

SUBCONTRACTOR AGREEMENT

This SUBCONTRACTOR AGREEMENT (this “**Agreement**”) is entered into as of the date of the first acceptance (the “**Effective Date**”), by and between **Cyferd Inc.**, a company incorporated and registered in the State of Delaware, United States of America with Delaware State file number 2940887 and whose registered office is in the State of Delaware at 16192 Coastal Highway, Lewes, Delaware 19958, County of Sussex, United States of America (“**Customer**”) and the subcontractor accepting this Agreement (which, in the case of a Statement of Work, will be the person identified as ‘*Subcontractor*’ in that Statement of Work) (“**Subcontractor**”). Customer and Subcontractor are sometimes referenced herein together as the “**Parties**” and each as a “**Party**”.

1. Definitions.

“**Affiliate**” of a Party means any Person or entity which controls, is controlled by or is under common control with such Party; and “**control**” means, with respect to any entity, the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such entity, whether through ownership of voting securities, by contract or otherwise.

“**Client(s)**” means (i) the actual clients of each Party and its Affiliates, and (ii) those active prospective clients of a Party and its Affiliates which a Party alone, or in combination with others, handled, serviced, or solicited at any time during the twelve (12) month period immediately preceding the Termination Date.

“**Confidential Information**” means all non-public information concerning or related to the business, operations, financial condition or prospects of a Party or any of its Affiliates (regardless of the form in which such information appears and whether or not such information has been reduced to a tangible form), and shall specifically include (without limitation): (i) trade secrets, processes, techniques, methods, ideas, proprietary software, and know-how of a Party and its Affiliates; (ii) specialized or unique pricing; advertising and marketing strategies; financial statements; audit reports; budgets; business methods; policies and procedures; and business plans or forecasts of a Party and its Affiliates; (iii) Client lists, Client preferences, historical products and services provided to Clients, and all other non-public information related to Clients; (iv) referral sources and agreements relating thereto of a Party and its Affiliates; (v) methods, procedures, and strategies utilized in identifying prospective Clients and referral sources and in soliciting the business thereof, and in marketing, pricing, applying and delivering the products and services of a Party and its Affiliates; (vi) analyses, compilations, forecasts, data and/or market studies, notes, translations, or memoranda or other documents or materials containing, based on, generated or derived from, in whole or in part, any Confidential Information (whether prepared by a Party, its Affiliates or a third party); and (vii) information from a Client that has been designated and/or treated as confidential or proprietary by such Client and that has been entrusted to a Party or its Affiliate as confidential. The term “**Confidential Information**” will not include information that (i) is or becomes part of the public domain through no fault of a Party; (ii) is already known to a Party and has been identified in writing prior to the commencement of the Term; or (iii) is subsequently lawfully received by a Party from a third party not subject to confidentiality restrictions. For the avoidance of doubt (with respect to the Customer only), such Confidential Information shall also include any information relating to the cloud native ‘Platform as a Service’ “**PaaS**” known as ‘Cyferd’ (the “**Cyferd Product**”).

“**Intellectual Property**” means any and all discoveries, improvements, ideas, concepts, creative works, designs, works of authorship, trade secrets, trademarks, patents, mask works, copyrights, and any other intellectual property conceived, created, developed, discovered, or reduced to practice while Subcontractor is engaged by Customer, whether or not in writing or reduced to practice, and whether or not patentable, and that (i) relate directly or indirectly to the business of Customer or any Client in connection with this Agreement, (ii) result from or are suggested by any Services performed by Subcontractor for Customer or any Client in connection with this Agreement, or (iii) are used to develop or improve any Customer or Customer Affiliate equipment, supplies, facility, product, software, service, or trade secret, whether or not such Intellectual Property is developed entirely on Subcontractor’s own time and with or without use of Customer property.

“**Person**” means any corporation, partnership, limited liability company, association, group, trust, estate, firm, individual, or other legal entity.

“**SSSPA**” means the Partner Agreement - Sales Partners, Services Partners and Solutions Partners, entered into between the Customer and the Subcontractor from time to time;

“**Termination Date**” means the date on which this Agreement is terminated or expires.

