

PSS Terms and Conditions ("Terms")

Last Updated: September 25, 2026

These Terms are entered into between Point Solutions Commercial, LLC d/b/a Point Solutions Security ("PSS") and the customer identified in the applicable Statement of Work ("Customer"). Customer and PSS are each a "Party" and together the "Parties." These Terms are subject to a statement of work or similar document signed by an authorized representative of each Party, or a reseller or other designee thereof, in each case referencing these Terms (a "Statement of Work" or "SOW"). These Terms, together with the Statement of Work and any other incorporated documents, constitute the "Agreement." The "Effective Date" of the Agreement is the effective date set forth in the applicable SOW or, if none is stated, the date of the last signature on the SOW.

1. Services. PSS shall provide to Customer the services (the "Services") set out in the Statement of Work.

- 1.1 Customer shall not use the Services for any purposes beyond the scope of the access granted in this Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any user to: (i) copy, modify, or create derivative works of the Services or documentation provided as part of the Services ("Documentation"), in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; (iv) remove any proprietary notices from the Services or Documentation; or (v) use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.
- 1.2 PSS reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the PSS IP (as defined below).
- 1.3 Notwithstanding anything to the contrary in this Agreement, PSS may temporarily suspend Customer's and any user's access to any portion or all of the Services if: (a) PSS reasonably determines that (i) there is a threat or attack on any of the PSS IP; (ii) Customer's or any user's use of the PSS IP disrupts or poses a security risk to the PSS IP or to any other customer or vendor of PSS; (iii) Customer, or any user, is using the PSS IP for fraudulent or illegal activities; (iv) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (v) PSS's provision of the Services to Customer or any user is prohibited by applicable law; (b) any vendor of PSS has suspended or terminated PSS's access to or use of any third-party services or products required to enable Customer to access the Services; or (c) Customer fails to pay any undisputed fees when due and such failure continues for ten (10) days following written notice as described in Section 4.4 (any such suspension described in subclause (a), (b), or (c), a "Service Suspension"). PSS shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Services following any Service Suspension. PSS shall use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Suspension is cured. PSS will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any user may incur as a result of a Service Suspension.
- 1.4 Customer is responsible and liable for all uses of the Services and Documentation resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of its users, and any act or omission by a user that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all users aware of this Agreement's provisions as applicable to such users' use of the Services, and shall cause users to comply with such provisions.

2. PSS Obligations. PSS shall:

- 2.1 Designate employees, contractors, or Subcontractors (as defined in Section 2.4) that it determines, in its sole discretion, to be capable of filling the following positions:
 - a. A primary contact to act as its authorized representative with respect to all matters pertaining to this Agreement (the "PSS Contract Manager").
 - b. A number of employees, contractors, or Subcontractors that it deems sufficient to perform the Services set out in each Statement of Work (collectively, with the PSS Contract Manager, "Provider Representatives").
- 2.2 Make no changes in Provider Representatives except:
 - a. Following notice to Customer.
 - b. Upon the resignation, termination, death, or disability of an existing Provider Representative.
- 2.3 Use commercially reasonable measures to avoid damaging networks and systems of Customer, as well as the data contained within such networks and systems. Notwithstanding the foregoing, Customer agrees that PSS will not be held responsible for any damages or any of their consequences to the networks or systems of Customer, unless such damages directly arise from PSS's breach of the Agreement, gross negligence, or willful misconduct.
- 2.4 Subcontractors. PSS may engage subcontractors, including third-party technology and managed security service providers (for example, a security operations center ("SOC") or managed detection and response provider identified in a Statement of Work) (each, a "Subcontractor"), to perform portions of the Services. With respect to each Subcontractor, PSS shall:
 - a. Identify in the applicable Statement of Work any Subcontractor that will perform a material portion of the Services or have access to Customer Data (as defined in Section 6.5), and provide Customer with written notice before replacing any such Subcontractor.
 - b. Require the Subcontractor to be bound by written obligations of confidentiality, data security, and data protection that are no less protective of Customer and Customer Data than those set forth in this Agreement.
 - c. Remain responsible for the performance of the Services by the Subcontractor and for the Subcontractor's compliance with the applicable terms of this Agreement, and be liable for the Subcontractor's acts and omissions in performing the Services to the same extent as if they were the acts or omissions of PSS, subject to Section 9.
 - d. Serve as Customer's single point of contact and accountability for all Services, including Services performed by the Subcontractor.
 - e. Upon Customer's reasonable request, and to the extent made available by the Subcontractor, provide Customer with information reasonably necessary to support Customer's third-party risk management obligations, such as independent security assessment reports (e.g., SOC 2 reports).

