


	REV	DATE	DESCRIPTION	APPD
	A	11/08/2016	NEW RELEASE	RLS
	B	06/30/2022	NEW COMPANY NAME & LOGO	PR

TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

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Reviewed By			EVERAXIS-USA, Inc. Terms and Conditions for the Purchase of Goods and Services			
Reviewed By	06/30/2022	PR		Cage Code 99200	PH- AL-002	
Written By	8/05/2016	RLS		Rev.B	Sheet	1 Of 18
	Date	By				

EVERAXIS-USA, Inc.

TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

1. Buyer Definitions

"Affiliate"	means a company or corporation under common control with or effectively controlled by or controlling a Party directly or indirectly either through the ownership or control of shares or other controlling Agreements.
"Base Prices"	means initial prices established and agreed by the Parties in writing for the supply of the Products.
"Confidential Information"	means any information received by one Party (the "receiving Party") from the other Party (the "disclosing Party") and which the receiving Party has been informed, or has a reasonable basis to believe, is confidential to the disclosing Party, unless such information: (i) was known to the receiving Party prior to receipt from the disclosing Party; (ii) was lawfully available to the public prior to receipt from the disclosing Party; (iii) becomes lawfully available to the public after receipt from the disclosing Party, through no act or omission on the part of the receiving Party; (iv) was rightfully communicated by a third party to a receiving Party free of any obligation of confidence subsequent to the time of the originating Party's communication thereof to the receiving Party; or (v) is independently developed by an employee or agent of the receiving Party who has not received or had access to such information.
"Developments"	means any Product, development documentation, information, materials, plans, drawings, reports or the like conceived during the course of the performance of an Order.
"Direct Competitor"	means any third party in the defence, aerospace, intelligence or surveillance market selling products in competition with Buyer or its Affiliates.
"Documentation"	means the user guides and user manuals (as appropriate) for the Products, regardless of whether in printed and/or machine-readable format.
"Forecast"	means a rolling estimate of Buyer's requirements for Products from current Orders up to a forward looking period of at least nine (9) months and preferably twelve (12) months including the quantities to be manufactured and the requested delivery date.
"Intellectual Property Rights"	means, to the extent that any of the following are recognized in any jurisdiction, any industrial and intellectual property and/or proprietary rights whether registered or unregistered, legal or beneficial, including but not limited to: copyrights, patent rights (including applications for patent protection), publicity rights, trade secret rights, registered or otherwise protected trademarks, trade names and service marks and protections from trademark dilution, database rights and semiconductor topography rights.
"Traceable"	means that all the Products, Sub-Assemblies and Components supplied by Seller shall be accompanied with original authentic certificates of conformity from the manufacturer of the original Component or if not accompanying the Component delivered to the Buyer are in the possession of Seller as specified by the Buyer's specification.
"Tools" or "Tooling"	means tools funded or provided by the Buyer.
"Non-Recurring"	means any unique labour, tooling, jigs, fixtures,

"Expense Items" or "NRE Items"	or stencils, or other items utilized for the manufacture of a Product that are separately priced in an Order for the Product, amortised in the Base Price of a Product or detailed in a separate NRE Items Order related to a Product.
"Order"	shall mean an order placed by Buyer for Products.
"Products"	shall mean hardware (meaning the tangible materials, sub-assemblies, assemblies and equipment, or any modified form thereof); software (meaning the computer object programs, source codes, procedures, statements, screen layouts, machine readable instructions and definitions, or any modified form thereof, supplied separately or along with or as part of any hardware); and related services; and, for the avoidance of doubt, shall include the Developments.
"Buyer's Property"	means any dies, tools, patterns, plates, artwork, designs, drawings, specifications, free issue materials or other documents or items in the possession or under the control of Seller which have either been supplied by the Buyer to Seller, or in respect of which the Buyer (subject always to Buyer's rights under this Agreement) has paid Seller the entire NRE Items price.
"Third party Product"	means the software and operating system software necessary to run the Products.
"VMI"	means Vendor Managed Inventory.

2. Agreement

- 2.1 Seller shall provide the Products to Buyer as agreed to from time to time by the Parties pursuant to Orders on the negotiated terms set out herein. Each Order shall include a reference, and be subject, to these terms and conditions and to the exclusion of all other inconsistent terms and conditions and each Order incorporating these terms and conditions shall constitute an Agreement separate from all other Orders. To the extent that there are any conflicts between this Agreement and the Order then the latter shall prevail. This Agreement and any documents expressly incorporated herein by reference comprise the entire Agreement between the Parties in relation to the matters referred to herein and supersede any previous Agreement, arrangement, communication and negotiation (whether written or oral) between the Parties relating thereto. In entering into this Agreement no Party may rely on any representation, warranty, collateral contract or other assurance (except those set out in this Agreement) made by or on behalf of the other Party on or before the date of this Agreement (and such are agreed to be merged into, and superseded by, the terms hereof), and each of the Parties waives all rights and remedies which, but for this clause, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance, provided that nothing in this clause shall limit or exclude any liability for fraud.
- 2.2 Seller will procure all components necessary to fulfil Forecasts and Orders issued in accordance with this Agreement and to reasonably ensure sufficient capacity is available to achieve the quantities and delivery dates specified in such Forecasts and Orders, at lead-times reasonably consistent with the lead-times of such components at the time of order. The Buyer acknowledges that Seller may be required by its Sellers to procure components in minimum buy quantities and that such quantities may exceed the Buyer's actual demand for such components. Seller may also purchase components in economic order quantities with the prior written approval of the Buyer and provided that Seller has notified the Buyer of any commercial obligations or restrictions involved in such written approvals.
- 2.2.1 The Buyer will issue, and Seller will accept or reject in writing in accordance with **Section 2.2.3** below, Orders for all Products covered by this Agreement. Each Order shall contain the following information:

- 2.2.1.1 a description of the Product by part number;
 - 2.2.1.2 the quantity of the Product (with the exception of blanket Orders);
 - 2.2.1.3 the scheduled delivery date or delivery schedule;
 - 2.2.1.4 the location to which the Product is to be delivered; and transportation instructions if other than defined by this Agreement;
 - 2.2.1.5 Price, including unit, extended and Order total prices;
 - 2.2.1.6 and any other special terms or requirements.
- 2.2.2 Orders shall comply with the price and Product lead-times agreed by the Parties in writing. The Buyer shall place Orders in advance of the delivery date and allow for the Product lead-time.
- 2.2.3 Order process is as follows:
- 2.2.3.1 Each Order shall be issued by the Buyer by email, fax, or postal mail to Seller. The Order will be deemed as received by Seller on the day issued if by email or fax and two days after issue in the event of posted mail;
 - 2.2.3.2 The Order will be checked by Seller; and
 - 2.2.3.3 All Orders shall be confirmed or acknowledged in writing as accepted or rejected by Seller within five (5) working days of receipt. If Seller does not accept or reject the Order within the said five (5) day period, the Order shall be deemed accepted by Seller and should Seller commence work under the Order, it shall be deemed to have been accepted the Order by performance.
 - 2.2.3.4 If there is a conflict of terms the order of precedence shall be:
 - 2.2.3.4.1 The typewritten provisions on the face of the applicable accepted Order;
 - 2.2.3.4.2 This Agreement;
 - 2.2.3.4.3 Any Appendices, programme schedules or other written Agreements attached to this Agreement as agreed by both Parties; and
 - 2.2.3.4.4 the specification. Seller shall accept all Orders that are placed consistent with Buyer's Forecasts and within the Product lead-times as agreed by the Parties. In the event that Seller is unable to meet the delivery date set forth in an Order because the demand under the Order exceeds the previously Forecasted demand or the delivery date is shorter than the Product lead-time, the Parties shall negotiate in good faith to resolve the matter. Seller will make reasonable efforts to accommodate Orders that are within 25% of the previously Forecasted demand.
- 2.2.4 Electronic Contracting - BUYER and SELLER agree that if this Contract, or any Purchase Order, ancillary agreement, or correspondence is transmitted electronically, neither BUYER nor SELLER shall contest the validity thereof, on the basis that this Contract, or the Purchase Order, acknowledgement, ancillary agreement, or correspondence exists only in electronic form, an electronic record was used in its creation or formation, or it contains only an Electronic Signature or it was generated automatically, without human intervention by a system intended for the purposes of generating same.
- 2.2.5
- 2.2.6 Seller will supply Products strictly in accordance with the Buyer's requirements as detailed in this Agreement, the specification and the Order.
- 2.2.7 The Parties acknowledge that the pre-printed provisions appearing on the reverse of, or attached to, an Order, an Order acknowledgment, or invoice shall be deemed deleted and of no effect whatsoever. Seller shall ensure that no such pre-printed terms are on an Order acknowledgement sent to the Buyer.
- 2.2.8 Under this Agreement, Orders will be issued by each Buyer Affiliate and all rights and obligations of the Buyer under this Agreement and the Order shall pass to such Affiliate and for the purposes of that Order such Affiliate shall be deemed to be the Buyer for the purposes of this Agreement. Upon Seller's acceptance of Orders from a Buyer's Affiliate,

such Orders shall be governed exclusively by this Agreement.

3. General

- 3.1 Any notice to be given hereunder shall be in writing and sent to the relevant Party's General Manager and Company Secretary at its address or fax number contained above (or such other address or fax number as shall have been notified to the other Party), and shall be delivered or sent:
- 3.1.1 by fax, provided that the transmission note shall be retained for proof of delivery and provided also that a confirmation copy shall also be sent by first class post; or either;
 - 3.1.2 in the case of a notice between Parties whose respective addresses for service are in the same country, by registered or recorded delivery post or local equivalent postal service which provides written evidence of delivery; or
 - 3.1.3 in the case of a notice between Parties whose respective addresses for service are in different countries, by courier provided that such courier obtains a signature on behalf of the recipient by way of:
 - 3.1.3.1 acknowledgment of receipt and
 - 3.1.3.2 evidence of the date and time of receipt.
- 3.2 Such notice shall be deemed to have been given:
- 3.2.1 in the case of a notice sent by fax, at the start of the first normal business day in the country of receipt following the date of transmission as such date is evidenced by the transmission receipt;
 - 3.2.2 in the case of a notice sent by post in accordance with **clause 3.1.2**, 48 hours after the date on which the registered or recorded delivery letter including such notice is posted; and
 - 3.2.3 in the case of a notice which is delivered by courier in accordance with **clause 3.1.3**, when it is delivered to the appropriate address, as evidenced by the signature referred to in **clause 3.1.3**.
- 3.3 Neither Party shall in any manner assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the other Party, or act for or bind one another in any respect except as expressly permitted under the terms of this Agreement.
- 3.4 The relationship of Buyer and Seller under this Agreement and the Order is intended to be that of independent contractors. Nothing contained in this Agreement or the Order shall be construed as creating a partnership, joint venture, agency, trust, or other legal association of any kind between the Parties. Except as specifically provided in this Agreement, neither Party shall act or represent or hold itself out as having authority to act as an agent or partner of the other Party or in any way to bind or commit the other Party to any obligations. Any such act shall create a separate liability in the Party so acting to any and all third Parties affected thereby. The rights, duties, obligations and liabilities of the Parties shall be several and not joint or collective, each Party being individually responsible only for its actions and the obligations as set forth in this Agreement and the Order.
- 3.5 A person who is not a Party to this Agreement may not enforce any of its terms.
- 3.6 If any provision of this Agreement or an Order is found invalid or unenforceable, the remaining provisions will be given effect as if the invalid or unenforceable provision were not a part of this Agreement or the Order (as the case may be).
- 3.7 Neither this Agreement nor an Order may be varied or amended except in writing and signed by a duly authorised officer of each Party.
- 3.8 The headings contained in this Agreement and an Order are for reference only and shall not be used in its construction or interpretation. The provisions of this Agreement and the Order shall be construed and interpreted fairly and in good faith to both Parties without regard to which Party drafted the same.
- 3.9 References to any gender includes any other gender and the plural shall include the singular and bodies corporate shall include unincorporated bodies and (in each case) vice versa.
- 3.10 Reference to any statute, enactment, ordinance, order, regulation or other similar instrument shall be construed to include a reference to the statute, enactment, ordinance, order, regulation or instrument as from time to time amended, extended, re-enacted or consolidated and all statutory instruments, orders, regulations or instruments made pursuant to it.
- 3.11 The failure of either Party to enforce any provision of this Agreement or an Order shall not constitute or be construed as a waiver of such provision or of

the right to enforce it at a later time.

