

MINDPOINT GROUP PROFESSIONAL SERVICES TERMS AND CONDITIONS

MindPoint Group, LLC, a Delaware limited liability company, wholly owned subsidiary of Tyto Athene, LLC., located at 11950 Democracy Dr., Suite 650, Reston, Virginia 20190 (“**MindPoint Group**” or “**Company**”), offers clients a variety of cybersecurity services and solutions as further described herein.

These Professional Services Terms & Conditions (“**Terms**” or “**Terms and Conditions**”) form part of the Applicable Agreements referenced in the Order Form and set forth certain of the terms and conditions on which MindPoint Group makes Professional Services available to Customers. Accordingly, each Customer that enters into an Order Form or receives any Professional Services shall be and hereby is subject to all terms and conditions. These Terms apply to all Customers of MindPoint Group’s Professional Services.

1. PROVISION OF SERVICES.

- 1.1 **General.** These Terms apply to all Customers of MindPoint Group’s Professional Services.
- 1.2 **Order Form.** Customer may purchase Professional Services by entering into a written MindPoint Group Order Form that references and incorporates these Terms that describe the Professional Services being ordered (including applicable Fees for such Professional Services). Orders Forms shall include or attach a Statement of Work, and in such case the Statement of Work is and shall be incorporated into and made a part of the Order and all references herein to “Orders” shall include any incorporated Statements of Work. Each Order (including any incorporated Statements of Work) shall be subject to the terms of the Agreement.
- 1.3 **Order of Precedence.** To the extent that any terms of an Order conflict with any terms of these Terms and Conditions, the provisions of these Terms and Conditions to shall govern and control.
- 1.4 **Professional Services.** Subject to the terms and conditions set forth in this Agreement and the additional terms set forth in the Order Form, which includes the Statement of Work (the “SOW”), hereto are incorporated into this Agreement, the Customer hereby retains MindPoint Group to perform the services as set forth in the Order Form during the term of this Agreement. The Order Form will contain, at a minimum, (a) a detailed description of the services, including any deliverables, to be provided (the “**Services**” or “**Professional Services**”); (b) the time schedule for performance and for delivery of such Services, with detailed milestones and deliverables and a payment schedule tied to meeting milestones and delivering deliverables on schedule, (where applicable); (c) detailed functional and technical specifications and standards for the Services, including quality standards; (d) a list of any special equipment to be procured by MindPoint Group or provided by the Customer for use in performance of the Services; and (e) such other terms and conditions as may be mutually agreed upon between the parties. Any changes to the Services shall be subject to prior mutual agreement by the parties and the details of such changes (e.g., budget impact, scope of services changes, etc.) shall be agreed upon in writing in the form of a Change Order, pursuant to Section 4. Should any conflict arise between the terms of this Agreement and the terms contained in the Order Form, the

terms contained in this Agreement shall govern except in the event and to the extent the Order Form expressly provides otherwise.

- 1.5 **Nonexclusive Rights.** It is expressly understood that this Agreement does not grant either party an exclusive privilege to furnish or receive any or all of the Services. The Customer expressly reserves the right to contract with others for the purchase of services comparable or identical to the Services which are the subject of this Agreement. MindPoint Group expressly reserves the right to contract with others, whether or not deemed a competitor of Customer, for the provision of services comparable or identical to the Services which are the subject of this Agreement.
- 1.6 **Interpretation and Construction.** This Agreement shall consist solely and entirely of the terms and conditions contained in the Order Form and herein (including any schedules, exhibits or annexes hereto). This Agreement shall not be construed more strictly against one party than the other merely by virtue of the fact that it has been prepared initially by counsel for one of the parties, it being recognized that both parties and their respective counsel have had a full and fair opportunity to negotiate and review the terms and provisions of this Agreement.
- 1.7 **Independent Contractor.** MindPoint Group shall perform under this Agreement as an independent contractor, and nothing contained herein shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent or master and servant between the parties hereto or any affiliates or subsidiaries thereof, or to provide either party with the right, power, or authority, whether express or implied, to create any such duty or obligation on behalf of the other party. Each party also agrees that it will not hold itself out as an affiliate of or partner, joint venturer, co-principal or co-employer of the other party or any of the other party's affiliates by reason of this Agreement. The parties will not knowingly permit any of their respective employees, agents or representatives to hold themselves out as, or claim to be, officers or employees of the other party or any of the other party's affiliates by reason of this Agreement.
- 1.8 **Subcontractors.** MindPoint Group may utilize subcontractors under the condition that MindPoint Group shall direct and control its subcontractors and shall have full responsibility for performance of the Services, whether performed by MindPoint Group or its subcontractors.
- 1.9 **Cooperation.** Each party agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, documents, and instruments as may be required, in a timely manner, to effect any of the transactions contemplated by this Agreement.
- 1.10 **Definitions.**
- "Change Order Form"** means MindPoint Group's change order form or such other change order form agreed to by the parties and signed by the parties or electronically agreed to by the parties, which sets forth any changes to the Professional Services to be provided to Customer as described in Section 4.1 below.

