

AGREEMENT ADDENDUM

This **ADDENDUM TO SAFEPOINT AGREEMENT** (“Addendum”) is entered into this _____ day of _____, 2024, by and between the City of Republic, Missouri (“City”)¹ and Loomis Armored US, LLC (“Provider” or “Loomis”). City and Provider are collectively referred to herein as the “Parties.”

WITNESSETH:

WHEREAS, City is a municipal corporation and Charter City located in Greene County, Missouri; and

WHEREAS, Provider is a foreign Limited Liability Company authorized to do business in the State of Missouri and currently in good standing with the Missouri Secretary of State, located at 2500 City West Boulevard, Suite 2300, Houston, Texas 77042; and

WHEREAS, City desires to engage Loomis to provide certain services and equipment relating to the transportation and safekeeping of cash and other currency items owned by the City, as set forth in paragraph 1 of the Safepoint Agreement (also referred to herein as “the Agreement”) accompanied by this Addendum (the services and equipment hereinafter referred to as “the Project”); and

WHEREAS, Provider has proposed the Safepoint Agreement for execution by both parties, intended to govern the terms and conditions of the Project; and

WHEREAS, in order to clarify the rights and obligations of the Parties, and the terms by which the Parties must carry out their respective duties under the Agreement, and further because City is a Missouri municipal corporation subject to certain laws, rules and regulations unique to governmental entities, the Parties desire to enter into and execute this Addendum, set forth fully at length herein below; and

WHEREAS, the Parties acknowledge that this Addendum is intended to accompany and supplement the Agreement, and further is intended to prevail as the authoritative document governing the Project in the event of any inconsistency between the Addendum and Agreement.

NOW, THEREFORE, City and Provider collectively agree to the Addendum herein, as follows:

1. **Inconsistencies / Order of Priority:** To the extent any conflicts or inconsistencies exist between the terms or conditions in this Addendum, and the terms or conditions in the Agreement, or any other prior agreement between the Parties, ***the terms contained in this Addendum shall supersede those contained in the Agreement and/or any other prior agreement(s), and shall govern.*** The Agreement and Addendum, together with any other Contract Documents, exhibits, or other records specified herein below, are collectively referred to herein as “the Contract.”

2. **Ability to Contract:** Provider warrants that it has the legal ability to enter into this

¹ The City is additionally referred to as “Client” in the Safepoint Agreement to which this Addendum is attached.

Addendum and fulfill the terms contained herein.

3. Manner and Time for Provider's Performance of Obligations: Provider will furnish all supervision, labor, tools, equipment, supplies, and other materials necessary to perform its obligations under the Contract, and to perform its obligations at Provider's own expense in accord with the Contract unless otherwise specified in the Contract Documents, and to comply with all applicable federal, state and local laws and ordinances, for the duration of the Contract.

4. Sales Tax Exemption: The Contract price does not include, and City shall not be obligated to pay, any sales or use tax(es) on the materials provided under the Contract or otherwise used in the Project. Upon request, pursuant to the provisions of Section 144.062, RSMo., City will furnish Provider with a Project Exemption Certificate and a Missouri Tax Exemption letter for use in purchasing materials being directly incorporated into or consumed in connection with the Project, on a tax-free basis. It is the sole responsibility of Provider to provide the aforementioned documents to any sub-contractor upon request or as otherwise needed. Under no circumstances shall Provider, or any sub-contractor working through or on behalf of Provider, present the aforementioned Project Exemption Certificate or Missouri Tax Exemption letter in connection with a purchase or purchases for any item, service or other object that is not being directly incorporated into the Project or consumed directly in connection with the Project.

5. Costs Not to Exceed: ***The Parties acknowledge and agree that City is limited by law with respect to the amount of money it is permitted to pay for the Project, and consequently will, in no event, pay Provider a total amount in excess of Eighty-One Thousand Nine Hundred Eighty-Two and 59/100 Dollars (\$81,982.59) ("Not-to-Exceed Amount") in connection with the Project.*** The Parties expressly acknowledge that the Not-to-Exceed Amount may not be exceeded ***unless*** the Contract is amended, in writing and signed by all Parties, pursuant to approval of the City Council, which shall be a prerequisite to any such amendment.

6. Payment: City hereby agrees to pay Provider for the services it provides in accord with the payment terms specified in the Contract Documents, and only upon City's acceptance of the work as provided for in the Contract Documents. No partial payment by City to Provider shall operate or otherwise be construed as City's approval or acceptance of the work performed by Provider or materials furnished hereunder.

