

Article 1 – DEFINITIONS

1.1 As used in this Contract capitalized terms have the meaning ascribed to them below or elsewhere in this Contract save where the context otherwise requires:

"Affiliate" means any entity that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control of another entity. For the purposes of defining an Affiliate, "control" (including, "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

"Business Day" means a day other than a Saturday, Sunday or public holiday in the state of Virginia or any other day when banks in state of Virginia are authorized or required by law to be closed for business.

"Buyer" means the entity identified as such in the Order Acknowledgment or Quote issued by the Supplier.

"Confidential Information" means all information and materials disclosed, provided or otherwise made accessible by a party ("**Disclosing Party**") to the other party ("**Receiving Party**") in the course of each party performing its other obligations under this Contract whether before, on, or after execution of this Contract including the policies, services, processes, procedures, methods, formulations, facilities, products, plans, affairs, transactions, organizations, business connections and clients of the Disclosing Party and its Affiliates but excluding information which the Receiving Party can prove:

- a) was in the public domain prior to the coming into force of this Contract;
- b) became part of the public domain after the coming into force of this Contract other than as a result of disclosure by the Receiving Party in breach of this Contract; or
- c) was in the possession of the Receiving Party at the time of disclosure by the Disclosing Party to the Receiving Party (as the case may be) and was not otherwise acquired from the Disclosing Party directly or indirectly.

"Contract" means together these Anord Mardix US Terms and Conditions, the Order Acknowledgment, the Quote and any other document identified as forming part of the Contract in the Order Acknowledgment or Quote.

"Delivery Date" means the date for delivery of Goods and/or performance of the Services specified in the applicable Order Acknowledgment or Quote as may be extended in accordance with this Contract or otherwise specifically agreed in writing by the Parties.

"Delivery Location" means the address specified in the applicable Order Acknowledgment or Quote otherwise specifically agreed to in writing by the Parties. In the event that no Delivery Location is specified in the applicable Order Acknowledgment or Quote otherwise specifically agreed to in writing by the Parties the Delivery Location shall be deemed to be the Supplier's production facility.

"Force Majeure Event" means acts of God (which shall include earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, nuclear and pressure waves, or other natural or physical disaster) or public enemies, public acts, utility or communications delays or failures not caused by such Party's negligence or fault, accidents not caused by such Party's negligence or fault, labor disputes (other than labor disputes of that Party), war, hostiles or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, civil war (which shall include rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion), armed conflict, terrorism or terrorist acts, the confiscation or nationalization or mobilization or commandeering or requisition by or under the order of any government or de jure or de facto authority or ruler or any other act of any local state or national government authority, strike, sabotage, lock-out, embargo, pandemics, epidemics, quarantine, plague.

"Goods" means the Goods as specified and identified an applicable Order Acknowledgment or Quote.

"Insolvent" means any of the following in relation to a party (or any analogous event in a relevant jurisdiction applicable to a Party):

- a) becomes the subject of a bankruptcy order or becomes insolvent;
- b) makes any arrangement or composition with or assignment for the benefit of its creditors;
- c) goes into examinership, receivership or liquidation, either voluntary (otherwise than for reconstruction or amalgamation) or compulsory;
- d) ceases to trade or operate or is unable to pay its debts as they come due;
- e) owns any assets that are material to the operations of all or substantially all of its business that are the subject of any form of seizure or have a receiver or administrator appointed over them; or
- f) a notice is given, a petition issued, a resolution passed or any other step is taken to commence any of the procedures listed above in the jurisdiction of that other party.

"Intellectual Property Rights" means all intellectual property rights including rights in the nature of any copyright, trade mark, trade secret, service mark, design, drawing, patent, know-how, secret process and other similar proprietary rights, whether or not registered, and the rights to the registration of those rights and all rights or forms of protection of a similar nature or having



equivalent or similar effect to any of these rights (and every renewal or extension of those rights) conferred under statute, common law and/or equity in any country.

“**Order Acknowledgment**” means an order acknowledgment issued by the Supplier to the Buyer and identified as such in response to an order issued by the Buyer.

“**Personal Data**” means information or data in any form that is provided to a Party (“**Processing Party**”) by or at the direction of the other Party (“**Controlling Party**”), information which is created or obtained by Receiving Party on behalf of Disclosing Party, or information to which access was provided to Receiving Party by or at the direction of Disclosing Party, in the course of Receiving Party’s performance under this Contract that: (a) identifies or can be used to identify an individual, including, but not limited to, names, addresses, social security numbers, driver’s license numbers or other government issued identification numbers, e-mail addresses, passwords, personal identification numbers, account numbers, credit/debit card numbers, credit report information, passwords, security codes, information regarding an individual’s medical history or medical treatment or diagnosis or physical condition; (b) any Personal Information as defined under the EU General Data Protection Regulation 2016/679 of the European Parliament and of the Council (“**GDPR**”) or the California Consumer Privacy Act, as amended from time to time (“**CCPA**”); and, (c) any other personal information that is protected by applicable laws, rules, and regulations relating to data protection or data privacy.

“**Price**” means the price to be paid for the Goods and Services as set out in the Order Acknowledgment or Quote.

“**Quote**” means the quote issued by the Buyer in respect of the Goods and/or Services and identified as such and/or referred to in an applicable Order Acknowledgment.

“**Supplier**” means Anord Mardix (USA) Inc.

“**Supplier Material**” means proprietary works of authorship, pre-existing or otherwise, including without limitation software, computer programs, methodologies, templates, flowcharts, architecture designs, tools, specifications, drawings, sketches, models, samples, records and documentation, as well as Intellectual Property Rights and any derivatives thereof, which have been originated, developed or purchased by Supplier or to a parent or affiliated company of Supplier.

