



TERMS AND CONDITIONS OF SUBCONTRACT

1. SUBCONTRACT FORMATION / ENTIRE AGREEMENT

- 1.1. This is Buyer's offer to purchase from Seller the items (collectively, the "Work") set forth on the face of the Purchase Order which references these Terms and Conditions of Subcontract (the "Purchase Order"). Acceptance is strictly limited to the terms and conditions included in this document. Seller's execution of this Subcontract or commencement of performance with respect to any Work shall constitute Seller's acceptance of this Subcontract and all its terms and conditions. Buyer objects to, and is not bound by, any term or condition that differs from or adds to this offer, unless specifically agreed to in writing by Buyer's Authorized Representative (whose name and contact information is listed on the face of the Purchase Order). Seller acknowledges that, as part of its proposal effort, it had an opportunity to review relevant documentation provided by Buyer. Seller warrants that it did such a review, that it notified Buyer in writing of any missing documentation, deficiencies, or concerns that Seller identified in any such documents, and that the issues raised by Seller were adequately addressed in this Subcontract at the time of acceptance.
- 1.2. This Subcontract represents the Parties' entire agreement in relation to the subject matter thereof, and supersedes all tendered offers and prior representations, communications, agreements, statements, and understandings concerning the same, whether oral or in writing.
- 1.3. Buyer shall be solely responsible for all liaison and coordination with its Customer as it affects the Prime Contract and this Subcontract. Seller shall not communicate with Buyer's Customer in connection with this Subcontract except as expressly permitted by Buyer.
- 1.4. Both Parties acknowledge and accept that any signatory may sign by electronic signature, and any signature executed in this format constitutes a proper, lawful and binding execution of the documentation, and creates a binding contract and agreement. If this Subcontract or any notice issued hereunder is transmitted electronically, a Party shall not contest the validity of the Subcontract or any such notice on the basis that the Subcontract or notice contains an electronic signature by duly Authorized Representatives of both Parties.
- 1.5. The Recitals set forth above and the Attachments mentioned in and appended to this Subcontract form an integral part of this Subcontract.

2. SUBCONTRACT INTERPRETATION

- 2.1 In this Subcontract, unless expressly stated otherwise or indicated by context, any reference to any of the words and expressions defined in this Subcontract shall, where the context allows, be deemed to also include a reference to every and any part or unit of the objects or matters represented by such words and expressions.
- 2.2 Buyer and Seller are referred to individually as a "Party" and collectively as the "Parties."

- 2.3 As used in this Subcontract, “Deliverables” shall mean all hardware, firmware, software, data, and other items (other than Services) that Seller shall deliver to Buyer under this Subcontract.
- 2.4 As used in this Subcontract, “Services” shall mean all items (other than Deliverables) that Seller shall perform for Buyer under this Subcontract.
- 2.5 As used in this Subcontract, “Work” shall mean the Deliverables that Seller will be required to deliver and/or the Services that Seller will be required to perform (as the case may be) under this Subcontract.
- 2.6 Where the Subcontract provides for a benefit of two or more persons, the benefit binds or benefits each party jointly and severally.
- 2.7 A reference to a person includes a body politic, body corporate, partnership, or other legal entity.
- 2.8 A reference to a Party includes that Party’s administrators, successors, and permitted assigns (including any person to whom that Party novates any part of the Subcontract).
- 2.9 Each Party will from time to time do all things, including executing all documents, necessary, or desirable to give full effect to this Subcontract.
- 2.10 Where the last day of any period prescribed for the doing of an action falls on a Holiday, the action shall be done no later than the first Working Day after the Holiday. For clarity, the doing of an action refers to the day where performance of an obligation under the Subcontract is due to be performed, including but not limited to date of delivery, date for due payment of liquidated damages, date of return of Articles repaired under warranty claim.
- 2.11 Unless otherwise provided, a reference to any statute shall include a reference to that statute, subsidiary legislation, and statutory instruments made thereunder, as amended from time to time.
- 2.12 Words importing the singular shall include the plural and vice versa
- 2.13 The headings in this Subcontract are for reference only and shall not be taken into consideration in the interpretation or construction of this Subcontract.
- 2.14 A reference to a clause includes a reference to a sub-clause of that clause.
- 2.15 All information delivered under the Subcontract shall be written in English. Where such documentation is a translation into the English language, such translation shall be accurate and faithful to the original, and the English version of the document shall prevail if there are any inconsistencies. All oral communications shall be in English.
- 2.17 Any ambiguity, conflict, and inconsistency between or within the documents comprising this Subcontract as well as any conflict or inconsistency between or within the provisions of those documents shall be resolved:



- a) by construing this Subcontract as a whole, and treating the documents and provisions as mutually explanatory;
- b) if the ambiguity, conflict, or inconsistency cannot be resolved by applying paragraph (a) alone, then when applying paragraph (a) those provisions which have a more specific scope of application shall be given precedence over those provisions within the same document which have a more general scope of application, and the documents comprising this Subcontract shall be given the following descending order of precedence:
 - i. Appendix I (Third Party Code of Conduct)
 - ii. These Terms and Conditions of Subcontract
 - iii. The face of the Purchase Order
 - iv. Appendix II (Specification)
 - v. Other Attachments
 - vi. Any other document incorporated by reference or otherwise referenced as part of the Subcontract.

3. EFFECTIVE DATE AND TERM

- 3.1. The Subcontract is legally binding and effective once it is executed by duly authorized representatives of both Parties (the "Effective Date").
- 3.2. If applicable, the Subcontract shall remain in force for the firm period set forth on the face of the Purchase Order (the "Base Period") unless terminated earlier in accordance with Clause 25 (SUSPENSION OR TERMINATION) or Clause 27 (TERMINATION FOR DEFAULT) below or extended in accordance with Clause 4 (OPTION TO EXTEND) below [if applicable].

4. OPTION TO EXTEND [if applicable]

- 4.1. If applicable, Seller grants Buyer the option to extend the Term of the Subcontract, at Buyer's sole discretion, for the additional period(s) set forth on the face of the Purchase Order (the "Option Period").
- 4.2. Unless otherwise specifically agreed between the Parties, all Work performed during the Option Period shall be subject to the same terms and conditions, mutatis mutandis, as the Work performed during the Base Period, and such additional Work shall form part of the Work defined in this Subcontract once Buyer has exercised the Option to Extend.

5. GENERAL OBLIGATIONS OF SELLER

- 5.1. Seller shall carry out and complete the timely delivery and performance of all Work in accordance with and as provided within this Subcontract (including, but not limited to the delivery / performance dates set forth on the face of the Purchase Order), and fulfil all other



obligations required of it as specified herein. All Work shall be supplied and performed on time and comply with the requirements of this Subcontract.

