



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** October 6, 2022
Staff Contact: Carol Akers, Purchasing & Contracts Administrator and Sheriff Ken Furlong

Agenda Title: For Possible Action: Discussion and possible action regarding authorization to purchase equipment, software and related support services for a virtual reality training system for the Carson City Sheriff's Office ("CCSO") through InVeris Training Solutions, Inc. ("IVTS") for a total amount not to exceed \$62,500. (Carol Akers, Cakers@carson.org and Sheriff Ken Furlong, KFurlong@carson.org)

Staff Summary: If approved, this purchase will assist CCSO personnel with scenario-based training for shooting incidents, de-escalation techniques and other public and officer safety scenarios. This purchase was approved as part of the Fiscal Year ("FY") 2023 Capital Improvement Program ("CIP").

Agenda Action: Formal Action / Motion **Time Requested:** Consent

Proposed Motion

I move to approve the purchase authority as presented.

Board's Strategic Goal

Safety

Previous Action

May 19, 2022 – The Board of Supervisors approved the final budget for FY 2023, including the CIP.

Background/Issues & Analysis

This IVTS system provides a virtual reality training system. Through that system, an officer interacts with virtual individuals and will be able to speak with them and make decisions, including decisions relating to shoot and non-shooting incidents. The system analyzes officers' decision process, their movements, their shooting skills, officer safety and more. The officer can experience numerous scenario-based incidents and enhance law enforcement skills through practice in the virtual world. This system will allow for more training hours, and a greater diversity of scenario experiences, for officers who may later find themselves in a live, real-world shooting incident. This virtual system reduces the time and cost associated with live-fire shooting.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 332.115(1)(g)-(j)

Financial Information

Is there a fiscal impact? Yes

If yes, account name/number: Capital Projects Fund - Sheriff's Misc. Equipment/Fixtures Account / 2102020-506512
General Fund - Sheriff's Small Furnishings Account / 1012012-500675

Is it currently budgeted? Yes

Explanation of Fiscal Impact: Account 2102020-506512 will be reduced by a not to exceed amount of \$62,000, the amount approved through the CIP process. Account 1012012-500675 will be reduced by a not to exceed amount of \$500; the available budget is \$45,000.

Alternatives

Do not approve the purchase and/or provide alternative direction to staff.

Attachments:

[23365-22-USL Rev 2 - CCSO 2022 0819 \(Complete\).pdf](#)

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)

Carson City Sheriff's

Virtual Reality Simulator: Two Person Configuration

For Law Enforcement Training



InVeris

Because Seconds Matter

Quote



Submitted To:

Carson City Sheriff's
Captain Clay Wall
911 E. Musser St.
Carson City, NV 89701
USA
(775) 283-7885
cwall@carson.org

InVeris Point of Contact:

Robert Griffin
Sr. Sales Representative
InVeris Training Solutions
470-337-0287
Robert.Griffin@inveristraining.com

[SURVIVR company purchased by InVeris]

Doc. No.: 23365-22-USL.Rev 2
Submit Date: August 19, 2022
Valid To: 90 Days
Prepared by: Amber Pritchett
Proposal Coordinator

DESTINATION CONTROL STATEMENT: The enclosed document contains Technical Data that is subject to the Export Administration Regulations. Diversion contrary to U.S. Law is prohibited.

1 Pricing

1.1 Pricing – Base Package

Table 1 below provides pricing for items proposed as part of the Base Package.

TABLE 1 – BASE PACKAGE					
CATALOG NO.	DESCRIPTION	QTY	UNIT	UNIT PRICE (USD)	TOTAL PRICE (USD)
VR-SIMULATOR	VIRTUAL REALITY SIMULATOR: 1-Person simulator configuration with Service Package. Includes the following: <ul style="list-style-type: none"> ○ One VR head-mounted display that fully immerses a trainee into a realistic training environment. ○ One VR-Optimized Computer system with wireless adapter and two batteries. ○ One portable lighthouse tracking system with hand tracking to track the trainee in up to a 35' x 35' space. ○ One VR Toolset with one each of the following: VR Handgun, VR Rifle, VR Taser, VR OC Spray, and VR Flashlight. ○ One Desktop Computer with keyboard, external keypad, mouse, charging hub, audio/ microphone, headset & speakers. ○ Two Monitors for initial simulator (additional simulators receive one monitor). ○ Miscellaneous wires/parts. ○ One year Warranty that covers hardware. ○ One year Service Package that provides software updates and new features. 	2	LOT	\$45,000.00	\$90,000.00
VR-NETWORK KIT	MULTI-USER NETWORKING: Advanced networking software and configuration needed for multi-user functionality.	1	LOT	\$5,000.00	\$5,000.00

TABLE 1 – BASE PACKAGE

CATALOG NO.	DESCRIPTION	QTY	UNIT	UNIT PRICE (USD)	TOTAL PRICE (USD)
VR-INSTALL/ TRAIN	IN-PERSON INSTALLATION AND TRAINING: Includes on-site equipment setup and train-the-trainer onboarding.	1	LOT	\$2,000.00	\$2,000.00
SUBTOTAL (USD)					\$97,000.00
One-Time Discount (USD)					(\$34,500.00)
TOTAL PRICE (USD)					\$62,500.00

2 Notes and Assumptions

- Quote Reference:** Please reference InVeris quote number **23365-22-USL** for future correspondence with InVeris.
- Supplied by Buyer with Purchase Order:** Please fill out the attached VR Configuration Questionnaire form to be provided with Purchased Order.
- Currency:** All prices are fixed price, quoted in US Dollars, and do not include any taxes or any other fees not expressly included herein.
- Delivery:** Delivery on all items is 90 days after receipt and acceptance of order, receipt of End User Certificate, and any required United States State Dept. or Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) licensing, whichever occurs last, unless otherwise noted.
 - Delivery time frame is subject to availability of weapons from the manufacturer.
- Documentation:** All products, documentation, manuals, training, training materials, etc. will be provided in US English only in InVeris content and format. No language translations have been priced or included.
- Payment Terms:** 100% NET 30 days
- Payment Address:** InVeris Training Solutions, Inc., 296 Brogdon Road, Suwanee, GA 30024
Business Size: Large
CAGE Code: 087W6
TIN: 58-2272995

