

**TECHNOLOGY INSTALLATION SUBCONTRACTOR AGREEMENT**

This Technology Installation Subcontractor Agreement (this "Agreement"), dated as of April 18, 2023 ("Effective Date") is entered into by and between BryteSight, LLC, a Texas limited liability company ("BryteSight"), and Empower Digital Solutions, Inc, a Oregon Corporation ("Contractor"). Contractor and BryteSight are also referred to in this Agreement individually as a "Party" and collectively as the "Parties."

W I T N E S S E T H:

WHEREAS, BryteSight has entered into an agreement with Client to provide various technology systems design, consulting, procurement and implementation services, and BryteSight desires to engage Contractor to provide, and Contractor desires to provide, the technology systems goods and services set forth in this Agreement to be rendered or delivered under such contract or contracts with Client.

NOW, THEREFORE, in consideration of the agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

**A. Definitions.**

1. "Affiliate(s)" means, with respect to any person, trust or entity, any other person, trust or entity who, directly or indirectly, controls, is controlled by, or is under common control with such person, trust or entity. For purposes of this definition, "control" when used with respect to any specified person, trust or entity, shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such person, trust or entity, whether through ownership of voting securities or partnership or other ownership interests, by contract or otherwise; and the terms "controlling" and "controlled" shall have correlative meanings.

2. "Applicable Laws" means all applicable federal, state and local laws (including the common law), ordinances, rules, codes, and regulations, including those of applicable regulatory bodies, governmental agencies, tribunals, instrumentalities, or any subdivisions thereof or other applicable agencies, authorities or bodies exercising executive, legislative, judicial, taxing, regulatory or administrative powers of or pertaining to government including, without limitation, applicable import and export control laws, environmental laws, anti-corruption laws, laws prohibiting the payment of commercial or private bribes, and any other applicable anti-corruption laws.

3. "BryteSight Indemnified Party" means any of BryteSight and its members, managers, officers, employees, agents, representatives, Affiliates, successors, and assigns.

4. "Client" means Essentia, Inc., a North Carolina Corporation.

5. "Confidential Information" means any information of BryteSight or Client that is not generally known to the public and at the time of disclosure is identified, or would reasonably be understood by the Contractor, to be proprietary or confidential, whether disclosed

in oral, written, visual, electronic or other form, and which the Supplier (or its Affiliates, subcontractors, representatives or agents) observes or learns in connection with this Agreement. Confidential Information includes, but is not limited to: (a) know-how, trade secrets, operational methods, business plans, strategies, forecasts, projects and analyses; (b) financial information and fee structures; (c) business processes, methods and models; (d) employee and supplier information; (e) materials, product and service specifications; (f) manufacturing, purchasing, logistics, sales and marketing information; (g) the terms and conditions of this Agreement; and (h) other business, financial, commercial and technical information of BryteSight or any of its subsidiaries and Affiliates.

6. "Contractor Personnel" means (i) the officers, employees, subcontractors and agents of Contractor; and (ii) the officers, employees, subcontractors and agents of Contractor's subcontractors.

7. "Facilities" means the building(s), facility(ies) and premises for which Services are to be provided.

8. "Services" means the goods or services provided by Contractor purchased by BryteSight under this Agreement as set forth in Schedule A, including all related deliverables and all labor, tools, materials, equipment, and transportation necessary to complete the Services. The term Services will include, as contemplated hereunder, delivery of a system or works, and any goods, components or materials related thereto for proper functioning and operation thereof.

9. "Taxes" means any and all sales, use, excise, value-added, goods and services, consumption, withholding and other similar taxes and duties that are imposed by law in connection with: (i) the provision of the Services as a whole; (ii) the provision of any particular Service; and (iii) any equipment, materials or other resources provided or used in connection with the Services.

**B. TERM OF AGREEMENT.** The term of this Agreement shall commence on the Effective Date and shall continue until the completion of all of the Services to be performed by Contractor under this Agreement and acceptance thereof by BryteSight, notwithstanding the Project Expiration Date, unless sooner terminated pursuant to the terms of this Agreement.

**C. SERVICES; STANDARD OF CARE**

1. Services. BryteSight hereby engages Contractor to provide the Services using the professional degree of care and skill ordinarily exercised by members of the same profession. At all times, Contractor shall be solely responsible, at its sole cost and expense, for providing the equipment, personnel and all other resources necessary to provide or perform the Services, to the extent not provided by the Client. If any services, functions or responsibilities not specifically described herein are necessary for the proper performance and provision of the Services, they shall be deemed to be implied by and included within the scope of Services to the same extent and in the same manner as if specifically described herein.

2. Timely Performance. Where this Agreement specifies a time for the performance of Contractor's obligations, TIME IS OF THE ESSENCE in such performance. If Contractor has actual or constructive knowledge that anything has prevented, may prevent or threatens to prevent the timely performance of the Services under this Agreement, Contractor shall promptly notify BryteSight and include all relevant information concerning the actual, potential or threatened delay.

3. No Exclusivity. This Agreement does not constitute or create any exclusive arrangement by BryteSight, and BryteSight retains the right to enter into similar agreements with any other Contractor. BryteSight shall not be obligated to enter, offer to enter or negotiate in good faith to enter into any additional agreement with Contractor by virtue of this Agreement.

**D. CHANGE ORDERS.** The Parties contemplate that, from time to time, it may be desirable to make changes to the Services or Projected Completion Date (as defined in Schedule A). Before performing any work associated with any such change, a written Change Order executed by the Parties shall set forth the applicable revisions. Each Change Order shall be numbered serially and approved by the Parties before taking effect. The Parties shall negotiate in good faith equitable adjustments to Services, payment provisions and/or the Projected Completion Date as requested by BryteSight in order for it to fulfill its contractual obligations to Client, to be reflected in a Change Order, and shall conclude these negotiations as expeditiously as possible, and acceptance of a Change Order shall not be unreasonably withheld by either Party.

**E. CONTRACTOR COMPENSATION**

1. Contractor's Compensation. Total fees and reimbursable expenses payable, due and owing to Contractor for Services provided in exchange are described in Schedule A, attached hereto and incorporated herein by reference ("Contractor Compensation"). Except as expressly provided herein or therein, Contractor shall not be compensated or reimbursed for any costs, fees or expenses incurred by Contractor in its rendering of the Services, and BryteSight and Client shall have no obligation therefor.