“Intellectual Property Rights” means all intellectual property rights or interests and all proprietary rights, including without limitation, copyrights, trademarks, trade dress, patents, trade secrets, logos, trade names, any and all proprietary rights, publicity and/or privacy rights, industrial property rights, whether statutory or otherwise, and whether registered or not, all registrations, rights to register or apply for registration, renewals, reversions, all waivers and assignments of moral rights, all assignments of model and property releases, and all rights to enforce such rights or interests, in any work, including without limitation, the structure, sequence and organization of the same, worldwide and in perpetuity.

“Losses” means any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers

“Order Form” or **“Order”** means the order form set forth on the first page of the Agreement or such other order form agreed to by the parties and signed by the parties or electronically agreed to by the parties, which sets forth the Professional Services to be provided to Customer, as more fully described in Section 1.2.

“Services”, “Professional Services”, or **“MindPoint Group Services”** means MindPoint Group’s Professional Services, as defined in the Order Form.

“Statement of Work” or **“SOW”** means any statement of work that may be included with, attached to and/or incorporated in an Order Form (including as a separate section of the Order Form or an Exhibit thereto) for purposes of describing with more particularity the Professional Services being performed thereunder.

2. CUSTOMER RESPONSIBILITIES

2.1 **Customer Responsibilities.** Customer agrees that, at all times during the Term, it shall: (i) perform those tasks and assume those responsibilities specified in the Order; (ii) upon MindPoint Group’s request, make available to MindPoint Group Customer personnel familiar with Customer’s business requirements related to the Professional Services; (iii) provide to MindPoint Group complete and accurate information regarding Customer's business requirements regarding any Professional Services under this Agreement; and (iv) reasonably cooperate with MindPoint Group regarding the Professional Services (collectively, the **“Customer Responsibilities”**). Each Order shall also contain any assumptions of MindPoint Group for providing the Professional Services and/or additional responsibilities required of Customer for MindPoint Group’s performance of the Professional Services. Customer understands that MindPoint Group’s performance is dependent on Customer’s timely and effective satisfaction of Customer Responsibilities hereunder and timely decisions and approvals by Customer.

2.2 **Deliverables Acceptance.** Customer shall have five (5) business days (the “Acceptance Period”) after the delivery of each Deliverable (including, without limitation, all deliverables and modifications to existing deliverables) to Customer to review and/or test

such Deliverable. Customer shall, within two (2) days after the end of the Acceptance Period, send to MindPoint Group either a written notice of acceptance or a written notice of rejection that includes a detailed description of any problems with the Deliverable. If at the end of the two (2) day period, the Customer has not provided a response to the MindPoint Group, the Deliverable is accepted.

If Customer rejects the Deliverable, MindPoint Group shall have thirty (30) days (the "Remediation Period") to correct the problems and deliver an updated Deliverable to Customer. The Acceptance Period shall then begin anew with respect to such updated Deliverable. Deliverables may only be rejected due to technical findings or issues materially affecting their validity, and not for formatting, grammatical, or other typographic errors or omissions.

