



## PURCHASE ORDER TERMS AND CONDITIONS

**1. DEFINITIONS.** “Buyer” means PowerSecure, Inc., or other entity identified on this Order as the purchaser of Goods or Services. “Order” shall mean this purchase order and all general, supplementary and other conditions together with all drawings, specifications and addenda Buyer has attached to or issued with this purchase order prior to the execution of this purchase order. “Goods” means any goods, equipment or other intangible or tangible personal property provided by Seller to Buyer pursuant to this Order, together with all forms of packaging, instructions, warnings, warranties, operating manuals, diagrams, drawings, spare parts lists, and such other materials, services and documentation requested by Buyer or otherwise customarily provided to purchasers in order to make use of the Goods. “Services” means any services performed by Seller for Buyer pursuant to this Order. “Seller” means the person or entity to which this Order is addressed.

**2. AGREEMENT AND ACCEPTANCE.** This Order is an offer to purchase and may be accepted by Seller either in writing or by any conduct that recognizes the existence of a contract. Any such acceptance is limited to the express terms of this Order. These terms and conditions may be printed on the back of the relevant purchase order form or provided separately or electronically. Regardless of the format, these general terms and conditions together with the terms on the face of the Order (“Order Face”) collectively constitute an agreement. Buyer hereby objects to and rejects any proposal for additional or different terms or any attempt by Seller to vary any of the terms of this Order, including, without limitation, all preprinted or other terms and conditions of any invoice or acknowledgement submitted by Seller, and any such additional or different terms or variances shall be deemed material. Any such proposal or attempt by Seller that would materially change the description, quantity, price, rights to use or delivery schedule of the Goods and the Services shall constitute a rejection of this offer. Any other such proposal or attempt shall not operate as a rejection, but this offer shall be deemed accepted by Seller without regard thereto. There is no obligation on Buyer to purchase any minimum amount of Goods or Services.

**3. ENTIRE AGREEMENT.** This Order constitutes the complete and exclusive statement of the terms of the agreement between Buyer and Seller with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments, or understandings with respect to such subject matter. No modification or rescission of this Order shall be binding upon Buyer unless in writing and signed by Buyer. All communication regarding this Order shall be made through Buyer’s authorized representative, as noted on the Order Face. In case of a conflict between the terms on the Order Face and the general terms and conditions of this Order, the terms on the Order Face of this Order will control.

**4. SHIPMENT.** All Goods shall be prepared and packed for shipment in suitable containers in accordance with sound commercial practices to ensure that the Goods are delivered in an undamaged condition, and Seller shall mark the number of this Order on each container and enclose an itemized packing slip with such number in each container, including but not limited to equipment and component serial numbers and manufacturing part numbers. If Seller fails to enclose an itemized packing slip in each container, Buyer’s determination of count or weight shall be conclusive. If Goods are poisonous, hazardous, dangerous, or otherwise must be handled with care, Seller shall package and label them appropriately and provide Buyer with instructions relating to the use or handling of the same. Seller must submit a safety data sheet (“SDS”) prior to shipping hazardous material (e.g., chemical, solvents). Seller shall mail invoices in duplicate and provide shipping documents to Buyer for each shipment on the day shipment is made. Goods shall be delivered in a single lot unless specifically stated otherwise in this Order or otherwise agreed to in writing by Buyer.

**5. DELIVERY.** Time is of the essence for this Order. Goods shall be

delivered, and Services shall be performed, on the dates and to the locations specified in the Order. Seller shall provide shipping plan and updates as requested by Buyer. Seller shall notify Buyer in writing immediately if there is any projected or actual delay in the delivery of Goods or Services. Buyer shall only accept deliveries at Buyer’s facility Monday through Friday, excluding holidays, between 9:00am and 2:00pm, or at such other time and place as specified in the Order Face. Unless otherwise stated on the Order Face, delivery terms will be DDP (Durham, NC, USA) Incoterms 2020®. Buyer reserves the right to reject incomplete or non-conforming deliveries of Goods and to reject non-conforming performance of Services. Seller’s failure to effect conforming delivery or failure to perform services in accordance with the terms of this Order entitles Buyer to revoke any acceptance, to cancel this Order without liability to Seller, to receive a full refund of any amounts paid, to purchase substitute Goods and Services elsewhere, and to return at Seller’s risk and expense all or any part of a nonconforming delivery. Buyer’s receipt or acceptance of all or part of a nonconforming delivery does not constitute a waiver of any remedy Buyer has under this Order or under applicable law.

