

## OPTIV TERMS OF PURCHASE

These Optiv Terms of Purchase (“Terms”) govern the Order(s) for Service and/or Third-Party Product between Optiv Security Inc. or one of its Affiliates (the applicable entity identified in the Order as providing the Service or Third-Party Product is defined as “Optiv”) and the client described in the Order (“Client”). Optiv and Client may hereinafter be referred to individually as a “Party” and collectively as the “Parties”.

### 1. DEFINITIONS.

- a. **“Active User”** or **“User”** means a Client user established to access the Optiv Resources and/or Sublicenses with a designation of “active” at any time during a subscription period. Client has the ability to determine who is an Active User.
  - b. **“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 a Party hereto, and/or such Party’s successors and assigns.
  - c. **“Client Content”** means materials or documents created and/or supplied by Client which is considered Client’s intellectual property.
  - d. **“Client Data”** means proprietary or personal data regarding Client, its contractors or its employees made available to Optiv hereunder.
  - e. **“Confidential Information”** means all information proprietary to a Party or its Affiliates and 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 Services. Confidential Information of Optiv will be deemed to include, without limitation, all Optiv Intellectual Property, financial and data security information, and non-public features and functions of Sublicenses. The obligations of the Receiving 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 to permit the Disclosing Party to challenge such disclosure.
  - f. **“Deliverable(s)”** means the deliverables, if any, specified in an Order.
  - g. **“Disclosing Party”** means a Party to these Terms who discloses its Confidential Information to a Receiving Party.
  - h. **“Export Control Law(s)”** means all applicable export laws and regulations, including, without limitation, the Arms Export Control Act (22 U.S.C. § 2751-2794), the International Traffic in Arms Regulations (ITAR) (22 U.S.C. § 120 et seq), and the Export Administration Regulations (15 C.F.R. § 730-774), including the requirement for obtaining any export license or agreement, if applicable.
  - i. **“Intellectual Property Rights”** means all existing and future worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, moral rights, contract rights and other proprietary rights.
  - j. **“Optiv Intellectual Property”** means any know-how, processes, techniques, concepts, methodologies, tools, ideas, designs, inventions, patents, copyrights, improvements, computer programs, software, Optiv Resources, source code, object code, graphics, intellectual property, information, and/or pictorial representations that (i) Optiv developed prior to entering into the applicable Order with Client; (ii) is or are developed separate and apart from the Order and Services at any time by Optiv; or (iii) led to or produced the results of the Services or were otherwise used by Optiv to provide the Services.
  - k. **“Order”** means the statement of work, service order, purchase order, signed quote, or other order for Services or Third-Party Products executed by the Parties.
  - l. **“Optiv Resource(s)”** means all hardware, appliances, equipment, software, support, maintenance, and other products which are manufactured, owned or produced by Optiv and licensed by Optiv to Client in accordance with the terms hereof.
  - m. **“Receiving Party”** means a Party to these Terms who receives Confidential Information from a Disclosing Party.
  - n. **“Service(s)”** means any service to be provided by Optiv detailed in an Order. Services may incorporate Optiv Resources and/or Sublicenses.
  - o. **“Sublicense(s)”** means hardware, appliances, equipment, software, support, maintenance, services and/or other products which are manufactured or provided by Vendors and sublicensed by Optiv to Client in connection with the provision of Services hereunder and subject to the terms hereof.
  - p. **“Third-Party Product(s)”** means all hardware, appliances, equipment, software, support, maintenance, services, and other products which are (i) manufactured, licensed, or provided by Vendors, and (ii) resold by Optiv to Client.
  - q. **“Vendor(s)”** means third party manufacturers, vendors, suppliers, licensors, or providers of hardware, appliances, equipment, software, support, maintenance, services, and other products that are either sublicensed or resold by Optiv to Client.
2. **ORDER.** Optiv shall provide the Services and/or Third-Party Products to Client as set forth in the relevant Order. Client must be the end user. No resale by Client is allowed hereunder. Each Order shall describe the specific Services to be purchased, if any, including any Optiv Resources and/or Sublicenses; service descriptions and/or service level agreements, as applicable;

Third-Party Products, if any; License Agreement(s), as applicable; 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 herein (unless any provisions of these Terms are excluded or modified in the Order).

3. **SERVICE DESCRIPTION AND SERVICE LEVEL MANAGEMENT DESCRIPTION.** Copies of relevant Service documentation, including any applicable service description(s), service level management descriptions, and service level agreements will be referenced in the Order and made available to Client for review during the sales process. These documents are subject to change and are updated by Optiv when necessary as processes and technology change.
4. **CHANGE IN SCOPE OF SERVICES.** In the event that unforeseen factors change the scope of Services and/or impact the term and cost of the Services, 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 Services and/or Third-Party Products, as applicable, shall be specified in each relevant 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 Services. 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 for Services in accordance with the applicable Order. Optiv shall invoice Client for Third-Party Products when such Third-Party Products are shipped or are otherwise made available to Client for access or download. 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. **TERM AND TERMINATION.**
  - a. **Service Term and Renewals.** Optiv shall perform Services during the initial term set forth in the Order (“Initial Term”).
  - b. **Termination for Cause.** Either Party shall have the right to terminate an Order for Services for cause if (a) the non-breaching Party notifies the other within thirty (30) days of the other’s breach, and (b) the breaching Party fails to cure any material breach of the Service Order within thirty (30) days after its receipt of written notice of such breach. Optiv may cure a material breach of Services, at Optiv’s sole option, by either (i) re-performing any defective or non-conforming Services, or (ii) refunding any amount paid by Client to Optiv for the Services 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 pro-rated portion of any prepaid Services fees, rounded down to the next whole month, corresponding to Services 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, if any, associated with the establishment of Services will be set forth in the Order and are non-refundable.
  - c. **Early Cancellation of Services.** If Client cancels an Order for Service, or any portion thereof, prior to the end of the current 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 Service Order been performed for the entire term.
  - d. **Cancellation of Product Orders and Return of Products.** Orders for Third-Party Products are non-cancellable and are binding and irrevocable once issued by Client and accepted by Optiv. Third-Party Product returns may be permitted in limited circumstances where allowed by the Vendor’s returns and refunds policy and such return must be approved in writing by the Vendor.
  - e. **Device Return.** Upon cancellation, termination or expiration of an Order for Services, Client will return all Optiv-provided equipment and devices (“Devices”) 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-provided Devices 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. For purposes of clarification, “device(s)” do not include any Third-Party Product resold by Optiv and licensed directly to Client by a Vendor.
7. **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.