- 5.2. Seller shall comply with all Quality clauses specified on the face of the Purchase Order and maintain a quality assurance system that allows Seller to achieve the same throughout the duration of this Subcontract. Seller shall permit Buyer and/or the Customer to review procedures, practices, processes, and related documents to determine such acceptability. Records of all quality control inspection work by Seller shall be kept complete and available to Buyer and the Customer. Seller shall promptly notify Buyer in writing of any noted discrepancies in Seller's processes, including any violation of or deviation from Seller's approved inspection/quality control systems.
- 5.3. Seller shall be solely responsible for the method and assurance of shipment for all Deliverables CIP to the destination point listed on the face of the Purchase Order. Seller shall pack, package, and mark all Deliverables in accordance with instructions or specifications referred to or incorporated by reference into this Subcontract and otherwise in accordance with best commercial practices. The Purchase Order number appearing on the face of the Purchase Order must appear on all packages, boxes, bills of lading, invoices, correspondence, and other documents pertaining to this Subcontract.
- 5.4. Seller warrants that: (a) all Work provided to Buyer under this Subcontract shall conform to all specifications and requirements of the Subcontract (including, but not limited to, those specified in Appendix II) and shall be free from defects in materials, design, and workmanship and conform to all generally recognised commercial practices and standards in the industry for a period of twelve (12) months from acceptance by Buyer or the Customer (whichever is later), are merchantable, and are fit for Buyer's / the Customer's intended purposes; (b) the materials (including, but not limited to, raw materials, parts, items, components, supplies, and end products) delivered to Buyer and/or used in the Deliverables provided to Buyer are new (i.e., previously unused and composed of previously unused materials); (c) the Work does not infringe any patent, copyright, trademark, or other proprietary right of any third party or misappropriate any trade secret of any third party; (d) the Deliverables are new (not used or reconditioned) and not of such age or so deteriorated as to impair their usefulness or safety; (e) all Work is free from any liens or encumbrances; (f) the Deliverables do not contain any viruses, malicious code, trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to: (i) damage, destroy or alter any software or hardware; (ii) reveal, damage, destroy, or alter any data; (iii) disable any computer program automatically; or (iv) permit unauthorized access to any software or hardware; and (g) the Deliverables do not contain any third-party software (including software that may be considered free software or open source software) that: (i) may require any software to be published, accessed or otherwise made available without the consent of Buyer; or (ii) may require distribution, copying or modification of any software free of charge. In the event of any breach of the foregoing warranties, Seller shall, at its own expense, repair or replace the non-conforming



Deliverables and correct or re-perform the non-conforming Services to conform to this standard to Buyer's satisfaction and in accordance with Buyer's instructions. Deliverables requiring repair or replacement and Services requiring correction or re-performance shall be subject to the requirements of this Subcontract in the same manner and to the same extent as the originally delivered Deliverables and performed Services. If Seller refuses to repair or replace any non-conforming Deliverables or correct or re-perform any non-conforming Services, or Buyer reasonably determines that Seller cannot do so within the time required by Buyer and its customers, Buyer may replace the non-conforming Work and hold Seller liable for all resulting costs incurred by Buyer. Even if the Parties disagree about the existence of a breach of the above warranties, Seller shall promptly comply with Buyer's direction to repair, replace, correct, or re-perform the Work in question. If the Parties later determine that Seller did not breach this warranty, Buyer shall equitably adjust the Subcontract Price (for FFP Orders) or Ceiling Price (for T&M Orders) accordingly.

- 5.5. Seller, at its sole expense, shall obtain and maintain all licenses, certificates, and authorizations (including, but not limited to, export licenses), permits, and other governmental authorizations or certifications required, without any restrictions or qualifications, needed for Seller to fulfil all its obligations under the Subcontract.
- 5.6. Seller shall engage, deploy, and retain only personnel, suppliers, and lower-tier subcontractors and suppliers who are skilled and competent in their several trades and callings, and who hold all current and required licences and qualifications necessary for their trade and callings for the performance of this Subcontract. In its sole discretion, Buyer may require Seller to remove from the job Seller personnel and lower-tier subcontractors and suppliers who are unskilled and incompetent, or whose continued engagement and deployment is inconsistent with the interest of military security.
- 5.7. Seller agrees that, as between Seller and Buyer, it shall be solely responsible for ensuring that the Work conforms in all respects to the requirements of the Subcontract in full (including, but not limited to, those set forth in Appendix II).
- 5.8. Seller shall take every reasonable step to ensure that only new and authentic materials are used in all Deliverables delivered to Buyer. Seller may only purchase parts directly from Original Component Manufacturers (OCMs) and OCM Franchised Distributors. Use of product that was not provided by these sources is not authorized without Buyer's express, prior, and written consent. Seller must present compelling support for its request (e.g., OCM documentation that authenticates traceability of the parts to the OVM) and include in its request all actions to ensure that the parts thus procured are authentic/conforming parts. Buyer and/or the Customer shall impound any suspect/counterfeit parts are furnished by Seller and notify Seller of this action. Seller shall promptly replace such suspect/counterfeit parts with parts acceptable to Buyer and the Customer, and Seller shall be liable for all costs relating to the removal and replacement of those parts (including, without limitation, Buyer's external

and internal costs of removing such counterfeit parts, of reinserting replacement parts and of any testing necessitated by the reinstallation of Seller's Deliverables after counterfeit parts have been exchanged). At Buyer's request, Seller shall return any removed counterfeit parts to Buyer in order that Buyer may turn such parts over to its customer for further investigation.

- 5.9. Seller shall not hire, employ, subcontract to or with, or otherwise use any personnel from Mainland China or other illegal foreigners, either directly or indirectly, with respect to performance of any Work under this subcontract.

6. INDEPENDENT CONTRACTOR

- 6.1. Seller acknowledges and agrees that it is to perform all Work as an independent contractor and confirms that it is acting on its own behalf and not for the benefit of any other person. Personnel supplied or used by Seller hereunder are employees of Seller only and shall not, for any purposes, be considered employees or agents of Buyer. Seller assumes full responsibility for the actions and supervision of such personnel while performing work under this Subcontract. Buyer assumes no liability for Seller personnel.
- 6.2. Nothing in this Subcontract is intended to, or shall be deemed to, establish any agency, partnership, joint venture, or employment relationship between Buyer and Seller, or authorise Seller to act for, bind, or commit Buyer in any way. Seller shall bear sole responsibility for operating its business, including the payment of all taxes and other governmental payments required for anyone to operate its business.
- 6.3. Seller shall pay all labour compensation and benefits due its employees relating to this Subcontract and shall be responsible for all obligations respecting such employees relating to all applicable taxes, withholdings, benefits, National Insurance, pension, and retirement plan contributions, and other similar responsibilities.
- 6.4. Seller shall indemnify and hold Buyer harmless from any and all liabilities, damages, expenses, costs, charges, or other losses of any kind arising out of any claims by any employee, consultant, agent, or workman of Seller unless the same is solely, directly, and proximately caused by Buyer's gross negligence or willful default.

7. NOTICES

- 7.1. Unless the contrary intention appears, any notice or other communication sent or issued in connection to this Subcontract shall be deemed to be properly sent and effective and received in the ordinary course of the mode of transmission described herein, if it is delivered by hand to the Authorised Representative of the Party, or by post to the registered address of the Authorised Representative of the Party or by email to the Authorised Representative of the Party.
- 7.2. A notice or communication shall be deemed to have been delivered if:



- a. if sent by pre-paid post, in three (3) Working Days when sent domestically in-country and in eight (8) Working Days when sent by air mail from one country to another;
- b. if hand delivered, when received at the address by the Authorized Representative or by the addressee if sooner;
- c. if sent as an email, when the email enters the addressee's information system and is available for download, unless the sender's information system receives a message within one Working Day that the email has not been delivered to the addressee, but,

if the receipt, transmission or entry into the information system is not on a Working Day or is after 5:00pm (recipient's local time) on a Working Day, the notice is taken to be received at 9:00am (recipient's local time) on the next Working Day

- 7.3. A Party's address/es for service may be altered by notice given by either Party pursuant to this Clause 7 (which will be effective in accordance with the above "deemed receipt" provisions) or by any other means (which will be effective only upon actual receipt).

