

PROFESSIONAL SERVICES AGREEMENT

THIS CONTRACT is made the 21 day of March, 2023, by and between the City of Hobbs, New Mexico, a municipal corporation located in Lea County, New Mexico (hereinafter referred to as "City") and ZeroEyes, Inc, an independent contractor with a business address of 555 E. North Ln, Suite 5050 Conshohocken, PA 19428 (hereinafter referred to as "Contractor").

This Contract (hereinafter referred to as "Agreement") is a:

- Category 1 Contract:** (\$0 – not to exceed \$20,000.00). Purchasing requires good faith efforts to acquire the materials or services at the best obtainable price.
- Category 2 Contract:** (\$20,000.00 - not to exceed \$75,000.00). Purchasing requires three (3) written quotes turned in to the Central Purchasing Office.
- Category 3 Contract:** (\$75,000.00 and over). Purchasing requires formal sealed bids or competitive sealed proposals through the Central Purchasing Office.
- Professional Services Contract under \$75,000.00.** Purchasing requires the direction of the City Manager.
- Professional Services Contract \$75,000.00 and over.** Purchasing requires the direction of the City Manager with City Commission approval, subject to the competitive sealed proposal requirements.
- Exempt Contract under \$75,000.00.** Purchasing requires the direction of the City Manager.
- Exempt Contract \$75,000.00 and over.** Purchasing requires the direction of the City Manager with City Commission approval.

The parties to this Agreement, in consideration of their mutual promises, agree as follows:

1. SCOPE OF SERVICES

Incorporated by reference herein is the Subscription Agreement by and between the City and ZeroEyes, Inc. attached as Exhibit A hereto. The total failure of the Subscription Services (as defined in the Subscription Agreement) will constitute a material breach of this Agreement by Contractor.

2. STATUS OF CONTRACTOR

Contractor acknowledges that its relationship with City is that of an "independent contractor." Therefore, Contractor shall not be considered an employee or agent of City, nor shall Contractor be eligible to accrue leave, retirement benefits, insurance benefits, use of City vehicles, or any other benefits provided to City employees. Contractor agrees not to purport to bind City of Hobbs unless the Contractor has express written authority to do so, and then only within the strict limits of that authority. Contractor further acknowledges that no benefits pursuant to the Worker's Compensation Laws of the State of New Mexico are available to them for the services contemplated herein. Contractor shall be responsible for securing all licenses and registrations related to their business prior to commencing any work under this Agreement. Contractor shall be solely responsible for all taxes and related reporting requirements. City shall have no liability for the payment of taxes other than gross receipts taxes to be calculated in Contractor's invoices.

3. CONTRACT TERM AND TERMINATION

This Agreement shall be effective from date of execution (as noted on page 1 of this Agreement) and shall end upon completion of all services contemplated herein and final payment for said services, or one year from the date of execution, whichever occurs first. This Agreement may be renewed for up to three additional one-year terms upon written approval from both City and Contractor prior to the expiration of any one-year term. This Agreement may be terminated by either party, at any time with or after the first year, without cause, upon a minimum of thirty (30) days' advanced written notice to the other party. Except as otherwise allowed or provided under this Agreement, City's sole liability upon such termination shall be to pay for acceptable work performed prior to Contractor's effective date of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under, or breaches of, this Agreement. Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Furthermore, City reserves the right to immediately cancel this Agreement if Contractor violates any provision specifically outlined in Paragraph 10 of this Agreement.

4. PRICE

City shall pay Contractor a total as provided in the Order Form, inclusive of New Mexico gross receipts taxes. Contractor shall be responsible for paying all costs associated with performance of duties, including but not limited to, mileage and "wear and tear" of vehicles, and costs of equipment necessary to perform services. Contractor shall submit a monthly invoice for services performed in any given month. Upon receipt of any invoice, City shall render payment for said invoice as soon as practical within fifteen (15) days. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein. Contractor and City shall both be required to keep detailed records regarding the services rendered. In the event City disputes an invoice, Contractor shall provide City with records regarding all services rendered. Contractor shall remit all invoices to ATTN: _____, 200 E. Broadway Street, Hobbs, NM 88240.

Parties agree that the aggregate amount contemplated by this Agreement, including all contemplated gross receipts taxes, shall not exceed \$ 117,500.00. All amounts contemplated herein shall include all necessary labor, equipment, materials and all other costs necessary to complete the project as specified herein. Approval and acceptance of Contractor's satisfactory completion of the project shall be a prerequisite to final payment. Nothing contained in this Agreement shall be construed by Contractor as guaranteeing Contractor any minimum amount of work. Contractor, upon final payment of all amounts due under this Agreement, releases City and its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement. No guarantee of future contracts will be granted to any Contractor.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being given by the City of Hobbs' City Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not given by the City of Hobbs' City Commissioners, this Agreement shall terminate immediately upon written notice being given by City to Contractor. City's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final. If City proposes an amendment to this Agreement to unilaterally reduce funding, Contractor shall have the option to terminate this Agreement or in its alternative, to agree to the reduced funding within thirty (30) days of receipt of the proposed amendment.

5. INSURANCE REQUIREMENTS

Contractor shall maintain insurance coverage through the duration of this Agreement. Contractor shall provide City with a certificate of insurance coverage for General Liability (GL) in a minimum amount of \$ 1 Million per occurrence, and naming City as an additional insured. The insurance required herein shall be primary and shall be attached hereto as "Exhibit A."

6. INDEMNITY AND HOLD HARMLESS

Contractor shall indemnify, defend and hold City, the City Commission of the City of Hobbs, its individual commissioners, its officers, employees and agents, past or present, harmless from any and all causes of action, suits, claims, judgments, losses, costs, expenses, and liens of every kind and nature, including, but not limited to court costs and attorney's fees, arising or alleged to have arisen due to gross negligence of Contractor, or any employees working under Contractor, while engaged in the performance of this Agreement. Indemnification shall survive the expiration of this Agreement.

