

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is dated November 20, 2023, (“Effective Date”) and is between the City of Manhattan Beach, a California municipal corporation (“City”) and Savant Solutions, Inc., a Wyoming corporation (“Consultant”). City and Consultant are sometimes referred to herein as the “Parties”, and individually as a “Party”.

RECITALS

A. City desires to utilize the services of Consultant as an independent contractor to provide [REDACTED] Managed Detection Response and Managed Risk services.

B. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Consultant and Consultant desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The Parties therefore agree as follows:

1. Consultant’s Services.

A. Scope of Services. Consultant shall perform the services described in the Scope of Services (the “Services”) for managed detection response and managed risk services, attached as **Exhibit A**. City may request, in writing, changes in the Scope of Services to be performed. Any changes to the scope or cost of work must be in writing and mutually agreed upon by the Parties. The City will have the option to activate and/or be part of the IR Jumpstart Retainer and Service Warranty Subscriber Auxiliary Agreements, attached as **Exhibits C** and **D**.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the “City Representative”). For the purposes of this Agreement, the Consultant Representative shall be Caleb Kwong, Trusted Security Advisor (the “Consultant Representative”). The Consultant Representative shall directly manage the Consultant’s Services under this Agreement. Consultant shall not change the Consultant Representative without City’s prior written consent.

C. Time for Performance. Consultant shall commence the Services on the Effective Date and shall perform all Services by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

D. Standard of Performance. Consultant shall perform all Services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

E. Personnel. Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such Services.

F. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements.

G. Permits and Licenses. Consultant shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of Services under this Agreement, including a business license.

2. Term of Agreement. The term of this Agreement shall be from the Effective Date through November 19, 2025 (two years), unless sooner terminated as provided in Section 12 of this Agreement or extended.

3. Compensation.

A. Compensation. As full compensation for Services satisfactorily rendered, City shall pay Consultant at the annual rates set forth in the Approved Fee Schedule attached hereto as **Exhibit B**. In no event shall Consultant be paid more than \$227,709 (the "Maximum Compensation") for such Services.

B. Expenses. City shall not reimburse Consultant for any expenses other than those expressly set forth in Exhibit B.

C. Unauthorized Services and Unanticipated Expenses. City will not pay for any services not specified in the Scope of Services, unless the City Council or the City Representative, if applicable, and the Consultant Representative authorize such services in writing prior to Consultant's performance of those services or incurrence of additional expenses. Any additional services authorized by the City Council, or (where authorized) the City Manager shall be compensated at the rates set forth in **Exhibit B**, or, if not specified, at a rate mutually agreed to by the Parties. At the request of the Consultant, the City Council may, in writing, reimburse Consultant for an unanticipated expense at its actual cost. City shall make payment for additional services and expenses in accordance with Section 4 of this Agreement.

4. Method of Payment.

A. Invoices. Consultant shall submit to City an invoice, on an annual basis, for the Services performed pursuant to this Agreement. Each invoice shall itemize the

Services rendered during the billing period, if applicable, and the amount due. City shall review each invoice and notify Consultant in writing within ten Business days of receipt of any disputed invoice amounts.

B. Payment. City shall pay all undisputed invoice amounts within 30 calendar days after receipt up to the Maximum Compensation set forth in Section 3 of this Agreement. City does not pay interest on past due amounts. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Consultant. Notwithstanding the preceding sentence, if Consultant is a nonresident of California, City will withhold the amount required by the Franchise Tax Board pursuant to Revenue and Taxation Code Section 18662 and applicable regulations.

C. Audit of Records. Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement available during Consultant's regular working hours to City for review and audit by City.

5. Independent contractor. Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City.

6. Information and Documents.

A. Consultant covenants that all data, reports, documents, discussion, or other information (collectively "Data") developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subcontractors shall not without written authorization from the City Manager or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. A response to a subpoena or court order shall not be considered "voluntary," provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City may, but has no obligation to, represent Consultant or be present at

any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

C. All Data required to be furnished to City in connection with this Agreement shall become City's property, and City may use all or any portion of the Data submitted by Consultant as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the Services, surveys, notes, and other documents prepared in the course of providing the Services shall become City's sole property and may be used, reused or otherwise disposed of by City without Consultant's permission. Consultant may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Consultant.

D. Consultant's covenants under this Section shall survive the expiration or termination of this Agreement.

7. Conflicts of Interest. Consultant affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Services contemplated by this Agreement. Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar Services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

8. Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments,

penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement.

3) Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws.

4) City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

5) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

9. Insurance.

A. Minimum Scope and Limits of Insurance. Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Section.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Consultant shall execute a declaration that it has no employees.

4) Technology Professional Liability/Errors and Omissions Insurance appropriate to the Consultant's profession and work hereunder, with minimum limits of not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Consultant in this agreement and

shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

a) The policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the City in the care, custody, or control of the Consultant. If not covered under the Consultant’s liability policy, such “property” coverage of the City may be endorsed onto the Consultant’s Cyber Liability Policy as covered property as follows:

b) Cyber Liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the City that will be in the care, custody, or control of Consultant.

B. Acceptability of Insurers. The insurance policies required under this Section shall be issued by an insurer authorized or admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self- insurance shall not be considered to comply with the insurance requirements under this Section.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City and its elected and appointed officials, officers, employees, agents and volunteers as additional insureds. This provision shall also apply to any excess/umbrella liability policies.

D. Primary and Non-Contributing. The insurance policies required under this Section shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its elected and appointed officials, officers, employees, agents or volunteers, shall be in excess of Consultant’s insurance and shall not contribute with it.

E. Consultant’s Waiver of Subrogation. The insurance policies required under this Section shall not prohibit Consultant and Consultant’s employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City’s option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Section during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section is canceled or reduced in coverage or limits, Consultant shall, within two Business Days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Section, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with City's Risk Manager. Consultant shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under Section 8 of this Agreement.