3. Customer Obligations. Customer shall:

- 3.1 Designate one of its employees or agents to serve as its primary contact with respect to this Agreement and to act as its authorized representative with respect to matters pertaining to this Agreement (the "Customer Contract Manager"), with such designation to remain in force unless and until a successor Customer Contract Manager is appointed.
- 3.2 Require that the Customer Contract Manager respond promptly to any reasonable requests from PSS for instructions, information, or approvals required by PSS to provide the Services.
- 3.3 Cooperate with PSS in its performance of the Services and provide access to Customer's premises, employees, contractors, information, and equipment as required to enable PSS to provide the Services. Customer

acknowledges and agrees that all information disclosed or to be disclosed to PSS by Customer or by any third party acting on its behalf is and will be true, accurate, complete, and not misleading in any respect. Customer is responsible for informing PSS immediately of any changes to the information presented to PSS. If Customer believes that PSS has misunderstood or failed to take account of relevant facts or circumstances, it will promptly inform PSS of such belief. Accordingly, PSS shall be entitled to assume that it is authorized to act on the instructions, oral, written, or electronic, of any member of Customer's staff unless expressly instructed otherwise.

- 3.4 Obtain and maintain all necessary licenses and consents and comply with all applicable law in relation to the Services to the extent that such licenses, consents, and law relate to Customer's business, premises, staff, information, network, systems, and equipment, in all cases before the date on which the Services are to start.
- 3.5 Take all steps necessary, including obtaining any required licenses or consents, to prevent Customer-caused delays in PSS's provision of the Services. PSS is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement or any Statement of Work.

4. Fees and Expenses.

- 4.1 In consideration of the provision of the Services by PSS and the rights granted to Customer under this Agreement, Customer shall pay the fees set out in PSS's applicable Statement of Work. Unless otherwise provided in the applicable Statement of Work, such fees will be payable within thirty (30) days of receipt by Customer of an invoice from PSS, but in no event more than thirty (30) days after completion of the Services performed pursuant to the applicable Statement of Work. All fees are non-cancelable and non-refundable, except as expressly provided in Section 5.2. Unless otherwise stated in the SOW, PSS may invoice Customer without the requirement that Customer provide a subsequent purchase order or any other form, and any such subsequently issued purchase order or order form shall be for administrative purposes only.
- 4.2 Customer shall reimburse PSS for all reasonable expenses incurred in accordance with the Statement of Work within thirty (30) days of receipt by Customer of an invoice from PSS accompanied by receipts and reasonable supporting documentation.
- 4.3 Customer shall be responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Customer hereunder; provided that in no event shall Customer pay or be responsible for any taxes imposed on, or regarding, PSS's income, revenues, gross receipts, personnel, or real or personal property or other assets.
- 4.4 Except for invoiced payments that Customer has successfully disputed, all late payments shall bear interest at the lesser of the rate of 2% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall also reimburse PSS for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at law (which PSS does not waive by the exercise of any rights hereunder), PSS shall be entitled to suspend the provision of any Services if Customer fails to pay any undisputed amounts when due hereunder and such failure continues for ten (10) days following written notice thereof.

