

## **BITSIGHT MAIN SUBSCRIPTION TERMS AND CONDITIONS FOR FEDERAL CONTRACT MULTIPLE AWARD SCHEDULE**

BY BOTH PARTIES AGREEING TO THIS AGREEMENT (INCLUDING BY A SIGNING REFERENCING THIS AGREEMENT WITH AN AUTHORIZED RESELLER) FOR THE BITSIGHT TECHNOLOGIES, INC. (“**BITSIGHT**”) SERVICE(S), THE ORDERING ACTIVITY UNDER GSA SCHEDULE CONTRACTS (“**ORDERING ACTIVITY**”), ACCEPT AND AGREE TO THESE MAIN SUBSCRIPTION TERMS AND CONDITIONS AND THE OTHER TERMS AND CONDITIONS OF ANY APPLICABLE PURCHASE ORDER (COLLECTIVELY WITH THESE TERMS AND CONDITIONS, THIS “**AGREEMENT**”) ON BEHALF OF THE END USER CUSTOMER (TOGETHER WITH ORDERING ACTIVITY, THE “**CUSTOMER**”) ON THE DATE OF ACCEPTANCE (THE “**EFFECTIVE DATE**”). “**CUSTOMER**” MAY ALSO INCLUDE A VENDOR OF A CUSTOMER REQUESTING INFORMATION VIA THE BITSIGHT SERVICES WHO ACCEPTS THESE TERMS AND CONDITIONS. IF YOU ARE ACCEPTING THIS AGREEMENT ON BEHALF OF A CUSTOMER ENTITY AS DESCRIBED ABOVE, YOU AND SUCH ENTITY REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT AND THE TERMS “**YOU**” OR “**YOUR**” AND “**CUSTOMER**” WILL REFER TO SUCH ENTITY. ACCEPTANCE OF THIS AGREEMENT IS A CONDITION OF YOUR ACCESS TO THE BITSIGHT SERVICES. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU MAY NOT ACCESS OR USE THE BITSIGHT SERVICES.

### **BACKGROUND**

BitSight has developed proprietary methodologies and technology for assessing information security risk of organizations, including vendor risk management capabilities (the “**BitSight Technology**”). Customer desires to purchase, access or subscribe to the BitSight services set forth in an Purchase Order (defined below), which may include vendor risk management and monitoring services (accessed through either the BitSight (customer portal or the BitSight application programming interface), and related customer support, customer success and enablement services (together, the “**BitSight Services**”) and BitSight accepts such engagement by Customer subject to the terms and conditions described in this Agreement. All enablement services provided to Customer shall be pursuant to such terms set forth in Exhibit A attached hereto. BitSight and Customer are each referred to herein as a “**Party**” and together as the “**Parties**.” In consideration of the foregoing and the mutual covenants and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

### **SECTION 1 — SERVICES**

**1.1 Services.** BitSight will provide the Customer with access to the BitSight Services during the term of the subscription. BitSight may also make available as part of the BitSight Services certain data, services or integrations originating from external third parties ("**Third-Party Services**"), which may require separate or additional terms imposed by such third party prior to access.

**1.2 Use of Services.** A Customer shall be either an End User Customer or a Managed Service Customer (both terms defined herein) for a particular purchase hereunder based on whether Customer is purchasing and using the services for its own internal business and security purposes (in which case Customer will be an "**End User Customer**") or is purchasing and using the services on behalf of its client (the "**Subject Entity**") to be used for the Subject Entity's business and security purposes (in which case Customer will be a "**Managed Services Customer**"). If Customer is a Managed Services Customer, Managed Services Customer will notify BitSight (or the applicable reseller) that it is a Managed Services Customer and the legal name and other reasonably requested information about each Subject Entity so that BitSight may create a separate managed services portal (a "**Managed Services Portal**") for each Subject Entity.

**1.2.1. End User Customer.** Subject to the terms and conditions of this Agreement, and if purchasing and using the BitSight Services for its own internal and security purposes, BitSight hereby grants to End User Customer the nonexclusive and nontransferable right to access and use the BitSight Services only as follows: (i) access and use the BitSight Services solely for its internal business purposes; (ii) reproduce and store the information and data contained in the BitSight Services made available to and accessed by End User Customer (the "**BitSight Data**") in one or more databases in its custody or control for analysis, manipulation, report preparation, or other lawful purposes, in each case for the purposes described in the immediately foregoing clause; (iii) provide and distribute to Users (defined below) internally in the ordinary course of End User Customer's business reports, presentations and other materials that incorporate, use or display the BitSight Data of rated organizations or derivations therefrom; (iv) share with any third party, including publicly, any BitSight Data that relates exclusively to the End User Customer and End User Customer's BitSight-provided industry sector rating; and (v) share the BitSight Data that relates exclusively to a rated organization with such organization via functionality provided in the BitSight Service for the purpose of initiating or maintaining a business relationship so long as such rated organization is a current or prospective vendor/service provider, regulator, insured, or affiliate (including any portfolio companies or potential acquisition or investment targets) of Customer. "**Users**" means individuals who are authorized by End User Customer to use the BitSight Services as permitted hereby and who have been supplied user identifications and passwords either by one of End User Customer's administrative users or BitSight (at End User Customer's request). Users may be End User Customer's employees, contractors or consultants as long

