

By executing an Ordering Document subject to this Service Agreement (the “**Agreement**”), Client and Coalfire (each a “**Party**” and together the “**Parties**”) agree the terms and conditions herein govern Client’s purchase and use of certain Coalfire services. If Client has a signed agreement for certain Services, this Service Agreement will supplement any signed agreement where the subject matter is not already included, but not in the case of a conflict.

**1.0 DEFINITIONS.** Capitalized terms have the meanings set forth below.

<b>Affiliates</b>	means an entity controlled by, under common control with, or controlling a Party, where control is denoted by having (directly or indirectly) more than fifty percent (50%) of the voting power (or equivalent) of the applicable entity.
<b>Change Order</b>	means a mutually agreed upon and signed amendment to the Ordering Document.
<b>Client Data</b>	means all data and any information that Client (i) provides or authorizes access to Coalfire during Coalfire’s provision of Services, or (ii) inputs into the Online Service.
<b>Client Personal Data</b>	means the Client’s and, as applicable, its Customers’ Personal Data.
<b>Client Systems</b>	means the networks, systems, IP addresses, assets, and/or hardware owned, licensed, accessed or controlled by Client.
<b>Customer</b>	means the customer of Client, who consumes Client’s products or services. Customers are not third party beneficiaries of this Agreement.
<b>Deliverables</b>	means the reports, results of Services, or other work product defined in a Service Order that to be created specifically for and delivered to the Client.
<b>Meter</b>	means the applicable unit(s) of measurement by which Coalfire offers an Online Service, as stated in the Service Description.
<b>Online Services</b>	means any Internet-based solution hosted by Coalfire, or its Affiliates, including any Service Component(s), for which the Service Description is published on <a href="http://www.coalfire.com/agreements">www.coalfire.com/agreements</a> or successor URL.
<b>Ordering Document</b>	means the document that defines the Services (e.g., service order, statement of work) to be provided and may include, but is not limited to, references to Service Descriptions, pricing, schedule, location of performance, and other information required to perform the Services.
<b>Personal Data</b>	refers to any information related to an identified or identifiable natural person as defined by applicable laws and regulations relating to privacy and the processing of such information in the relevant jurisdictions and collected, processed, retained, disclosed, or used by Coalfire in connection with Client’s use of the Coalfire products and services.
<b>Professional Services</b>	means advisory, assessment or other cybersecurity consulting services.
<b>Services</b>	means the commercially available services made available by Coalfire for use under this Agreement, as specified in the Ordering Document.

<b>Service Fees</b>	means the costs, fees and charges defined in the Service Order.
<b>Service Component(s)</b>	means certain enabling software and/or hardware peripheral(s) which may be provided by Coalfire as an incidental part of the Online Service(s).
<b>Service Description</b>	means Coalfire's published description of a Service including, but not limited to, any service-specific requirements, and any accompanying service level agreements.
<b>Subscription</b>	means a fixed term right to access, use and/or benefit from an Online Service.
<b>Subscription Term</b>	means the period of time for which a Subscription is valid, as defined in the Ordering Document.

## 2.0 DELIVERY OF PROFESSIONAL SERVICES.

- 2.1 Performance. Coalfire will perform the Professional Services in accordance with this Agreement, the Ordering Document and applicable Service Description.
- 2.2 Personnel. Coalfire will use personnel of competent knowledge and skill to perform the Professional Services. Coalfire performs a background check on its personnel assigned to Client's project(s) to the extent lawful in the jurisdiction in which the Professional Services are to be performed, prior to performing the Professional Services. A copy of the elements of the background check are available upon request.
- 2.3 Changes. A Party may propose a change to the scope, duration, pricing or other delivery detail of the Professional Services by submitting a Change Order. A Change Order is only effective when signed by both Parties. If Client requests a change to the Professional Services and Coalfire performs without a Change Order, a Change Order will be deemed effective and the Parties will determine, in good faith, the related adjustment to any Service Fees, as applicable.
- 2.4 Deliverables. For Professional Services that are defined in the Service Description or Ordering Document as advisory, assessment, or testing services, Client understands and agrees that any Deliverables are limited to a point-in-time review or analysis of Client's systems, processes and/or documentation, as provided by Client.
- 2.5 Assessment Standards. For Services in which Coalfire performs an assessment in accordance with the guidelines and requirements implemented by a certifying organization (e.g., PCI SSC, FedRAMP, HITRUST) (each, an "**Assessment Standard**"), Client agrees that Coalfire will perform those Services in accordance with the applicable Assessment Standard. During the course of the assessment, the Parties agree to comply with all of the obligations of the applicable assessed entity in accordance with the applicable Assessment Standards.

## 3.0 DELIVERY OF ONLINE SERVICES.

- 3.1 Delivery; Right to Modify. Coalfire will provide the Online Services in accordance with this Agreement, the Ordering Document, and applicable Service Description. Coalfire may modify the Online Services and/or the corresponding Service Description at any time: (a) due to changes in applicable laws or industry standards; and (b) for any other reason, provided the modification does not materially reduce the level of performance, functionality, security, or availability of the Online Services during the Subscription Term.