- 8. THIRD PARTY PROVIDERS.** The Services and Third-Party Products provided hereunder may contain features capable of interoperating with third-party applications and systems. To use certain features of the Services and/or Third-Party Products, Client may be required to obtain access to such applications or systems from a third-party provider ("3PP"). Notwithstanding any language contained herein to the contrary, Optiv is not responsible for any limitations, lack of capability, availability, compatibility, responsiveness or general degradation of Service(s) arising from the use of a 3PP. In addition, Optiv is not responsible for Client's access to, operation or maintenance of third-party applications not sold to Client by Optiv. If Client is utilizing a 3PP, then it shall (i) provide the 3PP a copy of the relevant service description and/or service level management description, if any; (ii) be responsible for notifying and coordinating between Optiv and the 3PP regarding any scheduled downtime, maintenance windows, etc., as necessary; and (iii) provide Optiv the ability to open support tickets and communicate directly with the 3PP on behalf of Client as may be requested from time to time.
- 9. CLOUD SERVICE PROVIDER FEES.** In the event that Client utilizes a third party 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 the Services, 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 the Services hereunder.
- 10. INTENTIONALLY OMITTED.**
- 11. WARRANTIES.**

**a. Optiv Representations, Warranties, and Covenants.**

- i. General.** Optiv represents and warrants to Client that (i) these Terms have been validly executed and delivered by Optiv and that these Terms constitute the legal, valid, and binding obligation of Optiv enforceable against Optiv, (ii) Optiv has all requisite corporate power and authority to enter into these Terms and to carry out the transactions contemplated by these Terms, (iii) the execution, delivery, and performance of these Terms and the consummation of the transactions contemplated by these Terms have been duly authorized by all requisite corporate action on the part of Optiv, (iv) Optiv's execution and delivery of these Terms and Optiv's performance or compliance with these Terms will not conflict with, result in a breach of, constitute a default under, or require the consent of any third party under any license, sublicense, lease, contract, agreement, or instrument to which Optiv is bound or to which Optiv's properties are subject, and (v) there are no pending or threatened lawsuits, actions, or any other legal or administrative proceedings against Optiv which, if adversely determined against Optiv, would have a material adverse effect on Optiv's ability to perform its obligations under these Terms.
- ii. Third-Party Product.** Optiv warrants that it has full right, power, and authority to sublicense the Sublicenses and to resell the Third-Party Products to Client, and that the Third-Party Products are free and clear of all liens and similar encumbrances of any kind.
- iii. Optiv Resource Performance.** Optiv warrants that Optiv Resources, when used as permitted by Optiv and in accordance with the instructions in the documentation, will operate substantially as described in the Order. Optiv will, at its own expense, use commercially reasonable efforts to (a) correct any reproducible error that Client reports to Optiv in writing regarding an Optiv Resource, or (b) replace the defective Optiv Resource. In the event that Optiv, in its sole discretion, may not achieve either (a) or (b) as a remedy for breach of this warranty, Optiv agrees to accept return of the non-conforming Optiv Resource, terminate the Order related thereto, and refund Client all prepaid fees related to the non-conforming Optiv Resource.
- iv. Service Performance.** Optiv shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform Services in a professional and workmanlike manner in accordance with applicable laws and governmental regulations. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Optiv or by third-party Vendors, or because of other causes beyond Optiv's reasonable control, but Optiv shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. **HOWEVER, OPTIV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES.**
- v. Disclaimers of Warranty.** OPTIV WILL NOT BE RESPONSIBLE FOR NONCONFORMITIES IN SERVICE 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, OR FOR FAILURES, DAMAGES OR DELAYS CAUSED BY THIRD PARTY PROVIDERS, THIRD PARTY VENDORS, OR THIRD-PARTY PRODUCTS. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SERVICES ARE PROVIDED "AS-IS" AND OPTIV HEREBY WAIVES AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION

IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

**b. Client's Representations, Warranties, Covenants and Responsibilities.**

- i. General.** Client represents and warrants to OPTIV that (i) these Terms have been validly executed and delivered by Client and that these Terms constitute the legal, valid, and binding obligation of Client enforceable against Client, (ii) Client has all requisite corporate power and authority to enter into these Terms and to carry out the transactions contemplated by these Terms, and (iii) the execution, delivery, and performance of these Terms and the consummation of the transactions contemplated by these Terms have been duly authorized by all requisite corporate action on the part of Client. In addition, Client represents, warrants, and agrees that Client is solely responsible for: (A) Client's information security program, environment, controls, and processes, (B) making all management decisions related to Client's information security program, environment, controls, and processes, (C) the decision whether to implement, and the actual implementation, of any recommendations made by Optiv, and (D) determining the sufficiency of any Services or Third-Party Products purchased by Client.
- ii. Services.** Client agrees to reasonably cooperate with Optiv in the performance of the Services. Client represents and warrants that it will (i) comply with all relevant security industry standards and practices, and (ii) use the Services only in compliance with Optiv's standard published policies then in effect and all applicable laws and regulations. Although Optiv has no obligation to monitor Client's use of the Services, Optiv may do so and may prohibit any use of the Services it believes may be (or is alleged to be) in violation of the foregoing. Client shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Client shall also be responsible for maintaining the security of the Equipment, Client account, passwords (including but not limited to administrative and User passwords) and files, and for all uses of Client account or the Equipment with or without Client's knowledge or consent.
- iii. Third-Party Products.** Client acknowledges that (i) it has made the selection of the Third-Party Products based on its own judgment, (ii) Client's use of the Third-Party Products is subject to the applicable Vendor's end user license agreement, service level agreement, terms of use or service, or other end user agreements or documents, (iii) Optiv is not responsible for any representations, warranties, indemnities, and other terms relating to the Third-Party Products offered by the applicable Vendor, (iv) it, to the extent authorized under Texas law, expressly waives any claim against Optiv based upon any infringement or alleged infringement of any patent, copyright, trademark, or other intellectual property rights with respect to the Third-Party Products, and (v) it assumes all responsibility for ensuring that the Third-Party Products are used in accordance with all applicable laws and regulations.

**12. INTELLECTUAL PROPERTY OWNERSHIP.** Deliverables, as specified in an Order, shall be the property of Client. To the extent Optiv Intellectual Property is incorporated into any Deliverables, Optiv grants to Client an irrevocable, nonexclusive, royalty-free, limited license for Client to use Optiv Intellectual Property to the extent necessary to use such Deliverable for its internal purposes only. All Optiv Intellectual Property is 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 Optiv Intellectual Property. Client acknowledges that Optiv may (a) retain archival copies of any and all derivative works of Deliverables and 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. The information contained in the Optiv Resources is Confidential Information of Optiv, contains trade secrets, and is proprietary know-how belonging to Optiv. Client is granted access to the Optiv Resources and Sublicense subject to Client's obligation to hold the information provided in confidence. Further, the presence of copyright notices on the Confidential Information does not constitute publication or otherwise impair the confidential nature thereof. Client agrees not to use, print, copy, provide, or otherwise make available, in whole or in part, any portion of the Confidential Information or modifications of it or related material except in accordance with these Terms.

**13. LIMITED LICENSE GRANT AND RESTRICTIONS- OPTIV RESOURCES AND SUBLICENSES.**

- a. License and Ownership.** Optiv grants to Client a non-exclusive, nontransferable, non-assignable, limited right and license to access and use specified Optiv Resources or Sublicenses, as applicable. Notwithstanding anything to the contrary in these Terms, Optiv, its licensors and/or Vendors, as applicable, own and retain all right, title and interest in and to the Optiv Intellectual Property, as well as the Intellectual Property Rights in the Optiv Property and Sublicensed Property including any enhancements, modifications or derivative works thereof. Client retains all ownership rights to Client Data and Client Content. Unless a particular right is expressly granted herein, it is expressly excluded from this license.
- b. Restrictions.** Client may only use the Optiv Resources and the Sublicenses for its own lawful, internal business purposes. Except as expressly permitted by these Terms or the executed Order, Client will not, and will not allow any third party to: (a) copy, modify, adapt, alter, translate, or create derivative works of the Optiv Resources or Sublicenses; (b) sell, resell, lend, loan, lease, license, operate as a service bureau, managed service, sublicense or transfer the Optiv Resources or Sublicenses; (c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Optiv Resources or Sublicenses (except and only to the extent that such activity is expressly permitted by applicable law

notwithstanding this limitation); (d) knowingly take any action that would cause the Optiv Resources or Sublicenses to be placed in the public domain; (e) remove, alter or obscure any proprietary notices of Optiv, its licensors or Vendors included in the Optiv Resources, Sublicenses or Order documents; or (f) use the Optiv Resources or Sublicenses for timesharing or service bureau purposes or otherwise for the benefit of a third party, or remove any proprietary notices or labels. Client will not allow any access to or use of the Optiv Resources or Sublicenses by anyone other than Client, or its employees, contractors or agents, and any such use must be consistent with the terms, conditions and restrictions set forth in these Terms. Client will be responsible for its Users' compliance with these Terms and liable for its Users' breach thereof. Client will ensure that it has obtained all necessary consents and approvals for Optiv to access Client Data for the purposes permitted under these Terms. If Client is in breach of this Section, and such breach is not cured in accordance with these Terms, Optiv may suspend access to the Optiv Resources and/or Sublicenses, in addition to any other rights and remedies Optiv may have at law or in equity.

