

MANAGED SECURITY SERVICES TERMS AND CONDITIONS

These Managed Security Services Terms and Conditions (“Terms and Conditions”) govern the service order, service description, service level management description and any other document referenced therein (collectively “Order”) between Optiv Security Inc. or one of its Affiliates (the applicable entity identified in the service order as providing Managed Security Services is defined as “Optiv”) and the client described in the service order (“Client”) and apply to all Managed Security Services provided by Optiv. “Affiliate” or “Affiliates” means any entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with Optiv Security Inc., and its successors and assigns.

1. **MSS.** The Managed Security Services to be performed by Optiv (“MSS”) are set forth in the Order.
2. **ORDER.** Optiv shall provide MSS to Client as set forth in the Order. Client must be the MSS end user. No resale of MSS by Client is allowed hereunder. Each Order shall describe the specific MSS to be performed, service level agreements, fees, and expenses, and such other specifications as the parties may mutually agree. Each Order, when fully executed, shall be deemed to incorporate all the Terms and Conditions herein (unless any provisions of these Terms and Conditions are specifically excluded or modified in the Order).
3. **SERVICE DESCRIPTION AND SERVICE LEVEL MANAGEMENT DESCRIPTION.** Copies of relevant MSS documentation, including service description(s) and service levels, will be provided by Optiv or otherwise available to Client for review during the sales process. These documents describe and govern day-to-day operational deliverables and service level commitments between the parties for MSS. These documents are updated when necessary by Optiv as processes and technology change. Significant or material changes to these documents will be communicated to Client, through the MSS portal, thirty (30) days prior to Optiv implementing the updates. During this time Client may ask questions regarding potentially impacting changes via the ticketing system.
4. **CHANGE IN SCOPE OF SERVICES.** In the event that unforeseen factors change the scope of MSS and/or impact the term and cost of Optiv-provided MSS, Client and Optiv may mutually revise the Order, and Optiv shall provide Client with an estimate of the impact of such revisions on the fees, payment terms, completion schedule, and other applicable provisions of the Order. If the parties mutually agree to such changes, a written description of the agreed change (“Change Order”) shall be prepared, incorporating such changes to the original Order; the Change Order will not be effective unless signed by both parties. The terms of a Change Order prevail over those of the Order.
5. **FEES AND INVOICING.**
 - a. Fees. Fees for the MSS shall be specified in each Order. Client agrees to pay Optiv the fees set forth in each Order. Unless otherwise specified in the Order, Client agrees to reimburse Optiv for actual, reasonable travel and living expenses incurred by Optiv in connection with the performance of MSS. Expenses are subject to the Optiv Travel Policy, available upon request.
 - b. Taxes. All amounts payable by Client to Optiv hereunder are exclusive of any sales, use and other taxes or duties, however designated, including without limitation, royalties, know-how payments, customs, privilege, excise, sales, use, value-added and property taxes (collectively “Taxes”). Client shall be solely responsible for payment of any Taxes, except for those taxes based on the income of Optiv. Client will not withhold any Taxes from any amounts due to Optiv. In any case where a state imposes a tax on Client that Optiv is required to bill for, Client will be liable to pay that tax as part of the scheduled payments to Optiv.
 - c. Invoices. Optiv shall invoice Client in accordance with the applicable Order. Unless otherwise set forth in the Order, Optiv’s invoices are due and payable by Client in full within thirty (30) days from the invoice date. Undisputed invoices not paid within thirty (30) days from the invoice date will bear interest from the due date until paid at a rate of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less. Client shall also be responsible for all collection costs incurred by Optiv in connection with past due undisputed invoices.
6. **MSS TERM AND RENEWALS.** Optiv shall perform the MSS during the Initial Term defined and set forth in the Order or portion of any service order applicable to MSS. The Order will automatically renew for additional equivalent periods of time (“Renewal Terms”) at Optiv’s then-applicable MSS fees unless either party gives the other party written notice of its intent not to renew at least thirty (30) days prior to the expiration of the then-current MSS Term.
7. **TERMINATION FOR CAUSE.** Either party shall have the right to terminate the Order for cause if (a) the non-breaching party notifies the other within thirty days of the other’s breach, and (b) the breaching party fails to cure any material breach of the Order within thirty (30) days after its receipt of written notice of such breach. Optiv may cure such material breach of MSS, at Optiv’s sole option, by either (i) re-performing any defective or non-conforming MSS, or (ii) refunding any amount paid by Client to Optiv for the MSS that are deemed to be defective or non-conforming. If Client terminates the Order for cause for Optiv’s failure to cure, Optiv shall refund to Client the portion of any prepaid MSS fees, rounded down to the next whole month, corresponding to MSS not yet performed. Termination of the Order does not release either party from any liability which, at the time of termination, has already accrued to the party. Activation fees and expenses associated with the establishment of MSS, including but not limited to, hardware, software, related licensing, licensing for bundled software, freight, etc., are non-refundable.

