

DRPG America, Inc. CONFIDENTIAL

SUPPLIER AGREEMENT

This **SUPPLIER AGREEMENT** (the “Agreement”) is made as of this [] day of [], 2023 (the “Effective Date”), by and between DRPG America Inc., a Delaware corporation, having its principal place of business at [] (hereinafter referred to as “Buyer”) and [] a [] corporation, having its principal place of business at [] (hereinafter referred to as “Supplier”).

RECITALS:

WHEREAS, Supplier is engaged in the business of selling the products described on Exhibit “A” attached hereto (hereinafter referred to as the “Products”); and

WHEREAS, Buyer desires to purchase Products from Supplier for certain events; and

WHEREAS, Supplier desires to sell Products to Buyer in accordance with the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of their mutual promises, the parties hereto agree as follows:

1. Sale of Products.

1.1 Scope of Agreement. The terms and conditions contained in this Agreement shall govern all orders by Buyer for Products from Supplier and shall supersede the terms and conditions of any purchase order, confirmation, acceptance, acknowledgment or other document related to the supply of Products by Supplier to Buyer, as further described herein.

1.2 Sales and Orders.

1.2.1 Product Specifications. Supplier agrees to sell Products to Buyer which meet the specifications for each model thereof set forth on Exhibit “A” hereto (the “Specifications”) in accordance with the terms and conditions contained in this Agreement. Buyer agrees to purchase Products from Supplier, and Supplier agrees to supply such Products to Buyer, in accordance with the terms and conditions contained in this Agreement. The parties may from time to time mutually agree to amend the Specifications applicable to any model of Products. In the event any such amended Specifications result in a decrease in the actual costs incurred by Supplier, the parties shall negotiate in good faith a reduction in the price for such Product.

1.2.2 Use of Product Specifications and Software. Supplier acknowledges and agrees that the Specifications and any software provided by Buyer pursuant to this Agreement (herein, the “Software”), shall be used solely for manufacturing Products for Buyer. Subject to the terms and conditions of this Agreement, Buyer grants to Supplier a limited, nonexclusive, nontransferable, restricted and revocable right during the Term hereof, to reproduce the Software solely for the purpose of embedding a copy of the Software within each Product. Supplier shall not use, copy, modify or transfer the Software, in whole or in part, except as expressly set forth herein and shall not reverse engineer, disassemble, decompile or translate the Software, or otherwise attempt to derive the source code of the Software. Buyer retains ownership of all right, title and interest in and to the Specification and Software and reserves all rights not expressly

1.2.3 Purchase Order. Buyer may periodically submit to Supplier written purchase orders for Products to be purchased by Buyer pursuant to this Agreement. A sample of the respective purchase order is attached hereto as Exhibit A. Such purchase orders shall describe the Products ordered and the quantities thereof, shall establish firm delivery dates, and shall provide packaging and shipping instructions in accordance with this Agreement. All purchase orders submitted by Buyer pursuant to this Agreement shall be accepted or rejected in writing by Supplier within two (2) business days after Supplier’s receipt of such purchase order. Supplier shall provide Buyer with written notice prior to the shipment date of the Products. Such pre-shipment notices shall at a minimum contain the purchase order number related to the shipment, the serial numbers of the Products being shipped, as applicable, a listing of the Products to be shipped (including, without limitation, the purchase order

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number being filled, stock keeping unit (“SKU”), where applicable, description, quantity shipped and quantities backordered), the name of the carrier and the carrier’s tracking number and delivery date.

1.3 Delivery and Recourse for Late Delivery. Time is of the essence in Supplier’s performance under this Agreement, including specifically all delivery dates under any purchase order, and if delivery is not complete by the specified delivery date, then Supplier shall be liable for liquidated damages in the amount of two hundred percent (200%) of the fees due to Supplier from Buyer hereunder. In addition, Buyer shall be entitled to “cover” by procuring substitute goods, as such term is defined in Section 2-712 of the Uniform Commercial Code (“UCC”), provided that Buyer first notify Supplier of its intent to procure substitute goods and gives Supplier a reasonable opportunity to obtain substitute goods for Buyer (but in no event longer than five (5) days before the required delivery date). If Buyer elects to “cover” its loss with substitute goods as provided herein, then it shall be entitled to reduce correspondingly any outstanding purchase order for such goods. Further, all late shipments shall be shipped by overnight courier at Supplier’s expense.