3. FEES, EXPENSES AND PAYMENT TERMS.

- 3.1 In consideration of the provision of the Services by the MindPoint Group and the rights granted to Customer under this Agreement, Customer shall pay the fees set forth in the Order Form.
- 3.2 **Time and Material:** Where the Professional Services are provided on a time and materials basis:
 - (a) the fees payable for the Services shall be calculated in accordance with the terms set forth in the Order Form, including MindPoint Group's hourly fee rates for MindPoint Group personnel; and
 - (b) MindPoint Group shall issue invoices to Customer monthly in arrears for its fees for time for the immediately preceding month, calculated as provided in this Section 3.2, together with a detailed breakdown of any expenses for such month incurred in accordance with Section 3.5.
- 3.3 **Firm Fixed Price:** Where Professional Services are provided for a firm fixed price, the total fees for the Services shall be the amount set out in the Order Form based on of the following schedules:
 - (a) **Payment at Inception:** The total price shall be paid to MindPoint Group in full at engagement inception.
 - (b) **Schedule Based Payments:** The total price shall be paid to MindPoint Group in installments, at a schedule set out in the Order Form. MindPoint Group shall issue invoices to Customer for the fees that are then payable, together with a detailed breakdown of any expenses for such month incurred in accordance with Section 3.5. If the schedule specifies "Equal Payments", "Equal Payments" means the total price shall be paid to MindPoint Group in equal monthly installments. Customer acknowledges that equal monthly payments will be calculated based on the Agreement Period of Performance start date. For the sake of clarity, this

means that for Period of Performance start dates at or near the end of a month, that month will be counted when calculating equal monthly payments.

- (c) **Deliverable Based Payments:** For deliverable-based engagements, Section 2.2. governs deliverable acceptance and total price shall be paid to MindPoint Group based on the deliverable based schedule provided in the Order Form.

- 3.4 MindPoint Group agrees to submit each invoice to the attention of Customer as specified in the Order Form.
- 3.5 Customer agrees to reimburse MindPoint Group for all reasonable travel and out-of-pocket expenses incurred by MindPoint Group in connection with the performance of the Services.
- 3.6 Customer shall pay all properly invoiced amounts due to MindPoint Group within thirty (30) calendar days after Customer's receipt of such invoice. Customer shall be deemed to have accepted an invoice in full if Customer does not object in writing providing reasonable detail of Customer's basis for objecting to such invoice within seven (7) calendar days after Customer's receipt of such invoice. All payments hereunder shall be in US dollars and made by check, ACH, or wire transfer. Chargeable bank fees will be assessed to the Customer for any returned checks.
- 3.7 At MindPoint Group's option, any payment not received within five (5) calendar days of the due date shall be assessed a late fee of five percent (5%) of the payment due and shall bear interest from the due date until such date when all amounts have been paid in full at the lesser of one and one-half percent (1.5%) per month or the highest legal rate then in effect. Customer agrees to pay reasonable collection and attorneys' fees incurred due to collections and the filing of any liens. If Customer fails to pay any amount properly due under this Agreement by the due date, MindPoint Group, without prejudice to its other rights, may, after giving three (3) calendar days' notice to Customer, suspend performance of the Services until payment is made in full. Any dates or periods for performance in the Agreement or Order Form shall be extended to take account of any period of suspension.
- 3.8 Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer hereunder; provided, that, in no event shall Customer pay or be responsible for any taxes imposed on, or with respect to, MindPoint Group's income, revenues, gross receipts, personnel or real or personal property or other assets.

4. CHANGE ORDERS.

- 4.1 **Change Orders.** All change requests with respect to any Order or any specification relating to the Subscription Services must be approved by both parties pursuant to a change order (a "**Change Order**"). Customer shall request a Change Order Form from MindPoint Group and detail the changes that Customer requests. Upon receipt of such request, MindPoint Group will promptly provide the Customer with a firm price, terms and conditions for the provision of such new or changed services. The Customer will have ten (10) calendar days to accept or reject such price, terms and conditions in the Change Order Form. If the

Customer accepts, the parties will amend the Order as appropriate to reflect such price, terms and conditions, such new or changed services will be deemed Subscription Services under the Agreement, and MindPoint Group will commence to provide such Subscription Services in accordance with the terms hereof and thereof. A change request will only be effective when changed by a written amendment or final Change Order Form signed by the authorized representative of each party which specifically refers to the provisions of the Agreement or Order to be modified. MindPoint Group will have no obligation to commence work in connection with any changed Subscription Services until the change order is agreed upon by the parties.

