

## **Previous TERMS OF SERVICE – June 22, 2021-December 5, 2021**

By accessing and/or using any LocknCharge/PC Locs website, application, software, Software Development Kit, Application Programming Interface, Code/API usage examples Cloud Platform, or associated documentation (collectively, “Service(s)”), or related products and services and associated software and hardware, you are agreeing to the Terms of Service (“Terms”) herein. If there is a conflict between these terms and any additional terms in any given Service, the additional terms will govern and be considered overriding. You agree to comply with these Terms and that these stipulate your relationship with us.

Under the Terms, “LocknCharge” (collectively “we”, “our” or “us”), means LocknCharge Technologies, LLC, PC Locs Pty Ltd, Lock and Charge Europe Limited, Lock and Charge Japan GK, unless set forth otherwise in additional terms applicable for given Service.

We may change the Terms or any portion at any time and we will post notice of changes to the Terms within the documentation of the Service and/or to our website. Changes will become effective no sooner than 30 days after they are posted unless they address new functions for the Service or changes made for legal reasons, in which case they will be effective immediately. If you do not agree to the modified Terms, you should discontinue your use of the Service. Your continued use of the Service constitutes your acceptance of the modified Terms.

### **Section 1: Account and Registration**

#### **1.1 Acceptance**

You may not use the Service and may not accept the Terms if (a) you are not of legal age to form a binding contract with us, or (b) you are a person barred from using or receiving the Service under the applicable laws of the country in which you are resident or from which you use the Service or any other country where you intend to use the Service.

#### **1.2 Authority**

If you are using the Service on behalf of an entity, you represent and warrant that you have authority to bind that entity to the Terms and by accepting the Terms, you are doing so on behalf of that entity (and all references to “you” in the Terms refer to that entity, as well).

#### **1.3 Registration**

In order to access certain Services, you may be required to provide your identification information and/or contact details as part of the registration process, or as part of your continued use of the Service. Information you provide must always be accurate and up to date and you will promptly notify us of any updates.

#### **1.4 Subsidiaries and Affiliates**

LocknCharge has affiliated legal entities around the world, including PC Locs Pty Ltd., Lock and Charge Europe Limited, Lock and Charge Japan GK. These companies may provide the Service to you on our behalf and the Terms will also govern your relationship with these companies.

## **Section 2: Using Our Service**

### **2.1 Provision of Purchased Services**

We will use all commercially reasonable efforts to ensure that the Services are available twenty-four (24) hours a day, seven (7) days a week, except for: (i) planned downtime (of which we shall give advance electronic notice), and (ii) any unavailability caused by circumstances beyond our reasonable control, including, but not limited to, acts of God, acts of governments, embargoes, wars, national emergencies flood, fire, earthquake, civil unrest, acts of terror, strikes or other labor problem (other than one involving our employees), Internet service provider failure or delay, Non-LocknCharge Application, or denial of service attack.

### **2.2 Your End Users**

Your end users must agree to comply with (and you must not knowingly enable them to violate) any applicable law, regulation, and the Terms themselves.

### **2.3 Compliance**

You must comply with all applicable law, regulation, and third-party rights (including without limitation laws regarding the import or export of data or software, privacy, and local laws). You will not use the Service to encourage or promote illegal activity or violation of third-party rights. You will not violate any other Terms with us (or our affiliates). You are responsible for all uses for which you use the Service.

### **2.4 Permitted Access**

You will only access (or attempt to access) the Service by the means described in the documentation provided for those Service. If we assign you developer credentials you must use these with the applicable Service. You will not misrepresent or mask either your identity when using the Service.

