

## Purchase Order Terms and Conditions

1. Applicability. These Purchase Order Terms and Conditions and the purchase order to which they are attached (collectively, “ **Order**”) constitute an offer by Buyer (the “**Buyer**”) to purchase the goods or services specified in the Order (the “**Goods**” or “**Services**”, respectively) from the party listed on the purchase order (the “**Seller**”) on the terms contained in this Order (the “**Terms**”). This Order supersedes all prior written or oral inquiries, proposals, agreements, negotiations or commitments pertaining to the subject matter of the respective Services and/or Goods, provided that the terms and conditions of any applicable existing 'master' type of agreement between Buyer and Seller (a “**Master Agreement**”) supersede these Terms and Conditions to the extent of any conflict. No amendments, modifications, substitutions, or supplements to this Order (including but not limited to Seller’s general terms and conditions of sale, purchase order terms or other terms issued in connection with the purchase) are binding unless in writing and signed or otherwise approved in writing by Buyer’s designated representative. For additional clarity, any different terms or conditions contained in any quotations, acknowledgement, invoices, shrink-wrap, click-warp, browse-wrap or other documents provided by Seller are null and void. Buyer is not obligated to purchase any amount of Goods or Services from Seller and is not obligated to purchase Goods or Services exclusively from Seller.

2. Acceptance of Offer By Seller. The Order is accepted or shall be deemed accepted by Seller (i) upon receipt by Buyer of any written documentation from Seller indicating such acceptance (including but not limited to mail, fax, email or other means electronic transmission including Seller’s electronic acceptance of the Order as evidenced in Buyer’s automated procurement processing system); (ii) shipment of the Goods, or any portion thereof, including where such shipment is accompanied by Seller’s own terms and conditions which shall have no effect; or (iii) performance of the Services or commencement of any work related to the Services. Buyer may withdraw the Order at any time before it is accepted by Seller.

### 3. Change Orders.

3.1 Buyer may at any time, by written notice, and without notice to sureties or assignees, make changes within the general scope of this Order in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipping or packing; (iii) place of inspection, acceptance, or point of delivery; and (iv) delivery schedule.

3.2 If any such change causes an increase or decrease in the cost of, or the time required for performance of any part of this Order, Buyer shall make an equitable adjustment in the Order price and/or delivery schedule and modify this Order accordingly. Changes to the delivery schedule will be subject to a price adjustment only.

3.3 Seller must assert its right to an equitable adjustment under this clause within fifteen (15) days from the date of receipt of the written request from Buyer to make a change.

4. Delivery of the Goods. Seller shall deliver the Goods in the quantities and on the date(s) specified in this Order or as otherwise agreed in writing by the parties (the “**Delivery Date**”). If the Delivery Date is not stated, Seller will offer its best delivery date(s), which will be subject to acceptance by Buyer. Timely delivery of the Goods is of the essence. Seller will promptly notify Buyer if it is unable to comply with the agreed upon delivery or performance. If Seller fails to deliver or perform on time, and the parties are unable to mutually agree to an extension of time, Seller will be liable for actual and reasonable costs and damages Buyer incurs as a result of the late delivery or performance, including without limitation the costs of procuring substitute Goods from a third party. Buyer reserves the right to reject, at no expense to Buyer, all or any part of any delivery. If Goods are non-conforming to Buyer’s requirements, Seller will grant Buyer first priority for allocation and shipment of conforming Goods. Seller will not make any substitutions without Buyer’s prior written approval. At Buyer’s option, over shipments will be returned to Seller at Seller’s risk and freight collect. Seller shall immediately refund

to Buyer the price of the Goods and the amount of outbound freight attributable to such over shipments. Buyer will pay only for the maximum quantities ordered. For Goods delivered ahead of the scheduled delivery date, Buyer may (a) return such Goods to Seller freight collect, or (b) accept such Goods with payment based on the scheduled Delivery Date and not the date of receipt by Buyer. Seller shall use reasonable efforts to deliver the Goods in totality as ordered by Buyer on the scheduled delivery date. If Seller is unable to deliver the total order, Seller shall promptly notify Buyer, and Buyer may, at its sole option, consent to such partial delivery. If Buyer does not consent, Buyer may cancel all or a portion of the order without liability. Partial deliveries shall be separately invoiced by Seller and paid for by Buyer.