1.4 Packing and Shipment. Supplier shall properly package the Products for protection against damage or deterioration that may occur during shipment, handling, or storage, and shall insure all Products during shipment in a commercially reasonable fashion. Supplier shall arrange for the shipment of the Products ordered by Buyer to locations designated by Buyer, freight prepaid, by whatever mode of transportation, carrier and route Buyer may select. Any discrepancies concerning the quantity of Products shipped to Buyer which are visible upon receipt must be reported to Supplier within thirty (30) days of delivery.

1.5 Acceptance. A shipment of Products shall not be deemed to be accepted by Buyer until the Products have been actually received, inspected to ensure all Products comply with the terms and conditions of this Agreement and accepted by Buyer; provided, however, that Buyer shall be deemed to have accepted said shipment of Products if no rejection is issued by Buyer within fifteen (15) days of Buyer’s receipt thereof. If Supplier cannot arrange for the shipment of any Products to a carrier for transportation to Buyer by the shipment date(s) specified on the applicable purchase order, Supplier shall notify Buyer in writing of such delay.

1.6 Payment for Products by Buyer.

1.6.1 Pricing. All sales of Products shall be DDP (Incoterms 2010). Supplier represents and warrants that warrants title to the Products to be good and clear and free from all liens, claims, security interests, or other encumbrances, except for such liens or security interests as Supplier may retain before Supplier receives payment from Buyer for such Products.

1.6.2 Payment Terms. Payment for Products shall be made within sixty (60) days after receipt of Supplier’s undisputed invoice therefor; provided that Supplier shall invoice Buyer at the time of delivery.

1.7 Prices. The price to be paid by Buyer to Supplier for the Products shall be as set forth in the applicable purchase order, a form of which is attached hereto as Exhibit A. The purchase price includes any and all charges for packing, packaging, boxing, crating and cartage of the Products to Buyer’s facility. All taxes, duties and other charges arising from Supplier’s sales of Products to Buyer and Buyer’s purchase thereof from Supplier shall be the sole responsibility of Supplier. Buyer shall bear the sole responsibility for the collection and payment of all sales, use or other taxes payable in connection with Buyer’s sale or use of the Product.

1.8 Title and Risk of Loss. Title and risk of loss of Products shall pass to Buyer at the time of delivery thereof to Buyer in accordance with DDP (Incoterms 2010).

1.9 Operator’s Manuals and Product Instructions. Supplier agrees to insert a copy of the owners’ or operators’ manual, retail purchaser warranty statement applicable to the Products, including any specific instructions related thereto.

1.10 Replacement. In the event that any Products arrive and are damaged, missing and/or do non-conforming, and Buyer discovers such non-conformity regarding the Products prior to the date of the event for

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which the respective Products were ordered, Supplier agrees to overnight replacement Products at no cost to Buyer. If the non-conformity is discovered too close to the event date and/or on or after the event date, Buyer will be entitled to the liquidated damages as set forth in Section 1.3.

1.11 Packaging. Supplier shall package the Products in accordance with generally industry standards and in accordance with Buyer's reasonable, written instructions, in a manner to prevent damage, loss and/or destruction of the Products.

2. Warranties and Product Support.

2.1 Warranty.

2.1.1 Warranty Coverage. Supplier warrants to Buyer that all Products purchased by Buyer pursuant to this Agreement shall be in good working order free from defects in workmanship, shall be of no less than industry standard quality, and conform to the Specifications.

2.1.2 Warranty Period. The warranties contained in Section 2.1.1 shall terminate fifteen (15) months from the date of delivery of a Product.

2.1.3 Product Inspection. Buyer shall use reasonable commercial efforts to inspect each shipment of Products promptly upon such shipment's arrival at Buyer's facility, and, if appropriate, promptly notify Supplier, in writing, of its rejection of any Product in the event it fails to conform to Supplier's warranty set forth in Section 2.1.1.

