MASTER SUBSCRIPTION AGREEMENT
(Cyvatar Cybersecurity Solutions - Cybersecurity-As-A-Service)

GENERAL TERMS AND CONDITIONS

This Master Subscription Agreement shall be effective upon your purchase of any Professional Services (the "**Effective Date**") and is made by and between **Cyvatar.ai, Inc.,** a Delaware corporation located at 530 Technology Drive, Suite 100, Irvine, California 92618 ("**Cyvatar**") and yourself ("**Client**" or "**You**").

AS A USER OF THE CYVATAR PLATFORM, YOU ARE ALSO SUBJECT TO, AND EXPRRESSLY ACKOWLEDGE THAT YOU ARE BOUND BY, THE CYVATAR TERMS OF SERVICE LOCATED AT https://cyvatar.ai/terms-of-service/ AND THE CYVATAR PRIVACY POLICY LOCATED AT https://cyvatar.ai/privacy-policy/. WHERE THERE IS CONFLICT BETWEEN THIS AGREEMENT AND ANY PROVISION OF THE TERMS OF SERVICE OR PRIVACY POLICY, THE TERMS HEREOF SHALL CONTROL.

CLIENT AND CYVATAR AGREE AS FOLLOWS:

1.   **CERTAIN DEFINITIONS**. For purposes of this Agreement, the following definitions apply:

"Affiliate" means any entity Controlling, Controlled by or under common Control with a party.

"**Agreement**" means this Master Subscription Agreement, including all the attachments and exhibits hereto, the terms included in any direct Order and the relevant Solution Descriptions referencing this Agreement, and any terms incorporated herein by reference.

"Aggregated Attack Information, Know-how & Best Practices" means general knowledge or know how and/or best practices and/or abstract or anonymized data learned or developed by Cyvatar in connection with the delivery of Cyvatar Cybersecurity Solution(s), including general cybersecurity metrics, data, and/or aggregated patterns regarding cybersecurity, abstract or anonymized data or analytics derived from Client System Data, usage data and analytics regarding use of the Cyvatar Platform, general knowledge around implementation and configuration of Third Party Products, best practices, methodologies, techniques, tools, models, strategies developed or used by Cyvatar in delivery of Cyvatar Cybersecurity Solutions and improvements of the same, including vulnerability management & patch management practices, continuous remediation practices and/or other general know-how and/or information relating to cybersecurity practices may be gathered, analyzed, provided, and/or transmitted in connection with the delivery of the Cyvatar Cybersecurity Solution (including as part of Cyvatar Personnel delivering Professional Services) and which may be generally relevant to the security industry, and/or improving Cyvatar's solutions, and/or ability to analyze and/or detect potential future anomalies, bad acts or actors, security issues, and/or attacks.

"**Authorized Reseller**" means any authorized reseller of Cyvatar who validly sells Cyvatar Cybersecurity Solutions, subject to the terms and conditions of this Agreement.

"**Control**" and its grammatical variants means (i) a general partnership interest in a partnership, (ii) the beneficial ownership of a majority of the outstanding equity entitled to vote for directors, or (iii) the power to direct or cause the direction of the management and policies of such entity whether by contract or otherwise.

"Client System Data" means the Client's or Client Affiliates' system's specific data or information collected from Client or Client Systems in connection with delivery of Cyvatar Cybersecurity Solution hereunder. For Clarity, Client System Data can, depending on the Solution include any of the following data or information to the extent derived from Client's systems or end points: device name or type, Mac address, IP address, software data, configuration data, patch data, vulnerability data, malware data, location data, user data specific to the client environment. For clarity, Client System Data excludes any Aggregated Attack Information, Know-How & Best Practices that may be derived from Client System Data or other Clients' data.

"**Cyvatar Personnel**" any individual (employee or contractor of Cyvatar) hired by Cyvatar to deliver Professional Services to Client in accordance with the terms of this Agreement.

"Cyvatar Platform" means the proprietary platform hosted and delivered by Cyvatar for use by Client Users in connection with the purchase of a subscription to the Cyvatar Cybersecurity Solution; this platform is designed to integrate with certain Third Party Products and can serve as a hub for ingesting data from Third Party Products and comes free with a subscription to Cyvatar Cybersecurity Solutions purchased by Client and can be used by Client's Users during the relevant Subscription Terms in connection with their subscription to the Cyvatar Cybersecurity Solution(s) purchased by Client.

"**Documentation**" means the written and/or electronic end user or technical documentation pertaining to the Cyvatar Platform that is provided by Cyvatar to Client together with the delivery of the Cyvatar Cybersecurity Solution.

"**Internal Business Purposes**" means the (i) access and use of the Cyvatar Cybersecurity Solution and/or Cyvatar Platform by Users on behalf of and for the internal benefit of Client or Client Affiliates and (ii) use of Aggregated Attack Information, Know-how & Best Practices on behalf of and for the internal benefit of Client or Client Affiliates.

"**Subscription Parameter(s)**" means any factor that serves as a basis for calculating the amount of fees payable by Client for a license to the Cyvatar Cybersecurity Solution and/or delivery of Cyvatar Platform as identified in the Order, including, for example, where relevant, the number of personnel whose end points or assets are being managed or monitored (count), or any other measurement/parameter identified in the Order. Without limiting the generality of the foregoing, and in all cases, the fees payable by Client for a license to the Cyvatar Cybersecurity Solution and/or delivery of the Cyvatar Platform as identified in the Order, shall be based upon the Client's Actual Usage (as defined below).

"**Order**" means an ordering document that identifies the commercial terms of the purchase, namely, for example, Cyvatar's products and/or services ordered, the applicable Subscription Parameters, the Subscription Term, and any pricing and payment terms relating to the same (each as relevant). Orders may be direct between Cyvatar and Client or indirect via an Authorized Reseller of Cyvatar. Multiple Orders may apply if additional licenses, products, or services are purchased, provided that, unless expressly stated otherwise, terms specified in an Order shall be relevant only to that Order.

"**Professional Services**" means any professional services which are to be delivered by Cyvatar Personnel to Client as outlined in the relevant Solution Description.

"**Cyvatar Cybersecurity Solution**" or "**Solution**" means the Cyvatar Cybersecurity Solution identified in the relevant Order. For clarity, the definition of Cyvatar Cybersecurity Solution includes all the Cyvatar Platform delivered by Cyvatar, as well as any Professional Services delivered by Cyvatar, as specifically outlined in the relevant Solution Description identified in the Order. For clarity, Third Party Product(s) (separately defined below) are expressly excluded from the definition of Cyvatar Cybersecurity Solution.

"**Solution Description(s)**" means the relevant Solution Description correlating with the relevant Cyvatar Cybersecurity Solution purchased by Client, and such description defines the complete and total scope of deliverables to be provided by Cyvatar to Client (including any Professional Services) in connection with the purchase of the subscription to the relevant Cyvatar Cybersecurity Solution.