5. Delivery Location. All Goods shall be delivered to the address specified in the Order (the "**Delivery Location**") during Buyer's normal business hours or as otherwise instructed by Buyer.

6. Shipping Terms. Seller is responsible for arranging the entire shipment until it is delivered to Buyer's designated destination. Seller shall give written notice of shipment to Buyer when the Goods are delivered to a carrier for transportation. All containers will be properly marked for identification per the instructions on Buyer's Order and contain a packing slip that details, at a minimum, the Buyer's Order number(s), product part number, detailed product description, total number of boxes in shipment, quantity of product shipped, and final delivery address. Seller shall provide Buyer all shipping documents, including the commercial invoice, packing list, and any other documents necessary to release the Goods to Buyer within three business days after Seller delivers the Goods to the transportation carrier. Seller will, at its expense, deliver Goods by the most expeditious shipping method if the delivery schedule is endangered for any reason other than Buyer's fault. The Order number must appear on all shipping documents, shipping labels invoices, correspondence, and any other documents pertaining to the Order.

7. Tax. Seller's invoices shall state applicable taxes owed by Buyer, if any, by tax jurisdiction and with a proper breakdown between taxable and nontaxable items. Seller shall remit such tax payments to the appropriate jurisdiction. Buyer shall not be responsible for (i) any taxes not so separately listed, which shall be the sole responsibility of Seller, (ii) the remittance of taxes to applicable tax authorities; or (iii) ad valorem, franchise, privilege, value-added or occupational taxes or any taxes or other governmental payments based on the income, employees, payroll, property or capital of Seller. Seller will indemnify Buyer from any claims by any jurisdiction relating to Taxes paid by Buyer to Seller and for any penalties, fines, additions to tax or interest thereon imposed as a result of Seller's failure to remit the taxes in a timely manner to the appropriate taxing jurisdiction or for Seller's failure to invoice Buyer for the correct amount of taxes. Under some circumstances, Buyer may have an exemption from certain sales and/or use taxes. In such cases, Buyer shall inform Seller and provide the basis for such exemption(s).

8. Title and Risk of Loss or Damage. Unless otherwise specified in the Order or in a separate agreement signed by the parties, the risk of loss or damage, regardless of the cause, shall be on Seller, and Seller shall hold title to the Goods up until Seller's delivery of the Goods to Buyer's designated destination. At the time of such delivery, both risk of loss and title shall pass to Buyer. At that time, Buyer will have good and marketable title to the Goods, free and clear of all liens and encumbrances. Notwithstanding any of the above, Seller is not relieved of responsibility for hidden damages discovered after acceptance of the Goods. Any damage discovered by Buyer after transfer of title determined to be a result of faulty packaging or handling by Seller will be Seller's responsibility.

9. Packaging. All goods shall be packed for shipment according to Buyer's instructions or, if there are no instructions, in accordance with good commercial practice and in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Seller must provide Buyer prior written notice if it requires Buyer to return any packaging material. Any return of such packaging material shall be at Seller's expense.

10. Documentation. Seller will provide all necessary documentation including user manuals, training materials, guides, and product specifications, whether in writing, electronic means or otherwise.

11. Inspection and Acceptance.

11.1 Buyer may inspect all Goods and/or Services at reasonable times and places, including, when practicable, during manufacture and before shipment. Seller shall provide all information, facilities, and assistance necessary for safe and convenient inspection without additional charge. No such inspection shall relieve Seller of its obligations to furnish and warrant all Goods and Services in accordance with the requirements of this Order.

11.2 Regardless of prior inspection or payments, all Goods and Services will be subject to final inspection and acceptance at the Buyer's facility within a reasonable time after delivery. If a Good or Service (or Service-related deliverable) is defective in material and/or workmanship or does not conform with the requirements of this Order, Buyer will have the right to reject it, to require its correction, or to accept it with an adjustment in price.

11.3. Any Goods or Services (or Service-related deliverables) that have been rejected or require correction must be replaced or corrected by and at the sole expense of the Seller promptly after notice. Cost of all return shipments will be borne by Seller with title and risk of loss passing to Seller at Buyer's location, unless otherwise specified by Buyer at the time of return.

11.4. Should the Seller fail to promptly replace or correct any defective Good or Service, Buyer may in addition to any other remedies available at law or at equity: (i) replace or correct such item and charge to Seller the cost occasioned thereby, (ii) without further notice, terminate this Order for default, or (iii) require a corresponding reduction in price.

