

## Sierra Nevada Corporation Indirect Terms and Conditions

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### 1. ACCEPTANCE

This Purchase Order is Sierra Nevada Corporation's (hereafter referred to as SNC) offer to Seller, and acceptance is strictly limited to its terms. SNC shall not be bound by and specifically objects to any term or condition whatsoever that is different from or in addition to the provisions of this Purchase Order, whether or not such term or condition will materially alter this Purchase Order. Seller's commencement of performance or acceptance of this Purchase Order in any manner shall conclusively evidence agreement to this Purchase Order as written and shall create a binding agreement between Seller and Buyer.

### 2. DEFINITIONS

Whenever used in this Purchase Order, (a) "Seller" means the person, firm or corporation furnishing the Goods described in this Purchase Order, (b) "Buyer" shall mean a duly authorized Procurement representative of SNC as stated in this Purchase Order, (c) "Goods" means all of the goods, services, data, software and other items furnished or to be furnished to SNC under this Purchase Order; and (d) "Purchase Order" means this Purchase Order, including the provisions on its face, these General Provisions, and all of the specifications, technical descriptions, statements of work, drawings, designs, documents, and other requirements and provisions attached to, incorporated into or otherwise made a part of this Purchase Order by SNC.

### 3. MATERIALS

Goods provided under this Purchase Order shall consist of new materials (not used, reconditioned or remanufactured) unless otherwise authorized within this Purchase Order.

### 4. PACKING

Seller shall prepare and pack the Goods to prevent damage and deterioration, and comply with carrier tariffs. Charges for preparation, packing, crating and cartage are included in the price unless separately specified in this Purchase Order.

### 5. SHIPMENT/DELIVERY

Shipments or deliveries, as specified in this Purchase Order, shall be strictly in accordance with the specified quantities, without shortage or excess; the specified schedules; and the other requirements of this Purchase Order. Unless otherwise stipulated in this Purchase Order, partial deliveries and early shipments will be accepted. Seller shall promptly notify SNC in writing of any anticipated or actual delay, the reasons therefore, and the actions being taken by Seller to overcome or minimize the delay. If requested by SNC, Seller shall ship at its own expense via air or other expedited transportation method to offset the delay to the maximum extent possible. Schedule delays may be cause for an equitable reduction in Purchase Order price.

Goods sold F.O.B. place of shipment shall be forwarded with freight prepaid. Seller shall make no declaration concerning value of Goods shipped, except on Goods where tariff rating is dependent upon released or declared value, in which event Seller shall release or declare such value at maximum value within the lowest rating.

### 6. RISK OF LOSS

Unless the Purchase Order specifically provides otherwise, risk of loss or damage to the Goods provided under this Purchase Order shall remain with Seller until, and shall pass to Buyer upon:

- (a) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (b) Delivery of the supplies to Buyer at the destination specified in the contract, if transportation is f.o.b. destination.

### 7. BUYER PROPERTY

Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all Buyer property and all property to which Buyer acquires an interest by virtue of the Agreement. Except for ordinary wear and tear, Seller assumes all risk of loss, destruction, or damage to such property while in Seller's possession, custody, or control, and will not use such property other than in performance of the Agreement without Buyer's written consent. Upon request, Seller shall provide Buyer with adequate proof of insurance against such risk of loss. Seller will notify Buyer if Buyer property is lost, damaged, or destroyed. As directed by Buyer, upon completion, termination, or cancellation of the Agreement, Seller shall deliver such property, to the extent not incorporated in delivered end products, to Buyer in good condition subject to ordinary wear and tear and normal manufacturing losses. Nothing in this article limits Seller's use, in its direct contracts with the Government, of property in which the Government maintains title. At the request of Buyer, Seller shall execute any documents, including but not limited to financial statements, required by Buyer to protect its interest in this property. Seller agrees that all dies, tools, jigs, fixtures, designs, drawings, patterns and other special items, which are furnished by Buyer without charge, shall be the property of Buyer.

### 8. INSPECTION, ACCEPTANCE, AND TRANSFER OF TITLE

The Seller shall only tender for acceptance those items that conform to the requirements of this contract. SNC reserves the right to inspect or test any supplies or services that have been tendered for acceptance. SNC may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in the price of this Purchase Order. Items not rejected by Buyer within 90 days will be deemed accepted by SNC. Title to any Goods delivered under this Purchase Order shall pass to SNC upon SNC's acceptance of the Goods.