2.1.4 Remedy. Upon receipt of any written notice of non-conformity from Buyer in accordance with this Section 2.1, Supplier shall have the right to inspect such allegedly non-conforming Product and Supplier shall either (a) repair such non-conforming Products at Supplier's sole cost and expense, or (b) replace such non-conforming Products at Supplier's sole cost and expense; provided that, where repair or replacement is not able to be made before the specific event for which the Products were ordered, the liquidated damages as set forth in Section 1.3 shall apply and Supplier shall refund Buyer in an amount equal to the price paid by Buyer for such non-conforming Products. Repairs and replacements made pursuant to the warranty set forth in Section 2.1.1 shall be repaired or replaced at Supplier's expense if they are found to be defective in material, workmanship or components within the duration of said warranty. Supplier shall pay freight to and from Supplier on all returns sent to Supplier for warranty repair or replacement.

2.1.5 Additional Warranties. Additionally, Supplier represents and warrants that: (i) all prices for the Products are true and accurate; (ii) all Products, including any components and/or kits are sourced from reputable and quality suppliers; (iii) all Products provided hereunder are free from defects and fit for their intended purpose; (iv) all Product counts are accurate and true and purchase orders will be filled accurately and correctly; (v) Supplier will at all times comply with all applicable laws and regulations in its performance hereunder; (vi) Supplier has, and shall maintain throughout the Term hereof, all necessary rights, titles, permits, licenses and consents necessary to provide the Products to Buyer hereunder; and (vii) Supplier shall at all times comply with its confidentiality and data privacy obligations as set forth herein and attached hereto.

2.1.6 Support Commitments. During the Term hereof, Supplier shall make its customer service team available to Buyer from 7am EST-4pm EST, seven (7) days a week. The customer support team will be responsible for tracking and remediating late, missing or non-conforming Products. Support shall include email, chat and phone support.

3. Term and Termination.

3.1 Term. This Agreement, unless earlier terminated as provided herein, shall become effective as of the Effective Date, and shall continue in effect until terminated as set forth herein (the "Term").

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3.2 Termination. In addition to any other rights of termination set forth in this Agreement, either party hereto may terminate this Agreement immediately upon written notice to the other party upon the occurrence of any of the following events:

(a) the breach by the other party of any of its obligations pursuant to this Agreement where such breach has not been cured within thirty (30) days after such party's receipt of written notice thereof from the non-breaching party; or

(b) the insolvency of or filing of a voluntary petition in bankruptcy by the other party, the filing of a petition or commencement of any proceeding to have the other party declared bankrupt or insolvent, the appointment of a receiver or trustee for the other party, or the execution by the other party of an assignment for the benefit of creditors, if such event is not rescinded or dismissed within sixty (60) days.

3.3 Buyer's Right to Terminate for Convenience. Buyer may terminate this Agreement with or without cause upon ten (10) days' prior, written notice to Supplier.

3.4 Absolute Right. The aforesaid rights of termination are absolute. Neither party shall be liable to the other for any loss (including but not limited to any claims for loss of profits or relating to any expenditures, investments, capital improvements, leases or other commitments made by either party in connection with its business or reliance upon this Agreement), damage or indemnity by reason of the rightful termination or expiration of this Agreement, or the exercise by such party of any termination rights provided in this Agreement, and all claims therefor are hereby expressly waived.

3.5 Effect of Transactions After Termination or Expiration. Neither the processing by Supplier of orders from Buyer, the continuation of sales of the Products to Buyer nor any other act of Supplier after termination or expiration of this Agreement shall be construed as a waiver of the termination or as a renewal, extension or a continuation of this Agreement.

4. Indemnification Obligations.

4.1 Indemnification by Supplier. Supplier shall defend, indemnify and hold harmless, Buyer, its parents, subsidiaries and affiliates, and its and their respective officers, directors, agents, servants, representatives and employees from and against all Claims and shall pay any award, damages, or costs (including, without limitation, reasonable attorney's fees and court costs) finally awarded by a court of competent jurisdiction or agreed on in a settlement of any such Claim that result from or arise out of: (i) the alleged or actual infringement of any third party's intellectual property rights by the Products provided hereunder; (ii) damage to or loss or destruction of any property or injury to or death of any person, arising out of any defect in the manufacturing, materials, workmanship or components in any of the Products; (iii) Supplier's breach of its confidentiality and/or data privacy obligations as set forth herein and attached hereto; (iv) Supplier's violation of any applicable laws and regulations, including without limitation, California Consumer Privacy Act ("CCPA") and California Privacy Rights Act ("CPRA"); (v) Supplier's gross negligence or willful misconduct; and/or (vi) any breach by Supplier of the representations and warranties set forth in Section 2.