as the BitSight Services is being used for the sole benefit of the End User Customer and that such Users are subject to confidentiality obligations no less restrictive than those in this Agreement. The BitSight Services permit administrative Users to set access levels on a User-by-User basis to ensure that each User has the desired level of access to the BitSight Data. End User Customer agrees that it is responsible for maintaining the confidentiality and security of logins and passwords for the BitSight Services and for ensuring compliance with this Agreement, including Sections 1.2, 1.3 and 6, by any Users or other individuals who it grants access to the BitSight Services.

#### **1.2.2. Managed Services Customer.**

a. **General.** Subject to the terms and conditions of this Agreement, if purchasing and using the BitSight Services for a Subject Entity's internal and security purposes, BitSight hereby grants to Managed Services Customer the nonexclusive and nontransferable right to access and use the BitSight Services to provide its managed services, which will include support for the BitSight Services (collectively, the "**Managed Services**"), to a designated Subject Entity in the Managed Services Portal dedicated to such Subject Entity to be used only as follows: (i) access and use the BitSight Services solely for and on behalf of such Subject Entity for such Subject Entity's internal business purposes on a per Subject Entity use basis (meaning that each Managed Services Portal and any BitSight Data set forth therein must be purchased for a single Subject Entity's use and not shared among Subject Entities); (ii) reproduce and store the BitSight Data in one or more databases in its custody or control for analysis, manipulation, report preparation, or other lawful purposes, in each case for the purposes described in the immediately foregoing clause, (iii) provide and distribute to MS Users (defined below) and Subject Entities, in the ordinary course of Managed Services Customer's business, reports, presentations and other materials that incorporate, use or display the BitSight Data of rated organizations or derivations therefrom for internal use by such Subject Entity only, (iv) share any BitSight Data regarding and limited to a particular Subject Entity with such Subject Entity (including any materials created by an MS User and described in the immediately foregoing clause) and allow such Subject Entity to share such BitSight Data about itself with third parties, and (v) share the BitSight Data regarding and limited to a rated organization with such organization for the purpose of initiating or maintaining a business relationship via functionality provided in the BitSight Services for the purpose of initiating or maintaining a business relationship so long as such rated organization is a current or prospective vendor/service provider, regulator, insured, or affiliate (including any portfolio companies or potential acquisition or investment targets) of

Subject Entity. Managed Services Customer agrees that it is responsible for ensuring compliance with this Agreement by any individuals or other users who it grants access to the BitSight Services. “**MS Users**” means individuals who are authorized by Managed Services Customer to use the BitSight Monitoring Services as permitted hereby and who have been supplied user identifications and passwords by the applicable administrative user. MS Users may be Managed Services Customer’s or a Subject Entity’s employees, board members, contractors or consultants as long as the BitSight Services and BitSight Data are being used solely to provide the Company Managed Services to a Subject Entity (in the case of MS User) or to receive the benefit of the Company Managed Services (in the case of Subject Entity) and that such MS Users are subject to confidentiality obligations no less restrictive than those set forth herein. Managed Services Customer will obtain consent from all of its Subject Entities that Managed Services Customer may access the BitSight account of such Subject Entity prior to any such access by Managed Services Customer or any MS User (such consent may be included in the Managed Services Customer terms of service or any other reasonable method).

**b. Subject Entities.** Subject Entities may access their specific Managed Services Portal as MS Users thereunder so long as they agree to the terms and conditions hereof as if they were an “**End User Customer**” hereunder. Managed Services Customer will be fully responsible for and liable to BitSight for any failure by a Subject Entity to comply with the obligations or restrictions set forth in this Section and any activity in the Managed Services Portal that violates the terms of this Agreement.

**c. Reporting.** Managed Services Customer will provide BitSight with all reasonably requested reports and other data in connection with the Managed Services.

**1.3 Restrictions.** As between the Parties, the BitSight Services (including the BitSight Data), BitSight Data and the databases that store such BitSight Data and the selection, arrangement, structure, organization, and source code of all of the foregoing constitute valuable trade secrets of BitSight and its licensors and suppliers. Notwithstanding anything in this Agreement to the contrary, Customer will not, and will not intentionally permit any third party or any Users or MS Users, to (i) except as expressly set forth herein, provide or make the BitSight Services or BitSight Data available to any third party, either for free or for consideration; (ii) remove or alter any copyright, trademark or other notices included in the BitSight Services or BitSight Data; (iii) use the BitSight Services or BitSight Data except as expressly permitted in this Agreement; (iv) use the BitSight Services or BitSight Data to publish or disclose any competitive benchmarking tests or analysis; (v) use the BitSight Services or BitSight Data