12. Commencement, Duration, Termination, Effects of Termination. This Order shall be in effect as of the date of Acceptance of the Order and remain in effect until completion of the Services, or acceptance of the Goods, their payment and any other accrued rights and obligations. Buyer shall at any time and at its sole discretion be entitled to terminate this Order or any parts of it without liability and with immediate effect. In case of early termination of a Service, Buyer shall only pay for the portion of the Service already provided.

13. Representations, Warranties

13.1 Seller warrants to Buyer that the Goods and Services: (a) will conform strictly to specifications, samples and description specified by Buyer, furnished by Seller, and/or set forth in this Order; (b) will be of good and merchantable quality; (c) will be fit for any particular purpose for which the Goods are required by Buyer, to the extent known by Seller; (d) will be free from defects in material, design, and workmanship; (e) will not infringe any patents, copyrights, trademarks or intellectual property rights of third parties; (f) are owned by Seller immediately prior to delivery, will be transferred to Buyer without violation of any purchase order or agreement to which Seller is a party or by which Seller is bound and will be free of security interests, liens, and encumbrances; (g) will be produced, packaged and shipped in compliance with good manufacturing practices, applicable licenses and all applicable laws, regulations and rules, including without limitation those related to hazardous and toxic materials, the environment, labor, immigration, occupational safety and health, labeling and adulterated, misbranded or banned goods and (h) do not and will not contain, introduce or use any computer code that is designed to disrupt, disable, harm, modify, delete or otherwise impede the operation of the deliverables or any of Buyer's software, computer systems or networks. Seller further represents and warrants that it will comply with all applicable laws, rules and regulations pertaining to the performance of its obligations under this Order and that upon full payment, Buyer shall have good

and marketable title to the Goods free and clear of all liens, claims and encumbrances of whatever kind and description. Seller hereby assigns to Buyer all warranties provided by any manufacturer or other supplier in the applicable purchase documents pertaining to the Goods to the extent Seller is not the manufacturer or other original source of the Goods or any part thereof. These warranties will survive any inspection, delivery, acceptance, payment or use by Buyer of or for the Goods and are in addition to any other warranty provided by law or equity.

13.2. Seller further warrants and represents that neither Seller nor any individual, entity, or organization holding any material ownership interest in Seller, nor any officer or director, is an individual, entity, or organization with whom any United States law, regulation, or executive order prohibits United States companies and individuals from dealing, including, without limitation, names appearing on the Specially Designated Nationals and Blocked Persons List (the "SDN List") and Seller covenants to Buyer that it will not cause Buyer to be in violation of any regulation administered by the U.S. Department of the Treasury's Office of Foreign Assets Control.

13.3 Seller will, at its expense, indemnify, hold harmless and, at Buyer's request, defend Buyer and Buyer's affiliates, directors, officers, employees, agents and independent contractors from and against all claims, liabilities, damages, losses, costs and expenses, including but not limited to reasonable attorneys' fees and professional fees and costs and the costs of settlement, compromise, judgment or verdict incurred by or demanded from Buyer, arising out of or in connection with any alleged: (a) breach of any warranty made by Seller under this Section 13 or any other provision of this Order, and/or (b) act or omission of Seller or Seller's employees or agents, including but not limited to the extent such act or omission causes or contributes to (i) any bodily injury, sickness, disease or death; (ii) any injury to or destruction of tangible or intangible property (including computer programs and data or any loss of use resulting therefrom); or (iii) any violation of any statute, ordinance or regulation, in each case arising in whole or in part from the sale of the Goods to Buyer hereunder, performance of the Services, or Buyer's exercise of rights in connection with such Goods, or Services.

13.4 Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing warranties.

14. Price. The price of the Goods is the price stated in the Order (the "**Price**"). No increase in the Price is effective without a revision to this Order approved by a new purchase order issued by the Buyer. All packaging, transportation costs to the Delivery Location, insurance, customs duties, fees and applicable taxes must be specified in any invoice submitted to Buyer.

15. Payment Terms. Seller shall issue an invoice to Buyer on or any time after the completion of delivery and acceptance by Buyer. Buyer shall pay all properly invoiced and undisputed amounts due to Seller within thirty (30) days after Buyer's receipt of such invoice. The parties shall seek to resolve any disputes expeditiously and in good faith. Seller shall continue performing its obligations under the Order notwithstanding any such dispute.