"**Subscription Term**" means the term of the subscription which is relevant to the purchase of the Cyvatar Cybersecurity Solution as identified on the relevant Order, but such term shall not be less than one (1) year. For clarity, the Subscription Term shall commence on the start date identified on the relevant Order (and if no start date is identified then the start date shall be the effective date of the relevant Order) and shall continue for the term identified in the Order, subject to the termination rights specified herein.

"**Third-Party Product(s)**" means all third party hardware, software, software-as-a-service solutions, communications devices, communications services or other third party goods and/or services used, licensed or otherwise accessed by Client or Cyvatar on behalf of Client in connection with delivery of Cyvatar Cybersecurity Solution and includes, specifically, those third-party products that Cyvatar has been authorized to resell and may be listed in one more Order(s) which are installed on Client Systems in connection with the delivery of the Solution.

"**Upgrades**" means error corrections, bug fixes, software updates and software upgrades to the Cyvatar Platform and improvements to the infrastructure of the Cyvatar Platform relevant to the Cyvatar Cybersecurity Solution that are released or made available during the relevant Subscription Term and made generally available by Cyvatar to other Cyvatar enterprise Clients purchasing a subscription to the relevant Cyvatar Cybersecurity Solution.

"**User**" or "**Client User**" means any individual authorized by Client (or any Client Affiliate or contractor) to access and/or use the Cyvatar Platform on behalf of Client (and/or Client Affiliate(s)).

2. ORDERING; SUBSCRIPTION START DATE; MULTIPLE ORDERS. Client may place an initial order with Cyvatar (or an Authorized Reseller) for the Cyvatar Cybersecurity Solution by executing an Order. Multiple Orders may be placed under the terms of this Agreement. This Master Subscription Agreement shall not require delivery of any Solution, unless and until the Client has executed an Order. Each Order together with the terms and conditions of this Master Subscription Agreement will constitute a separate Agreement between the Parties and which will, subject to any termination rights, continue for the Subscription Term identified in the relevant Order. The start date of the Subscription Term for any particular Order shall be the start date identified on the relevant Order, and if no start date is identified then the start date shall be the effective date of the relevant Order.

3. ACCESS TO CYVATAR PLATFORM; DELIVERY OF PROFESSIONAL SERVICE; DELIVERY OF AGGREGATED ATTACK INFORMATION, KNOW-HOW & BEST PRACTICES; THIRD PARTY PRODUCTS.

3.1 Free Access to the Cyvatar Platform.

(A) **Access and Use Rights**. Subject to the terms and conditions of this Agreement, during the Subscription Term, Cyvatar grants to Client a non-exclusive, non-transferable and non-sublicensable license (i) to access and use the Cyvatar Platform in connection with Client's subscription to the Cyvatar Cybersecurity Solution, and (ii) to allow Client User(s) to exercise rights granted herein to Client on behalf of Client or Client Affiliates. For clarity, such license is granted solely for Internal Business Purposes, and solely in accordance with the relevant Documentation and the use restrictions and Subscription Parameter(s) stated in this Agreement (including the relevant Order).

(B) **Restrictions**. Except as otherwise expressly permitted under this Agreement, Client shall not (and shall not authorize or permit any third party including any Users to): (i) copy, use or access the Cyvatar Platform or any portion thereof in excess of or beyond the Subscription Parameters and/or other restrictions/limitations described in this Agreement or the Order; (ii) use the Cyvatar Cybersecurity Solution outside the scope of the use rights identified in the Documentation; (iii) modify the Cyvatar Platform or create derivative works based upon the Cyvatar Platform or reverse engineer or decompile, decrypt, disassemble or otherwise reduce the Cyvatar Platform to human-readable form, except and only to the extent any foregoing restriction is prohibited by applicable law; (iv) create a program or a set of programs similar or identical to the Cyvatar Platform, using any elements or functionalities of the Cyvatar Cybersecurity Solution or Cyvatar Platform to do so; (v) use the Cyvatar Platform in any way that is unlawful or in violation in any applicable laws, or allow Cyvatar Platform to be used in any embargoed country or region; (vi) distribute, sell, license, or otherwise provide or allow access to the Cyvatar Platform to third parties other than Client's Users; (vii) use or permit the Cyvatar Platform to be used to perform services for third parties, whether on a service bureau, SaaS, time sharing basis or otherwise; (viii) release, publish, and/or otherwise make available to any third party the results of any performance or functional evaluation of the Cyvatar Platform without the prior written approval of Cyvatar; (ix) share user accounts for access/use of the Cyvatar Platform; (x) attempt to defeat, avoid, bypass, remove, deactivate or otherwise circumvent any protection mechanisms in the Cyvatar Platform, including without limitation any such mechanism used to restrict or control the functionality of the Cyvatar Platform; (xi) upload Malicious Code to the Cyvatar Platform; (xii) attempt to gain unauthorized access to any component or portion of the Cyvatar Platform, other accounts, computer systems or networks connected to a Cyvatar Platform, or obtain or attempt to obtain any materials or information made available through any component or portion of the Cyvatar Platform not intentionally made available by or on behalf of Cyvatar to Client; (xiii) take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Cyvatar Platform; (xiv) take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Solution. There are no implied licenses granted by Cyvatar under this Agreement. Competitors of Cyvatar are strictly prohibited from accessing or using the Cyvatar Platform for any purpose. It is the responsibility of the Client to ensure that all User(s) are aware of the terms and conditions (including the restrictions) of this Agreement. Client agrees that all actions or inactions of User(s) shall be deemed an action or inaction by Client and that Client shall be liable and responsible for any action or inaction of the User(s) which is in violation of the terms of this Agreement.

3.2   Professional Services. Subject to the terms and conditions of this Agreement (including the Order and the relevant Solution Description), Cyvatar shall deliver the Professional Services outlined in the relevant Solution Description(s). Professional Services will be delivered as identified in the Solution Description and only during the Subscription Term identified in the Order.

3.3   License to Aggregated Attack Information, Know-how & Best Practices. In connection with the delivery of Cyvatar Cybersecurity Solution, Cyvatar may deliver certain Aggregated Attack Information, Know-how & Best Practices to Client which shall be deemed the Confidential Information of Cyvatar. Subject to the terms herein and notwithstanding the non-use restrictions stated with respect to Confidential Information of the other Party, Client may use Aggregated Attack Information, Know-how & Best Practices both during and after the term of this Agreement, provided such use in solely for Internal Business Purposes and not for competitive reasons or to otherwise provide services to third parties.