2. Invoicing Instructions. Contractor shall comply with the invoicing instructions set forth in Exhibit A, which is attached hereto. BryteSight reserves the right to change the format and methodology in which invoices are submitted, processed and paid in its sole discretion upon providing written notice to Contractor, in which event Exhibit A shall be deemed automatically amended. All invoices shall be submitted to BryteSight for review, coding and approval no more frequently than monthly and within thirty (30) days of completion of the related Services. Any invoices submitted more than sixty (60) days after the close of the month in which the Services are rendered shall not be paid unless expressly approved in BryteSight's sole discretion. All invoices shall include an itemization of all applicable Taxes due in connection with such invoice and other substantiating documentation or information as reasonably required by BryteSight, including lien waivers and releases from Contractor as further described in Exhibit A. Contractor, by remitting an invoice, represents and warrants that its invoice and all documents submitted in support of its invoice (including third party invoices, vouchers, financial settlements, billings and reports) are true and correct in all respects.

3. Payment. To the extent allowed by Applicable Laws, BryteSight shall make payment of all undisputed amounts within ~~sixty (60)~~ calendar days after receipt of an acceptable invoice containing all information and documentation required by BryteSight; provided however that notwithstanding the foregoing, or any language to the contrary contained in this Agreement, BryteSight shall have no obligation for the payment of any Contractor Compensation unless and until BryteSight has received full and complete payment from the Client pursuant to any applicable Statement of Work then in-effect by and between BryteSight and the Client.

30 days  
EPL

4. Contractor's Obligation. Upon receipt of any Contractor Compensation, Contractor shall, to the extent of any Contractor Compensation received, promptly pay all bills for labor and materials performed and furnished by others in connection with the Services.

5. BryteSight Rights. BryteSight shall have the right to issue joint checks to Contractor and any subcontractor engaged by Contractor which performs any portion of the Services on behalf of Contractor that has not been paid by Contractor for services rendered in BryteSight's sole discretion upon written notice to Contractor. The issuance of any joint check pursuant to this provision shall not create any contractual, third party beneficiary or other relationship between Client, BryteSight and such subcontractor. BryteSight may set off any amounts paid or incurred to discharge, settle or remove any liens, judgments and/or claims arising from the Services of Contractor against any payment then or thereafter due to Contractor.

6. Fees for Additional Services. Contractor's fees for the provision of additional services other than Services (the "Additional Services"), if any, shall be agreed upon by BryteSight and Contractor prior to the commencement thereof by Contractor, and included in a Change Order as executed by BryteSight and Contractor. If Contractor fails to obtain BryteSight's written approval of Additional Services before incurring expenses or performing services related thereto, BryteSight shall not be obligated to pay Contractor any fees, costs, expenses or other compensation for such Additional Services.

7. Reimbursable Expenses

a. Contractor shall be entitled to reimbursement of certain costs and expenses to the extent actually incurred in connection with the Services, subject however to the maximum amount allowable under Exhibit A and approved in advance by BryteSight ("Reimbursable Expenses").

b. Reimbursable Expenses shall include only actual expenses paid and without mark-up. Except as expressly set forth herein or otherwise approved by BryteSight in writing, Contractor shall not be compensated or reimbursed for any costs and expenses incurred by Contractor in its rendering of the Services, and BryteSight shall have no obligation therefor. Billings for Reimbursable Expenses shall be included in the Contractor's Invoice in such form as required under Exhibit A.

**F. TERMINATION OR SUSPENSION**

1. Termination or Suspension for Convenience. BryteSight may terminate or suspend this Agreement for or without cause, either in whole or in part, without liability, fee, or penalty, at any time upon thirty (30) days' prior written notice to Contractor. Notwithstanding the foregoing, in the event BryteSight's agreement with Client expires or terminates for any reason whatsoever, this Agreement and any rights, interests, duties and obligations of the Parties hereunder shall terminate and cease immediately; provided however that upon termination or cancellation of this Agreement for any reason whatsoever, Contractor shall be entitled only to pro-rata compensation for the portion of the Services already performed pursuant to the provisions hereof as of the effective termination date. Notwithstanding the foregoing, Sections E, F, G, H, I, J, K, L, M, N, O, P, Q, R, AND S shall survive the termination or expiration of this Agreement.

2. Default. The occurrence of any of the following events and conditions shall constitute a "Default" under this Agreement:

a. breach, failure to perform or comply with, or defect or delay in performance by the Contractor of any the terms and conditions of, or of any of its obligations under, this Agreement; or

b. any representation or warranty of Contractor in this Agreement is false or misleading in any material respect.

3. Termination for Default. If a Default has occurred and such Default is not corrected within five (5) days of receipt of written notice from BryteSight, BryteSight may in its discretion immediately terminate this Agreement, either in whole or in part with respect to one or more of the Facilities, by written notice to Contractor, and such termination shall constitute a termination "for cause" under Section F(1). In addition, upon the occurrence of any such Default by Contractor that is not cured within such period (or, in the case of an emergency, at any time prior thereto and without the need for notice), without thereby waiving such Default or any of BryteSight's other rights or remedies, BryteSight or its designee may (but shall not be obligated to) perform any such covenant, agreement or obligation under this Agreement for the account and at the expense of Contractor, and Contractor shall fully compensate BryteSight for all related costs, fees and expenses, including those incurred by BryteSight in enforcing its rights against Contractor. Further, in the event a petition is filed by or against Contractor under the United States Bankruptcy Code or any similar state or federal law, or if Contractor is declared insolvent or bankrupt, or makes an assignment for the benefit of creditors, or if a receiver is appointed for Contractor, BryteSight may terminate this Agreement immediately thereupon, which termination shall constitute termination hereof "for cause" under Section F(1). Upon any termination, BryteSight may withhold any Contractor Compensation payable, due or owing to Contractor upon its Default for the purpose of set-off until such time as the exact amount of damages due to BryteSight from Contractor is determined and actually received by BryteSight.

4. Termination Assistance. Upon the termination of this Agreement, Contractor shall cooperate in good faith for a period of time following such expiration or termination to be reasonably determined by BryteSight to assure the orderly transition of all Services back to BryteSight or to an alternative contractor designated by BryteSight and to ensure

that the Services are maintained without interruption. Contractor's obligations in connection with such disengagement also will include, without limitation, and as requested by BryteSight: (i) either terminate or assign to BryteSight or its designee, at BryteSight's option, any or all subcontracts relating to the Services then in effect; and (ii) returning and destroying Confidential Information, and returning to BryteSight (or its designee) any tools, materials, equipment or other personal property of Client or BryteSight in Contractor's possession.