2. **Services.**

- 2.1. **Engagement; Statements of Work and Change Orders.** Subject to the terms of this Agreement, Customer hereby engages Subcontractor, and Subcontractor hereby accepts such engagement, to provide those services agreed upon in one or more Statements of Work entered into between the Parties from time to time (the “**Services**”). Each issued Statement of Work must be in writing and accepted by Subcontractor, such acceptance to be evidenced by Subcontractor’s (i) written acknowledgement or (ii) commencement of performance of the Services. Each Statement of Work will be subject to the terms and conditions of this Agreement, and a template Statement of Work is attached hereto as Exhibit A (“**Statement of Work**”). A Statement of Work may only be amended pursuant to Section 11.1. In the event that the Subcontractor’s Statement of Work may align or be derived from a preliminary scope of work that the Customer has established with its Clients (the “**Initial SOW**”), any modifications to the Subcontractor’s scope that arise due to changes in the Initial SOW shall be communicated to the Subcontractor without undue delay, and shall be mutually agreed upon and documented in a corresponding change order as soon as reasonably practicable. In the event that the Subcontractor engages directly with any Client or end user of the Services, the Subcontractor shall not agree to, implement, or act upon any request, instruction, or communication from such Client(s) that would result in a change to the scope, timing, deliverables, or performance or otherwise, in whole or part, of the Services without the prior written consent of the Customer. Should any such request be made directly to the Subcontractor, the Subcontractor shall promptly, without undue delay and, in any event, within two (2) business days, notify the Customer in writing, providing reasonable detail of the request. All changes to the scope of work must be reviewed, approved, and documented by the Customer, prior to any changes in whole or part being agreed to or implemented. Subcontractor acknowledges and agrees that Customer shall have sole authority to approve any modifications to the Statement of Work, and any unauthorized deviations may result in non-payment or other remedies available to the Customer under this Agreement and/ or applicable law.
- 2.2. **Access.** Customer shall use commercially reasonable efforts to ensure that Subcontractor is provided with the necessary access to systems, sites, personnel, and information required to perform the Services effectively, and shall likewise use reasonable efforts to ensure adequate uptime and availability of such resources, to the extent such access and uptime are within Customer’s control or influence.
- 2.3. **Performance Standards.** Subcontractor will devote such time, energy, facilities, equipment and resources as shall be required in order for Subcontractor to properly perform the Services, it being expressly understood and agreed that time is of the essence with respect to the Subcontractor’s performance under this Agreement and the relevant Statement of Work(s). Subcontractor may not substitute, delegate (other than to Subcontractor’s employees) or subcontract any of the Services to any third party without Customer’s express prior written consent.

3. **Consideration.**

- 3.1 **Fees.** In consideration for the Services to be provided under each Statement of Work and all work product produced thereunder, Subcontractor will receive solely the consideration set forth in such Statement of Work (the “**Subcontractor Fee**”). The Subcontractor Fee includes all taxes that may be imposed on Subcontractor or the Services by any governmental authority, and Subcontractor shall be solely and exclusively responsible for payment of any such taxes. To the extent that Customer or Clients are required to withhold any taxes, such party may withhold such taxes from the Subcontractor Fee and remit the taxes directly to the applicable taxing authority; such taxes withheld and remitted shall be deemed to have been paid to and received by Subcontractor. Customer shall not be responsible for any costs or expenses incurred by Subcontractor in connection with the Services unless such expenses are set forth in the applicable Statement of Work.
- 3.2 **Invoices.** Unless and to the extent otherwise agreed in the relevant Statement of Work, Subcontractor shall invoice Customer for all Services performed within thirty (30) days of the end of each calendar month for all Services provided, and payment of all undisputed fees shall be made within thirty (30) days after Customer’s receipt of such invoice. In the event Customer disputes an invoice, Customer may withhold payment of the disputed amounts until the dispute is resolved. Customer’s rights and remedies with respect to any disputed amount shall not be restricted in any way or for any reason, including without limitation, Customer’s failure to identify a disputed fee prior to payment or Customer’s acceptance of Services.

