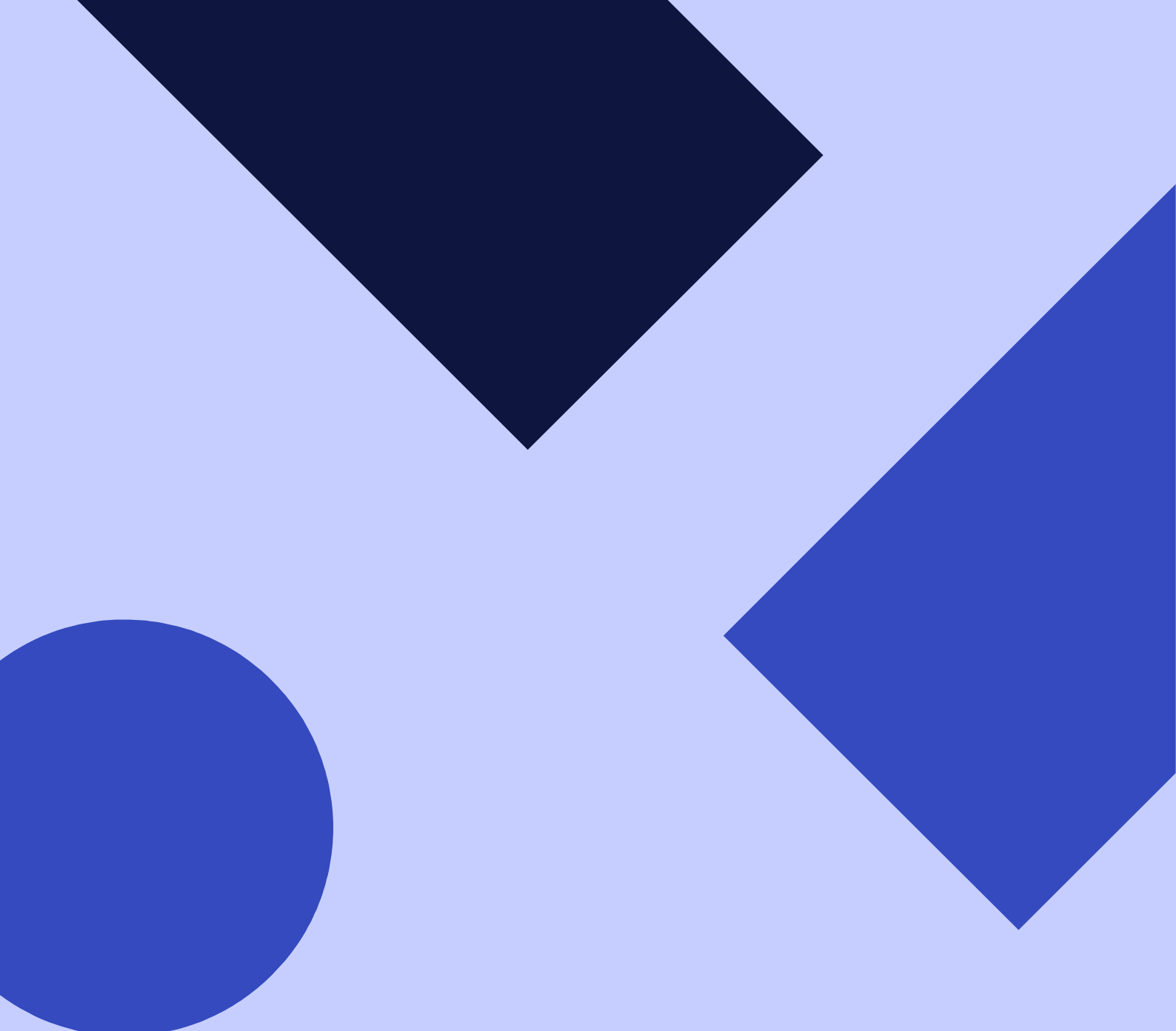




Elements Subscription Agreement

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Elements Subscription Agreement

THIS ELEMENTS SUBSCRIPTION AGREEMENT is entered into between:

PARTIES

1. [Choose here], ("**WithSecure**"); and
2. [Insert registered name of Client company] a company registered in [Insert the Client country] under number [Insert Client company registration number], whose registered office is at [Insert registered address] (the "**Client**") (each a "**Party**" and together referred to as the "**Parties**")

BACKGROUND

WithSecure has the relevant expertise and skills and is experienced in providing the Solutions and Services. The Client wishes to purchase Solutions and/or Services from WithSecure on the terms set out in this Elements Subscription Agreement.

AGREED TERMS

1. Definitions

Unless inconsistent with the context, the words and expressions below will have the following meanings and similar expressions will have the same meanings:

"Affiliate" means any entity that controls, is controlled by, or is under common control with a Party;

"Agreement" means this document including any Schedules and SOW;

"Business Day" means any day other than a Saturday, Sunday, bank or public holiday in the country that the Service is delivered in;

"Business Hours" mean the hours between 09:00 and 17:00 on Business Days;

"Confidential Information" in relation to either Party or its Affiliates, is information that i) is by its nature confidential; ii) is designated as confidential; and iii) the other Party knows or ought to know is confidential; and iv) including but not limited to deliverables, trade secrets, know-how, inventions, techniques, processes, software, documentation, procedures, contracts, customer information, financial information, ideas, strategies, designs, projections, business plans, strategic expansion plans, unpublished information relating to the Intellectual Property of either Party, all communications between the Parties and other non-public information relating to a Party. The Parties agree that Personal Data does not fall under the scope of Confidential Information. Any rights and obligations with regards to Personal Data are set out in the DPA.;

"Controller" shall have the same meaning as outlined in the Data Protection Legislation;

"Client" means the legal entity which is receiving the Services from WithSecure, as outlined in the SOW;

"Customer Portal" means the relevant online portal to facilitate communication between the Parties including secure transfer of files or documents or Relay which is WithSecure's advanced reporting and security management portal;

"Data Protection Legislation" shall have the same meaning as outlined in the DPA;

