

## TENSORWAVE PURCHASE ORDER TERMS AND CONDITIONS

The terms and conditions below ("**Terms and Conditions**"), together with the purchase order ("**Order**") and any statement of work ("**SOW**"), form the agreement between TensorWave Inc. and its wholly owned subsidiaries ("**TensorWave**") and Supplier for the delivery of Products and/or performance of Services. If the Terms and Conditions conflict with the Order or SOW, the Terms and Conditions shall control. If TensorWave and Supplier have executed a separate written agreement governing the Products or Services ("**Existing Agreement**"), then the Existing Agreement will apply to those Products or Services. Any additional or different terms in any Supplier documents, including quotations, acknowledgments, or online terms (including shrink-wrap or click-through terms) that are not negotiated by the parties and identified on the face of the Order are explicitly rejected by TensorWave without further notice or rejection and shall be of no effect or binding upon TensorWave. All documents provided for under an Order shall be in English.

The headings and subheadings of Sections contained herein are used for convenience and ease of reference and do not limit the scope or intent of the Section. In the Order, (i) "include" or "including" means "including but not limited to", (ii) examples are illustrative and not the sole examples of a particular concept, (iii) written communication includes email, and (iv) "days" means "calendar days" unless otherwise specified.

### 1. **DEFINITIONS.**

- 1.1 "**Defect**" or "**Defective**" means a Product or Service does not fulfil its Specifications and/or process.
- 1.2 "**Deliverable**" means custom work (including third party materials) provided by Supplier to TensorWave as set forth in a SOW. The definition of Products includes Deliverables.
- 1.3 "**Intellectual Property Right**" means all registered or unregistered intellectual property rights throughout the world, including rights in patents, copyrights, trademarks, trade secrets, designs, databases, domain names, and moral rights.
- 1.4 "**IP**" means anything protectable by an Intellectual Property Right, including inventions, discoveries, know-how, and process information.
- 1.5 "**Order**" means the purchase order issued hereunder, including any incorporated attachments, these Terms and Conditions and all other referenced documents, and any subsequent changes or modifications.
- 1.6 "**Personnel**" means employees, independent contractors, and agents of Supplier.
- 1.7 "**Product**" means any product, good, part, component, or article provided by Supplier, including any hardware (including any software, firmware, or other hardwired logic embedded within the hardware), software, or Deliverable delivered under the Order.
- 1.8 "**Services**" means all labor, performance of duty, or effort specified or provided under the Order, such as installation, manufacturing, design, engineering, professional, or consulting, where the cost of such Services are separate from and not included in the price of the Product.
- 1.9 "**Specifications**" means the requirements of the Order and any specifications, requirements, and functionality of the Products or Services mutually agreed to by the parties, and solely to the extent not inconsistent with Supplier's documentation, use manual, published requirements, online guides, and other materials describing the operation and functionality of the Products and Services provided by Supplier.

2. **Acceptance of the Order.** Any of the following acts by Supplier constitute acceptance of the Order: (i) execution of the acknowledgement page of the Order and return to TensorWave, (ii) initiation of any aspect of performance or notification to TensorWave that Supplier is commencing performance under the Order, (iii) shipment of any Products or performance of any Services under the Order, or (iv) acceptance of any form of payment, partial or complete, under the Order.

3. **Changes.** During performance of the Order, Supplier shall not make any change in the Services to be performed or in the design or manufacturing of Products to be furnished, including any changes to the process, manufacturing location, or use of suppliers and subcontractors, without advance notice to and written approval of TensorWave. TensorWave may change the time or place of delivery, inspection, acceptance, or performance for Products or Services; method of shipping or packing; drawings, designs, or specifications; quantity of Products ordered or Services performed; or method or manner of performance, except that if requested changes materially increase or decrease the cost to provide Products or Services, the parties will negotiate an appropriate adjustment to its obligations under the Order. Supplier will not unreasonably withhold or delay agreement to any change requested by TensorWave. Any request for equitable adjustment in price to which Supplier may be

entitled as a result of an increase in the quantity of Products or Services ordered shall not exceed the unit price established for such Products or Services.

#### 4. **DELIVERY, TITLE, RISK OF LOSS.**

4.1 **Delivery Performance.** Products and Services shall be delivered or performed in accordance with the schedule, shipping instructions, and delivery location set forth in the Order. For imported Products, Supplier will obtain all authorizations and permits necessary to fulfill all applicable governments' requirements for Product shipment. Time is of the essence in Supplier's performance of the Order. TensorWave reserves the right to refuse shipments made in advance of the schedule set forth in the Order and may return early delivery shipments at Supplier's expense. If TensorWave chooses to retain the Products shipped in advance of the schedule date, TensorWave may make payment in accordance with the original delivery schedule in the Order. TensorWave shall not be responsible for any additional costs associated with early delivery. TensorWave may also refuse deliveries made after the scheduled delivery date set forth in the Order, and in such case, will not be liable to Supplier for any Products or Services not accepted. Acceptance of early or late deliveries shall not be deemed a modification of Supplier's obligation to make future deliveries in accordance with the delivery schedule set forth in the Order.

4.2 **Delivery Delays.** If a Product shipment (or part of a shipment) is likely to be delayed, Supplier will: (i) promptly notify TensorWave in writing and immediately propose a new delivery date (which shall not constitute a waiver to TensorWave's rights and remedies hereunder); (ii) use best efforts to expedite delayed Product at Supplier's expense; and (iii) at TensorWave's option, issue TensorWave a discount or refund on the purchase price for Product delivered late. In addition, TensorWave may (A) cancel without liability the applicable Order or portions of the Order for delayed Product that is not yet delivered, or (B) source replacements for delayed Product from another supplier, at Supplier's reasonable expense. Supplier, at the request of TensorWave, shall provide a written explanation for the root cause of the delay, a corrective action plan to address the late deliveries, and assurances that Supplier will make all future deliveries in accordance with the Order requirements and schedule. Such corrective action plan and assurances shall be satisfactory to TensorWave as determined by TensorWave in its sole discretion.

4.3 **Product Shipping.** Supplier shall comply with TensorWave's routing and shipping instructions. Supplier shall remain liable for any and all additional charges which accrue as a result of Supplier's failure to comply with TensorWave's routing and shipping instructions, including TensorWave's specified carrier.

4.4 **Product Packaging.** Supplier will package Products according to any instructions TensorWave provides on an Order, and if none are provided, then according to good commercial practice to ensure safe arrival of the Products. Supplier shall separately number all containers, packages, etc. showing the corresponding number on the invoice. Unless set forth in the Order, Supplier shall not charge extra for packaging or packing materials.

4.5 **Excess Product.** Any overshipment allowances require TensorWave's prior authorization and will be applied to either the line item or entire Order, at TensorWave's discretion. Unauthorized overshipments shall be returned to Supplier at Supplier's sole expense.

4.6 **Risk of Loss.** Unless otherwise specified in the Order, Supplier shall bear the risk of loss and damage to all Products supplied hereunder until final acceptance by TensorWave. TensorWave shall have equitable title to all Products for which interim, partial, or progress payments have been made to Supplier. Title of Product passes upon final acceptance by TensorWave.

4.7 **Services.** Unless otherwise stated in the Order, Supplier will provide all materials, equipment, and personnel necessary for performing the Services. Supplier's employees, agents, and contractors (collectively "**personnel**") may be granted access to TensorWave's facilities, subject to compliance with TensorWave's administrative and security requirements and policies provided to Supplier. Supplier acknowledges and agrees Supplier's personnel with access to TensorWave's facilities can be removed and/or barred from entry at TensorWave's sole discretion. Upon TensorWave's direction, Supplier shall remove such personnel and promptly provide a qualified replacement. Supplier agrees to use its best efforts to ensure continuity of performance under the Order. Subject to applicable laws, if Supplier's personnel are to be onsite at any TensorWave's facilities, TensorWave shall have the right to require Supplier's personnel to submit to TensorWave's standard drug test and/or background check or equivalent standards prior to performance any Services. Prior to access being granted to Supplier's personnel, Supplier shall certify that such screening was accomplished. Supplier shall be and remain responsible to TensorWave for its personnel's acts and omissions in connection with the performance of any work.

#### 5. **QUALITY, INSPECTION, DEFECTS.**

5.1 **Quality Control.** Supplier and its subcontractors shall establish and maintain a quality management, inspection, safety, and counterfeit parts program acceptable to TensorWave and consistent with current industry standards (e.g., ISO9001, AS9100, AS9115, AS9120, AS5553, AS6174, etc.). Supplier shall permit TensorWave to review procedures, practices, processes and related documents to determine such acceptability. Supplier shall have a continuing obligation to promptly

notify TensorWave of any violation or deviation from Supplier's approved inspection/quality control system and advise TensorWave of the quantity and specific identify of any Products provided to TensorWave during the period of any such violation or deviation. If the violation is not corrected within sixty (60) days, TensorWave may terminate the Order. Supplier will notify TensorWave of any changes that affect quality within twenty-four (24) hours of that change, including changes to key management or personnel, change in source of supply of key materials, and change in address or site configuration.

