



GENERAL TERMS AND CONDITIONS AND FLOWDOWN CLAUSES FOR PURCHASE OF ITEMS AND SERVICES UNDER A
COMMERCIAL (NON-U.S. GOVERNMENT) CONTRACT

The following document the Terms and Conditions of the contact between Critical Frequency Design, LLC and the Supplier ("Seller"). If any of the following standard clauses do not apply to a particular Order due to the nature of the work performed, such clauses are considered not applicable to that Order.

1. DEFINITIONS

- A. "Acceptance" or "Accept" means the verification by Buyer and/or Buyer's Customer that the delivered Products and/or Services meet required specifications, standards and/or criteria as set forth in the Order.
- B. "Authorized Representative" means the person authorized by Buyer's cognizant purchasing organization to administer and/or execute this Order and who has sole authority to make contractual commitments on behalf of Buyer, to provide contractual direction, and to change contractual requirements of this Order.
- C. "Buyer" means the Critical Frequency Design, LLC legal entity identified on the face of the Order.
- D. "Data" means all financial/business information, designs, dimensions, specifications, drawings, patterns, computer files or software, know how, or other information, including but not limited to Technical Data used in the design and manufacture of Products or the provision of Services. Data may be recorded in a written or printed document, computer or electronically stored, software, or any other tangible form of expression.
- E. "Order" means the instrument of contracting, including these terms and conditions and all other referenced documents, and any subsequent changes or modifications.
- F. "Party/Parties" means Buyer and Seller individually/collectively.
- G. "Product(s)" means those goods, supplies, reports, computer software, software licenses, Data, materials, articles, items, parts, components or assemblies, and any incidental Services described in this Order.
- H. "Seller" means the Party with whom Buyer is contracting under this Order.
- I. "Service(s)" means Seller's time and effort, including any items, articles, Data, or similar materials provided to Buyer which are incidental to the performance of the Service.
- J. "Technical Data" means all designs, dimensions, specifications, drawings, patterns, know-how, or other information concerning the methods, manufacturing processes, equipment, gauges, and tools used in the design, manufacture, assembly, operation, repair, testing, maintenance, or modification of Products. This includes, but is not limited to, information in the form of blueprints, drawings, photographs, plans, instructions and documentation, or similar information used in the performance of Services. Technical Data may be recorded in a written or printed document, computer or electronic file, electro-magnetic tape or disc, software, or any other tangible form of expression. Technical Data also includes unclassified and Classified Information as defined in the International Traffic in Arms Regulations (ITAR) 22 Code of Federal Regulations (C.F.R.) § 120.10 and Technology, as defined in the Export Administration Regulations (EAR) Part 772 and Supplement 1 to Part 774.

2. ORDER ACCEPTANCE

- A. This Order is Buyer's offer to Seller to purchase the Products and/or Services described in this offer. Any additional terms proposed in Seller's acceptance of Buyer's offer including, but not limited to, shrink-wrapped or click-through terms not specifically negotiated and identified on the Order, which add to, vary from, or conflict with the terms herein are hereby objected to by Buyer. Any such proposed terms shall be void and the terms herein shall constitute the complete and exclusive statement of the terms and conditions of the contract between the Parties and may hereafter be modified only by written instrument executed by the authorized representatives of both Parties.
- B. If, after acceptance of the Order or at any time during the performance of this Order, Seller believes that any portion of this Order is inaccurate, inconsistent, or incomplete, Seller shall promptly notify Buyer in writing identifying any discrepancies and requesting resolution before proceeding or continuing with the portion of this Order in question. In the event that the Seller fails to contact Buyer in a timely manner to resolve said discrepancies or inconsistencies and Seller proceeds with or continues any work in question, Seller shall be deemed to have proceeded on its own accord and shall be solely responsible for any errors or omissions, including all associated cost or schedule impacts or both resulting therefrom.

3. ORDER OF PRECEDENCE

In the event of any inconsistency between any parts of this Order, the inconsistency shall be resolved by giving precedence in the following order:

- A. Change Order Document
- B. Purchase Order Document
- C. Order Terms and Conditions (including any referenced Addenda)
- D. Statement of Work
- E. Specifications/Drawings
- F. Quality/Mission Assurance Requirements
- G. Supplier Data Requirements List (SDRL)/Data Item Description (DID)
- H. Other Referenced Documents

4. ASSIGNMENT

- A. Seller shall not assign or transfer, in whole or in part, this Order or any of its rights, payments, claims or interest under this Order without Buyer's prior, written consent. Any purported assignment in contravention of this clause shall be deemed null and void.
- B. Buyer may make direct settlements or adjustments in price, or both, with Seller under the terms of this Order notwithstanding any assignment of claims for money due or to become due under this Order and without notice to the assignee.

5. SUBCONTRACTING

- A. Seller shall not subcontract the entirety or any part of this Order without the prior written authorization of Buyer, and Seller shall require an agreement with conforming performance requirements from immediate and lower-tier suppliers. This restriction on subcontracting shall not apply to authorized distributors, dealers, or industrial suppliers nor shall it apply to purchases of



standard commercial articles, including electronic components or raw materials including castings, forgings, and rough welded structures on which Seller will perform further work.

- B. Any subcontract, assignment, or other transfer of rights or obligations arising under this Order and made to a foreign person, as defined in the International Traffic in Arms Regulations or the Export Administration Regulations, must comply with the Export and Import Compliance clause herein.

6. SERVICE RATES, INVOICING, AND PAYMENT

- A. The rates for straight time and overtime work, which Seller will bill Buyer, for Services furnished under this Order, shall be those set forth in this Order. Buyer shall make no payment for work performed during holiday, or other overtime periods, unless such work is expressly authorized by Buyer.
- B. Seller represents that the rates set forth in this Order include all profit, wages, salaries, overhead, taxes, and other costs and expenses.
- C. Invoices shall be sent to the buyer's authorized representative and the accounting representative provided by the buyer's authorized representative.
- D. Payment terms will be stated in the Order. Payment due dates, including discount periods, will be calculated from the date of Buyer's Acceptance of Product(s) or Service(s) or correct invoice, whichever is later. Any applicable discount will be taken on the full amount invoiced. Buyer has the right, without loss of discount privileges, to pay invoices covering Products shipped in advance of schedule on the normal maturity after the date specified for delivery. Payment shall not constitute Acceptance or approval of Products or Services rendered. At any time prior to final payment under this Order, Buyer may have invoices validated. Payment of Seller's invoices shall be subject to adjustment for any amounts found to have been improperly invoiced. Buyer shall be entitled at all times to set off (a) any amount owing at any time from Seller to Buyer or any of its affiliated companies; (b) any damages resulting from Seller's default under or breach of any contract (including any purchase order and these terms); (c) any adjustment for shortage or rejection and any associated costs, against any amount payable at any time by Buyer or any of its affiliated companies to Seller.
- E. Release of Financial Liability and Claims. All amounts accrued and made payable by the Buyer to the Seller under this Purchase Order shall be invoiced in full no later than one hundred and eighty (180) days from the contractual end date of performance (The Limitation Period). Unless otherwise mutually agreed to by the parties, Seller hereby agrees to release and discharge the Buyer, its officers, agents, and employees, successors and assigns of and from all liabilities, obligations, and claims arising out of or under this Purchase Order, where such are submitted after the stated one hundred and eighty (180) day "Limitation Period".
- F. Payments to Seller must be made to an office or branch of a regulated bank located in the jurisdiction where the Seller maintains its principal place of business or is providing the Products or Services under this Order unless prior written consent is received from Buyer.

7. DEFECTIVE WORK

- A. Notwithstanding any prior acceptance, Buyer may reject or require prompt correction of any Products or Services which are, in Buyer's judgment, defective in material or workmanship or otherwise fail to meet the drawings, designs, statement of work, specifications or other technical documents, or other requirements of this Order.
- B. If Seller delivers defective or nonconforming Products or Services, Buyer may:
1. Accept all or part of the defective or non-conforming Products or Services at an equitable price reduction or credit against any amounts that may be owed to Seller under this Order or otherwise; or
 2. Reject all or any part of a delivery or performance of defective or non-conforming Products or Services and demand delivery of conforming Products or re-performance of Services. All rejected Products shall be shipped back to Seller at Seller's expense and any re-performance of defective or nonconforming Services shall be at no cost to Buyer; or
 3. Make or perform, or have a third party make or perform, all repairs, modifications, or replacements necessary to enable such Product or Service to comply in all respects with Order requirements and charge the expense incurred to Seller; or
 4. Terminate this Order for default in whole or in part.
- C. Any rejected or corrected Products or Services shall not thereafter be tendered for Acceptance unless the former rejection or requirement for correction is disclosed. All repair, replacement and other correction and redelivery shall be completed within the original delivery schedule unless otherwise directed by Buyer.
8. Seller shall immediately notify Buyer upon discovery of actual or potential defects or non-conformance affecting delivered Product or performed Service.