- 3.3 Audit. Subcontractor agrees to keep records and books of accounts for all Services performed under this agreement in accordance with generally accepted accounting principles and practices for the period of time requested by Customer. Customer shall have right of access to inspect and audit such records and books promptly upon request. In the event of any discrepancy regarding amounts invoiced by Subcontractor, Subcontractor shall be responsible and liable for all fees and expenses incurred by Customer in connection with such audit.

4. Term and Termination.

- 4.1 Term. The Agreement shall become effective on the Effective Date and shall remain effective until terminated in accordance with this Section 4. The term of Subcontractor's engagement for the Services hereunder shall commence on the date of each Statement of Work as entered between the Parties from time to time, and, unless earlier terminated pursuant to Section 4.2 below, shall continue until the relevant Statement of Work has expired or been terminated (the "**Term**"). Each Statement of Work entered into under this Agreement shall specify its own commencement date and duration, and the rights and obligations of the Parties under this Agreement shall apply with respect to, and for the duration of, each such active Statement of Work.
- 4.2 Termination. Either Party may terminate this Agreement (and/or any or all Statements of Work then in effect) if the other Party breaches any of the terms or conditions of this Agreement and/or Statement of Work, and fails to cure such breach within thirty (30) days after written notice thereof. Customer may terminate this Agreement (and all Statements of Work then in effect) at any time, with or without cause, by providing Subcontractor with written notice. Termination is effective immediately unless otherwise specified in the termination notice.
- 4.3 Effect of Termination. Upon termination or expiration of this Agreement, (i) each Party shall immediately return to the other Party all Confidential Information, Intellectual Property, and all other records and materials (in whatever form) of the other Party in its possession or control that are related to, and/or were produced by or on behalf of a Party in connection with, the Agreement and the performance of the Services; and (ii) Customer shall, within thirty (30) days after the Termination Date, pay to Subcontractor all Subcontractor Fees that had been earned but which remain unpaid as of the Termination Date. The provisions of this Section 4.3 and Sections 5-11 hereof will survive any termination of this Agreement.

5. Ownership of Intellectual Property.

- 5.1 Ownership. Any Intellectual Property made, conceived, developed, or reduced to practice, or caused to be made, conceived, developed, or reduced to practice, by Subcontractor, alone or in conjunction with others, during the Term of Subcontractor's engagement in connection with the Services hereunder (whether directly or indirectly, in whole or part) will be deemed to have been made or developed by Subcontractor solely for the benefit of Customer, and will be the sole and exclusive property of Customer. Subcontractor agrees that any copyrights in work product produced by Subcontractor during Subcontractor's engagement hereunder will be considered a "work for hire" as defined by Title 17 of the United States Code and will belong solely to Customer. Subcontractor will not, either during the Term of this Agreement and / or the relevant Statement of Work or at any time thereafter, use or disclose to any Person such Intellectual Property, except as expressly authorized by Customer in writing. Subcontractor understands and agrees that Subcontractor will not (i) be entitled to any further consideration or payments of any kind with respect to the Services or any work conceived, created, developed, discovered, or reduced to practice related thereto, or (ii) have any rights of any kind (including, without limitation, any ownership or intellectual property rights) in any work conceived, created, developed, discovered, or reduced to practice pursuant to Subcontractor's performance of the Services.
- 5.2 Assignment. Subcontractor agrees to make prompt and full disclosure to Customer or its designee of all Intellectual Property described in this Section 5. Subcontractor agrees to assign, and does hereby assign, to Customer all right, title, and interest in and to any such Intellectual Property, including, without limitation, any "moral" rights which Subcontractor may have therein under any copyright law or other similar law, and further agrees, during the Term of this Agreement and at any time thereafter, at Customer's request and expense but without further consideration, to review, execute, acknowledge, and deliver any and all papers necessary to secure legal protection for Customer therefore in any country in the world, including, but not limited to, applications for patents, trademarks, service marks, and copyrights, and to execute any oath or declaration and verify any document in connection with carrying out the terms of this Agreement. In the event Customer is unable for any reason whatsoever to secure the signature of Subcontractor to any lawful and necessary documents required, including those necessary for the assignment of, application for, or prosecution of any United States or

foreign applications for letters patent or copyright, Subcontractor hereby irrevocably designates and appoints Customer and its duly authorized officers and agents as agent and attorney in fact, to act for and in Subcontractor's behalf and stead to execute and file any such application and to do all other lawfully permitted acts to further the assignment, prosecution, and issuance of letters patent or copyright thereon with the same legal force and effect as if executed by Subcontractor. Subcontractor hereby waives and quitclaims to Customer any and all claims of any nature whatsoever which Subcontractor may now have or may hereafter have for infringement of any patent or copyright resulting from any such application.