**6. INSPECTION AND REJECTION; NONCONFORMING GOODS AND SERVICES.** Payment for any Goods or Services shall not constitute acceptance thereof. Buyer shall have the right to inspect all Goods and Services for sixty (60) days after actual receipt of the Goods and Services at Buyer’s place of business or such other delivery or performance location specified in this Order, and to reject (including revocation of its earlier acceptance of) any or all of such Goods or Services that are, in Buyer’s sole, reasonable judgment, nonconforming; however, Buyer may elect, in its sole discretion and upon notice to Seller, to work with Seller to make such Goods and Services conforming, at Seller’s expense. Use of a portion of the Goods for the purpose of testing shall not constitute an acceptance of the Goods. Buyer shall not be obligated, however, to test or reject any Goods, and Buyer’s inspection of, or failure to inspect or reject, any Goods or Services shall not affect any rights of Buyer under this Order. Seller agrees promptly to replace, repair or reperform any Goods or Services not conforming to this Order or to any warranty set forth in this Order (each, “Nonconforming Goods” or “Nonconforming Services”), without any expense (including transportation expense) to Buyer. Buyer may charge Seller all expenses of inspection and return for Nonconforming Goods or Nonconforming Services, including unpacking, examining, repackaging, storage expenses and shipment. In the event of Seller’s failure to promptly repair or replace any Nonconforming Goods or reperform any Nonconforming Services, Buyer, after reasonable notice to Seller, may effect such repair, replacement or performance and charge Seller for all costs incurred by Buyer in doing so. If Seller fails promptly to replace or repair any Nonconforming Goods or reperform any Nonconforming Services, Seller will promptly refund to Buyer the full purchase price paid by Buyer for all such Goods and Services. Neither acceptance or non payment for Nonconforming Goods or Nonconforming Services by Buyer will relieve Seller of responsibility for faulty materials, equipment, or workmanship, whether furnished by Seller or its subcontractors. Seller will remedy, as soon as possible, defects appearing within two (2) years from the date of final payment, or within such longer period as may be specified in higher-tier contracts, the manufacturer’s warranty or applicable state statute, and will pay for resulting damage to other work.

### **7. WARRANTIES.**

**7.1** In addition to any other express or implied warranties, Seller hereby makes the following representations and warranties to Buyer: (i) Seller shall deliver good and marketable title to all Goods and Services furnished pursuant to this Order, including, without limitation, the media, articles, materials, drawings, data, information and other tangible and intangible property, and the design, delivery, installation, inspection, testing, expediting and maintenance and all related activities, specified in this Order, or prepared in connection with the delivery of the Goods or the performance of the Services; (ii) all Goods and Services (A) will be of good quality and workmanship and free from all defects (latent and patent) and,

performed in a professional and workmanlike manner consistent with best industry practices and in accordance with all applicable laws and regulations, and Seller shall be responsible for any loss or damage to Buyer or others by reason of Seller's failure to perform its work strictly in accordance with the terms of this Order; (B) will conform to all specifications, drawings, descriptions and statements of work furnished, specified, or agreed to, by Buyer; (C) will conform to any samples and to any statements made on the containers, labels, sales literature or advertisements for such Goods and Services; (D) in the case of Goods, will be adequately contained, packaged, marked and labeled; (E) will be merchantable and will be safe and appropriate for the purpose for which goods or services of that kind are normally used; and (F) if Seller knows or has reason to know the particular purpose for which Buyer intends to use the Goods or Services, will be fit for such particular purpose; (iii) Seller is free to enter into and fully perform its obligations under this Order and has obtained any and all grants of authority necessary to do so from its Board of Directors or otherwise; (iv) Seller has the legal right to grant the licenses provided under this Order without violating any intellectual property rights of any third parties; and (v) in the performance of Seller's obligations under this Order, Seller shall comply with all applicable federal, state and local laws, ordinances, rules, codes and regulations.