16. Intellectual Property.

16.1 With respect to the purchase, use and/or sale of Goods or Services as provided hereunder by Buyer, including without limitation by Buyer's affiliates and/or customers, Seller will, at its expense, indemnify, hold harmless and, at Buyer's request, defend Buyer and Buyer's affiliates, directors, officers, employees, agents and independent contractors from and against any and all losses, costs, expenses, royalties, profits, damages, claims, demands and other liabilities, including reasonable attorney's fees and professional fees and costs and the costs of settlement, compromise, judgment or verdict incurred by or demanded from Buyer, including without limitation claims, etc., of Buyer's customers, arising out of, resulting from, or occurring in connection with any alleged: (a) patent,

copyright or trademark infringement; (b) unlawful disclosure, use or misappropriation of a trade secret; or (c) violation of any other third party intellectual property right, either by themselves or in combination with any other goods or services, and from expenses incurred by Buyer in defense of such suit, claim or proceeding. Seller will have the right to conduct the defense of any such claim or action and, consistent with Buyer's rights hereunder, all negotiations for its settlement; provided, however, in no event will Seller enter into any settlement without Buyer's prior written consent, which will not be unreasonably withheld. Buyer may participate in such defense or negotiations through its own counsel to protect its interests. If any injunction or restraining order is issued, Seller will, at its expense, obtain for Buyer either the right to continue to make, use, offer to sell, sell or import the Goods or replace or modify the Goods to make them non-infringing.

16.2. All copyrightable material arising out of anything done pursuant to this Order shall constitute works made for hire. Seller hereby assigns such rights to Buyer and agrees without cost or expense to Buyer to take such further appropriate action to assign such rights.

16.3. Seller acknowledges and agrees that all right, title and interest in and to any Work Product (as defined below), except for Seller Retained IP Rights (as defined below), shall be the sole property of Buyer whether the services to be performed are completed or not. Seller hereby assigns to Buyer all of Seller's right, title and interest in and to the Work Product excluding the Seller Retained IP Rights. All Work Product and any reproductions thereof shall be surrendered to Buyer by Seller upon completion of the related portions of the services, or termination of this Order, whichever occurs first. All Work Product other than Seller Retained IP Rights may be used by Buyer without restriction and may not be used by Seller or its subsidiaries or its subcontractors, if any, without Buyer's prior written consent. All Seller Retained IP Rights shall remain the intellectual property of Seller; provided, however, Seller hereby grants a perpetual, worldwide, non-terminable, royalty free license to Buyer (and its successors and assigns) at no additional cost to Buyer to use the Seller Retained IP Rights for the purposes expressed in this Order or as is necessary for Buyer (or its successors and assigns) to use the goods and services provided under this Order. "Work Product" shall mean all tangible material, or its intangible equivalent in unwritten or oral form, created directly or indirectly in connection with or arising out of the Services and any of Seller's obligations hereunder, including, without limitation, all patent, copyright, trademark, trade secret and other proprietary rights and shall include without limitation all of the following, whether finished or not: drafts, documents, writings, communications, plans, data, estimates, calculations, test results, specimens, schematics, drawings, tracings, studies, specifications, surveys, photographs, software programs, programs, reports, orders, maps, models, agreements and all derivative works thereof, ideas, concepts, discoveries, inventions, patents, know-how, negative know-how and improvements. "Seller Retained IP Rights" shall mean any Work Product which (i) is proprietary to Seller (including for purposes hereof anything licensed to Seller by a third party), (ii) has been clearly identified to Buyer in writing as proprietary to Seller and not to be property of Buyer, and (iii) was not designed or otherwise created for Buyer.