- 3.2 **Use of Online Services.** Client, its Affiliates, and third party consultants may use the Online Services (i) solely for Client and its Affiliates' internal business purpose, (ii) up to the Meter amount for which Client has purchased a Subscription, (iii) in compliance with applicable laws and Coalfire's published Acceptable Use Policy available at [www.coalfire.com/agreements/AUP](http://www.coalfire.com/agreements/AUP), and (iv) in accordance with any use limitations defined in the applicable Service Description, provided that Client assumes full responsibility for all actions in connection with such use. If Client does not comply with these requirements, Coalfire reserves the right to suspend all or part of the Online Services during such non-compliance or terminate the affected Online Services in accordance with this Agreement upon ten (10) days written notice if not cured by Client. Client must timely provide Coalfire with information reasonably required by Coalfire to allow Coalfire to provision and deliver the Online Services or Coalfire's delivery of the Services may be delayed or prevented.
- 3.3 **Client Configurations.** Client is solely responsible for selecting Online Service configurations and assuring that the selection conforms to Client policies and procedures and complies with all applicable laws and regulations in jurisdictions in which Client is accessing the Online Services. Delivery of the Online Services does not include Client configurations or policy and procedure settings implemented and set by Client that are available during the Subscription Term.
- 3.4 **Client Obligations.** Client is responsible for obtaining all approvals and consents required by any third parties to use the Online Services. Coalfire is not in default of its obligations if it cannot provide the Online Services when approvals or consents have not been obtained or have been delayed or any third party that is not a Coalfire vendor, contractor or employee otherwise validly prevents Coalfire from providing the Online Services. Client is responsible for its account information, passwords and other login credentials and must notify Coalfire immediately of any known unauthorized possession or use of Client credentials. Client is responsible for its data, and Coalfire does not endorse and has no control over data Client submits while using the Online Services. Client assumes full responsibility to back-up and protect Client Data against loss, damage, or destruction.
- 3.5 **Automatic Renewal Option.** If Client selects the automatic renewal option for the Online Services, if available, the Ordering Document will indicate that selection. The Subscription Term will continue to renew for equal subsequent Subscription Terms. Client may opt out of the automatic renewal at any time by providing notice to Coalfire at [renewals@coalfire.com](mailto:renewals@coalfire.com). Coalfire will notify Client if automatic renewal is no longer available for any Online Service. If applicable, the aggregate Meter amount at the end of a Subscription Term will be the basis for any renewal. All Subscriptions are non-cancellable.
- 3.6 **End of Online Service Availability.** Coalfire will provide twelve (12) months' notice of the last date of an Online Service's availability. Coalfire will provide such notification to Client's designated reseller, then-current business or technical contact, or by publication on the administrator portal for the Online Services. Once an Online Service is no longer available, Client will no longer have access to or use of such Online Service. The foregoing notwithstanding, the failure to provide such notice will not be deemed a material breach under this Agreement.

#### **4.0 AFFILIATES; CONSULTANTS.**

Client may obtain Services for use by its Affiliates, in which event such use of the Services by Client's Affiliates is conditioned upon each Affiliate accepting all of the terms and conditions of this Agreement Client agrees that it will remain responsible for any acts or omissions by Client's Affiliates who use Services under the terms of this Agreement. Any reference to Client in this Agreement will also include Affiliates. Client may exercise Client's rights through consultants and outsourcers in order to receive the Services, provided that these third parties are under a written obligation to comply with the Agreement, and Client assumes full responsibility for the acts or omissions of these third parties in connection with such use. Upon reasonable request, Client will provide proof of the contractual or legal relationship between Client and any Affiliate, consultant, or outsourcer.

## 5.0 CLIENT RESPONSIBILITIES.

- 5.1 Cooperation/Accurate Information. Client will cooperate with Coalfire to permit Coalfire to perform the Services. Client will promptly provide complete and accurate information and access to systems, locations and personnel reasonably required. Client agrees that Coalfire is not responsible for the consequences arising from Client's provision of inaccurate information, including inaccurate IP addresses or domain names where such information is critical for Coalfire to perform the Services.
- 5.2 Delays/Rescheduling If Client needs to reschedule Professional Services for any reason after the Parties have agreed to a schedule, or Client will not be able to provide the information or Client Data in accordance with the schedule, Client must notify Coalfire at least ten (10) business days in advance so that Coalfire may reassign personnel. If Client fails to give Coalfire such notice or reschedule, Client will pay Coalfire liquidated damages equal to thirty percent (30%) of the applicable Service Fees in the Ordering Document.