8. ACCEPTANCE

- 8.1. At no additional cost to Buyer, all Work shall be subject to final inspection and acceptance by Buyer and the Customer, notwithstanding payment or other prior inspections.
- 8.2. Buyer shall accept the Work or otherwise advise Seller in writing that the Work has been rejected, notwithstanding any payment or prior test or inspection. No payment, inspection, test, delay, or failure to inspect / test or failure to discover any defect or other nonconformance shall relieve Seller of any of its obligations under this Subcontract or impair any rights or remedies of Buyer or the Customer.
- 8.3. If, in Buyer's or the Customer's opinion, Seller delivers non-conforming Work, Buyer may reject the non-conforming Work and require Seller to promptly correct or replace any non-conforming Deliverables and/or correct or re-perform any non-conforming Services at Seller's sole expense. Seller shall disclose in writing all corrective action taken. If Seller refuses to repair, replace, correct, or re-perform (as the case may be) any non-conforming Work, or Buyer reasonably determines that Seller cannot do so within the time required by Buyer and the Customer, Buyer may replace the non-conforming Work and hold Seller liable for all resulting costs incurred by Buyer. Seller shall complete all repair, replacement, re-performance, and other corrective action within the original delivery / performance schedule or such later time as Buyer reasonably may direct. Any action required of Seller in relation to the rejected Work shall not entitle Seller to any claim for postponement or price increase.
- 8.4. No payment, inspection, test, delay, or failure to inspect / test, or failure to discover any defect or other non-conformance shall relieve Seller of any of its obligations under this Subcontract or impair any rights or remedies of Buyer.

9. PRICES AND PAYMENT

PRICING

- 9.1. If Seller is performing the Work on a firm, fixed-price (FFP) basis, as full and complete compensation for satisfactorily accomplishing the Work, Seller shall be paid the firm, fixed price set forth on the face of the Purchase Order (the "Subcontract Price").
- 9.2. If Seller is performing the Work on a time-and-material (T&M) basis, as full and complete compensation for satisfactorily accomplishing the Work, Seller shall be paid in accordance with the provisions specified in this Clause 9.2. Each invoice submitted to Buyer for payment of Work shall separately identify the hours, dollars, materials, travel, and other expenses expended by Seller in conjunction with the performance of that Work.

Time. For the services of Seller's employees performing the Work, Seller shall be paid the firm, fully burdened rates set forth on the face of the Purchase Order for all direct labour worked under the Subcontract. Fractional parts of an hour shall be paid on a prorated basis. These rates include all reimbursable wages, overhead, general and administrative (G&A) expenses, facilities capital cost of money, and profit.

Travel. Seller's personnel are authorized to travel hereunder only if and to the extent specifically directed in writing by Buyer's Program Manager. Travel invoices shall be supported by actual receipts. No profit shall be added to such costs.

Ceiling Price. The Not-To-Exceed Ceiling Price (the "Ceiling Price") of this Subcontract is set forth on the face of the Purchase Order. The Ceiling Price constitutes the maximum allowable cost (hourly rate payments and material costs) to be incurred by Seller in the performance of the Order. Seller shall perform all Work for no more than the Ceiling Price, and Buyer shall not be obligated to pay Seller any amount above the Ceiling Price. Only Buyer's Authorized Representative has the authority to adjust a Ceiling Price through the issuance of a written modification to the Subcontract.

Back-Up Documentation. Seller shall maintain copies of all Seller-paid invoices, receipts, travel vouchers (including receipts for common carrier tickets, hotels and any individual items over \$25). Seller shall make such records available to Buyer and/or the Customer upon request. For reimbursable charges such as equipment, travel, per diem, and other unique costs, invoices shall reflect Seller's actual expense for the item.

- 9.3. The Subcontract Price set forth above in Clause 9.1 (if Seller will be paid on an FFP basis) and the hourly rates set forth above in Clause 9.2 (if Seller will be paid on a T&M basis) are firm, fixed, and inclusive of all: (a) VAT and all taxes, duties, and government charges imposed or levied in the Republic of China or overseas; (b) remuneration to Seller's officers, employees, agents, and lower-tier subcontractors or suppliers, including salaries, wages, fees, superannuation, annual leave, sick leave, long services leave, and all other benefits to which any of them may be entitled under any subcontract with Seller or under any award, statute, or



at common law, (c) costs in respect of procuring and maintaining the insurances required in connection to this Subcontract, (d) packaging and freight costs, and (e) costs of compliance with all other statutory, award or other legal or contractual requirements with respect to Seller's officers, employees, agents, and lower-tier subcontractors and suppliers.

INVOICING

9.4. A correctly rendered invoice must:

- a) Describe the specific Work to which the invoice relates;
- b) Include the amount of the claim, correctly calculated in accordance with the requirements set forth herein;
- c) Include the Purchase Order number appearing on the face of the Purchase Order;
- d) Include any taxation payable (including VAT) and method of calculation; and
- e) Be a valid tax invoice.

PAYMENT

- 9.5. Buyer shall pay Seller within sixty (60) days of receipt of a valid invoice in accordance with this Clause 9 and acceptance of the invoiced Work. Buyer may pay Seller by electronic funds transfer (EFT). Seller shall provide Buyer with its EFT information. Payment is made on the day Buyer gives instructions to execute payment. Buyer shall have a right of setoff against payments due or at issue under this Subcontract. Each payment made subject to reduction to the extent of amounts which are found by the Customer, Buyer, or Seller not to have been properly payable, and shall also be subject to reduction for overpayments. Seller shall promptly notify Buyer of any such overpayments found by Seller.
- 9.6. If payment is to be made by telegraphic transfer, all bank charges associated with the telegraphic transfer outside the Republic of China shall be borne by Seller. For such payment, Seller is required to provide its Bank Account Number and bank address. If payment is to be made in a currency other than the currency of Seller's address, Seller shall provide the name and address of the corresponding bank of the country of that currency.
- 9.7. The payments under this Clause shall not prejudice or constitute a waiver of Buyer's right under the Subcontract or at law (including, but not limited to, Buyer's right to deduct any amount due or recover any liquidated damages, or reject any of the Work performed), and shall not waive or vary Seller's obligations under the Subcontract (including, but not limited to, Seller's responsibility to correct or re-perform any defective or deficient Work).

10. DELAY BY SELLER

- 10.1. Seller's timely performance is a critical element of this Subcontract. Seller shall strictly adhere to the performance schedule and delivery dates specified on the face of the Purchase Order. Seller's failure to do so shall constitute a material breach of this Subcontract.
- 10.2. For the avoidance of doubt, "day" means calendar day, including Republic of China Holidays.
- 10.3. The Parties acknowledge that, if Seller fails to perform the Work by the dates specified in this Subcontract:
- a. Buyer will suffer loss and damage (including, but not limited to, loss of availability or use/standby, increased costs and expenses); and
 - b. all such loss and damage will be impossible, complex, or expensive to quantify accurately in financial terms and the loss and damage arising from such delay may not be able to be precisely calculated or proved.

The Parties therefore agree that the amount of liquidated damages referred to in this Clause 10 is a genuine pre-estimate of the damage which Buyer would suffer in such event.

