Trillium Engineering Terms and Conditions

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Customer Order Terms and Conditions

1. ORDERS

Purchase Orders (the "Order") for commodities, software, technical data and/or technology items (the "Items") and/or services (the "Services") (a) shall contain only the identification of the buyer of Items or Services, as applicable ("Buyer"), and Trillium Engineering LLC or one of its affiliates ("Seller"), description of the Items and/or Services requested by Buyer from Seller, quantity, applicable price, and requested delivery schedule. Seller objects to any other terms in the Order unless accepted in writing by Seller.

2. ACCEPTANCE OF ORDER

Acceptance of the Order shall be by the written acknowledgement of Seller. Seller shall not be obligated to accept any Order. Seller's acceptance of any Order is given on the express agreement and condition that only these Terms and Conditions shall govern and establish any rights and obligations of the Parties with respect to the Items and Services covered by the Order. In its sole discretion, Seller may delay acceptance of any Order until any information requested by Seller pursuant to clause 12 hereof has been provided by Buyer.

3. PRICES

Prices for Items and Services will be stated on the acceptance of the Order or in a written price proposal from Seller.

4. PAYMENT TERMS

a. Standard. For Buyers who have not been granted credit by Seller, payment must be received by Seller prior to shipment. Funds are "received by Seller" if the payment has been made in a secured form (such as a certified check, cashier's check, money order, credit card payment, wire, or electronic transfer). If payment is made in another form, the funds are "received by Seller" when, in Seller's judgment, the transaction has cleared Buyer's bank and the funds are available to Seller. If payment has not been received by Seller at least two business days prior to the scheduled delivery date, Seller may delay delivery until payment is received by Seller. If the delivery is delayed for failure of Buyer to make the required payment within seven days of the scheduled delivery date, the order will be deemed a cancellation and subject to a cancellation fee of 25% of the total purchase price.

b. Buyers granted credit. If Seller has granted Buyer Credit, payment is due net 30 days from the date of invoice submitted in accordance with the credit terms.

c. Payment shall be made in full, without any withholding, set-off or deduction whatsoever. Seller may apply any payment received from Buyer against any

obligation owing by Buyer to Seller under the Order governed by these Terms and Conditions or any other contract. Statements or comments on or accompanying payments shall not be binding on either party. Acceptance by Seller of any payment will not constitute a waiver of Seller's right to pursue the collection of any remaining balance.

d. Interest will automatically accrue on overdue payments from the due date until payment at the rate of the lower of: (i) eighteen percent (18%) per annum; or (ii) the highest interest rate permitted at law. Buyer will be responsible for any litigation costs and attorneys' fees associated with collection of past due invoices.

5. CANCELLATION

a. Except as provided in this clause 5, Buyer may cancel an Order for Items without charge, provided that Seller receives written notice of the cancellation at least 45 days prior to the scheduled shipment of the Items being cancelled, provided, however, that if written notice of cancellation of an Order for Items containing an MWIR camera is received more than 45 days prior to the scheduled shipment, Buyer will be charged a cancellation fee of 50% of the total purchase price.

b. Except as provided in this clause 5, if written notice of cancellation of an Order for Items is received less than 45 days prior to the scheduled shipment date and at least 14 days prior to the scheduled shipment date, the Order will be canceled and Buyer will be charged a cancellation fee of 25% of the total purchase price, provided, however, that if written notice of cancellation of an Order for Items containing an MWIR camera is received less than 45 days prior to the scheduled shipment date and at least 14 days prior to the scheduled shipment date, Buyer will be charged a cancellation fee of 50% of the total purchase price.

c. If written notice of cancellation of an Order for Items is received less than 14 days prior to the scheduled shipment date, Seller may charge a cancellation fee in its discretion of up to 100% of the purchase price.

d. No Orders may be cancelled after delivery by Seller to the carrier.

6. CHANGES

Buyer may by written notice request changes within the general scope of the Order. Seller is not obligated to accept change requests. Upon agreement of the parties, the Order will be modified to reflect any agreed change, including a change to the delivery schedule, and any price adjustment.

7. DRAWINGS AND SPECIFICATIONS.

Unless otherwise agreed, Items shall be manufactured in accordance with Seller's drawings and specifications. Items will be subject to Seller's standard quality control tests and calibrations.

