

NUHARBOR MASTER AGREEMENT

This NuHarbor Master Agreement (“**Master Agreement**”), effective as of the date last signed below (the “**Effective Date**”), is by and between NuHarbor Security, Inc. (“**NuHarbor**”) a Vermont corporation with offices located at 553 Roosevelt Hwy, Colchester, VT 05446 and City of Aurora, an Illinois home rule municipal corporation, having a place of business at City of Aurora, 44 East Downer Place, Aurora, Illinois 60505 (“**Client**”). This Master Agreement, together with each applicable Statement of Work are the “**Agreement**.” The parties hereby agree as follows:

1. Definitions. Capitalized terms shall have the meanings defined herein.

“**Confidential Information**” means any information that is treated as confidential by a party, including but not limited to all non-public information about its business affairs, products or services, Intellectual Property Rights, third-party confidential information, and other sensitive or proprietary information, whether disclosed orally or in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as “confidential”. Confidential Information shall not include information that: (a) is already known to the Recipient without restriction on use or disclosure prior to receipt of such information from the Discloser; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Recipient; (c) is developed by the Recipient independently of, and without reference to, any Confidential Information of the Discloser; or (d) is received by the Recipient from a third party who is not under any obligation to the Discloser to maintain the confidentiality of such information.

“**Client Materials**” means data, information, materials, documents, and other content, and Client’s systems, networks, and other technology provided to NuHarbor by Client. For avoidance of doubt, Client Materials does not include Usage Data.

“**Deliverables**” means all templates, reports, documents, work product, and other materials that are delivered to Client hereunder or prepared by or on behalf of NuHarbor in the course of performing the Services, including any items identified as such in a Statement of Work.

“**Intellectual Property Rights**” means any and all intellectual property rights of every kind and nature throughout the world, whether now existing or which come into existence in the future including, without limitation: (a) utility patents, design patents, utility models, and all other patent rights; (b) copyrights, database rights, moral rights and all other rights in works of authorship; (c) know how, confidential or proprietary information, and all other trade secret rights; (d) trademarks, trade names, service marks, trade dress, logos and all other indicia of origin, together with the goodwill associated with any of the foregoing; and (e) any and all registrations, applications, issuances, common-law rights, and statutory rights with respect to any of the foregoing.

“**Statement of Work**” means an ordering document mutually agreed to pursuant to this Master Agreement and executed by the parties describing the Services and additional obligations of the parties.

“**Third-Party Products**” means any third-party software, products, or services including, without limitation (a) those of the foregoing that the Services may be designed to access, use or integrate with, and (b) those of the foregoing that NuHarbor may otherwise make available to Client, whether for purchase from NuHarbor, directly from the third-party vendor, or otherwise. For the avoidance of doubt, Third Party Products includes third-party software, products or services for which NuHarbor may be an authorized reseller and third-party managed security services platforms and internet services.

“**Third-Party Services Provider**” means any third-party internet, hosting, platform or other service provider, other than NuHarbor or Client, providing internet, hosting, platform or other services facilitating or necessary for Client to access and use the Services or for NuHarbor to provide the Services, including without limitation, providers of Third-Party Products.

“Usage Data” means data and information related to Client's use of the Services and Deliverables that is used by NuHarbor in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services or any information reflecting the access and use of the Services and Deliverables by or on behalf of Client.

2. Services.

2.1. Subject to the terms and conditions of the Agreement, NuHarbor shall provide the services as further detailed in the applicable Statement of Work (“**Services**”). Each Statement of Work shall be deemed issued and accepted only if signed by an authorized representative of each party and shall be deemed a part of and subject to the terms and conditions of this Master Agreement. In the event of any conflict between the terms and conditions of this Master Agreement and any Statement of Work, the terms and conditions of this Master Agreement will prevail unless the Statement of Work expressly provides otherwise, in which case the conflicting terms and conditions in the Statement of Work will prevail, but only with respect to that particular Statement of Work.

2.2. Change Orders. Either party may, at any time during the Term, request changes to a Statement of Work by submitting a written change request to the other party describing the requested change in detail. The parties will evaluate the change requests and, if agreed, enter into a written change order signed by an authorized representative of each party describing the agreed changes to the Statement of Work, including any agreed changes to the Fees (each, a “**Change Order**”). No changes to a Statement of Work will be effective unless and until set forth in a Change Order.