### **2.5 Limitations**

We may discretionally set and enforces limits on your use of the Service. You agree to, and will not attempt to circumvent, such limitations documented with the Service. If you would like to use any Service beyond these limits, you must obtain express consent which will be granted at our discretion and which may involve additional Terms and/or fees. Unless otherwise specified in writing by us, we do not intend use of the Service to create obligations under the Health Insurance Portability and Accountability Act (“HIPAA”) and we make no representations that the Service satisfies HIPAA. If you become a Covered Entity or Business Associate as defined

in HIPAA, you will not use the Service for any purpose or in any manner for Protected Health Information.

## **2.6 Open Source Software**

Some of the software required by or included in our Service may be offered under an open source license. Open source software licenses constitute separate written agreements. For certain Service, open source software is listed in the documentation. To the limited extent the open source software license expressly supersedes the Terms, the open source license instead sets forth your agreement with us for the applicable open source software.

## **2.7 Improving Cloud Products**

We are always striving to improve the Cloud Products. In order to do so, we use analytics techniques to better understand how our Cloud Products are being used. For more information on how we manage the data collected please refer to our Privacy Policy.

## **2.8 Using Your Data to provide Cloud Products to You.**

You retain all right, title and interest in and to your Data in the form submitted to the Cloud Products. Subject to these Terms, and solely to the extent necessary to provide Cloud Products to you, you grant us a worldwide, limited term license to access, use, process, copy, distribute, perform, export, and display Your Data. Solely to the extent that reformatting your Data for display in the Cloud Product constitutes a modification or derivative work, the foregoing license also includes the right to make modifications and derivative works. We may also access your accounts, End User Accounts, and your Cloud Products with End User permission in order to respond to your support needs. You will obtain and maintain any required consents necessary to permit the processing of your Data in connection with the Cloud Products.

## **2.9 Communications**

We may send you certain communications in connection with your use of the Service.

## **2.10 Feedback**

If you provide feedback or suggestions about our Service, then we and those we allow may use such information without obligation to you.

## **2.11 Non-Exclusivity**

Your use of the Service and the Terms are non-exclusive. You acknowledge that we may develop products or services that may compete with the Service.

## **Section 3: Customers**

### **3.1 Monitoring**

The Service are designed to help you interact with and enjoy the use our products and services. You agree that we may monitor use of the Service to ensure quality, improvement of our products and services, and verify compliance with the Terms. We may suspend access to the Service by you or your users without notice if we reasonably believe that you are in violation of the Terms.

### **3.2 Ownership**

We retain ownership of any baseline, reference or example software or source code we provide to you in assisting you in using the Service. By using our Service, you do not acquire ownership or right in our Service or the content that is accessed through our Service. We do not acquire any ownership or right in your original authorship as embodied in the software or source code that comprises your work product.

### **3.3 Security**

You will use commercially reasonable efforts to protect user information collected, including personal information from unauthorized access or use and will promptly report to your users any unauthorized access or use of such information to the extent required by applicable law. You are solely responsible for the security of user information collected by you using our Service.

### **3.4 User Privacy**

You will comply with all applicable privacy laws and regulations, including those applying to personal information of your users, as well as LocknCharge's Privacy Policy ([www.lockncharge.com/privacy-policy/](http://www.lockncharge.com/privacy-policy/)). You will provide and adhere to a privacy policy that clearly and accurately describes to your users what user information you collect and how you use and share such information.

## **Section 4: Limitations and Confidentiality**

### **4.1 Limitations**

When using the Service, you may not (or allow those acting on your behalf to):

Sublicense the Service for use by a third party without our prior written consent. You will not;

- Create Service that function substantially the same as the Service and offer it for use by third parties.
- Perform an action with the intent of introducing any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature.
- Defame, abuse, harass, stalk, or threaten others.
- Interfere with or disrupt the Service or the servers or networks providing the Service.
- Promote or facilitate unlawful online gambling, criminal enterprises, or disruptive or illegal commercial messages or advertisements.