in a manner that would violate applicable law, including without limitation, using it to intentionally disparage, malign or impugn any third party or to engage in or to engage in or facilitate, whether on behalf of the Customer, any user, or any other person or entity, any transactions that are prohibited by the U.S. economic sanctions administered by the Office of Foreign Assets Control, U.S. Department of the Treasury or use it to engage in unauthorized access to any third party's network or systems or to disrupt the security, integrity or performance of the same; (vi) use the BitSight Services or BitSight Data to initiate or support any litigation or arbitration against any third party; (vii) interfere with or disrupt the security, integrity or performance of the BitSight Services or BitSight Data; (viii) attempt to gain unauthorized access to the BitSight Services or its related systems or networks; (ix) except as expressly permitted hereby, access or use the BitSight Services in order to build or provide a product or service; (x) attempt to reverse engineer or decompile the BitSight Services; or (xi) use the BitSight Services in connection with any document related to the offering of securities (for example, a prospectus or "road show" deck).

## SECTION 2 — FEES AND PAYMENT

**2.1 Fees.** Unless the Customer is using the BitSight Services in connection with an "enable vendor access" ("EVA") program or other free access program or Customer has purchased the BitSight Services via an authorized partner or reseller, Customer will pay the fees (the "Fees") set forth in a government purchase order provided by the Customer to BitSight's authorized reseller which will reference this Agreement and be in accordance with the GSA pricelist provided by authorized reseller to Customer (the "Purchase Order"). Except as provided in Section 5.3 (Termination for Cause) the Purchase Order is non-cancelable and the fees paid are non-refundable.

**2.2 Taxes.** BitSight shall state separately on invoices "taxes excluded from the fees," and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

**2.3 Payment Terms.** All fees payable to BitSight in accordance with this Agreement are due net thirty (30) days of invoice receipt date which will not be issued until access is provided to Customer. Customer will pay in full the amounts set forth in any Purchase Order within 30 days of invoice receipt. Unless otherwise agreed to in writing by BitSight (including in a Purchase Order), (i) all payments will be made by bank wire transfer in accordance with BitSight's instructions or by check drawn on a U.S. bank, or by other means as indicated in the Purchase Order, or allowed by the Federal Acquisition Regulations and (ii) all payments will be free from all setoffs and made in U.S. dollars. If BitSight does not receive timely payment, it shall be deemed a material breach.

## SECTION 3 — REPRESENTATIONS, WARRANTIES AND COVENANTS; INTELLECTUAL PROPERTY INDEMNIFICATION

**3.1 Representations, Warranties, and Covenants.** Each Party hereby represents, warrants and covenants to the other that: (a) it has and will have full right, power and authority to enter into and perform this Agreement and all of the transactions contemplated by this Agreement; (b) no consent, approval, permit or order of any governmental authority or other entity is required in connection with the execution, delivery and performance of this Agreement by such Party; and (c) it will comply with all applicable laws and regulations in the provision of the BitSight Services and the use and access of the BitSight Services, respectively. Customer further represents, warrants and covenants that (y) all account and other information supplied by Customer is and will be accurate in all material respects and if there is any material change in such information during the Term, Customer will advise BitSight of such change in writing; and (z) it has all necessary consents and permissions to provide any information it uploads or otherwise supplies to BitSight in connection with the the BitSight Services.

**3.2 Limited Warranty.** BitSight warrants that the BitSight Service will, for a period of sixty (60) days from the date of Customer's receipt of the BitSight Service, perform substantially in accordance with BitSight's Documentation. "**Documentation**" shall mean any published information regarding the BitSight Services that BitSight makes generally available to its customers, excluding sales and marketing materials." EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 3.1, BITSIGHT HEREBY DISCLAIMS ANY AND ALL EXPRESS AND IMPLIED WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, TIMELINESS, COMPLETENESS, RELIABILITY, ERROR FREE OPERATION, NON-INTRUSION DUE TO HACKING OR OTHER SIMILAR MEANS OF UNAUTHORIZED ACCESS AND NON-INFRINGEMENT; AND THE BITSIGHT SERVICE AND THE BITSIGHT DATA (INCLUDING ANY RECOMMENDATIONS OR FORECASTS) ARE PROVIDED ON AN "AS IS" BASIS ONLY, WITHOUT ANY WARRANTIES WHATSOEVER, AND ARE SUBJECT TO CHANGE AT ANY TIME. CUSTOMER ASSUMES ALL RISK OF DAMAGE OR LOSS FROM RELYING UPON OR USING THE BITSIGHT SERVICE, THE BITSIGHT DATA, AND ANY RESULTANT DATA AND ANY THIRD-PARTY SERVICES PROVIDED THEREWITH FOR DECISION MAKING PURPOSES. CUSTOMER ACKNOWLEDGES THAT CERTAIN BITSIGHT SERVICES REQUIRE A SUPPORTED BROWSER AND THAT ACCESS TO THIRD-PARTY SERVICES PROVIDED WITH THE BITSIGHT SERVICES AND BITSIGHT DATA DO NOT CONSTITUTE INVESTMENT OR FINANCIAL ADVICE, NOR RECOMMENDATIONS TO PURCHASE, SELL, OR HOLD PARTICULAR SECURITIES.