“**Services**” means the tasks or services performed by the Supplier as specified and identified in an applicable Order Acknowledgment or Quote.

Article 2 – CONTRACT DOCUMENTS

- 2.1 **Purchase and Sale.** Subject to the terms and condition of this Contract the Supplier shall produce and sell the Goods to the Buyer and perform the Services for the Buyer. A contract shall be formed on the provisions of the Contract on the earlier of:
- when the Supplier issued an Order Acknowledgment in response to any purchase order issued by the Buyer; or
 - when the Supplier takes any action in the commencement of manufacture of the Products or performance of the Services.
- 2.2 **Purchase Orders.** For convenience the Buyer may use its own or standard form of purchase order. The terms and conditions contained in this Contract prevail over any terms and conditions of any such purchase order, acknowledgment form issued by the Buyer or other form instrument exchanged by the parties, and no additional, contradictory, modified or deleted terms established by such instruments are intended to have any effect on the terms of this Agreement, even if such instrument is accepted by the other party. Any variations made to the terms and conditions of this Contract by Buyer in any purchase order are void and have no effect other than those specifically agreed to in writing by Supplier. For the avoidance of doubt, the Parties acknowledge and agree that any terms and conditions (including standard or pre-printed terms and conditions) issued by Buyer or contained or referenced in any document or correspondence issued by the Buyer other than this Contract or specifically agreed to in writing by the Parties shall be null and void and shall have no force and effect whatsoever; the Parties acknowledge that this provision shall be construed as an objection to any such terms and conditions now or in future issued by Buyer. This Contract shall apply to the exclusion of any terms and conditions of contract imposed or sought to be imposed by the Buyer at any time and any other conditions attached to any purchase order or otherwise subject to which a purchase order is issued. In the event of a conflict between the any constituent element of this Contract the order of precedence will be these Anord Mardix US Terms and Conditions Agreement, then the Order Acknowledgment and then the Quote.
- 2.3 **Prior Commencement.** Buyer and the Supplier acknowledge and agree that, insofar as the Supplier has undertaken performance in respect of any element of the Goods and/or Services before the date of this Contract coming into force, the duties, obligations and liabilities of the Parties contained in this Contract shall take effect in all respects as if this Contract had been dated prior to the commencement of such part of works in respect of the Goods and/or Services by Supplier.

Article 3 – DELIVERY, SHIPPING, INSPECTION AND ACCEPTANCE



- 3.1 **Delivery.** Supplier will ship Goods in the manner set forth in the Quote and shall use best endeavors to ensure delivery by the Delivery Date. Supplier will use reasonable methods of shipment if the Order Acknowledgment or Quote does not specify a method. The Supplier will notify Buyer in accordance with the Quote when orders are shipped. Unless explicitly stated otherwise in the Quote Supplier shall be entitled to make partial shipments of Goods. Supplier shall deliver the Goods to the Delivery Location specified in the Order Acknowledgment or Quote. Delivery shall be deemed to have been made when Goods are made available for unloading by Buyer at the Delivery Location.
- 3.2 **Shipping and Packaging.** Delivery shall be made Delivered At Place (D.A.P) to the Delivery Location in accordance with Incoterms 2020. Unless specified otherwise in the Order Acknowledgment or Quote the Supplier shall utilize the packaging ordinarily utilized by the Supplier in its standard practice. All freight, insurance and other shipping expenses, as well as any special packing expenses requested by the Buyer not expressly included in the Quote shall be paid by Customer.
- 3.3 **Title and Risk.** All risk of loss, damage or destruction of Goods, in whole or in part, shall transfer to Buyer on delivery in accordance with Article 3.1. Title to Goods shall pass to Buyer on readiness for delivery.
- 3.4 **Failure to Accept Delivery and Storage.** If the Buyer does not take delivery of Goods when attempted by the Supplier or postpones delivery or a later Delivery Date is agreed by the Parties (other than due to default of Supplier or in respect of defective Goods) Supplier may place the relevant Goods in storage and Buyer shall pay to Supplier the direct loss and/or expense incurred by Supplier including handling and storage costs and the costs incurred in re-attempting delivery and/or re-delivery.
- 3.5 **Inspection and Acceptance.** Buyer may review and inspect Goods within a period of thirty (30) days after delivery and either accept any Goods or reject any Goods which are defective or delivered in excess of the quantities specified in the Order Acknowledgment or Quote. Buyer will be deemed to have accepted Goods and Services if it has not notified Supplier in writing of any rejection within thirty (30) days of delivery or performance. In the event of Buyer notifying rejection of Goods or Services Supplier shall, at its option, and as Buyer's exclusive remedy,
- a) within a reasonable time of Buyer giving written notice of such rejection (or within such time as the parties may agree) repair and/or replace the defective Goods or repair or reperform the defective Services at its sole cost and expense;
 - b) refund the Price for such defective Goods or Services to the extent then paid by Buyer; or
 - c) in the event it is agreed by the Parties that Buyer shall keep defective Goods or Services and such Goods or Services shall not be repaired and/or replaced, agree with Buyer a reasonably reduced Price in respect of such Goods or Services and refund the Price for such defective Goods or Services to the extent paid by Buyer insofar as necessary to reflect such agreed discount.
- Failure by Buyer to give such written notice within the applicable time period shall be deemed an absolute and unconditional waiver of Buyer's claim for such defects. Buyer shall make such Goods available for collection by Supplier and title in respect of such Goods shall revert in Supplier to the extent that it has transferred in accordance with Article 3.3. In the event that Buyer does not reject any Goods delivered in excess of the quantities contained in the Order Acknowledgment and/or Quote then the Price shall be increased on a pro-rata basis in respect of such excess Goods.
- 3.6 **Delay to Delivery.** Supplier shall be entitled to an extension of time (such extension being as is reasonable in all the circumstances) to the Delivery Date in the event that the performance of the Supplier's obligations is or will be delayed as a direct result of matters outside the control of the Supplier which shall include; (i) a Force Majeure Event; (ii) a change to the Contract; (iii) a change in any applicable law and/or the exercise of any statutory or legal power by any relevant governmental authority after the date of issue of the Quote; (iv) any breach of the Contract, impediment, or prevention (whether by act or omission) by Buyer or any person employed or engaged by or authority to act on behalf of Buyer or any person for which Buyer is responsible; (v) Supplier implementing any Buyer instructions or direction save to the extent necessitated by a breach of the Contract by the Supplier.
- 3.7 **Delay Cancellation.** Delivery periods and/or dates are provided as an indication unless the Supplier expressly accepts firm deadlines. In the event of a delay in delivery, where a firm deadline has been accepted the Purchaser's exclusive remedy in respect of such delay shall be to terminate the relevant portion of the Contract covering the delayed Goods by giving the Supplier written notice within 14 days of the relevant Delivery Date.
- 3.8 **Disruption.** In the event Supplier incurs additional costs, loss and/or expense as a direct result of being disrupted in the performance of its obligations under this Contract due to (i) a change to the Contract; (ii) a change in any applicable law and/or the exercise of any statutory or legal power by any relevant governmental authority after the date of issue of the Quote; (iii) any breach of the Contract, delay, impediment, or prevention (whether by act or omission) by Buyer or any person employed or engaged by or authority to act on behalf of Buyer or any person for which Buyer is responsible; (iv) Supplier implementing any Buyer instructions or direction save to the extent necessitated by a breach of the Contract by Supplier, then Supplier shall be entitled to an extension of time and to recover any additional costs incurred including additional storage costs, de-mobilization/re-mobilization costs, travel and transportation costs. The Parties shall negotiate in good faith an addition to the Price in respect of Supplier's additional cost or loss and/or