9. WARRANTY

- A. Seller expressly warrants that all Product(s) delivered, and Service(s) performed hereunder shall be free from defects, shall be of good materials and workmanship, shall conform to all requirements of this Order, and shall be free of any claim of any third party.
- B. The foregoing warranties shall survive inspection and Acceptance of, and payment for, the Product(s) delivered, and Service(s) performed hereunder and shall remain in effect as to each Product furnished or Service performed and shall run to Buyer, its successors, assigns, and customers. These warranties shall not be deemed to limit any warranties of additional scope given to Buyer by Seller, nor limit Buyer's rights or Seller's obligations under any other provision of this Order, at law or in equity. No warranties are waived by Buyer supplying, reviewing, commenting upon, or approving plans, specifications, or Data, issuing changes to this Order, or inspecting or Acceptance of the Product(s) or Service(s) or both.
- C. If Buyer determines the Product(s) or Service(s) or both do not to meet the warranties and guarantees specified herein, Buyer may, within its sole discretion, return such Product(s) to Seller at Seller's expense, for correction, replacement, or credit, plus transportation charges, or refuse to confirm satisfactory completion of Service(s) and require Seller re-perform such Service(s). If repair, replacement, or re-performance of the Product(s) or Service(s) or both is not timely, Buyer may elect to return, repair, replace, or re-procure the non-conforming Work at Seller's expense. Any corrected, replaced, or repaired Product(s) or re-performed Service(s) shall be subject to the provisions of this Clause to the same extent as initially furnished hereunder for the remaining Warranty Period. Should Buyer's customer require Acceptance of the Product(s) or Service(s) or both not conforming to this warranty, the Parties will mutually agree on consideration to Buyer, including but not limited to a refund or equitable reduction in price. Failure to reach mutual agreement on a refund or an equitable reduction



shall be considered a Dispute under the Disputes/Arbitration clause.

- D. Should there be a failure of the Product(s) or Service(s) or both after final Acceptance by Buyer, Seller shall fully cooperate with Buyer and Buyer's customer in the investigation of the failure or anomaly. Seller consents to provide any and all information related to the failure.

10. CHANGES

- A. Buyer's Authorized Representative may at any time, by written order, and without notice to sureties or assignees, if any, make changes within the general scope of this Order in (1) drawings, designs, statement of work, specifications, planning and /or other technical documents; (2) method of shipment, packaging, or packing; (3) time and place of inspection, delivery or Acceptance; (4) reasonable adjustments in quantities and/or delivery schedules; (5) place of performance of the Service; (6) the amount of Buyer/Government furnished property; and (7) terms and conditions required to meet Buyer's obligations.
- B. If any authorized change causes an increase or decrease in the cost or time required to perform this Order, Buyer and Seller shall negotiate an equitable adjustment in the price and/or schedule, to reflect the increase or decrease. Buyer shall modify this Order in writing accordingly.
1. Any claim for adjustment shall be unconditionally waived unless: (i) asserted in writing and delivered to Buyer's Authorized Representative within fifteen (15) days of the date of the written change order and (ii) a fully supported proposal is delivered to Buyer's Authorized Representative within thirty (30) days of the date of the written change order.
 2. If Seller claims the cost of any Product made obsolete or excess, Buyer shall have the right to prescribe the manner of disposition of the Product to include the right to acquire that Product for cost claimed.
 3. Buyer, its Authorized Representatives, and its customer have the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim. However, at Seller's request, in lieu of Buyer, a mutually agreeable third party can examine books and records to verify Seller's claim.
 4. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. However, Seller shall not be excused from proceeding with this Order as changed.
- C. Buyer's engineering, technical personnel and other representatives may from time to time render assistance or give technical advice or discuss issues or engage in an exchange of information with Seller's personnel concerning the Products or Services hereunder. No such action shall be deemed to be a change, nor shall it be the basis for an equitable adjustment, and no such action shall relieve Seller of its obligations under this Order.

11. GOVERNING LAW

Both Parties agree that, irrespective of the place of performance of this Order, this Order will be governed, construed, and interpreted according to the law of the state of Florida, without regard to its conflict of laws principles. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this Order.

12. DISPUTES

- A. Any dispute arising under or in connection with this Order with respect to the rights, duties, or obligations of the Parties shall be submitted in writing for resolution to ascending levels of management of the respective Parties.
- B. If a dispute cannot be resolved to both Parties' mutual satisfaction, after good faith negotiations, within ninety (90) days from the date the written claim is received by the other Party, or such additional time as the Parties agree upon in writing, either Party may bring suit only in the state or federal court located in the state of Florida. Seller consents to personal jurisdiction for this purpose in the state of Florida.
- C. Pending any prosecution, appeal, or final decision referred to in this clause, or the settlement of any dispute arising under this Order, both Parties shall proceed diligently, with their respective obligations under this Order.
- D. To the maximum extent permitted by law, the Parties waive any right to a jury trial.
- E. In no event shall Buyer be liable for anticipated profits, incidental or consequential damages. Buyer's liability on any claim, of any kind and for any loss or damage arising out of, connected with or resulting from this Order, or from the performance or breach thereof shall, in no case, exceed the price allocable to the Products and/or Services, or unit thereof, which gives rise to the claim. Buyer shall not be liable for penalties of any description. Any action resulting from any breach on the part of Buyer as to the Products and/or Services delivered hereunder must be commenced within one year after the cause of action has accrued.
- F. In no event shall Seller acquire any direct claim, or direct course of action against the U.S.G. except as approved by Buyer pursuant to this clause or as otherwise authorized by law.

13. TERMINATION

Buyer, without cause or prior preliminary notification, may terminate this contract, in whole or in part, when it is in the best interest of Buyer. If this contract is so terminated, Buyer shall be liable only for payment in accordance with the payment provisions of this contract for Services rendered prior to the effective date of termination, and Seller shall have no claim against Buyer for Services not performed, anticipatory profits lost, or indirect or consequential damages claimed to have been suffered by reason of such termination

14. BUYER PROPERTY

- A. Title to all property furnished to Seller by Buyer shall remain with Buyer. Seller shall not alter or use such property for any purpose or for any other Party other than that specified by Buyer or without the prior written consent of Buyer. If Buyer or agrees to pay Seller for acquisition of tooling and equipment, either separately or as a stated part of the unit price of Products purchased herein, title to the same shall pass to Buyer as applicable, upon (i) commencement of processing for use in performance of this Order, or (ii) Buyer payment therefore, whichever occurs first.
- B. Seller shall assume the risk of, and be responsible for, any loss, theft, destruction of or damage to Buyer property while in Seller's possession or control. If Seller damages any property, Seller shall be responsible for making repairs, or replacement, at no cost to Buyer.
- C. Seller shall assume full risk of loss, and be responsible for, any loss, theft, destruction of or damage to Buyer property while in Seller's possession or control and shall be responsible for making repairs or replacing the item at no cost to the Buyer.
- D. Upon Buyer's written request to Seller for any property under this clause, if Seller cannot locate Buyer property within five (5) days, Seller shall notify Buyer that the item was not located and Seller subsequently has twenty (20) days to find the



misplaced property. After such period, if it has not been located, the property shall be deemed "lost" and at Buyer's election, Seller shall either reimburse Buyer for the replacement and all related delay costs, or remake the lost property at no cost to Buyer, or seek relief of accountability depending the applicable risk of loss provisions of this Order.

E. Seller shall return all Buyer owned property in a condition as good as when received except for reasonable wear and tear.

15. TAXES AND DUTIES

The price of this Order includes all applicable foreign and domestic federal, state, and local taxes, duties, tariffs, and similar fees ("Taxes") levied upon, or measured by, the sale, the sales price, or use of Products and/or the performance of Services associated with this Order. Seller shall separately list on its invoice (or voucher) any Taxes. Seller shall comply with any reasonable request by Buyer regarding Tax payments under protest and shall make appropriate adjustments to afford Buyer the benefit of any refund or reduction in Taxes.

16. INFORMATION OF BUYER AND SELLER

A. Unless expressly stated otherwise herein, the exchange of information under this Order shall be governed by this Order and, in particular this Clause, which supersedes any prior agreement between Buyer and Seller to protect information relating to the purpose of this Order.

B. Definitions

1. "Information" shall mean information disclosed by the Parties to support their performance under this Order.

2. "Proprietary Information" shall mean Information which (i) is provided or otherwise made available by the disclosing party (hereinafter the "Disclosing Party") to the receiving party (hereinafter the "Receiving Party"); and, (ii) is marked "Proprietary" or "Confidential". Information accessed or made available in electronic form shall be considered Proprietary Information if: (A) any display of the Information also displays a proprietary legend or (B) if such Information is accessed or made available to the Receiving Party via a secure website or portal controlled or managed by the Disclosing Party. Orally or visually disclosed Information shall be deemed Proprietary Information only if identified as proprietary at the time of disclosure and summarized and confirmed in a written and labeled description delivered to the Receiving Party within thirty (30) days.

C. The Receiving Party shall hold all Proprietary Information in confidence and restrict disclosure thereof to only its employees, contract labor and agents who have a need to know so that the Receiving Party may perform its obligations under this Order and are under obligations to hold such information in confidence under terms and conditions at least as restrictive as the terms and conditions of this Order.