**3.3 Intellectual Property Indemnification.** BitSight shall defend, at its own expense and with attorneys of its choosing, any legal action against Customer and its respective directors, officers, employees, and representatives, collectively (the "**Indemnified Parties**") brought by a third party to the extent that the legal action is based upon a claim that the BitSight Technology infringes any patents, trademarks or copyright of a third party (the "**Claim**"). BitSight will pay those costs and

damages finally awarded to such third-party claimant in any such legal action, or in a settlement of such legal action, that are specifically attributable to the Claim.

The foregoing indemnification obligations are conditioned on Customer (i) promptly giving BitSight written notice of any such legal action; (ii) giving BitSight sole control of the defense of any such claim and all related settlement negotiations; and (iii) assisting and fully cooperating in such defense, at BitSight's request and expense.

In the event that the BitSight Technology becomes, or in BitSight's opinion are likely to become the subject of an infringement claim, then BitSight may, at its sole discretion and expense, either (i) replace or modify the BitSight Technology so that it is non-infringing; (ii) procure for Customer the right to continue to use the allegedly infringing BitSight Technology; or (iii) terminate Customer's right to use the BitSight Technology and/or terminate this Agreement, in whole or in part, as appropriate, upon written notice to Customer and refund Customer (or authorized partner or reseller if the initial payment was made by such partner or reseller) any prepaid fees attributable to the remainder of the term of Customer's subscription to the applicable BitSight Technology. Customer will have the right to participate, at its expense, in the defense of any claim covered under this Section with counsel of its own choosing.

Notwithstanding the foregoing, BitSight shall have no obligation under this Section or otherwise with respect to any infringement claim based upon any use of the BitSight Technology not in accordance with this Agreement; any use of the BitSight Technology in combination with equipment, software, or data not supplied by BitSight if such infringement would have been avoided but for the combination with other equipment, software or data; any modification of the BitSight Technology by any person other than BitSight or as authorized by BitSight in writing; or Customer's continued use of the allegedly infringing BitSight Technology after written notice to cease such use.

THIS SECTION STATES BITSIGHT'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR ANY CLAIMS OF INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT BY BITSIGHT'S PRODUCTS, TECHNOLOGY OR SERVICES OR BY THEIR DISTRIBUTION, OPERATION, USE OR RECEIPT.

## **SECTION 4 — LIMITATION OF LIABILITY**

**4.1** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES, SUPPLIERS, PARTNERS, RESELLERS, OFFICERS, DIRECTORS,

EMPLOYEES, AGENTS, SHAREHOLDERS, INSURERS OR CONTRACTORS (“**RELATED PARTIES**”) BE LIABLE TO THE OTHER UNDER THIS AGREEMENT FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOST REVENUES, PROFITS OR DATA OR OTHER ECONOMIC LOSS) ARISING FROM ANY CAUSE OF ACTION OR LEGAL THEORY, INCLUDING BUT NOT LIMITED TO BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR FAILURE OF ESSENTIAL PURPOSE EVEN IF THE PARTY OR A RELATED PARTY HAS BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

**4.2** THE MAXIMUM LIABILITY OF EITHER PARTY UNDER THIS AGREEMENT, TAKEN AS A WHOLE, FOR ANY AND ALL CLAIMS IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO CLAIMS FOR INDEMNIFICATION, BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, WILL IN NO CIRCUMSTANCE EXCEED THE TOTAL PURCHASE ORDER PRICE PAID UNDER THE PURCHASE ORDER FOR WHICH THE CLAIM AROSE. The foregoing limitation of liability shall not apply to (1) personal injury or death directly resulting from BitSight’s gross negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

**4.3** NOTWITHSTANDING THE FOREGOING, SECTIONS 4.1 AND 4.2 WILL NOT APPLY WITH RESPECT TO ANY CLAIMS BASED A PARTY’S OBLIGATIONS UNDER SECTION 1.2 (USE OF SERVICES), SECTION 1.3 (RESTRICTIONS), SECTION 3.3 (INTELLECTUAL PROPERTY INDEMNIFICATION), OR SECTION 6 (CONFIDENTIALITY), OR ANY CLAIMS FOR WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED BY LAW. THIS CLAUSE SHALL NOT IMPAIR THE U.S. GOVERNMENT’S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. §§ 3729-3733.

## **SECTION 5 — TERM AND TERMINATION**

**5.1 Term.** This Agreement commences on the Effective Date and, except for an EVA program or other free access program, it will continue until all subscriptions hereunder have expired or have been terminated and access to the BitSight Services has been terminated (such period, the “**Term**”). The term of any EVA program or other free access program will end when BitSight terminates access to the BitSight Services.