- Reverse engineer or attempt to extract the source code from Service or any related software, except to the extent that this restriction is expressly prohibited by applicable law.
- Use the Service for any activities where the use or failure of the Service could lead to death, personal injury, property damage, or environmental damage.
- Use the Service to process or store any data that is subject to the International Traffic in Arms Regulations maintained by the U.S. Department of State.
- Remove, obscure, or alter any of these Terms or any links to or notices of those Terms.

## **4.2 Confidentiality**

Our communications to you may contain our confidential information. Our confidential information includes any Service, communications, and information that are marked confidential or that would normally be considered confidential under the circumstances. If you receive any such information, then you will not disclose it to any third-party without our prior written consent. Our confidential information does not include information that you independently develop, that was rightfully given to you by a third party without confidentiality obligation, or that becomes public through no fault of your own. You may disclose our confidential information when compelled to do so by law if you provide us reasonable prior notice, unless a court orders that we not receive notice.

## **Section 5: Branding and Attribution**

### **5.1 Branding**

“Branding” is defined as the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party. Except where expressly stated, the Terms do not grant either party any right, title, or interest in or to the other party’s Branding. All use by you of our Branding (including any goodwill associated therewith) will inure to the benefit of us.

### **5.2 Attribution**

You agree to display any attribution(s) required by us as described in the documentation for the Service. We hereby grant to you a non-transferable, non-sub-licensable, non-exclusive license while the Terms are in effect to display our Branding for the purpose of promoting or advertising that you use the Service. You must only use our Branding in accordance with the Terms and for the purpose of fulfilling your obligations under this Section. In using our Branding, you must follow our Branding Use Guidelines. You understand and agree that we have the sole discretion to determine whether your attribution(s) and use of our Branding are in accordance with the above requirements and guidelines and you will cease your attribution and use of our Branding immediately if we request you to do so, for any reason.

### **5.3 Publicity**

You will not make any statement regarding your use of Service which suggests partnership with, sponsorship by, or endorsement by us without our prior written approval.

#### **5.4 Promotional and Marketing Use**

In the course of promoting, marketing, or demonstrating the Service you are using and our associated products, we may produce and distribute incidental depictions and testimonials, including screenshots, video, or other content from your users, and may use your company or product name with your permission.

### **Section 6: Termination**

#### **6.1 Termination**

You may stop using our Service at any time with or without notice. Further, if you want to terminate the Terms, you must provide us with prior written notice and upon termination, cease your use of the applicable Service. We reserve the right to terminate the Terms with you or discontinue the Service or any portion or feature or your access thereto for any reason and at any time without liability or other obligation to you.

#### **6.2 Obligations**

Upon any termination of the Terms or discontinuation of your access to the Service, you will immediately stop using the Service and cease all use of our Branding.

#### **6.3 Surviving Provisions**

When the Terms come to an end, those terms that by their nature are intended to continue indefinitely will continue to apply, including but not limited to: Sections 4b, 6, 7 and 8.

### **Section 7: Liability and Indemnity**

#### **7.1 WARRANTIES**

We do not warrant that the operation of the Service will be uninterrupted or error-free. We are not responsible for damage or loss arising from any failure of Service.

**We represent and warrant to you that we have all right, title and interest in and to the Service. We further warrant that we have no actual notice of any claim or action, past or present, by any third party that the Service infringes any patent or copyright, misappropriates a trade secret of any third party, or violates any other intellectual or other proprietary right of any third party.**

**We warrant and represent that, for twelve (12) months from your purchase or first use of the Service, the Service will accurately, timely, consistently and completely provide the functions, features, and capabilities set forth in the Service specifications.**

**We shall correct or cause to be corrected for no additional charge to Customer, all deviations from said specifications discovered in the Service, or provide you with a refund at our option.**

**EXCEPT AS EXPRESSLY SET OUT IN THE TERMS, NEITHER WE NOR OUR SUPPLIERS OR DISTRIBUTORS MAKE ANY SPECIFIC PROMISES ABOUT THE SERVICE. WE PROVIDE THE SERVICE “AS IS”.**

**SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, LIKE THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. EXCEPT AS EXPRESSLY PROVIDED FOR IN THE TERMS, TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL WARRANTIES, GUARANTEES, CONDITIONS, REPRESENTATIONS, AND UNDERTAKINGS.**

## **7.2 LIMITATION OF LIABILITY**

**WHEN PERMITTED BY LAW, WE, AND OUR SUPPLIERS AND DISTRIBUTORS, WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, GOODS OR DATA, FINANCIAL LOSSES, OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES.**

**TO THE EXTENT PERMITTED BY LAW, OUR TOTAL LIABILITY, AND ITS SUPPLIERS AND DISTRIBUTORS, FOR ANY CLAIM UNDER THE TERMS, INCLUDING FOR ANY IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT YOU PAID US TO USE THE APPLICABLE SERVICE (OR, IF WE CHOOSE, TO SUPPLYING YOU THE SERVICE AGAIN) DURING THE SIX MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY.**

**IN ALL CASES, WE, AND OUR SUPPLIERS AND DISTRIBUTORS, WILL NOT BE LIABLE FOR ANY EXPENSE, LOSS, OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE.**

## **7.3 Indemnification**

Unless prohibited by applicable law, you will defend and indemnify us, and our affiliates, directors, officers, employees, and users, against all liabilities, damages, losses, costs, fees (including legal fees), and expenses relating to any allegation or third-party legal proceeding to the extent arising from:

- your misuse or your end user’s misuse of the Service;
- your violation or your end user’s violation of the Terms; or

- any content or data routed into or used with the Service by you, those acting on your behalf, or your end users.

## **Section 8: Jurisdiction**

### **8.1 U.S. Federal Agency Entities**

The Service were developed solely at private expense and are commercial computer software and related documentation within the meaning of the applicable U.S. Federal Acquisition Regulation and agency supplements thereto.

### **8.2 General Legal Terms**

We each agree to contract in the English language. If we provide a translation of the Terms, we do so for your convenience only and the English Terms will solely govern our relationship. The Terms do not create any third-party beneficiary rights or any agency, partnership, or joint venture. Nothing in the Terms will limit either party's ability to seek injunctive relief. We are not liable for failure or delay in performance to the extent caused by circumstances beyond our reasonable control. If you do not comply with the Terms, and we do not take action right away, this does not mean that we are giving up any rights that it may have (such as taking action in the future). If it turns out that a particular term is not enforceable, this will not affect any other terms. The Terms are the entire agreement between you and us relating to its subject and supersede any prior or contemporaneous agreements on that subject. For information about how to contact us, please visit our contact page.

Except as set forth below: (i) the laws of Wisconsin, U.S.A. will apply to any disputes arising out of or related to the Terms or the Service and (ii) **ALL CLAIMS ARISING OUT OF OR RELATING TO THE TERMS OR THE SERVICE WILL BE LITIGATED EXCLUSIVELY IN THE FEDERAL OR STATE COURTS OF DANE COUNTY, WISCONSIN, USA, AND YOU AND US CONSENT TO PERSONAL JURISDICTION IN THOSE COURTS.**

If you are accepting the Terms on behalf of a United States federal government entity, then the following applies instead of the paragraph above: the laws of the United States of America, excluding its conflict of laws rules, will apply to any disputes arising out of or related to the Terms or the Service. Solely to the extent permitted by United States Federal law: (i) the laws of the State of Wisconsin will apply in the absence of applicable federal law; and (ii) **FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE TERMS OR THE SERVICE, THE PARTIES CONSENT TO PERSONAL JURISDICTION IN, AND THE EXCLUSIVE VENUE OF, THE COURTS IN DANE COUNTY, WISCONSIN.**

If you are accepting the Terms on behalf of a United States city, county, or state government entity, then the following applies instead of the paragraph above: the parties agree to remain silent regarding governing law and venue.



