

**PURCHASE ORDER FOR GOODS AND/OR SERVICES  
STANDARD TERMS AND CONDITIONS  
(Applicable to Buyer and its Affiliates)**

- 1. CERTAIN DEFINITIONS:** The Purchase Order ("Order") is identified by the number set forth above. "Vendor" is the entity set forth on the front of this Order. "Buyer" means the entity indicated on the front of this Order or its Affiliates, as applicable. "Product(s)" means the items ordered by this Order that are provided by Vendor to Buyer and also encompasses associated software programs, articles, materials, drawings, data, information and property. "Services" means, individually or collectively, any of the services set forth in this Order. "Vendor" means the person, firm or corporation to which this Order is addressed. Vendor and Buyer are hereafter referred to as the "Parties." "Affiliate(s)" means any business organization, foreign or domestic, at least twenty percent (20%) of whose capital, assets, voting stock, profits, interests, or similar participation rights is owned or controlled, directly or indirectly, by a Party. Buyer and Vendor are sometimes referred to herein as "Parties" or individually as "Party".
- 2. ACKNOWLEDGEMENT:** Except where this Order is issued as an ordering mechanism under the terms and conditions of a master document, this Order becomes a binding contract subject to these terms and conditions when accepted by Vendor by executed acknowledgment of the Order or by Vendor's performance (notwithstanding the terms of any order acceptance, invoice or other document at variance with the terms of this Order).
- 3. PRICE AND TAXES:** Any price specified in this Order is fixed and not subject to increase, unless otherwise expressly agreed to in writing by the Parties. Vendor's prices are exclusive of any federal, state or local sales, use or excise taxes levied upon, or measured by the sale, the sales price, or use of Products supplied under this Order ("Taxes"). Buyer shall be liable for and shall reimburse Vendor for Taxes applicable to Products or Services provided pursuant to this Order. Taxes payable by Buyer shall be separately stated in Vendor's invoices and shall not be included in Vendor's prices. Buyer shall not be liable for any Taxes for which a valid exemption certificate acceptable to the applicable state or local taxing authorities is furnished by Buyer to Vendor. Buyer's Order may provide Vendor additional tax instruction as allowed by law including, but not limited to, Buyer's accrual and payment of taxes and/or special jurisdictional exemptions. Taxes are only intended to include sales taxes and not taxes related to income or otherwise.
- 4. BILLING AND PAYMENT TERMS:** Vendor shall invoice Buyer for each Product shipment made or Service rendered (unless another address is specified in writing by Buyer), at the address listed on the Order. Invoices shall include, but not be limited to: (i) Order number; (ii) Order line number; (iii) Product or Service identification number; (iv) ship to address; (v) quantity of Product shipped and billed; (vi) description of Services rendered (vii) net invoice amount; (viii) net unit cost; (ix) itemized Taxes, and (x) any special instructions requested by Buyer. For Products, payment of all undisputed charges shall be due thirty (30) days from the date of receipt of the Products, or receipt of Vendor's invoice, whichever occurs later. For Services, payment of all undisputed charges shall be due thirty (30) days from completion and acceptance of such Services by Buyer, unless otherwise stated on the front of the Order.
- 5. CHANGES:** Buyer may, by written change order, make any changes that are consistent with the general scope of this Order. If any such change affects the amount due or the time of performance under this Order, Vendor shall notify Buyer in writing of such change within three (3) business days of receipt of the change order. Otherwise, Vendor will be deemed to have accepted the change order. If Vendor timely notifies Buyer of a change in the amount due or the time of performance, neither Party shall be bound by the change unless and until the change in amount due and time of performance has been agreed to in writing by the Parties. If the Parties do not agree in writing to the change in amount due or time of performance, the original terms of the Order shall apply.