City shall not be liable to Contractor, or Contractor's successors, heirs, agents, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's failure of performance of Contractor's duties according to this Agreement.

7. FACILITY AND EQUIPMENT—SAFETY

Contractor shall report any unsafe conditions prior to the commencement of any activity. Commencement of activity by the Contractor constitutes agreement as to the safety of the premises. Contractor is responsible for supervision of all participants so as to conduct the services in a safe and orderly manner. Contractor shall be solely responsible for the safety of any of their employees, affiliates, associates, or subcontractors. City is not required to provide storage for Contractor's equipment or materials.

8. BACKGROUND CHECK

Contractor is subject to a background check prior to providing services. By signing this Agreement, the Contractor is certifying that they have reviewed criminal background histories of each and every employee, assistant and/or agent working for Contractor. Contractor further certifies that no person with a history of sexual or violent offenses is in Contractor's employ in any fashion. Employees, assistants and/or agents who are minors (under 18 years old) shall be supervised by an adult in Contractor's employ at all times.

9. DRUG-FREE WORKPLACE

City seeks to provide a safe and productive work environment that is free from impaired performance caused by the use of alcohol, controlled substances, and/or medications. The Contractor agrees to maintain such an environment.

10. RULES, REGULATIONS, AND CARE

Contractor shall treat all individuals and City employees with respect and will not subject anyone to discrimination or harassment because of the person's race, color, sexual orientation, national origin, age, religion, gender, gender identity, or disability. Contractor shall use all reasonable care so as to not damage, or authorize any other person/entity, to damage the property of City. In the event that any City-owned property, whatsoever, is damaged or destroyed due to the negligence or acts of omissions of the Contractor, or any agent of Contractor, Contractor shall replace or repair the damage at no cost to City. City shall determine the existence of any damage and provide Contractor with an estimate of repair or replacement costs. Damage shall be repaired or replaced by Contractor to the reasonable satisfaction of City within thirty (30) days of receipt of written notification from City. If Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from payments provided for in this Agreement. City reserves the right to immediately cancel the Agreement if the Contractor violates any provision herein.

11. NOTICE

All notices given pursuant to or in connection with this Agreement shall be made in writing and posted by regular mail, postage prepaid, to City, ATTN: Accounts Payable, City Hall, 200 E. Broadway Street, Hobbs, NM 88240 and to Contractor at 555 E. North Ln, Suite 5050, Conshohocken, PA 19428 or to such other address as requested in writing by either party. Notice shall be deemed to be received on the fifth day following posting.

12. CONFLICT OF INTEREST AND GOVERNMENTAL CONDUCT ACT

A. Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with NMSA 1978, Section 10-16-4.3, Contractor does not employ, has not employed, and will not employ during the term of this Agreement any City employee while such employee was or is employed by City and participating directly or indirectly in City's contracting process;

2) this Agreement complies with NMSA 1978, Section 10-16-7(B), because (i) Contractor is not a public officer or employee of City; (ii) Contractor is not a member of the family of a public officer or employee of City; (iii) Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if Contractor is a public officer or employee of City, a member of the family of a public officer or employee of City, or a business in which a public officer or employee of City or the family of a public officer or employee of City has a substantial interest, public notice was given as required by NMSA 1978, Section 10-16-7(B), and this Agreement was awarded pursuant to a competitive process;

3) in accordance with NMSA 1978, Section 10-16-8(C), (i) Contractor is not, and has not been represented by, a person who has been a public officer or employee of City within the preceding year and whose official act directly resulted in this Agreement and (ii) Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of City whose official act, while in City employment, directly resulted in City making this Agreement;

4) in accordance with NMSA 1978, Section 10-16-13, Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with NMSA 1978, Section 10-16-3 and Section 10-16-13.3, Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of City.

C. Contractor's representations and warranties in Paragraphs A and B of this Section 12 are material representations of fact upon which City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Section 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Section 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to City and notwithstanding anything in the Agreement to the contrary, City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in Section 12(B).

13. MISCELLANEOUS PROVISIONS

Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of City.

Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from City. In all cases, Contractor is solely responsible for fulfillment of this Agreement. Duly authorized representatives for City shall have the right to direct and inspect the work under this Agreement.

If any part of this Agreement is found to be in violation of the laws or Constitution of New Mexico, only such part thereof shall be thereby invalidated, and all other parts of this Agreement shall remain valid and enforceable.

This Agreement is governed by the laws of the State of New Mexico and will bind and inure to the benefit of City and Contractor, their respective successors and assigns. In the event that Contractor defaults on any term of this Agreement, after reasonable attempts to cure said default, City retains the right to declare this Agreement void. In the event that this Agreement is declared void, neither party shall be obligated to perform further under this Agreement. Jurisdiction and venue relating to any litigation or dispute arising out of this Agreement shall be in the District Court of Lea County, New Mexico, only. Contractor agrees to pay City reasonable costs, including court fees and reasonable attorney's fees, incurred by City in the enforcement of this Agreement, even though City may employ in-house legal counsel.

A party shall be excused from performance under this agreement for any period that the party is directly prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

In the event that Contractor desires to cancel the scheduled services for any reason, Contractor is responsible for the following:

Contacting City via telephone at 575-397-9246; and
Contacting City via e-mail at cbelyeu@hobbsnm.org.

Any change orders shall be in writing and signed by the parties specifically enumerating the additional work to be performed, change in scope, and/or the cost therein. A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights but the ones delineated in said effective waiver.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that they have the legal power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

This Agreement incorporates all of the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

The foregoing constitutes the entire Agreement between the parties. This Agreement may only be modified through a written amendment signed by both parties.

[Required Signatures on Next Page]

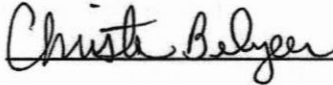
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written on the first page of this Agreement.

THE CITY OF HOBBS, NEW MEXICO

ZEROEYES, INC.