5. TERMINATION.

5.1 Termination of Services.

- (a) Either party may terminate this Agreement (in which case the Order will immediately thereupon terminate) if the other party commits a breach of a material term of this Agreement or of the Order and that breach has not been remedied or is not capable of being remedied within a period of thirty (30) calendar days after the non-defaulting party gives to the defaulting party written notice of such breach.
- (b) Either party may terminate this Agreement (in which case the Order will immediately thereupon terminate) if the other party becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated, voluntary or otherwise.
- (c) Either party shall have the right to terminate the Services after giving effect to any applicable notice and cure periods and subject to the terms and conditions in Section 7.3(e), as applicable, if the other party has breached any of its representations and warranties under Section 7.

5.2 Payment for Services. If this Agreement is terminated, Customer shall pay to MindPoint Group all amounts due for the Services performed through the effective date of termination in accordance with invoices issued or to be issued by MindPoint Group therefore, subject to Section 3. In the event of such termination, Customer shall also reimburse MindPoint Group for any and all reasonable uncancellable or non-refundable obligations to third parties or otherwise that MindPoint Group incurred prior to the date of termination and in compliance with the Order Form.

5.3 Cessation of Services. Upon notice of termination, MindPoint Group shall stop performance of Services hereunder, except as may be necessary to carry out such notice of termination or as otherwise reasonably directed by Customer in such notice. Upon termination, the obligations of Customer and MindPoint Group to one another or the portion thereof that is terminated shall cease, except for such obligations which, by their nature, survive

completion of the Services hereunder. If only a portion of the Services is terminated by Customer, MindPoint Group shall continue to perform all portions of the Services not terminated, and as to the portions of the Services not terminated, this Agreement shall remain in full force and effect.

- 5.4 **Transition Services.** Upon notice of termination of the Services, MindPoint Group shall provide to Customer such transitional services as are reasonably necessary to permit Customer to transfer the performance of the Services to Customer's own personnel and/or to another provider(s). Invoices for the reasonable costs of such transitional services shall be provided and paid in accordance with Section 3.
- 5.5 **Return of Materials.** Upon receipt of notice of termination, MindPoint Group shall compile all reports, plans, drawings, specifications, data, estimates, summaries, or other material and information (collectively, "Customer's Data"), whether completed or in process, accumulated by MindPoint Group in the performance of Services. Customer shall reimburse MindPoint Group for all costs incurred as a result of MindPoint Group's return of Customer's Data. Upon receipt of Customer's final payment following termination, including reimbursement for MindPoint Group's costs to return Customer's Data, MindPoint Group will promptly return all Customer's Data to Customer.

6. INTELLECTUAL PROPERTY.

6.1 Use of the Services.

- (a) All right, title and interest in and to any reports, recommendations, specifications, drawings, technical data, sketches, or other work arising, directly from the Services hereunder for which the Customer has paid MindPoint Group in full, whether prepared or performed by MindPoint Group, alone or in conjunction with others ("Work Product") shall be considered "work for hire" and shall be owned solely and exclusively by Customer without any further payment owed.
- (b) Notwithstanding Section 6.1(a), Customer acknowledges and agrees that as of the Effective Date of this Agreement, MindPoint Group possesses certain inventions, processes, know-how, improvements, other intellectual properties and other assets, including but not limited to, [project management methods, procedures and techniques, procedure manuals, personnel data, technical data, and financial information], which have been independently developed by MindPoint Group without the benefit of any information provided by Customer and which relate to MindPoint Group's business or operations (collectively "MindPoint Group's Property"). Customer and MindPoint Group agree that any of MindPoint Group's Property or improvements thereto which are used, improved, modified or developed solely by MindPoint Group under or during the term of this Agreement are the sole and exclusive property of MindPoint Group.