- 6. DELIVERY OF PRODUCTS:** Deliveries of Products will be made in quantities and at the times specified in this Order. If Vendor fails to timely deliver the Products, Buyer may, without limitation of its other rights under this Order, direct expedited routing of the Products, and any resulting excess costs incurred must be paid by Vendor and are subject to offset by Buyer. Buyer is not liable for Vendor's commitments or production arrangements that exceed the amount of or in advance of the time necessary to meet this Order's delivery schedule. Products that are delivered in advance of schedule may, at Buyer's sole option, (i) be returned at Vendor's expense for scheduled delivery, (ii) have payment withheld by Buyer until the date that Products are actually scheduled for delivery or (iii) be accepted and paid for upon receipt. Shipment of Products shall be made FOB Destination, prepaid and added to the invoice or as otherwise specified on the Order. If Vendor is instructed by Buyer to ship Products prepaid with shipping costs and added to the invoice, Vendor shall select the carrier based on the best rate as negotiated by Vendor, and Buyer shall only pay Vendor's net transportation costs that include, but are not limited to, all applicable discounts, allowances and refunds. If Products are shipped in any manner other than FOB Destination, Vendor shall bear risk of loss until acceptance by Buyer in accordance with the terms of this Order. For all Products imported into the United States, Vendor shall, in a timely manner, provide all data element information required in accordance with the United States Customs Service's Importer Security Filing (ISF), 19 CFR 149.3 (the "ISF Data Elements"). Vendor shall indemnify and hold Buyer harmless from and against any liability, claims, demands or expenses (including attorney's fees or other professional fees and costs related to any proceeding instituted) arising from or relating to Vendor's failure to provide the ISF Data Elements. The required ISF Data Elements shall be made available by Vendor to Buyer at least three (3) business days prior to the lading of the ocean container at the foreign port. Vendor shall place the Products, or cause the Products to be placed, with carriers of good national reputation fully insured for the replacement cost of the Products. Delivery or payment in accordance with the Order does not constitute acceptance by Buyer under this Order. Risk of loss of Products rests with Vendor before delivery and acceptance by Buyer and with Buyer after delivery and acceptance by Buyer.
- 7. INSPECTION/ACCEPTANCE:** All Products and Services ordered pursuant to this Order shall be subject to inspection by Buyer after delivery or performance to determine conformity with Buyer's Order and Vendor's advertised or published specifications. Buyer shall have a period of thirty (30) days following arrival of Products at the delivery destination specified by Buyer within which to inspect the Products for conformity with the Order and Vendor's advertised and published specifications and to provide Vendor with written notice of any discrepancy or rejection. Buyer shall have a period of thirty (30) days following completion of Services within which to inspect the Services for conformity with Buyer's Order and Vendor's advertised and published specifications and to provide Vendor with written notice of any discrepancy or rejection. If the Products delivered or Services performed do not so conform, Buyer shall have the right to reject such Products or Services. Products that have been delivered and rejected, in whole or in part, shall be returned to Vendor at Vendor's risk and expense. Buyer shall notify Vendor and arrange for the return of Products as required. Inspection or failure to inspect on any occasion shall not affect Buyer's rights under the "WARRANTY" provisions below or any other rights or remedies available to Buyer, whether at law or in equity.
- 8. RELATIONSHIP OF PARTIES:** Neither Party undertakes by this Order or otherwise to perform or discharge any liability or obligation of the other Party, whether regulatory or contractual, or to assume any responsibility whatsoever for the conduct of the business or operations of the other Party. Nothing contained in this Order is intended to give rise to a partnership or joint venture between the Parties or to impose upon the Parties any of the duties or responsibilities of partners or joint venturers. In providing any Products and Services under this Order, Vendor is acting solely as an independent contractor and not as an agent of Buyer. Persons performing Services on behalf of Vendor shall be solely the employees or agents of Vendor, shall be under the sole and exclusive direction and control of the Vendor, and shall not be considered employees of the Buyer for any purpose. Vendor shall be responsible for compliance with all laws, rules and regulations involving its employees or agents, including but not limited to employment of labor, hours of labor, health and safety, working conditions and payment of wages. Vendor shall also be responsible for payment of taxes, including federal, state, and municipal taxes, chargeable or assessed with respect to its employees or agents, such as social security, unemployment, worker's compensation, disability insurance and federal and state income tax withholding.
- 9. WARRANTIES:** Vendor warrants that Vendor has and will comply with all applicable permits and licenses and all requirements of applicable laws, orders, regulations and standards ("Provisions") including, without limitation, Provisions applicable to Vendor relating to equal employment opportunity, non-discrimination