5.2 Inspection. Any Order may include requirements for design, test, inspection, verification (including production process verification), use of statistical techniques for product acceptance, and related instructions for acceptance by TensorWave, and as applicable, critical items including key characteristics and requirements for test specimens (e.g., product method, number, storage conditions) for design approval, inspection/verification, investigation, or auditing. Supplier shall properly test and inspect its Products (including Deliverables) in accordance with the Order requirements and applicable law. Supplier shall provide TensorWave with supporting documentation evidencing Supplier's testing of the Products and all assistance necessary for TensorWave to fully inspect any Deliverables. TensorWave shall have the right, but not the obligation, to inspect and test Products and Services. Additionally, subject to applicable national security regulations, Supplier shall provide TensorWave right of access, on a non-interference basis, to any area of Supplier or Supplier's supply chain sub-tier premises where any part of the work is being performed. Supplier shall keep and maintain inspection, test, and related records for a period of six (6) years following completion of the Order and allow copies to be made and furnish all records required by TensorWave.

5.3 Defects. Supplier shall notify TensorWave within forty-eight (48) hours upon Supplier's discovery that any Product or Service is Defective. If Supplier delivers a Defective Product or Service, TensorWave may, at its option and Supplier's expense: (i) return the Product or reject the Service for refund or credit within thirty (30) days of notice of Defect; (ii) accept all or part of the Product or Service at a mutually agreed upon price reduction or other consideration; (iii) require Supplier to promptly correct or replace the Product or re-perform the Service and re-deliver the repaired or replaced Product or Service within a commercially reasonable time; (iv) obtain a conforming Product or Service from another source; (v) cancel the Order for default; or (vi) exercise any other applicable rights or remedies. TensorWave shall specify in writing the reason for any rejection of a Defective Product or Service. If TensorWave elects to return the Defective Product or Service, Supplier shall provide disposition instructions regarding the Defective Product or Service, and if applicable, the date the Defective Product or Service will be repaired or replaced and returned to TensorWave. Supplier shall bear all risk of loss for the Defective Product or Service and be liable for any increase in costs, including removal, re-procurement, repair, and reinstallation costs, attributable to TensorWave's rejection and any costs associated with TensorWave's root cause corrective analysis of the Defective Product or Service. In the event of any costs incurred by TensorWave related to a root cause corrective analysis, Supplier shall reimburse TensorWave any outstanding costs not covered by an equitable price reduction within thirty (30) days. If TensorWave rejects a Product or Service as Defective, and Supplier does not acknowledge TensorWave's rejection and plan of disposition for the Product or Service within two (2) business days, TensorWave will be entitled to dispose of the Defective Product or Service without liability to Supplier. Additionally, TensorWave may elect to return the Defective Product or Service back to Supplier at Supplier's risk of loss and expense. In the event TensorWave decides to accept a Defective Product or Service, any costs incurred by TensorWave for testing, evaluating, repairing, and manufacturing relating to the design changes to the Product or Service, shall be the responsibility of Supplier, and Supplier may not pass along any costs in relation to the design changes. TensorWave's payment for any Defective Product or Service will not constitute final acceptance by TensorWave, or limit or impair TensorWave's right to exercise any rights or remedies or relieve Supplier of responsibility for the Defective Product or Service.

5.4 Deliverables. Supplier will provide TensorWave with status reports regarding Supplier's progress on any Deliverables, at the frequency reasonably requested by TensorWave. For any Deliverables either party identifies as Defective, Supplier will perform a failure analysis and provide TensorWave with (i) an initial assessment of the cause of the Defect within one (1) week of receiving the returned Deliverable, and (ii) a final assessment of the root cause of the Defect within three (3) weeks of receiving the returned Deliverables.

5.5 Acceptance. Final acceptance by TensorWave of the Products or Services provided hereunder shall take place only after complete delivery of all Products or Services in accordance with the delivery schedule specified in the Order, or later as agreed upon by the parties in writing, and after final inspection of those Products or Services by TensorWave. Final acceptance shall be contingent upon agreement by TensorWave that the Products and Services conform to the requirements of the Order. Final acceptance by TensorWave is final, except for latent defects, negligent or intentional misrepresentations by Supplier that a Defect would be or has been cured or did not exist, or acceptance induced by false or negligent assurances of Supplier. Final acceptance by TensorWave shall not limit, void, or affect in any way the warranty or indemnity granted by Supplier hereunder. TensorWave's payment for the Product or Services alone shall not constitute final acceptance of the Products or Services rendered.

## 6. **COUNTERFEIT PARTS.**

6.1 **Definitions.** For purposes of this Section, the following definitions apply:

- (i) **“Authorized Aftermarket Manufacturer” or “AAM”** means an entity that fabricates a Part under a contract with, or with the express written authority of, the Original Manufacturer based on the Original Manufacturer’s designs, formulas, and/or specifications, usually due to the Original Manufacturer’s decision to discontinue production.
- (ii) **“Authorized Distributor”** means a distributor authorized in writing by an Original Manufacturer to distribute product within the terms of a contractual agreement.
- (iii) **“Authorized Reseller”** means a reseller that purchases Parts either from the Original Manufacturer or their Authorized Distributors within the terms of a contractual agreement and then sells the Part to the end user.
- (iv) **“Authorized Source”** means an Original Manufacturer, Authorized Distributor, AAM, Authorized Reseller, or other supplier approved by TensorWave in writing that obtains Parts exclusively from an Original Manufacturer, Authorized Distributor, or AAM.
- (v) **“Contract Manufacturer”** means a company that produces goods under contract for another company under the label or brand name of that company.
- (vi) **“Counterfeit Part”** means (A) an unauthorized copy, imitation, substitute, or modified part, which is knowingly misrepresented as a specified genuine part of the Original Manufacturer, or (B) a previously used EEE Part that has been modified and is knowingly misrepresented as new without disclosure to TensorWave that it has been previously used. Examples of Counterfeit Part include the false indemnification of grade, serial number, data code, or performance characteristics. This definition shall be read so as not to conflict with the definition for “counterfeit electronic part” cited in DFARS 252.246-7007, where that definition shall govern to the extent the DFARS clause applies.
- (vii) **“Electrical, Electronic, and Electromechanical Part” or “EEE Part”** means a component designed and built to perform specific functions using electricity and is not subject to disassembly without destruction or impairment of design use. Examples of an electrical part include resistors, capacitors, inductors, transformers, and connectors. Examples of an electronic part include monolithic microcircuits, hybrid microcircuits, diodes, and transistors. Examples of electromechanical parts include motors, synchros, servos, relays, and other devices that have electrical inputs with mechanical outputs, or mechanical inputs with electrical outputs, or combinations of each.
- (viii) **“Independent Distributor”** means a distributor that purchases Parts (typically from excess inventories) from an Original Manufacturer, Contract Manufacturer, or other distributor (authorized or independent) with the intention to resell them back into the market to other Original Manufacturers, Contract Manufacturers, or other distributors. Independent Distributors do not have contractual agreements with the Original Manufacturer.
- (ix) **“Original Component Manufacturer” or “OCM”** means an entity that designs and/or engineers a Part and is entitled to any IP rights to that Part. The Part and/or packaging is typically identified with the OCM’s trademark. OCMs may contract out manufacturing and/or distribution of their Part. Different OCMs may produce or supply Parts for the same application or to a common specification.
- (x) **“Original Equipment Manufacturer” or “OEM”** means a company that manufactures and assembles Parts that it has designed from purchased materials or components and sells those Parts identified and labeled under the company’s brand name.
- (xi) **“Original Manufacturer”** means an OCM or OEM.
- (xii) **“Part”** means broadly all parts, including EEE Parts, products, materials, chemicals, assemblies, subassemblies, hardware, and all other components or pieces of components that may go into a Product. A Part can also be a Product.

6.2 **Authorized Acquisitions.** Supplier shall purchase or acquire all Parts directly from Authorized Sources. SUPPLIER SHALL NOT PURCHASE PARTS FROM OR USE INDEPENDENT DISTRIBUTORS TO SUPPLY PARTS WITHOUT THE PRIOR WRITTEN CONSENT OF TENSORWAVE. Unless TensorWave provides prior written consent, Authorized Distributors shall only purchase EEE Parts directly from the Original Manufacturer. Contract Manufacturers and Authorized Resellers shall only purchase Parts from the Original Manufacturer or their Authorized Distributor.

6.3 **No Counterfeit Parts.** Supplier shall implement and control processes appropriate to Supplier’s organization and the Products for prevention of Counterfeit Parts or suspect Counterfeit Parts use and inclusion in the Products. Supplier shall not furnish Counterfeit Parts or suspect Counterfeit Parts to TensorWave under the Order. Supplier shall provide to TensorWave or use in Products delivered to TensorWave only new and authentic Parts, traceable to the Original Manufacturer. If Supplier becomes aware or suspects that it has furnished a Counterfeit Part to TensorWave under the Order, Supplier shall promptly

notify TensorWave of such no later than forty-eight (48) hours after discovery. Supplier shall not invoice any Counterfeit Part or suspect Counterfeit Part. Any Counterfeit Part or suspect Counterfeit Part that has already been invoiced shall be deducted from the value of the Order. TensorWave may, at TensorWave's sole option, elect not to return the Counterfeit Part or suspect Counterfeit Part to Supplier. If TensorWave chooses to return the Product or Part to Supplier for Supplier to remove the Counterfeit Part or suspected Counterfeit Part, TensorWave requires Supplier provide a certification of destruction through an independent third party chosen by TensorWave to prove Supplier's destruction of the Counterfeit Part or suspected Counterfeit Part. Supplier shall replace, at Supplier's own expense, such Counterfeit Part with a Part from an Original Manufacturer or an TensorWave-approved Part that conforms to the requirements of the Order. Supplier shall be liable for all costs related to (i) the investigation and traceability of any Counterfeit Part or suspect Counterfeit Part, (ii) the replacement of any Counterfeit Part or suspect Counterfeit Part, and (iii) any testing or validation necessitated by the installation of authentic Products or components of Products after a Counterfeit Part has been replaced. TensorWave's remedies shall not be limited by the Representations and Warranties section in the Order and are in addition to any remedies TensorWave may have at law, equity, or otherwise under the Order.

