to enforce any part of this Agreement shall not constitute a waiver of Latch's right to later enforce that or any other part of this Agreement. In order for any waiver of this Agreement to be binding, Latch must provide Licensee with written notice of such waiver through one of Latch's authorized representatives. The section and paragraph headings in this Agreement are for convenience only and shall not affect their interpretation. Any use of "including" "for example" or "such as" in this Agreement shall be read as being followed by "without limitation" where appropriate.

- No employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. Electronic notices should be sent to contact@latchaccess.com. Latch's failure to enforce any part of this Agreement shall not constitute a waiver of Latch's right to later enforce that or any other part of this Agreement. In order for any waiver of this Agreement to be binding, Latch must provide Licensee with written notice of such waiver through one of Latch's authorized representatives. The section and paragraph headings in this Agreement are for convenience only and shall not affect their interpretation. Any use of "including" "for example" or "such as" in this Agreement shall be read as being followed by "without limitation" where appropriate.