4.2 Indemnification by Buyer. Buyer shall defend Supplier from and against all Claims and shall pay any award, damages, or costs (including, without limitation, reasonable attorneys' fees) finally awarded by a court of competent jurisdiction or agreed on in a settlement of any such Claim, alleging damage to or loss or destruction of any property or injury to or death of any person, to the extent such damage or injury directly results from Buyer's written instructions to Supplier in connection with the manufacture of any Products.

4.3 Procedure. The foregoing obligations are subject to the indemnified party's obligations to (a) promptly notify the indemnifying party in writing, of all such Claims; (b) cooperate reasonably with the indemnifying party (at the indemnifying party's expense) in defending such Claims; and (c) allowing the indemnifying party the sole right to control the defense or settlement of all such Claims. The indemnifying party will not settle any Claim against the indemnified party's prior, written consent, such consent not to be unreasonably withheld or delayed.

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5. Confidentiality and Data Protection.

5.1 Confidential Information. Any and all proprietary and/or non-public information provided by one party (the “Disclosing Party”) to the other party (the “Recipient”) that is marked as “confidential” or “proprietary” or with a similar legend if provided in tangible form and, if disclosed orally or visually, is identified as confidential at the time of disclosure (the “Confidential Information”). Notwithstanding the foregoing, any technical data, Specifications and designs for the Products shall be deemed the Confidential Information of Buyer whether or not so marked. Confidential Information shall exclude information the Recipient can demonstrate by reasonably detailed written documentation: (a) was independently developed by the Recipient without any use of the Disclosing Party’s Confidential Information or by the Recipient’s employees or other agents (or independent contractors hired by the Recipient) who have not been exposed to the Disclosing Party’s Confidential Information at the time that such development occurred; (b) became known to the Recipient, without restriction, from a source (having a right to disclose such information) other than the Disclosing Party without breach of this Agreement; (c) was in the public domain at the time it was disclosed or enters the public domain through no act or omission of the Recipient; (d) was rightfully known by the Recipient, without restriction, at the time of disclosure; (e) was approved for disclosure by the Disclosing Party beforehand and in writing; or (f) was disclosed by Disclosing Party to a competitor of Recipient without obligations of confidentiality.

5.2 Protection of Confidential Information. The Recipient shall not use the Confidential Information of the Disclosing Party except for the purpose of carrying out its rights or obligations under this Agreement. The Confidential Information of the Disclosing Party shall not be communicated, disclosed, or divulged, except to employees of Recipient and then only as reasonably required for the purpose of performing Recipient’s obligations under this Agreement. The Recipient will use the same degree of care to prevent misuse or disclosure of the Disclosing Party’s Confidential Information that the Recipient uses with respect to its own proprietary information, but in no event with less than with reasonable care. Disclosure of Confidential Information does not constitute a license with respect to such Confidential Information. Notwithstanding any of the foregoing, the Recipient may disclose any Confidential Information that must be disclosed pursuant to applicable federal, state, or local law, regulation, court order, or other legal process; provided, that the Recipient gives the Disclosing Party prompt written notice sufficient to allow the Disclosing Party to seek a protective order or other appropriate remedy.

5.3 Data Protection. Supplier shall at all times comply with the data privacy requirements as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

6. Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, AND EXCEPT FOR A PARTY’S BREACH OF ITS CONFIDENTIALITY AND/OR DATA PROTECTION OBLIGATIONS UNDER SECTION 6, A PARTY’S INDEMNIFICATION OBLIGATIONS AND/OR A PARTY’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, AND EXCEPT FOR A PARTY’S BREACH OF ITS CONFIDENTIALITY AND/OR DATA PROTECTION OBLIGATIONS UNDER SECTION 6, A PARTY’S INDEMNIFICATION OBLIGATIONS AND/OR A PARTY’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY’S AGGREGATE CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF THIS AGREEMENT EXCEED THREE TIMES (3X) THE AMOUNTS OWED BY BUYER TO SUPPLIER FOR PRODUCTS PURCHASED HEREUNDER.

