



## **STERLING TERMS AND CONDITIONS (GOVERNMENT)**

These Sterling Computers Corporation (“Sterling”) terms and conditions establish a contractual framework for Partner’s business relationship with Sterling and apply when the end user is the U.S.G., as defined below. Sterling rejects any additional terms proposed by Partner that add to or contradict these terms and conditions, including any statement to the contrary in Partner’s Order.

Standard clauses or any FAR/DFARS clauses contained herein that do not apply to this Order due to the nature of the work performed (for instance, FAR 52.246-2, “Inspection of Supplies-Fixed-Price” does not apply if this Order is solely for Services) are self-deleting and not made a part of these terms and conditions.

### **1. Definitions.**

- 1.1. “Acceptance” or “Accept” means the verification by a Party that the Products and/or Services meet the required standards, specifications, and/or criteria as set forth in this Order
- 1.2. “Affiliate(s)” shall mean, with respect to a Party, any other company, partnership, or other entity directly or indirectly through one or more intermediaries, that controls, is controlled by, or is under common control with such Party. For the purposes of this definition, the term “control” of an entity shall mean the power to direct or cause the direction of the management and policies of such entity whether through ownership of voting securities, by contract, or otherwise.
- 1.3. “AI System” shall mean any Artificial Intelligence (including without limitation any generative Artificial Intelligence), large language model, or machine learning system or algorithm.
- 1.4. “Artificial Intelligence” or “AI” means technology that can make decisions, create predictions, generate new content, or recognize patterns without being explicitly programmed to do so.
- 1.5. “Authorized Representative” means the person authorized by a Party’s purchasing organization to administer and/or execute this Order and who has sole authority to make contractual commitments on behalf of the Party, to provide contractual direction, and to change contractual requirements of this Order.
- 1.6. “Classified Information” means any information or material, regardless of physical form or characteristics, that is owned by, produced or for, or under the control of the U.S.G., and determined pursuant to Executive Order 13526, December 29, 2009 (75 Federal Register 707, January 5, 2010) or prior orders to require protection against unauthorized disclosure, and is so designated as “Confidential,” “Secret,” or “Top Secret.” See Federal Acquisition Regulation (FAR) 52.204-2, Security Requirements.
- 1.7. “Data” means all financial information, business information, designs, dimensions, specifications, drawings, patterns, computer files or software, know how, reports or other information, including but not limited to Technical Data, used in the design and manufacture of Products or the provision of Services. Data may be recorded in a written or printed document, computer or electronically stored, software, or any other tangible form of expression.
- 1.8. “Defense Article” shall have the meaning defined in ITAR 22 C.F.R. § 120.31.
- 1.9. “Defense Service” shall have the meaning defined in ITAR 22 C.F.R. § 120.32.
- 1.10. “Order” means a statement of work, purchase order, or other proposed agreement and includes these Sterling Computers Terms and Conditions and attachments, exhibits, and other items specifically referenced in or attached to the Order, and any subsequent changes or modifications.
- 1.11. “Party/Parties” means Sterling and Partner individually or collectively, as the context dictates.



- 1.12. "Prime Contract" means the contracting instrument issued to Sterling or Sterling's higher tier customer by the U.S.G. for the acquisition of Products, Services, or both.
  - 1.13. "Product(s)" means those goods, supplies, software licenses, Data, materials, articles, items, parts, components or assemblies, and any incidental Services described in this Order.
  - 1.14. "Proprietary Information" means information disclosed by the Parties to support performance of this Order that is provided or otherwise made available by Sterling (hereinafter the "Disclosing Party") to Partner (hereinafter the "Receiving Party") and is marked proprietary or if not marked, the Receiving party should reasonably understand to be sensitive, non-public information.
  - 1.15. "Partner" means the Party with whom Sterling is contracting under this Order.
  - 1.16. "Sensitive Information" means any Information that is collected, processed, maintained, used, shared, or disseminated in connection with this Order that requires protection to ensure its confidentiality, integrity and availability including, but not limited to, any Sterling Proprietary Information and third party Proprietary Information (identified as such), and Personal Data, Covered Defense Information as defined in DFARS 252.204-7012, and Controlled Unclassified Information (CUI) defined in the National Archives and Records Administration (NARA) Registry, available at <https://www.archives.gov/cui/registry/category-list>.
  - 1.17. "Services(s)" means Partner's time and effort, including any items, articles, Data, or similar materials provided to Sterling which are incidental to the performance of the Service.
  - 1.18. "Technical Data" means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). Technical Data also includes unclassified and Classified Information as defined in the International Traffic in Arms Regulations (ITAR) 22 Code of Federal Regulations (C.F.R.) § 120.33 and Technology, as defined in the Export Administration Regulations (EAR) Part 772 and Supplement 1 to Part 774.
  - 1.19. "U.S.G." means the federal government of the United States of America and its Executive Departments, Military Departments, Government Corporations, Independent Establishments, and Executive Agencies as defined in 5 U.S.C. Chapter 1.
- 2. Supplemental Terms.** These terms and conditions may be supplemented with additional terms or requirements ("Supplemental Terms"). The Supplemental Terms include the Sterling Partner Code of Conduct, Insurance Requirements, Security Requirements, FAR-DFAR Flow-downs, Data Processing Agreement, and Business Associate Agreement, each of which is further described below. The Supplemental Terms referenced in this Agreement are available on the Sterling T&C Webpage. Sterling may designate a successor site from time to time and will notify Partner of the new Sterling T&C Webpage by email or other written notice. Sterling may publish new and updated Supplemental Terms from time to time and will provide notice to Partner of any such changes. New and updated Supplemental Terms will become binding upon Partner unless, within 30 days after posting, Partner objects in writing.
- 2.1. Business Ethics and Conduct.** Partner shall conduct its business in an ethical manner and shall avoid any business practices that might reasonably be perceived as deceptive, misleading, or otherwise improper. Partner shall comply with standards that meet or exceed the Sterling Partner Code of Conduct, a copy of which is available on the Sterling T&C webpage.
  - 2.2. Insurance Requirements.** Partner shall, at Partner's own cost and expense, keep in full force and effect insurance coverage that meets the Sterling Insurance Requirements, a copy of which is available at the



Sterling T&C Webpage. Upon Sterling's request, Partner will complete an annual insurance survey and will provide Sterling with Partner's certificate(s) of insurance, any renewal certificate(s) of insurance, and/or other documentation necessary to evidence compliance with the Insurance Requirements. Failure by Sterling to review or collect any insurance surveys or certificates will not be considered a waiver of the contractual requirements to meet and maintain the required insurance coverage.

**2.3. Information Security Requirements.** Partner shall comply with the Sterling Security Requirements, a copy of which is available at the Sterling T&C Webpage under Terms and Conditions. Partner will comply with applicable data protection, information security, and privacy laws, including the California Consumer Privacy Act (CCPA) and the European Union (EU) General Data Protection Regulation (GDPR), as applicable. The Sterling Data Processing Agreement, a copy of which is available at the Sterling T&C Webpage, will apply in the event Partner Processes Personal Data, as those terms are defined in the Sterling Data Processing Agreement.

**2.4. Data Processing Agreement.** The Sterling Data Processing Agreement ("DPA") is incorporated into and made a part of this Agreement to the extent that Partner processes Sterling Personal Data, as that term is defined in the DPA.

**2.5. Business Associate Agreement.** If Partner is a Business Associate, as defined at 45 C.F.R Section 160.103, then Sterling's Business Associate Agreement or Business Associate Subcontractor Agreement, as applicable, will apply and is incorporated into and made a part of this Agreement.

**3. FAR/DFARs.** The Sterling FAR-DFAR Flow-downs, a copy of which is available at the Sterling T&C Webpage, will apply in the event Partner is engaged as a subcontractor under one or more U.S. Government orders.

#### **4. Order Acceptance**

4.1. This Order is Sterling's offer to Partner to purchase the Products, Services, or both described in this offer. Except for Partner's Product warranties that offer greater coverage, and unless specifically agreed to otherwise in writing by the Parties, Sterling does not accept any additional terms proposed in Partner's acceptance of Sterling's offer that add to or differ from this Order. Any such proposed terms are rejected. These terms constitute the complete and exclusive statement of the terms and conditions of the contract between the Parties and may be modified only by written instrument executed by the authorized representatives of both Parties. This Order may be signed electronically by either party.

4.2. If Partner identifies any term or condition of this Order to be incomplete, inaccurate or inconsistent, whether upon acceptance of this Order or at any time during performance of this Order, then Partner will promptly notify Sterling in writing and cooperate in good faith with Sterling to resolve such discrepancies.

#### **5. Order of Precedence**

5.1. If there is any inconsistency between any parts of this Order, the inconsistency shall be resolved by giving precedence in the following order:

5.1.1. These Terms and Conditions (including mandatory clauses flowed down in accordance with prime/sub-contract requirements)

5.1.2. FAR/DFARs and Other Agency Supplemental Clauses (identified in Clause 51 or separately attached to this Order) to the extent not already address in 3.1.2 and/or 3.1.3 above)

5.1.3. Statement of Work

5.1.4. Specifications or Drawings



5.1.5. Requirements relating to Quality and/or Mission Assurance

5.1.6. Other Referenced Documents

## **6. Assignment**

6.1. Neither this Order nor any right or interest hereunder may be assigned, delegated, or otherwise transferred by Partner, in whole or in part, without Sterling's prior written consent. Any purported assignment or transfer without Sterling's consent will be void.

6.2. Sterling may make direct settlements or adjustments in price, or both, with Partner under the terms of this Order notwithstanding any assignment of claims for money due or to become due under this Order and without notice to the assignee.