expense. In the default of such agreement Supplier shall be entitled to the amount of additional cost or loss and/or expense as are reasonably evidenced by Supplier.

- 3.9 **Trade Compliance.** Neither Party shall export, re-export or otherwise transfer any Goods, commodities, software, or technology that have been supplied by the Supplier under or are otherwise in connection with performance of this Contract, including after further processing by Buyer or incorporation into another item (individually and collectively, "Technology") inconsistently with any requirement of the Export Administration Regulations ("EAR"), the International Traffic in Arms Regulation ("ITAR"), or legal measures administered by the U.S. Treasury Department, Office of Foreign Assets Control ("OFAC") or other laws or regulations of the United States and (as applicable) the exporting country outside the United States. Without limitation, Buyer shall not, directly or indirectly, transfer Technology to a jurisdiction against which OFAC imposes an embargo or to a person sanctioned by the U.S. government. In the case of Supplier exports, re-exports and other transfers of Technology, the Buyer shall provide all information and documentation necessary to perform and support proper export authorization and shall be responsible for the accuracy and completeness of all such information provided by the Buyer, including identification of all parties to the transaction, end users, countries of destination, HTS and ECCN classifications, and any other information relevant to licenses for the Technology.
- 3.10 **Export Licences.** The Buyer shall be responsible for obtaining any license, permit or other governmental approvals (individually and collectively, "Export Licenses") required for the export, re-export, or transfer of any Technology. The Buyer shall be responsible for all reviews, classifications and licenses related to any encryption or other information security-related regulations.
- 3.11 **Importer of Record.** To the extent that Goods are imported into any country, the Buyer shall act as the importer of record.

Article 4 – SUPPLIER COMPENSATION

- 4.1 **Price.** The Price is exclusive of taxes payable in respect of the Goods and/or Services wherever payable. Buyer shall be responsible for the payment (by addition to the Prices or adjustment to Price, as applicable) of all trade tariffs (or changes to such trade tariffs) imposed after the date of issue of the Quote, which are a duty, tax or levy imposed on imports or exports. If Buyer is required by law to make any tax withholding from amounts paid or payable to Supplier (i) the amount paid or payable shall be increased to the extent necessary to ensure that Supplier receives a net amount equal to the amount that it would have received had no taxes been withheld; (ii) Buyer shall forward proof of such legally required withholding to Supplier.
- 4.2 **Invoice and Payment.** Supplier shall invoice Buyer for Goods monthly or as per any payment milestones specified in the Order Acknowledgment or Quote. Buyer shall pay all invoiced amounts due to Supplier within 30 days from the date of each Supplier's invoice, except for any amounts disputed by Buyer in good faith provided that Buyer notifies Supplier in writing not later than ten (10) days prior to the date payment is due of such dispute listing each disputed item along with substantiating documentation and a reasonably detailed description of such dispute. The Parties shall seek to resolve all such disputes expeditiously and in good faith. Where Supplier has not been paid all, or any part of any amount that is invoiced in connection with this Contract and no dispute has been raised by Buyer in accordance with this Article 4.2 the Supplier has the right (without prejudice to any other right or remedy) to suspend performance of any or all of his obligations in respect of this Contract. Supplier's right to suspend for non-payment may not be exercised without first giving to Buyer at least 7 days' notice of Supplier's intention to suspend performance, stating the ground, or grounds on which it is intended to suspend performance.
- 4.3 **Late Payment.** Buyer shall pay interest on all late payments, calculated daily and compounded monthly at the lesser of the rate of 5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall also reimburse Supplier for all reasonable costs incurred in collecting any late payments, including, without limitation, attorneys' fees.
- 4.4 **No Set-Off Right.** Buyer shall not be entitled to, nor shall it, under this Contract withhold, offset, recoup or debit any amounts owed (or to become due and owing) to Supplier or any of its Affiliates against any other amount owed (or to become due and owing) to it by Supplier or Supplier's Affiliates under any other agreement between Buyer and Supplier or their respective Affiliates.
- 4.5 **Security Interest.** The Buyer hereby grants the Supplier a first-priority security interest, with priority over all other liens, claims, and encumbrances, in all inventory of Goods delivered under this Contract, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. Buyer acknowledges that the security interest granted under is a purchase-money security interest under the law of the State of Virginia. The Supplier may file a financing statement for such security interest and Buyer shall execute such statements or other documentation necessary to perfect Supplier security interest in such Goods.