3. Client Responsibilities.

3.1. Client shall: (a) perform its obligations described in this Master Agreement and in the applicable Statement of Work in accordance with the terms and conditions of the Agreement; (b) provide NuHarbor with access to all Client Materials and knowledgeable Client personnel as reasonably requested or required by NuHarbor to provide the Services; (c) unless otherwise agreed upon by the parties, obtain Third-Party Products and required permissions that may be necessary for NuHarbor to access and use such Third-Party Products to provide the Services; (d) if NuHarbor is performing Services at Client facilities, provide NuHarbor personnel with access to Client's premises, offices, and other facilities as may be required for NuHarbor to perform the Services and maintain a safe workplace consistent with that of its own employees; and (e) to the extent applicable, obtain all approvals, consents, and authorizations to comply with all applicable laws in relation to the Services. If NuHarbor's performance of its obligations under the Agreement is delayed or prevented by any act or omission of Client or its representatives, NuHarbor will not be deemed in breach of the Agreement or otherwise liable for any costs, charges, or losses incurred by Client to the extent relating to such delay or prevention. NuHarbor will not be liable for any loss, damage, costs, expenses or other claims for compensation arising from any Client Materials or instructions supplied by Client which are incomplete, incorrect, inaccurate, illegible, or defective in any other way. Client agrees and acknowledges that its failure to obtain necessary consents and authorizations could result in claims or actions for which Client will be solely responsible and Client will cooperate with NuHarbor and any governmental authority as necessary to resolve such claims.

3.2. Restrictions. Client will not, and will not enable any third party to: (a) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms included in any Services or Deliverables or any data related to the Services (except to the extent such prohibition is contrary to applicable law); (b) modify, translate, or create derivative works based on any Services or Deliverables; (c) share, rent, lease, loan, resell, sublicense, distribute, use or otherwise transfer any Services or Deliverables for timesharing or service bureau purposes or for any purpose other than its own internal use; (d) access or use any Services or Deliverables for the purpose of creating a product or service competitive with NuHarbor's Services and Deliverables; (e) attempt to disable or circumvent any license key or other technological mechanism or measures intended to prevent, limit or control use of, copying of, or access to any Services or Deliverables; or (f) access or use any Services or Deliverables other than in accordance with the terms and conditions of the Agreement and in compliance with applicable law. Client will not permit any third party to access or use any Services or Deliverables unless expressly permitted in a Statement of Work.

4. Personnel.

- 4.1. Project Managers. During the Term, each party shall designate an employee to serve as a primary contact for day-to-day communications and decision-making with respect to the Agreement and who will have authority to act on behalf of the party in connection with matters pertaining to the Agreement as may be further specified in the applicable Statement of Work ("**Project Manager**"). Each Project Manager shall be suitably skilled, experienced, and qualified to perform their respective duties. If either party's Project Manager ceases to be employed by such party or such party otherwise wishes to replace its Project Manager, such party shall promptly name a new Project Manager by written notice (email to suffice) to the other party.
- 4.2. Employee Verification. In lieu of any other background screening requirements, NuHarbor shall (a) obtain a comprehensive background investigation report for each new employee with a satisfactory result that includes verification of U.S. citizenship, social security number trace, sex offender registry search, county criminal court search (seven (7) years; up to three (3) counties), domestic watchlist search, employment verification, education verification, national criminal database search, federal criminal court search, global watchlist search, and employment credit report, (b) conduct an FBI fingerprint search that meets IRS publication 1075 requirements on employees performing direct security services, including the resubmission of fingerprints of active employees to the FBI fingerprint lab every five years, and (c) maintain its SOC 2 Type 2 compliance during the Term. On an annual basis, NuHarbor employees will complete cybersecurity awareness training, anti-harassment training, commitment to NuHarbor information security policies and commitment to the NuHarbor employee handbook. All pre-employment and employment data is maintained for a period of seven (7) years after the employee is no longer an active employee of NuHarbor.
- 4.3. Employee Compensation. NuHarbor is responsible for its personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, and disability benefits.
- 4.4. Non-Solicitation. During the Term of the Agreement and for a period of one (1) year thereafter, neither party shall, either directly or indirectly, for the same or substantially the same employment position, (a) solicit or attempt to induce any employee of the other party to terminate their employment, or (b) hire or attempt to hire any employee of the other party at any time during such period. Notwithstanding the foregoing, this Section 4.4 shall not apply to any employee (i) whose employment with a party has ceased for a period of twelve (12) months or longer, (ii) whose employment with a party was terminated by such party, or (iii) who had no direct contact with, and did not become known to, the other party in connection with or as a result of the business relationship reflected in the Agreement. A general advertisement or notice of a job listing or opening or other similar general publication of a job search or availability to fill employment positions, including on the internet, shall not be construed as a solicitation or inducement for the purposes of this Section 4.4, and the hiring of any person who freely responds thereto shall not be a breach of this Section 4.4.