**7.2.** No warranties in this Order and no remedies available to Buyer for breach thereof may be limited unless and except to the extent specifically agreed upon by Buyer in a separate agreement signed by Buyer. Seller's obligations under all such warranties shall survive and be unaffected by any inspection, testing, acceptance and use. All such warranties shall run to Buyer, to its successors, assigns and customers, and to users and consumers of, and others affected by, the Goods or Services.

#### **8. PRICE AND TAXES; PRICE WARRANTIES; PAYMENT.**

**8.1** All prices specified in this Order, unless otherwise expressly stated in the Order Face, include: (i) all taxes (including, without limitation, sales taxes, excise taxes, customs taxes, import taxes, export taxes, and excise taxes), tariffs, U.S Customs and Border Protection cash deposits, and duties of any kind with respect to the Goods and Services (collectively, "Taxes and Duties"); and (ii) all charges for labeling, packing, packaging, loading, storage, insurance, shipping and delivery (including any charges associated with obtaining necessary import/export licenses) (collectively, "Shipping Charges"). All prices will be as stated in this Order. Seller bears all risk of any increase in any Taxes and Duties or Shipping Charges occurring on or after the date on which the Order is issued by Buyer.

**8.2** Unless otherwise expressly stated in the Order Face, or unless otherwise required by law, payment terms are 2%/10, net forty-five (45) days from the later of the date Buyer receives Seller's undisputed invoice or the date on which Buyer accepts the products. No payments will be made by Buyer without an invoice containing supporting detail and a reference to the applicable Order number. Seller will pay to the applicable payee all Taxes and Duties and Shipping Charges in connection with the sale or delivery of the Goods and the Services to Buyer. All references to currency set forth in the Order refer to United States Dollars unless otherwise expressly stated in the Order Face. Payment will be considered made when Buyer mails a check or submits the instructions to its bank to pay Seller by wire transfer or ACH, unless, in either case, a different date of payment is determined by applicable law.

**9. INDEMNIFICATION; INFRINGEMENT.** Seller will indemnify, defend, and hold harmless Buyer and its affiliates, and their respective officers, directors, employees and agents (collectively, the "Buyer Indemnitees") against any third party claims, including reasonable attorneys' fees for defending those claims, to the extent such claims arise out of or relate to the (a) negligence or willful misconduct of Seller, its subcontractors, their respective employees and agents in fulfillment of this Order; (b) Seller's breach of this Order; (c) infringement or misappropriation of any patent, copyright, or other intellectual property right of any third party by the Goods or the Services; or (d) work performed on or at the premises of Buyer or any of its affiliates, or at any delivery site or job site

specified in this Order, in fulfillment of this Order (except to the extent such claims result from the negligence or willful misconduct of a Buyer Indemnitee). In case the use of the Goods, or any part thereof, by Buyer is enjoined due to infringement, or precluded by settlement, Seller will promptly, at its own expense, either procure for Buyer and its customers the right to continue using such Goods, replace the same with non-infringing Goods that conform to the specifications, or modify such Goods in a manner acceptable to Buyer so they become non-infringing.

**10. TITLE AND RISK OF LOSS.** Title to all Goods will vest in Buyer upon receipt at the delivery point specified in this Order. Risk of loss for Goods will pass to Buyer upon Buyer's receipt and acceptance at Buyer's premises or such other place specified by Buyer in this Order.