8. **Sales Tax:** If your organization is federal or state tax exempt, provide a copy of the tax exemption. InVeris is responsible for collecting sales tax in the following states: CA, CT, FL, MN, GA, IL, KY, VA, NJ, SD, and WA. If work is to be performed in any of these states under a Purchase order issued as a result of this proposal, any applicable sales tax will be added to the final invoice. If your organization is exempt from state sales tax, a copy of the tax exemption certificate will be required. Otherwise, please include the sales tax value on any resulting purchase order.
9. **Bonds:** N/A – no bonds are required.
10. **Special Markings:** Pricing does not include any special markings or certifications. If markings or certifications must be provided, a price can be provided upon request and further specifications.
11. **Design Modifications:** InVeris reserves the right to make modifications in the design of its products without prior notification.
12. **Terms and Conditions:** The InVeris Training Solutions, Inc. (InVeris) *Standard Terms & Conditions [ITSI-DOM-001REV7_08.17.2021]* incorporated by reference herein shall apply to all Open Market Items. If the Seller is awarded the contract\purchase order by the Buyer, the Seller presumes that the buying agency has followed all required competition justification. Neither party shall be in default of its obligations under this Agreement by reason of delay or failure to perform if such delay or failure arises out of causes beyond the reasonable control and without the fault or negligence of the party including, but not restricted to, acts of God, acts of governments, fires, floods, epidemics, pandemics, quarantine restrictions, terrorism, war, labor unrest and unusually severe weather ("Excusable Delay"). The party experiencing the Excusable Delay shall give prompt written notice to the other party upon such party becoming aware of any circumstance or event which may reasonably be anticipated to cause or constitute an Excusable Delay as described herein. Such notice shall contain a description of the delay and of the affected portion of the Work. If InVeris is the party experiencing the Excusable Delay, InVeris, in its discretion, may delay delivery, cancel delivery, make price adjustments and/or allocate delivery among customers as necessary due to such unexpected event and during the period of such Excusable Delay. If the Excusable Delay continues for a period of 90 days, the party not experiencing the Excusable Delay may terminate this Agreement with no cost or liabilities accruing to either party.

Consistent with the terms of the Cover Sheet for InVeris' Domestic Terms and Conditions—which provides that '[i]f Buyer takes exceptions to the terms and conditions contained herein the Buyer must request such exception in writing to the Seller and the exception is subject to the approval in writing of Seller'—InVeris and Carson City agree that—notwithstanding any provision to the contrary in the Cover Sheet for InVeris' Domestic Terms and Conditions, the InVeris proposal or quote to Carson City, Annex A, or Annex B—Carson City is not obligated to keep the existence or terms (including pricing) of any contract with InVeris confidential, and the parties expressly acknowledge that Carson City will publish the full terms of its agreement with InVeris, as required by relevant Nevada statutes (e.g. public procurements under NRS Ch. 332 and the Open Meeting Law at NRS Ch. 241.

Accepted:

Inveris Training Solutions, Inc

By: Amy Kuebsbach

Title: Sr. Contracts Specialist

Date: 8/19/2022

Accepted:

By: _____

Title: _____

Date: _____

INVERIS TRAINING SOLUTIONS, INC
Domestic Terms and Conditions

Whereas the Buyer is desirous to purchase from InVeris Training System, Inc. (ITSI) (the Seller) product and/or service identified in ITSI Proposal hereto. The terms and conditions herein shall take precedence over any other terms and conditions offered by Buyer, notwithstanding any language to the contrary in Buyer's order, unless expressly agreed to in writing by Seller. If Buyer takes exceptions to the terms and conditions contained herein the Buyer must request such exception in writing to the Seller and the exception is subject to the approval in writing of Seller

A. Terms and Conditions Agreement and Order of Precedence

The terms and conditions ("Terms and Conditions") outlined below constitute the terms and conditions applicable to any order or contract issued by Buyer or accepted by Seller pursuant to the quote, proposal or offer made by Seller to Buyer, the total of which constitutes the agreement ("Agreement") between Buyer and Seller.

This Agreement shall consist of the following, by attachment or by reference (as to any URL designated).

- I. ITSI Proposal or quote
- II. This Cover Sheet
- III. Annex A - InVeris Standard Global Terms and Conditions of Sale
- IV. Annex B- ITSI Standard Terms and Conditions.

In the event of any conflict or inconsistency in terms and conditions, the following terms have precedence in the order listed: This Cover Sheet; Annex B; ITSI Proposal; Annex A.

B. General Services Administration (GSA) Schedule Contracts – Open Market Items

The terms and conditions herein apply to items designated "Open Market" and ordered in conjunction with GSA Schedule items. These terms are exclusive for "Open Market" items and GSA Schedule terms shall not apply. If the Seller receives a purchase order for "Open Market" item(s) the Seller presumes that the buying agency has followed all required competition justifications.

C. General Services Administration (GSA) Schedule Contracts – GSA Schedule Items

In the event that a Buyer is eligible to purchase from a GSA schedule and places a purchase order for GSA schedule items then the GSA terms and conditions located at <https://www.gsaadvantage.gov> will apply to those items.

D. Defense Federal Acquisition Regulation (DFAR) 252-704.7012

InVeris Training Solutions, Inc. (ITSI) has not completed its assessment of the impact arising from the recent change to NIST 800-171 standards under DFARS 252.204-7012 (August 2015). NIST 800-171 standards are presumed to be DoD's new standards. As such ITSI does not represent that it is NIST 800-53 or NIST 800-71 compliant. ITSI requests acknowledgement in the contract that a reasonable period of time will be granted for ITSI to implement these new NIST 800-171 standards. ITSI also requests specific identification of any data or documents in the performance of this work which will be "Covered Defense Information.

ANNEX A

INVERIS STANDARD GLOBAL TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

“Buyer” means the person(s), firm, company or corporation who purchases the Product and/or Services from the Seller.

“Buyer Property” means any property of the Buyer including any equipment and tooling issued free of charge provided or made available to the Seller for the purpose of the Seller supplying the Product or performing any Services.

“Carrier” means the agent or the carrier designated by the Buyer, or if none, the agent or the carrier chosen by the Seller on the Buyer’s behalf who will accept delivery of the Products and/or Buyer Property on behalf of the Buyer and transport the same to the Buyer.

“Change Order” means any change to the Contract that has been approved in writing by the Buyer and Seller.

“Contract” means any contract between the Seller and the Buyer for the supply of Products or Services, resulting from the Buyer’s request or order placed by the Buyer, on these terms and conditions and the terms on the face of the document under which it is accepted by the Seller.

“Product” means any products, components, goods or materials agreed in the Contract to be supplied to the Buyer by the Seller (including any part or parts of them).

“Seller” means the InVeris company or corporation named on the quotation or Contract acceptance and/or who supplies the Product and/or Services.

“Services” means any services (including without limitation any maintenance, repair and overhaul services) agreed in the Contract to be provided to the Buyer by the Seller (including any part or parts of them).

2. BASIS OF ORDER AND ACKNOWLEDGEMENT

2.1 The Contract is subject to these terms and conditions to the exclusion of all other terms and conditions (including any terms and conditions Buyer purports to apply in any Contract).

2.2 A Contract shall not be effective until the Seller has issued written acknowledgment and acceptance of such Contract (notwithstanding any earlier confirmation of receipt). The Seller may in its sole discretion decline any purchase order placed by the Buyer.