5. Fees; Invoicing; Payment.

- 5.1. Fees. In consideration for the provision of the Services by NuHarbor, Client shall pay NuHarbor the fees set forth in each Statement of Work ("**Fees**"). Client shall reimburse NuHarbor for all out-of-pocket expenses incurred by NuHarbor in performing the Services that are either (a) identified in a Statement of Work, or (b) approved by Client in writing (collectively, "**Reimbursable Expenses**").
- 5.2. Invoices and Payment. The vendor shall provide an invoice to the City for services rendered and the City shall approve and thereafter pay any undisputed portions thereof in accordance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 et. seq). Approved, but unpaid invoiced amounts shall accrue interest in the manner and to the extent authorized by the Act.
- 5.3. Taxes; Withholding. Except as otherwise expressly set forth in the Agreement, all payments by Client hereunder are non-refundable and shall be made free and clear of and without reduction for all applicable withholding, sales or use, goods and services, value added, consumption or other similar fees or taxes imposed by any government (other than taxes on the net income of NuHarbor), which shall be paid by Client. If NuHarbor has

the legal obligation to pay or collect taxes for which Client is responsible, the appropriate amount shall be invoiced to and paid by Client unless Client provides NuHarbor with a valid tax exemption certificate authorized by the appropriate taxing authority.

- 5.4. **Late Payment.** If Client fails to make any payment when due then, in addition to all other remedies that may be available: (a) NuHarbor may charge interest in accordance with the Illinois Local Government Prompt Payment Act ; (b) if such failure continues for ten (10) days following written notice (email to suffice) thereof, NuHarbor may suspend performance of the Services (including Client's access to the Deliverables) until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Client or any other party by reason of such suspension.

6. Intellectual Property Rights.

- 6.1. **NuHarbor Intellectual Property Rights.** As between the parties, all Intellectual Property Rights in and to the Services and Deliverables (except for any Client Confidential Information or Client Materials) and any modification thereto shall be owned exclusively by NuHarbor. NuHarbor hereby grants Client a limited, non-exclusive, perpetual, worldwide license to use, display, and reproduce Deliverables solely to the extent necessary to enable Client to make reasonable use of the Deliverables and Services for Client's internal business purposes during the term of the applicable Statement of Work, and in accordance with the terms and conditions of the Agreement. Nothing in the Agreement shall be deemed to transfer or convey to Client or any third party any right, title or interest in or to the Services or Deliverables. NuHarbor owns the Usage Data. Nothing herein will be construed as restricting or prohibiting NuHarbor from utilizing the Usage Data in any way, including to optimize and improve the Services or Deliverables so long as the Usage Data remains aggregated and de-identified, or to enforce the Agreement.

- 6.2. **Client Materials.** NuHarbor acknowledges that, as between the parties, Client owns all right, title, and interest, including all Intellectual Property Rights, in and to Client Materials. Client hereby grants to NuHarbor a non-exclusive, royalty-free, worldwide license to reproduce, distribute, modify, create derivative works, and otherwise use and display the Client Materials solely as may be necessary for NuHarbor to perform the Services. Client shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and completeness of all Client Materials.