K. Broader Coverage/Higher Limits. If Consultant maintains broader coverage and/or higher limits than the minimums required above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

L. Subcontractor Insurance Requirements. Consultant shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

10. Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent Data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

11. Records and Inspections. Consultant shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, and other such information required by City that relate to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to City, its designees and representatives at reasonable times, and shall allow City to examine and audit the books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.

12. Termination of Agreement.

A. Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Consultant at least five calendar days before the termination is to be effective. Consultant may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

B. Obligations upon Termination. Consultant shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Consultant, City shall pay Consultant based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the Services required by this Agreement. Consultant shall have no other claim against City by reason of such termination, including any claim for compensation.

13. Force Majeure. Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to acts of God, embargoes, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, judicial orders, enemy or hostile governmental action, fire or other casualty, or other causes beyond Consultant's reasonable control and not due to any act by Consultant.

14. Default.

A. Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default.

B. In addition to the right to terminate pursuant to Section 12, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Consultant with written notice of the default. Consultant shall have ten calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

15. Notices. Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant's and City's regular business hours, or (c) three Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

If to City:

Attn: IT Director/IT Department
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, California 90266
Telephone: (310) 802-5067
Email: mguardado@manhattanbeach.gov

If to Consultant:

Savant Solutions, Inc.
Attn: Caleb Kwong
1030 G St.
Sacramento, California 95814
Phone: (916) 836-8182 x1337
Email: Caleb@SavantSolutions.net

With a courtesy copy to:

Quinn M. Barrow, City Attorney
1400 Highland Avenue
Manhattan Beach, California 90266
Telephone: (310) 802-5061
Email: qbarrow@rwglaw.com

16. Non-Discrimination and Equal Employment Opportunity. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during

employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

17. Prohibition of Assignment and Delegation. Consultant shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Consultant from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

18. No Third Party Beneficiaries Intended. This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

19. Waiver. No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the Party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

20. Final Payment Acceptance Constitutes Release. The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Consultant, its employees, subcontractors and agents.

21. Corrections. In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction in a reasonably timely manner, such correction may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may

deduct the cost of such correction from any retention amount held by City or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

22. Non-Appropriation of Funds. Payments to be made to Consultant by City for services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's services beyond the current fiscal year, this Agreement shall cover payment for Consultant's services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

23. Exhibits. Exhibits A, B, C, and D constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Consultant's proposal, the provisions of this Agreement shall control.

24. Entire Agreement and Modification of Agreement. This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by both Parties.

25. Headings. The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

26. Word Usage. Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

27. Time of the Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

28. Business Days. "Business days" means days Manhattan Beach City Hall is open for business.

29. Governing Law and Choice of Forum. This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of

construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a superior court with geographic jurisdiction over the City of Manhattan Beach.

30. Attorneys' Fees. In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to recover all attorneys' fees, experts' fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

31. Severability. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

32. Counterparts. This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument.

33. Corporate Authority. Each person executing this Agreement on behalf of his or her Party warrants that he or she is duly authorized to execute this Agreement on behalf of that Party and that by such execution, that Party is formally bound to the provisions of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

City of Manhattan Beach,
a California municipal corporation

Consultant:

Savant Solutions, Inc.,
a Wyoming corporation

By: _____
Name: Bruce Moe
Title: City Manager

DocuSigned by:
Caleb Kwong 10/31/2023
By: _____
Name: Caleb Kwong
Title: CEO

ATTEST:

By: _____
Name: Liza Tamura
Title: City Clerk

By: _____
Name: _____
Title: _____

**PROOF OF AUTHORITY TO BIND
CONTRACTING PARTY REQUIRED**

APPROVED AS TO FORM:

DocuSigned by:
Quinn M. Barrow for 10/31/2023
By: _____
Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

DocuSigned by:
Steve S Charelian, Finance Director 10/31/2023
By: _____
Name: Steve Charelian
Title: Finance Director

APPROVED AS TO CONTENT:

DocuSigned by:
Miguel Guardado, Information Technology Director 10/31/2023
By: _____
Name: Miguel Guardado
Title: Information Technology Director

EXHIBIT A SCOPE OF SERVICES

Managed Detection and Response

Detect

- 24x7 Monitoring of the City's network environment for threats and risks
- Catch advanced threats that are missed by your other technology stacks
- Broad visibility to discover and profile assets and collect data and security event observations from multiple sources

Respond

- Manage the investigations on all the alerts, filter the false positives, and provide the City actionable alerts
- Manage the City logs, enabling the City to conduct additional investigations if needed.
- Detect and respond to critical security incidents. With the sensor and agent implemented, Consultant has the capability to contain the incident without bothering your team after hours.

Recover

- Guide remediation remotely in-case of a breach to help neutralize the threat.
- Investigate the root cause of incidents to promote the creation of customized rules and workflows that harden the City's cybersecurity posture.
- Hold regular meetings with the City to review the City's overall security posture and identify areas of improvement that are optimize for the City's environment.

Additional capabilities:

- Dedicated Named Concierge Security Team during business hours
- Unlimited data uploaded to Consultant's proprietary SIEM
- O365 Monitoring
- Cloud Services Monitoring (AWN, Azure, and Google)

Managed Risk

Discover

- 24x7 risk monitoring for vulnerabilities, system misconfigurations, and account takeover exposure across your endpoints, networks, and cloud environments.
- Risk prioritization for security observations that are enriched with digital risk information to add greater context, quantify your exposure, and prioritize actions.
- Dynamic asset discovery to automatically and continuously map, profile, and classify assets on your network to help you understand your attack surface.

Benchmark

- Reveal configuration errors and drift over time that are invisible to most vulnerability assessment and management tools.
- Risk scoring of your environment that is weighted based on severity, and benchmarked against industry peers to track the progress of your remediation efforts.
- Automated and exportable risk score trends, action lists, executive summary, and risk assessment reports summarize risk exposure in consumable, shareable formats to help you prioritize actions that harden your environment.