## 6.0 TERMINATION.

- 6.1 Termination. The Ordering Document may be terminated at any time by either Party: (i) upon written notice if the other Party breaches any material term of the Ordering Document, this Agreement and/or an Addendum, and such breach remains uncured for thirty (30) days following written notice; or (ii) immediately, if the other Party becomes the subject of any involuntary proceeding relating to insolvency, receivership, liquidation, or similar action for the benefit of creditors as a consequence of debt, or if the other Party otherwise ceases or threatens to cease business.
- 6.2 Effect of Termination. Termination of the Ordering Document, in whole or in part, will not affect any rights or obligations accrued up to the date of termination. Client will pay Coalfire the Service Fees for all Services performed, any agreed upon liquidated damages, and agreed upon expenses incurred by Coalfire prior to the date of termination. If Coalfire terminates the Ordering Document, for a material breach by Client, Client must immediately discontinue use of the affected Services.

## 7.0 INVOICING AND PAYMENT.

- 7.1 Invoicing. Coalfire will invoice Client in accordance with the Ordering Document. All Service Fees and expenses are quoted and payable in United States Dollars (USD) unless otherwise specified in the Ordering Document. If a delay of fifteen (15) business days or more occurs in the achievement of an invoicing milestone due to the acts or omissions of Client, Coalfire may issue a progress invoice covering Services delivered and associated expenses up to the date of the invoice. Unless otherwise permitted herein or in the Ordering Document, payment obligations are non-cancellable, and Service Fees paid are non-refundable. All travel expenses will be in accordance with Coalfire's Travel Policy.
- 7.2 Payment. Client will pay all undisputed amounts on each invoice within thirty (30) days following the date of invoice. If Client disputes any amounts invoiced, it must notify Coalfire in writing on or before the payment due date. The Parties will negotiate in good faith to promptly resolve the dispute, following which all amounts due will become immediately payable. For any undisputed fees that are not paid when due, Coalfire may charge interest at the lesser of 1.0 % per month or the highest rate permissible by law as well as invoice Client for all costs of collection, including reasonable attorneys' fees. Additionally, if Client fails to pay any undisputed invoice when due, Coalfire reserves the right to suspend the Services following ten (10) days' written notice and continued delay in payment.
- 7.3 Taxes. Invoiced fees exclude all sales, use, value-added, withholding or other taxes and all export and import fees, customs duties and similar charges attributable to any use by Client of the Services or Deliverables ("**Taxes**"), excluding Coalfire's payroll and income taxes. Client is responsible for payment of all such Taxes and any related interest and penalties unless Client provides Coalfire with a valid tax exemption certificate. If any amounts payable by Client are subject to withholding,

the amount payable will be increased by Client when Client remits payment such that the amount paid net of withholding equals the amount invoiced by Coalfire.

## **8.0 INTELLECTUAL PROPERTY.**

- 8.1 Client IP. All data, information, documentation, software, patents, text, graphics, photos, designs, trademarks, logos or other artwork and materials provided to Coalfire by Client under this Agreement (“**Client IP**”) are and will remain the sole and exclusive property of Client or its third party licensors and Client will obtain any relevant consents and licenses necessary for Coalfire to use Client IP as set out in this Agreement and the Ordering Document. Client hereby grants to Coalfire, during the Term, a non-exclusive, fully paid, worldwide, limited license to use and permit Coalfire’s subcontractors to use the Client IP, solely for the purposes of providing the Services and Deliverables under this Agreement and the Ordering Document.
- 8.2 Coalfire IP. All intellectual property: (a) of Coalfire existing prior to the Services, (b) used in the Services (except Client IP), (c) developed independently by Coalfire, or (d) licensed to Coalfire by third parties and used in the Services, and any enhancements or modifications to, or derivative works of, any intellectual property in categories (a)-(d), are the sole and exclusive property of Coalfire (“**Coalfire IP**”). Subject to any restrictions applicable to any Coalfire IP or third party materials embodied in the Deliverables, Coalfire hereby grants to Client a perpetual, worldwide, non-exclusive, irrevocable (other than as set out below) right and license to use, copy, and modify the Deliverables solely for the purposes of Client’s and its affiliated companies’ internal business only. Coalfire IP embedded in Deliverables may not be used separately from Client’s use of the Deliverables and no Coalfire IP may be used beyond the license rights granted above. Coalfire may revoke such right and licence granted under this Section 8.2 for (i) non-payment by Client, or (ii) Client’s use other than in accordance with this Section 8.2.
- 8.3 Independent Development and Residuals. The Deliverables embody valuable Coalfire intellectual property rights, which may include Coalfire patents, copyrights, trade secrets, know-how and other proprietary rights. Client agrees to pay a license fee, if any, specified in the Ordering Document for the applicable intellectual property rights granted in this Agreement or the Ordering Document. Each Party is otherwise free to use concepts, techniques and know-how retained in the unaided memories of those involved in the performance or receipt of the Services. Coalfire is not precluded from independently developing for itself, or for others, anything, whether in tangible or non-tangible form, which is competitive with, or similar to, the Deliverables, provided such independent developments do not include the use of Client IP.