**5.2 Term of Purchased Subscriptions.** The term of each subscription shall be as specified in the applicable Purchase Order or as agreed between the Customer and the applicable authorized partner or reseller.



**5.3 Termination for Cause.** When the Customer is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, BitSight shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. BitSight will provide Customer with a pro rata refund of the pre-paid Fees, as of the effective date of termination if the Agreement is terminated for BitSight's breach pursuant to this Section 5.3. Any refunds provided hereunder will be made to the entity that paid the applicable Fee to BitSight and, if applicable, Customer will look solely to the authorized partner or reseller to recover the same.

**5.4 Effects of Termination.** All provisions of this Agreement that reasonably may be interpreted or construed as surviving termination of this Agreement will survive the termination of this Agreement, including but not limited to the obligation to pay any accrued but unpaid fees and Sections 3, 4, 5.4, 6 and 7. In addition, after the Term, access to the BitSight Services will be revoked but Customer may retain and store, in any medium (including, but not limited to, electronic storage) any reports that include any BitSight Data that was properly acquired under this Agreement prior to expiration or termination of this Agreement, for use by Customer only as permitted in Sections 1.2 and 1.3.

## **SECTION 6 — CONFIDENTIALITY**

**6.1 Confidential Information.** “**Confidential Information**” means all information of either Party, whether of a technical, business or other nature (including, without limitation, trade secrets, know-how and information relating to the technology, strategic partners, customers, business plans, promotional and marketing activities, finances and other business affairs of such Party), that is disclosed by the disclosing Party to the receiving Party or that is otherwise learned by the receiving Party in the course of its discussions or business dealings with, or its physical or electronic access to the premises of or services of, the disclosing Party, and that has been identified as being proprietary and/or confidential or that the receiving Party by the nature of the circumstances surrounding the disclosure or receipt ought to know should be treated as proprietary and confidential. For the avoidance of doubt, (a) Confidential Information of Customer consists of, but is not limited to, the list of organizations that Customer is monitoring, and any non-public content provided by Customer regarding its vendor risk management program and cybersecurity risk profile (together, “**Customer Content**”), and the User or MS User information included in the administrative portal, and (b) Confidential Information of BitSight includes, without limitation, the BitSight Services and the BitSight Data. Each Party will use reasonable care to hold the other Party's Confidential Information in confidence and will not disclose such Confidential Information to anyone other than to its employees, board members, legal counsel, accountants, contractors or consultants (and, in the case of Customer Content, BitSight may disclose it to other customers of the BitSight Services, as specifically authorized by Customer within the BitSight Service), as long as they need to know the information and who are subject to confidentiality

obligations no less restrictive than those set forth herein. A Party that receives the other Party's Confidential Information will not use such information for any purpose other than as reasonably required to perform pursuant to this Agreement. BitSight recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "confidential" by the vendor. If Customer receives a request for information which BitSight has defined as Confidential information, then Customer will notify BitSight.

**6.2 Exceptions.** The definition of Confidential Information shall not include any information that the receiving Party can demonstrate through written documentation (i) was already known to the receiving Party prior to its disclosure to the receiving Party; (ii) was or becomes known or generally available to the public (other than by act of the receiving Party); (iii) is disclosed or made available in writing to the receiving Party without an obligation of confidentiality by a third party having a bona fide right to do so; (iv) is independently developed by receiving Party without the use of any of the other Party's Confidential Information, or, (v) in the case of Customer, Customer Feedback or other information provided for the purpose of making it available to third parties as part of the BitSight Service (such as annotations marked "**public**" by Customer that explain aspects of its rating, or information provided by Customer to create, correct or update its rated IP addresses or domains). Customer hereby grants to BitSight a worldwide, royalty-free, nonexclusive, transferable right and license to store, host and display any Customer Content within the BitSight Services, including to share with other users of the BitSight Services as authorized by Customer. In addition, either Party shall be permitted to disclose Confidential Information, as required to be disclosed to a regulator or by compulsory process of law, provided that the receiving Party will notify the disclosing Party promptly upon any request or demand for such disclosure and shall cooperate with the disclosing Party to preclude or minimize any such disclosure.

## SECTION 7 — MISCELLANEOUS

**7.1 Notices.** Any notice or other communication under this Agreement given by any Party to any other Party will be in English, in writing and will be deemed properly given when sent to the intended recipient by U.S. mail, certified letter, receipted commercial courier or e-mail transmission. Any such notices to BitSight will be sent to 111 Huntington Avenue, Floor 19, Boston, MA 02199 with a copy sent to [contracts@bitsight.com](mailto:contracts@bitsight.com) and any such notices to Customer shall be to the Customer email or other address set forth in the Purchase Order or to the email address of any then-current Customer administrative users. Either Party may change such address by giving the other Party notice in accordance with this Section.