Article 5 – CHANGES



- 5.1 **Changes.** Either Party may request changes to the Goods or Services or to the Contract that affects the scope of Goods or Services, Delivery Date or Price. If either Party requests any such change (save where a request is made by the Buyer which Supplier raises a reasonable objection to), the Parties shall negotiate in good faith a reasonable and equitable adjustment the Price and Delivery Date and changes to the payment schedule and milestones, where relevant. Any such equitable adjustment in Price shall be based on, at the Supplier's discretion, any rates or prices included in the Quote or the Supplier's actual cost along with an allowance for overheads and profit. If Supplier incurs any delay in achieving any milestones as a result of such negotiations, the Supplier shall be entitled to submit an interim invoice for the percentage completed of such milestone and payment of such invoice shall be in accordance with Article 4. Neither Party shall be bound by any change requested by the other until an amendment to Contract has been accepted in writing by both Parties.

Article 6 – TERMINATION AND REMEDIES

- 6.1 **Termination for Convenience.** Either Party may terminate this Contract in whole or in part for convenience upon thirty (30) days notice to the other Party. Supplier shall promptly stop work on the effective date of such termination for convenience.
- 6.2 **Termination for Cause.** Either Party may terminate this Contract by written notice if:
- the other Party breaches any provision of this Contract and such breach is not remedied within a reasonable period from the non-breaching Party giving written notice of such breach or if the breach is not capable of remedy; or
 - the other Party is Insolvent.
- 6.3 **Termination for Non-Payment.** Supplier may terminate this Contract upon written notice to Buyer if Buyer fails to pay amount when due under this Contract.
- 6.4 **Actions and Payment on Termination.** Upon termination in accordance with this Article 6, each Party will return Confidential Information and property owned by the other Party within 10 calendar days unless otherwise instructed. Supplier may deliver to Buyer any affected Goods in progress and all data and materials related to them. Title in any Goods not paid for by Buyer which has vested in Buyer pursuant to Article 3.3 shall revert in the Supplier and such title shall only pass to Buyer when Buyer pays Supplier for such Goods. Buyer shall pay to Supplier:
- any amount properly due for payment under the Contract at the date of the termination but not yet paid;
 - the value of any Goods produced or Services performed by Supplier under this Contract (which shall include, without limitation the cost of any testing, assembly, packaging, storage, and/or the cost of any materials and labour etc in respect of any Products manufactured in part) but not delivered to Buyer;
 - any reasonable costs, expenses and disbursements necessarily incurred, and properly evidenced, by Supplier as a result of termination in the event that termination under Article 6.1 is by the Buyer or under Article 6.2 by the Supplier; and
 - an amount equal to 10% of the difference between the Price and the amount paid by Buyer in respect of the Contract at the date of termination in the event that termination under Article 6.1 is by the Buyer.
- 6.5 **Survival.** The provisions of this Contract which, by their terms, require performance after the termination or expiration of this Contract, or have application to events that may occur after the termination or expiration of this Contract, will survive the termination or expiration of this Contract. All indemnity obligations and any applicable indemnification procedures will be deemed to survive the termination or expiration of this Contract.
- 6.6 **Effect of Termination.** Termination or expiration of this Contract shall not limit the rights and remedies of either Party in relation to any act, omission, negligence, or default of a Party before termination or expiration.

Article 7 – CONFIDENTIALITY, PRIVACY, AND DATA PROTECTION

- 7.1 **Confidential Information.** "Confidential Information" shall mean all information and materials that are nonpublic, confidential or proprietary in nature that a party ("**Disclosing Party**") has furnished, or is furnishing to, or is accessed by the other party ("**Receiving Party**"), whether or not marked confidential, restricted, proprietary, or with a similar designation and whether furnished before or after the date of this Contract, whether tangible or intangible, oral or in writing, and in whatever form or medium provided, as well as all information and documents, generated by Disclosing Party that is developed pursuant to Disclosing Party's performance under this Contract or otherwise including but not limited to the following: (i) all information concerning the operations, affairs, customers, business plans, business processes, end-users, businesses and financial affairs, of Disclosing Party, and the relations of Disclosing Party with its customers, employees, agents, and service providers (including business plans, release dates and schedules, and consumer market information); and (iii) Personal Data. Confidential Information does not include information that at the time of disclosure (i) is or becomes generally available to and known by the public other than as a result of, directly or



indirectly, any breach of this Article 7 by the Receiving Party or any of its Representatives (as defined in Article 7.2); (ii) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (iii) was known by or in the possession of the Receiving Party or its Representatives prior to being disclosed by or on behalf of the Disclosing Party; or (iv) was or is independently developed by the Receiving Party without reference to or use of, in whole or in part, any of the Disclosing Party's Confidential Information.