5. Limited Warranty.

- 5.1 PSS warrants that it shall perform the Services:
 - a. In accordance with the terms and subject to the conditions set out in the respective Statement of Work and this Agreement.
 - b. Using personnel of commercially reasonable skill, experience, and qualifications.
 - c. In a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar services.

- 5.2 PSS's sole and exclusive liability and Customer's sole and exclusive remedy for breach of the warranty in Section 5.1 shall be as follows:
- a. PSS shall use reasonable commercial efforts to promptly cure any such breach; provided that if PSS cannot cure such breach within a reasonable time (but no more than thirty (30) days) after Customer's written notice of such breach, Customer may, at its option, terminate the Agreement by serving written notice of termination in accordance with Section 11.
 - b. In the event the Agreement is terminated pursuant to Section 5.2(a) above, PSS shall, within thirty (30) days after the effective date of termination, refund to Customer any fees paid by Customer as of the date of termination for the Services or Deliverables (as defined in Section 6.2 below), less a deduction equal to the fees for receipt or use of such Deliverables or Services up to and including the date of termination on a pro-rated basis.
 - c. The foregoing remedy shall not be available unless Customer provides written notice of such breach within thirty (30) days after delivery of such Services or Deliverables to Customer.
- 5.3 PSS shall be excused from the performance of any obligation to the extent that such performance conflicts with any applicable law or regulation, including, without limitation, when PSS in good faith believes that such performance is likely to so conflict. If at any time during the performance of Services PSS discovers or identifies information, content, or materials which PSS suspects may be contraband or evidence of conduct which may constitute a criminal offense, PSS may, without liability to Customer: (a) immediately suspend or terminate the Services, this Agreement, and any or all Statements of Work; and (b) notify appropriate authorities at the federal, state, or local level. PSS shall use reasonable efforts to notify Customer of any action taken pursuant to this Section 5.3 based upon the circumstances then and there existing, solely to the extent that such notice is permitted under applicable law and authorized by appropriate authorities.
- 5.4 Customer acknowledges and agrees that the outcome of the Services, including, without limitation, any audits, certifications, advice, assessments, opinions, or recommendations, is not intended to certify or provide any guarantee about the status of Customer's security posture or to imply any other representations other than those specifically contained therein. Customer further acknowledges and agrees that Customer is solely responsible for determining whether any Services and Deliverables: (a) meet Customer's requirements, guidelines, or any other Customer agreements; and (b) comply with all federal, state, and local laws, ordinances, codes, regulations, and policies applicable to Customer. Customer is solely responsible to determine whether to proceed with using any of the recommendations PSS may make as a result of its Services, and Customer will remain solely liable for any use of those recommendations.
- 5.5 EXCEPT ARISING OUT OF OR RELATED TO PSS'S BREACH OF THE AGREEMENT, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT, PSS HEREBY DISCLAIMS RESPONSIBILITY FOR ANY AND ALL CLAIMS OF LOSS ARISING FROM OR IN CONNECTION WITH DISRUPTIONS OF AND/OR DAMAGE TO CUSTOMER'S OR A THIRD PARTY'S NETWORK OR SYSTEMS AND THE INFORMATION AND DATA CONTAINED THEREIN ARISING FROM OR RELATED TO THE PROVISION OF THE SERVICES, INCLUDING, BUT NOT LIMITED TO, DENIAL OF ACCESS TO A LEGITIMATE SYSTEM USER, AUTOMATIC SHUTDOWN OF INFORMATION SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE, OR FAILURE OF THE INFORMATION SYSTEM RESULTING FROM THE PROVISION OF THE SERVICES. EXCEPT WHEN ARISING OUT OF OR RELATED TO PSS'S BREACH OF THE AGREEMENT, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT, CUSTOMER SHALL INDEMNIFY AND HOLD HARMLESS PSS FROM ANY THIRD-PARTY CLAIMS RELATED TO ANY CLAIMS OF SUCH DAMAGE UNDER THIS SECTION 5.5.
- 5.6 PSS MAKES NO WARRANTIES EXCEPT FOR THOSE PROVIDED IN SECTION 5.1 ABOVE. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED. SUBJECT TO THE FOREGOING AND OTHER PSS OBLIGATIONS UNDER THE AGREEMENT, CUSTOMER ACKNOWLEDGES, UNDERSTANDS, AND AGREES THAT PSS DOES NOT COVENANT, GUARANTEE, OR WARRANT THAT IT WILL FIND, LOCATE, DISCOVER, AND/OR REPAIR ANY OR ALL OF CUSTOMER'S NETWORK'S OR SYSTEM'S VULNERABILITIES, OR THAT PSS WILL KEEP CUSTOMER'S NETWORK OR SYSTEMS SAFE FROM ANY THREATS, AND WILL NOT HOLD PSS RESPONSIBLE THEREFOR. CUSTOMER AGREES NOT TO REPRESENT TO ANY THIRD PARTY THAT PSS HAS PROVIDED ANY SUCH

