

AGREEMENT

BETWEEN THE

CITY OF SAN DIEGO



AND

Bell Textron Inc.

For Aircraft Purchase

AGREEMENT

This Agreement (Agreement) is entered into by and between the City of San Diego, a municipal corporation (City), and Bell Textron Inc., a Delaware corporation (Seller).

RECITALS

- A. City wishes to purchase from Seller and Seller desires to sell to City the aircraft and related supplies and services in the quantities and at the agreed unit and total prices set forth in the attached Exhibit A (the "Aircraft").
- B. City and Seller (collectively, the "Parties") wish to enter into an agreement whereby City will retain Seller to provide the Aircraft.
- C. This Agreement is exempt from competitive bidding requirements pursuant to San Diego Municipal Code (SDMC) section 22.3208(d) because the Purchasing Agent has certified that the award of a sole source contract is necessary under SDMC section 22.3016(a).
- D. On October 4th, 2023, the Purchasing Agent approved the sole source contract request in accordance with SDMC section 22.3016.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is acknowledged, City and Seller agree as follows:

ARTICLE 1 SCOPE AND ADMINISTRATION OF CONTRACT

1.1 Scope of Contract. Seller shall provide the Aircraft in the quantities and at the prices stated in Exhibit A, Bell Textron Inc. Customer Purchase Agreement and its appendices, which is incorporated herein by reference.

1.2 Contract Administrator. The Purchasing Agent or designee is the Contract Administrator for purposes of this Contract, and has the responsibilities described in this Contract, in the San Diego Charter, and in Chapter 2, Article 2, Divisions 5, 30, and 32.

1.2.1 Technical Representative. The City of San Diego Fire Rescue Department (Department) is the Technical Representative for this Agreement. The designated Technical Representative of the Department for this Agreement is as follows:

Chuck Macfarland
Chief of Air Operations
600 B Street, Suite 1300
San Diego, CA 92101
cmacfarland@sandiego.gov
Tel. (619) 602-6372

1.3 General Contract Terms and Provisions. This Agreement incorporates by reference the City's General Contract Terms and Provisions, attached hereto as Exhibit B.

1.4 Submittals Required with the Agreement. Seller is required to submit all forms and information delineated in Exhibit C before the Agreement is executed.

ARTICLE 2 EFFECTIVE DATE

2.1 Effective Date. This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and approved by the City Attorney in accordance with San Diego Charter Section 40 (Effective Date).

ARTICLE 3 COMPENSATION

3.1 Amount of Compensation. City shall pay Seller for Aircraft rendered in accordance with this Agreement in an amount not to exceed \$14,240,714.27, excluding applicable taxes described in Article 3 of Exhibit A.

3.2 Payment Terms. Payment terms shall be in accordance with the terms set forth in Article 3 of Exhibit A.

ARTICLE 4 WAGE REQUIREMENTS

4.1 Wage Requirements [Reserved].

ARTICLE 5 CONTRACT DOCUMENTS

5.1 Contract Documents. This Agreement including its exhibits and appendices completely describes the Aircraft and any related performance pursuant to this Agreement to be provided.

5.2 Order of Precedence. No modification or supplement hereto shall be effective unless in writing as an amendment to this Agreement and signed by both Parties. In the event of any inconsistency between the provisions of this Agreement and any Exhibit, Appendix, or modification thereof, such inconsistency shall be resolved by giving precedence to (1) this Agreement and any amendments to the Agreement.

5.2.1 References. All references to "Purchaser" in the exhibits and appendices to this agreement shall mean and be understood to be "City". All references to "Contractor" or "Bell

Textron Inc.” shall mean and be understood to be “Seller”.


5.3 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

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IN WITNESS WHEREOF, this Agreement is executed by City and Seller acting by and through their authorized officers.

SELLER
Bell Textron, Inc.

CITY OF SAN DIEGO
A Municipal Corporation

By:  _____
0152E136476B43D

By: _____

Name: Natalie Taylor

Name: _____

Title: Director, Commercial Contracts

Director, Purchasing & Contracting

Date: 08 January 2024

Date: _____

Approved as to form this ____ day of
_____, 20__.

MARA W. ELLIOTT, City Attorney

By: _____

Daniel S. Orloff
Deputy City Attorney

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EXHIBIT A
BELL TEXTRON INC. CUSTOMER PURCHASE AGREEMENT

Reference 42521

BELL TEXTRON INC.

3255 Bell Flight Boulevard
Fort Worth, TX 76118
FAX: 817-278-0083
Attn: Director of Commercial Contracts
E-mail: contracts@bellflight.com

PURCHASE AGREEMENT

(New Helicopters)
Model: 412EPX
Date: 8 January 2024
Reference No. 42521

The parties to this Agreement are **BELL TEXTRON INC.**, a Delaware corporation, having its principal place of business in Fort Worth, Tarrant County, Texas, U.S.A., (hereinafter "Seller") and:

Customer Name: City of San Diego Fire-Rescue Department

Customer Address: 600 B Street, Suite 1300
San Diego, CA 92101

Contact Name: Chuck MacFarland
Contact Title: Chief of Air Operations
Telephone: (619) 602-6372
E-mail: cmacfarland@sandiego.gov

(Hereinafter "Purchaser")

The Seller and Purchaser are referred to individually as a Party and collectively as the Parties.

In consideration of the following promises and mutual agreements, the Parties agree as follows:

ARTICLE 1: PURCHASER'S CONFIGURATION. Seller agrees to sell and Purchaser agrees to purchase the aircraft (hereinafter "Aircraft") and related supplies and services in the quantities and at the agreed unit and total prices, as set forth on Appendix 1 and any Amendment(s) thereto to this Agreement. The Seller shall configure and deliver the Aircraft to the Purchaser specified detailed configuration set forth in sub-Articles 1.a through 1.c. and Appendix 1 (hereinafter "Purchaser's Configuration").

- a. **Detailed Configuration.** Appendix 1 defines the Purchaser specified accessory kits and customizing equipment. Appendix 1 with Purchaser signed interior and exterior renderings together form the detailed configuration (hereinafter "Detailed Configuration") for the Aircraft. The Purchaser shall provide the Detailed Configuration no later than one hundred eighty (180) calendar days prior to the Article 4, Ready for Inspection Date. If the Effective Date of this Agreement is within one hundred eighty (180) calendar days prior to the Article 4, Ready for Inspection Date, the Purchaser shall provide the Detailed Configuration within fourteen (14) calendar days of the Effective Date of this Agreement.
- b. **Late Configuration.** If the Purchaser does not provide a Detailed Configuration within the time limits set forth in sub-Article 4.a., it shall be deemed to be late (hereinafter "Late Configuration") and the Seller may at its sole discretion change the Ready for Inspection Date and charge the Purchaser with inventory carrying, hangar and maintenance costs incurred by the Seller as a result of a Late Configuration.
- c. **Configuration Changes.** Any Purchaser requested changes to the Detailed Configuration of the Aircraft will be agreed to by the Parties in a written amendment to this Agreement and may result in an adjustment to the Appendix 1, Purchase Price of the Aircraft, the Article 4, Ready for Inspection Date and the Appendix 1, Payment Amounts

ARTICLE 2: PRODUCTION CONFIGURATION. The basic Aircraft will be manufactured to an airworthy configuration in accordance with Seller's production configuration at the time of manufacture for the selected Aircraft model (hereinafter "Production Configuration"). Seller unilaterally reserves the right to revise the Production Configuration at any time to conform to any civil aviation authority regulations or the Seller's current manufacturing, design, or engineering requirements. Seller reserves the right to change the Inspection Month and/or Purchase Price as a result of revisions to the Production Configuration by Seller. Seller will notify Purchaser as soon as practicable if manufacturing changes will affect Inspection Month as defined in Article 4. Purchaser agrees that Seller accepts no liability to Purchaser as a result of any delays necessary due to changes in the Production Configuration. Any increase to the Purchase Price as a result of a Production Configuration change will be agreed to by the Parties in a written amendment to this Agreement. The Production Configuration is distinct from the Purchaser specific Detailed Configuration referenced in Article 1.

ARTICLE 3: PRICE AND PAYMENT TERMS. Purchaser shall pay Seller the purchase price (hereinafter "Purchase Price") for the Aircraft and any other supplies and services defined in this Agreement as specified in Appendix 1, or any Amendments thereto and in accordance sub-Articles 3.a. through 3.e.

