

SENTRILLION CORPORATION
GENERAL TERMS AND CONDITIONS APPLICABLE FOR PURCHASES OF
COMMERCIAL PRODUCTS AND SERVICES

1.0 TERMS OF GENERAL APPLICABILITY

1.1 Definitions. As used in this document, the terms listed below shall have the following corresponding definitions:

“Buyer” means Sentrillion Corporation, a corporation organized and existing under the laws of the Commonwealth of Virginia, and all of its subsidiaries and affiliates.

“Buyer’s Purchasing Agent” means Buyer’s agent with the actual authority to make a legally binding commitment on Buyer’s behalf as provided in the Order.

“Counterfeit Part” means (1) an unauthorized copy, imitation, substitute, or modified part, which is knowingly misrepresented as a specified genuine part of the original manufacturer, or (2) a previously used part which has been modified and is knowingly misrepresented as new without disclosure to Buyer that it has been previously used. Examples of a Counterfeit Part include, but are not limited to, the false identification of grade, serial number, date code, or performance characteristics. NOTE: This definition shall be read so as not to conflict with the definition for “counterfeit electronic part” cited in DFARS 252.246-7007, where that definition shall govern to the extent that clause applies.

“DFARS” means Title 48, Chapter 2 of the Code of Federal Regulations, which is known commonly as the “Defense Federal Acquisition Regulation Supplement.”

“FAR” means Title 48, Chapter 1 of the Code of Federal Regulations, which is known commonly as the “Federal Acquisition Regulation.”

“General Terms and Conditions” shall have the meaning set forth in Section 1.1.2 below.

“Government” means an agency or instrument of the government of the United States of America, unless otherwise specified.

“Government Contract” means Buyer’s contract with the Government or Buyer’s contract with a third-party in which the compensations for items or services originates with the Government.

“HSAR” means Title 48, Chapter 30 of the Code of Federal Regulations, which is known commonly as the “Department of Homeland Security, Homeland Security Acquisition Regulation.”

“Order” means the binding contract for the sale of the Products or Services by Seller and the purchase of the same by Buyer, including any written purchase order and with any written change notices, supplements, amendments, and other written modifications thereto, together with any referenced certifications, certificates, exhibits, attachments, or other documents, and includes these General Terms and Conditions and the statement of work, if any.

“Party” as distinguished from a “third party,” means Buyer or Seller, individually. “Parties” means Buyer and Seller, collectively.

“Product” means any property, other than real property, that is described on the face of an Order, including, without limitation, items, goods, parts, components, articles, supplies, computer software or hardware (inclusive of any software, hardware, firmware, or other hardwired logic embedded within the hardware), for purchase and delivery.

“Seller” means the legal entity performing work pursuant to an Order and, if the context requires, its employees, officers, agents, and others acting at its direction and control or under contract to it.

“Services” means any performance of labor by Seller pursuant to an Order where the cost of performance is separate and distinct from the price of the Product.

1.2 Purchase of Products and Services. These terms and conditions (hereinafter, the “General Terms and Conditions”) shall govern the delivery of the Products, or the performance of the Services provided by Seller pursuant to an Order. All documents provided for under an Order shall be in English. Any additional or different terms and conditions contained in seller’s order document, any prior quotation, or any acknowledgment of an Order (including, but not limited to, any shrink-wrap or click-through terms) that are not negotiated by the parties and identified on the Order are explicitly rejected by Buyer without further notice of rejection and shall be of no effect nor under any circumstances binding upon Buyer. Seller expressly represents that in accepting the Order it does not rely and has not relied upon any written or oral representation, warranty, or statement not set forth in the Order

and that it will not have any right or remedy arising out of any representation, warranty, or other statement not expressly set out in the Order.

1.3 Rules of Construction. The headings of these General Terms and Conditions are for convenience of reference only and shall not affect the construction or interpretation of any of the provisions hereof. The Order and these General Terms and Conditions shall be construed that, wherever applicable, the reference to any specific gender shall include all genders, the use of the singular number shall mean the plural number if the meaning is appropriate in light of the context, and the use of the plural number shall mean the singular number if the meaning is appropriate in light of the context.

1.4 Order of Precedence. Any conflicts in an Order shall be resolved by giving precedence in the following order: (i) the Order document; (ii) the master agreement entered into between the Parties, such as a master subcontract, if any (which is incorporated by reference in any Order issued hereunder); (iii) these General Terms and Conditions (which are incorporated by reference in any Order issued hereunder); (iv) the statement of work; (v) any specification, drawings, manuals, or other requirements attached hereto or incorporated herein by reference; and (vi) any supplement terms, conditions, or provisions (such as an End User License Agreement) negotiated between the Parties and identified on the Order. In the event of a conflict between the clauses set forth in these General Terms and Conditions and the clauses contained in Schedule A (FAR, DFARS, and HSAR Clauses), the applicable clauses in Schedule A (FAR, DFARS, and HSAR Clauses) shall control to the extent necessary for Buyer to comply with Buyer's Government Contract. No other document can be less restrictive than the mandatory FAR, DFARS, and HSAR clauses applicable to Buyer's Government Contract.

1.5 Relationship of Parties.

1.5.1 Seller's relationship to Buyer in the performance of the Order is that of an independent contractor and nothing contained herein shall be deemed to create any association, partnership, joint venture, relationship of principal and agent, relationship of master and servant, or relationship of employer and employee between Buyer and Seller, or any affiliates or subsidiaries thereof. Neither Buyer nor Seller shall have the right, power, or authority, whether express or implied, to create any duty or obligation on behalf of the other Party.

1.5.2 Because Seller is an independent contractor of Buyer, Seller shall have the exclusive right to control the means, manner, and methods for the performance of the Order. Buyer, including its officers, directors, managers, employees, agents, or representatives, shall have no right or authority, express or implied, to manage or otherwise control Seller's performance nor shall Buyer, including its officers, directors, managers, employees, agents, or representatives, have any right or authority, express or implied, to manage or otherwise control Seller's officers, directors, managers, employees, agents, representatives, or independent contractors.

2.0 ORDERING, DELIVERY, PAYMENTS

2.1.1 Acceptance of the Order. Any of the following acts by Seller shall constitute acceptance of the Order: (i) execution of the acknowledgment page of the Order and return to Buyer within three (3) business days of receipt or within the timeframe required by applicable law; (ii) initiation of any aspect of performance or notification to Buyer that Seller is commencing performance under the Order; (iii) shipment of any Products or performance of any Services under the Order; or (iv) acceptance of any form of payment, partial or complete, under the Order.

2.2 Title, Delivery, Risk of Loss

2.2.1 Products and Services shall be delivered or performed in accordance with the schedule, shipping instructions, and delivery location set forth in the Order.

2.2.2 **TIME IS OF THE ESSENCE IN SELLER'S PERFORMANCE OF THE ORDER.** Buyer reserves the right to refuse shipments made in advance of the schedule set forth in the Order and may return early delivery shipments at Seller's expense. If Buyer chooses to retain the Products shipped in advance of the schedule date, Buyer may make payment in accordance with the original delivery schedule in the Order. Buyer shall not be responsible for any additional costs associated with early delivery. Buyer may also refuse deliveries made after the scheduled delivery date set forth in the Order, and in such case, will not be liable to Seller for any Products or Services not accepted. Acceptance of early or late deliveries shall not be deemed a modification of Seller's obligation to make future deliveries in accordance with the delivery schedule set forth in the Order.

2.2.3 In the event that Seller encounters difficulty in meeting the delivery date or performance requirements of the Order; that Seller anticipates difficulty in complying with a delivery schedule or completion date set forth in the Order; or that Seller has knowledge that any actual or potential situation delays or threatens to delay Seller's timely performance of the Order, Seller shall immediately provide written notice to Buyer. Such notice shall include a revised schedule and shall not constitute a waiver of Buyer's rights and remedies hereunder. Seller shall take all steps necessary to avoid or minimize delays. Except to the extent

delay is caused by Buyer, all of the costs of delay and any additional effort shall be borne by Seller. Seller, at the request of Buyer, shall provide (i) a written explanation for the root cause of the delay, (ii) a corrective action plan to address the late deliveries, and (iii) assurances that Seller will make all future deliveries in accordance with the Order requirements and schedule. Such corrective action plan and assurances shall be satisfactory to Buyer as determined by Buyer in its sole discretion. If Buyer agrees to accept deliveries after the delivery date has passed, Buyer shall have the right to direct to make shipments by the most expeditious means, and the total cost of such expedited shipment and handling shall be borne by Seller.

2.2.4 Seller shall comply with Buyer's routing and shipping instructions. If Buyer's routing and shipping instructions are not attached to the Order or have not been previously received by Seller, Seller shall immediately request such instruction from Buyer. Seller shall remain liable for any and all additional charges which accrue as a result of Seller's noncompliance with Buyer's routing and shipping instructions, including Buyer's specified carrier.

2.2.5 Unless otherwise specified in the Order, Seller shall be responsible for the safe and adequate packing of the Products to conform with the best commercial practices. Seller shall separately number all containers, packages, etc., showing the corresponding number on the invoice. An itemized packing slip bearing the Order number must be placed in each container. Unless otherwise set forth in the Order, Seller shall not charge extra for packaging or packing materials.

2.2.6 Unless prohibited by applicable law, Seller may be subjected to liquidated damages for delivery of any Products or performance of any Services after the delivery date set forth on the Order in the amount of one percent (1%) of the total value of the delayed Product or Service for each day delivery or performance is delayed beyond the delivery date set forth in the Order (up to a maximum amount of twenty-five percent (25%) of the total value of the delayed Products or Service). Seller shall pay any liquidated damages within sixty (60) calendar days of Buyer's acceptance of the Products or Services. Buyer's right to recover liquidated damages shall be in addition to all other rights and remedies that Buyer has under the Order. The total amount of liquidated damages shall be subtracted from the line item value. If the delivery delay was as a result of any action taken on the part of Buyer, Seller shall notify Buyer in writing at the time the delay occurs and request that Buyer waive liquidated damages provided herein. Failure to notify Buyer may result in liquidated damages.

2.2.7 Any overshipment allowance requires prior Buyer authorization and will be applied to either the line item or entire Order, at Buyer's discretion. Unauthorized overshipments shall be returned at Seller's sole expense.

2.2.8 Unless otherwise specified in the Order, Seller shall bear the risk of loss and damage to all Products supplied hereunder until final acceptance by Buyer, Buyer's customer, or the Government. Buyer shall have equitable title to all Products for which interim, partial, or progress payments have been made to Seller.

2.3 Invoicing, Payment, Taxes

2.3.1 Unless otherwise provided by Buyer on the face of the Order, terms of payment are net sixty (60) calendar days from the latest of the following: (i) Buyer's receipt of an accurate and approved invoice; (ii) the date the Products or Services are delivered and finally accepted; or (iii) the date provided in the Order for receipt of Products or completion of Services. For interim payments under a financing arrangement, except where Buyer or Buyer's customer requires an audit or other review of a specific payment request, payment terms are net sixty (60) calendar days from Buyer's receipt of an accurate and approved invoice. Seller shall notify Buyer in writing within thirty (30) calendar days of the occurrence of any alleged payment disputes. Buyer shall pay Seller the prices set forth on the Order for Products delivered and finally accepted or Services rendered and finally accepted, less any deductions provided in the Order. If Seller does not return the acknowledgement page of the Order and commences performance, Buyer shall only be responsible for payment for the work performed to the extent that the work was required by Buyer, not to exceed the amounts set forth in the Order, and if the Order is cost-reimbursable, only to the extent the costs are allowable under the FAR. All payments shall be made in U.S. Dollars with no adjustments for currency exchange rates. The Parties shall consider invoices paid on the date the check is postmarked and mailed to Seller. For invoices subject to a prompt payment discount, the discount period will be computed from the date of receipt of a correct invoice to the date Buyer issues a check.

2.3.2 Seller shall issue a separate invoice in English for each shipment or each billing period. There shall not be a lapse of more than thirty (30) calendar days between performance and submission of an invoice. Seller shall not backdate any invoices. Unless otherwise instructed by Buyer, each invoice shall include: (i) Buyer's Order number and line number; (ii) Buyer's line description (as referenced on the Order); (iii) the unit price and total price; (iv) Seller's invoice number and date; (v) the payment terms; (vi) a description of work performed, if any; and (vii) Seller's remittance address and relevant contact information for billing questions. Upon Buyer's request, Seller shall provide a reconciliation of all invoices submitted to Buyer.