6. Mutual Covenants.

6.1 (a) Confidentiality. During the Term of this Agreement and at all times thereafter, each Party will (i) keep confidential and not divulge, furnish or make accessible to any Person any of the other Party's Confidential Information, and (ii) use the other Party's Confidential Information solely in furtherance of its obligations hereunder and not for its own benefit or the benefit of any other Person. Notwithstanding the foregoing, a Party shall be permitted to disclose Confidential Information to the extent, but only to the extent, (A) the disclosing Party provides its express prior written consent to such disclosure; or (B) required by law; provided, that prior to making any disclosure of Confidential Information required by law, the receiving Party must notify, to the extent legally permissible, the disclosing Party of the receiving Party's intent to make such disclosure, so that disclosing Party may seek a protective order or other appropriate remedy and may participate with the receiving Party in determining the amount and type of Confidential Information, if any, which must be disclosed in order to comply with applicable law. Promptly after the termination of this Agreement or upon request by the disclosing Party at any time, the receiving Party shall (i) destroy or return to the disclosing Party, or confirm in writing the destruction of, any Confidential Information which is in tangible form and which is then in its possession or control; or (ii) erase all the Confidential Information from the computer and communications systems and devices used by it or which is stored in electronic form; and (iii) to the extent technically and legally practicable, erase all the Confidential Information which is stored in electronic form on systems and data storage services provided by third parties.

(b) Non-Disparagement. During the Term of this Agreement and at all times thereafter, each Party agrees that it will not make any statements (or cause or encourage others to make any statements), written or verbal, that defame, disparage or in any way criticizes the other Party, its Affiliate's, Clients, or the other Party's products and/or services.

(c) Anti-Piracy of Employees/Contractors. Subcontractor recognizes that Customer's employees and independent contractors are a valuable resource to Customer and its Affiliates. Accordingly, without Customer's prior written consent, Subcontractor shall not, from the Effective Date until the end of the twelve (12) month period commencing on the Termination Date, either alone or in conjunction with any other Person, directly or indirectly, (i) solicit or recruit for employment or engagement any employee or independent contractor of Customer or its Affiliates, (ii) induce or encourage any employee or independent contractor of Customer or its Affiliates to leave the employ of or engagement with Customer or Affiliate, or (iii) interfere in any way with the relationship between Customer and its Affiliate(s) and such employee or independent contractor.

(d) Anti-Piracy of Clients. Subcontractor recognizes that Customer's Clients are a valuable resource. Accordingly, Subcontractor agrees that it shall not, from the Effective Date until the end of the twelve (12) month period commencing on the Termination Date, directly or indirectly in any capacity whatsoever, either as an employee, officer, director, equity holder, proprietor, partner, joint venture, consultant, or otherwise (i) call on or solicit any Client of the Customer for purposes of diverting such Client to any business: (A) which provides services which are the same as, similar to, or competitive with the services of Customer; (B) in which Subcontractor must or inevitably will, in whole in or part, use or rely on the Customer's Confidential Information; or (C) that sells or attempts to sell any product or service that is the same as, similar to, or competitive with the products and/or services sold by the Customer; (ii) cause, induce or encourage (or attempt to cause, induce or encourage) any Client of Customer to cease conducting business with Customer or to deal with any competitor of Customer; or (iii) in any way interfere with the relationship between Customer and any of its Clients. Subcontractor Party shall not be in breach of this Section 6(d) if Subcontractor applies for a position or bids on a contract that has been publicly advertised by the Customer's Client.