**11. BUYER PROPERTY; CONFIDENTIALITY.** As to any information or materials provided by Buyer, or Buyer's customers, to Seller in connection with this Order and any information or materials (including but not limited to data, progeny or derivatives, improvements and inventions) generated by Seller resulting from the direct or indirect use of such information or materials ("Buyer Property"), the following provisions shall apply; provided that if a relevant confidentiality agreement ("CA") exists between Buyer and Seller, any more restrictive terms of such CA shall control. Further, if the term of the CA expires before the expiration or termination of this Order, then the term of the CA shall be automatically extended to match the term of the Order. Notwithstanding any provision to the contrary, all Buyer Property is the exclusive property and confidential information of Buyer. Seller shall not use Buyer Property for any purpose other than performance under this Order without the express written permission of Buyer. Seller shall (i) protect the confidentiality of Buyer Property, using not less than a reasonable degree of care, and (ii) assist Buyer in all reasonable ways (at Buyer's expense and request) in protecting and securing Buyer Property. Seller shall use Buyer Property only in compliance with all applicable federal, state and local laws and regulations. Seller will promptly return or destroy Buyer Property at Buyer's request. Seller recognizes that the facilities of Buyer and its customers and affiliates are private, and Seller will abide by the security requirements and conditions for access and usage of such facilities. Seller agrees that only those subjects, areas and programs designated by Buyer as necessary to fulfill the requirements of this Order will be accessed and/or perused by Seller or any individuals fulfilling Seller's obligations under this Order. Seller agrees to comply with the policies and procedures of Buyer and its customers and affiliates regarding access to and permitted conduct at such facilities. In no event will any Buyer Property, programs or other information be copied or removed without Buyer's express prior written consent.

**12. INTELLECTUAL PROPERTY.** Seller at no cost to Buyer and Buyer's customers, grants to Buyer and Buyer's customers an irrevocable, unlimited, world-wide license for all intellectual property rights that are necessary for Buyer and its customers to use the Goods and Services. Seller agrees that any intellectual property (including any inventions) arising from or made in the course of performing the Services or providing the Goods for Buyer or as a result of receiving or observing Buyer Property under this Order constitute "works made for hire" and are and remain the exclusive property of Buyer. Seller will promptly report in writing such patentable inventions to Buyer and, upon request, will assist in obtaining any patents, registering any copyrights or acquiring any other intellectual property protection. Seller will assign and does assign to Buyer or its designee all right, title and interest in and to such patents, copyrights and other intellectual property rights.

**13. CHANGES.** Seller must notify Buyer at least ninety (90) days prior to any changes in the following with respect to the Goods or Services: component formulations, manufacturing processes, component testing procedures, manufacturing or testing facilities or equipment, critical raw materials, or the source of animal derived materials. Seller must notify Buyer within thirty (30) days of any of the following: component problems and/or recalls, and any enforcement actions initiated against the Seller by any regulatory agency.

**14. TERMINATION FOR CONVENIENCE OF BUYER.** In addition to any other provisions for termination hereunder, Buyer may terminate all or any part of this Order without cause, for any reason, including no reason, and at any time by written notice to Seller. In the event of such termination, Seller shall immediately stop, and cause its suppliers and subcontractors to stop, all work and deliveries under this Order, with the goal of minimizing the cost of termination. If the cancelled Order is for custom goods, Buyer shall pay to Seller, within forty-five (45) days of receiving a detailed invoice from Seller to which Buyer agrees, a percentage of the total Order price reflecting the percentage of the Order unpaid for and completed prior to cancellation plus reasonable costs actually incurred by Seller and directly resulting from such termination ("Termination Payment"). Buyer may verify supporting documentation of such costs. Seller will not be paid for any Goods delivered, Services performed, or deliveries initiated after receipt of the notice of termination, nor for any costs incurred by Seller or by Seller's suppliers or subcontractors that could reasonably have been avoided. No amount for anticipated profit on Services not performed or on unfinished Goods will be recoverable by Seller. In no event shall the sum of the Termination Payment plus payments made or due Seller for the non-terminated portions of the Order exceed the Order's total price. Seller shall promptly refund to Buyer any payments in excess of the sum of the Termination Payment plus payments made or due for the non-terminated portions of this Order. The termination of any portion of this Order pursuant to this Section 14 shall not affect either party's obligations as to any non-terminated portions of this Order.