## **9.0 CONFIDENTIALITY.**

Confidential Information. Confidential Information means all non-public information of a disclosing Party (“**Discloser**”), whether oral, written or in electronic form, that is marked or designated as confidential at the time of disclosure or that the other Party or its Representatives (“**Recipient**”) knew, or should have reasonably known under the circumstances, is considered confidential. Confidential Information does not include any information to the extent that it (a) is or becomes publicly available without breach of this Agreement; (b) was known by Recipient prior to its receipt from Discloser; (c) is disclosed to Recipient from any third party, except where Recipient knows, or reasonably should know, that such disclosure constitutes a wrongful or tortious act; or (d) is independently developed by Recipient without use of any Confidential Information. Recipient agrees that it will maintain in confidence all Confidential Information of the Discloser and will not disclose this Confidential Information to any third party or use this Confidential Information for any purpose except as contemplated by this Agreement. Recipient will protect the Confidential Information with at least the same degree of care that Recipient uses to protect its own confidential or proprietary information, but in no case less than reasonable care. Recipient will restrict access to the Confidential Information to those directors, officers, employees, agents, contractors and advisors (“**Representatives**”) who have a need for access, are informed of the confidential nature of the information and who are bound by confidentiality obligations no less restrictive than those provided in this Agreement. Confidential Information

will be subject to the terms of this Agreement until such time as it is no longer Confidential Information or five (5) years following disclosure, whichever occurs first. Recipient may disclose Confidential Information as required to comply with court order or governmental entities that have jurisdiction over it or as otherwise required by law. However, prior to disclosure, Recipient will, to the extent permitted by law or legal requirement, promptly notify Discloser of the request so that Discloser may seek a protective order. Upon Discloser's written request, Recipient will return or destroy all Confidential Information. However, Recipient is permitted to retain copies of the Confidential Information for archival, audit, disaster recovery, legal and/or regulatory purposes, and Recipient will not be required to purge Confidential Information from the electronic back-up files of its computer systems, on condition that any Confidential Information so retained will remain subject to the obligations and restrictions set forth in this Agreement.

## **10.0 DATA PROTECTION AND SECURITY.**

**10.1 Personal Data Processing.** Client acknowledges and agrees that Coalfire may collect Personal Data as part of the provision of the Services in accordance with, and for the purposes defined in the Coalfire Privacy Policy available at [www.coalfire.com/privacy](http://www.coalfire.com/privacy). Coalfire will process Personal Data on Client's behalf in accordance with the terms of the Data Processing Addendum available at [www.coalfire.com/dpa](http://www.coalfire.com/dpa).

**10.2 Information Security Program.** Coalfire will be responsible for establishing and maintaining an information security program that is designed to: (a) ensure the security and confidentiality Client Data; (b) protect against any anticipated threats or hazards to the security or integrity of Client Data; (c) protect against unauthorized access to or use of Client Data; (d) ensure that all contractors of Coalfire, if any, comply with all of the foregoing. Coalfire is and will remain in compliance with technical and organizational measures outlined in its Data Processing Addendum. Upon Client's written request, Coalfire will provide Client with access to Coalfire's security documentation portal that includes a copy of its current Risk Assurance Program, SOC 2 Type II audit report and other security and audit documents, as available.

**10.3 Use of Client Data.** Client acknowledges and agrees that Coalfire may use Client Data to the extent necessary for the purposes of providing Services under the Agreement. Client acknowledges and agrees that Coalfire may retain, use and analyse information derived from Client's use of the Services (in a de-identified manner), including indicators of compromise, malware, anomalies, or other information that may be found as part of, or related to the performance of the Services for the purposes of gathering and compiling security event log data to look at trends and real or potential security threats, improving and developing Coalfire's security products and services, preparing and distributing statistical reports related to security trends and data patterns, internal research, and for providing general security related services.

## **11.0 REPRESENTATIONS, WARRANTIES, AND COVENANTS.**

**11.1 Mutual Warranties.** Each Party represents that: (a) it has obtained all authorization(s), consents and licenses necessary to fully perform this Agreement and the Ordering Document, (b) it has the right to execute the Ordering Document and act in accordance with its terms and this Agreement, and (c) the execution and performance of this Ordering Document and this Agreement are within its respective corporate powers, have been duly authorized by all necessary corporate action (including that the officer(s) executing the Ordering Document are authorized to bind such Party to the terms and conditions hereof), do not require any consent of or filing with any third party or governmental body or agency, and do not violate any law, agreement with any third party, judgment, order, or the like or their respective charter or by-laws.