7. No Third Party Beneficiaries. The parties hereby agree that there are no intended third party beneficiaries to this Agreement.

8. Miscellaneous Provisions.

8.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of laws rules. The prevailing party in any such action

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shall be entitled to recover from the unsuccessful party reasonable attorneys' fees, costs and necessary disbursements incurred in connection with said action in addition to any other relief to which it may be entitled.

8.2 Severability. If any provision is prohibited by or under the laws of any jurisdiction in which this Agreement may be used or to which it may be applicable said provision shall be, as to said jurisdiction, ineffective to the extent of such prohibition, without invalidating thereby any of the remaining provisions of this Agreement. The headings set forth in this Agreement are for the convenience of the parties only and shall not be considered in determining the meaning of any provision hereof.

8.3 Injunctive Relief. It is understood and agreed that, notwithstanding any other provisions of this Agreement, breach of the provisions of this Agreement by Supplier may cause Buyer irreparable damage for which recovery of money damages may be inadequate, and that Buyer shall therefore be entitled to obtain timely injunctive relief to protect Buyer's rights under this Agreement in addition to any and all remedies available at law or in equity, and without the requirement to post any bond or other security.

8.4 Entire Agreement. This Agreement evidences the entire agreement of the parties, and supersedes and cancels all prior or contemporaneous discussions, agreements and understandings with respect to the subject matter hereof between the parties, written, oral or implied.

8.5 Audits. Buyer, or its agent, shall have the right to visit the premises of Supplier, and any subcontractors or suppliers under contract with Supplier for the components of the Products and to inspect, at Buyer's option, any and all raw materials, work in progress, or finished goods to be incorporated into the Products with regard to material, quality of workmanship, and progress of the work; but such inspection shall not diminish any of Supplier's obligations or warranties hereunder. Such right to inspect is subject only to Buyer giving two (2) business days prior written notice to Supplier.

8.6 Assignment. Neither this Agreement (or any of the rights or obligations arising hereunder), a substantial part of its assets or any controlling ownership interest may be sold, transferred or assigned, voluntarily or involuntarily, by operation of law or otherwise, by either Supplier, without Buyer's prior written consent. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

8.7 Notices. Any notice required or contemplated by this Agreement shall be in writing and delivered in person or by facsimile to the parties (and confirmed by registered airmail, postage prepaid, with return receipt requested) addressed as follows;

If to Supplier:

If to Buyer:

DRPG America, Inc.

[REDACTED]

ATTN: [REDACTED]

All notices shall be deemed to have been given on the date such notice is received if delivered in person or upon receipt of written confirmation of the transmission, if by facsimile. Either party may change its address or facsimile number at any time by a notice given to the other party in the manner set forth above.

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8.8 Non-Waiver and Amendment. Failure by either party to enforce or take advantage of any provision of this Agreement shall not constitute a waiver of the right subsequently to enforce or take advantage of such provision. Except as otherwise expressly provided herein, this Agreement or any of the terms and provisions thereof may not be changed or amended or waived, in any way whatsoever, except by written agreement executed by an authorized officer of each party.

8.9 Relationships. It is understood that neither party is constituted an agent, employer, employee, joint venturer or partner of the other for any purpose whatsoever. Supplier and Buyer each shall conduct its business in its own name and each shall be solely responsible for its acts, conduct and expenses and the acts, conduct and expenses of its employees, agents, subcontractors and suppliers.

8.10 Survivability. The provisions set forth in Sections 1.3, 1.8, 2, 3.5, 4 through 8, and Exhibit A shall survive the expiration or any termination of this Agreement.

8.11 Force Majeure. Neither party shall be liable to the other in any way whatsoever for any failure, delay or error in the performance of any of its obligations under this Agreement caused, in whole or in part, by conditions beyond the reasonable control of such party, including but not limited to strikes or other labor disputes; riots, war, terrorist actions or insurrections; fires, floods or other natural causes; or the acts or regulations of any government or agency or subdivision thereof. If any force majeure event prevents a party from performing any of its obligations under this Agreement for thirty (30) or more days, Buyer may terminate this Agreement immediately upon written notice to Supplier without liability and Buyer will receive a pro-rata refund of any prepaid, unearned fees paid hereunder.