EXHIBIT A
BELL TEXTRON INC. CUSTOMER PURCHASE AGREEMENT

Reference 42521

- a. **Payment Terms.** Seller shall submit invoices to Purchaser for all payment events defined under sub-Article 3.a. Within twenty (20) calendar days of Purchaser's signature of this Agreement, Purchaser shall pay to Seller an initial deposit (hereinafter "Initial Deposit") in the amount set forth on Appendix 1 or any amendments thereto. Additional deposits may be required as set forth on Appendix 1 or any amendments thereto. The deposits shall only be refunded to the Purchaser under the terms of Articles 8 and 12 of this Agreement. The Purchase Price less deposits (hereinafter "Balance of Payment") must be received in full and accepted by the Seller prior to the release or delivery of the Aircraft to the Purchaser.
- b. **Acceptable Methods of Payment.** All payments under this Agreement shall be made in United States Dollars (USD) by a single wire transfer with all bank charges for the account of the Purchaser, by check drawn from Purchaser's account, by Automated Clearing House (ACH), or other negotiable instruments acceptable to Seller. All payments shall be made from an account held in the name of the Purchaser as identified in this Agreement and from a banking institution located in the same country as the Purchaser is located as identified in this Agreement or, should Purchaser elect to finance the Aircraft purchase in part or in whole, a direct payment to Seller from the banking institution financing the purchase shall be acceptable. Any deviations from the described payment process will require additional review by Seller, pursuant to Article 13 below.
- c. **Wire Transfer Instructions.** Wire transfers shall be sent to Seller's account as defined below. Any change to the wire transfer instructions require a written amendment to this Agreement signed by the Parties.

JP Morgan Chase Bank
4 New York Plaza
New York, NY 10004
Swift Code: CHASUS33
ABA Routing Number: 021000021
For the account of Bell Textron Inc.
Corporate Account No.: 9101332626

- d. **Financing.** Purchaser shall notify Seller at least thirty (30) calendar days prior to the first calendar day of the Article 4, Ready for Inspection Date, if Purchaser intends to finance the Aircraft (hereinafter "Notification Date"). If Purchaser is unable to obtain approved financing within sixty (60) calendar days after the Notification Date, Seller reserves the right to terminate this Agreement and retain all payments previously made by Purchaser as liquidated damages but not as a penalty.
- e. **Taxes.** The Purchase Price of this Agreement does not include any sales, use, personal property, value-added, excise or similar tax or assessments which may be imposed by any governmental authority upon this sales transaction, the Aircraft or the use of the Aircraft by Purchaser, and any such costs if imposed shall be for the Purchaser's account. Purchaser agrees to pay and indemnify Seller against taxes or assessments as referenced herein (including interest or penalties that may arise from nonpayment), as well as any withholding taxes, customs, duties or other assessments by any governmental authority so that in all instances Seller receives payment (after any taxes or assessments) equal to the Purchase Price. Purchaser agrees to execute any documentation necessary to avoid the imposition of or receive exemption from applicable taxes. These provisions shall inure to any successor or approved assignee of Purchaser and shall survive until six (6) months after the expiration of any applicable statute of limitations.

ARTICLE 4: ACCEPTANCE AND DELIVERY. The Seller shall present the Aircraft for inspection to the Purchaser in an airworthy condition in the Appendix 1 Detailed Configuration no later than March 2025 (hereinafter "Inspection Month").

- a. **Ready for Inspection Notice.** The Seller shall provide the Purchaser written notification of the date and location the Aircraft shall be ready for inspection (hereinafter "Ready for Inspection Date") which shall be no later than fifteen (15) calendar days prior to the last day of the Inspection Month.
- b. **Inspection Event.** The Purchaser may inspect and flight test the Aircraft at the Seller's facility (hereinafter "Inspection Event") no later than ten (10) calendar days after the Ready for Inspection Date. During the Inspection Event, if the Purchaser finds the Aircraft to be noncompliant with the terms of this Agreement, Purchaser shall specify to Seller in writing any noncompliance with the Aircraft. The Seller shall cure such noncompliance, unless otherwise agreed to by the Parties in writing, prior to Purchaser's acceptance of the Aircraft. Purchaser may elect to waive inspection and accept the Aircraft as described in sub-Article 4.c.
- c. **Acceptance.** The Purchaser shall accept the Aircraft through the execution of a Certificate of Acceptance or a Certificate of Acceptance with Waiver of Inspection (collectively "Acceptance Document"). The Purchaser's execution of the Acceptance Document shall constitute acceptance of the Aircraft and acknowledgement that the Aircraft complies to all terms of this Agreement. The date of execution by the Purchaser of the Acceptance Document shall be the acceptance date (hereinafter "Acceptance Date"). If the Purchaser fails to inspect and accept the Aircraft no later than ten (10) calendar days after the Ready for Inspection Date, for reasons not attributable to the Seller, Seller shall at its sole discretion, have the right to terminate this Agreement and retain all payments previously made to the Seller as liquidated damages but not as a penalty and will assess inventory carrying and maintenance costs as required.

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- d. Delivery.** Seller shall deliver the Aircraft EXW (EX Works - INCOTERMS 2020) at Seller's designated facility (hereinafter "Delivery Location") as set forth in Appendix 1. Any change to the Delivery Location or shipping terms and impact to the total Purchase Price shall be defined in Appendix 1 and shall be agreed to by the Parties in a written amendment to this Agreement.
- e. Storage Fees and Maintenance Costs.** Purchaser shall remove the Aircraft from Seller's premises within ten (10) calendar days after the Acceptance Date. If the Purchaser fails to remove the Aircraft from the Seller's premises on or before the tenth (10th) calendar day, Seller may, at its sole discretion (i) assess a storage fee equal to five hundred dollars (\$500.00) per day for each calendar day beyond the tenth (10th) calendar day (ii) assess any additional costs incurred by Seller to perform scheduled maintenance on the Aircraft or (iii) assess any other costs incurred by Seller while the Aircraft is under Seller's care and control.

ARTICLE 5: RISK OF LOSS AND TRANSFER OF TITLE. Title of the Aircraft shall transfer directly from Seller to Purchaser free and clear of any and all liens, privileges, encumbrances, charges and rights of others upon execution of an Aircraft Bill of Sale by the Seller. Risk of loss of the Aircraft shall transfer from the Seller to the Purchaser concurrent with title transfer. The Seller shall provide the Purchaser with an executed Aircraft Bill of Sale upon the receipt and acceptance of all monies owed under this Agreement. In the case of financed Aircraft, title will transfer per the terms of the fully executed finance documentation.

ARTICLE 6: CERTIFICATION AND REGISTRATION. The Seller shall provide the Purchaser with a Certificate of Airworthiness or an Export Certificate of Airworthiness for each Aircraft purchased under this Agreement. Purchaser has sole responsibility for registration of the aircraft on the U.S. Registry or foreign country civil or military aviation registry as required by applicable law.

ARTICLE 7: TRAINING. Training provided by Seller as specified in Appendix 1 must be used no earlier than six (6) months prior to and no later than one (1) year after the Aircraft Acceptance Date. All training shall be conducted at a Seller approved training facility. Pilot training shall be conducted on a Seller trainer aircraft except for the model 412 and 525 which will be conducted either on the Purchaser's aircraft or Seller's training devices. All expenses including without limitation, travel, lodging, and meals for the Purchaser's training candidates to attend training at a Seller's facility shall be for the account of the Purchaser. Purchaser agrees to comply with the Seller's cancellation/change policy as set forth below.

Cancellation/Change Policy	
Greater than 30 calendar days from registered training course start date	No penalty
16 - 30 calendar days from registered training course start date	10% fee of training course list price
7 - 15 calendar days from registered training course start date	50% fee of training course list price
Less than 7 calendar days from registered training course start date	Forfeit training spot. Future training must be paid.

ARTICLE 8: EVENTS OF DEFAULT AND TERMINATION. In the event that (i) this Agreement is breached, canceled or terminated by Purchaser for any cause whatsoever, except for reasons set forth in Article 12 or (ii) Purchaser fails to pay any payments or other charges for which it is responsible under this Agreement when due, Seller shall have the right to terminate this Agreement and retain all payments previously made by Purchaser as liquidated damages but not as a penalty. In the event this Agreement is terminated by Seller for any reason other than those listed above, the sole liability of Seller shall be to return any payments made by Purchaser for Aircraft or supplies and services not delivered.

ARTICLE 9: WARRANTY. The Aircraft includes a fully transferable New Helicopter Warranty of Three Years/1,000 Hours, whichever occurs first. The terms of the Aircraft New Helicopter Warranty are set forth in Appendix 2.

ARTICLE 10: ASSIGNMENT. Purchaser shall not assign any right, title or interest under this Agreement without Seller's written consent. Seller agrees to consent if the assignment is to a financial institution solely for the purpose of providing Purchaser financing or leasing. Seller, in its sole discretion, may assign its rights hereunder for any purpose including without limitation, for financing purposes.