- 8. EARLY CANCELLATION.** If Client desires to cancel any MSS during an Initial Term or Renewal Term, Client must submit a duly authorized early cancellation letter to Optiv, the receipt of which must be received at least seven (7) days prior to the activation of services. If Client cancels the Order, or any portion thereof, prior to the end of the MSS Term (for any reason other than for an uncured material breach by Optiv), Client agrees to pay Optiv an early cancellation fee equal to the amount of remaining fees that would have been due and payable had the Order been performed for the entire MSS Term.
- 9. EQUIPMENT RETURN.** Upon cancellation, termination or expiration of the Order, Client will return Optiv-owned equipment in good condition (less normal wear and tear) to a location designated by Optiv within fifteen (15) calendar days after the cancellation, termination or expiration date. If Optiv has not received such Optiv-owned property within thirty (30) days after cancellation, termination or expiration of the Order, Optiv shall invoice Client, and Client shall promptly pay, for the manufacturer's suggested retail price of such property.
- 10. CLIENT POLICIES.** While on Client's premises, or if Optiv or Optiv's Agents are given access to Client's computing equipment, applications, or network, Optiv shall and shall cause Optiv's Agents to abide by the applicable and reasonable policies and procedures of Client, including safety, security, and data privacy and handling policies, referenced in the applicable Order. However, Optiv will not provide Optiv or Optiv's Agents' employee CPNI/PII data, including but not limited to SSN, last 4 digits of SSN, date of birth, etc. to Client. If applicable and reasonable given the scope of the engagement, Optiv may provide employee names (first and last) and e-mail addresses, solely for the purposes of managing devices on Client's network.
- 11. CLOUD SERVICE PROVIDER FEES.** In the event that Client utilizes a cloud service provider (e.g. Amazon Web Services, Microsoft Azure, Google Cloud, IBM Cloud, or other cloud service provider of a similar nature) in connection with MSS, Client shall be liable for all fees due to such cloud service provider, howsoever arising, regardless of whether such fees are impacted by Optiv's provision of MSS hereunder.
- 12. CYBER SECURITY INCIDENT.** The MSS are limited to the appliances, products and devices specifically named in the Order. Client represents and warrants that it will comply with all relevant security industry standards and practices. In the event of a Cyber Security Incident (defined below), Client will reasonably cooperate with Optiv, including granting access to Client's systems as necessary, to reduce impact and determine the cause and scope of the incident. "Cyber Security Incident" means a violation or imminent threat of violation of cyber security policies, acceptable use policies, or standard cyber security practices which results in misuse, damage, denial of service, compromise of integrity, or loss of confidentiality of a network, computer, application, or data. Optiv and its Affiliates, directors, officers, employees, and agents will not be liable or responsible for Cyber Security Incidents, third party hacking attempts or attacks, viruses, malware and similar software programs, and denial of service attacks.
- 13. WARRANTIES.** Optiv covenants that it and its employees will provide the MSS in accordance with: (i) the prevailing standard of care exercised by consultants in the information security industry, and (ii) applicable laws and governmental regulations. OPTIV WILL NOT BE RESPONSIBLE FOR NONCONFORMITIES ARISING FROM INACCURATE OR INCOMPLETE DATA OR INFORMATION PROVIDED BY CLIENT, FOR FAILURES OR DELAYS CAUSED BY CLIENT'S FAILURE TO PERFORM ITS OBLIGATIONS UNDER THE ORDER OR THESE TERMS AND CONDITIONS, OR FOR FAILURES, DAMAGES OR DELAYS CAUSED BY THIRD PARTY HARDWARE, SOFTWARE OR OTHER PRODUCTS. OPTIV HEREBY WAIVES AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Client agrees to reasonably cooperate with Optiv in the performance of MSS. Unless otherwise expressly stated in the Order, the MSS may be rendered at Client's facilities, Optiv's facilities or at other suitable locations within Optiv's discretion.
- 14. INTELLECTUAL PROPERTY OWNERSHIP FOR MSS.** All methodologies, procedures, management tools, workshops, manuals, software, object code, source code, data files, concepts, ideas, inventions, know-how, and other intellectual property Optiv has developed, created, or acquired prior to or during the performance of the MSS ("Optiv's Intellectual Property") are, and shall remain, the sole and exclusive property of Optiv. Client shall not have or acquire any right, claim, title, or interest in or to any of Optiv's Intellectual Property. Subject to the foregoing and upon payment in full of all amounts due to Optiv, all information, materials, reports, and other work product that Optiv creates or develops specifically for Client as part of the MSS ("Work Product") shall be owned by Client. Subject to payment in full of all amounts due to Optiv, Client will have a right to use, distribute, copy, and create derivative works from the MSS created and delivered to Client as a result of the Order solely for Client's own internal use. Only Client shall be entitled to rely upon any and all Work Product from Optiv. For the purpose of clarity, no third party may rely in any manner on any Work Product provided to such third party by Client absent written confirmation by Optiv, and any Work Product otherwise provided to such third party is for informational purposes only. Client acknowledges that Optiv may (a) retain archival copies of any and all derivative works or Work Product and (b) may use and disclose general statistics and non-Client identifiable information regarding vulnerabilities and security issues but only if the identity of the Client is not disclosed and cannot be reasonably ascertained or inferred. Upon the request of the other party, each party shall take such actions, and shall cause its personnel to take such actions, including execution and delivery of all documents, as may be appropriate or desirable to confirm such rights.
- 15. CONFIDENTIAL INFORMATION.**