- 7.2 **Non-Disclosure of Confidential Information.** Receiving Party agrees that it will not disclose Confidential Information to any third party and will use such Confidential Information solely for the purposes of performance under the Contract and shall hold such information in strictest confidence and not disclose such information to third parties without the prior, written consent of Disclosing Party; provided, however, Receiving Party may disclose the Confidential Information only to Receiving Party's officers, directors, employees, or subcontractors who need to know such Confidential Information in order to evaluate or perform the obligations under this Contract ("Representatives"), provided that such Representatives (other than Receiving Party's own employees) have first executed a written confidentiality agreement agreeing to protect the Confidential Information to the same extent as if they were the Receiving Party. Receiving Party shall be liable for any breach of this Article 7 by its Representatives. Receiving Party shall promptly notify the Disclosing Party if Receiving Party learns or becomes aware of any violation of this Article 7 by any others, or of any other misappropriation or unauthorized access, use, reproduction, or reverse engineering of, or tampering with the Disclosing Party's Confidential Information by others.
- 7.3 **Disclosure Required by Law.** If the Receiving Party or any of its Representatives are requested or required by law to disclose any Confidential Information, then unless prohibited by law, the Receiving Party shall provide the Disclosing Party with prompt written notice of such request or requirement and shall cooperate with the Disclosing Party so it may seek a protective order or other appropriate remedy. Subject to the issuance of a protective order or a receipt of a waiver hereunder, the Receiving Party may produce such Confidential Information, if required by law.
- 7.4 **Security Procedures.** Buyer shall comply with Supplier security procedures and protocols and employ security procedures to prevent disclosure of Confidential Information (including Personal Information) to unauthorized third parties. Buyer's security procedures must include risk assessment and controls for: (i) system access; (ii) system and application development and maintenance; (iii) change management; (iv) asset classification and control; (v) incident response, physical and environmental security; (vi) disaster recovery/business continuity; and (vii) employee training.
- 7.5 **Privacy and Data Protection.** If a Processing Party collects, stores, discloses, uses, transfers, or otherwise processes any Personal Data received from the Controlling Party or any other personal data that is protected by applicable laws, rules, and regulations relating to data protection or data privacy, the Processing Party will do so in a manner which is fully compliant all relevant legal requirements, as applicable. Processing Party agrees to cooperate as is required to ensure that Controlling Party acts in accordance with applicable data protection and data privacy laws. Both Parties acknowledge and agree that to the extent Processing Party processes any such Personal Data it does so as a service provider and only for a legitimate business purpose and only as necessary to perform its obligations under the Contract. Processing Party shall not sell, rent, release, disclose, disseminate, make available, transfer or otherwise communicate such Personal Data to any third party for monetary or other valuable consideration. Processing Party shall notify Controlling Party and provide reasonable cooperation in responding to any individual's request to exercise individual rights in connection with Personal Data. Processing Party certifies that it understands the restrictions on Processing Party's use and processing of Personal Data and shall comply with the same.
- 7.6 **Breach of Article 7.** Receiving Party acknowledges and agrees that, in the event of any breach of this Article 7, Disclosing Party may be irreparably and immediately harmed and may not be made whole by monetary damages alone. Accordingly, it is agreed that, in addition to any other remedy to which it may be entitled at law or in equity, Disclosing Party shall be entitled to seek in a court of competent jurisdiction restraining orders and/or an injunction or injunctions (without the posting of any bond and without proof of actual damages) to prevent breaches and/or compel specific performance of this section.
- 7.7 **Termination.** On termination of this Contract, subject to any instructions of Disclosing Party under Article 6.4 Receiving Party shall permanently erase all of Disclosing Party's Confidential Information from its computer systems, except for copies that are maintained as archive copies on its disaster recovery and/or information technology backup systems. Receiving Party shall destroy any such copies upon the normal expiration of its backup files. Receiving Party shall certify in writing to Disclosing Party that it has complied with the requirements of this Article 7.7.

Article 8 – GENERAL REPRESENTATIONS AND WARRANTIES

- 8.1 **General Warranties and Representations.** Each Party represents and warrants to the other Party that:
- it is a corporation duly organized, validly existing, and in good standing in the jurisdiction of its incorporation;
 - it is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Contract;
 - it has the full right, power, and authority to enter into this Contract, to grant the rights and licenses granted under this Contract, and to perform its obligations under this Contract;



- d) the execution of this Contract by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the Party;
- e) when executed and delivered by each of Supplier and Buyer, this Contract will constitute the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with its terms;
- f) it is in material compliance with all applicable laws relating to this Contract, the Goods, the Services and the operation of its business; and
- g) it is not insolvent and is paying all of its debts as they become due.