8.12 Insurance. During the Term hereof and for one (1) year thereafter, Supplier shall maintain the following insurance coverage and associated limits: []. All such coverage shall be primary, non-contributory, and shall contain a waiver of subrogation against Buyer. Buyer shall be named as an additional insured under the policies set forth herein and Supplier will provide Buyer with a certificate of insurance evidencing such coverage within thirty (30) days of the Effective Date of this Agreement. Supplier shall not cancel or materially reduce the coverage set forth herein during the Term of this Agreement.

Commented [TP1]: Supplier to please insert your insurance coverage and associated limits, including cyber/E&O and umbrella coverage.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

Supplier:

By: _____
Name: _____
Title: _____

Buyer:

DRPG America, Inc.
By: _____
Name: _____
Title: _____

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EXHIBIT A

PURCHASE ORDER FORM

DRPG America, Inc.

[redacted]
[redacted]
[redacted]
[phone]
[fax]

Order	
Revision	
Order Date	
Created By	
Revision Date	
Current Buyer	

Supplier:

[INSERT]

Ship To: DRPG America, Inc.

[redacted]

Bill To: DRPG America, Inc.

[redacted]
[redacted]

United States

Or by Email to: [INSERT]

Customer No.	Account	Seller Part No.	Payment Terms	Freight Terms - INCOTERMS	Transportation	Ship Via
			NET 60	DDP (Incoterms 2010)		
Confirm To/Telephone				Requester/Deliver To		

Notes: All prices and amounts on this order are expressed in USD

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EXHIBIT B

DATA PRIVACY REQUIREMENTS

Commented [MF2]: @Richard Parmenter - can we get this checked with IT as well please

This Minimum Security Standards Exhibit (“**Exhibit**”) forms part of the Supplier Agreement by and between DRPG America, Inc. (“**Buyer**”) and [INSERT SERVICE PROVIDER ENTITY] (“**Supplier**”) (the “**Agreement**”). This Exhibit prescribes the minimum information security standards that Supplier, its subcontractors, agents and/or assigns must meet and maintain in order to protect Buyer Information and Buyer systems during the term of the Agreement and for any period thereafter during which Supplier, its subcontractors, agents and/or its assigns has possession of or access to any Buyer Information and/or Buyer systems. In the event of any inconsistencies between this Exhibit and the Agreement, this Exhibit will prevail.

1. **Definitions.** For the purpose of this Exhibit, the following terms and those defined in the body of this Exhibit apply.

(a) “**Buyer Information**” means any data, information, content or records, regardless of the media in which they are contained, that may be disclosed to, accessed by, or are in the care, custody or control of Supplier which are (i) provided to Supplier by or on behalf of Buyer or (ii) otherwise Processed by Supplier on behalf of Buyer in connection with the performance of the Agreement.

(b) “**Information Protection Laws**” means all applicable data privacy, data protection, and cybersecurity laws, rules, regulations, codes of conduct, and standards to which the Buyer Information are subject.

(c) “**Process**” or “**Processing**” means any operation or set of operations which is performed on Buyer Information, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction.

(d) “**Security Incident(s)**” means the breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Buyer Information.

2. **Supplier’s Information Security Program.** Supplier shall maintain an information security program (“**Information Security Program**”) that: (i) protects Buyer Information and ensures the confidentiality, integrity, quality, and availability of Buyer Information; (ii) is aligned with an industry recognized framework; (iii) is consistent with industry standard practices; (iv) includes commercially reasonable administrative, technical and physical safeguards; (v) complies with Information Protection Laws; (vi) is regularly assessed, tested, and updated to address identified risks; and (vi) is approved and administered by an officer of the Buyer. At a minimum, the Information Security Program shall include:

(a) **Information Security Policy.** Supplier shall maintain a comprehensive, written information security policy applicable to all authorized personnel including, but not limited to, Supplier’s employees and subcontractors that have access to or otherwise Process Buyer Information (“**Authorized Personnel**”).

(b) **Policy Delivery and Training.** Supplier shall ensure that all Authorized Personnel: (i) are advised of and comply with the provisions of this Exhibit and (ii) complete information security awareness and data privacy training after being onboarded, with annual refresher training.