Department Head Approval:

Contractor Approval:

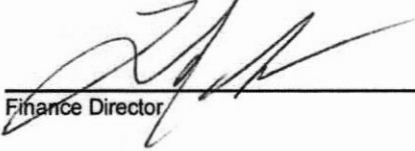




Contractor Signature

Account No.: 

Finance Director:



Finance Director

City Attorney "as to form" Approval:

City Manager Approval:



City Attorney



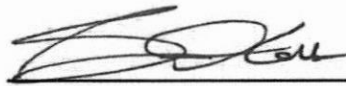
City Mahager

City Clerk Approval:
City Clerk (Professional Service
Contracts over \$75,000)

Mayor Approval:
(Professional Service Contracts over
\$75,000)



City Clerk



Mayor

Exhibit A
Subscription Agreement

This Subscription Agreement ("Agreement") is made and entered into by and between Company and Customer (each a "Party") and together the "Parties"), as defined in the Order Form (Order) attached above or entered into by Company and Customer separately. This Agreement is effective as of the Order Effective Date, as specified in the first Order entered into by the Parties (the "Effective Date").

A. The Company develops and commercializes a cloud-based platform and related services for weapon detection, including Software-as-A-Services (SAAS) functionality, and other related software and services; and

B. Company and Customer desire to enter into this Agreement to enable Customer to receive certain services and license certain software from Company under this Agreement as specified in one or more Orders and/or SOWs.

In consideration of the mutual promises and covenants set forth in this Agreement, the Parties, intending to be legally bound, hereby agree as follows.

1. **Definitions.**

1.1 Definitions. Unless specifically defined below, capitalized terms are defined in Schedule A below.

2. **Subscription Services and Professional Services.**

2.1 License. Subject to Customer's compliance with this Agreement, Company grants to Customer a non-exclusive, non-assignable (except as permitted in Section 8.3 below) license to receive the Subscription Services from Company, and to use the Subscription Services described in each Order, in the form provided by Company, during the applicable Subscription Term specified in that Order, and subject to any additional limitations specified in each Order. The foregoing license includes the right for Customer to permit the Authorized Users to receive, access and use the Subscription Services within the scope of the foregoing license granted to Customer, and otherwise subject to this Agreement. The licenses granted herein (and the related payment obligations) commence on the Effective Date unless the Order states otherwise. The Customer acknowledges and agrees that the Equipment delivered and setup as part of the Platform Setup Services (as defined below) contains preinstalled Software providing access to the Subscription Services even if the monitoring Services commence following the delivery of the Equipment and/or the Effective Date.

2.2 Weapon Detection and Image Screening. As part of the Subscription Services, upon receiving an Image from the Equipment, Company will provide the following services to Customer:

(a) Promptly after receiving such Image from the Equipment, the Operator will view the Image in an attempt to determine if the Image portrays someone with a weapon. If the Operator determines that there is reasonable cause to conclude that the Image portrays someone with a weapon, the Operator will initiate an Alert and transmit Data to the Authorized Users in accordance with the Company's then current policies, procedures or practices and thereafter continue to transmit such additional Alerts and Data as may be received from the Equipment. Company will transmit all Alerts and Data in accordance with the Company's then current policies, procedures or practices applicable to the transmission of Alerts and Data.

(b) If after reviewing the Image received from the Equipment the Operator determines that there is reasonable cause to conclude that the Image does not portray someone with a weapon, Operator will take no further action (other than to log the Image). Operator will make all such determinations in Operator's sole and absolute discretion.

2.3 Updates and Security. Company may update the Subscription Services and the applicable specifications from time to time, including to improve or add new functionality to the Subscription Services, or to reflect changes in laws, regulations, rules, technology, industry practices, patterns of system use, and availability of third party services or content (as defined below). Customer will reasonably cooperate with Company to help secure the Subscription Services as requested by Company from time to time, including to help Company install security patches and deploy other risk mitigation or prevention techniques. Company may suspend Customer's access to the Subscription Services at any time in case of actual or suspected security risks or threats to the Subscription Services, in which case Company will notify Customer of the respective issue as soon as reasonably possible.

2.4 Use of Services. Customer will not itself, and will not permit others to: (a) use the Subscription Services to harass any person; cause damage or injury to any person or property; publish any material that is false, defamatory, harassing or obscene; violate privacy rights; promote bigotry, racism, hatred or harm; send unsolicited bulk e-mail, junk mail, spam or chain letters; infringe property rights; or otherwise violate applicable laws, ordinances or regulations; (b) perform or disclose any benchmarking or availability testing of the Subscription Services; (c) perform or disclose any performance or vulnerability testing of the Subscription Services without Company's prior written approval, or perform or disclose network discovery, port and service identification, vulnerability scanning, password cracking or remote access testing of the Subscription Services; (d) use the Subscription Services to perform cyber currency or crypto currency mining, (e) share passwords among Authorized Users, or otherwise permit more than one Authorized User to access the Subscription Services using a single corresponding account, ((a) through (e) collectively, the "Use Policy"). In addition to its other rights and remedies under this Agreement, Company has the right to take immediate remedial action if Customer violates or permits the violation of the Use Policy, including to remove or disable access to material that violates the Use Policy. Customer will ensure that all passwords and all access to the accounts held by Authorized Users within the Subscription Services are kept secure and confidential, and Customer will be responsible for all access and losses that may occur to the extent caused by security lapses, failure to keep confidential access credentials, or other misconduct by Authorized Users.

2.5 Third Party Services. The Subscription Services may rely on technology or services not provided by Company (e.g.,

the Customer's computers or network infrastructure, data transmissions over the Internet or local networks, and other factors outside the control of Company) ("Third Party Services"). Consequently, Customer assumes the risk that certain functionalities of the Subscription Services may not be available from time to time to the extent that such functionalities rely on Third Party Services. Company shall have no liability in connection with this Agreement for any loss in functionality of the Subscription Services to the extent such loss is caused, directly or indirectly, by Third Party Services.