(based upon race, color, creed, religion, sex, age, disabilities, sexual preference, or national origin), wages and hours, occupational health and safety and immigration. Vendor warrants each Product for a period of one-hundred and eighty (180) days from the date the Product is accepted ("Product warranty period") and warrants Services for a period of ninety (90) days from the date of acceptance of Services ("Services warranty period") unless otherwise stated on the front of the Order. During the Product warranty period and the Service warranty period, Vendor warrants as follows:

(a) upon delivery of each Product to Buyer, acceptance and payment by Buyer of the purchase price, all right, title and interest in Product will pass to Buyer free of all liens, imperfections in title, claims, charges, damages, restrictions, or other encumbrances;

(b) all Products furnished shall be new (unless otherwise stated on the front of the Order), merchantable, free from defects in material and workmanship, fit for the ordinary purpose for which the Products are used, and shall conform to Vendor's advertised and published specifications in effect at the time the warranty began;

(c) the Products and Services will comply in all material aspects with all applicable Provisions which directly impose obligations upon any manufacturer, Vendor or installer of such Products and Services, including, but not limited to, environmental, health, and safety laws, treaties, regulations, directives, and standards recognized in the industry, including those prepared by the International Standards Organization;

(d) to the best of Vendor's knowledge, the Products and Service do not and will not, and Buyer's use of the Products and/or Service, as represented by Buyer to Vendor as of the time of the Order for such Product and/or Service, does not and will not infringe upon any patent, trademark, copyright, trade secret or other proprietary right of any third party; and, as of the date of Vendor's acceptance of the Order (the "Order Date"), other than as disclosed in writing by Vendor prior to the Order Date, (i) there is no actual suit pending against Vendor by any such third party based upon an alleged violation of such right, and (ii) to the best of Vendor's knowledge, there is no threatened litigation against Vendor in which a reasonable probability exists that there is a violation of such right;

(e) that for all Products imported into the United States, Vendor shall accept, implement, and comply with all applications, recommendations or requirements of the United States Customs and Border Protection's Customs-Trade Partnership Against Terrorism (C-TPAT). Vendor shall indemnify and hold Buyer harmless from and against any liability, claims, demands or expenses (including attorney's fees or other professional fees) arising from or relating to Vendor's failure to accept, implement or comply with C-TPAT; and

(f) Vendor will perform the Services required by this Order in accordance with industry practices and standards generally applicable to such Services; provided, however, that where this Order specifies a particular standard or criteria for performance, this warranty is not intended to and does not diminish that standard or criteria for performance.

(g) Vendor will perform the Services under the highest professional and ethical standards. In particular, Vendor shall conform to and abide by the Buyer's Vendor/Supplier Code of Conduct found [here](#) ("Buyer Code") as may be changed from time to time on Buyer's website. Vendor shall ensure that all of Vendor's employees and subcontractors who perform services for Buyer hereunder review and understand the Buyer Code prior to performing any Services. Vendor represents that all Services will be performed by Vendor, its' employees and subcontractors, in full conformance with the Buyer Code.