2.3 Minimum order quantities and minimum Contract values, where necessary, may apply at the Seller’s discretion.

2.4 The Buyer shall ensure that the terms of its purchase order or request are complete and accurate.

2.5 No change or modification of Contracts issued shall be allowed after acceptance by the Seller unless authorized by a Change Order delivered by the Buyer and accepted in writing by the Seller.

3. DESCRIPTION AND SPECIFICATION OF THE GOODS AND SERVICES

3.1 The description, part numbers and/or specification of the Product and/or Services shall be set out in the Seller’s quotation or the Seller’s acceptance of the Contract. All drawings, descriptions, weights, dimensions, etc. and advertising issued by the Seller (for example, in the Seller’s catalogues or price lists) are issued to provide an approximate idea of the Product or Services described in them and do not form part of the Contract unless expressly stated in the Contract or otherwise agreed to in writing by the Seller.

3.2 The Buyer shall determine the suitability of the Products for Buyer’s use and/or application. The Buyer shall be solely responsible for the accuracy of the Buyer’s designs, drawings, specifications and other data supplied to the Seller by the Buyer, even if the Seller examines, inspects, studies or comments to the Buyer regarding any such designs, drawings, specifications or other data.

4. DELIVERY AND ACCEPTANCE

4.1 The Seller will arrange for the Carrier to transport the Product or Buyer Property at the Buyer’s risk and cost, and delivery will take place when the Product or the Buyer Property is made available to the Carrier at Seller’s facility.

4.2 Delivery dates are estimates only and time is not of the essence. The Seller will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Product or Buyer Property, nor will any delay entitle the Buyer to terminate or rescind the Contract.

4.3 If for any reason the Buyer does not take delivery, or the Seller is unable to deliver such Product or Buyer Property on time because the Buyer has not provided appropriate instructions, documents, licences, authorisations, etc., then such Product or Buyer Property will be deemed to have been delivered and risk shall pass to the Buyer. The Seller may at its option:

- (a) store such Product or Buyer Property until actual delivery whereupon the Buyer will be liable for all related costs and expenses (including without limitation storage and insurance); or
 - (b) reallocate or sell such Product or Buyer Property at the best price readily obtainable (after providing not less than thirty (30) days prior written notice to Buyer). Seller may charge the Buyer for any shortfall below the Contract price or account to the Buyer for any excess (after deducting all reasonable survey, repair, storage and selling expenses).
- 4.4 The Buyer shall promptly notify the Carrier of any damage to, loss from or non-receipt of any Product or Buyer Property if transportation has been arranged by or on behalf of the Buyer. The Seller shall not be liable for any such damage, loss or non-receipt.
- 4.5 The Buyer may arrange for testing and inspection of the Product before shipment at the Seller's facility. If the Buyer has conducted such inspection, the Seller shall not be liable for any claim made after shipment in respect to any defect in the Product which would have been apparent upon such inspection.
- 4.6 The Seller may, at its option, make partial shipments of Product and invoice the Buyer for each shipment individually in which case each delivery shall constitute a separate contract. Failure by the Seller to deliver any one or more of the shipments in accordance with these terms and conditions or any claim by the Buyer in respect of any one or more shipments shall not entitle the Buyer to repudiate the whole Contract or refuse to accept subsequent shipments. The Buyer shall accept any early delivery.
- 4.7 The Buyer will be deemed to have accepted the Product as being in accordance with the Contract, the Seller shall have no liability for any defect or failure and the Buyer shall be bound to pay the price unless:
- (a) within 15 days of the date of delivery of the Product, the Buyer notifies the Seller in writing of any defect apparent upon inspection of the Product to conform with the Contract; or
 - (b) the Buyer notifies the Seller in writing of any failure of the Product to conform to the Contract within a reasonable time where the defect or failure would not be so apparent within 15 days of the date of delivery.

5. PASSING OF RISK AND TITLE

- 5.1 The risk in Products or Buyer Property shall pass to the Buyer on delivery as set forth herein.
- 5.2 Full legal, beneficial and equitable title to the Products shall remain vested in the Seller (even though they have been delivered and risk has passed to the Buyer) until:
- (a) payment in full, in cash or cleared funds, for all the Products has been received by the Seller; and
 - (b) all other money payable by the Buyer to the Seller on any other account or under the Contract or any other contract or order has been received by the Seller.
- 5.3 Until full legal, beneficial and equitable title to and property in the Products passes to the Buyer:
- (a) the Buyer shall hold the Products on a fiduciary basis as the Seller's bailee and shall store the Products at its premises, insure them without any

- charge to the Seller, and keep them clearly identifiable as belonging to the Seller;
- (b) the Seller may, on demand and without prior notice, repossess and resell the Products if any of the events specified in Section 12.3 occurs or if any sum due to the Seller from the Buyer is not paid when due and for this purpose, the Seller, its employees, agents and sub-contractors will be entitled to unrestricted access to any premises where any of the Products are situated.

~~5.4 The Seller hereby authorises the Buyer to use and/or sell the Products in the normal course of the Buyer's business and to pass good title in the Products to its purchasers, if they are purchasers in good faith without notice of the Seller's rights. This right shall automatically cease on the occurrence of any event set out in Section 12.3 and/or if any sum owed to the Seller by the Buyer is not paid when due. If the Buyer sells the Products or Services prior to paying the full price thereof the Buyer shall hold the proceeds of sale on trust for the Seller.~~

- 5.5 The Seller's rights and remedies set forth herein are in addition to and shall not in any way prejudice, limit or restrict any of the Seller's other rights or remedies under the Contract or in law or equity. The Seller shall be entitled to maintain an action against the Buyer for the price of the Products or Services notwithstanding that legal, equitable and beneficial title to and property in the Products or Services has not passed to the Buyer.
- 5.6 Title to the Buyer Property shall at no time pass to the Seller unless the Buyer specifically agrees otherwise in writing, or Sections 4.3 (b) or 13.3 apply.
- 5.7 Risk in the Buyer Property shall pass to Seller on delivery to the Seller and remain with the Seller at all times while in the Seller's possession or control.

6. CONTRACT PRICE

- 6.1 The price charged in respect of Product or Services supplied shall be the price that is current at the date of delivery. The Seller reserves the right to adjust prices where necessary before a Contract is accepted notwithstanding the prices stated in any price list or quotation. The Seller shall not normally perform Services until the Buyer has confirmed its agreement to the estimated price.
- 6.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Product or Services to reflect any increase in the cost to the Seller which is due to any factor beyond the Seller's control (such as, without limitation, any increase in the costs of labour, materials, or other costs of manufacture or supply); any change in the quantities of the Product requested by the Buyer; any change in the delivery dates of the Product or Services requested by the Buyer; or any delay or cost caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 6.3 Unless otherwise agreed in writing, the price for the Product or Services shall be exclusive of any taxes (including sales tax) or levies and the Buyer will pay all costs and charges in relation to packaging (other than standard packaging), loading, unloading, carriage, freight and insurance, where appropriate.