**14. IMPORT/EXPORT.** Client acknowledges that the Optiv Resources, Sublicenses, and Third-Party Products, as well as any technical data related thereto, may be subject to Export Control Laws and Client hereby agrees not to export, re-export, or otherwise distribute such products in violation of any Export Control Laws. Optiv shall advise Client in writing of any export controls applicable to the Services before providing such Services. Client warrants that it will not purchase, export, or re-export any Optiv Resources, Sublicenses, or Third-Party Products with knowledge they will be used in the design, development, production, or use of chemical, biological, nuclear, or ballistic weapons, or in a facility engaged in such activities, unless permitted by applicable laws. Client further warrants it will not export or re-export, directly or indirectly, any such products to embargoed countries or transfer or sell such products to companies or individuals listed on applicable restricted parties lists including, without limitation, the Denied Persons List published by the United States Department of Commerce and the Specially Designated National List published by the United States Department of the Treasury.

**15. RISK OF LOSS AND TITLE TO THIRD-PARTY PRODUCTS.** Title to Third-Party Products shall vest in Client upon delivery to the carrier for shipment (FOB shipping point). Optiv will ship and deliver the Third-Party Products to the Client's specified place of delivery using a carrier selected by Optiv; provided, however, that Client shall be responsible for clearing any necessary customs with respect to the Third-Party Products. Client shall bear the risk of loss, damage, and destruction from every cause once the Third-Party Products have been delivered to the carrier. Client shall unload and inspect the Third-Party Products upon delivery, and Client shall be responsible for notifying Optiv of any defect or damage to the Third-Party Products or of any claim arising hereunder within five (5) days of the delivery of the Third-Party Products. Client's failure to advise Optiv of such defect, damage, or claim within the specified time period will release Optiv and the carrier from any liability for damages related thereto.

**16. CONFIDENTIAL INFORMATION.**

- a. **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 other than materials in electronic backup systems or otherwise not reasonably capable of being readily located and segregated without undue burden or expense; 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 Services. Notwithstanding anything to the contrary, Optiv shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Client Data and data derived therefrom), and Optiv will be permitted to: (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes solely in connection with the Services and other Optiv offerings and for no other purposes whatsoever; and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.
- b. **Injunction.** Both Parties agree that violation of any provision of this Section may 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 seek immediate injunctive relief prohibiting such violation, in addition to any other rights and remedies available to it.

**17. INDEMNIFICATION.**

- a. **General.** Except to the extent caused by the acts, errors or omissions of the indemnified Party, each Party, in the case of Client to the extent authorized under Texas law, 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 negligence or willful misconduct.

- b. IP Infringement.** Optiv shall indemnify, defend, and hold Client harmless from liability to third parties resulting from infringement by the Services of any United States patents or any copyright or misappropriation of any trade secret, provided Optiv is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement subject to the consent of the Attorney General of the State of Texas. Optiv will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to Services or portions or components thereof: (i) not supplied by Optiv, (iii) that are modified by Client after delivery, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination which were unauthorized by Optiv and not reasonably anticipated in Optiv documentation or marketing materials, (v) where Client continues use of the infringing Services following Optiv's supplying a modified, amended or replacement version of the Services, or (vi) where Client's use of such Services is not strictly in accordance with these Terms where the alleged infringement relates to such unauthorized use. In the event of such a claim, action or allegation being brought or threatened or in the event an injunction is issued or threatened, Optiv may, at its sole option and expense, either procure for Client the right to continue to use the Services, modify or replace the Services so as to avoid infringement, or accept the return of the infringing Services and return the license fee paid for such infringing Services. THE PROVISIONS OF THIS SECTION SET FORTH OPTIV'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CLIENT'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AND/OR PROPRIETARY RIGHTS OF ANY KIND.
- c. Client's Use of Services.** Client represents, covenants, and warrants that Client will use the Services (including but not limited to Sublicenses) only in compliance with these Terms, any relevant Service descriptions related to the Order and all applicable laws and regulations. Client hereby agrees, to the extent authorized under Texas law, to defend, indemnify and hold harmless Optiv and applicable developers of the Sublicenses against any third party claims for damages, losses, liabilities, settlements and expenses (including reasonable costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation based on Client's gross negligence or willful misconduct. Although Optiv has no obligation to monitor Client's use of the Services, Optiv may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.
- 18. LIMITATION OF LIABILITY.** EXCLUDING ITS OBLIGATIONS UNDER SECTION 17, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES, VENDORS 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 VENDORS OR SUPPLIER'S, OR THEIR RESPECTIVE OFFICERS', DIRECTORS', EMPLOYEES' OR AGENTS' AGGREGATE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS, THE SERVICES, THE OPTIV RESOURCES AND SUBLICENSES, THE THIRD-PARTY PRODUCTS, THE ORDER AND OTHERWISE (INCLUDING, WITHOUT LIMITATION, ORDINARY NEGLIGENCE BUT EXCLUDING (I)GROSS NEGLIGENCE AND (II) INTENTIONAL ACTS OR OMISSIONS (COLLECTIVELY THE "EXCEPTIONS") EXCEED THE AMOUNT OF FEES ACTUALLY PAID BY CLIENT TO OPTIV FOR THE SPECIFIC SERVICES OR THIRD-PARTY PRODUCTS DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE EVENT GIVING RISE TO SUCH CLAIM; PROVIDED, HOWEVER, THAT SUCH AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS, INCLUDING FOR THE EXCEPTIONS, SHALL NOT EXCEED THE GREATER OF \$10,000,000 OR THREE (3) TIMES THE FEES ACTUALLY PAID BY CLIENT TO OPTIV FOR THE SPECIFIC SERVICES OR THIRD-PARTY PRODUCTS DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE EVENT GIVING RISE TO SUCH CLAIM.
- 19. INTENTIONALLY OMITTED.**
- 20. FORCE MAJEURE.** Neither Party shall be liable for delays, failure to meet its obligations under these Terms, or damages of any kind due to events, circumstances, or causes beyond its reasonable control or otherwise related to war, terrorism, riots, acts of God, floods, fire, earthquakes, hacking attempts or attacks, systems or data not within Optiv's control, viruses, malware, and similar software programs, and denial of service attacks and other malicious conduct. The nonperforming Party must promptly notify the other Party of such event, circumstance, or cause and take all reasonable steps to recommence performance promptly. Notwithstanding the foregoing, no such events, circumstances, or causes shall excuse Client's obligation to pay undisputed amounts when due hereunder.
- 21. NON-SOLICITATION.** Client agrees that it 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 contractor any of Optiv's and/or Optiv's Affiliates' employees who provided services to Client under the Order. Publication of open positions in media of general circulation (e.g., Internet website job postings) will not constitute solicitation of employees.