2.3.3 Each payment made shall be subject to a reduction for any amounts found by Buyer, Buyer's customer, or Seller not to have been properly payable, including any overpayments. Seller shall promptly notify Buyer of any overpayments and remit the

overpayment amount to Buyer along with a description of the overpayment. To the extent permitted by applicable law, Buyer, and any affiliate or subsidiary of Buyer, may withhold, deduct, or setoff all money due, or which may become due, from Buyer arising out of Seller's performance under the Order or any other transaction Buyer and its affiliates or subsidiaries may have with Seller.

- 2.3.4 Unless otherwise approved by Buyer in writing, the prices for the Products and Services in the Order include and Seller shall be responsible for the payment of any applicable federal, state, and local taxes, duties, tariffs, or other similar fees (collectively, "taxes") imposed by any government, unless Seller obtains an applicable exemption. Seller represents that the price does not include any taxes, impositions, charges, or exactions for which it is eligible to obtain or has obtained a valid exemption certificate or other evidence or exemption. Any taxes in the Order shall be itemized separately on Seller's invoice.
- 2.3.5 No subcontract placed under the Order by Seller shall provide for payment on a cost-plus-a-percentage-of-cost basis. Any fee payable under a cost-reimbursement subcontract shall not exceed the fee limitations in paragraph 48 C.F.R. §15.404-4(c)(4)(i).
- 2.3.6 If Seller, its subcontractor, or prospective subcontractor at any tier, when required, fails to (i) submit and/or certify accurate, complete, and current cost or pricing data, (ii) claim an exception to a requirement to submit cost or pricing data and such exception is invalid, or (iii) violates any applicable laws, rules, regulations, ordinances, or the Order, and, as a result of that failure, (1) Buyer's customer reduces Buyer's contract price or fee, (2) Buyer's costs are determined to be unallowable, (3) any fines, penalties, withholdings, or interest are assessed on Buyer, or (4) Buyer incurs any other costs or damages, then Buyer may make a reduction of the corresponding amounts (in whole or in part) plus any other costs incurred including attorneys' fees in either the price of the Order or any other contract with Seller, or recover from Seller an amount equal to the reduction plus any other costs incurred including attorney's fees. Additionally, upon occurrence of any of the circumstances above, Seller shall be liable and shall pay Buyer at the time any overpayment is repaid: (A) simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to Seller to the date Buyer is repaid by Seller at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. § 6621(a)(2); and (B) if Seller knowingly submitted cost or pricing data which were incomplete, inaccurate, or non-current, a penalty equal to the amount of the overpayment.
- 2.3.7 FOR COST TYPE AND TIME-AND-MATERIAL ORDERS ONLY: Buyer shall not be obligated to pay Seller for amounts in excess of the funded value of the Order as set forth on the face of the Order or any duly authorized agreement ("Funded Value"). If at any time Seller has reason to believe that the costs that will accrue in performing the Order in the next succeeding sixty (60) calendar days, if added to all other costs previously accrued, will exceed seventy-five (75%) of the Funded Value, Seller shall immediately notify Buyer to that effect and shall provide a current estimate for completion. If the estimate for completion is greater than the Funded Value, then such notification also shall contain the costs to date, estimated costs to completion, and total costs, together with supporting reasons and documentation. Seller is not authorized to incur costs in excess of the Funded Value until Buyer notifies Seller in writing that the Funded Value has been increased. If, after Seller's notification, additional funds are not allotted to the Funded Value within sixty (60) calendar days, Buyer may terminate the Order in accordance with the Section 4.2.1 ("Termination for Convenience") below.
- 2.4 Changes.
- 2.4.1 Buyer may at any time, by written notice to Seller, make unilateral changes to the: (i) drawings, designs, or specifications; (ii) method of shipment or packing; (iii) time and/or place of delivery, inspection, acceptance, or performance; (iv) the quantity of the Products ordered or Services to be performed; (v) statement of work; (vi) method or manner of performance; (vii) any property, facilities, equipment, or materials to be provided by Buyer under the Order; and (viii) terms and conditions of the Order required to meet Buyer's obligations under the Buyer's customer contract.
- 2.4.2 During performance of the Order, Seller shall not make any changes in the Services to be performed or in the design or manufacturing of Products to be furnished by Seller under the Order, including any changes to the process, manufacturing location, or use of suppliers and subcontractors, without advance notification to and written approval of the Buyer's Purchasing Agent. Only the Buyer's Purchasing Agent has authority on behalf of Buyer to make changes to the Order, which shall be in writing. Products or Services that change without prior notification and consent shall be deemed nonconforming Products or Services under the Order. The issuance of information, advice, approvals, or instructions by Buyer's technical personnel shall be deemed expressions of personal opinion only and shall not affect the Parties' rights and obligations hereunder, unless the change expressly states that it constitutes an amendment to the Order and is signed in writing by the Buyer's Procurement Agent. If Seller considers that Buyer's conduct constitutes a change, Seller shall notify Buyer immediately in writing as to the nature of such conduct and its effect upon Seller's performance.

2.4.3 If any written change causes an increase or decrease in the estimated costs or the time required for performance of the Order, Seller shall promptly notify the Buyer's Procurement Agent and assert its claim for equitable adjustment in writing within thirty (30) calendar days after the written change is ordered or within such extension as Buyer may grant in writing. Buyer may, in its sole discretion, consider any such claim regardless of when asserted, except that no claim for equitable adjustment shall be allowed after final payment. Nothing in this clause shall be deemed to constitute acceptance by Buyer of the validity of Seller's claim of any part thereof. Once asserted, an equitable adjustment to the Order price and/or delivery schedule may be made and the Parties may modify the Order in writing accordingly. Any equitable adjustment in price to which Seller may be entitled as a result of an increase in the quantity of Products or Services ordered shall not exceed the Funded Value (for cost type) or unit price established for such Products or Services herein. If the Parties are unable to agree upon an equitable adjustment, the matter will be resolved in accordance with Section 10.0("Governing Law and Disputes") below. Nothing contained herein, including failure of the Parties to agree upon any equitable adjustment, shall excuse Seller from proceeding without delay with the Order as changed by Buyer's written direction. In no event shall Seller acquire any direct claim or cause of action against the Government.

3.0 QUALITY CONTROLS, WARRANTY AND SUPPORT

3.1 Quality Control and Non-Conformance. Seller and its suppliers and subcontractors shall establish and maintain a quality management, inspection, safety, and counterfeit parts program acceptable to Buyer and consistent with current industry standards (e.g., ISO9001, AS9100, AS9115, AS910, AS5553, AS6496, AS6174, etc.). Seller shall permit Buyer to review Seller's procedures, practices, processes, and related documents to determine acceptability. Seller shall have a continuing obligation to promptly notify Buyer of any violation or deviation from Seller's approved inspection/quality control system and to advise Buyer of the quantity and specific identity of any Products or Services provided to Buyer during the period of any such violation or deviation. If Seller learns of any violations of its obligations under this Section 3.1 ("Quality Control and Non-Conformance"), Seller shall notify Buyer within forty-eight (48) hours and, within sixty (60) calendar days, Seller shall rectify the non-compliance issues. If the violation is not corrected and certification has not taken place within this timeframe, then Buyer, at its sole discretion, may terminate the Order. Seller will notify Buyer of any changes that affect quality within twenty-four (24) hours of that change. These changes include, but are not limited to, changes in key management or personnel, changes in the source of supply of key materials, and changes in address or site configuration.

3.2 Counterfeit Parts.

3.2.1 Seller shall not furnish Counterfeit Parts or suspected Counterfeit Parts to Buyer under an Order. Seller shall provide to Buyer or use in Products delivered to Buyer only new and authentic parts, traceable to the original manufacturer. For all purchases, Seller shall ensure the part remains unchanged from the part sold by or acquired from the original manufacturer and the certifications show the chain of custody from the original manufacturer. Upon request, Seller shall provide authenticity and traceability records to Buyer. If Seller is unable or unwilling to provide authenticity and traceability records to Buyer, Buyer reserves the right to terminate the Order at no cost to Buyer.

3.2.2 If Seller becomes aware or suspects that it has furnished a Counterfeit Part to Buyer under the Order, Seller shall promptly notify Buyer of such not later than forty-eight (48) hours after discovery. Seller shall not invoice any Counterfeit Part or suspected Counterfeit Part. Any Counterfeit Part or suspected Counterfeit Part that has already been invoiced shall be deducted from the value of the Order. Buyer may, at Buyer's sole option, return the Counterfeit Part or suspected Counterfeit Part to Seller and Seller shall replace, at Seller's own expense, such Counterfeit Part with a Part from an Original Manufacturer or a Buyer-approved Part that conforms to the requirements of the Order. Seller shall be liable for all costs related to (i) the investigation and traceability of any Counterfeit Part or suspected Counterfeit Part, (ii) the replacement of any Counterfeit Part, and (iii) any testing or validation necessitated by the installation of authentic Products or components of Items after a Counterfeit Part has been replaced. Buyer's remedies shall not be limited by Section 3.3 ("Warranty") and are in addition to any remedies Buyer may have at law, equity, or otherwise under the Order. Seller shall include this Section 3.2 ("Counterfeit Parts") in its lower tier subcontracts.

3.3 Warranty

3.3.1 Seller represents and warrants that the Products and Services provided hereunder: (i) shall conform to the requirements of the Order, the applicable specifications, and, to the extent not inconsistent therewith, Seller's documentation; (ii) shall be merchantable; (iii) shall be fit for the use intended by Buyer, whether expressed or reasonably implied, and/or which is stated on any packaging, labeling, or advertising; (iv) shall be free from security interests, liens, or encumbrances and of good title; (v) will not infringe or otherwise violate the intellectual property rights of any third party, and (vi) are and when delivered to Buyer shall be free from viruses, spyware, and other similar harmful and destructive code designed to damage, destroy, reveal, or alter any software, hardware, or data, permit unauthorized access to any software or hardware, or disable any program

automatically. Seller represents and warrants that for a period of twelve (12) months after final acceptance, the Products furnished hereunder shall be free from defects in material, workmanship, design, and fabrication. In the case of latent defects, Buyer's right to corrective action by Seller shall commence upon Buyer's discovery of the latent defect and notification of Seller thereof.

3.3.2 Seller further represents and warrants (i) its performance of the Order does not and will not violate or conflict with any agreement to which Seller is a party; (ii) there is no pending or threatened litigation that would have a material adverse impact on its performance under the Order, (iii) Seller or any of its officers or directors are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by the Government, and (iv) it will perform all Services in a professional and competent manner using properly qualified and trained personnel with the degree of skill and judgment normally exercised by recognized professionals delivering or performing the same or similar services.

3.3.3 Remedies for breach of any of these warranties shall be at Buyer's election, including those specified in Section 3.1 (Quality Control and Non-Conformance) for non-conforming Products and Services. Any Products or Services corrected or replaced pursuant to this Section 3.3 (Warranty) shall be subject to all provisions of this Section 3.3 (Warranty) to the same extent as Products and Services initially delivered.

3.3.4 The warranties set forth herein shall survive inspection, test, final acceptance, and payment of Products and Services. The approval by Buyer of Seller's design or material used or Buyer's inspection of same shall not relieve Seller from any obligations under the warranties set forth in the Order. The warranties set forth in the Order shall run to Buyer, Buyer's customers, and any users of the Products or Services, and shall not be deemed to be the exclusive rights of Buyer, but shall be in addition to other rights of Buyer under law, equity, or the terms of the Order.

3.4 End of Life and Support

3.4.1 Seller shall notify Buyer in writing if any Products delivered hereunder, including those supplied by Seller's lower-tiered subcontractors, are or are expected to be going out of production or will no longer be commercially available. Such notice shall: (i) be provided to Buyer at least twelve (12) months prior to the anticipated date of discontinuance or unavailability, or if twelve (12) months' notice is not reasonable given the circumstances, as soon as practically possible; and (ii) specify alternate Products that substantially meet the use and specifications and use as those end of life Product delivered.

3.4.2 Seller shall support the Products purchased hereunder during the operational life of the Products or for a period of ten (10) years from the date of final shipment under the Order and expiration of any warranty period. Support includes, but is not limited to, technical service for the Product. Additionally, Seller shall maintain an inventory of subassemblies and spare parts as may be required to support the operation of the Product.

4.0 **TIME, SUSPENSIONS, TERMINATIONS**

4.1.1 Suspensions and Stop Work. Buyer shall have the right to direct Seller in writing to suspend all or any part of the work for a period of time not to exceed one hundred twenty (120) calendar days, and for any further period as the Parties may agree or as extended by Buyer's customer. Upon receipt of the written stop work notice, Seller shall immediately comply with the terms of the notice and shall take all reasonable measures to mitigate the costs allocable to the suspended portion of the work. At the end of the suspension period, Buyer shall either (i) cancel the suspension, or (ii) terminate the work covered by the suspension as provided for in Section 4.2.1 ("Termination for Convenience"); provided that a suspension may only be canceled or work terminated by written notice from the Buyer's Procurement Agent, regardless of the expiration of the suspension period. If Buyer cancels the suspension, Seller shall immediately commence performance, notwithstanding the fact that there is no agreement as to a revised schedule or the cost of completing the Order. If work is suspended, an equitable adjustment may be requested in accordance with the provisions of Section 2.4 ("Changes") for any increase in the time and the cost of performing the Order necessarily caused by such suspension, exclusive of profit, and the Order may be modified in writing accordingly. For cost type Orders, Seller shall request the equitable adjustment prior to the incurrence of any costs in excess of the Funded Value. Nothing in the clause shall excuse Seller from diligently continuing with performance of work not suspended.