D. Seller agrees to use Buyer's Proprietary Information only for purposes necessary for performing this Order, without first obtaining Buyer's written authorization. Seller further hereby grants to Buyer a non-exclusive, irrevocable, worldwide, right and license to copy, modify, use and disclose to the U.S. Government or any higher tier contractor, any information received from Seller, including Seller's Proprietary Information, for the performance of this Order and any higher tier contract from which this Order is issued. Seller agrees that Buyer may share Seller's information with other subcontractors, if the other subcontractors need to use Seller's information to complete their subcontracts provided that (1) any restrictive markings remain on the information, (2) the other subcontractor is under an obligation to protect Seller's Proprietary Information to the same degree as provided herein; and, (3) the other subcontractor's use of the information is limited to performance of a subcontract under Buyer's higher tier or Prime Contract.

E. The Receiving Party agrees to use at least the same degree of care in safeguarding the Disclosing Party's Proprietary Information, including during storage and transmittal, as it uses for its own Proprietary Information, but in no case less than reasonable care. Promptly upon discovery of an unauthorized disclosure, access or use, the Receiving Party shall: (a) notify the Disclosing Party; (b) make reasonable attempts to retrieve the Proprietary Information; (c) comply with any reasonable written requests of Disclosing Party regarding such unauthorized disclosure, access or use; and (d) review and, take other reasonable action as appropriate to prevent any future unauthorized disclosures, accesses or uses. Proprietary Information shall not be copied or reproduced, except for such copies as may reasonably be required for the Receiving Party to perform its obligations under this Order. If the Proprietary Information is copied or reproduced in whole or in part, the copy or reproduction shall carry the same marking as that which appears on the original.

F. **Exceptions.** The Receiving Party shall not be liable hereunder for use or disclosure of Proprietary Information which occur after such Proprietary Information:

1. is or becomes publicly known through no wrongful act of the Receiving Party; or

2. is known to or in the possession of the Receiving Party without restriction on disclosure or use through no wrongful act of the Receiving Party, as evidenced by competent proof; or

3. is independently developed by the Receiving Party without the use of or reference to the Proprietary Information.

In addition, the Receiving Party shall not be liable hereunder for use or disclosure of Proprietary Information if such Proprietary Information is disclosed to satisfy a legal order by a court of competent jurisdiction or United States Government (U.S.G.) action; provided, however, that the Receiving Party shall first advise the Disclosing Party within sufficient time prior to the disclosure so that the Disclosing Party has the opportunity to seek appropriate relief from the court or governmental order, and provided further that the Receiving Party shall disclose only those portions of the Proprietary Information legally required to be disclosed and request confidential treatment of the Proprietary Information by the court or governmental entity.

G. All documents and other tangible media (excluding Products) transferred in connection with this Order, together with any copies thereof, are and remain the property of Buyer.

H. Neither the existence of this Order nor the disclosure hereunder of Proprietary Information or any other information shall be construed as granting expressly, by implication, by estoppel or otherwise, a license under any invention or patent now or hereafter owned or controlled by Buyer or Buyer's customer, except as specifically set forth herein.

I. The Receiving Party agrees that the Proprietary Information of the Disclosing Party is valuable and unique, and that the loss resulting from unauthorized disclosure thereof may cause irreparable injury to the Disclosing Party, which may not be adequately compensated in money damages. The Receiving Party, therefore, expressly agrees that the Disclosing Party shall be entitled to seek injunctive and/or other equitable relief, in addition to any other remedies available to the Disclosing Party for breach of this clause.

J. A Party's obligations with respect to information or Data disclosed hereunder prior to the performance in full, termination or cancellation of this Order shall not, except as expressly set forth herein, be affected by such performance in full, termination, or cancellation.



17. RIGHTS IN DATA AND INVENTIONS:

(a) Definitions:

1. Intellectual Property.

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

2. Background Intellectual Property.

Background Intellectual Property means Intellectual Property that is (i) in existence prior to the effective date of this Order or (ii) is designed, developed or licensed after the effective date of this Order independently of both the work undertaken or in connection with this Order, and the proprietary information and Intellectual Property of the other party to this Order.

3. Foreground Intellectual Property.

Foreground intellectual property means intellectual property conceived, created, acquired, developed, derived from or based on development performed under this Order or information supplied by Buyer, or first actually reduced to practice by Seller in connection with this Order.

(b) Seller shall treat as proprietary and confidential all intellectual property and other information supplied by Buyer. Seller shall use the information supplied by Buyer only to accomplish work covered by this Order and for no other purpose. Upon completion, all information is to either be returned to Buyer upon Buyer's written request or destroyed by Seller in which case Seller shall provide Buyer with a Certificate of Destruction. In the event of a conflict between the terms of this Article and the terms and conditions of any separately executed and applicable Non-Disclosure Agreement between Buyer and Seller, the terms and conditions of the Non-Disclosure Agreement shall control.

(c) All Intellectual Property supplied to Buyer by Seller shall be disclosed to Buyer on a non-proprietary basis and may be used and/or disclosed by Buyer without restriction, unless:

(1) otherwise required by U.S. Government Regulations, or

(2) Buyer has executed a separate agreement restricting the use and disclosure of such Intellectual Property.

(d) Foreground Intellectual Property. All Foreground

Intellectual Property developed exclusively with Buyer monies (i.e., development was accomplished entirely with monies paid by Buyer to Seller that are not subject to recovery by Buyer) and not subject to this paragraph (e) below is hereby assigned to Buyer and shall be proprietary to Buyer, shall be used by Seller only for purposes of providing Items or Services to Buyer pursuant to this Order, and shall not be disclosed to any third party without Buyer's express written consent. All such Foreground Intellectual Property shall be promptly provided to Buyer on request or upon completion of this Order. Any work performed pursuant to this Order which includes any copyright interest shall be considered a "work made for hire." The tangible medium storing copies of all reports, memoranda, or other materials in written form, including machine-readable form, prepared by Seller and furnished to Buyer pursuant to this Order shall become the sole property of Buyer.

(e) Inventions. Any invention constituting Foreground Intellectual Property 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 deliver Items or Services, and Seller's employees, also executes and assigns 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 Intellectual Property 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.

18. (f) Seller-Owned Intellectual Property. Seller shall retain ownership of all Background Intellectual Property and of any Foreground Intellectual Property not assigned to Buyer pursuant to paragraphs (d) and (e)(collectively, "Seller-Owned Intellectual Property"). Unless otherwise expressly agreed in writing to the contrary, Seller grants to Buyer a 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 Intellectual Property in the performance of its Contract or higher-tier contract obligations (including obligations of follow-on contract or contracts for subsequent phases of the same program).

(g) Buyer-Owned Intellectual Property. Buyer shall retain ownership of all Buyer Intellectual Property provided hereunder and of any Foreground Intellectual Property assigned to Buyer pursuant to this Article paragraph (d) above (collectively, "Buyer-Owned Intellectual Property"). Buyer grants to Seller a non-exclusive, royalty-free right during the term of this Order to use, reproduce, modify, practice and prepare derivative works of any Buyer-Owned Intellectual Property solely as necessary for Seller to perform its obligations under this Order. Seller shall not, without Buyer's prior written consent, use Buyer-Owned Intellectual Property or any derivative works of any of the Buyer-Owned Intellectual Property in any manner not authorized under this 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 Intellectual Property.

19. INTELLECTUAL PROPERTY INFRINGEMENT WARRANTY AND INDEMNITY

A. Seller warrants that the performance of Seller under this Order, including any Services provided by Seller to Buyer, and the sale, use, or incorporation into manufactured Products of all machines, devices, material, software, and firmware which are not of Buyer's design, composition, or manufacture shall be free and clear of infringement of any valid patent, copyright, trade mark, mask works, or other proprietary rights.

B. Seller shall indemnify, defend, and hold harmless Buyer, its directors, officers, employees, consultants, agents, affiliates, successors, permitted assigns and customers ("Indemnitees") from and against all claims, suits, actions, awards (including, but not limited to, awards based on intentional infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorney's fees and/or costs), liabilities, damages, costs and attorney's fees related to the actual or alleged infringement of any U.S. or foreign intellectual property right (including, but not limited to, any right in a patent, trademark, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) and arising out of the performance of Seller under this Order or the manufacture, sale or use of Products delivered by Seller under this Order, or the provision of Services by Seller under this Order, by either Buyer or Buyer's customer ("Infringement Claims"). Buyer and/or its customer will duly notify Seller of any such Infringement Claim and Seller will, at its own expense, fully defend such Infringement Claim on behalf of the Indemnitees. Seller will have no obligation under this clause with regard to any infringement arising from (a) the compliance of Seller's new Product design with formal specifications issued by Buyer where infringement could not be avoided in complying with such specifications or (b) use or sale of



Products for other than their intended application in combination with other items when such infringement would not have occurred from the use or sale of those Products solely for the purpose for which they were designed or sold by Seller.