6.4 Records. For all purchases, Supplier shall ensure the Part remains unchanged from the Part sold by or acquired from the Original Manufacturer and the certifications show the chain of custody from the Original Manufacturer. Upon request, Supplier shall provide authenticity and traceability records to TensorWave. Supplier shall immediately notify TensorWave in writing if Supplier cannot provide a Part traceable to the Original Manufacturer. Upon receipt of such notification, TensorWave reserves the right to terminate the Order at no cost to TensorWave and/or require Supplier, at Supplier's cost, to assist TensorWave with material validation testing and inspection at an independent test facility of TensorWave's choice.

## 7. INVOICING AND PAYMENT

7.1 Invoices. Supplier will invoice TensorWave upon TensorWave's acceptance of the Products and Services by submitting itemized invoices in English to the online portal specified by TensorWave according to the portal's instructions. Correct invoices will include Order number, complete bill-to address, Product part numbers and quantities, description of Products or Services, unit prices, applicable tax or other charges, and extended totals. Unless otherwise provided by TensorWave on the face of the Order, TensorWave will pay for accepted Products or Services at the prices set forth on the Order after receipt of a correct invoice within sixty (60) days. TensorWave will consider expedited payment in exchange for a price discount. If Supplier does not return the acknowledgement page of the Order and commences performance, TensorWave shall only be responsible for payment for the work performed to the extent the work was required by TensorWave, not to exceed the amounts set forth on the Order. TensorWave is not required to pay any invoice submitted one hundred eighty (180) days or more after a Product is shipped or Services are completed. All payments shall be made in U.S. dollars with no adjustments for currency exchange rates. TensorWave may initiate invoice disputes in good faith. Upon TensorWave's request, Supplier will issue separate invoices for undisputed and disputed amounts. Payment of undisputed amounts will not limit TensorWave's right to object and refuse payment of disputed amounts. The party receiving payment will be responsible for bank and credit card charges assessed by its bank or the credit card issuer.

7.2 Payments. Each payment shall be subject to a reduction for any amounts found by TensorWave or Supplier not to have been properly payable, including any overpayments. Supplier shall promptly notify TensorWave of any overpayments and remit the overpayment amount to TensorWave along with a description of the overpayment. To the extent permitted by applicable law, TensorWave may withhold, deduct, or setoff all money due, or which may become due, from TensorWave arising out of Supplier's performance under the Order or any other transaction TensorWave or its affiliates may have with Supplier.

7.3 Taxes. Unless otherwise approved by TensorWave in writing, the prices for Products and Services include and Supplier shall be responsible for the payment of any applicable federal, state, and local taxes, duties, tariffs, or other similar fees (collectively, "**taxes**") imposed by any government, unless Supplier obtains an applicable exemption. Supplier represents the prices do not include any taxes, impositions, or charges for which it is eligible to obtain or has obtained a valid exemption certificate or other evidence of exemption. Any taxes in the Order shall be itemized separately on Supplier's invoice.

7.4 Expenses. TensorWave may reimburse Supplier for actual and reasonable expenses expressly stated in the Order, provided such expenses are pre-approved in writing by TensorWave and comply with TensorWave's travel policy. Any reimbursement for expenses is contingent upon Supplier submitting receipts and other documentation TensorWave may request establish the type, date, amount, payment, and purpose for such expenses.

7.5 Flexibly Priced Orders Only. TensorWave shall not be obligated to pay Supplier for amounts in excess of the Not to Exceed (NTE) amount of the Order as set forth on the face of the Order. Supplier is not authorized to incur costs in excess of the NTE amount until TensorWave notifies Supplier in writing that the NTE amount has been increased.



## 8. **REPRESENTATIONS AND WARRANTIES.**

8.1 Supplier represents and warrants that the Products and Services provided hereunder: (i) shall conform to the requirements of the Order, the applicable Specifications, and, to the extent not inconsistent therewith, Supplier's documentation; (ii) are new, unused, and not refurbished at the time of delivery, unless otherwise set forth on the face of the Order; (iii) shall be free from security interests, liens, or encumbrances and of good title; (iv) will not infringe or otherwise violate the Intellectual Property Rights of any third party; and (v) are and when delivered to TensorWave, shall be free from viruses, spyware, and other similar harmful and destructive code designed to damage, destroy, reveal, or alter any software, hardware, or data, permit unauthorized access to any software or hardware on which it is installed or any information residing on the systems, or disable any program automatically.

8.2 Supplier represents and warrants for a period of thirty-six (36) months after final acceptance by TensorWave the Products furnished hereunder shall be free from defects in material, workmanship, design, and fabrication. In the case of latent defects, TensorWave's rights to corrective action by Supplier shall commence upon TensorWave's discovery of the latent defect and notification of Supplier thereof.

8.3 Supplier represents and warrants (i) it has full power and authority to enter into and fulfill its obligations under the Order, (ii) its performance of the Order does not and will not violate or conflict with any agreement to which Supplier is a party, (iii) there is no pending or threatened litigation that would have a material adverse impact on its performance under the Order, (iv) Supplier or any of its officers or directors are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency, and (v) it will perform all Services in a professional and competent manner using properly qualified and trained personnel consistent with generally accepted industry standards.

8.4 Remedies for breach of any of these warranties shall be at TensorWave's election, including those specified in Section 5.3 (Defects) for Defective Products and Services. Supplier shall follow the procedure set forth in Section 5.3 (Defects). Any Products or Services corrected or replaced pursuant to this Representations and Warranties Section shall be subject to all provisions of this Representations and Warranties Section to the same extent as Products and Services initially delivered.

8.5 The warranties set forth herein shall survive inspection, test, final acceptance, and payment of the Products and Services. The approval by TensorWave or Supplier's design or material used or TensorWave's inspection of the same shall not relieve Supplier from any obligations under the warranties set forth in the Order. To the extent contractually permitted to do so, Supplier shall provide to TensorWave the benefits of the manufacturer or suppliers' warranties and guarantees for material or equipment incorporated into the Products and Services and will perform its responsibilities so that such warranties or guarantees remain in full effect. The warranties set forth in the Order shall run to TensorWave, TensorWave's customers, and any users of the Products and Services, and shall not be deemed to be the exclusive right of TensorWave but shall be in addition to other rights TensorWave under law, equity, or the terms of the Order.

## 9. **END OF LIFE AND SUPPORT.**

9.1 Supplier shall support the Products purchased hereunder during the operational life of the Products or for a period of ten (10) years from the date of final shipment under the Order and expiration of any warranty period. Support includes technical service for the Product. Additionally, Supplier shall maintain an inventory of subassemblies and spare parts as may be required to support the operation of the Product.

9.2 Supplier shall notify TensorWave in writing if any Products or any parts, subcomponents, components, assemblies, or subassemblies in the Products delivered hereunder, including those supplied by Supplier's lower-tiered subcontractors, are or are expected to be going out of production or will no longer be commercially available. Such notice shall: (i) be provided to TensorWave at least twelve (12) months prior to the anticipated date of discontinuance or unavailability, or if twelve (12) months' notice is not reasonable given the circumstances, as soon as practically possible; and (ii) specifically identify the name and address of the supplier and the part by name, part number, function and location in the Product delivered. In such case, Supplier shall make available to TensorWave and hereby grants TensorWave a royalty-free license to use all drawings, specifications, data, and know-how to enable TensorWave to manufacture or procedure the Product, component, subassembly, or spare part.

## 10. **INTELLECTUAL PROPERTY.**

10.1 **Definitions.** For purposes of this Section, the following definitions apply:

(i) **"Background IP"** means all IP owned or licensed by a party: (i) in existence prior to the effective date of the Order (i.e., before Supplier performs Services), or (ii) is designed, developed, or licensed from a third party independent of both (A) the work undertaken under or in connection with the Order and (B) the IP of the other party to the Order.

(ii) **“Developed IP”** means all Deliverables and any IP created or discovered, or first actually reduced to practice by Supplier in connection with the Order.

10.2 **Products.** Supplier grants TensorWave, its affiliates, distributors, and end users a perpetual, irrevocable, non-exclusive, worldwide, fully paid-up, royalty-free license to use, modify, sell, offer for sale, import, and otherwise dispose of the Product, including any bug fixes, updates, or upgrades developed by Supplier for the respective Product. Unless otherwise set forth in the Order, neither party is granted a license, right, or interest in any trademark, trade name, or service mark of the other party. Neither party will alter or modify any proprietary rights notices on the other party’s IP.