- 6.2 **Proprietary Material and Discoveries.** Any materials belonging to or in the possession of Customer, written, printed, or otherwise recorded, shall be used by MindPoint Group only in the performance of its duties hereunder and MindPoint Group shall not record,

reference, reproduce, or use such materials for any other purpose without the express written consent of Customer.

6.3 Confidential Information. Each party shall treat as confidential all information, reports, designs, drawings, specifications, and documents (hereinafter “Confidential Information”), regardless of form, that the other party, whether written, electronic, visual or verbal, tangible or intangible, made available, disclosed, or otherwise made known to it. Each party shall take all precautions necessary to prevent disclosure of such Confidential Information to others except upon the express written approval of the party disclosing such Confidential Information (the “Disclosing Party”). Confidential Information of the Disclosing Party will only be provided by the party receiving the Confidential Information (the “Receiving Party”) to the Receiving Party’s employees, agents, consultants and professional advisers who have a need to know such information for the purposes of this Agreement, provided that such employees, agents, consultants and professional advisers shall be bound by confidentiality obligations at least as restrictive as those set forth herein. Without prior written approval of the Disclosing Party, the Receiving Party shall not use Confidential Information for any purpose other than as contemplated by this Agreement. All rights, title to, and interest in Confidential Information shall remain with the Disclosing Party and all Confidential Information shall be surrendered to the Disclosing Party immediately upon termination of this Agreement or any time prior thereto upon the request of the Disclosing Party. Termination or expiration of this Agreement shall not be deemed to affect the Receiving Party’s obligations with respect to the Disclosing Party’s proprietary information or other information discovered or derived by the Receiving Party hereunder, and such obligations shall survive the termination or expiration of this Agreement.

6.4 Confidentiality – Judicial Compulsion. In the event that the Receiving Party or its representatives are requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any information supplied to the Receiving Party in the course of this Agreement, it is agreed that the Receiving Party will provide the Disclosing Party with prompt notice of such request or requirement so that either party or both may seek an appropriate protective order and/or by mutual agreement waive the Receiving Party’s compliance with any contrary provisions of this Agreement. It is further agreed that, if in the absence of a protective order or the receipt of a waiver hereunder, the Receiving Party or any of its representatives is nonetheless, in the opinion of its counsel, compelled to disclose information concerning the Disclosing Party to any tribunal or else stand liable for contempt or suffer other censure or penalty, the Receiving Party or such representative may disclose such information to such tribunal without liability hereunder.

7. REPRESENTATIONS AND WARRANTIES.

7.1 Each party represents and warrants that:

- (a) it is a corporation, limited liability company or partnership duly incorporated or formed and organized, validly existing and in good standing under the laws of the state of its incorporation or formation;

- (b) it is duly qualified to carry on its business wherever it conducts its business;
- (c) it has the corporate, company or partnership power and authority and legal right to enter into this Agreement and to perform its obligations hereunder, including under the SOW (as defined in the Order Form), and that it has taken all necessary corporate, company or partnership action to authorize execution and performance of this Agreement;
- (d) all requisite corporate or company proceedings have been taken to authorize it to enter into and perform this Agreement; and
- (e) it is not subject to and will not enter into any agreements or arrangements which preclude its compliance with the provisions of this Agreement.

7.2 Customer represents and warrants to MindPoint Group that:

- (a) Customer will provide MindPoint Group with physical and/or electronic access to its computer systems, networks, related equipment, software, stored data, information and personnel as reasonably required for MindPoint Group to render the Services contemplated in the Order Form;
- (b) Customer has obtained all required authorizations and approvals necessary in order for MindPoint Group to perform the Services and to have access to such systems, networks, equipment, software, data and information necessary therefor without violating the rights of any third party;
- (c) MindPoint Group has the authorization to access such computers, computer systems and computer networks in the regular course of work under this Agreement and the SOW (as defined in the Order Form), and, notwithstanding any other provision of this Agreement, Customer shall indemnify, defend, and hold MindPoint Group harmless for any damages or liability resulting from direct or third party claims that MindPoint Group did not have the authorization to obtain such access; and
- (d) Customer understands that any assessment of the current state of Customer's network security is a snapshot in time and cannot guarantee identification of all possible vulnerabilities or propose exhaustive and operationally viable recommendations to mitigate exposure as security of Customer's infrastructure may change after the Services have been performed.