4.1.2 Force Majeure. If either Party cannot perform, in whole or in part, any of its obligations under the Order because of any act of God, act of any Government, Government delay, court order, public enemy, fire, flood, pandemic, epidemic, strike, freight embargo, industrial disturbance, or any other cause beyond the Party's reasonable control, and provided further that the Party could not have mitigated, avoided, or prevented the cause or delay through the exercise of reasonable care and precautions (a "Force Majeure Event"), then the non-performing Party will (i) promptly notify the other Party in writing, (ii) take commercially reasonable steps to resume performance as soon as possible, and (iii) not be considered in breach during the duration of and to the extent its performance is prevented by the Force Majeure Event. In the event a Force Majeure Event continues for a

period of fifteen (15) calendar days or threatens Buyer's delivery commitments under its Government Contract, Buyer may terminate such part of the Order remaining to be performed by providing written notice to Seller with no further liability to Buyer.

4.2 Terminations

4.2.1 Termination for Convenience.

4.2.1.1 Fixed Price Orders.

4.2.1.1.1 At any time, Buyer may, in its sole discretion and by written notice, direct Seller to terminate work under the Order, in whole or in part. In such event, Buyer shall have all rights and obligations accruing to it either at law or in equity, including Buyer's right to title and possession of any of the Products and Services paid for by Buyer. Upon notice of termination, Buyer may take immediate possession of all work so performed.

4.2.1.1.2 Upon notice of termination, Seller shall immediately stop work and limit costs incurred on the terminated work. In the event Buyer partially terminates the Order, Seller shall continue the performance of the Order to the extent not canceled.

4.2.1.1.3 Upon notice of termination for convenience, Seller shall submit a settlement proposal to Buyer within sixty (60) calendar days (unless otherwise extended in writing) with full supporting documentation for all costs claimed. Buyer, after deducting any amounts previously paid, shall reimburse Seller for the actual, reasonable, substantiated, and allowable costs of the work. The total amount to be paid by Buyer for the work shall be determined by Buyer and shall not exceed the value of the Order. Payment for completed Products delivered and accepted by Buyer shall be at the price set forth in the Order.

4.2.1.2 Cost Type Orders. Buyer may terminate the Order in accordance with FAR 52.249-6, Termination (Cost-Reimbursement), substituting the language in accordance with the information listed in Section 2 (FAR, DFARS, and NSF Clauses). Within sixty (60) calendar days of receiving such termination notice, Seller shall submit its settlement proposal to the Buyer's Purchasing Agent with full supporting documentation for all costs claimed. As required by Buyer or Buyer's customer, audits and examinations of records for such settlement proposal may be performed by Buyer, Buyer's customer, or an independent certified public accounting firm, mutually acceptable to the Parties. Seller agrees to fully cooperate with any such audit.

4.2.2 Termination for Default.

4.2.2.1 Buyer may terminate the Order for default, in whole or in part, by written notice to Seller if (i) Seller fails to make delivery of the Products or perform the Services within the time specified in the Order; (ii) Seller fails to perform any of the other obligations of the Order, or fails to make progress, so as to endanger performance of the Order; (iii) it is found that gratuities (in the form of entertainment, gifts, travel or anything of value) or kickback were offered or given by Seller has a potential, actual or apparent personal or organizational conflict of interest related to or arising out of its performance of the Order and Buyer determines that such conflict cannot be adequately avoided or mitigated; or (vi) Seller fails to agree upon any deletion, amendment, or addition to the Order that is required by statute, executive order, or applicable regulation, or results from a modification to Buyer's Government Contract by Buyer's customer. Upon written notice by Buyer, Seller shall have five (5) calendar days to cure such deficiency, unless Buyer extends the cure period in writing.

4.2.2.2 Seller shall promptly notify Buyer if Seller: (i) becomes insolvent or makes a general assignment for the benefit of creditors; or (ii) files a petition or application or commences any proceeding under any bankruptcy or similar statute or has a petition or application filed or any such proceeding commenced against it. In such event, Buyer may determine Seller's financial condition endangers completion of performance and may require Seller to post such financial assurance, as Buyer, in its sole discretion, deems necessary. Seller's failure to remedy any insolvency, assignment, petition, or post such financial assurance upon seven (7) calendar days written notice shall constitute a default under the Order. The rights and remedies of Buyer in this clause are in addition to any other rights and remedies provided by law or equity under the Order.

4.2.2.3 After receipt of notice of termination for default, Seller shall stop work under the Order on the date and to the extent specified in the notice of termination for default.

4.2.2.4 Buyer may require Seller to transfer title and deliver to Buyer, in the manner and to the extent directed by Buyer, any partially completed Products and any raw material, parts, tools, dies, jogs, fixtures, plans, drawings, Services, and information ("Materials") as Seller has produced or acquired for the performance of the Order. Seller further agrees to

protect and preserve property in the possession of Seller in which Buyer has an interest. Except for situations where Seller is in violation of the U.S. Foreign Corrupt Practices Act as referenced in Article 27(f) (Foreign Corrupt Practices Act): (i) payment for completed Products delivered and accepted by Buyer shall be at the Order price; and (ii) payment for unfinished Products or Services, which have been delivered and accepted by Buyer and for the protection and preservation of property, shall be at a price determined in the same manner as provided in Section 4.2.1 ("Termination for Convenience"), except that Seller shall not be entitled to profit.

- 4.2.2.5 If Seller is terminated for default pursuant to this clause, Seller shall be liable to Buyer for any excess repurchase costs incurred in acquiring goods and/or services similar to those terminated for default, and for any other damages, whether or not repurchase is effected.

5.0 INTELLECTUAL PROPERTY

5.1 Rights in Data and Inventions

5.1.1 The following terms shall have the meanings set forth below:

5.1.1.1 "Intellectual Property" or "IP" means inventions, discoveries and improvements, know-how, works of authorship, technical and other data, drawings, specifications, process information, reports and documented information, and computer software.

5.1.1.2 "Background IP" means Intellectual Property that is (i) in existence prior to the effective date of the Order or (ii) is designed, developed, or licensed from a third party after the effective date of the Order independently of both (1) the work undertaken under or in connection with the Order and (2) the proprietary information and IP of the other party to the Order.

5.1.1.3 "Foreground IP" means Intellectual Property conceived, created, acquired, developed, derived from, or based on development performed under the Order or information supplied by Buyer, or first actually reduced to practice by Seller in connection with the Order.

5.1.2 Buyer shall retain ownership of all Intellectual Property and other information supplied by Buyer hereunder ("Buyer-Owned IP"). Seller shall treat as proprietary and confidential all Buyer-Owned IP, except for any such information provided by the Government or to which the Government has other than unlimited rights, in which case Seller shall use and disclose the information in accordance with applicable provisions and/or restrictive markings concerning Seller's use and disclosure of such information. Buyer grants to Seller a non-exclusive, non-transferable (except as expressly provided herein), royalty-free right during the term of the Order to use, reproduce, modify, practice, and prepare derivative works of any Buyer-Owned IP solely as necessary for Seller to perform its obligations under the Order. Seller shall not, without Buyer's prior written consent, use Buyer-Owned IP or any derivative works of any of the Buyer-Owned IP in any manner not authorized under the Order, including, but not limited to, developing, manufacturing, offering for sale or selling any item or service which utilizes or is enabled by Buyer-Owned IP. On Buyer's request or upon completion or termination of the Order for any reason, Seller shall promptly return or destroy, at Buyer's option, all Buyer-Owned IP and all copies. If Seller destroys the Buyer-Owned IP, Seller shall provide Buyer a certificate of destruction. In the event of a conflict between the terms of this Section 5.1.2 and the terms and conditions of any separately executed and applicable Non-Disclosure Agreement ("NDA") between Buyer and Seller, the terms and conditions of the NDA shall control.

5.1.3 To the extent the Products and Services delivered hereunder will be used for Buyer to perform its contractual obligations under its Government Contract, Seller grants to Buyer a limited, nonexclusive, irrevocable, worldwide, fully paid license to use all IP provided by Seller hereunder for the purpose of performing under the Government Contract (including obligations of any follow-on contract(s) for subsequent phases of the same program); provided that except for any applicable government data rights, such IP will not, without Seller's prior written consent, be disclosed or supplied on a non-confidential basis, in whole or in part to any third party, or used in whole or in part for design, manufacture, re-procurement or any other purpose whatsoever. Seller shall assert all required data rights and markings on any IP delivered, in whole or in part, in accordance with the clauses set forth in Schedule A (FAR, DFARS, and HSAR Clauses) herein.

5.1.4 Unless otherwise expressly agreed in writing to the contrary and subject to Section 5.1.7 below, all Foreground IP developed with Buyer monies (i.e., development was accomplished with monies paid by Buyer to Seller that are not subject to recovery by Buyer under a Government Contract) and not subject to Section 5.1.7 below is hereby assigned to Buyer, shall be proprietary to Buyer, and Buyer shall own all right, title, and interest in such property. Buyer grants to Seller a non-exclusive, non-transferable (except as expressly provided herein), royalty-free right during the term of the Order to use the Foreground IP solely as necessary for Seller to perform its obligations under the Order. Seller shall not, without Buyer's prior written consent, (i) use

Foreground IP in any manner not authorized under the Order, including, but not limited to, developing, manufacturing, offering for sale, or selling any item or service which utilizes, is enabled by, or is derived from Foreground IP, and (ii) disclose the Foreground IP to any third party. Seller shall provide all Foreground IP free of any Seller confidential or proprietary markings and legends. Except as required for the performance of the Order and for archival purposes, Seller shall not make copies or permit copies to be made of Foreground IP without the prior written consent of Buyer. On Buyer's request or upon completion or termination of the Order for any reason, Seller shall promptly provide to Buyer all Foreground IP and all copies thereof. Notwithstanding the foregoing, to the extent it is not reasonably feasible to remove Foreground IP or Buyer-Owned IP from disaster recovery or other archival systems, Seller shall be relieved from the foregoing return obligation, provided however, that all such Foreground IP or Buyer-Owned IP shall remain subject to the confidentiality obligations under the NDA and the Order, including after expiration or termination of the Order for any reason. Any work performed pursuant to the Order that includes any copyright interest shall be considered a "work made for hire" and all rights, title and interest shall be and are hereby assigned to Buyer. The tangible medium storing copies of all reports, memoranda, or other materials in written form, including machine-readable form, prepared by Seller and delivered to Buyer pursuant to the Order shall become the sole property of Buyer and shall be provided to Buyer free of any Seller confidential or proprietary markings or legends.