- a. **Defined.** "Confidential Information," as used herein, means all information proprietary to a party or its affiliates any of its customers or suppliers that is marked as confidential or that due to its nature is known or in good faith should be known to be confidential. Confidential Information of Client will be deemed to include, without limitation, all confidential Client data to which Optiv obtains access by performing the MSS containing such data. Confidential Information of Optiv will be deemed to include, without limitation, all Optiv Intellectual Property. The obligations of the party ("Receiving Party") that receives Confidential Information of the other party ("Disclosing Party") shall not apply to Confidential Information: (i) generally available to the public at any time at no fault of the Receiving Party, (ii) furnished at any time to the Receiving Party by a third party having the right to furnish it with no obligation of confidentiality to the Disclosing Party, (iii) independently developed by the Receiving Party by individuals not having access to the Confidential Information of the Disclosing Party, (iv) approved for use or disclosure by written authorization from the Disclosing Party or (v) required to be disclosed pursuant to a valid order by a court or other governmental entity with jurisdiction, provided that the Receiving Party provides the Disclosing Party with prompt written notice of such order in order to permit the Disclosing Party to challenge such disclosure.
- b. **Obligations.** The Receiving Party agrees not to disclose or use any Confidential Information of the Disclosing Party in violation hereof and to use Confidential Information of the Disclosing Party solely for the purposes hereof. Upon demand by the Disclosing Party, the Receiving Party shall return to the Disclosing Party all copies of the Disclosing Party's Confidential Information in the Receiving Party's possession or control and destroy all derivatives and other vestiges of the Disclosing Party's Confidential Information; provided that the Receiving Party may retain one archival copy solely for the purpose of administering its obligations under the Order. All Confidential Information of the Disclosing Party shall remain the exclusive property of the Disclosing Party. The Receiving Party may disclose Confidential Information of the Disclosing Party to its employees, officers, directors and representatives who have a reasonable need to know such Confidential Information in connection with the MSS.
- c. **Injunction.** Both parties agree that violation of any provision of this Section would cause the Disclosing Party irreparable injury for which it would have no adequate remedy at law, and that the Disclosing Party will be entitled to immediate injunctive relief prohibiting such violation, in addition to any other rights and remedies available to it.

16. INDEMNIFICATION. Except to the extent caused by the acts, errors or omissions of the indemnified party, each party shall indemnify, defend and hold harmless the other party and its affiliates and their respective officers, directors, employees and agents from and against third party claims made against the indemnified party for death, bodily injury or physical damage to or loss or destruction of any real or tangible personal property to the extent caused by the indemnifying party's gross negligence or willful misconduct.

17. LIMITATION OF LIABILITY. IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES (INCLUDING, WITHOUT LIMITATION, OPTIV'S AFFILIATES) OR SUPPLIERS, OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES, WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY AND NEGLIGENCE), FOR LOST PROFITS OR REVENUES, LOSS OF USE OR LOSS OR CORRUPTION OF DATA, FOR EQUIPMENT OR SYSTEMS OUTAGES OR DOWNTIME, OR FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, MULTIPLE, INCIDENTAL, CONSEQUENTIAL OR SIMILAR DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE ORDER OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL OPTIV'S, OPTIV'S AFFILIATES', THEIR SUPPLIER'S, OR THEIR RESPECTIVE OFFICERS', DIRECTORS', EMPLOYEES' OR AGENTS' AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THE MSS, THE ORDER AND OTHERWISE (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE AND INTENTIONAL ACTS OR OMISSIONS) EXCEED THE AMOUNT OF FEES ACTUALLY PAID BY CLIENT TO OPTIV FOR THE SPECIFIC MSS DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE EVENT GIVING RISE TO SUCH CLAIM. NO ACTION REGARDING THE MSS, OTHER THAN WITH RESPECT TO PAYMENTS HEREUNDER, MAY BE BROUGHT MORE THAN ONE (1) YEAR AFTER THE FIRST TO OCCUR OF EITHER (A) THE CONCLUSION OF MSS UNDER THE ORDER, OR (B) THE CLAIMANT PARTY'S KNOWLEDGE OF THE EVENT GIVING RISE TO SUCH CAUSE OF ACTION.