17. Insurance. Seller will maintain the following insurance (with carriers rated at least A- VIII by A.M. Best): (i) Workers Compensation and Employer's Liability Insurance in accordance with the applicable laws of the state or states in which the Services are to be performed and Employer's Liability Insurance with limits not less than \$1,000,000 for any one accident; (ii) Commercial General Liability Insurance with limits of not less than \$2,000,000 per occurrence combined single limit; (iii) if automobiles are used in the provision of the Goods or Services, Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence combined single limit and; ; (iv) if Seller has access to Buyer's systems, Confidential Information or any Privacy Data, Technology Errors and Omissions or similar Professional Liability Insurance and Privacy or Cyber Liability Insurance in such amounts as may be determined by Buyer. The Commercial General Liability and Workers Compensation insurance shall include a waiver of subrogation against "Pacific Life Insurance Company and its affiliates, subsidiaries, directors, officers, employees and agents." Certificates of insurance listing the required coverages and any self-

insurance retentions maintained by Seller, both in a form acceptable to Buyer, with endorsements, shall be filed with Buyer upon execution of this Order (but no later than the initial provision of Services under this Order) and upon the renewal of such policies. Seller further will maintain such additional types and limits of insurance as is customary for a company of similar size and similar operations to Seller in the jurisdiction or jurisdictions in which Seller's operations take place and/or other insurance as Buyer may request.

18. Publicity. Seller shall not use or reference Buyer's trademarks in any solicitation, press release, announcement, promotion or sales marketing publication, advertisement, customer list, publication etc. without the prior written authorization of Buyer.

19. Records retention. Seller will keep records to validate invoices hereunder for a period of not less than seven (7) years from the date of the relevant invoice (or such longer period if required by law); provided that in the event Buyer provides written notice of the pendency of a tax or other regulatory proceeding requiring a longer retention period, Seller agrees to retain such information as necessary to accommodate such proceeding. Buyer reserves the right to audit all invoices and Seller shall afford reasonable access to all supporting documentation to enable Buyer to do so.

20. Compliance with Law. Seller is in compliance with and shall comply with all applicable laws, regulations, and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under the Order. Without limitation of the foregoing, Seller represents and warrants that it has provided no item of value to any of Buyer's employees or agents for the purpose of procuring the Order.

21. Waiver. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from the Order shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

#### 22.1 Confidential Information.

(a) In connection with this Order, Buyer may disclose or otherwise provide access to Seller, through observation or otherwise, Buyer's Confidential Information (defined below). Seller: (i) may not disclose Buyer's Confidential Information to third parties without prior written approval of Buyer; (ii) must restrict its use of Buyer's Confidential Information to the intended purpose of this Order; and (iii) must limit dissemination of Buyer's Confidential Information within its own organization to only those individuals who require disclosure for performance of their duties and who clearly understand the requirements of this Article. "**Buyer's Confidential Information**" shall mean all information, regardless of how communicated or stored, concerning Buyer, including without limitation confidential or proprietary information, trade secrets, data, drafts, documents, communications, plans, know-how, negative know-how, formulas, improvements, designs, estimates, calculations, results, specimens, schematics, drawings, tracings, studies, specifications, surveys, facilities, photographs, documentation, software, equipment, processes, programs, reports, orders, maps, models, agreements, ideas, methods, discoveries, inventions, patents, concepts, research, development, and business and financial information. Seller must return to Buyer all of the Buyer Information in tangible form, including without limitation all copies, translations, interpretations, derivative works and adaptations thereof, immediately upon request by Buyer. Neither Seller nor Seller's representatives or subcontractors may use the Buyer Information for the benefit of any person or party other than Buyer, or in furtherance of any work, services or project other than the services or projects for which Seller is engaged pursuant to this Order.

(b) To the extent Seller discloses to Buyer written information pertaining to its performance hereunder that Seller deems confidential, Seller must clearly mark such information "CONFIDENTIAL". Any such information provided by Seller that is clearly marked as "CONFIDENTIAL" shall constitute "**Seller's**

**Confidential Information**". With respect to Seller's Confidential Information, Buyer shall use good faith efforts to: (i) protect all such information from disclosure in violation of this Section and (ii) restrict the use of such information to the intended purpose of this Order. Buyer's Confidential Information and Seller Confidential Information shall be collectively referred to as "**the Parties' Confidential Information**."

(c) Upon termination of this Order, the receiving party shall either return within ten (10) business days all originals and copies of the Parties' Confidential Information received from the disclosing party or certify by appropriately authorized officer that all of such confidential information not returned to the disclosing party has been destroyed provided that if Buyer has requested any Buyer's Confidential Information to be returned to it then Seller shall return such information to Buyer in a reasonably secure manner.