"Data Subject" shall have the same meaning as outlined in the Data Protection Legislation;

"DPA" means the Data Processing Agreement accessible online at <https://www.withsecure.com/en/about-us/legal/terms>, which governs the data processing activities related to this Agreement;

"Intellectual Property" will be interpreted widely and will mean the patents; trade names, marks and secrets; designs; know-how; copyright; goodwill; and such other registered or unregistered patents, trademarks, trade names, rights of copyright, symbols, signs, insignia, emblems, logos, slogans, and items relating to the Parties or the Services and all other identical or similar Intellectual Property as may exist anywhere in the world which is not in the public domain and any applications for registration of such Intellectual Property;

"NDA" means any non-disclosure agreement entered into between the Parties;

"Personal Data" shall have the same meaning as outlined in the Data Protection Legislation;

"Processor" shall have the same meaning as outlined in the Data Protection Legislation;

“Services” any of the Services provided by WithSecure under a SOW, which may include Solutions. Services include Managed Detection and Response (MDR) (as outlined in Schedule 1) and Incident Response (as outlined in Schedule 2);

“Service Date” the agreed date specified in the SOW as the date which the Services will commence;

“Service Fee” the amount payable to WithSecure by the Client as consideration for the Services, as specified in the SOW;

“Solution(s)” means the WithSecure™ Elements solutions, software-based services and web applications provided by WithSecure under a SOW including support tools, web portals, firmware, hardware, support services, related documentation and any updates and upgrades to any of the above;

“SOW” or **“Order Form”** the formal documents agreed in writing by the Parties containing the offer and scope of Services, applicable Service Levels and the quoted Service Fee which shall incorporate the terms of this Agreement as well as the applicable Schedule(s) and Terms of Use if applicable;

“Terms of Use” means WithSecure terms applicable to the Solution describing the limitations for the use of the Solution. Terms of Use are made available online at <https://www.withsecure.com/en/about-us/legal/terms>. WithSecure may amend the Terms of Use from time to time at its sole discretion.

Interpretations

- 1.1 A “person” will be interpreted as a reference to any natural individual and juristic persons including firms, companies, corporations, government, state or agency of a state or any association or partnership;
- 1.2 If the day for i) payment of any amount due, or ii) performance of any obligation to be performed in terms of this Agreement, should fall on a day which is not a Business Day, the relevant day for payment will be the next Business Day;
- 1.3 A reference to a Party includes that Party’s successors-in-title, Affiliates and permitted assigns.

2. Duration and Application

- 2.1 This Agreement will apply to the Solutions and/or Services purchased by the Client from WithSecure and will be effective from the date that both Parties sign this Agreement and will continue in full force and effect until terminated in accordance with Clause 12.
- 2.2 SOW will commence from the Service Date and continue for the period set out therein.
- 2.3 Any specific terms applicable to the Services not covered in this Agreement will be integrated as a Schedule.
- 2.4 This Agreement sets out the terms and conditions which bind the Parties and their Affiliates when they enter into a SOW. The Agreement is structured as outlined below:
 - 2.4.1 The terms and conditions are outlined in the main body of the Agreement;
 - 2.4.2 Terms and conditions which are specific to a Service are outlined in the Schedules. For example, if the SOW relates to Incident Response service, then the Incident Response terms (Schedule 2) shall apply.
 - 2.4.3 Terms and conditions which are specific to a Solution are outlined in the Terms of Use.
 - 2.4.4 The DPA shall apply for services where WithSecure is the Processor, i.e. Managed Detection and Response (MDR) (Schedule 1) and Incident Response services (Schedule 2). For other solutions, the relevant Privacy Policy shall apply, unless otherwise specified.
 - 2.4.5 The details of a Service delivery shall be outlined in a SOW. This will include, for example: the start and end dates, a description of the Services and any special terms.
- 2.5 If there is any inconsistency between the main body of this agreement, its Schedules, the DPA (if applicable) and any SOW, the order of priority for the purposes of construction is:
 - i. The SOW;
 - ii. The DPA (if applicable);
 - iii. The Schedules and the Terms of Use;
 - iv. The main body of this Agreement.

- 2.6 The Client or any of its Affiliates shall be entitled to enter into a SOW with WithSecure or any of its Affiliates under this Agreement. Each SOW shall form a separate contract between the signatories of that SOW, incorporating the terms and conditions of this Agreement.
- 2.7 Where a Client Affiliate is a signatory to the SOW:
- 2.7.1 the obligations of the Client (including the obligation to pay) are obligations of the Clients' Affiliate which signed the SOW; and
 - 2.7.2 in the event that the Affiliate is unable to fulfil its obligations (including the obligation to pay), the Client shall be liable to WithSecure or its Affiliate for such Affiliate's failure to perform its obligations.

3. General WithSecure obligations

- 3.1 In addition to the obligations of WithSecure set out in the SOW and in this Agreement, WithSecure will:
- 3.1.1 ensure that the necessary security clearance is performed for and by each employee who is involved with the Services;
 - 3.1.2 use reasonable endeavours to meet any performance dates specified in the SOW;
 - 3.1.3 deliver the Service to the Client with reasonable care, quality and skill;
 - 3.1.4 ensure that its employees devote such time, attention and skill in performing the Services as reasonably required;
 - 3.1.5 have and maintain appropriate insurance in effect for the duration of this Agreement to cover any reasonable and foreseeable claims that may arise while delivering the Services;
 - 3.1.6 provide the Services in accordance with good practices and in conformance with codes and standards established for such Services, but gives no warranties in respect of the Services, except for any warranties which may be specifically agreed in writing between WithSecure and the Client;
 - 3.1.7 provide the Client with access to all relevant information, cooperation and assistance relating to the Services as the Client may reasonably require.