3.4   Required Third-Party Product(s). In connection with the delivery of the Cyvatar Cybersecurity Solution(s), Client may be required to obtain and/or license (or Cyvatar may license on behalf of and/or for the benefit of Client) certain Third-Party Products, including those Third-Party Products for which Cyvatar is an authorized reseller. Examples of Third Party Products may include certain vulnerability scanning, ransomware protection, or other software tools which may need to be install on Client's systems and used in connection with the delivery of the relevant Cyvatar Cybersecurity Solution. Each Solution Description corresponding to the Cyvatar Cybersecurity Solution purchased will identify the relevant Third-Party Product(s) that may be licensed, accessed, and/or used and resold to Client in connection with the Cyvatar Cybersecurity Solution purchased. The specific Third Party Product(s) actually licensed, resold and installed shall ultimately be determined by the number and type of assets (systems and/or endpoints) monitored and/or managed as part of the solution, technical requirements, and recommendations of Cyvatar after discussions with Client. For clarity, the final list of Third Party Product(s) shall be approved by the Client after Cyvatar recommendation. Also, the Parties may mutually agree in writing to change the Third Party Product(s) during the Subscription Term. Unless otherwise specified in the relevant Order, pricing specified for the Cyvatar Cybersecurity Solution shall include the cost of the licenses resold to Client and needed to access and/or use the Third Party Products on behalf of the Client in connection with the delivery of the Cyvatar Cybersecurity Solution. The Client understands that the Solution Description will not specify every Third Party item that may also be used or needed to enjoy the results of Cyvatar Cybersecurity Solution (e.g., that client will need a printer and paper in order to print reports). Client understands and agrees that in order to access, use or license the relevant Third-Party Products, Client may be required to agree to the relevant third-party provider terms, whether an end user agreement or terms of service or otherwise (hereinafter "**Third Party Terms**"). Cyvatar shall make available to Client the relevant Third Party Terms in advance for Client review. Client understands that Cyvatar is not the owner of Third Party Products and has no control or say over the relevant Third Party Terms. Should Client refuse to agree to the Third Party Terms or should Client's license to any required Third-Party

Product(s) terminate for any reason, Client understands and agrees that Cyvatar may not be able to provide or continue to provide the requested Cyvatar Cybersecurity Solution. In such an event, Cyvatar may immediately suspend performance of the relevant Cyvatar Cybersecurity Solution without any liability to Client (unless and until the license is reinstated) and Client shall pay Cyvatar the full amount of any outstanding fees due for Cyvatar Cybersecurity Solution rendered prior to the termination date and Third Party Product licenses purchased on behalf of Client in connection with the solution. CLIENT UNDERSTANDS AND AGREES THAT CYVATAR IS NOT RESPONSIBLE FOR THIRD PARTY PRODUCTS PROVIDES NO WARRANTIES WITH RESPECT TO THIRD PARTY PRODUCTS AND CYVATAR IS NOT IN ANY WAY RESPONSIBLE FOR ANY PROBLEMS OR CLAIMS ARISING OUT OF OR RELATED TO ANY THIRD PARTY PRODUCTS OR CLIENT'S DISPUTES WITH THE RELEVANT THIRD PARTY PROVIDER WHETHER UNDER THE THIRD PARTY TERMS OR OTHERWISE, AND NOTWITHSTANDING ANYTHING ELSE HEREIN, CLIENT AGREES NOT TO SEEK RECOURSE AGAINST CYVATAR FOR ANY OF THE FORGOING.

4. CLIENT ASSISTANCE; EXCUSED FAILURES; PERMISSION TO INSTALL THIRD PARTY PRODUCTS.

4.1 Client Assistance. Client agrees that Client will provide Cyvatar with access to one or more employees who have substantial computer systems, network, account and project management experience to act as a liaison between Client and Cyvatar and that such personnel shall provide Cyvatar with appropriate information concerning, and reasonable access to, Client's personnel, systems and accounts and shall provide all information, access and full, good faith cooperation reasonably necessary for Cyvatar to provide the Cyvatar Cybersecurity Solution (including relevant Cyvatar Professional Services).

4.2 Excused Failures. Cyvatar shall not be liable or responsible for any deficiency in performing or providing any aspect of the Cyvatar Cybersecurity Solution if such deficiency results from Client's failures to comply with section 5.1. More specifically, Client agrees that any delay or failure of Cyvatar to provide the elements of the Cyvatar Cybersecurity Solution in accordance with this Agreement (including the Solution Description) will be excused to the extent caused by any of the following: (i) Client's failure to reasonably assist Cyvatar or make available personnel, systems or accounts in a timely manner, including Client not providing approvals, cooperation, access, or information in the requested form or in accordance with the requirements stated in this Agreement; (ii) Client's failure to provide adequate resources, access or personnel needed for Cyvatar to perform the tasks, functions or other responsibilities identified in the relevant Solution Description; (iii) failures related to or caused by Client systems, host, networks, applications, or Third Party Products; and (iv) provision of inaccurate or incomplete information to Cyvatar. If either party learns of the occurrence or likely occurrence of any of the above, it will inform the other party and the parties will cooperate to develop and implement a mutually acceptable plan to minimize the adverse effects caused by such circumstances.

4.3 Assent for Installation of Third Party Products. Where installation of Third Party Products by Cyvatar is described in the relevant Solution Description and otherwise approved by Client in writing (email or other approval of installation plan is sufficient), Cyvatar may install or initiate access to and use of Third Party Products on Client's systems (and Client agrees that, if as part of such installation Cyvatar must accept or otherwise assent to relevant Third Party Terms, then Cyvatar may do so on behalf of the Client). If at any time prior to installation, Client objects to Cyvatar accepting terms or otherwise completing the installation for any reason, Cyvatar shall be relieved of its obligations which may be dependent upon the installation of the relevant Third Party Product(s). For clarity, Client shall continue to be responsible for fulfilling its payment obligations under the applicable executed Order until the issue is resolved.

5. FEES; PAYMENT TERMS; UPDATING SUBSCRIPTION PARAMETERS.

5.1 Fees; Payment Terms. Client will pay the total fees identified on the Order. Fees for the entire Subscription Term (and any renewal term) are due either upfront at the start of the Subscription Term (and for each Renewal Term) or on a monthly basis as mutually agreed by the parties. Unless otherwise stated herein or in the relevant Order placed with Cyvatar, (i) Orders are non-cancelable, and all payments are non-refundable, and payments are not subject to any deduction or set-off; (ii) invoices shall be paid by Client within thirty (30) days of the effective date of the relevant Order, unless other payment terms are agreed to in the Order; (iii) all amounts are payable in U.S. Dollars; (iv) all fees outlined in the Orders are exclusive of all taxes, duties, shipping fees, and similar amounts, all of which are Client's responsibility (excluding taxes based on Cyvatar or its Authorized Reseller's income); and (v) if Client is in default of making any payment due to Cyvatar, then Cyvatar may, without prejudice to other remedies available, assess a late payment charge, at the lower rate of 1.5% per month, or the maximum rate under applicable law, and/or suspend delivery of any product or service hereunder. Notwithstanding the forgoing, if the Order is placed indirectly through an Authorized Reseller, then this section 5.1 is not relevant and the Order entered into with the Authorized Reseller shall identify the commercial terms of the transaction, including the solution ordered, the relevant Subscription Term and Subscription Parameter(s) (as relevant), the fees due, and payment terms relevant to the Order.