7. PAYMENT TERMS

- 7.1 Payment for the Products and/or Services is due 30 days after the date of the Seller's invoice. The Seller may issue a separate invoice for each Contract or for each shipment (if more than one) under a Contract. The Buyer shall pay the amount stated in the Seller's invoice in the currency required by the invoice in immediately available funds, without any deduction whether by way of set-off, withholding, counterclaim, discount, abatement or otherwise. Payment must be made to the Seller at the address or account stated on the invoice.
- 7.2 The Seller reserves the right to revise payment terms at any time and to request guarantees, security, stage payments or cash in advance for the Products and/or Services. The Seller may, at its discretion, refuse or limit deferred payment terms to the Buyer.
- 7.3 The Seller may agree to accept payment for the Products and/or Services by credit card provided that the Buyer shall in addition to the price of the Products or Services pay any charge levied by the credit card company in respect of such transaction.
- 7.4 Notwithstanding any other provision, all payments payable to the Seller under the Contract shall become due immediately upon termination of this Contract for whatever reason.
- 7.5 If any sum due from the Buyer to the Seller under the Contract or any other order is not paid to the Seller on or before the due date for payment, then all sums then owing by the Buyer to the Seller or any affiliate of the Seller shall become due and payable immediately and, without prejudice to any other right or remedy available to the Seller, the Seller and any affiliate shall be entitled to:
- cancel or suspend performance of the Contract or any other contract or order placed with the Seller or any affiliate including suspending deliveries of the Product, Services or any other goods until arrangements as to payment or credit have been established which are satisfactory to the Seller; and/or
 - require the Buyer to pay for Products or Services prior to shipment from the Seller's place of business; and/or
 - charge the Buyer interest calculated on a daily basis on all overdue amounts (both before and after judgment) until actual payment at the rate of four per cent (4%) per annum above the London Interbank Offered Rate (LIBOR) prevailing from time to time (or such other rate which is legally permissible) until payment is made in full.

8. WARRANTY

- 8.1 The Seller warrants that the Products furnished hereunder shall, at the time of delivery, be free from defects in material and workmanship. Services shall be performed with reasonable skill and care.
- 8.2 If the Buyer submits to the Seller reasonable written details (on Seller's prescribed form if required) establishing a breach of the warranty set forth above, the Seller's liability for failure of any Product or Service to comply with the foregoing shall be limited to replacing or repairing that

Product and/or to re-performing the Services found to be defective within six months of delivery. Such Product will be repaired or replaced, at the Seller's option, or Services re-performed, without charge, and re-warranted for the remainder of the original warranty period.

- 8.3 Seller shall pay all reasonable return packaging and transportation costs of a valid warranty claim. Seller is not liable for the removal of Products from, or installation of the Product into, any other property to which it may be attached or incorporated.
- 8.4 Seller may require the Buyer to deliver back Product or materials which have been replaced and legal title to the replaced Product shall re-vest in the Seller.
- 8.5 Seller's performance of one of the above options shall constitute an entire discharge of Seller's liability for breach of the warranty.
- 8.6 For Product that is returned under warranty and is tested and no fault found, the Seller will be entitled to reimbursement from the Buyer for reasonable charges incurred for transportation, testing and evaluation.
- 8.7 For any Product not manufactured by Seller, the Buyer shall only be entitled to the benefit of any warranty or guarantee given by the manufacturer to the Seller, to the extent that it is assignable by the Seller to the Buyer.
- 8.8 The Seller shall not be liable under the warranty in any of the following circumstances: (i) Products or parts thereof which have been modified, altered, installed, used or serviced other than in conformity with Seller's applicable specifications, manuals, bulletins or instructions, or which shall have been subjected to improper installation, misuse or neglect; (ii) Products that have not been maintained and operated in accordance with the Seller's instructions; (iii) normal wear and tear, willful or accidental damage, harsh environment, experimental running; (iv) Products or parts thereof furnished by Buyer or acquired from others at Buyer's request and/or to Buyer's specifications, and use of components not manufactured by or authorized by the Seller in the Products; (v) Products which are expendable in nature, such as, but not limited to, diodes, transistors, o-rings, tyres, flexible hoses, seals, igniter plugs or fuses; (vi) Product with a stated shelf life or 'use by' date, if such shelf life has expired or 'use by' date has passed; (vii) tooling purchased or made for the purpose of manufacturing the Products; (viii) the Buyer or its customer fails to afford the Seller a reasonable opportunity to inspect the Products or Services performed; (ix) the price for Products or Services, or any other goods or services supplied by the Seller or its affiliates, has not been received in full.
- 8.9 Minor deviations from specifications which do not affect performance of the Products shall not be deemed to constitute defects in materials or workmanship or a failure to comply with the specifications referred to herein. The need for regular overhaul of warranted equipment shall not constitute a defect or failure under this warranty.
- 8.10 THERE ARE NO OTHER WARRANTIES, CONDITIONS OR TERMS, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE.**

9. EXCLUSION AND LIMITATION OF LIABILITY

- 9.1 These terms and conditions set out the entire liability of the Seller (including any liability for the acts or omissions of its sub-contractors) in respect of Products or Services supplied by the Seller and any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 9.2 Nothing in these terms and conditions shall exclude or limit the Seller's liability for death or personal injury caused by the Seller's negligence or for fraudulent misrepresentation or for any liability that cannot legally be excluded or limited. ANY LIMITATION OR EXCLUSION OF LIABILITY SHALL APPLY TO THE EXTENT PERMITTED UNDER APPLICABLE LAW.
- 9.3 THE SELLER SHALL NOT BE LIABLE FOR ANY ECONOMIC LOSS OF WHATEVER NATURE (WHETHER OR NOT SUCH LOSS OR DAMAGE WAS FORESEEN, DIRECT, FORESEEABLE, KNOWN OR OTHERWISE), INCLUDING LOSS OF ANTICIPATED PROFITS, LOSS OF ACTUAL PROFITS (DIRECT OR INDIRECT), LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER CAUSED OR ANY LOSSES ARISING AS A RESULT OF ANY THIRD PARTY BRINGING A CLAIM OF ANY NATURE WHATSOEVER.
- 9.4 SUBJECT TO SECTION 9.2 ABOVE, THE TOTAL AGGREGATE LIABILITY OF THE SELLER ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR CONTEMPLATED PERFORMANCE OF THE CONTRACT WHETHER FOR NEGLIGENCE OR BREACH OF CONTRACT OR ANY CAUSE WHATSOEVER SHALL IN NO EVENT EXCEED THE PRICE PAID BY THE BUYER FOR THE PRODUCT OR SERVICES GIVING RISE TO THE BUYER'S CLAIM. NOTWITHSTANDING ANY OTHER TERMS AND CONDITIONS OF THE CONTRACT, THE SELLER SHALL HAVE NO LIABILITY FOR THE USE BY THE BUYER OF COMPONENT PARTS IN THE PRODUCT WHICH ARE NOT MANUFACTURED BY OR AUTHORISED BY THE SELLER.
- 9.5 The Products or Services are not designed or manufactured for clinical use and are not approved by the US Food and Drug Administration or other agencies for clinical or medical applications. Buyer agrees to indemnify and hold Seller harmless from and against any and all claims, actions, judgments, orders, awards, costs and/or expenses, on account of bodily injury including death and/or property damages sustained by Buyer, Buyer's employees and/or third parties which arise out of or in connection with the medical or clinical use of the Products or Services.