- 10.4. Seller shall: (a) promptly notify Buyer in writing of the reasons for the delay and the actions being taken to overcome or minimize the delay; and (b) provide Buyer with a written recovery schedule for Buyer's review and approval. This notification shall not change any performance schedule and shall not be construed as a waiver by Buyer of any performance schedule or date, or of any rights or remedies available to Buyer. Seller shall insert the substance of this Clause, including this sentence, into all relevant lower-tier subcontracts.
- 10.5. Seller must promptly notify Buyer if Seller or any of its officers, employees, agents, or lower-tier subcontractors or suppliers become aware that they will be unable to provide all or part of the Work in accordance with the performance schedule and delivery dates specified on the face of the Purchase Order.
- 10.6. If the performance of any Work is delayed for more than thirty (30) days, Buyer may terminate, at its discretion, the Subcontract in accordance with Clause 27 (TERMINATION FOR DEFAULT). Seller's liability for liquidated damages under this Clause 10 in respect of the delayed Work shall be calculated until the date of notice of termination.
- 10.7. Subject to Clause 26 (FORCE MAJEURE) below, if Seller fails to perform the Work by the applicable dates specified in this Subcontract or by any extension thereof granted pursuant to an express provision of this Subcontract, Buyer may, in addition and without prejudice to all other rights available under this Subcontract or at law:
- a. cancel all or any such Work without being liable therefor in damages or compensation, and purchase from other sources, contractors, or suppliers any Work which has been

cancelled or similar Work, and all costs reasonably incurred by Buyer resulting from such cancellation may be recovered from Seller (including, but not limited to, deduction or set off pursuant to Clause 11); or

- b. shall pay to Buyer within thirty (30) calendar days of demand, compensation in the form of liquidated damages (and not as a penalty) at a rate of three tenths of a percent (0.3%) of the Subcontract Price or Ceiling Price (as applicable) for each day that the Work in question is delinquent, up to a maximum of the Subcontract Price or Ceiling Price (as applicable). Seller agrees that liquidated damages in the foregoing amounts are reasonable considering the anticipated harm caused by the late delivery; the difficulties of the proof of loss; and the inconvenience, expense, or non-feasibility of otherwise determining and obtaining an adequate remedy.
- 10.8. Provided always that Buyer shall have the right, in its sole discretion, to elect to claim general damages in common law from Seller, instead of imposing liquidated damages under this Clause 10.
- 10.9. In the event of a final judicial or arbitral determination that Buyer is not entitled in law to recover liquidated damages, Buyer shall remain entitled to recover such losses, expenses, costs, or damages as it would have been entitled under general law as if the provisions in this Clause relating to the payment of liquidated damages had not formed part of the Subcontract. Seller's liability to pay Buyer such losses, expenses, costs, or damages shall not be limited in any way whatsoever by the amount of liquidated damages for which it might otherwise have been liable.

11. DEDUCTIONS FROM PAYMENTS DUE

- 11.1. Without limiting Buyer's rights under this Subcontract, the amount of any damages, levies, payments, liquidated damages, or debts owed by Seller to Buyer under the Subcontract (including insurance premiums in accordance with Clause 15) or imposed by law upon Buyer which are ordinarily required to be paid by Seller as a result of Seller conducting Work in connection to this Subcontract, may be deducted by Buyer from any monies payable by Buyer to Seller pursuant to this Subcontract.

12. TAXES, FEES AND DUTIES

- 12.1. Seller shall be responsible for all corporate and personal income taxes, customs fees, duties, fines, levies, assessments, and other taxes payable under the laws of the Republic of China, by Seller or its employees, including Seller's resident engineers and inspectors (if applicable), in carrying out its obligation under the Subcontract.
- 12.2. If Buyer receives a request from the tax authorities to pay on behalf of Seller and/or Seller's employees, or to withhold payments from Seller in order that Buyer subsequently may so pay, any of the above-mentioned taxes, fees, duties, fines, levies, and assessments, Seller hereby authorizes Buyer to comply with the terms of the such request.



13. SUBCONTRACTING

- 13.1. Seller shall not subcontract the whole or any part of the Work without Buyer's express, prior, and written consent.
- 13.2. Seller shall submit a written list of its proposed lower-tier subcontractors and suppliers to Buyer for approval prior to engaging any such lower-tier subcontractor or supplier for performance of any Work in support of this Subcontract.
- 13.3. For the avoidance of doubt, Buyer will not approve any proposed lower-tier subcontractor or supplier that has been suspended, proposed for debarment, or debarred by the United States, the Republic of China, or any other Government, or is otherwise ineligible to perform work in support of the Prime Contract in Buyer's sole and absolute determination.
- 13.4. Neither Buyer's approval for the award of any lower-tier subcontract nor the award of any such lower-tier subcontract for any part of the work under this Subcontract shall relieve Seller of any of its liabilities or obligations under the Subcontract, and Seller shall be fully responsible and liable to Buyer for the performance, acts, and omissions of all lower-tier subcontractors and suppliers performing work for Seller in relation to this Subcontract.
- 13.5. Upon request by Buyer, Seller shall provide a copy of any contract, purchase order, or other agreement with any lower-tier subcontractor or supplier performing work for Seller in relation to this Subcontract.
- 13.6. Seller shall, and shall ensure that all lower-tier subcontractors and suppliers engaged in the performance of this Subcontract, strictly comply with the Prime Contract, all the applicable laws, regulations, and ordinances (including but not limited to the Government Procurement Act), as well as Buyer's policies. Any requirements that Seller has towards Buyer under this Subcontract shall be equally imposed on Seller's subcontractors and suppliers. Seller shall incorporate appropriate provisions in all lower-tier subcontracts to obligate these subcontractors and suppliers to adhere to these obligations. Seller shall remain fully responsible and liable for any breach by its lower-tier subcontractors or suppliers of the Prime Contract, all the applicable laws, regulations, and ordinances and Buyer's policies.

14. EXPORT CONTROL

- 14.1. Seller shall comply with all applicable export control laws and regulations including, but not limited to, the U.S. International Traffic in Arms Regulation (ITAR) and the U.S. Export Administration Regulations (EAR).
- 14.2. Without limiting the foregoing, Seller agrees that it will not transfer any export-controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to Seller or Seller's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception.



- 14.3. Seller agrees to notify Buyer if any Deliverables or Services are restricted by export control laws or regulations.
- 14.4. Seller shall immediately notify Buyer's Authorised Representative if Seller is, or becomes, listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended, or revoked in whole or in part by any U.S. Government or foreign government entity or agency.

15. INSURANCE

- 15.1. Seller, at its own cost and expense, shall procure and maintain throughout the Term of this Subcontract, insurance coverage sufficient for performance of all Work. Such insurance shall include, at a minimum, the following coverages:
 - Public Liability Insurance: per occurrence and in the aggregate as required at law. Such insurance shall waive subrogation rights in favor of Buyer and shall provide that the referenced insurance may not be cancelled by the carrier for nonpayment of premiums, change in coverage or otherwise, without thirty (30) days' prior written notice of cancellation to Buyer.
 - Workers Compensation and Employer's Liability: per occurrence and in the aggregate as required at law. Such insurance shall waive subrogation rights in favor of Buyer and shall provide that the referenced insurance may not be cancelled by the carrier for nonpayment of premiums, change in coverage or otherwise, without thirty (30) days' prior written notice of cancellation to Buyer.
- 15.2. All policies of insurance shall be maintained on a world-wide basis, with reputable insurance companies rated A- (VII) by A.M. Best or other rating agency equivalent.
- 15.3. Buyer, in its sole discretion, may require Seller to produce the original insurance policy or policies (including details of any exclusions), and/or certificate(s) of liability insurance for verification by Buyer, and certified copies thereof upon written request by Buyer, before the commencement of any performance of Seller's obligations under this Subcontract.
- 15.4. Seller shall indemnify, defend, and hold Buyer, its parent corporation, affiliates, their officers, directors, employees and agents ("Buyer Indemnified Parties") harmless from any liability, claims, or loss, arising at any time and from any cause concerning, arising under, or related to Seller's performance of the Work and this Subcontract, other than solely by reason of the gross negligence or willful act of Buyer, its employees, or its agents.
- 15.5. If Seller does not comply with this Clause or is unable or unwilling to produce evidence showing the same pursuant to Clause 15.3, Buyer may effect and keep in force insurance policies contemplated by this Clause 15 and pay such premiums as may be necessary for this purpose and from time to time deduct the amount(s) in accordance with Clause 11 (DEDUCTIONS FROM PAYMENTS DUE).