5.2 Expenses. If ever pre-approved in writing, and only as applicable, Client will reimburse Cyvatar (either directly or through the Authorized Reseller, as relevant) for any reasonable and pre-approved travel and lodging expenses as incurred by Cyvatar in connection with any Professional Services.

5.3 Taxes. All amounts to be paid by Client under this Agreement are exclusive of any taxes (including withholding, sales, use, value added, excise, services, or the like) that may be assessed on the provision of the Cyvatar Cybersecurity Solution or otherwise arising under this Agreement, excluding only taxes on Cyvatar's net income, ownership of property and all employer reporting and payment obligations with respect to Cyvatar's personnel (collectively, "Taxes"). Client agrees to pay directly or reimburse Cyvatar for any Taxes arising out of this Agreement.

5.4 **Verification of Actual Usage; Invoicing.** During the Subscription Term, Cyvatar will review the number of endpoints, devices, users, or accounts (collectively "Assets") associated with Client personnel ("Actual Usage"), and will invoice Client based on such usage, according to the parameters set forth in the relevant Order. With regard to any invoice prepared by Cyvatar (or an Authorized Reseller) during the Subscription Term, the fees payable will be based on the then current pricing charged to Client in the relevant Order (not including any special discounts that are not relevant to coverage usage, e.g., one time marketing discounts, etc.), and will reflect the Actual Usage of Client. Client hereby acknowledges and agrees that Cyvatar (or an Authorized Reseller) may modify the amount owed under each invoice based upon Client's Actual Usage for such period.

6. **OWNERSHIP.** The Cyvatar Platform is licensed and not sold. As between Client and Cyvatar, Cyvatar and its licensors shall own and retain all right, title, and (except as expressly licensed hereunder) interest in and to the Cyvatar Platform, Cyvatar Confidential Information, and all copies or portions thereof (by whomever created). As between Client and Cyvatar, Client and its Affiliates shall own and retain all right, title, and (except as expressly licensed hereunder) interest in and to the Client System Data and Client Confidential Information, and all copies or portions thereof (by whomever created). During the Subscription Term, Client grants Cyvatar (and Cyvatar Personnel performing hereunder) a nonexclusive right to process, access, modify, copy, perform, display, create summaries, reports, and/or compilations from Client System Data, and otherwise use or process the Client System Data, solely as necessary to provide the Cyvatar Cybersecurity Solution(s) to Client.

7. **CONFIDENTIALITY.**

7.1 **"CONFIDENTIAL INFORMATION".** Any non-public data, information and other materials regarding the products, technology, software, services, or business of a party (and/or, if either party is bound to protect the confidentiality of any third party's information, of a third party) provided by or made available by one party ("Disclosing Party"), either directly or indirectly through third parties, to the other party ("Receiving Party") where such information is marked or otherwise communicated as being "proprietary" or "confidential" or the like, or where such information should, by its nature, be reasonably considered to be confidential and/or proprietary. The parties agree that, without limiting the foregoing, the details of Cyvatar Cybersecurity Solution and the Cyvatar Platform (and any performance data, benchmark results, training materials and technical information relating thereto), the Documentation and, Cyvatar' pricing information shall be deemed the Confidential Information of Cyvatar, Client System Data shall be deemed the Confidential Information of the Client, and the terms and conditions of this Agreement (but not its existence) shall be deemed the Confidential Information of both parties. Notwithstanding the foregoing, Confidential Information shall not include information which: (i) is already known to the Receiving Party prior to disclosure by the Disclosing Party; (ii) becomes publicly available without fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without restriction as to disclosure, or is approved for release by written authorization of the Disclosing Party; or (iv) is independently developed or created by the Receiving Party without use of the Disclosing Party's Confidential Information.

7.2 **Duties.** Except as expressly authorized herein, the Receiving Party agrees to: (i) use the Confidential Information of the Disclosing Party only to perform hereunder (including providing the features and services associated with the normal use of the *Cyvatar Platform or to deliver Professional Services*) or exercise rights granted to it hereunder; (ii) treat all Confidential Information of the Disclosing Party in the same manner as it treats its own similar proprietary information, but in no case will the degree of care be less than reasonable care; and (iii) disclose the Disclosing Party's Confidential Information only to its Affiliates, and those employees, agents and contractors of the Receiving Party and those of its Affiliates who have a need to know such information for the purposes of this Agreement, provided that any such employee, agent or contractor shall be subject to obligations of non-use and confidentiality with respect to such Confidential Information at least as restrictive as the terms of this Agreement, and the Receiving Party shall remain liable for any non-compliance of such Affiliates, and it's or their employees, agents or contractors with the terms of this Agreement.

7.3 **Disclosures Required by Law.** Either party may disclose Confidential Information of the other party if it is required to be disclosed by law or governmental regulation, provided that the Receiving Party provides reasonable notice to Disclosing Party of such required disclosure (to the extent permitted by law) and reasonably cooperates with the Disclosing Party in limiting such disclosure and ensuring confidential handling of the Confidential Information.

7.4 **Return or Destruction.** Upon termination or expiration of this Agreement, the receiving party, at the furnishing party's option, will return or destroy all Confidential Information of the furnishing Party, provided that either party may retain backup copies of the furnishing party's Confidential Information in accordance with applicable law and/or the receiving party's standard data retention policies and procedures. All Confidential Information of the furnishing party retained by the receiving party in accordance with the foregoing shall continue to be subject to all applicable provisions of this Agreement for so long as such Confidential Information is retained by the receiving party.

7.5 **Relief.** Each party agrees that if a court of competent jurisdiction determines that the receiving party has breached, or attempted or threatened to breach, any of its confidentiality obligations to the furnishing party or the furnishing party's proprietary rights, money damages will not provide an adequate remedy. Accordingly, the furnishing party will be entitled to seek appropriate injunctive relief and other measures restraining further attempted or threatened breaches of such obligations, in addition to any other remedies that may be available to the furnishing party.

8. **DATA SECURITY AND PRIVACY.**

8.1 **CCPA Service Provider.** To the extent Client is a covered "business" under the CCPA, the parties agree that Cyvatar is a "service provider," as defined by the CCPA.