**G. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES.**  
CONTRACTOR REPRESENTS, WARRANTS AND COVENANTS TO AND FOR BRYTESIGHT, THAT:

1. it is a business entity duly organized, validly existing and in good standing under the laws of the state in which it is organized;

2. it is fully equipped and qualified to perform and complete the Services by the Projected Completion Date and that it is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to provide the Services by the Projected Completion Date;

3. it is duly licensed, authorized and qualified to do business and is in good standing in every jurisdiction in which a license, authorization or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it;

4. it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;

5. the execution, delivery and performance of this Agreement has been duly authorized by Contractor;

6. it has visited and had full opportunity to review and has carefully examined the Facilities, and has satisfied itself as to (i) the character, quality, and quantity of the Services to be performed, the conditions that may be encountered at the Facilities or that may otherwise affect the cost or difficulty of performing the Services, (ii) the labor, equipment, supplies, and materials to be furnished, supplied, or utilized in connection with performance of the Services, and (iii) all other requirements of this Agreement;

7. there is no threatened, pending or completed claim, action, suit, proceeding, dispute, inquiry or investigation to which Contractor is, or could be, a party to which, if decided unfavorably to Contractor, would reasonably be expected to have a potential or actual material adverse effect on Contractor's ability to fulfill its obligations under this Agreement;

8. it has not, directly or indirectly, given and will not give, or permit to be given by its representatives, any commissions, payments, kickbacks, lavish or extensive entertainment, or other inducements of more than minimal value or otherwise in violation of BryteSight's policies or Applicable Laws to any third party or government official, or any employee, representative, advisor or agent of BryteSight or Client in connection with this Agreement;

9. it will otherwise comply with the Applicable Laws in its provision of the Services;

10. Contractor Personnel that it will use to provide and perform the Services have and will continue to have, the knowledge, skills, experience, expertise, language and speaking capabilities, qualifications and resources to provide and perform and complete the Services by the Projected Completion Date in accordance with this Agreement in a diligent, workmanlike manner with due care and skill;

11. none of the Services or Contractor-owned materials, tools, equipment and other personal property applicable to the Services will infringe upon the proprietary rights of any third party; and

12. it will not hold itself out as the exclusive representative of, or supplier of Services to, BryteSight or Client.

**H. AUDITS/RECORDS MAINTENANCE.** Contractor shall maintain accurate and complete records in accordance with generally accepted accounting principles that enable Contractor to demonstrate full compliance with this Agreement. Upon prior written notice to Contractor, BryteSight may audit and verify any books and records of Contractor or its Affiliates to verify Contractor's compliance with its obligations under this Agreement. If the audit discloses that BryteSight has paid Contractor for any charges, fees, costs or expenses not properly incurred hereunder, Contractor shall promptly refund to BryteSight the amount of overpayment, with interest at the prime rate of U.S. commercial banks as published in The Wall Street Journal (or, if more than one such rate is published, the average of such rates) accruing from the date such overpayment was made, and all fees, costs and expenses incurred by BryteSight in connection with the audit, including attorneys' and accountants' fees.

**I. CONTRACTOR PERSONNEL**

1. BryteSight Acceptance of Contractor Personnel. Contractor shall have in its employ at all times and shall provide a sufficient number of capable and competent Contractor Personnel having expertise suitable to their assignments and qualified to perform the Services safely, legally and efficiently in accordance with Contractor's obligations hereunder. Contractor Personnel must be acceptable to BryteSight, and BryteSight reserves the right to require Contractor to immediately remove or cause to be removed any Contractor Personnel from the Facilities, and to cease use of any Contractor Personnel in performing the Services, with or without cause, in BryteSight's sole discretion for reasons including, but not limited to, substance abuse at the Facilities as provided in subsection 2 below.

2. Removal for Substance Abuse; Substance Abuse Policy. To the extent permitted by Applicable Laws, Contractor agrees to immediately remove (or cause to be removed) any Contractor Personnel who is known to be or reasonably suspected of engaging in substance abuse while at a Facility, in a Client or Contractor vehicle or while performing Services or otherwise in violation of Contractor's policies regarding substance abuse. In the case of reasonable suspicion, such removal shall be pending completion of the applicable investigation. Substance

abuse includes the sale, attempted sale, possession or use of illegal drugs, drug paraphernalia, or, to the extent not permitted on Facilities, alcohol, or the misuse of prescription or non-prescription drugs. Contractor represents and warrants that it has and will maintain a substance abuse policy and that such policy will be applicable to all Contractor Personnel performing Services under this Agreement. Contractor represents and warrants that it shall require its subcontractors providing Services to have and maintain such policy and practices and to adhere to this provision.

3. Contractor Personnel Not Employees of BryteSight. All Contractor Personnel, as applicable, will be and remain employees of Contractor or its subcontractors and not of BryteSight when performing Services. Contractor and its subcontractors, as applicable, will be solely responsible for: (a) all salaries, benefits and other compensation of the Contractor Personnel, (b) making all deductions and withholdings from its employees' salaries and other compensation; (c) the supervision and direction of the activities of Contractor Personnel; and (d) the payment of all contributions, taxes and assessments. BryteSight and Client shall not be deemed to be an employer or joint or co-employer with respect to any Contractor Personnel.

4. Independent Contractor. Nothing contained in this Agreement or in the relationship of Contractor and BryteSight shall be deemed to constitute a partnership, joint venture, or any other relationship between Contractor and BryteSight except for the independent contractor relationship described in this Agreement. Contractor's authority is limited solely to performing the Services set forth herein in accordance with the terms of this Agreement or any corresponding exhibits. Nothing in this Agreement or any subcontract shall create any contractual relationship or liabilities between Contractor or any agent or subcontractor of Contractor and BryteSight or Client. Further, Contractor does not have any authority to execute any contracts or agreements for or on behalf of BryteSight or Client and is not granted any right or authority to assume or create any obligation or liability or to make any representation, covenant, agreement or warranty, express or implied, on BryteSight's or Client's behalf or to bind BryteSight or Client in any manner.

## **J. TAXES**

1. Unless BryteSight provides Contractor with a valid tax exemption certificate, Contractor shall charge to BryteSight as a separate line item in its invoices any and all sales, use, excise, value-added, goods and services, consumption, withholding and other similar taxes and duties that are imposed by law (collectively the "Taxes") in connection with: (i) the provision of the Services as a whole; (ii) the provision of any portion of the Services; and (iii) any equipment, materials or other resources provided or used in connection with the Services. Notwithstanding the foregoing, Contractor shall not provide a separate line item for Taxes paid to suppliers of goods, materials, and equipment for which Contractor is deemed to be the end user under Applicable Laws. Any Taxes due in connection with the performance of the Services shall be the responsibility of Contractor to remit to the appropriate tax authority upon receipt of same from BryteSight. Notwithstanding the foregoing, BryteSight shall be allowed to withhold from amounts payable to Contractor hereunder all Taxes and other charges required to be withheld under Applicable Laws.

2. Contractor shall be solely responsible for any penalties or interest resulting from Contractor's failure to file proper tax returns, or promptly remit to the appropriate taxing

authorities tax reimbursements or other payments made to Contractor under this Agreement, and Contractor agrees to indemnify, defend (promptly and diligently, at Contractor's sole expense with attorneys satisfactory to BryteSight), and hold harmless BryteSight against any Claims (as hereinafter defined) that any BryteSight Indemnified Party may suffer, sustain, or incur as a result of Contractor failing to do so.