- 3.12 During the term of this Agreement and for one year after termination or expiration of this Agreement, Seller shall not either directly or indirectly employ, or solicit to employ, or cause to be solicited for employment, persons employed by Buyer at the relevant time, without Buyer's prior written consent. As to employees who left the employ of Buyer prior to termination of this Agreement, Seller shall not, directly or indirectly, employ or otherwise contract such former employee of Buyer until one year after the former employee's termination or separation from Buyer, except with Buyer's written consent.
- 3.13 Seller undertakes to inform Buyer immediately of any changes in ownership or control of Seller and of any change in its organization or method of doing business that might affect the performance of Seller's duties under this Agreement or an Order.
- 3.14 This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
- 3.15 The applicable terms in **clauses 2, 3, 4, 5, 8, 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 21** and **22** shall survive termination or expiration of this Agreement.
- 3.16 Seller shall at all times comply with all laws and regulations applicable to the proposed sale of the Products to Buyer and any other laws pertaining to compliance with this Agreement and the Order and obtain all permits, registrations and approvals of governmental authorities and/or standard setting agencies that are necessary or advisable (in the judgment of Buyer or Seller) in respect of the Products.
- 3.17 Seller understands the provisions of any relevant local laws relating to the prevention of corruption and agrees to comply with them to the extent that they apply.
- 3.18 Seller warrants that none of its officers are government officials, police officers or civil servants.
- 3.19 Each Party hereby represents that the individuals identified below have the corporate power and authority necessary to execute this Agreement.

4. Law

The formation, existence, construction, performance, validity and all aspects whatsoever of the Contract or of any term of the Contract will be governed by the laws of the State of Florida applicable therein (regardless of the laws that might otherwise govern under applicable principles of conflicts of law).

5. Disputes

- 5.1 The intent of the Parties is to identify and resolve disputes promptly. Each Party agrees to perform as follows:
- 5.1.1 to notify the other Party of any dispute in reasonable detail as soon as possible after any dispute arises;
- 5.1.2 to negotiate in good faith to seek to resolve the dispute.
- 5.1.3 if a dispute is not resolved within thirty days of it arising, either Party shall be entitled to submit the dispute for final and binding resolution. The parties irrevocably submit to the exclusive jurisdiction of the courts of the State of Florida for the determination of any disputes arising out of or in connection with this Agreement (including (without limitation) any dispute regarding the existence, validity or termination of this Agreement and/or this clause and any dispute regarding non-contractual obligations arising out of or in connection with this Agreement). For such purposes, each party irrevocably waives any objection to the jurisdiction of those courts, and each party irrevocably agrees that a judgment or order of those courts in connection with this Agreement is conclusive and binding upon it.
- 5.1.4 EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE BREACH, TERMINATION OR VALIDITY OF THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT: (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (B) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (C) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY; AND (D) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS **CLAUSE 5.1.4**.

6. Import/Export

- 6.1 Seller shall promptly notify Buyer of any export restrictions that may apply to the Products supplied under the Order, which shall include but not be limited to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control and other United States agencies, and the export control regulations of the European Union, including without limitation the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774 and Council Regulation (EC) No. 1334/2000. Seller, at its own expense, agrees to comply with all laws and regulations of the United States related to exports, imports, and foreign transactions, including, but not limited to, the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130), the Export Administration Regulations (EAR) (15 C.F.R. §§ 730-774), and the National Industrial Security Program Operating Manual (NISPOM) (DoD 5220.22-M). Seller also agrees to obtain, at its sole expense, any export licenses or other official authorizations and to carry out any customs or immigration formalities or similar requirements for the export of any Products covered by the Order. Seller specifically shall obtain all required authorizations from the U.S. Government before transferring or otherwise disclosing technical data or technology (as those terms are defined in 22 C.F.R. § 120.10 and 15 C.F.R. § 722, respectively), to any Foreign Person (as defined in 22 C.F.R. § 120.16). Seller shall provide written notification to Buyer before assigning or granting access to a Foreign Person to technical data related to the Order. Seller agrees to bear sole responsibility for all regulatory record keeping associated with the use of licenses and license exceptions/exemptions. Buyer may deem Seller's failure to comply with the requirements of this clause a substantial breach of a material term of the Order that shall subject Seller to the termination provisions of **clause 19**.

7. Federal Acquisition Regulation ("FAR")/Defense Federal Acquisition Regulation Supplement ("DFARS")

- 7.1 The FAR/DFARS clauses listed in the Order are incorporated in the Order by reference with the same force and effect as if they were included in full text. Unless otherwise expressly noted herein, where necessary to make the FAR and DFARS clauses applicable to the Order and to protect Buyer's interest, the words "Government," "DOD," and "Contracting Officer" each shall mean "Buyer" or (when appropriate) "Buyer and the Contracting Officer," the words "Contractor" or "Offeror" shall mean "Seller," and the words "Contract" and "Schedule" shall refer to this "Agreement" or the applicable Order. The definitions outlined herein are intended to create legal relationships between Buyer and Seller identical to, but not dependent on, the relationship the FAR and DFARS intend to establish between the "Government" and a "Contractor." It is not the intent of Buyer that any such substitution shall result in the disclosure of a Party's proprietary and /or confidential cost and pricing data. See appendices for details.
- 7.2 Priority Rating - If so identified, this Contract is a "rated order" certified for national defense use, and SELLER shall follow all the requirements of the Defense Priorities and Allocation System (DPAS) Regulation (15 C.F.R. Part 700). Under DPAS regulations, if this Contract supports the U.S. Government, is DX or DO Rated, the SELLER must acknowledge acceptance of DX-Rated orders within ten (10) days, and DO-Rated orders within fifteen (15) days of receipt hereof. Commencement of performance of the Work called for by this Contract in the absence of SELLER's written acknowledgement thereof shall be deemed acceptance of this Contract as written.

8. Products

- 8.1 Seller represents and warrants that it shall provide the Products to Buyer

precisely in accordance with this Agreement and the Orders. Seller further represents and warrants that:

- 8.1.1 it shall use all best skill and care in such provision and shall perform its obligations in accordance with the Order;
 - 8.1.2 title to the Products (including software unless expressly agreed) ordered under the Order shall transfer free from any security interest or other lien or encumbrance;
 - 8.1.3 it has the rights to grant the licence rights set out in this Agreement and in the Order;
 - 8.1.4 that the Products are of good quality, material and workmanship in accordance with best industry practice;
 - 8.1.5 the Products are and will be fit for their intended purpose and use;
 - 8.1.6 the Products are free from defects and hazards to health;
 - 8.1.7 Products are new and not used, refurbished, repaired or reconditioned and not of an age that deteriorates or impairs their usefulness, safety or operation;
 - 8.1.8 the Products do not infringe the rights of any third party.
- 8.2 The Products will be delivered carriage paid to the address stated as the address for delivery on the Order unless otherwise specified in the Order. Seller will off-load the Products at its own risk. Upon delivery of the Products by Seller to Buyer, Buyer (or Seller at the request of Buyer) may perform an acceptance test upon such Products. The Products shall be deemed to have been accepted when notified by Buyer in writing, including where applicable that Seller has overcome any defects.
- 8.3 Seller:
- 8.3.1 agrees that title to the hardware provided to Buyer under the Order shall pass to; and
 - 8.3.2 grants a world wide, royalty free, perpetual, irrevocable, non-transferable right to use, distribute and onward develop the software and any utilisation rights thereof to, Buyer (or its Affiliate) upon delivery or payment, whichever is the earlier. Seller shall bear the risk of loss and damage to the Products until they are delivered (and off loaded) in conformity to the Order at Buyer's destination specified in the Order. This shall not affect or waive any of Seller's warranties or other obligations under this Agreement or the applicable Order for, or in relation to, the Product.
- 8.4 When delivering a Product that contains software to Buyer, Seller shall deliver all of the following:
- 8.4.1 the object code for the software;
 - 8.4.2 the source code for the software;
 - 8.4.3 all Development Documentation and other Documentation relating to the software;
 - 8.4.4 copies of all applications and tools used in the creation or development of the software;
 - 8.4.5 any password and encryption details necessary to access the software or its source code; and
 - 8.4.6 full details of the software, including full name and version details, design information including module names and functionality, the type of media on which the software is provided, details of any commands required to install and make a backup copy of the software, any compression used in packaging the software, and details of operating systems on which the software runs.
- 8.5 Seller may not deliver the Products by separate instalments unless agreed in writing by Buyer.
- 8.6 Time for the performance of all obligations of Seller under this Agreement and Orders is of the essence.

9. Developments

- 9.1 Seller agrees that it will promptly communicate the Developments to the Buyer together with all inventions, programs, improvements, processes, standards, techniques, developments, know how, designs or any other original matters whether capable of registration or not associated with the Products which, at any time during the performance of this Agreement or any Order, Seller might devise or discover. Seller further agrees that all such Intellectual Property Rights and all rights throughout the world deriving from the same which arise after this Agreement or any Order has terminated shall vest in Buyer absolutely, as works made for hire.