8.2 **Buyer's Credit Status.** The Buyer warrants and represents that it is solvent and is able to pay for the Goods and Services in accordance with this Contract. The Buyer shall on request furnish the Supplier with statements accurately and fairly evidencing the Buyer's financial condition. Buyer shall notify the Supplier, in writing, immediately of any and all events that have had or may have a material adverse effect on Buyer's business or financial condition, including any change in management, sale, lease, or exchange of a material portion of Buyer's assets, a change in control of Buyer, or the breach of any loan covenants or other material obligations of Buyer to its creditors. If, at any time, the Supplier reasonably determines in its sole discretion that Buyer's financial condition or creditworthiness is inadequate or unsatisfactory, then in addition to the Supplier's other right under this Contract, at law or in equity, the Supplier may without liability or penalty, take one or more of the following actions:

- a) on 15 calendar days written notice, modify the payment terms specified in Article 4 for outstanding and future payments, including requiring Buyer to pay for Goods and/or Services on a cash in advance or cash on delivery basis;
- b) delay or withhold any further shipment of Goods or performance of the Services to Buyer;
- c) stop delivery of any Goods in transit and cause such Goods in transit to be returned to the Supplier; or
- d) terminate this Contract under Article 6.2;

No action taken by the Supplier under this Article 8.2 (nor any failure of the Supplier to act under this Article 8.2) constitutes a waiver by the Supplier of any of its rights and remedies under this Contract, including its right to enforce Buyer's obligation to make payments as required hereunder.

Article 9 – GOODS REPRESENTATIONS AND WARRANTIES

9.1 **Supplier's Goods Representations and Warranties.** Supplier represents and warrants as follows:

- a) Supplier shall exercise reasonable skill and care to ensure that Goods will be of merchantable quality and of good material and workmanship;
- b) Supplier shall exercise reasonable skill and care in the performance of the Services;
- c) Supplier shall exercise reasonable skill and care to ensure that Goods and Services will be for a period of twelve (12) months from delivery be free from defects in design, material, and workmanship;
- d) Buyer will receive good and valid title to Goods, free and clear of all encumbrances and liens of any kind save as provided for in this Contract; and
- e) Goods and Services will not infringe any Intellectual Property Rights of any third party save to the extent any such infringement relates to (i) designs furnished by the Bank; (ii) or the use of designs, documents or information supplied by the Buyer; (iii) which is an unavoidable result of the Supplier's compliance with the Contract or the Buyer's instructions; or (iv) as a result of any Goods and/or Service being used by the Buyer for a purpose other than that indicated by the Buyer prior to issue of the Quote;

9.2 **Limitations on Warranties.** The warranties under Article 9.1 do not apply where the relevant Goods and/or Services have:

- a) been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper installation, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions, the storage of such items exceeding reasonably expected storage shelf time or use contrary to any instructions issued by Supplier;
- b) been reconstructed, repaired, or altered by a third party; or
- c) been used with any third-party product, hardware, or product that has not been previously approved in writing by Supplier.

9.3 **Remedy for Defective Goods.** Notwithstanding any other provision of this Contract this Article 9.3 contains Buyer's exclusive remedy for defective Goods and Services. In the event of any breach of Article 9.1(a) - (c) not disappplied as a result of the operation of Article 9.2 then Buyer shall notify Supplier in writing of such breach within seven (7) Business Days from the date Buyer discovers such breach. Buyer shall, at Supplier's instruction, return defective Goods to Supplier or make such Goods available for collection by Supplier and title in respect of such Goods shall revert in Supplier to the extent that has transferred in accordance with Article 3.3. Supplier shall in its sole discretion:

- a) repair and/or replace the defective Goods or reperform the defective Services at its sole cost and expense within a reasonable time of Buyer giving written notice of a breach given under this Article 9.3 and returning or making available the relevant Goods;
- b) refund the Price for such defective Goods and/or Services to the extent then paid by Buyer; or



- c) in the event it is agreed by the Parties that Buyer shall keep defective Goods and/or Services and such Goods shall not be repaired and/or replaced or defective Services reperfomed, agree with Buyer a reasonably reduced Price in respect of such Goods and/or Services and refund the Price for such defective Goods and/or Services to the extent paid by Buyer insofar as necessary to reflect such agreed discount.
- 9.4 **Warranty Disclaimer.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS CONTRACT THE SUPPLIER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO GOODS OR SERVICES, INCLUDING ANY (I) WARRANTY OF MERCHANTABILITY; (II) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (III) WARRANTY OF TITLE; OR (IV) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER PERSON ON SELLER'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT.
- 9.5 **Adequacy of Design.** Supplier shall not be liable for the contents of any documentation, information or specification provided to Supplier by Buyer or on Buyer's behalf and shall not be responsible for verifying the feasibility or adequacy of any design contained within such documentation, information or specification.
- 9.6 **Applicable Law.** Buyer shall at all times comply with all laws applicable to this Contract, Buyer's performance of its obligations hereunder, and Buyer's use or sale of the Goods and Services. Without limiting the generality of the foregoing, Buyer shall (a) at its own expense, maintain all certifications, credentials, licenses, and permits necessary to conduct its business relating to the purchase, use or resale of the Goods and Services and (b) not engage in any activity or transaction involving the Goods and Services, by way of resale, lease, shipment, use or otherwise, that violates any applicable law.