**K. COMPLIANCE WITH LAWS**

1. Compliance with Laws. Contractor represents, warrants and covenants that Contractor possesses and shall maintain at its own expense all permits, licenses, approvals, registrations, consents and certificates and pay all fees required by law with respect to any Services and/or performance of this Agreement. Contractor shall, in connection with performance of Services, comply with all Applicable Laws, including, without limitation, those specified herein.

2. BryteSight Supplier Code of Conduct. Contractor and Contractor Personnel shall comply with the BryteSight Supplier Code of Conduct located at <http://www.BryteSight.com/suppliers>.

3. U.S.A. Patriot Act. Contractor hereby represents and warrants that it is in full compliance with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA Patriot Act of 2001) and that neither Contractor nor any of its Affiliates or any contractor, employee, officer or director of Contractor has been designated as a "specifically designated national and blocked person" by the U.S. Treasury Department Office of Foreign Assets Control, and Contractor is currently in compliance with and will at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any related statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) or other similar governmental action relating thereto.

4. Equal Employment Opportunity. Contractor covenants for itself, its employees, agents, assigns and all persons claiming under or through it, that it shall comply with all Applicable Laws at the time of execution of this Agreement and shall not discriminate against or segregate any person or group of persons on account of race, color, religion, gender, marital status, sexual orientation, national origin, ancestry, age, physical handicap or medical condition in the performance of this Agreement and shall comply with the terms and intent of all Applicable Laws concerning nondiscrimination, including as relates to protected veterans.

5. Compliance with Immigration Reform and Control Act of 1986. Contractor represents and warrants that it shall fully comply with the Immigration Reform and Control Act of 1986 (IRCA) which legally mandates that U.S. employers verify the employment eligibility status of newly-hired employees for all Contractor Personnel performing the Services under this Agreement, and Contractor shall not knowingly employ unauthorized alien workers.

Empower Digital Solutions agrees to maintain all coverages identified in the certificate of insurance supplied to BryteSight on April 20, 2023.

Ed

L. **INSURANCE.** This Section sets forth the minimum amounts and scope of insurance coverage required under this Agreement and shall not be construed in any way as a limitation of Contractor's liability under this Agreement. During the term of this Agreement, and for so long as Contractor is rendering Services, Contractor shall maintain in full force and effect the insurance coverages set forth below, at its sole cost and expense, covering the activities of Contractor, its employees, agents and subcontractors under this Agreement; provided, however, if BryteSight's agreement with Client requires insurance coverages exceeding the amounts indicated below, BryteSight shall notify Contractor of such requirements and Contractor shall procure such coverage within ten (10) days of receipt of such notice:

1. Commercial General Liability. Commercial General Liability Insurance on ISO Form CG 00 01 10 01 or newer form, on an occurrence basis, with the following coverages: Premises/Operations, Independent Contractors, Products-Completed Operations, Personal Injury, Broad Form Property Damage (including Completed Operations), and afford coverage for the X, C, and U hazards, employees as insureds, Fire Legal Liability and Contractual Liability covering the insurable liabilities assumed by Contractor under this Agreement, with a Combined Single Limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate limit.

WPA

2. Automobile Liability. Business Auto Coverage form or equivalent, including all owned, non-owned and hired vehicles, with minimum limits of liability to meet all requirements of the federal Motor Cargo Safety Administration Financial Responsibility rules and any state rules which may supersede the federal requirements but not less than \$1,000,000 combined single limit per occurrence.

WPA

3. Worker's Compensation. Workers' compensation, occupational diseases, and disability benefits providing coverage for any Contractor employee entering the Facilities, even if not required by Applicable Laws.

WPA

4. Employer's Liability. Coverage 'B' Employer's Liability with limits of at least \$1,000,000 per accident per employee; \$1,000,000 per disease per employee; and \$1,000,000 per disease policy limit.

WPA

5. Umbrella Liability. Excess or umbrella liability insurance coverage shall follow form on concurrent terms with and provide coverage with limits of not less than \$5,000,000 per occurrence and \$5,000,000 in the aggregate in excess of the underlying coverages listed in subsections 1, 2 and 4 above.

WPA

6. Errors and Omissions. Contractor shall obtain and maintain Professional Liability (E&O) insurance providing limits of not less than \$2,000,000 per claim, or such greater limit as BryteSight may deem appropriate for the scope and nature of the Services provided. The coverage shall be continued by renewal or extended reporting provision for not less than three (3) years after completion of the Services, subject to BryteSight's audit rights under Section H.

WPA

7. Policy Requirements.

a. License/Rating. All insurance policies shall be in customary forms and shall be issued by companies authorized to do business in the states where the Services are performed and rated "A-," FSC Class VIII or better by the most current A. M. Best's Insurance Reports.

b. Certificate of Insurance. Contractor acknowledges and agrees that it shall deliver certificates of insurance evidencing the required insurance coverages to BryteSight prior to the commencement of performance of Services under this Agreement or upon any renewal of such insurance during the term of this Agreement, and in no event less than thirty (30) days prior to the expiration dates of any policy shown on the certificates then in effect, and otherwise from time to time upon request by BryteSight.

c. Notice of Cancellation. BryteSight shall be given not less than thirty (30) days notice prior to the cancellation of any insurance required by this Agreement for other than non-payment of premiums. BryteSight shall be given at least ten (10) days notice prior to cancellation of any required insurance for non-payment of premiums.

~~d. Vendor Screening/Certificate of Insurance. Contractor acknowledges and agrees that it will promptly enroll, at Contractor's sole expense and upon direction by BryteSight, in the BryteSight vendor screening and certificate of insurance management program.~~



e. Additional Insured Endorsements. All certificates of insurance provided under this Agreement shall include copies of endorsements to Contractor's commercial general liability, workers compensation and automobile policies that include Client and BryteSight (including all participating Affiliates) as additional insured(s) on appropriate ISO forms or equivalent form of Blanket Additional Insured Endorsement, covering the additional insureds for liability arising from all operations and completed operations of Contractor.

f. No Waiver/Deductible. The failure of BryteSight to demand such certificates of insurance or to identify a deficiency will not be construed as a waiver of any of Contractor's obligations to maintain the insurance required under this Agreement. Contractor shall be responsible for the amount of any deductible contained in any of the above-described insurance policies and certificates of insurance.

g. Contractor Insurance Primary. Contractor's insurance shall be deemed primary with respect to coverage extended to the additional insureds, whose insurance shall be excess and non-contributory with that required of Contractor hereunder.

h. Waiver of Subrogation. To the fullest extent permitted by Applicable Laws, all insurance policies shall contain provisions that the insurance

companies waive the rights of recovery or subrogation against the BryteSight Indemnified Parties.

i. Additional BryteSight Rights. The failure to secure and maintain or add by endorsement the BryteSight Indemnified Parties to any insurance policies shall not act as a defense to the enforcement of the terms of this Agreement. Any failure to provide the agreed endorsements shall entitle BryteSight to terminate this agreement in accordance with Section F or to acquire coverage necessary to protect Client and BryteSight from the failure and to charge the fees, costs and expenses thereof to the Contractor.