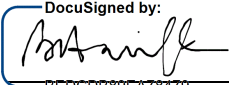
- 22. **STAFFING AND LOCATION.** Optiv intends to utilize personnel who are employees of Optiv in provision of Services. However, Optiv may utilize, in performance of the Services, staff augmentation consultants who are used by Optiv in its normal course of business and subcontractor personnel. Unless otherwise expressly stated in the Order, the Services may be rendered at Client's facilities, Optiv's facilities or at other suitable locations within Optiv's discretion.
- 23. **OPTIV'S AFFILIATES.** Optiv's Affiliates and/or employees or consultants of Optiv's Affiliates may provide Services under the Order. Such Affiliates and/or their employees or consultants who provide Services will be subject to these Terms. Only the entity who provides Services will be liable under these Terms with respect to such Services. There shall be no joint and several liability with respect to entities that do not provide Services under these Terms.
- 24. **THIRD PARTY BENEFICIARIES.** Notwithstanding anything to the contrary herein, Client hereby agrees that for any software, hardware or service sublicensed by Optiv to Client hereunder, the developer or Vendor of such software, hardware or service will be deemed a third party beneficiary of these Terms.
- 25. **ASSIGNMENT.** Except as otherwise set forth in these Terms, neither Party may assign the Order or these Terms without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may assign the Order or these Terms 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 to an Affiliate.
- 26. **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.
- 27. **GOVERNING LAW.** The Order and these Terms 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 shall be in the state or federal courts of the State of Colorado.
- 28. **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.
- 29. **MISCELLANEOUS.** These Terms are made a part of and incorporated into the Order. The Order and these Terms constitute the entire agreement between the Parties with respect to its subject matter. The Parties agree that as of the Effective Date, these Terms will supersede, terminate and replace in its entirety all prior services agreements, product purchase agreements, and confidentiality agreements between the Parties or their predecessors in interest. 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 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 invalid or unenforceable, the remainder of the Order and these Terms 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 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.

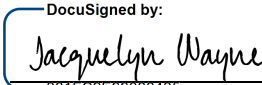
IN WITNESS WHEREOF, the Parties hereto have executed these Terms of Purchase by their duly authorized representatives as of the dates indicated below.



**CLIENT: THE TEXAS A&M UNIVERSITY SYSTEM**

**OPTIV SECURITY INC.**

DocuSigned by:  
By:   
BECDCB89EA78479...

DocuSigned by:  
By:   
381FC9E99088435...

Name: Billy Hamilton

Name: Jacquelyn wayne

Title: Deputy Chancellor and Chief Financial Officer

Title: VP & Associate General Counsel

Date: 2/26/2021 | 12:16:08 CST

Date: 2/22/2021 | 13:21:15 PST

**NOTICE ADDRESS:**

The Texas A&M University System  
301 Tarrow St., Suite 273  
College Station, TX 77840  
Attn: Jeff Zimmermann

**NOTICE ADDRESS:**

Optiv Security Inc.  
1144 15th St., Suite 2900  
Denver, CO 80202  
Attn: Legal Department



AN ADDENDUM TO  
TERMS OF PURCHASE  
BY AND BETWEEN  
THE TEXAS A&M UNIVERSITY SYSTEM OFFICES  
AND OPTIV SECURITY INC.

The following terms and conditions are incorporated into and form a part of the Terms of Purchase (the "Agreement") to which this Addendum is attached. "**A&M System**" means The Texas A&M University System, an agency of the State of Texas and "**PROVIDER**" means Optiv Security Inc.

**A&M System** requires the following additions to be made to Terms of Purchase. In the event there is a conflict between the terms and conditions of the Agreement and this Addendum, this addendum will control.

**1. PAYMENT TERMS**

- A. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of (i) any final acceptance of performance of the portion of the Services that is the subject of the invoice or (ii) the receipt of a properly submitted invoice for such Services, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30<sup>th</sup> day unless a discount has been arranged for more immediate payment.

**2. PUBLIC INFORMATION**

- A. PROVIDER acknowledges that A&M System is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.
- B. Upon A&M System's written request, PROVIDER will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of A&M System.
- C. PROVIDER acknowledges that A&M System may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.
- D. The requirements of Subchapter J, Chapter 552, *Texas Government Code*, may apply to this agreement and the PROVIDER agrees that the agreement can be terminated if the PROVIDER knowingly or intentionally fails to comply with a requirement of that subchapter.