10.3 **Developed IP.** TensorWave shall own all Developed IP. Supplier shall assign, transfer, and convey to TensorWave exclusively and perpetually, all right, title, and interest it may have or acquire in the Developed IP, including all Intellectual Property Rights therein or otherwise arising from the performance of the Order. If applicable law prevents future assignments, Supplier will assign (or will procure the assignment of) such rights as they are created. Supplier will not assert, and to the extent permitted by applicable law, otherwise waives, any moral rights in the Deliverables and Developed IP. Supplier agrees to execute such further documents and to do such further acts, at TensorWave’s expense, as may be necessary to perfect, register, or enforce TensorWave’s ownership of such rights, in whole or in part. If applicable law prevents Supplier from transferring ownership of any Developed IP to TensorWave, Supplier grants to TensorWave a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferrable, worldwide license (with the right to sublicense through multiple tiers) to make, use, sell, offer for sale, import, export any component of, dispose of, reproduce, prepare derivative works of, distribute, publicly perform, and publicly display the Developed IP. Supplier shall provide all Developed IP free of any Supplier confidential or proprietary markings and legends. Any work performed pursuant to the Order that includes any copyright interest shall be considered a “work made for hire” and all rights, title, and interest shall be and are hereby assigned to TensorWave. To the extent applicable, Supplier shall promptly deliver to TensorWave all source code and procedures associated with the Developed IP. TensorWave grants to Supplier a non-exclusive, non-transferable (except as expressly provided herein), royalty-free right during the term of the Order to use the Developed IP solely as necessary for Supplier to perform its obligations under the Order.

10.4 **Supplier Background IP.** Developed IP does not include any Supplier Background IP. If Supplier includes any Supplier Background IP in any Deliverables, Supplier will describe such Background IP in writing. Supplier retains all right, title, and interest in and to any such Supplier Background IP. However, to the extent Supplier Background IP is incorporated into the Developed IP, Products, or Deliverables or is required to fully exploit the Developed IP, Products, or Deliverables, Supplier hereby grants to TensorWave a perpetual, irrevocable, fully paid up, royalty-free, transferable, sublicensable, worldwide, non-exclusive right and license to (i) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use the Supplier Background IP in connection with the Deliverables, Products, and Developed IP or otherwise delivered to TensorWave in connection with the Order; and (ii) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of the Supplier Background IP in connection with the Deliverables, Products, and Developed IP or otherwise delivered to TensorWave in connection with the Order. The foregoing, however, shall not include the right for TensorWave to separate the Supplier Background IP from the Deliverables, Products, or Developed IP and separately exploit or use the Supplier Background IP. For Orders that include the delivery of software, the permitted use and license grant of any software shall be extended to TensorWave’s affiliates and subsidiaries and TensorWave’s contractors and outsources performing services for or on behalf of TensorWave.

10.5 **TensorWave Resources.** TensorWave may provide Supplier with TensorWave Background IP, Developed IP, software, equipment, tooling, or other materials owned by TensorWave or TensorWave’s customer for Supplier to use in performance of the Order (**“TensorWave Resources”**). Supplier shall treat as proprietary and confidential all TensorWave Resources supplied by TensorWave under the Order. All right, title, and interest in the TensorWave Resources shall remain with TensorWave or TensorWave’s customer. TensorWave grants Supplier a limited, non-exclusive, non-transferable, royalty-free license to use the TensorWave Resources solely for the purpose of, and only to the extent needed, for performing the Order. Unless specifically authorized otherwise in the applicable SOW, Supplier shall use the TensorWave Resources only in the form provided by TensorWave, without modification. When directed by TensorWave, Supplier shall clearly mark, maintain an inventory, and keep segregated or identifiable all of the TensorWave Resources. Supplier shall manage, maintain, and preserve the TensorWave Resources in accordance with good commercial practice, and upon TensorWave’s reasonable request, provide TensorWave written records of Supplier’s management, maintenance, and preservation of the TensorWave Resources, including inventory lists. On TensorWave’s request or upon completion or termination of the Order for any reason, Supplier shall promptly return all TensorWave Resources. If Supplier fails to return the TensorWave Resources upon TensorWave’s demand, TensorWave shall have the right, upon reasonable notice, to enter Supplier’s premises and remove any such property at any time without being liable for trespasses or damages. Except for reasonable wear and tear, Supplier assumes all risk of loss, destruction, or damage of the TensorWave Resources while in Supplier’s possession, custody, or control, and will, at TensorWave’s option, replace or reimburse TensorWave for the replacement cost of any TensorWave

Resources lost or damaged before its return to TensorWave. Supplier shall promptly notify TensorWave of any loss or damage to the TensorWave Resources.

10.6 **Tools.** If any tools, gauges, appliances, or equipment (collectively “**Tools**”) should be manufactured or procured by Supplier for producing or developing the Deliverables delivered under the Order, then such Tools shall become the property of TensorWave. TensorWave shall have all rights, title, and interest to such Tools irrespective of whether the Tools are a Product under the Order. Supplier shall manage, maintain, and preserve the Tools in accordance with good commercial practice, and upon TensorWave’s reasonable request, provide TensorWave written records of Supplier’s management, maintenance, and preservation of the Tools, including any inventory lists. TensorWave grants to Supplier a non-exclusive, non-transferable (except as expressly provided herein), royalty-free right during the term of the Order to use the Tools solely as necessary for Supplier to perform its obligations under the Order. All Tools shall be promptly provided to TensorWave on request or upon completion or termination of the Order.

## 11. **THIRD PARTY AND OPEN SOURCE SOFTWARE.**

11.1 As used in this Section, “**Open Source Software**” means any software, programming, or other IP that is subject to (i) the General Public License (GPL), Lesser/Library GPL, the Affero GPL, the Apache license, the Berkeley Software Distribution license, the MIT license, and the Artistic License (e.g., PERL), the Mozilla Public license, or any similar license, including those licenses listed at <http://www.opensource.org/licenses>, or (ii) any agreement with terms requiring any IP owned or licensed by TensorWave to be (A) disclosed or distributed in source code or object code form, (B) licensed for the purpose of making derivative works, or (C) redistributable. In the event Supplier provides any third party software, including Open Source Software, to TensorWave in connection with the Order (“**Third Party Software**”), the following shall apply: (i) Supplier shall specifically identify in writing all Third Party Software and submit written copies of all third party license agreements applicable to TensorWave; and (ii) Supplier represents and warrants that (A) it has the right to license any Third Party Software licensed to TensorWave under the Order, (B) to the best of Supplier’s knowledge, the Third Party Software does not, and the use of the Third Party Software by TensorWave as contemplated by the Order will not, infringe any Intellectual Property Rights of any third party, (C) unless specifically provided otherwise herein, TensorWave shall have no obligation to pay any third party any fees, royalties, or other payments for TensorWave’s use of any Third Party Software, and (D) the Open Source Software used in connection with the Order does not require any software to be published, accessed, or otherwise made available without the consent of TensorWave and does not require distribution, copying, or modification of any software free of charge.

11.2 Supplier shall obtain TensorWave’s prior written consent, which may be withheld in TensorWave’s sole discretion, before using or delivering any Open Source Software in connection with the Order. All Third Party Software provided by Supplier to TensorWave shall be considered, as appropriate, part of and included in the definition of “Supplier Background IP” and subject to all warranties, indemnities, and other requirements of the Order, including scope of license and maintenance and support relating to Supplier Background IP.

## 12. **INSURANCE.**

12.1 **Minimum Insurance.** Supplier shall obtain and maintain, at its expense, on an occurrence basis (except as noted below) at all times during the term of the Order the insurance coverage listed below with insurance companies eligible to do business in the jurisdiction in which work is performed and maintaining an AM Best’s rating of A- VIII or better. The required insurance shall include limits of not of less than the minimum limits specified below, policy limits, or limits required by law, whichever are greater. Insurance limits required herein may be satisfied with any combination of primary and excess insurance. Additionally, Supplier shall cause its subcontractors performing work under the Order to maintain insurance as per the requirements herein or Supplier shall insure its subcontractors. Such insurance includes:

(i) Workers’ compensation and employers’ liability insurance with limits to conform with the greater of the amount required by applicable law or \$1,000,000 each accident, including occupational disease coverage and an endorsement to the workers’ compensation and employers’ liability insurance policy, in form acceptable to TensorWave, containing a waiver of subrogation by the insurance carrier with respect to the additional insureds;

(ii) Commercial general liability insurance on an occurrence form (ISO CG 00 01 or equivalent) with limits not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products/completed operations aggregate, and \$1,000,000 personal and advertising injury (unless higher limited are required by statute or law) for bodily injury, death, and property damage, including personal injury, contractual liability for liability assumed under an insured contract, including the tort liability of another assumed in a business contract, independent contractors, broad-form property damage, personal and advertising injury, and products and completed operations coverage;

(iii) If performance of the Order involves the use of automobiles, commercial automobile liability insurance with limits not less than \$1,000,000 combined single limit per accident for bodily injury, death, and property damage, including owned and non-owned and hired automobile coverages, as applicable;



(iv) Excess and/or umbrella liability insurance on an occurrence form in excess of Supplier's required underlying policies, including commercial general liability, commercial automobile liability, and employers' liability and meeting the above state requirements for each coverage, with limits of not less than \$1,000,000 per occurrence, in excess of the limited states in (i), (ii), and (ii) above;