COVENANT, GUARANTEE, OR WARRANTY. ALL DETERMINATIONS REGARDING CUSTOMER'S APPROACH TO COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS, INCLUDING HOW AND WHETHER THE SERVICES CONTRIBUTE TO SUCH APPROACH, SHALL BE MADE SOLELY BY CUSTOMER, AND CUSTOMER SPECIFICALLY ACKNOWLEDGES THAT PSS HAS NOT REPRESENTED, WARRANTED, OR OTHERWISE GUARANTEED THAT PERFORMANCE OF THE SERVICES WILL RESULT IN ANY SUCH COMPLIANCE.

6. Ownership and Intellectual Property.

- 6.1 As between Customer and PSS, PSS owns all right, title, and interest, and all intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how, and other confidential information, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works, and all other rights (collectively, "Intellectual Property Rights") in and to the Services, Documentation, and all documents, work product, and other materials that are delivered to Customer under this Agreement or prepared by or on behalf of PSS in the course of performing the Services (collectively, "PSS IP"), excluding Customer Data (as defined in Section 6.5) and any other Confidential Information of Customer. Subject to Customer's compliance with the terms and conditions of this Agreement and any restrictions included in the PSS IP, PSS hereby grants Customer a limited, revocable, non-exclusive, worldwide, non-transferable, and non-sublicensable license to access and use the PSS IP during the Term to the extent provided as part of the Services.
- 6.2 If and to the extent any items are specifically identified as "Deliverables" in a Statement of Work ("Deliverables"), subject to Customer's compliance with the terms and conditions of this Agreement and any restrictions included in such Deliverables (including any End User License Agreement), PSS hereby grants Customer a perpetual, non-exclusive, worldwide, non-transferable, and non-sublicensable license to access and use the Deliverables. To the extent that non-Deliverable PSS IP is incorporated in the Deliverable, PSS provides a non-exclusive, worldwide, non-transferable, and non-sublicensable license to such non-Deliverable PSS IP to the extent necessary to enable Customer to make legal, reasonable use of the Deliverables.
- 6.3 Customer acknowledges that PSS's methodologies, processes, techniques, algorithms, software tools, and know-how used in providing the Services constitute valuable trade secrets and proprietary information of PSS. Customer agrees that it shall not, and shall not permit any third party to: (a) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code, underlying ideas, algorithms, or structure of any PSS proprietary software, tools, or methodologies; (b) create derivative works based on PSS's proprietary methodologies or processes; or (c) use any information gained from the Services to develop competing services or to assist third parties in developing competing services. This Section 6.3 shall survive termination of this Agreement indefinitely.
- 6.4 Customer is solely responsible for the network, systems, and content of the data contemplated to be accessed by PSS from Customer systems under this Agreement. Customer has the right to grant to PSS and does hereby grant to PSS the right to access all such networks, all such systems, all such data, and all facilities associated with such systems and data for the purpose of providing the Services. Customer further acknowledges that it has the right to and does hereby authorize PSS to conduct any forensic or other investigations, to access computers, files, or other data reasonably necessary to conduct such investigations, and to view information as necessary to perform the Services. Customer shall, at its own cost and expense, obtain and maintain all necessary third-party consents required for PSS to access such networks, systems, and data. Customer represents that PSS's performance of the Services does not and will not conflict with any obligations of Customer to any third party, including, without limitation, employees of Customer. Customer covenants that Customer has taken and will take all necessary actions (including, without limitation, obtaining consents) required for Customer to legally disclose all personally identifiable or equivalent data contained within the data to be accessed by PSS as the result of PSS's performance of the Services, and that Customer shall not grant PSS access to data and shall not disclose data to PSS to the extent such access and disclosure is not then permitted under applicable laws.