2.6 Customer Obligations. Customer will comply with Schedule B (Customer Responsibilities).

2.7 Professional Services. Company shall use commercially reasonable efforts to perform the Professional Services as set forth in applicable mutually executed Orders and/or SOWs. Each such Order and/or SOW, as applicable, will include, at a minimum: (a) a description of the scope of Professional Services, (b) any work product or other deliverables to be provided to Customer (each a "Deliverable"), (c) the schedule for the provision of Professional Services, and (d) the applicable fees and payment terms for such Professional Services. All SOWs shall be deemed part of and subject to this Agreement. If there is any inconsistency between an SOW and this Agreement, the SOW shall control. If either Customer or Company requests a change to the scope of Professional Services described in a SOW, the party seeking the change shall propose such change by written notice. Promptly following the other party's receipt of the written notice, the parties shall discuss and agree upon the proposed changes. Company will prepare a change order document describing the agreed changes to the SOW or Order and any applicable change in fees and expenses (a "Change Order"). Change Orders are not binding unless and until executed by both Parties. Executed Change Orders shall be deemed part of, and subject to, this Agreement. Company and Customer shall cooperate to enable Company to perform the Professional Services according to the dates of performance and delivery terms set forth in each Order or SOW, as applicable. In addition, Customer shall perform any Customer obligations specified in each Order and SOW. In the event the Professional Services are not performed in accordance with the terms of the applicable SOW, Customer shall notify Company in writing no later than thirty calendar days after performance of the affected Professional Services by Company. Customer's notice shall specify the basis for non-compliance with the Order or SOW, as applicable, and if Company agrees with the basis for non-compliance, then at Company's sole option, Company shall re-perform the Professional Services at no additional charge to Customer or refund to Customer the applicable fees for the affected Deliverable or Professional Service. THE FOREGOING CONSTITUTES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND COMPANY'S SOLE AND EXCLUSIVE LIABILITY WITH RESPECT TO PERFORMANCE OR NON-PERFORMANCE OF THE PROFESSIONAL SERVICES. Without limiting the foregoing, each initial Order shall include, as part of the Professional Services, the Platform Setup Services (as defined below). Promptly following the execution of an initial Order, if specified in such Order and subject to the payment of the Platform Fee specified therein, Company shall promptly deliver to the location designated on the Order the Equipment specified thereon and shall perform those acts that are reasonable necessary to onboard the Customer onto the Subscription Services (collectively, the "Platform Setup Services").

3. Financial.

3.1 Fees. The fees for Subscription Services and the Platform Setup Services are set forth in applicable Orders and/or SOWs entered into by Company and Customer.

3.2 Payments. Licensee will pay all amounts specified under each Order that was accepted by both Licensee and Company or otherwise due under this Agreement. Unless otherwise agreed upon by Licensee and Company in an Order as part of the ordering process, all payments for recurring monthly Subscription Services and for any hardware products provided by Company are due in full before Company ships, delivers or otherwise provides such product or Subscription Services, and all other payments owed under this Agreement by Customer are due within thirty (30) days of receiving an invoice from Company. Payments that are not made on time by Licensee will bear interest at the rate of 1% of the unpaid balance per month (or the maximum amount allowed by law, if lower). Costs of collection for late or unpaid amounts under this Agreement (including any applicable legal fees and other collection fees and expenses) will be paid by Customer.

3.3 Scope of Use. Customer will limit use of the Subscription Services in accordance with any limitations specified in each Order, including any limits on the number of Authorized Users. If Customer exceeds the number of Authorized Users specified in an Order, Company has the right to block access to the Subscription Services by the additional Authorized Users, or to invoice Company for the additional number of Authorized Users. Customer will pay all amounts invoiced by Company under this Section 3.3 within thirty days of receiving the invoice.

3.4 Taxes. Prices specified under this Agreement are net of taxes. To the extent any taxes and other charges (including sales and use taxes, withholding taxes, gross receipts taxes, and other charges such as duties, customs, tariffs, imposts and other government-imposed surcharges) ("Taxes") are applicable to the payments made by Customer to Company under this Agreement, Customer will be responsible for those Taxes and will pay them to the appropriate authorities. Customer will reimburse Company for any such Taxes that Company may pay on behalf of Customer. Company will reasonably cooperate with Customer to help the Customer obtain evidence of Tax payments under this Agreement to the extent Customer needs such evidence to claim tax credits. Each Party is responsible for its own respective income taxes.

3.5 Payment Logistics. For any payment for which a specific payment arrangement is not made in writing by the Parties in connection with the corresponding Order, provision of Subscription Services will require advanced credit card or ACH payment. If for Customer's convenience Customer provides to Company a credit card number on file or an electronic account, Customer gives Company permission to automatically charge that credit card or account for future payments and charges corresponding to Subscription Services that are purchased, received or otherwise authorized by Customer in connection with this Agreement, including for ongoing Subscription Services to which Customer subscribes; Customer may revoke Company's authorization to automatically charge Customer's credit card or account at any time by notifying Company

in writing of such revocation. In addition to its other rights, Company reserves, until full payment has been received, a security interest in all hardware deliverables provided to each Licensee. Customer agrees to execute any document appropriate or necessary to perfect the security interest of Company, or in the alternative, Company may file this Agreement as a financing statement and/or chattel mortgage.

3.6 **Currency.** Unless otherwise agreed in writing by the Parties, all amounts under this Agreement are stated and calculated, and will be paid in United States Dollars (\$ U.S.) to a bank account designated by Company in the USA.