7.3 MindPoint Group represents and warrants to Customer that:

- (a) MindPoint Group shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement;

- (b) MindPoint Group is in compliance in all material respects with, and shall perform the Services in compliance in all material respects with, all applicable laws;
- (c) Assuming Customer fulfills its obligations under this Agreement and the SOW (as defined in the Order Form), Customer will receive good and valid title to all deliverables, free and clear of all encumbrances and liens of any kind;
- (d) to MindPoint Group's knowledge, none of the Services, deliverables or Customer's use thereof infringe or will infringe any registered or issued patent, copyright or trademark of any third party;
- (e) the Services and deliverables will be in conformity in all material respects with all requirements or specifications stated in this Agreement and the SOW (as defined in the Order Form). In the event of MindPoint Group's breach of the warranty in this Section 7.3(e), MindPoint Group's sole and exclusive obligation and liability and Customer's sole and exclusive remedy shall be as follows:
 - (i) MindPoint Group shall use reasonable efforts to cure such breach; provided, that if MindPoint Group cannot cure such breach within a reasonable time, but no more than thirty (30) calendar days, after Customer's written notice of such breach, Customer may, at its option, terminate the Agreement by serving written notice of termination in accordance with Section 4.
 - (ii) The foregoing remedy shall not be available unless Customer provides written notice of such breach within ten (10) calendar days after delivery of such Service or deliverables to Customer.

7.4 EXCEPT FOR THE EXPRESS WARRANTIES IN THIS SECTION 7, EACH PARTY HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT.

EXCEPT FOR THE EXPRESS WARRANTIES IN THIS SECTION 7, MINDPOINT GROUP SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

CUSTOMER UNDERSTANDS AND AGREES THAT NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY MINDPOINT GROUP, ITS EMPLOYEES, AGENTS, OR CONTRACTORS, SHALL CREATE ANY ADDITIONAL MINDPOINT GROUP WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF MINDPOINT GROUP'S OBLIGATIONS.

8. LIMITATION OF LIABILITY.

- 8.1 In no event will either party be liable to the other or to any third party for any loss of use, revenue or profit or loss of data or for any consequential, incidental, indirect, exemplary, special or punitive damages, whether arising out of breach of contract, tort (including negligence) or

otherwise, regardless of whether such damage was foreseeable and whether or not such party has been advised of the possibility of such damages.

- 8.2 In no event will either party's liability arising out of or related to this Agreement, whether arising out of or related to breach of contract, tort (including negligence) or otherwise, exceed two (2) times the aggregate amounts that have actually been paid by Customer to and received by MindPoint Group pursuant to this Agreement.
- 8.3 MindPoint Group shall not be responsible for any of Customer's information and/or data that may be lost, damaged or corrupted as a result of circumstances beyond MindPoint Group's reasonable control.

9. INDEMNIFICATION.

Subject to Section 7.3(e) and Section 8, each party shall indemnify the other party and its affiliates, employees, and directors, and each of them, from and against any loss, cost, damage, claim, expense, or liability, including reasonable attorneys' fees, actually suffered or incurred, including but not limited to liability as a result of injury to or death of any person or damage to or loss or destruction of any property, resulting from or arising out of or in connection with the performance of this Agreement by the parties or a contractor or an agent of either party or an employee of any one of them, regardless of the negligence of the other party, its contractors, agents, or employees except where such loss, cost, damage, claim, expense, or liability results solely from the gross negligence or willful misconduct of the other party or its employees.