Article 10 – INDEMNIFICATION AND OTHER REMEDIES

- 10.1 **Indemnification by Supplier.** Supplier will defend, indemnify, and hold Buyer and their respective successors, directors, officers, employees, and agents (each a "**Buyer Indemnified Party**") harmless from and against all third-party claims, actions, demands, proceedings, damages, costs and liabilities of any kind (collectively, "**Claims**") to the extent that such Claims arise out of or relate to: (i) the negligent or willful acts or omissions of Supplier resulting in bodily injury or death to any person or loss, disappearance or damage to tangible or intangible property; (ii) Supplier's infringement, misuse or misappropriation of any third-party Intellectual Property Rights subject to Article 9.1(e) and Article 9.2; (iii) Supplier's failure to comply with applicable law; or (iv) any action instituted by Supplier personnel against Buyer for wages, fringe benefits, other compensation, or similar claims under applicable law; and any claims challenging the Supplier's right to dismiss its personnel. However, Supplier will have no liability under this Article 10.1 to the extent that Claims result from the negligent or willful acts of a Buyer Indemnified Party or Supplier's compliance with the express instructions of Buyer.
- 10.2 **Indemnification by Buyer.** Buyer will defend, indemnify, and hold Supplier and their respective successors, directors, officers, employees, and agents (each a "**Supplier Indemnified Party**") harmless from and against all Claims to the extent that such Claims arise out of or relate to: (i) any breach of any representation or warranty contained in Article 8; (ii) the negligent or willful acts or omissions of Supplier resulting in bodily injury or death to any person or loss, disappearance or damage to tangible or intangible property; (iii) Buyer's infringement, misuse or misappropriation of any third-party Intellectual Property Rights; (iv) breach of any Buyer's obligations under this Contract; (v) Buyer's failure to comply with applicable law; or (vi) any action instituted by Buyer personnel against Supplier for wages, fringe benefits, other compensation, or similar claims under applicable law and any claims challenging the Buyer's right to dismiss its personnel. However, Buyer will have no liability under this Article 10.2 to the comparative extent that Claims result from the negligent or willful acts of a Supplier Indemnified Party.
- 10.3 **Indemnification Procedures.** With respect to any third-party Claims, each party shall give the other party prompt notice of such and cooperate with the indemnifying party at the indemnifying party's expense. The indemnifying party shall have the right to assume the defense (at the indemnifying party's own expense) of any such Claim through counsel of its own choosing by so notifying the party seeking indemnification within thirty (30) days of the first receipt of such notice. The party seeking indemnification shall have the right to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by the indemnifying party. The indemnifying party shall not, without the prior written consent of the indemnified party, agree to the settlement, compromise or discharge of such third-party claim if such settlement, compromise or discharge would require that the indemnified party: (i) to enter into any license agreement, cross-license agreement, settlement, covenant-not-to-sue or similar arrangement with the indemnifying party or any third party; (ii) admit to infringement, misappropriation or misuse of any third party's intellectual property; or (iii) otherwise undertake or agree not to undertake any activity or business of the indemnified party.
- 10.4 **Products and/or Services Enjoined.** Should the use of any Goods or Services be enjoined in a Claim, or in the event the indemnifying party desires to minimize its liabilities, then in addition to its indemnification obligations, the indemnifying party may either (i) substitute fully equivalent Goods or Services not subject to such injunction or possible



liability; (ii) modify such Goods or Services so that it no longer is subject to such injunction or possible liability; or (iii) obtain the right to continue using the relevant Goods or Services.

10.5 **Exceptions to Intellectual Property Rights Indemnification.** Notwithstanding any other provision of this Contract, Supplier shall not be liable for or liable to indemnify any Buyer Indemnified Party in respect of any Claims relating to infringement, misuse or misappropriation of any third-party Intellectual Property Rights insofar and to the extent such Claim arises out of or in relation to:

- a) documentation, information or any specification furnished to Supplier by or on behalf of Buyer;
- b) which is an unavoidable result of Supplier's compliance with the any Buyer requirements or instructions;
- c) as a result of any Goods being used for a purpose other than that indicated by the Buyer prior to issue of the Quote; or
- d) as a result of any Goods or Services being used in conjunction with anything not supplied by Supplier unless such use was disclosed to Supplier before issue of the Quote.

10.6 **Exclusive Remedy.** This Article 10 sets forth the entire liability and obligation of the Supplier and the sole and exclusive remedy for each Buyer Indemnified Party for any damages covered by this Article 10.

Article 11 – INTELLECTUAL PROPERTY RIGHTS

11.1 **Ownership of Intellectual Property.** Buyer acknowledges and agrees that any and all Supplier's Intellectual Property Rights are the sole and exclusive property of Supplier or its licensors and Buyer shall not acquire any ownership interest in any of Supplier's Intellectual Property Rights under this Contract. If Buyer acquires any Intellectual Property Rights, rights in or relating to any Goods by operation of law, or otherwise, such rights are deemed and are hereby irrevocably assigned to Supplier or its licensors, as the case may be, without further action by either of the Parties.

11.2 **Intellectual Property Licence.** Subject to all sums due and payable under this Contract having been received by Supplier and subject to Buyer's compliance with its obligations under this Contract, Supplier shall provide to Buyer a royalty-free, non-exclusive license to use the Supplier's Intellectual Property Rights incorporated into or provided as part of Goods (including software) or incorporated into any Supplier Material provided to Buyer by Supplier, if any, to the extent necessary to use Goods or Services for the purposes of the Buyer's ordinary business. For the avoidance of doubt, Supplier shall not be liable for any use of any Supplier Material for purposes beyond that for which it was prepared.

Article 12 – LIMIT OF LIABILITY

12.1 **Indirect and Consequential Loss.** Notwithstanding any other provision of this Contract in no event will either Party be liable for any consequential or indirect loss or damages (including incidental loss, special damages, exemplary damages, punitive damages, treble damages, lost profit, lost revenue or loss of reputation) arising out of or in connection with this Contract or its subject matter, regardless of the theory of liability giving rise to such loss and/or damages, whether arising in contract, tort or otherwise, and regardless of whether a Party was advised or aware of the possibility of such damages.