## **7. Subcontracting**

7.1. Partner will not, without obtaining Sterling's prior written consent, subcontract any part of this Order, and Partner will require an agreement with conforming performance requirements from immediate and lower-tier suppliers. This restriction does not apply to authorized distributors nor does it apply to purchases of standard commercial articles, including electronic components or raw materials on which Partner will perform further work.

## **8. Communication with Sterling Customers**

8.1. Partner shall not communicate with Sterling's customer or U.S.G. regarding this Order without the express written permission of Sterling. This restriction does not apply to Partner communications with U.S.G. regarding matters Partner is required by law or regulation to communicate or to matters of fraud or abuse communicated to an investigative or law enforcement representative of U.S.G. authorized to receive such information.

## **9. Invoicing and Payment (for -Fixed Price Order)**

9.1. Payment terms will be stated in this Order. Payment due dates, including discount periods, will be calculated from the date of Sterling's Acceptance of Product(s) or Service(s) or correct invoice, whichever is later. Any applicable discount will be taken on the full amount invoiced. Sterling has the right, without loss of discount privileges, to pay invoices covering Products shipped in advance of schedule on the normal maturity after the date specified for delivery. Payment will not constitute Acceptance or approval of Products or Services rendered. At any time prior to final payment under this Order, Sterling may have invoices validated. Payment of Partner's invoices will be subject to adjustment for any amounts found to have been incorrectly invoiced. Sterling will be entitled at all times to set off any amounts owing from Partner to Sterling or any of its Affiliates however and whenever arising.

9.2. Release of Financial Liability and Claims. All amounts accrued and made payable by Sterling to the Partner under this Order shall be invoiced in full no later than one hundred and eighty (180) days from the contractual end date of performance ("Limitation Period"). Unless otherwise mutually agreed to by the Parties, Partner hereby agrees to release and discharge Sterling, its officers, agents, and employees, successors and assigns of and from all liabilities, obligations, and claims arising out of or under this Order, where such are submitted after the 180 day Limitation Period.

9.3. Payments to Partner shall be made to the designated financial account at an office or branch of a regulated bank located in the United States to prevent and detect fraudulent and unauthorized payment instructions, Partner shall implement and maintain multifactor authentication and other reasonable security measures on Partner's network systems accounts through which payment instructions could be



transmitted to Sterling. Sterling will not be responsible to pay Partner for any misdirected payments or other damages or losses attributable to Partner's failure to use multifactor authentication and other reasonable security measures.

## **10. Service Rates, Invoicing, Payment**

- 10.1. The rates for straight time and overtime work which Partner will bill Sterling, for Services furnished under this Order, shall be those set forth in this Order. Sterling shall make no payment for work performed during holiday, or other overtime periods, unless such work is expressly authorized by Sterling.
- 10.2. Partner represents that the rates set forth in this Order include all profit, wages, salaries, overhead, taxes, and other costs and expenses.
- 10.3. All work performed beyond the stated expiration date or total funding of this Order will be at Partner's "own risk." No legal liability on the part of Sterling may arise until Partner receives written notice from Sterling that the period of performance has been extended and funding is available.
- 10.4. Payment terms will be stated in this Order. Payment due dates, including discount periods, will be calculated from the date of Sterling's Acceptance of Product(s) or Service(s) or correct invoice, whichever is later. Any applicable discount will be taken on the full amount invoiced. Sterling has the right, without loss of discount privileges, to pay invoices covering Products shipped in advance of schedule on the normal maturity after the date specified for delivery. Payment shall not constitute Acceptance or approval of Products or Services rendered. At any time prior to final payment under this Order, Sterling may have invoices validated. Payment of Partner's invoices shall be subject to adjustment for any amounts found to have been improperly invoiced. Sterling shall be entitled at all times to set off (a) any amount owing at any time from Partner to Sterling or any of its Affiliates; (b) any damages resulting from Partner's default under or breach of any contract (including any purchase order and these terms); (c) any adjustment for shortage or rejection and any associated costs, against any amount payable at any time by Sterling or any of its Affiliates to Partner.
- 10.5. Release of Financial Liability and Claims. Within 120 days (or longer period if approved in writing by Sterling) after completion of an Order, Partner shall submit a final invoice to reflect the settled amounts and rates. Partner is responsible for providing status of any Partner audits to Sterling upon request. If Partner fails to submit a final invoice within the time specified above, Sterling may (1) determine the amounts due to Partner under this Order; and (2) record this determination in a unilateral modification to this Order. This determination shall constitute the final decision of Sterling in accordance with the Disputes clause herein.
- 10.6. Billing rates. Until final annual indirect cost rates are established for any period, Sterling shall reimburse Partner at billing rates established in this Order, subject to adjustment when the final rates are established. These billing rates (1) will be the anticipated final rates; and (2) may be prospectively or retroactively revised by mutual agreement, at either Party's request, to prevent substantial overpayment or underpayment.
- 10.7. Payments to Partner shall be made to the designated financial account at an office or branch of a regulated bank located in the United States. To prevent and detect fraudulent and unauthorized payment instructions, Partner shall implement and maintain multifactor authentication and other reasonable security measures on Partner's network systems accounts through which payment instructions could be transmitted to Sterling. Sterling shall not be responsible to pay Partner for any misdirected payments or



other damages or losses attributable to Partner's failure to use multifactor authentication and other reasonable security measures.

## 11. Defective Work

- 11.1. Notwithstanding any prior Acceptance, Sterling may reject or require prompt correction of any Products or Services which are, in Sterling's judgment, defective in material or workmanship or otherwise fail to meet the drawings, designs, statement of work, specifications or other technical documents, or other requirements of this Order.
- 11.2. If Partner delivers defective or nonconforming Products or Services, Sterling may take one of the following actions:
  - 11.2.1. Accept all or part of the defective or non-conforming Products or Services at an equitable price reduction or credit against any amounts that may be owed to Partner under this Order or otherwise;
  - 11.2.2. Reject all or any part of a delivery or performance of defective or non-conforming Products or Services and demand delivery of conforming Products or re-performance of Services. All rejected Products shall be shipped back to Partner at Partner's expense and any re-performance of defective or nonconforming Services shall be at no cost to Sterling. All repair, replacement and other correction and redelivery shall be completed within the original delivery schedule unless otherwise directed by Sterling. Any rejected or corrected Products or Services shall not thereafter be tendered for Acceptance unless the former rejection or requirement for correction is disclosed;
  - 11.2.3. If Partner is unable or unwilling to correct or re-perform defective or nonconforming Products or Services, Sterling may:
    - 11.2.3.1. Make or perform, or have a third party make or perform, all repairs, modifications, or replacements necessary to enable such Product or Service to comply in all respects with Order requirements and charge the expense incurred to Partner; or
    - 11.2.3.2. Terminate this Order for default in whole or in part.
- 11.3. Partner shall immediately notify Sterling upon discovery of actual or potential defects or non-conformance affecting delivered Product or performed Service.

## 12. Warranty

- 12.1. Partner warrants that Product(s) delivered and Service(s) performed hereunder shall be free from defects, shall be of good materials and workmanship, shall conform to all requirements of this Order, and shall be free of any claim of any third party.
- 12.2. The foregoing warranties will survive inspection and Acceptance of, and payment for, the Product(s) delivered and Service(s) performed hereunder and will remain in effect as to each Product furnished or Service performed for a period of one year or such other period set forth in this Order and will run to Sterling, its successors, assigns, and customers. These warranties shall not be deemed to limit any warranties of additional scope given to Sterling by Partner, nor limit Sterling's rights or Partner's obligations under any other provision of this Order, at law or in equity. No warranties are waived by Sterling supplying, reviewing, commenting upon, or approving plans, specifications, or Data, issuing changes to this Order, or inspecting or Acceptance of the Product(s) or Service(s) or both.
- 12.3. Sterling may determine the Product(s) or Service(s) or both do not to meet the warranties and guarantees specified herein. For Product(s), Sterling may, within its sole discretion, return such Product(s) to Partner



at Partner's expense, including transportation charges, for correction, replacement, repair, or credit. For Service(s), Sterling may, within its sole discretion, refuse to confirm satisfactory completion of Service(s) and require Partner re-perform such Service(s). If repair, replacement, or re-performance of the Product(s) or Service(s) or both is not timely, Sterling may elect to return, repair, replace, or re-procure the non-conforming Work at Partner's expense. Any corrected, replaced, or repaired Product(s) or re-performed Service(s) shall be subject to the provisions of this Clause. Should Sterling's customer require Acceptance of the Product(s) or Service(s) or both not conforming to this warranty, the Parties will mutually agree on consideration to Sterling, including but not limited to a refund or equitable reduction in price.

### **13. Changes**

- 13.1. Where required to meet Sterling's obligations under a higher tier contract or Prime Contract, including, but not limited to, any mandatory flow-down clauses in such contract, Sterling's Authorized Representative may (subject to clause 10.2) at any time, by written order, and without notice to sureties or assignees, if any, make changes within the general scope of this Order in (1) drawings, designs, statement of work, specifications, planning and /or other technical documents; (2) method of shipment, packaging, or packing; (3) time and place of inspection, delivery or Acceptance; (4) reasonable adjustments in quantities and/or delivery schedules; (5) place of performance of the Service; (6) the amount of Sterling/Government furnished property; and (7) terms and conditions.
- 13.2. If any authorized change causes an increase or decrease in the cost or time required to perform this Order, Sterling and Partner shall negotiate an equitable adjustment in the price and/or schedule, to reflect the increase or decrease. Sterling shall modify this Order in writing accordingly.
  - 13.2.1. Any claim for adjustment shall be unconditionally waived unless: (i) asserted in writing and delivered to Sterling's Authorized Representative within fifteen (15) days of the date of the written change order and (ii) a fully supported proposal is delivered to Sterling's Authorized Representative within thirty (30) days of the date of the written change order.
  - 13.2.2. If Partner claims the cost of any Product made obsolete or excess, Sterling shall have the right to prescribe the manner of disposition of the Product to include the right to acquire that Product for cost claimed.
  - 13.2.3. Sterling, its Authorized Representatives, and its customer have the right to examine any of Partner's pertinent books and records for the purpose of verifying Partner's claim. However, at Partner's request, a mutually agreeable third party can examine books and records to verify Partner's claim.
  - 13.2.4. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. However, Partner shall not be excused from proceeding with this Order as changed.
- 13.3. Sterling engineering, technical personnel and other representatives may from time-to-time render assistance or give technical advice or discuss issues or engage in an exchange of information with Partner's personnel concerning the Products or Services hereunder. No such action shall be deemed to be a change, nor shall it be the basis for an equitable adjustment, and no such action shall relieve Partner of its obligations under this Order.