**11.2 Client's Representations Regarding Its Data, Infrastructure and Systems.** Client acknowledges that Coalfire will rely on, the timeliness, accuracy, completeness and legality of all Client Data and information provided to Coalfire. Client will obtain any licenses or consents from, third parties as required in connection with the transfer, use and processing of Client Data. Client grants to Coalfire and its subcontractors a non-exclusive right to use the Client Data to provide the Services under this

Agreement. Client represents that it is not aware of any on-going or potential network breach or compromise to the system(s) it owns or manages that are relevant to the Services and will promptly notify Coalfire if it becomes aware of any such network breach or other compromise affecting the delivery of Services.

**11.3 Service Representations.** Coalfire represents to Client that the Professional Services will be provided in a professional and workmanlike manner, and, as delivered by Coalfire, will comply in all material respects with the description set forth in the Ordering Document. Coalfire's sole obligation and Client's exclusive remedy for a breach of this representation is for Coalfire, at its option and expense, to: (a) re-perform or replace the non-conforming Services and/or Deliverables; or (b) refund the fees paid by Client that are attributable to the non-conforming Services and/or Deliverables.

**11.4 WARRANTY DISCLAIMER.** COALFIRE DOES NOT WARRANT THAT THE SERVICES PERFORMED UNDER THIS AGREEMENT WILL: A) BE UNINTERRUPTED OR ERROR-FREE OR THAT COALFIRE WILL CORRECT ALL DEFECTS OR PREVENT THIRD PARTY DISRUPTIONS OR UNAUTHORIZED THIRD PARTY ACCESS; (B) DETECT OR IDENTIFY ALL SECURITY OR NETWORK THREATS TO, OR VULNERABILITIES OF CLIENT'S NETWORKS OR OTHER FACILITIES, ASSETS, OR OPERATIONS; (C) PREVENT INTRUSIONS INTO OR ANY DAMAGE TO CLIENT'S NETWORKS OR OTHER FACILITIES, ASSETS, OR OPERATIONS INCLUDING LOSS OF DATA; (D) RETURN CONTROL OF CLIENT OR THIRD PARTY SYSTEMS WHERE UNAUTHORIZED ACCESS OR CONTROL HAS OCCURRED; OR (E) MEET OR HELP CLIENT MEET ANY INDUSTRY STANDARD OR ANY OTHER REQUIREMENTS INCLUDING THE PAYMENT CARD INDUSTRY DATA SECURITY STANDARD NOT OTHERWISE SET FORTH IN AN ORDERING DOCUMENT. THE WARRANTIES SET FORTH HEREIN AND THOSE SPECIFIED FOR INDIVIDUAL COALFIRE PRODUCTS AND SERVICES IN EACH APPLICABLE ORDERING DOCUMENT ARE THE EXCLUSIVE WARRANTIES FROM COALFIRE AND REPLACE ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OR CONDITIONS OF SATISFACTORY QUALITY, MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. COALFIRE'S WARRANTIES WILL NOT APPLY IF THERE HAS BEEN MISUSE, MODIFICATION, OR DAMAGE NOT CAUSED BY COALFIRE OR ITS SUBCONTRACTORS, FAILURE TO COMPLY WITH INSTRUCTIONS PROVIDED BY COALFIRE, OR AS OTHERWISE STATED IN THE ORDERING DOCUMENT.

**11.5 Limitation on Services.** In addition to the foregoing, the outcome of the Services and the opinions, advice, recommendations and/or certification of or by Coalfire in a Deliverable or otherwise does not constitute a representation, warranty or guarantee that Client's systems are secure from every form of attack, even if fully implemented, or that Client will receive the designated certification or accreditation from any certifying organization.

## **12.0 INDEMNIFICATION.**

**12.1 Infringement Indemnity.** Each Party (the "**Indemnifying Party**") will indemnify and defend the other Party, its parents, subsidiaries, Affiliates, successors, and their directors, officers, employees, agents and representatives (collectively the "**Indemnified Parties**"), from and against any and all third party claims, demands, lawsuits, judgments, fines, and penalties (including interest thereon and court costs) caused by a claim that any Deliverable or Service (in which case, Coalfire is the Indemnifying Party) or Client IP (in which case, Client is the Indemnifying Party) provided pursuant to this Agreement (collectively, "**Indemnified Claims**"), (i) infringes a third party's copyright, trademark or U.S. patent existing as of the date of delivery of such Service, Deliverable or Client IP or (ii) misappropriates a third party's trade secrets. The Indemnifying Party will have no liability, however, to any Indemnified Party to the extent that the alleged infringement or misappropriation was caused by: (I) modifications to any Service or Deliverable (made by or on behalf of Client in breach of this Agreement or the Ordering Document or without the consent of Coalfire) or Client IP (made by or on behalf of Coalfire in breach of this Agreement or the Ordering Document or without the consent of Coalfire); (II) use of the Service, Deliverable or Client IP in combination with any hardware, software or other products or services where such combination was not within the reasonable contemplation of the Parties; (III) the failure of an Indemnified Party to use corrections or enhancements to the Service, Deliverable or Client IP provided by the Indemnifying Party; (IV) specifications or direction provided by the Indemnified Party; or (V) use of the Service, Deliverable or Client IP not authorized under this Agreement or the Ordering Document. If any Service



or Deliverable is, or in Coalfire's opinion is likely to be, held to be infringing, Coalfire will at its expense and option: (1) procure the right for Client to continue using it; (2) replace it with a non-infringing equivalent; (3) modify it to make it non-infringing; or (4) direct the return of the Deliverable and refund to Client the fees paid for such Deliverable or cease providing the Service and refund to Client any prepaid fees for the affected Service that was to be provided after the date Coalfire ceases to provide the Service (as applicable).