18. INSURANCE. The parties agree to carry and maintain in force at all times during the term of the MSS insurance coverage with minimum policy limits as follows: (i) workers' compensation with limits as prescribed by applicable state law and Employer's Liability with limits of \$1,000,000.00 per accident and in the aggregate, (ii) commercial general liability with limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, and (iii) cyber liability with limits of \$2,000,000 in the aggregate. The parties agree to provide to each other certificates of insurance evidencing coverage upon request.

19. NON-SOLICITATION. Client agrees that it and its affiliates, and their employees, will not, either during or for a period of twelve (12) months after termination or expiration of the Order, solicit to hire as an employee or Optiv any of Optiv's and/or Optiv's Affiliates' employees. Publication of open positions in media of general circulation (e.g., Internet website job postings) will not constitute solicitation of employees. If Client or one of its affiliates hires any employee(s) and/or Optiv's Affiliates prior to expiration of the twelve (12) month period, as an employee or Optiv, Client agrees to pay to Optiv or Optiv's Affiliates,

as applicable, within thirty (30) days of the hiring date, an amount equal to the person's annual compensation (including bonuses) at Optiv and/or Optiv's Affiliates at the time of his or her departure from Optiv and/or Optiv's Affiliates.

- 20. OPTIV'S AFFILIATES.** Optiv's Affiliates, and/or employees of Optiv's Affiliates, may provide MSS under the Order. Such Affiliates and/or their employees that provide MSS will be subject to these Terms and Conditions. Only the entity that is defined as Optiv and/or provides MSS will be liable under these Terms and Conditions with respect to such MSS. There shall be no joint and several liability with respect to entities that do not provide MSS under these Terms and Conditions.
- 21. ASSIGNMENT.** Except as otherwise set forth in these Terms and Conditions, neither party may assign the Order or these Terms and Conditions without the prior written consent of the other party. Notwithstanding the foregoing, either party may assign the Order or these Terms and Conditions without consent to any parent, subsidiary or other affiliate, in connection with a merger involving any of its affiliates or in connection with an acquisition of all or substantially all of such party's assets or equity interests. In addition, Optiv may assign the Order or these Terms and Conditions to an Affiliate.
- 22. NOTICES.** All notices and other communications hereunder will be in writing and deemed delivered one (1) day after being sent by a nationally recognized overnight courier service or three (3) days after being sent certified U.S. mail, return receipt requested, postage prepaid. All notices and other communications hereunder will be given to the party at the address indicated in the Order.
- 23. GOVERNING LAW.** The Order and these Terms and Conditions will be governed by, and construed and enforced in accordance with, the laws of the State of Colorado, excluding conflicts of law principles. Exclusive jurisdiction for any lawsuit or claim in connection with the Order and these Terms and Conditions shall be in the state or federal courts of the State of Colorado.
- 24. EXECUTION IN COUNTERPARTS.** The Order may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement. Delivery of an executed counterpart of the Order by electronic transmission or any other reliable means shall be effective for all purposes as delivery of a manually executed original counterpart. Either party may maintain a copy of the Order in electronic form.
- 25. MISCELLANEOUS.** These Terms and Conditions are made a part of and incorporated into the Order. The Order and these Terms and Conditions constitute the entire agreement between the parties with respect to its subject matter. These Terms and Conditions shall govern in the event of a direct conflict with the Order unless the Order expressly specifies that the Order shall control in the event of a direct conflict. During the term of the Order, a purchase order, acknowledgment form or similar routine document may be used. The parties agree that any provisions of such routine documents, which purport to add to or change, or which conflict with the provisions of the Order or these Terms and Conditions shall be deemed deleted and have no force or effect. No forbearance, failure or delay in exercising any right, power or privilege is waiver thereof. In the event a court of competent jurisdiction holds any provision of the Order or these Terms and Conditions invalid or unenforceable, the remainder of the Order and these Terms and Conditions will continue in effect. Each party agrees that it will not, without prior written consent of the other party, use in advertising or other publicity the name of the other party. Neither party is liable for non-performance under the Order and these Terms and Conditions to the extent to which the non-performance is caused by events or conditions beyond that party's control; provided, however, this shall not apply to either party's obligations with respect to payments pursuant to the terms of the Order and these Terms and Conditions.