- 6.3. **Feedback.** Upon submitting any Client suggestions, proposals, ideas, recommendations, bug reports, ideas, improvements or other feedback regarding NuHarbor's Services or Deliverables ("**Feedback**"), Client grants to NuHarbor a royalty-free, fully paid, sub-licensable, transferable, non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import, and otherwise exploit Feedback (including by incorporation of such Feedback into the Services or Deliverables) without restriction. Feedback expressly excludes any Client Confidential Information and Client Materials.

7. **Third-Party Products.** NuHarbor may from time to time make Third-Party Products available to Client. Such Third-Party Products are subject to their own terms and conditions and Client agrees to be bound by and comply with such terms and conditions. NuHarbor will have no obligation to Client with respect to any third-party product, including the performance thereof, and all Intellectual Property Rights to Third-Party Products remain with the Third-Party Service Provider. NUHARBOR SHALL HAVE NO LIABILITY IN CONNECTION WITH ANY THIRD-PARTY PRODUCTS, AND EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED STATUTORY OR OTHERWISE, RELATING THERETO. ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY PRODUCTS IS STRICTLY BETWEEN CLIENT AND THE APPLICABLE THIRD-PARTY SERVICE PROVIDER.

8. Term and Termination.

- 8.1. **Term.** The term of the Agreement shall commence on the Effective Date and shall continue for a period of twelve (12) months thereafter ("**Initial Term**"), unless earlier terminated in accordance with the terms the Agreement. Upon expiration of the Initial Term, the Agreement will automatically renew for additional successive twelve (12) month periods (each a "**Renewal Term**" and together with the Initial Term, the "**Term**")

unless either party provides written notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

8.2. **Suspension.** NuHarbor may temporarily suspend Services, without incurring any obligation or liability to Client, if NuHarbor reasonably determines that: (a) Client's use of the Services or Deliverables poses a security risk to NuHarbor or any other NuHarbor client or vendor; (b) Client is using the Services or Deliverables for fraudulent or illegal activities or in violation of the restrictions set forth in Section 3.2 (Restrictions); or (c) a governing body determines NuHarbor's provision of any Services or Deliverables is prohibited by applicable law. NuHarbor will use commercially reasonable efforts to provide Client written notice (email to suffice) of any such suspension and shall resume performance under the Agreement as soon as reasonably practicable after the event giving rise to the suspension has been resolved.

8.3. **Termination for Cause.** Either party may terminate this Agreement, effective upon written notice to the other party (the "**Defaulting Party**"), if the Defaulting Party (a) materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach; (b) becomes insolvent; (c) admits its inability to pay its debts generally as they become due; (d) becomes subject to any bankruptcy proceeding; (e) is dissolved or liquidated; (f) makes a general assignment for the benefit of creditors; or (g) has a receiver, trustee, custodian, or similar agent appointed by court order to take charge of or sell any material portion of its property or business.

8.4. **Termination for Convenience.** The Client has the right to terminate this Agreement, in whole or in part, for any reason or if sufficient funds have not been appropriated to cover the estimated requirement of the Services not yet performed, by providing NuHarbor with thirty (30) days notice specifying the termination date. On the date specified, this Agreement will end. If this Agreement is terminated by the Client, as provided herein, the Client shall pay the NuHarbor only for services performed up the date of termination. After the termination date, NuHarbor has no further contractual claim against the Client based upon this Agreement and any payment so made to the NuHarbor upon termination shall be in full satisfaction for Services rendered. NuHarbor shall deliver to the Client all finished and unfinished documents, studies and reports and shall become the property of the Client.

8.5. **Effects of Termination.** Upon expiration or termination of the Agreement, except as expressly otherwise provided in the Agreement, (a) NuHarbor shall have no obligation to provide any Services to Client, (b) all rights, rights and licenses granted by either party to the other hereunder will immediately terminate, and (c) all Fees and Reimbursable Expenses incurred by NuHarbor up to the effective date of termination shall immediately be payable by Client to NuHarbor.

8.6. **Survival.** The rights and obligations of the parties set forth in this Section 8.5, and Sections 5, 6, 9, 10.5, 11, 12 and 13 and any right or obligation of the parties in the Agreement which, by its nature, should survive termination or expiration of the Agreement, will survive any such termination or expiration of the Agreement.