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### 9. PAYMENT (T&M Orders)

The amounts due to Seller hereunder will be paid upon the submission of monthly invoices in accordance with the payment terms specified in the within the Purchase Order. Invoices shall include Seller's certification to the effect that the amount contained therein is correct and just, and payment for the amount claimed has not been received previously or covered by a prior invoice.

- (a) Labor – The total labor amount shall be computed by multiplying the appropriate hourly rate or rates, as set forth in the Agreement, by the number of direct labor hours performed. Hourly rates shall be fully burdened and shall include wages, overhead, general and administrative expense and profit. Fractional parts of an hour shall be payable on a prorated basis. Unless provisions in the Agreement specify otherwise, the hourly rate or rates shall not be varied by virtue of Seller having performed work on an overtime basis. No overtime shall be performed without Buyer's written authorization.
- (b) Materials and Agreements – Seller will only submit invoices for the actual costs of materials. Reasonable and allocable material handling costs may be included in the charge for material costs to the extent they are clearly excluded from the hourly rate. Buyer will not pay profit or fee on material costs. Seller shall be reimbursed for items and services purchased directly for this Agreement only when cash, checks or other forms of actual payment has been made for such purchased items or services.
- (c) It is estimated that the total cost to SNC for the performance of this Agreement will not exceed the price set forth in the purchase order. Seller agrees to use its best efforts to perform the work specified in the Agreement and all obligations under this Agreement within the purchase order price. If at any time during the performance of this Agreement, Seller has reason to believe that the costs which will accrue in the performance of this Agreement in the next thirty (30) days when added to all other payments and costs previously accrued, will exceed eighty-five percent of the purchase order price, Seller shall notify Buyer in writing to that effect giving a revised estimate of the total price for performance of this Agreement including supporting reasons and documentation.
- (d) Buyer shall not be obligated to pay Seller any amount in excess of the purchase order price of this Agreement, and the Seller shall not be obligated to continue performance if to do so would exceed the purchase order price set forth in this Agreement. Invoices received after 180 days of Goods/Services received will be at Buyer's sole discretion for payment.
- (e) At any time or times prior to final payment, the Buyer may audit the invoices or vouchers and substantiating material as shall be deemed necessary. Each payment made shall be subject to reduction to the extent of amounts which are found by Buyer not to have been properly payable, and shall also be subject to reduction for overpayments, or to increase for underpayments, on preceding invoices or vouchers.
- (f) All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer for any set off or counterclaim arising out of this or any other of Buyer's Agreements with Seller whether such set off or counterclaim arose before or after any such claim or assignment by Seller.

### 10. PAYMENT (Fixed Price Orders)

Unless specifically set forth in Seller's proposal or quote and accepted by Buyer the stated contract price shall include all charges for labor, packing, shipping, hauling, storage, and transportation to the point of delivery. No separate or additional charges for these items will be accepted.

Unless otherwise authorized by Buyer, Seller shall not issue an invoice prior to the actual delivery date of goods. Seller shall forward to Buyer, with the invoice, receipt or Bill of Lading signed by the carrier, evidencing the fact that shipment has been made. Payment due dates, including discount periods, shall be calculated from the date of the later of the scheduled delivery date, the actual delivery date, or the date of receipt of a corrected invoice. The cash discount period to Buyer, if any, will date from the later of (1) the receipt of a compliant invoice (not from date of the invoice) (2) the actual date of acceptance of the Goods, or, (3) the delivery date specified in the Order. Unless freight and other charges are itemized, any discount shall be taken on the full amount of the invoice. Invoices shall be supported by such documents in such form as Buyer requests and shall bear such certification as may be required by law, regulations or the Order.

All payments are contingent on acceptance of the goods or services by Buyer. Seller shall issue separate invoices for each shipment showing the amount of material shipped.

Payment shall not constitute acceptance of the goods. Payment shall be deemed to have been made on the date Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay Buyer any amounts paid in excess of amount due Seller.

