

**GSC/T-71**  
**NORTHROP GRUMMAN SYSTEMS CORPORATION**

**PURCHASE ORDER TERMS AND CONDITIONS**  
**SOFTWARE LICENSE AGREEMENT WITH SOURCE CODE ESCROW**

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**1. DEFINITIONS AND ACCEPTANCE OF ORDER.**

- A. “Customer,” “Buyer,” “Licensee” or “Lessee” means the entity name listed on the Purchase Order/Subcontract. “Licensor,” “Seller” or “Lessor” means the party with whom the Customer is contracting. The term “Purchase Order” means the name or title of the instrument of contracting, including all documents, exhibits and attachments referenced thereon.
- B. This Order constitutes Customer’s offer. Acceptance is expressly limited to the terms of the Order and Customer hereby objects to any additional or different terms in the acceptance. This Order is accepted as written by executing the Acknowledgement or Acceptance copy of the Order, or by beginning performance.
- C. No modification of this Order (including any additional terms or different terms contained in the acceptance) shall be binding on Customer unless agreed to in writing and signed by Customer’s duly authorized Purchase Representative.
- D. PARTY/PARTIES mean Buyer and Seller collectively
- E. PERSONNEL, for the purposes of the Privacy, Confidentiality and Security clause of this contract, means employees, agents, consultants or

- contractors of Seller or Northrop Grumman, as applicable
- F. PERSONAL INFORMATION, is any information relating to an identified or identifiable natural person (such as name, postal address, email address, telephone number, date of birth, Social Security number (or its equivalent), driver’s license number, account number, credit or debit card number, personal identification number, health or medical information, or any other unique identifier or one or more factors specific to the individual’s physical, physiological, mental, economic or social identity), whether such data is in individual or aggregate form and regardless of the media in which it is contained, that may be (i) disclosed at any time to Supplier or its Personnel by Northrop Grumman or its Personnel in anticipation of, in connection with or incidental to the performance of services for or on behalf of Northrop Grumman; (ii) Processed at any time by Supplier or its Personnel in connection with or incidental to the performance of services for or on behalf of Northrop Grumman; or (iii) derived by Supplier or its Personnel from the information described in (i) or (ii) above.
- G. PROCESS or PROCESSING means any operation or set of operations performed upon Personal

Information, whether or not by automatic means, such as creating, collecting, procuring, obtaining, accessing, recording, organizing, storing, adapting, altering, retrieving, consulting, using, disclosing or destroying the data.

**2. ESCROW AND MODIFICATION OF SOURCE CODE.**

Concurrent with delivery of the Software hereunder, Licensor shall place a copy of the source code for the Software into escrow pursuant to any Escrow Agreement executed by the parties and which may be appended hereto. Licensor shall improve, add to, or otherwise modify the source code prior to or at the time any modifications of the Software are available to any of Licensor's customers

**3. RESERVED**

**4. DELIVERY AND INSTALLATION; MODIFICATION OF SOFTWARE.**

Licensor shall deliver the software at the time, place and order of delivery as described in the Purchase Order. Licensor shall install the software and provide necessary support services, including training, at no additional charge. Licensor shall notify the Customer that the program is ready for acceptance testing no later than the date set forth in the Purchase Order. Licensor shall improve, add to, or otherwise modify the Software and the source code prior to or at the same time any modifications of the same are available to any of Licensor's customers.

**5. RESERVED**

**6. PAYMENT SCHEDULE; FEES AND CHARGES.**

A. Following successful completion of the acceptance tests, Customer shall pay Licensor the fees and charges specified in the Purchase Order hereto contingent upon Licensor's satisfactory performance of its obligations under this Agreement up to and including the day upon which such payment becomes due.

B. Invoices, once each month (or as may be otherwise agreed), Licensor shall submit to Customer, an invoice for each payment provided for in the Agreement. Payment of invoices shall not constitute approval or acceptance of services rendered. At any time prior to final payment under this Agreement, Customer may have the invoices audited as to validity. Payment of Licensor's invoices shall be subject to adjustment for any amounts subsequently found upon audit or otherwise to have been improperly invoiced.

C. Unless otherwise specified in the Purchase Order, Buyer's Invoice Instructions are incorporated herein and available on Buyer's On-line Automated Supplier Information System (OASIS): <http://www.northropgrumman.com/suppliers/OASISDocuments/InvoiceInstructions.pdf>

**7. RESERVED**

**8. ACCEPTANCE TESTING.**

A. Commencement of Acceptance Tests; Acceptance Date. Within five (5) business days of Licensor's

notification to Customer that the program has been installed and Customer's personnel have been trained to permit them to begin acceptance testing. Customer shall commence performing the acceptance tests pursuant to the procedures, criteria and descriptions set forth in the Purchase Order and shall complete such tests as quickly as practicable. Such acceptance tests shall be conducted on Customer's site and equipment in order to determine whether the Software can be effectively utilized in Customer's operating Business environment, is capable of running on a variety of data without failure, and meets the run times required by Customer. If and when, in Customer's sole discretion, the acceptance tests establish that the Software is performing satisfactorily, Customer shall sign an acceptance certificate and the date of execution of such certificate shall be the date on which the term of this Agreement shall begin hereafter, the ("Acceptance Date").