(c) **Data Classification and Management.** Supplier shall maintain policies, procedures, and controls to identify, classify, securely handle, retain, and dispose of Buyer Information, including to minimize Buyer Information collected and processed to what is strictly necessary to perform the Services.

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3. Asset Management. Supplier shall maintain asset management policies, procedures, and controls in accordance with industry standard practices.

4. Access Control, including System Authentication and Authorization. Supplier shall maintain access control, authentication, and authorization policies, procedures, and controls in accordance with industry standard practices. Supplier shall limit access to Buyer Information to those Authorized Personnel with a need-to-know. Supplier shall monitor and log access to ensure that Authorized Personnel entitled to use a data processing system or application have access only to the Buyer Information to which they have a right of access, and that the Buyer Information is not read, copied, modified, or removed without authorization.

5. Encryption. Supplier shall utilize industry standard encryption technologies with respect to Buyer Information. Buyer Information shall be encrypted in-transit and at rest.

(a) **Password Management.** Supplier shall maintain a password management policy that ensures strong passwords consistent with industry standard practices.

(b) **Physical and Environmental Security.** Supplier shall maintain physical and environmental security policies, procedures, and controls in accordance with industry standard practices. At a minimum such policies and procedures shall cover: (i) facility access and visitor protocols; and (ii) paper handling.

(c) **Security Operations.** Supplier shall maintain operational security policies, procedures, and controls in accordance with industry standard practices. At a minimum, such policies and procedures shall cover and such controls shall include: (i) ensuring Buyer Information is logically and/or physically segregated; (ii) firewalls; (iii) network intrusion detection; (iv) regularly updated anti-virus software; (v) application of security patches in accordance with industry standards; (vi) commercially reasonable vulnerability scans; (vii) continuously assessing and tracking vulnerabilities on network assets; (viii) monitoring for unauthorized access, within Supplier's network and/or applications, to ensure that unauthorized persons, computers, computer programs or networks do not have access to or use of Buyer Information; (ix) an annual penetration test of Supplier's key systems and applications carried out by an independent third-party; (x) collecting, alerting, and reviewing audit logs of events that could help detect, understand, or recover from an adverse event; (xi) protect and detect against threats from email and web vectors, and (xii) monitoring public and private industry sources for new threat and vulnerability information. Upon request, Supplier shall provide a copy of the penetration test results to Buyer.

(d) **System Acquisition, Development and Maintenance.** Supplier shall: (i) use separate physical and logical development/test and production environments and databases; (ii) maintain written change management and secure application/system development procedures, including procedures to manage software on the network so that only authorized software is installed and can execute; (iii) maintain tools or services to identify malicious programming and code, including unauthorized or unmanaged software; and (iv) manage the security life-cycle of software to timely prevent, detect, and remediate security vulnerabilities.

(e) **Supplier Relationships.** Where a transfer or disclosure of Buyer Information to a subcontractor is to be made in accordance with the requirements set forth in the Agreement, Supplier shall (i) conduct an assessment of the subcontractor's capabilities to comply with this Exhibit and (ii) execute a written agreement with the subcontractor that requires the subcontractor to provide the same or a substantially similar level of protection for Buyer Information as set forth in this Exhibit. Supplier shall remain fully liable to Buyer for the acts and omissions of any subcontractor which Processes Buyer Information.

6. Incident Management.

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(a) **Incident Response Plan.** Supplier shall deploy and follow policies and procedures to detect, respond to, and otherwise address Security Incidents including procedures to (i) identify and respond to reasonably suspected or known Security Incidents, mitigate harmful effects of Security Incidents, document Security Incidents and their outcomes, and (ii) restore the availability or access to Buyer Personal Data in a timely manner. Upon request, Supplier shall provide Buyer with a copy of its incident response plan.

(b) **Reporting and Remediation.**

(i) Supplier agrees to provide written notice without undue delay (but in no event longer than twenty-four (24) hours) to Buyer if Supplier knows or reasonably suspects that a Security Incident has taken place. Such notice will include all available details required under Information Protection Laws for Buyer to comply with its own notification obligations to regulatory authorities or individuals affected by the Security Incident.