(f) Authority. Each Party covenants that it has the full legal right and power and all authority required to enter into and to perform according to the terms of this Agreement. This Agreement is duly and validly executed and delivered by each Party, and constitutes legal, valid, and binding obligations enforceable against each Party in accordance with its terms. The execution, delivery and performance of this Agreement by each Party does not and will not (i) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement or other instrument or other understanding to which each Party is a party or by which any property or asset of each Party is bound or affected, or (ii) result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which each party is subject, or by which any property or asset of each Party is bound or affected.

Nothing in Section 6.1 shall require the receiving Party to return or destroy any documents and materials containing or based on the Confidential Information that the receiving Party is required to retain by applicable law, or to satisfy the requirements of a regulatory authority or body of competent jurisdiction or the rules of any listing authority or stock exchange, to which it is subject. The relevant provisions of this Agreement shall continue to apply to any documents and materials retained by the receiving Party and shall survive termination or expiry of this Agreement.

- 6.2 Authority. Each Party covenants that it has the full legal right and power and all authority required to enter into and to perform according to the terms of this Agreement.
- 6.3 Compliance. In its performance of this Agreement, each Party will comply with all applicable laws. A Party shall properly and timely inform its applicable employees and/or agent(s) of its covenants and obligations under this Agreement so as to ensure such employees' and agents' compliance herewith. A Party shall be directly liable and responsible to the other Party for any act or omission of its employees and/or agents, whether or not authorized by it.

7. Representations, Warranties and Covenants. Subcontractor hereby represents, warrants and covenants as follows:

- 7.1 Skill. Subcontractor is skilled and experienced in providing the Services that Subcontractor is performing hereunder, and such Services will be performed and completed in a thorough, workmanlike manner, will meet the requirements of this Agreement, and will be performed in accordance with generally accepted industry standards and all applicable laws, rules and regulations. Subcontractor and its employees, as applicable, hold all licenses, permits and registrations necessary or appropriate for the provision of the Services under all applicable laws, rules and regulations. Subcontractor will provide only competent and experienced personnel. The number and qualifications of such personnel will be sufficient for job progress satisfactory to Customer. Subcontractor will permit employees of Customer to be present as observers while various tasks are being conducted and to consult with Subcontractor personnel regarding the Services. Subcontractor shall at all times be responsible for all costs arising in connection with termination of the employment of its personnel for any reason whatsoever, including as a result of termination of this Agreement or otherwise, and whether such costs arise or are imposed as a result of contractual obligation, as a result of requirements under applicable Law, as a result of a claim by the terminated employee, or otherwise. Unless authorized or required by law or regulation, Subcontractor is expressly prohibited from communicating with Clients with respect to the contract management issues, pricing, payments, specific tasking or Subcontractor's performance under tasks related to this Subcontract, without the prior consent of Customer, or as otherwise agreed by the parties. However, nothing herein shall be construed to restrict the discussion of day-to-day operational issues between Subcontractor's personnel and Client's personnel.
- 7.2 Performance. Subcontractor shall: (i) perform all Services and produce and deliver in a timely manner all work product in a thorough, professional and workmanlike manner in accordance with generally accepted industry standards applicable to such Services; (ii) if applicable, ensure that (a) all parts, materials, equipment and machinery furnished and used by Subcontractor for purposes of performance of the Services are of good quality and function in the manner for which it was intended during performance of the Services, and (b) all materials, parts, equipment and machinery supplied by Subcontractor as part of the Services and included in the Subcontractor Fees comply with any specifications set forth in the applicable purchase order or Statement of Work and are new, and of good material, workmanship, and quality, and are free from defects; (iii) promptly commence the Services, and diligently perform all acts necessary or appropriate to complete the Services, in

accordance with the terms, conditions, and limitations set forth in this Agreement, including any reporting requirements and any performance, delivery, completion and other periods or deadlines; and (iii) perform the Services in compliance with the requirements of this Agreement and all applicable laws, all to the reasonable satisfaction of Customer and its customers. Subcontractor will promptly disclose to Company any and all information Subcontractor may learn that may have a material adverse impact on Customer, the Services, the work product or Customer's or Customer's customers' ability to utilize the work product in the manner and for the purpose for which the work product is intended.