- 9.2 Seller shall, both during the continuance and following the termination of this Agreement for any reason whatsoever, at the request and reasonable expense of Buyer, as Buyer may require, apply for, and do all acts and things necessary to obtain registration or other protection in respect of the Intellectual Property Rights in the Developments in any part of the world. Further, Seller shall vest all such Intellectual Property Rights in Buyer, or as Buyer may direct, and also Seller grants to Buyer the right to use Seller's name to obtain ownership, registration and protection of such Intellectual Property Rights.
- 9.3 Seller shall not, at any time, whether during the continuance or following the termination of this Agreement for any reason whatsoever, do anything to imperil the validity of any of the Intellectual Property Rights in the Developments and shall, at the discretion and expense of Buyer, render all assistance within Seller's power to obtain and maintain such Intellectual Property Rights and any extension thereof.
- 9.4 To the extent that any of the rights, title and interest referred to in **clause 9.1** do not vest in Buyer by operation of law, Seller hereby irrevocably assigns, transfers and conveys to Buyer, without further consideration, all such rights, title and interest (including Intellectual Property Rights) and such assignment shall be an assignment (in respect of any copyright subsisting therein) of future copyright.
- 9.5 With respect to any moral rights which arise under **clause 9.1**, Seller shall procure that all applicable moral rights shall not be asserted by the holder of such rights.
- 9.6 Seller acknowledges that:
- 9.6.1 all rights in the Developments shall vest in Buyer absolutely;
 - 9.6.2 it is not entitled to any source code or object code relating to the Developments, as all rights in such source code vest absolutely in Buyer; and
 - 9.6.3 it has no rights to license the Intellectual Property Rights or Developments, or any part thereof, to any third party.

10. Support

- 10.1 In consideration of the fees paid by Buyer Seller will:
- 10.1.1 provide a maintenance service to Buyer on the Products as defined in **clauses 10.2** and 10.3; and
 - 10.1.2 be responsible for the future development of the Products and in particular ensuring their continuing compatibility with subsequent versions of Buyer's product(s), throughout the term of this Agreement and the term of any Agreement signed between Buyer and its customers, which involve the provision of Products. For the avoidance of doubt this obligation shall continue and survive termination of this Agreement.
- 10.2 Seller will at no additional fee or sum for the period of three (3) years from date of written acceptance of the Products by Buyer:
- 10.2.1 provide the warranties and representations in **clause 8.1**; and
 - 10.2.2 correct or procure the correction promptly, and no later than within five (5) days, of any failures of the Products to perform in accordance with the Order which are identified in writing by Buyer to Seller. Any correction by Seller shall be deemed to be a Product for the purposes of this Agreement and the Order. Seller shall be responsible for all costs (including delivery and collection charges) and delays incurred by Seller and Buyer in respect of any faulty Products or failure to meet Seller's obligations under this Agreement or any Order.
- 10.3 Buyer may produce maintenance releases of its own proprietary software, which use or are integrated with the Product from time to time, and Seller shall update the Product to ensure that such updated Product shall operate with Buyer's maintenance releases in the manner that it did with Buyer's original software. Such updated Products will be supplied to Buyer at no additional fee. The Parties hereto shall agree a delivery date for such update Products, which date shall be no later than three (3) months from date of notification to Seller by Buyer of its maintenance release schedule.
- 10.4 Seller shall give Buyer at least thirty (30) days' written notice if it proposes to incorporate in or use Products in combination with any open-source software, whereupon Buyer may require that Seller, as soon as practicable and in good faith:
- 10.4.1 provides and discusses with Buyer all reasonable additional

information concerning the open-source software including without limitation (except for conditions of confidentiality) the type, proposed use and licence terms;

10.4.2 discusses with Buyer any negative potential effects upon the Intellectual Property Rights of Buyer's products; and

10.4.3 takes such action as may be reasonably instructed by Buyer to minimize any such negative effects or to remove and replace the open-source software. Irrespective of the above, Seller shall not use open-source software for any reason whatsoever, if Buyer notifies Seller in writing of its objection to such use.

10.5 Seller shall not introduce into any of Buyer's or any of Buyer's Affiliates' computer systems anything, including any computer program code, virus, authorisation key, licence control utility or software lock, which is intended by any person to, is likely to, or may:

10.5.1 impair the operation of the Product or any other computer systems or programs in the possession of Buyer or any of Buyer's Affiliates or impair the receipt of the benefit of the Products; or

10.5.2 cause loss of, or corruption or damage to, any program or data held on any computer systems or other systems.

10.6 Seller shall immediately notify Buyer if any Products and/or Intellectual Property Right or part thereof, shall infringe or breach any law. In the event that any such Products and/or Intellectual Property Right or part thereof shall infringe or breach any law, Seller shall at no additional cost to Buyer and as soon as is reasonably practicable provide to Buyer replacement Products and/or Intellectual Property Right which do not infringe or breach the law and which shall perform in a manner identical in all material respects to the Products and/or Intellectual Property Right as it was prior to such replacement.

11. Quality and Inspection

11.1 Seller's quality system shall be compliant with the requirements of ISO9001.

11.2 Buyer may at any time make changes in writing relating to the Order, including changes in the drawings or specifications, method of shipment, quantities, packing or time or place of delivery. If such changes result in an increase in cost of, or time required for, performance of the Order an equitable adjustment will be made to the price, delivery schedule or both. Any such claim or adjustment must be approved by Buyer in writing before Seller proceeds with such changes.

11.3 Seller undertakes to work with the Buyer to maintain a technical watch for obsolescence on all Products. For the purpose of this Agreement, a technical watch shall be defined as the on-going verification of the forward availability of parts, processes and materials procured from Seller's subcontract and supply base. This watch shall occur on a quarterly basis.

11.4 Seller will maintain detailed quality control and manufacturing sub-assembly and component Traceability records for the period of at least twelve years from the date of last supply of the Products. After twelve (12) years, Seller shall either agree to continue holding the records or shall offer the Buyer, at no charge, the option to transfer them for archiving or provide electronic copies to the Buyer. No record shall be destroyed without the Buyer's written approval.

11.5 Seller agrees that Buyer and Buyer's customers may each inspect the performance of Seller's obligations under this Agreement or any Order. To the above extent Seller shall enable Buyer, or Buyer's customers (as applicable) to conduct inspection at its office or at the place where it performs the obligations under this Agreement or any Order, specifically by allowing Buyer's and/or Buyer's customers (as applicable), inspectors and persons authorised by the same to have access to premises, documents and information connected with performance of Seller's obligations and provide oral or written information to the persons performing the inspection.

11.6 Seller, at no additional cost to Buyer, shall:

11.6.1 comply with all of Buyer's standard policies that are relevant to the supply of the Products and any other on-site regulations specified by Buyer for personnel working at Buyer's premises or relating to accessing any Buyer's computer systems. Buyer shall provide Seller with a copy of such policies and standards as they exist at the Order date, and, whenever they are updated, promptly following issue of the updated versions;

11.6.2 provide the Products in compliance with all requirements of all applicable legislation from time to time in force and which is or may become applicable to the Products. Seller shall promptly notify Buyer if Seller is required to make any change to the Products for the purposes of complying with its obligations under this clause; and

11.6.3 promptly notify Buyer of any health and safety hazards that exist or may arise in connection with the supply of the Products.

12. Traceability

12.1 Under the terms of this Agreement, Seller shall have and operate a process to ensure that all Products, sub-assemblies and the components contained therein supplied to the Buyer are completely Traceable back to manufacturer by batch or lot or date code.

12.2 Further Seller hereby agrees, unless directed otherwise by the Buyer, to procure components through franchised distributors or direct component Sellers. Seller agrees to indemnify and hold the Buyer harmless from and against all costs and expenses for the removal, repair or replacement and reinstallation of counterfeit components incorporated into a Product sold by Seller to the Buyer where the counterfeit component was procured by Seller from a person or entity other than a franchised distributor or direct component Seller or other person or entity pre-approved by the Buyer in writing.

12.2.1 Seller will:

12.2.1.1 require that its Sellers provide a Certificate of Conformance with each component shipment;

12.2.1.2 perform incoming inspections of components and paperwork to ensure conformity to Specification; and

12.2.1.3 maintain and document incoming inspection specifications used for each component used in manufacturing Products. The foregoing obligations of this Section 11.4 shall not apply to components consigned or sold to Seller from the Buyer.

12.2.2 If components are not purchased from an original equipment manufacturer, franchised distributor or without full traceability and manufacturers certificates, Seller will ensure that prior written approval has been obtained from the Buyer before using such components and that the approving permit number shall be cross referenced on Seller's release certification. To obtain the Buyer's approval Seller may have to, at the Purchases sole option and at Sellers cost, perform the following:

12.2.2.1 check with the original equipment manufacturer that the date and batch codes identified on the Certificate of Conformity are genuine; and

12.2.2.2 complete or arrange for actual component testing on a representative sample of the components to verify their conformance to specification.

12.2.3 For components purchased from the Buyer Seller shall maintain the traceability back to the paperwork provided by the Buyer as part of the components transfer.

13. Buyer Continuous Improvement

13.1 The Parties agree that competitive pressures necessitate a program of continuous improvement. On all manufacturing contracts forecast to last longer than six (6) months in aggregate, each Party shall cooperate in good faith to implement a Product cost reduction program involving new technologies, component cost reduction, productivity, quality and reliability improvements, and manufacturing processes (including cycle time and assembly costs) which are mutually deemed beneficial when all engineering and re-qualification costs are considered. The Parties shall at quarterly meetings conduct reviews with specific emphasis on quality, delivery, and cost improvements. Any cost savings which are achieved by Seller as a result of implementing cost reductions proposed solely by the Buyer shall reduce the price of the Products by the entire amount of Seller's cost savings, after Seller has recovered its NRE Items associated with the cost reduction. Any cost savings which are achieved by Seller as a result of changes proposed solely by Seller, or jointly by the Parties, after Seller has recovered its NRE Items

associated with the cost reduction, shall be shared equally by the Parties for a period of twelve (12) months and shall be retained exclusively by the Buyer after twelve (12) months. Notwithstanding the foregoing, cost reductions will commence immediately to reduce total costs of acquisition within an integrated supply chain by actively driving best practice in areas including, but not limited to:

- 13.1.1 elimination of incoming inspection activities;
- 13.1.2 simplification of ordering, and billing processes;
- 13.1.3 improved packaging and labeling; and
- 13.1.4 inventory reduction through: application of supply replenishment concepts; direct fulfillment, pull systems where appropriate; logistics solutions, including consignment supermarkets, ship set kitting and VMI; close collaboration on forecasting and planning; and integration of higher level assemblies.

- 13.2 The Parties will work together to develop a cost model under which Product Base Prices will be agreed. Seller shall embrace the concept of target costing for new projects. Target costs will be provided for all new enquiries and modifications when known. Regular review meetings will be used to develop the Base Price structure with Seller prior to any contractual Agreement. The cost for volume production for each potential product will be agreed using the framework of this Agreement.
- 13.3 Seller agrees that during the term of this Agreement, if requested by the Buyer, they will work together to develop and implement productivity improvements, including but not limited to, value engineering, Kaizen events, and quality improvements for the purpose of reducing Seller's costs to manufacture the Products and the Parties' transaction costs.
- 13.4 The Parties agree that during the term of this Agreement, they shall work together to develop and implement a Product lead-time and component lead-time reduction program to reduce the Product lead-times and component lead-times mutually agreed by the Parties immediately this Agreement is signed. Product lead-time and component lead-time reduction programs may include, but shall not be limited to initiatives such as security stocking of long lead-time items, lower tier Seller Agreements, re-engineering the manufacturing process, and Product redesign. The Parties agree to baseline forward Product lead-times and component lead-times for purposes of benchmarking the success of such programs.