16. GIFTS, INDUCEMENTS AND REWARDS

- 16.1. Buyer's employees, Seller, and all Seller's lower-tier subcontractors and suppliers are expected to observe the highest standards of business ethics and comply with all applicable anti-corruption laws, regulations, and other associated requirements (collectively, "Anti-Corruption Requirements").
- 16.2. These Anti-Corruption Requirements include, but are not limited to, the U.S. Foreign Corrupt Practices Act and Buyer Corporation's Third Party Code of Conduct (which is appended hereto as Appendix I and may be updated by Buyer from time to time) – all of which are equally applicable to Seller and Seller's personnel performing work under this Subcontract.
- 16.3. Buyer may terminate this Subcontract if Seller or any person employed by it or acting on its behalf (whether with or without Seller's knowledge) has done any act or omission which contravenes any law for anti-bribery practices or the suppression of corrupt practices (including, but not limited to, committing any offence under Chapter IX of the *Penal Code* or *Prevention of Corruption Act* or abetting or attempting to commit such an offence or giving any fee or reward the receipt of which is an offence under Chapter IX of the *Penal Code* or the *Prevention of Corruption Act*). Seller shall be liable for any costs, expenses, or damages incurred by Buyer resulting from the aforesaid actions and/or termination of the Subcontract under this Clause.

17. CHANGE OF CONTROL

- 17.1. Where there is a change to the composition or constitution of the substantial shareholders which results in Seller having substantial shareholders (more than 50%) of a nationality other than the country of registration for Seller, Seller shall notify Buyer as soon as reasonably practicable.
- 17.2. If Buyer is of the reasonable opinion that any event relating to any change with respect to Clause 17.1 which materially affects the performance of Seller or breaches the security requirements of Buyer, Buyer shall send written confirmation of such conclusion to Seller. If, after receipt of such notice, Seller nevertheless opts to make such change, it shall promptly notify Buyer of such decision in writing. Buyer may at any stage within four (4) months of receipt of such notice from Seller, be entitled to terminate this Subcontract.
- 17.3. In such an event, Seller shall, in addition to the provisions in Clause 27 (TERMINATION FOR DEFAULT) provided for under the Subcontract:
 - a) promptly transfer to Buyer all Intellectual Property (including, but not limited to, data, reports, records, and materials in Seller's possession or control which relate to the Subcontract);

- b) return to Buyer all relevant Intellectual Property (including, but not limited to, data, reports, records, and assets and any other materials belonging to Buyer and/or the Customer, in Seller's possession); and
- c) provide all reasonable assistance in the handing over to a third party (if any) taking over the Subcontract.

18. BUYER FURNISHED EQUIPMENT

- 18.1. Buyer, in its sole discretion, may provide Furnished Equipment (CFE), Furnished Information (including data) (CFI), and Furnished Resources (CFR) to Seller (collectively referred to as "Furnished Property") to assist Seller in performing the Work. Furnished Property may be owned by Buyer or by the Government of the Republic of China.
- 18.2. The Parties acknowledge and agree that neither Buyer nor the Government of the Republic of China provide any warranties or representations regarding the accuracy, merchantability, suitability, or fitness of any such Furnished Property, and that all such property is provided on an "as is" basis.
- 18.3. At all times, Buyer or the Government of the Republic of China, as applicable, shall retain title to all Furnished Property.
- 18.4. Seller shall ensure that the Furnished Property shall be used solely for performing this Subcontract and used in accordance with any manuals or other operating instructions provided by Buyer.
- 18.5. At all times Seller shall use suitable precautions to prevent damage and corruption to the Furnished Property in accordance with good commercial practice. Seller shall, within three (3) Working Days of becoming aware that any Furnished Property is lost, destroyed, damaged, defective or deficient, notify Buyer of the event in writing.
- 18.6. Seller shall indemnify Buyer and the Customer, to the extent permitted at law, for all liability, loss, damages, and costs arising from or in connection to the loss or destruction of, damage to, or defects or deficiencies in, the Furnished Property, except to the extent that the loss, destructions, damage, defects, or deficiencies result from any unlawful or negligent act or omission on the part of Buyer or the Customer.
- 18.7. At no time shall Seller, or any of Seller's lower-tier subcontractors or suppliers: (a) reverse engineer, modify, disassemble, or decompile, or allow others to reverse engineer, modify, disassemble, or decompile the Furnished Property; (b) incorporate any unauthorized software or code; (c) use the Furnished Property for any purpose other than for purposes expressly authorized; (d) relocate or transfer possession or control of the Furnished Property without Buyer's prior, written permission; or (e) create or allow to be created any lien, charge, mortgage, or encumbrance over the Furnished Property.

- 18.8. Buyer also may require Seller to access facilities under the control or responsibility of the Customer, referred to as “Furnished Facilities”, for performance of the Work. If Seller and any of its lower-tier subcontractors or suppliers, employees, and/or agents attend or access Furnished Facilities, all personnel shall comply with any reasonable, lawful instruction and all security requirements notified to them by Buyer or an on-site Customer representative from time to time. Seller also shall ensure that the personnel on-site at Furnished Facilities comply with all on-site policies, do not bring weapons of any kind onto the site, are not under the influence of any controlled or uncontrolled substance or alcoholic beverage, do not conduct any business activities not related to this Subcontract, do not possess any hazardous materials of any kind, and remain in authorised areas only.

19. CONFIDENTIALITY AND SECURITY

- 19.1. Except with the express prior written consent of Buyer, Seller shall not disclose any Commercial-in-Confidence/Proprietary information to any person other than a person employed or engaged by Seller who is or shall be carrying out the Work directly relating to this Subcontract where there is an established genuine need to know, or Seller’s lower-tier subcontractors, lower-tier suppliers, or agents on a genuine need to know basis, where each entity has entered into contractual arrangements with Seller which contain obligations functionally equivalent to this entire Clause 19.
- 19.2. For the purposes of this Clause 19, Commercial-in-Confidence/Proprietary information includes the following:
- a) The existence of this Subcontract and all particulars contained herein;
 - b) Details of any purchases made in connection to this Subcontract and the provisions of any related subcontract or supply agreement;
 - c) any data or information issued or furnished to Seller in connection to this Subcontract with the marking “*Commercial-in-Confidence/Proprietary*”, and any information or data derived or developed directly or indirectly from it; and
 - d) any other data or information issued or furnished to Seller by or on behalf of Buyer or the Customer and any information or data derived or developed directly or indirectly from it.
- 19.3. Seller shall be liable to Buyer for any breach of such obligation by any such lower-tier subcontractor or supplier, employee, director, or agent.
- 19.4. Seller recognizes and agrees that the Commercial-in-Confidence/Proprietary information is of a special, unique, and extraordinary character that gives it a peculiar value, the loss of which cannot be reasonably or adequately compensated in damages, and that a breach of this Clause 19 will cause irreparable damage and injury to Buyer. Seller, therefore, expressly agrees that Buyer shall be entitled to, at its sole discretion, injunctive, and/or other equitable relief to prevent a breach of this Clause 19, or any other part thereof, in addition to any other remedies available to the Buyer.