**15. TERMINATION FOR CAUSE.** Buyer may, by written notice to Seller, terminate this Order, in whole or in part, for default if: (a) Seller fails to perform in accordance with any requirement of this Order or fails to make sufficient progress thereby endangering the timely performance of this Order; (b) Seller becomes insolvent, has commenced against it or proposes to commence any bankruptcy, reorganization or insolvency proceeding or other proceeding under any federal, state or other law for the relief of debtors; or (c) any receiver, trustee or custodian is appointed to take possession of all or any substantial portion of the assets of Seller. Any such termination shall be at no cost to Buyer except for completed Goods and Services delivered or performed and accepted by Buyer prior to such termination, and Seller shall repay to Buyer any progress payments made in excess thereof. The termination of any portion of this Order pursuant to this Section 15 shall not affect either party's obligations as to any non-terminated portions of this Order. In the event of termination pursuant to this Section 15, Buyer may procure or otherwise obtain, upon such terms and in such manner as Buyer may deem appropriate, goods and services similar to the Goods and Services not provided to Buyer hereunder, and Seller shall be liable to Buyer for any damages arising therefrom, including attorneys' fees and excess costs incurred by Buyer in obtaining such substitute goods and services.

**16. INSURANCE.**

**16.1** Seller has and will maintain at Seller's expense, for two (2) years following final acceptance of the Services or Goods, the following insurance coverages, or any such greater or additional coverages as may be specified in the Order Face or by any higher-tier contract pursuant to which this Order is issued: (i) Worker's Compensation and Occupational Disease Coverage conforming to the statutory requirements of the jurisdiction in which the Services is to be performed or the Goods delivered, the jurisdictions in which Seller's employees reside, and the state in which Seller is domiciled; (ii) Commercial General Liability (collectively, "CGL") coverage with an occurrence limit of not less than \$1,000,000 combined single limit and an aggregate limit of not less than \$2,000,000, including Premises/Operations, Products/Completed Operations, Blanket Contractual, Broad Form Property Damage (including completed operations), Personal Injury, and Independent Subcontractors coverages; and (iii) Business Automobile-coverage with an accident limit of not less than \$1,000,000 combined single limit,

including Owned, Hired, and Non-Owned Autos. Buyer makes no representations that the required minimum amounts of insurance shall be adequate to protect Seller and the procuring and/or carrying of such insurance shall not limit Seller's obligation or liability pursuant to this Subcontract or as a matter of law. CGL policies and such other policies as may be required by Buyer other than workers compensation shall be endorsed to name Buyer, Buyer's parent, Buyer's customer and other required parties as additional insureds, and coverage shall apply separately to each insured and shall not contain any cross suits exclusions.

**16.2** All insurance required to be furnished by Seller shall be maintained with insurance companies with a best rating of A- or better. Certificates of insurance for all coverage to be maintained by Seller shall be delivered to Buyer five (5) days prior to scheduled commencement of the Services or delivery of the Goods. In no event shall the failure by Buyer to receive or identify any deficiencies in certificates of insurance will be construed as a waiver of Seller's obligation to obtain and maintain the required insurance coverages and limits. Seller agrees and will have its insurers agree to waive all subrogation rights against Buyer and Buyer's customers. Failure of Seller to maintain or furnish evidence of all insurance required herein shall permit Buyer, in addition to other remedies provided herein or available at law or in equity, to terminate this Order or to obtain such insurance at Seller's sole expense. Buyer's election to obtain such insurance shall in no case limit Buyer's other remedies or reduce Seller's responsibility pursuant to this Order. Deductibles shall be the responsibility of Seller, and Buyer shall be entitled to recover the full amount of losses attributable to Seller's operations under this contract. Seller shall pay such portion of all deductibles on any Builder's Risk policy obtained by Buyer that is proportionate to the insured damages for which it is responsible compared to the total insured damages.

**17. COMPLIANCE.**

**17.1** Seller will comply, and will require its representatives to comply, with the Southern Company **Supplier Code of Conduct**, available at [www.powersecure.com/suppliers](http://www.powersecure.com/suppliers) or upon request.

**17.2** Seller will comply with and will act in a manner to enable Buyer to comply with, all (i) applicable provisions of federal, state and local laws, rules, codes, regulations and orders, as amended from time to time; (ii) industry standards; (iii) applicable customer contracts; and (iv) applicable provisions of Buyer's and Buyer's customers' policies and procedures. Seller shall bear full liability and responsibility for any changes in law occurring after an Order is issued but before Seller has completed performance. Seller shall not be entitled to a price increase or any other compensation resulting from changes in laws occurring on or after the date an Order is issued.