10. SUBCONTRACTING, ASSIGNMENT AND THIRD PARTY RIGHTS

- 10.1 The Buyer shall not be entitled to assign, charge, subcontract or transfer the Contract or any part of it without the prior written consent of the Seller.
- 10.2 The Seller may assign, charge, subcontract or transfer the Contract or any part of it to any person, including its affiliate companies, without the consent of the Buyer.
- 10.3 Other than affiliates of the Seller, a person who is not a party to the Contract (including without limitation any employee, officer, agent, representative or sub-contractor of either party) shall not have any right to enforce any term of the Contract which expressly or by implication confers a benefit on that person without

the express prior agreement in writing of the Seller and the Buyer.

- 10.4 Without prejudice to the intention of the parties to give no rights to the third parties under the Contract, any term of the Contract can be varied and the Contract can be cancelled or terminated without the consent of any third party who might benefit from its terms or have enforceable rights under the Contract.

11. FORCE MAJEURE

- 11.1 The Seller shall not be held liable for delay or failure in shipment or delivery of the Products or Services due to any cause beyond the reasonable control of the Seller, including, without limitation, war, fire, flood, strikes or other labour disturbance, accidents, Act of God, governmental order or requirement, interruption, obsolescence or shortage of materials, transportation facilities or energy supply, or events beyond the reasonable control of its suppliers or subcontractors ("Force Majeure") and the Seller shall be excused from deliveries to the extent that deliveries may be prevented or delayed by the foregoing Force Majeure. During any such Force Majeure, the Seller will endeavour in good faith to allocate deliveries fairly among its buyers but expressly reserves in its discretion, without liability to the Buyer, the final determination of deliveries to be made. If said Force Majeure continues for a continuous period in excess of ninety (90) days the Seller may terminate the Contract without liability by providing written notice to the Buyer.

12. CONTRACT CANCELLATION, BREACH OF CONTRACT AND INSOLVENCY

- 12.1 The Buyer may only cancel a Contract (or any part of a Contract) which the Seller has already accepted, with the Seller's prior agreement in writing and provided the Buyer indemnifies the Seller in full in terms established by the Seller. Cancellation charges may apply to such cancellation including but not limited to: (i) all amounts due under the Contract in respect of work performed and/or Products delivered up to the date of cancellation, including all applicable overhead and profit; (ii) any sums which have been paid by the Seller or become payable as a result of the cancellation to its subcontractors and supply chain to procure all or any part of the Products or Services for the Buyer's requirements including all applicable overhead and profit; (iii) the cost of any work, materials and tooling incurred by the Seller, including initial costs, overhead, profit and preparatory expenses allocable thereto, used exclusively by the Seller to supply the Products and Services; (iv) any non-recurring engineering and project investment costs not paid by the Buyer or recovered by the Seller under the Contract; (v) the costs of settling and paying any losses, damages or claims arising out of the termination of work and (vi) reimbursing any other reasonable and proper sums suffered or incurred by the Seller solely in connection with or resulting from the cancellation of the Contract including without limitation overhead and the profit the Seller would have earned under the Contract.

- 12.2 The Buyer shall pay the Seller all cancellation charges within thirty (30) days of the date of Seller's demand.
- 12.3 In the event (a) the Buyer commits a breach of any of its obligations under the Contract and fails to remedy such breach within a period of 14 days; or (b) the Buyer fails to make payment under the Contract when due, or suspends payments or is unable to pay its debts as they fall due; or (c) of the institution of any proceedings by or against the Buyer, voluntary or involuntary, in bankruptcy or insolvency or for the appointment of an administrator, administrative receiver, receiver or trustee or an assignee for the benefit of creditors of the business or property of the Buyer; or (d) the Buyer suffers or undergoes an analogous procedure in the country in which the Buyer is established; or (e) the Buyer ceases, or threatens to cease, to carry on business; or (f) the Seller reasonably believes that any of the above events is about to occur in relation to the Buyer, then the Seller shall be entitled to cancel this Contract forthwith by written notice without prejudice to any rights arising prior to said cancellation. The Buyer shall pay cancellation charges as set out in this section.

13. CARE AND USE OF THE BUYER PROPERTY

- 13.1 It shall be the Buyer's responsibility to ensure that any tooling and/or material issued free of charge and other Buyer Property delivered to the Seller by the Buyer or on its behalf is safe and suitable for manufacture of or incorporation into Products or for the Services to be performed in accordance with all regulatory guidelines and procedures.
- 13.2 The Seller shall use the Buyer Property solely for the purpose of the Contract and shall at the Buyer's expense maintain the Buyer Property in good order, condition and repair while it is in the Seller's possession or control.
- 13.3 On completion or termination of the Contract, unless otherwise directed by the Buyer in writing, the Seller shall return the Buyer Property to the Buyer. If the Buyer does not collect or accept delivery of such Buyer Property, the Seller may, after giving not less than thirty (30) days' prior written notice, take reasonable steps to sell such Buyer Property at the best price readily available and account to the Buyer for any excess after deduction of all reasonable storage and selling expenses.
- 13.4 Without prejudice to any other rights and remedies which the Seller may have under the Contract, the Seller shall, in respect of all debts owed by the Buyer to the Seller, have a general lien on any of the Buyer Property in the Seller's possession and the Seller shall be entitled after thirty (30) days' prior written notice to the Buyer to dispose of such of the Buyer Property as the Seller thinks fit and to apply any proceeds of sale towards the payment of such debts.

14. EXPORT AND GOVERNMENTAL COMPLIANCE

- 14.1 Each party agrees to comply with all applicable governmental regulations as they relate to the import, export and re-export of information and/or Products and/or Buyer or Seller Property. Without limiting the foregoing, neither the Buyer nor the Seller shall disclose or deliver any information or Products and/or Buyer or Seller Property provided hereunder in any manner contrary to any applicable export or import laws and regulations. The Buyer and the Seller acknowledge that these laws and regulations impose restrictions on import, export and transfer to third countries of certain categories of information and products, and that authorisations/licences from the applicable regulatory agency may be required before such information and Products and/or Buyer or Seller property can be disclosed or delivered hereunder, and that such authorisations/licences may impose further restrictions on use and further disclosure or delivery of such information and Products and/or Buyer or Seller Property.
- 14.2 The Seller shall not be liable for delays or refusals by governmental authorities or other authorities to grant licences or approvals, nor for suspension or revocation thereof, nor for changes in export classification. Buyer must deliver requested information, including requested end-user information, necessary for export licences to be granted and or necessary for the Seller to determine if a licence or other type of authorisation is required.
- 14.3 In relation to both domestic and international transactions, Buyer must provide Seller with export classification information for all Buyer property and information delivered to Seller in relation to this Contract. Export classification information includes the applicable export control number, the country of origin and, for hardware only, the Harmonized Tariff Code. Seller will supply Buyer with similar export classification information for Products and/or information for which Seller has design authority. Buyer/ Seller will promptly notify the other upon a change in classification information.