8.2 **Processing Personal Information.** As used herein "**Personal Information**" means the personal information of consumers and other individuals, as defined by Applicable Laws including, without limitation, the CCPA. "**Applicable Laws**" means all applicable United States federal or state privacy and data protection laws including, without limitation, the CCPA, and any implementing regulations relating to the same. As between Client and Cyvatar, Client owns and retains all rights in and to all Personal Information (as defined below) it provides to Cyvatar. Notwithstanding anything to the contrary contained in this Agreement, with respect to any Personal Information delivered or made available by Client to Cyvatar under or pursuant to this Agreement, Cyvatar agrees that:

8.2.1 Cyvatar shall process all such Personal Information solely for the purposes of carrying out its obligations under this Agreement or as otherwise expressly directed in writing by Client and not for any other purposes.

8.2.2 Cyvatar shall not further collect, sell, retain, use, or disclose any such Personal Information for any purpose other than the specified purpose of delivering the Cyvatar Cybersecurity Solution, including performing the relevant Professional Services contemplated as part of the solution.

8.2.3 Cyvatar understands the restrictions set forth in this Agreement relating to Personal Information and agrees to comply with them.

8.2.4 Cyvatar shall maintain an effective information security program to keep such Personal Information confidential and take appropriate administrative, technical, and physical measures to secure and protect such Personal Information against unauthorized, unlawful or accidental access, disclosure, transfer, destruction, loss or alteration.

8.2.5 Cyvatar shall promptly notify Client if Cyvatar becomes aware of any unauthorized access to such Personal Information; and

8.2.6 Cyvatar shall use such Personal Information in accordance with Applicable Law.

8.3 **Consumer Requests.** In connection with any consumer requests submitted directly to Client in connection with the consumer's Personal Information, Cyvatar shall cooperate with Client to enable Client to comply with all Applicable Laws and to respond and honor, within the time required by Applicable Laws, any request from a consumer seeking to exercise his or her rights under Applicable Laws.

9. LIMITED WARRANTY; DISCLAIMER.

9.1 **Mutual Warranties.** Each Party warrants to the other that (i) it has the full power to enter into this Agreement and (ii) this Agreement constitutes a legal, valid, and binding obligation of such party, enforceable against it (iii) this Agreement does not contravene, violate, or conflict with any other agreement or legal obligation of such Party with any third party; and (iv) each Party shall comply with all applicable law in connection with its activities contemplated under this Agreement.

9.2 **Client System Data**. Client warrants that Client has and will have the legal authority and all consents, permissions, notices and all rights necessary, including any of the foregoing from Client or Client's Affiliate's employees, contractors, personnel, or third parties or regulatory authorities, employee representative bodies, or applicable laws, each to the extent relevant to Client: (i) to upload or otherwise provide access to the Client System Data to Cyvatar (and/or Cyvatar Representatives) for the purposes outlined in this Agreement and (ii) for Cyvatar (and/or Cyvatar Personnel) to fulfill its obligations and exercise its rights with respect to the Client System Data as expressly set forth this Agreement.

9.3 **Professional Services.** For a period of thirty (30) days from the date of delivery of the Professional Services, Cyvatar warrants to Client that the Professional Services delivered shall be delivered in a professional and workman like manner and performed in a manner conforming to any requirements stated in the relevant Solution Description(s). Cyvatar' entire liability and Client's sole and exclusive remedy for any breach of the preceding warranty will be for Cyvatar to re-perform the nonconforming Professional Services, or if Cyvatar is unable to deliver conforming Professional Services within a reasonable time, then to terminate the relevant subscription for the relevant Solution and refund any prepaid subscription fees paid to Cyvatar for the relevant non-conforming Solution for the period commencing from the non-conformance and for the balance of the relevant Subscription Term.

9.4 **Cyvatar Platform.** Cyvatar warrants to Client that the Cyvatar Platform will perform in accordance with the functional specifications identified by Cyvatar in the relevant Documentation. Cyvatar' entire liability and Client's sole and exclusive remedy for any breach of the preceding warranty will be for Cyvatar to fix any non-conformance in the Cyvatar Platform, or if Cyvatar is unable to deliver a conforming Cyvatar Platform meeting the functional specifications within a reasonable time, then to terminate the relevant subscription for the relevant Solution and refund any prepaid subscription fees paid to Cyvatar for the relevant non-conforming Solution for the period commencing from the non-conformance and for the balance of the relevant Subscription Term.

9.5   Restrictions. The express warranties specified in 8.4 above do not apply if the applicable Cyvatar Platform, or any portion thereof: (i) has been modified or altered, except by Cyvatar or its' authorized representatives or its contractors; (ii) has not been used, installed, operated, repaired, or maintained in accordance with this Agreement and/or Documentation; or (iii) is licensed, for beta, evaluation, or testing purposes. Additionally, the warranties set forth herein only apply to a warranty claim made within the warranty period specified herein and does not apply to the extent the non-conformance or failure is caused by Clients systems or any Internet service provider failures or delays, or denial of service attacks, or delays involving hardware or software or power systems not in Cyvatar's reasonable control or to any bug, defect or error caused by or attributable to Third Party Products or any other third party products, solutions or services.

9.6   DISCLAIMERS. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 8, NEITHER CYVATAR NOR ANY CYVATAR PERSONNEL PROVIDE ANY OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE CYVATAR CYBERSECURITY SOLUTION (INCLUDING THE PROFESSIONAL SERVICES TO BE DELIVERED), CYVATAR PLATFORM, AGGREGATED ATTACK INFORMATION, KNOW-HOW & BEST PRACTICES, OR ANY OTHER RESULTS OF SERVICES OR DELIVERABLES PROVIDED BY CYVATAR OR ITS PERSONNEL HEREUNDER, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE (EVEN IF THAT PURPOSE IS KNOWN TO CYVATAR), AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE AND ALL SUCH IMPLIED WARRANTIES ARE EXPRESSLY AND SPECIFICALLY DISCLAIMED. CLIENT ASSUMES TOTAL RESPONSIBILITY FOR THE SELECTION OF THE CYVATAR CYBERSECURITY SOLUTION PURCHASED TO ACHIEVE CLIENT'S INTENDED RESULTS, AND FOR THE USE OF RESULTS OBTAINED FROM THE SERVICES AND DELIVERABLES ASSOCIATED WITH CYVATAR CYBERSECURITY SOLUTION (OR ANY ASPECT THEREOF), CYVATAR PLATFORM, AGGREGATED ATTACK INFORMATION, KNOW-HOW & BEST PRACTICES, OR ANY OTHER RESULTS OF SERVICES OR DELIVERABLES PROVIDED HEREUNDER. CYVATAR, ITS SUPPLIERS, AND LICENSORS DO NOT REPRESENT OR WARRANT THAT THE CYVATAR PLATFORM WILL BE UNINTERRUPTED, COMPLETE OR ERROR FREE OR WILL BE AVAILABLE 24 HOURS PER DAY, 7 DAYS PER WEEK OR THAT INTEROPERABILITY WITH THIRD PARTY PRODUCTS CAN BE MAINTAINED OR WILL NOT FAIL. WITHOUT LIMITING THE FOREGOING, CYVATAR AND CYVATAR PERSONNEL DO NOT WARRANT (I) THAT ALL CYBERSECURITY VULNERABILITIES, THREATS, OR ATTACKS WILL BE DISCOVERED, REPORTED, OR REMEDIED; (II) THAT CLIENT SYSTEM DATA, SYSTEMS OR NETWORKS SHALL BE FREE FROM LOSS, ERROR, ATTACK OR CORRUPTION; OR (III) THAT AUTHORIZED CONTENT SHALL BE TRANSMITTED THROUGH CLIENT SYSTEMS WITHIN A REASONABLE PERIOD OF TIME AS A RESULT OF PURCHASING THE SOLUTION. CLIENT ACKNOWLEDGES THAT ANY RESULTS OBTAINED FROM THE EACH ASPECT OF CYVATAR'S PERFORMANCE HEREUNDER MAY BE INCOMPLETE OR INACCURATE AND THAT SUCH RESULTS ARE PROVIDED FOR GENERAL CONSIDERATION BY CLIENT. CLIENT IS REQUIRED TO INDEPENDENTLY EVALUATE ANY SUCH RESULTS BEFORE ITS RELIANCE ON THE SAME AND CYVATAR IS NOT RESPONSIBLE OR LIABLE FOR CLIENT'S RELIANCE ON ANY SUCH RESULTS.