Harden

- Named concierge security team to provide the city with personalized risk remediation and validation that the vulnerability has been successfully remediated, while also verifying it hasn't returned.
- On-demand reporting with rich charts and dashboards for meeting compliance needs or providing on-demand executive reporting to elevate visibility and close gaps.

Log Search

The intuitive ██████████ MDR Log Search interface permits the quick harvest of operational and security insights by searching the accumulated log data. It also offers a dynamic histogram of search results that allows viewing data "hotspots." Log Search enables the download of query results for further analysis using a dedicated toolset.

It answers common IT issues, including:

- Operational
 - Use login information to answer employee productivity questions
 - Determine if a user has been locked out of their account
 - O365
 - What login failures have occurred?
 - Was an email sent to a user?
 - Terminated employee activity
- Technical
 - Investigate failed login attempts (AD or O365 log information)
 - Search operational information needed for audits

- Locate a change event – firewall, router, AD GPO, or any other log source
- Verify that a firewall is denying or allowing a connection
- Validate users logging into servers or those servers are being used

Log Sources are all on-premises security and operational log data and Cloud SaaS and IaaS data [REDACTED]® Managed Detection.

The service includes the following:

- Unlimited Event Data
 - provide unlimited visibility access to the City data
- On-Demand Recall and Access to Retained Logs in a Single View
 - Retain log sources for compliance purposes and receive on-demand access to your data.
 - Download query results for further analysis for use within your existing toolset.
- Works With What You Have
 - Gain broad visibility across your existing systems with detection and security event collection that spans log sources, internal and external networks, endpoints, and the cloud.
- Simplified Log Search
 - An intuitive interface provides on-demand access to all your log data. Pre-defined queries ensure you can answer operational and security questions quickly and easily.
- Predictable Costs
 - With unlimited log retention and search built into the [REDACTED] Platform, you won't be surprised by hidden fees or limitations on data retention or recall volumes.
- Flexible Data Retention
 - All log data is stored for 90 days at no additional cost, and longer retention periods are available to meet your compliance requirements.

Supported Log Sources

[REDACTED] Log Search works with the City's existing technology stack, allowing it to see the complete picture with broad visibility.

The Log Search collects log information from a broad array of systems across the IT environment, including:

- ❖ Active Directory

- ❖ Authentication
- ❖ Endpoint
- ❖ Firewalls
- ❖ IDS/IPS
- ❖ Mail Servers
- ❖ SaaS/IaaS
- ❖ SSL-VPN
- ❖ UTM
- ❖ WAP
- ❖ Web Gateways
- ❖ And several other external sources of log information

Service Levels

██████████ Security engineers are available 24 hours a day seven days a week, including holidays.

City Escalation of Issues:

- Any Emergency tickets will be escalated to ██████████ by calling and stating this is an emergency and ██████████ will respond within 5 minutes.
- ██████████ will acknowledge any ticket submitted within 1 Business Hour and will respond or provide an estimate of response determined by scope, size, and urgency.
- Customers can schedule specific activities with their Security Team by personally calling, emailing or contacting ██████████

Savant/██████████ Escalation of Issues:

- Security Incidents identified by ██████████ to be Emergency will be escalated to the customer 24x7 within 30 minutes of discovery.

- The City and [REDACTED] will work to define what constitutes an Emergency Incident (ex: Ransomware).
- [REDACTED] will notify and escalate to the City any security events in a timely manner but no more than 2 hours after discovery.
- Typical notification is through e-mail by a trouble ticket, but the City can request special notification through phone or other means if supported. [REDACTED] and the City will agree on notification and escalation of security incidents. Notifications will include a description of the security event, the level of exposure, and a suggested remediation strategy.
- The City can request validation that any fixes the City has implemented are working as expected.

**EXHIBIT B
APPROVED FEE SCHEDULE**

The City will pay an annual fee based on the following table. The price is based on NASPO Contract No. AR2472.

Time Period	Annual Fee
Year 1	\$111,139
Year 2	\$116,570
Total Not-to-Exceed	\$227,709

The following table provides the detailed price breakdown by part/service item.

Line #	Part No.	Description	Qty	Unit Price	Year 1 Cost
1		MDR Users license	481	\$102.00	\$49,062.00
2		MDR server license	75	\$102.00	\$7,650.00
3		MDR Log Retention - 1 year	556	\$8.00	\$4,448.00
4		300 Series Sensor - 2 x 10G SFP+ with Fiber LC	1	\$5,880.00	\$5,880.00
5		200 Series Sensor	1	\$1,630.00	\$1,630.00
6		MDR Log Search	556	\$8.00	\$4,448.00
7		Managed Risk Users	481	\$50.00	\$24,050.00
8		Managed Risk server license	75	\$50.00	\$3,750.00
9		MDR Office 365 user license	481	\$21.00	\$10,101.00
		Subtotal Year 1 Services Fees			\$111,019.00
		Tax:			\$0.00
		Credit:			\$0.00
		Shipping:			\$120.00
		Year 1 Total:			\$111,139.00

EXHIBIT C

Incident Response (“IR”) JumpStart Retainer Agreement

This IR JumpStart Retainer Agreement (the “**Agreement**”) is a legal agreement entered into by and between [REDACTED] Networks, Inc. and its affiliates (“**Company**” or “[REDACTED]”) and the customer (“**Customer**”) reflected on any order forms, quotes, or other ordering document that references this Agreement (“**Order Form**”) for a subscription to the IR JumpStart retainer offering (“**IR JumpStart Retainer**”). The Order Form will be issued to Customer by [REDACTED] or an authorized partner (“**Authorized Partner**”). This Agreement is effective on the date Customer executes or accepts the Order Form, submits a matching purchase order to [REDACTED] or the Authorized Partner, or otherwise accepts the delivery of the IR JumpStart Retainer or uses such product, as applicable (the “**Effective Date**”). This Agreement permits Customer to purchase a subscription to IR JumpStart Retainer, as defined below, and identified in the Order Form and sets forth the terms and conditions under which such offering will be delivered by Company. Customer and Company may be individually referred to as a “party” and collectively referred to as the “parties”. This Agreement consists of the terms and conditions set forth below, any URL terms (the “**URL Terms**”) referenced herein, and any attachments or exhibits included herewith. If there is a conflict between the terms of this Agreement, the Order Form, or the terms set forth in the URL Terms, the documents will control in the following order: this Agreement, the URL Terms, and the Order Form.

