



## STERLING TERMS AND CONDITIONS

These Sterling Computers CAN, ULC (“Sterling”) terms and conditions establish a contractual framework for Seller’s business relationship with Sterling. Sterling rejects any additional terms proposed by Seller that add to or contradict these terms and conditions, including any statement to the contrary in Seller’s Order.

Standard clauses contained herein that do not apply to this Order due to the nature of the work performed (for example, the “Export/Import Compliance” section does not apply if the Order does not contain imported or exported Products) 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, 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. “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.
- 1.7. “Defence Article” means goods, including components and technical data that have military or national security significance, which are controlled by the Government of Canada under the Defence Production Act, and includes items listed in Group 2 (Munitions List) of Canada's Export Control List under the Export and Import Permits Act.
- 1.8. “Defence Service” means the furnishing of assistance (including training) to foreign persons, whether in Canada or abroad, in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defence articles; or the furnishing to foreign persons of any technical data controlled under Canada's Export Control List; or the performance of any defence service that is subject to registration under the Controlled Goods Program pursuant to the Defence Production Act.



- 1.9. "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.
- 1.10. "Party/Parties" means Sterling and Seller individually or collectively, as the context dictates.
- 1.11. "Prime Contract" means the contracting instrument issued to Sterling or Sterling's higher tier customer for the acquisition of Products, Services, or both.
- 1.12. "Product(s)" means those goods, supplies, software licenses, Data, materials, articles, items, parts, components or assemblies, and any incidental Services described in this Order.
- 1.13. "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 Seller (hereinafter the "Receiving Party") and is marked proprietary or if not marked, the Receiving party should reasonably understand to be sensitive, non-public information.
- 1.14. "Seller" means the Party with whom Sterling is contracting under this Order.
- 1.15. "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.
- 1.16. "Services(s)" means Seller's time and effort, including any items, articles, Data, or similar materials provided to Sterling which are incidental to the performance of the Service.
- 1.17. "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 information and technology controlled under Canada's Export Control List pursuant to the Export and Import Permits Act and Global Affairs Canada's "A Guide to Canada's Export Control List".

## **2. Order Acceptance**

- 2.1. This Order is Sterling's offer to Seller to purchase the Products, Services, or both described in the offer. Except for Seller'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 Seller's acceptance of Sterling's 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.
- 2.2. If Seller 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 Seller will promptly notify Sterling in writing and cooperate in good faith with Sterling to resolve such discrepancies.

## **3. Order of Precedence**

- 3.1. If there is any inconsistency between any parts of this Order, the inconsistency shall be resolved by giving precedence in the following order:
  - 3.1.1. These Terms and Conditions (including mandatory clauses flowed down in accordance with prime/sub-contract requirements)



3.1.2. Statement of Work or Purchase Order

3.1.3. Specifications or Drawings

3.1.4. Other Referenced Documents

#### **4. Assignment**

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

4.2. Sterling may make direct settlements or adjustments in price, or both, with Seller 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.

#### **5. Subcontracting**

5.1. Seller will not, without obtaining Sterling's prior written consent, subcontract any part of this Order, and Seller will require an agreement with conforming performance requirements from immediate and lower-tier suppliers. This restriction does not apply to authorized distributors or to purchases of standard commercial articles, including electronic components or raw materials on which Seller will perform further work.

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

6.1. 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 Seller'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 Seller to Sterling or any of its Affiliates however and whenever arising. [NTD: Consider specifying Canadian dollars (CAD) as the contract currency unless USD is preferred.]

6.2. Release of Financial Liability and Claims. All amounts accrued and made payable by Sterling to the Seller 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, Seller 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.

6.3. Payments to Sterling shall be made to the designated financial account at an office or branch of a regulated bank located in Canada to prevent and detect fraudulent and unauthorized payment instructions, Seller shall implement and maintain multifactor authentication and other reasonable security measures on Seller's network systems accounts through which payment instructions could be transmitted to Sterling. Sterling will not be responsible to pay Seller for any misdirected payments or other damages or losses attributable to Seller's failure to use multifactor authentication and other reasonable security measures.