- 12.2 **Notification.** This section sets forth the sole and exclusive remedies for Indemnified Claims. The Indemnified Party must promptly notify the Indemnifying Party in writing of any eligible claim or demand and provide the Indemnifying Party reasonable cooperation and full authority to defend or settle same provided that such settlement does not impose any obligation (monetary or otherwise) on the Indemnified Party without its consent.

### **13.0 LIMITATION OF LIABILITY.**

- 13.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE, IN NO EVENT WILL EITHER PARTY OR ITS SUPPLIERS BE LIABLE TO THE OTHER PARTY, OR ANY OTHER PARTY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE OR OTHERWISE, FOR (I) ANY COSTS OF PROCUREMENT OF SUBSTITUTE OR REPLACEMENT GOODS AND SERVICES, LOSS OF PROFITS, LOSS OF USE, LOSS OF OR CORRUPTION TO DATA, BUSINESS INTERRUPTION, LOSS OF PRODUCTION, LOSS OF REVENUES, LOSS OF CONTRACTS, LOSS OF GOODWILL, ANTICIPATED SAVINGS, WASTED MANAGEMENT AND STAFF TIME, WHETHER (IN ANY SUCH CASE) ARISING DIRECTLY OR INDIRECTLY OUT OF THIS AGREEMENT OR USE OF THE COALFIRE PRODUCTS AND SERVICES AND WHETHER OR NOT COALFIRE OR ITS SUPPLIERS HAVE BEEN ADVISED THAT SUCH DAMAGES OR LOSSES MIGHT OCCUR; OR (II) ANY SPECIAL, CONSEQUENTIAL, OR INDIRECT DAMAGES.
- 13.2 TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY'S OR ITS SUPPLIERS' TOTAL AGGREGATE LIABILITY FOR ALL CLAIMS ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE OR OTHERWISE, REGARDLESS OF THEORY OF LIABILITY, IS LIMITED TO THE TOTAL OF THE FEES ACTUALLY PAID OR PAYABLE FOR THE ORDERING DOCUMENT GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTHS BEFORE THE CAUSE OF ACTION AROSE. NOTHING IN THIS SECTION 13.2 EXCLUDES OR LIMITS: (I) EITHER PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE; (II) ANY FRAUD OR FRAUDULENT PRE-CONTRACTUAL MISREPRESENTATIONS MADE BY COALFIRE ON WHICH CLIENT CAN BE SHOWN TO HAVE RELIED; (III) EITHER PARTY'S OBLIGATIONS RELATED TO IP INFRINGEMENT INDEMNIFICATION; OR (IV) ANY LIABILITY WHICH CANNOT BE EXCLUDED BY LAW; OR (V) EITHER PARTY'S OBLIGATIONS OF CONFIDENTIALITY AS SET FORTH IN SECTION 9 HEREIN.

### **14.0 INSURANCE.**

- 14.1 **Generally.** Coalfire will maintain the insurance coverage specified in Section 14.2 during the term at Coalfire's sole expense. With respect to any professional liability coverage that is issued on a claims-made basis, the retroactive coverage date if any will be no later than the Effective Date. Further, such claims-made policies will be maintained for a period of not less than two (2) years following the expiration or termination of the Ordering Document. All such coverage will be issued by insurers properly licensed to do business in the jurisdictions in which the Services are performed. Each such insurer will be rated by A.M. Best Company as "A VIII" or better. For the avoidance of doubt, none of the coverage under this section serves to limit or expand Coalfire's indemnification obligations or other liability under this Agreement or any Ordering Document. Coalfire will provide its current standard Certificate of Insurance at Client's request.
- 14.2 **Coverage.** During the Term of the Ordering Document, Coalfire will maintain the following insurance coverage: (1) statutory workers compensation, as required by applicable law; (2) employer's liability, with a minimum limit of one million dollars (\$1,000,000); (3) automobile liability insurance including owned and non-owned automobiles with a combined single limit of



one million dollars (\$1,000,000); (4) commercial general liability, including products liability, completed operations liability, personal injury, advertising injury and contractual liability, on an occurrence basis, with the following minimum limits for bodily injury and property damage: one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate; (5) umbrella/excess liability, providing additional limits above the employer's liability automobile liability and commercial general liability policies with limits of ten million dollars (\$10,000,000) per occurrence and in the aggregate; (6) commercial crime insurance for theft of money, securities and other tangible personal property of Client resulting directly from the theft by Coalfire employee while performing professional services for Client and with a minimum limit of three million dollars (\$3,000,000) per loss and annual aggregate and including Client as a joint loss payee; (7) professional liability insurance with a minimum limit of five million dollars (\$5,000,000) per claim and in the aggregate, addressing network security and privacy liability; (8) property insurance covering Coalfire's tangible property on a replacement cost basis; and (9) such other coverage, if any, as Coalfire may be required to maintain pursuant to applicable laws and regulations.