4. General Client obligations

- 4.1 In addition to the specific obligations of the Client set out in the SOW and elsewhere in this Agreement, the Client will:
- 4.1.1 provide to WithSecure, or procure for WithSecure, such cooperation, support and advice, information and documentation as are reasonably necessary to enable WithSecure to provide the Services;
 - 4.1.2 be responsible to perform the necessary configurations to the Client's environment to ensure the Services work, such as providing network access to the client;
 - 4.1.3 ensure that all governmental, legal or regulatory licenses and permits as reasonably required from the Client are obtained prior to the commencement of the Services;
 - 4.1.4 ensure that any affected employees or other Data Subjects of the Client have given their consent for Personal Data to be processed as relevant and required before the commencement of the Services;
 - 4.1.5 inform WithSecure, as soon as reasonably practical, when any Client employees with access to any Customer Portal, leave the employment of the Client;
 - 4.1.6 provide WithSecure and its personnel with access to their premises as reasonably required to deliver the Services;
 - 4.1.7 be responsible to restore any aspects of the Client's hardware, firmware and software that required a change before the Services could commence to the state that it was before or to an improved state, where applicable;
 - 4.1.8 complete the customer onboarding form within ten (10) Business Days of acceptance of the SOW and shall use reasonable endeavours to update WithSecure in the event of changes to the customer onboarding form, for example: if the email address for accounts payable changes during the Term.

5. Anti-bribery and corruption

- 5.1 The Parties undertake to: i) fully comply with all applicable anti-bribery and corruption laws and relevant policies, ii) not do or omit to do, any act that will cause a breach of applicable anti-bribery and corruption laws.

6. Non-solicitation

- 6.1 The Parties warrant and represent that they will not, without the written consent of the other Party, at any time during the term of this Agreement or for a period of twelve (12) months after termination of this Agreement, directly or indirectly offer employment to, or solicit the employment of (or advise, suggest or recommend that any other person or entity employ, offer employment to or solicit the employment of) any of the other Party's employees involved in the Service. Notwithstanding the foregoing, neither Party will be precluded from hiring any employee of the other Party who responds to any public notice or advertisement of an employment opportunity.

7. Confidentiality

- 7.1 Confidential Information disclosed by one Party to the other, will only be disclosed or used as is strictly necessary for the purpose for which it was disclosed and in accordance with the provisions of this Agreement.
- 7.2 Each Party warrants and undertakes that it will not at any time disclose to any person or entity any Confidential Information of the other Party except as permitted by clause 7.3.
- 7.3 The confidentiality obligations will not apply to Confidential Information which was:
- 7.3.1 at the time of disclosure generally available to the public other than because of a breach of this Agreement or a NDA;
 - 7.3.2 at the time of such disclosure was already within the possession of the receiving Party; or
 - 7.3.3 subsequently provided to the receiving Party by a person who has not directly or indirectly obtained the Confidential Information from the disclosing Party or through a breach of this Agreement; or
 - 7.3.4 received from a third party who lawfully acquired the Confidential Information; or
 - 7.3.5 generally disclosed by the disclosing Party to others on an unrestricted basis.
- 7.4 The receiving Party undertakes to the disclosing Party:
- 7.4.1 to ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's Confidential Information are aware and strictly comply with the provisions of this Agreement; and
 - 7.4.2 to take reasonable steps to safeguard the Confidential Information and comply with any reasonable requirements specified by the disclosing Party from time to time; and
 - 7.4.3 to implement rigorous security practices against any unauthorized copying, use, disclosure, access, damage, dissemination or destruction of the Confidential Information or part thereof, whether directly or indirectly by any other person, or to assist any other person in doing so, without the prior written consent of the disclosing Party, first being obtained; and
 - 7.4.4 to immediately notify the disclosing Party if the receiving Party suspects or becomes aware of any unauthorized access, copying, use or disclosure of the Confidential Information in any form or if the receiving Party is required by law to disclose any of the Confidential Information; and
 - 7.4.5 to, in the event of an unauthorized disclosure or use of the Confidential Information through a disclosure made to a receiving Party, use all reasonable efforts to assist the disclosing Party in recovering and preventing the use, dissemination, sale or other disposal of such Confidential Information.
- 7.5 In the event that the receiving Party is legally required to disclose any of the Confidential Information in court or to any governmental authority, such Party shall provide the disclosing Party with prompt written notice of any such requirement so that the disclosing Party may seek a protective order or other appropriate remedy. In the absence of a protective order or other remedy, the receiving Party can disclose that portion of the Confidential Information that it is legally required to disclose.
- 7.6 The Parties acknowledge that they are entitled to equitable relief (in addition to any other rights available under this Agreement or at law) if any Party breaches any of its obligations under this clause 7.
- 7.7 In the event of a conflict in terms, the terms of any valid NDA pertaining to the Services will take precedence over this clause and be incorporated into this Agreement.

8. Invoicing and Payment

- 8.1 In consideration of the provision of Services by WithSecure, the Client will pay the Service Fees outlined in the SOW.

- 8.2 The Client will pay all invoices within thirty (30) days following receipt of a correct, valid and original invoice together with the required supporting documentation.
- 8.3 Service Fees are exclusive of value added tax ("VAT") or goods and services tax ("GST") as relevant, which will be payable, in addition to such amounts, at the rate applicable on the date of invoicing.
- 8.4 All amounts due under the Agreement will be paid in full without any set-off, counterclaim, deduction or withholding.
- 8.5 Service Fees exclude any surcharges, levies, sales, use, excise, withholding or similar taxes whatsoever unless otherwise agreed in the SOW.
- 8.6 Should withholding taxes be applicable, whereby the Client is legally compelled to withhold such taxes, then the Parties will agree on the invoicing and payment thereof, so that WithSecure may receive the total net amount payable for the Services.
- 8.7 The Client will pay the Service Fee into WithSecure's bank account as it appears on the relevant invoice and WithSecure will formally communicate any change in bank detail to the Client.
- 8.8 In case of delays in the payment exceeding the due date, without affecting any other right or remedy available to it, WithSecure may suspend the Services and reserves the right to charge interest on the outstanding balance of all amounts due and payable but unpaid by the Client at the rate of 4% above the base rate from time to time of the Bank of England.

9. Postponements and cancellations

- 9.1 The Client may postpone any Service Date, if such postponement is allowed and done in accordance with the related provisions of the Schedule.
- 9.2 WithSecure reserves the right to charge certain late postponement and cancellation penalties for any late postponements or cancellations by the Client. The terms thereof will be covered in the relevant Schedule.