- C. If the manufacture, use or sale of a Product delivered by Seller under this Order is likely to be or is enjoined as a result of a suit, Seller, at no expense to Buyer, shall obtain for Buyer and its customer the right to use and sell the Product or shall substitute an equivalent Product acceptable to Buyer, at its sole discretion, and extend this indemnification thereto.
- D. For purposes only of this clause and clause 20 below, the term "Buyer" will include Critical Frequency Design, LLC.

20. INDEMNIFICATION

Seller shall indemnify, defend, and hold harmless the Indemnitees, as defined in clause 19 above, from and against all costs, losses, expenses, damages, claims, suits, or any liability whatsoever (including attorneys' fees), arising out of or in connection with the work to be performed hereunder, or the Products to be sold hereunder, or any act or omission of Seller, its agents, employees, or subcontractors, except to any extent otherwise expressly provided for elsewhere within this Order. Seller also agrees to indemnify, defend, and hold harmless the Indemnitees from and against all costs, losses, expenses, damages, claims, suits, or any liability whatsoever (including attorneys' fees), arising out of or in connection with Seller's violation of any applicable laws, executive order or regulation. Buyer will inform Seller of any claim, demand or suit asserted or instituted against it and, with Buyer's consent, permit Seller to defend the same or make settlement in respect thereof. Buyer shall have the right to participate in the defense of any such claim, demand or suit with counsel of its choosing at Buyer's expense and Seller may not settle, compromise or consent to the entry of any judgment in respect thereof, without Buyer's prior written consent, unless such settlement, compromise or consent: (i) includes an unconditional release of Buyer from all liability arising out of such claim, demand or suit; (ii) is solely monetary in nature and (iii) does not include an admission of fault by Buyer or otherwise adversely affect Buyer. If Seller fails to indemnify, defend and hold harmless Buyer as provided in this clause, then Seller shall pay for any damages, attorney's fees, and any other fees, costs, and expenses that may be incurred by Buyer in the defense of any action related to this Order and/or in the prosecution of any action to enforce the provisions of this clause.

21. 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.

(i) **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 \$5,000,000 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;

(ii) **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 \$5,000,000 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;

(iii) **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;

(iv) **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 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 definition of "Pollution" shall include microbial matter including mold and bacteria;



(v) Pollution Legal Liability (PLL) Insurance: Such insurance shall provide site-specific pollution liability coverage with limits of at least \$3,000,000 each occurrence, claim, or wrongful act and \$6,000,000 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 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, when Buyer requires Seller to provide such coverage with regards to this Order. Such policy shall not contain lead, asbestos, mold, bacteria, or silica exclusions and the definition of "Pollution" shall include microbial matter including mold and bacteria;

(vi) Motor Truck Cargo Insurance: If Seller's Services include hauling Buyer's products, 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;

(vii) 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;

(viii) Aviation Liability Insurance: Such insurance shall provide coverage for owners and non-owned aircraft, aircraft/space products, completed operations, war, hijacking, and other perils (AVN 52D) and include limits of \$50,000,000 per occurrence/aggregate for any work involving aircraft or spacecraft products and services.

22. **EXCUSABLE DELAY – FORCE MAJEURE**

Except for a default of Seller's subcontractor at any tier, neither Buyer nor Seller shall be liable for any failure to perform due to any cause beyond its reasonable control and without its fault or negligence. Such causes include, but are not limited to: (1) acts of God or of the public enemy; (2) acts or failure of any government in either its sovereign or contractual capacity; (3) fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, nuclear incident, or any other act or event beyond reasonable control and without the fault of either Party or its subcontractors. In the event that performance of this Order is hindered, delayed, threatened to be delayed, or adversely affected by causes of the type described above, then the Party whose performance is so affected shall immediately notify the other Party's Authorized Representative in writing, including all relevant information with respect thereof, and shall likewise notify promptly of any subsequent change in the circumstances, and at Buyer's sole option, this Order shall be completed with such adjustments to delivery schedule as are reasonably required by the existence of such cause or this Order may be terminated for convenience.

23. **LABOR DISPUTES**

Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance of this Order, Seller shall immediately give notice to Buyer's Authorized Representative and provide all relevant information including, but not limited to, nature of dispute, labor organizations involved, contingency plans regarding the protection of Buyer's Order, and estimated duration. Seller shall also provide updated reports throughout the dispute duration. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract.

24. **COMPLIANCE WITH LAWS**

- A. Seller shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances.
- B. Environmental Health and Safety Performance and REACH Compliance. Seller represents, warrants and covenants that:
 1. Seller shall maintain environmental, health and safety management systems as appropriate to ensure compliance with applicable federal, state and local requirements. Seller further agrees to continuously promote a safe and healthy workplace and a sustainable environment related to water and air quality, water and energy conservation, greenhouse gas emission reductions, solid and hazardous waste reductions. Seller shall convey the requirement of this clause to its suppliers.
 2. Seller shall comply with any and all European Union (EU) Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) regulation obligations with respect to any of the Products delivered by Seller to Buyer under the terms of this Order.
 3. Seller must provide Buyer with a list of Substances contained in any of the Products that were included on the Candidate List published by ECHA. Thereafter, if a Substance is added to the Candidate List by ECHA, and that Substance is also contained in any Products, Seller must notify Buyer within fifteen (15) days following publication of the list.
 4. By accepting this Order, Seller recognizes and agrees that Buyer will thereafter act in reliance on Seller's acceptance of this Order as a contractual commitment that it is in compliance with EU REACH regulations, subject to the further provisions below.
 5. Should any Products contain Substances listed on the Candidate List that are above 0.1% on a weight by weight basis within that Product, Seller shall provide Buyer with so-called Safe-Use information, pursuant to the provisions of REACH Article 33 and shall maintain the REACH database for the life of this Order.
 6. As indicated, Buyer will act in reliance on the statements and commitments Seller makes regarding the Candidate List status of each of the Substances contained in any of the Products. If Seller fails to comply with the provisions of this clause, Buyer may consider whether such failure constitutes a breach of this Order sufficient to warrant Termination for Default in accordance with the terms of this Order. Moreover, in the event failure to timely comply with these provisions results in a business interruption of Buyer's operations, Buyer will seek to recover the damages, including financial losses, it suffers as a consequence of such failure.
 7. Seller is responsible for ensuring that the Products conform to and are compliant with the restrictions included in Annex XVII of the REACH Regulation and/or are otherwise authorized for use in accordance with Annex XIV of the REACH Regulation (in each case where relevant). For purposes of this clause, the terms "Substance" and "Candidate List" shall have the same meaning as are given those terms in REACH and the list of substances currently on the candidate list can be found at



<http://echa.europa.eu/web/guest/candidate-list-table>.

- C. Anti-Corruption Compliance. Seller represents, warrants and covenants that:
1. It has not and will not, directly or indirectly, pay, promise, offer, or authorize the payment of any money or anything of value in connection with this Order to: (i) an officer, employee, agent or representative of any government, including any department, agency, or instrumentality thereof or any person acting in an official capacity thereof; (ii) a candidate for political office, any political party or any official of a political party; or (iii) any other person or entity while knowing or having reason to know that all or any portion of such payment or thing of value will be offered, given or promised, directly or indirectly, to any person or entity for the purpose of assisting Buyer in obtaining or retaining business, or an improper business advantage. Without limiting the generality of the foregoing, Seller shall not directly or indirectly, pay, promise, offer, or authorize the payment of any facilitating payment intended to expedite or secure performance of a routine governmental action, such as, customs clearance on behalf of Buyer.
 2. No gifts, travel expenses, business courtesies, hospitalities or entertainment of any nature have been or will be accepted or made in connection with this Order where the intent of was, or is, to unlawfully influence the recipient of the gift, travel expense, business courtesy, hospitality or entertainment. Seller also represents that any gifts, travel expenses, business courtesies, hospitalities or entertainment offered or provided shall meet the following conditions:
 - i. be permitted under the U.S. Foreign Corrupt Practices Act (FCPA) and the laws and regulations of the country in which this Order will be performed;
 - ii. be consistent with applicable social and ethical standards and accepted business practices;
 - iii. be of such limited value as not to be deemed a bribe, payoff or any other form of improper inducement or payment; and
 - iv. be of such nature that its disclosure will not cause embarrassment for Buyer.
 3. Upon written notice, Buyer or its authorized representatives may audit all pertinent books, records, work sites, offices, and documentation of Seller in order to verify compliance with this clause.
 4. Breach of any of the foregoing provisions of subparagraphs C.1. and C.2. of this clause by Seller shall be considered an irreparable material breach of this Order and shall entitle Buyer to terminate this Order immediately without compensation to Seller.