15. NOTICES

- 15.1 Any notice to be given under this Contract shall be sufficient if it is in writing, to the attention of the chief executive officer of the other party, or otherwise as directed by each party from time to time, and delivered personally, or via registered or certified mail (postage prepaid with return receipt requested) (with a request for confirmation in a manner typical to the communication types listed previously). Notice shall be deemed sent and received on the date of actual receipt at the other party's principal place of business.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1 Any intellectual property rights (including, without limitation, patents, registered and unregistered designs, trademarks and service marks (registered or not) and copyright and any applications for them) in the Products or Services or in any molds, tools, designs,

drawings, or production data owned by the Seller or created by the Seller in the course of the performance of the Contract or otherwise used in the manufacture of the Products or the provision of the Services shall remain the Seller's property unless otherwise expressly agreed by the Seller. The Seller grants, on full payment for the Products or Services the non-exclusive right for the Buyer and bona fide purchasers from the Buyer to use, for the operation of the Products or Services for their intended purpose only, (a) any software supplied with, or embedded in, the Products and Services, and (b) technical manuals and instructions relating to operation and maintenance of the Products and Services. The Buyer hereby grants to the Seller, a non-assignable non-exclusive, royalty-free licence to use any intellectual property rights (including, without limitation, patents, registered and unregistered designs, trademarks and service marks (registered or not) and copyright and any applications for them) owned by the Buyer to the extent necessary for the Seller to supply the whole or any part of the Products or Services in accordance with the Contract. Except as expressly stated herein, nothing in the Contract shall be deemed to have given the Buyer a licence or any other right to use any of the intellectual property rights of the Seller unless otherwise expressly agreed by the Seller.

17. CONFIDENTIALITY

- 17.1 The Buyer and Seller shall each keep confidential and shall not, without the prior written consent of the other, disclose to any third party or otherwise make public the terms or existence of the Contract or any other confidential or sensitive information of the other.
- 17.2 The Buyer agrees that it will not exhibit the Seller's Product, advertisements or price lists relating to any of the Seller's Product or Services without the prior written consent of the Seller.

18. GENERAL

- 18.1 Nothing in the Contract shall create, or be deemed to create a partnership or joint venture or relationship of employer and employee or principal and agent between the parties.
- 18.2 The rights and remedies of the Seller in respect of the Contract shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by the Seller nor by any failure of or delay by the Seller in ascertaining or exercising any such rights or remedies. The waiver by the Seller of any breach of the Contract shall not prevent the subsequent enforcement of the Contract and shall not be deemed to be a waiver of any subsequent breach of that or any other terms and conditions.
- 18.3 If at any time any one or more of the terms of the Contract or any part of one or more of these terms and conditions is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from the Contract and the validity and/or enforceability of the remaining terms and conditions of the Contract shall not in any way be affected or impaired as a result of that omission.
- 18.4 The Contract sets out the entire agreement and understanding between the Buyer and the Seller in connection with the sale of the Product or Services and

shall supersede and replace all documentation previously issued by the Seller or the Buyer. In case of conflict, agreed terms appearing on the face of the Contract shall take precedence over these terms and conditions, and these terms and conditions take precedence over any other documents referred to in the Contract.

- 18.5 Headings are for reference only and shall not affect the interpretation of these terms and conditions.

19. LAW AND JURISDICTION

- 19.1 The Contract shall in all respects be construed according to and governed by the laws of the jurisdiction in which Seller is located, or if the Seller is organised under the laws of a state of the United States of America it shall be governed by the laws of the state of Georgia. All disputes shall be referred to and resolved by binding arbitration in London under the Rules of the London Court of International Arbitration except for Seller companies located in the United States of America, for which the binding arbitration shall be administered in Fulton County, Georgia by JAMS pursuant to its Streamlined Arbitration Rules and Procedures.
- 19.2 The United Nations Conventions on Contracts for the International Sale of Product 1980 shall not apply to any aspect of this Contract.

Issue: 3 April 2013

Annex B

ITSI Standard Terms and Conditions

The terms herein replace or modify the terms in Annex A, as set forth below:

Section 5 Passing of Risk and Title:

Section 5.4: Delete in its entirety

Section 5.8 is hereby added:

Seller hereby grants Buyer a non-exclusive, non-transferable, non-sublicensable, revocable license to the software. Buyer may not, and may not permit or assist others to: (i) rent, lease, sell, sublicense, loan, time-share, publicly display or perform or otherwise transfer or distribute the software; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code of, the software; (iii) modify, adapt, create derivative works of, merge, or translate the software; (iv) use the software whereby third parties are provided access to or use of the software in return for compensation; or (v) remove, alter or obscure ITSI's proprietary notices affixed to or contained in the software.

Seller hereby reserves all copyright, trademark, patent, trade secret and other intellectual property rights in and to the software not expressly granted herein. The software is licensed to Buyer and not sold.

SECTION 7. PAYMENT TERMS

Section 7.6 is hereby added:

Remittance address for payment is as follows:

Bank Name: Capital One Bank

Address: Glen Allen, VA 230660

Account No.: 1361452213

ABA Number: 065000090

Account Name: InVeris Training Solutions, Inc.

Section 8. Warranty

Section 8.2 Delete and replace with the following Paragraph:

If the Buyer submits to the Seller reasonable written details (on Seller's prescribed form if required) establishing a breach of the warranty set forth above, the Seller's liability for failure of any Product or Service to comply with the foregoing shall be limited to replacing or repairing that Product found to be defective within twelve months of delivery, and/or to re-performing the Services. Such Product will be repaired or replaced, at the Seller's option, or Services re-performed, without charge, and re-warranted for the remainder of the original warranty period.