14. NRE and Tooling

- 14.1 Seller shall quote the life of any new Tools prior to these Tools being manufactured. This will be expressed as the number of parts capable of being produced by the Tooling. Seller will be responsible for the maintenance and replacement of all Tooling where damage is caused to the Tooling by the acts or omissions of Seller in not undertaking due care, maintenance and attention to the Tooling, negligence or wilful misconduct of Seller. Seller shall transfer to the Buyer any transferable warranties on tooling.
- 14.2 Unless otherwise agreed between the Parties for extraordinary NRE costs (which will be discussed by the Parties), all NRE Item costs will be amortised into the Base Price over a 12-month period.
- 14.3 Full NRE Item costs for each Product will be quoted using the Buyer's Bid Template documents.
- 14.4 The amortization quantity should be clearly documented on the Buyer's Bid Template. Once the total amortization quantity for each Product has been delivered, Seller shall subtract the amortization amount from the Base Price and establish a new Base Price for subsequent deliveries.
- 14.5 Lead times for all tooling are to be quoted by Seller and accompanied by a detailed timing plan.
- 14.6 Seller shall be responsible for the routine maintenance, storage, repair, usage and calibration (if calibration or other specialist requirements are required outside of routine maintenance, repair or usage and not caused by a lack of care or damage by Seller, then such costs shall be agreed in advance and paid for separately by the Buyer) of all the Buyer furnished, Government furnished and or Government funded equipment tooling, test rigs, rigs and fixtures and/or test stands and Buyer acquired NRE Items in Seller's possession for performance of this Agreement. Equipment not owned by Seller which requires a National Institute of Standards and Technology traceable certificate of calibration will be quoted and submitted to the Buyer for approval prior to submitting equipment to third Party calibration. Seller will

track and file calibration certificates and schedules.

- 14.7 Seller shall be responsible for the maintenance and replacement of all NRE Items within their useful life, fair wear and tear excepted. The Buyer shall have an option at any time, which shall be exercised by written notice to Seller, to pay not more than the balance of the outstanding NRE Item cost for its outright ownership. In this event, Seller shall subtract the amortisation amount from the Base Price and establish a new Base Price for subsequent deliveries.

15. Buyer's Property

- 15.1 Buyer's Property shall become and/or remain the exclusive property of the Buyer. The Buyer may demand possession thereof at any time without notice; however, if such a demand of possession is made and it affects Seller's cost of performing the Order(s) on which the Buyer's Property is or was to be used, or affects Seller's ability to meet any delivery dates under such Order(s), then such demand shall constitute a modification for which Seller is entitled to a price adjustment or delivery schedule adjustment or both. Similarly, if Seller requires such demanded Buyer's Property and it adversely impacts the ability of Seller to perform its obligations under this Agreement, Seller shall be reasonably excused from such further obligations.

Further Seller warranty that:

- 15.2 Seller shall maintain and keep the Buyer's Property in good condition. The Buyer will compensate Seller at its normal hourly rates for all calibration, maintenance or repair services to the Buyer's equipment or tooling (other than normal preventative maintenance services or services to correct defects caused by Seller's act or omissions negligence or wilful misconduct, provided that the Buyer approves such services and rate in advance and in writing. The Buyer is not required to compensate Seller for any such services associated with equipment or tooling owned by Seller and not intended to be assigned to the Buyer.
- 15.3 The Buyer's Property shall not be removed from Seller's premises except on the prior written permission of the Buyer. Seller may remove Buyer's Property from Seller's premises for purposes of repair provided that Seller provides advance notice to the Buyer of the anticipated removal.
- 15.4 Seller shall keep the Buyer's Property separate and apart from its own property and that of other persons and shall clearly mark the Buyer's Property as being the Buyer's property.
- 15.5 The Buyer's Property shall not be used by Seller for any purpose other than for the supply of Product to the Buyer.
- 15.6 Seller will compile and submit reports on the status of the Buyer's Property as reasonably requested by the Buyer including details on any repairs and maintenance necessary to maintain supply of Product to specification.
- 15.7 Seller shall be liable to the Buyer for any loss of or damage to the Buyer's Property during the time it is in Seller's possession, custody or control. During such time Seller shall insure the Buyer's Property at full replacement value in the name of and for the benefit of the Buyer at Seller's expense with a reputable insurance provider and shall provide to the Buyer on demand certificates of insurance evidencing such insurance and the receipts for premiums paid thereon.
- 15.8 Seller waives any lien which it might otherwise have (whether at the date hereof or subsequently) on any of the Buyer's Property for work done thereon or otherwise. This condition shall not be construed as a waiver of any other right of recovery of any other charges that may be due to Seller for such work.
- 15.9 Seller shall keep the Buyer's Property free of all mortgages, charges or other encumbrances and will procure that any lien over the Buyer's Property is discharged forthwith.
- 15.10 Seller shall promptly pay the Buyer on demand the full replacement value of any of the Buyer's Property, which is not returned or satisfactorily accounted for.

16. CHANGES

- 16.1 BUYER shall have the right by written notice to suspend or stop work or to make changes from time to time in the services to be rendered or the Work to be furnished by SELLER hereunder or the delivery schedule. If such suspension, stoppage or changes cause an increase or decrease in the cost of performance of this Contract or in the time required for its performance, an

equitable adjustment shall be negotiated promptly and this Contract shall be modified in writing accordingly. Any claim by SELLER for adjustment must be asserted in writing within fifteen (15) days from the date of receipt by SELLER of notification of the change or suspension and shall be followed as soon as practicable with specification of the amount claimed and supporting cost figures. However, nothing herein shall excuse SELLER from proceeding with this Contract as changed pending resolution of the claim.

17. LIABILITY AND INDEMNITY

- 17.1 SELLER REPRESENTS AND WARRANTS THAT IT HAS THE AUTHORITY TO PERFORM ALL ITS OBLIGATIONS AND GRANT THE RIGHTS GRANTED PURSUANT TO THIS AGREEMENT OR THE ORDER AND THAT SUCH PERFORMANCE OR THE GRANTING OF SUCH RIGHTS IS NOT IN BREACH OF ANY AGREEMENT TO WHICH IT IS A PARTY OR OTHERWISE BOUND.
- 17.2 SELLER SHALL BE LIABLE TO BUYER FOR ALL DAMAGES, COSTS, EXPENSES AND ANY OTHER SUMS INCURRED OR CHARGED THAT BUYER MAY SUFFER IN CONNECTION WITH ANY ACTS OR OMISSIONS OF SELLER UNDER THIS AGREEMENT OR THE ORDER.
- 17.3 SELLER SHALL INDEMNIFY, KEEP INDEMNIFIED AND HOLD HARMLESS BUYER FROM AND AGAINST ANY CLAIMS BY THIRD PARTIES WHICH ARE CAUSED BY OR ARISE OUT OF OR IN CONNECTION WITH
- 17.3.1 ANY ACT OR OMISSION OF BUYER CARRIED OUT PURSUANT TO INSTRUCTIONS OF SELLER; OR
- 17.3.2 ANY BREACH BY SELLER OF ANY TERMS OF THIS AGREEMENT OR THE ORDER
- 17.4 NOTWITHSTANDING ANYTHING STATED HEREIN NOTHING SHALL EXCLUDE OR LIMIT THE LIABILITY OF EITHER PARTY:
- 17.4.1 FOR DEATH OR PERSONAL INJURY ARISING AS A RESULT OF THE NEGLIGENCE OF THE OTHER OR ITS EMPLOYEES; OR
- 17.4.2 FOR FRAUD; OR
- 17.4.3 FOR LIABILITY ARISING PURSUANT TO **CLAUSE 8, CLAUSE 10, CLAUSE 17.7 OR CLAUSE 18**; OR
- 17.4.4 FOR GROSS NEGLIGENCE; OR
- 17.4.5 FOR ANY MATTER FOR WHICH IT WOULD BE ILLEGAL FOR THE RELEVANT PARTY TO EXCLUDE OR LIMIT OR TO ATTEMPT TO EXCLUDE OR LIMIT ITS LIABILITY.
- 17.5 SUBJECT TO **CLAUSE 17.4**, BUYER'S AGGREGATE LIABILITY UNDER THIS AGREEMENT IS LIMITED TO 100% OF THE TOTAL AMOUNT OF FEES WHICH HAVE BEEN PAID UNDER THIS AGREEMENT.
- 17.6 BUYER WILL HAVE NO LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY ORDER IN RESPECT OF:
- 17.6.1 LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REVENUE, LOSS OF CONTRACTS, LOSS OF GOODWILL, LOSS OF ANTICIPATED EARNINGS OR SAVINGS (IN EACH CASE WHETHER DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL); OR
- 17.6.2 LOSS OF USE OR VALUE OR DAMAGE OF ANY DATA OR EQUIPMENT (INCLUDING SOFTWARE), WASTED MANAGEMENT, OPERATION OR OTHER TIME (IN EACH CASE WHETHER DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL); OR
- 17.6.3 ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL LOSS, HOWSOEVER ARISING.
- 17.7 SELLER WARRANTS THAT THE PRODUCTS WILL NOT INFRINGE A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS. SELLER WILL INDEMNIFY, KEEP INDEMNIFIED AND HOLD HARMLESS BUYER AND BUYER'S CUSTOMERS FROM, AND AT ITS OWN COST DEFEND ANY ACTION BROUGHT AGAINST BUYER OR ITS CUSTOMERS BASED UPON, A CLAIM, LEGAL ACTION OR ALLEGATION THAT THE PRODUCTS AND/OR INTELLECTUAL PROPERTY RIGHT CREATED BY SELLER PURSUANT TO THIS AGREEMENT OR THE ORDER (WHETHER CREATED USING BUYER'S SOFTWARE OR CREATED BY ANY OTHER MEANS WHATSOEVER) INFRINGE THE INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY AND WILL PAY THE AMOUNT OF ANY SETTLEMENT OR THE COSTS AND DAMAGES AWARDED INCLUDING REASONABLE LEGAL FEES (IF ANY) IN SUCH ACTION. FOLLOWING NOTICE OF A CLAIM OR A THREATENED OR ACTUAL ACTION SELLER SHALL (WITHOUT PREJUDICE TO BUYER'S OTHER RIGHTS):
- 17.7.1 PROVIDE FOR BUYER AND BUYER'S CUSTOMERS THE RIGHT TO CONTINUE TO USE THE PRODUCT AND/OR INTELLECTUAL PROPERTY RIGHT; OR

17.7.2 REPLACE OR MODIFY THE PRODUCT AND/OR INTELLECTUAL PROPERTY RIGHT SO AS TO MAKE IT NON-INFRINGEMENT OF ANY THIRD PARTY RIGHTS AND SELLER SHALL ENSURE THAT SUCH REPLACEMENT OR MODIFICATION SHALL PERFORM IN A MANNER IDENTICAL IN ALL MATERIAL RESPECTS TO THE, PRODUCT AND/OR INTELLECTUAL PROPERTY RIGHT AS IT WAS PRIOR TO SUCH REPLACEMENT OR MODIFICATION.