4. **Intellectual Property**

4.1 **Ownership and Reservation of Rights.** Except for the right to use the Subscription Services in accordance with Section 2, Company owns and will retain all right, title and interest in and to the Subscription Services and all related Software and other technology used to deliver the Subscription Services, and to all IP Rights in and to all such Subscription Services, Software and other technology. Company will retain ownership of its own respective technology (including software and hardware), services and IP Rights. The Company shall be the sole owner of any IP Rights and new work product that relate to Company's technology and services (including the Subscription Services and Software), including any improvements, modifications or extensions of such technology and services, or that are otherwise developed by Company in connection with any other services performed by Company for Customer in connection with the Subscription Services. Neither Party intends to grant, and neither Party does actually grant in connection with this Agreement any license or other right that is not expressly stated in this Agreement with respect to any IP Rights, Subscription Service, or Software, whether by implication, statute, inducement, estoppel or otherwise, and Company and Customer each hereby reserves all of its rights other than the rights expressly granted in this Agreement. Customer hereby assigns to the Company any IP Rights developed by the Customer with respect to the Subscription Services and all related Software and other technology used to deliver the Subscription Services, and to all IP Rights in and to all such Subscription Services, Software and other technology. Each Party will reasonably collaborate with the other Party to assist the other Party to perfect its ownership and rights to any IP Rights assigned to the other Party under this Agreement.

5. **Confidentiality.**

5.1 Each Party will comply with the confidentiality obligations in Schedule C (Confidentiality).

6. **Warranties and Disclaimers**

6.1 **Warranties.** With respect to each Subscription Service made available by Company to Customer under an Order, Company warrants to Customer that the respective Subscription Service (excluding Third Party Services) will operate substantially in accordance with Company's applicable documentation made available by Company to Customer. The foregoing warranty in this Section 6.1 will remain in effect for the duration of applicable Order.

6.2 **Performance.** Each Party warrants and represents that it is a corporation or other legal entity duly organized, validly existing and in good standing with the applicable authorities, and that it has all necessary corporate power and authority to execute and deliver this Agreement and each Order executed by it, and perform its obligations under this Agreement and such Order.

6.3 **Compliance with Laws.** Each Party shall comply, in all material respects, with all laws, rules and regulations applicable to its business and operations in connection with this Agreement. Customer will comply with all applicable laws and regulations while using the Subscription Services in connection with this Agreement, including any employment and privacy laws applicable to the Customer's personnel whose data may be processed through the Subscription Services. Each Party will indemnify and hold the other party harmless from any claims brought against such party or its personnel and affiliates as a result a party's noncompliance with such laws, rules or regulations. Each Party will only be liable to the other for their own violation of applicable law.

6.4 **Licenses and Permits.** The municipality where a Premises is located may require a license, permit or other approval for the use of the Subscription Services. Customer is solely responsible for complying with such obligations and providing Company with any then current license, permit number or approval. Company makes no promise of the installation of any Equipment or commencement of the Subscription Services by any particular date and shall not be liable for any loss, damage or expense resulting from any delay. Title in the Equipment shall remain with the Company at all times. Customer shall, at Company's expense, take all reasonable action required by Company to further evidence and maintain Company's rights in and to the Equipment. Customer warrants to Company that Customer will comply with Schedule B.

6.5 **Mutual Disclaimers.** EXCEPT AS EXPRESSLY SPECIFIED IN THIS AGREEMENT, NEITHER COMPANY, NOR CUSTOMER PROVIDES ANY OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY, TO EACH OTHER OR TO ANY THIRD PARTY, WITH RESPECT TO ANY PRODUCTS OR SERVICES (INCLUDING ANY IP RIGHTS, SUBSCRIPTION SERVICES, PROFESSIONAL SERVICES SOFTWARE OR CONTENT), AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF TITLE, AVAILABILITY, RELIABILITY, USEFULNESS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR ARISING FROM COURSE OF PERFORMANCE OR USAGE. As Customer's sole and exclusive remedy for any warranty breach under this Section 6, Company will make commercially reasonable efforts to address any material deviations from the applicable Company documentation that may occur in the operation of Subscription Services and to work with Customer in good faith to address such deviations.

6.6 **Mutual Limitations.** Neither Party will be liable for any costs of procurement of substitute deliverables or other products or services, nor for any loss of business, loss of use or of data, interruption of business, lost profits or goodwill, or other indirect, special, incidental, exemplary or consequential damages of any kind arising in connection with this Agreement, even if it has been advised of the possibility of such loss, and notwithstanding any failure of essential purpose of any limited

remedy. This exclusion includes any liability that may arise out of third-party claims. Except for the obligation to pay the fees due for Subscription Services in the normal course of this Agreement under applicable Orders, under no circumstances shall the total and aggregate liability of all kinds arising out of or related to this Agreement and all Orders, regardless of the forum and regardless of whether any action or claim is based on contract, indemnification obligations, tort or otherwise, exceed for either Party at any point in time the total amount paid to Company under this Agreement for the Subscription Services giving rise to such liability over the twelve (12) months prior to that point in time. The foregoing limitation in this Section 6.6 is cumulative, with all payments for claims or damages being aggregated to determine satisfaction of the limit, and the existence of one or more claims will not enlarge that limit. Each Party acknowledges that these limitations will apply notwithstanding any failure of essential purpose of any limited remedy. No claim, suit or action will be brought under this Agreement against either Party more than one year after the related cause of action first occurred.

7. Term and Termination

7.1 Term.

(a) This Agreement becomes effective on the Effective Date and will continue in effect until terminated in accordance with this Section 7 ("Term").

(b) Each Order will automatically renew upon expiration of the corresponding Subscription Term by a renewal term equal to the original Subscription Term, unless either Party provides written notice of non-renewal at least sixty (60) days prior to the upcoming renewal date. Company may change the fees for Subscription Services after the first twelve months of each Subscription Term with thirty (30) days prior written notice to Customer.

7.2 Termination.

(a) Termination for Convenience. Either Party may terminate this Agreement or any Order or SOW, in whole or in part, at any time, by giving prior 60-day written notice of termination to the other Party, except that neither Party may terminate for convenience (i) any Order before the end of all Subscription Terms defined in that Order, or (ii) this Agreement until all Subscription Terms included in all Orders have expired.

(b) Termination for Cause. This Agreement may also be terminated immediately, by written notice, (i) by either Party in the event of a material breach of this Agreement by the other Party if the circumstances that led to such breach remain uncured for 30 days from receipt of written notice of default, or (ii) by either Party if the other Party ceases to do business, makes an assignment for the benefit of creditors, or files or has filed against it a petition of bankruptcy or other insolvency proceeding.