BY EXECUTING, WHETHER MANUALLY OR ELECTRONICALLY, OPERATING, DOWNLOADING, INSTALLING, REGISTERING OR OTHERWISE USING IR JUMPSTART RETAINER, ACCEPTING AN ORDER FORM FOR IR JUMPSTART RETAINER, OR CLICKING AN “I ACCEPT”, “SUBMIT”, OR “CONTINUE” BUTTON ASSOCIATED WITH THIS AGREEMENT OR THE CYBER JUMPSTART PORTAL WEBSITE TERMS, CUSTOMER (OR ITS AUTHORIZED AGENT, IF APPLICABLE) EXPRESSLY AND EXPLICITLY ACKNOWLEDGES AND AGREES THAT THIS IS A BINDING AGREEMENT AND CUSTOMER HEREBY AGREES TO THE TERMS OF THIS AGREEMENT AND ACCEPTS THE OFFER TO SUBSCRIBE TO IR JUMPSTART RETAINER PURSUANT TO THE TERMS HEREIN. IF THE PERSON ACCEPTING THESE TERMS IS AN EMPLOYEE OR OTHER REPRESENTATIVE OF CUSTOMER, INCLUDING THE AUTHORIZED PARTNER, ACCEPTING THIS AGREEMENT ON BEHALF OF CUSTOMER OR USING IR JUMPSTART RETAINER, THE PERSON ACCEPTING HEREBY REPRESENTS AND WARRANTS TO COMPANY THAT YOU ARE (A) AUTHORIZED TO ENTER INTO THIS AGREEMENT ON BEHALF OF CUSTOMER; AND (B) YOU ARE OVER 18 YEARS OLD. IF CUSTOMER DOES NOT ACCEPT ALL THE TERMS AND CONDITIONS IN THIS AGREEMENT OR IS NOT AUTHORIZED TO ENTER INTO THIS AGREEMENT, DO NOT SUBMIT A REQUEST TO SUBSCRIBE TO IR JUMPSTART RETAINER OR OTHERWISE USE IR JUMPSTART RETAINER.

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. Managed Service Provider Relationship.** To the extent Customer has subscribed to IR JumpStart Retainer via an Authorized Partner operating in a managed service provider capacity (a “Managed Service Provider”), Customer specifically authorizes and consents to such Managed Service Provider’s participation in the activities contemplated in this Agreement. Customer understands and agrees that the Managed Service Provider is not a party to this Agreement and Customer and Managed Service Provider’s applicable agreement shall govern as between Managed Service Provider and Customer.
- 2. Description of IR JumpStart Retainer.** IR JumpStart Retainer includes the following:
 - 2.1 Company will respond to Customer’s request for IR services, provided such request is related to an Incident, within one (1) hour of receipt of request in accordance with Section 3 below.
 - 2.2 Customer may access and use Cyber JumpStart Portal (fka Cyber Essentials) subject to the Cyber JumpStart Portal Subscription Agreement located at [https://\[REDACTED\].com/terms/](https://[REDACTED].com/terms/).
 - 2.3 Company will provide guidance on accessing and using the JumpStart IR Planner module of Cyber JumpStart Portal (the “Module”).
 - 2.4 Upon Customer’s completion of its IR plan within the Module, and upon request by Customer, Company will conduct an IR plan review meeting at a mutually agreed upon date and time with Customer to review such IR plan.
 - 2.5 The hourly rate charged by Company to Customer for any agreed upon IR services engagement will be \$295 USD/hour (or equivalent in the applicable foreign currency as set forth on an Order Form).
 - 2.6 Any IR services engagement, excluding any fixed fee engagements including but not limited to Business Email Compromise (“BEC”), must be for a minimum of twenty-five (25) hours (an “Incident”).
- 3. In the event of an Incident.** In the event Customer experiences an Incident and desires to engage Company for IR services, Company will respond to Customer’s request for engagement in accordance with Section 2.1 above and the parties will schedule and conduct a scoping call to assess a possible IR statement of work (“**SOW**”). At the time of Incident and provided the parties agree to proceed with IR services, a separate Services Agreement and a SOW will be executed to govern the agreed upon scope and costs of an engagement to for the IR services.
- 4. Public Entity Customers.** If Customer is a public entity, Customer acknowledges and agrees this Agreement is the sole set of terms governing the delivery of IR JumpStart Retainer to Customer and for the avoidance of doubt, terms related to acceptance related to any services or work product shall not apply. The terms of any request for proposal(s), request for information, invitation to qualify, purchasing agreement or cooperative contract, or similar agreement Customer is using to purchase IR JumpStart Retainer (as defined below) do not apply to [REDACTED]. Further, Customer understands, and hereby consents, to processing by [REDACTED] and its non-US Affiliates and their non-US citizen employees and any of [REDACTED]

authorized third-party service providers in the United States, Europe, or other locations around the world. Notwithstanding anything contrary in any other agreement or purchasing contract, Customer understands and agrees that during the Subscription Term, [REDACTED] will maintain reasonable security controls and processes to maintain the privacy and confidentiality appropriate for the data being collected hereunder. Customer is responsible for determining if [REDACTED] controls and processes comply with Customer's data handling and security policies.