10. INDEMNITY.

10.1   Client Indemnity. Subject to the terms of this section, Client shall defend, and indemnify and hold harmless Cyvatar and its respective officers, directors and employees ("**Cyvatar Indemnitee(s)**") from any and all costs, expenses, losses, damages, and settlement amounts required to settle, any Claims brought against Cyvatar Indemnitees (i) that Client System Data or Cyvatar's or Cyvatar Personnel's rightful use or processing thereof violates any third party proprietary, property or personal rights; and (ii) to the extent resulting from Client's violation of applicable law, unauthorized use of the Cyvatar Platform, or Client's gross negligence or willful misconduct.

10.2   Indemnification Process. The indemnifying party's indemnification obligations are subject to the indemnified party (i) promptly notifying the indemnifying party in writing of the Claim subject to indemnification hereunder, (ii) promptly giving the indemnifying party the right to control and direct the investigation, preparation, defense and settlement of such Claim (provided that the indemnified party shall have the right to reasonably participate, at its own expense, in the defense or settlement of any such Claim), and (iii) giving reasonable assistance and cooperation for the defense of same, at the indemnifying party's reasonable expense.

11. TERM AND TERMINATION.

11.1   Term of the Order; Renewals. Order(s) placed hereunder shall be effective as soon as executed and shall continue to be effective, until this Agreement or the relevant Order is terminated or until the relevant Subscription Term for the products and services ordered under the relevant Order expires, whichever is earlier. Upon the conclusion of the initial Subscription Term, unless otherwise indicated in the Order, each Order shall automatically renew for the same Subscription Term specified in the then-current Order for the exact same Cyvatar Cybersecurity Solution(s), Subscription Parameters, and subscription fees (each, a "**Renewal Term**") unless either Party provides a thirty (30) day notice of non-renewal or changes in pricing prior to the termination of the then current Subscription Term (including a Renewal Term).

11.2   Term of the Agreement. This Agreement shall be effective as of the Effective Date and shall remain in effect until terminated in accordance with these terms or until all Orders hereunder expire (i.e., the Subscription Term for all the products and services ordered hereunder expires), whichever is earlier.

11.3   Termination Rights. This Agreement (and/or any Order placed under this Agreement) may be terminated by a party: (i) upon thirty (30) days written notice, if the other party materially breaches any provision of this Agreement and such breach remains uncured after such thirty (30) day notice period expires; or (ii) effective immediately, if the other party ceases to do business, or otherwise terminates its business operations without a successor; or (iii) effective immediately, if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is filed against it and not dismissed within ninety (90) days.

11.4   Effect of Termination; Survival. Upon any expiration or termination of the Order or this Agreement, (i) all fees due but not paid under the affected Order shall become payable, (ii) except as expressly provided herein, and unless termination is by Client for a material uncured breach by Cyvatar, Client shall not be entitled to any refund of fees paid under the relevant Order and if termination is based on an uncured Cyvatar breach, then Client shall be entitled to a pro-rata refund of any unused subscription fees, starting from the effective date of such termination and (iii) Sections 1, 3, 5, 6, 7, 9, 10, 11, and 12 shall survive any termination or expiration of this Agreement.

12. LIMITATION OF LIABILITIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT FOR ANY LIABILITY ARISING OUT OF ANY VIOLATION OF A PARTY'S PROPRIETARY RIGHTS (INCLUDING A VIOLATION OF ANY LICENSE OR RESTRICTIONS STATED HEREIN), ANY VIOLATION OF SECTION 7 (CONFIDENTIALITY), OR ANY LIABILITY OF A PARTY ARISING OUT OF ITS OBLIGATIONS UNDER SECTION 10 (INDEMNITY):

(A)   IN NO EVENT SHALL CLIENT, CYVATAR, CYVATAR PERSONNEL, OR CYVATAR' LICENSORS OR SUPPLIERS BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, INCIDENTAL DAMAGES, OR FOR ANY LOST REVENUE, LOST PROFIT, LOSS OF BUSINESS, LOSS OF CONTRACTS, ANTICIPATED SAVINGS, LOSS OF GOODWILL, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR ANY LOSS OR DAMAGE TO DATA, OR ANY BUSINESS INTERRUPTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ARISING FROM CYVATAR CYBERSECURITY SOLUTION, HOSTED SERVICES OR ANY SERVICES DELIVERED HEREUNDER, UNDER ANY CAUSE OF ACTION, WHETHER IN CONTRACT, UNDER STATUTE, TORT OR OTHERWISE, EVEN IF ADVISED BEFOREHAND OF THE POSSIBILITY OF SUCH; AND

(B)   IN NO EVENT SHALL THE AGGREGATE LIABILITY OF CLIENT, CYVATAR, CYVATAR PERSONNEL, CYVATAR' LICENSORS OR SUPPLIERS ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, THE USE OF OR INABILITY TO USE CYVATAR CYBERSECURITY SOLUTION (INCLUDING PROFESSIONAL SERVICES), CYVATAR PLATFORM, DELIVERABLES OR RESULTS OF ANY SERVICES OR OFFERINGS OR OTHERWISE (UNDER ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, UNDER STATUTE, TORT OR OTHERWISE) EXCEED THE FEES RECEIVED BY CYVATAR UNDER THE RELEVANT ORDER (OR IN THE CASE OF CLIENT'S LIABILITY EXCEED THE FEES PAID OR DUE TO CYVATAR OR ITS AUTHORIZED RESELLER UNDER THE RELEVANT ORDER), WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE; AND

(C)   IN NO EVENT SHALL CYVATAR BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIRD PARTY PRODUCTS, USE OF THIRD PARTY PRODUCTS, OR A THIRD PARTY PROVIDERS FAILURES, WHETHER SUCH DAMAGES ARE BASED ON TORT, CONTRACT, OR ANY OTHER LEGAL THEORY.