B. Failure of Acceptance Test; Retesting. If, in Customer's sole discretion, Customer determines that the Software has not successfully completed the acceptance test, Customer shall promptly notify Licensor in writing (hereafter, "first notice of failure") and shall specify with as much detail as possible in which respects the Software failed to pass the acceptance test. At Customer's option, Customer can either terminate the Agreement at that point (in which case the provisions of subsection C of this section shall apply) or request Licensor to make such necessary corrections and modifications in the Software as will permit the Software to be ready for retesting no later than ten (10) business days from the date of receipt of Customer's first notice of failure. Licensor shall notify Customer when such corrections and modifications have been made, and Customer shall commence retesting the Software and complete such retesting as quickly as possible. If, in Customer's sole discretion, the Software still fails to pass the acceptance test, Customer shall promptly notify Licensor in writing, and shall have the right, at its option, to terminate the Agreement by giving written notice of such termination to Licensor.

C. Customer's Rights upon Termination after Failure of First or Second Acceptance Tests. Upon Customer's termination of this Agreement after failure of the acceptance tests, Customer shall promptly return the Software and associated documentation and materials to Licensor at Licensor's expense and shall have the right, for failure of the Software to pass the acceptance tests, to receive prompt reimbursement of all payments made to Licensor under this Agreement

**9. RESERVED**

## 10. WARRANTIES.

- A. Software and Services. Licensor warrants that on the Acceptance Date the Software furnished hereunder shall be free from programming errors and from defects in workmanship and materials and shall operate in conformity with the performance capabilities, specifications, functions and other descriptions and standards applicable thereto as set forth in the Purchase Order; that the services shall be performed in a timely and professional manner by qualified professional personnel; and that the services and Software shall conform to the standards generally observed in the industry for similar services and Software. This warranty shall not be affected by Customer's modifications of the Software (including source code) as long as Licensor can discharge any warranty obligations notwithstanding such modifications or following removal of such modifications by Customer.
- B. Ownership; Authority. Licensor warrants that it has full power and authority to grant the rights set forth in this Agreement to Customer with respect to the Software without the consent of any other person; and that neither the performance of the services by Licensor nor the license to use and the use by Customer of the Software and documentation (including the copying thereof) will in any way constitute an infringement or other violation of any copyright, trade secret, trademark, patent, invention, proprietary information, nondisclosure or other rights of any third party.

## 11. CHANGES.

Customer may at any time, in a written directive or order, make reasonable changes within the general scope of this Agreement in any one or more of the following: (A) definition of services to be performed, (B) Software ordered and (C) schedule of and place of performance. If any such change requires an increase or decrease in the cost of or in the time required for the performance of any part of the services under this Agreement, whether changed or not changed by any such Agreement, or otherwise affects any other provision of this Agreement, an equitable adjustment shall be made in the (1) price, (2) performance schedule and (3) in such other provisions of this Agreement as may be so affected, and this Agreement shall be changed or modified in writing accordingly. Any claim by Licensor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by Licensor of such written order or within such further time as may at any time be agreed upon in writing by the parties; provided, however, that Customer, if it decides that the facts justify such action, may receive and act upon any such claim at any time prior to final payment under this Agreement. Where the cost of Software or property made obsolete or excess as a result of a change is included in Licensor's claim for

adjustment, Customer shall have the right to prescribe the manner of disposition of such Software or property. Failure of the parties to agree upon any adjustment to be made under this clause shall not excuse the Licensor from proceeding with this Agreement as changed.

## 12. RESERVED

## 13. DISPUTES.

Either party may litigate any dispute arising under or relating to this order. Such litigation shall be state or federal district court in Los Angeles County. Pending resolution of any such dispute by settlement or by final judgment, the parties shall proceed diligently with performance

## 14. TERMINATION/CANCELLATION.

- A. Termination-Convenience. The performance of services under this Agreement may be terminated, in whole or in part, by Customer for Customer's convenience at any time and for any reason on Customer giving written termination notice to Licensor and shall pay to Licensor termination charges computed in the following manner; (1) a sum computed and substantiated in accordance with standard accounting practices for those reasonable costs incurred by Licensor prior to the date of termination for completed work, work in process, materials directly related to the Agreement, for orderly phase out of performance as requested by Customer in order to minimize the costs of the termination and for preparation and settlement of Licensor's termination claim and (2) a reasonable profit on such work performed; provided, however, that Customer shall not be liable to Licensor for any costs which would not have been charged had the Agreement not been terminated nor for any sum in excess of the total price stated in the Agreement for the terminated Software.
- B. Cancellation-Default. Except in the case of delay or failure resulting from circumstances beyond the control and without the fault or negligence of Licensor or of its suppliers or subcontractors, Customer shall be entitled, by written cancellation notice to Licensor, to cancel the whole or any part of this Agreement for default, without granting an extension of time, and to have all other rights against Licensor by reason of Licensor's default as provided by law. If it be found that Licensor was not in default, the rights and obligations of the parties shall be the same as if a Notice of Cancellation had been issued pursuant to Clause 13.A above, Termination-Convenience.
- C. Other. By written notice to Licensor, Customer may cancel the whole or part of this Agreement in the event of suspension of Licensor's business, insolvency of Licensor, institution of bankruptcy, reorganization, arrangement, liquidation proceedings by or against Licensor or proceedings for the benefit of creditors or for any failure by

Licensor to provide adequate assurances (as provided for in Uniform Commercial Code, section 2-609) of its ability or willingness to perform its obligations under this Agreement. Such cancellation shall be deemed “for default” in accordance with paragraph B. of this Termination /Cancellation clause and the rights and obligations of the parties shall be determined as therein provided.