10. NON-SOLICITATION.

- 10.1 During the term of this Agreement, and for eighteen (18) months following termination hereof, Customer shall not directly or indirectly solicit for the purpose of hiring, employing or contracting with, or assisting in the solicitation, hiring, employing or contracting with, any person or entity that is, or was at any time during the term of this Agreement, a consultant, employee, or subcontractor of MindPoint Group, without express written permission from MindPoint Group.
- 10.2 If Customer breaches Section 10.1, Customer shall, on demand, pay to MindPoint Group a sum equal to one year's basic salary or the annual fee that was payable by MindPoint Group to that employee, worker or independent contractor, any recruitment costs incurred in replacing such person, and reasonable attorneys' fees expended by MindPoint Group in enforcing this Agreement.

11. FORCE MAJEURE.

MindPoint Group shall not be considered in default in the performance of its obligations under the Agreement to the extent that performance of its obligations is prevented or delayed by any cause beyond its reasonable control, including, without limitation, acts of God; acts or omissions of governmental authorities or the other party; strikes; lockouts or other industrial disturbances; acts of public enemies; wars; blockades; riots; civil disturbances; epidemics; floods; hurricanes; tornadoes; and any other similar acts, events, or omissions. When determined that force majeure

results in a delay of MindPoint Group's performance, the date of delivery or performance of any other obligations hereunder shall be extended for a period of equal duration to the time lost by reason of the delay.

12. INSURANCE.

MindPoint Group shall maintain, at its expense, insurance coverage of the kind, type, and limits specified below.

Commercial General Liability	\$1,000,000 each occurrence; \$2,000,000 general aggregate
Umbrella Liability	\$6,000,000
Professional Liability (Errors & Omissions)	\$5,000,000
Cyber Liability	\$5,000,000
Business Automobile Liability	\$1,000,000
Workers' Comp / Employer's Liability	
Statutory; Employer's Liability limit	\$2,000,000

13. NOTICES.

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) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient or (d) on the third (3rd) calendar day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses indicated below (or at such other address for a party as shall be specified in a notice given in accordance with this Section 13.

To the Customer specified in the Order Form.

To MindPoint Group:

ATTN: Contracts Department
MindPoint Group, LLC
11950 Democracy Dr., Suite 650,
Reston, VA 20190
Email: contracts@mindpointgroup.com
Tel: 703-636-2033, Option 3

14. ASSIGNMENT.

A party shall not assign the Agreement or any task, duty or obligation under the Order Form, or otherwise dispose of its right, title, or interest therein or any part thereof to any person or entity, without obtaining the prior written consent of the other party, which shall not be unreasonably withheld or conditioned. Notwithstanding any other provision in this Agreement, MindPoint

Group shall have the right to assign and/or transfer this Agreement and/or its rights herein to any parent, subsidiary or affiliate of MindPoint Group or otherwise in connection with a corporate reorganization of MindPoint Group including, without limitation, a merger, restructuring, or other equivalent transaction that involves a change-in-control or a sale of all or substantially all of the assets of MindPoint Group, without obtaining Customer's prior approval therefor. In connection with any such assignment or transfer by MindPoint Group, MindPoint Group's successor(s) or assign(s) shall have the right but not the obligation to continue this Agreement in effect; and, if so continued, MindPoint Group's successor(s) or assignee(s) shall be fully vested as a party to this Agreement in full substitution, and with all of the rights, of MindPoint Group hereunder.

15. WAIVER.

No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent to, or waiver of, or excuse for any other different or subsequent breach. No waiver of any one or several of the terms, conditions or obligations of this Agreement, and no partial waiver thereof, shall be construed as a waiver of any of the other terms, conditions or obligations of this Agreement. No failure or delay by either party at any time to enforce one or more of the terms, conditions or obligations of this Agreement shall constitute waiver of such terms, conditions or obligations or shall preclude such party from requiring performance by the other party at any later time.