(d) The obligations set forth in this Section 22.1 shall not apply to any portion of the Parties' Confidential Information which (i) is or later becomes generally available to the public by use, publication or the like, through no act or omission of the recipient hereunder of such, or (ii) the receiving party possessed prior to the effective date of this Order without being subject to an obligation to keep such confidential, or (iii) is independently developed by the receiving party without use of or reference to the other party's information. In the event the receiving party becomes legally compelled to disclose any confidential information of the disclosing party, the receiving party shall immediately provide the disclosing party with notice thereof prior to any disclosure, shall use its best efforts to minimize the extent of disclosure, and shall cooperate with the other party should such other party seek to obtain a protective order or other appropriate remedy. The obligations of this Section 22.1 with respect to the Parties' Confidential Information that constitutes a "trade secret" (as defined by applicable law) will survive the termination of this Order for so long as such confidential information remains a trade secret under applicable law, and (ii) with respect to other types of the Parties' Confidential Information, will survive the termination of this Order for a period of five (5) years from termination, or so long as required by applicable laws.

(e) Buyer has, or may have in the future, one or more agreements with third party business process outsourcing or service other providers (hereinafter, the "Third Party Providers") to provide certain information technology, networking, finance, audit, legal, procurement, consulting and other services to Buyer. Seller hereby authorizes Buyer to provide any such Third Party Providers access to this Order and any work orders, or similar documents governed by this Order, as well as to any products, deliverables and services delivered hereunder, provided that (1) such access is only to the extent necessary to enable the Third Party Provider to perform its work for Buyer; (2) the Third Party Provider is bound to Buyer by confidentiality obligations at least as stringent as those applicable to Buyer hereunder, and (3) the Third Party Providers have the right to anonymize and aggregate the Parties' Confidential Information, which may include Seller's Confidential Information, and use such anonymized and aggregated information for their own business purposes.

**22.2 Personal Data.** "Personal Data" is used to refer to NPI (defined below) as well as any information that identifies or is identifiable to any individual person, including but not limited to, information identifiable to Buyer's customers or employees provided by Buyer to Seller for the performance of Seller's obligations under this Order. In addition to other requirements under this Order, Seller will not provide Personal Data in any form to any third party without Buyer's prior written consent and Seller will remain fully responsible for any such disclosure.

**22.3 Use of Buyer Data.** "Buyer Data" is used to refer to both Buyer's Confidential Information and Personal Data (both defined above). Buyer Data will remain the property of Buyer. Seller acknowledges that Buyer maintains control over Buyer Data and will follow Buyer's instructions on the creation, processing, retention, amendment and deletion of Buyer Data. Seller represents that Buyer Data will not be: (i) retained or used by Seller other than as necessary in performing its obligations pursuant to

this Order; (ii) sold, assigned, or otherwise provided to third parties by Seller; or (iii) commercially exploited by or on behalf of Seller. Seller will, at its own expense, promptly correct all errors in and damage to Buyer Data and the reports delivered to Buyer if caused by Seller or employees, subcontractors or agents.

22.4 Data Security. Seller represents that it has developed, enforces and maintains appropriate technical, physical, organizational, administrative and/or logical security measures to protect any information it receives from Buyer or in connection with this Order including, but not limited to, Buyer Data against unauthorized access or disclosure, accidental or unlawful destruction, accidental loss, or alteration. Seller shall comply with all applicable data protection and privacy laws in connection with the fulfillment of Seller's tasks and obligations in providing Services or Goods to Buyer under this Order. Seller agrees to provide training in key laws and regulations to all Seller's employees, subcontractors or agents whose duties pursuant to this Order could bring them in contact with Personal Data. Seller will provide training records, on a periodic basis, that confirm to Buyer that such Seller's employees, subcontractors or agents have been adequately trained in the subject laws and regulations.

#### 22.5 Unauthorized Access to Buyer Data.

(a) Detection. Seller will maintain sufficient procedures to detect and respond to any unauthorized possession, disclosure, use, or other security breaches involving Buyer Data. In addition, Seller represents and warrants to Buyer that as of the effective date of this Order and throughout the term of the Order it has and will implement and maintain a written cybersecurity program with policies and procedures designed to protect against reasonably anticipated threats or hazards to the security, integrity, or confidentiality of Buyer Data and that the program is and will remain at a minimum compliant with applicable laws.