- D. Licensor shall also be deemed in default if the Software program continues to exhibit defects causing serious disruption of use and/or repeated periods of downtime, notwithstanding Licensor’s remedial or maintenance efforts, over a continuous period of three months or more.
- E. Maintenance Termination. Customer may immediately terminate this Agreement upon termination or breach of any maintenance agreement between Licensor and Customer.
- F. Rights and Obligations of the Parties on Termination. In the event that this Agreement is terminated, each party shall forthwith return to the other all papers, materials, and other properties of the other party then in its possession or certify to the destruction of same.
- G. Refund of Payments after Acceptance. The Licensor shall, upon termination by Customer due to default after acceptance of the Software, return payments it received for the Software and the services according to the following schedule. The refund of monies paid hereunder shall not be deemed the exclusive remedy of Customer in the event of a default or breach of this Agreement by Licensor.

| Termination Date,                   | Percentage of License Fee to be Refunded |
|-------------------------------------|--|
| After Acceptance less than 6 months | 90%                                      |
| within 6–12 months                  | 75%                                      |
| within 13–24 months                 | 50%                                      |
| within 25–36 months                 | 25%                                      |
| within 37–48 months                 | 10%                                      |
| more than 48 months                 | 0%                                       |

**15. LICENSOR’S FULFILLMENT OF WARRANTY OBLIGATIONS.**

If at any time during the 12-month period immediately following the Acceptance Date Licensor or Customer shall discover one or more defects or errors in the Software or any other respect in which the Software fails to conform to the provisions of any warranty contained in this Agreement, Licensor shall, entirely at its own expense, promptly correct each such defect, error or nonconformity by, among other things, supplying Customer with such corrective codes and making such additions, modifications, or adjustments to the package as may be necessary to keep the Software

in operating order in conformity with the warranties herein.

**16. COPIES OF SOFTWARE.**

Customer shall have the right to reproduce all of the Software and documentation described in the Purchase Order hereto for its internal use, subject to the restrictions on use and disclosure set forth herein and any exceptions to this provision stated in the Purchase Order hereto. In addition, Customer shall have the unrestricted right to transfer this Agreement to any affiliate or subsidiary of Customer without additional fee.

**17. RESERVED**

**18. INSPECTION.**

If this License is to be performed on premises under Licensor’s control, Customer shall, at all reasonable times during the period of performance, have access to and the right to inspect all services being performed under this Agreement.

**19. IMPROVEMENTS AND OTHER MODIFICATIONS.**

- A. Improvements. Improvements in the Software (which shall mean any additions or modifications made by the Licensor to or in the Software at any time after the acceptance test) which improve the efficiency and effectiveness of the basic program function(s) described in the Purchase Order shall be furnished to the Customer at no charge.
- B. Program Changes. If, at any time after the Acceptance Date, Licensor shall develop any changes in the Software which significantly changes the basic program functions of the Software or add one or more new ones, Customer shall have the right to obtain such program changes at the lesser of (1) Licensor’s standard prices then in effect for installing such changes, or (2) the difference between the then current price of the Software including such changes and the applicable fees and charges for the Software reflected herein. An applicable site or multiple copy discounts shall also apply.

**20. TAXES.**

All prices herein, unless otherwise provided, include all applicable Federal, state and local taxes as may be assessed against Licensor except those sales or use taxes required by law to be paid by Licensee.

**21. DELEGATION AND ASSIGNMENT.**

No delegation of any duties under this Agreement shall be binding upon Customer until its written consent thereto has been obtained. Licensor is requested to inform Customer in writing prior to any assignments of rights to monies due or to become due under this Agreement.

**22. SUBCONTRACTING.**

A. Seller shall not subcontract without the prior written authorization of Buyer for the performance of any service to be provided hereunder, and Seller shall require a like agreement from any immediate and lower-tier suppliers. This is not a restriction on

authorized distributors, dealers, jobbers or industrial suppliers.

- B. No subcontract placed under this Order shall provide for payment on a cost- plus-percentage-of cost basis, and any fee payable under cost-reimbursement subcontract shall not exceed the fee limitations in subsection 15.404-4(c) of the Federal Acquisition Regulation (FAR)
- C. Any subcontract awarded to a foreign person, as defined in the International Traffic in Arms Regulations or the Export Administration Regulations, must comply with the Export and Import Compliance clause herein.

**23.-26. RESERVED**

**27. PERFORMANCE DELAY.**

Time is of the essence in the Licensor's performance of this Agreement. If at any time it appears to Licensor that it may not meet any of the performance schedules or the scheduled completion date of the services to be performed for any reason, including labor disputes, Licensor shall immediately by verbal means (to be confirmed in writing) notify customer of the reasons for the estimated duration of such delay. If requested by Customer, Licensor shall make every effort to avoid or minimize the delay to the maximum extent possible including the expenditure of premium time. Any additional cost caused by these requirements of Customer shall be borne by Licensor, unless the delay in performance arises out of causes beyond the control and without the fault or negligence of Licensor or its subcontractors within the meaning of the Cancellation-Default clause herein. The foregoing requirements are in addition to any of Customer's other rights and remedies as may be provided by law or this Agreement.

**28. COMPLIANCE WITH LAWS.**

Seller warrants that it shall comply with all applicable federal, state, or local laws, rules, and regulations in the performance of this Agreement. Seller shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin and warrants compliance with Section 508 of the Rehabilitation Act. Where applicable, the Supplier agrees to provide products and services which are Section 508 compliant and agrees to provide a Voluntary Product Accessibility Template® (VPAT®) to Customer Representatives, if requested.

**29. GOVERNING LAW.**

This Order and any dispute arising hereunder shall be governed by the substantive and procedural laws of the State of California, except, however, that California's Choice of Law provisions shall not apply.

**30.-31. RESERVED**

**32. EXPORT AND IMPORT**

This provision may not be modified or amended by any addendum, exhibit, attachment, or any other agreement without prior written approval from Northrop Grumman Law Department (Export/Import).