ARTICLE 11: CHOICE OF LAW AND JURISDICTION. [Reserved].

ARTICLE 12: FORCE MAJEURE. If Seller shall be unable to perform its obligations under this Agreement because of intervention of a Force Majeure event experienced by Seller, which term shall include but not be limited to strikes, lockouts or other labor disturbances, riots, pandemics, epidemics, war, governmental actions, inactions or regulations (including, but not limited to, preemptive priority allocation rights of the U.S. Government), fire, weather, difficulty in obtaining qualified parts or materials, failure of performance by subcontractors or other causes beyond its control, Seller shall not be responsible for delays in acceptance, delivery or performance under this Agreement. Seller shall give reasonable notice to Purchaser upon the occurrence of a Force Majeure event. If a delay in delivery or performance extends beyond one hundred eighty (180) calendar days from the last day of the scheduled Inspection Month specified in Article 4, either Party may terminate this Agreement, whereupon the sole liability of Seller shall be to return any payments made by Purchaser for Aircraft not delivered.

ARTICLE 13: COMPLIANCE WITH LAWS/EXPORT REGULATIONS. The Parties acknowledge that the execution and performance of this Agreement, including any payments made hereunder, are governed by applicable rules and regulations

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governing the transfer of money and related anti-money launder legislation. As such, Purchaser agrees to cooperate with Seller and provide additional information as required by Seller pursuant to Seller's legal compliance obligations. Seller may request Purchaser to provide information including, but not limited to, sources of funds and entities associated with monies paid in the execution of this Agreement. Purchaser acknowledges that failure to meet these compliance requirements or the failure of Purchaser to cooperate with Seller in these efforts may result in delays or termination of this Agreement at the sole discretion of Seller.

The Parties further acknowledge that the products, services and/or information provided under this Agreement require both Parties to comply with the applicable laws, rules and regulations including, but not limited to, Customs (import/export) laws and regulations, the U.S. International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR), the USA Patriot Act and the U.S. Foreign Corrupt Practices Act (FCPA) and similar laws of all such jurisdictions where the Aircraft will be shipped and/or operated.

- a. **Government Authorization.** Purchaser agrees to cooperate fully with Seller to obtain any government authorizations that may be required for the products, services and/or information provided pursuant to this Agreement. Seller shall be entitled to terminate this Agreement if unable to secure such authorizations and Seller shall be excused from the obligation to deliver the Aircraft. The sole liability of Seller shall be to return any payments made by Purchaser for Aircraft not delivered. Seller shall not be liable to Purchaser for any loss, cost or expense arising from such termination or non-delivery (including any actual, consequential or other damages of any kind whatsoever).
- b. **End-Use/User Confirmation.** Purchaser shall submit a completed Appendix 3, END-USE and END-USER STATEMENT ("End-Use Form") at least six (6) months prior to the first calendar day of the Inspection Month. If the date on this Agreement is within six (6) months of the Inspection Month as specified in Article 4, Purchaser shall submit the completed End-Use Form within fourteen (14) calendar days of signature of this Agreement. This statement must identify the intended (i) end-user of the aircraft (name and address); (ii) end-use of the aircraft; and (iii) country(s) where aircraft will be registered and operated. Purchaser shall submit updated End-Use Forms should such information change prior to final delivery. Purchaser acknowledges that failure to provide or update this information in a timely manner may result in delays or termination of this Agreement at the sole discretion of Seller.

ARTICLE 14: LIMITATION OF LIABILITY. [Reserved].

ARTICLE 15: SEVERABILITY AND WAIVER. If any provision of this Agreement is or becomes null or unenforceable by force of law, the other provisions shall remain valid and enforceable. Waiver of one provision by either Party shall not act as waiver of any other provision.

ARTICLE 16: OUTSIDE COMPLETION SUPPORT. Purchaser acknowledges and agrees that Seller has no responsibility for providing any documentation or Seller data to Purchaser or Purchaser's designated customizing vendor to support any outside completion support not included as part of this Agreement and that any delays or costs that result from such support shall be the sole responsibility of Purchaser and its designated customizing vendor.

ARTICLE 17: NOTICES. Notices required under this Agreement shall be in writing and sent by electronic mail to the respective Parties, or by courier registered mail to the addresses set forth in Exhibit B unless otherwise specified by the Parties in writing. All notices delivered hereunder shall be deemed given on the date they are transmitted or placed in the hands of the post or courier for delivery as appropriate.

ARTICLE 18: ENTIRE AGREEMENT AND ORDER OF PRECEDENCE. [Reserved].

ARTICLE 19: DATA PRIVACY. Seller may receive or retain Personal Data from Purchaser in connection with the purchase, registration, or ongoing support of the Equipment or Services being purchased under this Agreement. This may include Personal Data of the Purchaser, its employees, agents, and/or other authorized representatives involved with the operation, maintenance, support, and/or training for the Equipment ("Users"). Personal Data may include, but is not limited to the following:

- i. First and last Name;
- ii. Email address or telephone number;
- iii. Purchase records or trade show attendance;
- iv. Training programs; and
- v. Service Schedules and other information related to the equipment or services being purchased

Seller may collect and use Users' Personal Data which will help the continuous improvement, marketing, and support of Seller products and services. Personal Data collected will only be retained as long as necessary for business continuity or valid legal purposes. Seller shall comply with Purchaser's Council Policy 000-41 and which requires that other than listing the City as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the City as a user of a product or service will require prior written approval of the Mayor or designee. Use of the City Seal or City logos is prohibited.

As of May 25, 2018, the General Data Protection Regulation (Regulation (EU) 2016/679) is effective. This provides, among other

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things, extended information obligations for those responsible for data privacy. Therefore, Seller will inform Purchaser – in compliance with the new legal regulations – about the processing of User's Personal Data. Accordingly, Personal Data about Users may be transferred and processed in the United States and other countries that may not be deemed to provide the same level of data protection as Purchaser's home country. Seller maintain and apply data protection standards consistent with those specified in this Agreement to its operations globally. As part of its commitment to privacy, Seller shall adhere to strict data privacy principles to protect personal data. With respect to information about Users, Seller comply with any and all applicable national and local data protection laws. In addition, Seller have also committed to Inter-Company Data Processing Agreements based on the EU Model Contracts ("Model Contracts" (also known as the Standard Contractual Clauses)), to authorize worldwide transfer, and subsequent sub-Processing, of Personal Data throughout global network of Seller Businesses.

Seller do not sell or lease User's Personal Data to third parties; however, Seller may share User's Personal Data with affiliated companies or authorized representatives. There are also limited circumstances where Seller share User's Personal Data with parties not affiliated with Seller.

Seller will not reveal Personal Data about Users to third parties, unless:

- i. Users request or authorizes it;
- ii. the third party has agreed by contract to provide an adequate level of protection for the Personal Data and the transfer is for a lawful purpose;
- iii. the information is provided to help complete a transaction for Users;
- iv. the transfers are needed to protect the vital interests of Users;
- v. the information is provided to comply with the law, applicable regulations, court orders or subpoenas, to enforce Seller's Terms of Use or other agreements, or to protect Seller rights, property or safety or the rights, property or safety of Seller's users or others (e.g., to a consumer reporting agency for fraud protection etc.);
- vi. to enforce or protect the rights or personal safety of Seller or its employees;
- vii. the disclosure is done as part of a purchase, transfer or sale of services or assets (e.g., in the event that substantially all of Seller's assets are acquired by another party, customer information may be one of the transferred assets);
- viii. the information is provided to Seller's agents, outside vendors, or service providers to perform functions on Seller's behalf (e.g., analyzing data, providing marketing assistance, providing customer service, etc.); or
- ix. the transfer is necessary or legally required on important public interest grounds, or for the establishment, exercise or defense of legal claims.

Seller may also gather aggregated data about Users and disclose such aggregated (but not personally identifiable) information to third parties that have a legitimate business relationship with Seller for promotional or other purposes.

This Data Privacy Notice is intended to provide User with information about what Personal Data Seller collect about User and how it is used. For any questions, please contact privacy@bellflight.com. If User wishes to confirm that Seller are processing User's Personal Data, or to have access to the Personal Data that Seller may have about User, please contact privacy@bellflight.com. User may also request information about: the purpose of the processing; the categories of Personal Data concerned; what the source of the information was (if User didn't provide it directly to Seller); and how long it will be stored. User has a right to correct (rectify) the record of its personal data maintained by Seller if it is inaccurate. User may request that Seller erase that data or cease processing it, subject to certain exceptions. User may also request that Seller cease using User's data for direct marketing purposes. When technically feasible, Seller will—at User's request—provide User's Personal Data to User or transmit it directly to another controller. Reasonable access to User's Personal Data will be provided at no cost upon request made to Seller at privacy@bellflight.com. If access cannot be provided within a reasonable time frame, Seller will provide User with a date when the information will be provided. If for some reason access is denied, Seller will provide an explanation as to why access has been denied.