7.3 Effect of Termination. The provisions of Sections 1, 3 (to the extent payments remain due after the termination or expiration date), 4, 5, 6.5, 6.6, 7.3 and 8 and Schedules A and D will survive any termination or expiration of this Agreement.

8. General

8.1 Insurance. During the term of this Agreement and for at least one year after any termination or expiration of this Agreement, each Party will maintain insurance policies with financially sound and nationally reputable insurers rated A-VII or better by A.M. Best Company as follows: (a) Commercial General Liability Insurance with limits of at least \$1 Million per occurrence and at least \$2 Million in the aggregate; (b) Workers' Compensation and Employers' Liability Insurance, of the type and amount required by laws and regulations applicable to that Party under this Agreement; and (c) coverage for Cyber and Privacy liability arising out of technology services, including invasion of privacy violations and data security breach of networks that are under that Party's control, with a limit of at least \$1 Million per occurrence and at least \$1 Million in the aggregate. Each Party will provide the other party with certification of such insurance upon request.

8.2 Publicity; Use of Name. Company may publish, advertise or otherwise make known the existence of this Agreement, including, without limitation, Customer's use of the Services. Company shall have the right to state factually on any of its websites and other advertising or promotional materials that Customer is a customer of the Company without seeking prior approval from Customer.

8.3 Assignment. Neither Party may assign this Agreement or any Order without the express consent of the other Party, except that either Party may assign this Agreement (together with all Orders) without the need to obtain such consent in connection with a corporate reorganization or a sale or transfer of all or substantially all of its stock, assets or business relating to this Agreement, provided that the assignee agrees to assume this Agreement and be bound by its terms.

8.4 Notices. All notices or other communications relating to the performance, enforcement, or other legal aspects of this Agreement will be in writing and will be personally delivered or sent by overnight courier service to each Party, as applicable, at the address set forth in the preamble of this Agreement or in a relevant Order. Any other communications between Customer and Company, including relating to the technical and business collaboration under specific Orders or SOWs, may be conducted over telephone, email, or by other means reasonable under the circumstances and mutually acceptable to Customer and Company.

8.5 Relationship of Parties. The Agreement does not create and will not be construed as creating any relationship of agency, franchise, fiduciary duty, partnership, or employment between the Parties. Accordingly, neither Party will have the authority, either express or implied, to make any contract, commitment or representation, or incur any debt or obligation on behalf of the other Party. This Agreement and relationship are not exclusive for either Party.

8.6 Applicable Law and Venue. This Agreement and all claims relating to the relationship of the parties contemplated herein, whether or not arising directly under this Agreement, will be governed by and construed and interpreted in accordance with the laws of the State of New York, USA, applicable to contracts entered into and to be performed within that state. Customer and Company hereby acknowledge and agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Company and Customer hereby irrevocably consent to the

personal jurisdiction and venue of any State or Federal court located in New York, USA.

8.7 **Injunctive Relief.** Notwithstanding anything to the contrary in this Agreement, in the event of a breach under Schedule C (Confidentiality), each Party, without limiting any of its other respective rights or remedies, will be entitled to specific performance and injunctive and/or equitable relief, in addition to other remedies afforded by law, to protect its interests.

8.8 **Force Majeure.** Each Party will be excused from performance and will not be liable for any delay in delivery or for non-delivery, in whole or in part, caused by the occurrence of any contingency beyond the reasonable control of that Party, including but not limited to, war (whether an actual declaration thereof is made), sabotage, insurrection, riot or other act of civil disobedience, actual or threatened act of terrorism or of any other public enemy, hacking or other cyber-attacks, failure or delay in transportation, act of any government or any agency or subdivision thereof affecting the terms of this contract or otherwise, judicial action, labor dispute, accident, defaults or suppliers, fires, explosion, flood, storm or other act of God, shortage of labor, fuel, raw material or machinery or technical or yield failures.

8.9 **Construction.** For purposes of this Agreement, unless otherwise required by the context: the singular number will include the plural, and vice versa; the verb "may" indicates a legal right to perform the respective activity but does not establish a legal obligation to perform that activity; and the words "include," "including" and "for example," and variations thereof, will not be deemed to be terms of limitation, but rather will be deemed to be followed by the words "without limitation." The headings in this Agreement are for convenience of reference only and will not be referred to in connection with the construction or interpretation of this Agreement. English is the official language of this Agreement. This Agreement may be translated and/or executed in languages other than English, but the Parties agree that the English version will control. Each Party waives any rights that it may have under the laws of any country or jurisdiction to have this Agreement written in any local language, or interpreted or superseded by local law in those countries.

8.10 **Miscellaneous.** No amendment or modification of this Agreement will be valid or binding upon the Parties unless made in writing and executed by authorized representatives of each Party, except as otherwise expressly provided in this Agreement. This Agreement includes all of the attached Schedules, and all such Schedules are expressly incorporated and made a part of this Agreement. This Agreement supersedes all prior agreements and understandings, including oral representations, between the Parties relating to its subject matter. In case of any discrepancy between this Agreement and any SOW, Purchase Order, Quotation or other document, the terms of this Agreement will prevail unless otherwise expressly stated in such SOW, Purchase Order, or document. Waiver of breach of any provision of this Agreement on any occasion will not be deemed a waiver of that provision or of any other provision on any other occasion, nor will such waiver affect the right of either party to terminate this Agreement. If any provision in this Agreement is held to be invalid or unenforceable for any reason, such provision will, to the extent of such invalidity or unenforceability, be severed, but without in any way affecting the remainder of such provision or any other clause in this Agreement, and the provision will be replaced with a provision which, to the extent permitted by applicable law, achieves the purposes intended by the invalid or unenforceable provision. This Agreement may be executed in counterparts.

Schedule A Definitions

1. "**Alert**" means Data (including photographic images) the Company sends to Authorized Users (including Responders) if the Image Screening Service indicates the presence of a weapon at the Premises.