#### **14. Governing Law**

14.1. The Parties agree that, regardless of the place of performance of this Order, any dispute or claim arising out of or in connection with this Order, its subject matter or formation (including non-contractual disputes or claims) will be governed by, and construed and enforced in accordance with, the Laws of the State of South Dakota, without giving effect to its conflict of law principles, except that any provision of this Order incorporated from the Federal Acquisition Regulation (FAR) or any agency regulation that supplements the FAR shall be governed by the federal common law of government contracts. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this Order.

#### **15. Disputes**

15.1. Any dispute arising under or in connection with this Order with respect to the rights, duties, or obligations of the Parties shall be submitted in writing for resolution to ascending levels of management of the respective Parties.

15.2. If a dispute cannot be resolved to both Parties' mutual satisfaction, after good faith negotiations, within 90 days from the date of the written claim is received by the other Party, or such additional time as the Parties agree upon in writing, either Party may bring suit. If federal courts have subject matter jurisdiction to resolve a dispute, the Parties agree that the dispute shall be brought only in a federal district court in the State of South Dakota. The Parties waive any objection based on lack of personal jurisdiction, improper or inconvenient venue.

15.3. Pending any prosecution, appeal, or final decision referred to in this clause, or the settlement of any dispute arising under this Order, both Parties shall proceed diligently, with their respective obligations under this Order.

15.4. To the maximum extent permitted by law, the Parties waive any right to a jury trial.

15.5. In no event shall Sterling be liable for anticipated profits, incidental or consequential damages. Sterling's liability on any claim, of any kind and for any loss or damage arising out of, connected with or resulting from this Order, or from the performance or breach thereof shall, in no case, exceed the price allocable to the Products and/or Services, or unit thereof, which gives rise to the claim. Sterling shall not be liable for penalties of any description. Any action resulting from any breach on the part of Sterling as to the Products and/or Services delivered hereunder must be commenced within one year after the cause of action has accrued.

15.6. In no event shall Partner acquire any direct claim, or direct course of action against the U.S.G. except as authorized by law.

#### **16. Termination (for Time and Material Order)**

16.1. Sterling may terminate this Order, in whole or in part, without notice when it is in the best interest of Sterling. If this Order is so terminated, Sterling shall be liable only for payment in accordance with the payment provisions of this Order for Services rendered prior to the effective date of termination, and Partner shall have no claim against Sterling for Services not performed, anticipatory profits lost, or indirect or consequential damages claimed to have been suffered by reason of such termination.

#### **17. Termination for Convenience (for Firm or Fixed Price Order)**

17.1. Sterling may terminate this Order in whole or in part at any time by giving Partner written notice. Upon receipt of a notice of termination, and except as otherwise directed by Sterling, Partner shall immediately,



as to the terminated portion of this Order and regardless of any delay in determining or adjusting any amounts due under this clause, promptly stop work, notify subcontractors to stop work, and protect property in Partner's possession in which Sterling has or may acquire an interest.

- 17.2. As directed by Sterling, Partner shall transfer title and possession to Sterling of any inventory and property, including plans, drawings, and information held by Partner which is for Sterling's Order. In accordance with Sterling's instructions, Partner shall assign to Sterling all right, title, and interest of Partner under the subcontracts of Partner that are terminated, in which case Sterling shall have the right to settle or to pay any termination settlement proposal arising out of those terminations. With approval or ratification to the extent required by Sterling, Partner shall settle all outstanding liabilities and termination settlement proposals arising from the termination of Partner's subcontracts; the approval or ratification will be final for purposes of this clause.
- 17.3. Partner shall submit a termination settlement proposal within sixty (60) days after the effective date of the termination notice incorporating all claims of Partner in the form and with the certification prescribed by Sterling. Partner and Sterling may agree upon the whole or any part of the amount to be paid because of the termination and this Order shall be amended and Partner paid the agreed amount. In no event shall payment to Partner exceed the total Order price as reduced by the amount of payments previously made and this Order price of work not terminated. The cost principles and procedures of FAR Part 31, in effect on the date of this Order, shall govern all costs claimed, agreed to, or determined under this section.
- 17.4. Unless otherwise provided in this Order, Partner shall maintain all records and documents relating to the terminated portion of this Order for three (3) years after final settlement. This includes all books and other evidence bearing on Partner's costs and expenses under this Order. Partner shall make these records and documents available to Sterling, at Partner's office, at all reasonable times, without any direct charge.

## **18. Termination for Default (for Firm Fixed Price Order)**

- 18.1. Subject to paragraphs 16.3 and 16.4 below, Sterling may terminate this Order in whole or in part, by written notice of default to Partner if Partner:
- 18.1.1. Fails to deliver the Products or to perform the Services within the time specified in this Order or any extension;
  - 18.1.2. Fails to make progress so as to endanger performance of this Order or to perform any of the other provisions of this Order and does not cure that failure within a period of ten (10) days after receipt of the notice from Sterling specifying Partner's failure to perform; or
  - 18.1.3. Becomes insolvent or makes a general assignment for the benefit of creditors, or files or has filed against it a petition of bankruptcy or pursues any other remedy under any other law relating to the relief for debtors, or in the event a trustee or receiver is appointed for Partner's property or business; or assignment.
- 18.2. If Sterling terminates this Order in whole or in part, it may acquire, under the terms and in the manner Sterling considers appropriate, Products or Services similar to those terminated, and Partner will be liable to Sterling for any excess costs for those Products or Services. However, Partner shall continue the work not terminated. In addition, Sterling may repair or rework any Product or re-perform any Service, at Partner's cost.



- 18.3. If the failure to perform is caused by the default of a subcontractor of Partner at any tier, and if the cause of the default is beyond the control of both Partner and subcontractor, and without the fault or negligence of either, Partner shall not be liable for any excess costs for failure to perform, unless the subcontracted Products or Services were obtainable from other sources in sufficient time for Partner to meet the required delivery schedule.
- 18.4. If this Order is terminated for default, Sterling may require Partner to transfer title and deliver to Sterling, as directed by Sterling, any (1) completed Products, and (2) partially completed Products and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as “manufacturing materials” in this clause) that Partner has specifically produced or acquired for the terminated portion of this Order. Upon direction of Sterling, Partner shall also protect and preserve property in its possession in which Sterling has an interest.
- 18.5. Sterling shall pay this Order price for completed Products delivered or Services performed and Accepted. Partner and Sterling shall agree on the amount of payment for manufacturing materials delivered and Accepted and for the protection and preservation of the property.
- 18.6. Sterling shall, at its option, have the right to set off against, or appropriate and apply to the payment or performance of any obligation, sum or amount owing at any time to Sterling under this Order, all deposits, amounts, or balances held by Sterling for the account of Partner, any amounts owed by Sterling to Partner, and any sum Sterling determines to be necessary to protect Sterling against loss because of outstanding liens or claims of former lien holders.
- 18.7. The rights and remedies of Sterling in this clause are in addition to any other rights and remedies provided by law or under this Order.

## **19. Government or Sterling Property**

- 19.1. Title to all property furnished to Partner by Sterling, Sterling’s customer, or U.S.G., or paid for by Sterling or U.S.G. shall remain with Sterling or U.S.G., as applicable. Partner shall not alter or use such property for any purpose or for any other Party other than that specified by Sterling or U.S.G., without the prior written consent of Sterling or U.S.G. If Sterling or U.S.G. agrees to pay Partner for acquisition of tooling and equipment, either separately or as a stated part of the unit price of Products purchased herein, title to the same shall pass to Sterling or U.S.G., as applicable, upon (i) commencement of processing for use in performance of this Order, or (ii) Sterling’s payment for the property, whichever occurs first.
- 19.2. Partner shall assume the risk of, and be responsible for, any loss, theft, destruction of or damage to Sterling property while in Partner’s possession or control. If Partner damages any property, Partner shall be responsible for making repairs, or replacement, at no cost to Sterling.
- 19.3. Partner shall assume full risk of loss, and be responsible for, any loss, theft, destruction of or damage to U.S.G. property while in Partner’s possession or control. If Partner damages any property, it shall repair or replace the property at no cost to the U.S.G. when FAR 52.245-1, Alternate 1, applies to this Order (Reference Section 58 of the terms and conditions for applicability). If FAR 52.245-1 is applicable, then Partner shall have limited risk of loss for lost or damaged U.S.G. property and shall seek relief of accountability to Sterling in accordance with FAR 52.245-1 (f)(1)(vii).
- 19.4. Upon Sterling’s or U.S.G.’s written request to Partner for any property under this clause, if Partner cannot locate Sterling or U.S.G. property within 20 days, the property shall be deemed “lost” and at Sterling’s election, Partner shall either reimburse Sterling for the replacement and all related delay costs, or remake



the lost property at no cost to Sterling or U.S.G., or seek relief of accountability depending the applicable risk of loss provisions of this Order.