Section 8.8 Delete and replace with the following paragraph:

The Seller shall not be liable under the warranty in any of the following circumstances: (i) products thereof which have been modified, altered, installed, used or serviced other than in conformity with Seller's applicable specifications, manuals, bulletins or instructions, or which shall have been subjected to improper installation, misuse or neglect; (ii) products that have not been maintained and operated in accordance with the Seller's instructions; (iii) normal wear and tear, willful or accidental damage, harsh environment, experimental running; (iv) products thereof furnished by Buyer or acquired from others at Buyer's request and/or to Buyer's specifications, and use of components not manufactured by or authorized by the Seller in the Products; (v) products which are expendable in nature, such as, but not limited to, diodes, transistors, o-rings, tires, flexible hoses, seals, igniter plugs, fuses, or batteries; (vi) products with a stated shelf life or 'use by' date, if such shelf life has expired or 'use by' date has passed; (vii) tooling purchased or made for the purpose of manufacturing the Products; (viii) the Buyer or its customer fails to afford the Seller a reasonable opportunity to inspect the products or Services performed; (ix) the price for products or Services, or any other goods or services supplied by the Seller or its affiliates, has not been received in full; (x) Power failures or surges, lightning, fire, flood, pest damage, actions of third parties, and any other event outside ITSI reasonable control; (xi) system consumables such as printer ink, paper, compressed CO2, compressed air, compressed nitrogen, laser insert batteries, or projector bulbs; (xii) Cathode Ray Tubes (CRTs) & projector Liquid Crystal Display (LCD) panels as image burn-in is a result of normal usage of the simulator; the rate at which image burn-in can occur is a function of operational usage. Accordingly, CRT/LCD image burn-in shall not be liable under the warranty; (xiii) Use of weapons or ammunition with bullet weights, velocities, or construction of materials not specifically authorized in

published specifications or other documents; (iv) failure of, or be attributable to, fuses, batteries or indicators after ninety (90) days of shipment.

Section 8.11 Maintenance of Live Fire Systems is hereby added:

All Seller's equipment is carefully designed to minimize the risk of failure. Proper maintenance and cleaning of the system is critical in this regard, and because maintenance and cleaning are beyond the control of Seller, Seller does not assume any liability or responsibility for equipment\deliverables.

Section 8.12 Spare Parts Availability is hereby added:

ITSI shall provide spare parts, at a price to be determined, as long as they are available from ITSI's vendors. In the event parts become obsolete, ITSI will recommend suitable replacements and advise if any additional development effort is required.

Section 8.13 Buyer Furnished Equipment is hereby added is hereby added:

The term Government Furnished Equipment; Customer Furnished Equipment; and Customer Furnished Property used in this Proposal all refer to any property which is supplied by the Customer or Buyer.

Contact ITSI Compliance Manager at US, 678 288 1202 (telephone), 678 288 1535 (fax)

For Equipment Returned for Warranty Repair:

For warranty repair/service shipments of any simulated weapon being returned to ITSI or shipment of customer furnished equipment (CFE). The Compliance Manager will at that time determine the Clearing Agent to be used in the United States. The customer will then include the following statement on all Bills of Lading and Custom's Invoices for the simulated weapon being returned to ITSI for service:

CLEARING AGENT-(To be supplied by Compliance Manager)

ITAR EXEMPTION: 22CFR 123.4(a)(1) is applicable

Section 8.14 Electrical Equipment and Repair is hereby added:

Electrical equipment includes only those electrical components referred to in the quotation. Changes to electrical equipment to comply with any local, state, or provincial regulations are the Buyers responsibility. All line and low voltage wiring and all applicable hardware to include (flexible or rigid) raceways/conduits, junction boxes, lighting fixtures, etc., are to be furnished and installed by Buyers Electrical Contractor.

Section 11 Force Majeure Delete and replace with the following paragraph:

Neither party shall be in default of its obligations under this Agreement by reason of delay or failure to perform if such delay or failure arises out of causes beyond the reasonable control and without the fault or negligence of the party including, but not restricted to, acts of God, acts of governments, fires, floods, epidemics, pandemics, quarantine restrictions, terrorism, war, labor unrest and unusually severe weather ("Excusable Delay").

The party experiencing the Excusable Delay shall give prompt written notice to the other party upon such party becoming aware of any circumstance or event which may reasonably be anticipated to cause or constitute an Excusable Delay as described herein. Such notice shall contain a description of the delay and of the affected portion of the Work. In the event that ITSI is the party experiencing the Excusable Delay, ITSI, in its discretion, may delay delivery, cancel delivery, make price adjustments and/or allocate delivery among customers as necessary due to such unexpected event and during the period of such Excusable Delay. If the Excusable Delay continues for a period of 90 days, the party not experiencing the Excusable Delay may terminate this Agreement with no cost or liabilities accruing to either party.

Section 14. Export and Governmental Compliance

Section 14.4 is hereby added:

Each party agrees that it shall be bound by the laws and regulations of Laws of the United States and the destination regarding weapons security and handling of Articles and Data. This specifically includes United States International Traffic Arms Regulations, and any Similar Export and Security Regulations of the foreign Government.

The information which the Parties disclose and articles which the Parties ship to each other pursuant to this

Agreement may be subject to the provisions of the trade compliance regulation of various countries [e.g., in the United States, the Export Administration Act of 1979 (50 USC 2401-2420), the Export Administration Regulations promulgated there under (15 CFR 730-774), and the Arms Export Control Act of 1976 (22 USC2778), and the International Traffic in Arms Regulations promulgated there under (22 CFR 120-130)] and the Foreign Corrupt Practices Act (FCPA). The Parties acknowledge that these statutes and regulations impose restrictions on import, export, re-export and transfer to third countries of certain categories of data, technical services, information and articles, and that licenses from the applicable regulatory agency (e.g., in the United States, the US Department of State and/or the US Department of Commerce) may be required before such data, technical services, information and articles can be

disclosed or shipped hereunder, and that such licenses may impose further restrictions on use and further disclosure of such data, technical services, information and articles. Disclosure of such data, technical

services, and information, and shipment of such articles to nationals of other than the approved end user, is subject to the above referenced regulations. The Parties agree to comply with all applicable governmental regulations

mentioned above as they relate to the import, export and re-export of data, technical services, information and articles under this Agreement. Each Party shall indemnify and hold the other Party harmless to the full extent of any loss, damage or expense, excluding lost profits, for any failure of the Party to comply with the above referenced laws and regulations. The contract award document from the Buyer must be accompanied by an end user certificate in order to initiate the export approval process. For assistance contact Seller's Compliance Manager at US, 678 288 1202 (telephone), 678 288 1515 (fax). Seller shall be responsible for obtaining all necessary export clearance, license, and permits from the country of origin to the country of destination.

Section 14.5 Destination Control Statement is hereby added:

This technical data is controlled under the International Traffic in Arms Regulations (ITAR). It may not be re-exported, transferred or diverted from the country of end-use or from the authorized foreign end-user or disclosed to a national of another country without the prior written approval of the Directorate of Defense Trade Controls.