Seller shall use reasonable administrative, technical, personnel, and physical measures to safeguard User's Personal Data against loss, theft, and unauthorized use or modification. Seller's site uses a combination of encryption technology and authentication to protect User's Personal Data. As long as User's web browser supports Secure Sockets Layer (SSL), User's information will be submitted to Seller with a high level of security. Seller update and test its security technology on an ongoing basis. Seller have obtained assurances from its third-party agents that they have similar practices in place.

As business changes, this Privacy Notice is expected to change from time to time, and Seller reserves the right to change it at any time. The use of your information is subject to the Privacy Notice in effect at the time of use. The provisions contained herein

supersede all previous notices or statements regarding Seller's privacy practices. We may email periodic reminders of Seller notices and terms and conditions and post any changes to the Privacy Notice on Seller's. User is encouraged to check Seller's website frequently to see the current Privacy Policy and Terms of Use in effect and any changes that may have been made to them.

ARTICLE 20: EFFECTIVE DATE. [Reserved].

APPENDIX 1

EQUIPMENT FOR PURCHASE

Product Name	Quantity	Unit Net Price	Net Price
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Basic Aircraft

412EPX Basic Aircraft	1	\$13,112,244.90	\$13,112,244.90
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Kits & Customizing

4-Axis AFCS & Flight Director Upgrade Kit for 412EPX with required Edge Lit Panel	1	\$115,408.16	\$115,408.16
Garmin GTN Search Pattern Enablement	1	\$5,000.00	\$5,000.00
Wire Strike Protection System	1	\$39,387.76	\$39,387.76
Dart Door Sill Protective Trim Kit (D412-775-011)	1	\$1,632.65	\$1,632.65
Avionics Rainshield (AA)	1	\$2,142.86	\$2,142.86
Automatic Door Openers - Composite Crew Doors (Dart)	1	\$3,061.22	\$3,061.22
Enhanced Hover Hold Kit (Includes Radar Altimeter #2 (KRA-405B), Hover Sensor (CMA5024), Mode Select Panel, Annunciators)	1	\$281,632.65	\$281,632.65
Provisions - External HEC Hoist - Goodrich 600 lb (272 kg) - inc. manual cutter, cable guard (AA)	1	\$210,510.20	\$210,510.20
Equipment - External HEC Hoist 290' (88.4m) Cable - Goodrich 600 lb (272 kg) (AA)	1	\$449,285.71	\$449,285.71
Passenger Seats – Rag And Tube (Installed)	1	\$0.00	\$0.00

Kits & Customizing Subtotal: \$1,108,061.21

Training

412EPX Ground and Flight Initial (Bell Owned Aircraft) - Additional Charge	2	\$10,204.08	\$20,408.16
Complimentary 412EPX Ground and FTD Initial	2	\$0.00	\$0.00
Complimentary 412EPI and EPX Avionics Maintenance Differences - 1 Week	1	\$0.00	\$0.00
Complimentary 412EPI and EPX Maintenance Differences - 3 Days	1	\$0.00	\$0.00
Complimentary 412 SPZ-7600 Digital AFCS Maintenance - 1 Week	1	\$0.00	\$0.00
Complimentary Electrical Training	1	\$0.00	\$0.00
Complimentary 412 Series Field Maintenance - 3 Week	1	\$0.00	\$0.00

Training Subtotal: \$20,408.16

Acceptance

Inspection & Acceptance at Piney Flats, TN			
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Certification

U.S. FAA Certification			
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Purchase Price: \$14,240,714.27

PAYMENT SCHEDULE

Payment Term	Date	Amount
Deposit	Due Within twenty (20) calendar days of Purchaser signature	\$1,000,000.00
Balance Payment	Upon Acceptance of Equipment and prior to shipment of Equipment from Seller's facility	\$13,240,714.27

Total Purchase Price: \$14,240,714.27

APPENDIX 2
NEW HELICOPTER WARRANTY
THREE YEARS/1,000 HOURS WARRANTY

Seller warrants each new helicopter to be free from defect in material or workmanship under normal use and service for 1,000 hours of operation or three (3) years from acceptance, whichever occurs first. Spare parts installed as warranty replacement on helicopters which are covered by this New Helicopter Warranty will only be warranted for the balance of the original aircraft warranty. Seller assigns each manufacturer's warranty to Buyer to the extent such manufacturer's warranty exists and is assignable.

In addition, during the first year or within 1,000 hours of total aircraft time, whichever occurs first, the Seller shall reimburse Buyer at a regional labor rate, as determined solely by Seller, for reasonable actual labor costs incurred directly related to removal and reinstallation of parts determined to be defective. Seller shall not reimburse labor costs incurred for any other activity, such as troubleshooting, inspection, testing or similar activities; any reimbursement amount issued in accordance with this warranty shall be in Seller's sole discretion. Seller shall not reimburse any labor costs (1) which it does not deem to be reasonable, (2) which it does not deem directly related to removal and reinstallation, or (3) for buyer furnished equipment or equipment manufactured by other (e.g. STC).

Seller shall also reimburse reasonable freight charges, excluding insurance, customs fees, duties, handling fees, and taxes. Seller shall not reimburse Buyer for any parts repaired or replaced outside of the Seller's Warranty Claims Process unless express prior written authorization is granted by Seller's Warranty Department to Buyer for such repair or replacement.

Parts, components and assemblies of all helicopter parts may have been restored or reworked due to marks, blemishes, dents or other irregularities during the manufacturing process. Such restoration and/or rework are permitted under Seller's approved manufacturing and engineering processes and guidelines. The restoration and/or rework so completed do not render such items defective in material or workmanship.

Seller's sole obligation under this warranty is limited to the repair or replacement of parts which are determined to Seller's reasonable satisfaction to have been defective within the applicable warranty period as described above. Replacement of parts may be either new or reconditioned at Seller's election and at the lowest allowable maintenance level contained in Seller's manuals, service bulletins or applicable Supplier manuals.

NO FAULT FOUND: In the event Seller determines, after evaluation of a returned part, that a defect does not exist, then Buyer shall pay all expenses incurred by Seller related to the return including, but not limited to, costs incurred in shipping, evaluating the part, cost for any replacement part and restocking of the part which is a minimum of \$300.00USD and up to fifteen percent (15%) list price of the part, as well as any No Fault Found fees incurred by Seller. In addition, Seller shall not reimburse Buyer for any costs related to the removal or reinstallation of such a part.

SELLER'S WARRANTY CLAIM PROCESS: Defective parts must be reported in writing to the Seller's Warranty Administration within thirty (30) days of being found defective. Parts may be repaired or replaced with new or reconditioned parts, at Seller's election. Warranty adjustment is contingent upon the Buyer complying with the Seller's Warranty Process and with the Seller's Warranty Administration disposition instructions for defective parts. Failure to properly comply with Seller's Warranty Process may, at Seller's sole option, void Seller's warranty as to the allegedly defective part.

RETURN SHIPMENT: Defective parts returned to Seller will be eligible for remedy under this warranty only if the part is carefully packed by the Buyer for the return shipment. Damage occurring to a part due to improper packaging may result in the denial of a warranty claim. In the event that Seller determines a returned part to be damaged or unsalvageable due to improper packaging, the Buyer will be billed repair or replacement cost incurred by Seller. The party initiating shipment bears the risk of loss or damage to parts in transit.

CORE RETURNS: Per Seller's determination that a core return is required for which Seller has furnished a replacement part through the Warranty Process, the core shall be shipped by Buyer, with all historical service records, to a facility designated by Seller, within thirty (30) days of shipment by Seller of the replacement part. Buyer shall provide Seller with proof of shipment within thirty (30) days following shipment of the replacement part. In the event that Buyer fails to provide Seller with such proof of shipment within the thirty (30) days, fails to provide the applicable historical service records or provide the correct RMA, Buyer shall be charged the invoiced value of the replacement part. If the Buyer returns the core, and provides the historical records and the RMA after the 31st day, the Buyer will be credited the invoiced amount upon receipt of the core minus a restocking fee minimum of \$300.00 USD or up to fifteen percent (15%), per item, of the then standard list price of the material provided if Historical Records are not provided and can be recreated by Seller, a debit of \$500.00 USD per item will be made to Buyer's account.