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



- 7.1. The rates for straight time and overtime work which Seller 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.
- 7.2. Seller represents that the rates set forth in this Order include all profit, wages, salaries, overhead, taxes, and other costs and expenses.
- 7.3. All work performed beyond the stated expiration date or total funding of this Order will be at Seller's "own risk." No legal liability on the part of Sterling may arise until Seller receives written notice from Sterling that the period of performance has been extended and funding is available.
- 7.4. 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 Seller'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 Seller to Sterling or any of its Affiliates; (b) any damages resulting from Seller'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 Seller.
- 7.5. Release of Financial Liability and Claims. Within 120 days (or longer period if approved in writing by Sterling) after completion of an Order, Seller shall submit a final invoice to reflect the settled amounts and rates. Seller is responsible for providing status of any Seller audits to Sterling upon request. If Seller fails to submit a final invoice within the time specified above, Sterling may (1) determine the amounts due to Seller 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.
- 7.6. Billing rates. Until final annual indirect cost rates are established for any period, Sterling shall reimburse the Seller 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.
- 7.7. Payments to Seller shall be made to the designated financial account at an office or branch of a regulated bank located in Canada. To prevent and detect fraudulent and unauthorized payment instructions, Seller shall implement and maintain multifactor authentication and other reasonable security measures on Seller's network systems accounts through which payment instructions could be transmitted to Sterling. Sterling shall not be responsible to pay Seller for any misdirected payments or other damages or losses attributable to Seller's failure to use multifactor authentication and other reasonable security measures.

## **8. Defective Work**

- 8.1. 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.

8.2. If Seller delivers defective or nonconforming Products or Services, Sterling may take one of the following actions:

8.2.1. 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 Seller under this Order or otherwise;

8.2.2. 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 Seller at Seller'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;

8.2.3. If Seller is unable or unwilling to correct or re-perform defective or nonconforming Products or Services, Sterling may:

8.2.3.1. 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 Seller; or

8.2.3.2. Terminate this Order for default in whole or in part.

8.3. Seller shall immediately notify Sterling upon discovery of actual or potential defects or non-conformance affecting delivered Product or performed Service.

## 9. Warranty

9.1. Seller 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.

9.2. 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 Seller, nor limit Sterling's rights or Seller'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.

9.3. 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 Seller at Seller'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 Seller 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 Seller'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.

## 10. Changes

- 10.1. Sterling's Authorized Representative may 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 furnished property; and (7) terms and conditions required to meet Sterling's obligations under a higher tier contract or Prime Contract, including, but not limited to, any mandatory flow-down clauses.
- 10.2. If any authorized change causes an increase or decrease in the cost or time required to perform this Order, Sterling and Seller 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.
  - 10.2.1. 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.
  - 10.2.2. If Seller 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.
  - 10.2.3. Sterling, its Authorized Representatives, and its customer have the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim. However, at Seller's request, a mutually agreeable third party can examine books and records to verify Seller's claim.
  - 10.2.4. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. However, Seller shall not be excused from proceeding with this Order as changed.
- 10.3. 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 Seller'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 Seller of its obligations under this Order.

## 11. Governing Law

- 11.1. The Parties agree that, regardless of the place of performance of this Order, this Order will be governed by and construed in accordance with the laws of [specific Canadian province] and the federal laws of Canada applicable therein, without giving effect to its conflict of law principles. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this Order.

## 12. Disputes

- 12.1. 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.



- 12.2. 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 Court of Canada have subject matter jurisdiction to resolve a dispute, the Parties agree that the disputes shall be brought only in the courts of [specific Canadian province] or the Federal Court of Canada, as appropriate. The Parties waive any objection based on lack of personal jurisdiction, improper or inconvenient venue.
- 12.3. 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.
- 12.4. To the maximum extent permitted by law, the Parties waive any right to a jury trial.
- 12.5. 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.

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

- 13.1. 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 Seller 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.