**M. INDEMNIFICATION AND SETTLEMENT.** To the fullest extent permitted by Applicable Laws, Contractor shall defend, indemnify and hold harmless the BryteSight Indemnified Parties from and against any liabilities, damages, costs, expenses, suits, losses, claims, actions, fines and penalties (including, without limitation, court costs and attorneys' fees) (hereinafter collectively, the "Claims") that any of the BryteSight Indemnified Parties may suffer, sustain or incur arising out of or in connection with:

- a. Contractor's work or presence in, at, near or about the Facilities, including but not limited to any negligent acts, errors or omissions, intentional misconduct or fraud of Contractor or Contractor Personnel, whether active or passive, actual or alleged, whether in the provision of the Services, failure to provide any or all of the Services or otherwise;
- b. any alleged or actual breach of this Agreement by Contractor or Contractor Personnel;
- c. assertions under workers' compensation or similar employee benefit laws by Contractor or its employees or agents, and/or any failure by Contractor to pay any employment benefits and any taxes required of it of any nature whatsoever;
- d. any failure to comply with any Applicable Laws by Contractor or Contractor Personnel; and/or
- e. claims by any Contractor employee or employees of Contractor's subcontractors, including, without limitation, for bodily injury or wrongful discharge; and
- f. any infringement or alleged infringement of any patent, copyright, trade secret or other intellectual property or proprietary right of any third party relating to the Services performed under this Agreement.

The foregoing indemnification shall apply irrespective of whether Claims are asserted by a Party, by its employees, agents or subcontractors, or by unrelated third parties. Nothing contained herein shall relieve Contractor of any responsibility for Claims regardless of whether Contractor is required to provide insurance covering such Claims.

With respect to Contractor's duties of indemnity under this Agreement, Contractor shall have the right to control the defense of any litigation, and to settle or compromise all claims and lawsuits subject to its indemnity utilizing counsel reasonably acceptable to BryteSight; provided, however, that Contractor may not settle or compromise any Claim without the written consent of BryteSight if any settlement or compromise (a) requires BryteSight or its Client to part with any property right or interest, assume any obligation, or make any payment not indemnified, (b) subjects BryteSight to any injunction or imposes any other non-monetary obligation on BryteSight, (c) makes no admission or acknowledgment of liability or culpability with respect to BryteSight, and (d) includes a complete release of Company. Subject to the foregoing, BryteSight shall have the right, at its option and expense, but not the obligation, to retain its own separate counsel to represent its interests in defending any Claim.

## **N. CONFIDENTIALITY OBLIGATIONS**

1. Contractor Obligations. All Confidential Information owned by BryteSight or Client is and shall remain the property of such party at all times. By disclosing Confidential Information to Contractor, neither BryteSight nor Client, as applicable, grants any express or implied licenses to Contractor in or to any property of any nature owned or held by such party, or any rights therein, including without limitation, patents, copyrights, trademarks, trade secret or trade secret information, of BryteSight or Client. Contractor agrees to utilize the Confidential Information received by it only for the purpose of providing the Services and for no other purpose whatsoever. Contractor shall use the same care and discretion to avoid disclosure, publication or dissemination of any Confidential Information received from BryteSight or Client as Contractor uses with its own confidential information that it does not wish to disclose, publish or disseminate, but in no event less than a reasonable degree of care. Contractor shall not disclose to any person (other than as necessary to Contractor employees or subcontractors directly involved in Contractor's provision of the Services) Confidential Information at any time without the express written agreement of BryteSight. Contractor shall execute any supplemental agreement deemed necessary by BryteSight with respect to Confidential Information. Contractor shall advise all recipients of Confidential Information as to the confidentiality obligations contained herein and obtain their written agreement to be bound by such obligations. Upon the termination of this Agreement, Contractor shall immediately deliver to BryteSight (i) any and all documents, data, materials and information provided to Contractor relating in any way to, or created in connection with the performance of the Services under the terms of this Agreement; and (ii) any and all originals, copies, reproductions and summaries (including without limitation, any written or electronic form of any such information) of any Confidential Information, and at BryteSight's option, destroy the same and provide certification to BryteSight confirming the occurrence thereof. Contractor shall incorporate the requirements of this Section in all downstream contracts, requiring each subcontractor to comply with the provisions hereof in the same manner as is required of Contractor. Contractor shall immediately report to BryteSight any actual or potential unauthorized disclosure of Confidential Information.

2. Confidential Information Exclusions and Exceptions. Confidential Information does not include information that: (i) was in the public domain at the time it was disclosed or used through no fault of Contractor or in connection with a third party's violation of confidentiality

obligations to BryteSight or Client; (ii) becomes known to Contractor from a source other than BryteSight or Client without a breach of this Agreement by Contractor or in connection with a third party's violation of confidentiality obligations to BryteSight or Client; or (iii) was independently developed by Contractor without the benefit of the information received from BryteSight or Client. Notwithstanding the foregoing, if Contractor becomes legally compelled to disclose the Confidential Information by a court, governmental or quasi-governmental or administrative agency, authority or body, or Applicable Laws, Contractor shall promptly advise BryteSight or Client, as the case may be, of such requirement to disclose Confidential Information as soon as Contractor becomes aware that such a requirement to disclose might become effective, in order that, where possible, BryteSight or Client, as the case may be, may seek a protective order or such other remedy as such party may consider appropriate in the circumstances. Contractor shall disclose only that portion of BryteSight or Client's Confidential Information that it is required to disclose and shall cooperate with BryteSight or Client, as the case may be, in allowing BryteSight or Client, as the case may be, to obtain such protective order or other relief.

3. BryteSight Remedies. Contractor hereby irrevocably agrees that irreparable damage to BryteSight would occur in the event that it breaches any of the provisions of this Section N. Contractor acknowledges and agrees that BryteSight shall be entitled to an injunction or injunctions to prevent breaches of and to specifically enforce this Section, in addition to any other remedy to which BS is entitled at law or in equity. In the event that any action shall be brought in equity to enforce the provisions of this Section, Contractor shall not allege, and hereby waives the defense, that there is an adequate remedy at law.

4. Restrictions on Use of Name and Marks. Contractor shall not use or display BryteSight's or Client's name or logo, and shall not utilize other trademarks or servicemarks of BryteSight or Client, without such party's prior written consent. Neither Contractor nor its agents or subcontractors may issue any press, media or publicity releases or give statements to or on any social or other media platform identifying BryteSight or Client or relating to this Agreement or the Facilities without BryteSight's prior written consent. Contractor shall not include photographic or artistic representations of or related to the Services or Facilities among Contractor's promotional or professional materials without the express written permission of BryteSight.