6.5 Customer Data.

- a. Ownership. As between Customer and PSS, Customer owns and retains all right, title, and interest in and to all data, information, and content that Customer or its users provide to PSS or its Subcontractors, or that PSS or its Subcontractors collect from Customer's networks, systems, endpoints, applications, cloud environments, and users in the course of providing the Services, including, without limitation, security event logs, system and network logs, telemetry, alerts, and endpoint data (collectively, "Customer Data"). Customer Data is not PSS IP, and nothing in this Agreement transfers ownership of Customer Data to PSS or any Subcontractor.
- b. Limited Use. Customer grants PSS and its Subcontractors a limited, non-exclusive, non-transferable right during the Term to access, collect, process, store, and use Customer Data solely as necessary to provide the Services and as required by applicable law. PSS shall not sell Customer Data or use it for any other purpose, except as provided in Section 6.5(c).
- c. Threat Intelligence. PSS and its Subcontractors may use threat indicators derived from Customer Data (such as malicious IP addresses, domains, file hashes, and attack signatures), and data that has been aggregated and de-identified so that it does not identify Customer, its users, or its customers, to improve threat detection and the security services PSS provides generally.
- d. Confidentiality and Security. Customer Data shall be treated as Customer's Confidential Information under Section 7, whether or not it is marked or identified as confidential. PSS shall maintain, and shall require its Subcontractors to maintain, commercially reasonable administrative, technical, and physical safeguards designed to protect Customer Data against unauthorized access, use, or disclosure.
- e. Return and Deletion. Upon expiration or termination of this Agreement or the applicable Statement of Work, and upon Customer's written request made within thirty (30) days thereafter, PSS will make Customer Data in its or its Subcontractors' possession available to Customer in a commonly used electronic format, subject to any data retention period specified in the applicable Statement of Work. Thereafter, PSS will delete, or cause its Subcontractors to delete, such Customer Data within a commercially reasonable time, except to the extent retention is required by applicable law or Customer Data resides in routine backups, which will remain subject to Section 7 until deleted in the ordinary course.

7. **Confidentiality.**

From time to time during the Term of this Agreement, either Party (as the "Disclosing Party") may disclose or make available to the other Party (as the "Receiving Party") non-public, proprietary, and confidential information of the Disclosing Party that, if disclosed in writing or other tangible form, is clearly labeled as "confidential," or, if disclosed orally, is identified as confidential when disclosed and, within ten (10) days thereafter, is summarized in writing and confirmed as confidential ("Confidential Information"). Customer Data is Customer's Confidential Information as provided in Section 6.5(d). Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of the Receiving Party's breach of this Section 7; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was in the Receiving Party's possession prior to the Disclosing Party's disclosure hereunder; or (d) was or is independently developed by the Receiving Party without using any Confidential Information. The Receiving Party shall: (x) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (y) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (z) not disclose any such Confidential Information to any person or entity, except to members of the Receiving Party's Group who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its

rights or perform its obligations under this Agreement. The Receiving Party is responsible for any breach of this Section 7 by members of the Receiving Party's Group.