Should the Products and/or Services not conform to the foregoing warranties, Vendor shall, at its sole cost, repair or replace the defective or nonconforming Products, and promptly re-perform the defective or nonconforming Services. Vendor shall reimburse Buyer for all direct expenses incurred by Buyer because the Product and/or Services are defective or nonconforming. If Buyer cannot replace or repair the defective or nonconforming Product or Service within thirty (30) days or sooner in the case of a material need by Buyer, Buyer shall have the right to revoke its acceptance of the Product/Service, in which case Buyer shall be refunded all monies it has paid to date, be relieved of further liability under this Order and return to Vendor, at Vendor's expense, any Product or tangible items provided by Vendor relating to a Service. Notwithstanding the foregoing, the Product warranties do not extend to Product to the extent that such Product has been subjected to misuse, neglect or abuse not caused by Vendor or been used in violation of the approved written instructions furnished to Buyer prior to or contemporaneous with delivery of the Product, and such action is the cause of the damage or malfunction.

**10. INFRINGEMENT:** Vendor agrees to indemnify, defend and hold harmless Buyer and its Affiliates, shareholders, directors, officers, employees, contractors, agents and other representatives from all demands, claims, actions, causes of action, proceedings, assessments, losses, damages, liabilities, settlements, judgments, fines, penalties, interest, cost and expenses (including fees and disbursements of counsel) arising from or relating to any actual or alleged infringement or misappropriation of any patent, trademark, copyright, trade secret or any actual or alleged violation of any other intellectual property rights arising from or in connection with the Products provided or the Services performed under this Order regardless of whether such Products or Services form the entire basis or only a portion of the basis for such claims of infringement, misappropriation or violation. Notwithstanding anything to the contrary contained in this Order (including, but not limited to the indemnification provisions herein), the provisions of this Section shall govern the rights of Buyer and its Affiliates, shareholders, directors, officers, employees, contractors, agents and other representatives to indemnification for claims of infringement, misappropriation or violation of intellectual property rights. In addition to this indemnification provision, Vendor, at Vendor's expense, shall at Vendor's option (i) replace or modify the infringing Product/Service with a non-infringing Product/Service that meets the specifications in this Order, or (ii) return all of the monies paid by Buyer to Vendor for the Product/Service and arrange for return delivery back to Vendor of the infringing items.

#### **11. INDEMNIFICATION AND INSURANCE:**

(a) Vendor shall indemnify, defend, and hold harmless Buyer and its Affiliates, officers, agents, and employees, from all claims, suits, actions, demands, damages, liabilities, expenses (including fees and disbursements of counsel), judgments, settlements and penalties of every kind arising from defective Products or any acts or omissions of Vendor, its employees, subcontractors and agents in performing under this Order, including those based on personal injury, death, or property damage, and those based on strict liability in tort or products liability of any other kind. **THE FOREGOING INDEMNITY, TO THE EXTENT PERMITTED BY LAW, SHALL APPLY IN THE CASE OF ALL CLAIMS THAT ARISE FROM THE NEGLIGENCE, MISCONDUCT OR OTHER FAULT OF BUYER**, provided, however, that if a claim is the result of the joint negligence, joint misconduct, or joint fault of the Parties, the amount of the claim for which Buyer is entitled to indemnification shall be limited to that portion of such claim that is attributable to the negligence, misconduct or other fault of Vendor. The obligations of this provision are in addition to Vendor's obligation to provide insurance and shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by Vendor under applicable worker's compensation acts, longshoremen and harborworker's acts, disability benefits acts or any other employee benefit act.

(b) Buyer shall promptly notify Vendor in writing of any suits, claims or demands covered by this indemnity. Promptly after receipt of such notice, Vendor shall assume the defense of such claim with counsel reasonably satisfactory to Buyer. If Vendor fails, within a reasonable time after receipt of such notice, to assume the defense with counsel reasonably satisfactory to Buyer, or if, in the reasonable judgment of Buyer, a direct or indirect conflict of interest exists between the Parties with respect to the claim, or if in the sole judgment of Buyer the assumption and conduct of the defense by Vendor would materially and adversely affect Buyer in any manner or prejudice its ability to conduct a successful defense, then Buyer shall have the right to undertake the defense, compromise and settlement of such claim for the account and at the expense of Vendor. Notwithstanding the above, if Buyer in its sole discretion so elects, Buyer may also participate in the defense of such actions by employing counsel at its expense, without waiving Vendor's obligations to indemnify or defend. Vendor shall not settle or compromise any claim or consent to the entry of any judgment without the prior written consent of Buyer and without an unconditional release of all liability by each claimant or plaintiff to Buyer.