WARRANTY AND LIABILITY DISCLAIMERS AND EXCLUSIONS: THIS WARRANTY IS GIVEN AND ACCEPTED IN PLACE OF (i) ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND (ii) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN CONTRACT OR IN TORT, INCLUDING PRODUCT

LIABILITIES BASED UPON STRICT LIABILITY, NEGLIGENCE, OR IMPLIED WARRANTY IN LAW.

This warranty is the only warranty made by Seller. The Buyer's sole remedy for a breach of this warranty or any defect in a part is the repair or replacement of the helicopter part, reimbursement of reasonable freight charges, and reimbursement of reasonable labor costs directly related to removal and reinstallation as provided herein. Seller excludes liability, whether as a result of a breach of contract or warranty, negligence or strict product liability, for incidental or consequential damages, including without limitation, damage to the helicopter or other property, costs and expenses resulting from required changes or modifications to helicopter components and assemblies, changes in retirement lives and overhaul periods, local customs fees and taxes, and costs or expenses for commercial losses or lost profits due to loss of use or grounding of helicopters or otherwise.

Seller makes no warranty and disclaims all liability in contract or in tort, including, without limitation, negligence and strict tort liability, with respect to work performed by third parties at Buyer's request and with respect to engines, engine accessories, batteries, paint, radios, any and all customizing equipment, and Buyer furnished equipment or equipment manufactured by others (e.g. STC kits) and installed at Buyer's request.

Seller makes no warranty and disclaims all liability with respect to components or parts damaged by, or worn due to, normal wear and tear, erosion or corrosion.

Seller makes no warranty and disclaims all liability for consumables which are defined as items required for normal and routine maintenance or replaced at scheduled intervals shorter than the warranty period. "Consumables" include but are not limited to engine and hydraulic oil, oil filters, packings and o-rings, anti-corrosion and/or sealing compounds, brush plating material, nuts, bolts, washers, screws, fluids, compounds, and standard aircraft hardware that is readily available to aircraft operators from sources other than Seller.

This warranty shall not apply to any helicopter part which has been repaired or altered outside Seller's factory in any way so as, in Seller's sole judgment, to affect its stability, safety or reliability. This warranty shall not apply to any helicopter part which has been subject to misuse, negligence or accident, or which has been installed in any aircraft which has been destroyed. Repairs and alterations which use or incorporate parts and components other than genuine Bell parts or parts approved by Bell for direct acquisition from sources other than Bell itself are not warranted by Bell, and this warranty shall be void to the extent that such repairs and alterations, in Seller's sole judgment, affect the stability, safety or reliability of the helicopter or any part thereof, or damage genuine Bell or Bell-approved parts. No person, corporation or organization, including Bell Authorized Customer Service Facilities, is authorized by Seller to assume for it any other liability in connection with the sale of its helicopters and parts.

NO STATEMENT, WHETHER WRITTEN OR ORAL, MADE BY ANY PERSON, CORPORATION OR ORGANIZATION, INCLUDING BELL AUTHORIZED CUSTOMER SERVICE FACILITIES, MAY BE TAKEN AS A WARRANTY NOR WILL IT BIND SELLER.

CHOICE OF LAW AND JURISDICTION: This warranty shall be interpreted under and governed by the laws of the State of Texas. All legal actions based upon claims or disputes pertaining to or involving this warranty including, but not limited to, Seller's denial of any claim or portion thereof under this warranty, must be filed in the courts of general jurisdiction of Tarrant County, Texas or in the United States District Court for the Northern District of Texas, Ft. Worth Division located in Ft. Worth, Tarrant County, Texas. In the event that Buyer files such an action in either of the court systems identified above, and a final judgment in Seller's favor is rendered by such court, then Buyer shall indemnify Seller for all costs, expenses and attorneys' fees incurred by Seller in defense of such claims. In the event Buyer files such a legal action in a court other than those specified, and Seller successfully obtains dismissal of that action or transfer thereof to the above-described court systems, then Buyer shall indemnify Seller for all costs, expenses and attorneys' fees incurred by Seller in obtaining such dismissal or transfer.

APPENDIX 3
END USE AND END USER STATEMENT

Seller: **Bell Textron Inc.**

Aircraft:

Make: SUBARU BELL

Model: 412EPX

Serial Number:

End-User of the Aircraft (mark “X” if Purchaser is the End-User):

Name:	
Address:	
<input type="checkbox"/>	Mark “X” if Purchaser is the End-User

<u>Country where Aircraft will be registered:</u>	
<u>Country or countries where Aircraft will be operated:</u>	

End-Use of the Aircraft (mark “X” on all that apply):

<input type="checkbox"/>	Commercial Transport (e.g. sightseeing, etc.)
<input type="checkbox"/>	General Transport (e.g., VIP, personal, company)
<input type="checkbox"/>	Government Transport
<input type="checkbox"/>	Military Transport
<input type="checkbox"/>	EMS
<input type="checkbox"/>	Law Enforcement/Homeland Security
<input type="checkbox"/>	ISR (intelligence, surveillance and reconnaissance)
<input type="checkbox"/>	Utility (e.g. firefighting, news gathering, etc.)
<input type="checkbox"/>	Military Training
<input type="checkbox"/>	Other Training
<input type="checkbox"/>	Other (please specify): _____

The undersigned certifies that the information provided is true and correct as of the date set out below. If this information changes prior to Aircraft delivery or the Purchase Agreement to which this Appendix 3 is attached is assigned prior to Aircraft delivery, Purchaser or Assignee, respectively, will submit an updated End User Certification.

Signature: _____

Company: _____

Name: _____

Title: _____

Date: _____

EXHIBIT B
CITY'S GENERAL CONTRACT TERMS AND PROVISIONS



THE CITY OF SAN DIEGO
GENERAL CONTRACT TERMS AND PROVISIONS
APPLICABLE TO GOODS, SERVICES, AND CONSULTANT CONTRACTS

EXHIBIT B
CITY'S GENERAL CONTRACT TERMS AND PROVISIONS

ARTICLE I
SCOPE AND TERM OF CONTRACT

1.1 Scope of Contract. [Reserved].

1.2 Effective Date. A contract between the City and Seller (Contract) is effective on the last date that the contract is signed by the parties and approved by the City Attorney in accordance with Charter section 40. Unless otherwise terminated, this Contract is effective until it is completed or as otherwise agreed upon in writing by the parties, whichever is the earliest. A Contract term cannot exceed five (5) years unless approved by the City Council by ordinance.

1.3 Contract Extension. [Reserved].

ARTICLE II
CONTRACT ADMINISTRATOR

2.1 Contract Administrator. The Purchasing Agent or designee is the Contract Administrator for purposes of this Contract, and has the responsibilities described in this Contract, in the San Diego Charter, and in Chapter 2, Article 2, Divisions 5, 30, and 32.

2.1.1 Contractor Performance Evaluations. [Reserved].

2.2 Notices. Unless otherwise specified, in all cases where written notice is required under this Contract, service shall be deemed sufficient if the notice is personally delivered or deposited in the United States mail, with first class postage paid, attention to the Purchasing Agent. Proper notice is effective on the date of personal delivery or five (5) days after deposit in a United States postal mailbox unless provided otherwise in the Contract. Notices to the City shall be sent to:

Purchasing Agent
City of San Diego, Purchasing and Contracting Division
1200 3rd Avenue, Suite 200
San Diego, CA 92101-4195

ARTICLE III
COMPENSATION

3.1 Manner of Payment. Manner of payment shall be in accordance with the terms set forth in Exhibit A.

3.2 Invoices.

3.2.1 Invoice Detail. Seller's invoice must be on Seller's stationary with Seller's name, address, and remittance address if different. Seller's invoice must have a date, an invoice number, a purchase order number, a description of the goods or services provided, and an amount due.

EXHIBIT B
CITY'S GENERAL CONTRACT TERMS AND PROVISIONS

3.2.2 Service Contracts. [Reserved.]

3.2.3 Goods Contracts. Seller must submit invoices for goods to City within seven days of the shipment. Invoices must describe the goods provided.

3.2.4 Parts Contracts. Seller must submit invoices for parts to City within seven calendar (7) days of the date the parts are shipped. Invoices must include the manufacturer of the part, manufacturer's published list price, percentage discount applied in accordance with Pricing Page(s), the net price to City, and an item description, quantity, and extension.

3.2.5 Extraordinary Work. City will not pay Seller for extraordinary work unless Seller receives prior written authorization from the Contract Administrator. Failure to do so will result in payment being withheld for services. If approved, Seller will include an invoice that describes the work performed and the location where the work was performed, and a copy of the Contract Administrator's written authorization.