### 11. INVOICE

Invoices shall be emailed to SNC accounts payable at [sncaccountspayable@sncorp.com](mailto:sncaccountspayable@sncorp.com) The Seller shall submit an invoice to the address designated in the Purchase Order to receive invoices. In connection with any discount offered for early payment, time shall be computed from the date that SNC receives Seller's invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date, which appears on the payment check, or the specified payment

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date if an electronic funds transfer payment is made. Seller shall issue separate invoices for each shipment showing the amount of material shipped. An invoice must include:

- (a) Name and address of the Seller;
- (b) Invoice date;
- (c) Purchase Order number and, if applicable, the Purchase Order line item number;
- (d) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (e) Shipping number and date of shipment;
- (f) Terms of any prompt payment discount offered;
- (g) Name and address of official to whom payment is to be sent; and
- (h) Name, title, and phone number of person to be notified in event of defective invoice.

The Purchase Order is the sole basis for payment. Incorrect invoices will be returned unpaid. Accounts Payable cannot authorize or negotiate any changes to the Purchase Order. Contact the Buyer directly to resolve invoice discrepancies.

### 12. WARRANTY

The Seller warrants that the Goods are merchantable and fit for use. The Seller also warrants that the Goods will conform to any specifications set forth in this Purchase Order and/or accompanying documents. Finally, if the Goods involve the performance of any services, the Seller warrants that the services are being provided with a standard of care that is at or above the prevailing standard in the industry. Seller agrees to replace or to correct promptly without expense to Buyer, including transportation and handling costs, any Goods not conforming to the foregoing requirements when notified by Buyer during a period of twelve (12) months after the Goods are placed in service or within twenty-four (24) months of when the Goods are delivered to Buyer, whichever is earlier. If Seller, upon notice of any defect, fails promptly to correct or replace Goods as required herein, Buyer may, without further notice, correct or replace such Goods and Seller agrees to reimburse Buyer for all costs incurred thereby. Goods that have been rejected, shall not thereafter be tendered for acceptance unless the former rejection and correction is identified and approved by the Buyer. Repaired or replacement Goods shall be subject to the provisions of this article to the same extent as the original. All warranties shall then run from the latter delivery date. Seller shall obtain from its suppliers, subcontractors, and vendors sufficient warranties to ensure that the entire Goods, as delivered to Buyer, is covered by a warranty that complies with the terms of this Agreement.

The requirements of this provision are in addition to any warranties required or implied by law.

### 13. PROPRIETARY INFORMATION

In the event Buyer and Seller have entered into a Non-Disclosure (Proprietary Information) Agreement (NDA/PIA) for the Purpose which the Agreement has been issued against and that NDA/PIA remains in effect, the NDA/PIA shall govern the treatment of proprietary information. If no NDA has been executed or if an NDA has expired, the following terms shall govern proprietary information exchanged between the parties.

Buyer and Seller anticipate that under the Agreement it may be necessary for either to disclose to the other information of a proprietary nature. Proprietary information that may be disclosed under this Agreement includes, but is not limited to, drawings, specifications, non-public product information, and other technical capabilities. Proprietary information shall be clearly identified by the disclosing party at the time of disclosure. All written proprietary information shall be marked as proprietary prior to disclosure.

Each of the parties agrees to use the same reasonable efforts to protect such information as is used to protect its own proprietary information, but in no case less than reasonable care. Disclosures of such information shall be restricted to those individuals who have a need to know and are directly participating in Agreement efforts.

Neither party shall make any reproduction, disclosure, or use of such proprietary information except as follows:

- (g) Such information furnished by Buyer may be used by Seller in performing its obligations under the Agreement.
- (h) Such information furnished by Seller may be used by Buyer in performing its obligations under the Agreement.
- (i) Such information may also be used in accordance with any written authorization received from the disclosing party.

The limitations on reproduction, disclosure, or use of proprietary information shall not apply to, and neither party shall be liable for, reproduction, disclosure, or use of proprietary information with respect to any of the following conditions:

- (j) If, prior to the receipt thereof under the Agreement, the information has been developed independently by the party receiving it, or was lawfully known to the party receiving it, or has been lawfully received from other sources, including the Government (provided such other source did not receive it due to a breach of this clause) or was in the public domain prior to disclosure hereunder.
- (k) If, subsequent to receipt thereof under the Agreement, (i) the information is published by the party furnishing it or is disclosed by the party furnishing it to others without restriction; or (ii) it has been lawfully obtained by the party receiving

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it from other sources, including the Government, provided such other source did not receive it due to a breach of this clause; or (iii) if such information otherwise comes within the public knowledge or becomes generally known to the public.

