

**PLATFORM ACTIVATION AGREEMENT  
BETWEEN THE CITY OF NORTH PORT, FLORIDA,  
AND GUARDIAN ALLIANCE TECHNOLOGIES, INC.**

**THIS PLATFORM ACTIVATION AGREEMENT** (the “Agreement”), is made and entered into by and between the City of North Port, Florida (“Customer”), whose address is 4790 City Hall Blvd., North Port, FL 34286, and Guardian Alliance Technologies, Inc. (“Guardian”), whose principal address is 11 S. San Joaquin St. #804, Stockton, CA 95202.

**WITNESSETH**

**WHEREAS**, Guardian has developed a cloud-based software platform (the “Guardian Platform”) for use by law enforcement agencies in performing employment related background investigations; and

**WHEREAS**, the North Port Police Department is a department of the Customer, and a law enforcement agency; and

**WHEREAS**, Guardian has integrated Social Media Screening functionality into the Platform, the technology for which is provided by Fama Technologies, Inc. Fama is a third-party beneficiary of this Agreement; and

**WHEREAS**, the Customer desires to utilize the Platform, and Guardian desires to provide the Platform to the Customer pursuant to the terms and conditions of this Agreement.

**WHEREAS**, the City Commission finds that this Agreement serves the public health, safety, and welfare of the citizens of the City of North Port.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Effective Date/Term. This Agreement shall become effective on the date the City of North Port City Commission approves it (“Effective Date”) and shall remain in effect for one year (“Initial Term”). After the Initial Term, this Agreement shall automatically renew for additional one (1) year terms annually, unless otherwise terminated as provided below.
2. Definitions.
  - A. “Account Administrator” means an individual responsible for authorizing and managing all activity occurring under the Customer’s Account.
  - B. “Authorized User” means an individual registered and identified by the Account Administrator by name, and who is authorized to use the Services on behalf of the Customer.
  - C. “Terms of Service” means, collectively, the Guardian Terms of Service and Guardian Privacy Policy. The Terms of Service may be updated from time to time at the discretion of Guardian and/or any Integrated Service providers as defined in the Guardian Terms of Service, respectively.

- D. "Social Media Screening" means the collection of publicly available online Applicant information through the use of web-based software as a service software application owned by Fama Technologies, Inc. For the purpose of this Agreement, Social Media Screening is referred to as an "Integrated Service."
  - E. "OnDemand Services" means services available through the Platform which are available for a fee.
- 3. FCRA Compliance. Customer hereby acknowledges that Customer is solely responsible for its compliance with the Fair Credit Reporting Act ("FCRA") and any applicable state and local consumer reporting laws, in connection with its use of the Screening Service, if applicable.
  - 4. Termination. Guardian or the City Manager or designee may terminate this Agreement for any or no reason by providing the other party with thirty (30) days advance written notice of the termination.
  - 5. Scope of Services.
    - A. Activation. By entering into this Agreement, Customer hereby requests that Guardian establish and activate a Customer Account on the Guardian Platform for use by Customer and its Authorized Users.
    - B. Free and OnDemand Features.
      - 1) Certain features of the Guardian Platform are complementary (free for all Users). Other features are available on an OnDemand basis, and if/when Customer uses these features a fee will be charged to Customer. OnDemand Features include but are not limited to:
        - a) Investigation Processing.
        - b) Social Media Screening.
      - 2) Customer is under no obligation to use the OnDemand Features. Notwithstanding the foregoing, upon entering into this Agreement, Guardian shall make the Investigation Processing Services and Screening Services available for Customer's use on an OnDemand basis subject to the Fees set forth in Section 5.C. herein.
    - C. Fees.
      - 1) Investigation Processing – \$50.00 per investigation assigned to an investigator.
      - 2) Screening Service – \$40.00 per screening.
    - D. Payment Terms. Customer will be invoiced at the beginning of each calendar month for all use of the Investigation Processing and Screening Service features during the previous calendar month. In accordance with the Local Government Prompt Payment Act, Florida Statutes Sections 218.70, *et seq.*, Customer's payments shall be due forty-five (45) days after receipt of invoice.

- E. Failure to Pay/Customer Conduct. Guardian reserves the right to deactivate Customer's access to the Platform if any payment is not received within 60 days of the invoice date.
  - F. Late Fee. Guardian reserves the right to charge a late fee of 1% per month on all invoices not paid within 60 days of issuance. Guardian must invoice Customer for any interest accrued in order to receive the interest payment.
  - G. Additional Authorized Users. The Account Administrator shall have the authority and ability, through their User Account, to establish as many User Accounts for Customer's employees that are Authorized to use the Services on Customer's behalf. Additionally, the Account Administrator is responsible for deactivating Authorized User accounts when necessary.
  - H. Security. Each of the Parties agree to maintain a security program consistent with federal and state laws, regulations, and standards, including the Criminal Justice Information Services ("CJIS") Security Policy, as well as any other applicable policies and standards established by the CJIS Advisory Policy Board ("APB").
  - I. Terms of Service. By accessing and using the Services, Customer agrees to be bound by the Guardian Terms of Service. To the extent that any of the provisions of the Guardian Terms of Service differ from any of the provisions contained in this Agreement, the provisions contained herein shall supersede.
6. Whitelist. Customer will whitelist all domains as may be indicated by Guardian at any time during the Term of this Agreement, including but not limited to:
- A. guardian.network.org
  - B. www.guardianalliancetechnologies.com
  - C. www.guardianalliancetechnologies.com

(Note: Content filtering systems in use by Customer, if any, may unexpectedly cut parts of html pages out of the user interface as well as some email traffic, lead to unexpected errors, broken links, unclickable buttons, partially loaded pages, or other unintended/unpredictable behaviors with the Services. These issues are completely resolved by "whitelisting" all Guardian domains.)