25. EXPORT/IMPORT AND SANCTIONS COMPLIANCE

A. Export and Sanctions Compliance.

General. Performance of this Order may involve the use of or access to articles, Technical Data or software that is subject to export controls under 22 United States Code 2751 – 2799aa-2 (Arms Export Control Act) and 22 C.F.R. 120-130 (International Traffic in Arms Regulations or “ITAR”) or 50 United States Code 4801 – 4826 (Export Control Reform Act of 2018), 15 C.F.R. 730-774 (Export Administration Regulations), 50 United States Code 1701-1708, (International Emergency Economic Powers Act, as amended), and their successor and supplemental laws and regulations, or may implicate U.S. sanctions laws and regulations, including those administered by the U.S. Department of Treasury Office of Foreign Assets Control in 31 C.F.R. 500-599, and their successor and supplemental laws and regulations (collectively hereinafter referred to as the “Export and Sanctions Laws and Regulations”). Seller shall comply with any and all Export and Sanctions Laws and Regulations, and any authorization(s) issued thereunder.

1. Registration. If Seller is a U.S. entity and is engaged in the business of either exporting or manufacturing (whether exporting or not) Defense Articles or furnishing Defense Services, Seller represents that it shall maintain an active registration with the U.S. Department of State’s Directorate of Defense Trade Controls, as required by the ITAR, throughout the performance of this Order, and that it maintains an effective export and import compliance program in accordance with the ITAR.
 2. Seller shall not re-transfer any export-controlled articles or information (e.g. Technical Data or software) to any other non-U.S. person or entity (including Seller’s dual and/or third-country national employees) without first complying with all the requirements of the applicable Export and Sanctions Laws and Regulations. Prior to any proposed re-transfer, Seller shall first obtain the written consent of Buyer. No consent granted by Buyer in response to Seller’s request shall relieve Seller of its obligations to comply with the provisions of paragraph A. of this clause or the Export and Sanctions Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph A. hereinabove, nor constitute consent for Seller to violate any provision of the Export and Sanctions Laws and Regulations.
- B. 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. Seller agrees to provide prompt notification to Buyer’s Authorized Representative should any offer, agreement or payment of political contributions, fees or commissions (as defined herein and pursuant to this Order) be made in contravention of the prohibition in this Section B.
- C. Export Jurisdiction/Classification.
Seller shall provide the applicable Export Control Classification Number (“ECCN”) or ITAR categorization for all Products furnished by Seller to Buyer, except when Seller is manufacturing to Buyer’s design. If Seller is not the original equipment manufacturer, Seller shall obtain the ECCN or ITAR classification information from its source of supply. Seller will include the ECCN or ITAR designation on its packing slips and shipping documentation and also provide to Buyer on Buyer’s request.
- D. Import Compliance.
Seller shall comply with all U.S. Customs and Border Protection laws and regulations (e.g., 19 C.F.R.) and all other applicable U.S.G. regulations pertaining to importations of Products and materials into the United States under this Order. Seller shall assume all U.S. import responsibilities, to include designation as U.S. Importer of Record, Customs clearance, duty, permits, licenses, taxes, and fees for Products entering into the United States under this Order. Unless otherwise agreed in writing, Buyer will not assume any import liabilities for Products and materials procured through this Order. Seller shall obtain the written consent of Buyer prior to causing Products to be shipped directly (i.e., “drop shipped”) from the premises of any non-



U.S. supplier to Buyer's facility.

26. NOTIFICATION OF STATUS CHANGES

- A. By accepting this Order, Seller certifies that all Seller qualification and business information, representations and certifications applicable to this Order remain valid. If Seller's status under any of the applicable representations and certifications has changed, Seller must complete and submit to Buyer's Authorized Representative revised representations and certifications prior to taking any action indicating acceptance as stated on the face of this Order.
- B. Seller agrees to provide prompt notification to Buyer's Authorized Representative of any event or change in circumstances that could affect Seller's performance under this Order, debarment, assignment of consent agreement, designation under U.S. or foreign sanctions laws and regulations, expiration or cancellation of ITAR registration, potential violation of Export and Sanctions Laws and Regulations (or authorizations issued thereunder), initiation or existence of a U.S.G. investigation, change in place of performance, decrease in manufacturing capacity, diminishing manufacturing sources or material shortages, increase in production requirements, labor reductions, financial or organizational conflicts of interest, and significant financial conditions requiring any of the preceding changes.
- C. Sellers that have provided anti-corruption compliance due diligence information (e.g., related to Seller's ownership and personnel, subsidiaries and third parties, including but not limited to Buyer's due diligence questionnaire, and related certifications) to a Buyer representative or through Buyer's Global Trust website shall provide Buyer with prompt notification and details of any changes to its owners, officers, directors or other information contained in such due diligence materials, and agrees to promptly cooperate with Buyer and provide additional information reasonably requested related to such changed information. In the event of a material change to the owners, offices, directors or other information contained in the due diligence material supplied to Buyer, Buyer reserves the right to suspend performance under this Order by providing written notice to Seller in order for Buyer to conduct anti-corruption due diligence upon such changed circumstances.
- D. Seller shall notify Buyer of any proposed change in Control within thirty (30) days prior to such event. The notice shall describe in reasonable detail the proposed transaction structure and any proposed changes to management, operations, domicile, key locations, the board of directors and/or ownership (along with a commitment to cooperate with Buyer and provide additional information reasonably requested related to such proposed change in Control). Seller shall not effect a change in Control without prior, written consent from Buyer, such consent not to be unreasonably withheld. For purposes of this Order, "Control" means the power, directly or indirectly, to (a) vote more than fifty percent of the securities that have ordinary voting power for the election of Seller's directors; or (b) direct, or cause the direction of, the management and policies of Seller whether by voting power, contract, or otherwise. If a Person or Entity obtains "Control" by acquiring more than fifty percent of the securities that have ordinary voting power for the election of Seller's directors, that acquisition may be accomplished by one or multiple transfers. For purposes of this Order, "Person or Entity" means a natural person, corporation, limited partnership, general partnership, limited liability company, limited liability partnership, joint stock company, joint venture, association, company, trust, or other organization, whether or not a legal entity, and a government or agency or political subdivision of that entity.
- E. Seller shall provide written notification to Buyer prior to making any changes to Seller's tooling, facilities, materials, or processes, and/or shall provide written notification to Buyer upon becoming aware of any such changes by Seller's Subcontractors at any tier, that could affect Seller's performance under this Order. This requirement includes changes to fabrication, assembly, handling, inspection, Acceptance, testing, manufacturing location, parts, materials, or suppliers. Seller shall notify Buyer of any pending or contemplated future action to discontinue Products purchased pursuant to this Order and shall allow Buyer to submit a forecast of expected annual usage prior to Seller finalizing its decision to discontinue the Products. Seller shall provide Buyer with a "Last Time Buy Notice" at least twelve (12) months prior to the actual discontinuance. Seller shall extend opportunities to Buyer to place last time buys of such Products with deliveries not to exceed one hundred eighty (180) days after the last time buy date. Seller shall flow down to Subcontractor(s) the requirements of this Clause and all other applicable flow down provisions.
- F. Failure to provide the notice under this clause shall be deemed a material breach of this Order.

27. PROHIBITED ACTIVITIES AND CONTACTS

- A. Activity Prohibitions. For Sellers delivering Products or performing Services outside of the U.S., unless specifically authorized in writing by Buyer, Seller shall not engage in any of the following activities on behalf of Buyer under this Order: acting as an agent of Buyer; marketing or sales promotion; lobbying; freight forwarding; consulting Services; performing offset (industrial participation) consulting or brokering Services; acting as a distributor or reseller; or activity as a joint venture party.
- B. Contact Prohibitions. For Sellers delivering Products or performing Services outside of the U.S., unless specifically authorized in writing by Buyer, Seller shall not contact, either directly or indirectly, public officials of any country other than the U.S., United Kingdom, Canada, Australia, Belgium, Denmark, Netherlands, New Zealand, Norway, Sweden, Germany, France, or Italy in furtherance of its performance on behalf of Buyer under this Order.

28. RELEASE OF INFORMATION AND ADVERTISING

- A. Except as required by law, Seller shall not release to anyone outside Seller's organization any information, or confirmation or denial of same, with respect to this Order or the subject matter hereof without the prior written approval of Buyer. Requests for approval shall be made at least fifteen (15) days before the proposed date for release and shall identify the specific information to be released, the medium to be used, and the purpose for the release. Additionally, Seller shall not use the name "Critical Frequency Design, LLC" or any other Buyer trade name, any Products, parts thereof or replicas of Products, or in any other way identify Buyer in any advertisement, display, news release, or other disclosure without Buyer's prior written consent. The Parties agree that in the event a news release is so approved and made, such news will recognize Buyer and Seller.
- B. The Seller agrees to insert the substance of this clause, including this sentence, in any lower tier subcontract. Seller shall submit requests for authorization to the Buyer.

29. PARTIAL INVALIDITY, NONWAIVER, REMEDIES

- A. If any provision in this Order is or becomes void or unenforceable by force or operation of law, or is deemed invalid, the void, unenforceable or invalid portion shall be severable, and the remaining terms and conditions shall remain in full force and effect.
- B. A Party's failure at any time to enforce any provision of this Order shall not constitute a waiver of the provision or prejudice a Party's right to enforce that provision at any subsequent time.
- C. Each of the rights and remedies reserved by Buyer in this Order shall be cumulative and additional to any other or further remedies provided in law or equity or in this Order.