9. Confidentiality.

9.1. **Restrictions on Use and Disclosure.** The party that receives or acquires Confidential Information directly or indirectly under the Agreement ("**Recipient**") agrees not to use Confidential Information disclosed by the other party under the Agreement ("**Discloser**") or disclose, distribute, or disseminate Discloser's Confidential Information except in furtherance of the performance of its obligations or enforcement of its rights hereunder or as otherwise expressly agreed by Discloser in writing. Recipient agrees to restrict access to such Confidential Information to those employees, agents, contractors, or consultants of Recipient who need to know such Confidential Information for performing as contemplated hereunder and are bound by confidentiality obligations no less protective than those contained in the Agreement. Recipient shall exercise the same degree of care to prevent unauthorized use or disclosure of Discloser's Confidential Information to others as it takes to preserve and safeguard its own information of like importance, but in no event less than reasonable care.

- 9.2. Public Disclosure. As a public body, the Client's records are governed by the Illinois Freedom of Information Act (5 ILCS 140/1), which provides that any public records in its possession are subject to inspection by the public. Therefore, unless a statutory exemption applies, records relating to this contract are considered public records under FOIA and therefore not confidential. To the extent NuHarbor may be performing a governmental function on behalf of the Client, records in NuHarbor's possession that relate to this contract, unless exempt under FOIA, may also be considered public records subject to inspection by the public. Therefore, NuHarbor agrees to cooperate with the Client in the event a FOIA request for such records is received, and agrees to provide the Client with the requested records within two (2) business days
- 9.3. Compelled Disclosure. If Recipient is compelled by a court or other competent authority or applicable law to disclose Confidential Information of Discloser, it shall, to the extent permitted by applicable law, give Discloser prompt written notice and shall provide Discloser with reasonable cooperation at Discloser's expense so that Discloser may take steps to oppose such disclosure or obtain a protective order. Recipient shall not be in breach of its obligations in this Section 9 (Confidentiality) if it makes any legally compelled disclosure provided that Recipient meets the foregoing notice and cooperation requirements.
- 9.4. Injunctive Relief. Recipient acknowledges that breach of its confidentiality obligations may cause irreparable harm to Discloser, the extent of which may be difficult to ascertain. Accordingly, Recipient agrees that Discloser may be entitled to seek immediate injunctive relief in the event of breach of an obligation of confidentiality by Recipient, and that Discloser shall not be required to post a bond or show irreparable harm in order to obtain such injunctive relief.
- 9.5. Return of Confidential Information. As between the parties, Confidential Information shall remain the property of the Discloser. At any time, upon Discloser's reasonable request, Recipient shall promptly (and in any event within thirty (30) days) return to Discloser or destroy, at the election of the Discloser, any Confidential Information of the Discloser in Recipient's possession. In addition, within thirty (30) days after termination of the Agreement, Recipient shall (a) promptly return all tangible materials containing such Confidential Information to Discloser, and (b) remove all Confidential Information (and any copies thereof) from any computer systems of the Recipient and confirm in writing that all materials containing Confidential Information have been destroyed or returned to Discloser, as applicable, by Recipient. Recipient shall cause its affiliates, agents, contractors, and employees to comply with the foregoing.
- 9.6. Ownership and Use of Customer Data. NuHarbor Security expressly acknowledges and agrees that as between Customer and NuHarbor Security, Customer is the owner of and has exclusive rights, title and interest in and to Customer Data. NuHarbor Security shall have the right to access and use such Customer Data solely (i) as necessary to provide the Services, and (ii) for trend analysis that may assist Data Defenders in the provision of its services in its business generally, provided that no such trend analysis shall result in the disclosure of any Personal or Confidential Information about or from Customer or its employees or customers. NuHarbor Security will not retain, use, disclose, sell, or otherwise process Customer Data for any purpose other than the specific purpose of performing the services specified in this Agreement.