- 5.1.5 Subject to paragraph 5.1.6 below, any invention constituting Foreground IP is hereby assigned to Buyer and Buyer shall own all right, title, and interest in such property. Seller shall execute all documents necessary to perfect Buyer's interest in and title thereto, including, without limitation, assigning any and all right, title and interest Seller has in any such invention to Buyer. Seller shall ensure that any third party with whom Seller has subcontracted to furnish Products or Services, and Seller's employees, also execute and assign any and all rights, titles, and interest in any such invention to Buyer. Seller shall, within two (2) months after conception or first actual reduction to practice of any invention constituting Foreground IP and prior to completion of the Order, disclose in writing to Buyer all inventions, whether or not patentable, in sufficient technical detail to clearly convey the invention to one skilled in the art to which the invention pertains. Seller shall promptly execute all written instruments, and assist as Buyer reasonably directs in order to file, acquire, prosecute, maintain, enforce and assign Buyer's invention rights. Seller hereby irrevocably appoints Buyer and any of Buyer's officers and agents as Seller's attorney in fact to act on Seller's behalf and instead of Seller, with the same legal force and effect as if executed by Seller, with respect to executing any such written instruments.
- 5.1.6 Seller shall retain ownership of all Seller Background IP and of any Foreground IP not assigned to Buyer pursuant to Sections 5.1.4 and 5.1.5 (collectively, "Seller-Owned IP"). If Seller includes any Seller-Owned IP in any Foreground IP or Product provided to Buyer or any Seller-Owned IP is required to fully exploit such Foreground IP or Product, Seller grants to Buyer an nonexclusive, irrevocable, sublicensable, paid-up, royalty-free worldwide right to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works of any and all Seller-Owned IP incorporated into the Foreground IP or Product or otherwise delivered to Buyer in connection with the Order. The foregoing, however, shall not include the right for Buyer to separate the Seller-Owned IP from the Foreground IP or Product and separately exploit or use the Seller-Owned IP. For Orders that include the delivery of software, the permitted use and license grant of any software shall be extended to Buyer's affiliates and subsidiaries and Buyer's contractors and outsourcers performing services for or on behalf of Buyer.
- 5.1.7 Nothing in this Section 5.1 ("Rights in Data and Inventions") shall modify or alter any rights that the Government may have in any Products or Services, including technical data or computer software deliverables to the Government. Applicable government procurement regulations incorporated into the Order relating to subcontractor's rights in IP are not intended to, and shall not, unless otherwise required by applicable law, obviate or modify any greater rights which Seller may have previously granted to Buyer pursuant to prior agreements between the Parties.
- 5.1.8 If any tools, gauges, appliances, or equipment (collectively "Tools") should be manufactured or procured by Seller for producing or developing the Product delivered under the Order, then such Tools shall become the property of Buyer or Buyer's customer. Buyer shall have all right, title, and interest to such Tools irrespective of whether the Tools are a Product under the Order. Seller shall manage, maintain, and preserve the Tools in accordance with good commercial practice, and upon Buyer's reasonable request, provide Buyer written records of Seller's management, maintenance, and preservation of the Tools, including any inventory lists. Buyer grants to Seller a non-exclusive, non-transferable (except as expressly provided herein), royalty-free right during the term of the Order to use the Tools solely as necessary for Seller to perform its obligations under the Order. All Tools shall be promptly provided to Buyer on request or upon completion or termination of the Order.

5.2 Third Party and Open-Source Software

- 5.2.1 This Section 5.2 ("Third Party and Open Source Software") only applies to Products and Services that include the delivery of software. As used herein, "Open Source Software" means any software programming, or other intellectual property that is subject to (i) the General Public License ("GPL"), Lesser/Library GPL, (LGPL, the Affero GPL (AGL), the Apache license, the

Berkeley Software Distribution (“BSD”) license, the MIT license, the Artistic License (e.g., PERL), the Mozilla Public License (MPL), or any similar license, including, but not limited to, those licenses listed at <http://www.opensource.org/licenses> or (ii) any agreement with terms requiring any intellectual property owned or licensed by Buyer to be (1) disclosed or distributed in source code or object code form, (2) licensed for the purpose of marking derivative works, or (3) redistributable.

5.2.2 In the event Seller provided any third party software, including Open Source Software, to Buyer in connection with the Order (“Third Party Software”), the following shall apply: (i) Seller shall specifically identify in writing to the Buyer’s Procurement Agent all Third Party Software and submit written copies of all third party license agreements applicable to Buyer; and (ii) Seller warrants that (1) it has the right to license any Third Party Software licensed to Buyer under the Order, (2) to the best of Seller’s knowledge, the Third Party Software does not, and the use of the Third Party Software by Buyer as contemplated by the Order will not, infringe any intellectual property rights of any third party, and (3) unless specifically provided otherwise herein, Buyer shall have no obligation to pay any third party any fees, royalties, or other payments for Buyer’s use of any Third Party Software.

5.2.3 Seller shall obtain the Buyer’s Procurement Agent’s prior written consent, which may be withheld in Buyer’s sole discretion, before using or delivering any Open Source Software in connection with the Order. All Open Source Software provided by Seller to Buyer shall be considered, as appropriate, part of and included in the definition of “Seller-Owned IP” and subject to all warranties, indemnities, and other requirements of the Order, including scope of license and maintenance and support, relating to the Seller-Owned IP. Seller represents and warrants all Open Source Software used or delivered in connection with the Order: (i) does not require any software to be published, accessed or otherwise made available without the consent of Buyer; (ii) does not require distribution, copying or modification of any software free of charge.

6.0 INSURANCE; INDEMINIFICATION; LIMITATION OF LIABILITY

6.1 Insurance

6.1.1 Minimum Insurance. Seller shall maintain, at its expense, on an occurrence basis (except as noted below), at all times during the term of the Order and for three (3) years following completion of all work performed under the Order, whichever is later, the insurance coverage listed below with insurance companies eligible to do business in the jurisdiction in which work is performed and maintaining an AM Best’s rating of A-VIII or better. The required insurance shall include limits of not less than the minimum limits of liability specified below, policy limits, or limits required by law, whichever are greater. Limits of insurance required herein may be satisfied with any combination of primary and excess insurance. Additionally, Seller shall cause its subcontractors performing work under the Order to maintain insurance as per the insurance requirements herein or Seller shall insure such subcontractors. Such insurance shall include:

6.1.1.1 Commercial General Liability (CGL) Insurance: Coverage shall be on an occurrence form (ISO CG 00 01 or equivalent) with limits not less than \$1,000,000 per occurrence, \$2,000,000 General Aggregate, \$2,000,000 Products/Completed Operations aggregate, and \$1,000,000 Personal and Advertising Injury (unless higher limits are required by statute or law) for bodily injury, death, and property damage, including personal injury, contractual liability for liability assumed under an insured contract, including the tort liability of another assumed in a business contract, independent contractors, broad-form property damage, personal and advertising injury, and products and completed operations coverage. If Seller will be providing any food-related services or products, then such policy shall not contain an exclusion for fungi, mold, and/or bacteria in food products intended for consumption;

6.1.1.2 Commercial Automobile Liability (CAL) Insurance: Should the performance of the Order involve the use of automobiles including instances when Seler will be using an automobile onsite at a Buyer facility, Seller shall provide CAL insurance insuring the ownership, operation, and maintenance of all motor vehicles used in the performance of work under the Order. Seller shall maintain limits of at least \$1,000,000 combined single limit per accident for bodily injury and property damage. If Seller’s work involves the delivering, hauling, or transportation of goods, such policy shall include the Motor Carrier Act endorsement (MCS-90) and ISO Pollution Liability Broadened Coverage for covered auto endorsement (CA 99 48) or equivalent form or such transportation of hazardous materials coverage may be covered under an Environmental Liability policy. Such policy shall include coverage for contractual liability, including but not limited to, liability assumed under an insured contract and the tort liability of another assumed in a business contract;

6.1.1.3 Workers’ Compensation (WC) Insurance: Such insurance shall provide coverage as prescribed by the law(s) of the jurisdiction(s) in which the Services under the Order will be performed, in amounts not less than the statutory requirements in the state where the Services are performed even if such coverage is elective in that state, including occupational disease coverage, and if applicable, Foreign Voluntary Workers’ Compensation if employees will be temporarily working outside of the United States. If Services are to be performed in monopolistic states (including North Dakota, Ohio, Washington and/or Wyoming), Seller will participate in the appropriate state fund(s) to cover all

eligible employees. To the extent that any Services to be performed are subject to the Jones Act, the Longshore and Harbor Worker's Compensation Act, the Outer Continental Shelf Lands Act, the Federal Employer's Liability Act, and/or the Defense Base Act, the Workers' Compensation policy must be endorsed to cover such liability under such Acts with the greater of statutory limits or a limit of at least \$1,000,000. Should Buyer lease or borrow any of Seller's employees to perform Services under the Order, such policy shall include ISO Alternate Employer endorsement WC 03 01 A or an endorsement providing equivalent coverage, including Buyer as an alternate employer with respect to Services performed by Seller's employees under the Order;

- 6.1.1.4 Employers' Liability (EL) Insurance: Such insurance shall provide limits of not less than \$1,000,000 each accident/disease. In states where Workers' Compensation insurance is a monopolistic state-run system (e.g., Ohio, Washington, North Dakota, and Wyoming), Seller shall add Stop Gap Employers Liability with limits not less than \$1,000,000 for each accident or disease.
- 6.1.1.5 Excess and/or Umbrella Liability Insurance: Coverage must be on an occurrence form excess of Seller's required underlying policies, including CGL, CAL, and EL, meeting the above stated requirements for each coverage, with limits of not less than \$2,000,000 per occurrence, in excess of the limits stated in (i), (ii), and (iv) above; and
- 6.1.1.6 Professional Liability: If Seller is providing professional services under the Order, Seller shall carry professional liability / errors & omissions / technology errors & omissions insurance covering all professional services provided under the Order for claims arising out of Seller's errors, omissions, rendering, or failure to render Services or provision of Products under the Order and in the amount of at least \$3,000,000 for each wrongful act or omission. Such policy shall not contain any exclusion for Seller's operations contemplated by the Order. Such policy shall not contain pollution exclusions. Such policy may be written on a Claims Made basis, provided the retroactive date shall precede the execution date of the Order and the start of Seller's Services under the Order. Seller agrees to maintain appropriate coverage in the amounts stated above during the term of the Order and for not less than three (3) years from the date the Order is terminated by purchasing appropriate tail or extended insurance coverage, and the retroactive date must be stated on the Certificate of Insurance.
- 6.1.2 Additional Insurance. Some or all of the following additional insurance coverage may be required, depending upon the nature of the work to be performed. These additional insurance requirements will be identified on the Order.
- 6.1.2.1 Cyber / Privacy Liability or Network Security Insurance (may be separate or combined with the Professional Liability / E&O Liability / Technology E&O Policy): If Seller's Services include any cyber-related risks, then Seller shall maintain Cyber Liability insurance for network security and privacy risks. Such insurance shall: (i) cover insurance for data breach or introduction of virus or malicious code, consumer notification, whether or not required by law, forensic investigations, public relations and crisis management, and credit or identity monitoring or similar remediation services, unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, Cyber extortion, and including coverage for related regulatory fines, defenses, and penalties allowed by law, and Payment Card Industry ("PCI") fines, penalties, and assessments if Seller may take payments by credit card in the course of operations under the Order. Such policy shall provide coverage for claims arising out of the services provided hereunder by Seller and/or its subcontractors. Technology Errors and Omissions/Professional Liability insurance may be provided under a Cyber Liability policy; provided, however, that the limits required for such insurance be maintained in addition to the limits required for Cyber Liability insurance; and (ii) include the indemnification of Buyer for any costs and expenses, including Buyer's notification expenses, incurred by Buyer arising out of a security breach, privacy breach, or breach of privacy regulations; with an occurrence or per claim limit, and a limit of not less than \$3,000,000 per claim/aggregate. The policy may be written on a Claims Made basis, provided the retroactive date shall precede the execution date of the Order and the start of Seller's Services under the Order. Seller agrees to maintain appropriate coverage in the amounts stated above during the term of the Order and for not less than three (3) years from the date the Order is terminated by purchasing appropriate tail or extended insurance coverage, and any applicable retroactive date must be stated on Seller's Certificate of Insurance;
- 6.1.2.2 Media Liability Insurance: If Seller will be creating or providing content to Buyer, such as advertisements, marketing brochures, annual reports, or other publications, websites, or blogs, or if Seller will be providing Services related to a sponsorship agreement, then Seller shall maintain Media Liability insurance with limits of at least \$3,000,000 per claim/aggregate. Such policy shall include coverage for damages and claims expenses for which Seller may become legally obligated to pay for one or more of the following acts as a result of errors, omissions, and negligence in the gathering, creating, and communication of Seller's display of media material on Seller's website, social media, online

and offline print, including: disparagement, defamation, libel, slander, infringement of copyright, infringement of domain name, trademark, trade name, trade dress, logo, title, metatag, or slogan, service mark or service name, or improper deep-linking or framing within electronic content. Such insurance may be provided under a Cyber Liability, Technology E&Os, or Professional Liability policy;