- (l) If any part of the proprietary information has been or hereafter shall be disclosed in a United States patent issued to the party furnishing the proprietary information hereunder, then, after the issuance of said patent, the limitations on such proprietary information as disclosed in the patent shall be only that afforded by United States patent laws.
- (m) If the proprietary information is furnished orally, unless such proprietary information was identified as proprietary at the time of disclosure and reduced to writing and marked proprietary within fifteen (15) days of original disclosure and such writing is forwarded to the receiving party and actually received within fifteen (15) days of original disclosure.
- (n) If such proprietary information is obligated to be disclosed under order of a court of competent jurisdiction so long as prompt notice of the order is given to the other party.
- (o) If such proprietary information is disclosed with the written approval of the originating party.

The furnishing of any proprietary information by either party shall not be construed as granting to the other party either expressly, by implication, estoppel, or otherwise, any ownership or license right (other than the limited license to use the information internally for the purpose for which it was provided) under any invention, patent, trade secret, trademark, or copyright now or hereafter owned or controlled by the party furnishing same. The foregoing shall not impact any license or ownership right in information identified and set forth elsewhere in this document.

Seller shall upon Buyer's request or upon completion of this Agreement, whichever occurs first, promptly at its option: (1) destroy all proprietary information furnished in connection with the Agreement and certify such destruction; or (2) return all proprietary information furnished in connection with the Agreement, together with all copies or reprints then in Seller's possession and control, and Seller shall thereafter make no further use of nor disclose to others any such data or documents or any information derived therefrom without Buyer's prior written consent

#### 14. INTELLECTUAL PROPERTY INDEMNITY

The Seller shall indemnify SNC and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign intellectual property rights, including patent rights, trademark rights, and copyright, arising out of the performance of this Purchase Order, provided the Seller is reasonably notified of such claims and proceedings.

#### 15. INTELLECTUAL PROPERTY

If this Purchase Order is for the development of copyrights (specifically including images), patents, trade secrets, technical data, or other intellectual property ("Intellectual Property"), Seller hereby assigns to SNC all rights in, title to, and ownership of Intellectual Property that is created, conceived, or first reduced to practice under this Agreement. Seller further warrants that it will obtain such rights and title, on SNC's behalf, from all employees or subcontractors in a way that facilitates Seller's transfer of such rights and title to SNC or SNC's assigns.

If this Purchase Order is not for the development of Intellectual Property, Seller shall retain ownership of all Intellectual Property related to the performance of this Purchase Order.

If any Intellectual Property or other data is delivered to SNC as part of the performance of this Purchase Order to which SNC will not receive ownership, the Seller hereby grants to SNC a perpetual, irrevocable, sublicensable, transferrable, worldwide, royalty-free license to SNC to make use of the Intellectual Property or other data in any way that SNC sees fit.

**Buyer-Provided Intellectual Property:** Any intellectual property, technical data, or other information owned by or provided by Buyer to Seller under this Agreement shall remain the exclusive property of Buyer. Seller shall treat this Buyer-provided or Buyer-owned intellectual property, technical data, and other information in accordance with the terms of the applicable non-disclosure agreement or Agreement provision concerning proprietary information. If there is no non-disclosure agreement or Agreement provision concerning proprietary information, Seller shall receive a limited, nonexclusive, revocable, non-transferrable, non-sublicensable license to this Buyer-provided or Buyer-owned intellectual property, technical data, and other information only for the period of performance of this Agreement and only permitting the intellectual property, technical data, and other information to be used to perform this Agreement.

**Buyer Name, Trademarks, and Images:** For the sake of clarity, Seller has no right to use outside of performance of this Purchase Order any Intellectual Property to which Buyer owns or receives ownership under this provision; this specifically includes SNC images and trademarks. Nothing in this Agreement permits Seller to use publically or with any third parties SNC's name, trademarks or Buyer-owned images. Seller can only receive the right to use such names, trademarks, or images through a separate agreement with SNC. If Seller receives such a right to use SNC names, trademarks, or images, such use

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must be consistent with SNC's usage guidelines, which will be provided if and when Seller is permitted to use Buyer names, trademarks, or images.