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

- 14.1. Sterling may terminate this Order in whole or in part at any time by giving Seller written notice. Upon receipt of a notice of termination, and except as otherwise directed by Sterling, Seller 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 Seller's possession in which Sterling has or may acquire an interest.
- 14.2. As directed by Sterling, Seller shall transfer title and possession to Sterling of any inventory and property, including plans, drawings, and information held by Seller which is for Sterling's Order. In accordance with Sterling's instructions, Seller shall assign to Sterling all right, title, and interest of Seller under the subcontracts of Seller 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, Seller shall settle all outstanding liabilities and termination settlement proposals arising from the termination of Seller's subcontracts; the approval or ratification will be final for purposes of this clause.
- 14.3. Seller shall submit a termination settlement proposal within 60 days after the effective date of the termination notice incorporating all claims of Seller in the form and with the certification prescribed by Sterling. Seller 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 Seller paid the agreed amount. In no event shall



payment to Seller exceed the total Order price as reduced by the amount of payments previously made and this Order price of work not terminated.

14.4. Unless otherwise provided in this Order, Seller shall maintain all records and documents relating to the terminated portion of this Order for three years after final settlement. This includes all books and other evidence bearing on Seller's costs and expenses under this Order. Seller shall make these records and documents available to Sterling, at Seller's office, at all reasonable times, without any direct charge.

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

15.1. Subject to paragraphs 15.3 and 15.4 below, Sterling may immediately terminate this Order in whole or in part, by written notice of default to Seller if Seller:

15.1.1. Fails to deliver the Products or to perform the Services within the time specified in this Order or any extension;

15.1.2. 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 Seller's failure to perform; or

15.1.3. 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 Seller's property or business; or assignment.

15.2. 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 Seller will be liable to Sterling for any excess costs for those Products or Services. However, Seller shall continue the work not terminated. In addition, Sterling may repair or rework any Product or re-perform any Service, at Seller's cost.

15.3. If the failure to perform is caused by the default of a subcontractor of Seller at any tier, and if the cause of the default is beyond the control of both Seller and subcontractor, and without the fault or negligence of either, Seller 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 Seller to meet the required delivery schedule.

15.4. If this Order is terminated for default, Sterling may require Seller 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 Seller has specifically produced or acquired for the terminated portion of this Order. Upon direction of Sterling, Seller shall also protect and preserve property in its possession in which Sterling has an interest.

15.5. Sterling shall pay this Order price for completed Products delivered or Services performed and Accepted. Seller and Sterling shall agree on the amount of payment for manufacturing materials delivered and Accepted and for the protection and preservation of the property.

15.6. 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 Seller, any amounts owed by Sterling to Seller,



and any sum Sterling determines to be necessary to protect Sterling against loss because of outstanding liens or claims of former lien holders.

15.7. 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.

## **16. Sterling Property**

16.1. Title to all property furnished to Seller by Sterling, Sterling's customer, or paid for by Sterling shall remain with Sterling or customer, as applicable. Seller shall not alter or use such property for any purpose or for any other Party other than that specified by Sterling, without Sterling's prior written consent. If Sterling agrees to pay Seller 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 customer, 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.

16.2. Seller shall assume the risk of, and be responsible for, any loss, theft, destruction of or damage to Sterling property while in Seller's possession or control. If Seller damages any property, Seller shall be responsible for making repairs, or replacement, at no cost to Sterling.

16.2.1. If Seller damages any property, it shall repair or replace the property at no cost to Sterling.

16.3. Upon Sterling's written request to Seller for any property under this clause, if Seller cannot locate Sterling property within 20 days the property shall be deemed "lost" and at Sterling's election, Seller shall either reimburse Sterling for the replacement and all related delay costs, or remake the lost property at no cost to Sterling

16.4. Seller shall return all Sterling owned property in a condition as good as when received except for reasonable wear and tear. At all times, Sterling shall have access to Seller's facilities for the purpose of reviewing its management of Sterling property related to this Order.

## **17. Taxes and Duties**

17.1. The Order includes all applicable taxes, duties, tariffs, and similar fees ("Taxes") levied upon, or measured by, the sale, the sales price, or use of Products and/or the performance of Services associated with the Order, including without limitation:

17.1.1. Goods and Services Tax (GST) and Harmonized Sales Tax (HST) as applicable under the Excise Tax Act (Canada);

17.1.2. Provincial sales taxes (PST) including Quebec Sales Tax (QST) where applicable;

17.1.3. Canadian customs duties, anti-dumping duties, and countervailing duties imposed under the Customs Tariff (Canada) and related legislation;

17.1.4. Any other federal, provincial, territorial, or municipal taxes, levies, or fees applicable in Canada.

17.2. Seller shall separately list on its invoice any applicable GST/HST registration numbers and all Taxes charged. Seller 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, rebate, or reduction in Taxes. Seller warrants that it is registered for GST/HST purposes where required by law and will remit all applicable taxes to the appropriate Canadian tax authorities.