Section 16. Intellectual Property Rights

Section 16.2 is hereby added:

Seller shall fully indemnify, defend and hold harmless Buyer and its affiliates, officers, directors, agents, employees, customers and assigns (the "Indemnified Parties") from and against any and all claims, losses, liabilities, damages and costs (including reasonable attorneys' fees and court costs) in respect of any claim, demand, threat, suit or proceeding, of intellectual property infringement, by any third party for Products delivered hereunder, except in the case of intellectual property infringement where the claim arises as a necessary consequence of Seller's compliance with specifications or designs furnished by Buyer, or as a result of Buyer's modification to Product, or Buyer's combination of Seller's otherwise non-infringing Product with another product, and Buyer agrees to hereby defend and hold Seller and Seller's Sellers harmless to the same degree and extent recited in Seller's indemnity to Buyer here above. Buyer shall notify Seller promptly of any third party claim in connection with the foregoing, and shall cooperate reasonably with Seller in connection therewith (at Seller's expense), in the defense or settlement of the foregoing.

Buyer shall have the right at its own expense to be represented in any action related to the foregoing by counsel of its own choice, and shall cooperate reasonably with Seller with respect to such litigation. Seller shall have full control over the defense of the claim, action, suit or proceeding, including settlement, at Seller's sole option.

If Seller receives notice of a claim, demand, threat, suit or proceeding regarding alleged intellectual property infringement by the Products, or if in Seller's judgment such a claim is likely, Seller may, at its sole expense and option, procure for Buyer ownership of, or the right to continue using and selling, the Products, modify the Products so that they are no longer infringing or misappropriating, or replace the Products with other items of the same technical specifications and the same or better functionality and performance, which shall, be considered Products.

Section 16.3 is hereby added:

Any authorized use is subject to the following conditions:

- A. The Software Information shall be used solely in support of this Contract;
- B. The Software Information shall not be reproduced or copied, in whole or in part, except as necessary for use as authorized herein; and
- C. The Software Information shall, together with any and all copies thereof, be returned to Seller when no longer needed or permitted for use in connection with the purposes for which it was initially furnished.

The Data and Software (Background and Foreground) Information shall be treated as **Confidential and Proprietary Information.**"

Section 17. Confidentiality

Section 17.3 is hereby added:

The parties (Seller & Buyer) agree and acknowledge that both parties, during the term of this Contract, may have access to or be exposed to certain data, information, observations, or documents pertaining to the technology, business, clients, customers, or products of the other party which is regarded by the other party as confidential and proprietary. As used herein, "Confidential Information" shall include any information which (a) is not generally known or readily ascertainable by other persons, and (b) derives economic value (whether actual or potential) from not being generally known or readily ascertainable by other persons who can obtain economic value from its disclosure or use. Assuming the foregoing criteria are met, examples of such Confidential Information include, but are not limited to, lists of actual or prospective

customers; bid and pricing information; technical knowledge of existing or proposed systems (including without limitation computer programs, systems components and processes, and unpatented inventions, discoveries, or improvements); marketing, manufacturing, and business plans; and information concerning planned or pending acquisitions or divestitures. Each party agrees that it will not divulge or disclose to any third party (and that its employees or subcontractors or their employees will not divulge or disclose to any third party) any Confidential Information of the other party. Each party agrees that it will protect the Confidential Information of the other party through the exercise of no less protection and care than is customarily used in safeguarding its own confidential information which it desires to maintain in confidence. Neither party shall use any Confidential Information of the other party except to the extent necessary to effectuate the provisions and purposes of this Contract, and under the strict terms of this Contract

Section 18. General

Section 18.4 Delete and replace with the following sentence:

In the event of any conflict or inconsistency in terms and conditions, the following terms have precedence in the order listed: The Cover Sheet, Annex B, ITSI Proposal, Annex A.

Section 20. "Indemnity" is hereby added:

The Buyer shall indemnify, defend and hold harmless the Seller, its officers, employees, agents and suppliers from and against any and all damages, losses, liabilities and expenses (including reasonable attorneys' fees) arising out of or relating to any third party claims, causes of action, lawsuits or other proceedings, regardless of legal theory, that result, in whole or in part, from the Buyer's (or any of the Buyer's subcontractors, suppliers, employees, agents or representatives) any intentional misconduct, negligence, fraud in the use of Seller's products or use contrary to Seller's operating directives or limitations.

Section 21 Changes is hereby added:

Should at any time during the period of this Contract, either party desire to make a change to the Contract, the Party desiring the change shall submit to the other Party a written request specifying the details of the desired change. The Party receiving the change request shall reply within thirty (30) days, or such other time as the Parties agree upon by a written notice of his desire to perform or not perform the requested change. If it is mutually agreed to proceed with the change, if applicable, the Seller shall submit a written priced proposal for the change. Upon mutual agreement as to the terms of the change, shall be incorporated into this Contract via a formal amendment signed by an authorized representative of each Party. Unless otherwise agreed to in writing by the change request and reply, neither Party shall be obligated to start work on the requested change until the formal amendment has been made a part of this Contract through execution. In case of any contradictions between the Contract statement and the new amendment, the new amendment shall prevail.

Section 23 Differing Site Conditions is hereby added:

The Buyer shall promptly, and before the conditions are disturbed, give a written notice to the Seller of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in the contract or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided in the contract.

After receiving notice from the Seller, the Buyer shall investigate the site conditions and provide a written response to Seller's written condition statement within seven (7) calendar days. If the parties agree that the conditions do materially differ and cause an increase in Seller's costs, or the time required for, performing any part of the work under the contract, then a Change Order or contract modification shall be agreed to and executed within seven (7) calendar days.

It is the Buyer's responsibility to ensure that site conditions do not materially differ from contract terms. Seller shall bear no risk or liability for material deviations in site conditions including, but not limited to, any added costs.

These risks, liabilities and costs shall be borne by the Buyer and may include, among other things, any additional work necessary for performance of the contract including adjustments to the site, products or services as well as any penalties, interest, lost income, added labor or materials and associated costs, storage fees and any other subsequent

increase in cost or decrease in revenue to Seller that was or was not reasonably foreseeable

Section 24 Obsolescence is hereby added:

Obsolescence means: when a part is no longer available from its original manufacturer.

Orders placed with the Seller are subject to the availability of parts and materials. If for any reason during the term of the orders, any part necessary for the manufacture of the Component becomes unavailable due to Obsolescence, the Seller, at its sole discretion, shall have the right to implement one of the following:

Utilize a functionally equivalent replacement part in the manufacture of the Component; or

With the agreement of the Buyer, negotiate a "last-time-buy" of parts/components going obsolete.

Submit a revised proposal to include changes in recurring cost, delivery schedule, and non-recurring costs to perform redesign work necessary to accommodate non-interchangeable replacement parts; or

Seller shall terminate the purchase order for convenience and forward a termination claim proposal in writing 30 days from the date of termination.

The Seller shall provide written notice within a reasonable time to the Buyer should any required parts become unavailable. The Seller shall then initiate the aforementioned actions as appropriate.

The period of part/component unavailability, until a reasonable alternative is sourced, shall be treated as Excusable Delay.

Section 25 Delivery and Lead Times is hereby added:

Delivery on all items is 90 days after receipt and acceptance of order; receipt End User Certificate, and any required United States State Dept. or Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) licensing, whichever occurs last, unless otherwise noted.