**A. Export Compliance.**

General. Performance of this Order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States

Code 2751 – 2799 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations or "ITAR") or 50 United States Code 2401-2420 (Export Administration Act of 1979, as amended), 50 United States Code 1701-1706, (International Emergency Economic Powers Act, as amended), and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations (collectively hereinafter referred to as the "Export Laws and Regulations"). Seller represents and warrants that it is either 1) a U.S. Person as that term is defined in the Export Laws and Regulations, or 2) a Foreign Person as that term is defined in the Export Laws and Regulations and has disclosed to Buyer's Representative in writing the country in which it is incorporated/authorized/organized to do business, and all nationalities of any dual or third-country national employees who will require access to the data, articles or services provided hereunder. Seller shall comply with any and all Export Laws and Regulations, and any license(s) issued there under.

- 1. Registration. If Seller is a U.S. entity and is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, Seller represents that it is registered with the U.S. Department of State's Directorate of Defense Trade Controls, as required by the ITAR, and it maintains an effective export and import compliance program in accordance with the ITAR.
- 2. Foreign Persons. Seller shall not re-transfer any export-controlled information (e.g. technical data or software) to any other non-US person or entity (including the Seller's dual and/or third-country national employees) without first complying with all the requirements of the applicable Export Laws and Regulations. Prior to any proposed re-transfer, Seller shall first obtain the written consent of the Buyer. No consent granted by Buyer in response to Seller's request shall relieve Seller of its obligations to comply with the provisions of paragraph A. of this Clause or the Export Laws and Regulations, nor shall any such consent constitute a waiver of the requirements of paragraph A. hereinabove, nor constitute consent for Seller to violate any provision of the Export Laws and Regulations.

**B. Political Contributions, Fees and Commissions.**

If this Purchase Order is valued in an amount of \$500,000 or more, then in performance of this Purchase Order, Seller shall not directly or indirectly pay, offer or agree to pay any political contributions or any fees or commissions.

For purposes of this section and pursuant to 22 CFR 130.6, political contribution means any loan, gift, donation or other payment of \$1,000 or more made, or offered or agreed to be made, directly or indirectly, whether in cash or in kind, which is:

- 1) To or for the benefit of, or at the direction of, any non-U.S. candidate,

committee, political party, political faction, or government or governmental subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof; and

- 2) For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a non-U.S. country or international organization. Taxes, customs duties, license fees, and other charges required to be paid by applicable law or regulation are not regarded as political contributions.

For purposes of this section and pursuant to 22 CFR 130.5, fee or commission means any loan, gift, donation or other payment of \$1,000 or more made, or offered or agreed to be made directly or indirectly, whether in cash or in kind, and whether or not pursuant to a written contract, which is:

- (1) To or at the direction of any person, irrespective of nationality, whether or not employed by or affiliated with the Seller; and
- (2) For the solicitation or promotion or otherwise to secure the conclusion of a sale of defense articles or defense services to or for the use of the armed forces of a non-U.S. country or international organization.

C. Import Compliance.

Both parties shall comply with all U.S. Customs laws and regulations (*e.g.*, 19 CFR) and all other applicable U.S. government regulations pertaining to importations of goods and materials into the United States.

For International Purchase Orders (Purchase orders issued to entities addressed in foreign countries): Specifically, without excluding other regulations, Seller shall comply with and adhere to the commercial invoice requirements detailed in 19 CFR 141 subpart F of the regulations, and provide additional information as requested by the Buyer. Seller shall immediately upon discovery, notify Buyer of any change to the shipment data related to product valuation, quantities shipped, country of origin, port of export and any additional information directed by the Buyer. Seller will timely provide pre-alert shipping information and documentation prior to shipment arrival to the U.S. Buyer will direct Seller where to send pre-alert shipping information and documentation. Pre-alert shipping documentation includes, but is not limited to, a commercial invoice, airway bill, bill of lading, and other required documentation as directed by U.S. regulations and Buyer.

For Domestic Purchase Orders (Purchase orders issued to entities addressed in the United States): Seller shall assume all U.S. import responsibilities, to include designation as U.S. Importer of Record, Customs clearance, duty, taxes, and fees for goods entering into the United States. Unless otherwise

agreed in writing, NGC will not assume any import liabilities for goods procured through a domestic purchase order.

D. Indemnification.

Seller shall indemnify and save harmless Buyer from and against any and all damages, liabilities, penalties, fines, costs, and expenses, including attorneys fees, arising out of claims, suit, allegations or charges of Seller's failure to comply with the provisions of this Clause and breach of the warranty set forth in paragraph A or C. Any failure of Seller to comply with the requirements or any breach of the warranty contained in this Clause shall be a material breach of this Order.

E. Subcontracts.

The substance of this Clause shall be incorporated into any lower-tier subcontract or purchase order entered into by the Seller for the performance of any part of the work under this Order.

F. Notification.

Seller agrees to provide prompt notification to Buyer in the event of changes in circumstances such as ineligibility to contract with US Government, debarment, assignment of consent agreement, and initiation or existence of a US Government investigation, that could affect Seller's performance under this contract. Seller further agrees to provide prompt notification to Buyer should any offer, agreement or payment of political contributions, fees or commissions (as defined herein and pursuant to this Order) be made in contravention of the prohibition in Section B.

**33. RESERVED**

**34. CLEARANCE OF MATERIALS INTENDED FOR PUBLIC RELEASE.**

No news release, including photographs and films, advertisement, public announcement, denial or confirmation of same, or any part of the subject matter of this Agreement or any phase of any program hereunder shall be made without prior written approval of both parties.

**35-38. RESERVED**

**39. WAIVER.**

No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented.

**40. COMPLETE AGREEMENT.**

This Agreement, together with the Purchase Order and all appendices or other attachments referenced herein, constitutes the entire agreement between Licensor and Customer and supersedes all proposals, oral and written, between the parties on this subject.