10. Travel Policy

- 10.1 The Client will be responsible for all local and international travel and subsistence expenses incurred by WithSecure employees when delivering the Services.
- 10.2 All travel requirements will be confirmed by WithSecure at the commencement of the Services for approval by the Client.
- 10.3 The Client requirements in respect of location or Client standard rates will be considered by WithSecure, but WithSecure will retain the right to make travel arrangements at its own discretion.
- 10.4 Where accommodation cost is higher due to security requirements (i.e., security escorts, security complex etc.), the Client will be informed of any such additional cost prior to the commencement of the Services.

11. Data Protection

- 11.1 The DPA forms an integral part of this Agreement between WithSecure and Client. The DPA shall become effective concurrently with the execution of the Agreement.
- 11.2 The DPA shall apply for Services where WithSecure is the Processor (i.e. Managed Detection and Response (MDR) (Schedule 1) and Incident Response (Schedule 2)). For Solutions, the relevant privacy policy shall apply as defined in the Service Specific Schedule.
- 11.3 The Parties will comply with all applicable requirements of any relevant Data Protection Legislation. The provisions in this clause are in addition to, and does not relieve, remove or replace a Party's obligations under any Data Protection Legislation.
- 11.4 If relevant to the Services, a Data Processing Agreement will be entered into along with the SOW, containing details on any processing activities (such as: the subject matter, nature, purpose, duration, type of Personal Data and categories of Data Subjects).
- 11.5 Without prejudice to the generality of clause 11.3, the Parties will, in relation to any Personal Data processed in connection with the performance of its obligations under this Agreement:
- 11.5.1 process Personal Data in accordance with this Agreement and other applicable written instructions of the Controller unless otherwise required by applicable laws;
 - 11.5.2 ensure that it has in place appropriate technical and organizational measures to protect against unauthorized or unlawful processing of Personal Data and against accidental loss, damage or

destruction thereof and that such measures are appropriate to the harm that might result from the unauthorized or unlawful processing or accidental loss, destruction or damage and the nature of the Personal Data to be protected;

- 11.5.3 have regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymizing and encrypting Personal Data) ensuring confidentiality, integrity, availability and resilience of its systems;
- 11.5.4 further ensure that availability of and access to Personal Data can be restored in a timely manner after an incident by regularly assessing and evaluating the effectiveness of the technical and organizational measures adopted by it;
- 11.5.5 ensure that all personnel who have process Personal Data are obliged to keep the Personal Data confidential; and
- 11.5.6 not transfer any Personal Data outside of the European Economic Area or other applicable area unless the following conditions are fulfilled:
 - 11.5.6.1 the Data Subject has enforceable rights and effective legal remedies;
 - 11.5.6.2 the Parties comply with their obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
 - 11.5.6.3 the Parties comply with reasonable instructions notified to it in advance by the Controller in writing, where applicable, with respect to the processing of the Personal Data;
- 11.5.7 assist the Controller in responding to a reasonable request from a Data Subject without undue delay;
- 11.5.8 notify the Controller without undue delay on becoming aware of a Personal Data breach;
- 11.5.9 at the written direction of the Controller, delete or return Personal Data and copies to the Controller on termination of this Agreement, unless required by applicable law to store the Personal Data; and
- 11.5.10 maintain complete and accurate records and information to demonstrate its compliance with this clause 11.

12. Breach and Termination

- 12.1 Should a Party (the "Defaulting Party") commit a breach of any of the provisions of this Agreement, then the other Party (the "Aggrieved Party") will be entitled to require the Defaulting Party to remedy the breach within thirty (30) days, or any other reasonable time, of delivery of a written notice requiring it to do so.
- 12.2 If the Defaulting Party fails to remedy the breach within the period specified in clause 12.1, the Aggrieved Party will be entitled to initiate the process outlined in clause 18.1 (Alternative Dispute Resolution), without prejudice to the Aggrieved Party's rights at law.
- 12.3 Either Party may (without limiting any other remedy that they may have) at any time immediately terminate this Agreement by giving written notice to that effect to the other Party if:
 - 12.3.1 the other Party goes into liquidation, becomes bankrupt, makes a voluntary arrangement with its creditors or has a receiver or administrator appointed, or any comparable process is entered in the jurisdiction in which a Party resides;
 - 12.3.2 the other Party commits a material breach of the terms of this Agreement.
- 12.4 The right to terminate this Agreement in terms of this clause will not prejudice any other right or remedy of either Party in respect of any prior breach of this Agreement.
- 12.5 Any other or specific provisions regarding the termination of the Services may be addressed in the SOW, Schedules or Terms of Use.

13. Consequences of Termination

- 13.1 All invoices issued by WithSecure will become due and payable immediately following the termination of this Agreement for whatever reason.
- 13.2 The Confidentiality (clause 7), Data Protection (clause 11), Limitation of Liability (clause 14), Intellectual Property (clause 16) and Alternative Dispute Resolution (clause 18) provisions will survive the termination of this Agreement.
- 13.3 Any termination of this Agreement will be without prejudice to any claim which a Party may have in respect of any prior breach of the terms of this Agreement by the other Party.

- 13.4 This Agreement will continue to apply in full in respect of all SOW's with fixed terms until all such fixed terms have elapsed.

14. Limitation of Liability

- 14.1 Nothing in this Agreement limits any liability which cannot be legally limited, including liability for: i) death or personal injury caused by negligence; ii) fraud or fraudulent misrepresentation; iii) if relevant, breach of the terms implied by statute; iv) gross negligence or willful misconduct; v) a breach of confidentiality (clause 7); or vi) indemnification obligations set out in clause 16.6.
- 14.2 For all events and circumstances, each Party's and its Affiliates' total liability arising out of or relating to this Agreement, including without limitation, because of performance or non-performance of obligations, regardless of the form of the cause of action, whether in contract, tort (including without limitation negligence), law or otherwise will be limited to direct damages and will not exceed 150% of the Service Fees paid or owed for the Services in the applicable SOW in which the claim arose.
- 14.3 Notwithstanding anything to the contrary contained in this Agreement, in no event will either Party be liable to the other for any claim based upon a third-party claim; any incidental, consequential, special, indirect, exemplary or punitive damages, whether arising in contract, tort, or otherwise; or for any damages arising out of, or relating to this Agreement falling within the following categories: loss of data; loss of profits; loss of savings; loss or interruption of service; loss of business or anticipatory profits; loss of use or downtime; loss of or corruption to data or other information or loss or damage to software.