**3. DISPUTE RESOLUTION**

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by A&M System and PROVIDER to attempt to resolve any claim for breach of contract made by PROVIDER that cannot be resolved in the ordinary course of business. PROVIDER shall submit written notice of a claim of breach of contract under this Chapter to Billy Hamilton, Deputy

Chancellor and Chief Financial Officer for A&M System, who shall examine PROVIDER's claim and any counterclaim and negotiate with PROVIDER in an effort to resolve the claim.

#### 4. **INSURANCE**

PROVIDER shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to A&M System. By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to PROVIDER under this Agreement. PROVIDER shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. PROVIDER is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation.

| <b><u>Coverage</u></b>                 | <b><u>Limit</u></b>   |
|--|---|
| <b>A. <u>Worker's Compensation</u></b> |   |
| Statutory Benefits (Coverage A)        | Statutory   |
| Employers Liability (Coverage B)       | \$1,000,000 Each Accident<br>\$1,000,000 Disease/Employee<br>\$1,000,000 Disease/Policy Limit |

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for A&M System. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

#### **Additional Endorsements**

The Commercial General Liability Policies shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System as additional insured's.

#### **B. Commercial General Liability**

|                                 |             |
|---------------------------------|-------------|
| Each Occurrence Limit           | \$1,000,000 |
| General Aggregate Limit         | \$2,000,000 |
| Products / Completed Operations | \$1,000,000 |
| Personal / Advertising Injury   | \$1,000,000 |
| Damage to rented Premises       | \$300,000   |
| Medical Payments                | \$5,000     |

The required commercial general liability policy will be issued on a form that insures PROVIDER's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

C. **Professional Liability (Errors & Omissions)** Insurance with limits of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate. Such insurance will cover all professional services rendered by or on behalf of PROVIDER and its subcontractors under this Agreement. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of this Agreement. If coverage is written on a claims-made basis, *Provider will maintain professional liability coverage for an additional two years after the completion of this contract while maintaining any retroactive dates.* No professional liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least two (2) years after the expiration of cancellation of this Agreement.

D. **PROVIDER will deliver to A&M System:**

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by PROVIDER under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

**All insurance policies**, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System and The Texas A&M University System as Additional Insureds up to the actual liability limits of the policies maintained by PROVIDER. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going operations and will be submitted with the Certificates of Insurance.

**All insurance policies** will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System and The Texas A&M University System. No policy will be canceled without PROVIDER'S written notice to A&M System at least ten days before the effective date of the cancellation. For **All insurance policies**, PROVIDER will send notice to A&M System ten (10) days prior to the effective date of cancellation, material detrimental change, or non-renewal without an equivalent or better replacement policy relating to any insurance policy required in this Section 4.

Any deductible or self-insured retention must be declared to and approved by A&M System prior to the performance of any services by PROVIDER under this Agreement. PROVIDER is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be emailed to [SOProcmurement@tamus.edu](mailto:SOProcmurement@tamus.edu).

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by A&M System in writing, except as may be noted.

5. **MISCELLANEOUS**

A. **Indemnification. PROVIDER agrees to indemnify and hold harmless A&M System from any claim, damage, liability, expense or loss asserted by third parties against A&M to**

**the extent directly caused by PROVIDER's negligent or willful errors or omissions under this Agreement.**

- B. **Independent Contractor.** PROVIDER is an independent contractor, and neither PROVIDER nor any employee of PROVIDER shall be deemed to be an agent or employee of A&M System. A&M System will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. PROVIDER shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of A&M System relative to conduct on its premises.
- C. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "Under Section 231.006, *Texas Family Code*, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."
- D. **Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, *Texas Government Code*, PROVIDER agrees that any payments owing to PROVIDER under this Agreement may be applied directly toward certain debts or delinquencies that PROVIDER owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- E. **Previous Employment.** PROVIDER acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits A&M System from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If PROVIDER is an individual, by signing this Agreement, PROVIDER certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.
- F. **Not Eligible for Rehire.** PROVIDER is responsible to ensure that employees participating in work for any A&M System member have not been designated by the A&M System as Not Eligible for Rehire as defined in System policy 32.02, Section 4. Non-conformance to this requirement may be grounds for termination of this Agreement.
- G. **Franchise Tax Certification.** If PROVIDER is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then PROVIDER certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that PROVIDER is exempt from the payment of franchise (margin) taxes.
- H. **State Auditor's Office.** PROVIDER understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*.

PROVIDER agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. PROVIDER will include this provision in all contracts with permitted subcontractors.

- I. **Entire Agreement.** This Agreement constitutes the sole agreement of the parties and supersedes any other oral or written understanding or agreement pertaining to the subject matter of this Agreement. This Agreement may not be amended or otherwise altered except upon the written agreement of both parties.
- J. **Severability.** If any provisions of this Agreement are rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted in such manner so as to afford the Party for whose benefit it was intended the fullest benefit commensurate with making this Agreement, as modified, enforceable, and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.
- K. **Headings.** Headings appear solely for convenience of reference. Such headings are not part of this Agreement and shall not be used to construe it.
- L. **Non-Assignment.** PROVIDER shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of A&M System.
- M. **HUB Subcontracting Plan.** If a subcontractor will be used to provide any commodity or service as part of the scope on a specific assignment, the PROVIDER will be required to make a good faith effort and complete the state of Texas HSP found at <https://www.tamus.edu/business/hub-procurement/hub-programs-3/system-offices-hub-program/>. If there are pre-existing agreements in place with companies who will be hired as subcontractors, the PROVIDER will show those companies as subcontractors on the HSP and provide an explanation as to why solicitations were not done, e.g. contractual requirements. If no pre-existing agreements with companies who will be hired as subcontractors exist, then the PROVIDER will be expected to make a good faith effort according to the HSP instructions.