Customer represents that in purchasing the IR JumpStart Retainer, (i) Customer is not relying on [REDACTED] for performance of a federal prime contract or subcontract and (ii) Customer is not receiving federal funds to purchase IR JumpStart Retainer. If Customer does intend to rely on IR JumpStart Retainer to fulfill its obligations under a federal prime contract or subcontract or utilize federal funds to purchase the IR JumpStart Retainer, Customer agrees to provide [REDACTED] advance written notice of that intention, and [REDACTED] shall have the option to terminate this Agreement.

Customer represents it has the requisite authority to enter into and perform under this Agreement.

5. Term and Termination. The term of this Agreement will be as set forth on the Order Form. Either party may terminate this Agreement for cause if the other party commits a material breach of this Agreement, provided that such terminating party has given the other party ten (10) days advance notice to try and remediate the breach.

6. Confidentiality. During the term of this Agreement, both parties agree that (1) Confidential Information (as defined below) will be used only in accordance with the terms and conditions of this Agreement; (2) each will use the same degree of care it uses to protect its own Confidential Information, but in no event less than reasonable care; and (3) Confidential Information may be disclosed only to employees, consultants, agents, and contractors, with a need to know, in each case, who are under a written obligation to keep such information confidential using standards of confidentiality no less restrictive than those required by this Agreement. Customer consents to Company's disclosure of information to Customer's Managed Service Provider. Further, [REDACTED] may disclose to Customer's Authorized Partner, if any, and Customer consents to such disclosure, Customer engaged [REDACTED] for IR services for the sole purpose of payment of commissions or other amounts due to such Authorized Partner by [REDACTED]. "Confidential Information" means any information designated as confidential orally or in writing by either party, or any information that the receiving party knows, or has reason to know, is confidential or proprietary based upon its treatment by the disclosing party. This Agreement imposes no obligation with respect to information which: (1) is a part of or enters into the public domain; (2) was already in the recipient's possession prior to the date of disclosure other than by breach of this Agreement; (3) is rightfully received from a third party without any duty of confidentiality; (4) is independently developed without reference to the Confidential Information of the disclosing party.

7. Intellectual Property. Except as expressly set forth herein, neither party will acquire any rights, title or interest, in any of the IP Rights belonging to the other party. As between the parties, each party owns all IP Rights in its products, services and marks. "IP Rights" means current and future worldwide rights under patent law, copyright law, trade secret law, trademark law, moral rights law, and other similar rights.

8. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS IR JUMPSTART AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER PARTY NOR ITS SUPPLIERS MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. EACH PARTY, FOR ITSELF AND ITS SUPPLIERS, SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT.

9. Limitation of Liability. To the fullest extent permitted by applicable law, in no event shall a party or its suppliers be liable for damages other than direct damages, including the cost of procurement of substitute goods or technology, loss of profits, or for any special, consequential, incidental, punitive or indirect damages on any theory of liability, whether in statute, contract, tort, strict liability or otherwise, even if advised of the possibility of such damages. To the fullest extent permitted by applicable law, in no event shall the total liability of a party to the other party under this Agreement exceed \$100 USD. The liability limitations in this paragraph (and otherwise in this Agreement) do not limit or exclude damages that under applicable law cannot be limited or excluded. Customer understands and agrees that Company shall have no liability to Customer related to any acts or obligations of the Authorized Partner, including any Managed Service Provider.

10. Updates. Company reserves the right to modify this Agreement and the URL Terms in Company's sole discretion. Should Company make any modifications to this Agreement or the URL Terms, Company will post the amended terms on the applicable URL link located at [https://\[REDACTED\].com/terms/](https://[REDACTED].com/terms/) and will update the "**Last Updated Date**" within such document.

11. Miscellaneous Terms.

11.1 Assignment. This Agreement may not be assigned by either party by operation of law or otherwise, without the prior written consent of the other party, which consent will not be unreasonably withheld. Such consent is not required in connection with the assignment of this Agreement by Company to an affiliate or pursuant to a merger, acquisition or sale of all or substantially all of its assets.

11.2 Force Majeure. Neither party will be liable for failure or delay in its performance under this Agreement to the extent caused by circumstances beyond its reasonable control.

11.3 Governing Law. Except as otherwise prohibited by law, this Agreement is to be construed in accordance with and governed by the internal laws of the State of Delaware without regard to its conflict of laws principles, and any disputes arising

hereunder will be litigated exclusively in the federal or state courts of Kent County, Delaware, USA; the parties consent to personal jurisdiction in those courts. Except as otherwise prohibited by law, each party hereby waives any right to jury trial in any litigation in any way arising out of or related to this Agreement.

11.4 Independent Contractors. This Agreement will not be construed as creating an agency, partnership, joint venture or any other form of association, for tax purposes or otherwise, between the parties; the parties will at all times be and remain independent contractors.

11.5 No Third-Party Beneficiaries. This Agreement does not confer any benefits on any third party unless it expressly states that it does.

11.6 Notices. All notices must be in writing and addressed to the other party's legal department and primary point of contact. Notice will be treated as given on receipt, as verified by written or automated receipt or by electronic log (as applicable).

11.7 Severability and Waiver. In the event that any provision of this Agreement (or any portion hereof) is determined by a court of competent jurisdiction to be illegal, invalid or otherwise unenforceable, the provision (or portion) will be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of enforcement, will be deemed to be severed and deleted from this Agreement, while the remainder of this Agreement will continue in full force. The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach.

11.8 Survival. The following sections will survive any expiration or termination of this Agreement: Confidentiality, Intellectual Property, Disclaimer, Limitation of Liability, and Miscellaneous Terms.

11.9 English Language. The parties have agreed that this Agreement as well as any notice, document or instrument relating to it be drawn up in English only; *les parties aux présentes ont convenu que la présente convention ainsi que tous autres avis, actes ou documents s'y rattachant soient rédigés en anglais seulement.*

EXHIBIT D

SUBSCRIBER TERMS FOR ██████████ SECURITY OPERATIONS WARRANTY

These Subscriber Terms (the "**Agreement**") is a legal agreement entered into by and between ██████████ Networks, Inc. ("██████████" and the Participant enrolling in the ██████████ Security Operations Warranty ("**Service Warranty**") pursuant to the terms herein. This Agreement governs Participant's access to benefits available in the Service Warranty. This Agreement is effective on the date Participant fully-enrolls to receive benefits and agrees to the terms set forth herein, along with the Provider Terms, if any, included on the enrollment portal (the "**Effective Date**"). The enrollment portal is referred to herein as the "Token Portal".