**7.2 Ownership Rights.** Except for the rights granted hereunder, all right, title and interest, including, but not limited to, all worldwide patent, copyright, trademark, trade secret and any other rights in and to the BitSight Services, the BitSight Data, the BitSight Technology, BitSight's Confidential Information and BitSight's trademarks and service marks (including its logos) are retained by BitSight and its licensors. BitSight may derive aggregated and/or anonymized data from any use of or content provided

within the BitSight Services or Third-Party Services and BitSight retains all right, title and interest in and to any such aggregated and/or anonymized data; for the avoidance of doubt, such data will not include Customer's Confidential Information or identify Customer. Customer will not do, or cause to be done, any acts or things contesting or in any way impairing or tending to impair any portion of the right, title and interest of BitSight or its licensors in and to such intellectual property rights.

**7.3 Annotations and Feedback.** Customer may from time to time elect to provide suggestions, annotations (such as annotations that explain aspects of its rating, or information provided by Customer to correct or update its rated IP addresses or domains), corrections, information, comments (including for enhancements, functionality or clarification) or other feedback (together, "**Customer Feedback**") to BitSight or other third parties working with BitSight. The Parties agree that such Customer Feedback will be given voluntarily, does not constitute Customer Content, and Customer acknowledges and agrees that BitSight will own all right, title and interest in and to the Customer Feedback, all developments based upon such Customer Feedback and all intellectual property rights in and to the foregoing. Customer hereby assigns and does agree to assign to BitSight all right, title and interest it may have in and to the Customer Feedback and all intellectual property rights thereto and will cooperate with BitSight as reasonably necessary in order to give full effect to such assignment. BitSight acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.

**7.4 Applicable Law.** The Agreement is governed by the Federal Law of the United States of America. The United Nations Convention on Contracts for the International Sale of Goods does not apply to transactions under this Agreement.

**7.5 Assignment.** Neither Party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party (which consent will not be unreasonably withheld). Any assignment or delegation in contravention of this provision will be null and void. All the terms and provisions of this Agreement will be binding upon and inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.

**7.6 Non-Waiver.** The failure by either Party at any time to require performance by the other Party or to claim a breach of any provision of this Agreement will not be construed as affecting any subsequent right to do so.

**7.7 Relationship of the Parties.** BitSight is an independent contractor. The provisions of this Agreement will not be construed to establish any form of partnership, agency or other joint venture of any kind between Customer and BitSight, nor to constitute either Party as the agent, employee or legal representative of the other.

**7.8 Force Majeure.** Excusable delays shall be governed by FAR 52.212-4(f).

**7.9 Severability; Cumulative Remedies.** Any provision of this Agreement that is unenforceable will not cause any other remaining provision to be ineffective or invalid. Except as expressly set forth herein, the rights and remedies of the Parties will not be exclusive and are in addition to any other rights or remedies of the Parties existing in law or in equity.

**7.10 Modification of Agreement.** Except as set forth herein, no addition to or modification of this Agreement will be binding on either of the Parties unless reduced to writing and executed by an authorized representative of each of the Parties.

**7.11 Entire Agreement.** This Agreement, together with the Purchase Order(s) comprises all the terms, conditions and agreements of the Parties hereto with respect to the subject matter hereof and supersedes all previous negotiations, proposals, or agreements of any nature whatsoever between the Parties concerning the subject matter hereof. Each Party acknowledges that, in entering into this Agreement, it does not rely upon, and shall have no remedy in respect of, any statement or representation of any person other than as expressly set out in this Agreement. Any requirements, documents or terms and conditions that may be contained in any vendor portal, acknowledgement, or other form or platform Customer provides are specifically null and void. A negotiated Purchase Order would take precedence as the negotiated purchase order would demonstrate any changes to these terms to meet the ordering activity's minimum needs.

**7.12 Third-Party Beneficiaries.** To the extent BitSight provides any Third-Party Services to Customer, such third party service provider(s) are expressly made third-party beneficiaries of this Agreement. Other than in respect of such third party service provider(s), nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, any rights, remedies, obligations or liabilities whatsoever upon any person other than the Parties and their permitted successors or assigns.

**7.13 International Use.** Personal data (i.e., names and email addresses used for account creation) is not required to use the BitSight Services. If Customer chooses to provide personal data, it acknowledges that such personal data may be accessed by or transferred to BitSight in the United States and to its affiliates, service providers, consultants, partners and resellers that assist BitSight in providing the BitSight Services elsewhere in the world, consistent with BitSight's then current Privacy Policy. If providing BitSight with personal data will subject BitSight to data localization laws (e.g., require it to change where it hosts its products and services based on the location of Customer's Users), Customer will ensure that all users use an email alias for account creation and will not provide BitSight with any such personal data.