In the event that you determine you will be using a subcontractor, please contact Mr. Keith Williams from the A&M System's HUB Program at (979) 458-3265 or [kwilliams@tamus.edu](mailto:kwilliams@tamus.edu) for assistance in determining available HUB subcontractors and proper completion of the HSP.

- N. **Force Majeure.** Neither party will be in breach of its obligations under this Agreement or incur any liability to the other party for any losses or damages of any nature whatsoever incurred or suffered by that other party if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure event (as defined below), except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure event had not occurred. "Force Majeure event" is defined as: 1) acts of God; 2) war; 3) act(s) of terrorism (including cyber terrorism); 4) fires; 5) explosions; 6) natural disasters, to include without limitation, hurricanes, floods, and tornadoes; 7) failure of transportation; 8) strike(s); 9) loss or shortage of transportation facilities; 10) lockout, or commandeering of materials, products, plants or facilities by the

government or other order (both federal and state); 11) interruptions by government or court orders (both federal and state); 12) present and future orders of any regulatory body having proper jurisdiction; 13) civil disturbances, to include without limitation, riots, rebellions, and insurrections; 14) epidemic(s), pandemic(s), or other national, state, or regional emergency(ies); and 15) any other cause not enumerated in this provision, but which is beyond the reasonable control of the party whose performance is affected and which by the exercise of all reasonable due diligence, such party is unable to overcome. Such excuse from performance will be effective only to the extent and duration of the Force Majeure event(s) causing the failure or delay in performance and provided that the affected party has not caused such Force Majeure event(s) to occur and continues to use diligent, good faith efforts to avoid the effects of such Force Majeure event(s) and to perform its obligation(s). Written notice of a party's failure or delay in performance due to Force Majeure must be given within a reasonable time after its occurrence and must describe the Force Majeure event(s) and the actions taken to minimize the impact of such Force Majeure event(s). For the avoidance of doubt, the COVID-19 pandemic and any governmental changes or closures related thereto shall be deemed Force Majeure events, even to the extent reasonably foreseeable by either party as of the effective date of this Agreement.

- O. **Loss of Funding.** Performance by A&M System under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, A&M System will issue written notice to PROVIDER and A&M System may terminate this Agreement without further duty or obligation hereunder. PROVIDER acknowledges that appropriation of funds is beyond the control of A&M System.
- P. **Governing Law.** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- Q. **Venue.** Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against A&M System shall be in the county in which the primary office of the chief executive officer of A&M System is located, which is Brazos County, Texas.
- R. **Non-Waiver.** PROVIDER expressly acknowledges that A&M System is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by A&M System of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- S. **Access by Individuals with Disabilities.** If determined to be applicable by A&M System, PROVIDER shall address all required technical standards (WCAG 2.0, Level AA) (the "Accessibility Standards") by providing a Voluntary Product Accessibility Template ("VPAT") attesting to the accessible features and capabilities of any electronic and information resources (as defined in Title 1, Chapter 213 of the Texas Administrative Code) and associated documentation and technical support (collectively, the "EIR") or provide a similarly-formatted document as the VPAT attesting to the EIR's accessible features and capabilities. A&M System may test the EIR to ensure the accuracy of the VPAT response regarding conformance with the Accessibility Standards. If PROVIDER should have known,

becomes aware, or is notified that the EIR do not comply with the Accessibility Standards, PROVIDER shall, in a timely manner and at no cost to A&M System, perform all necessary steps to satisfy the Accessibility Standards, including but not limited to remediation, replacement, or upgrading the EIR, or providing a suitable substitute.

- T. **Conflict of Interest.** By executing this Purchase Order, PROVIDER and each person signing on behalf of PROVIDER certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this Purchase Order, or in the services to which this Purchase Order relates, or in any of the profits, real or potential, thereof.
- U. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Texas Government Code, Chapter 2271 applies to this Agreement, PROVIDER certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- V. **Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, PROVIDER certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. PROVIDER acknowledges this Purchase Order may be terminated if this certification is or becomes inaccurate.
- W. **Prohibition on Contracts Related to Persons Involved in Human Trafficking.** Under Section 2155.0061, Government Code, the vendor certifies that the individual or business entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- X. **Records Retention.** PROVIDER will preserve all contracting information, as defined under Texas Government Code, Section 552.003 (7), related to the Agreement for the duration of the Agreement and for seven years after the conclusion of the Agreement.
- Y. **Notices.** Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. A&M System and PROVIDER can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

A&M System: The Texas A&M University System  
301 Tarrow St., Suite 273  
College Station, Texas 77840  
Attention: Jeff Zimmermann  
Phone: (979) 458-6410  
Fax: (979) 458-6250

E-mail: [jzimmermann@tamus.edu](mailto:jzimmermann@tamus.edu)

PROVIDER: Optiv Security Inc.  
1144 15th St., Suite 2900  
Denver, CO 80202  
Attn: Legal Dept  
Phone: 303-298-0600  
Email: legal@optiv.com

IN WITNESS WHEREOF, intending to be bound, the Parties have entered into this Agreement as of the Effective Date.