15. Force Majeure

- 15.1 Neither Party will be deemed in default of this Agreement, nor will it hold the other Party responsible for interruption or delay in the performance of its obligations (excluding payment obligations) for circumstances which arise that were not reasonably foreseeable or avoidable ("Force Majeure Event") provided that the Party relying on this clause gives prompt written notice of the cause, nature and extent of the Force Majeure Event and takes all reasonable steps to mitigate the effects.
- 15.2 If the circumstances change after the affected Party has notified the other Party in accordance with clause 15.1, the affected Party will, forthwith, in good faith and by the most expeditious means, inform the other Party of such changes and keep the other Party updated on such changes.
- 15.3 Any Services affected by a Force Majeure Event will be rescheduled at the termination of the Force Majeure Event to the first available timeslot in the WithSecure delivery schedule.
- 15.4 If a Force Majeure Event extends for a period exceeding thirty (30) days in total, either Party may elect to terminate this Agreement upon written notice.

16. Intellectual Property

- 16.1 All Intellectual Property that belongs to or is licensed to a Party will remain vested in that Party.
- 16.2 All right, title and interest in and to all Intellectual Property, including without limitation, copyright, of any materials owned by WithSecure relating to the Services is and will remain the property of WithSecure, both during this Agreement and after termination of this Agreement.
- 16.3 The property and any copyright or other Intellectual Property rights in any material produced by WithSecure will belong to WithSecure, but the Client will be entitled to use it for the purposes of utilizing the Services by way of a non-exclusive license, subject to payment in full of all Service Fees payable under this Agreement.
- 16.4 The Client will not sub-license, assign or otherwise transfer the rights granted in clause 16.3 unless agreed in writing by WithSecure.
- 16.5 WithSecure warrants that any material produced by WithSecure for use by the Client for the purposes of utilizing the Services will not infringe on the Intellectual Property rights or other rights of any third party.
- 16.6 WithSecure agrees to defend the Client from any third party claims that its use of Service in accordance with this Agreement infringes any patent rights or copyrights of any third party and compensate the damages awarded as a result of such claim in a binding judgment or other proceedings, provided that the Client promptly notifies WithSecure of such claim in writing, tenders to WithSecure the right to defend or settle the claim and provides reasonable assistance to WithSecure, at WithSecure's expense, in defending and settling the claim. The indemnification obligation above does not apply if such claim arose as a result of i) any modifications or changes made to the Service by the Client or, in case of Solutions, ii) the combination of the Solution with hardware or software not provided or approved by WithSecure or iii) the failure to install any update to the

Solution provided by WithSecure. If as a result of any binding settlement among the Parties or a final determination by a court of competent jurisdiction any Service is held to infringe the patent rights or copyright of any third party and use of such Service is enjoined, or if WithSecure reasonably determines that the Service may become subject to a patent or copyright infringement claim, WithSecure shall have the option to (i) obtain the right for the Client to continue to use the Service, (ii) replace or modify the Service so that it is no longer infringing, or (iii) terminate the respective SOW(s) concerning said Service and provide to the Client a prorated refund of the amount of Service Fees paid up to the date of termination for the remaining order term set out in said SOW.

- 16.7 The Client warrants that the material and access provided to WithSecure for purposes of providing the Services will not infringe on any Intellectual Property rights or other rights of any third parties.
- 16.8 The Client will not, and will not permit any of its employees nor any third party to reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services or any data related to the Services, except to the extent that such prohibition is contrary to applicable law that cannot be excluded by the agreement of the Parties.
- 16.9 Client acknowledges that WithSecure may freely use any suggestions, comments or other feedback made by the Client to improve the Services.
- 16.10 The Parties acknowledge that WithSecure shall have the right to use the Client's name and logo for marketing purposes.

17. Product Lifecycle

- 17.1 If this Agreement requires amendment to:
- a) comply with applicable laws and regulations; or
 - b) remove part or all of the Service due to a technology or product expiring (e.g. if the technology or product reaches end of life);

WithSecure may serve notice on the Client specifying in its reasonable opinion the amendment required. The Client will consider such proposed amendment in good faith.

- 17.2 Pending agreement of an amendment to this Agreement due to a reason referred to in clause 17.1, the Parties will use their reasonable endeavours to comply with the required change in the manner most compatible with the existing terms and conditions of this Agreement.
- 17.3 If the Parties are unable to agree an amendment to reflect the requirements referred to in clause 17.1 within sixty (60) days of the implementation of the regulatory change or on the date that a technology reaches end of life then WithSecure may at its discretion elect to:
- c) continue providing the Services as best as is practicably possible, subject to reasonable amendments to performance quality; or
 - d) terminate the applicable Services, or the relevant part of such Services, on a further sixty (60) days' notice and reimburse to the Client, on a pro rata basis, for any Service Fee paid by the Client that relate to Services to be performed after the date of termination.

18. Alternative Dispute Resolution

- 18.1 In the event of a dispute between the Parties of any kind or nature relating to this Agreement, upon the written request of either Party, each Party will appoint a senior representative whose task it will be to meet to resolve such dispute. Such representatives will discuss and negotiate the matter in dispute in good faith, as to resolve the dispute on mutually agreeable terms.
- 18.2 In the event of failing to reach amicable settlement, the dispute shall be finally settled by one arbitrator in accordance with the [Choose here]. The language of arbitration is English.
- 18.3 For purposes making an arbitration award an order of court, each Party hereby submits itself to the jurisdiction of any court having jurisdiction over the party against whom the award is made.
- 18.4 Both Parties will continue to comply with all the provisions of this Agreement with all due diligence during the determination of such dispute, should the dispute arise during this Agreement.