17.3. Tax Compliance



17.3.1. Seller represents and warrants that: (a) it is registered for GST/HST purposes where required under the Excise Tax Act (Canada); (b) it will provide Sterling with valid GST/HST registration numbers and any required provincial sales tax registration numbers; (c) it will comply with all applicable Canadian federal, provincial, and territorial tax legislation; (d) it will provide Sterling with proper tax invoices meeting the requirements of the Canada Revenue Agency and applicable provincial tax authorities; and (e) it will remit all collected taxes to the appropriate Canadian tax authorities in accordance with applicable law.

## 18. Proprietary Information

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

18.2. 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.

18.3. 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.

18.4. Seller agrees that Sterling may share Seller'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 Seller'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 Seller'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.

18.5. 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.

### 18.6. Exceptions

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

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



- 18.6.1.2. 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
- 18.6.1.3. is rightfully received by the Receiving Party from a third party without restriction and without breach of this Order; or
- 18.6.1.4. is independently developed by the Receiving Party without the use of or reference to the Proprietary Information.
- 18.6.2. 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 Canadian governmental 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.
- 18.7. 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.
- 18.8. 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.
- 18.9. 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.
- 18.10. Without limiting Seller's other obligations under this Order, Seller hereby represents, warrants and covenants that: (i) Seller shall not disclose or provide to any AI System accessible to any person other than Sterling and Seller, or use with any AI System accessible to any person other than Sterling and Seller, any Sterling Proprietary Information or Sterling Sensitive Information or any portion or derivative thereof; and (ii) Seller 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. Seller shall not disclose or provide to any AI System (including any AI System accessible only by Sterling and/or Seller) 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.
- 18.11. 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 Seller is an individual, Seller 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 Seller files a lawsuit for retaliation by Sterling for reporting a suspected violation of law, then Seller may disclose the trade secret to Seller's attorney and may use the trade secret information in the court proceeding, provided Seller both files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order. Seller agrees to flow down this provision to all contract labor and agents of Seller who are authorized under this Order to receive Sterling's Proprietary Information and who are individuals.

18.12. Sterling's right to use and disclose information provided under this Clause 18 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 Seller'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.

## **19. Intellectual Property Rights**

19.1. "Intellectual Property" or "IP" means discoveries, inventions, documented information, works of authorship, and symbols, names, images, and designs embodied in for example, 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.

19.2. "Works" means physical manifestations of Intellectual Property created under this Order.

19.3. "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.

19.4. "Foreground Intellectual Property" means all IP conceived, created, acquired or initially reduced to practice in connection with this Order.

19.5. Each Party shall retain and exclusively own all rights in its Background Intellectual Property and in all Foreground Intellectual Property that it creates. Foreground Intellectual Property jointly generated by employees of more than one Party shall be jointly owned. Neither Party shall have any obligation to account to the other Party for income arising from use of the jointly owned Foreground Intellectual Property.

19.6. Seller hereby grants to Sterling a non-exclusive, worldwide, right and license to copy, modify, use, sell, offer for sale and disclose any Work or other deliverable delivered by Seller under this Order for the performance of this Order and any higher tier contract or Prime Contract, and any follow-on contracts to such agreements. Notwithstanding the above license, Sterling shall not have the right to copy or modify any Seller hardware, except as provided by Clause 8.2 (Defective Work) and Clause 9.3 (Warranty). If the Work or other deliverable contains third party intellectual property, Seller agrees to obtain the rights from the third party that are sufficient for Seller to grant Sterling the rights in the above license. Seller warrants that it has the rights in the Work or other deliverable sufficient to grant to Sterling the above license.