**7.14 Use of BitSight Logo.** If Customer chooses to use the BitSight logos in the form made available by BitSight, either alone or with the BitSight-provided industry sector rating (the "**BitSight Logo Data**"), Customer (a) will use the BitSight Logo Data that relates exclusively to the Customer and Customer's

BitSight-provided industry sector rating solely to notify third parties of its BitSight rating (including by publicly displaying such data on its websites) and all goodwill arising from the use of the BitSight Logo Data will inure to BitSight's benefit and (b) will not: (i) alter the BitSight Logo Data, including by removing any trademark notice or symbol; (ii) use the BitSight Logo Data other than as expressly permitted or in any way that misrepresents the BitSight Security Rating, is deceptive or misleading, or tarnishes or damages BitSight or its trademarks (including the BitSight Logo Data); or (iii) during the Term or thereafter, undertake any action that contests, challenges, infringes or impairs the validity, enforceability, scope of rights or title of BitSight in any the BitSight Logo Data or any mark that incorporates the BitSight Logo Data. The right to use the BitSight Logo Data is personal to Customer, non-exclusive, non-transferable, non-assignable, non-sublicensable, and revocable by BitSight at any time, and for any reason and, upon such revocation, Customer must immediately cease all use of the BitSight Logo Data.

**7.15 Online Community.** The BitSight Services may include an online customer collaboration community made available by BitSight (the "**Customer Community**"). If Customer chooses to engage in the Customer Community, Customer will act in compliance with laws and in a respectful manner and acknowledges that any information posted in the Customer Community will not be treated as Customer Confidential Information hereunder. BitSight may discontinue the Customer Community at any time.

**7.16 Government Contracts.** To the extent Customer is an entity of the United States federal government and to the extent any software is licensed hereunder, such software is "commercial computer software," as that term is defined in Federal Acquisition Regulation ("**FAR**") 2.101. In accordance with FAR 12.212, as applicable, any software or other products or services provided to the Government are provided in accordance with BitSight's standard commercial license.

## Exhibit A

### **BITSIGHT ENABLEMENT SERVICES ADDENDUM**

#### **BACKGROUND**

This exhibit (the “**Exhibit**”) to the Agreement sets forth additional terms applicable to the provision of custom training, enablement or consulting services (“**BitSight Enablement Services**”) to Customer. The BitSight Enablement Services are purchased separately from any other BitSight Services and nothing in this Addendum shall apply to or modify the terms or conditions of Customer's use of or access thereto. Except as expressly set forth herein, the BitSight Enablement Services shall be part of the definition of “**BitSight Services**” under the Subscription Terms, which are incorporated herein. In the event of a conflict between the Subscription Terms and this Exhibit relating to the provision of BitSight Enablement Services only, this Exhibit shall control (otherwise, the Subscription Terms shall control). Capitalized terms used but not defined herein will have the respective meanings set forth in the Agreement.

#### **SECTION 1 — ENABLEMENT SERVICES**

Customer will receive the BitSight Enablement Service and any deliverables to be provided by BitSight (if applicable) (“**Deliverables**”) described in the applicable services statement (hereafter, the “Services Statement”) attached to a Purchase Order or otherwise provided by BitSight to Customer.

#### **SECTION 2 — ACCEPTANCE**

If the applicable Services Statement provides for acceptance criteria, BitSight shall notify Customer when it completes the BitSight Enablement Services (including any applicable Deliverables with acceptance criteria), and Customer shall have three (3) days to accept or reject such BitSight Enablement Services that have acceptance criteria in writing. BitSight shall only tender for acceptance those items that conform to the requirements of this Agreement pursuant to FAR Clause 52.212-4(a). If applicable, BitSight may present Customer with a project completion document for execution which shall serve as Customer's acceptance. If Customer rejects the BitSight Enablement Services, the parties shall mutually attempt to resolve any differences in good faith. If no rejection communication is received by BitSight via email to [contracts@bitsight.com](mailto:contracts@bitsight.com) from Customer within three (3) days of BitSight's completion notification, or if Customer does not execute the project completion document, if requested, within three (3) days, the BitSight Enablement Services shall be deemed accepted by the Customer. This Addendum shall terminate upon Customer's acceptance of all of the BitSight

Enablement Services in all Services Statements pursuant to this Section 2 (if there are acceptance criteria specified) or completion of the BitSight Enablement Services (if there is no acceptance criteria specified).

### **SECTION 3 — FEES AND PAYMENT**

Customer will pay the Fees for the BitSight Enablement Services set forth in the applicable Purchase Order or as set forth in the Services Statement in accordance with this Agreement. If the Fees for the BitSight Enablement Services are set forth in the Services Statement, they will be due in accordance with the payment schedule and terms specified therein (if there is a conflict between the payment terms set forth therein and the Subscription Terms).

Customer agrees to pay any travel expenses incurred in rendering BitSight Enablement Services in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable, Customer shall only be liable for such travel expenses as approved by Customer and funded under the applicable ordering document. Upon request, BitSight will supply Customer with supporting documentation.

For the avoidance of doubt, all other provisions of Section 2 in the Agreement will also apply to Enablement Services.