- 19.5. Seller shall ensure that all information furnished to it or developed directly or indirectly in connection to this Subcontract shall be protected from unauthorised use and disclosure using the same standard of care that Seller uses to protect its own confidential information and, in any event, no less than a reasonable standard of care.
- 19.6. In addition to the foregoing, Seller shall not make use of any information obtained directly or indirectly from Buyer or the Customer or compiled or generated by Seller during performance of this Subcontract which pertains to or is derived from such information, other than use for the purposes of this Subcontract, without the prior written consent of Buyer.
- 19.7. Seller shall maintain a register of all information furnished to it or derived from information or materials furnished to it in connection to this Subcontract. Seller shall, upon the completion, termination, or cancellation of this Subcontract, or upon Buyer's request at any time, return all information furnished to it or derived from information or materials furnished to it unless specifically directed otherwise in writing by Buyer.
- 19.8. Seller shall not publish or release, nor shall it allow or suffer the publication or release of, any news item, article, publication, advertisement, prepared speech or any other information or material pertaining to any part of the obligations to be performed under the Subcontract in any media without the prior written consent of Buyer. Further, Seller acknowledges that any consent provided by Buyer is contingent upon Buyer also obtaining the Customer's consent to any publication or release relating to this Subcontract.

20. EXCLUSION OF THIRD PARTY RIGHTS

- 20.1. A person who is not a party to this Subcontract shall have no right under the Contracts (Rights of Third Parties) Act to enforce any of its terms.

21. DATA PROTECTION AND SECURITY OF REPUBLIC OF CHINA ORIGINATED DATA

Data Protection

- 21.1. Seller shall (and shall ensure that all its directors, officers, employees, servants, agents, lower-tier subcontractors and suppliers, regardless of their location (collectively, the "Seller's Representatives")) comply at its own costs with all its obligations under the Personal Data Protection Act, as may be amended from time to time ("PDPA"), which arise in connection with the Subcontract.
- 21.2. Seller shall not, and shall ensure that Seller's Representatives do not, access, modify, monitor, use, or process Personal Data obtained or held in connection with the Subcontract, except as reasonably necessary to perform its obligations under the Subcontract.
- 21.3. Seller shall not, and shall ensure that Seller's Representatives shall not, disclose any Personal Data obtained or held in connection with the Subcontract to any third parties without the prior written consent of Buyer. Any request for Buyer's consent under this Clause 21.3 must include an explanation of why the proposed disclosure is necessary for the purposes of fulfilling Seller's

obligations under the Subcontract. Seller shall immediately notify Buyer when it becomes aware that a disclosure of Personal Data may be required by law and cooperate at its own costs with Buyer's requests and directions. The Parties acknowledge that Buyer's consent in accordance with this provision may be contingent upon Buyer first obtaining consent from the Customer for the disclosure.

- 21.4. Seller shall not: (a) cause or permit Personal Data obtained or held in connection with the Subcontract to be processed, stored, accessed, or otherwise transferred outside the Republic of China; or (b) allow parties outside the Republic of China to have access to it, unless (in each case) with the prior written consent of Buyer and subject to such conditions as Buyer may impose. Any request for Buyer's consent under this Clause 21.4 shall include an explanation of why the proposed transfer is necessary for the purposes of fulfilling Seller's obligations under the Subcontract. If consent is granted, Seller shall provide a written undertaking that the Personal Data which is transferred outside the Republic of China will be protected to a comparable standard as it is protected under the PDPA. The Parties acknowledge that Buyer's consent in accordance with this provision may be contingent upon Buyer first obtaining consent from the Customer for the disclosure.
- 21.5. Where Seller discloses Personal Data to Seller's Representatives in accordance with this Clause 21, Seller shall keep up-to-date documentation of the purposes for which the Personal Data is disclosed.
- 21.6. Seller shall ensure that all Personal Data obtained or held in connection with the Subcontract and any copies thereof, regardless of the medium of storage, and which is no longer necessary for the purposes of its performance of the Subcontract is to be securely destroyed within seven (7) calendar days. Any Personal Data that is retained by Seller or any of Seller's Representatives after such Personal Data is no longer necessary for the purposes of its performance of the Subcontract, or without the written authorisation of Buyer, is a material breach of the Subcontract. No later than seven (7) calendar days from the termination or expiry of the Subcontract, Seller shall provide a written confirmation that it or any of Seller's Representatives is no longer in possession of any Personal Data obtained or held in connection with the Subcontract or copies thereof, regardless of the medium of storage.
- 21.7. Seller shall ensure that Seller's Representatives who are or may be involved in performing Seller's obligations under the Subcontract:
- a. observe the provisions of this Clause 21;
 - b. are aware that failure to comply with this Clause 21 may be a criminal offence and may also lead to disciplinary or other action being taken;
 - c. make an undertaking in writing not to access, use, disclose or retain Personal Data obtained and/or held in connection with this Subcontract except for the purpose of performing their duties of employment in connection with this Subcontract; and

- d. shall immediately notify Buyer as soon as they become aware that a disclosure of Personal Data may be required by law and to cooperate at its own costs with Buyer's reasonable requests and directions.
- 21.8. Seller shall collate and submit to Buyer the completed undertaking from its employees, servants, agents, and lower-tier subcontractors and suppliers within two (2) weeks from date of Subcontract, and thereafter within two (2) weeks from the date any new employee, servant, agent, and lower-tier subcontractor or supplier commences involvement in performing Seller's obligations under this Subcontract.
- 21.9. Seller shall notify Buyer in writing and comply with all reasonable directions of Buyer before seeking the consent of any individual or communicating with any person for any purpose under Part IV of the PDPA in relation with Personal Data to be collected by or held by Seller in connection with this Subcontract.
- 21.10. Seller shall notify Buyer in writing and comply with all reasonable directions of Buyer before responding to any request from any individual pursuant to Part V of the PDPA in relation with Personal Data held by Seller in connection with this Subcontract.
- 21.11. Seller shall immediately notify Buyer when it becomes aware of a breach of any of the Clause 21.1 through to Clause 21.10 (inclusive) by itself or any of Seller's Representatives.
- 21.12. Seller shall be responsible for the acts, defaults, neglects, or omissions of any of Seller's Representatives under this Clause 21.

Security

- 21.13. Seller shall take all reasonable measures to ensure that data held in connection with the Subcontract is protected against loss or damage (whether accidental or otherwise), and against unauthorised access, use, modification, disclosure, or other misuse and that only authorised personnel shall have access to the data.
- 21.14. Seller shall ensure that where data is disclosed to any of Seller's Representatives in accordance with this Clause 21, Seller's Representatives shall have in place suitable security safeguards to protect the data disclosed against unauthorised access, modification, use, disclosure, disposal or similar risks, whether accidental or intentional.
- 21.15. Seller shall comply with Buyer's reasonable requests, directions or guidelines in relation to the Personal Data held by Seller in connection with this Subcontract. Such requests, directions, and guidelines may relate (but are not limited) to Seller's possession, collection, use, processing, disclosure, storage, and destruction of Personal Data.

Termination

- 21.16. Seller shall immediately notify Buyer when it becomes aware of a breach of this Clause 21 by itself or any of Seller's Representatives. Notwithstanding any other provisions in this Subcontract, if Seller breaches any provision of this Clause 21, Buyer shall be entitled to

terminate this Subcontract with immediate effect by written notice without being liable to Seller for any damages or compensation. Seller shall hold Buyer harmless and indemnified against all actions, claims, and/or demands against Buyer arising from any act, omission, or negligence on the part of Seller and/or Seller's Representatives in relation to the handling of Personal Data obtained and/or held in connection with this Subcontract (including, but not limited to, all related costs and expenses).