- 17.8 SELLER SHALL PURCHASE, RENEW AND MAINTAIN AS NECESSARY SUFFICIENT PUBLIC LIABILITY, TANGIBLE PROPERTY AND PROFESSIONAL INDEMNITY INSURANCE COVER TO SATISFY BUYER THAT IT IS INSURED TO SUCH AN EXTENT TO ENABLE IT TO SATISFY ANY INDEMNITIES AND LIABILITIES INCURRED UNDER THIS AGREEMENT OR ANY ORDER. SELLER SHALL PROVIDE TO BUYER A COPY OF THE RELEVANT INSURANCE POLICIES ON THE EFFECTIVE DATE, AND SHALL ALSO PROVIDE BUYER WITH A COPY OF THE SAME AT ANY TIME DURING THE CONTINUANCE OF THIS AGREEMENT OR ANY ORDER UPON THE REQUEST OF BUYER AND UPON EACH RENEWAL OF SUCH INSURANCE. FOR THE AVOIDANCE OF DOUBT, EACH SAID INSURANCE POLICY FOR THE ABOVE MUST PROVIDE SELLER WITH COVER OF AT LEAST \$50,000,000 (FIFTY MILLION UNITED STATES DOLLARS) PER EVENT OR SERIES OF RELATED EVENTS.

17.8.1 SELLER shall ensure that personnel assigned to work on BUYER's or Customer's premises comply with any on-premises guidelines. Unless otherwise authorized in writing by BUYER, SELLER's personnel assigned to work on BUYER's or Customer's premises shall, while on BUYER's or Customer's premises, (i) not bring weapons of any kind; (ii) not manufacture, sell, distribute, possess, use, or be under the influence of controlled substances or alcoholic beverages; (iii) not possess hazardous materials of any kind; (iv) remain in authorized areas only; and (v) not solicit BUYER employees for employment.

17.8.2 All SELLER personnel, property, and vehicles entering or leaving BUYER's or Customer's premises are subject to search.

17.8.3 SELLER shall promptly notify BUYER and provide a report of any and all physical altercations, assaults or harassment, and accidents or security incidents involving death, personal injury or loss of or misuse of or damage to BUYER's or Customer's property, while on BUYER or its Customer's premises.

17.8.4 BUYER may, at its sole discretion, remove or require SELLER to remove any specified employee of SELLER from BUYER's or Customer's premises and request that such employee not be reassigned to any BUYER or Customer premises under this Contract. Any costs arising from or related to removal of SELLER's employee shall be borne solely by SELLER and not charged to this Contract.

18. Intellectual Property Rights in Buyer's Products

- 18.1 Seller acknowledges that any and all of the Intellectual Property Rights subsisting in or used in connection with the products (which includes software and documentation) of Buyer are and shall remain the sole property of Buyer.
- 18.2 Seller undertakes not to:
- 18.2.1 copy Buyer's product (other than as authorized under this Agreement) nor otherwise reproduce the same;
- 18.2.2 utilize, customize, modify or create derivative works of, translate, adapt or vary Buyer's products except as expressly permitted in this Agreement or otherwise agreed in writing between the Parties;
- 18.2.3 disassemble, decompile or reverse engineer Buyer's product, except if and to the extent permitted by applicable law; and
- 18.2.4 license or sell any Buyer's products, or any part thereof, to any third party.

19. Termination

- 19.1 Seller shall be entitled by notice in writing, without prejudice to any of its rights herein, to terminate forthwith this Agreement or an Order if Buyer is in substantial breach of a material term of this Agreement or an Order (as the case may be) and within sixty (60) days of the date of dispatch to Buyer of a written request from Seller to remedy such breach Buyer fails to remedy such breach.
- 19.2 Without prejudice to any of its accrued rights whether arising out of or in connection with this Agreement or a Purchase Order either Party shall be

entitled to immediately terminate this Agreement or any Purchase Order by notice in writing if the other Party is unable to pay its debts; admits its insolvency; commences a case or has a case commenced against it under any applicable bankruptcy, insolvency, or reorganization laws now or hereinafter in effect (except in the case of the filing of an involuntary petition for bankruptcy, in which case such right to terminate shall not arise unless an order for relief is entered or such petition is not dismissed within ninety (90) days of filing); commences any other dissolution, liquidation, or similar proceeding under the laws of any jurisdiction now or hereafter in effect; makes an assignment for the benefit of its creditors; suffers the appointment of any receiver, custodian, or like officer for itself or any substantial portion of its property that is not discharged or stayed within sixty (60) days.

- 19.3 Seller shall promptly notify Buyer in writing if Seller or any of its Affiliates:
- 19.3.1 purchases a controlling interest, acquires or otherwise has an interest in a direct competitor of Buyer; or
 - 19.3.2 is purchased, has any of the controlling interest bought, acquired or otherwise transferred to a direct competitor of Buyer. Buyer shall have the right to terminate this Agreement or any Order within thirty (30) days of receipt of such written notice by serving notice in writing on Seller to that effect.
- 19.4 This Agreement may be terminated by Buyer serving one month's notice in writing on Seller. Each Order entered into pursuant to this Agreement will continue until terminated in accordance with the terms of that Order notwithstanding any termination of this Agreement unless Buyer serves notice in writing on Seller on or before the date of the termination of this Agreement that the Order will terminate on the termination of this Agreement. A right on the part of Buyer to terminate an Order will immediately give rise to a right on the part of Buyer to terminate any or all other Orders.
- 19.5 Buyer is entitled to cancel the Order in whole or in part by giving written notice to Seller at any time prior to delivery of the Products in which event Buyer's sole liability will be to pay to Seller fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation will not include loss of profits (whether direct or indirect and whether actual or anticipated) or any indirect or consequential loss.
- 19.6 Seller shall provide or return, as applicable, to Buyer all the Developments and any other material relating to the Developments and all copies of any of them by no later than thirty (30) days from the date of expiration or termination of this Agreement for any cause whatsoever.

20. Confidentiality Obligations

- 20.1 Each Party agrees to maintain Confidential Information received from the other in confidence and not to use or disclose such Confidential Information, without the prior written approval of the disclosing Party, except as required to comply with any order of a court or any applicable rule, regulation or law of any jurisdiction. Confidential information shall not include that which:
- 20.1.1 is in the public domain prior to disclosure to the receiving Party;
 - 20.1.2 becomes part of the public domain through no unauthorized act or omission on the part of the receiving Party;
 - 20.1.3 is lawfully in the possession of the receiving Party prior to disclosure by the disclosing Party; or
 - 20.1.4 is independently developed by employees of the receiving Party with no access to the Confidential Information. In the event that a receiving Party is required by judicial or administrative process to disclose Confidential Information of the disclosing Party, it shall promptly notify the disclosing Party and allow the disclosing Party a reasonable time to oppose such process. Each Party agrees that the Confidential Information shall be disclosed only on a need-to-know basis to their employees, officers, directors, Affiliates, agents, professional advisors or others that are likewise subject to a confidentiality obligation. Each Party shall protect the Confidential Information of the other by using the same degree of care, but not less than a reasonable degree of care, to prevent the unauthorized disclosure or use thereof that such Party uses to protect its own confidential information of like nature. The Parties hereby acknowledge that damages may not be an adequate remedy for any breach of this clause 20.1 and that either Party will therefore

be entitled to apply for injunctive relief from any court of competent jurisdiction to restrain any breach or threatened breach of this clause 20.1.

20.2 Return of Confidential Information

Upon termination or expiration of this Agreement, each Party agrees at the request of the other Party to destroy and certify destruction thereof of all Confidential Information in its possession received from the other save insofar as the receiving Party needs such Confidential Information to fulfil its post-termination obligations to the other Party or to Customers.

21. Price and Payment

- 21.1 Seller shall invoice Buyer for the Products which are specified in the Order the fees specified therefore as set out in the Order upon Buyer's written acceptance of the Products. Such invoice shall include: Order number, descriptions of the Products, sizes, quantities, prices and totals. Seller may invoice Buyer for Products on or at any time after date of delivery or acceptance whichever is the later.
- 21.2 Buyer shall pay to Seller the invoiced fees in the currency of payment all as set out in the Order within seventy five (75) days of receipt of a correct invoice, unless otherwise negotiated. All payments shall be made to Seller at the address shown in the Order. Buyer may make adjustments or withhold payment if Buyer reasonably deems that any invoices are not submitted in accordance with this Agreement, due to any shortages or failures, or for any failure to comply with the requirements of the Order.
- 21.3 The fees and any other sums payable by Buyer are gross amounts inclusive of
- 21.3.1 any value added tax and all other foreign, federal, local, sales or use taxes
 - 21.3.2 all charges including, but not limited to, packaging material, packing, shipping, loading, carriage, insurance and delivery of the Products to Buyer's specified place of delivery; and
 - 21.3.3 any duties, imposts and levies.

22. Assignment

Seller shall not assign the benefit or delegate the burden of this Agreement or any Order (whether in whole or in part) without the prior written consent of Buyer.

23. CUSTOMER COMMUNICATION

BUYER shall be solely responsible for all liaison and coordination with the Customer, any higher tier contractor(s), or the U. S. Government, as it affects the applicable Prime Contract, this Contract, and any related contract. Except as required by law, SELLER shall not communicate with the Customer, any higher tier contractor(s), or the U. S. Government, with respect to the applicable Prime Contract, this Contract, and/or any related contract without prior approval of the BUYER's Procurement Representative. SELLER shall promptly notify BUYER of any communications initiated by the Customer, any higher tier contractor(s), or the U. S. Government, that affects the applicable Prime Contract, this Contract, and/or any related contract.

24. FORCE MEJEURE

Neither party shall be held responsible for any delay or failure in performance of any part of this Contract to the extent such delay or failure is caused by fire, flood, earthquake, strike, civil, governmental or military authority, act of God, or other similar causes beyond its reasonable control and without the fault or negligence of the delayed or non-performing party or its subcontractors. SELLER's liability for loss or damage to BUYER's material in SELLER's possession or control shall not be modified by this clause. When a SELLER's delay or non-performance continues for a period of at least fifteen (15) days, BUYER may terminate, at no charge, this Contract.

25. OFFSET CREDIT/COOPERATION

All offset or countertrade credit value resulting from this Contract, and any lower tier subcontracts, shall accrue solely to the benefit of BUYER. SELLER shall cooperate with BUYER in the fulfillment of any foreign offset/countertrade obligations.

26. PACKING AND SHIPMENT

- 26.1 Unless otherwise specified, all Work is to be packed in accordance with good commercial practice.
- 26.2 A complete packing list shall be enclosed with all shipments. SELLER shall mark containers or packages with necessary lifting, loading, and shipping information, including the BUYER's Contract number, item number, dates of shipment, and the names and addresses of consignor and consignee. Bills of

lading shall include this Contract number.