### 16. CHANGES

Changes in the terms and conditions of this contract may be made only by written agreement of the parties. SNC's Buyer may from time to time in writing direct changes within the general scope of this Purchase Order. If any such change causes an increase or decrease in the cost of or the time required for performance of this Purchase Order, an equitable adjustment in the price(s) and schedule(s) of this Purchase Order shall be made to reflect such increase or decrease and this Purchase Order shall be modified in writing accordingly. Unless otherwise agreed in writing, any Seller claim for adjustment must be delivered to SNC in writing within 30 days after Seller receipt of such direction. Failure of SNC and Seller to agree upon any adjustment shall not excuse Seller from performing in accordance with such direction. If Seller considers that SNC conduct has constituted a change hereunder, Seller shall notify SNC immediately in writing as to the nature of such conduct and its effect upon Seller's performance. Pending direction from SNC's Buyer, Seller shall take no action to implement any such change.

### 17. NOTICE AND DESIGNATION OF RESPONSIBLE INDIVIDUALS

Notices given under the Agreement must be in writing signed by an authorized officer of Buyer or of Seller and will be effective upon receipt if sent by certified mail return receipt requested, by email, by facsimile transmission, or by a nationally recognized courier providing receipted delivery.

Notices to be given under the Agreement shall be addressed to the parties' addresses set forth in the Agreement or to such other addresses as a party may properly, by written notice, designate.

### 18. TERMINATION FOR CONVENIENCE

SNC reserves the right to terminate this Purchase Order, or any part hereof, for its sole convenience. In the event of such termination, the Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Seller shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Seller can demonstrate to the satisfaction of SNC using its standard record keeping system, have resulted from the termination. The Seller shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

Notwithstanding the above, in the event that SNC is purchasing Goods that have not been customized or otherwise modified for SNC, SNC will only pay Seller a reasonable and mutually agreed restocking fee for the termination if such work.

### 19. TERMINATION FOR CAUSE

SNC may terminate this contract, or any part hereof, for cause in the event of any default by the Seller, or if the Seller fails to comply with any contract terms and conditions, or fails to provide SNC, upon request, with adequate assurances of future performance. In the event of termination for cause, SNC shall not be liable to the Seller for any amount for supplies or services not accepted, and the Seller shall be liable to SNC for any and all rights and remedies provided by law. If it is determined that SNC improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

In addition, Buyer may terminate the Agreement for default, in whole or in part, by written notice to Seller if (i) Seller becomes insolvent or makes a general assignment for the benefit of creditors or (ii) a petition under any bankruptcy act or similar statute is filed by or against Seller and not vacated within ten days after it is filed.

### 20. RESPONSIBILITY FOR PERFORMANCE

SNC issuance of this Purchase Order is based in part on SNC's reliance upon Seller's ability, expertise and awareness of the intended use of the Goods, and Seller's continuing compliance with all applicable laws and regulations during the performance of this Purchase Order.

### 21. PROHIBITION ON KASPERSKY LAB

Seller warrants that no articles obtained through this procurement include or contain hardware, software, components, or services that have been developed or provided, in whole or in part, by Kaspersky Lab, any successor entity to Kaspersky Lab, any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or any entity of which Kaspersky Lab has a majority ownership.

In the event the Seller identifies an article developed or provided by Kaspersky Lab, or any associated entities, or the Seller is notified of such by a subcontractor or supplier at any tier or any other source, the Seller shall report in writing to SNC Procurement Compliance at [ProcureCompliance@sncorp.com](mailto:ProcureCompliance@sncorp.com). The Seller shall report the following information:

- A. Within 1 business day from the date of such identification or notification:
  - 1) The Subcontract or Purchase Order number; any related release order number(s), if applicable;
  - 2) Supplier name;

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- 3) Brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number);
- 4) Item description; and any readily available information about mitigation actions undertaken or recommended.

B. Within 10 business days of submitting the report: Any further available information about mitigation actions undertaken or recommended. In addition, the Seller shall describe the efforts it undertook to prevent use or submission of a covered article, any reasons that led to the use or submission of the covered article, and any additional efforts that will be incorporated to prevent future use or submission of covered articles.

### 22. PROHIBITION ON COVERED TELECOMMUNICATIONS

Seller warrants they will not provide telecommunications or video surveillance equipment or services produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company, or any subsidiary, or affiliate of such entities, or reasonably believed to be owned or controlled by, or otherwise connected to the government of The People's Republic of China, in the performance of any Order subject to these Terms and Conditions.