30. RELATIONSHIP OF THE PARTIES

The relationship of Seller to Buyer shall be that of an independent contractor and nothing herein contained shall be construed as creating any employer/employee, agency, or other relationship of any kind. Seller's employees, agents and/or representatives (hereinafter "Employees") performing under this Order shall at all times be under Seller's direction and control and Seller shall so inform them. Seller shall pay all wages, salaries, and other amounts due its Employees in connection with this Order and shall be responsible for all reports and obligations for its Employees, including, but not limited to, social security and income tax withholdings, unemployment compensation, worker's compensation, and equal employment opportunity reporting. Under no circumstance shall Seller be deemed an agent or representative of Buyer or authorized to commit Buyer in any way.

31. ANTI-TRAFFICKING IN PERSONS

- A. 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
- B. 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
- C. compliance with this provision. Seller shall include this provision in all of its lower tier subcontracts. Seller represents and warrants that it shall abide by and comply with the requirements of this clause. Further, Seller shall require its employees, agents, contract laborers and subcontractors to abide by and comply with the requirements of this clause.
- D. Upon written notice, Buyer or its Authorized Representatives may audit all pertinent books, records, work sites, offices, and documentation of Seller in order to verify compliance with this clause. Seller agrees to cooperate with and provide Buyer with any information reasonably requested in support of Buyer's due diligence or other efforts and in order to verify compliance with this clause. Seller will, in all of its lower-tier subcontracts and contracts relating to this or any other Buyer Order with Seller, include provisions which secure for Buyer all of the rights and protections provided for within this clause.
- E. Seller acknowledges that if Seller or any of its employees, agents, contract laborers or subcontractors engages in any of the prohibited activities in this clause, this Order is subject to termination.
- F. Seller shall provide its full cooperation during any subsequent investigation of the actual or suspected violation by Buyer, Buyer's representative, or cognizant government agency. Seller's cooperation shall include, but not be limited to, permitting inspection of its work sites, offices, and documentation, as necessary to support any investigation.
- G. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract.

32. PLANT SECURITY AND SAFETY

- A. If this Order requires Seller's personnel, including its employees and subcontractors ("Seller Engaged Personnel"), to enter premises which are owned, operated or managed by Buyer or its customer, Seller shall (1) comply with all safety rules and requirements as may be prescribed by Buyer or Buyer's customer, as well as the laws of the State where such premises are located; and (2) take such additional precautions as Buyer may reasonably require for safety and accident prevention purposes, including safety training. Seller agrees to take all reasonable steps and precautions to prevent accidents and preserve the life and health of Seller, US Government, and Buyer personnel performing or in any way coming in contact with Seller's performance of this Order. Any violation of such rules and requirements, unless promptly corrected as directed by Buyer, shall be grounds for termination of this Order in accordance with the Termination for Default clause herein. Seller Engaged Personnel, including delivery personnel, may not bring firearms, cameras, alcohol, illegal drugs, or unauthorized passengers onto any Buyer premises, nor bring matches or lighters into Buyer secured areas. Seller Engaged Personnel may not enter areas or perform any work where explosives or other serious hazards are present without Buyer's advanced written approval.
- B. Seller is responsible for ensuring that Seller Engaged Personnel entering premises which are owned, operated or managed by Buyer or its customer (1) are properly badged and made aware of applicable security requirements, and (2) at all times display identification badges approved by Buyer. Seller is required to notify Buyer whenever it terminates any Seller Engaged Personnel issued a badge by Buyer, a Buyer badge is lost, or if a problem arises involving Buyer's security requirements. Seller Engaged Personnel obtaining a badge must be capable of reading and understanding Buyer's processes and procedures relevant to duties that Seller Engaged Personnel is to perform on Buyer's premises.

33. SUSPECT/COUNTERFEIT PARTS

- A. Seller shall not furnish suspect counterfeit or counterfeit parts to Buyer under this Order. All material delivered under this Order shall be authentic and traceable to the original manufacturer. Seller shall provide authenticity and traceability records to Buyer upon request. Electronic parts shall not be acquired from brokers unless approved in advance in writing by Buyer. Seller shall immediately notify Buyer if Seller cannot provide parts, components, and/or assemblies traceable to the original component manufacturer or the original equipment manufacturer. Upon receipt of such notification, Buyer reserves the right to terminate this Order at no cost to Buyer or require specific material validation test and inspection protocol requirements to Seller.
- B. If suspect counterfeit or counterfeit parts are furnished under this Order and are found in any of the Products delivered hereunder, such items will be impounded by Buyer. Seller shall promptly replace such suspect/counterfeit parts with parts acceptable to the Buyer. Seller shall be liable for all costs relating to the removal and replacement of said parts, including without limitation Buyer's external and internal costs of removing such suspect/counterfeit parts, of reinserting replacement parts and of any testing or validation necessitated by the reinstallation of Seller's Products after suspect/counterfeit parts have been exchanged. Buyer's remedies described herein shall not be limited by any other clause agreed upon between Buyer and Seller in this Order and are in addition to any remedies Buyer may have at law, equity or otherwise under this Order. At Buyer's request, Seller shall return any removed suspect counterfeit or counterfeit parts to Buyer. For purposes of this clause, Seller agrees that any U.S.G. directive/information or GIDEP alert, indicating that such parts are suspect counterfeit or counterfeit, shall be deemed definitive evidence that Seller's Products contain suspect counterfeit or counterfeit parts.
- C. Seller agrees to insert the substance of this clause, including this sentence, in any lower tier subcontract.

34. DIVESTITURES MERGERS and ACQUISITIONS

- A. Upon Buyer's divestiture of any affiliate, division, business unit, line of business or sector ("divested entity"), Buyer may assign in whole or in part the Products and/or Services that are the subject of this order to that divested entity. Upon execution of an assignment, Buyer shall have no further rights or obligations with respect to the assigned services (with the exception of any unpaid service fees which remain due on the effective date of such assignment) and the divested entity shall become the "customer" of record for those assigned Products/Services.



- B. Divested entities will have the right, for a period of twelve (12) months post-divestiture, to continue to purchase the Products and/or Services covered under this Order, or Buyer may purchase such Products and/or Services under this Order on behalf of the divested entities.
- C. Buyer may access and use the Products and/or Services under this Order to provide transitional services to the divested entity, including transitional access and use of the Products and/or Services by the divested entity, during the transition period at no additional charge (i.e., no charge other than fees otherwise due to supplier under the Order as if the divested entity were a part of Buyer) provided that Buyer is and remains current on the payment of all fees due to supplier under this Order. If applicable, Buyer shall assign software licenses to the divested entity once the transition period ceases.
- D. Buyer shall have the unrestricted right to transfer the software license(s) to its parent and/or any subsidiary or affiliate of Buyer upon written notification to Seller/licensor of such transfer without payment of additional costs or fees.
- E. If Buyer merges with or acquires any affiliate, division, entity, business unit, line of business or sector ("merged entity") that has a pre-existing agreement with Seller at lower pricing than incorporated in this Order, the Parties shall amend this Order to incorporate such lower pricing.
- F. If Buyer merges with or acquires a merged entity that has a need for Seller's Products and/or Services, both Buyer and merged entity will be permitted to make purchases using this Order, including its pricing, in support of the merged entity.

35. COMPLETE AGREEMENT

This Order together with all attachments, exhibits, and other items specifically referenced in or attached to this Order is the Parties' final expression of their agreement and is the complete and exclusive statement of all terms and conditions of agreement. This Order supersedes and cancels all prior understandings, proposals, communications, whether oral or written, and agreements between the Parties, whether such understandings, proposals, communications, and agreements were written or oral, concerning the matters addressed in this Order. No course of prior dealings between the Parties, and no usage of trade, shall be relevant to supplement or explain any term used in this Order. The descriptive headings contained in this Order are for convenience of reference only and in no way define, limit or describe the scope or intent of this Order.

36. RESPONSE TO AUDIT

Buyer shall not be prohibited from providing copies of this Order, including any other document incorporated into this Order, to federal, state or other regulatory agencies as requested by either Buyer's or government auditors to comply with auditing procedures.