21.17. This Clause 21 shall survive the termination or expiry of the Subcontract.

Definitions

21.18. For the purposes of this Clause 21, "**Personal Data**" means data, whether true or not, about an individual who can be identified (a) from that data; or (b) from that data and other information to which Seller has or is likely to have access.

21.19. A reference to Personal Data held by Seller in connection with this Subcontract shall include Personal Data provided to, obtained by, held by or otherwise under the control of Seller in connection with this Subcontract.

22. WORKPLACE SAFETY & HEALTH

22.1. Seller and its lower-tier subcontractors and suppliers shall comply with and satisfy all requirements under all laws and regulations relevant or applicable to performance of the Work and shall indemnify Buyer in respect of all costs and expenses and any liabilities whatsoever which may be incurred under or in connection with such laws and regulations. Without prejudice to the generality of the foregoing, Seller shall comply with all applicable regulations and by-laws of the following authority: (a) Ministry of Labor; (b) Ministry of Interior; and (c) any other central and local authorities having jurisdiction over the Work.

22.2. Furthermore, without limiting the foregoing, Seller and its lower-tier subcontractors and suppliers shall ensure adequate familiarity, training, and compliance with the provisions of the Occupational Safety and Health Act and all other workplace safety and health regulations, laws, and codes of practice applicable to performance of the Work.

22.3. Seller shall be responsible to take all safety precautions to eliminate danger to its workmen, users, visitors, the general public, and property of others during performance of the Work and shall fully comply with all instructions by Buyer to improve workplace safety.

22.4. By at least two (2) weeks before commencing performance of any Work, Seller shall submit a Risk Assessment of safety and health risks and a Safety Program to eliminate or mitigate those risks for Buyer's approval. Seller shall ensure that the approved Safety Program is strictly followed during performance of all Work and that all its employees and lower-tier subcontractors and suppliers are properly supervised. Each month, Buyer and Seller shall review Seller's compliance with the Safety Program, and Seller shall submit formal, written reports to Buyer after each such review.

- 22.5. Seller shall maintain all risk assessment, safety, and health records throughout the duration of the Subcontract and make them available upon request to Buyer, the Customer, and (if required) to the Commissioner for Workplace Safety and Health.

23. INTELLECTUAL PROPERTY

23.1. Definitions

“Background IP” means IP which is created prior to or independently of this Subcontract.

“Foreground IP” means IP which results from or is generated pursuant to or for the purpose of this Subcontract.

“IP” means intellectual property and shall include, but is not limited to, patents, copyrights, and trade secrets.

“Statutory Board” means any body corporate established by or under written law from time to time to perform or discharge any public function.

- 23.2. Except as otherwise expressly provided in this Subcontract, Seller warrants that it has obtained or will in due time obtain all rights, relating to the use of any Intellectual Property, which may be required for the purposes of this Subcontract without requiring any assistance from Buyer or the Customer. Buyer and the Customer shall not be obliged to enter into any further agreement or licence arrangement with Seller or any third party in respect of the use of such Intellectual Property delivered or required to be delivered in connection to this Subcontract.
- 23.3. All amounts payable for use of the Intellectual Property (whether by Buyer, the Customer, or Seller) pertaining to or in connection to this Subcontract shall be deemed to be included in the Subcontract Price and hourly rates set forth in Part IV, Section 4.
- 23.4. Nothing in this Subcontract shall affect any person’s right to own or license Background IP.
- 23.5. All rights or title to, or interest in, all Foreground IP shall be the sole or exclusive property of the Buyer, vested in Buyer upon creation.
- 23.6. Seller hereby grants to Buyer a royalty free, fully paid, irrevocable, worldwide, perpetual, non-exclusive licence (including a right to sub-licence) to use, modify, and reproduce all Background IP which is or becomes vested in Seller and used in connection to this Subcontract so as to enable Buyer, the Customer, or another person on behalf of Buyer and/or the Customer to obtain the full benefit of the Work.
- 23.7. For the avoidance of doubt: (a) No title shall vest in Seller in any IP contained in any results, report, data, or information generated or produced by Buyer or another person on behalf of Buyer as a result of this Subcontract. Buyer shall own the title to all IP in any such results, report, data, or information generated or produced by the Buyer or another person on behalf of Buyer under or as a result of this Subcontract; (b) the Subcontract (Rights of Third Parties) Act (Cap 53B) shall apply to enable Statutory Boards in their own right to enforce this Clause

23 against Seller; and (c) Seller agrees that Buyer shall not be liable or held responsible for the acts or omission of any Statutory Board.

23.8. Prior to any lower-tier subcontractor or supplier commencing work, Seller shall make contractual arrangements so that Buyer and the Customer, as relevant, acquires:

- (a) Ownership of all Foreground IP produced by that lower-tier subcontractor or supplier unless otherwise agreed in advance in writing between Buyer and Seller; and
- (b) A license to use all Background IP on terms no less extensive and no less favourable than those outlined within Clause 23.6.

23.9. If Seller or its lower-tier subcontractor or supplier intends to sell or transfer their Background IP, Seller shall ensure that the purchaser of the Background IP and every successor in title to the interest in the Background IP has prior written notice of the license that Seller or its lower-tier subcontractor or supplier has granted to Buyer and the Customer.

23.10. If any licence granted or obtained in connection to this Clause 23 is registrable under any IP registration system in the Republic of China, Seller shall:

- (a) register the licence under the relevant IP registration system; and
- (b) deliver copies of documentary proof of such licence registration to Buyer as soon as possible.

24. AUDIT AND INSPECTION

24.1. Buyer reserves the right to conduct inspections and audits, at its sole discretion, to ensure Seller's compliance with all terms and conditions of this Subcontract, including but not limited to Seller's management of confidential, classified and official data, information and materials provided by Buyer, compliance with the quality management or health and safety provisions outlined within this Subcontract, validate any claims for payment, or generally validating that Seller's performance under this Subcontract.

24.2. Where Buyer exercises its right to conduct inspections and audits, Seller shall grant, at its own expense:

- a. full and free access to Seller's works, books, accounts, and records as and when required for that purpose; and
- b. all reasonable facilities, including but not limited to Seller's lower-tier subcontractor's facilities, as may be required therefore; and such other assistance as Buyer may require.

25. SUSPENSION OR TERMINATION

25.1. After giving seven (7) days' notice in writing to Seller, Buyer shall have the right to suspend or terminate this Subcontract if Buyer or the Customer is affected by any state of war, Act of God, or other circumstances seriously disrupting public safety, peace, or good order of the Republic

of China. Neither Party shall be liable to the other by reason of such suspension or termination save that Buyer shall pay Seller the price of the Work performed and accepted by Buyer. Seller shall refund the balance of any payments or deposits made after deducting any outstanding sums owing by Buyer to Seller by reason of this Clause 25.

