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April 21, 2023

VIA ECF

The Honorable Lewis A. Kaplan
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Samuel Bankman-Fried*, S5 22 Cr. 673 (LAK)

Dear Judge Kaplan:

On behalf of our client, Samuel Bankman-Fried, we write to advise the Court that we have found an alternative solution to monitor the cellphones used by Mr. Bankman-Fried's parents (the "Parents' Phones") that is satisfactory to the Government. The new solution will require a modification of the existing bail conditions set forth in the Court's March 28, 2023 order (the "Order") (ECF No. 118). Accordingly, we respectfully request that the Court modify the Order as specified below. The Government consents to this request.

The Order specifies that the monitoring software installed on the Parents' Phones "will photograph the device's user every five minutes" to ensure that Mr. Bankman-Fried does not use those devices. (ECF No. 118 at 1). As the Court is aware, the defense recently learned that the monitoring software does not, in fact, have this capability. However, the same monitoring software is equipped with a keystroke logging function that preserves a record of all user activity on the phone, as well as other capabilities that will guard against Mr. Bankman-Fried using the Parents' Phones to violate his bail conditions. The defense will implement these features on the Parents' Phones as follows:

1. Installation and use of unauthorized apps: Mr. Bankman-Fried's parents will provide defense counsel with a list of the apps they use on their phones. The list will not include any ephemeral messaging applications, such as Signal, WhatsApp, etc. The defense will, in turn, provide that list to the Government. The keystroke logging feature will preserve a record if any new apps are downloaded to the Parents' Phones from the App Store. The monitoring software will also take screenshots of any activity on the App Store.

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2. Internet Browsing. The keystroke logging feature will preserve a record and/or take screenshots of any Internet browsing activity on the Parents' Phones.
3. Use of iMessage. The monitoring software will preserve a copy of all iMessages sent and received from the Parents' Phones.
4. Voice Calls and FaceTime. The monitoring software will preserve a log of all voice calls and FaceTime calls to and from the Parents' Phones.
5. Monitoring. The defense's Technical Consultant will review the keystroke logs and screenshots at least three times per week to ensure that no unauthorized activity is taking place on the Parents' Phones. In the event that the Technical Consultant becomes aware of any potential violation of the terms of the Mr. Bankman-Fried's bail conditions, the Technical Consultant will promptly bring such evidence to the attention of Pretrial Services. Pretrial Services may also request access to the activity logs and screenshots when Pretrial Services has a reasonable suspicion that evidence of a violation of a condition of release may be found therein.

We believe these restrictions are sufficient to prevent Mr. Bankman-Fried from using the Parents' Phones to circumvent his bail conditions. Accordingly, we respectfully request the Court to modify the existing bail conditions to impose the conditions set forth above.

Respectfully submitted,

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cc: All counsel of record (via ECF)