37. DELIVERY, TITLE, SOURCING

- A. All Parties expressly agree that time is and shall remain a material element of this Order and no acts of Buyer, including without limitation, modifications to this Order or Acceptance of late deliveries, shall constitute a waiver of this provision.
- B. Title free of liens or encumbrances shall pass to Buyer upon Acceptance (except as otherwise specified within this Order); however, passing of title shall not relieve Seller of any other obligations under this Order.
- C. All deliveries shall be strictly in accordance with the applicable quantities and schedules set forth in this Order. Buyer reserves the right to (i) return over shipments and early shipments at Seller's expense, (ii) have payment therefore withheld by Buyer until the date that Products or Services are actually scheduled for delivery, or (iii) be placed in storage, for which Seller shall be liable for the cost, until the delivery date specified herein. Unless otherwise provided in this Order, delivery in whole or part shall not be made more than ten (10) days prior to required delivery dates.
- D. Whenever it appears Seller will not meet the delivery schedule, Seller shall immediately notify Buyer of the reason and estimated length of the delay. If Seller's delivery shall fail to meet the delivery schedule, Buyer, without limiting its other rights or remedies, may direct expedited routing, and any excess cost incurred thereby shall be debited to Seller's account.
- E. If Seller is unable to meet the required delivery schedules for any reason, other than a change directed by Buyer, Buyer shall have the option to (1) terminate this Order, or (2) fill such Order or any portion thereof, from sources other than Seller and to reduce Seller's Order quantities accordingly at no increase in unit price, without any penalty to Buyer, or (3) Accept late delivery and recover from Seller any costs Buyer incurs caused by the late delivery. This condition shall not limit Buyer's other rights and remedies Buyer may otherwise have under this Order or applicable law.
- F. If Seller intends to source or ship direct from outside of the U.S. to Buyer then, in addition to complying with all applicable Export Regulations, Seller shall provide the name, country and contact information of the non-U.S. sources within ten (10) days after Order acceptance. Seller proposed sources outside of the U.S. must have a reputation for honesty and a company policy prohibiting bribes and facilitating payments intended to expedite or secure performance of a routine governmental action, such as, customs clearance. Buyer retains the right to deny Seller's use of Seller proposed sources within thirty (30) days of Seller notification. Seller shall ensure that Buyer's purchase does not transit through one of the proscribed countries listed in U.S. ITAR, 22 C.F.R. 126.1.

38. PACKAGING, PACKING, MARKING

- A. Seller shall be responsible for ensuring the proper packaging, packing, and marking of Product(s) delivered hereunder in accordance with this Order. Packaging, packing, and marking will conform to the instructions specified or provided by Buyer. Seller must assure package integrity throughout the shipping cycle. Each package and pack shall provide physical, chemical, and cleanliness protection to prevent damage or deterioration of the Product during handling, shipment and storage under anticipated environmental conditions. All materials, fabrication techniques and workmanship shall conform to the requirements specified herein or, if not specified, otherwise meet or exceed good commercial quality and practice. Damage resulting from improper Product packaging will be charged to Seller. Seller must comply with all applicable carrier regulations, including National Motor Freight Classification and Department of Transportation Regulations. No extra charge for packaging or insurance shall be allowed unless specifically noted herein. Products received without proper packaging, packing, marking and/or bar coding as set forth herein may be rejected by Buyer and returned to Seller at Seller's expense.
- B. All goods shall be prepared (cleaned, preserved, etc.) and packed per Military Standard Packaging, when required, or best commercial practice for export shipment in a manner to comply with carrier regulations and to prevent damage or deterioration during handling, shipment and indoor storage for up to ninety (90) days at destination. Wood Packaging Materials must meet International Standards for Phytosanitary Measures (ISPM) No. 15. If requested, Seller shall submit two (2) copies of its proposed packaging procedure and packing design to Buyer for review not less than sixty (60) days prior to the fabrication of the container required for first shipment, and shall prepare and package in accordance with said procedure and design.



39. SHIPPING AND TRANSPORTATION

Unless otherwise noted on this Order, when shipping F.O.B. Shipping Point (Seller's Dock),

40. INSPECTION

A. Buyer and its customer may inspect and test material, work in progress, Products and/or Services at all times and places during manufacture and otherwise. No inspection (including source inspection), test, approval (including design approval), or Acceptance of Products or Services, or failure to inspect and Accept or reject Products or Services, shall relieve Seller from responsibility for any defects or other failure to meet the requirements of this Order, or for latent defects, fraud, such gross mistakes that amount to fraud, or Seller's warranty obligations, nor impose liability on Buyer.

B. Seller shall not substitute materials or accessories, even if Seller believes they are of superior quality, without written consent of Buyer.

C. Unless otherwise stated in Buyer's specifications, the latest revision of applicable standards, specifications or similar documents as of the date of this Order shall apply. If the Products are specifically manufactured for Buyer in accordance with drawings, designs, or specifications furnished by Buyer:

(1) Seller shall provide and maintain an inspection and quality control system acceptable to Buyer and provide access to Seller's facilities and applicable documented information including all lower-tier subcontractors' facilities used in performance of this Order at all reasonable times, and without additional charge, for inspection by Buyer's agents, employees, Buyer's Customer and any applicable regulatory authority, and shall provide all tools, facilities, and assistance reasonably necessary for inspection relating to the performance of this Order; and (2) Seller shall maintain adequate and authenticated inspection and test documents which relate to work performed under this Order for a period of three (3) years after completion of this Order or as otherwise specified in this Order, and shall make such records available to Buyer upon request; (3) Seller shall supply Buyer with inspection and test reports, affidavits, certifications, technical documents generated or related to this Order, or any other documents as may reasonably be requested by Buyer; (4) Seller shall notify Buyer's Authorized Representative in writing of any changes in Product and/or process definition and obtain Buyer's written approval prior to proceeding; and (5) Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract.

D. Final inspection and Acceptance by Buyer shall be at point of receipt by Buyer, unless otherwise specified in this Order.

41. OFFSET COMMITMENT

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.

42. CUSTOMS TRADE PARTNERSHIP AGAINST TERRORISM (CTPAT) PROGRAM

Buyer supports the U.S. Customs and Border Protection (CBP) in the CTPAT program. This program is designed to protect the supply chain from the introduction of terrorist contraband (weapons, explosives, biological, nuclear or chemical agents, etc.) in shipments to Buyer originating from off-shore of the U.S., or in drop shipments to Seller's sub-tier suppliers, Buyer's customers or other subcontractors originating from off-shore of the U.S. Seller shipments through U.S. importers, from manufacturers in foreign countries, and brokers/freight forwarders/carriers must be with transportation companies that are CTPAT validated by the U.S. Customs Service. In addition, Seller agrees to take such reasonable measures as may be required by Buyer to ensure the physical integrity and security of all shipments under this Order against the unauthorized introduction of harmful or dangerous materials, drugs, contraband, weapons or weapons of mass destruction or introduction of unauthorized personnel in transportation conveyances or containers. Such measures may include, but are not limited to, physical security of manufacturing, packing and shipping areas, restrictions on access of unauthorized personnel to such areas; personnel screening to the maximum limits of law or regulations in Seller's or manufacturer's country; and development, implementation and maintenance of procedures to protect the security and integrity of all shipments. Seller shall contact Buyer's Authorized Representative for assistance in identifying transportation companies that are validated under the CTPAT program. Information about CTPAT can be found at www.cbp.gov

43. 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 an Item 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.

44. RESIDENT REPRESENTATIVES

Buyer reserves the right to assign representatives on an itinerant or resident basis at Seller's facilities or those of lower-tier subcontractors for the purpose of maintaining surveillance activities, including the right to witness any or all tests performed as part of the requirements of this Order. Seller shall provide Buyer's representatives with reasonable facilities and equipment, and unescorted free access to all areas essential to the proper conduct of the aforementioned activity throughout all phases of engineering, manufacturing, testing, packaging and shipping. In addition, Seller agrees to make available to Buyer's representatives pertinent planning, status, and forecast information and such other technical and management reporting as may be necessary for Buyer's representatives to carry out their responsibilities.

45. SELLER'S EMPLOYEES

Seller represents and warrants that Seller is an expert, fully competent in all phases of the work involved in producing and



supporting all Products and performing all Services purchased under this Order. Buyer may require Seller to remove from Buyer's or Buyer's customer's premises any employee, agent, or representative of Seller, or any of its subcontractors and Buyer shall have the right to request and have replaced any personnel who fail to perform to Buyer's satisfaction.

46. **PRIVACY - PROCESSING OF PERSONAL INFORMATION (Applicable Only to the Processing of Personal Information)**

A. Definitions

1. "Affiliate" means any person or entity that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with Buyer.
2. "Controller" means any Person or organization that, alone or jointly with others, determines the purposes and means of the Processing of Personal Information.
3. "Government Authority Request" means any subpoena, warrant, or other judicial, regulatory, governmental or administrative order, proceeding, demand or request (whether formal or informal) by a non-EU government or quasi-governmental or other regulatory authority (including law enforcement or intelligence agencies) seeking or requiring access to or disclosure of Personal Information.
4. "Personal Information" means any information relating to an identified or identifiable Person, including, but not limited to name, postal address, email address or other online contact information (such as an online user ID), telephone number, date of birth, social security number (or its equivalent), driver's license number (or other government-issued identification number), account information (including financial account information), payment card Data (primary account number, expiration date, service code, full magnetic stripe Data or equivalent on a chip), personal identification number, access code, password, security questions and answers, security tokens used for authentication, birth or marriage certificate, health insurance or medical information, or any other unique identifier or one or more factors specific to the individual's physical, physiological, mental, economic or social identity, whether such Data is in individual or aggregate form and regardless of the media in which it is contained, that may be (i) disclosed at any time to Seller or its Personnel by Buyer or its Personnel in anticipation of, in connection with or incidental to the performance of Services for or on behalf of Buyer; (ii) Processed at any time by Seller or its Personnel in connection with or incidental to the performance of Services for or on behalf of Buyer; or (iii) derived by Seller or its Personnel from the information described in (i) or (ii) above.
5. "Personnel" means employees, agents, consultants or contractors of Seller or Buyer, as applicable.
6. "Privacy Shield" means the European Union (EU) -U.S. and Switzerland – U.S. Privacy Shield frameworks.
7. "Processor" means any Person or Entity that Processes Personal Information on behalf of a Controller.
8. "Process" or "Processing" means any operation or set of operations performed upon Personal Information, whether or not by automatic means, such as creating, collecting, procuring, obtaining, accessing, recording, organizing, storing, adapting, altering, retrieving, consulting, using, disclosing or destroying the data.
9. "Sell," means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, Personal Information to another business or a third party for monetary or other valuable consideration.
10. "Standard Contractual Clauses" means the European Commission's Standard Contractual Clauses for the transfer of personal data from the European Union to processors established in third countries (controller-to-processor transfers) as set out in the Annex to Commission Decision 2010/87/EU.