- 6.1.2.3 Fidelity or Crime Insurance: Such insurance shall provide a client coverage endorsement with limits of not less than \$1,000,000 per insuring agreement and shall include Buyer as Loss Payee. Coverage must include employee dishonesty, including but not limited to dishonest acts of Seller, its employees, agents, subcontractors and anyone under Seller's supervision or control, and loss of Buyer property, Forgery, Computer Fraud, and Funds Transfer Fraud. Seller shall be liable for money, securities, or other property of Buyer;
- 6.1.2.4 Environmental Insurance (Contractor's Pollution Liability (CPL) Insurance): If Seller's scope of work to be performed may include any pollution exposure, then Seller shall maintain CPL insurance with limits of at least \$5,000,000 each occurrence and \$10,000,000 aggregate, including, but not limited to, coverage for sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste materials, or other irritants, contaminants, or pollutants and include coverage for bodily injury, property damage, including loss of use of damaged property or of property or of property that has not been physically injured or destroyed, natural resource damage, clean-up costs, on/off-site transportation and the disposal of waste at third-party facilities, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, all in connection with loss arising from Seller's operations provided under this Order. If Seller's Services involve lead, asbestos, mold, bacteria, and/or silica exposures, the policy shall not contain lead, asbestos, mold, bacteria, or silica exclusions and the definitions of "Pollution" shall include microbial matter including mold and bacteria;
- 6.1.2.5 Motor Truck Cargo Insurance: If Seller's Services include hauling Buyer's product, then Seller must provide evidence of Motor Truck Cargo coverage written on an All Risks basis with a limit the greater of \$1,000,000 per conveyance or in an amount sufficient to cover the total replacement cost value of cargo per conveyance while under Seller's care, custody, or control. Buyer must be included as Loss Payee with respect to Buyer's insurable interest in the cargo. Such coverage shall begin when Seller has accepted for transportation the property. Coverage shall apply throughout the time while such property is in Seller's custody as the carrier or in the custody of connecting carriers, while property is being loaded, during transit, and during unloading at the final destination. Coverage shall end on acceptance of the goods at the specified destination;
- 6.1.2.6 All Risk Property Insurance Replacement Value: Seller shall carry All Risk Property Insurance Replacement Value covering the value of property of Buyer or Buyer's customer in the care, custody, or control of Seller and include Buyer as Loss Payee;
- 6.1.2.7 Liquor Liability Insurance: If Seller will be selling or serving liquor during performance of its operations under the Order, then Seller shall maintain Liquor Liability insurance with limits of not less than \$2,000,000 per occurrence, and Seller shall maintain any applicable liquor license required by law, and
- 6.1.3 Waiver of Subrogation. To the fullest extent allowed by law, Seller shall waive and shall require its insurers to endorse all required insurance policies to waive any right of recovery under subrogation or otherwise in favor of Buyer, its subsidiaries, successors, assigns, and affiliates as their interests may appear, and each of their respective directors, officers, customers, agents, and employees for losses arising from Seller's Services under this Order. A waiver of subrogation endorsement MUST be included or attached to the Certificate of Insurance.
- 6.1.4 Additional Insured. Except for WC, EL, Technology Errors & Omissions, Professional Liability, Motor Truck Cargo, and Crime/Fidelity insurance, Seller shall include Buyer, its subsidiaries, successors, assigns, and affiliates as their interests may appear, and each of their respective directors, officers, customers, employees, and agents as Additional Insureds on a primary and non-contributory basis under each of Seller's policies with respect to Seller's Services, operations, and completed operations, including claims caused, in whole or in part, by Seller Services or operations. Seller's CGL Additional Insured endorsement providing coverage under the Order shall be at least as broad as ISO CG 20 10 (for ongoing operations) and CG 20 37 (for products/completed operations) or equivalent forms. The Additional Insured and Primary & Non-contributory basis endorsement MUST be attached to the Certificate of Insurance. For policies where additional insured coverage is required, policies shall include severability of interest/separation of insureds provisions and shall not contain any cross-suit liability exclusions.
- 6.1.5 Certificate of Insurance. Seller shall provide to Buyer, within fifteen (15) calendar days of Buyer's issuance of an Order and prior to the start of any work, a Certificate of Insurance (COI) evidencing the coverages, limits, self-insured retentions, notice of

cancellation, and provisions specified in this Section 6.1 and thereafter upon the renewal of any of the policies including copies of endorsement adding Buyer and its subsidiaries, successor, assigns, and affiliates as their interests may appear, and each of their respective directors, officers, customers, agents, and employees as Additional Insureds on a primary and non-contributory basis and granting waivers of subrogation. The COIs are to be completed and signed by a person authorized by the insurer of Seller to bind coverage on the insurer's or Seller's behalf and must name Buyer as the certificate holder. Seller shall also provide Buyer such copies of COIs and required endorsements within ten (10) business days of policy expiration/renewal and upon Buyer's written request.

6.1.6 General Requirements. Seller or Seller's insurers shall give Buyer a minimum of thirty (30) calendar days' written notice prior to any suspension, non-renewal, cancellation (except ten (10) calendar days for non-payment of premium), or any changes to the policy whereby the policy no longer meets the insurance requirements in the Order. Failure to do so shall constitute a material breach of the Order. In the event Seller fails to secure and continuously maintain the insurance coverage required under the Order, Buyer may charge Seller, and Seller shall pay Buyer, (i) Buyer's actual expenses incurred in purchasing similar protection, and (ii) the value or amount of any claims, actions, damages, liabilities, costs, and expenses paid by Buyer which would not have been paid by Buyer if Seller has complied with the requirements of this Section 6.1. None of the requirements contained in this Section 6.1, including, but not limited to, requirements relating to types and minimum limits of coverage, are intended to and shall not in any manner limit, qualify, or quantify the liabilities and obligations assumed by Seller under the Order or as otherwise provided by law. Seller's purchase and maintenance of the insurance described in this Section 6.1 shall not release Seller from its respective obligations or liabilities in connection with the Order. Furthermore, Seller is responsible for any losses, claims, incidental costs arising out of the Services which exceed the limits of liability or which may be outside the coverage required in this Section 6.1. No provision of the Order shall impose on Buyer any duty or obligation to verify the existence or adequacy of the insurance coverage maintained by Seller and/or Seller's subcontractors. Any failure on the part of Buyer to pursue or obtain the evidence of insurance from Seller or any other party and/or failure of Buyer to point out any non-compliance of such evidence of insurance shall not constitute a waiver of any of the insurance required under the Order. Buyer does not warrant that any required limits may be adequate to protect Seller's interests. Seller, at its own cost, may purchase any additional insurance it believes necessary to protect its interest. Seller is required to fully fund losses within its deductibles, self-insured retentions, and self-insured programs, without contribution from Buyer. Seller's required insurance coverage shall be primary insurance, and any insurance, retentions, and self-insurance maintained by Additional Insureds shall be excess and non-contributory with Seller's insurance.

6.2 Indemnification

6.2.1 Seller shall defend, indemnify, and hold harmless Buyer, its officers, directors, customers, agents, employees, successors, and assigns against any and all claims, actions, awards, liabilities, damages, losses, and expenses, including attorneys' fees, expert fees, and court costs, arising out of or relating to: (i) Seller's breach of any warranty contained in the Order; (ii) death, personal injury, destruction, or damage to real or tangible personal property, contamination of the environment, and any associated clean-up costs caused or contributed to by Seller or Seller's agents, subcontractors, employees, or anyone acting on behalf of Seller; (iii) Seller failing to satisfy the Internal Revenue Service's guidelines for an independent contractor; (iv) any negligent act, omission, or willful misconduct of Seller or any of Seller's agents, subcontractors, employees, or anyone acting on behalf of Seller; (v) the violation by Seller or Seller's personnel of any applicable federal, state, or local law, including but not limited to export control, hazardous substance, toxic substance, and hazardous conditions laws; (vi) any employment-related claims, including those arising from Worker's Compensation or Occupational Disease law, brought by Seller's personnel against any indemnified party of Buyer; and (vii) Seller's failure to keep its work, all Products supplied by Seller hereunder, and Buyer's premises free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance by Seller or by any of its vendors or subcontractors.

6.2.2 Except to the extent that the U.S. government assumes liability therefor, Seller shall, at Seller's expense, defend, indemnify, and hold harmless Buyer, its officers, directors, customers, agents, employees, successors, and assigns from all claims, actions, awards (including, but not limited to, awards based on infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorneys' fees and/or costs), liabilities, damages, losses, and expenses, including attorneys' fees, expert fees, and court costs, arising out of or relating to the actual or alleged infringement or misappropriation of a third party's patent, copyright, trademark, trade secret, or other intellectual property right. Seller's infringement indemnification obligation does not apply to the extent the infringement claim arises from Seller's adherence to Buyer's written instructions or direction which involves the use of other than items or merchandise of Seller's origin, design, or selection or where Seller's Product has been modified by anyone other than Seller and the infringement or claim of infringement arises as a result of such modification. Seller's infringement indemnification obligation shall be excluded from any limitation of liability.

- 6.2.3 If the Products or Services become or are likely to become the subject of an infringement claim, then, in addition to defending the claim and paying any damages and attorneys' fees as required above, Seller shall, at its option and expense, either: (i) promptly replace or modify the Products or Services, without loss of material functionality or performance, to make it non-infringing; or (ii) promptly procure for Buyer the right to continue using the Products or Services pursuant to the Order. If after using commercially reasonable efforts Seller fails to provide one of the foregoing remedies within forty-five (45) calendar days of notice of the claim, Buyer shall have the right to terminate the Order with no further liability to Seller, and Seller shall refund to Buyer all amounts paid for the infringing Products or Services.
- 6.2.4 Buyer shall provide Seller with prompt written notice of any indemnified claim, permit Seller to control the defense and settlement of such claim, and reasonably cooperate and assist Seller in connection with the defense and settlement of such claim; provided that all settlement shall require prior written approval by Buyer. Seller shall provide Buyer with regular updates as to the status of the defense and settlement, including copies of documents and materials associated with the defense and settlement. Seller agrees to pay or reimburse all costs that may be incurred by Buyer in enforcing Seller's indemnification obligations, including attorneys' fees.
- 6.2.5 Limitation of Liability. IN NO EVENT SHALL BUYER BE LIABLE TO SELLER OR TO ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, MULTIPLE OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THE ORDER. IN NO EVENT SHALL THE TOTAL CUMULATIVE LIABILITY OF BUYER IN ANY CAUSE OF ACTION BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR THE PERFORMANCE OR BREACH OF THE ORDER OR ANYTHING DONE IN CONNECTION THEREWITH EXCEED THE ORDER PRICE. NOTWITHSTANDING ANYTHING ELSE IN THE ORDER TO THE CONTRARY, THE STATED MONETARY LIMITATION HEREINABOVE IS THE MAXIMUM LIABILITY BUYER HAS TO SELLER TO THE EXTENT THAT THIS LIMITATION OF LIABILITY CONFLICTS WITH ANY OTHER PROVISION OF THE ORDER, THE PROVISION SHALL BE REGARDED AS AMENDED TO WHATEVER EXTENT REQUIRED TO MAKE SUCH PROVISION CONSISTENT WITH THIS LIMITATION OF LIABILITY.
- 7.0 **COMPLIANCE WITH LAWS.** Seller shall comply with all applicable federal, state and local laws, orders, rules, regulations, and ordinances, including any environmental, transportation, or employment regulations. Seller shall procure all licenses and permits, pay all fees and other required charges, and comply with all applicable guidelines and directives of any local, state, and federal government authority. Unless otherwise specified in the Order, export licenses will be obtained by Buyer. If Buyer determines that Seller has violated any of the obligations, including but not limited to any obligations set forth in this Section 7.0 ("Compliance with Laws"), Buyer may, in its discretion, either terminate the Order and/or require Seller to implement a corrective action plan as a condition of continued or future business. The violations of any applicable law, rule, or regulation shall be deemed a material breach of the Order.
- 8.0 **COMPLIANCE WITH U.S. PROCUREMENT STATUTES AND REGULATIONS**
- 8.1 General. To the extent the Products and Services delivered hereunder will be used for Buyer to perform its contractual obligations under its Government Contract, Seller shall comply with all obligations set forth in this Section 8.0 ("Compliance With U.S. Procurement Statutes And Regulations"). If Buyer determines that Seller has violated any of the obligations, including but not limited to any obligations set forth in this Section 8.0, Buyer may, in its discretion, either terminate the Order and/or require Seller to implement a corrective action plan as a condition of continued or future business. The violations of any applicable law, rule, or regulation shall be deemed a material breach of the Order.
- 8.2 Reporting Obligations. To the extent applicable, Seller agrees to provide to Buyer all Products content information required to satisfy both Buyer's content reporting obligations and Buyer's customers' reporting obligations.
- 8.3 Certificates. Upon Buyer's request, Seller agrees to furnish to Buyer or directly to Buyer's customer, any certificate required to be furnished under these General Terms and Conditions including the clauses set forth in Schedule A (FAR, DFARS, and HSAR Clauses). A "certificate" may include any plan or course of action or record keeping function (e.g., a small business subcontracting plan for which flow down is required).
- 8.4 Seller's Business Systems. "Business Systems" as used in this clause means material management and accounting system, cost estimating system, accounting system, earned value management system, property management system, and purchasing system. When Seller's Business Systems are reviewed and audited by the Government, Seller shall provide prompt notice to Buyer whenever there is a material change in the status of the Government's audit findings or determination of adequacy of any of Seller's Business Systems. If the Government observes a deficiency in Seller's Business Systems that may result in Seller's Business Systems and/or Buyer's Business Systems being deemed not adequate and if any of the deficient Business Systems

produce data integral to the output of Buyer acting in its role as a contractor to the Government or to another prime contractor, then Seller shall be liable for and hold harmless Buyer from any loss, damage, or expense whatsoever that Buyer may suffer.