10. Representations and Warranties.

- 10.1. Mutual Warranties. Each party represents and warrants to the other party that: (a) it is duly organized, validly existing, and in good standing as an entity under the laws of the jurisdiction of its organization; and (b) it has the full right, power, and authority to enter into the Agreement, to grant the rights and licenses granted hereunder, and to perform its obligations hereunder.
- 10.2. Additional NuHarbor Warranties. NuHarbor represents and warrants to Client that it shall perform the Services in a timely, professional, and workmanlike manner. Client's sole and exclusive remedy for breach of the limited warranty in this Section 10.2 and NuHarbor's entire liability will be, at NuHarbor's option, either to (a) reperform the non-conforming Services at no additional cost to Client, or (b) terminate the applicable Statement of Work and refund to Client of all pre-paid, unused fees for the non-conforming Services.

- 10.3. Additional Client Warranties. Client represents and warrants to NuHarbor that it has obtained all consents and authorizations necessary for NuHarbor to perform the Services.
- 10.4. Security Threat Disclaimer. Information provided by Client, including, if applicable, the proper logging of all data, is necessary to evaluate global risks, and certain security threats may not be identified in any event due to data omission, low frequency and/or latency. NuHarbor's Services are reliant on Third-Party Products that may not always be available, or which may not provide timely information to NuHarbor regarding a security threat. Client acknowledges and agrees that NuHarbor's Services could not reasonably capture every possible security threat to Client and as such, Client shall not be entitled to any refund, rebate, discount, or any other financial remuneration for any security threat not identified and/or evaluated by NuHarbor, and NuHarbor will not have any liability or obligation of any kind in connection with any such threat.
- 10.5. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, ALL SERVICES, DELIVERABLES, AND THIRD-PARTY PRODUCTS ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS, AND NUHARBOR HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, NUHARBOR MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR DELIVERABLES, OR ANY RESULTS OF THE USE THEREOF WILL IDENTIFY ALL SECURITY THREATS. NUHARBOR DOES NOT GUARANTEE OR WARRANT THAT ANY CONTENT OR SYSTEMS AFFECTED BY THE SERVICES WILL NOT BE SUBJECT TO INADVERTENT DAMAGE, CORRUPTION, LOSS, OR REMOVAL, AND NUHARBOR SHALL NOT BE RESPONSIBLE SHOULD SUCH DAMAGE, CORRUPTION, LOSS, OR REMOVAL OCCUR.

11. Indemnification.

- 11.1. NuHarbor Indemnity. NuHarbor shall indemnify, defend, and hold Client and its officers, directors, elected officials, and employees (collectively, "**Client Indemnitees**") harmless from and against all costs and damages ("**Losses**") actually awarded against Client Indemnitees based on any third party claims or actions ("**Claims**") alleging that Client Indemnitee's use of the Services or Deliverables infringes the Intellectual Property Rights of a third party; provided, however, that NuHarbor will have no obligation under this Section with respect to Claims to the extent arising out of (a) any instruction, information, designs, specifications, or other materials provided by Client; (b) Client's use of the Deliverables in combination with any materials or equipment not supplied to Client by NuHarbor or specified by NuHarbor in writing; or (c) any modifications or changes made to the Deliverables other than by NuHarbor. Should the Services or Deliverables become or in NuHarbor's opinion be likely to become, the subject of such claim described in herein, NuHarbor may, at its option and expense, (i) procure the right for Client to continue using the Services or Deliverables, or (ii) replace or modify the Services or Deliverables so that it becomes non-infringing. If neither (i) or (ii) are reasonably practicable, NuHarbor may terminate the applicable Statement of Work and refund to Client any pre-paid, unused Fees paid by Client. THIS SECTION STATES NUHARBOR'S SOLE AND EXCLUSIVE LIABILITY, AND CLIENT'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.
- 11.2. Client Indemnity. To the extent expressly authorized by Illinois state law, the Client shall indemnify, defend, and hold NuHarbor and its officers, directors, and employees (collectively, "**NuHarbor Indemnitees**") harmless from and against all Losses based on any Claims arising from or relating to: (a) Client's failure to obtain consents and authorizations required for NuHarbor to perform the Services; (b) NuHarbor Indemnitees use of Client Materials infringes the Intellectual Property Rights of a third party; (c) bodily injury, death, or damage to real or tangible personal property arising from Client's failure to maintain a safe worksite if NuHarbor personnel are performing Services at Client facilities; or (d) Client's fraud, gross negligence, or willful misconduct.
- 11.3. Procedure. The party seeking indemnification will notify the indemnifying party promptly of any Claim covered by this Section 11 (Indemnification). The parties agree to reasonably cooperate during such proceedings. The indemnifying party will have the right to defend any such claim and will have control over the litigation, negotiation, and settlement of any such Claim, provided it will not make any settlement of a Claim that results in any liability or imposes any obligation on the indemnified party without the prior written consent

of such party, which will not be unreasonably withheld. The indemnified party may, at its sole expense, participate in the defense of any Claim.