19.5. Partner shall return all Sterling or U.S.G. owned property in a condition as good as when received except for reasonable wear and tear. Partner shall establish and maintain a property control system approved by Sterling and in accordance with the provisions of FAR 52.245-1 for the control of U.S.G. or Sterling owned property. Partner shall also notify Sterling if its property system is deemed inadequate by the U.S.G. If Partner's property control system is deemed inadequate at the time of award of this Order or becomes disapproved anytime during performance of this Order, then the provisions FAR 52.245-1 Alternate 1 shall automatically apply and Partner shall assume full risk of loss for U.S.G. property regardless of the contract type of this Order or the basis of award. At all times, Sterling and the U.S.G., as applicable, shall have access to Partner's facilities for the purpose of reviewing its management of U.S.G. or Sterling property related to this Order.

## **20. Taxes and Duties**

20.1. The Order includes all applicable foreign and domestic federal, state, and local taxes, duties, tariffs, and similar fees ("Taxes") levied upon, or measured by, the sale, the sales price, value added or use of Products and/or the performance of Services associated with the Order. Partner shall separately list on its invoice (or voucher) any Taxes. Partner shall comply with any reasonable request by Sterling regarding Tax payments under protest and shall make appropriate adjustments to afford Sterling the benefit of any refund or reduction in Taxes.

## **21. Proprietary Information**

21.1. Unless expressly stated otherwise herein, the exchange of information under this Order shall be governed by this Order, and particularly this Clause, which supersedes any prior agreement between Sterling and Partner to protect information relating to the purpose of this Order.

21.2. The Receiving Party shall hold all Proprietary Information in confidence and restrict disclosure thereof to only its employees, contract labor, subcontractors, advisors, and agents who have a need to know so that the Receiving Party may perform its obligations under this Order and are under obligations to hold such information in confidence under terms and conditions at least as restrictive as the terms and conditions of this Order.

21.3. Each Party agrees to use Proprietary Information only for purposes necessary for performing its obligations under this Order and shall not use Proprietary Information for any other purpose without the prior written consent of the Disclosing Party. Upon request of the Disclosing Party, the Receiving Party shall destroy or return to all existing copies the Disclosing Party's Proprietary Information, except that the Receiving Party may retain one archival copy for its records, which will remain subject to these confidentiality terms.

21.4. Partner agrees that Sterling may share Partner's Proprietary Information with other contractors under Sterling's higher tier contract or Prime Contract, and any follow-on contracts to such agreements, if the other contractors need to use Partner's Proprietary Information to complete their contracts provided that (1) any restrictive markings remain on the Proprietary Information, (2) the other contractor is under an obligation to protect Partner's Proprietary Information to the same degree as provided herein, and (3) the other contractor's use of the Proprietary Information is limited to performance of a contract under Sterling's higher tier contract or Prime Contract, and any follow-on contracts to such agreements.



21.5. The Receiving Party agrees to use at least the same degree of care in safeguarding the Disclosing Party's Proprietary Information, including during storage and transmittal, as it uses for its own Proprietary Information, but in no case less than reasonable care. Promptly upon discovery of an unauthorized disclosure, access, or use, the Receiving Party shall: (a) notify the Disclosing Party; (b) make reasonable attempts to retrieve the Proprietary Information; (c) comply with any reasonable written requests of Disclosing Party regarding such unauthorized disclosure, access, or use; and (d) review and take other reasonable action as appropriate to prevent any future unauthorized disclosures, accesses, or uses.

#### 21.6. Exceptions

21.6.1. The Receiving Party shall not be liable hereunder for use or disclosure of Proprietary Information which occur after such Proprietary Information:

21.6.1.1. is or becomes publicly known through no wrongful act of the Receiving Party; or

21.6.1.2. is known to or in the possession of the Receiving Party without restriction on disclosure or use through no wrongful act of the Receiving Party, as evidenced by competent proof; or

21.6.1.3. is rightfully received by the Receiving Party from a third party without restriction and without breach of this Order; or

21.6.1.4. is independently developed by the Receiving Party without the use of or reference to the Proprietary Information.

21.6.2. In addition, the Receiving Party shall not be liable hereunder for use or disclosure of Proprietary Information if such Proprietary Information is disclosed to satisfy a legal order by a court of competent jurisdiction or U.S.G. action; provided, however, that the Receiving Party shall first advise the Disclosing Party within sufficient time prior to the disclosure so that the Disclosing Party has the opportunity to seek appropriate relief from the court or governmental order, and provided further that the Receiving Party shall disclose only those portions of the Proprietary Information legally required to be disclosed and request confidential treatment of the Proprietary Information by the court or governmental entity.

21.7. All documents and other tangible media transferred in connection with this Order, together with any copies thereof, are and remain property of the Disclosing Party.

21.8. Neither the existence of this Order nor the disclosure hereunder of Proprietary Information or any other information shall be construed as granting expressly, by implication, by estoppel or otherwise, a license under any invention or patent now or hereafter owned or controlled by the Disclosing Party except as specifically set forth herein.

21.9. The Receiving Party agrees that the Proprietary Information of the Disclosing Party is valuable and unique, and that the loss resulting from unauthorized disclosure thereof may cause irreparable injury to the Disclosing Party, which may not be adequately compensated in money damages. The Receiving Party, therefore, expressly agrees that the Disclosing Party shall be entitled to seek injunctive and/or other equitable relief, in addition to any other remedies available to the Disclosing Party for breach of this clause.

21.10. Notwithstanding the foregoing, nothing in this clause is intended to affect the rights or exercise of rights, if any, obtained by the U.S.G. under the "Rights in Technical Data — Other Than Commercial Products and Commercial Services" clause DFARS 252.227-7013 and "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation" clause DFARS 252.227-7014, or any similar or



successor clauses, or other clauses that may be contained in any contracts or subcontracts between Sterling and Partner and any customer.

- 21.11. Without limiting Partner's other obligations under this Order, Partner hereby represents, warrants and covenants that: (i) Partner shall not disclose or provide to any AI System accessible to any person other than Sterling and Partner, or use with any AI System accessible to any person other than Sterling and Partner, any Sterling Proprietary Information or Sterling Sensitive Information or any portion or derivative thereof; and (ii) Partner shall not use, or permit to be used, any Sterling Proprietary Information or Sterling Sensitive Information, or any portion or derivatives thereof, in any training or development of any AI System or any portion thereof or of any other datasets, systems, algorithms or methodologies, except as Sterling may agree in writing on a case-by-case basis. Partner shall not disclose or provide to any AI System (including any AI System accessible only by Sterling and/or Partner) any Sterling Proprietary Information or Sterling Sensitive Information, or any portion or derivative thereof, if the AI System will train or develop itself based on such information or maintain any persistent copy of such information, or any portion or derivative thereof.
- 21.12. Defend Trade Secrets Act provision – applicable only to individuals or to be flowed down to individuals. Pursuant to the Defend Trade Secrets Act of 2016, if Partner is an individual, Partner acknowledges that he/she shall not have criminal or civil liability under any Federal or State trade secret law for the disclosure of a trade secret that (a) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, if Partner files a lawsuit for retaliation by Sterling for reporting a suspected violation of law, then Partner may disclose the trade secret to Partner's attorney and may use the trade secret information in the court proceeding, provided Partner both files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order. Partner agrees to flow down this provision to all contract labor and agents of Partner who are authorized under this Order to receive Sterling's Proprietary Information and who are individuals.
- 21.13. Sterling's right to use and disclose information provided under this Clause 19 shall not be affected by termination or completion of this Order and remains in effect until performance in full of all contracts and agreements through which Sterling needs to use Partner's information to perform under Sterling's higher tier contract or Prime Contract, and any follow-on contracts to such agreements. The limitations on the scope of use of information under this Clause 18 shall not be affected by termination or completion of this Order.

## **22. Subcontract Deliverables**

- 22.1. Partner acknowledges and agrees that all deliverables, or portions thereof, under this Order ("Deliverable Materials") may be incorporated into deliverables under Sterling's higher tier contract or Prime Contract. Partner agrees to timely deliver all Deliverable Materials to Sterling and mark all Deliverable Materials containing Technical Data and computer software in strict accordance with FAR 52.227-14, DFARS 252.227-7013 or 252.227-7014, or other special clauses, such as H-clauses, which apply to this Order (collectively referred to as "Government Rights Clauses"). Partner will not apply any markings or legends that are inconsistent with or otherwise prohibited by the Government Rights Clauses or deemed by the U.S.G. to restrict the rights of the U.S.G. ("Prohibited Markings"). If Partner's Deliverable Materials contain any legends that are not specifically authorized in the Government Rights Clauses, Sterling will formally accept Partner's Deliverable Materials only after obtaining U.S.G. acceptance of such legends. Upon Sterling's written request, Partner, at Partner's sole expense, will, within thirty (30) days of receiving



Sterling's written request, remove or correct any Prohibited Markings from its Technical Data and computer software and will promptly resubmit the revised Technical Data and computer software to Sterling. If Partner does not remove or correct the Prohibited Markings and resubmit the revised Technical Data and computer software to Sterling within the allotted thirty (30) day period, Sterling may remove or correct Partner's Prohibited Markings on the copies of the Deliverable Materials for delivery to the U.S.G. under Sterling's higher tier contract or Prime Contract. This section shall survive termination or completion of this Order.