3.2.6 Reporting Requirements. Seller must submit the following reports using the City's web-based contract compliance portal. Incomplete and/or delinquent reports may cause payment delays, non-payment of invoice, or both. For questions, please view the City's online tutorials on how to utilize the City's web-based contract compliance portal.

3.2.6.1 Monthly Employment Utilization Reports. [Reserved.]

3.2.6.2 Monthly Invoicing and Payments. [Reserved].

3.3 Annual Appropriation of Funds. Seller acknowledges that the Contract term may extend over multiple City fiscal years, and that work and compensation under this Contract is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. This Contract may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. City is not obligated to pay Seller for any amounts not duly appropriated and authorized by City Council.

3.4 Price Adjustments. [Reserved].

ARTICLE IV
SUSPENSION AND TERMINATION

4.1 City's Right to Suspend for Convenience. [Reserved].

4.2 City's Right to Terminate for Convenience. [Reserved.]

4.3 City's Right to Terminate for Default. Seller's failure to satisfactorily perform any obligation required by this Contract constitutes a default. Examples of default include a determination by City that Seller has: (1) failed to deliver goods and/or perform the services of the required quality or within the time specified; (2) failed to perform any of the obligations of this Contract; and (3) failed to make sufficient progress in performance which may jeopardize full performance.

EXHIBIT B

CITY'S GENERAL CONTRACT TERMS AND PROVISIONS

4.3.1 If Seller fails to satisfactorily cure a default within ten (10) calendar days of receiving written notice from City specifying the nature of the default, City may immediately cancel and/or terminate this Contract, and terminate each and every right of Seller, and any person claiming any rights by or through Seller under this Contract.

4.3.2 If City terminates this Contract, in whole or in part, City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, equivalent goods or services and Seller shall be liable to City for any excess costs. Seller shall also continue performance to the extent not terminated.

4.4 Termination for Bankruptcy or Assignment for the Benefit of Creditors. If Seller files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to, or demand upon Seller, terminate this Contract, and terminate each and every right of Seller, and any person claiming rights by and through Seller under this Contract.

4.5 Seller's Right to Payment Following Contract Termination.

4.5.1 Termination for Convenience. [Reserved].

4.5.2 Termination for Default. If, after City gives notice of termination for failure to fulfill Contract obligations to Seller, it is determined that Seller had not so failed, the termination shall be deemed to have been effected for the convenience of City. In such event, adjustment in the Contract price shall be made as provided in Section 4.3.2. City's rights and remedies are in addition to any other rights and remedies provided by law or under this Contract.

4.6 Remedies Cumulative. City's remedies are cumulative and are not intended to be exclusive of any other remedies or means of redress to which City may be lawfully entitled in case of any breach or threatened breach of any provision of this Contract.

ARTICLE V

ADDITIONAL SELLER OBLIGATIONS

5.1 Inspection and Acceptance. Inspection and Acceptance shall be in accordance with Exhibit A, Bell Textron Inc. Customer Purchase Agreement.

5.2 Responsibility for Lost or Damaged Shipments. Seller bears the risk of loss or damage to goods prior to the time of their receipt and acceptance by City. City has no obligation to accept damaged shipments and reserves the right to return damaged goods, at Seller's sole expense, even if the damage was not apparent or discovered until after receipt.

5.3 Responsibility for Damages. Seller is responsible for all damage that occurs as a result of Seller's fault or negligence or that of its' employees, agents, or representatives in connection with the performance of this Contract. Seller shall immediately report any such damage to people and/or property to the Contract Administrator.

EXHIBIT B
CITY'S GENERAL CONTRACT TERMS AND PROVISIONS

5.4 Delivery. Delivery shall be made on the delivery day specified in Exhibit A. The City, in its sole discretion, may extend the time for delivery. The City may order, in writing, the suspension, delay or interruption of delivery of goods and/or services.

5.5 Delay. Unless otherwise specified herein, time is of the essence for each and every provision of the Contract. Seller must immediately notify City in writing if there is, or it is anticipated that there will be, a delay in performance. The written notice must explain the cause for the delay and provide a reasonable estimate of the length of the delay. City may terminate this Contract as provided herein if City, in its sole discretion, determines the delay is material.

5.5.1 If a delay in performance is caused by any unforeseen event(s) beyond the control of the parties, City may allow Seller to a reasonable extension of time to complete performance, but Seller will not be entitled to damages or additional compensation. Any such extension of time must be approved in writing by City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the performance; inability to obtain materials, equipment or labor; or other specific reasons agreed to between City and Seller. This provision does not apply to a delay caused by Seller's acts or omissions. Seller is not entitled to an extension of time to perform if a delay is caused by Seller's inability to obtain materials, equipment, or labor unless City has received, in a timely manner, documentary proof satisfactory to City of Seller's inability to obtain materials, equipment, or labor, in which case City's approval must be in writing.

5.6 Restrictions and Regulations Requiring Contract Modification. Seller shall immediately notify City in writing of any regulations or restrictions that may or will require Seller to alter the material, quality, workmanship, or performance of the goods and/or services to be provided. City reserves the right to accept any such alteration, including any resulting reasonable price adjustments, or to cancel the Contract at no expense to the City.

5.7 Warranties. All goods and/or services provided under the Contract must be warranted by Seller or manufacturer for at least twelve (12) months after acceptance by City, except automotive equipment. Seller is responsible to City for all warranty service, parts, and labor. Seller is required to ensure that warranty work is performed at a facility acceptable to City and that services, parts, and labor are available and provided to meet City's schedules and deadlines. Seller may establish a warranty service contract with an agency satisfactory to City instead of performing the warranty service itself. If Seller is not an authorized service center and causes any damage to equipment being serviced, which results in the existing warranty being voided, Seller will be liable for all costs of repairs to the equipment, or the costs of replacing the equipment with new equipment that meets City's operational needs.

5.8 Industry Standards. Seller shall provide goods and/or services acceptable to City in strict conformance with the Contract. Seller shall also provide goods and/or services in accordance with the standards customarily adhered to by an experienced and competent provider of the goods and/or services called for under this Contract using the degree of care and skill ordinarily exercised by reputable providers of such goods and/or services. Where approval by City, the Mayor, or other representative of City is required, it is understood to be general

EXHIBIT B

CITY'S GENERAL CONTRACT TERMS AND PROVISIONS

approval only and does not relieve Seller of responsibility for complying with all applicable laws, codes, policies, regulations, and good business practices.

5.9 Records Retention and Examination. Seller shall retain, protect, and maintain in an accessible location all records and documents, including paper, electronic, and computer records, relating to this Contract for five (5) years after receipt of final payment by City under this Contract. Seller shall make all such records and documents available for inspection, copying, or other reproduction, and auditing by authorized representatives of City, including the Purchasing Agent or designee. Seller shall make available all requested data and records at reasonable locations within City or County of San Diego at any time during normal business hours, and as often as City deems necessary. If records are not made available within the City or County of San Diego, Seller shall pay City's travel costs to the location where the records are maintained and shall pay for all related travel expenses. Failure to make requested records available for inspection, copying, or other reproduction, or auditing by the date requested may result in termination of the Contract. Seller must include this provision in all subcontracts made in connection with this Contract.

5.9.1 Seller shall maintain records of all subcontracts entered into with all firms, all project invoices received from Subcontractors and Suppliers, all purchases of materials and services from Suppliers, and all joint venture participation. Records shall show name, telephone number including area code, and business address of each Subcontractor and Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.

5.10 Quality Assurance Meetings. Upon City's request, Seller shall schedule one or more quality assurance meetings with City's Contract Administrator to discuss Seller's performance. If requested, Seller shall schedule the first quality assurance meeting no later than eight (8) weeks from the date of commencement of work under the Contract. At the quality assurance meeting(s), City's Contract Administrator will provide Seller with feedback, will note any deficiencies in Contract performance, and provide Seller with an opportunity to address and correct such deficiencies. The total number of quality assurance meetings that may be required by City will depend upon Seller's performance.

5.11 Duty to Cooperate with Auditor. The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Seller's records to confirm contract compliance. Seller shall make reasonable efforts to cooperate with Auditor's requests.

5.12 Safety Data Sheets. If specified by City in the solicitation or otherwise required by this Contract, Seller must send with each shipment one (1) copy of the Safety Data Sheet (SDS) for each item shipped. Failure to comply with this procedure will be cause for immediate termination of the Contract for violation of safety procedures.

5.13 Project Personnel. [Reserved].

EXHIBIT B

CITY'S GENERAL CONTRACT TERMS AND PROVISIONS

5.13.1 Criminal Background Certification. Seller certifies that all employees working on this Contract have had a criminal background check and that said employees are clear of any sexual and drug related convictions. Seller further certifies that all employees hired by Seller or a subcontractor shall be free from any felony convictions.