**41. RESERVED**

**42. ANTI-CORRUPTION COMPLIANCE**

Seller represents, warrants and covenants that:

- A. It has not and will not, directly or indirectly, pay, promise, offer, or authorize the payment of any money or anything of value to:

1. an officer, employee, agent or representative of any government, including any department,

agency, or instrumentality thereof or any person acting in an official capacity thereof;  
2. a candidate for political office, any political party or any official of a political party; or  
3. any other person or entity while knowing or having reason to know that all or any portion of such payment or thing of value will be offered, given or promised, directly or indirectly, to any person or entity for the purpose of assisting Buyer in obtaining or retaining business, or an improper business advantage.

Without limiting the generality of the foregoing, Seller shall not directly or indirectly, pay, promise, offer, or authorize the payment of any facilitating payment intended to expedite or secure performance of a routine governmental action, such as, customs clearance on behalf of Buyer.

B. No gift, travel expenses, business courtesies, hospitalities or entertainment of any nature has been or will be accepted or made in connection with this agreement where the intent of was, or is, to unlawfully influence the recipient of the gift, travel expense, business courtesy, hospitality or entertainment. Seller also represents that any gifts, travel expenses, business courtesies, hospitalities or entertainment offered or provided shall meet the following conditions:

1. be permitted under the U.S. FCPA and the laws and regulations of the country in which this agreement will be performed;
2. be consistent with applicable social and ethical standards and accepted business practices;
3. be of such limited value as not to be deemed a bribe, payoff or any other form of improper inducement or payment; and
4. be of such nature that its disclosure will not cause embarrassment for the Buyer.

C. Breach of any of the foregoing provisions of parts A and B of this clause by Seller shall be considered an irreparable material breach of this agreement and shall entitle the Buyer to terminate this agreement immediately without compensation to Seller.

#### **42. PROHIBITED ACTIVITIES AND CONTACTS**

A. Activity Prohibitions For Sellers delivering goods or performing services outside of the United States, unless specifically authorized in writing by Buyer, Seller shall not engage in any of the following activities on behalf of the Buyer under this agreement: acting as an agent of the Buyer; marketing or sales promotion; lobbying; freight forwarding; consulting services; performing offset (industrial participation) consulting or brokering services; acting as a distributor or reseller; or activity as a joint venture party.

B. Contact Prohibitions For Sellers delivering goods or performing outside of the United States, unless specifically authorized in writing by Buyer, Seller shall not contact, either directly or indirectly, public officials of any country other than the United States, United Kingdom, Canada, Australia, Germany, France, or Italy in furtherance of its performance on behalf of Buyer under this agreement.

#### **44. ANTI-TRAFFICKING IN PERSONS**

A. Buyer prohibits its employees, agents, subcontractors, and contract labor from engaging in activities that

support or promote trafficking in persons, including, but not limited to, any of the following:

- 1) Trafficking in persons, including, but not limited to the following:
    - a. sex trafficking, or
    - b. the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, debt bondage, or slavery.
  - 2) The procurement of a commercial sex act.
  - 3) The use of forced labor in the performance of company business.
  - 4) The use of misleading or fraudulent recruitment activities
  - 5) Charging employees recruitment fees
  - 6) Failing to pay for the return transportation at the end of employment for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working.
  - 7) Providing or arranging housing that fails to meet the host country housing and safety standards.
  - 8) If required, failing to provide an employment contract, recruitment agreement, or similar work document in writing, in the individual's native language and prior to the individual departing from his or her country of origin.
- B. Seller represents and warrants that it shall abide by and comply with the requirements of this clause. Further, Seller shall require its employees, agents, contract labor and subcontractors performing in connection with this Order to abide by and comply with the requirements of this clause.
- C. Buyer or its authorized representatives may, at any time, audit all pertinent books, records, work sites, offices, and documentation of Seller in order to verify compliance with this clause. Seller will, in all of its lower-tier subcontracts and contracts relating to any Buyer Order, include provisions which secure for Buyer all of the rights and protections provided for within this clause, including this audit paragraph.
- D. Seller acknowledges that if Seller or any of its employees, agents, or contract labor engages in any of the prohibited activities in this clause, this Order is subject to termination.
- E. Whenever Seller has knowledge, whether substantiated or not, that any actual or suspected violation of this clause has occurred, Seller shall immediately give written notice to Buyer and provide all relevant information including, but not limited to, the nature of the actual or suspected violation. Written notice shall be provided to the Buyer's Authorized Representative, as described in the Order.
- F. Seller shall provide its full cooperation during any subsequent investigation of the actual or suspected violation by Buyer, Buyer's representative, or cognizant government agency. Seller's cooperation shall include, but not be limited to, permitting inspection of its work sites, offices, and documentation, as necessary to support any investigation.

- G. Seller shall, at its own expense, defend, indemnify and hold harmless Buyer and its affiliates, and all of their officers, agents, employees, successors and assigns, against any claims, loss, damage or expense, regardless of how arising and even if unforeseeable, including, without limitation, payment of direct, special, incidental and consequential damages and attorney's fees, arising out of, or relating to, Seller's or Seller's employees, agents, subcontractors or contract labor's failure to comply with the requirements of this clause.
- H. Seller agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract or labor contract.