(D)   MULTIPLE CLAIMS SHALL NOT EXPAND THE LIMITATIONS SET FORTH IN THIS SECTION.

13. GENERAL.

13.1   Language. This Agreement, any disputes hereunder, and all services to be provided hereunder by Cyvatar to Client (if any) shall be conducted and provided in the English language.

13.2   Force Majeure. Except for Client's obligation to pay the relevant fees, neither Cyvatar nor Client will be responsible to the other for delays and/or failures in performance resulting from acts beyond their reasonable control, including, but not limited to acts of God, strikes, lockouts, riots, acts of war, acts of terrorism, epidemics, pandemics, governmental regulations superimposed after the fact, fire, communication line failures, power failures, earthquakes, or other disasters (individually and collectively, "**Force Majeure**"). If a Force Majeure event causes a delay or failure, the Party effected by the Force Majeure event will notify the other party as soon as practicable and use commercially reasonable efforts to resume performance.

13.3   No Exclusivity; Cyvatar's Right to Collect and Exploit Aggregate Attack Information, Know-how & Best Practices. Notwithstanding anything else herein, (i) Client agrees that Cyvatar may collect, develop, and/or improve Aggregated Attack Information, Know-how & Best Practices in connection with performing under this Agreement, (ii) Client understands that Cyvatar provides its Solutions and similar services to other clients of Cyvatar, and that Aggregated Attack Information, Know-how & Best Practices will be used in other similar engagements, (iii) Cyvatar (and its successors and assigns) may use, analyze, and otherwise commercially exploit Aggregated Attack Information, Know-how & Best Practices for any legitimate business purposes and nothing here shall be construed otherwise, and (iv) nothing in this Agreement or any Order will restrict or limit Cyvatar (or any Cyvatar Personnel or Cyvatar's successors and assigns) from entering into agreements with other clients for the provision of services similar to those delivered as party of the Cyvatar Cybersecurity Solution purchased by Client hereunder or delivering reports with similar look and feel or formatting or similar conclusions or

recommendations. For clarity, to the extent, Cyvatar shares Aggregated Attack Information, Know-how & Best Practices with other clients such Aggregated Attack Information, Know-how & Best Practices will never be shared in any manner that would be associated with, identify, or be tied to Client, Client Affiliates, Client's systems, and/or Client User(s) even if learned in connection with delivery of Cyvatar offerings to Client or derived in whole or in part from analysis of Client System Data or attacks upon Client systems.

13.4   Export Law Assurances. Client understands that the Cyvatar Platform is subject to export control laws and regulations. Client may not download or otherwise export or re-export any component of the Cyvatar Platform or any underlying information or technology except in full compliance with all applicable laws and regulations, including United States export control laws. None of the Cyvatar components of the Cyvatar Platform, or any underlying information or technology may be downloaded or otherwise exported or re-exported: (a) into (or to a national or resident of) any country to which the United States has embargoed goods; or (b) to anyone on the U.S. Treasury Department's list of specially designated nationals or the U.S. Commerce Department's list of prohibited countries or debarred or denied persons or entities. Client hereby agrees to the foregoing and represents and warrants that Client is not located in, under control of, or a national or resident of any such country or on any such list.

13.5   U.S. Government End User Purchasers. The Cyvatar Cybersecurity Solution, Cyvatar Platform, and Documentation qualify as "commercial items," as that term is defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.212 and DoD FAR Supp. 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this Agreement may be incorporated, Client may provide to Government end user or, if this Agreement is direct, Government end user will acquire, the Cyvatar Cybersecurity Solution, Cyvatar Platform and Documentation with only those rights set forth in this Agreement. Use of either the Cyvatar Cybersecurity Solution, Cyvatar Platform or Documentation or both constitutes agreement by the Government that the Cyvatar Cybersecurity Solution, Cyvatar Platform and Documentation are "commercial computer software" and "commercial computer software documentation," and constitutes acceptance of the rights and restrictions herein.

13.6   Anti-Bribery or Anti-Corruption Laws. In carrying out activities pursuant to this Agreement, each party agrees that it shall comply with and shall not commit, authorize, or permit any action by its personnel which would violate any anti-bribery or anti-corruption laws, such as the United States Foreign Corrupt Practices Act or the UK Bribery Act or any similar relevant law or regulation.

13.7   Choice of Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to or application of choice of law rules or principles. The sole and exclusive jurisdiction and venue for actions arising under this Agreement shall be the State and Federal courts in Orange County, California; Each party waives, to the fullest extent permitted by law, any objection which it may now or later have to the laying of venue of any legal action or proceeding arising out of or relating to this Agreement brought in any court of the State of California sitting in Orange County, California, or in the United States District Court for the Central District of California, and any claim that any action or proceeding in any such court has been brought in an inconvenient jurisdiction. Client and Cyvatar hereby agree to service of process in accordance with the rules of such courts. Notwithstanding any choice of law provision or otherwise, the Uniform Computer Information Transactions Act (UCITA) and the United Nations Convention on the International Sale of Goods shall not apply.

13.8   Headings. Headings and captions are for convenience only and are not to be used in the interpretation of this Agreement.

13.9   Counterparts. This Agreement may be executed and delivered in one or more counterparts (including facsimile, PDF or other electronic counterparts), with the same effect as if the parties had signed the same document. Each counterpart so executed shall be deemed to be an original, and all such counterparts shall be construed together and shall constitute one agreement.

13.10   Entire Agreement; Modifications; Conflicts. This Agreement constitutes the entire agreement between the parties with respect to the license of the Cyvatar Cybersecurity Solution, Cyvatar Platform, delivery of Support and Maintenance Services and other Services outlined in a Cyvatar Cybersecurity Solution Description(s) or Order (where relevant). Except as expressly provided herein, this Agreement supersedes and cancels all previous written and previous or contemporaneous oral communications, proposals, representations, and agreements relating to the subject matter contained herein. This Agreement prevails over any pre-printed terms or other conflicting or additional terms of any purchase order, ordering document, acknowledgement or confirmation or other document issued by Client, even if signed and returned. Additionally, with respect to any Cyvatar Cybersecurity Solution or Cyvatar Platform provided hereunder, this Agreement supersedes and cancels any "click wrap" or "click accept" or any web-based agreement incorporated into such Cyvatar Cybersecurity Solution, Cyvatar Platform or accepted by User in connection with access to the license keys or otherwise. Except as expressly provided herein, this Agreement may be amended, or any term or condition set forth herein waived, only by a writing executed by both parties, which identifies the terms being amended. Unless otherwise specifically set out herein, in the event of a conflict between these terms and conditions and any Cyvatar Cybersecurity Solution Description(s) or Order, these terms and conditions shall prevail.