### **SECTION 4 — RIGHTS IN DELIVERABLES**

As between the parties, Customer owns and retains all rights to any materials that Customer provides to BitSight in connection with the BitSight Enablement Services (the “**Customer Materials**”) and this Agreement does not grant BitSight any ownership rights to Customer Materials. Customer grants permission to BitSight and its licensors to use the Customer Materials only as necessary to provide the BitSight Enablement Services hereunder.

Upon Customer's payment of fees due, BitSight grants Customer a worldwide, non-exclusive, perpetual, non-transferable, royalty-free license to copy, maintain, use and run (as applicable) any Deliverables hereunder solely for its internal business purposes.

Except as specifically provided herein, BitSight shall retain all right, title and interest in and to: (i) such Deliverables, including but not limited to all patent, copyright, trademark, and other intellectual property rights therein; and (ii) all materials, methodologies, processes, techniques, ideas, concepts, trade secrets, and know-how embodied in the Deliverables or that BitSight may develop or supply in connection with the BitSight Enablement Services (the “**BitSight Knowledge**”), but in each case excluding any Customer Materials incorporated therein. Subject to the confidentiality restrictions

contained in the Subscription Agreement, BitSight may use the Deliverables and the BitSight Knowledge for any purpose.

## **SECTION 5 — WARRANTY**

In addition to those express warranties set forth in the Subscription Terms, BitSight warrants that the BitSight Enablement Services will be performed by BitSight personnel (including any subcontractors) in a professional and workmanlike manner and that any Deliverables will conform to any specifications set forth in the Services Statement. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, BITSIGHT HEREBY DISCLAIMS ANY AND ALL EXPRESS AND IMPLIED WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Customer must report any deficiencies in the BitSight Enablement Services within sixty (60) days of performance in order to receive warranty remedies. Customer's sole remedy for breach of the foregoing warranty shall be the prompt re-performance of the deficient BitSight Enablement Services as described and warranted. Should BitSight be unable to so re-perform, it will refund Customer all prepaid fees for the deficient BitSight Enablement Services. Notwithstanding the foregoing, BitSight will not be responsible for nonconformities arising from inaccurate or incomplete data or information provided by Customer, for failures or delays caused by Customer's failure to perform its obligations under this Addendum or any Services Statement, or for failures, damages or delays caused by third party hardware, software or other products.

## **SECTION 6 — COOPERATION AND ASSUMPTIONS**

Customer technical, application, and business personnel are required to participate in this effort to ensure a successful completion. It is the Customer's responsibility to provide project sponsorship, user participation, decision-making support and timely access to Customer personnel with knowledge appropriate to the tasks defined.

In addition, Customer shall make available to BitSight in a timely manner, at no charge, any technical data, program files, documentation, test data, sample output, and other information and resources, and any computer systems of Customer's that are reasonably required for the performance of any given BitSight Enablement Services. To the extent that any BitSight Enablement Services require BitSight to access or use any third-party products provided by Customer, Customer warrants that it shall have all rights and licenses of third parties necessary or appropriate for BitSight to access or use



such third-party products. If applicable, adequate workspace and/or training facilities will also be provided by Customer.

It is BitSight's responsibility to perform the required activities, monitor issues, verify assignment scope, conduct status meetings and manage day-to-day activities and changes.

## **SECTION 7 — CHANGE CONTROL PROCESS**

If either Party requests a change to any relevant requirements, project plans, schedules, scopes, specifications, designs, software, hardware products, or related system environments or architecture that are either set forth in a Services Statement or otherwise mutually agreed upon by the Parties with respect to any BitSight Enablement Services, neither Party shall be responsible for complying with the change unless Customer and BitSight specifically agree upon the change (and any associated changes in scope, scheduling, or fees) in writing. Any mutually agreed changes shall supersede conflicting provisions in the Services Statement. If any assumptions set forth in any Services Statement with respect to any BitSight Enablement Services prove false or incorrect, BitSight shall not be responsible for completing any affected BitSight Enablement Services unless and until Customer and BitSight specifically agree upon an appropriate change to the applicable Services Statement (and any associated changes in scope, scheduling, or fees) in writing.

## **SECTION 8 — PERFORMANCE**

BitSight is solely responsible for performing, and for supervising, managing, and directing the performance of all BitSight Enablement Services to be performed by BitSight hereunder. BitSight shall assign to the performance of any given BitSight Enablement Services employees and subcontractors with qualifications suitable for such BitSight Enablement Services. BitSight may, in its sole discretion from time to time, replace any employees and subcontractors then assigned to performance of any BitSight Enablement Services with other suitably qualified employees or subcontractors. In the event that BitSight uses any subcontractors in the performance of its obligations hereunder, BitSight will remain responsible for such subcontractors' performance.

## **SECTION 9 — NON SOLICITATION**

Customer agrees that it and its affiliates, and their employees, will not, either during or for a period of 12 months after termination or expiration of the applicable Services Statement, solicit to hire as an employee or contractor any of BitSight's employees. This provision does not restrict Customer from

engaging personnel who inquire about posted job positions of Customer who have not first been solicited by Customer.