19. Notices

- 19.1 Any notice given to a Party under or in connection with this Agreement will be in English, in writing and delivered (i) personally or (ii) by a recognized courier service to a Party's chosen address or (iii) sent by email by an authorized official or (iv) with pre-paid (return receipt requested) first-class or registered post.
- 19.2 Any notice to a Party will be deemed received:
- e) on the date of delivery if contained in a correctly addressed envelope and delivered and signed for by a responsible person during ordinary business hours at its chosen address; or
 - f) on the first Business Day following its timely deposit with the courier service for next business day delivery prepaid; or
 - g) when the sender of the email has received an automated message confirming email delivery, unless the contrary is proved; or
 - h) on the day the receiving Party signature of receipt is obtained when sent by pre-paid first-class or registered post.

20. General

- 20.1 **Entire Agreement** – This Agreement contains the entire agreement between the Parties in relation to the subject matter.
- 20.2 **Third Party Rights** – This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 20.3 **Variation** – No amendment or variation to this Agreement will be of any force or effect unless it is in writing and signed by the duly authorized representatives of both Parties.
- 20.4 **No waiver** – The failure of either Party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy.
- 20.5 **Cession, Assignment and other dealings** – Neither Party to this Agreement may cede, assign, transfer, mortgage, charge, declare a trust over, subcontract or delegate all or any portion of its rights, obligations nor liabilities under this Agreement without the prior consent of the other Party, which consent may not unreasonably be withheld, provided that either Party will be entitled to assign, cede or delegate any of its rights or obligations to an Affiliate.
- 20.6 **Severability** – If any clause, clause or provision of this Agreement should be invalid, unenforceable, defective or illegal for any reason whatsoever, then the remaining terms and provisions of this Agreement will be deemed to be severable from such clause or clause and will continue in full force and effect unless such invalidity, unenforceability, defect or illegality goes to the root of this Agreement.
- 20.7 **Costs** – Each Party will bear its own costs and expenses incidental to the negotiation, preparation and execution of the Agreement.
- 20.8 **Relationship** – WithSecure will serve as an independent contractor or service provider, and under no circumstances will it be, or be deemed to be, a partner, joint venture or employee of the Client in the performance of its duties and responsibilities pursuant to this Agreement. All employees engaged by WithSecure will be WithSecure's employees and the entire management, direction, and control of all such employees will be exclusively vested with WithSecure.
- 20.9 **Good faith** – The Parties undertake to act in the utmost good faith in their relationship with each other and they undertake not to do anything nor refrain from doing anything which might prejudice or detract from the rights or interests of the other of them.
- 20.10 **Export Control** – When using the Services and in the event of any subsequent re-export, the Client must comply with any applicable export control laws and have and maintain all permits and licenses required by any governmental unit or agency. Client shall not directly or indirectly export or re-export Services (i) to persons or entities subject EU or US sanctions or (ii) to any country or region subject to a comprehensive EU or US embargo.
- 20.11 **Counterpart** – This Agreement may be signed in counterparts and the copies signed in counterpart will form this Agreement. This will include scanned copies of this document.

20.12 **Language** – All documentation provided by WithSecure as well as all notices and other communications between the Parties shall be in the English language. In case of any discrepancy between different language versions of this Agreement, or any part of it, the English language version shall prevail.

21. Governing Law and Jurisdiction

21.1 All the provisions of this Agreement will be governed by and interpreted in accordance with the laws of [Choose here].

Signed by **WithSecure**

Signature

Who hereby warrants to be a duly authorized signatory for and on behalf of **WithSecure**,

Name

Job Title

Date

Signed by the **Client**

Signature

Who hereby warrants to be a duly authorized signatory for and on behalf of the **Client**

Name

Job Title

Date

Schedule 1 – WithSecure™ Managed Detection and Response (MDR).

Schedule 2 – WithSecure™ Incident Response Retainer.

SCHEDULE 1 – WITHSECURE™ MANAGED DETECTION AND RESPONSE (MDR)

1. Definitions

Capitalised terms defined in the Agreement bear the same meaning in this Schedule.

“Agent” WithSecure's software agent as further described in this Schedule;

“Cloud Service” a service made available to users on demand via the Internet;

“Documentation” the documents relating to the Software provided by WithSecure to the Client, including the deployment guide;

“Maintenance Services” the performance of scheduled or preventative maintenance services required to ensure the continued functionality of the Software, including the provision and installation of upgrades, updates, enhancements and new releases;

“Software” any software, system, application, data or the combination thereof provided by WithSecure as part of the Services, including for example the end point sensors. For the avoidance of doubt, Software is deemed to be subject to protections awarded by provisions of warranty, intellectual property rights and confidentiality in the Agreement;

“Subscription Period” the agreed duration for which the Service will be delivered to the Client as specified in the SOW.

2. Service Fees and Charges

- 2.1 The Services shall be ordered as a pre-packaged Service. The invoicing cycle for the Services shall be determined in the SOW.
- 2.2 The Service fees are as outlined in the SOW between the Client and WithSecure.
- 2.3 WithSecure shall have the right to make changes to the prices of the Services. Such price changes shall be applicable to all new and renewal orders, unless otherwise agreed in writing, and shall come into effect within 30 days from the written notification from WithSecure.
- 2.4 If any invoice is not paid by the due date, WithSecure reserves the right, in addition to its other remedies, to suspend the Services. The rights to suspend the Services are not exhaustive.
- 2.5 All changes to the Service scope must be agreed in writing between the Parties. A material change in the scope of the Services will result in an amendment to the Service Fees. Material changes include, but are not limited to, the addition of new networks for monitoring or an increase in endpoints by more than 5%.
- 2.6 To ensure the successful delivery of the Service, the Client commits to provide comprehensive coverage of the Client's environment. The Client is responsible for deploying the Agent across the entirety of the Client's environment. 'Full coverage' entails acquiring Service licenses and agents in equal quantities, ensuring thorough and effective implementation.