7. Payment for Labor and Materials: Not applicable.

8. Supplemental and Additional Services: Should City desire or need any supplemental and/or additional services under the Contract, City shall have the right to use their own employees or contractors or enter into a second (or subsequent/supplemental) agreement addendum with Provider for any supplemental and/or additional services. Such decision on any supplemental and/or additional services shall be at the sole discretion of City.

9. Insurance Requirements: For the entire duration of the Contract, Provider shall

maintain certain insurance to protect it and the City against risks of loss in connection with the Project, as defined more fully below. Provider shall furnish City with proof of insurance that satisfies the requirements stated below, unless otherwise agreed to or specified by City.

- a. **Workers' Compensation:** To the extent Provider is required to do so pursuant to Section 287.010 RSMo., et seq., Provider shall maintain Workers Compensation coverage for all persons it will employ or retain to perform any work in connection with the Contract, and in the event Provider subcontracts any such work, Provider shall require the sub-contractor(s) to provide similar Workers Compensation Insurance for the sub-contractor's employees, unless such employees are covered by Provider's coverage. Workers' Compensation coverage shall meet the minimum requirements set forth in Section 287.010 RSMo., et seq.
- b. **Employers' Liability:** Provider shall maintain Employers' Liability coverage of not less than \$1,000,000 each occurrence.
- c. **Commercial General Liability:** Provider shall maintain Commercial General Liability coverage for personal and advertising injury, bodily injury including accidental death, and broad-form property damage, which may arise from the performance of any obligations under the Contract or otherwise in connection with the Project, in an aggregate amount of than \$3,370,137 each occurrence and \$505,520 each person.
- d. **Commercial Automobile Liability (*applies only to projects involving Provider's operation of vehicles in performing its work under the Contract*):** Provider shall maintain Commercial Automobile Liability coverage of not less than \$1,000,000 each occurrence and \$1,000,000 each person for "any auto" on an occurrence basis.

10. Insurance Requirements for Subcontractors. In case any or all work under the Contract is sub-let, Provider shall require the sub-contractor to procure and maintain all applicable insurance(s) required in Paragraphs 9(b), (c) and (d), above, and to the extent any such sub-contractor is required to carry Workers' Compensation coverage under Section 287.010 RSMo., et seq., Provider shall require the sub-contractor(s) to procure and maintain such insurance at all times while performing work under this Contract.

11. Proof and Maintenance of Insurance. Prior to beginning any work under the Contract, Provider, and/ any sub-contractors, shall furnish the City with acceptable proof of the insurance coverages required in Paragraph 9, above. Provider, and any sub-contractors, shall not cancel, reduce, modify or otherwise fail or refuse to renew the coverages provided for herein, without providing at least thirty (30) days' prior written notice to the City. In such event, the City has

the right to require Provider, or sub-contractor, to reinstate or obtain new coverage in the amount(s) required to satisfy the provisions of Paragraph 9, above, or alternatively, to terminate the Contract without any penalty to the City.

12. Pending Legislation: In the event the scope or extent of City's tort liability as a governmental entity, as described in Sections 537.600 through 537.650, RSMo., is broadened or increased during the term of the Contract, by legislative or judicial action, City may require Provider, upon 10 days' written notice, to execute an addendum whereby Provider agrees to provide, at a price not exceeding Provider's actual increased premium cost, additional liability insurance coverage as City may require to protect City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

13. Provider's Responsibility for Sub-Contractors: Provider shall be as fully responsible to City for the acts and omissions of its sub-contractor(s), and persons either directly or indirectly employed by it/them, as Provider is for the acts and omissions of persons it directly employs. Provider shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all sub-contractors to Provider by all the terms herein set forth, and insofar as applicable to the work of sub-contractors and to give Provider the same power regarding the termination of any subcontract as City may exercise over Provider under any provisions of this contract. Nothing contained in the Contract shall create any contractual relationship between the sub-contractors and City or between any sub-contractor.

14. Liquidated Damages: Governed by Section 12 of the SafePoint Agreement.

15. Liability and Indemnity: The Parties mutually agree to the following:

- a. In no event shall City be liable to Provider for special, indirect, or consequential damages, except those caused by City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of the Contract. The maximum liability of City shall be limited to the amount of money to be paid or received by City under the Contract.
- b. Provider shall defend, indemnify, and hold harmless City, its elected officials, agents, and employees from and against any and all liability, suits, damages, costs (including attorney's fees), losses, outlays and expenses, from claims arising out of or relating in any way to the Contract, or the work or any subcontract thereunder (Provider hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of the Contract to Provider. This provision does not require Provider to defend, indemnify or hold harmless City for negligence, gross negligence or intentional misconduct on the part of City.
- c. Provider shall indemnify and hold City harmless from all wages or overtime compensation due and owing to its employees in rendering Services pursuant to

the Contract or any subcontract under the Contract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law, or any other federal or state law.