**45. RESERVED**

**46. PATENT, TRADEMARK, AND COPYRIGHT INDEMNITY.**

Seller shall defend, indemnify, and hold Buyer, Buyer's officers, agents, employees, and customers harmless against all claims and liabilities, including costs, for infringement of any United States patent, trademark, or copyright by any Products delivered under this Order or, at Seller's option and expense, Seller shall obtain such licenses as are necessary to remove such infringement, provided that Seller is reasonably notified of such claims and liabilities. Seller's obligation shall not apply to Products manufactured by Seller pursuant to detailed designs developed by Buyer and furnished to Seller under an Order which does not require research, development, or design work by Seller. Seller's obligation shall also not apply to any infringement arising from the use or sale of Products in combination with items not delivered by Seller if such infringement would not have occurred from the use or sale of such Products solely for the purpose for which they were designed or sold to Buyer. Seller's obligation shall extend to the U.S. Government only if and to the extent Buyer has agreed to indemnify the U.S. Government.

**47.-52. RESERVED**

**53. SOFTWARE LICENSED; SERVICES; TERM.**

Licensor hereby grants Customer a nonexclusive and perpetual license to use the Software described in the Purchase Order, consisting of the object code(s) and related documentation under each program element thereof. Licensor also grants to Customer a license described in the Purchase Order, subject to the terms of this Agreement; provided however, that Customer shall have complied fully with the terms of the Escrow Agreement, appended hereto and made a part hereof, prior to receiving such source code and documentation from the Escrow Agent. The Software licensed shall include in its meaning, in addition to the description contained in the Purchase Order, any improvements, additions, or modifications of the version or versions of the Software which Licensor has licensed Customer to use and materials related thereto and all materials, documentation, and technical information provided to Customer in written form and identified in the Purchase Order for use in connection with the Software. Licensor further agrees to perform certain services relating to the Software as set forth herein or in the Purchase Order.

**54-65. RESERVED**

**66. NOTICES.**

Any notice or other communication hereunder shall be in writing.

**67-71. RESERVED**

**72. PRICE PROTECTION.**

The fees and charges specified herein are the total fees and charges for the services and will not be increased during the term of this Agreement except as the parties may agree in writing. Licensor represents that the price stated for services performed hereunder is at least as favorable as that charged to any other customer for the same or similar services. Any renewal of this Agreement shall be at a fee or charge which shall be the lower of (a) then prevailing prices of the Customer; or (b) the fees and charges of the previous term, increased by not more than 10 percent.

**73-78. RESERVED**

**79. SEVERABILITY.**

Any invalidity, in whole or in part, of any provision of this agreement shall not affect the validity of any other part or provision of this Agreement.

**80. RESPONSE TO AUDIT.**

Buyer shall not be prohibited from providing copies of the purchase order to federal and state taxing agencies as requested by either Buyer's or government auditors to comply with auditing procedures.

**81. DIVESTITURES - IT PRODUCTS & SERVICES.**

A. Upon Buyer's divestiture of any affiliate, division, business unit, line of business or sector ("divested entity"), Buyer may assign in whole or in part the software and/or maintenance services that are the subject of this order to that divested entity. Upon execution of an assignment, Buyer shall have no further rights or obligations with respect to the assigned licenses and/or services (with the exception of any unpaid license and/or maintenance service fees which remain due on the effective date of such assignment) and the divested entity shall become the "customer" of record for those assigned licenses and/or services. Any such assignment or other transfer of licenses to the software and/or maintenance services made to a third party will be subject to the prior written consent of Seller/licensor which consent will not be unreasonably withheld or delayed.

B. Divested entities will have the right, for a period of twelve (12) months post-divestiture, to continue to purchase the software products and/or maintenance services covered under this order, or Buyer may purchase such licenses under this order on behalf of the divested entities. If a divested entity wishes to order from Seller directly, Seller reserves the right to require such divested entity to provide financial information sufficient to determine creditworthiness before accepting any orders.

C. For software. In the event of a divestiture, Buyer shall be permitted to use the software products to provide managed services for the divested entity during a period of transition, provided that Buyer's use in such case is only for the divested entity. Once the transition period ceases, Buyer shall assign the licenses to the divested entity as provided in the "divestiture" provision in this purchase order.

D. Buyer shall have the unrestricted right to transfer the software license(s) to its parent and/or any subsidiary or affiliate of Buyer upon written notification to

Seller/licensor of such transfer without payment of additional costs or fees provided that the number of licenses transferred does not exceed the Buyers total licensed count. In each such instance, Buyer shall inform Seller/licensor of the transfer, and shall provide details on the name and address of assignee, including which products (and how many licenses of each) are being transferred.

**82. MERGERS AND ACQUISITIONS - IT PRODUCTS/SERVICES.**

- A. If Buyer merges with or acquires entities that have existing licensed software, the merged, or acquired entity's licenses will terminate upon completion of the acquisition or merger and the merger/acquired entity's licenses will be combined with Buyer's existing licenses of the same license type under the terms of this purchase order, provided that Buyer and the merged/acquired entity are both current on maintenance and there are no outstanding receivables against either account. There shall be no transfer fee for combining the licenses, provided; however, that Buyer will true up the merged or acquired licenses to match Buyer's software configuration and license type(s). Maintenance will continue on the combined number of users. Buyer may, at its option, permit an acquired entity to continue to operate its existing software as a standalone operation, but subject to the terms of this purchase order at no additional cost other than continued maintenance fees.
- B. If Buyer merges with or acquires an entity or entities that have a need for Seller's products and services, Buyer and the acquired entity will be permitted to make purchases using this purchase order and price discounts in support of the acquired entity. If under any existing purchase order with an acquired entity or entities Seller currently provides or agrees to provide maintenance services, Buyer and Seller will negotiate a combined maintenance agreement sufficient to cover the combined companies so as to avoid any disruption in service.