19.7. The terms of this Section 19 shall survive termination or completion of this Order.

## **20. Intellectual Property Indemnity**



- 20.1. Seller 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 Seller under this Order; ii) the sale or use of Products by Sterling or its customer; or iii) the provision of Services by Seller to Sterling or its customer (“Infringement Claims”). Sterling or its customer will notify Seller of any such Infringement Claim and Seller will, at its own expense, fully defend such Infringement Claim on behalf of the Indemnitees. Seller will have no obligation under this clause if and to the extent infringement arises from (a) the compliance of Seller’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 Seller.
- 20.2. If the manufacture, use or sale of a Product delivered by Seller under this Order is likely to be or is enjoined as a result of a suit, Seller, 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.
- 20.3. For purposes only of this section and Section 21 (Indemnification) below, the term “Sterling” shall include Sterling Computers Corporation, Sterling Computers Corporation (UK), Sterling Computers CAN ULC, and their directors, officers, agents, and employees.

## **21. Indemnification**

- 21.1. Seller shall indemnify, defend, and hold harmless Sterling and 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 Seller, its agents, employees, or subcontractors, except as expressly provided for elsewhere in this Order. Sterling will inform Seller 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 Seller 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 Seller fails to indemnify, defend and hold harmless Sterling as provided in this clause, then Seller 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.

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

- 22.1. Except for a default of Seller’s subcontractor at any tier, neither Sterling nor Seller 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 hindered, 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.

### **23. Labor Disputes**

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

### **24. Compliance with Laws**

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

24.2. Anti-Corruption Compliance. Seller represents, warrants, and covenants that:

24.2.1. 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, Seller 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.

24.2.2. 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. Seller also represents that any gifts, travel expenses, business courtesies, hospitalities or entertainment offered or provided shall meet the following conditions:

24.2.2.1. be permitted under the Corruption of Foreign Public Officials Act and the laws and regulations of the country in which this Order will be performed;

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

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

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



24.2.4. Breach of any of the foregoing provisions of subparagraphs 24.2.1 or 24.2.2 of this clause by Seller shall be considered an irreparable material breach of this Order and shall entitle Sterling to terminate this Order immediately without compensation to Seller.

## **25. Export/Import and Compliance**

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

25.2. Seller 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. Seller shall not transfer any export-controlled item, data, or services without providing advance notice to Sterling and obtaining the appropriate export or import authority.

25.2.1. Seller shall not re-transfer any export-controlled articles or information (e.g. Technical Data or software) to any other foreign party (including Seller'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, Seller shall first obtain the written consent of Sterling. No consent granted by Sterling in response to Seller's request shall relieve Seller of its obligations to comply with the provisions of section 25.1. of this clause or the Trade Control Laws, nor shall any such consent constitute a waiver of the requirements of section 25.1. hereinabove, nor constitute consent for Seller to violate any provision of the Trade Control Laws.

25.3. Lobbying and Political Activities Compliance.

25.3.1. If this Order is valued in an amount of \$500,000 or more, then in performance of this Order, Seller shall comply with all applicable Canadian federal, provincial, and municipal lobbying registration requirements and political activity laws.

25.3.2. Seller represents and warrants that it will:

25.3.2.1. Register as required under the Lobbying Act (Canada) or applicable provincial lobbying legislation if Seller's activities constitute lobbying as defined in such legislation;

25.3.2.2. Comply with all disclosure requirements regarding communications with public office holders as defined in applicable lobbying legislation;

25.3.2.3. Adhere to the Lobbyists' Code of Conduct established under the Lobbying Act;

25.3.2.4. Not engage in any activities that would contravene federal or provincial conflict of interest legislation or regulations;

25.3.3. For the purposes of this clause:

25.3.3.1. "Public office holder" has the meaning given in the Lobbying Act (Canada) or applicable provincial legislation;

25.3.3.2. "Lobbying activities" include communications with public office holders regarding the development of federal or provincial policies, programs, legislation, or regulations; the awarding of grants, contributions, or financial benefits; or the awarding of government contracts;



25.3.4. Seller agrees to provide prompt notification to Sterling's Authorized Representative should any violation of lobbying registration requirements or conflict of interest laws occur in connection with this Order.

#### 25.4. Export Jurisdiction/Classification.

25.4.1.1. Seller shall provide the applicable Export Control List (ECL) Group and Item classification in accordance with "A Guide to Canada's Export Control List" published by Global Affairs Canada for all Products furnished by Seller to Sterling, except when Seller is manufacturing to Sterling's design. If Seller is not the original equipment manufacturer, Seller shall obtain the ECL classification information from its source of supply. Seller will include the ECL Group and Item designation on its packing slips and shipping documentation and also provide to Sterling on Sterling's request.