(b) Notification of Unauthorized Access. Seller will, as soon as reasonably practicable, but in no event more than seventy-two (72) hours, notify Buyer of any unauthorized or attempted possession, disclosure, use or knowledge of Buyer Data when it becomes aware of it, including any material breach or potential material breach of security, on a system, LAN or telecommunications network which contains or processes Buyer Data.

(c) Furnishing Details of Unauthorized Access. Seller will, as soon as reasonably practicable, furnish to Buyer full details of the unauthorized or attempted possession, disclosure, use or knowledge of Buyer Data, and use reasonable efforts to assist Buyer in investigating or preventing the recurrence of any unauthorized or attempted possession, use or knowledge, of Buyer Data.

(d) Cooperation. Seller will cooperate with Buyer to correct any unauthorized possession, disclosure, use, or other security breaches, and in any litigation and investigation deemed necessary by Buyer to protect Buyer's proprietary rights.

(e) Recurrence. Seller will use all reasonable efforts to prevent a recurrence of any unauthorized possession, use or knowledge of Buyer Data.

(f) Financial Liability. Seller acknowledges that it is financially responsible for, any investigation or action the Buyer determines is reasonably necessary as the result of such unauthorized access or disclosure or is subject to as the result thereof.

22.6 Unauthorized Access to NPI. Notwithstanding the above, if non-public personally identifiable financial and/or health information, as defined in federal and state law ("NPI"), should come into either Party's possession without the knowledge of the other Party, each Party agrees to immediately notify the other Party and return or destroy such NPI, according to the other Party's instructions, to keep such information confidential and to not further disclose such information. Each Party agrees that it will



immediately notify the other Party if it learns of any unauthorized disclosure by it of NPI to a third party and to cooperate in any reasonable investigation the other Party determines is reasonably necessary as the result of such disclosure. The Parties further agree to comply with all applicable federal, state and local laws pertaining to the treatment of NPI and breach of data security.

**22.7 Data Security Audit.** Seller grants Buyer the authority to conduct an assessment, audit, examination, or review of Seller's security controls to confirm Seller's adherence to the terms of this provision, as well as any applicable laws, regulations, and industry standards, not more than once per year or upon notification of any security incident or complaint regarding Seller's privacy and security practices. Buyer may elect to obtain the services of a mutually-agreeable third party to conduct this assessment, audit, examination, or review on behalf of Buyer. Buyer shall give Seller no less than thirty (30) calendar days' notice of its intent to conduct such assessment, audit, examination, or review. As part of this assessment, audit, examination, or review, Buyer may review all controls in Seller's physical and/or technical environment in relation to all Buyer Data being handled and/or hardware, software, or services being provided pursuant to this Order. Seller shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, application software, and systems relevant to the provision of hardware, software, or services under the Order.

**23. Force Majeure.** Neither party shall be liable to the other for any delay or failure in performing its obligations under the Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("**Force Majeure Event**"). Seller's economic hardship or changes in market conditions are not considered Force Majeure Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under the Order. If a Force Majeure Event prevents Seller from carrying out its obligations under the Order for a continuous period of more than ten (10) business days, Buyer may terminate this Order immediately by giving written notice to Seller.

**24. Assignment.** Seller shall not assign, transfer, delegate, or subcontract any of its rights or obligations under the Order without the prior written consent of Buyer, which may be withheld in Buyer's sole discretion. Buyer may, at its option, void any attempted assignment or delegation undertaken without Buyer's prior written consent. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. If Buyer consents to the use of a subcontractor, Seller will: (i) guarantee and will remain liable for the performance of all subcontracted obligations; (ii) indemnify Buyer for all damages and costs of any kind incurred by Buyer or any third party and caused by the acts and omissions of Buyer's subcontractors' and (iii) make all payments to its subcontractors. If Seller fails to timely pay a subcontractor for work performed, Buyer will have the right, but not the obligation, to pay the subcontractor and offset any amount due to Seller by any amount paid to the subcontractor. Seller will defend, indemnify and hold Buyer harmless for all damages and costs of any kind, including without limitation, incurred by Buyer and caused by Seller's failure to pay a subcontractor.