26. FORCE MAJEURE

- 26.1. Neither Party shall be liable for any delay or failure to comply with its obligations under the Subcontract if such delay or failure results directly from an event which is beyond its control against which the affected Party would be unable to take precautions and which the affected Party cannot avoid even by using its best efforts ("Force Majeure").
- 26.2. Force Majeure shall include the following:
- a. acts of civil or military authority, acts of foreign enemies, acts of terrorism or war; or
 - b. Acts of God; or
 - c. any executive or legislative prohibition or restriction of export or import in any jurisdiction or territory, partially or otherwise.
- 26.3. For the avoidance of doubt, any failure or delay on the part of Seller to perform its obligations under the Subcontract, resulting from the following circumstance(s) or event(s) shall not constitute Force Majeure:
- a. any governmental approvals, licenses, authorisations, and permits including any failure or inability of Seller (including its agent, lower-tier subcontractor or supplier, or carrier) to obtain or renew such approvals, licences, authorisations, and permits for the timely performance of the Subcontract; or
 - b. the failure or delay in proper performance of any lower-tier subcontractor or supplier or common carrier, including its bankruptcy or insolvency or compliance with any governmental laws and regulations.
- 26.4. If Seller is prevented from or delayed in performing its obligations under the Subcontract as a result of the Force Majeure event, Buyer shall grant a reasonable extension of time, provided that Seller shall notify Buyer in writing of the Force Majeure event within ten (10) days of the commencement of such Force Majeure event or as soon as practicable upon Seller having actual or constructive knowledge that the Force Majeure event is likely to occur, whichever is earlier.
- 26.5. Without prejudice to the foregoing, Seller shall not be entitled to any extension of time in respect of any failure by its agents, carriers, lower-tier subcontractors or suppliers to perform their obligations unless such agent, carrier, lower-tier subcontractor, or supplier would qualify for an extension of time if the provisions of this Clause were applied to them.

- 26.6. Upon the occurrence of any of the events mentioned in Clause 26.2, Seller shall, for the duration of such event, be relieved from its obligation(s) under this Subcontract to the extent that Seller is prevented from performing those obligation(s) by a Force Majeure event, and provided that:
- a. the provisions of the Subcontract shall remain in force with respect to all other obligations under the Subcontract which are not affected by the Force Majeure event; and
 - b. upon cessation of the Force Majeure event, Seller shall resume its performance of its suspended obligations under the Subcontract.
- 26.7. If the effect of any Force Majeure event continues for more than thirty (30) days, Buyer may terminate the Subcontract in accordance with Clause 25 (SUSPENSION OR TERMINATION).

27. TERMINATION FOR DEFAULT

- 27.1. If Seller defaults in the performance of any of his obligations under the Subcontract, Buyer may issue a notice of default to Seller informing Seller of its default.
- 27.2. Seller shall, within twenty-one (21) days of the date of the notice of default, remedy the default or propose a solution acceptable to Buyer. If Seller fails to do so or if the above cannot be done (as determined by Buyer in its reasonable discretion), Seller shall be taken to have repudiated the Subcontract, and Buyer shall have the right to terminate the Subcontract, or cancel any part thereof, by way of a notice of termination without being liable therefor in damages or compensation. Such termination shall take effect from the date of the notice of termination.
- 27.3. In the event of termination under Clause 27.2 above, Buyer shall have the right to purchase from other sources all the Work which remain unperformed at the time of termination or similar Work, and Seller shall be liable for and promptly pay to Buyer all costs that Buyer reasonably incurs in purchasing such replacement Work.

28. DISPUTE RESOLUTION

- 28.1. Prior to commencing court proceedings relating to a dispute (except proceedings for interlocutory relief), the Parties shall first attempt to resolve the dispute in a non-adversarial manner by referring the matter to senior managers within their respective organisations who have the authority to negotiate in good faith and direct some form of resolution.
- 28.2. In the event that the Parties are unable to resolve a dispute in accordance with Clause 28.1, any dispute arising out of or in connection with this Subcontract, including any question regarding its existence, validity or termination, shall be will be resolved by arbitration referred to the Chinese Arbitration Association and conducted in Taipei in accordance with the Arbitration Act of the Republic of China and the Association's arbitration rules, which rules are deemed to be incorporated by reference into this Clause 28.2. The arbitration shall be conducted entirely in the English language.



- 28.3. The commencement of any arbitration proceedings under this Clause 28 shall in no way affect the continual performance of the obligations of Seller under this Subcontract.

29. ASSIGNMENT / CHANGE OF OWNERSHIP OR PLACE OF PERFORMANCE

- 29.1. Seller shall not assign in whole or in part, its rights or obligations under the Subcontract without Buyer's express, prior, and written consent.
- 29.2. Seller shall notify Buyer immediately upon any change in ownership of more than fifty percent (50%) of any controlling interest in Seller. If Seller fails to do so or Buyer objects to the change, Buyer (in its sole discretion) may (a) terminate this Subcontract for default; (b) require Seller to provide adequate assurance of performance; and/or (c) put in place special controls regarding the proprietary information that Buyer has provided to Seller hereunder.
- 29.3. If Seller intends to change the place of performance of work under this Subcontract from the place(s) identified in Seller's proposal, Seller shall provide prior written notice to Buyer.

30. VARIATIONS

- 30.1. No variation whether oral or otherwise in the terms of this Subcontract shall apply thereto unless such variation shall have first been expressly accepted in writing by Seller and Buyer's Authorised Representative.
- 30.2. Buyer's Authorised Representative is the only person authorized to make any changes to the terms and conditions of this Subcontract. Any changes made by any Buyer personnel other than Buyer's Authorised Representative shall be void and without effect and shall not provide the basis for any equitable adjustment to the price outlined herein, performance requirements, or schedule. Seller shall immediately notify Buyer's Authorised Representative in writing whenever a change request has been received from a representative of Buyer other than Buyer's Authorised Representative, which would affect the terms and conditions, price, performance requirements, schedule, or any other provision of this Subcontract. Pending direction from Buyer's Authorised Representative, Seller shall take no action to implement any such change.
- 30.3. Buyer's Program Manager or his/her duly authorized designee is authorized to issue technical direction to Seller. Such direction may include instructions which provide details regarding, or otherwise clarifying, the Work. This direction shall not constitute new assignments of work, or changes, modifications, or amendments, which justify any change to the Subcontract terms, conditions, or price.
- 30.4. In no event shall Buyer be liable to Seller either in contract, tort or otherwise, or for any form of damages for any act or omission on the part of Buyer concerning any variation or proposals for variations which do not comply with Clause 30.1 or for any Work performed by Seller pursuant to any variation which does not comply with Clause 30.1.

31. GOVERNING LAW

- 31.1. This Subcontract and all its subsequent variations shall be deemed to be made in the Republic of China and shall be subject to, governed by, and interpreted in accordance with the domestic Laws of the Republic of China for every purpose.
- 31.2. The United Nations Convention on Agreements for the International Sale of Goods does not apply to this Subcontract.

32. WAIVERS

- 32.1. Unless otherwise specifically and expressly provided for in this Subcontract:
- (a) no waiver, election, renunciation, or affirmation by either Party shall be effective unless it is expressly so stated in writing and signed by that Party's authorised representatives; and
 - (b) Buyer's rights under or arising from this Subcontract or otherwise are cumulative.

33. SEVERABILITY

- 33.1. If any part of the terms, conditions, or provisions, contained in the Subcontract is determined to be invalid, unlawful, or unenforceable to any extent, such terms, conditions, or provisions shall be severed from the remaining terms, conditions, and provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

34. COUNTERPARTS

- 34.1. This Subcontract may be executed in one or more counterparts and by electronic signature. Each counterpart will be an original, but all such counterparts will constitute a single instrument.

35. SURVIVAL

- 35.1. Any provision of this Subcontract which is expressly or impliedly intended to survive the termination or expiration of this Subcontract and any rights or obligations arising on such termination or expiration are deemed to survive, including provisions relating to Commercial-in-Confidence/Proprietary Information and Materials, defence security, intellectual property, governing law, dispute resolution, export control, privacy, audits, publicity, and any warranties, licenses, indemnities, and insurance given under this Subcontract.



APPENDIX I
THIRD PARTY CODE OF CONDUCT



APPENDIX II

SPECIFICATIONS