- d. The indemnification obligations herein shall not negate, abridge or reduce, in any way, any additional indemnification which City, including its elected or appointed officials, agents and employees, is otherwise entitled to seek or receive under state or local law, applicable regulation, or in equity.
- e. Provider affirms that it has had full and fair opportunity to recover the costs of any liability or other insurance required under the Contract in its pricing.

16. City Benefits: Provider shall not be entitled to any of the benefits established for the employees of City nor be covered by City's worker's compensation program/benefits.

17. Affidavit for Contracts Over \$5,000 (E-Verify): Pursuant to Sections 285.525 through 285.550, RSMo., if the total value of the Contract exceeds \$5,000, and Provider is associated with a business entity, Provider shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the Services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the Services. Additionally, Provider must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

18. Proof of Lawful Presence: Pursuant to Section 208.009, RSMo, Provider shall provide to City the documentation necessary for demonstrating compliance with the lawful presence terms contained within Section 208.009 RSMo. Affirmative proof of lawful presence can be established through furnishing any documentation recognized by the Department of Revenue as acceptable proof of lawful presence, or, any documentation issued by the United States Government that confirms lawful presence in the United States.

19. General Independent Provider Clause: The Contract does not create an employee/employer relationship between the Parties. It is the Parties' intention that Provider is and shall be an independent Provider for City and is not an employee of City for any purpose, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. Provider will retain sole and absolute discretion in the judgment of the manner and means of carrying out Provider's activities and responsibilities hereunder. Provider agrees that it is a separate and independent enterprise from City, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the Services. The Contract shall not be construed as creating any joint employment relationship between Provider and City, and City will not be liable for any obligation incurred by Provider, including but not limited to unpaid minimum wages and/or overtime premiums.

20. Occupational License(s): Unless exempted under state or local law, Provider must be authorized to do business within the State of Missouri, and shall maintain, for the duration of the Project, all required occupational licensure by/through the City. The cost for such licensing shall be the sole responsibility of Provider.

21. Nondiscrimination: Nondiscrimination. In discharging its obligations under the Contract, Provider agrees not to discriminate in any way on the basis of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or a qualified individual with a disability, or political opinion or affiliation, against any employee of Provider or applicant for employment, and shall include a similar provision in any sub-contracts executed hereunder. The Parties hereby incorporate the requirements of 41 C.F.R. §§ 60- 1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a), if applicable.

- a. Provider shall abide by the provisions of 41 C.F.R. § 60-300.5(a), which prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.
- b. Provider shall abide by the provisions of 41 C.F.R. § 60-741.5(a), which prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

22. Conflict of Interest: In accepting the Contract, Provider certifies that no salaried officer or employee of the City, and no member of the City Council or Mayor, has a financial interest, direct or indirect, in the Contract. Any federal regulations and applicable provisions in Section 105.450 et seq., RSMo., shall not be violated.

23. Waiver: No provision of the Agreement documents shall be construed, expressly or by implication, as a waiver by the City of any existing or future right or remedy available by law in the event of any claim of default or breach of contract.

24. Entire Agreement: This Addendum, along with the other Contract Documents identified herein, contains the entire agreement between the Parties and supersedes all prior and contemporaneous written or oral agreements. The Contract may not be modified or amended other than in writing as agreed and signed by all the Parties.

25. Jurisdiction and Venue: The Contract Documents shall be taken and deemed to have been fully executed and made by the parties herein and governed by the laws of the State of Missouri for all purposes and intents. Venue under the Contract, or any disputes that come from it, shall solely lie in the Circuit Court of Greene County, Missouri.

26. Disputes: In the event City is the prevailing party in any litigation arising out of or relating in any way to the Project or the Contract Documents, City shall be entitled to recover all reasonable attorneys' fees and expenses incurred in connection with resolution or disposition of such dispute, no matter the forum in which such dispute is disposed or resolved.

27. Liability: Nothing in the Contract shall be construed to create any liability on behalf of the City for any direct, special, indirect, or consequential damages. The City shall not pay any

attorney fees of any other Party even if that Party is the prevailing party.

28. Execution: The Parties agree that signatures transmitted by facsimile or scanned and emailed shall have the legal effect of original signatures. In addition to facsimile or scanned and emailed signatures, the Contract may be executed by the Parties in accordance with the applicable version of the Uniform Electronic Transactions Act (“UETA”) and the Electronic Signatures in Global and National Commerce Act (“ESIGN”). The Parties hereto agree to conduct transactions by electronic means and hereby affirmatively consent to use electronic records to memorialize and execute the Contract and any alterations thereto. At the request of either Party, the Parties shall promptly exchange executed original counterparts of the Contract or any amendment.