- 8.5 Classified Information. In the event the Order requires access to classified information, Seller, at its sole expense, agrees to comply with all laws and regulations of the United States related to such classified requirements, including obtaining all required authorizations from the U.S. pursuant to, among other requirements, those set forth in the National Industrial Security Program Operating Manual ("NISPOM") and any specific agency supplements to the NISPOM or other classified requirements as directed by Buyer. A copy of the NISPOM is available for download at:
<http://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/522022M.pdf>.
- 8.6 U.S. Foreign Corrupt Practices Act. Seller represents and warrants it shall: (i) comply with the requirements of the U.S. Foreign Corrupt Practices Act ("FCPA") (15 U.S.C. §§ 78dd-1, et. seq., as amended), regardless of whether Seller is within the jurisdiction of the United States; (ii) neither directly nor indirectly, pay, offer, give, or promise to pay or give, any portion of monies or anything of value to a non-U.S. public official or any person in violation of the FCPA and/or in violation of any applicable country laws relating to anti-corruption or anti-bribery; and (iii) not interact with any government official, political party, or public international organization on behalf of Buyer without the prior written permission of the Buyer's Procurement Agent. Breach of this Section 8.6 by Seller shall be considered an irreparable material breach of the Order and shall entitle Buyer to terminate the Order immediately without compensation to Seller.
- 8.7 No Gratuities. No gratuities (in the form of entertainment, gifts, travel, or anything of value) or kickbacks shall be offered or given by Seller or by any agent, representative, affiliate, subsidiary, or subcontractor of Seller to any officer or employee of Buyer's customer or Buyer. This restriction specifically prohibits the direct or indirect inclusion of any kickback amounts in any invoices or billings submitted under the Order or any other agreement with Buyer.
- 8.8 No Child Labor. Seller shall comply with all local, state, and national laws relating to the prohibition on child labor and indentured, prison, or compulsory labor. Seller shall comply with all applicable laws and industry standard relating to working hours, working conditions, and any collective bargaining agreements. Seller further agrees that, if requested by Buyer, if shall demonstrate, to the satisfaction of Buyer, compliance with all requirements in this Section 8.8. Buyer shall have the right to inspect any site of Seller for compliance with this Section 8.8. Seller shall include this provision in all of its lower-tier subcontracts.
- 8.9 No Human Trafficking. Seller shall comply with all applicable local, state, and national laws in the countries where Seller does business relating to the prohibition of slavery and human trafficking. Upon Buyer's request, Seller shall provide to Buyer a copy of its human trafficking compliance plan and/or other evidence of Seller's compliance with this provision. Seller shall include this provision in all of its lower-tier subcontracts.
- 8.10 National Defense Authorization Act Section 889. Buyer, as a Government contractor, is prohibited from using: (i) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (ii) video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate or such entities); (iii) telecommunications or video surveillance services provided by such entities or using such equipment; or (iv) telecommunications or video surveillance equipment or services produced or provided by an entity that is owned or controlled by, or using such equipment; or (iv) telecommunications or video surveillance equipment or services produced or provided by an entity that is owned or controlled by, or otherwise connected to, the government of the People's Republic of China (collectively, "covered telecommunications equipment or services") as a substantial or essential component of any system or as critical technology as part of any system, regardless of whether the use is in performance of work under a federal contract. By acceptance of the Order, Seller represents and warrants that it: (1) does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services, as a substantial or essential component of any system or as critical technology as part of any system; and (2) will not provide covered telecommunications equipment or services to Buyer in the performance of the Order. In the event Seller identifies covered telecommunications equipment or services used as a substantial or essential component of any system or as critical technology as part of any system at any time during the proposal process or contract performance, or Seller is notified of such by a subcontractor at any tier or by any other source, Seller shall immediately notify Buyer and reasonably cooperate with Buyer's requests for supporting documentation and any resolution required by Buyer's customer. Seller shall include this provision in all lower-tier subcontracts.
- 8.11 Prohibited Contracting. For purposes of this Section 8.11, "Covered Entity" means Kaspersky Lab, any successor entity to Kaspersky Lab, any entity that controls, controlled by, or is under common control with Kaspersky Lab, or any entity of which Kaspersky Lab has a majority ownership. For purposes of this Section 8.11, "Covered Article" means any hardware, software,

or service that is developed or provided by the Covered Entity, includes any hardware, software, or service developed or provided in whole or in part by the Covered Entity, or contains components using any hardware or software developed in whole or in part by the Covered Entity. Seller is prohibited from providing any Covered Article in the performance of the Order. In the event Seller identifies that a Covered Article has been provided to Buyer under the Order, Seller shall immediately notify Buyer in writing of such event and discontinue its use under the Order. Seller will, at Seller's cost, cooperate with Buyer to provide any requested information regarding the Covered Article and any mitigation efforts taken by Seller. Seller shall include this provision in all of its lower-tier subcontracts.

8.12 Equal Opportunity. Buyer and Seller shall abide by the equal opportunity federal and state laws that prohibit discrimination on the bases of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or veteran status and require affirmative measures to prevent discrimination on those bases from occurring, including employment and advance in employment requirements.

8.13 Cyber Security and Incident Reporting

8.13.1 Seller shall comply with the following:

8.13.1.1 "Buyer Data" means all data, content, materials, Confidential Information, and other information provided by Buyer to Seller or otherwise transmitted to Seller for use in connection with the Products and Services. Seller shall establish and maintain environmental, safety and facility procedures, data security procedures, and other safeguards against the destruction, corruption, loss or alteration of Buyer's data and to prevent access, intrusion, alteration or other interference by any unauthorized third parties of the same, that are: (i) no less rigorous than those maintained by Seller for its own information or the information of its customers of a similar nature and scope; (ii) no less rigorous than the accepted practices in the industry; and (iii) no less rigorous than those required by applicable data security and privacy statutes and regulations. Buyer Data shall be maintained by Seller as Confidential Information under this Agreement. Seller acknowledges and certifies that (a) Seller will not "sell" (as defined at Cal. Civ. Code § 1798.140(t), as it may be amended) Buyer Data, and (b) Seller will not use, disclose, or retain Buyer Data for purposes other than performing the Products and Services for Buyer or to comply with applicable law, and Seller will ensure that its subcontractors are restricted from any use or retention of Buyer Data other than for purposes of performing the Products and Services for Buyer or to comply with applicable law. Seller may not de-identify, aggregate, redact, create derivative data, or otherwise process Buyer Data for Seller's purposes other than as required to perform the Products and Services for Buyer. In the course of furnishing the Services, Seller shall not access, and shall not permit its personnel or entities within its control to access, Buyer's electronic communication systems, networks, or computers without Buyer's written authorization.

8.13.1.2 Seller has the obligation to protect the confidentiality, authenticity, and integrity of Buyer Data by protecting the transmission of electronic messages from unauthorized access or modification. Seller agrees to appropriately and effectively encrypt Buyer Data transmitted over public networks, stored on Seller portable devices, and at rest in any hosting system by using the most current industry standard security algorithm or cryptography validated by the current FIPS 140 standard and an appropriate encryption strength. Seller will take all reasonable measures to secure and defend its location and equipment against "hackers" and others who may seek, without authorization, to modify or access Seller systems or the information found therein. Seller will periodically test its systems for potential areas where security could be breached and remediate any medium or high risk issues and critical gaps. Seller shall rapidly report cyber incidents to Buyer at contracts@sentrillion.com and the DoD at <http://dibnet.dod.mil>, if applicable, and provide the requisite information required under DFARS 252.204-7012 and as reasonably requested by Buyer. Without exception, Seller shall report to Buyer any breach of Seller's data security procedures that result in any actual or threatened breach loss, corruption, or alteration of Buyer Data within seventy-two (72) hours of Seller's discovery of the incident. In such an instance, in addition to Seller's other obligations under the Order, or under any law or regulation, Seller agrees, at Seller's cost, to use diligent efforts to investigate, contain, and promptly remedy any such breach, fully cooperate with Buyer in resolving such breach, and mitigate any damage from such breach. Failure to report any cyber incidents will be considered a material breach of the Order. In the event of a data breach, Buyer shall be afforded unfettered access to certain technical information (e.g., logs, packet flow information, etc.) in order to satisfy information requests from Buyer or Buyer's customer. Seller shall encrypt emails to Buyer regarding cyber incidents using industry standard encryption methods.

8.13.1.3 Should Buyer elect to utilize supplier checklists, representations or certifications of compliance, outside vendor verification, or onsite security audit, Seller shall support as required to meet the continuing needs of Buyer or Buyer's customer.

- 8.13.1.4 Seller agrees to submit to and comply with any cyber security assessment performed or requested by the DoD as further described in DFARS 252.204-7019 (Notice of NIST SP 800-171 DoD Assessment Requirements) and DFARS 252.204-7020 (NIST 800-171 DoD Assessment Methodology) and report such results as required by the DFARS clauses.
- 8.14 Ethical Standards of Conduct.
- 8.14.1 Buyer is committed to conducting its business fairly, impartially, and in an ethical and proper manner. Buyer's expectation is that Seller also will conduct its business fairly, impartially, and in an ethical and proper manner. Buyer's further expectations is that Seller will have (or will develop) and adhere to a code of ethical standards equivalent to Buyer's Supplier Code of Conduct or comply with Buyer's Supplier Code of Conduct. If Seller has cause to believe that Buyer or any employee or agent of Buyer has behaved improperly or unethically under the Order, Seller shall report such behavior to the Buyer's Procurement Agent or the appropriate Buyer points of contact set forth in Buyer's Supplier Code of Conduct. Seller's employees are required to conduct company business with integrity and maintain a high standard of conduct in all business-related activities. Seller shall include this Section 8.14 ("Ethical Standards of Conduct") in all of its lower-tier subcontracts.
- 8.14.2 Seller acknowledges and agrees it is neither obligated nor expected to deliver or provide Products or perform work that will place Seller in an Organizational Conflict of Interest ("OCI") per FAR 9.5, which could serve as a basis for excluding Seller from supplying products or services to the Government. Seller shall identify to Buyer any situation in which an actual OCI or potential for an OCI exists, including without limitation, a relationship of any nature which may affect or which may reasonably appear to affect Seller's objectivity or ability to perform the work. Failure to provide notice to Buyer is a material breach of the Order.
- 8.14.3 As required by FAR 3.104, Seller certifies no person it uses to perform any Services herein has any legal restrictions as a result of Government service (e.g., post-employment restrictions related to representing a company to the Government) that would prevent such person from reasonably performing the work contemplated in the Order.
- 8.15 Conflict Minerals. By accepting these terms and conditions, Seller agrees to timely (no later than thirty (30) calendar days subsequent to the request) respond, to the best of its knowledge and belief following a reasonable country of origin due diligence inquiry in accordance with the framework in the Organization for Economic Cooperation and Development Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas or other prevailing industry standard, to any request by, or on behalf of, Buyer, for information on the origin, source and chain of custody information of tin, tantalum, tungsten, and gold ("3TG") minerals necessary to the functionality or production of a product manufactured by Seller. Seller agrees to provide Buyer timely notice when Seller becomes aware that any 3TG minerals in a Product it supplies to Buyer finances or benefits armed groups in the Democratic Republic of Congo or an adjoining country. Seller understands and acknowledges that any information Seller provides may be used by Buyer to comply with its reporting obligations under the Rule 13p-1 of the Securities and Exchange Act of 1934, as amended and the Dodd-Frank Wall Street Reform and Consumer Protection Act, including filing a Form SD and Conflict Minerals Report with the U.S. Securities and Exchange Commission.
- 8.16 Inspection of Records. Buyer and Buyer's customer, including the Government and regulatory authorities, shall have the right to audit and reproduce Seller's records in instances including, but not limited to: (i) in the event of cancellation, termination, or default; (ii) in connection with any equitable adjustment request; (iii) to reflect properly all costs claimed to have been incurred or anticipated to the incurred directly or indirectly in performance of the Order; (iv) where the terms of the Order or applicable law, regulation, or standard entitle Buyer and/or Buyer's customer to audit Seller's records or facilities, including the records or facilities of Seller's assignees and subcontractors, if any; (v) in connection with internal investigations of alleged violations of applicable law including, but not limited to, the U.S. Foreign Corrupt Practices Act; or (vi) any litigation. Seller shall keep reasonably detailed records of all costs of the performance of the Order for a period of no less than six (6) years from the date of final payment or expiration of any Product warrant or support, whichever is later. Seller shall provide Buyer, Buyer's customer, and regulatory authorities access to all applicable records and all facilities associated with the Order.
- 8.17 Offsets and Industrial Participation. When Buyer has identified an offset obligation directly related to the performance of the Order in its solicitation or in relation to any properly enacted modification, and Seller's performance of the Order generates offset credits which Buyer could use to satisfy that identified offset obligation, then Buyer shall have the right to such Seller offset credits. Buyer retains the right to assign any such offset or countertrade credits to third parties. Seller shall include this clause, for the benefit of Buyer, in all lower-tier purchase orders and subcontracts awarded in the performance of the Order. Seller shall maintain a record of its purchases under the Order and Buyer reserves the right to review such record not more often than every six (6) months to determine offset availability. Buyer shall have no rights to any other offset credits that may be generated by Seller in connection with the Order. Seller agrees to provide all reasonably necessary information in such form as may be required to enable Buyer to obtain the aforementioned offset credits.