#### **O. WORK PRODUCT; RE-USE OF DOCUMENTS.**

1. "Deliverables" or "Work Product" means any materials (including software), or any modifications, enhancements or derivative works thereof (including modifications and enhancements to Contractor owned materials and, to the extent agreed by third parties and subcontractors, third party owned materials), developed in connection with the Services provided under this Agreement by or on behalf of (a) Contractor, (b) Contractor's subcontractors or (c) any combination of Contractor and Contractor's subcontractors, to the extent developed originally and specifically for BryteSight or Client in connection with the Services. All right, title and interest in or to Deliverables will be owned by BryteSight and Client, as applicable, and considered to be works made for hire and owned by BryteSight and Client. If any such Deliverables may not be considered a "work made for hire" under Applicable Laws, Contractor hereby irrevocably assigns, and will assign, to BryteSight and Client without further consideration, all of Contractor's right, title and interest in and to such Deliverables. Contractor acknowledges that BryteSight and Client

and their respective successors and assigns will have the right to obtain and hold in their own name any rights in and to such Deliverables. Contractor agrees to execute any documents or instruments and take any other actions reasonably requested by BryteSight or Client to effectuate this Section. BryteSight and Client hereby grant to Contractor a non-exclusive, non-transferable, worldwide, limited right and license to use, execute, reproduce, perform, modify and distribute the Deliverables for the sole purpose of providing the Services during the term of this Agreement, which license shall automatically be terminated and discontinued upon the expiration or termination of this Agreement for any reason whatsoever, and upon such termination all Deliverables (and copies thereof) shall be promptly returned or delivered to BryteSight and Client, as the case may be. BryteSight and Client may, in their sole discretion and upon such terms and at such prices as BryteSight, Client and Contractor may agree in writing, grant Contractor a license to use the Deliverables for other purposes and to sublicense such Deliverables.

2. Contractor Pre-Existing Intellectual Property. To the extent that any Deliverables are not considered to be a "work made for hire" under Applicable Laws and consist of or include items developed, patented or copyrighted by Contractor or a third party prior to the effectiveness of this Agreement ("Contractor Pre-Existing Intellectual Property"), Contractor hereby grants to BryteSight and Client an unrestricted, perpetual, royalty-free, fully paid-up, non-exclusive, worldwide, irrevocable license to use such Contractor Pre-existing Intellectual Property so that BryteSight and Client may receive the benefit of the Deliverables provided by Contractor. Notwithstanding anything contained in this Agreement to the contrary, upon the expiration or termination of this Agreement, if the use of the Deliverables or Services is impaired or they cannot be fully utilized, serviced or repaired by BryteSight and Client without the use of the Contractor Pre-Existing Intellectual Property, Contractor will grant to each of BryteSight and Client an unrestricted, perpetual, royalty-free, fully paid-up, non-exclusive, world-wide, irrevocable license to use such Contractor Pre-Existing Intellectual Property so that BryteSight and Client may continue to receive the benefit of the Deliverables and Services. Contractor Pre-Existing Intellectual Property includes, without limitation, any equipment, materials, components, software, programmable devices or any other tangible item, in any form or medium, identifiable to the Deliverables or Services.

**P. GOVERNING LAW; JURY TRIAL WAIVER.**

1. Continuing Obligation to Perform. Contractor agrees that notwithstanding the occurrence of any dispute or disagreement between the Parties, it will continue to provide Services without interruption unless BryteSight directs otherwise in writing.

2. Governing Law. This Agreement shall be interpreted under and governed by the laws of the State of Texas, without giving effect to any choice or conflict of law provision or rule, whether of the State of Texas or any other jurisdiction, that would cause the application of laws of any jurisdiction other than those of the State of Texas. Any legal suit, action, or proceeding arising out of or related to this Agreement or the matters contemplated hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Texas in each case located in the city of Fort Worth and county of Tarrant, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding, and waives any objection based on improper venue or forum non conveniens. Service of process, summons, notice,

or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court..

3. **WAIVER OF JURY TRIAL.** EACH PARTY ACKNOWLEDGES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT, INCLUDING EXHIBITS, SCHEDULES, ATTACHMENTS, AND APPENDICES ATTACHED TO THIS AGREEMENT, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, ATTACHMENTS, OR APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**Q. LIMITATION OF LIABILITY.** BRYTESIGHT SHALL IN NO EVENT BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES SUSTAINED BY CONTRACTOR, ITS AFFILIATES OR OTHERS ARISING OUT OF, OR IN CONNECTION WITH, THE SERVICES, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES WAS DISCLOSED TO BRYTESIGHT OR COULD HAVE BEEN REASONABLY FORESEEN BY BRYTESIGHT, INCLUDING (I) LOSS OF USE, REVENUE, INCOME, PROFIT, OR SAVINGS, OR DIMINUTION IN VALUE, (II) ARISING IN CONTRACT, WARRANTY, OR IN TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, (III) LOST OR CORRUPTED DATA OR SOFTWARE, LOSS OF USE OF SYSTEMS OR NETWORKS, OR THE RECOVERY OF SUCH; (IV) LOSS OF BUSINESS OPPORTUNITY; (V) BUSINESS INTERRUPTION OR DOWNTIME; OR (VI) ANY OTHER LEGAL THEORY. IN NO EVENT SHALL BRYTESIGHT LIABILITY ON ANY CLAIM FOR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AMOUNT PAID TO CONTRACTOR FOR THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT.

**R. NOTICES.** All notices, waivers, approvals, consents, demands, requests or other communications required or permitted under this Agreement shall, unless otherwise expressly provided, be in writing and be deemed to have been properly given, served and received (i) if delivered by messenger, when delivered; (ii) if mailed, on the second business day after deposit in the United States Mail, certified or registered, postage prepaid, return receipt requested; or (iii) if delivered by reputable overnight express courier, freight prepaid, when delivered; in every case addressed to the Party to be notified as follows:

If to BryteSight:	BryteSight, LLC 4100 Midway Rd, Suite 1010 Carrollton, TX 75007 Attn: Randy Shaw Email: <a href="mailto:randy.shaw@brytesight.com">randy.shaw@brytesight.com</a>
-------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

With a copy to: Bonds Ellis Eppich Schafer Jones LLP  
420 Throckmorton Street, Suite 1000  
Fort Worth, Texas 76102  
Attn: Steve Litke  
Email: steve.litke@bondsellis.com

If to Contractor: Empower Digital Solutions, Inc  
7700 SW Highland Way  
Beaverton, Oregon 97008  
Attn: Erik Hopkins  
Email: erik.hopkins@empowerdigital.com

or to such other address(es) or addressee(s) as any party entitled to receive notice under this Agreement shall designate to the others in the manner provided in this Agreement for the service of notices.