26.3 Unless otherwise specified, delivery shall be FCA Origin.

27. RESPONSIBLE SUPPLY CHAIN MANAGEMENT

- 27.1 The SELLER recognizes its operations and activities have social, economic, and environmental impacts across its value chain, in wider society and the environment in general. A responsible supply chain management approach applies to all the supply chain activities and represents a journey of continuous improvement towards creating an economically, socially, and environmentally responsible and sustainable supply chain.
- 27.2 Ethics:
- 27.2.1 Gratuities/Kickbacks: SELLER represents and warrants that SELLER, its affiliates, and their respective directors, officers, employees, agents, and any other persons associated with or acting on behalf of SELLER directly or indirectly, shall not, with regard to any aspect of SELLER's performance under this Contract: (i) violate any provisions of the Foreign Corrupt Practices Acts of the United States or similar statute in the United Kingdom (the "Principal ABAC Statutes"); (ii) violate any applicable anti-bribery or anti-corruption law or regulation enacted in any jurisdiction, whether in connection with or arising from the OECD Convention Combating Bribery of Foreign Public Officials in International Business Transactions or otherwise; or (iii) make, or offer to make, promise to make or authorize the payment of or giving of, directly or indirectly, any bribe, rebate, payoff, influence payment, facilitation payment, kickback or other unlawful payment or gift of money, or anything of value prohibited under any applicable law or regulation (any such payment, a "Prohibited Payment"). SELLER further agrees not to make or authorize the making of any gift or payment to any third person if SELLER knows or has reason to suspect that all or any portions of such gift or payment will be used for any Prohibited Payment.
- 27.2.2 Basic Working Conditions and Human Rights. SELLER represents and warrants that it provides a safe and secure working environment and protects and advances basic human rights in its worldwide operations.
- 27.2.3 SELLER represents and warrants that it will comply with Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and to use commercially reasonable efforts to i) identify whether such Work contain tantalum, tin, tungsten or gold; ii) conduct a reasonable country of origin inquiry regarding the origin of such minerals in such Work; iii) determine whether such minerals originated in Covered Countries, as defined in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and iv) If such minerals originated in Covered Countries, conduct due diligence on the chain of custody of the source of such minerals; and v) assist BUYER in conducting due diligence concerning the smelters of such minerals. SELLER shall promptly notify BUYER of all such findings, identifying all such Work in sufficient detail as BUYER may reasonably request to allow BUYER to meet its customer commitments. SELLER shall include the substance of this in any agreement between SELLER and its lower tier sellers and provide BUYER with reasonable documentation of SELLER's and its lower tier sellers' due diligence efforts.
- 27.3 Environmental Health and Safety Performance. SELLER acknowledges and accepts full and sole responsibility to maintain an environment, health and safety management system ("EMS") appropriate for its business throughout the performance of this Contract.
- 27.4 Community:
- 27.4.1 Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals with Disabilities and Veterans. (This clause is applicable if this Contract exceeds \$10,000) SELLER shall abide by the requirements of 41 CFR 60-741.5 which prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities; and 41 CFR 60-300.5 which prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.
- 27.4.2 Small Business Concerns: SELLER agrees to actively seek out and provide the maximum practicable opportunities for small businesses, small disadvantaged businesses, women-owned small businesses, minority business enterprises, historically black colleges and universities and minority institutions, Historically Underutilized

Business Zone small business concerns and U.S. Veteran and Service-Disabled Veteran Owned small business concerns to participate in its subcontracts. SELLER awards to the fullest extent consistent with the efficient performance of this Contract.

28. TERMINATION FOR CONVENIENCE

- 28.1 BUYER may, by written notice, terminate this Contract for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, SELLER is not excused from performance of the non-terminated balance of work under this Contract.
- 28.2 In the event of termination for convenience by BUYER, SELLER shall be reimbursed for actual, reasonable, substantiated and allocable costs, plus a reasonable profit for work performed to the date of termination. Any termination settlement proposal shall be submitted to BUYER promptly, but no later than thirty (30) days from the effective date of the termination. In no event shall the amount of any settlement be in excess of this Contract value. BUYER may take immediate possession of all Work, complete or incomplete, upon written notice of termination to SELLER.

29. TIMELY PERFORMANCE

- 29.1 SELLER's timely performance is a critical element of this Contract.
- 29.2 Unless advance shipment has been authorized in writing by BUYER, BUYER may store at SELLER's expense, or return, shipping charges collect, all Work received in advance of the scheduled delivery date.
- 29.3 If SELLER becomes aware of difficulty in performing the Work, SELLER shall timely notify BUYER, in writing, giving pertinent details. This notification shall not change any Contract delivery schedule.
- 29.4 In the event of a termination or change, no claim will be allowed for any manufacture or procurement in advance of SELLER's normal flow time unless there has been prior written consent by BUYER's Procurement Representative

30. WAIVER, APPROVAL AND REMEDIES

- 30.1 Failure by BUYER to enforce any provision(s) of this Contract shall not be construed as a waiver of the requirement(s) of such provision(s), or as a waiver of the right of BUYER thereafter to enforce each and every such provision(s).
- 30.2 BUYER's approval of documents shall not relieve SELLER from complying with all requirements of this Contract.
- 30.3 The rights and remedies of BUYER in this Contract are cumulative and in addition to any other rights and remedies provided by law or in equity.
- 30.4 BUYER shall be entitled at all times to set off any amount owing at any time from SELLER or any of its affiliated companies to BUYER, against any amount payable at any time by BUYER or any of its affiliated companies to SELLER

Everaxis-USA, Inc.**Appendix 1: Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS)
FLOWDOWN PROVISIONS****A. INCORPORATION OF FAR CLAUSES**

The Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, during the performance of this Contract.

When a FAR or DFARS clause uses a word or term that is defined in the FAR/DFARS, the word or term shall have the same meaning as in the definition in FAR 2.101 or DFARS 202.101 in effect on the date of this Contract unless (i) a different definition is expressly set forth in this Contract; or (ii) the part, subpart, or section of the FAR where the clause is prescribed provides a different meaning; or (iii) the word or term is defined in FAR Part 31, for use in the cost principles and procedures. If the date or substance of any of the clauses listed below is different than the date or substance of the clause actually incorporated in the Prime Contract referenced by number herein, the date or substance of the clause incorporated by said Prime Contract shall apply instead. The Contracts Disputes Act of 1978, as amended, shall have no application to this Contract. Any reference to "Disputes" clause shall mean paragraph 8 "Disputes/Jury Waiver" in Section I of these terms and conditions.

B. GOVERNMENT SUBCONTRACT

This Contract is entered into by BUYER and SELLER in support of a U.S. Government contract. As used in the clauses referenced below and otherwise in this Contract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means the Agreement, to which this Exhibit 1B is attached.
3. "Contractor" means SELLER, as defined in this Contract, acting as the immediate (first-tier) subcontractor to BUYER.
4. "Prime Contract" means the Contract between BUYER and the U.S. Government or between BUYER and its higher-tier contractor in support of a contract with the U.S. Government.
5. "Subcontract" means any contract placed by Contractor or lower-tier subcontractors under this Contract.

C. NOTES

1. Substitute "BUYER" for "Government" or "United States" throughout this clause.
2. Substitute "BUYER" Purchasing Representative" for "Contracting Officer", "Administrative Contracting Officer" and "ACO" throughout this clause.
3. Insert "and BUYER" after "Government" throughout this clause.
4. Insert "or BUYER" after "Government" throughout this clause.
5. Communication/notification required under this clause from/to the Contractor to/from the Contracting Officer shall be through the BUYER Procurement Representative.

D. AMENDMENTS REQUIRED BY PRIME CONTRACT

Contractor shall, at the request of BUYER, accept amendments to this Contract to incorporate additional provisions herein or to change provisions hereof, as BUYER may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contract, or with the provisions of amendments to such Prime Contract. If any such amendment to this Contract causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made pursuant to the "Changes" clause contained in this Contract.

E. PRESERVATION OF THE GOVERNMENT'S RIGHTS

If BUYER furnishes designs, drawings, special tooling, equipment, engineering data or other technical or proprietary information (Furnished Items) to which the U. S. Government owns or has the right to authorize the use of, nothing herein shall be construed to

mean that BUYER, acting on its own behalf, may modify or limit any rights the Government may have to authorize the Contractor's use of such Furnished Items in support of other U. S. Government prime contracts.

F. CERTIFICATIONS AND REPRESENTATIONS:

This Subsection contains certifications and representations that are material representations of fact upon which EVERAXIS will rely in making awards to Contractor. By submitting its written offer, or providing oral offers/quotations at the request of EVERAXIS, or accepting any Contract, Contractor certifies to the representations and certifications as set forth below in this Subsection. These certifications and representations shall apply whenever these terms and conditions are incorporated by reference in any Contract, agreement, other contractual document or any quotation, request for quotation (oral or written), request for proposal or solicitation (oral or written), issued by EVERAXIS. Contractor shall immediately notify EVERAXIS of any change of status with regard to these certifications and representations.

G. Federal Acquisition Regulation (FAR) FLOWDOWN CLAUSES:

Executive Order 13496: Employee Rights Under Federal Labor Law Terms and Conditions Notice. Notice Effective June 21, 2010. The following clause is additive to EVERAXIS Terms and Conditions and effective for new Purchase Orders and Subcontracts valued at \$10,000 and greater, which are performed in the United States.

Obligation of Federal Contractors to Notify Employees of Their Rights Under Federal Labor Laws Pending release of covering FAR clause; Executive Order 13496 Notification of Employee Rights Under Federal Labor Laws and the requirements therein, are incorporated into this Contract by reference with full force and effect of the full text.

Federal contractors and subcontractors must notify employees about their rights under the National Labor Relations Act (NLRA). See 29 C.F.R. Part 471.

FAR Clause	Description	FAR Clause	Description	FAR Clause	Description
52.203-6	Restrictions on Subcontractor Sales to the Government.	52.215-11	Price Reduction for Defective Certified Cost or Pricing Data—Modifications.	52.222-1	Notice to the Government of Labor Disputes.
52.203-7	Anto-Kickback Procedures.	52.215-12	Subcontractor Certified Cost or Pricing Data.	52.222-4	Contract Work Hours and Safety Standards Act—Overtime Compensation.
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.	52.215-13	Subcontractor Certified Cost or Pricing Data - Modifications.	52.222-20	Walsh - Healey Public Contracts Act.
52.203-12	Limitation on Payments to Influence Certain Federal Transactions.	52.215-14	Integrity of Unit Prices.	52.222-21	Prohibition of Segregated Facilities.
52.203-13	Contractor Code of Business Ethics and Conduct.	52.215-15	Pension Adjustments and Asset Reversions.	52.222-22	Previous Contracts and Compliance Reports.
52.203-14	Display of Hotline Poster(s).	52.215-16	Facilities Capital Cost of Money.	52.222-25	Affirmative Action Compliance.
52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009.	52.215-17	Waiver of Facilities Capital Cost of Money.	52.222-26	Equal Opportunity.
52.204-2	Security Requirements.	52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions.	52.222-35	Equal Opportunity for Veterans.
52.204-9	Personal Identity Verification of Contractor Personnel.	52.215-19	Notification of Ownership Changes.	52.222-36	Affirmative Action for Workers with Disabilities.
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards.	52.215-20	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.	52.222-37	Employment Reports on Veterans.
52.208-8	Required Sources for Helium and Helium Usage Data.	52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data - Modifications.	52.222-40	Notification of Employee Rights Under the National Labor Relations Act.
52.209-5	Certification Regarding Responsibility Matters.	52.215-22	Limitations on Pass-Through Charges—Identification of Subcontract Effort.	52.222-41	Service Control Act of 1965.
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.	52.215-23	Limitations of Pass-Through Charges.	52.222-50	Combating Trafficking in Persons.
52.211-5	Material Requirements.	52.216-5	Price Redetermination - Prospective.	52.222-54	Employment Eligibility Verification.
52.211-15	Defense Priority and Allocation Requirements.	52.216-6	Price Redetermination - Retroactive.	52.222.56	Certification Regarding Trafficking in Persons Compliance Plan
52.214-26	Audit and Records - Sealed Bidding.	52.216-16	Incentive Price Revision - Firm Target.	52.223-3	Hazardous Material Identification and Material Safety Data.
52.214-27	Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding.	52.216-17	Incentive Price Revision - Successive Targets.	52.223-7	Notice of Radioactive Materials.
52.214-28	Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding.	52.219-8	Utilization of Small Business Concerns.	52.223-11	Ozone - Depleting Substances.
52.215-2	Audit and Records - Negotiation.	52.219-9	Small Business Subcontracting Plan.	52.224-2	Privacy Act.
52.215-10	Price Reduction for Defective Certified Cost or Pricing Data.	52.219-16	Liquidated Damages - Subcontracting Plan.	52.225-1	Buy American Act - Supplies.