(v) If Supplier is providing professional services under the Order, Supplier shall carry professional liability/errors & omissions/ technology errors & omissions insurance covering all professional services provided under the Order for claims arising out of Supplier's errors, omissions, rendering, or failure to render Services or provision of Products under the Order and in the amount of at least \$3,000,000 for each wrongful act or omission. Such policy shall not contain any exclusion for Supplier's operations contemplated by the Order. Such policy shall not contain pollution exclusions. Such policy may be written on a claims made basis, subject to Section 12.2 below;

(vi) If Supplier's Services include any cyber-related risks, then Supplier shall maintain cyber/privacy liability or network security insurance (may be separate or combined with the professional liability/ E&O liability/ technologies E&O policy, provided, however, that the limits required for such insurance be maintained in addition to the limits required for Cyber Liability insurance) that (i) covers data breaches or introduction of virus or malicious code, consumer notification (whether or not required by law), forensic investigations, public relations and crisis management, and credit or identify monitoring or similar remediation services, unauthorized access, failure of security, information theft, damage or destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, cyber extortion, and including coverage for related regulatory fines, defenses, and penalties allowed by law, and (ii) includes the indemnification of TensorWave for any costs and expenses, including notification expenses incurred by TensorWave arising out of a security breach, privacy breach, or breach of privacy regulations; with an occurrence or per claim limit, and a limit of not less than \$5,000,000 per claim/aggregate. Such policy shall provide coverage for claims arising out of the Services provided hereunder by Supplier and/or its subcontractors. The policy may be written on a claims made basis, subject to Section 12.2 below; and

(vii) Depending on the nature of the work to be performed, TensorWave may identify additional insurance requirements on the face of the Order, including media liability insurance, fidelity or crime insurance, environmental insurance, pollution legal liability insurance, motor truck cargo insurance, all risk property insurance replacement value, aviation liability insurance, hangar-keepers' liability insurance, marine general liability/hull/ protection & indemnity insurance, installation floater insurance, liquor liability insurance, and rigger's liability insurance.

**12.2 Certificates of Insurance.** As evidence of insurance coverage, Supplier shall deliver (i) certificates of insurance issued on a ACORD 25 form by Supplier's insurance carrier showing such policies in force during the term of the Order (the Cancellation Clause must be amended. The words "Endeavor to" and "but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents, or representatives" must be stricken from the clause), (ii) an endorsement to each required policy (on a CG2026 (07/04) or equivalent form) naming TensorWave and its affiliated companies, and all of their respective directors, officers, shareholders, employees and representatives as additional insureds on a primary and non-contributory basis, and (iii) to the fullest extent allowed by law, an endorsement to each required policy waiving any right of recovery under subrogation or otherwise in favor of TensorWave, its subsidiaries, successors, assigns, and affiliates as their interests may appear, and each of their respective directors, officers, customers, agents, and employees for losses arising from Supplier's Services under the Order. To the extent any insurance coverage required under this Section is purchased on a "claims made" basis, such insurance shall cover all prior acts of Supplier during the term of the Order and such insurance shall be continuously maintained until at least two (2) years beyond the expiration or termination of the term of the Order, or Supplier shall purchase "tail" coverage, effective upon termination of any such policy or upon termination or expiration of the term of the Order, to provide coverage for at least two (2) years from the occurrence of either such event. Any applicable retroactive date must be stated on Supplier's certificate of insurance. No provision of the Order shall impose on TensorWave any duty or obligation to verify the existence or adequacy of the insurance coverage maintained by Supplier and/or Supplier's subcontractors. Any failure on the part of TensorWave to pursue or obtain the evidence of insurance required by the Order from Supplier or any other party and/or failure of TensorWave to point out any non-compliance of such evidence of insurance shall not constitute a waiver of any of the insurance required under the Order.

**12.3 General Requirements.** Supplier shall give thirty (30) days' prior written notice to TensorWave of cancellation, non-renewal, or material change in coverage, scope, or amount of any policy whereby the policy no longer meets the insurance requirements in the Order. In the event Supplier fails to secure and continuously maintain the insurance coverage required under the Order, TensorWave may charge Supplier, and Supplier shall pay TensorWave, (i) TensorWave's actual expenses incurred in purchasing similar protection and (ii) the value or amount of any claims, actions, damages, liabilities, costs, and expenses paid by TensorWave which would not have been paid by TensorWave if Supplier had complied with the requirements of this Section. Supplier is responsible for any losses, claims, and incidental costs arising out of the Services which exceed the limits of liability or which may be outside the coverage required in this Section. Supplier, at its own cost, may purchase any additional insurance it believes necessary to protect its interests. Supplier is required to fully fund losses within its deductibles, self-insured retentions, and self-insured programs, without contribution from TensorWave. Supplier's required insurance

coverage shall be primary insurance, and any insurance, retentions, and self-insurance maintained by Additional Insureds shall be excess and non-contributory with Supplier's insurance.

13. **CONFIDENTIALITY**. The obligations in this Confidentiality Section apply to the extent the parties have not executed a NDA applicable to the work under the Order. If the parties have executed a NDA applicable to the work under the Order, the terms and conditions of the NDA control and take precedence over this Confidentiality Section. During the course of the Order, TensorWave may disclose to Supplier certain non-public information or materials relating to TensorWave's products, intellectual property, business, business plans, marketing programs and efforts, customer lists, customer information, financial information, and other confidential information that is identified or labeled as "proprietary" or "confidential" ("**Confidential Information**"). Confidential Information includes the Order and TensorWave Data. Confidential Information does not include information that: (i) is or becomes publicly available through no breach by Supplier of the Order; (ii) was previously known to Supplier prior to the date of disclosure, as evidenced by contemporaneous written records; (iii) was acquired from a third party without any breach of any obligation of confidentiality; or (iv) was independently developed by Supplier without reference to TensorWave's Confidential Information. To the extent Confidential Information is required to be disclosed pursuant to a subpoena or other similar order of any court or government agency, Supplier, upon receiving such subpoena or order, shall (a) promptly inform TensorWave in writing and provide a copy thereof, (b) cooperate with TensorWave in limiting disclosure of TensorWave's Confidential Information, and (c) shall only disclose that Confidential Information necessary to comply with such subpoena or order. Supplier will not use or disclose any TensorWave Confidential Information without TensorWave's prior written consent, except disclosure to and subsequent uses by Supplier's authorized employees on a need-to-know basis for performance of the Order, provided that such employees have executed written agreements restricting use or disclosure of such Confidential Information that are at least as restrictive as Supplier's obligations under this Confidentiality Section. Subject to the foregoing nondisclosure and non-use obligations, Supplier agrees to use at least the same care and precaution in protecting such Confidential Information as Supplier uses to protect its own Confidential Information, and in no event less than reasonable care. Supplier acknowledges that due to the unique nature of TensorWave's Confidential Information, TensorWave will not have an adequate remedy in money or damages in the event of any unauthorized use or disclosure of its Confidential Information. In addition to any other remedies that may be available in law, in equity or otherwise, TensorWave shall be entitled to seek injunctive relief to prevent such unauthorized use or disclosure without posting a bond or security. On TensorWave's written request or upon expiration or termination of the Order for any reason, Supplier will promptly return or destroy, at TensorWave's option, all originals and copies of TensorWave's Confidential Information, including all documents and materials it has received containing such Confidential Information, together with all summaries, records, modifications, adoptions and other documents containing or prepared from TensorWave's Confidential Information. Additionally, Supplier shall not use in its Products or Services or disclose to TensorWave any materials or documents of another party considered confidential or proprietary, unless it has obtained written authorization from that party.

#### 14. **DATA PROTECTION AND INCIDENT REPORTING**.

14.1 "**TensorWave Data**" means all data, content, materials, Confidential Information, and other information provided by TensorWave to Supplier or otherwise transmitted to Supplier for use in connection with the Products and Services. Supplier will maintain and enforce information and data privacy and security procedures with respect to its access, use and storage of all TensorWave Data that (i) are at least equal to industry standards taking into consideration the sensitivity of the relevant TensorWave Data, and the nature and scope of the Services to be provided, (ii) comply with all applicable international, foreign, federal, state and local laws, statutes, rules, orders and regulations, and (iii) provide reasonably appropriate administrative, technical, and physical safeguards to protect against accidental or unlawful destruction, loss, alteration or unauthorized disclosure, access or use of TensorWave Data. Supplier acknowledges and agrees that (a) Supplier will not "sell" (as defined at Cal. Civ. Code § 1798.140(ad), as it may be amended) TensorWave Data, and (b) Supplier will not use, disclose, or retain TensorWave Data for purposes other than performing the Order for TensorWave or to comply with applicable law, and Supplier will ensure that its subcontractors are restricted from any use or retention of TensorWave Data other than for purposes of performing the Order for TensorWave or to comply with applicable law. Supplier may not de-identify, aggregate, redact, create derivative data, or otherwise process TensorWave Data for Supplier's purposes other than as required to perform the Order for TensorWave. In the course of furnishing the Services, Supplier shall not access, and shall not permit its personnel or entities within its control to access, TensorWave's electronic communication systems, networks, or computers without TensorWave's written authorization. If Supplier will be processing TensorWave Data in connection with the Order, Supplier shall execute an appropriate Data Processing Agreement in a form reasonably proposed by TensorWave.