If an Offeror will be providing telecommunications or video surveillance equipment or services in the performance of a contract subject to these Terms and Conditions, they must disclose the following information as part of the offer:

- (1) All covered telecommunications equipment and services offered (include brand; model number, such as original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable);
- (2) Explanation of the proposed use of covered telecommunications equipment and services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) of this provision;
- (3) For services, the entity providing the covered telecommunications services (include entity name, unique entity identifier, and Commercial and Government Entity (CAGE) code, if known); and
- (4) For equipment, the entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known).

In the event the Seller identifies an telecommunications or video surveillance equipment or services developed or provided by The People's Republic of China, or any associated entities, or the Seller is notified of such by a subcontractor or supplier at any tier or any other source, the Seller shall report in writing to SNC Procurement Compliance at ProcureCompliance@sncorp.com. The Seller shall report the following information:

A. Within 1 business day from the date of such identification or notification:

- 1) The Purchase Order number; any related release order number(s), if applicable;
- 2) Supplier name, unique entity identifier (if known), supplier Commercial and Government Entity (CAGE) code (if known);
- 3) Brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number); 4) Item description; and any readily available information about mitigation actions undertaken or recommended.

B. Within 10 business days of submitting the report: Any further available information about mitigation actions undertaken or recommended. In addition, the Seller shall describe the efforts it undertook to prevent use of telecommunications or video surveillance equipment or services from The People's Republic of China, and any additional efforts that will be incorporated to prevent future use.

### 23. SATISFACTORY REFERENCE AND BACKGROUND CHECKS AND DRUG SCREENS

One of the Seller's primary responsibilities in this Agreement is to ensure that all of Seller's employees are fit for the positions they are being assigned. Consistent with this, for each employee referred to or requested by Buyer, Seller shall conduct, at its own expense, reference and background checks to include a Drug Screen, a Department of Motor Vehicles background screen, a Federal, State and County background screen, and a validation of identity (as described in more detail below). In addition, comprehensive criminal background checks must be run for all potential personnel. Also, at Buyer's request for any employee assignment to a fiduciary position, Seller shall expand the reference and background checks as directed by Buyer (which shall include, at a minimum, data regarding the Seller's employee's credit standing, outstanding loans, and similar financial information). Any lawsuits alleging negligent hiring or similar claims are specifically understood by Seller and Buyer to be within the scope of Seller's indemnification obligations to Buyer as set forth in Section X, above.

- a) Drug Screen: Seller's employees shall have a drug screen covering the 5-panel legal drugs, illegal drugs and controlled substances. If Seller has a current satisfactory drug screen on file that has been conducted on Seller personnel within the last thirty (30) days, Buyer will accept such drug screen.
- b) Department of Motor Vehicles background screen, a Federal, State and County background screen, and a validation of identity:

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Seller will also conduct a pre-employment seven year background screening to include Federal, State, and County background screen (including a validation of identity ), as well as Department of Motor Vehicle screening, for the preceding three years on all employees prior to placement of such employees with Buyer. The background screen should not be provided to the employee more than 30 days pre-placement with Buyer. Buyer must be made aware of any offenses in advance of the employee starting.

Seller will provide Buyer with a written confirmation of completion of all reference checks, background checks and drug screens prior to the employees starting date, unless otherwise authorized by Buyer. Upon request, all pre-screening reports will be made immediately available for verification.

Buyer reserves the right to reject any employee based on unsatisfactory background, reference or drug screen results. In the event that any unsatisfactory reference, background, or drug screen results are determined after employee is placed at Buyer's facility, Seller shall immediately notify Buyer of such unsatisfactory result. If requested by Buyer, Seller will be responsible for notifying the employee that his/her assignment has been terminated

### **24. INSURANCE**

Seller, its subcontractors, and lower-tier subcontractors, agree to procure and maintain worker's compensation, comprehensive general liability, bodily injury, and property damage insurance in reasonable amounts that are consistent with industry practice and the specific loss potential related to performance of this Agreement, and such other insurance as Buyer may require. Seller shall provide Buyer thirty (30) calendar days advance written notice prior to the effective date of any cancellation or change in the term or coverage of any of Seller's insurance under this provision. Seller shall provide Buyer with a "Certificate of Insurance" evidencing Seller's compliance with this provision. Seller shall name Buyer as an additional insured for the duration of the Agreement. Insurance maintained under this provision shall be considered primary with respect to the interest of Buyer and is not contributory with any insurance Buyer may carry.