**17.3** Seller warrants that it, and its officers and directors, as applicable, have not been, and are not under consideration to be disqualified by any government or regulatory agencies from providing goods or performing specific services, and are not subject to a pending disqualification proceeding. If Seller or any of its representatives become debarred, suspended, or proposed for debarment, Seller will immediately notify Buyer verbally and in writing.

**17.4** By accepting this Order, Seller certifies that all Goods and Services provided hereunder will have been produced in compliance with applicable provisions of the United States Fair Labor Standards Act, as amended.

**17.5** Seller will perform all work in a careful, workmanlike manner and, in the event that the Goods or Services to be provided under this Order involve processing, handling, transporting or disposing of hazardous materials or products, will take all precautions necessary to avoid an unhealthy or unsafe work environment, injuries to persons or damage to property or the environment.

**17.5** At all times, Seller shall use appropriate precautions to prevent injury to workmen and others on or about any worksite where the Services are performed or the Goods are delivered, and shall comply with all safety regulations required by the Occupational Safety and Health Act, by Buyer or by Buyer's customers. Seller shall comply with Buyer's safety program, a copy of which will be provided to Seller upon request.

**17.6** Seller understands that Buyer is subject to the provisions of Section

1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the related rules and regulations of the U.S. Securities and Exchange Commission (“**Conflict Minerals Rule**”), involving the determination, documentation and disclosure of the country of origin of tin, tantalum, tungsten and gold (“**Conflict Minerals**”) contained in the Seller’s products. Seller represents, warrants and covenants that Seller will undertake reasonable due diligence within its supply chain to determine the source and chain of custody of its Conflict Minerals, including developing policies and systems to avoid the use of Conflict Minerals that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or any adjoining country. Seller further agrees, at any time upon the Buyer’s request, to promptly provide (and to use its best efforts to cause Seller’s vendors, suppliers and distributors to promptly provide) the Buyer with such information regarding the source, chain of custody, smelter or refiner and country of origin of all Conflict Minerals that may be contained in the Products delivered by Seller to the Buyer and such information otherwise requested in order for the Buyer to comply with the Conflict Minerals Rule.

**17.7** Seller certifies that it will not provide covered defense telecommunications equipment or services as a part of its offered products or services in the performance this Order. Seller certifies that it does not use any equipment, system or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, regardless of whether that use is in performance of a federal contract. In this Section, “**covered telecommunications equipment**” means telecommunications and video surveillance equipment or services produced or provided by the following entities and their subsidiaries or affiliates: Huawei Technologies Company, ZTE Corporation Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, or an entity designated by federal law or that the Secretary of Defense reasonably believes to be owned, controlled or connected to a covered foreign country government.

**17.8** Seller certifies that it will not provide any covered article or use any covered article in the development of data or deliverables first produced in the performance of this Order. In this Section, “**covered entity**” means Kaspersky Lab, its successors, subsidiaries, and any entities it controls, are controlled by, or are under common control with Kaspersky Lab, and other entities as designated by federal law. “**Covered article**” means any hardware, software, or service that: (1) is developed or provided by a covered entity; (2) includes any hardware, software, or service developed or provided in whole or in part by a covered entity; or (3) contains components thereof.

**17.9** With respect to Goods and/or Services provided in relation to an underlying **federal government contract**, the following provisions apply:

- Seller certifies that no federal funds have been or will be paid to any person including any registered lobbyists for influencing or attempting to influence an officer/employee of any federal agency regarding this Order.
- Seller shall not restrict its employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a government contract to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).
- Seller agrees to comply with U.S. Government’s policy and associated requirements prohibiting human trafficking.
- Regarding its employees covered by the National Labor Relations Act, Seller agrees to conspicuously post notices on rights to organize and bargain collectively in and about its facilities where they work.
- Seller agrees not to maintain or provide for its employees any segregated facilities at any of its establishments.
- Seller will comply with all applicable federal and state fair employment laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 and the Americans with Disabilities Act of 1990, and all provisions of Executive Order 11246 as amended, 41 CFR 60-1, and all of the rules, regulations and relevant

orders of the Secretary of Labor. Seller will not discriminate against any employee or applicant for employment because of race, color, religion, age, disability, veteran status, genetic information, gender, sex, sexual orientation, gender identity, national origin, or any classification protected by federal, state or local law. Seller shall take affirmative action as required by law to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, gender, color, religion, age, national origin, physical handicap, veteran status, or any classification protected by federal, state or local law. Seller agrees to post non-discrimination notices as required by law in conspicuous places available to employees and applicants.