**25. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in the Order shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**26. Governing Law/Waiver of Jury Trial.** This Order shall be governed by and interpreted in accordance with the laws of the State of California, excluding any laws or principles regarding conflict or choice of laws. Buyer and Seller each irrevocably agrees that any legal action, suit, or proceeding in any way arising out of or in connection with this Order shall be submitted to the exclusive jurisdiction of

the state or federal courts of California. Buyer and Seller each waives, to the fullest extent it may effectively do so, any objection which it may now or hereafter have to the laying of venue of any such action, suit, or proceeding and irrevocably waives any right to claim or assert forum non-convenience and submits to the jurisdiction of such court in any suit, action or proceeding. Seller and Buyer agree to waive their right to have a jury participate in the resolution of a dispute arising out of the Order.

27. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a “**Notice**”) shall be in writing and addressed to the parties at the addresses set forth on the face of this Order. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), certified or registered mail (in each case, return receipt requested, postage prepaid), or by email if the parties have provided a preferred email address for Notices.

28. Severability. If any term or provision of this Order is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or render unenforceable such term or provision.

29. Survival. Provisions of this Order which by their nature should survive beyond the expiration or earlier termination of this Order will remain in force after such expiration or earlier including, but not limited to, the following provisions: Representations and Warranties, , Limitation of Liability, Confidential Information and Survival.

30. Remedy. All Buyer remedies set forth in this Order are in addition to, and will in no way limit, any other rights and remedies that may be available to Buyer at law or in equity.

31. Termination. Buyer may at any time terminate this Order or any part hereof for its sole convenience by delivering to Seller a notice of termination specifying the extent of termination and the effective date. In the event of such termination, Seller shall immediately stop all work and shall immediately cause its suppliers and/or subcontractors to cease such work. Buyer shall pay Seller for any accepted and conforming Goods and/or Services provided prior to the effective date of termination unless such payment is prohibited by law or subject to any applicable set-off right; provided, however, that Buyer will not be obligated to pay any more than the payment that would Buyer become due had (a) Seller completed full performance and (b) Buyer accepted the Goods and/or Services. Seller shall continue to provide all Goods and Services not terminated.

32. Gifts and Gratuities. Seller acknowledges that it is Buyer’s policy that Buyer’s employees and their family members not offer, give, seek or accept any gifts or gratuities beyond common courtesies consistent with ethical business practices to or from any one with whom Buyer has any business dealings. If Seller learns of any violation of this policy in connection with any business dealings with Buyer, Seller shall promptly notify Buyer’s Chief Compliance Officer at 700 Newport Center Drive, Newport Beach, CA 92660.

33. Travel and Expense Reimbursement. Buyer will not reimburse for travel and expenses associated with the Services unless expressly agreed in writing and, in that case, any such reimbursement is subject to the limitations and restrictions established by Buyer (which shall be provided to Seller if Buyer agrees to travel and/or expense reimbursement).

34. Embedded Software. To the extent software is included with or embedded in hardware purchased by Buyer, Seller grants to Buyer a non-exclusive, worldwide, perpetual (without regard to any termination or expiration of the Order), irrevocable, fully paid, royalty-free license to use the software as included with or embedded in the hardware.

35. Limitation of Liability.

NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. Notwithstanding the foregoing, the limitations of liability set forth in the preceding sentence will not apply to damages or losses in connection with: (a) death, personal injury or property damage caused by Seller or Seller's employees, subcontractors or agents; (b) fraud, negligence or the willful or reckless misconduct of Seller, its subcontractors, employees or agents; (c) Seller's breach of the confidentiality, data security, and privacy provisions under this Order or another agreement between the parties to which this Order is subject; or (d) claims pursuant to the indemnification provisions set forth in Section 13.

36 Third Party Due Diligence Processes. Seller acknowledges that Buyer has processes in place to qualify and monitor third party vendors such as Seller. Through these review processes Seller may be asked to provide information about their business and practices, including, but not limited to, information about their data security policies and procedures. Seller hereby acknowledges this process and agrees to provide commercially reasonable responses to any requests made by Buyer to Seller within a reasonable time, but in no case to exceed 15 days from the date of the request. Seller agrees that if it fails to provide initial responses or any follow-up responses it maybe found in breach of this Order.

37 Non-Discrimination Policy. Seller acknowledges and agrees to comply with Buyer's policy of maintaining a business environment free of all forms of discrimination, including sexual harassment. Seller warrants that it has a similar policy and that it shall not discriminate against qualified individuals based on their status as protected veterans or individuals with disabilities, and shall prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, Seller shall take appropriate affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.