14.2 Supplier has the obligation to protect the confidentiality, authenticity, and integrity of TensorWave Data by protecting the transmission of electronic messages from unauthorized access or modification. Supplier agrees to appropriately and effectively encrypt TensorWave Data transmitted over public networks, stored on Supplier's portable devices, and at rest in any hosting system by using the most current industry standard security algorithm or cryptography validated by the current FIPS 140 standard and an appropriate encryption strength. Supplier will take all reasonable measures to secure and defend its location and equipment against "hackers" and others who may seek, without authorization, to modify or access Supplier systems or the information found therein without the consent of TensorWave. Supplier will periodically test its systems for potential areas where security could be breached and remediate any medium or high risk issues and critical gaps. Supplier

will report to TensorWave at [legal@tensorwave.com](mailto:legal@tensorwave.com) any actual or threatened loss, corruption, or alteration of TensorWave Data within seventy-two (72) hours of Supplier's discovery of the incident. In such an instance, in addition to Supplier's other obligations under the Order, or under any law or regulation, Supplier agrees, at Supplier's cost, to use diligent efforts to investigate, contain, and promptly remedy any such incident, fully cooperate with TensorWave in resolving such incident, mitigate any damage from such incident, and provide TensorWave with reasonable assurance that Supplier has corrected all circumstances under Supplier's control that led to the incident. Failure to report any incident will be considered a material breach of the Order. In the event of a data breach, TensorWave shall be afforded unfettered access to certain technical information (e.g., logs, packet flow information, etc.) in order to satisfy TensorWave's information requests. Supplier shall encrypt emails to TensorWave regarding cyber incidents using industry standard encryption methods. Should TensorWave elect to utilize supplier checklists, representations or certifications of compliance, outside vendor verification, or onsite security audits, Supplier shall support as required to meet the continuing needs of TensorWave.

## 15. **TERMINATION.**

15.1 **Termination for Convenience.** At any time, TensorWave may, in its sole discretion and by written notice, direct Supplier to terminate work under the Order, in whole or in part. In such event, TensorWave shall have all rights and obligations accruing to it either at law or in equity, including TensorWave's right to title and possession of any of the Products and Services, in whole or in part, paid for by TensorWave. Upon notice of termination, TensorWave may take immediate possession of all work so performed, including Deliverables in progress. Upon notice of termination, Supplier shall immediately stop work and limit costs incurred on the terminated work. In the event TensorWave partially terminates the Order, Supplier shall continue the performance of the Order to the extent not canceled. Upon notice of termination for convenience, Supplier shall submit a settlement proposal to TensorWave within sixty (60) days (unless otherwise extended in writing) with full supporting documentation for all costs claimed. TensorWave, after deducting any amounts previously paid, shall reimburse Supplier for the actual, reasonable, substantiated, and allowable costs of the work. The total amount to be paid by TensorWave for the work shall be determined by TensorWave and shall not exceed the value of the Order. Payment for completed Products delivered and accepted by TensorWave shall be at the price set forth in the Order.

### 15.2 **Termination for Default.**

(i) TensorWave may terminate the Order for default, in whole or in part, by written notice to Supplier if: (i) Supplier fails to make delivery of the Products or perform the Services within the time specified in the Order; (ii) Supplier fails to perform any of the other obligations of the Order, or fails to make progress, so as to endanger performance of the Order; (iii) it is found that gratuities (in the form of entertainment, gifts, travel or anything of value) or kickbacks were offered or given by Supplier, or by any agent or representative of Supplier, to any employee or agent of TensorWave; (iv) Supplier is sanctioned, suspended, or debarred by the U.S. government; (v) Supplier fails to agree upon any deletion, amendment, or addition to the Order that is required by statute, executive order, or applicable regulation. Upon written notice by TensorWave, Supplier shall have five (5) days to cure such deficiency, unless TensorWave extends the cure period in writing.

(ii) Supplier shall promptly notify TensorWave if Supplier: (i) becomes insolvent or makes a general assignment for the benefit of creditors; or (ii) files a petition or application or commences any proceeding under any bankruptcy or similar statute or has a petition or application filed or any such proceeding commenced against it. In such event or if TensorWave reasonably believes Supplier could likely become insolvent, TensorWave may determine Supplier's financial condition endangers completion of performance and may require Supplier provide financial assurance (e.g., performance guarantee), as TensorWave, in its sole discretion, deems necessary. Supplier's failure to remedy any insolvency, assignment, or petition or provide financial assurance upon seven (7) calendar days written notice shall constitute a default under the Order. The rights and remedies of TensorWave in this clause are in addition to any other rights and remedies provided by law or equity under the Order.

(iii) After receipt of notice of termination for default, Supplier shall stop work under the Order on the date and to the extent specified in the notice of termination for default. TensorWave may require Supplier to transfer title and deliver to TensorWave, in the manner and to the extent directed by TensorWave, any partially completed Deliverables and any raw material, parts, Tools, dies, jigs, fixtures, plans, drawings, Services, and information as Supplier has produced or acquired for the performance of the Order. Supplier further agrees to protect and preserve property in the possession of Supplier in which TensorWave has an interest. Except for situations where Supplier is in violation of the U.S. Foreign Corrupt Practices Act as referenced in Article 26(e) (Foreign Corrupt Practices Act): (i) payment for completed Products delivered and accepted by TensorWave shall be at the Order price; and (ii) payment for unfinished Products or Services, which have been delivered and accepted by TensorWave and for the protection and preservation of property, shall be at a price determined in the same manner as provided in the Termination for Convenience Section, except that Supplier shall not be entitled to profit. If Supplier is terminated for default pursuant to this clause, Supplier shall be liable to TensorWave for any excess repurchase costs incurred in acquiring goods and/or services similar to those terminated for default, and for any other damages, whether or not repurchase is affected.

15.3 **Survival.** All of the provisions of the Order shall survive the termination (whether for convenience or default), suspension, or completion of the Order, unless they are clearly intended to apply only during the term of the Order.

15.4 **Suspension of Work.** TensorWave shall have the right to direct Supplier in writing to suspend all or any part of the work for a period of time not to exceed one hundred twenty (120) days, and for any further period as the parties may agree or as extended by TensorWave's customer. Upon receipt of the written stop work notice, Supplier shall immediately comply with the terms of the notice and shall take all reasonable measures to mitigate costs allocable to the suspended portion of the work. At the end of the suspension period, TensorWave shall either (i) cancel the suspension, or (ii) terminate the work covered by the suspension as provided for in the Termination for Convenience section of the Order. If TensorWave cancels the suspension, Supplier shall immediately commence performance. Supplier may request an equitable adjustment in accordance with the Changes Section for any increase in the time and cost of performing the Order necessarily caused by such suspension, exclusive of profit, and the Order may be modified in writing accordingly.

16. **CHANGE OF CONTROL.** For the purposes of this Change of Control Section, "**Change of Control**" means (i) the sale, conveyance, transfer, distribution, lease, assignment, license, or other disposition of all or substantially all of the assets of Supplier, (ii) any consolidation or merger of Supplier or its controlling affiliates, any dissolution of Supplier or its controlling affiliates, or any reorganization of one or more of Supplier or its controlling affiliates, or (iii) any sale, transfer, issuance, or disposition of any equity securities or securities or instruments convertible or exchangeable for equity securities (collectively, "**securities**") of Supplier or its controlling affiliates in which the holders of all of the securities that may be entitled to vote for the election of any member of a board of directors or similar governing body of Supplier or such controlling affiliate immediately prior to such transaction(s) hold less than fifty percent (50%) of the securities that may be entitled to vote for the election of any such member in such entity immediately following such transaction(s). Supplier shall provide TensorWave written notice of any Change of Control within seven (7) calendar days prior to the effective date of the Change of Control. TensorWave will have sixty (60) days from the date that TensorWave receives written notice to notify Supplier of its decision to terminate the Order for TensorWave's convenience. The effective date of the termination will be no sooner than thirty (30) calendar days after the effective date of the written notice of termination.

17. **FORCE MAJEURE.** If either party cannot perform, in whole or in part, any of its obligations under the Order because of any act of God, act of any government, government delay, court order, public enemy, fire, flood, pandemic, epidemic, strike, freight embargo, or any other cause beyond the party's reasonable control, and provided further that the party could not have mitigated, avoided, or prevented the cause or delay through the exercise of reasonable care and precautions (a "**Force Majeure Event**"), then the non-performing party will (i) promptly notify the other party in writing, (ii) take commercially reasonable steps to resume performance as soon as possible, and (iii) not be considered in breach during the duration of and to the extent its performance is prevented by the Force Majeure Event. In the event a Force Majeure Event continues for a period of fifteen (15) days, TensorWave may terminate such part of the Order remaining to be performed by providing written notice to Supplier with no further liability to Supplier.