**83. RESERVED**

**84. CONFIDENTIALITY OF LICENSOR'S INFORMATION.**

Notwithstanding any other provisions of this Agreement to the contrary, Customer hereby agrees that it shall use reasonable efforts to avoid disclosure of Licensor's proprietary/confidential information to any third party other than Customer's consultants, agents and representatives having access to Customer proprietary data. Further, Licensor agrees that all such proprietary/confidential information shall be marked with a stamp or legend indicating its confidential/proprietary nature. For the purposes of the Agreement, the term "reasonable efforts" shall mean that the Customer shall treat such proprietary/confidential information in accordance with Customer's procedures regarding vendor/ customer proprietary information. Further, Customer shall have the right to copy the Software for backup and archival purposes. Customer shall not be liable for use or

disclosure of any such proprietary information if the same is:

- A. In the public domain at the time it was disclosed;
- B. Known to the party receiving it at the time of disclosure;
- C. Used or disclosed inadvertently provided the appropriate degree of care is exercised;
- D. Used or disclosed with the prior written approval of the other party;
- E. Independently developed by the receiving party;
- F. Becomes known to the receiving party without similar restrictions from a source other than the disclosing party having the right to disclosure.

**85. SOFTWARE CHAIN OF CUSTODY.**

Seller represents and warrants that it has policies and procedures in place to ensure that software code used to develop product(s) has been within Seller's configuration management and control during the entire development process. Should Buyer determine that Seller has supplied product(s) that have failed or do not properly function (i.e. harmful/malicious code embedded into software) due to lapses in the chain of custody, Buyer shall promptly notify Seller and Seller shall at its own expense immediately replace the defective product(s) with product(s) that conform to the software documentation specifications.

**86. REPORTING - IT SOFTWARE.**

For software. Upon request, Seller will submit within 48 hours a copy of the testing procedures and test results used for the product(s) being procured.

**87. PRIVACY, CONFIDENTIALITY AND SECURITY**

Supplier will ensure that it provides the services under this agreement in accordance with the following requirements:

- (a) Supplier will hold in strict confidence any and all Personal Information.
- (b) Supplier will Process Personal Information only on behalf of Northrop Grumman and in accordance with Northrop Grumman's written instructions, and only in connection with the services it provides for Northrop Grumman and to fulfill its obligations to Northrop Grumman.
- (c) Supplier will comply with all applicable laws and regulations relating to the privacy, confidentiality or security of Personal Information and applicable provisions of Northrop Grumman's privacy policies, statements or notices that are attached hereto (collectively, "Privacy Requirements").
- (d) In the event a Privacy Requirement, enforcement action, investigation, litigation or claim, or any other circumstance, is reasonably likely to adversely affect Supplier's ability to fulfill its obligations under this agreement, Supplier will promptly notify Northrop Grumman in writing and Northrop Grumman may, in its sole discretion and without penalty of any kind to Northrop Grumman, suspend the transfer or disclosure of Personal Information to Supplier or access to Personal Information by Supplier, terminate any further Processing of Personal Information by Supplier, and terminate Supplier's agreement to provide services to Northrop Grumman, if doing so is necessary to comply with applicable Privacy Requirements.

- (e) Subject to applicable law, in the event Supplier is required by law or legal process to disclose Personal Information, it will give prior written notice of the disclosure to Northrop Grumman, so that Northrop Grumman may, in its discretion, seek to block the disclosure. Northrop Grumman will have the right to defend such action in lieu of and on behalf of Supplier. Northrop Grumman may, if it so chooses, seek a protective order. Supplier will reasonably cooperate with Northrop Grumman in such defense.
- (f) Supplier may disclose Personal Information to a third party if, and only if, it obtains the written consent of Northrop Grumman and (1) the disclosure is made to a party that performs services on behalf of Northrop Grumman and the disclosure is made in order to perform the Supplier's services to Northrop Grumman; or (2) the disclosure is made to a third party performing clerical, administrative, technical, or security-related services for Supplier, and such disclosure is incidental to the performance of such services. In either case, Supplier will enter into a written agreement with such third party under which the third party agrees it will (i) maintain the confidentiality of the disclosed Personal Information; (ii) not disclose the Personal Information to other third parties without the prior written agreement of Northrop Grumman; (iii) use the Personal Information only in connection with performing its obligations under its agreement with Supplier; (iv) disclose the Personal Information only to its own personnel who need the information to perform the obligations under the agreement with Supplier, and who have been fully advised as to the confidentiality requirements set forth herein; (v) promptly notify Supplier of any Information Security Incident (as defined below); and (vi) return to Supplier all copies of Personal Information Processed in connection with the relevant services for which the third party was retained or, upon Supplier's written request (provided that Supplier receives Northrop Grumman's prior written approval), securely destroy or, at the option of Northrop Grumman, render unreadable or undecipherable, all such Personal Information, including all hard-copy and electronic versions.
- (g) Supplier will develop, implement and maintain a comprehensive written information security program that complies with applicable Privacy Requirements. Supplier's information security program will include appropriate administrative, technical, physical, organizational and operational measures designed to (i) ensure the security and confidentiality of Personal Information; (ii) protect against any anticipated threats or hazards to the security and integrity of Personal Information; and (iii) protect against accidental or unlawful destruction, loss or alteration, unauthorized disclosure or access, and any other unlawful forms of Processing (hereinafter "Information Security Incident"). Supplier's information security program will contain standards that are at least as stringent as those set forth in Supplier's attached "Information Security-Supplier Hosting Requirements". If the Processing involves the transmission of Personal Information over a network, Supplier will implement appropriate measures to protect Personal Information against the specific risks presented by the Processing. Supplier will immediately, but in no event later than 72 hours after Supplier's discovery of the Information Security Incident, notify Northrop Grumman in writing of any Information Security Incident. Such notice will summarize in reasonable detail the effect on Northrop Grumman, if known, of the Information Security Incident and the corrective action taken or to be taken by Supplier. Supplier will promptly take all necessary and advisable corrective actions, and will cooperate fully with Northrop Grumman in all reasonable and lawful efforts to prevent, mitigate or rectify such Information Security Incident. The content of any filings, communications, notices, press releases or reports related to any Information Security Incident must be approved by Northrop Grumman prior to any publication or communication thereof.
- (h) Supplier will exercise the necessary and appropriate supervision over its relevant Personnel to maintain appropriate privacy, confidentiality and security of Personal Information. Supplier will restrict access to Personal Information to those Personnel who need the information to perform obligations under Supplier's agreement with Northrop Grumman and who have explicitly agreed to legally enforceable and sound confidentiality obligations. Supplier will ensure that Personnel with access to Personal Information are periodically trained regarding privacy and security and the limitations on Processing of Personal Information as provided in this agreement.
- (i) Supplier will engage an independent third-party to conduct a security evaluation/certification of Supplier's systems that host Personal Information. Supplier will provide Northrop Grumman copies of the audit report(s). Northrop Grumman reserves the right to conduct site surveys of Supplier's hosting site and review its physical and information security policies, practices, and procedures on an annual or biennial basis, in Northrop Grumman's reasonable discretion.
- (j) Supplier agrees that any Processing of Personal Information in violation of this agreement, Northrop Grumman's instructions or any applicable Privacy Requirement, or any Information Security Incident, may cause immediate and irreparable harm to Northrop Grumman for which money damages may not constitute an adequate remedy. Therefore, Supplier agrees that Northrop Grumman may obtain specific performance and injunctive or other equitable relief for any such violation or incident, in addition to its remedies at law, without proof of actual damages.
- (k) Supplier will not transfer Personal Information outside the country to which it originally was delivered to Supplier for Processing (or, if it was originally delivered to a location inside the European Union, outside the European Union) without the explicit written consent of Northrop Grumman.
- (l) Supplier will cooperate with Northrop Grumman if a data subject wants to access or amend Personal Information pertaining to him or her.
- (m) Supplier will immediately inform Northrop Grumman in writing of any requests, complaints or investigations