(c) Vendor agrees to maintain during the term of this Order all insurance or bonds required by law or this Order, including, but not limited to (i) Commercial General Liability coverage with a \$1,000,000 combined single limit for bodily injury and property damage each occurrence, a \$1,000,000 aggregate limit for products and completed operations, a \$1,000,000 limit for personal and advertising injury and a \$2,000,000 aggregate for other than products and completed operations, (ii) Workers Compensation coverage providing statutory benefits for employees and officers as well as Employer's Liability coverage with minimum limits of \$500,000 each accident for bodily injury by accident and \$500,000 each person, \$500,000 aggregate for bodily injury by disease, (iii) Auto Liability coverage for owned, hired and non-owned

vehicles with a \$1,000,000 combined single limit for bodily injury and property damage each accident. If there are no owned vehicles, the hired and non-owned auto liability may be added to the commercial package policy, (iv) Umbrella Liability coverage with a minimum limit of \$1,000,000 excess of the underlying General Liability, Auto Liability and Employer's Liability coverages, and (v) Software Errors & Omissions liability coverage with a minimum limit of \$1,000,000. The minimum insurer requirement is A-VI from AM Best. Vendor must provide a Waiver of Subrogation Endorsement as required under (i) through (iv). In addition, Vendor will name Buyer as an additional insured on all policies required under (i), (iii), and (iv). Upon request by Buyer, Vendor shall furnish certificates or evidence of the foregoing insurance indicating the amount and nature of such coverage, the expiration date of each policy, and stating that no material change or cancellation of any such policy shall be effective unless thirty (30) days' prior written notice is given to Buyer.

**12. TERMINATION:** Either Party may terminate this Order, in whole or in part, due to a material breach or default of any of the terms, conditions or covenants of this Order by the other Party, provided that such termination may be made only following the expiration of a ten (10) day period during which the other Party has failed to cure such breach after having been given written notice of such breach. Either Party may terminate this Order, effective immediately, without liability for said termination, upon written notice to the other Party, if any of the following events occur: (i) the other Party files a voluntary petition in bankruptcy; (ii) the other Party is adjudged bankrupt; (iii) a court assumes jurisdiction of the assets of the other Party under a federal reorganization act; (iv) a trustee or receiver is appointed by a court for all or a substantial portion of the assets of the other party; (v) the other Party becomes insolvent or suspends its business; or (vi) the other party makes an assignment of its assets for the benefit of its creditors, except as required in the ordinary course of business. In addition to the foregoing, Buyer may terminate this Order in whole or in part, without cause, effective immediately, upon written notice to Vendor so long as Buyer terminates the Order at least five (5) days prior to delivery of the Product/Service. Termination shall not affect any other purchase order placed or any fully paid up license granted to Buyer or Buyer's rights as to the portions of the Order not terminated. Upon termination of this Order without cause, Buyer shall not be liable to Vendor, either for compensation or for damages of any kind or character whatsoever, whether on account of the loss by Vendor of present or prospective profits on sales or anticipated sales, or expenditures, investments or commitments made in connection with the establishment, development or maintenance of Vendor's business, or on account of any other cause whatsoever. Subject to the terms of this Order, the termination shall not prejudice the rights or liabilities of the Parties with respect to any Products or Services then delivered to Buyer in conformance with the terms of this Order or any indebtedness then owing by either party to the other party.