2. "**Authorized User**" is an individual authorized by Customer to access the Subscription Services on behalf of Customer and for the Customer's internal business purposes, and otherwise in accordance with this Agreement. Examples of Authorized Users include employees of Customer assigned to administer and manage the Subscription Services on behalf of Customer under this Agreement. For clarification, unless approved by Company in writing (email acceptable), Customer will ensure that each Authorized User is a natural person, and not a legal entity.

3. "**Data**" means any form of data or information received via the Subscription Services, including any Alerts, Images, other video or audio.

4. "**Equipment**" means any equipment installed at a Premises to enable Customer to access and use the Services. Equipment may include video cameras, video management system, DVR, NVR and any similar or related systems, software or equipment installed at the Premises or that otherwise function as, or comprises a part of, such system, software or equipment (no matter where located), including any LAN or other network used to transmit or receive Data or Images.

5. "**Image**" means those still photographic images of a person with a weapon that Authorized Users receive and review as part of the Subscription Services.

6. "**IP Rights**" means any and all intellectual property rights anywhere in the world, including all (a) patents, including utility patents, design patents, utility models, industrial designs, statutory registrations and all other equivalent or similar rights anywhere in the world in inventions and discoveries, together with any applications thereof ("**Patents**"), (b) copyrights and all other similar rights in Software, documentation, and other works of authorship ("**Copyrights**"), (c) mask work rights, (d) trade secrets rights and other similar rights in oral and written confidential information, know-how, documentation, technology and Software ("**Trade Secrets**"), (e) rights in all trade names, logos, common law trademarks and service marks, trademark and

service mark registrations, and applications therefore ("Trademark Rights"), (f) rights in mask works, chip topographies, and chip or product layouts and designs; (g) rights in all moral and economic rights of authors and inventors, however denominated; and (h) any other similar, corresponding or equivalent rights to any of the foregoing related to any technology, hardware, software or services.

7. "Monitoring Facility" means the facility at which Operators review Images as part of the Subscription Services.
8. "Operator" means Company's employees or subcontract personnel at the Monitoring Facility who provide the Image Screening Service.
9. "Premises" means each premises for which Customer purchases any Subscription Services from Company.
10. "Professional Services" means implementation, training or consulting services that Company may perform as described in an Order and/or SOW executed by the Parties.
11. "Responder" means any emergency responder, including any police or other sworn officer, any school resource officer or any medical responder.
12. "Subscription Services" means services made available by Company to Customer under this Agreement on a recurring basis, as specified in an Order. Subscription Services may include SAAS services, API access, and other cloud-based services.
13. "Subscription Term" means, with respect to each item of Subscription Services included in each Order, the term specified in that Order for that item of Subscription Services.
14. "Order" means each order form entered into by the Parties and referencing this Agreement. Orders may be submitted and accepted electronically or in writing.
15. "SAAS" means Software-as-a-Service offerings, as generally known in the industry.
16. "Services" means any Subscription Services and any other services provided by Company to Customer under this Agreement, as particularly specified in an Order or in an SOW.
17. "Software" means (i) computer software and code, in the form made available by Company (whether in source code or object code), including any and all software implementations of algorithms, models and methodologies, assemblers, scripts, macros, applets, compilers; development tools, design tools and user interfaces; (ii) databases and compilations, including any and all data (including technology, image and sound data), whether machine readable or otherwise; (iii) descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing; and (iv) all documentation, including user manuals and training materials, relating to any of the foregoing. Examples of Software include cloud-based Software providing SAAS functionality, mobile apps, client device software, edge computing software modules, and applicable programming interfaces (APIs).
18. "Statement of Work" or "SOW" means each document entered into by the Parties and referencing this Agreement setting forth Professional Services to be performed hereunder. SOWs may be submitted and accepted electronically or in writing.

Schedule B

Customer Responsibilities

Customer will comply with the following:

1. Connectivity. Customer will ensure that (a) the Equipment has adequate and continuous power and Internet connection, (b) Customer and its Authorized Users use an Internet browser meeting the requirements specified by Company to access and use the Subscription Services, and (c) the Equipment is able to acquire, process and transmit Images in real time to Company and Operators. Customer understands that if Internet is not reliable or is not available for any reason, the Equipment will not be able to send Images as necessary for the Subscription Services, and the Subscription Services, including weapon detection, would be correspondingly affected or made impossible.
2. Data is Necessary to the Subscription Services. Company is able to provide the Subscription Services only if Operators timely receive Data and Images at the Monitoring Facility. Video received from cameras may be affected by any number of circumstances, including darkness or limited light, sunlight, spotlights, atmospheric conditions, the condition of the camera, including the lens, age and quality, camera location and positioning and system settings as well as issues respecting the Equipment or the transmission of video on the Equipment. Transmission of Data and Images from the Equipment, regardless of the communications equipment or communications Subscription Services used, may be interrupted, circumvented or otherwise compromised for any number of reasons. If the communications equipment or communications service is inoperative or interrupted by any cause, there will be no indication of an interruption unless Customer elects to use and pay for technology that detects and reports such an interruption. Customer may also elect to use redundant or back-up communication equipment or communications service. The accuracy of any location-based functionality may be limited and may not permit others to identify the location of the subject precisely or at all.
3. Certain Customer Responsibilities. Customer is solely responsible for (i) maintaining adequate data privacy and cyber-liability protections for all of Customer's systems, including the Equipment and any local area network or other networks, owned or otherwise used by Customer, including after the time in which Customer may have modified (or caused others to modify) network settings to permit Company to provide the Subscription Services; (ii) each Authorized User's use of and access to the Subscription Services; (iii) ensuring that Company has reasonable access to the Equipment when Company personnel (or subcontractors) are on a Premises to perform any work, including the installation, servicing or removal of the Equipment from the Premises; (iv) the receipt and use of any Alerts, Images, video, audio or other Data from the Subscription Services by an Authorized User or any other person or entity, including any Responder; (v) providing (a) appropriate and adequate electrical power for the Equipment; and (b) a safe, fully-secure and otherwise adequate physical location for the Equipment at the Premises, including a location within the Premises that satisfies the requirements of any manufacturer or seller of the Equipment, including any requirements respecting the environment in which the Equipment is located; (vi) providing adequate (a) security measures to prevent access to the Equipment from persons not authorized for such access and (b) communications equipment and communications Subscription Services with sufficient bandwidth, network stability and access to the Internet for the Equipment and the Subscription Services to permit the Data and Images to be transmitted via a safe, fully-secure and otherwise adequate connection to the Internet to permit the Equipment and Subscription Services to operate as intended; and (vii) providing (a) each Authorized User adequate instructions and training regarding the Subscription Services and (b) persons who may be on the Premises from time-to-time adequate instruction, training, practice and drills respecting one or more appropriate course of action or steps to take in the event a person with a weapon approaches or enters a Premises, including shelter in place drills. Customer will take all steps necessary to protect and maintain the Equipment during the Term of this Agreement and will be solely responsible for any damage or destruction of the Equipment while at the Premises.