### **25. IDEMNIFICATION**

Seller shall indemnify and hold harmless Buyer, its officers, employees, and agents from any losses, costs, claims, causes of action, damages, liabilities, and settlement, and court costs, arising from or related to, in whole or in part, the actions or omissions of Seller, its officers, employees, agents, suppliers, or subcontractors at any tier.

### **26. COMPLIANCE WITH LAWS**

Seller shall be responsible for complying with all laws, including, but not limited to, any statute, rule, regulation, judgment, decree, order or permit applicable to its performance under this Purchase Order. Seller further agrees (1) to notify SNC of any obligation under this Purchase Order which is prohibited under any applicable law or regulation, specifically including environmental laws and regulations, at the earliest opportunity but in all events sufficiently in advance of Seller's performance of such obligation so as to enable the identification of alternative methods of performance, and (2) to notify SNC at the earliest possible opportunity of any aspect of its performance which becomes subject to additional law or regulation or which Seller reasonably believes will become subject to additional law or regulation during performance of this Purchase Order.

### **27. ASSIGNMENT**

Neither performance of this Agreement, nor any interest herein, nor any claim hereunder, may be assigned or delegated by Seller without the prior written consent of Buyer. Buyer's consent shall not be deemed to relieve Seller of its obligations to comply fully with the requirements hereof.

Notwithstanding the above, Seller may, without Buyer's consent, assign monies due or to become due hereunder provided Buyer shall continue to have the right to exercise any and all of its rights hereunder, settle any and all claims arising out of, and enter into amendments to the Agreement, without notice to or consent of the assignee. Buyer shall be given written notice of any assignment and all invoices shall refer to the assignment.

### **28. EXPORT COMPLIANCE**

Seller agrees to comply with all applicable U.S. export control laws and regulations, including, but not limited to, the Arms Export Control Act, 22 U.S.C. §§ 2751-2799, the International Traffic in Arms Regulation (ITAR), 22 C.F.R. §§ 120-130, the Export Administration Act, 50 U.S.C. §§ 2401-2420, and the Export Administration Regulations (EAR), 15 C.F.R. §§ 730-744. In addition, Seller agrees that it will not transfer any export-controlled items, data, or services, to include the transfer to a foreign person employed by or associated with Seller or Seller's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption/exception. Seller agrees to notify the Buyer's Authorized Representative if any Product under this Order is restricted under export control laws or regulations, if Seller becomes listed on any restricted party list including, but not limited to, the Denied Persons List, Unverified List, Entity List, Specially Designated Nationals List and Debarred List, or if Seller has any export privileges denied, suspended, or revoked by the government. Seller shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expenses, including attorneys' fees, all expenses of litigation and/or settlement, and court costs, arising from any violation of the above laws and regulations, or breach by Seller, its officers, employees, agents, suppliers, or subcontractors at any tier, of the obligations under this clause.

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### **29. MATERIAL SAFETY DATA SHEETS**

Seller will comply with the Hazard Communication Standard, 29 CFR 1910.1200. Seller shall ensure that the name of the product as identified on the Material Safety Data Sheet is identical to the name that appears on the label of the product shipped to SNC. Seller shall provide a copy of the Material Safety Data Sheet with each shipment of the product.

### **30. SELLER NOTICE OF DISCREPANCIES**

Seller will notify SNC in writing when discrepancies in the Seller's process or product are discovered or suspected which may affect parts or assemblies Seller has delivered or will deliver under this Purchase Order.

### **31. NON-WAIVER AND PARTIAL INVALIDITY**

Any and all failures, delays or forbearances of either party in insisting upon or enforcing at any time or times any of the provisions of this Purchase Order, or to exercise any rights or remedies under this Purchase Order, shall not be construed as a waiver or relinquishment of any such provisions, rights or remedies in those or any other instances; rather, the same shall be and remain in full force and effect. Further, if any provision of this Purchase Order is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.

### **32. GOVERNING LAW**

This Purchase Order and the performance thereof shall be governed by the laws of the State of Nevada.

### **33. TAXES**

All rates provided herein include all federal, state, and local taxes.