- 7.3 Non-Infringement. All work produced by Subcontractor hereunder will be originally created by Subcontractor, and will not (and will not when used by Customer for any purpose) infringe, or otherwise violate or misappropriate any patent, copyright, trade secret, trademark or other intellectual property or proprietary right held by any Person. Without the express written permission of Customer, Subcontractor will not incorporate into the work produced hereunder any third party product, software, or other materials for which the intellectual property rights are not owned solely by Subcontractor. Subcontractor has not previously granted and will not grant any rights in the work produced hereunder or the Intellectual Property that are inconsistent with the rights granted to Customer herein.
- 7.4 Remedies. In the event of any breach of the warranties set forth herein, Subcontractor shall, at its own expense, and at Customer's election either: (i) re-perform the non-conforming Services and correct the non-conforming Deliverables to conform to this standard; or (ii) refund to Customer that portion of the amounts received by Subcontractor attributable to the non-conforming Services and/or work product. The foregoing remedies shall be non-exclusive and Customer shall be permitted to pursue any remedy available at law or in equity. Customer may pursue multiple remedies concurrently, provided that Customer shall not be permitted to duplicate recovery. Subcontractor expressly acknowledges and agrees that its sole remedy in the event of Customer's breach of this Agreement and/ or Statement of Work hereunder is to terminate this Agreement and/or the applicable Statement(s) of Work pursuant to Section 4.2 above and receive, within thirty (30) days after the Termination Date, all Subcontractor fees that had been earned as of the Termination Date but which remain unpaid as of such date, and that Customer shall have no further liability or obligation to Subcontractor whatsoever. Subcontractor accepts the restrictions on Subcontractor's right to additional recourse as part of Subcontractor's bargain with Customer.
- 7.5 Insurance. Subcontractor shall maintain at least the following insurance, covering Services and Subcontractor's contractual obligations under this Agreement:
- i. Commercial general liability insurance on an occurrence basis for bodily injury, death, "broad form" property damage, and personal injury, with coverage limits of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) general aggregate for bodily injury and property damage;
 - ii. Auto liability insurance covering all owned, non-owned and hired vehicles, with coverage limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage;
 - iii. Worker's compensation insurance as required by law in the jurisdiction where the Services will be performed, including employer's liability coverage for injury, disease and death, with coverage limits of not less than one million dollars (\$1,000,000) per accident and employee;
 - iv. Professional Errors & Omissions and Cyber-risk on an occurrence or claims-made form, for limits of not less than four million dollars (\$4,000,000) annual aggregate covering liabilities for financial loss resulting or arising from acts, errors or omissions in the rendering of products or Services under this Agreement, or from data damage / destruction / corruption, including without limitation, unauthorized access, unauthorized use, virus transmission, violation of privacy, and loss of income from network security failures in connection with the products or Services provided under this Agreement; and
 - v. Umbrella Liability in combination with primary limits of five million dollars (\$5,000,000) aggregate for liabilities is acceptable in meeting these requirements.
 - vi. Insurance carriers must be rated A-VII or better by A.M. Best Provider. Customer shall be named as an Additional Insured on all required policies. Subcontractor's coverage shall be considered primary

without right of contribution of Customer's insurance policies. Policies shall contain a waiver of subrogation clause. Policies shall provide thirty (30) days written notice to Customer prior to cancellation, except in the event of non-payment, which shall require at least ten (10) days' notice to Customer. Subcontractor shall provide Customer with a certificate of insurance from its insurance company or companies demonstrating the coverage required hereunder and naming Customer as an additional insured. In no event shall the foregoing coverage limits affect or limit in any manner Subcontractor's contractual liability for indemnification or any other liability of Subcontractor under this Agreement. Subcontractor shall be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required of Subcontractor under this Section 7. All of Subcontractor's activities under this Agreement shall be at Subcontractor's own risk, and Subcontractor's personnel shall not be entitled to any benefits under the policies of insurance maintained by Customer.