### **23. Intellectual Property Rights**

- 23.1. "Intellectual Property" or "IP" means all legal rights, including but not limited to patent, copyright, trademark, trade secret, moral rights, or other intellectual property rights in any discoveries, inventions, ideas, documented information, works of authorship, symbols, names, images, and designs whether or not embodied in any format, including but not limited to, Technical Data, designs, computer software, mask works, computer models, Data, drawings, formulae, specifications, diagrams, processes, know-how, procedures and technology, and all other intellectual property rights existing from time to time.
- 23.2. "Work(s)" means physical manifestations of Intellectual Property created under this Order.
- 23.3. "Background Intellectual Property" means IP that is (i) in existence prior to the effective date of this Order or (ii) is developed or created by a Party independent of the Work undertaken in this Order and the Proprietary Information and Intellectual Property of the other Party.
- 23.4. "Foreground Intellectual Property" means all IP conceived, created, acquired or initially reduced to practice under or in connection with this Order, including but not limited to any IP that was orally disclosed to Sterling by Partner at any time under or in connection with this Order.
- 23.5. Each Party shall retain and exclusively own all rights in its Background Intellectual Property. As between Sterling and Partner, Sterling shall own all right, title, and interest in and to all Foreground Intellectual Property and all derivative works of or improvements upon any Foreground Intellectual Property or Sterling-owned Background Intellectual Property (the "Sterling IP".) Partner acknowledges and agrees that any copyrightable Sterling IP is "work made for hire" within the definition of 17 U.S.C. §§101 and 201(b), and as such Sterling is deemed to be the author of such Sterling IP and owns all rights in and to it. Partner releases any and all rights Partner may have in the Sterling IP, now or in the future, including any copyrights or other proprietary rights, and agrees that the Sterling IP is work made for hire to the extent possible. Partner agrees that if the Sterling IP may not be considered a work made for hire under 17 U.S.C. §§101 and 201(b), Partner hereby assigns all rights Partner may have in the Sterling IP, including but not limited to copyright, trademark, trade secret, mask work, and patent rights, and shall without further consideration but at the expense of Sterling, execute any additional documents that may be necessary to effect this transfer. Partner irrevocably waives any and all moral rights or any rights to similar effect in any country or at common law that Partner may have with respect to the Sterling IP to the extent that those rights have not been assigned above. Nothing in this section shall modify or alter any rights that the U.S.G. may have in any Products and/or Services, including Data or software deliverables to the U.S.G.
- 23.6. Partner hereby grants to Sterling a non-exclusive, worldwide, royalty-free, fully paid-up right and license to copy, modify, use, sell, offer for sale and disclose any IP disclosed to but not assigned to Sterling under this Agreement, except IP that is Proprietary Information of Partner. Notwithstanding the above license, Sterling shall not have the right to copy or modify any Partner hardware, except as provided by Section 8.2 (Defective Work) and Section 9.3 (Warranty). If the Work or other deliverable contains third party Intellectual Property, Partner agrees to obtain the rights from the third party that are sufficient for Partner



to grant Sterling a non-exclusive, worldwide, royalty-free, fully paid-up right and license to copy, modify, use, sell, offer for sale and disclose any such third-party IP. Partner warrants that it has the rights in the Work or other deliverable sufficient to grant to Sterling the assignment and license granted in this section.

23.7. The terms of this Section 23 shall survive termination or completion of this Order.

## **24. Intellectual Property Indemnity**

24.1. Partner shall indemnify, defend, and hold harmless Sterling, its directors, officers, employees, consultants, agents, Affiliates, successors, permitted assigns and customers (“Indemnitees”) from and against all claims, suits, actions, awards (including awards based on intentional infringement of patents), liabilities, damages, costs and attorney’s fees related to the actual or alleged infringement of any intellectual property right or misappropriation or wrongful use of information or documents, arising out of or related to i) the performance of Partner under this Order; ii) the sale or use of Products by Sterling or its customer; or iii) the provision of Services by Partner to Sterling or its customer (“Infringement Claims”). Sterling or its customer will notify Partner of any such Infringement Claim and Partner will, at its own expense, fully defend such Infringement Claim on behalf of the Indemnitees. Partner will have no obligation under this clause if and to the extent infringement arises from (a) the compliance of Partner’s new Product design with formal specifications issued by Sterling where infringement could not be avoided in complying with such specifications or (b) use or sale of Products for other than their intended application in combination with other items where such infringement would not have occurred from the use or sale of those Products solely for the purpose for which they were designed or sold by Partner.

24.2. If the manufacture, use or sale of a Product delivered by Partner under this Order is likely to be or is enjoined as a result of a suit, Partner, at no expense to Sterling, shall obtain for Sterling and its customer the right to use and sell the Product or shall substitute an equivalent Product acceptable to Sterling, at its sole discretion, and extend this indemnification thereto.

24.3. Notwithstanding the foregoing, when this Order is performed under the authorization and consent of the U.S.G. to infringe U.S. Patents, Sterling and Partner will have no liability for U.S. patent infringement under this Order.

24.4. For purposes only of this Section and Section 25 (Indemnification) below, the term “Sterling” shall include Sterling Computers Corporation, Sterling Computers Corporation (UK), Sterling Computers CAN ULC, and their subsidiaries, directors, officers, agents, and employees.

## **25. Indemnification**

25.1. Partner shall indemnify, defend, and hold harmless the Indemnitees, as defined above, from and against all costs, losses, expenses, damages, claims, suits, or any liability whatsoever (including attorneys’ fees), arising out of or relating to the work to be performed hereunder, including the Products to be sold hereunder, or any act or omission, or any violation of any applicable law, executive order, or regulation, of or by Partner, its agents, employees, or subcontractors, except as otherwise expressly provided for elsewhere in this Order. Sterling will inform Partner of any claim, demand or suit asserted or instituted against it. Sterling will have the right to participate in the defense of any such claim, demand or suit with counsel of its choosing at Sterling’s expense and Partner may not settle, compromise or consent to the entry of any judgment in respect thereof, without Sterling’s prior written consent, unless such settlement, compromise or consent: (i) includes an unconditional release of Sterling from all liability arising out of such claim, demand or suit; (ii) is solely monetary in nature; and (iii) does not include an admission of fault by Sterling or otherwise adversely affect Sterling. If Partner fails to indemnify, defend and hold



harmless Sterling as provided in this clause, then Partner shall pay for any damages, attorney's fees, and any other fees, costs, and expenses that may be incurred by Sterling in the prosecution of any action to enforce the provisions of this clause.

## **26. Excusable Delay – Force Majeure**

26.1. Except for a default of Partner's subcontractor at any tier, neither Sterling nor Partner shall be liable for any failure to perform due to any cause beyond its reasonable control and without its fault or negligence. Such causes include, but are not limited to: (1) acts of God or of the public enemy; (2) acts or failure of any government in either its sovereign or contractual capacity; (3) fires, floods, epidemics, terrorism, quarantine restrictions, strikes, freight embargoes, nuclear incident, or any other act or event beyond reasonable control and without the fault of either Party or its subcontractors. In the event that performance of this Order is delayed, threatened to be delayed, or adversely affected by causes of the type described above, then the Party whose performance is so affected shall immediately notify the other Party's Authorized Representative in writing, including all relevant information with respect thereof, and shall likewise notify promptly of any subsequent change in the circumstances, and at Sterling's sole option, this Order may be completed with such adjustments to delivery schedule as are reasonably required by the existence of such cause or this Order may be terminated for convenience.

## **27. Labor Disputes**

27.1. Whenever Partner has knowledge that any actual or potential labor dispute is delaying or threatens to delay timely performance of this Order, Partner shall immediately give notice to Sterling's Authorized Representative and provide all relevant information.

## **28. Compliance with Laws**

28.1. Partner warrants that Products and Services supplied under this Order will comply with all applicable federal, state, and local laws, rules, regulations, and ordinances.

28.2. Environmental Health and Safety Performance. Partner shall maintain environmental, health and safety management systems as appropriate to ensure compliance with applicable federal, state, and local requirements. Partner further agrees to continuously promote a safe and healthy workplace and a sustainable environment related to water and air quality, water and energy conservation, greenhouse gas emission reductions, solid and hazardous waste reductions. Partner shall convey the requirements of this Clause 26.2 to its suppliers.

28.3. Anti-Corruption Compliance. Partner represents, warrants, and covenants that:

28.3.1. It has not and will not, directly or indirectly, pay, promise, offer, or authorize the payment of any money or anything of value in connection with this Order to: (i) an officer, employee, agent or representative of any government, including any department, agency, or instrumentality thereof or any person acting in an official capacity thereof; (ii) a candidate for political office, any political party or any official of a political party; or (iii) any other person or entity while knowing or having reason to know that all or any portion of such payment or thing of value will be offered, given or promised, directly or indirectly, to any person or entity for the purpose of assisting Sterling in obtaining or retaining business, or an improper business advantage. Without limiting the generality of the foregoing, Partner shall not directly or indirectly, pay, promise, offer, or authorize the payment of any facilitating payment intended to expedite or secure performance of a routine governmental action, such as, customs clearance on behalf of Sterling.



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

28.3.2.1. be permitted under the U.S. Foreign Corrupt Practices Act (FCPA) and the laws and regulations of the country in which this Order will be performed;

28.3.2.2. be consistent with applicable social and ethical standards and accepted business practices;

28.3.2.3. be of such limited value as not to be deemed a bribe, payoff or any other form of improper inducement or payment

28.3.3. Upon written notice, Sterling or its authorized representatives may, at Sterling's expense, audit all pertinent books, records, work sites, offices, and documentation of Partner in order to verify compliance with this clause.

28.3.4. Breach of any of the foregoing provisions of this section by Partner shall be considered an irreparable material breach of this Order and shall entitle Sterling to terminate this Order immediately without compensation to Partner.

28.4. Partner shall comply with the requirements of 41 CFR 60-1.4(a). This regulation applies to all Orders regardless of value of this Order, and Partner shall flow this clause to all lower tier suppliers. This regulation prohibits discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin.

## **29. Export/Import and Sanctions Compliance**

29.1. The Parties shall comply with all export and import laws, regulations, and policies of the U.S.G. and the government of any country in which the Parties conduct business in connection with this Order ("Trade Control Laws").