3. Term and Termination

- 3.1 The Service shall be made available for a minimum fixed term of twelve (12) months. The Subscription Period is defined in the SOW and shall commence upon its processing. An order of Services by the Client is non-cancellable during the Subscription Period.
- 3.2 Following the Subscription Period, the Parties shall meet in good faith to discuss the renewal of the Subscription Period at least three (3) months prior to the lapse of the current Subscription Period. If the Parties have not reached an agreement on the renewal before the expiry of the Subscription Period, WithSecure has the right to invoice the Client for the provided Services after expiry of the Subscription Period with the minimum invoicing unit of three (3) months. The Service Fee for three (3) months is calculated by dividing the annual Service Fee of the Subscription Period by four (4).

4. Supply of Services

- 4.1 Following the completion of the Services at the expiry of the Subscription Period, the Client shall perform uninstallation of software and reconfigure firewalls and other aspects of their hardware, firmware and software, which were included for the performance of the Services by WithSecure. WithSecure will, upon request, provide all information reasonably required for this purpose.
- 4.2 Where WithSecure identifies a potential or actual threat, all reasonable attempts will be made to notify the Client (in accordance with the agreed communication procedure). WithSecure will not be liable where it is not possible to contact authorised nominees outside of agreed timescales for reasons outside of WithSecure's control.
- 4.3 WithSecure shall provide reasonable written notice to the Client ahead of any upgrades in the Services in accordance with the respective life-cycle policy.
- 4.4 WithSecure has the right to take pre-authorised actions with respect to the workstations in the Client's IT environment in response to a live cyber incident, without the potential delay of waiting for a Client's employee to authorise suggested actions. The Client also has the option to consent to WithSecure taking pre-authorised actions with respect to the servers in the Client's IT environment.
- 4.5 The Client warrants and undertakes that WithSecure and its Affiliates shall be held harmless from any losses arising out of or in connection with any pre-authorised actions taken by WithSecure.
- 4.6 The Client shall ensure that any computer and operating systems, networks as well as any hardware or software that WithSecure is asked to investigate and use in the delivery of the Service are the property of the Client or are legally licensed to the Client and that WithSecure will have full and proper authority to investigate and use these to the extent necessary to perform the Service.

5. Service-related Responsibilities

- 5.1 WithSecure will provide the Services solely in accordance with this Agreement.
- 5.2 Deployment and setup of the Service environment are the sole responsibility of the Client.
- 5.3 WithSecure shall not be responsible for any obligations that have not been explicitly listed as WithSecure's obligations in the relevant solution overview.
- 5.4 The Client is responsible for the maintenance of the Client's environment in accordance with the industry standards and best practices, including patching any known vulnerabilities. WithSecure shall not be liable for any undetected cyber-attacks or any loss or damage caused by Client's failure to comply with this responsibility.

6. Cloud Services

- 6.1 Parts of the Service will be delivered using a Cloud Service.
- 6.2 The Client undertakes to provide WithSecure full and unfettered access to any internal resources in the Client's network required by the Cloud Service, as and when required, so that WithSecure can deliver the Service to the Client.

7. Detection and Response

- 7.1 The Service encompasses the provision of DRT (Detection and Response Team) first response intervention upon the identification of a cyber threat.
- 7.2 Should the initial response by the DRT fail to resolve the incident, DRT reserves the right to recommend the acquisition of the supplementary incident response services from WithSecure, subject to availability and additional fees. In the event that the Client has previously procured the Incident Response Retainer, any accrued free days may be utilized in connection to the above-mentioned supplementary incident response services.

8. Warranties and Disclaimers

- 8.1 WITHSECURE'S SERVICES DO NOT REPLACE INFORMATION SYSTEM SECURITY SOLUTIONS OR OTHER INFORMATION SECURITY PROTECTION METHODS. WITHSECURE'S SERVICES MIGHT NOT BE ABLE TO DETECT ALL MALWARE OR OTHER HARMFUL SOFTWARE. WHERE WITHSECURE'S SERVICES INTERACT WITH SERVICES OF THE CLIENT OR OF ANY THIRD PARTIES AND/OR WHERE THE CLIENT OR ANY THIRD-PARTY INFORMATION SYSTEMS OR COMPONENTS ARE USED, IT IS MUTUALLY UNDERSTOOD THAT ANY WARRANTIES OR SERVICES PROVIDED BY WITHSECURE ARE ONLY PROVIDED FOR WITHSECURE'S SERVICES, NOT TO ANY ADJOINING SERVICES OR COMPONENTS. WITHSECURE SHALL NOT BE LIABLE FOR THE DECISIONS MADE BY THE CLIENT BASED ON ANY REPORTS PROVIDED BY WITHSECURE OR WITHSECURE'S SERVICES.
- 8.2 WITHSECURE SHALL NOT BE HELD LIABLE FOR ANY POSSIBLE INTERRUPTIONS OR MALFUNCTIONS WITHSECURE'S SERVICES MIGHT CAUSE TO ANY THIRD-PARTY SYSTEMS OR CLIENT SYSTEMS.
- 8.3 WITHSECURE'S SERVICES FOCUS ON ANALYSING TECHNICAL EVIDENCE RELATED TO THE INCIDENT(S) IN QUESTION, SUCH AS METHODS AND TECHNOLOGIES, NETWORK ROUTES, TRAFFIC ORIGINS, AND TIMELINES. WHETHER THESE DETAILS ARE RELATED TO CRIME OR WHETHER CRIME HAS TAKEN PLACE IS NOT WITHIN THE SCOPE OF WITHSECURE'S SERVICES AND IS A MATTER FOR LOCAL LAW ENFORCEMENT. IF ANY ANALYSIS LEADS THE CLIENT TO SUSPECT A CRIME MAY HAVE TAKEN PLACE, THE CLIENT IS ADVISED TO CONTACT LOCAL LAW ENFORCEMENT.
- 8.4 FOR THE AVOIDANCE OF DOUBT, ANY DISCLAIMER OR WARRANTY IN THE AGREEMENT SHALL ALSO EXTEND TO WITHSECURE'S SERVICES.