If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify the Disclosing Party of such requirements to afford the Disclosing Party the opportunity to seek, at the Disclosing Party's sole cost and expense, a protective order or other remedy. For purposes of this Section 7 only, "Receiving Party's Group" shall mean the Receiving Party's employees, officers, and contractors (including, in the case of PSS, its Subcontractors), and its attorneys, accountants, and financial advisors, in each case who are bound by confidentiality obligations no less protective than those set forth in this Section 7.

8. Term, Termination, and Survival.

8.1 Agreement Term and Renewal.

- a. This Agreement shall commence on the Effective Date and will have an initial term as specified in the applicable SOW or, if no term is specified, twelve (12) months from the SOW's effective date (the "Initial Term"). Upon expiration of the Initial Term, each SOW will automatically renew for successive one-year periods (each a "Renewal Term" and, together with the Initial Term, the "Term"), unless the applicable SOW specifies a different renewal period, either Party provides written notice of non-renewal at least ninety (90) days before the current term expires, or the Agreement or applicable SOW is terminated earlier under Section 5.2(a), 8.1(b), 8.1(c), 8.1(d), or 15.
- b. Either Party may terminate this Agreement, effective upon written notice to the other Party (the "Defaulting Party"), if the Defaulting Party:
 - I. 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.
 - II. Becomes insolvent or admits its inability to pay its debts generally as they become due.
 - III. Becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven (7) days or is not dismissed or vacated within forty-five (45) days after filing.
 - IV. Is dissolved or liquidated or takes any corporate action for such purpose.
 - V. Makes a general assignment for the benefit of creditors.
 - VI. Has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.
- c. PSS may terminate this Agreement before the expiration date of the Term on written notice if Customer fails to pay any undisputed amount when due hereunder and: (i) such failure continues for ten (10) days after Customer's receipt of written notice of nonpayment; or (ii) such failure has occurred more than two (2) times in any six (6) month period.
- d. Customer may terminate this Agreement for convenience with ninety (90) days' prior written notice.

- 8.2 Any termination will become effective on the date set forth in the written notice of termination or, if none, immediately upon the addressee's receipt of such termination notice, and any payment obligations related to the terminated portion(s) of this Agreement shall immediately become due and owing. If this Agreement is terminated while one or more SOWs remain active, all SOWs shall immediately terminate. Upon any expiration of the Term or any earlier termination of this Agreement, any licenses or access granted to the Services will immediately terminate, Customer shall immediately cease using the Services and PSS IP, and PSS may disable all of Customer's access to the Services, subject to Section 6.5(e). Upon termination of a Statement of Work, any licenses or access to the Services and PSS IP provided under the Statement of Work will immediately terminate, Customer shall immediately cease using such Services and PSS IP provided under

the Statement of Work, and PSS will promptly cease performance of Services thereunder. The termination of this Agreement, in whole or in part, will not: (a) prejudice or affect any right of action or remedy that has accrued or will accrue to either Party due to the other Party's acts or omissions prior to the effective date of such termination; or (b) relieve Customer of its obligation to pay all charges that have accrued or have become payable to PSS under this Agreement.

- 8.3 The rights and obligations of the Parties set forth in this Section 8.3 and in Sections 1.2, 4, 5.2(b), 5.4, 5.5, 5.6, 6 (subject to Section 8.2), 7, 8.2, 9, 10, 11, 12, 14, 19, 20, 21, 22, 23, and 24, and any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

9. Limitation of Liability.

- 9.1 IN NO EVENT SHALL PSS BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT PSS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- 9.2 IN NO EVENT SHALL PSS'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED TWO (2) TIMES THE AGGREGATE AMOUNTS PAID OR PAYABLE TO PSS PURSUANT TO THE APPLICABLE STATEMENT OF WORK IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