29.2. Partner shall control the disclosure of, and access to, controlled items or technical data provided by Sterling related to performance of this Order in compliance with applicable Trade Control Laws. Partner shall not transfer any export-controlled item, data, or services without providing advance notice to Sterling and obtaining the appropriate export or import authority.

29.2.1. Registration. If Partner is a U.S. entity and is engaged in the business of either exporting or manufacturing (whether exporting or not) Defense Articles or furnishing Defense Services, Partner represents that it shall maintain an active registration with the U.S. Department of State's Directorate of Defense Trade Controls, as required by the ITAR, throughout the performance of this Order, and that it maintains an effective export and import compliance program in accordance with the ITAR.

29.2.2. Partner shall not re-transfer any export-controlled articles or information (e.g. Technical Data or software) to any other non-U.S. person or entity (including Partner's dual and/or third-country national employees) without first complying with all the requirements of the applicable Trade Control Laws. Prior to any proposed re-transfer, Partner shall first obtain the written consent of Sterling. No consent granted by Sterling in response to Partner's request shall relieve Partner of its obligations to comply with the provisions of paragraph 27.1. of this Section or the Trade Control Laws, nor shall any such consent constitute a waiver of the requirements of paragraph 27.1. hereinabove, nor constitute consent for Partner to violate any provision of the Trade Control Laws.



### 29.3. Political Contributions, Fees and Commissions.

29.3.1. If this Order is valued in an amount of \$500,000 or more, then in performance of this Order, Partner shall not directly or indirectly pay, offer or agree to pay any political contributions or any fees or commissions, in each case as defined below.

29.3.1.1. For purposes of this clause and pursuant to 22 C.F.R. 130.6, “political contribution” means any loan, gift, donation or other payment of \$1,000 or more made, or offered or agreed to be made, directly or indirectly, whether in cash or in kind, which is:

29.3.1.1.1. To or for the benefit of, or at the direction of, any non-U.S. candidate, committee, political party, political faction, or government or governmental subdivision, or any individual elected, appointed or otherwise designated as an employee or officer thereof; and

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

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

29.3.1.2.1. To or at the direction of any person, irrespective of nationality, whether or not employed by or Affiliated with Partner; and

29.3.1.2.2. For the solicitation or promotion or otherwise to secure the conclusion of a sale of Defense Articles or Defense Services to or for the use of the armed forces of a non-U.S. country or international organization.

29.3.2. Partner agrees to provide prompt notification to Sterling’s Authorized Representative should any offer, agreement or payment of political contributions, fees or commissions (as defined herein and pursuant to this Order) be made in contravention of the prohibition in this Section.

### 29.4. Export Jurisdiction/Classification.

29.4.1. Partner shall provide the applicable Export Control Classification Number (“ECCN”) or ITAR categorization for all Products furnished by Partner to Sterling, except when Partner is manufacturing to Sterling’s design. If Partner is not the original equipment manufacturer, Partner shall obtain the ECCN or ITAR classification information from its source of supply. Partner will include the ECCN or ITAR designation on its packing slips and shipping documentation and also provide to Sterling on Sterling’s request.

### 29.5. Import Compliance.

29.5.1. Partner shall comply with all U.S. Customs and Border Protection laws and regulations (e.g., 19 C.F.R.) and all other applicable U.S.G. regulations pertaining to importations of Products and materials into the United States under this Order. Partner shall assume all U.S. import responsibilities, to include designation as U.S. Importer of Record, Customs clearance, duty, permits, licenses, taxes, and fees for Products entering into the United States under this Order. Unless



otherwise agreed in writing, Sterling will not assume any import liabilities for Products and materials procured through this Order. Partner shall obtain the written consent of Sterling prior to causing Products to be shipped directly (i.e., “drop shipped”) from the premises of any non-U.S. supplier to Sterling’s facility.

### **30. Notification of Status Changes**

- 30.1. By accepting this Order, Partner certifies that all Partner qualification and business information, representations and certifications applicable to this Order remain valid. If Partner’s status under any of the applicable representations and certifications has changed, Partner must complete and submit to Sterling’s Authorized Representative revised representations and certifications prior to taking any action indicating acceptance as stated on the face of this Order.
- 30.2. Partner agrees to provide prompt notification to Sterling’s Authorized Representative of any event or change in circumstances that could affect Partner’s performance under this Order such as ineligibility to contract with U.S.G., debarment, assignment of consent agreement, designation under U.S. or foreign sanctions laws and regulations, expiration or cancellation of ITAR registration, potential violation of Export and Sanctions Laws and Regulations (or authorizations issued thereunder), initiation or existence of a U.S.G. investigation, change in place of performance, decrease in manufacturing capacity, diminishing manufacturing sources or material shortages, increase in production requirements, labor reductions, financial or organizational conflicts of interest, and significant financial conditions requiring any of the preceding changes.
- 30.3. Partner shall notify Sterling of any proposed change in Control within thirty (30) days prior to such event. The notice shall describe in reasonable detail the proposed transaction structure and any proposed changes to management, operations, domicile, key locations, the board of directors and/or ownership (along with a commitment to cooperate with Sterling and provide additional information reasonably requested related to such proposed change in Control). Partner shall not effect a change in Control without prior, written consent from Sterling, such consent not to be unreasonably withheld. For purposes of this Order, “Control” means the power, directly or indirectly, to (a) vote more than fifty percent of the securities that have ordinary voting power for the election of Partner’s directors; or (b) direct, or cause the direction of, the management and policies of Partner whether by voting power, contract, or otherwise. If a Person or Entity obtains “Control” by acquiring more than fifty percent of the securities that have ordinary voting power for the election of Partner’s directors, that acquisition may be accomplished by one or multiple transfers. For purposes of this Order, “Person or Entity” means a natural person, corporation, limited partnership, general partnership, limited liability company, limited liability partnership, joint stock company, joint venture, association, company, trust, or other organization, whether or not a legal entity, and a government or agency or political subdivision of that entity.

### **31. Prohibited Activities and Contacts**

- 31.1. Activity Prohibitions. For Partners delivering Products or performing Services outside of the U.S., unless specifically authorized in writing by Sterling, Partner shall not engage in any of the following activities on behalf of Sterling under this Order: acting as an agent of Sterling; marketing or sales promotion; lobbying; freight forwarding; consulting services; performing offset (industrial participation) consulting or brokering services; acting as a distributor or reseller; or activity as a joint venture party.



## **32. Release of Information and Advertising**

- 32.1. Except as required by law, Partner shall not release to anyone outside Partner's organization any information, or confirmation or denial of same, regarding this Order or the subject matter hereof without the prior written approval of Sterling. Requests for approval shall be made at least 15 days before the proposed date for release and shall identify the specific information to be released, the medium to be used, and the purpose for the release. Additionally, Partner shall not use the name "Sterling" or any other Sterling trade name, or in any other way identify Sterling in any advertisement, display, news release, or other disclosure without Sterling's prior written consent. The Parties agree that in the event a news release is approved and made, such news will recognize Sterling and Partner.
- 32.2. The Partner agrees to insert the substance of this clause, including this sentence, in any lower tier subcontract. Partner shall submit requests for authorization to Sterling.

## **33. Partial Invalidity, Nonwaiver, Remedies**

- 33.1. If any term or provision of this Order is held to be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions or the whole of this Order will not in any way be affected or impaired thereby, and such term or provision will be deemed modified to the fullest extent possible to reflect and preserve the Parties' original intentions.
- 33.2. No delay or failure by either Party in enforcing any right under this Order will operate as a waiver of that right or any other right. No waiver of any breach of any provision of this Order will constitute a waiver of any prior, concurrent, or subsequent breach of the same or any other provisions of this Order.
- 33.3. Each of the rights and remedies reserved by Sterling in this Order shall be cumulative and additional to any other or further remedies provided in law or equity or in this Order.

## **34. Relationship of the Parties**

- 34.1. The relationship status of the Parties with respect to one another is that of independent contractors and nothing herein contained shall be construed as creating any employer/employee, agency, or other relationship of any kind. Partner's employees, agents and/or representatives (hereinafter "Employees") performing under this Order shall at all times be under Partner's direction and control and Partner shall so inform them. Partner shall pay all wages, salaries, and other amounts due its Employees in connection with this Order and shall be responsible for all reports and obligations for its Employees, including, but not limited to, social security and income tax withholdings, unemployment compensation, worker's compensation, and equal employment opportunity reporting. Under no circumstance shall Partner be deemed an agent or representative of Sterling or authorized to commit Sterling in any way.

## **35. Facility Security and Safety**

- 35.1. If this Order requires Partner's personnel, including its employees and subcontractors ("Partner Engaged Personnel"), to enter premises which are owned, operated, or managed by Sterling or Sterling's customer ("Premises"), Partner shall (1) comply with all safety and security rules and requirements as may be prescribed by Sterling or Sterling's customer, as well as the laws of the State and locality where such Premises are located; and (2) take such additional precautions as Sterling or Sterling's customer may reasonably require for safety and accident prevention purposes, including safety training. Partner agrees to take all reasonable steps and precautions to prevent accidents and preserve the life and health of the personnel of Partner, Sterling's customer, and Sterling, associated with Partner's performance of this



Order. Partner Engaged Personnel may not enter areas or perform any work where explosives or other serious hazards are present without advanced written approval from Sterling or Sterling's customer.

35.2. Partner is responsible for ensuring that Partner Engaged Personnel entering Premises are made aware of applicable security requirements, and at all times display proper identification badges approved by Sterling. Partner is required to notify Sterling whenever it terminates any Partner Engaged Personnel issued a badge by Sterling or if such badge is lost. Partner Engaged Personnel issued a badge must be capable of reading and understanding Sterling's or Sterling's customer processes and procedures relevant to duties that Partner Engaged Personnel are to perform on the Premises.