8. INTELLECTUAL PROPERTY

Items sold to Buyer are based on technology developed solely by Seller, and Seller retains ownership of all intellectual property rights therein. Buyer receives no rights or licenses to Seller's intellectual property except to use the Items as they are designed for and expected to be used. Seller shall defend or at its option settle, any claim, suit or proceeding ("Claim")

brought against Buyer based on an allegation that Items manufactured and sold by Seller ("Items") under this Agreement directly infringe a valid United States patent, and Seller shall indemnify Buyer against any direct loss, damage or liability incurred by Buyer as a result of such Claim, provided that (a) Seller is notified promptly by Buyer in writing of the Claim; and (b) Seller is given exclusive authority by Buyer and reasonable information and assistance by Buyer for the defense and/or settlement thereof. The foregoing states the entire obligation of Seller with respect to intellectual property infringement indemnification. Seller has no liability for claims based upon: (a) infringement by Items manufactured according to a design, specification, or instruction provided or requested by Buyer; (b) infringement based on the combination, operation or use of the Items with other products not supplied by Seller, wherein the infringement would not have occurred but for such combination, operation or use; or (c) infringement resulting from changes made to the Items without Seller's prior written consent.

9. DISPUTES

Buyer and Seller shall attempt to promptly resolve through good faith negotiation any and all disputes between Buyer and Seller arising out of this Agreement or its performance (hereinafter "Dispute"). If the Dispute has not been resolved by negotiation within twenty (20) business days of the disputing party's notice requesting negotiation (or any agreed extension thereof), either party may request that the Dispute be resolved by binding arbitration. The arbitration shall be held in the State of Oregon and administrated by the American Arbitration Association. The arbitrator is not empowered to award damages in excess of actual, direct damages. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Seller may discontinue work on any Items and Services or portions of any Order which gave rise to the Dispute until such time as the Dispute is settled.

10. CHOICE OF LAW

This Order shall be governed by the laws of the State of Oregon, USA, without regard to any conflicts of law principles applied in that state. The parties specifically disclaim application to this Order of the United Nations Convention on Contracts for the International Sale of Items.

11. ASSIGNMENT

Neither Buyer nor Seller may assign, charge, transfer or otherwise dispose of an Order or any interests, rights, or obligations therein in whole or in part, without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed, or conditioned. Notwithstanding the foregoing, Seller may subcontract any part of the work or services to be provided under this Order.

12. COMPLIANCE WITH INTERNATIONAL TRADE LAWS AND REGULATIONS

In performing the obligations of this contract, both Parties will comply with U.S. and all other applicable laws and regulations governing international trade, including such laws and regulations related to exports and imports, export controls, sanctions, and anti-corruption and bribery, as they may be amended from time to time, including without limitation the Export Administration Regulations ("EAR"), the International Traffic in Arms Regulations ("ITAR"), laws, Executive Orders and regulations administered by the U.S.

Department of the Treasury's Office of Foreign Assets Control, laws and regulations administered by U.S. Customs and Border Protection, the Foreign Trade Regulations (administered by the U.S. Census Bureau) and the laws and regulations administered by the Bureau of Alcohol, Tobacco, Firearms and Explosives of the U.S. Department of Justice, and the Foreign Corrupt Practices Act (collectively, "International Trade Laws and Regulations"). The Party conducting the export, re-export, or retransfer/transfer in-country or other regulated activity shall be responsible for applying for any required authorizations. Each Party shall reasonably cooperate and exercise reasonable efforts to support the other Party in obtaining the necessary licenses or authorizations required to perform its obligations under this contract. Without limiting the generality of the foregoing, before accepting an Order, Seller may require Buyer to provide information regarding any intended export/re-export/retransfer/transfer in-country and the intended end use and end user of any Item or Service covered by the Order.

13. WAIVER

Waiver by either party of strict performance of any terms of the Order shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

14. EXCUSABLE DELAY

A delay in the performance by Seller of any obligations under the Order which is caused by an event which is outside the reasonable control of Seller shall entitle Seller to postpone any affected delivery date for such period as is reasonably necessary to offset the effects of the delay. No adjustment will be made to the price under the Order. Adjustment of the delivery schedule is the exclusive remedy of Seller for an excusable delay. Notwithstanding the above, if a delay under this paragraph has continued for a period of ninety (90) calendar days the Buyer may, in the Buyer's absolute discretion, terminate the Order. In such a case Seller may charge Buyer a cancellation charge equal to no more than 25% of the total purchase price for the Items. Excusable delay includes such things as an act of God, an act of government, fire, flood, strikes, severe weather, etc.