(ii) Supplier shall: (i) investigate, mitigate, remediate and take any other action Buyer deems necessary regarding the Security Incident and provide Buyer with reasonable assistance regarding any dispute, inquiry, investigation or claim concerning the Security Incident; and (ii) provide Buyer with assurance satisfactory to Buyer that such Security Incident will not recur. Upon Buyer's request, Supplier shall provide Buyer with all relevant records, logs, files, data reporting and other materials relating to the Security Incident. In the event of a Security Incident, Buyer has the right to control the breach notification process. Supplier will be liable for any costs and expenses incurred by Buyer in connection with the Security Incident, including: (1) the cost of preparing and delivering notices to affected individuals; (2) the cost of providing credit monitoring services or other credits or benefits extended to affected individuals; (3) reasonable attorneys' fees associated with investigation, remediation and response; (4) liability to third parties that Buyer incurs in connection with the Security Incidents (such as amounts paid or for which Buyer is liable to third parties in tort or arising out of contracts); and (5) labor and subcontractor costs, including employee time spent and additional costs incurred in connection with call center support.

(iii) Supplier shall maintain appropriate cybersecurity insurance and appropriate Security Incident liability coverage adequate to cover estimated costs associated with a Security Incident of the total number and character of Buyer Information records that it Processes or accesses.

(iv) Except for counsel and incident response advisors/providers, Supplier may not issue, publish, or make available to any third party any press release or other communication concerning the Security Incident in a manner that directly or indirectly references Buyer without Buyer's prior approval.

7. Business Continuity Management.

(a) **Backup.** Supplier shall maintain an industry standard backup system and backup of Buyer Information at a secure offsite facility to facilitate timely recovery of Buyer Information in the event of a service interruption. Supplier shall conduct regular restoration testing to ensure that Buyer Information can be recovered. Supplier shall ensure that the backup system is secured and all Buyer Information held on it is encrypted.

(b) **Disaster Recovery and Business Continuity Plans.** Supplier shall maintain appropriate disaster recovery and business continuity plans consistent with industry best practices.

8. Audit. Upon Buyer's written request, Supplier shall allow Buyer (or its third-party representative) to audit Supplier's compliance with this Exhibit, including its Information Security Program, at least once per year, with thirty (30) days advance notice. The audit may include, but is not limited to, requiring Supplier, at its own expense, to complete a written information security questionnaire regarding Supplier's

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Information Security Program. In addition to any other audit obligation of Supplier under this Exhibit, Supplier will provide all assistance reasonably required by Buyer to enable Buyer to respond to, comply with or otherwise resolve any request, question or complaint received by Buyer from (i) any individual whose personal information is Processed by Supplier on behalf of Buyer, and/or (ii) any applicable government or data protection authority including, without limitation, providing Buyer, a Buyer representative or governmental authority reasonable access to its internal practices, databases and other records relating to the Buyer Information and Supplier's related obligations under this Agreement. In the event that any such request, question or complaint, or any court or administrative order is sent directly to Supplier, Supplier shall immediately notify Buyer, providing full details of the same.

9. Buyer Information Retention and Deletion.

(a) **Buyer Information Retention.** Supplier will not store or retain any Buyer Information except as necessary to perform the contracted services under the Agreement.

(b) **Buyer Information Deletion.** Supplier will abide by the following with respect to deletion of Buyer Information:

(i) Within thirty (30) calendar days of the Agreement's expiration or termination, or sooner if requested by Buyer, Supplier will securely destroy (per subsection (c) below) all copies of Buyer Information (including automatically created archival copies).

(ii) Upon Buyer's request, Supplier will promptly return to Buyer a copy of all Buyer Information within thirty (30) days and, following such return, will also delete all Buyer Information as set forth above.

(iii) Buyer Information shall be disposed of in a method that prevents any recovery of the information in accordance with industry best practices for shredding of physical documents and wiping of electronic media (e.g., NIST SP 800-88).

(iv) Upon Buyer's request, Supplier will provide a "Certificate of Deletion" certifying that Supplier has deleted all Buyer Information. Supplier will provide the "Certificate of Deletion" within thirty (30) days of Buyer's request.

10. Survival. Supplier's obligation to protect Buyer Information will continue following any termination or expiration of the Agreement until all Buyer Information has been permanently and completely destroyed or deleted, including from any back-up or other databases.