SCHEDULE 2 – WITHSECURE™ INCIDENT RESPONSE RETAINER

1. Definitions

Capitalised terms defined in the Agreement bear the same meaning in this Schedule.

“Client Material” all documents, information, materials, facilities, support, services and cooperation of the Client relating to the IR Services, including but not limited to, computer programs, data, reports, specifications and other information as WithSecure may reasonably require to perform IR Services;

“Consultants” the qualified and experienced WithSecure employees perform the IR Services for the Client;

“Data Retention Policy” means the WithSecure data retention policy;

“IR Services” Investigation and Incident Response Services provided by WithSecure to the Client, as more fully described in the SOW;

“IR Retainer” the annual subscription agreement for IR Services entered by the Parties;

“Software” means the software platform otherwise known as the “WithSecure Agent” including its modules and any other security services software deployed by WithSecure on the software platform for use in the IR Services;

2. Application

2.1 The Parties agree that this Schedule will apply to any IR Services delivered by WithSecure to the Client.

3. Deployment and use of Software

3.1 WithSecure may deploy the Software in the provision of the IR Services.

3.2 WithSecure hereby grants to the Client a non-exclusive, perpetual and non-transferrable license to use the Software in accordance with this Schedule.

3.3 The license to use the Software is subject to the continued use of the IR Services procured by the Client from WithSecure and will terminate immediately upon the IR Services being terminated or expiry.

3.4 WithSecure provides no warranties regarding the Software, including that the Software is fault or error free.

4. WithSecure obligations

4.1 WithSecure will deliver the agreed IR Services as outlined in the SOW.

4.2 WithSecure will deploy Consultants who will work collaboratively with the Client's security and IT teams to procure system, log files, configuration and network data from relevant sources for examination.

4.3 WithSecure will appoint a designated point of contact to communicate with the Client in all matters relating to the provision of the IR Services.

4.4 WithSecure's data retention period is one (1) month following the final day of the IR Services. After this time, all evidence retrieved from the Client network will be deleted, except for attacker introduced malware and tooling. WithSecure will retain details of the incident, including IOCs and malware samples for threat intelligence purposes in order to better protect all customers. Where WithSecure may wish to refer to details of an incident, it will be done in a way that does not attribute the Client to the incident, unless the Client provides written consent.

4.5 WithSecure may retain anonymised indicators of compromise and case information to enhance WithSecure's ability to defend against future incidents and to protect its wider customer base. WithSecure are members of the UK NCSC CIR assured scheme and have requirements to share metrics and anonymised data from the IR Service from time to time.

5. Client obligations

5.1 The Client undertakes to:

- Provide to WithSecure access to all Client Material, as soon as reasonably possible, to enable WithSecure to perform the IR Services.
- Provide to WithSecure and its Consultants access to any of the Client's premises, offices, equipment, systems, networks, software, data and other facilities that may be required by WithSecure to provide the IR Services.

- Appoint a designated point of contact to communicate with WithSecure on all matters relating to the provision of the IR Services.
- Maintain and be responsible for its own data and software back-ups and associated restoration measures.
- Provide WithSecure with written notice, prior to commencement of IR Services, if the Client has a requirement to provide any evidence, that is subject to investigation under a SOW, to the courts or public authorities.

6. Client warranties

- 6.1 The Client warrants and represents that any computer and operating systems, networks as well as any hardware or software that WithSecure is asked to investigate and use in the delivery of the IR Services are the property of the Client or are legally licensed to the Client and that WithSecure will have full and proper authority to investigate and use these to the extent necessary to perform the IR Services.

7. Communication between the Parties

- 7.1 All sensitive correspondence between WithSecure and the Client will be handled in accordance with reasonable instructions from either Party, to be outlined during scoping of a potential incident.
- 7.2 In the event of compromised or suspected compromised communications platforms, the Parties will use safe alternative communications platforms identified through an assessment by WithSecure of security and availability.

8. Specific exclusions

- 8.1 WithSecure staff will not work in any dangerous conditions and WithSecure may elect to terminate any IR Services if the situation in which they are required to perform the IR Services becomes too dangerous in the reasonable opinion of WithSecure.
- 8.2 WithSecure will not retain in its custody any data which is not lawful to possess. In such circumstances, WithSecure will inform the Client of the discovery of such data and transition the data into the custody of the law enforcement agencies as required by law.

9. Invoicing and Payment

- 9.1 Clients on the IR Retainer will be invoiced at the commencement of the IR Retainer.
- 9.2 Clients requiring ad hoc IR Services will be invoiced as agreed upon in the associated SOW.
- 9.3 Each subsequent IR Retainer will be invoiced annually until such time that the Agreement between the Parties is terminated in accordance with this Schedule.

10. Commencement, Duration and Termination of IR Services

- 10.1 The IR Services will come into effect on the earlier of i) the date outlined in the SOW, or ii) the date that the IR Services commence.
- 10.2 Except as otherwise provided in Clause 12 of the Agreement, each SOW shall commence on the Go Live Date and continue for the initial Subscription Period (outlined in the SOW). At the end of the initial Subscription Period this Agreement shall automatically renew for further periods of twelve (12) months unless terminated by either party on three (3) months' written notice, such notice to expire at the end of the then current Subscription Period.
- 10.3 Any IR Services required after the termination of the IR Retainer will be agreed upon separately in a new scope with the Client prior to the commencement of any work.
- 10.4 The IR Retainer may not be terminated before the expiry of such agreement, except where agreed and signed in writing by both Parties. The right to terminate this Agreement will not prejudice any other right or remedy of either Party in respect of any prior breach of the Agreement.

11. Service level response times

- 11.1 The Client will receive access to WithSecure's emergency IR Services phone line operated twenty-four (24) hours a day for genuine incidents. Upon contacting WithSecure, the Client's contact details are forwarded to WithSecure's incident response expert on call who will provide priority support to the Client.
- 11.2 The guaranteed response time covers provision of remote telephone support to the Client from a specialist incident response expert within three (3) hours from contact.