Seller shall provide Buyer with the appropriate IRS Form W-8 (e.g., W-8BEN, W-8BEN-E, W-8IMY, etc.) if the Seller is a non-US entity or IRS Form W-9 if the Seller is a US entity. If Seller fails to provide one of these forms, Buyer may be required under by the Internal Revenue Code to withhold a portion of the amounts due to the Seller. If Buyer is required by law or regulation to make such a withholding, Seller hereby consents to the withholding and agrees that it shall not constitute a breach of this Agreement.

### **34. DISPUTES / ARBITRATION**

The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement informally. If the matter has not been resolved pursuant to informal negotiations, such controversy or claim shall be resolved by means of binding arbitration before a single neutral arbitrator in accordance with the then existing Commercial Arbitration Rules of the American Arbitration Association, including the Optional Rules for Emergency Measures of Protection. The parties shall mutually agree upon the individual who shall act as arbitrator. If the parties are unable to agree upon a neutral arbitrator, a list of potential arbitrators (no more than 10) shall be obtained by SNC from the American Arbitration Association. The parties, starting with SNC, will alternately strike names from the list until only one-name remains; the remaining person shall be the arbitrator.

No demand for arbitration may be made after the date when the institution of legal or equitable proceedings based on such claim or dispute would be barred by the applicable statute of limitation. The arbitration shall be held in Washoe County, Nevada or any other place agreed upon at the time by the parties. The arbitrator is not authorized to award punitive or other damages not measured by the prevailing party's actual damages.

A party may apply to the arbitrator for injunctive relief until an arbitration award is rendered or the dispute is otherwise resolved. A party also may, without waiving any other remedy, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party pending the arbitrator's appointment or decision on the merits of the dispute. The arbitrator's compensation and costs shall be shared equally by the parties.

The prevailing party in any such arbitration shall be entitled to recover its reasonable attorney fees and costs incurred in such proceeding from the non-prevailing party.

Until final resolution of any dispute hereunder, Seller shall diligently proceed with performance of the Agreement as directed by SNC.

### **35. FORCE MAJEURE**

Neither party shall be liable for damages for delay in delivery arising out of causes beyond its reasonable control and without its fault or negligence, including, but not limited to, acts of God or of the public enemy, acts of any Government authority, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, or unusually severe weather. If the delay is caused by the delay of a subcontractor of Seller and if such delay arises out of causes beyond the reasonable control of both Seller and the subcontractor, and without fault or negligence of either of them, Seller shall not be liable to Buyer for damages unless the articles or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Seller

## **Sierra Nevada Corporation Indirect Terms and Conditions**

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to meet the required delivery schedule. Seller will notify Buyer in writing within ten (10) calendar days after the beginning of any such cause.

### **36. NEWS AND PUBLIC STATEMENTS OR RELEASES**

Seller shall not make, deny or confirm any public statements, news releases, advertisement, media interviews or public announcements (collectively, "Public Release") concerning the Purchase Order, the subject matter of the Purchase Order or any phase of the program hereunder unless Buyer, in its sole and absolute discretion, provides Seller with advance written approval of such Public Release. In furtherance of the foregoing, Seller shall submit the requested Public Release and detailed information concerning the applicable forum, publication or media outlet in writing to Buyer no later than fifteen (15) business days prior to the requested release date. Buyer's approval of a specific Public Release hereunder shall not operate or be construed as an approval of any previous or subsequent Public Release by Seller. This provision shall not apply to any disclosure deemed by a Seller's legal counsel to be required by law or by regulation of any federal, state or local government agency.

### **37. PRECEDENCE**

All documents in this Agreement shall be read so as to be consistent. In the event of conflict, the order of precedence is:

1. Purchase Order
2. Purchase Order Schedule
3. OPS-FORM-9678 Terms and Conditions-Indirect;
4. SNC Statement of Work;
5. SNC Specification/Drawing;
6. any documents incorporated herein by reference.

### **38. ENTIRE AGREEMENT**

This Purchase Order sets forth the entire agreement, and supersedes any and all other agreements, understandings and communications, between SNC and Seller and related to the subject matter of this Purchase Order. No amendment or modification of this Purchase Order shall be binding upon SNC unless set forth in a written instrument signed by SNC's Buyer and an authorized representative of the Seller. The rights and remedies afforded to SNC or Customers pursuant to any provision of this Purchase Order are in addition to any other rights and remedies afforded by any other provisions of this Purchase Order, by law, or otherwise.