- 7. Marketing. Guardian may use Customer's name as part of a general list of Customers and may refer to Customer as a user of the Services in its general advertising and marketing materials.
- 8. Notice. Any notice, request, or communication under this Agreement must be in writing and must be given to such party at its address listed below or such other address as such party may hereafter specify for the purpose of such to the other party.

If to Guardian: Adam Anthony  
11 S. San Joaquin St., 8th Floor  
Stockton, CA 95202

418-655-2733  
adam@guardianalliancetechnologies.com

Kim Johnson, VP Relationship Management  
Guardian Alliance Technologies, Inc.  
11 S. San Joaquin St., 8th Floor, Stockton, CA 95202  
kim@guardianalliancetechnologies.com  
415-655-2243

If to City: John McDowell  
North Port Police Department  
4980 City Hall Blvd.  
North Port, FL 34286  
jmcdowell@northportpd.com  
941-429-7357

With a copy of  
Notices and  
Demands to: City of North Port, Florida  
City Attorney  
4970 City Hall Blvd.  
North Port, FL 34286  
northportcityattorney@cityofnorthport.com

9. General Provisions.

- A. Authority to Execute Agreement. The signature by any person to this Agreement shall be deemed a personal warranty that the person has the full power and authority to bind any corporation, partnership, or any other business or governmental entity for which the person purports to act hereunder.
- B. Amendments. Either party may request changes to this Agreement. No amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement. The City Manager or designee may agree to amendments that do not increase compensation to Guardian. Only the City Commission can approve increases in compensation under this Agreement.
- B. Governing Law and Venue. The laws of the State of Florida govern the rights, obligations, and remedies of the parties under this Agreement. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida and the United States District Court for the Middle District of Florida.
- C. Complete Agreement. This Agreement incorporates and includes all prior negotiations, correspondence, agreements, or understandings between the parties, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. This Agreement supersedes all other agreements between the parties, whether oral or written, with respect to the subject matter.

- D. Binding Effect/Counterparts. By the signatures affixed hereto, the parties intend to be bound by the terms and conditions hereof. This Agreement is binding upon and shall inure to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns. It may be signed in counterparts.
- E. Severability. In the event any court shall hold any provision of this Agreement to be illegal, invalid, or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition, or covenant shall not be construed as a waiver of a subsequent breach by the other party.
- F. No Agency. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the parties, it being understood and agreed that no provision contained herein, or any acts of the parties shall be deemed to create any relationship between them other than that as detailed herein.
- G. Non-Discrimination. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of its programs, activities, or services. Guardian shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.
- H. Third Party Beneficiary Rights. With the exception of Fama Technologies, Inc., the parties do not intend to create in any other individual or entity the status of a third-party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the parties to this Agreement, and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement. The parties to this Agreement intend and expressly agree that only parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.
- I. Assignment. Guardian shall not assign this Agreement or any right or responsibility therein without the written consent of the City.
- J. Headings. The descriptive titles appearing in each respective paragraph thereof are for convenience only and are not a part of this Agreement and do not affect its construction.

#### 10. Indemnification.

- A. **To the extent permitted by Florida law, Guardian shall indemnify, defend, and hold harmless the City, its commissioners, officers, agents, and employees, from all liabilities, fines, claims, assessments, suits, judgments, damages, losses and costs, including consequential, special, indirect, and punitive damages, (including but not limited to reasonable attorneys' fees and court costs, whether such fees and costs are incurred in negotiations, at the trial level or on**

appeal, or in the collection of attorneys' fees), arising out of any acts, actions, breaches, neglect, or omissions of Guardian, or Guardian's officers, employees, agents, volunteers, participants, and other persons employed or utilized by Guardian in the performance of, or the failure to perform, this Agreement.

- B. In any proceedings between the parties arising out of or related to this indemnity provision, the prevailing party shall be reimbursed all costs, expenses and reasonable attorney fees through all proceedings (at both trial and appellate levels).
- C. Nothing in this Agreement shall be deemed to affect the rights, privileges, and immunities of the City as set forth in Florida Statutes, Section 768.28. This Agreement does not constitute a waiver of sovereign immunity or consent by the City or its subdivisions to suit by third parties. The terms of this section survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the latest date indicated below.

**GUARDIAN ALLIANCE TECHNOLOGIES, INC.**

  
\_\_\_\_\_  
Adam Anthony  
Chief Operating Officer

Date: 10/08/20

Approved by the City of North Port City Commission on the \_\_\_\_ day of \_\_\_\_\_ 2020.

**CITY OF NORTH PORT, FLORIDA**

\_\_\_\_\_  
Peter D. Lear, CPA, CGMA  
City Manager

ATTEST

\_\_\_\_\_  
Heather Taylor, CMC  
City Clerk

APPROVED AS TO FORM AND CORRECTNESS

\_\_\_\_\_  
Amber L. Slayton  
City Attorney