- In accordance with the U.S. Department of Labor’s regulations implementing (A) the Vietnam Era Veterans Readjustment Assistance Act (VEVRAA, as amended) at 41 CFR Part 60-300 and (B) Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) at 41 CFR Part 60-741, Seller shall abide by the requirements of (a) 41 CFR 60-300.5(a) and (b) 41 CFR 60-741.5(a), which prohibit discrimination, respectively against (i) qualified protected veterans and (i) qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment of qualified protected veterans and qualified individuals with disabilities.

- Seller agrees to comply with FAR 52.204-27 and related federal laws and regulations, which prohibit Seller from having or using a “**covered application**” (TikTok or any other application/service developed/provided by ByteDance Limited or its subsidiaries) on any “**information technology**” (e.g., laptop, phone, or tablet) used by Seller in performance of any Order supporting a federal government contract or subcontract. This prohibition applies to information technology devices owned by the government, Seller, or Seller’s employees. This prohibition does not apply if the government’s contracting officer provides written notice of an exception and Buyer notifies Seller of such exception. Seller shall insert the substance of this clause in all subcontracts in furtherance of this Order, including subcontracts for the acquisition of commercial products or commercial services.

- On Dept. of Defense contracts, Seller agrees to comply with FAR 252.225-7060 and related federal laws and regulations, which prohibit certain procurements from the Xinjiang Uyghur Autonomous Region of the People’s Republic of China.

**18. SUPPLIER DIVERSITY.** Seller understands that Buyer strongly encourages its suppliers to source goods and services from small and diverse businesses, and in some cases, requires small and diverse sourcing for certain projects.

**19. ASSIGNMENTS AND SUBCONTRACTING.** Buyer may assign any or all of its rights or delegate any or all of its obligations under this Order without the consent of Seller. Seller may not assign any of its rights or delegate any of its obligations under this Order to any third party without Buyer’s prior written consent. No Part of this Order may be subcontracted without the prior written consent of Buyer.

**20. WAIVER; REMEDIES.** Any waiver by either party of a breach of any provision of this Order shall not operate as, or be construed to be, a waiver of any other breach of such provision or of any breach of any other provision of this Order. Any waiver must be in writing. Failure by Buyer insist upon strict adherence to any term of this Order on one or more occasions shall not be considered a waiver or deprive Buyer of the right thereafter to insist upon strict adherence to that term or any other term of this Order. The remedies contained in this Order are cumulative and in addition to any other remedies at law or equity.

**21. PUBLICITY.** Seller will not issue any announcements or press releases mentioning Buyer, its customers or its affiliates and will not disclose to others the fact that Buyer has purchased or plans to purchase the Goods or the Services from Seller, or the terms and conditions of such purchase, without Buyer’s express prior written approval, except as is necessary to fulfill Seller’s obligations under this Order, or as required by law.

**22. SURVIVAL OF OBLIGATIONS.** The obligations hereunder which by their terms might apply after the completion or termination of this Order shall survive such completion or termination.

**23. APPLICABLE LAW.** This Order shall be governed by and construed in accordance with the laws of the State of North Carolina (excluding the choice of law rules thereof). Seller waives any objection or defense that Seller is not personally subject to the jurisdiction of the state and federal courts of North Carolina, that venue of the action is improper, and that the action, suit or proceeding is brought in an inconvenient forum, and

Seller hereby submits to jurisdiction and venue in such courts. In addition to any other mode of service of process authorized by law, Buyer and Seller consent to service of process by registered or certified mail. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.