BY ENROLLING IN THE SERVICE WARRANTY AND CLICKING A "SUBMIT", "CONTINUE" OR OTHER SIMILAR BUTTON ASSOCIATED WITH THIS AGREEMENT, PARTICIPANT (OR ITS AUTHORIZED AGENT, IF APPLICABLE) EXPRESSLY AND EXPLICITLY ACKNOWLEDGES AND AGREES (I) IT IS A BUSINESS ENTITY DULY ORGANIZED, VALIDLY EXISTING AND IN GOOD STANDING UNDER THE LAWS OF THE STATE OR COUNTRY IN WHICH IT IS INCORPORATED; (II) THIS IS A BINDING AGREEMENT AND PARTICIPANT HEREBY AGREES TO THE TERMS OF THIS AGREEMENT; AND (III) PARTICIPANT ACCEPTS THE OFFER TO ENROLL IN THE SERVICE WARRANTY PURSUANT TO THE TERMS HEREIN. PARTICIPANT'S ENROLLMENT IS CONSIDERED ACCEPTED WHEN PARTICIPANT RECEIVES A CONFIRMATION EMAIL FROM ██████████ EVIDENCING PARTICIPANT'S SUCCESSFUL ENROLLMENT. IF YOU ARE AN EMPLOYEE OR OTHER REPRESENTATIVE ENTERING INTO THIS AGREEMENT ON BEHALF OF PARTICIPANT, YOU HEREBY REPRESENT AND WARRANT TO ██████████ THAT YOU ARE (A) AUTHORIZED TO ENTER INTO THIS AGREEMENT ON BEHALF OF PARTICIPANT; AND (B) YOU ARE OVER 18 YEARS OLD. IF PARTICIPANT DOES NOT ACCEPT ALL THE TERMS AND CONDITIONS IN THIS AGREEMENT OR IS NOT AUTHORIZED TO ENTER INTO THIS AGREEMENT, DO NOT ACCEPT THE TERMS OF THIS AGREEMENT.

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions. Any capitalized terms not otherwise defined herein shall have the meaning set forth in the Solutions Agreement ("Solutions Agreement") made by and between Participant and ██████████ for the delivery of the Solutions.

- a. "**BEC Event**" means a business email compromise (BEC) that results in funds transfer or invoice fraud.
- b. "**Benefit End Date**" means the last day of Participant's qualifying Subscription Term, or any qualifying renewals thereof.
- c. "**Benefit Start Date**" means the first day of the Enrollment Term as set forth on the Enrollment Confirmation.
- d. "**Business Income Event**" means a Security Breach.
- e. "**Compliance Event**" means a cyber breach that triggers HIPAA, PCI, OSHA, and/or state related violations including, but not limited to data loss, sanctioned non-compliance penalty or fine, or other related expenses.
- f. "**Cyber Legal Liability Event**" means a suit arising out of a breach of privacy and/or security related to a cyberattack, loss or misuse of data, or media peril related to content on Participant's website where legal defense expenses and settlement costs are incurred.
- g. "**Enrollment Confirmation**" means the email issued by ██████████ to Participant confirming Participant's enrollment in the Service Warranty upon Participant's enrollment in the Token Portal and sets forth the Benefit Start Date and Service Warranty Indemnification Level.
- h. "**Enrollment Term**" means the period within which Participant may receive Recovery Benefits and which begins on the Benefit Start Date as defined in Section 2(a) below and ends upon termination in accordance with Section 10 below.
- i. "**Event**" means a Ransomware Event, BEC Event, Business Income Event, Compliance Event and Cyber Legal Liability Event.
- j. "**Provider**" means ██████████ third party service provider who has contracted with ██████████ to provide Participant with the benefits set forth herein.
- k. "**Ransomware Event**" means the unauthorized access to at least one Participant endpoint in the form of ransomware which has caused material harm to Participant, whereby "material harm" must include at least one of the following: (i) the unauthorized acquisition of unencrypted digital data that compromises the security, confidentiality, or integrity of personal information or confidential information maintained by Participant; (ii) public disclosure of personal information or confidential information maintained by Participant; or (iii) the compromise of at least one Participant endpoint resulting the blocking of access to such endpoint.
- l. "**Recovery Services**" means the funds or services provided by Provider to support the repair, remediation, and/or replacement Participant's environment in which damage was incurred as a result of an Event, including, but not limited to, removing and remediating those elements that caused the Event.
- m. "**Security Breach**" means the malicious, intentional, and willful misuse of a Participant's computer system to deny legitimate users' access to their network that results in the loss of business income (net profit or loss before income taxes) which would have been earned or incurred had no loss occurred, and/or any reasonable, continuing, and normal operating expenses that were affected by the incident, as calculated in the reasonable discretion of Provider Solutions.

2. Service Warranty

- a. **Benefit Start Date.** Participant's Enrollment Term will begin on the Benefit Start Date.
- b. **Benefit End Date.** Unless otherwise terminated earlier pursuant to Section 10 below, Participant's Enrollment Term will automatically terminate on the Benefit End Date.

3. Service Warranty Benefits.

During the Enrollment Term, Participant may submit a claim by notifying Provider at [REDACTED] [@cysurance.com](mailto:[REDACTED]@cysurance.com) that one of the Events has occurred during the Enrollment Term:

- a. a Ransomware Event;
- b. BEC Event;
- c. Compliance Event;
- d. Cyber Legal Liability Event; and/or
- e. Business Income Event.