5.13.2 Photo Identification Badge. Seller shall provide a company photo identification badge to any individual assigned by Seller or subcontractor to perform services or deliver goods on City premises. Such badge must be worn at all times while on City premises. City reserves the right to require Seller to pay fingerprinting fees for personnel assigned to work in sensitive areas. All employees shall turn in their photo identification badges to Seller upon completion of services and prior to final payment of invoice.

5.14 Standards of Conduct. Seller is responsible for maintaining standards of employee competence, conduct, courtesy, appearance, honesty, and integrity satisfactory to the City.

5.14.1 Supervision. Seller shall provide adequate and competent supervision at all times during the Contract term. Seller shall be readily available to meet with the City. Seller shall provide the telephone numbers where its representative(s) can be reached.

5.14.2 City Premises. Seller's employees and agents shall comply with all City rules and regulations while on City premises.

5.14.3 Removal of Employees. [Reserved].

5.15 Licenses and Permits. Seller shall, without additional expense to the City, be responsible for obtaining any necessary licenses, permits, certifications, accreditations, fees and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to Contract performance. This includes, but is not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

5.16 Contractor and Subcontractor Registration Requirements. Prior to the award of the Contract or Task Order, Contractor must register with the City's web-based vendor registration and bid management system. The City may not award the Contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified by the City, the City reserves the right to rescind the Contract award and to make the award to the next responsive and responsible proposer of bidder.

ARTICLE VI

INTELLECTUAL PROPERTY RIGHTS

6.1 Rights in Data. [Reserved].

6.2 Intellectual Property Rights Assignment. [Reserved].

6.3 Contractor Works. Contractor Works means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by Seller

EXHIBIT B

CITY'S GENERAL CONTRACT TERMS AND PROVISIONS

prior to the effective date of this Contract; or (b) were conceived, invented, created, or developed by Seller after the effective date of this Contract, but only to the extent such information and material do not constitute part or all of the Deliverable Materials called for in this Contract. All Contractor Works, and all modifications or derivatives of such Contractor Works, including all intellectual property rights in or pertaining to the same, shall be owned solely and exclusively by Seller.

6.4 Subcontracting. [Reserved].

6.5 Intellectual Property Warranty and Indemnification. Seller represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this Contract are either original, or not encumbered, and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Seller to produce, at Seller's own expense, new non-infringing materials, deliverables or works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Seller further agrees to indemnify, defend, and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages, of any type, alleging or threatening that any Deliverable Materials, supplies, equipment, services or works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claim of Infringement). If a Third Party Claim of Infringement is threatened or made before Seller receives payment under this Contract, City shall be entitled, upon written notice to Seller, to withhold some or all of such payment.

6.6 Software Licensing. Seller represents and warrants that the software, if any, as delivered to City, does not contain any program code, virus, worm, trap door, back door, time or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of licensor-selected conditions or manually on command. Seller further represents and warrants that all third-party software, delivered to City or used by Seller in the performance of the Contract, is fully licensed by the appropriate licensor.

6.7 Publication. Seller may not publish or reproduce any Deliverable Materials, for purposes unrelated to Seller's work on behalf of the City without prior written consent from the City.

6.8 Royalties, Licenses, and Patents. Unless otherwise specified, Seller shall pay all royalties, license, and patent fees associated with the goods that are the subject of this solicitation. Seller warrants that the goods, materials, supplies, and equipment to be supplied do not infringe upon any patent, trademark, or copyright, and further agrees to defend any and all suits, actions and claims for infringement that are brought against the City, and to defend, indemnify and hold harmless the City, its elected officials, officers, and employees from all liability, loss and damages, whether general, exemplary or punitive, suffered as a result of any actual or claimed infringement asserted against the City, Seller, or those furnishing goods, materials, supplies, or equipment to Seller under the Contract.

EXHIBIT B
CITY'S GENERAL CONTRACT TERMS AND PROVISIONS

ARTICLE VII
INDEMNIFICATION AND INSURANCE

7.1 Indemnification. To the fullest extent permitted by law, Seller shall defend (with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all third party claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Seller or its subcontractors), expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses, to the extent Contractor shall have discretion in the management and control of any defense, and fees of expert consultants or expert witnesses incurred in connection therewith as well as costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any goods provided or performance of services under this Contract by Seller, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Seller's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities to the extent those arise from the negligence or willful misconduct of the Indemnified Parties.

7.2 Insurance. Seller shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by Seller, his agents, representatives, employees or subcontractors.

Seller shall provide, at a minimum, the following:

7.2.1 Commercial General Liability. Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

7.2.2 Commercial Automobile Liability. [Reserved].

7.2.3 Workers' Compensation. [Reserved].

7.2.4 Professional Liability (Errors and Omissions). [Reserved].

7.2.5 Aviation Liability Insurance. Seller shall maintain Aviation Liability insurance on an "occurrence" basis, including products and completed operations, property damage, bodily injury with limits no less than \$2,000,000 per occurrence and \$4,000,000 aggregate.

7.2.6 Other Insurance Provisions. [Reserved]

EXHIBIT B
CITY'S GENERAL CONTRACT TERMS AND PROVISIONS

7.2.6.1 Additional Insured Status. [Reserved]

7.2.6.2 Primary Coverage. [Reserved]

7.2.6.3 Notice of Cancellation. [Reserved]

7.2.6.4 Waiver of Subrogation. [Reserved]

7.2.6.5 Claims Made Policies (applicable only to professional liability).
[Reserved].

7.3 Self Insured Retentions. [Reserved].

7.4 Acceptability of Insurers. [Reserved]

7.5 Verification of Coverage. Seller shall furnish City with original certificates affecting coverage required by this clause. All certificates are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Seller's obligation to provide them.

7.6 Special Risks or Circumstances. [Reserved]

7.7 Additional Insurance. Seller may obtain additional insurance not required by this Contract.

7.8 Excess Insurance. All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.

7.9 Subcontractors. [Reserved].

ARTICLE VIII
BONDS

8.1 Payment and Performance Bond. [Reserved].

8.1.1 Bond Amount. [Reserved].

8.1.2 Bond Term. [Reserved].

8.1.3 Bond Surety. [Reserved].

8.1.4 Non-Renewal or Cancellation. [Reserved].

8.2 Alternate Security. [Reserved].

ARTICLE IX

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CITY'S GENERAL CONTRACT TERMS AND PROVISIONS
CITY-MANDATED CLAUSES AND REQUIREMENTS

9.1 Contractor Certification of Compliance. By signing this Contract, Seller certifies that Seller is aware of, and will comply with, these City-mandated clauses throughout the duration of the Contract.

9.1.1 Drug-Free Workplace Certification. Seller shall comply with City's Drug-Free Workplace requirements set forth in Council Policy 100-17, which is incorporated into the Contract by this reference.

9.1.2 Contractor Certification for Americans with Disabilities Act (ADA) and State Access Laws and Regulations: Seller shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Seller shall comply with the most restrictive requirement (i.e., that which provides the most access). Seller also shall comply with the City's ADA Compliance/City Sellers requirements as set forth in Council Policy 100-04, which is incorporated into this Contract by reference. Seller warrants and certifies compliance with all federal and state access laws and regulations and further certifies that any subcontract agreement for this contract contains language which indicates the subcontractor's agreement to abide by the provisions of the City's Council Policy and any applicable access laws and regulations.

9.1.3 Non-Discrimination Requirements.

9.1.3.1 Compliance with City's Equal Opportunity Contracting Program (EOCP). Seller shall comply with City's EOCP Requirements. Seller shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Seller shall provide equal opportunity in all employment practices. Prime Sellers shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Prime Contractor liable for any discriminatory practice of its subcontractors.

9.1.3.2 Non-Discrimination Ordinance. Seller shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subcontractors, vendors or suppliers. Seller shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Seller understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, or other sanctions. Seller shall ensure that this language is included in contracts between Seller and any subcontractors, vendors and suppliers.

9.1.3.3 Compliance Investigations. Upon City's request, Seller agrees to provide to City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Seller has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Seller for each subcontract or supply contract. Seller further agrees to fully cooperate in any investigation conducted by City pursuant to City's Nondiscrimination in Contracting Ordinance. Seller understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

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9.1.4 Equal Benefits Ordinance Certification. Unless an exception applies, Seller shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (SDMC). Failure to maintain equal benefits is a material breach of the Contract.

9.1.5 Contractor Standards. Seller shall comply with Contractor Standards provisions codified in the SDMC. Seller understands and agrees that violation of Contractor Standards may be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.