18. **INDEMNIFICATION.**

18.1 Supplier shall defend, indemnify, and hold harmless TensorWave, its officers, directors, agents, employees, successors, and assigns against any and all claims, actions, awards, liabilities, damages, losses, and expenses (including attorneys' fees, expert fees, and court costs) arising out of or relating to (i) death, personal injury, destruction or damage to real or tangible personal property caused or contributed to by Supplier or Supplier's personnel, subcontractors, or anyone acting on behalf of Supplier in performance of the Order or TensorWave's use of the Product or Service; (ii) any negligent act or omission or willful misconduct of Supplier or any of Supplier's personnel, subcontractors, or anyone acting on behalf of Supplier; (iii) the violation by Supplier or Supplier's personnel of any applicable federal, state, or local law; (iv) the actual or alleged infringement or misappropriation of a third party's patent, copyright, trademark, trade secret, or other intellectual property right, (v) the breach by Supplier or Supplier's personnel of its confidentiality or data security obligations hereunder; and (viii) Supplier's failure to keep its work, all Products supplied by Supplier hereunder, and TensorWave's premises free and clear of all liens and encumbrances, including mechanic's liens, in any way arising from performance by Supplier or by any of its vendors or subcontractors (collectively, "**Claims**"), including the payment of all amounts that a court or arbitrator finally awards or that Supplier agrees to in settlement of any Claims as well as any and all reasonable expenses or charges as they are incurred by TensorWave or any other party indemnified under this Section in cooperating in the defense of any Claims. Notwithstanding the foregoing, Supplier shall have no indemnity obligation for infringement claims arising from Supplier's adherence to TensorWave's written instructions or direction which involves the use of other than products or merchandise of Supplier's origin, design, or selection or where Supplier's Product has been modified by anyone other than Supplier and the infringement or claim of infringement arises as a result of such modification.

18.2 If the Products or Services become or are likely to become the subject of an infringement claim, then, in addition to defending the Claim and paying any damages and attorneys fees as required above, Supplier shall, at its option and expense, either: (i) promptly replace or modify the Products or Services, without loss of material functionality or performance, to make it non-infringing; or (ii) promptly procure for TensorWave the right to continue using the Products or Services pursuant to the Order. If after using commercially reasonable efforts Supplier fails to provide one of the foregoing remedies within forty-five (45) days of notice of the Claim, TensorWave shall have the right to terminate the Order with no further liability to Supplier, and Supplier shall refund to TensorWave all amounts paid for the infringing Product or Service.

18.3 TensorWave shall provide Supplier prompt written notice of any Claim, permit Supplier to control the defense and settlement of such Claim, and reasonably cooperate and assist Supplier in connection with the defense and settlement of such



Claim; provided that, TensorWave has the right to approve controlling counsel, such approval not to be unreasonably withheld, and Supplier shall not enter into any stipulated judgment or settlement that purports to bind TensorWave without TensorWave's express written authorization, which shall not be unreasonably withheld or delayed. TensorWave may appoint its own non-controlling counsel.

19. **LIMITATION OF LIABILITY.** EXCEPT FOR SUPPLIER'S INDEMNIFICATION OBLIGATIONS HEREIN, FOR EITHER PARTY'S BREACH OF CONFIDENTIALITY OR DATA SECURITY OBLIGATIONS HEREIN, FOR EITHER PARTY'S MISAPPROPRIATION OR MISUSE OF THE OTHER PARTY'S IP, AND FOR CLAIMS BASED UPON FRAUD OR THE WILFUL, MALICIOUS, OR GROSSLY NEGLIGENT CONDUCT OF THE LIABLE PARTY: (A) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (B) EACH PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY FOR ALL DAMAGES OF EVERY KIND AND TYPE IN ANY CAUSE OF ACTION BASED ON CONTRACT, TORT, OR OTHERWISE IN CONNECTION WITH THE ORDER SHALL NOT EXCEED THE TOTAL AMOUNT PAID AND PAYABLE BY TENSORWAVE TO SUPPLIER UNDER THE ORDER.

20. **LIENS AND ENCUMBRANCES.** Supplier shall keep its work, equipment, Materials, all Products supplied hereunder, and TensorWave's premises free and clear of all liens, security interests, and encumbrances, including mechanic's liens, in any way arising from performance of the Order by Supplier or any of its personnel or subcontractors. As a condition of final payment, Supplier may be required by TensorWave to provide a satisfactory release of liens with reasonable evidence that all services, labor, materials, and equipment have been paid in full. All property belonging to TensorWave or TensorWave's customer in Supplier's custody or possession shall be at Supplier's risk from loss or damage.

21. **EXPORT CONTROL COMPLIANCE.** Supplier agrees to comply with all applicable import, export, and economic sanctions laws and regulations, including those of the United States and other applicable foreign jurisdictions. Within thirty (30) calendar days of contract award or prior to receipt by TensorWave, whichever comes first, Supplier shall provide TensorWave with all applicable trade control classification information, including the commodity jurisdiction, classification, and required customs information, for all Products and data supplied to TensorWave. For the purpose of this Export Control Compliance Section, "data" means information in an electronic form and includes but is not limited to, technical data (as defined in 22 C.F.R. § 120.33), technology (as defined in 15 C.F.R. § 772.1), and source code (as defined in 15 C.F.R. § 772.1). Supplier acknowledges and agrees that it may be responsible for complying with any applicable anti-boycott laws and regulations. Supplier warrants to TensorWave that it does not, and shall not, participate or comply with any boycott request or engage in any restrictive trade practices in contravention of any applicable law or regulation. Supplier warrants that it is not (i) a Specially Designated National or Blocked Persons pursuant to the lists published by the U.S. Office of Foreign Assets Control ("OFAC Listed Person"), or (ii) a department, agency, or instrumentality of, or otherwise controlled by or acting on behalf of any OFAC Listed Person or the government of a country subject to comprehensive U.S. economic sanctions administered by OFAC. Supplier further warrants that it will provide immediate written notice to TensorWave if it becomes subject to either of the foregoing. Supplier further agrees that it will not engage in unauthorized transactions involving the articles, software, technology or services provided hereunder, to or from, with persons or entities identified on any U.S. government screening list, including but not limited to those identified on the U.S. government's Consolidated Screening List. Supplier also agrees to comply with any foreign jurisdiction regulations involving denied or restricted persons or entities. Supplier agrees to bear sole responsibility for all regulatory record keeping associated with the use of import and export licenses and license exceptions or exemptions. Supplier agrees to produce its applicable authorizations to TensorWave upon written request. The requirements and obligations of this Export Control Compliance Section are material terms of the Order.

## 22. **CUSTOMS.**

22.1 **Imports.** For shipments imported to TensorWave, Supplier shall forward copies of its shipping documents and any applicable certificates via email or facsimile to TensorWave at least five (5) business days in advance so that TensorWave may facilitate Customs clearance. These documents include (i) commercial shipping invoice in accordance with 19 C.F.R. § 141.86; (ii) any benefit TensorWave may receive from an applicable Free Trade Agreement or Special Trade Program supported by Supplier's certifications/statements of eligibility and qualification (e.g., United States Mexico Canada Agreement or IFTA certificates of origin); and (iii) if using ocean transport, the Importer Security Filing ("ISF") data elements in accordance with 19 C.F.R. Part 149 shall be provided to TensorWave three (3) business days before the cargo is laden aboard the vessel at foreign port of departure. Any penalty or fine due to the failure of Supplier or any of its agents in support of the ISF requirement shall be to the account of Supplier. All transferable credits or benefits associated with or arising from Products purchased under the Order, export credits, or rights to the refund of duties, taxes, or fees belong to TensorWave.

22.2 **Repaired Products.** For any articles returned to TensorWave after repair, Supplier shall (i) obtain and reference written instructions on how the repaired article is to be returned to TensorWave prior to shipment and on shipping documents, respectively; (ii) include a Foreign Repairer Certificate attesting to the work performed abroad in accordance with 19 C.F.R. § 10.8; (iii) include a commercial invoice stating the reason for return. Items returned to TensorWave after repair must include the hardware value in accordance with 19 C.F.R. Part 152, Subpart E. from the original sale of the item. Ex: "Hardware value for Customs purposes only: \$ \_\_\_"; (iv) include the cost of the repair (parts and labor) as a separate line item on the commercial



invoice. Ex: "Repair value for Customs purposes only: \$\_\_\_\_"; and (v) for repair work done under warranty, Supplier shall include the cost of repair. Ex: "WARRANTY repair value for Customs purposes only: \$\_\_\_\_".

22.3 Sources. Upon TensorWave's written request, Supplier shall provide a report of all sources outside the United States utilized by Supplier or its lower-tier subcontractors in the fulfillment of the Order, including the names and locations of the sources, and a description of the items or services obtained from such sources. To the extent applicable, Supplier agrees to provide to TensorWave all Good content information required to satisfy both TensorWave's content reporting obligations and TensorWave's customer's reporting obligations.

23. COMPLIANCE OBLIGATIONS. Supplier shall comply with all applicable federal, state, and local laws, orders, rules, regulations, and ordinances, including any environmental, transportation, or employment regulations. Supplier shall procure all required licenses and permits, pay all fees and other required charges, and comply with all applicable guidelines and directives of any local, state, and federal government authority. If TensorWave determines that Supplier has violated any of the obligations, including but not limited to any obligations set forth in this Compliance Obligations Section, TensorWave may, in its discretion, either terminate the Order and/or require Supplier to implement a corrective action plan as a condition of continued or future business. The violation of any applicable law, rule, or regulation shall be deemed a material breach of the Order.