**13. CONFIDENTIALITY:** During the course of this Order, one party may become aware of, gain access to, or receive certain information from the source party which is of a proprietary, confidential, or technical nature. If such information is considered sensitive by the source party, the source party shall designate it, in writing, as "Confidential" (hereafter "Confidential Information"). Neither Party shall disclose Confidential Information to any third party following the date of initial disclosure unless such disclosure is lawfully required by any governmental agency, is otherwise required to be disclosed by applicable law, or is necessary in any legal proceeding establishing rights and obligations under this Order. Each Party agrees to cooperate with the other's reasonable confidentiality requirements and to immediately notify the other party of any unauthorized disclosure of Confidential Information. Should either Party breach this confidentiality provision, the other Party, in addition to all other remedies available at law or in equity, shall have the right to seek declaratory or injunctive relief without the necessity of posting a bond or proving damages. Each Party agrees not to provide copies of this Order, or otherwise disclose the terms of this Order, to any third party without the prior written consent of the other Party; provided, however, that Buyer may, without obtaining Vendor's consent, provide copies or make disclosures to prospective purchasers of the business of Buyer or of any Affiliate; or for the purpose of obtaining third party financing; and any regulatory or judicial body requesting such information. The Parties further agree to submit to one another, for written approval, all advertising, sales promotion, press releases and other publicity matters relating to the Product furnished or the Services performed pursuant to this Order, when its respective name or mark is mentioned or language from which the connection of said name or mark may be inferred or implied. The Parties further agree not to publish or use such advertising, sales promotions, press releases, or publicity matters without such prior written approval. Any approval required under this Section shall not be unreasonably withheld or delayed by either party.

**14. DISPUTE RESOLUTION:** Except in the case of (i) a dispute, controversy or claim relating to a breach or alleged breach on the part of either Party of the provisions of the Confidentiality provisions herein; (ii) a suit, action or proceeding to compel Vendor to comply with its obligations to indemnify Buyer pursuant to this Order or (iii) a suit, action or proceeding to compel either party to comply with the dispute resolution procedures set forth in this Section, the Parties agree that prior to initiating any suit or other proceeding to resolve a dispute, claim or controversy ("Dispute"), the Parties must first each appoint a manager with authority to meet and negotiate in good faith to resolve any Dispute arising under this Order. A party must appoint the manager within three (3) days of receiving a written request for dispute resolution from the other Party. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as Confidential Information developed for purposes of settlement, and shall be exempt from discovery and production, and shall not be admissible in any lawsuit without the concurrence of all Parties. If the negotiations do not resolve the Dispute within thirty (30) days of the initial written request, or if such negotiations do not commence within seven (7) days of such request, then either Party shall be free to pursue all rights and remedies available at law and/or in equity.

**15. ASSIGNMENT:** This Order and any rights and obligations relating to this Order may not be assigned or delegated by Vendor without the prior written consent of Buyer, including as a result of merger or by operation of law. Further, any change of control of the ownership of Buyer shall be considered an assignment for purposes of this provision, and this Order is subject to cancellation at any time should there be a change in control of Buyer through the sale of a majority of its stock or membership interests. Buyer shall have the right to assign this Order, in whole or in part, (i) to any Affiliate, (ii) pursuant to any financing, merger or reorganization, or (iii) pursuant to any sale or transfer of substantially all of the assets of the assigning Party.

**16. FORCE MAJEURE:** Neither Party shall be responsible for any delay or failure in performance of any part of this Order to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, acts of God, or any other circumstances beyond its reasonable control and not involving any fault or negligence of the Party affected ("Condition"). If any such Condition occurs, the Party delayed or unable to perform shall promptly give written notice to the other Party and, if such Condition remains at the end of thirty (30) days, the Party affected by the other Party's delay or inability to perform may elect to (i) terminate the Order or part thereof, or (ii) suspend the Order for the duration of the Condition, and if Buyer is the suspending party, buy elsewhere comparable material to be sold under the Order, and apply to any commitment the purchase price of such purchase, and resume performance of the Order once the Condition ceases, with an option in the affected party to extend the period of this Order up to the length of time the Condition endured.