#### 25.5. Import Compliance.

25.5.1.1. Seller shall comply with all Canada Border Services Agency (CBSA) laws and regulations, the *Customs Act*, and all other applicable Government of Canada regulations pertaining to importations of Products and materials into Canada under this Order. When Products or materials originate from outside Canada, Seller shall assume all Canadian import responsibilities, including designation as Canadian Importer of Record, customs clearance, duties, permits, licenses, taxes, and fees for Products entering Canada under this Order. Unless otherwise agreed in writing, Sterling will not assume any import liabilities for Products and materials procured through this Order. Seller shall obtain the written consent of Sterling prior to causing Products to be shipped directly (i.e., "drop shipped") from the premises of any foreign supplier to Sterling's facility.

### 26. Notification of Status Changes

26.1. By accepting this Order, Seller certifies that all Seller qualification and business information, representations and certifications applicable to this Order remain valid. If Seller's status under any of the applicable representations and certifications has changed, Seller 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.

26.2. Seller agrees to provide prompt notification to Sterling's Authorized Representative of any event or change in circumstances that could affect Seller's performance under this Order

26.3. Seller 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). Seller 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 Seller's directors; or (b) direct, or cause the direction of, the management and policies of Seller 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 Seller'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.

## **27. Prohibited Activities and Contacts**

27.1. Activity Prohibitions. For Sellers delivering Products or performing Services outside of the U.S., unless specifically authorized in writing by Sterling, Seller 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.

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

28.1. Except as required by law, Seller shall not release to anyone outside Seller'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, Seller 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 Seller.

28.2. The Seller agrees to insert the substance of this clause, including this sentence, in any lower tier subcontract. Seller shall submit requests for authorization to Sterling.

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

29.1. 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.

29.2. 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.

29.3. 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.

## **30. Relationship of the Parties**

30.1. 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. Seller's employees, agents and/or representatives (hereinafter "Employees") performing under this Order shall at all times be under Seller's direction and control and Seller shall so inform them. Seller 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:

30.1.2 (a) Canada Pension Plan (CPP) and Quebec Pension Plan (QPP) contributions as applicable; (b) Employment Insurance (EI) premiums under the Employment Insurance Act (Canada); (c) income



tax withholdings under the Income Tax Act (Canada) and applicable provincial income tax legislation; (d) workers' compensation premiums and compliance with applicable provincial workers' compensation legislation; (e) compliance with federal and provincial employment standards legislation including the Canada Labour Code or applicable provincial employment standards acts; (f) compliance with human rights legislation, pay equity requirements, and employment equity obligations under federal and provincial legislation as applicable; (g) workplace health and safety obligations under applicable federal and provincial occupational health and safety legislation; and (h) any other statutory remittances, contributions, or reporting obligations required under Canadian federal, provincial, or territorial legislation

30.2. Under no circumstance shall Seller be deemed an agent or representative of Sterling or authorized to commit Sterling in any way.

### **31. Facility Security and Safety**

31.1. If this Order requires Seller's personnel, including its employees and subcontractors ("Seller Engaged Personnel"), to enter premises which are owned, operated, or managed by Sterling or Sterling's customer ("Premises"), Seller 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. Seller agrees to take all reasonable steps and precautions to prevent accidents and preserve the life and health of the personnel of Seller, Sterling's customer, and Sterling, associated with Seller's performance of this Order. Seller 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.

31.2. Seller is responsible for ensuring that Seller Engaged Personnel entering Premises are made aware of applicable security requirements, and at all times display proper identification badges approved by Sterling. Seller is required to notify Sterling whenever it terminates any Seller Engaged Personnel issued a badge by Sterling or if such badge is lost. Seller 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 Seller Engaged Personnel are to perform on the Premises.

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

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

### **32. Stop Work Order**

32.1. Sterling may, at any time, by written notification to Seller, require Seller 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 Seller, 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 section. Upon receipt of the SWO, Seller 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 Seller, 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.

32.2. If a SWO issued under this section is canceled or the period of that SWO or any extension thereof expires, Seller 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 Seller's cost properly allocable to, the performance of any part of this Order; and (2) Seller asserts its rights to the adjustment within twenty (20) days after the end of the period of work stoppage.