regarding Supplier's Processing of Personal Information. Supplier will respond to such requests, complaints or investigations in accordance with Northrop Grumman's instructions and Supplier will fully cooperate with Northrop Grumman in responding to any such request, complaint or investigation.

- (n) Supplier will enter into any further privacy or information security agreement requested by Northrop Grumman for purposes of compliance with applicable Privacy Requirements. In case of any conflict between this agreement and any such further privacy or information security agreement, such further agreement will prevail with regard to the Processing of Personal Information covered by it.
- (o) Supplier agrees, within 30 days of termination, cancellation, expiration, or other conclusion of this agreement, Supplier shall return to Northrop Grumman all copies of Personal Information Processed in connection with this agreement, or, upon Northrop Grumman's written request or receipt of Northrop Grumman's written approval in response to Supplier's request, to securely destroy or, at the option of Northrop Grumman, render unreadable or undecipherable, all such Personal Information, including all hard-copy and electronic versions. Supplier will provide an appropriate Certificate of Return/Destruction at Northrop Grumman's request.
- (p) Supplier agrees to indemnify and hold harmless Northrop Grumman and its officers, employees, directors and agents from, and at Northrop Grumman's option defend against, any and all claims, losses, liabilities, costs and expenses, including without limitation third-party claims, reasonable attorneys' fees, consultants' fees and court costs (collectively, "Claims"), to the extent that such Claims arise from, or may be in any way attributable to (i) any violation of this agreement; (ii) the negligence, gross negligence, bad faith, or intentional or willful misconduct of Supplier or its Personnel in connection with the obligations set forth in this agreement; (iii) Supplier's use of any contractor providing services in connection with or relating to Supplier's performance under this agreement; or (iv) any Information Security Incident involving Personal Information in Supplier's possession, custody or control, or for which Supplier is otherwise responsible.
- (q) Supplier's obligations under this agreement will survive the termination of Supplier's agreement to provide services to Northrop Grumman and the completion of all services subject thereto.

**88. DATA BREACH NOTIFICATION.**

Seller will promptly notify Buyer of any actual or potential exposure or misappropriation of Buyer data ("breach") that comes to Seller's attention. Seller will cooperate with Buyer and in investigating any such breach, at Seller's expense. Seller will likewise cooperate with Buyer and, as applicable, with law enforcement agencies in any effort to notify injured or potentially injured parties, and such cooperation will be at Seller's expense, except to the extent that the breach was caused by Buyer. The remedies and obligations set forth in this subsection are in addition to any others

Buyer may have, including, but not limited to, any requirements in the "Privacy, Confidentiality, and Security" provisions of this Agreement.

**89. DATA CONTROL.**

Seller will have policies and procedures in place to protect any data that Buyer provides, including destruction methods employed and how audit and system log information is protected. Buyer may upon request, review Seller's applicable policies and procedures.

- 90. WAIVER OF RIGHT TO JURY TRIAL.** Buyer and Seller hereby waive their respective right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or hearing brought by either Seller against Buyer or Buyer against Seller on any matter whatsoever arising under, relating to, or in any way connected with this Order, the relationship of Seller and Buyer or any claim of injury or damage, or the enforcement of any remedy under any law, statute or regulation now or hereafter in effect

**91. – 96. RESERVED**

**97. PRODUCT VULNERABILITIES.**

Within 24 hours of confirming vulnerability in their product line, Seller shall notify Buyer and provide a corrective action plan to address the issue. This plan should include, but not be limited to: identification of the specific vulnerability; steps to isolate and prevent further occurrences; replacement of the defective product(s); enhanced quality control procedures.