**17. GOVERNING LAW:** The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of or relating to this Order and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance, and enforcement. Any litigation to enforce or interpret this Agreement shall be filed and heard only in the state or federal courts located in Harris County, Texas. Both Parties hereby consent to the personal jurisdiction of said Texas courts. If any legal action is brought by either Party relating to this Agreement, each Party shall pay its own legal expenses.

**18. WAIVER AND SEVERABILITY:** Failure by either Party to enforce at any time any of the provisions of this Order shall in no way be construed to be a waiver of such provision nor in any way affect the validity of this Order or any right thereof or the right of the other Party thereafter to enforce each and every provision. The provisions of this Order are declared to be severable and any provision of this Order that is determined to be void or unenforceable by a court of competent jurisdiction shall not affect the enforceability of the remaining provisions herein, and the remaining provisions shall be enforced as if this Order was originally written without the invalid provision.

**19. NOTICES:** Except as otherwise provided herein, any notice or demand given under the terms of this Order or pursuant to statute shall be in writing and shall be given or made by certified or registered mail, express mail or other overnight delivery service or hand delivery, proper postage or other charges paid and addressed to the Parties at the address of Vendor set forth on the first page of the Order and to Buyer at Buyer's address for invoicing.

**20. LIMITATION OF LIABILITY:** In no event will either Party be liable to the other party for consequential, special, incidental, punitive and other indirect damages.

**21. MISCELLANEOUS:** If any of the provisions of this Order shall be held invalid or unenforceable, then such invalidity or unenforceability shall not invalidate or render unenforceable the entire Order. The headings of the sections are inserted for convenience only and are not intended to affect the meaning or interpretation of this Order. The respective obligations of the Parties under this Order that by their nature would continue beyond the termination, cancellation or expiration of this Order shall survive any such termination, cancellation or expiration, including, but not limited to, obligations to indemnify, insure and maintain confidentiality, and continued availability of Product support.

**22. NON-SOLICITATION OF EMPLOYEES.** Vendor will not, directly or indirectly, solicit for hire or attempt to hire or employ any employee of Buyer who has worked with Vendor in the performance of its obligations under any active SOW. This does not prevent hiring an employee who responds to a general public advertisement. In the event of a breach of this Section, the non-employing Party shall pay as compensation to the employing Party as liquidated damages the equivalent of the compensation to be paid to the employee by the non-employing Party for the employee's first 12 months' of work. The non-employing Party shall immediately notify the employing Party of the hire, and payment is due within 30 days of the non-employing Party hiring the employee. The foregoing shall not prohibit both Parties from agreeing to allow the non-employing Party to hire the employee, but any such agreement must be in writing.

**23. ENTIRE AGREEMENT:** This Order, along with any exhibits and master agreement, constitutes the entire agreement between the Parties, all previous negotiations, discussions and agreements are merged herein. This Order shall be solely governed by the terms contained herein. No other terms and conditions or changes and modifications shall bind Buyer unless agreed to in writing by a duly authorized officer of Buyer. THE ORDER SHALL PREVAIL OVER, AND SHALL GOVERN THE TERMS OF THE PURCHASE OF PRODUCTS AND SERVICES NOTWITHSTANDING, THE TERMS OF ANY ORDER ACKNOWLEDGEMENT, INVOICE OR OTHER DOCUMENT OF THE PARTIES VARYING OR CONFLICTING WITH THE TERMS OF THIS ORDER, EXCEPT TO THE EXTENT THAT THE SAME IS EXECUTED BY DULY AUTHORIZED OFFICERS OF THE PARTIES AND EXPRESSLY STATES THAT SUCH DOCUMENT MODIFIES OR AMENDS THIS ORDER.