Should an Event occur, and provided an exclusion set forth in Section 4 below does not apply, Provider will provide Participant with Recovery Services, subject to the following:

- a. Participant may only seek indemnification for one (1) Event during the Enrollment Term;
- b. Participant must have a commercially reasonable belief that damages resulting from the Event will exceed \$5,000;
- c. Recovery Services will not exceed Participant's maximum Service Warranty Indemnification Level as specified within Participant's Enrollment Confirmation;
- d. Payment of any applicable deductible; and
- e. Recovery Services are provided in accordance with any additional terms and conditions applicable to such Events as specified in the Warranty Confirmation Summary attached hereto as Schedule 1.

4. Recovery Service Exclusions.

Recovery Services may be restricted to the country in which Participant subscribed to the Solutions. Recovery Services will not be provided if any one or more of the following conditions occur specific to the nature of the loss:

- a. Participant fails to take commercially reasonable measures to (i) undertake preventative maintenance, including patching that is up to date per the software manufacturer's release cycle, and (ii) to implement cloud or other back up measures of Participant's data to allow for recovery from a Ransom Event;
- b. Participant fails to deploy industry standard and up-to-date anti-virus or comparable prevention tools on its endpoints;
- c. Participant does not have the Solutions actively deployed in the Participant's environment in which the Event occurred;
- d. Participant is in breach of the Solutions Agreement or the Solutions Agreement has terminated or expired;
- e. Participant is unable to provide proof of the Event or cannot verify the Event through log/event data;
- f. There is a systemic failure of [REDACTED] infrastructure that results in an Event;
- g. If a Participant is regulated under HIPAA/PCI/SEC:
 - i. Participant has not completed an annual risk assessment and documented risks;
 - ii. Protected health information ("PHI") inventory has not been fully completed and accounted for prior to an incident and claim;
 - iii. Subject to Participant's standard historical employment practices related to HIPAA training for new employees, all of Participant's employees have not completed HIPAA training within the 12 months prior to any incident and claim;
 - iv. Participant has not adopted and adhered to all privacy and security policies related to the state and/or other federal regulatory requirements to which Participant is subject prior to any Event.
- h. The Event did not occur during the Enrollment Term; or
- i. Participant does not submit the claim for the Event during the Enrollment Term

5. Indemnification Process.

- a. Participant must report the Event to the Provider within forty-eight (48) hours of discovery of the Event. PARTICIPANT MUST PROVIDE PROVIDER WITH SUFFICIENT INFORMATION, SUCH DETERMINATION TO BE MADE IN PROVIDER'S REASONABLE DISCRETION, TO VALIDATE THE DAMAGES INCURRED AS A RESULT OF THE EVENT WITHIN FIFTEEN (15) DAYS AFTER DISCOVERY OF THE EVENT. IF PARTICIPANT FAILS TO DELIVER SUCH INFORMATION TO PROVIDER AS SET FORTH HEREIN, PARTICIPANT'S SEEKING OF INDEMNIFICATION WILL BE TREATED AS AN INVALID EVENT THAT IS INELIGIBLE FOR RECOVERY SERVICES PURSUANT TO THE TERMS OF THIS AGREEMENT.
- b. Participant understands that it is responsible for reporting any Events to its insurance carrier regardless of whether Participant elects to make a claim with Provider for an Event under this Service Warranty.
- c. By submitting a claim and information to Provider, Participant understands and acknowledges that Provider has separate terms and conditions related to privacy and data protection as set forth in Provider's website terms, privacy policies, or other agreements made by and between Participant and Provider which will govern the use and protection of the information. [REDACTED] does not accept liability or responsibility for Provider. Participant understands and agrees that it should review such terms prior to submission of information. In the event Participant requests that [REDACTED] provide information directly to Provider on Participant's behalf, Participant authorizes and consents to [REDACTED] sharing the information with Provider, subject to the terms set forth in this Section 5(c).
- d. Indemnification made under the Service Warranty is subject to Provider's standards of review. If Provider denies indemnification to Participant, notwithstanding anything to the contrary in this Agreement, [REDACTED] shall have no liability to Participant.
- e. To receive Recovery Services under the Service Warranty, Participant agrees to:
 - i. Provide documentation evidencing the Participant's date of enrollment in the Service Warranty;
 - ii. Provide log files and information about the symptoms and causes of a network compromise pertaining to the claim; and

- iii. Verify cyber event via log files and/or other documentation of malicious code that resulted in loss of data and/or records that triggered a violation of state and/or federal regulatory enforcement to which Participant is subject.

6. Additional Services. Following Participant's enrollment in the Service Warranty, and included with the Service Warranty, Provider will perform regular scans of Participant's environment. Results will be provided to [REDACTED] to augment the external monitoring and risk rating analyses [REDACTED] delivers to Participant as part of the Solutions. Such results may identify vulnerabilities related to:

- Network Security
- DNS Health
- Patching Cadence
- IP Reputation
- Application Security
- Threat Intelligence
- Social Intel & Industry Intel
- Information Leak including Dark Web scanning for credentials
- Cloud Score

An initial scan will be conducted upon Participant's enrollment in the Service Warranty and monthly thereafter during the Participant's Enrollment Term. By enrolling in the Service Warranty, Participant consents to the receipt of such additional services by Provider.