35.3. Partner acknowledges that prior to allowing Partner Engaged Personnel access to the Premises, (1) Sterling may require Partner to perform background checks on Partner Engaged Personnel using a background check service company, and (2) Sterling may deny Partner Engaged Personnel access to the Premises based on the results of such background checks.

35.4. Any violation of this Clause, unless promptly corrected as directed by Sterling, shall be grounds for termination of this Order in accordance with the Termination for Default clause herein.

### **36. Stop Work Order**

36.1. Sterling may, at any time, by written notification to Partner, require Partner to stop all, or any part of the work called for by this Order for a period of 90 days after the written notification is delivered to Partner, and for any further period to which the Parties may agree. The notification shall be specifically identified as a Stop-Work Order (SWO) issued under this clause. Upon receipt of the SWO, Partner shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the SWO during the period of work stoppage. Within a period of ninety (90) days after a SWO is delivered to Partner, or within any extension of that period to which the Parties shall have agreed, Sterling shall either (1) cancel the SWO or (2) terminate the work covered by the SWO as provided for in the applicable termination clause contained herein.

36.2. If a SWO issued under this clause is cancelled or the period of that SWO or any extension thereof expires, Partner shall resume work. Sterling shall make an equitable adjustment in the delivery schedule or Order price, or both, and this Order shall be modified in writing accordingly if (1) the SWO results in an increase in the time required for, or in Partner's cost properly allocable to, the performance of any part of this Order; and (2) Partner asserts its rights to the adjustment within twenty (20) days after the end of the period of work stoppage.

36.3. If a SWO is not cancelled and the work covered by the SWO is terminated for the convenience of Sterling, Sterling shall allow reasonable costs resulting from the SWO in arriving at the termination settlement. If a SWO is not cancelled and the work covered by this Order is terminated for default, Sterling shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the SWO.

### **37. Suspect/Counterfeit Parts**

37.1. This clause is applicable to all Orders. If DFARS 252.246-7007 and DFARS 252.246-7008 are also applicable to this Order, the provisions of paragraphs (a) – (e) of DFARS 252.246-7007, including its definition of "electronic parts," are incorporated in this paragraph by reference and "Contracting Officer" shall mean "Sterling". Partner shall establish and maintain a material authenticity process that ensures the requirements of these clauses or other authenticity requirements in this Order are met. Partner's obligation to substantiate authenticity shall survive Acceptance of and payment for Products delivered under this Order.



37.2. Partner shall not furnish suspect counterfeit or counterfeit parts to Sterling under this Order. All material delivered under this Order shall be authentic and traceable to the original manufacturer. Partner shall provide authenticity and traceability records to Sterling upon request. Partner shall immediately notify Sterling if Partner cannot provide parts, components, and/or assemblies traceable to the original component manufacturer or the original equipment manufacturer. Upon receipt of such notification, Sterling reserves the right to terminate this Order at no cost to Sterling or require specific material validation test and inspection protocol requirements to Partner.

37.3. Partner shall immediately notify Sterling in writing if Partner becomes aware of, or has reason to suspect that, any part, component or end item, purchased from Partner for delivery to Sterling, contains counterfeit parts or suspect counterfeit parts. If suspect counterfeit or counterfeit parts are identified in any of the Products delivered hereunder, such items will be impounded by Sterling. Partner shall promptly replace such suspect/counterfeit parts with parts acceptable to Sterling. Partner shall be liable for all costs relating to the removal and replacement of said parts, including without limitation Sterling's external and internal costs of removing such suspect/counterfeit parts, of reinserting replacement parts and of any testing or validation necessitated by the reinstallation of Partner's Products after suspect/counterfeit parts have been exchanged. Sterling's remedies described herein shall not be limited by any other clause agreed upon between Sterling and Partner in this Order and are in addition to any remedies Sterling may have at law, equity or otherwise under this Order. At Sterling's request, Partner shall return any removed suspect counterfeit or counterfeit parts to Sterling in order that Sterling may turn such parts over to its U.S.G. customer for further investigation. For purposes of this clause, Partner agrees that any U.S.G. directive/information or GIDEP alert, indicating that such parts are suspect counterfeit or counterfeit, shall be deemed definitive evidence that Partner's Products contain suspect counterfeit or counterfeit parts.

37.4. Partner agrees to insert the substance of this clause, including this sentence, in any lower tier subcontract.

### **38. Divestitures, Mergers and Acquisitions**

38.1. Upon Sterling's divestiture of any Affiliate, division, business unit, line of business or sector ("Divested Entity"), Sterling may assign in whole or in part the Products and/or Services that are the subject of this Order to that Divested Entity. Upon execution of an assignment, Sterling shall have no further rights or obligations with respect to the assigned services (except for any unpaid service fees which remain due on the effective date of the assignment) and the Divested Entity shall become the "customer" of record for those assigned Products/Services.

38.2. Divested entities will have the right, for a period of 12 months post-divestiture, to continue to purchase the Products and/or Services covered under this Order, or Sterling may purchase such Products and/or Services under this Order on behalf of the divested entities.

38.3. Sterling may access and use the Products and/or Services under this Order to provide transitional services to the Divested Entity, including transitional access and use of the Products and/or Services by the Divested Entity, during the transition period at no additional charge (i.e., no charge other than fees otherwise due to Partner under this Order as if the Divested Entity were a part of Sterling) provided that Sterling is and remains current on the payment of all fees due to Partner under this Order. If applicable, Sterling shall assign software licenses to the Divested Entity once the transition period ceases.



38.4. Sterling shall have the unrestricted right to transfer the software license(s) to its parent and/or any subsidiary or Affiliate of Sterling upon written notification to Partner/licensor of such transfer without payment of additional costs or fees.

38.5. If Sterling merges with or acquires any Affiliate, division, entity, business unit, line of business or sector (“Merged Entity”) that has a pre-existing agreement with Partner at lower pricing than incorporated in this Order, the Parties shall amend this Order to incorporate such lower pricing.

38.6. If Sterling merges with or acquires a Merged Entity that has a need for Partner’s Products and/or Services, both Sterling and Merged Entity will be permitted to make purchases using this Order, including its pricing, in support of the Merged Entity.

### **39. Complete Agreement**

39.1. This Order constitutes the entire agreement of the Parties regarding its subject matter and supersedes all prior or contemporaneous agreements, course of dealing and understandings between the Parties. This Order may not be amended or modified, except by a written agreement referencing this Order and signed by each Party. Any use of Partner’s pre-printed forms is for convenience only and any terms included in any of Partner’s pre-printed forms, or in any order or written notification from Partner that are in addition to, inconsistent with or in conflict with the terms of this Order will be given no force or effect.

### **40. Standards of Business Conduct for Suppliers and Other Trading Partners**

40.1. Partner and its employees shall comply with the Sterling Computers Standards of Business Conduct For Suppliers And Other Trading Partners (available at <https://sterling.com/termsconditions/>) (the “Sterling Computers Supplier Code”) or Partner’s equivalent standards.

### **41. Response to Audit**

41.1. Sterling shall not be prohibited from providing copies of this Order, including any other document incorporated into this Order, to federal, state, or other regulatory agencies as requested by either Sterling’s or government auditors to comply with auditing procedures.

### **42. Delivery, Title, Sourcing**

42.1. All Parties expressly agree that time is a material element of this Order and no acts of Sterling shall constitute a waiver of this provision.

42.2. Title free of liens or encumbrances shall pass to Sterling or Sterling’s customer, as applicable, upon Acceptance (except as otherwise specified within this Order); however, passing of title shall not relieve Partner of any other obligations under this Order.

42.3. All deliveries shall be strictly in accordance with the applicable quantities and schedules set forth in this Order. Unless otherwise provided in this Order, delivery in whole or part shall not be made more than ten (10) days prior to required delivery dates. Sterling reserves the right to (i) return over shipments and early shipments at Partner’s expense, (ii) have payment therefore withheld by Sterling until the date that Products or Services are actually scheduled for delivery, or (iii) be placed in storage, for which Partner shall be liable for the cost, until the delivery date specified herein.

42.4. Whenever it appears Partner will not meet the delivery schedule, Partner shall immediately notify Sterling of the reason and estimated length of the delay. If Partner’s delivery shall fail to meet the delivery



schedule, Sterling, without limiting its other rights or remedies, may direct expedited routing, and any excess cost incurred thereby shall be debited to Partner's account.

42.5. If Partner is unable to meet the required delivery schedules for any reason, other than a change directed by Sterling, Sterling shall have the option to (1) terminate this Order, or (2) fill such Order or any portion thereof, from sources other than Partner and to reduce Partner's Order quantities accordingly at no increase in unit price, without any penalty to Sterling, or (3) accept late delivery and recover from Partner any costs Sterling incurs caused by the late delivery. This condition shall not limit Sterling's other rights and remedies Sterling may otherwise have under this Order or applicable law.

#### **43. Packaging, Packing, Marking**

43.1. Partner shall be responsible for ensuring the proper packaging, packing, and marking of Product(s) delivered hereunder and for package integrity throughout the shipping cycle. Damage resulting from improper Product packaging will be charged to Partner. No extra charge for packaging or insurance shall be allowed unless specifically noted herein. Products received without proper packaging, packing, marking and/or bar coding as set forth herein may be rejected by Sterling and returned to Partner at Partner's expense.

43.2. No inspection (including source inspection), test, approval (including design approval), or Acceptance of Products or Services, or failure to inspect and Accept or reject Products or Services, shall relieve Partner from responsibility for any defects or other failure to meet the requirements of this Order, or for latent defects, fraud, such gross mistakes that amount to fraud, or Partner's warranty obligations, nor impose liability on Sterling.