- 9.0 EXPORT CONTROL COMPLIANCE:** Seller agrees to comply with all applicable import, export, and economic sanctions laws and regulations, including those of the United States and other applicable foreign jurisdiction. Within thirty (30) calendar days of contract award or prior to receipt by Buyer, whichever comes first, Seller shall provide Buyer with all applicable trade control classification information, including the commodity jurisdiction, classification, and required customs information, for all Products and data supplied to Buyer. For the purpose of this Export Control Compliance Article, “data” means information in an electronic form and includes but is not limited to, technical data as defined in 22 C.F.R. § 120.10, technology as defined in 15 C.F.R. § 772.1, and source code as defined in 15 C.F.R. § 722.1. The requirements and obligations of this Section 9.0 (“Export Control Compliance”) are material terms of the Order.
- 9.1 ITAR and EAR.
- 9.1.1 Seller is hereby notified that certain articles, software, data and/or services provided by Buyer for purposes of the Order may be subject to the International Traffic in Arms Regulations (“ITAR”) (22 C.F.R. §§ 120-130) or the Export Administration Regulations (“EAR”) (15 C.F.R. §§ 730 et seq.). In addition, Seller is hereby notified that articles, software, data, and/or services that are designed, developed, adapted or configured from articles, software, data, and/or services provided by Buyer may also be subject to the ITAR or EAR. Buyer shall provide written notice to Seller of the export control status (i.e., jurisdiction and classification) of all articles, software, data, and/or services provided by Buyer to Seller prior to providing access.
- 9.1.2 Seller shall not transfer or provide access to any ITAR-controlled or EAR-controlled articles, software, data, or technology provided by Buyer to any non-U.S. persons/foreign nationals, including foreign national employees of U.S. companies, foreign companies, or other entities, whether located in the U.S. or not, without Buyer’s express written consent and also proper export license or other approval from the U.S. government.
- 9.1.3 If Seller is a manufacturer and/or exports ITAR-controlled articles or services, Seller represents that it is duly registered with the U.S. Department of State and will maintain its registration for the duration of the Order, in accordance with 22 C.F.R. Par 122. Non-U.S. companies shall be registered as required under applicable foreign government export regulations.
- 9.1.4 Seller represents that it is knowledgeable of the requirements contained in 22 C.F.R. Part 130. To the extent Seller meets the definition of “supplier” or “vendor” in 22 C.F.R. Part 130, Seller agrees to comply with Buyer’s request to provide information regarding fees, commissions, or political contributions to Buyer as set forth in 22 C.F.R. 130.10 and 22 C.F.R. 130.12. In the event Buyer does not request such information from Seller and Seller nonetheless has made, or offered or agreed to make, fees, commissions or political contributions that are within the scope of 22 C.F.R. Part 130, Seller agrees to proactively disclose such information to Buyer within fifteen (15) calendar days after Seller has made the payment, offer or agreement, whichever comes first.
- 9.2 IT Services. In the event Seller will host, receive, or otherwise access Buyer’s software or data, Seller agrees that Buyer’s software or data will remain in the United States and accessible by only U.S. Persons as defined in 22 C.F.R. 120.15.
- 9.3 Anti-Boycott Laws and Regulations. Seller acknowledges and agrees that it may be responsible for complying with any applicable anti-boycott laws and regulations. Seller warrants to Buyer that it does not, and shall not, participate or comply with any boycott request or engage in any restrictive trade practices in contravention of any applicable law or regulation.
- 9.4 Notice Required. Seller shall provide prompt written notification to the Buyer’s Procurement Agent in the event of changed circumstances that could affect Seller’s performance under the Order, including, but not limited to, revocation of export privileges, whether in whole or in part, or a violation or potential violation of applicable export regulations as the violations or potential violation relates to any of Buyer’s articles, software, data, or services provided hereunder.
- 9.5 OFAC Listed Person. Seller warrants that it is not (1) a Specially Designated National or Blocked Person pursuant to the lists published by the U.S. Office of Foreign Asset Control (“OFAC Listed Person”), or (ii) a department agency, or instrumentality of, or otherwise controlled by or acting on behalf of any OFAC Listed Person or the government of a country subject to comprehensive U.S. economic sanctions administered by OFAC. Seller further warrants that it will provide immediate written notice to Buyer if it becomes subject to either of the foregoing.
- 9.6 Consolidated Screening List. Seller further agrees that it will not engage in unauthorized transactions involving the articles, software, technology or services provided hereunder, to or from, with persons or entities identified on any U.S. government screening list, including, but not limited to those identified on the U.S. government’s Consolidated Screening List. Seller also agrees to comply with any foreign jurisdiction regulations involving denied or restricted persons or entities.
- 9.7 Imports Appearing on the U.S. Munitions Import List. If performance under the Order requires Seller to permanently import into the U.S. articles enumerated on the Bureau of Alcohol, Tobacco & Firearms (“BATF”) U.S. Munitions Import List, Seller hereby acknowledges that such items may not be permanently imported into the U.S. without an approval import permit pursuant to 27

C.F.R. Part 47, unless an exemption applies. Additionally, if Seller is engaged in importing articles appearing on the U.S. Munitions Import List into the U.S., Seller agrees to maintain active registration with BATF pursuant to 27 C.F.R. Part 47.

9.8 Items Requiring Approved BATF Permits. If performance under the Order requires Seller to export from the U.S. items defined in 27 C.F.R. Part 179, Seller hereby acknowledges that such items may not be exported from the U.S. without an approved export permit issued by BATF. Seller is also advised that an approved export license issued by the DDTC may also be required pursuant to the relevant requirements of the ITAR.

9.9 Recordkeeping. Seller agrees to bear sole responsibility for all regulatory record keeping associated with the use of import and export licenses and license exceptions or exemptions. Seller agrees to produce its applicable authorizations to Buyer upon written request.

10.0 CUSTOMS.

10.1 Credits and Refunds. All transferable credits or benefits associated with or arising from Products purchased under the Order, export credits, or rights to the refund of duties, taxes, or fees (collectively, "trade credits") belong to Buyer.

10.2 Documentation.

10.2.1 For any shipments to be imported by Buyer, Seller shall provide to the Buyer's Procurement Agent five (5) business days advance written notification of shipments. Such notification shall include submission of a copy of the commercial invoice and packing list required by this provision and such other information as Buyer may reasonably request.

10.2.2 Seller shall forward copies of its shipping documents and any applicable certificates via email or facsimile to Buyer so that Buyer may facilitate Customs clearance. These documents shall include:

10.2.2.1 Commercial Shipping Invoice in accordance with 19 C.F.R. § 141.86;

10.2.2.2 Any benefit Buyer may receive from an applicable Free Trade Agreement or Special Trade Program supported by Seller's certifications/statements of eligibility and qualification (examples include United States, Mexico Canada Agreement or IFTA certificates of origin); and

10.2.2.3 If using Ocean Transport: The Importer Security Filing ("ISF") data elements in accordance with 19 C.F.R. Part 149 shall be provided to Buyer three (3) business days before the cargo is laden aboard the vessel at foreign port of departure. Any penalty or fine due to the failure of Seller or any of its agents in support of the ISF requirement shall be to the account of Seller.

10.2.3 For articles returned to Buyer after repair, Seller shall:

10.2.3.1 Obtain and reference written instructions on how the repaired article is to be returned to Buyer prior to shipment and on shipping documents, respectively;

10.2.3.2 Include a Foreign Repairer Certificate attesting to the work performed abroad in accordance with 19 C.F.R. § 10.8;

10.2.3.3 Include a commercial invoice stating the reason for return. Items returned to Buyer after repair must include the hardware value in accordance with 19 C.F.R. Part 152, Subpart E from the original sale of the item. Ex: "Hardware value for Customs purposes only: \$___";

10.2.3.4 Include the cost of the repair (parts and labor) as a separate line item on the commercial invoice. Ex: "Repair value for Customs purposes only: \$___"; and

10.2.3.5 For repair work done under warranty, Seller shall include the cost of repair. Ex: "WARRANTY repair value for Customs purposes only: \$___"/

10.2.4 For articles returned with a Department of State license, Seller shall indicate the license number on the commercial invoice.

10.2.5 For articles returned under any ITAR exemption, Seller shall include the exemption citation on the commercial invoice in accordance with 22 C.F.R. § 123.4(d)(1)(i).

10.2.6 For any Duty Free Entries against a U.S. prime contract, Seller shall include the requirements of DFARS 252.225-7013(e)(2)(iv).

10.3 Sources. Upon Buyer's written request, Seller shall provide a report of all sources outside the United States utilized by Seller or its lower-tier subcontractors in the fulfillment of the Order, including the names and locations of the sources, and a description of the items or services obtained from such sources.

11.0 GOVERNING LAW AND DISPUTES

11.1 Governing Law

11.1.1 The Order, irrespective of the place of performance shall be governed by, subject to, and construed in accordance with the laws of the Commonwealth of Virginia, without regard to its conflict of law provisions, except that any provision in the Order that is (i) incorporated in full text or by reference from the FAR; (ii) incorporated in full text or by reference from any agency regulation that implements or supplements the FAR; or (iii) substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the federal government. The provisions of the United Nations Convention on the International Sale of Goods shall not apply to the Order. The Parties agree that any and all disputes, claims, or litigation arising from or related in any way to the Order shall be resolved exclusively by the court in Fairfax County, Virginia, and each Party waives any objections against and agrees to submit to the personal jurisdiction of such state and federal courts, including objections or defenses based upon an inconvenient forum. THE PARTIES HEREBY AGREE TO WAIVE THEIR RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THE ORDER OR THE SUBJECT MATTER HEREOF.

11.2 Disputes

11.2.1 Continued Performance. Except as may be provided specifically elsewhere in this Order, during the pendency of any claims, disputes, or other matters of controversy between Buyer and Seller (each, a "Dispute"), as provided by this Section 11.2, the business, performance, and operations to be conducted, and compensation for performance under this Order, to the extent that they are not the subject of such controversy, shall continue to be performed, transacted, used, and paid in the manner and form existing prior to the arising of such controversy, unless an impartial neutral (e.g., arbitrator, judge) shall make a preliminary ruling to the contrary.

11.2.2 Disputes between Buyer and Seller.

11.2.2.1 Dispute Resolution; Arbitration. Excepts for Disputes that may be governed by the terms set forth in Section 11.2.3 herein, any Dispute between Buyer and Seller relating to or arising out of the interpretation or performance of an Order, including, without limitation, any material breach hereof or any tort, the condition of which was created, in whole or in part, by the contractual relationship between Buyer and Seller hereunder, shall be resolved in accordance with the provisions of this Section 11.2.2. At the earliest practicable time, the aggrieved Party shall initiate the Dispute by delivering written notice to the other Party stating, in reasonable detail, the matter of dispute between the Parties (the "Dispute Notice"). Upon receipt of the Dispute Notice, Buyer and the Seller shall first meet, through their duly authorized agents, and negotiate in good faith to reach a mutually acceptable settlement of the Dispute within twenty (20) calendar days from the date of delivery of the Dispute Notice, unless, due to the circumstances, the Parties mutually agree to extend or shorten the period for negotiation. If after negotiation the Parties fail to reach a settlement, Buyer and Seller agree to enter into binding arbitration (the "Arbitration") administered by the American Arbitration Association (the "AAA") under its Commercial Arbitration Rules (the "Rules") in effect as of the date the Arbitration is initiated. The arbitration shall be conducted in Reston, Virginia and shall be administered by a single arbitrator. Within ten (10) calendar days of a request for arbitration, the Parties shall act in good faith to identify a mutually acceptable arbitrator from the AAA's National Roster of Commercial Arbitrators. If, however, after the elapse of said ten (10) day period, the Parties are unable to agree on an arbitrator, the Parties consent to permit the AAA, through its assigned administrator, to appoint the arbitrator in accordance with the Rules. Whether selected by the Parties or by the AAA administrator, the arbitrator shall have no less than ten (10) years of experience in the field of federal acquisition contracts as a legal professional or as an impartial neutral. The arbitrator's decision shall be final and binding, and it may be entered as a judgment in a court of competent jurisdiction. The Parties shall equally bear the administrative fees and expenses imposed by the AAA for the Arbitration (the "Arbitration Fee") unless the arbitrator includes in its order of an award that the non-prevailing Party bear the entire Arbitration Fee. Notwithstanding, each Party shall bear its own attorney's fees and its own other costs that may be incurred by prosecuting or defending its individual claims.