7. Warranty Disclaimer. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, [REDACTED] MAKES NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY TO PARTICIPANT, REGARDING OR RELATING TO THE SERVICE WARRANTY OR ITS SOLUTIONS PROVIDED TO PARTICIPANT UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY WARRANTY THAT THE SERVICE WARRANTY WILL MEET PARTICIPANT'S REQUIREMENTS OR THAT THE OPERATION THEREOF OR ACCESS THERETO WILL BE ERROR FREE, CURRENT OR UNINTERRUPTED. FOR THE AVOIDANCE OF DOUBT, THIS SERVICE WARRANTY DOES NOT EXPAND OR INFER ANY WARRANTIES RELATED TO THE SOLUTIONS. TO THE GREATEST EXTENT ALLOWED BY LAW, [REDACTED] SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE, EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

8. Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, FOR ANY CAUSE RELATED TO OR ARISING OUT OF THIS AGREEMENT, WHETHER IN AN ACTION BASED ON A CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ANY OTHER LEGAL THEORY, HOWEVER ARISING, [REDACTED] WILL IN NO EVENT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR LOSS REVENUES, PROFITS, BUSINESS OR GOODWILL, BREACHES BY PROVIDER, OR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES. IN NO EVENT WILL [REDACTED] LIABILITY EXCEED \$100. THESE LIMITATIONS SHALL APPLY WHETHER OR NOT [REDACTED] HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

9. Updates. [REDACTED] reserves the right to modify this Agreement and any terms related to the Service Warranty in [REDACTED] sole discretion. Should [REDACTED] make any modifications to the Agreement or the Service Warranty, [REDACTED] will post the amended terms at [https://\[REDACTED\]/terms/](https://[REDACTED]/terms/) and will update the "**Last Updated Date**" within such document or provide notification by such other reasonable notification method implemented by [REDACTED]

10. Termination.

10.1 Change in Subscription. Should Participant's Subscription change during the Subscription Term which impacts the Service Warranty Indemnification Level for which Participant qualifies, the existing Enrollment Term will terminate, and, if applicable, a new token ID will be issued to Participant for the applicable Service Warranty Indemnification Level. Participant must re-enroll on the Token Portal to qualify for the new Service Warranty Indemnification Level. In the event Participant's Subscription ceases to qualify for the Service Warranty, the Enrollment Term will immediately terminate.

10.2 This Agreement, the Service Warranty, and/or Participant's Enrollment Term may be terminated by [REDACTED] for convenience and for any reason in [REDACTED] sole discretion and [REDACTED] will have no further liabilities to Participant under this Agreement. [REDACTED] will use commercially reasonable efforts to notify Participant of any such termination. For the avoidance of doubt, termination of the Solutions Agreement shall terminate this Agreement, but termination of this Agreement shall not terminate the Solutions Agreement.

11. Survival. Sections 1, 6, 7, 8, 11 and 12 will survive the non-renewal or termination of this Agreement.

12. Miscellaneous.

12.1 Except as otherwise provided herein, all notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) on the next business day after the date sent, if sent for overnight delivery by a generally recognized international courier (e.g., FedEx, UPS, DHL, etc.) (receipt requested); or (c) on the date sent by e-mail (with confirmation of transmission) if sent during normal business hours of the recipient. [REDACTED] address for notification purposes shall be: PO Box 46390, Eden Prairie, MN 55344, legal@[REDACTED].com. Participant's address for notification purposes shall be as set forth the Solutions Agreement. Either party may update its notice address upon written notice to the other party.

12.2 Participant shall not be entitled to assign, subcontract, delegate or otherwise transfer any of its rights and/or duties arising out of this Agreement and/or parts thereof to third parties, voluntarily or involuntarily, including by change of control, operation of law or any other manner,

without [REDACTED] express prior written consent. Any purported assignment, subcontract, delegation, or other transfer in violation of the foregoing shall be null and void.

12.3 Unless otherwise prohibited by law, (a) this Agreement shall be governed by the laws of the State of Delaware without regard to the conflicts of law provisions thereof and (b) any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in Kent County, Delaware in English and in accordance with the JAMS International Arbitration Rules then in effect. Any judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, each party shall have the right to institute an action in a court of proper jurisdiction for preliminary injunctive relief pending a final decision by the arbitrator(s), provided that a permanent injunction and damages shall only be awarded by the arbitrator(s). In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be entitled to recover costs and attorneys' fees.

12.4 No failure or delay by [REDACTED] in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.

12.5 If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable. The parties agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purpose of such void or unenforceable provision.

12.6 This Agreement (including the exhibits hereto) constitutes the parties' entire agreement by and between the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous agreement or understanding by and among the parties with respect to such subject matter.

12.7 [REDACTED] is not responsible for any failures or delays in performing under the Service Warranty that are due to events outside of [REDACTED] reasonable control.

12.8 The Service Warranty may not be available in all jurisdictions and is not available where prohibited by law or where not offered by [REDACTED] or by Provider.

12.9 The parties have agreed that this Agreement as well as any notice, document or instrument relating to it be drawn up in English only; *les parties aux présentes ont convenu que la présente convention ainsi que tous autres avis, actes ou documents s'y rattachant soient rédigés en anglais seulement*

Schedule 1**Service Warranty Confirmation Summary**

Subject to all the terms and conditions in the Agreement, the Service Warranty provides the following Service Warranty Indemnification Levels :

Participants enrolled in the \$500,000 Level*		
Service Warranty Indemnification - \$500,000 Level	Per Event	Per Participant
Compliance Event	A Maximum of \$100,000 USD	\$100,000 USD
Ransomware Event & BEC Event	A Maximum of \$100,000 USD	\$100,000 USD
Cyber Legal Liability Event *	A Maximum of \$250,000 USD	\$250,000 USD
Business Income Event	A Maximum of \$50,000 USD <i>(There is a \$2,500 USD per-claim deductible that applies to this Event)</i>	\$ 50,000 USD

Participants Enrolled in the \$1,000,000 Level*		
Service Warranty Indemnification - \$1,000,000 Level	Per Event	Per Participant
Compliance Event	A Maximum of \$200,000 USD	\$200,000 USD
Ransomware Event & BEC Event	A Maximum of \$200,000 USD	\$200,000 USD
Cyber Legal Liability Event *	A Maximum of \$500,000 USD	\$500,000 USD
Business Income Event	A Maximum of \$100,000 USD <i>(There is a \$2,500 USD per-claim deductible that applies to this Event)</i>	\$100,000 USD

* Participant must first exhaust any other service warranty that would apply to these expenses.