- 14.3 **Additional Requirements.** Coalfire will cause Client to be named as an additional insured under the automobile liability insurance, commercial general liability, and umbrella/excess liability coverage described above for Coalfire's liability for any claims and losses actually or allegedly arising out of or in connection with the Services and such coverage will be primary and any such insurance maintained by client is non-contributing.

## 15.0 GENERAL TERMS.

- 15.1 **Compliance with Laws.** Each Party agrees and acknowledges that it is aware of, understands, has complied with, and will comply with, all laws applicable to it in the performance of this Agreement, in effect on or that become effective after the Effective Date, including but not limited to: (i) anti-corruption laws such as the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act and other local anti-corruption laws; (ii) data privacy laws, regulations, and regulatory guidance; (iii) export/import and economic sanctions laws ("**Trade Control Laws**"); (iv) immigration, and labor and employment laws; (v) employment opportunity and anti-discrimination laws; and (vi) environmental laws, and all contract clauses required by such laws are incorporated by reference. Coalfire reserves the right to suspend Services (with reasonable efforts to provide advance notice to the Client) if it reasonably believes that such suspension is necessary to comply with applicable law or reasonable government requests, Client's use of the Services poses any other security or vulnerability risk to Coalfire, or if Client's use of the Services materially violates the terms of this Agreement. Such suspension will be immediately lifted once the underlying issue is mitigated.
- 15.2 **Governing Law; Venue.** This Agreement is governed by and construed in accordance with the laws of the State of New York, without giving effect to conflict of law rules, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement. However, each Party will have the right at any time to seek a temporary or permanent injunction or other equitable remedy or relief in any court having subject matter jurisdiction. Each Party unconditionally and irrevocably submits to the exclusive jurisdiction of the state and federal courts located in New York City, New York for the purpose of any action, suit or proceeding arising out of or relating to this Agreement. However, each Party will have the right at any time to seek a temporary or permanent injunction or other equitable remedy or relief in any court having subject matter jurisdiction.
- 15.3 **Trade Compliance.** The export, re-export, or in-country transfer of the Coalfire products and information may be subject to the export laws and regulations of the U.S. and other jurisdictions including, but not limited to, the U.S. Export Administration Regulations. The export or re-export of Coalfire products and information in violation of the foregoing laws and regulations is strictly prohibited. Client agrees that it will comply with all applicable export or import control laws and regulations and obtain appropriate U.S. and foreign governmental authorizations before exporting, re-exporting, importing, transferring or using the Coalfire products and information. The Coalfire products and information may be subject to import, distribution, transfer, or use restrictions for which Client is solely responsible. The Coalfire products and information are prohibited for export or re-export to Cuba, North Korea, Iran, Syria, the Crimea Region of Ukraine and to any other country or region subject

to trade sanctions. Client will not, directly or indirectly, facilitate giving a sanctioned country or entity access to the Coalfire products and information. Client represents that it is neither located in, nor a resident or national of, any prohibited country or region, and that Client is not a sanctioned person or entity named on a U.S. or other government list (including lists published by the U.S. Government, European Union, and United Nations).