29. Survival: The Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns as provided in the Contract.

30. Headings: The headings in the Contract are for convenience of reference only and shall not limit or otherwise affect the meaning thereof.

31. Whereas Clauses: The “Whereas” clauses stated above are incorporated herein by reference.

32. Public Body City and Missouri Sunshine Law: The Parties recognize that City is a governmental body subject to the open records provisions of the Missouri Sunshine Law (RSMo., Chapter 610) (“Sunshine Law”). Records generated in connection with the performance of services under the Contract are subject to disclosure upon request for the same, unless excepted from disclosure under the Sunshine Law or otherwise permitted to be closed under the Sunshine Law. If a request under the Sunshine Law (“Sunshine Request”) is presented to City for records pertaining to the Contract, City shall notify Provider of the Sunshine Request, and Provider shall promptly identify and provide all documents being requested as soon as practicably possible so as to enable City to timely respond to such request. Fees may be assessed for time, efforts and/or costs incurred in responding to Sunshine Requests or otherwise ensuring compliance with Sunshine Law requirements, but only to the extent such fees are expressly authorized by the Sunshine Law.

33. Conflicts of Interest: Provider presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services to be performed under the Contract. In accepting the Contract, Provider certifies all local, state, and federal laws and regulations related to conflicts of interest shall be followed, specifically Chapter 105, RSMo.

34. Assignment: Provider shall neither assign nor transfer any interest in the Contract, whether by assignment, sale, gift, novation or otherwise, without prior written consent of City; provided, however, that claims for money due or owing to Provider under the Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to City. Any such assignment is expressly subject to all rights and remedies of City under the Contract, including the right to change or delete activities from the Agreement or to terminate the same as provided herein, and no such assignment shall require City to give any notice to any such assignee of any actions which City may take under the Contract.

35. Severability Clause: A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part, of the Contract shall not affect the validity of the remaining parts to the Contract.

36. Contingent Upon Funds and Approval: The Contract is expressly contingent upon approval by the City Council and the allocation of sufficient funds by the Council to the City for the subject of the Contract. The Parties expressly acknowledge that, in the event the City Council either does not approve the Contract, or does not allocate sufficient funds to cover the cost of the Contract, the City will be unable to perform its obligations under the Contract, and Provider shall have no right of action against City in such event.

37. Supplemental Agreements/Additional Action: The Parties agree to cooperate fully, to execute any supplemental agreements, and to take all additional actions that may be reasonably necessary or appropriate to give full force and effect to the basic terms and intent of the Contract and/or addendum.

38. Agreement Documents: The Contract consists of the documents identified in this paragraph below, which, collectively, constitute the entire agreement and understanding of the Parties. These documents are as fully a part of the Contract as if attached hereto or repeated at length herein. The Contract shall consist of the following, listed in order of priority as to governance in the event of any conflicting terms:

- a. Agreement Addendum (“Addendum”).
- b. Safepoint Agreement (“Agreement”).
- c. E-Verify Affidavit.
- d. All Duly Executed Change Orders.

39. Public Entity Immunity. The Parties both preserve all immunities, sovereign, governmental and otherwise, recognized by law. Nothing in this Agreement or any transactions under this Agreement shall be construed or deemed in any way as a waiver of sovereign immunity or governmental immunity recognized under common law, state law, ordinances, regulations, the Missouri Constitution, or the United States Constitution, including but not limited to § 537.600 RSMo., et seq. The provision of any insurance pursuant to this paragraph, whether such insurance does or does not afford coverage to City or to Contractor for any claim arising from or out of this Agreement or performance thereunder, shall not constitute a waiver of any defense or immunity available to the Contractor or the City.

40. Notices: Any notice, request or demand provided for in the Contract shall be deemed to have been given when the same shall have been personally delivered to the following offices or deposited in the United States Mail, Registered or Certified, with postage thereon prepaid as follows:

To the City: City of Republic, Missouri
 Attn: City Administrator
 213 North Main Street
 Republic, Missouri 65738

To the Provider: Loomis Armored US, LLC
2500 City West Blvd., Suite 2300
Houston, Texas 77042

[The remainder of this page is intentionally left blank. Signatures follow on page 10 of 10]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

LOOMIS ARMORED US, LLC

By: _____

Printed Name

Title

Date: _____

THE CITY OF REPUBLIC, MISSOURI

By: _____
David Cameron, City Administrator

Date: _____

Approved as to Form:

Megan McCullough, City Attorney

Date: _____

Attest: _____
Laura Burbridge, City Clerk

Date: _____