## **S. MISCELLANEOUS PROVISIONS**

1. Assignment. Contractor's rights and interests in, to and under this Agreement, including without limitation any monies due or to become due to it hereunder, or any portion thereof, shall not be assigned or encumbered, nor may its duties, obligations, and responsibilities hereunder be delegated or subcontracted further to any third party, without the prior express written consent of BryteSight in each instance. Any such assignment, encumbrance, delegation, or subcontract made without the express written consent of BryteSight shall be null and void *ab initio*. BryteSight may, without the consent of Contractor, and at BryteSight's sole discretion, freely assign its interest in this Agreement.

2. Third-Party Beneficiaries. Client shall be deemed to be a third-party beneficiary entitled to the benefits and protections afforded to BryteSight under this Agreement with rights of direct enforcement against Contractor. No party other than the Parties and the Client shall have any rights in this Agreement. Contractor represents that it is not aware of any party claiming such rights and in the event it becomes aware of any such party claiming such rights, the Contractor agrees to immediately notify BryteSight and to indemnify the BryteSight Indemnified Parties, as applicable.

3. Order of Precedence.

a. In the event of an irreconcilable conflict or inconsistency between the terms in Exhibit A (or accompanying SOW) and those in the body of this Agreement, the terms in the body of this Agreement shall supersede and control.

b. In the event of an irreconcilable conflict or inconsistency between the terms in the body of this Agreement and the Prime Agreement between Brytesight and client, the more comprehensive, stringent, and/or higher level of requirements of the terms in either Agreement shall supersede and control.

2. Headings. The section headings appearing in this Agreement have been inserted for the purpose of convenience and reference only. They do not purport, and shall not be deemed, to define, limit or extend the scope or intent of the respective Sections.

3. Entire Agreement; Amendment. This Agreement, when fully executed shall supersede any and all prior and contemporaneous agreements between the Parties, either oral or in writing, and contains all the covenants and agreements between the Parties with respect to the subject matter of this Agreement. Any amendment or modification to this Agreement must be made in writing and signed by the Parties.

4. Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the Party claimed to have so waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of or excuse for any other preceding, different, or subsequent breach.

5. Counterparts. This Agreement may be executed in any number of separate counterparts, each of which, when so executed and delivered, shall be deemed an original, but all of which collectively shall constitute one and the same instrument. All signatures need not be on the same counterpart. The execution of this Agreement and any agreement or instrument entered into in connection with this Agreement, and any amendment hereto or thereto, by any of the Parties may be evidenced by way of a facsimile, portable document format (pdf) transmission, or electronic production or reproduction, photostatic or otherwise, of such Party's signature, and such pdf or electronic production or reproduction signature shall be deemed to constitute the original signature of such party. Any such transmitted signature and/or document will be considered to have the same binding legal effect as an original and shall be sufficient to evidence the binding agreement of each Party to the terms herein. At the request of any Party, any faxed or electronically transmitted document will be re-executed by each signatory party in an original form.

6. Authority to Contract. Each Party warrants and represents that it is authorized to enter into this Agreement, and that the person signing on its behalf is duly authorized to execute this Agreement, and that no other signatures are necessary.

7. Severability. If any part, term or provision of this Agreement is held by final judgment of any court of competent jurisdiction to be illegal, invalid, or unenforceable ("Subject Provision"), the validity of the remaining portions or provisions shall not be impaired or affected, and either (i) the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be illegal, invalid, or unenforceable, or (ii) the Subject Provision shall be modified or replaced as necessary to most closely approximate the intent and economic effect of the invalid provision.

8. Interpretation. No provision of this Agreement shall be construed against or interpreted to the disadvantage of either Contractor or BryteSight by any court or other governmental, judicial, or arbitral authority by reason of either Contractor or BryteSight having, or being deemed to have, structured or dictated such provision, the Parties acknowledging that the Parties have jointly participated in the negotiation and preparation of this Agreement.

9. Currency. All monetary amounts stated in this Agreement are in United States Dollars and all payments hereunder shall be made in such currency.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the first date set forth above.

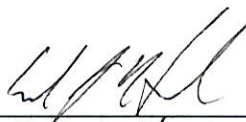
**BRYTESIGHT:**

BryteSight, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONTRACTOR:**

Empower Digital Solutions, Inc  
a \_\_\_\_\_

By:  \_\_\_\_\_  
Name: Erik S. Hopkins  
Title: President

**SCHEDULE A**

**SCOPE OF SERVICES AND COMPENSATION**

**A. Project.** The terms of this Exhibit A shall be combined with the Agreement to form the contract for Services, and any undefined terms in this Schedule A shall have the meanings attributed in the Agreement:

Address: Amtrak Station, 7000 Northwest Airport Way, Portland, OR 97218

**B. Description of Services.** Contractor shall provide the following Services:  
Uninstall and then reinstall new Client provided wireless access points including working with AT&T IT to add to the Meraki Dashboard. Include all labor and equipment required for access and scope of work. See Section F for full scope of work.

**C. Contractor's Fees.** Fees payable to the Contractor in exchange for its provision of Services are as follows:

Stipulated/fixed fee: \$ \_\_\_\_\_ ( \_\_\_\_\_ )

Fixed fee based on pre-established costs per square foot: \$ \_\_\_\_\_

Hourly rates: \$ See Below per hour, not to exceed without communication and email approval by Brytesight. Approving contacts Allan Logan 919-884-9243 [allan.logan@brytesight.com](mailto:allan.logan@brytesight.com) or Randy Shaw 214-534-4123 [randy.shaw@brytesight.com](mailto:randy.shaw@brytesight.com) :  
Estimated maximum \$ 1,479.00

Labor	4 hours x \$125/hour	\$500.00
Man Lift	1 day x \$679/day	679.00
Report Preparation	1 hour x \$150/hour	150.00
Mobilization	1 day x \$150/day	<u>150.00</u>

**D. Contractor's Maximum Compensation.** For all of the Services to be performed by Contractor and any other services included as part of the Services, the total of Contractor's compensation shall not exceed the following:

Contractor's Maximum Estimated Fees:	\$ <u>800.00</u>
Contractor's Maximum Estimated Reimbursable Expenses:	\$ <u>679.00</u>
Total of Contractor's Maximum Estimated Compensation:	\$ <u>1,479.00</u>

**E. Time for Performance.**

Contractor shall commence Services on the Effective Date, and Services shall be completed by April 24, 2023 ("Projected Completion Date"). Contractor shall promptly advise BryteSight in the event the Services fall behind the planned schedule to complete the Services within the time periods set forth herein, or at such time as Contractor has reason to believe that the Services may not be completed by the Projected Completion Date, in conjunction with Section 2. Thereafter, Contractor will use best efforts to cooperate with BryteSight to complete provision of Services as soon to the Projected Completion Date as possible.