- 10. Entire Agreement.** This Agreement, including and together with any related Statements of Work, exhibits, schedules, attachments, and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter. The Parties acknowledge and agree that if there is any conflict between the terms and conditions of this Agreement and the terms and conditions of any Statement of Work, the terms and conditions of this Agreement shall supersede and control.
- 11. Notices.** All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "Notice," and with the correlative meaning "Notify") must be in writing and addressed to the other Party at its address set forth in the SOW (or to such other address that the receiving Party may designate from time to time in accordance with this Section 11). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only: (a) on receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section 11.
- 12. Severability.** If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court may modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- 13. Amendments.** No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party.
- 14. Waiver.** No waiver by any Party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure or delay to exercise any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

- 15. Force Majeure.** PSS shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of PSS, including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either Party's workforce), restraints or delays affecting carriers, inability or delay in obtaining supplies of adequate or suitable materials, material or telecommunication breakdown, or power outage; provided that if the event in question continues for a continuous period in excess of fifteen (15) days, Customer shall be entitled to give notice in writing to PSS to terminate this Agreement.
- 16. Assignment.** Customer shall not assign, transfer, delegate, or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of PSS. Any purported assignment or delegation in violation of this Section 16 shall be null and void. No assignment or delegation shall relieve Customer of any of its obligations under this Agreement. PSS may assign any of its rights or delegate any of its obligations to any affiliate or to any person acquiring all or substantially all of PSS's assets without Customer's consent. PSS's use of Subcontractors is governed by Section 2.4.
- 17. Successors and Assigns.** This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.
- 18. Relationship of the Parties.** The relationship between the Parties is that of independent contractors. The details of the method and manner for performance of the Services by PSS shall be under its own control, Customer being interested only in the results thereof. PSS shall be solely responsible for supervising, controlling, and directing the details and manner of the completion of the Services. Nothing in this Agreement shall give Customer the right to instruct, supervise, control, or direct the details and manner of the completion of the Services. The Services must meet Customer's final approval and shall be subject to Customer's general right of inspection throughout the performance of the Services and to secure satisfactory final completion. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.
- 19. No Third-Party Beneficiaries.** This Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns, and nothing in this Agreement, express or implied, confers on any other person (including any Subcontractor) any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.
- 20. Export Control and Regulatory Compliance.** Customer acknowledges that the Services and any related technology, software, or technical data provided by PSS may be subject to export control laws and regulations of the United States and other jurisdictions. Customer agrees to comply with all applicable export control laws and regulations and shall not export, re-export, or transfer any such technology, software, or technical data to any prohibited country, entity, or person without proper authorization. Customer represents and warrants that neither Customer nor any of its personnel are listed on any U.S. government restricted parties list. Customer shall indemnify and hold harmless PSS from any claims, damages, or penalties arising from Customer's violation of export control laws or regulations. Each Party shall comply with all applicable laws, regulations, and industry standards in the performance of its obligations under this Agreement.
- 21. Non-Solicitation.** During the term of this Agreement and continuing for a period of twelve (12) months after expiration or termination of this Agreement for any reason, Customer shall not solicit, negotiate with, or offer employment, directly or indirectly, to any PSS personnel who has performed the Services unless previously authorized in writing by PSS. In addition to any other remedies PSS may have under law or this Agreement, if Customer breaches this Section 21, Customer shall pay a fee to PSS equal to one hundred percent (100%) of the projected annualized compensation (inclusive of salaries, bonus, and present value of equity securities) for the person hired, such fee payable immediately upon acceptance of hire, in addition to other remedies PSS may have at law or in equity.

- 22. Choice of Law.** This Agreement and all related documents, including all exhibits attached hereto, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by and construed in accordance with the laws of the State of Colorado, United States of America, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Colorado.
- 23. Choice of Forum.** Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all exhibits, schedules, attachments, and appendices attached to this Agreement, and all contemplated transactions, in any forum other than the state or federal courts located in Denver, Colorado. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation, or proceeding only in such courts. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
- 24. WAIVER OF JURY TRIAL.** EACH PARTY ACKNOWLEDGES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT, INCLUDING EXHIBITS, SCHEDULES, ATTACHMENTS, AND APPENDICES ATTACHED TO THIS AGREEMENT, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, ATTACHMENTS, OR APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.