#### **44. Inspection**

44.1. Sterling and its customer may inspect and test material, work in progress, Products and/or Services at all times and places during manufacture and otherwise. No inspection (including source inspection), test, approval (including design approval), or Acceptance of Products or Services, or failure to inspect and Accept or reject Products or Services, shall relieve Partner from responsibility for any defects or other failure to meet the requirements of this Order, or for latent defects, fraud, such gross mistakes that amount to fraud, or Partner's warranty obligations, nor impose liability on Sterling.

44.2. Unless otherwise stated in Sterling's specifications, the latest revision of applicable standards, specifications, or similar documents as of the date of this Order shall apply. If the Products are specifically manufactured for Sterling in accordance with drawings, designs, or specifications furnished by Sterling:

44.2.1. Partner shall provide and maintain an inspection and quality control system acceptable to Sterling and provide access to Partner's facilities and applicable documented information including all lower-tier subcontractors' facilities used in performance of this Order at all reasonable times, and without additional charge, for inspection by Sterling's agents, employees, Sterling's customer and any applicable regulatory authority, and shall provide all tools, facilities, and assistance reasonably necessary for inspection relating to the performance of this Order;

44.2.2. Partner shall maintain adequate and authenticated inspection and test documents which relate to work performed under this Order for a period of three (3) years after completion of this Order or as otherwise specified in this Order, and shall make such records available to Sterling upon request;



44.2.3. Partner shall supply Sterling with inspection and test reports, affidavits, certifications, technical documents generated or related to this Order, or any other documents as may reasonably be requested by Sterling;

44.2.4. Partner shall notify Sterling's Authorized Representative in writing of any changes in Product and/or process definition and obtain Sterling's written approval prior to proceeding; and

44.2.5. Partner agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract.

44.3. Final inspection and Acceptance by Sterling shall be at point of receipt by Sterling, unless otherwise specified in this Order.

#### **45. Product Obsolescence**

45.1. Should Partner decide to discontinue manufacture of any Product delivered to Sterling under this Order, Partner: (a) shall provide written notice to Sterling of the intended supply discontinuance; and (b) shall provide Sterling a minimum of 12 months from the written notification date to allow Buyer to place final "lifetime buy" purchase orders for Product at a unit price to be negotiated, but in no event higher than the unit price provided in this Order. In the event one or more "lifetime buy" purchase orders are made during such 12 month period, Partner shall deliver the purchased Product to Buyer no later than six months after the end of the "lifetime buy" period. Partners' obligations under this clause shall extend for two years beyond the effective date of this Order, irrespective of whether the Order is completed or terminated within the two year period.

#### **46. Customs Trade Partnership Against Terrorism (CTPAT) Program**

46.1. Sterling supports the U.S. Customs and Border Protection (CBP) in the CTPAT program. This program is designed to protect the supply chain from the introduction of terrorist contraband (weapons, explosives, biological, nuclear or chemical agents, etc.) in shipments to Sterling originating from off-shore of the U.S., or in drop shipments to Partner's sub-tier suppliers, Sterling's customers or other subcontractors originating from off-shore of the U.S. Partner shipments through U.S. importers, from manufacturers in foreign countries, and brokers/freight forwarders/carriers must be with transportation companies that are CTPAT validated by the U.S. Customs Service. In addition, Partner agrees to take such reasonable measures as may be required by Sterling to ensure the physical integrity and security of all shipments under this Order against the unauthorized introduction of harmful or dangerous materials, drugs, contraband, weapons or weapons of mass destruction or introduction of unauthorized personnel in transportation conveyances or containers. Such measures may include, but are not limited to, physical security of manufacturing, packing and shipping areas, restrictions on access of unauthorized personnel to such areas; personnel screening to the maximum limits of law or regulations in Partner's or manufacturer's country; and development, implementation and maintenance of procedures to protect the security and integrity of all shipments. Partner shall contact Sterling's Authorized Representative for assistance in identifying transportation companies that are validated under the CTPAT program. Information about CTPAT can be found at [www.cbp.gov](http://www.cbp.gov).

46.2. Ocean/Land Container Shipments. Partner agrees to ensure the physical integrity and security of all ocean/land containers under this Order against the unauthorized introduction of harmful or dangerous materials, drugs, contraband, or weapons (including Weapons of mass destruction), or introduction of unauthorized personnel in transportation conveyances or containers. Partner's security measures must include, but are not limited to, physical security of manufacturing, packing and shipping areas, restrictions



on access of unauthorized personnel to such areas. Staged ocean and land containers must be secured from unauthorized access, and the immediate surrounding areas must be inspected on a regular basis to ensure these areas remain free of visible pest contamination. Partner acknowledges that ocean and land border container shipments made under this Order must be with certified and validated transportation providers participating in their country's respective trade security program (Authorized Economic Operator, Partnership in Protection, Trusted Trader, CTPAT, or equivalent). Partner shall use International Standard Organization (ISO) 17712 high security seals and have written procedures that document and control access, distribution, controls in transit, and destruction of ISO 17712 seals. Transportation providers must notify Sterling of the date, time, location, and reason any seal in transit is broken/replaced. Upon notification, Sterling, or its designee, may audit all pertinent records relating to the above and identify procedures in order to verify compliance with the requirements of this provision. Partner acknowledges that it has reviewed its supply chain security procedures and contractual terms with its transportation providers and by acceptance of this Order Partner certifies that its security procedures and transportation provider's contractual terms adhere to this clause and are in accordance with trade security requirements of its respective country.

#### **47. Conflict Minerals**

47.1. If Partner is providing Products to Sterling under this Order in direct or indirect support of Sterling's U.S.G. prime contract, Partner shall use commercially reasonable efforts to:

47.1.1. identify whether such Products contain tin, tantalum, gold, or tungsten;

47.1.2. determine whether any such minerals originated in covered countries, as defined in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"); and

47.1.3. perform appropriate due diligence on its supply chain in support of Sterling's obligations under the Act.

47.2. In addition, Partner shall, as soon as reasonably practicable following the completion of the calendar year, provide a completed Conflict Minerals Reporting Template, using the form found at <https://www.responsiblemineralsinitiative.org/conflict-minerals-reporting-template/>. If requested, Partner will promptly provide information or representations that Sterling reasonably believes are required to meet Sterling's conflict minerals compliance obligations.

#### **48. Anti-Trafficking in Persons**

48.1. Partner is prohibited from engaging in activities that support or promote trafficking in persons, including, but not limited to, any of the following:

48.1.1. Trafficking in persons, including, but not limited to the following:

48.1.1.1. sex trafficking; or

48.1.1.2. the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, debt bondage, or slavery.

48.1.1.3. The procurement of a commercial sex act;

48.1.1.4. The use of forced labor in the performance of company business;

48.1.1.5. The use of misleading or fraudulent recruitment activities;



48.1.1.6. Charging employees recruitment fees;

48.1.1.7. Failing to pay for the return transportation at the end of employment for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working;

48.1.1.8. Providing or arranging housing that fails to meet the host country housing and safety standards; or

48.1.1.9. If required, failing to provide an employment contract, recruitment agreement, or similar work document in writing, in the individual's native language and prior to the individual departing from his or her country of origin.

48.2. Partner represents and warrants that it shall abide by and comply with the requirements of this clause. Further, Partner shall require its employees, agents, contract labor and subcontractors to abide by and comply with the requirements of this clause.

48.3. Upon written notice, Sterling or its Authorized Representatives audit all pertinent books, records, work sites, offices, and documentation of Partner in order to verify compliance with this clause. Partner will, in all of its lower-tier subcontracts and contracts relating to this or any other Sterling Order with Partner, include provisions which secure for Sterling all of the rights and protections provided for within this clause.

48.4. Partner acknowledges that if Partner or any of its employees, agents, or contract labor engages in any of the prohibited activities in this clause, this Order is subject to termination.

48.5. Whenever Partner has knowledge, whether substantiated or not, that any actual or suspected violation of this clause has occurred, Partner shall immediately give written notice to Sterling's Authorized Representative and provide all relevant information including, but not limited to, the nature of the actual or suspected violation.

48.6. Partner shall provide its full cooperation during any subsequent investigation of the actual or suspected violation by Sterling, Sterling's representative, or cognizant government agency. Partner's cooperation shall include, but not be limited to, permitting inspection of its work sites, offices, and documentation, as necessary to support any investigation.

48.7. Partner agrees to insert the substance of this clause, including this sentence, in any lower-tier subcontract and in all contracts with agents.

#### **49. Disposal of Products**

49.1. Upon completion or termination of this Order and as directed by Sterling, any excess Products, or parts thereof, shall be delivered free of charge to Sterling at the designated delivery point at Partner's risk and expense or destroyed and the destruction certified by Partner. Partner shall not sell, or otherwise dispose of as scrap or otherwise, any completed or partially completed or defective Products without defacing or rendering such Products unsuitable for use.

#### **50. Offset Commitment (Applicable only to Orders that exceed \$100,000.00)**

50.1. "Offset" means the obligations that Sterling undertakes, including those characterized as industrial cooperation, to assist a customer country in reducing any trade imbalance caused by its purchase of Sterling's Products or Services.



- 50.2. Offset credits resulting from this Order and any credits resulting from purchase orders placed hereunder to Partner's suppliers and subcontractors are the exclusive property of Sterling and may be used by Sterling and its Affiliates and subsidiaries to fulfill its Offset obligations.
- 50.3. Partner shall provide a copy to [contracts@sterling.com](mailto:contracts@sterling.com) of each purchase order or subcontract placed under this Order which is with a non-U.S. source and exceeds \$100,000.00. Partner shall also provide any information and assistance to Sterling that Sterling may reasonably request in support of Sterling's efforts to secure Offset credit.
- 50.4. Partner agrees to insert the substance of this clause, including this sentence, in any lower-tier purchase order or subcontract.