FAR Clause	Description	FAR Clause	Description	FAR Clause	Description
52.225-3	Buy American Act—Free Trade Agreements—Israeli Trade Act.	52.230-3	Disclosure and Consistency of Cost Accounting Practices.	52.247-64	Preference for Privately Owned U.S.-Flag Commercial vessels.
52.225-5	Trade Agreements.	52.230-5	Cost Accounting Standards—Educational Institution.	52.248-1	Value Engineering.
52.225-8	Duty-Free Entry.	52.230-6	Administration of Cost Accounting Standards.	52.249-2	Termination for Convenience of the Government (Fixed-Price)(Short Form).
52.225-13	Restrictions on Certain Foreign Purchases.	52.233-3	Protest after Award.	52.249-8	Default (Fixed-Price Supply and Service).
52.227-1	Authorization and Consent.	52.234-1	Industrial Resources Developed Under Defense Production Act Title III.		
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement.	52.237-2	Protection of Government Buildings, Equipment, and Vegetation.		
52.227-3	Patent Indemnity.	52.239-1	Privacy or Security Safeguards.		
52.227-9	Refund of Royalties.	52.242-13	Bankruptcy.		
52.227-10	Filing of Patent Applications—Classified Subject Matter.	52.242-15	Stop-Work Order.		
52.227-11	Patent Rights—Ownership by the Contractor.	52.243-1	Changes - Fixed-Price.		
52.227-13	Patent Rights—Ownership by the Government.	52.243-6	Change Order Accounting.		
52.227-14	Rights in Data - General.	52.244-5	Competition in Subcontracting.		
52.228-3	Workers' Compensation Insurance (Defense Base Act).	52.244-6	Subcontracts for Commercial Items.		
52.228-4	Workers' Compensation and War-Hazard Insurance Overseas.	52.245-1	Government Property.		
52.228-5	Insurance—Work on a Government Installation.	52.245-17	Special Tooling.		
52.229-10	State of New Mexico Gross Receipts and Compensating Tax.	52.245-18	Special Test Equipment.		
52.229-3	Federal, State, and Local Taxes.	52.245-2	Government Property Installation Operation Services.		
52.229-6	Taxes—Foreign Fixed-Price Contracts.	52.246-2	Inspection of Supplies—Fixed-Price.		
52.229-7	Taxes—Fixed-Price Contracts with Foreign Governments.	52.246-4	Inspection of Services—Fixed-Price.		
52.230-2	Cost Accounting Standards.	52.247-63	Preference for U.S.-Flag Air Carriers.		

G. Defense Federal Acquisition Regulation Supplement (DFARS) FLOWDOWN CLAUSES:

DFARS Clause	Description	DFARS Clause	Description	DFARS Clause	Description
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense Contract-Related Felonies.	252.225-7006	Quarterly Reporting of Actual Contract Performance Outside the United States.	252.227-7028	Technical Data or Computer Software Previously Delivered to the Government.
252.204-7000	Disclosure of Information	252.225-7007	Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies.	252.227-7030	Technical Data--Withholding of Payment.
252.204-7008	Export Controlled Items	252.225-7008	Restriction on Acquisition of Specialty Metals.	252.227-7037	Validation of Restrictive Markings on Technical Data.
252.204-7012	Safeguarding of Unclassified Controlled Technical Information	252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals.	252.227-7038	Patent Rights--Ownership by the Contractor (Large Business).
252.208-7000	Intent to Furnish Precious Metals as Government-Furnished Material.	252.225-7010	Commercial Derivative Military Article-Specialty Metals Compliance Certificate	252.228-7005	Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles.
252.211-7000	Acquisition Streamlining.	252.225-7012	Preference for Certain Domestic Commodities.	252.231-7000	Supplemental Cost Principles.
252.211-7003	Item Unique Identification and Valuation.	252.225-7013	Duty-Free Entry.	252.235-7003	Frequency Authorization.
252.211-7007	Reporting of Government-Furnished Property.	252.225-7016	Restriction on Acquisition of Ball and Roller Bearings.	252.237-7019	Training for Contractor Personnel Interacting with Detainees.
252.215-7000	Pricing Adjustments.	252.225-7021	Trade Agreements.	252.239-7016	Telecommunications Security Equipment, Devices, Techniques, and Services.
252.215-7002	Cost Estimating System Requirements.	252.225-7032	Waiver of United Kingdom Levies--Evaluation of Offers.	252.239-7017	Notice of Supply Chain Risk
252.215-7004	Requirement for Submission of Data Other Than Certified Cost or Pricing Data--Modifications--Canadian Commercial Corporation.	252.225-7033	Waiver of United Kingdom Levies.	252.239-7018	Supply Chain Risk
252.219-7003	Small Business Subcontracting Plan (DoD Contracts).	252.225-7043	Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States.	252.242-7004	Material Management and Accounting System.
252.222-7000	Restrictions on Employment of Personnel.	252.226-7001	Utilization of Indian Organizations and Indian-Owned Economic Enterprises--DoD Contracts	252.242-7005	Contractor Business Systems.
252.222-7006	Restrictions on the Use of Mandatory Arbitration Agreements.	252.227-7013	Rights in Technical Data--Noncommercial Items.	252.243-7001	Pricing of Contract Modifications.
252.222-7007	Representation Regarding Combating Trafficking in Persons	252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation.	252.244-7000	Subcontracts for Commercial Items.
252.223-7001	Hazard Warning Labels.	252.227-7015	Technical Data-Commercial Items	252.245-7001	Tagging, Labeling, and Marking of Government-Furnished Property
252.223-7002	Safety Precautions for Ammunition and Explosives.	252.227-7016	Rights in Bid or Proposal Information.	252.246-7001	Warranty of Data.
252.223-7003	Change in Place of Performance--Ammunition and Explosives.	252.227-7018	Rights in Noncommercial Technical Data and Computer Software-- Small Business Innovation Research (SBIR) Program.	252.246-7003	Notification of Potential Safety Issues.
252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials.	252.227-7019	Validation of Asserted Restrictions--Computer Software.	252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System.
252.223-7007	Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives.	252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.	252.247-7023	Transportation of Supplies by Sea.
252.225-7001	Buy American and Balance of Payments Program.	252.227-7026	Deferred Delivery of Technical Data or Computer Software.	252.247-7024	Notification of Transportation of Supplies by Sea.
252.225-7004	Report of Intended Performance Outside the United States and Canada--Submission after Award.	252.227-7027	Deferred Ordering of Technical Data or Computer Software.	252.249-7002	Notification of Anticipated Contract Termination or Reduction.

APPLICABILITY

When a deliverable item under this Contract includes the provision of Services, the following supplemental terms and conditions shall apply as specified herein. In the event of an inconsistency between these supplemental terms and conditions and another term or condition of this Contract, the "Precedence" Clause of this Contract shall apply and these supplemental terms and conditions shall have the same level of precedence as any other Everaxis document incorporated in the Contract; provided however that to the extent a provision of these supplemental terms and conditions cannot be reconciled with a provision in a Everaxis document applicable to this Contract, the provisions of these supplemental terms and conditions shall take precedence over the provision contained in such other Everaxis document. To the extent that the Work or Services being acquired hereunder are for ultimate sale to the United States Government, then all U.S. Government Procurement Regulations incorporated into this Purchase Order shall, when applicable, take precedence over any conflicting provision.

The following supplemental terms and conditions apply to this Contract:

1. ACCEPTANCE: The criteria for acceptable performance will be outlined in the Scope of Work (SOW) and will be reviewed at the end of the service the BUYER's technical representative. In the absence of acceptance criteria in the SOW, acceptance of Services will be BUYER's sole and unilateral determination of whether the SELLER's Services fully comply with the SOW and are performed in a professional manner.

2. ASSIGNMENT OF NON-U.S. PERSONNEL

(a) In order to assist the BUYER's compliance with U.S. security and export control requirements, SELLER shall not assign any persons who are not United States citizens or aliens granted permanent residency in the United States to work on this Contract without first obtaining BUYER's written approval.

(b) SELLER shall be responsible for ensuring that all personnel it assigns to this Contract have all required work permits, appropriate licenses, and security clearances necessary to perform the Work. SELLER shall produce such records at any reasonable time upon BUYER's request.

(c) SELLER shall be responsible for obtaining BUYER and/or Prime/Government approval of proposed subcontractor personnel when supporting a government contract. If key personnel or personnel to perform the Services are designated, changes cannot be made to those personnel without the BUYER's express written approval.

3. CONTRACT COORDINATION

(a) BUYER shall appoint a Technical Representative(s) who shall be responsible for maintaining liaison with SELLER's Lead Supervisor(s).

(b) SELLER shall appoint a Lead Supervisor(s) who shall be responsible for supervising and directing the work of SELLER's employees and maintaining liaison with BUYER's Technical Representative(s).

(c) BUYER and SELLER shall inform each other, in writing, of names of the Technical Representative(s) and Lead Supervisor(s) appointed.

(d) All notices to be furnished by SELLER shall be sent to the BUYER with a copy to the Technical Representative.

(e) The Technical Representative has no authority to make changes in, to amend, or to modify this Contract. Such changes, amendments or modifications can only be made by the BUYER and it must be in writing.

4. DEFINITIONS

The following terms shall have the meaning set forth below:

"Services" shall mean the time and effort of SELLER in performing identifiable labor tasks which are themselves a deliverable under this Contract. Services covers activities performed both by professional and non-professional personnel of SELLER. Without limiting the foregoing, examples of Services include but are not limited to: engineering design; test functions; training; information technology support; equipment maintenance or repair; temporary labor, and contract labor Sellers; facility improvement, maintenance or repair; security guards; travel administration; and food preparation and cafeteria operations.