B. Seller shall hold in strict confidence any and all Personal Information.

C. Unless Buyer elsewhere in this agreement recognizes Seller to be a Controller, Buyer shall have the exclusive authority to determine the purposes for and means of Processing Personal Information.

D. In Processing Personal Information, Seller shall comply with all applicable laws in effect and as they become effective relating in any way to the privacy, confidentiality or security of Personal Information.

E. Seller shall Process Personal Information only on behalf and for the benefit of Buyer and only for the purposes of Processing Personal Information in connection with this Order, and will carry out its obligations pursuant to this Order and in accordance with Buyer's written instructions. **Seller shall not Sell Personal Information.**

F. Seller shall limit access to Personal Information to its Personnel who have a need to know the Personal Information as a condition to Seller's performance of Services for or on behalf of Buyer, and who have explicitly agreed in writing to comply with legally enforceable privacy, confidentiality and security obligations that are substantially similar to those required by this clause. Seller will exercise the necessary and appropriate supervision over its relevant Personnel to maintain appropriate privacy, confidentiality and security of Personal Information. Seller will ensure that Personnel with access to Personal Information are periodically trained regarding privacy and security and the limitations on Processing of Personal Information as provided in this Order.

G. Seller will not transfer Personal Information outside the country in which it originally was delivered to Seller for Processing (or, if it was originally delivered to a location inside the EEA, the UK or Switzerland, outside the EEA, the UK or Switzerland) without the explicit written consent of Buyer. To the extent Buyer provides such consent, Seller will enter into any further written agreements as are necessary (in Buyer's reasonable determination) to comply with privacy laws, including the Standard Contractual Clauses.

H. Seller shall not share, transfer, disclose or otherwise provide access to any Personal Information to any third party, or contract any of its rights or obligations concerning Personal Information to a third party, unless Buyer has authorized Seller to do so in writing, except as required by law. Where Seller, with the consent of Buyer, provides a third party access to Personal Information, or contracts such rights or obligations to a third party, Seller shall enter into a written agreement with each third party that imposes obligations on the third party that are substantially similar to those imposed on Seller under this clause. Seller shall retain only third parties that Seller reasonably can expect to be suitable and capable of performing their delegated obligations in accordance with this Order and Buyer's written instructions.

I. To the extent Seller provides a third party Processor access to Personal Information received by Buyer from a Person or Entity in the EEA, the UK or Switzerland, Seller shall (i) transfer the Personal Information to the third party Processor only for the limited and specified purposes instructed by Buyer, (ii) require the third-party Processor to execute an onward transfer agreement incorporating the Standard Contractual Clauses and the obligations outlined in clause I. above ("Onward Transfer Agreement"),



- (iii) take reasonable and appropriate steps to ensure that the third party Processor effectively Processes the Personal Information transferred in a manner consistent with the Onward Transfer Agreement, (iv) require the third party Processor to notify Seller if the third party Processor determines that it can no longer meet its obligation under the Onward Transfer Agreement, and (v) upon notice, including under (iv), take reasonable and appropriate steps to stop and remediate unauthorized Processing.
- J. No applicable law, or legal requirement, privacy or information security enforcement action, investigation, litigation or claim, or any other circumstance, prohibits Seller from (i) fulfilling its obligations under this Order or (ii) , complying with instructions it receives from Buyer concerning Personal Information. In the event a privacy requirement, enforcement action, investigation, litigation, or claim, or any other circumstance, is reasonably likely to adversely affect Seller's ability to fulfill its obligations under this Order, Seller shall promptly notify Buyer in writing and Buyer may, in its sole discretion and without penalty of any kind to Buyer, suspend the transfer or disclosure of Personal Information to Seller or access to Personal Information by Seller, terminate any further Processing of Personal Information by Seller, and terminate this Order and any related order(s).
- K. Seller will immediately inform Buyer in writing of any requests with respect to Personal Information received from Buyer's customers, consumers, employees, or others. Seller will respond to such requests in accordance with Buyer's instructions. Seller will fully cooperate with Buyer if an individual requests access to his or her Personal Information for any reason.
- L. Subject to applicable law, in the event Seller is required by law, legal process Government Authority Request to disclose Personal Information, Seller will give immediate written notice of the request to Buyer, so that Buyer may, in its discretion, seek a protective order or otherwise block the disclosure. Buyer will have the right to defend such action in lieu of and on behalf of Seller. Seller will reasonably cooperate with Buyer in such defense at Buyer's reasonable cost.
- M. If the Processing involves the transmission of Personal Information over a network, Seller will implement appropriate measures to protect Personal Information against the specific risks presented by the Processing, including by ensuring that all Personal Information in transit is encrypted by default and that, to the extent possible and applicable decryption key(s) is stored in the EU and subject to appropriate technical and organizational security measures. Seller shall ensure a level of security appropriate to the risks associated with such transmission and the nature of the Personal Information processed.
- N. Seller shall immediately, but in no event later than twenty-four hours after Seller's discovery of a Privacy Incident, notify Buyer in writing of any such Privacy Incident. Such notice will summarize in reasonable detail the effect on Buyer, if known, of the Privacy Incident and the corrective action taken or to be taken by Seller. Seller will promptly take all necessary and advisable corrective actions, and will cooperate fully with Buyer in all reasonable and lawful efforts to prevent, mitigate or rectify such Privacy Incident. The content of any filings, communications, notices, press releases or reports related to any Privacy Incident must be approved by Buyer prior to any publication or communication thereof.
- O. Upon the occurrence of a Privacy Incident involving Personal Information in the possession, custody or control of Seller or for which Seller is otherwise responsible, Seller shall reimburse Buyer on demand for all Notification Related Costs (defined below) incurred by Buyer arising out of or in connection with any such Privacy Incident. "Notification Related Costs" shall include Buyer's internal and external costs associated with investigating, addressing and responding to the Privacy Incident, including but not limited to: (i) preparation and mailing or other transmission of notifications or other communications to consumers, employees or others as Buyer deems reasonably appropriate; (ii) establishment of a call center or other communications procedures in response to such Privacy Incident (e.g., customer service FAQs, talking points and training); (iii) public relations and other similar crisis management services; (iv) legal, consulting and accounting fees and expenses associated with Buyer's investigation of and response to such event; and (v) costs for commercially reasonable credit reporting and monitoring services that are associated with legally required notifications or are advisable under the circumstances.
- P. Buyer reserves the right to, annually or upon a Privacy Incident, review and inspect Seller's system and information security policies, practices, and procedures. With reasonable prior notice, Buyer or its Authorized Representatives reserve the right to inspect the system and any Buyer information or materials in Seller's possession, custody or control, relating in any way to Seller's obligations. An inspection shall not unreasonably interfere with the normal conduct of Seller's business and Seller shall cooperate fully with any such inspection initiated by Buyer. If Seller engages an independent third party to conduct a security evaluation/certification of Seller's systems that host Personal Information during the term of this contract, it shall provide summary copies of any resulting reporting to Buyer.
- Q. Seller agrees to indemnify and hold harmless the Indemnitees, as defined in clause 20 above, from, and at Buyer's option defend against, any and all Losses (as defined below), that the Indemnitees may incur, to the extent that such Losses arise from, or may be in any way attributable to (i) any violation of this Order; (ii) the negligence, gross negligence, bad faith, or intentional or willful misconduct of Seller or its Personnel in connection with the obligations set forth in this Order; (iii) Seller's use of any third party providing Services in connection with or relating to Seller's performance under this Order; or (iv) any Privacy Incident involving Personal Information in Seller's possession, custody or control, or for which Seller is otherwise responsible. For purposes of this Order, "Losses" means all judgments, settlements, awards, damages, losses, charges, liabilities, penalties, interest claims (including taxes and all related interest and penalties incurred directly with respect thereto), and all related reasonable costs, expenses and other charges (including all reasonable attorneys' fees and reasonable internal and external costs of investigations, litigation, hearings, proceedings, document and Data productions and discovery, settlement, judgment, award, interest and penalties).
- R. Seller's obligations under this clause will survive the termination of this Order and the completion of all Services subject thereto.
47. **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.