13.11   Illegality. SHOULD ANY TERM OF THIS AGREEMENT BE DECLARED INVALID, VOID, OR UNENFORCEABLE BY ANY COURT OF COMPETENT JURISDICTION, THAT PROVISION SHALL BE MODIFIED, LIMITED OR ELIMINATED TO THE MINIMUM EXTENT NECESSARY TO EFFECTUATE THE ORIGINAL INTENT AND SUCH DECLARATION SHALL HAVE NO EFFECT ON THE REMAINING TERMS HEREOF, WHICH SHALL CONTINUE IN FULL FORCE AND EFFECT.

13.12   Waiver. THE FAILURE OF EITHER PARTY TO ENFORCE ANY RIGHTS GRANTED HEREUNDER OR TO TAKE ACTION AGAINST THE OTHER PARTY IN THE EVENT OF ANY BREACH HEREUNDER SHALL NOT BE DEEMED A WAIVER BY THAT PARTY AS TO SUBSEQUENT ENFORCEMENT OF RIGHTS OR SUBSEQUENT ACTIONS IN THE EVENT OF FUTURE BREACHES.

13.13   Assignment. THIS AGREEMENT MAY NOT BE ASSIGNED OR TRANSFERRED WITHOUT THE OTHER PARTY'S PRIOR WRITTEN CONSENT, PROVIDED EACH PARTY EXPRESSLY RESERVES THE RIGHT TO ASSIGN THIS AGREEMENT TO A SUCCESSOR IN INTEREST OF ALL OR SUBSTANTIALLY ALL OF ITS BUSINESS OR ASSETS. ANY ACTION OR CONDUCT IN VIOLATION OF THE FOREGOING SHALL BE VOID AND WITHOUT EFFECT. THIS AGREEMENT WILL INURE TO THE BENEFIT OF AND BE BINDING UPON THE PARTIES AND THEIR RESPECTIVE SUCCESSORS AND PERMITTED ASSIGNS. NO ASSIGNMENT OR DELEGATION, IN WHOLE OR IN PART, WILL RELEASE EITHER PARTY FROM ANY OF ITS OBLIGATIONS PURSUANT TO THIS AGREEMENT. NEITHER THE TERMS OF THIS AGREEMENT, NOR ANY PERFORMANCE UNDER IT, MAY BE CONSTRUED TO CREATE ANY RIGHTS IN ANY PERSON OTHER THAN THE PARTIES TO THIS AGREEMENT.

13.14   Subcontractors. CYVATAR MAY DELEGATE (BY WAY OF SUBCONTRACTING OR OTHERWISE) ANY OF ITS OBLIGATIONS HEREUNDER, PROVIDED IT SHALL REMAIN FULLY LIABLE AND RESPONSIBLE FOR ITS DELEGATES' ACTIONS OR INACTIONS IN VIOLATION OF THIS AGREEMENT. ALL VALIDLY ASSIGNED RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE BINDING UPON AND INURE TO THE BENEFIT OF AND BE ENFORCEABLE BY AND AGAINST THE SUCCESSORS AND PERMITTED ASSIGNS. FOR CLARITY AND NOTWITHSTANDING ANYTHING ELSE HEREIN, THE THIRD PARTY LICENSORS OR OWNERS OF THIRD PARTY PRODUCTS SHALL NOT BE DEEMED SUBCONTRACTORS, CONTRACTORS, OR AGENTS OF CYVATAR.

13.15   Notice. Any and all notices or other information to be given by one of the parties to the other shall be deemed sufficiently given when sent by certified mail (receipt requested), or by courier, or by hand delivery to the other party to the address set forth in the signature lines of this Agreement or other such address provided by the parties from time to time as part of the Order or otherwise. Such notices shall be deemed to have been effective on the first business day following the day of such delivery.

13.16   Equitable Relief. The parties agree that a material breach of this Agreement adversely affecting Cyvatar' or its licensors' intellectual property rights in Cyvatar Cybersecurity Solution, Cyvatar Platform or the Confidential Information of either Party may cause irreparable injury to such party for which monetary damages would not be an adequate remedy and the non-breaching party shall be entitled to equitable relief (without a requirement to post a bond) in addition to any remedies it may have hereunder or at law.

13.17   Independent Contractors. The parties are independent contractors for all purposes under this Agreement, and neither party shall be deemed an employee, partner, or agent of the other.   Each party shall be solely responsible for any and all obligations and payments due with respect to their personnel, including any wages, salaries and amount due or payable to its personnel in connection with this Agreement. This Agreement shall not establish any relationship of partnership, joint venture, employment, franchise or agency between the parties.

13.18   Press. Cyvatar' may include Client's name and/or logo: (i) on Cyvatar' website and in its marketing materials, identifying Client as a user of the Cyvatar Cybersecurity Solution and/or Cyvatar Platform (as relevant) and (ii) in a press release favorably publicizing Client's selection of the Cyvatar Cybersecurity Solution and/or Cyvatar Platform (as relevant).

13.19   Basis of the Bargain. Client acknowledges and agrees that Cyvatar has set its prices and entered into this Agreement in reliance upon the disclaimers of warranty and the limitations of liability set forth herein, that the same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the parties.

13.20   HIPAA. Unless agreed by Cyvatar in a separate signed writing:

13.20.1 Cyvatar has not relied on Client to opine upon Cyvatar's actual or potential status as a Business Associate (as that term is defined in the Health Insurance Portability and Accountability Act of 1996, as amended and supplemented ("HIPAA").

13.20.2 Cyvatar is not acting as a Business Associate on Client's behalf.

13.20.3 The Cyvatar Cybersecurity Solution, including the Professional Services, the Cyvatar Platform, and deliverables may not be used to store, maintain, process, or transmit protected health information (a.k.a., "PHI") (as that term is defined in HIPAA); and

13.20.4 The Cyvatar Cybersecurity Solution, including the Professional Services, the Cyvatar Platform, and related deliverables will not be used in any manner that would require the Cyvatar Cybersecurity Solution, including Professional Services, the Cyvatar Platform, or related deliverables to be HIPAA compliant

13.21 **Electronic Signatures.** This Agreement and associated Orders and related documents may be accepted in electronic form (*e.g.*, by an electronic or digital signature or other means of demonstrating assent) and each party's acceptance will be deemed binding between the parties. Each party acknowledges and agrees it will not contest the validity or enforceability of this Agreement and associated Orders and related documents, including under any applicable statute of frauds, because they were accepted and/or signed in electronic form.