12.2 **Limit of Liability.** Notwithstanding any other provision of this Contract to the maximum extent permissible by applicable law, Supplier's entire aggregate liability under this Contract shall not exceed the amount that is an amount equal to the lesser of the Price or one million dollars (\$1,000,000.00). The limit set out in this Article 12.2 shall apply however liability arises, including, without limitation, liability arising by breach of contract, arising by tort, arising by any theory of equity or arising by breach of statutory duty, provided always that the limitation specified in this Article 12.2 shall not apply in the case of: (i) personal or bodily injury, death or physical loss of and/or damage to property to the extent caused by the negligence, either by acts or omissions, or willful misconduct of the Supplier; or (ii) fraud or fraudulent misrepresentation.

Article 13 – DISPUTE RESOLUTION

13.1 **Negotiation.** Each party agrees that they shall attempt to resolve any dispute or claim (including non-contractual disputes or claims) arising out of or relating to this Contract through negotiations between senior executives of the parties, who have authority to settle the same.

13.2 **Mediation.** If the matter is not resolved by negotiation in accordance with Article 12.1 within 30 days of receipt of a written 'invitation to negotiate', the parties will attempt to resolve the dispute or claim (including non-contractual disputes or claims) in good faith through an agreed Alternative Dispute Resolution (ADR) procedure, or in default of agreement, in accordance with the commercial mediation procedures published from time to time by the American Arbitration Association.

13.2 **Arbitration.** Subject to Article 13.2, If the matter has not been resolved by an alternative dispute resolution procedure within 60 days of the initiation of that procedure, or if any party will not participate such, the dispute or claim (including non-contractual disputes or claims) may be referred to arbitration by any party. The seat of the arbitration shall be



Richmond, Virginia. The arbitration shall be governed by the rules as agreed between the parties. Should the parties be unable to agree on an arbitrator or arbitrators or be unable to agree on the rules for arbitration, the rules should be the commercial arbitration rules published from time to time by the American Arbitration Association. Nothing in this Article 13 shall be construed as prohibiting a party or its affiliate from applying to a court for interim injunctive relief..

Article 14 – MISCELLANEOUS

- 14.1 **Insurance Requirements.** Buyer and Supplier shall comply respectively with any insurance requirements as specified in the Contract and such other insurance terms to which they may agree under the terms of this Contract.
- 14.2 **Policies and Procedures.** Buyer shall at its sole cost comply with Supplier's policies, procedures and guidelines described in this Contract or made available to Buyer by Supplier.
- 14.3 **Relationship.** The parties are independent. This Contract does not create an exclusive relationship between the parties. Supplier's employees and sub-suppliers or subcontractors are not Buyer employees. Supplier will pay all salaries, taxes, insurance, and benefits with respect to its personnel.
- 14.4 **Notices.** Notices may be provided either by electronic or physical mail. The person(s) identified in the Order Acknowledgment will receive notices on behalf of their respective company. Each party may change the persons to whom notices will be sent by giving notice to the other.
- 14.5 **Governing Law; Jurisdiction.** The law of the Contract shall be that of the state of Virginia, USA without giving effect to any conflict or choice of law principles. The prevailing Party in any legal proceeding brought by one Party against the other arising out of or in connection with this Contract shall be entitled to recover its legal expenses, including court costs and reasonable attorneys' fees, incurred in such proceeding.
- 14.6 **Force Majeure.** A failure by either party to perform due to causes beyond the control of and without the fault or negligence of such party is deemed excusable during the period in which cause of failure continues. Such causes may include natural disasters, war, civil disturbance, action by governmental entity, strike, and other causes beyond the party's reasonable control. The party affected by the force majeure event will provide notice to the other party within a commercially reasonable time and will use its best efforts to resume performance. Obligations not performed due to a force majeure event will be performed as soon as reasonably possible when the force majeure event concludes. Buyer may terminate the Contract, in whole or in part, without liability in the event that a force majeure event lasts longer than 30 days.
- 14.7 **Amendments and Variations.** No amendment to, variation or modification of this Contract is effective unless it is in writing, identified as an amendment, variation or modification to this Contract and signed by each Party.
- 14.8 **Assignment.** Buyer will not sell, assign, transfer, pledge or encumber this Contract or any right, or delegate any duty or obligation under this Contract, by assignment or operation of law, without Supplier's prior written consent. Supplier may assign this Contract to any of its Affiliates. This Contract will inure to the benefit of and bind all permitted successors, assigns, receivers and trustees of each party.
- 14.9 **No Waiver.** A party's delay or failure to exercise any right or remedy will not result in a waiver of that or any other right or remedy. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion. A waiver shall not be deemed as a result of any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this Contract, or any act, omission, or course of dealing between the Parties.
- 14.10 **Third Party Rights.** Subject to the rights of Parties' Affiliates explicitly identified in this Contract this Contract benefits solely the Parties to this Contract and their respective permitted successors and assigns, and nothing in this Contract, express or implied, confers on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Contract.
- 14.11 **Entire Contract.** This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this Contract it does not rely on and shall have no remedies for any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 14.12 **Interpretation.** For purposes of this Contract, (i) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; (iii) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Contract as a whole; (iv) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (v) words denoting any gender include all genders. Unless the context otherwise requires, references in this Contract: (a) to sections, exhibits, schedules, attachments, and appendices mean the sections of, and exhibits, schedules, attachments, and appendices attached to, this Contract; (b) to an agreement,



instrument, or other document means such agreement, instrument, or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (c) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties drafted this Contract without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Contract to the same extent as if they were set forth verbatim herein. The headings in this Contract are for reference only and do not affect the interpretation of this Contract.

- 14.13 **Severability.** If any term or provision of this Contract is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Contract or invalidate or render unenforceable such term or provision in any other jurisdiction and the Contract shall be deemed modified to the extent necessary to give effect to the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