12. Limitation of Liability.

- 12.1. Exclusion of Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL A PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, GOODWILL, LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, OR INTERRUPTION OF BUSINESS) ARISING FROM THIS AGREEMENT, WHETHER UNDER THEORY OF CONTRACT, TORT, INCLUDING NEGLIGENCE, OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.
- 12.2. Liability Cap. EXCEPT FOR CLAIMS ARISING FROM A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, A PARTY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNTS PAID AND PAYABLE BY CLIENT TO NUHARBOR DURING THE TWENTY FOUR (24) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CAUSE OF ACTION.

13. Miscellaneous.

- 13.1. Assignment. Neither party may assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party, provided that a party may assign this Agreement, upon written notice to the other party, to an affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Any purported assignment or delegation in violation of this Section shall be null and void. NuHarbor, however, may subcontract the Services, provided NuHarbor remains responsible for the acts and omissions of its subcontractors.
- 13.2. Notices. All legal notices shall be in writing and addressed to the parties at the addresses set forth on the first page of this Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this Section). All notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid) or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a notice is effective only (a) upon receipt by the receiving party; and (b) if the party giving the notice has complied with the requirements of this Section.
- 13.3. Publicity. Neither party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, association, or sponsorship, in each case, without the prior written consent of the other party, which consent shall not be unreasonably withheld, provided, however, that NuHarbor may, without Client's consent, include Client's name and other indicia in its lists of NuHarbor's clients on its website and in promotional and marketing materials.
- 13.4. Relationship of the Parties. The parties are independent contractors. This Agreement shall not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties.
- 13.5. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for Client's payment obligations), when and to the extent such failure or delay is caused by or results from events outside of the party's reasonable control ("**Force Majeure Events**"), including but not limited to: (a) acts of God; (b) flood, fire, or earthquake; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (g) national or regional emergency; and (h) strikes, labor stoppages or slowdowns or other industrial disturbances. The affected party shall resume performance under the Agreement as soon as reasonably practicable after the Force Majeure Event has been resolved or terminated.
- 13.6. Entire Agreement; Order of Precedence. This Master Agreement, including all Statements of Work, constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein,

and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms and provisions of this Master Agreement and those of any Statements of Work, then the terms of this Master Agreement shall control unless expressly set forth otherwise in the applicable Statement of Work.

- 13.7. Amendments; Waiver. This Master Agreement may be amended or modified only by an agreement in writing signed by an authorized representative of each party hereto. No waiver by any party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the party so waiving. No failure to exercise any rights, remedy, power, or privilege arising from the Agreement shall operate or be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- 13.8. Severability. No invalidity, illegality, or unenforceability of any provision herein in any jurisdiction, shall affect any other term or provision of this Agreement or invalidate or render such provision unenforceable in any other jurisdiction.
- 13.9. Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any third party any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.
- 13.10. Cumulative Remedies. Except as expressly set forth in the Agreement, the right and remedies under the Agreement are cumulative and in addition to any other rights or remedies available at law or in equity or otherwise.
- 13.11. Governing Law This Agreement shall be governed by the laws of the State of Illinois, without reference to its conflict of laws provisions. The provisions of the United Nations Convention on the International Sale of Goods shall not apply to this Agreement. The exclusive fora for any litigation arising out of this contract shall be the United States District Court for the Northern District of Illinois (Eastern Division) or the Circuit Court of the Sixteenth Judicial Circuit, Kane County Illinois.
- 13.12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date last signed below.

NUHARBOR SECURITY, INC.

By: _____

Name: _____

Title: _____

Date: _____

CLIENT

By: _____

Name: _____

Title: _____

Date: _____