11.2.2.2 Exceptions to Arbitration. Notwithstanding Section 11.2.2.1, the Parties agree that a breach of Sections 5.0 ("Intellectual Property"), 6.2 ("Indemnification"), and 12.1.3 ("Confidentiality") and any additional terms duly identified in an Order to be covered by this Section 11.2.2.2, by a Party hereto may cause irreparable harm to the non-breaching Party that cannot be adequately compensated in damages; therefore, in such circumstance, the non-breaching Party may in its sole discretion immediately pursue equitable relief and other remedies exclusively in the state courts of Virginia located in the City of Fairfax, Fairfax County, Virginia or the federal courts for the Eastern District of Virginia located in the City of Alexandria, Alexandria County, Virginia. Each Party hereby waives any right it may have to

assert improper venue or the doctrine of *forum non conveniens* or similar doctrine or to otherwise object to venue with respect to any proceeding brought in accordance with this Section 11.2.2.2, and stipulates that the state courts of Virginia located in the City of Fairfax, Fairfax County, Virginia or the federal courts for the Eastern District of Virginia located in the City of Alexandria, Alexandria County, Virginia shall have *in personam* jurisdiction and venue over each of them for the purpose of litigating as expressly permitted by this Section 11.2.2.2. Any final judgment rendered against a Party in any action or proceeding permitted by this Section 11.2.2.2 shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law.

- 11.2.3 Disputes Involving a Government Client. In the case of any and all Claims for which either Buyer or Seller contend that the Government Client's conduct is directly or indirectly the cause for the Dispute, such Dispute shall be exclusively resolved in accordance with the provisions of this Section 11.2.3.
- 11.2.3.1 Sponsorship of Claims. For any Dispute that Seller may have against Buyer, Seller shall deliver written notice to Buyer stating, in reasonable detail, the matter of dispute and whether, in Seller's opinion, the Government Client is directly or indirectly the cause for the Dispute. Within twenty (20) calendar days of Buyer's receipt of the notice, Buyer may deliver a written response to Seller stating, in Buyer's opinion, whether the Government Client directly or indirectly is the cause for the Dispute. Should either Party allege in either the notice or response that a Government Client is the cause for the Dispute, Buyer may consent to sponsor Seller's Dispute against the Government Client in accordance with the disputes provision of the Prime Contract. If Buyer gives consent to sponsor Seller's Claim, such consent shall be in consideration for Seller's liquidation of all claims against Buyer and shall be contingent upon Seller's compliance with all the terms of this Section 11.2.3. Notwithstanding the foregoing, if neither the notice nor response provides that the Government Client is a cause for the dispute, then the Dispute shall be exclusively resolved by the terms set forth in Section 11.2.2 above.
- 11.2.3.2 Exclusive Remedy. Seller understands and agrees that Buyer's sponsorship of Seller's Dispute against the Government Client is Seller's exclusive remedy for prosecuting such Dispute regardless of the outcome. Seller's recovery for any Dispute pursued under this Section 11.2.3 is strictly limited to the amounts recovered from the Government Client and that are directly allocable to Seller's Dispute.
- 11.2.3.3 Type of Sponsorship. Based on the nature and circumstances of the Dispute, Buyer, in its reasonable and sole discretion, may elect to either (a) allow Seller to prosecute the Dispute against the Government Client in Buyer's name; or (b) prosecute the Dispute on the Seller's behalf. In either case, the Party who prosecutes the Dispute shall be the lead authority to control all strategic decisions on the matter. Regardless of which Party prosecutes the Dispute, Buyer shall have the right to participate in all meetings, proceedings, negotiations, or otherwise throughout the prosecution of the Dispute.
- 11.2.3.4 Certifications. For any Dispute to be submitted to the Government Client, Seller, through its duly authorized agent, shall certify in writing: (a) that the Dispute is made in good faith; (b) that the supporting data for the Dispute are accurate and complete to the best of Seller's knowledge and belief; (c) that the amount requested accurately reflects the contract adjustment for which Seller believes the Government Client is liable; and (d) that Seller's representative who makes the certification is duly authorized to certify the Dispute on Seller's behalf. If a Dispute exceeds \$500,000, Seller, through its duly authorized agent, shall further certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.
- 11.2.3.5 Segregation of Disputes. In the prosecution of any Dispute against the Government Client, Buyer and Seller shall identify and segregate any Dispute that may be attributable to the Government Client from any Dispute that may be attributable to the Parties. Should any portion of the Dispute be attributable to the Parties, with regard to that portion of the Dispute, the Parties shall negotiate in good faith to settle the Dispute or resort to the Dispute resolution procedures discussed in Section 11.2.2 hereof.
- 11.2.3.6 Joint Defense. In prosecuting any Dispute under this Section 11.2.3, Buyer and Seller mutually claim and assert that all communications between the Parties, directly relating to the prosecution of the Dispute, are made in the course of a joint defense effort; that such communications were made to further such effort, and that neither Party shall waive the attorney-client communication privilege or attorney work product doctrine in prosecuting the Dispute.
- 11.2.3.7 Allocation of Costs. Costs incurred in prosecuting any Dispute shall be borne by the Party prosecuting the Dispute. In the event that Buyer prosecutes any Dispute on Seller's behalf, Seller shall pay Buyer a pro rata portion of the total costs incurred by Buyer in prosecuting Seller's Dispute. Any unpaid costs due to Buyer shall be set off from Seller's share of any recovery and/or any regular payment due pursuant to Section 2.3.

11.2.3.8 Indemnification. Seller shall indemnify, defend, hold harmless and blameless Buyer, its subsidiaries and affiliates, and each of their respective officers, directors, employees, subcontractors, and agents, from and against any and all claims, losses, damages, judgments, settlements, costs, and expenses (including reasonable attorney's fees and costs of defense), that Buyer may sustain, incur, or be required to pay, arising out of or in connection with any allegation by the United States of America, of fraud, false claims, or defective cost or pricing data that relates to Seller's Dispute. Each Party (the "Indemnitor") shall indemnify, defend, hold harmless and blameless, the other Party (the "Indemnitee") for any loss in recovery for the Dispute cause by a successful counterclaim by the Government Client due to the Indemnitor's conduct. If a Dispute is forfeited or otherwise denied because of Buyer's fraud or misconduct, at Seller's option, the terms set forth in Section 11.2.3 are voidable.

11.3 Liens. Seller shall keep its work, equipment, Materials, all Products supplied hereunder, and Buyer's premises free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance of the Order by Seller or any of its agents or subcontractors. As a condition of final payment, Seller may be required by Buyer to provide a satisfactory release of liens with reasonable evidence that all services, labor, materials, and equipment have been paid in full. All property belonging to Buyer or Buyer's customer in Seller's custody or possession shall be at Seller's risk from loss or damage.

12.0 ADDITIONAL CLAUSES

12.1 Change in Control. For the purposes of this Section 12.1 ("Change of Control"), "Change of Control" means (i) the sale, conveyance, transfer, distribution, lease, assignment, license, or other disposition of all or substantially all of the assets of Seller, (ii) any consolidation or merger of Seller or its controlling affiliates, any dissolution of Seller or its controlling affiliates, or any reorganization of one or more of Seller or its controlling affiliates, or (iii) any sale, transfer, issuance, or disposition of any equity securities or securities or instruments convertible or exchangeable for equity securities (collectively, "securities") of Seller or its controlling affiliates in which the holders of all of the securities that may be entitled to vote for the election of any member of a board of directors or similar governing body of Seller or such controlling affiliate immediately prior to such transaction(s) hold less than fifty percent (50%) of the securities that may be entitled to vote for the election of any such member in such entity immediately following such transaction(s). Seller shall provide Buyer written notice of any Change of Control within seven (7) calendar days prior to the effective date of the Change of Control. Buyer will have sixty (60) calendar days from the date that Buyer receives written notice to notify Seller of its decision to terminate the Order for Buyer's convenience. The effective date of the termination will be no sooner than thirty (30) calendar days after the effective date of the written notice of termination.

12.2 Assignment and Subcontracting.

12.2.1 Neither the Order nor any interest herein nor claim hereunder may be transferred, novated, assigned, or delegated by Seller without the prior written consent of Buyer. Lack of consent shall not be deemed as a waiver or otherwise relieve Seller of its obligations to comply fully with the requirements hereof. Seller shall promptly notify Buyer in writing of any organizational changes made by Seller, including name, ownership changes, mergers, or acquisitions as set forth in the Section 12.1 ("Change of Control"), and any changes made to Seller's strategic suppliers or the location or identity of Seller's manufacturers.

12.2.2 Seller shall not subcontract the Order, in whole or in part, without the prior written authorization of Buyer, and Seller shall require an agreement with conforming performance and confidentiality requirements from lower-tier suppliers and subcontractors. Seller shall be and remain responsible to Buyer for (i) the performance of all work, including Services performed or provided by Seller's subcontractors, and (ii) the acts and omissions of Seller's subcontractors in connection with the performance or provision of any of the work. Buyer may require Seller's subcontractors to enter into separate NDAs with Buyer consistent with the confidentiality requirements in the Order.

12.3 Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be deemed given when delivered to the address of the other Party stated on the face of the Order, whether delivered: (i) personally; (ii) by overnight commercial carrier; or (iii) by U.S. certified mail.

12.4 Confidentiality. Buyer may provide or disclose to Seller certain information and/or materials (hereinafter, the "Buyer Provided Materials") for use in connection with the Order. Seller understands and agrees that the Buyer Provided Materials may be provided by Buyer to Seller in a variety of forms and formats, including tangible, intangible, written, oral, electronic, and/or physical forms. To the extent that the Buyer Provided Materials contain (a) information or data that is marked or identified as confidential, proprietary, or sensitive, whether denoted by Buyer or by a third party, when disclosed; or (b) information or data that a reasonably prudent person would consider or recognize as confidential, proprietary, or sensitive (whether commercially or for law enforcement or national security purposes), Seller covenants and agrees to: (a) safeguard said Buyer Provided Materials with no less than the same standard of care Seller uses to safeguard its own confidential, proprietary, or sensitive information; (b) keep it as secret and/or confidential; and (c) refrain from disclosing said Buyer Provided Materials to others

without Buyer's prior authorization. Regardless of its disclosure to Seller, Buyer shall retain ownership of all Buyer Provided Materials and Buyer may, at any time, require Seller to return or destroy any Buyer Provided Materials in Seller's possession, to the extent possible. Seller shall not use the Buyer Provided Materials for any purpose other than in furtherance of the Order or disclose the Buyer Provided Materials to any person or entity without Buyer's prior written approval.

- 12.5 No Publicity. Seller shall not issue any news release, publicity announcement, advertisement, or any other form of public statement concerning efforts in connection with this Order without obtaining Buyer's prior written approval. Seller further understands that Buyer's approval may be, in some cases, contingent on also receiving the Buyer's customer's approval. In the event such approval is granted, any resulting form of publicity shall give full consideration to Buyer's role and contribution.
- 12.6 No Waiver. Failure by either Party at any time to enforce an obligation by the other Party, to claim a breach of any term of this Subcontract or any Purchase Order issued hereunder, or to exercise any power agreed to hereunder by the Parties will not be construed as a waiver of any right, power, or obligation under this Subcontract or relevant Purchase Order, will not affect any subsequent breach, and will not prejudice either Party as regards any subsequent action.
- 12.7 Severability. In the event that any term or provision of this Order shall be held by a court or other tribunal of competent jurisdiction to be invalid or unenforceable, the remaining portions of the Order shall remain in full force and effect.
- 12.8 Survivability. All of the provisions of the Order shall survive the termination (whether for convenience or default), suspension or completion of the Order unless they are clearly intended to apply only during the term of the Order.
- 12.9 Electronic Transmissions. The Parties agree that if the Order is transmitted electronically, neither Party shall contest its validity, or any acknowledgment thereof, on the basis that the Order contains an electronic signature.
- 12.10 Entire Agreement. The Order, including all exhibits, schedules, and attachments, contains the entire agreement of the Parties, and supersedes any prior negotiations, representations, and course of dealing, whether written or oral, between the Parties with respect to the subject matter hereof. The Order may be amended or supplemented only by a writing that refers explicitly to the Order and is signed by the Buyer's Procurement Agent and Seller.