15. BUYER-FURNISHED PROPERTY

Any drawings, specifications, patterns, technical data, molds, forms, equipment, and materials developed or prepared by Buyer at Buyer's sole expense which are provided to Seller by Buyer to facilitate Seller's production of Items or performance of Services, and all copies thereof ("Buyer Materials"), shall remain the property of Buyer. Upon demand by Buyer, Seller shall promptly return or deliver to Buyer all Buyer Materials. Buyer agrees that it has adequate insurance on all of the Buyer Materials, and Seller assumes no liability for loss or damage to said property, including normal and reasonable wear and tear.

16. CONFIDENTIAL INFORMATION

Any and all information disclosed or provided by Seller to Buyer in connection with this Purchase Order is proprietary and confidential to Seller. Buyer shall hold such information in confidence, shall not disclose it to any third party without the prior written consent of Seller. Buyer shall use such information only as necessary to support the products or services delivered by Seller under the Order. If Buyer and Seller have entered into a separate agreement concerning the distribution and care of confidential information, that

agreement shall take precedence over the foregoing. Buyer agrees that in the event of a breach or threatened breach of the provisions of this clause, and in addition to any other rights or remedies the Seller may have at law or in equity, Seller shall be entitled to injunctive or other equitable relief compelling compliance with the aforementioned confidentiality obligations without the requirements of proof of damages or posting of a bond.

This Agreement shall not restrict disclosure or use of information from the first to occur of the following: (1) when it is or becomes publicly available through no fault or negligence by the recipient or breach of this Agreement; or (2) if it is legally known by, or in the possession of, the recipient without restrictions when received; or (3) when it is lawfully obtained by the receiving party from a third party without restrictions and through no fault or negligence by the recipient or breach of this Agreement; or (4) if and when it is independently developed by the recipient without reliance upon Proprietary Information disclosed hereunder and without breach of this Agreement.

17. SHIPMENT AND RISK OF LOSS

Title to the Items shall pass to Buyer upon delivery of the Items to the carrier for shipment to Buyer. All domestic shipments shall be delivered EXWorks Hood River Oregon. International shipments shall be delivered FCA Hood River Oregon. Buyer shall be solely responsible for, and Seller shall have no liability for, loss or damage after delivery to the carrier. All Items will be suitably packaged and prepared for shipment by Seller to withstand normal transportation and stocking functions.

18. DELIVERY SCHEDULE

Seller will use commercially reasonable efforts to schedule and initiate shipment as close as possible to Buyer's requested delivery schedule but shall not be liable to Buyer for failure to meet any delivery schedule or for the cost to procure or design substitute Items.

19. TAXES

Buyer shall pay the cost of any sales, use, value-added, excise, transfer and other similar taxes or other governmental fees, duties and assessments payable by Buyer or Seller (including all such amounts that a taxing authority asserts, is payable by Buyer or Seller and excluding taxes based upon Seller's net income and Seller's payroll taxes) as a result of the provision of Items and Services to Buyer. Buyer may furnish Seller with a tax exemption certificate acceptable to the authority imposing the tax on Seller.

20. STOP WORK

When directed by written notice from Buyer (a "Stop Work Notice"), Seller shall promptly cease performance of the Order and its obligations hereunder with respect to the Items and Services specified in the Stop Work Notice will be suspended for a period of up to Ninety (90) calendar days or longer if extended by mutual agreement. If a Stop Work Notice is given, Seller shall be entitled to an equitable adjustment in the delivery schedule, or price, or both, and the Order shall be modified in writing accordingly. When a Stop Work Notice is withdrawn or the period of the Stop Work Notice (or any agreed extension thereof) expires, Seller shall resume work subject to the agreement on the equitable adjustment in price and/or delivery schedule.

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21. WARRANTY AND REPAIR POLICY

a. Seller warrants the Items it manufactures to be free from defects in material and workmanship for one year from the time of shipment under normal use and service.

i. This warranty is only applicable to Seller's Items that are returned to Seller within twelve months from the date of shipment and which Seller determines to be defective within the terms of the warranty. Seller's obligations, with respect to such applicable warranty returns, are limited to repair, replacement, or refund of the purchase price actually paid for the product, at Seller's sole option.

ii. Seller shall bear reasonable round trip shipping costs of items returned under warranty. If Seller determines that the returned items are not eligible for warranty repair, then Buyer shall be responsible for all shipping costs and all cost of testing, evaluation, any repairs necessary to complete testing and evaluation, and repair or replacement.