9.1.6 Noise Abatement. Seller shall operate, conduct, or construct without violating the City's Noise Abatement Ordinance codified in the SDMC.

9.1.7 Storm Water Pollution Prevention Program. Seller shall comply with the City's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the SDMC, as may be amended, and any and all applicable Best Management Practice guidelines and pollution elimination requirements in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of City regardless of location.

Seller shall comply with the City's Jurisdictional Urban Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within City boundaries as adopted by the City Council on January 22, 2008, via Resolution No. 303351, as may be amended.

Seller shall comply with each City facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

9.1.8 Service Worker Retention Ordinance. If applicable, Seller shall comply with the Service Worker Retention Ordinance (SWRO) codified in the SDMC.

9.1.9 Product Endorsement. Seller shall comply with Council Policy 000-41 which requires that other than listing the City as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the City as a user of a product or service will require prior written approval of the Mayor or designee. Use of the City Seal or City logos is prohibited.

9.1.10 Business Tax Certificate. [Reserved]

9.1.11 Equal Pay Ordinance. Unless an exception applies, Seller shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. Seller shall certify in writing that it will comply with the requirements of the EPO.

9.1.11.1 Contractor and Subcontract Requirement. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of a Contractor to the same extent as it would apply to that Contractor. Any Contractor subject to the Equal Pay Ordinance shall

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require all of its subcontractors to certify compliance with the Equal Pay Ordinance in its written subcontracts.

ARTICLE X

CONFLICT OF INTEREST AND VIOLATIONS OF LAW

10.1 Conflict of Interest Laws. Seller is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices including, but not limited to, California Government Code sections 1090, *et. seq.* and 81000, *et. seq.*, and the Ethics Ordinance, codified in the SDMC. City may determine that Seller must complete one or more statements of economic interest disclosing relevant financial interests. Upon City's request, Seller shall submit the necessary documents to City.

10.2 Seller's Responsibility for Employees and Agents. Seller is required to establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.

10.3 Seller's Financial or Organizational Interests. In connection with any task, Seller shall not recommend or specify any product, supplier, or contractor with whom Seller has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

10.4 Certification of Non-Collusion. Seller certifies that: (1) Seller's bid or proposal was not made in the interest of or on behalf of any person, firm, or corporation not identified; (2) Seller did not directly or indirectly induce or solicit any other bidder or proposer to put in a sham bid or proposal; (3) Seller did not directly or indirectly induce or solicit any other person, firm or corporation to refrain from bidding; and (4) Seller did not seek by collusion to secure any advantage over the other bidders or proposers.

10.5 Hiring City Employees. This Contract shall be unilaterally and immediately terminated by City if Seller employs an individual who within the twelve (12) months immediately preceding such employment did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on the selection of Seller.

ARTICLE XI

DISPUTE RESOLUTION

11.1 Mediation. If a dispute arises out of or relates to this Contract and cannot be settled through normal contract negotiations, Seller and City shall use mandatory non-binding mediation before having recourse in a court of law.

11.2 Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Contract, if possible.

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11.3 Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.

11.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code sections 1115 through 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.

11.5 Mediation Results. Any agreements resulting from mediation shall be memorialized in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability, and their actions shall not be subject to discovery.

ARTICLE XII
MANDATORY ASSISTANCE

12.1 Mandatory Assistance. If a third party dispute or litigation, or both, arises out of, or relates in any way to the services provided to the City under a Contract, Seller, its agents, officers, and employees agree to assist in resolving the dispute or litigation upon City's request. Seller's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

12.2 Compensation for Mandatory Assistance. City will compensate Seller for fees incurred for providing Mandatory Assistance. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of Seller, its agents, officers, and employees, Seller shall reimburse City for all fees paid to Seller, its agents, officers, and employees for Mandatory Assistance.

12.3 Attorneys' Fees Related to Mandatory Assistance. In providing City with dispute or litigation assistance, Seller or its agents, officers, and employees may incur expenses and/or costs. Seller agrees that any attorney fees it may incur as a result of assistance provided under Section 12.2 are not reimbursable.

ARTICLE XIII
MISCELLANEOUS

13.1 Headings. All headings are for convenience only and shall not affect the interpretation of this Contract.

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13.2 Non-Assignment. Seller may not assign the obligations under this Contract, whether by express assignment or by sale of the company, nor any monies due or to become due under this Contract, without City's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Contract at the City's sole discretion. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.

13.3 Independent Contractors. Seller and any subcontractors employed by Seller are independent contractors and not agents of City. Any provisions of this Contract that may appear to give City any right to direct Seller concerning the details of performing or providing the goods and/or services, or to exercise any control over performance of the Contract, shall mean only that Seller shall follow the direction of City concerning the end results of the performance.

13.4 Subcontractors. All persons assigned to perform any work related to this Contract, including any subcontractors, are deemed to be employees of Seller, and Seller shall be directly responsible for their work.

13.5 Covenants and Conditions. All provisions of this Contract expressed as either covenants or conditions on the part of City or Seller shall be deemed to be both covenants and conditions.

13.6 Compliance with Controlling Law. Seller shall comply with all applicable local, state, and federal laws, regulations, and policies. Seller's act or omission in violation of applicable local, state, and federal laws, regulations, and policies is grounds for contract termination. In addition to all other remedies or damages allowed by law, Seller is liable to City for all damages, including costs for substitute performance, sustained as a result of the violation. In addition, Seller may be subject to suspension, debarment, or both.

13.7 Governing Law. The Contract shall be deemed to be made under, construed in accordance with, and governed by the laws of the State of California without regard to the conflicts or choice of law provisions thereof except for the New Aircraft Warranty, which will be governed by the Choice of Law and Jurisdiction clause contained within the Warranty. .

13.8 Venue. The venue for any suit concerning solicitations or the Contract, the interpretation or application of any of its terms and conditions, or any related disputes shall be in the United States District Court for the Southern District of California.

13.9 Successors in Interest. This Contract and all rights and obligations created by this Contract shall be in force and effect whether or not any parties to the Contract have been succeeded by another entity, and all rights and obligations created by this Contract shall be vested and binding on any party's successor in interest.

13.10 No Waiver. No failure of either City or Seller to insist upon the strict performance by the other of any covenant, term or condition of this Contract, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Contract, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Contract, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

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13.11 Severability. The unenforceability, invalidity, or illegality of any provision of this Contract shall not render any other provision of this Contract unenforceable, invalid, or illegal.

13.12 Drafting Ambiguities. The parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms and conditions of this Contract, and the decision of whether to seek advice of legal counsel with respect to this Contract is the sole responsibility of each party. This Contract shall not be construed in favor of or against either party by reason of the extent to which each party participated in the drafting of the Contract.

13.13 Amendments. Neither this Contract nor any provision hereof may be changed, modified, amended or waived except by a written agreement executed by duly authorized representatives of City and Seller. Any alleged oral amendments have no force or effect. The Purchasing Agent must sign all Contract amendments.

13.14 Conflicts Between Terms. If this Contract conflicts with an applicable local, state, or federal law, regulation, or court order, applicable local, state, or federal law, regulation, or court order shall control. Varying degrees of stringency among the main body of this Contract, the exhibits or attachments, and laws, regulations, or orders are not deemed conflicts, and the most stringent requirement shall control. Each party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Contract.

13.15 Survival of Obligations. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Contract, as well as all continuing obligations indicated in this Contract, shall survive, completion and acceptance of performance and termination, expiration or completion of the Contract.

13.16 Confidentiality of Services. All services performed by Seller, and any sub-contractor(s) if applicable, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Seller, are for the sole use of City, its agents, and employees. Neither the documents nor their contents shall be released by Seller or any subcontractor to any third party without the prior written consent of City. This provision does not apply to information that: (1) was publicly known, or otherwise known to Seller, at the time it was disclosed to Seller by City; (2) subsequently becomes publicly known through no act or omission of Seller; or (3) otherwise becomes known to Seller other than through disclosure by City.

13.17 Insolvency. If Seller enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Seller agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of the bankruptcy to the Purchasing Agent and the Contract Administrator responsible for administering the Contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of City contract numbers and contracting offices for all City contracts against which final payment has not been made. This obligation remains in effect until final payment is made under this Contract.

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13.18 No Third Party Beneficiaries. Except as may be specifically set forth in this Contract, none of the provisions of this Contract are intended to benefit any third party not specifically referenced herein. No party other than City and Seller shall have the right to enforce any of the provisions of this Contract.

13.19 Actions of City in its Governmental Capacity. Nothing in this Contract shall be interpreted as limiting the rights and obligations of City in its governmental or regulatory capacity.