8. Independent Contractor Relationship.

- 8.1 It is expressly understood and agreed that for all purposes (including, but not limited to, workers' compensation insurance, unemployment insurance, FICA and Federal and State tax withholding), Subcontractor shall be deemed an independent contractor and not an employee of Customer. Subcontractor will not be paid or provided any wages, retirement, health or other employment or unemployment benefits by Customer. In the event Customer is liable for any of the foregoing described compensation, benefits, insurance, or taxes or other any form of remuneration associated with Subcontractor's performance of this Agreement, Subcontractor agrees to defend, indemnify, and hold harmless Customer for all such payments paid to or on behalf of Subcontractor. Customer is interested only in the results of Subcontractor's Services. Subcontractor will have exclusive control and supervision over the performance of, and will provide all resources and materials required to perform, the Services. Subcontractor acknowledges that Subcontractor has no authority to make any statement or representation on behalf of Customer, to enter into any contract or make any commitment for Customer, and agrees not to do so. Subcontractor shall at all times conspicuously identify Subcontractor to all persons as an independent contractor, and shall not represent or imply that Subcontractor has any authority to act as a representative or agent for, or on behalf of, Customer.

9. Limitation of Liability.

- 9.1 EXCEPT AS SET FORTH IN SECTION 9.2, (I) IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (i) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (ii) LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (iii) LOSS OF GOODWILL OR REPUTATION; (iv) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (v) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE; AND (II) IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO SUBCONTRACTOR HEREUNDER IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
- 9.2 NOTWITHSTANDING ANYTHING ELSE HEREIN, NO LIMITATION OF LIABILITY SHALL APPLY TO LIABILITIES RESULTING FROM (I) ANY FRAUDULENT, CRIMINAL OR WILLFUL AND INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE BY A PARTY OR ANY OF ITS REPRESENTATIVES; (II) INDEMNIFICATION OBLIGATIONS UNDER SECTION 10; (III) A BREACH BY A PARTY OF ITS OBLIGATIONS UNDER SECTION 6.1 (CONFIDENTIALITY); AND (IV) ANY VIOLATION OF APPLICABLE LAWS.

- 10. Indemnification.** Subcontractor shall defend, indemnify and hold harmless Customer and its Affiliates, and their respective customers, stockholders, officers, directors, employees, representatives, and agents (each an

“Indemnitee”) from and against any and all claims (including, without limitation, any investigation, action or other proceeding, whether instituted by a third party against an Indemnitee or by an Indemnitee for the purpose of enforcing its rights hereunder), damages, losses, liabilities, costs and expenses (including, without limitation, reasonable attorneys’ fees and court costs) that constitute, or arise out of or in connection with (a) any breach by Subcontractor of its representations, warranties, agreements and covenants in this Agreement, (b) Subcontractor’s performance of the Services, and (c) the work produced by Subcontractor hereunder.

11. Miscellaneous.

- 11.1 Entire Agreement; Amendment. This Agreement (which includes all Statements of Work which may be entered into between the Customer and the Subcontractor), and the SSSPA, together constitute the entire agreement of the Parties with respect to the transactions contemplated hereby and supersedes all prior and contemporaneous written and oral agreements, representations and communications between the Parties relating to such transactions. Any Statement of Work entered into between the Parties pursuant to this Agreement (and the SSSPA) may be amended, supplemented, or otherwise modified only by a writing signed by both of the Parties, and any such amendment shall be effective only to the extent specifically set forth in such writing. This Agreement may be executed simultaneously in one or more counterparts, but all such counterparts taken together will constitute one and the same Agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission or .pdf delivered via email will constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes.
- 11.2 Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Sections 2, 5, 6, or 7 of this Agreement may cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, the other Party shall be entitled to seek equitable relief, including in a restraining order, an injunction, specific performance and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies shall not be deemed to be the exclusive remedies for any such breach but shall be in addition to all other remedies available at law or in equity.
- 11.3 Third Party Beneficiaries. No person or entity will be deemed an intended beneficiary hereunder or have any right to enforce any obligation of this Agreement, except for (i) the Parties and their permitted assignees and (ii) the Indemnitees with respect to the rights granted herein.
- 11.4 Governing Law; Consent to Jurisdiction. This Agreement is governed by, and shall be construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to any conflict of laws rules, and each Party irrevocably submits to the exclusive jurisdiction of the federal and state courts located in Delaware for the purposes of any action or proceeding arising out of or relating to this Agreement. Each Party hereby consents to such jurisdiction and agrees that venue shall lie in the state or federal courts within Delaware with respect to any claim or cause of action arising under or relating to this Agreement. Each Party hereby waives any objection based on *forum non conveniens* and waives any objection to venue of any action instituted hereunder. If any legal action or any arbitration or other proceeding is brought in connection with this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys’ fees, accounting fees, and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.
- 11.5 Notices. Any notice, demand or request required or permitted to be given under this Agreement shall be in writing and shall be deemed duly given:
- i. When delivered personally; or
 - ii. **When sent via email** to the email addresses designated by the Parties, provided that the sender does not receive an automated failure notification and retains a record of the transmission (such as a sent email timestamp); or
 - iii. **Three (3) business days after deposit in the U.S. mail**, postage prepaid, certified or registered mail, return receipt requested, or via a recognized national courier service, addressed to the Parties at the postal addresses set forth below, or such other address as a Party may designate by providing written notice to the other Party.