23.1 Content Information. To the extent applicable, Supplier agrees to provide to TensorWave all Product content information required to satisfy both TensorWave's content reporting obligations and TensorWave's customers' reporting obligations.

23.2 Certificates. Upon TensorWave's request, Supplier agrees to furnish to TensorWave or directly to TensorWave's customer, any certificate required to be furnished under the Order. Supplier will use commercially reasonable and good faith efforts to comply with TensorWave's due diligence process, including providing any requested information.

23.3 Anti-Bribery. Supplier represents and warrants it shall: (i) comply with the requirements of the U.S. Foreign Corrupt Practices Act ("FCPA") (15 U.S.C. §§ 78dd-1, et. seq., as amended), regardless of whether Supplier is within the jurisdiction of the United States, and the UK Bribery Act of 2010; (ii) neither directly nor indirectly, pay, offer, give, or promise to pay or give, any portion of monies or anything of value to a non-U.S. public official or any person in violation of the FCPA, UK Bribery Act, and/or in violation of any applicable country laws relating to anti-corruption or anti-bribery; and (iii) not interact with any government official, political party, or public international organization on behalf of TensorWave without the prior written permission of TensorWave. Breach of this provision by Supplier shall be considered an irreparable material breach of the Order and shall entitle TensorWave to terminate the Order immediately without compensation to Supplier.

23.4 No Gratuities. No gratuities (in the form of entertainment, gifts, travel, or anything of value) or kickbacks shall be offered or given by Supplier or by any agent, representative, affiliate, subsidiary, or subcontractor of Supplier to any officer or employee of TensorWave's customer or TensorWave. This restriction specifically prohibits the direct or indirect inclusion of any kickback amounts in any invoices or billings submitted under the Order or any other agreement with TensorWave.

23.5 No Child or Forced Labor. Supplier shall comply with all local, state, and national laws relating to the prohibition on child labor and indentured, prison, or compulsory labor. Supplier shall comply with all applicable laws and industry standard relating to working hours, working conditions, and any collective bargaining agreements. Supplier further agrees that, if requested by TensorWave, it shall demonstrate, to the satisfaction of TensorWave, compliance with all requirements in this paragraph. TensorWave shall have the right to inspect any site of Supplier for compliance with this paragraph. Supplier shall include this provision in all of its lower-tier subcontracts.

23.6 No Human Trafficking. Supplier shall comply with all applicable local, state, and national laws in the countries where Supplier does business relating to the prohibition of slavery and human trafficking. Upon TensorWave's request, Supplier shall provide to TensorWave a copy of its human trafficking compliance plan and/or other evidence of Supplier's compliance with this provision. Supplier shall include this provision in all of its lower-tier subcontracts.

23.7 National Defense Authorization Act for Fiscal Year 2019 Section 889. TensorWave is prohibited from using: (i) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (ii) video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (iii) telecommunications or video surveillance services provided by such entities or using such equipment; or (iv) telecommunications or video surveillance equipment or services produced or provided by an entity that is owned or controlled by, or otherwise connected to, the government of the People's Republic of China (collectively, "**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 the use is in performance of work under a federal contract. By acceptance of the Order, Supplier represents and warrants that it: (1) does not use covered telecommunications equipment or services, or 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; and (2) will not provide covered telecommunications equipment or services to TensorWave in the performance of the Order. In the event Supplier identifies covered telecommunications

equipment or services used as a substantial or essential component of any system or as critical technology as part of any system at any time during the proposal process or contract performance, or Supplier is notified of such by a subcontractor at any tier or by any other source, Supplier shall immediately notify TensorWave and reasonably cooperate with TensorWave's requests for supporting documentation and any resolution required by TensorWave's customer.

24. **ETHICAL STANDARDS OF CONDUCT.** TensorWave is committed to conducting its business fairly, impartially, and in an ethical and proper manner. TensorWave's expectation is that Supplier also will conduct its business fairly, impartially, and in an ethical and proper manner. TensorWave's further expectation is that Supplier will have (or will develop) and adhere to a code of ethical standards equivalent to TensorWave's Vendor Code of Conduct or comply with TensorWave's Vendor Code of Conduct. If Supplier has cause to believe that TensorWave or any employee or agent of TensorWave has behaved improperly or unethically under the Order, Supplier shall report such behavior to TensorWave. Supplier's employees are required to conduct company business with integrity and maintain a high standard of conduct in all business-related activities. Supplier shall not participate in any personal, business, or investment activity that may be defined as a conflict of interest, whether real or perceived. As a material obligation hereunder, Supplier shall immediately notify TensorWave if, at any time during the term of the Order, Supplier becomes aware that it has an actual or potential conflict of interest, including without limitation, a relationship of any nature which may affect or which may reasonably appear to affect Supplier's objectivity or ability to perform the work.

25. **ASSIGNMENT AND SUBCONTRACTING.**

25.1 Neither the Order nor any interest herein nor claim hereunder may be transferred, novated, assigned, or delegated by Supplier without the prior written consent of TensorWave, which shall not be unreasonably withheld. Supplier shall promptly notify TensorWave in writing of any organizational changes made by Supplier, including name, ownership changes, mergers, or acquisitions as set forth in the Change of Control Section, and any changes made to Supplier's strategic suppliers or the location or identity of Supplier's manufacturers.

25.2 Supplier shall not subcontract the Order, in whole or in part, without the prior written authorization of TensorWave, and Supplier shall require an agreement with conforming performance and confidentiality requirements from immediate suppliers and subcontractors. Supplier shall be and remain responsible to TensorWave for (i) the performance of all work including Services performed or provided by Supplier's subcontractors, and (ii) the acts and omissions of Supplier's subcontractors in connection with the performance or provision of any of the work. TensorWave may require Supplier's subcontractors to enter into separate NDAs with TensorWave consistent with the confidentiality requirements in the Order.

26. **GOVERNING LAW AND DISPUTES.** The Order, irrespective of the place of performance, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflict of law provisions. The provisions of the United Nations Convention on the International Sale of Goods shall not apply to the Order. The Parties agree that any and all disputes, claims, or litigation arising from or related in any way to the Order shall be resolved exclusively by the courts in Delaware, and each Party waives any objections against and agrees to submit to the personal jurisdiction of such state and federal courts, including objections or defenses based upon an inconvenient forum. THE PARTIES HEREBY AGREE TO WAIVE THEIR RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THE ORDER OR THE SUBJECT MATTER HEREOF. Any disputes under the Order that are not disposed of by mutual agreement of the Parties may be decided in an action at law or in equity. Until final resolution of any dispute hereunder, Supplier shall diligently proceed with performance of the Order as directed by TensorWave. TensorWave and Supplier shall each bear its own costs of processing any dispute hereunder. The rights and remedies herein reserved to the Parties shall be cumulative and additional to any other or further rights and remedies provided in law or equity.

27. **NOTICES.** All notices permitted or required under the Order shall be in writing to the address in the Order, unless otherwise specified, and shall be by personal delivery, a nationally recognized overnight carrier, facsimile transmission, or certified or registered mail, return receipt requested.

28. **RELATIONSHIP OF THE PARTIES.** Supplier's relationship to TensorWave in the performance of the Order is that of an independent contractor and nothing herein contained shall be construed as creating any employer/employee, agency, joint venture, or other relationship of any kind. Under no circumstance shall Supplier be deemed an agent or representative of TensorWave or authorized to commit TensorWave in any way. TensorWave shall be solely responsible for any and all communication with TensorWave's customer regarding the Order or any related order or agreement. The Agreement does not confer any benefits on any third party.

29. **NO PUBLICITY.** Supplier shall not make any media release or other public announcement relating to or referring to the Order without TensorWave's prior written consent. Supplier shall acquire no right to use, and shall not use, without TensorWave's prior written consent, the terms or existence of the Order, the names, trade names, trademarks, service marks, artwork, designs, or copyrighted materials of TensorWave: (i) in any advertising, publicity, press release, customer list, presentation or promotion; (ii) to express or to imply any endorsement of Supplier or Supplier's Products or Services; or (iii) in any manner other than expressly in accordance with the Order.

30. **WAIVER AND SEVERABILITY**. Waiver of a right under the Order shall not constitute a waiver of any other right or waiver or default under the Order. Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under the Agreement. If any part, term, or provision of the Order is found to be void, illegal, unenforceable, or in conflict with any law or regulation of the government having jurisdiction over the Order, that part will be enforced to the maximum extent permitted by law and the remainder of the Order will remain in full force. In the event that any part, term, or provision of the Order is found to be void, illegal, unenforceable, or in conflict with law, Supplier agrees to negotiate a replacement provision, construed to accomplish its originally intended effect that does not violate such law or regulation.

31. **ENTIRE AGREEMENT**. The Order, including all exhibits, schedules, and attachments, contains the entire agreement of the Parties, and supersedes any prior negotiations, representations, and course of dealing, whether written or oral, between the Parties with respect to the subject matter hereof. The Order may be amended or supplemented only by a writing that refers explicitly to the Order and is signed by the Parties. The Parties agree that if the Order is transmitted electronically, neither Party shall contest its validity, or any acknowledgment thereof, on the basis that the Order contains an electronic signature.