- 15.4 **Force Majeure.** Neither Party will be liable for any failure to perform due to circumstances beyond its reasonable control, including without limitation, acts of God, acts of government, natural disasters, fire, civil unrest, acts of terror, pandemic, labor problems (other than those involving such Party's employees), Internet or telecommunications failures, or cyberattacks. A force majeure event will not include a Party's financial inability to perform its obligations. If any force majeure event occurs, the affected Party will give prompt written notice to the other Party and will use commercially reasonable efforts to minimize the impact of the event. Dates by which performance obligations are scheduled to be met will be extended for a period equal to the time lost due to any delay caused by a force majeure event.
- 15.5 **Relationship of the Parties.** In providing the Services, Coalfire is acting as an independent contractor. Neither Party will be deemed a joint employer of the other's employees, and each Party will be responsible for any and all claims by its employees except for those caused by the other Party directly or as a result of an employee's presence in the other Party's premises. Nothing in this Agreement or the Ordering Document will be deemed or construed to create a joint venture, partnership, fiduciary or agency relationship between the Parties for any purpose. Neither Party will have the power to bind the other or incur obligations on the other Party's behalf without the other Party's prior written consent.
- 15.6 **Non-Solicitation.** Neither Party will solicit, offer work to, employ, or contract with, directly or indirectly, on its own behalf, any of the other Party's Personnel or the Personnel of its Affiliates during their participation in the Services or during the twelve (12) months after the conclusion of such Services. For the purposes of this Section 15.6, "**Personnel**" includes any individual or company a Party employs or has employed as a partner, employee or independent contractor and with which a Party comes into direct contact in the course of the Services. If a Party breaches this Section 15.6, the breaching Party will pay compensation to the non-breaching Party in the form of liquidated damages equal to the greater of one (1) year's compensation either (a) offered to the Personnel by the breaching Party or (b) paid or offered to the Personnel by the non-breaching Party. However, this Section 15.6 will not apply to Personnel who independently respond to indirect solicitations (such as general newspaper advertisements, employment agency referrals and internet postings) not targeting such Personnel.
- 15.7 **Subsidiaries and Subcontractors.** Coalfire may use its subsidiaries and/or subcontractors to perform the Services. Any act or omission by a subsidiary or subcontractor is deemed an act or omission of Coalfire. For certain Services, a subsidiary of Coalfire is required to be a Party to the Agreement as evidenced by their signature on the Ordering Document.
- 15.8 **Waiver and Severability.** No failure or delay by either Party in exercising any right under this Agreement will constitute a waiver of that right. All waivers must be in writing and signed by the Party granting the waiver. The waiver by a Party of any of its rights or remedies in a particular instance will not operate as a waiver of any subsequent event or breach by the other Party. If any provision of this Agreement is deemed invalid, illegal or unenforceable, that provision will be restated so that it is enforceable to the maximum extent permissible under law and is consistent with the original intent and economic terms of the invalid provision. The remainder of this Agreement will remain valid and enforceable in accordance with its terms.
- 15.9 **Assignment.** Neither Party may transfer or assign any of its rights or delegate any of its obligations under this Agreement, in whole or in part and including any transfers by operation of law, without the prior written consent of the other Party. However, either Party may transfer or assign this Agreement in its entirety without the consent of the other Party to an Affiliate or in connection with a merger, acquisition, and corporate reorganization, sale of all or substantially all of its assets

or a similar transaction. Any attempted assignment or transfer in violation of this Section will be null and void. This Agreement will be binding on and inure to the benefit of the Parties and their respective permitted successors and assigns.

- 15.10 **No Third Party Beneficiaries.** No term or provision of this Agreement is intended to be, nor will be, for the benefit of any Customer, person, firm, organization or corporation not a Party hereto, and no such third party will have any right or cause of action hereunder.
- 15.11 **Order Of Precedence.** In the event of any conflict among the terms of this Agreement, the following order of precedence will apply: (i) this document and any amendments signed by both Parties, (ii) the Ordering Document; and (iii) the Service Description or any document referenced but not signed by both Parties. If there is a conflict between the terms of this Agreement and the Ordering Document, the terms of this Agreement will apply except where the terms of the Ordering Document specifically state otherwise. This Agreement and the Ordering Document prevail over any conflicting or additional terms of any purchase order, acknowledgement or confirmation or other document issued by Client, even if signed and returned by Coalfire.
- 15.12 **Survival.** Any provision of this Agreement which is intended to survive expiration or termination will survive, including, without limitation, confidentiality, personal data processing, restrictions on use of intellectual property, indemnity, limitations on liability and disclaimers of warranties and damages, governing law, and Client's payment obligations accrued prior to termination.
- 15.13 **Language.** The Parties intend for the language of this Agreement to be American English. Any translation is for the purpose of convenience only. If this Agreement or any applicable Addendum is translated in any language other than the American English language, then in the event of a conflict between the American English language version and the translated version, the American English language version will prevail in all respects.
- 15.14 **Notices.** Unless otherwise stated, any notice or other communication provided under this Agreement will be in writing, addressed to each Party as identified and at the address set forth in the Ordering Document, and will be considered given: (i) when delivered personally, (ii) five (5) days after mailing, when sent certified mail, return receipt requested and postage prepaid, (iii) upon receipt when sent via a commercial overnight carrier, fees prepaid, or (iv) upon receipt to the email address provided therein.
- 15.15 **Counterpart Copies.** The Ordering Document may be executed in multiple counterparts, by original, email or facsimile signature or via other electronic signature, each of which will be deemed an original, and such counterparts together will constitute one and the same instrument.
- 15.16 **Entire Agreement and Amendments.** This Agreement, including all exhibits and the Ordering Document, is the entire agreement between the Parties with respect to its subject matter and supersedes all prior and contemporaneous agreements, whether oral or written, relating to that subject matter. This Agreement may be amended or supplemented only by a writing that refers to this Agreement and that is signed by both Parties. The titles and headings are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement. The Parties hereto expressly agree and acknowledge that it is not entering into this Agreement or the Ordering Document in reliance upon any representations, promises or assurance other than those expressly set forth in this Agreement or the Ordering Document.