32.3. If a SWO is not canceled 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 canceled 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.

### **33. Suspect/Counterfeit Parts**

33.1. This clause is applicable to all Orders. Seller shall establish and maintain a material authenticity process that ensures the requirements of these clauses or other authenticity requirements in this Order are met. Seller's obligation to substantiate authenticity shall survive Acceptance of and payment for Products delivered under this Order.

33.2. Seller 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. Seller shall provide authenticity and traceability records to Sterling upon request. Seller shall immediately notify Sterling if Seller 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 Seller.

33.3. Seller shall immediately notify Sterling in writing if Seller becomes aware of, or has reason to suspect that, any part, component or end item, purchased from Seller 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. Seller shall promptly replace such suspect/counterfeit parts with parts acceptable to Sterling. Seller 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 Seller'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 Seller in this Order and are in addition to any remedies Sterling may have at law, equity or otherwise under this Order.

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

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

34.1. 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 Seller 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 Seller under this Order. If applicable, Sterling shall assign software licenses to the Divested Entity once the transition period ceases.

34.2. 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 Seller/licensor of such transfer without payment of additional costs or fees.

34.3. 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 Seller at lower pricing than incorporated in this Order, the Parties shall amend this Order to incorporate such lower pricing.

34.4. If Sterling merges with or acquires a Merged Entity that has a need for Seller’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.

### **35. Complete Agreement**

35.1. 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 Seller’s pre-printed forms is for convenience only and any terms included in any of Seller’s pre-printed forms, or in any order or written notification from Seller that are in addition to, inconsistent with or in conflict with the terms of this Order will be given no force or effect.

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

36.1. Seller 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 Seller’s equivalent standards.

### **37. Response to Audit**

37.1. 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.

### **38. Delivery, Title, Sourcing**

38.1. 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.

38.2. 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 Seller of any other obligations under this Order.

38.3. 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 days prior to required delivery dates. Sterling reserves the right to (i) return over shipments and early shipments at Seller’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 Seller shall be liable for the cost, until the delivery date specified herein.

38.4. Whenever it appears Seller will not meet the delivery schedule, Seller shall immediately notify Sterling of the reason and estimated length of the delay. If Seller’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 Seller's account.

38.5. If Seller 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 Seller and to reduce Seller's Order quantities accordingly at no increase in unit price, without any penalty to Sterling, or (3) accept late delivery and recover from Seller 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.

### **39. Packaging, Packing, Marking**

39.1. Seller 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 Seller. 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 Seller at Seller's expense.

39.2. 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 Seller 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 Seller's warranty obligations, nor impose liability on Sterling.

### **40. Inspection**

40.1. 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.

40.2. 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:

40.2.1. Seller shall provide and maintain an inspection and quality control system acceptable to Sterling and provide access to Seller'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;

40.2.2. Seller 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;

40.2.3. Seller 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;

40.2.4. Seller 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



40.2.5. Seller agrees to insert the substance of this section, including this clause, in any lower-tier subcontract.

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

#### **41. Product Obsolescence**

41.1. Should Seller decide to discontinue manufacture of any Product delivered to Sterling under this Order, Seller: (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, Seller shall deliver the purchased Product to Buyer no later than six months after the end of the “lifetime buy” period. Sellers’ 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.

#### **42. Privacy – Processing of Personal Data (Applicable Only to the Processing of Personal Data)**

42.1. Seller shall comply with applicable data protection, information security, and privacy laws, including Canada's Personal Information Protection and Electronic Documents Act (PIPEDA) and applicable provincial privacy legislation (e.g., Alberta's PIPA, British Columbia's PIPA, Quebec's Law 25), the California Consumer Privacy Act (CCPA) and the European Union (EU) General Data Protection Regulation (GDPR). In the event Seller Processes Personal Data (as defined in the Sterling Data Processing Agreement), Seller shall comply with the terms of the Sterling Data Processing Agreement, set out at <https://sterling.com/termsconditions/> and incorporated into these terms and conditions.

#### **43. Information Security**

43.1. As applicable, Seller shall comply with the Sterling Information Security Requirements, set out at <https://sterling.com/termsconditions/> and incorporated into these terms and conditions.