DS  


**The Texas A&M University System**

DocuSigned by:

By   
BEECD889EA78479...

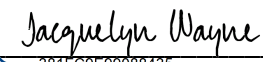
Billy Hamilton  
Deputy Chancellor and CFO

2/26/2021 | 12:16:08 CST

Date

**Optiv Security Inc.**

DocuSigned by:

By   
381FC9E99088435...

Jacquelyn Wayne  
VP & Associate General Counsel

2/22/2021 | 13:21:15 PST

Date



## Certificate Of Completion

|   |                          |
|---|--------------------------|
| Envelope Id: F1ECBEC5C1044C189C403773435DA846   | Status: Completed        |
| Subject: Please DocuSign: TAMUS OTOP (jrw) 2-22-21 K-283886_clean final.docx, Optiv TAMUS Standard Terms... |                          |
| Source Envelope:  |                          |
| Document Pages: 16  | Signatures: 4            |
| Certificate Pages: 5  | Initials: 2              |
| AutoNav: Enabled  | Envelope Originator:     |
| Envelopeld Stamping: Enabled  | Jacqueline Gibson        |
| Time Zone: (UTC-06:00) Central Time (US & Canada)   | 100 Phoenix Drive        |
|   | Suite 111                |
|   | Ann Arbor, MI 48108      |
|   | jgibson@tamus.edu        |
|   | IP Address: 97.64.68.243 |

## Record Tracking

|  |  |                    |
|--|--|--------------------|
| Status: Original<br>2/22/2021 3:05:57 PM | Holder: Jacqueline Gibson<br>jgibson@tamus.edu | Location: DocuSign |
|--|--|--------------------|

## Signer Events

Jacquelyn Wayne  
 Jacquelyn.Wayne@optiv.com  
 VP & Associate General Counsel  
 Optiv Security Inc.  
 Security Level: Email, Account Authentication (None)

## Signature

DocuSigned by:  
  
 381FC9E99088435...  
 Signature Adoption: Pre-selected Style  
 Using IP Address: 163.116.133.119

## Timestamp

Sent: 2/22/2021 3:11:21 PM  
 Viewed: 2/22/2021 3:19:49 PM  
 Signed: 2/22/2021 3:21:15 PM

**Electronic Record and Signature Disclosure:**  
 Accepted: 2/22/2021 3:19:49 PM  
 ID: 369bdace-7def-43a1-b1d7-8b8e47cbc278

Joseph Duron  
 Duron@tamus.edu  
 Executive Director, Budgeting & Accounting  
 Texas A&M University System  
 Security Level: Email, Account Authentication (None)

DS  
  
 Signature Adoption: Uploaded Signature Image  
 Using IP Address: 128.194.24.118

Sent: 2/22/2021 3:21:18 PM  
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 Viewed: 2/26/2021 11:14:06 AM  
 Signed: 2/26/2021 11:31:22 AM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

Billy Hamilton  
 BHamilton@tamus.edu  
 Deputy Chancellor and Chief Financial Officer  
 Texas A&M University System  
 Security Level: Email, Account Authentication (None)

DocuSigned by:  
  
 BEDCDB89EA78479...  
 Signature Adoption: Drawn on Device  
 Using IP Address: 165.91.12.134  
 Signed using mobile

Sent: 2/26/2021 11:31:25 AM  
 Viewed: 2/26/2021 12:15:25 PM  
 Signed: 2/26/2021 12:16:08 PM

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

| In Person Signer Events      | Signature | Timestamp |
|------------------------------|-----------|-----------|
| Editor Delivery Events       | Status    | Timestamp |
| Agent Delivery Events        | Status    | Timestamp |
| Intermediary Delivery Events | Status    | Timestamp |
| Certified Delivery Events    | Status    | Timestamp |

| <b>Carbon Copy Events</b> | <b>Status</b> | <b>Timestamp</b> |
|---------------------------|---------------|------------------|
|---------------------------|---------------|------------------|

| <b>Witness Events</b> | <b>Signature</b> | <b>Timestamp</b> |
|-----------------------|------------------|------------------|
|-----------------------|------------------|------------------|

| <b>Notary Events</b> | <b>Signature</b> | <b>Timestamp</b> |
|----------------------|------------------|------------------|
|----------------------|------------------|------------------|

| <b>Envelope Summary Events</b> | <b>Status</b> | <b>Timestamps</b> |
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|                     |                  |                       |
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| Envelope Sent       | Hashed/Encrypted | 2/22/2021 3:11:21 PM  |
| Certified Delivered | Security Checked | 2/26/2021 12:15:25 PM |
| Signing Complete    | Security Checked | 2/26/2021 12:16:08 PM |
| Completed           | Security Checked | 2/26/2021 12:16:08 PM |

| <b>Payment Events</b> | <b>Status</b> | <b>Timestamps</b> |
|-----------------------|---------------|-------------------|
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| <b>Electronic Record and Signature Disclosure</b> |
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**Required hardware and software**

|                            |  |
|----------------------------|--|
| Operating Systems:         | Windows2000? or WindowsXP?   |
| Browsers (for SENDERS):    | Internet Explorer 6.0? or above  |
| Browsers (for SIGNERS):    | Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)   |
| Email:                     | Access to a valid email account  |
| Screen Resolution:         | 800 x 600 minimum  |
| Enabled Security Settings: | <ul style="list-style-type: none"> <li>•Allow per session cookies</li> <li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li> </ul> |

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

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