5. INDEMNITY BY SELLER

In addition to, and without limiting, the indemnification provisions contained in the Everaxis Terms and Conditions applicable to this Contract, the following additional provisions shall apply:

(a) SELLER shall keep Work supplied by it hereunder and BUYER premises free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance of this Contract by SELLER or by any of its vendors or subcontractors. SELLER may be required by BUYER to provide a satisfactory release of liens as a condition of final payment.

(b) SELLER shall, without limitation, indemnify and save BUYER and its customer(s) and their respective officers, directors, employees and agents harmless from and against (i) all claims (including claims under Workers' Compensation or Occupational Disease laws or other equivalent laws in SELLER's country) and resulting costs, expenses (including attorney fees and costs) and liability which arise from personal injury, death, or property loss or damage attributed to, or caused by, the Work supplied, or the Services performed by SELLER pursuant to this Contract, including, without limitation, latent defects in such Work and/or Services, except to the extent that such injury, death, loss or damage is caused solely and directly by the negligence of BUYER; and (ii) all claims (including resulting costs, expenses and liability) by the employees of SELLER or any of its subcontractors; and (iii) all claims, losses, costs, damages, expenses, liabilities and the like resulting from SELLER's breach of any warranty or representation under this Contract;(iv) all claims, losses, costs, damages, expenses, liabilities and the like resulting from SELLER's alleged improper conduct of any nature or type, including, but not limited to, physical, mental or sexual abuse or harassment, invasion of bodily integrity, violation of civil rights, and/or discrimination by or attributable to any of the SELLER's Directors, officers, employees, agents, Sellers or subcontractors; (v) all claims, losses, costs, damages, expenses, liabilities and the like resulting from SELLER's failure to pay any of the SELLER's employees, agents, Sellers or subcontractors for Services rendered under this Contract.

(c) SELLER shall notify the BUYER as soon thereafter as is practicable, of any Claims arising from or related to subparagraphs 4 (a)(1)-(4). SELLER shall not settle, adjust, or compromise any such claim or any action or proceeding arising therefrom without the written approval of the BUYER which shall not be unreasonably withheld. BUYER further agrees to cooperate with any investigation of such Claims and to provide SELLER any information reasonably available (not of a classified, confidential or privileged nature), and reasonably necessary for the investigation or defense of such Claims.

6. INDEPENDENT CONTRACTOR RELATIONSHIP

In addition to, and without limiting, the "INDEPENDENT CONTRACTOR RELATIONSHIP" Clause contained in Section 17 of the General Provisions for Subcontracts/Purchase Orders, applicable to this Contract, the following additional provisions shall apply:

- (a) SELLER shall inform BUYER if a former employee of Everaxis or its parent, subsidiary or affiliates will be assigned Work under this Contract, and any such assignment shall be subject to BUYER approval.
- (b) SELLER shall provide BUYER any information about SELLER's personnel that BUYER is required by law to obtain, including, but not limited to, information on "leased employees" and "management services organization" as these terms are used in Sections 414(m), (n) and (o) of the Internal Revenue Code.

7. INFORMATION OF BUYER

This paragraph 6 shall apply in lieu of the Section 17 "Information of BUYER" of the General Provisions for Subcontracts/Purchase Orders Clause incorporated into this Contract.

(a) SELLER shall not use, display, reproduce or disclose any information, knowledge, or data of the BUYER, except as provided under paragraph 6(c) below, which SELLER may receive from BUYER or come in contact with, including but not limited to, proprietary information of BUYER or of others. BUYER information includes, but is not limited to, business plans, marketing information, personnel information, information about Sellers, cost estimates, forecasts, bid and proposal data, financial data, metrics, technical information, formulae, algorithms, software, hardware, firmware, compositions, products, processes, methods, procedures, inventions, trade secrets, systems, drawings or designs.

(b) Prior to commencement of assignment, SELLER shall have a written agreement with each of its employees performing Work hereunder sufficient to enable SELLER to comply with this paragraph 6.

(c) BUYER information provided to the SELLER remains the property of BUYER (or third parties as applicable). SELLER shall not use any BUYER information for any purpose except to perform this Contract and shall not disclose any BUYER information to third parties without the prior written consent of BUYER within thirty (30) days of the expiration or termination of this Contract or upon the request of BUYER, SELLER shall return or certify the destruction of all BUYER information and any reproductions, and SELLER shall promptly surrender all information or proprietary data developed by SELLER in performance of this Contract, unless its retention is authorized in writing by the BUYER.

(d) The provisions set forth above shall take precedence over any conflicting obligations that may be contained in a Proprietary Information Agreement between BUYER and SELLER.

8. INSURANCE/ENTRY ON BUYER OR CUSTOMER PROPERTY

In addition to, and without limiting, Section 21 "Insurance/Entry of BUYER or Customer Property" of the General Provisions for Subcontracts/Purchase Orders Clause, the following additional provisions shall apply:

(a) SELLER's personnel, while on BUYER's or Customer's premises, shall not sell, advertise or market any goods or Services (other than the goods or Services which may be the subject of this Contract) or memberships, or distribute printed, written or graphic materials without BUYER's written permission or as permitted by law.

(b) SELLER must coordinate in advance with BUYER access to BUYER's or Customer's premises.

(c) SELLER shall, at its sole cost and expense, obtain and maintain requisite insurance in force throughout the original term, and any extension, of this Contract (to include the warranty period).

(d) SELLER warrants and represents that its employees (and further subcontracted personnel), while on BUYER's and/or Customer's premises, shall comply with BUYER's and/or Customer's rules, policies, and procedures regarding conduct, safety, and security.

(e) SELLER shall maintain the following insurance coverages and minimum limits of insurance placed with an insurance company acceptable to BUYER, each of which shall be primary to any insurance of BUYER: Insurance limits and terms may be outlined specifically in the SOW and such insurance requirements outlined in the SOW, if in conflict, shall take precedence over these insurance limits and terms.

- (1) Automobile General Liability: For Owned, Hired & Non-Owned (bodily injury) Combined bodily injury and property damage of \$1,000,000
- (2) Comprehensive General Liability (CGL): Public Liability \$1,000,000 each occurrence (bodily injury) \$3,000,000 aggregate Public Liability \$2,000,000 aggregate \$1,000,000 each occurrence (property damage) \$2,000,000 aggregate
- (3) Employer's Liability: \$1,000,000 each occurrence
- (4) Errors & Omissions: \$3,000,000 aggregate
- (5) Products Liability: \$2,000,000 aggregate
- (6) Worker's Compensation: Statutory
- (7) Umbrella/Excess Liability: \$5,000,000 per occurrence

(f) These insurance coverage and limits required of the SELLER under this Contract are designed to meet the minimum requirement of the BUYER. They are not designed to limit the SELLER'S liability under this Contract or to be a recommended insurance program for SELLER. The SELLER alone should seek professional assistance if the SELLER has any question concerning its exposure to loss under this Contract or the applicable insurance coverage that may be necessary to address such exposure.

(g) SELLER shall cause the BUYER its directors, officers, employees and agents to be named as an additional insured under each of the insurance policies required by

this Contract, except Workers Compensation. Insurance maintained pursuant to this Paragraph 8 shall be considered primary as respect the interest of the BUYER and is not contributory with any insurance that the BUYER may carry. All policies, including Workers Compensation, shall contain a Waiver of Subrogation in favor of BUYER.

(h) SELLER shall, before commencing work under this Contract, deliver a Certificate of Insurance and/or actual insurance policies required by this Contract to BUYER. Any Certificate of Insurance shall contain a provision that the coverage provided under the policies, as well as the policies, will not be canceled or materially changed unless the insurers provide BUYER with thirty (30) days written notice of the intent to cancel a policy, or materially change the coverage provided under the policy.

(i) Unless otherwise specified in this Contract, SELLER shall be responsible for supplying all tools and equipment necessary to perform its Services under this Contract.

9. INTELLECTUAL PROPERTY

In addition to, and without limiting, the Section 22 "Intellectual Property" of the General Provisions for Subcontracts/Purchase Orders Clause, the following additional provisions shall apply: To the extent that any deliverable items may not, by operation of law, be works made for hire, SELLER hereby assigns to BUYER the ownership of copyright in the deliverable items and the BUYER shall have the right to obtain and hold in its own name copyrights, registrations and similar protection which may be available in the deliverable items. SELLER shall provide to the BUYER or its designees all assistance reasonably required and documentation necessary to perfect such rights.

10. MAINTENANCE OF RECORDS

In addition to, and without limiting, the Section 23 "Maintenance of Records" of the General Provisions for Subcontracts/Purchase Orders Clause, the following additional provisions shall apply: SELLER's records shall also include time records, phone bills, travel receipts, expense reports, and job summaries.

11. MECHANICS AND OTHER LIENS

(a) To the extent permitted by law, SELLER agrees that it will not assert and mechanics lien, or any other labor or material lien, against any property owned by or in the care, custody or control of the BUYER to secure payment of any amounts that may become due to the seller for furnishing any labor or material in performance of this Contract or for performing any work associated therewith. SELLER understands that by accepting this Contract has waived its rights (if any) to assert a lien and it will be precluded from exercising the mechanics lien providing and filing any waivers and/or releases of lien that the BUYER may require. In the event that applicable law does not permit the SELLER's waiver of liens in advance, SELLER agrees that it shall forebear from filing a lien unless and until it completes the work required by the Contract and will provide a release and waiver simultaneous with the final payment under the Contract.

(b) SELLER agrees to secure releases and waivers of lien in favor of the BUYER from SELLER's Sellers and subcontractors coincident with SELLER's final payments to them. In the event any of SELLER's Sellers or subcontractors assert a mechanics lien, or any other labor or material lien, against any property owned by or in the care, custody or control of the BUYER. The BUYER at its election may immediately satisfy such lien and charge all amounts (including reasonable attorney's fees) associated with satisfying such lien to SELLER and/or offset such amounts against payments owed to SELLER.

12. OCCUPATIONAL SAFETY AND HEALTH / LABOR

(a) SELLER shall, notify BUYER promptly in writing if a charge of noncompliance with the Occupational Safety and Health Act of 1970, as amended has been filed against SELLER arising from or related to SELLER's Services performed hereunder on premises owned, leased or operated by BUYER.

(b) SELLER shall comply with the Service Contract Act (SCA) of 1965, as amended, when providing Services identified as being subject to the SCA in the Contract.

13. WARRANTY

In addition to, and without limiting, the Section 41 "Warranty" of the General Provisions for Subcontracts/Purchase Orders Clause, the following additional provisions shall apply:

(a) SELLER warrants that it is and shall remain free of any obligation or restriction which would interfere or be inconsistent with, or present a conflict of interest concerning, the Services to be furnished by SELLER under this Contract.

(b) BUYER shall be the sole and unilateral determination whether the SELLER's service meets the acceptance criteria.

(c) If the Services fail to conform to the foregoing warranty, SELLER, at the BUYER's option, shall, without additional charge, promptly re-perform such Services. If re-performance of the Services is not timely or fails to correct the non-conformity, BUYER may elect to replace, re-procure or re-perform the Service at SELLER's expense. All warranties shall run to the BUYER and its Customers.