16. REMEDIES.

Both parties to this Agreement acknowledge and agree that the other party will suffer irreparable harm and that monetary damages alone will not adequately compensate the affected party in the event of the other party's breach of the Intellectual Property, Confidentiality, Non-solicitation or Publicity (and, as to Publicity, other than as to pre-approved uses as noted in Section 17.7) provisions of this Agreement. Therefore, in addition to all other remedies available at law or in equity, in the event that either party breaches the Intellectual Property, Confidentiality, Non-solicitation or Publicity (and, as to Publicity, other than as to pre-approved uses as noted in Section 17.7) provisions hereof, the affected party shall be entitled to interim, emergency, and permanent restraints and injunctive relief for the enforcement thereof (without the need to prove actual damages or to post any bond or other undertaking), as well as to an accounting and payment of any and all amounts received by breaching party as a result of such breach. Any action for relief under this Section 16 shall be not be subject to Section 17.3 and shall be governed instead by Section 17.4.

17. MISCELLANEOUS.

17.1 No Third-Party Beneficiary Rights. No provision of this Agreement shall in any way inure to the benefit of any third person or entity (including the public at large) so as to constitute any such person or entity a third-party beneficiary of the Agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person or entity not a party hereto.

- 17.2 **Severability.** The invalidity, illegality, or unenforceability of any provisions of this Agreement, by statute, court or otherwise, shall not affect the validity, legality, or enforceability of any other provision of this Agreement, which shall remain in full force and effect.
- 17.3 **Dispute Resolution.** The parties will attempt to resolve through good faith negotiations any dispute, claim or controversy (individually or collectively, a “Dispute”) arising out of or relating to this Agreement, to performance by any parties hereunder, or to the threatened, alleged, or actual breach thereof by any party. If the parties are unable to resolve such Dispute through good faith discussions, higher level management representatives from each party shall meet and attempt to resolve the Dispute. Any Dispute arising out of or relating to this Agreement which is not disposed of by mutual agreement of the parties within a period of thirty (30) calendar days after one party has provided written notice of the Dispute to the other party, shall be subject to arbitration pursuant to the Commercial Rules of the American Arbitration Association, before an arbitrator mutually agreed to by the parties; provided, however, the discovery rules of the Federal Rules of Civil Procedure shall apply in such proceedings. Any such arbitration shall be held in Fairfax County, Virginia or elsewhere as mutually agreed to by the parties. The arbitrator’s decision shall be final and binding absent fraud or manifest error. Judgment upon an award rendered by the arbitrator may be entered in any court of competent jurisdiction specified in Section 17.4. No party shall institute any action or proceeding against any other party in any court with respect to any Dispute which is or could be the subject of a claim or proceeding pursuant to this Article. In the event that any arbitration is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys’ fees and court costs from the non-prevailing party. Nothing in this Section prevents any party from exercising its right to terminate this Agreement in accordance with the terms and conditions herein.
- 17.4 **Governing Law and Choice of Forum.** The validity, interpretation, and performance of this Agreement shall be governed by the laws of the Commonwealth of Virginia. Each party hereby expressly and irrevocably consents that any suit, action, or proceeding arising under Section 16 or challenging the final arbitration decision shall be brought in the appropriate state or federal court within the Commonwealth of Virginia.
- 17.5 **Survival.** The parties agree that the warranties, representations and provisions of Sections 3, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16 and 17 hereof shall survive the termination or expiration of this Agreement.
- 17.6 **Integration and Execution.** The Agreement constitutes the entire agreement between the parties and supersedes all prior written or oral understandings, bids, offers, negotiations, or communications of every kind. No course of dealing between parties and no usage of trade shall be relevant to supplement any term used in the Agreement. Acceptance or acquiescence in a course of performance rendered under the Agreement shall not be relevant to determine the meaning of the Agreement. This Agreement may be executed through signatures to any number of counterparts, but any or all of such counterparts and documents shall constitute but one agreement.

- 17.7 **Publicity.** Customer acknowledges and agrees that during the term and after the termination or expiration of this Agreement, MindPoint Group shall have the right to use Customer's name and logo and identify Customer as a Customer in MindPoint Group's marketing, publicity, and promotional activities and materials, including but not limited to press releases, marketing collateral, presentations, customer lists and print, radio, internet and television advertisements, without further consent or approval of Customer. Customer grants MindPoint Group a limited license to use Customer's name and logo in accordance with this Section 17.7.

Revision 20250103

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