iii. Repaired or replaced items shall be warranted for a period which is the greater of either (1) 90 days or (2) the unexpired portion of the original warranty period as of the date of notice to Seller of the warranty failure.

iv. This warranty does not extend to any product which has been subjected to misuse, abuse, neglect, accident, improper installation, improper operation, or exposure to conditions in violation of instructions furnished by Seller, or which has been repaired or altered by Buyer or persons other than Seller.

b. This warranty does not apply to any non-Seller hardware products or software, even if packaged, integrated with, or sold with the Items. In some cases, manufacturers, suppliers, or publishers other than Seller may provide warranties to the end user purchasers.

c. Software distributed by Seller (including, but not limited to, system software) is not covered under warranty. Seller will provide available bug fixes (but not upgrades, functionality improvements, additions, or other modifications) for 12 months after shipment of software.

d. If Buyer requests repair of any Items other than under warranty as described above, Seller will charge an evaluation fee and conduct an evaluation prior to initiating the repair. Based on the evaluation Buyer will be provided a quotation for proposed repair costs, including material and labor. If the quotation is accepted, repairs will be scheduled based on Seller's current workload. All repaired Items will have a warranty of 90 days under the same terms as are set forth in this Paragraph 21.

22. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

THE WARRANTIES, OBLIGATIONS AND LIABILITIES OF SELLER HEREUNDER AND THE RIGHTS AND REMEDIES OF BUYER HEREUNDER, ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF SELLER, AND ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF SELLER AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED ARISING BY LAW OR

OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE EXPRESSLY DISCLAIMED. SELLER MAKES NO OTHER WARRANTY BEYOND THOSE EXPRESSLY CONTAINED IN THIS WRITING.

SELLER'S LIABILITY WITH RESPECT TO NONCONFORMING OR DEFECTIVE ITEM IS LIMITED TO BUYER'S NET CURRENT PURCHASE PRICE, AFTER CASH AND OTHER DISCOUNTS, OF ANY SUCH ITEM OR, AT SELLER'S OPTION, TO THE REPAIR OR REPLACEMENT OF SUCH ITEM UPON ITS EVALUATION BY SUPPLIER'S TECHNICAL REPRESENTATIVES OR ITS RETURN TO SUPPLIER, TRANSPORTATION CHARGES PREPAID.

NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY SUCH LIMITED REMEDY, SELLER'S TOTAL LIABILITY IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE ARISING IN CONNECTION WITH THE AGREEMENT SHALL BE LIMITED TO THE AGGREGATE AMOUNT PAID BY BUYER TO SELLER UNDER THIS AGREEMENT. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, SELLER SHALL IN NO EVENT BE LIABLE TO BUYER FOR INDIRECT, INCIDENTAL, COLLATERAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR LOSSES SUCH AS BUT NOT LIMITED TO LINE STOP, RECALLS, HARM TO BUSINESS OR BUSINESS REPUTATION, LOSS OF REVENUES, LOSS OF ANTICIPATED SAVINGS OR LOST PROFITS, WHETHER OR NOT FORESEEABLE, AND WHETHER ARISING IN CONTRACT (INCLUDING WARRANTY), TORT (INCLUDING ACTIVE, PASSIVE OR IMPUTED NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

23. PARTIAL INVALIDITY AND SEVERABILITY

If any provision of the Order or these Terms and Conditions including any limitation of warranty or liability, is held by a court or any governmental agency or authority to be invalid, void or unenforceable, the Parties agree to negotiate in good faith and execute a new legal and enforceable provision that to the maximum extent possible comports with the original intent of the Parties and maintains the economic and other terms to which the Parties originally agreed.

24. PUBLICITY

Neither Party is hereby granted the right to use any name, trademark, or other designation of the other Party in any advertising, publicity, or marketing activities. Neither Party will issue press releases, advertising, sales promotions or other publicity documents or information referring to the other Party without prior written consent of the other Party.

25. CHOICE OF CURRENCY

All payments shall be in U.S. Dollars unless otherwise agreed in writing.

26. U.S. GOVERNMENT CONTRACT CLAUSES

If this Order is a subcontract under a U.S. Government contract for commercial items or commercial components, then only the clauses specified in FAR 52.244-6 and DFARS 252.244-7000, as prescribed by FAR 44.403 and DFARS 244.403 respectively, shall apply, to the extent applicable to an Order of the relevant dollar value and type and to the extent of

the flow down required by the particular clause. No other prime or higher-tier subcontract clauses shall apply except as expressly identified in an Order accepted by Seller.