Each Party shall ensure that it maintains a valid email address for the purpose of receiving notices under this Agreement and shall promptly notify the other Party in writing of any changes to its designated email or postal address.

- 11.6 Severability; Waiver. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. The due performance or observance by the Parties of their respective obligations under this Agreement shall not be waived, and the rights and remedies of the Parties hereunder shall not be affected, by any course of dealing or performance or by any delay or failure of any Party in exercising any such right or remedy. The due performance or observance by a Party of any of its obligations under this Agreement may be waived only in writing and signed by the Party against whom enforcement of such waiver is sought, and any such waiver shall be effective only to the extent specifically set forth in such writing.
- 11.7 Successors and Assigns. Subcontractor may not assign Subcontractor's rights or delegate or cause to be assumed Subcontractor's obligations (in whole or in part) under this Agreement or any purchase order and/or Statement of Work without the prior written consent of Customer. Any attempted assignment, delegation or assumption not in accordance with this Section 11.7 shall be null and void and of no force or effect whatsoever. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.
- 11.8 Counterparts. Each Statement of Work may be signed in counterparts, including via PDF, electronic signature or other electronic reproduction, and any such counterpart will be valid and effective for all purposes.

**EXHIBIT A
TEMPLATE STATEMENT OF WORK**

This Statement of Work # ____ (“SOW”) is made as of _____, 20__ (the “SOW Commencement Date”), by and between **Cyferd Inc.** (“Customer”) and [insert subcontractor name] (“Subcontractor”), pursuant to the Subcontractor Agreement entered into and accepted by Customer and Subcontractor (<https://cyferd.com/cyferdcomm/us/subcontractor>) (“Agreement”) and the Partner Agreement - Sales Partners, Services Partners and Solutions Partners, entered into between the Customer and the Subcontractor (“SSSPA”).

Customer hereby engages Subcontractor as follows:

Service (including any deliverables, specifications, and hour limits)	Delivery Date (if applicable)

Expectations:

[Insert all applicable performance expectations for the Subcontractor]

- ABC
- ABC

Materials and Equipment

[Insert all applicable materials and/or equipment obligations]

- ABC
- ABC

Fees:

☐ Hourly: \$ _____ per full hour (not to exceed _____ hours per month) for a period of _____ month(s) from the SOW Commencement Date.

☐ Project: \$ _____

Fee Payment Schedule:

☐ Hourly: Within **XX** days after the end of each calendar month, Subcontractor will provide Customer with a detailed written report of all hours accrued during such calendar month. Customer will remit payment to Subcontractor within **XX** days after receipt of such report.

☐ Project: \$ _____ is due _____
\$ _____ is due _____

IN WITNESS WHEREOF, the Parties have caused this SOW to be duly executed and delivered as of the SOW Commencement Date.

CYFERD INC.

By: _____
Name: _____
Title: _____

[SUBCONTRACTOR NAME]

By: _____
Printed Name: _____
Title (if applicable): _____