4. The Equipment. Customer alone is responsible for each of the following items, either by performing the requirements of such items or causing another person or entity to do so: (i) the operation of the Equipment in accordance with the requirements of any applicable manufacturer or service provider; (ii) testing the Equipment's transmission of Data to the Monitoring Facility from time-to-time (at least monthly) and each time after the installation, replacement, modification or repair of any communications equipment or communications service; (iii) confirming that the communications equipment or communications Subscription Services are compatible with the Equipment, including after any communications change; (iv) maintaining the Equipment, including any cameras, all peripherals, including cabling or environmental protections in good working order so that the Equipment (including each camera within the Equipment) (a) operates as intended and consistent with the requirements of the Subscription Services and (b) meets Company's then-applicable requirements for cameras and video. Customer is solely responsible for all aspects of the Equipment, including the design, configuration, installation and use of the Equipment.

Schedule C
Confidentiality

1. Confidential Information means any information disclosed by either Party to the other Party in connection with this Agreement (each a "Discloser" or "Recipient" of Confidential Information, as applicable). Confidential Information includes all information that is communicated orally, or that is in written, electronic, graphic, machine readable or in other tangible form, provided that such information is identified as "Confidential", "Proprietary" or in some other manner to indicate its confidential nature, or that it should be reasonably known under the circumstances as being confidential. Confidential Information will include all technology, technical and business information, and all other tangible items and electronically stored data, including materials, formulations, compositions, prototypes, structures, designs, software, documentation, systems, files, records, databases, drawings, artwork, designs, displays, audio-visual works, manuals, specifications, flow charts, web pages, customer lists, test cases, customer support information, electronic and other data, tangible embodiments of technical or business data, marketing collateral, market requirement documentation, R&D development specifications, protocol specifications, and any other similar technology, information, data, materials and tangible or intangible items. The Subscription Services and any modifications or extensions made in connection with this Agreement will be the Confidential Information of Company. The Licensee's technology, and any modifications or extensions made in connection with this Agreement to Licensee's technology, will be the Confidential Information of the respective Licensee. Notwithstanding the foregoing, Confidential Information will exclude any information that (i) was at the time of disclosure, or later becomes generally known and available in the public domain, through no fault of the Recipient; (ii) was known to the Recipient at the time of disclosure; (iii) is publicly disclosed with the prior written approval of the Recipient; (iv) was, or is later independently developed by the Recipient without any use of the Discloser's Confidential Information; or (v) becomes known to the Recipient from a source other than the Discloser and not in violation of the Discloser's rights.

2. Obligations. With respect to any Confidential Information disclosed under this Agreement by Discloser, (a) Recipient will treat such Confidential Information as confidential and will handle it using at least the same procedures and degree of care which it uses to prevent the misuse and disclosure of its own confidential information of like importance, but in no event less than reasonable care, (b) Recipient will only use such Confidential Information as expressly permitted under this Agreement and only to the extent necessary, and (c) Recipient will not disclose any such Confidential Information to any of its employees, consultants or other individuals or entities except to the extent necessary for the purposes of this Agreement and subject to confidentiality and nonuse obligations at least as protective of the Discloser as those set forth in this Agreement (in which case Discloser will remain responsible for any noncompliance by such employees, consultants or other individuals or entities). Recipient further agrees to keep confidential the terms of this Agreement. Recipient will not reverse engineer, disassemble or decompile any Subscription Services or other technology made available by the Discloser under this Agreement, except to the extent that this clause is not enforceable under applicable laws.

3. Consumer Data. Customer will own all data collected from the Customer's Premises through Images and processed using the Subscription Services under this Agreement (such data "Operational Data"). Customer will comply with all applicable privacy laws in the course of collecting, storing and using the Operational Data. Customer grants to Company a perpetual and irrevocable license, with the right to sublicense to Company's affiliates, to use the Operational Data in connection with Company's business, including to assist Customer to configure and use the Subscription Services, and to provide to Customer the analytics, sales reporting and other services available in the Customer's cloud-based administrative portal. Additionally, Company may use Operational Data in an aggregate and anonymized format (without uniquely identifying individuals or entities) in the course of its business and to improve the Subscription Services, provided that Company makes available to Customer services using such aggregated metrics and data that are similar to those provided to other Company customers. Company will also comply with all privacy laws applicable to Company in connection with the

Operational Data to the extent that Company has access to such Operational Data.

4. Deletion of Data. Upon any termination or termination of this Agreement or upon request from the Discloser, Recipient will delete all of the Confidential Information received from the Discloser under this Agreement (together with all copies and derivatives of such Confidential Information), except that (a) Recipient may continue to temporarily hold a copy of such information for data retention purposes in accordance with its data retention policy or as required by applicable laws (e.g., as required by PCI DSS data retention requirements), and (b) Recipient may continue to hold and use any Confidential Information received from the Discloser to the extent that such Confidential Information is anonymized and used in accordance with all applicable laws and regulations.