**F. Incorporated herein by reference. As follows:**



**BRYTESIGHT, LLC**  
4100 Midway Rd, Ste 1010  
Carrollton, TX 75007

**Location:**  
**AMTRAK**  
800 NW 6<sup>th</sup> Avenue  
Portland, Oregon 97209

**Pre-Installation Survey**

**Scope of Work:**

- Identify locations of existing WAP devices.
- Determine if a man lift is required.
- Address any site access protocols.
- Identify any non-typical conditions.
- Provide a "Survey Report" with findings.

**Survey**

Quantity	Description	Cost
3	Labor – Survey and Report	\$375.00
1	Mobilization	150.00
	<b>TOTAL</b>	<b>\$525.00</b>

**Notes/Exclusions:**

1. Work to be performed weekdays between 8:00am – 5:00pm.
2. The number of WAPs and an "on-site" contact will be provided prior to deployment.



**Installation**

**Scope of Work:**

- Remove “end of life” Cisco WAP devices.
- Replace with new customer provided Meraki WAP devices.
- Confirm with AT&T that newly installed WAP devices are online and functioning prior to leaving project site.
- Provide As-Built documents in Bluebeam. Documents will identify WAP and switch port assignments.

**Installation – to be performed on a “time and materials” basis.**

Description	Rate
Labor	\$125/Man Hour
Man Lift	Cost Plus 15%
Report Preparation	\$150/Man Hour
Mobilization	150.00/Day

**Notes/Exclusions:**

1. Work to be performed weekdays between 8:00am – 5:00pm.
2. The number of WAPs and an “on-site” contact will be provided prior to deployment.
3. PDF site drawing of site will be provided to Empower Digital Solutions.



## Terms and conditions

**TIME.** Time is of the essence of this Agreement.

**WAIVER.** Failure of any party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of any provision or a waiver of the provision itself for any other provision.

**LAW GOVERNING.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

**ARBITRATION.** If at any time during the term of this Agreement any dispute, difference, or disagreement shall arise upon or in respect of the Agreement, and the meaning and construction hereof, then every such dispute, difference, and disagreement shall be referred to a single arbitrator agreed upon by the parties, or if no single arbitrator can be agreed upon, an arbitrator or arbitrators shall be selected in accordance with the rules of the American Arbitration Association and such dispute, difference, or

disagreement shall be settled by arbitration in accordance with the then prevailing expedited commercial rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Arbitration shall be conducted in Multnomah County, Oregon. The then prevailing Oregon Rules of Evidence and the Oregon Rules of Civil Procedure shall apply in any such arbitration.

**ATTORNEY FEES.** In the event an arbitration, suit or action is brought by any party under this Agreement to enforce or interpret any of its terms or in any appeal therefrom, it is agreed that the prevailing party shall be entitled to reasonable attorneys fees to be fixed by the arbitrator, trial court, and/or appellate court.

**PRESUMPTION.** This Agreement or any section thereof shall not be construed against any party due to the fact that said Agreement or any section thereof was drafted by said party.

**TITLES AND CAPTIONS.** All article, section and paragraph titles or captions contained in this Agreement are for convenience only and shall not be deemed part of the context nor affect the interpretation of this Agreement.

**ENTIRE AGREEMENT.** This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement.

**AGREEMENT BINDING.** This Agreement shall be binding upon the heirs, executors, administrators, representatives, successors and assigns (if permitted) of the parties hereto.

**FURTHER ACTION.** The parties hereto shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.

**GOOD FAITH, COOPERATION AND DUE DILIGENCE.** The parties hereto covenant, warrant and represent to each other good faith, complete cooperation, due diligence and honesty in fact in the performance of all obligations of the parties pursuant to this Agreement. All promises and covenants are mutual and dependent.

**INDEMNITY.** Customer and Empower Digital Solutions (each an "Indemnifying Party") agree to hold harmless, defend and indemnify each other and their respective directors, officers, employees, agents and independent contractors (the "Indemnified Parties") from and against all claims, liabilities, damages, losses and expenses, including but not limited to reasonable attorneys' fees and costs of suit, arising out of or in connection with: (a) any negligent or willful act or omission of the Indemnifying Party or the Indemnifying Party's employees or agents, including but not limited to the extent such act or omission causes or contributes to (i) any bodily injury, sickness, disease or death, (ii) any injury to or destruction of tangible or intangible property (including computer programs and data or any loss of use resulting therefrom, or (iii) any violation of any statute, ordinance or regulation, and (b) any breach, violation or failure of any of the warranties, representations or obligations of the Indemnifying Party under this Agreement.

**EXHIBIT A**

**INVOICING INSTRUCTIONS**

**IMPORTANT – PLEASE REVIEW BEFORE SUBMITTING INVOICES**

**Remit To:** [accountspayable@BryteSight.com](mailto:accountspayable@BryteSight.com)

Invoices must be submitted monthly, based on the applicable portion of Services provided or completed to-date.

All invoices must include the following:

1. **Billed To:** must list **BryteSight, LLC**;
2. BryteSight Purchase Order Number;
3. Facilities Name(s) & Address(es);
4. Your remit to Name & Address (The "Remit To" address must match **ALL** invoices submitted);
5. Invoice Date;
6. **Unique** Invoice Number;
7. Full and complete descriptions of Services provided, and dates of completion thereof, in such form as requested by BryteSight in its discretion;
8. Total invoice amount;
9. Unconditional Progress Lien Waiver in a BryteSight Approved format, or as otherwise required by law, must be submitted with each invoice; and
10. Complete copies of invoices and receipts from subcontractors, suppliers and other third parties whose costs, fees and expenses are (i) included in the total invoice amount, and (ii) separately detailed in line-item form or in such form as otherwise requested by BryteSight in its discretion.

**FAILURE TO COMPLY WITH THESE INSTRUCTIONS WILL RESULT IN THE DELAY OF INVOICE PROCESSING, PAYMENT AND/OR REJECTION OF THE INVOICE.**

Thank you in advance for your cooperation in this matter. If you have any questions, please contact BryteSight at [accountspayable@BryteSight.com](mailto:accountspayable@BryteSight.com).



*WARRANTY: Empower Digital Solutions warrants that the hardware products it manufactures and provides will be free from defects in materials and workmanship. The limited warranty term is one year for components and 180 days for labor.*

*PRICE: Investment amount effective until: April 30, 2023*

*TERMS: Balance due at completion of work.*

**Pre-Installation Survey Price - \$525.00**

**Installation Price – Time and materials based on rate schedule included.**

---

Signature  
BRYTESIGHT, LLC

Date

---

Printed Name

---

Signature  
Empower Digital Solutions, Inc.

Date

---

Printed Name