

## TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

<p>1. CYBERHAWK, INC., a Texas corporation having its office at 1177 West Loop South, Suite 1100, Houston, Texas, TX7727 ("Cyberhawk" or "Company"); and</p> <p>2. You ("the Customer")</p>	<p>PARTIES</p>	<p>6.3</p> <p>6.4</p> <p>6.5</p>	<p>If a delay results from a cause for which Customer or its servants or agents are responsible, Cyberhawk shall be entitled to reimbursement of its resulting additional losses and expenses (including, but not limited to, finance costs arising from any associated deferral of payment).</p> <p>All delays due to weather or conditions being outside the operational parameters of Cyberhawk's equipment (which shall be determined by Cyberhawk's designated team leader's sole discretion) will be charged at the standby day rate stipulated in the Quotation or such other rate as Cyberhawk may stipulate in writing to Customer.</p> <p>Subject to clause 10.6, work delayed due to Customer's operational or plant restrictions (which shall be at Cyberhawk's designated team leader's sole discretion) will be charged at the standby day rate stipulated in the Quotation, in addition to the original sum due for the Work under the Contract or such other rate as Cyberhawk may stipulate in writing to Customer.</p>
<p>1.1</p> <p>1.2</p> <p>1.3</p> <p>1.4</p> <p>1.5</p>	<p>GENERAL</p> <p>These Conditions are the only terms and conditions upon which Cyberhawk is prepared to deal with Customer, and they shall govern the Contract to the entire exclusion of any other terms and conditions, including any conditions contained in the Purchase Order, any other document or Customer's standard terms and conditions (if any). Customer hereby waives any right which it otherwise might have to rely on other documentation or its own terms and conditions, and the performance by Cyberhawk of any aspect of the Contract shall not constitute acceptance of such terms and conditions.</p> <p>Unless previously withdrawn, Quotations are valid for the period stated therein, or if no period is stated, for 7 days from date of Quotation.</p> <p>These Conditions shall apply to and be incorporated into the Contract, and shall prevail over any inconsistent terms or conditions contained or referred to, in Customer's Purchase Order, confirmation of order, acceptance of a Quotation or specification, or implied by law, trade custom, practice or course of dealing.</p> <p>Customer's Purchase Order or acceptance of a Quotation constitutes an offer by Customer to purchase the Work specified in it on these Conditions. No offer placed by Customer shall be accepted other than:</p> <p>1.4.1 by a written acceptance issued and executed by Cyberhawk, or</p> <p>1.4.2 (if earlier) by Cyberhawk starting to provide the Work, when a contract for the supply and purchase of the Work on these Conditions will be established.</p> <p>In the event of a conflict between provisions in these Conditions and the Supplementary Conditions, the Supplementary Conditions shall at all times prevail.</p>	<p>7.</p> <p>7.1</p> <p>7.2</p> <p>7.3</p> <p>7.4</p>	<p>No variation of the Contract or the Conditions shall be valid unless in writing and signed by a director or authorized person of Cyberhawk.</p> <p>Cyberhawk shall not be obliged to agree to any variation of the Contract. Cyberhawk's agreement to any variation shall be effective from the date of Cyberhawk's acceptance in writing to Customer's formal written variation to the Purchase Order following agreement and as to any associated changes in price and time for delivery.</p> <p>In the event that any alteration or modification of the Work becomes necessary owing to a matter for which Customer or its servants or agents are responsible, including, but not limited to, any alteration or modification being made to the premises where the Work is to be carried out, or to any of Customer's plant or to any plan or design relating to such premises or plant to be constructed, altered or modified, the Contract price will be increased or decreased by the amount which Cyberhawk (at its sole discretion acting reasonably) shall determine (taking into account costs, overheads and profit) is reasonably occasioned by such alterations or modifications.</p> <p>Cyberhawk may, from time to time, and without notice, change the Work in order to comply with any applicable safety, statutory or regulatory requirements, provided that such changes do not affect the nature, scope, quality or the charges for the Work; otherwise, Cyberhawk will require Customer's written consent to change the Work (which consent shall not be unreasonably, withheld, delayed and/or conditioned).</p>
<p>2.</p> <p>2.1</p>	<p>DEFINITIONS</p> <p>The definitions and rules of interpretation in this clause 2 apply in these Conditions.</p> <p>"Business Day" means a day (other than a Saturday, Sunday or public holiday) when banks in Houston, Texas are open for business.</p> <p>"Conditions" means these terms and conditions and the attached Supplementary Conditions (if any).</p> <p>"Contract" means the contract between Customer and Cyberhawk consisting of the Quotation, these Conditions, the Purchase Order and Cyberhawk's written acceptance of the Purchase Order.</p> <p>"Images" means all images and data that may be used to generate images, including but not limited to, raw photographic images, processed photographic images and their aggregate combination and/or data files if applicable, thermal images, all image metadata which may include, but is not limited to, global positioning system (GPS) information, in any media format provided by Cyberhawk to Customer in terms of the Contract.</p> <p>"Intellectual Property Rights" means all patents, rights to inventions, utility models, copyright and related rights, trademarks, images, service marks, trade, business and domain names, rights in trade dress or get up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know how and trade secrets) and any other intellectual property rights, in each case, whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world; "Intellectual Property Right" means any one of the "Intellectual Property Rights."</p> <p>"Purchase Order" means the order or instruction issued by Customer for the purchase of the Work.</p> <p>"Quotation" means the final (or if not stated as being such, then the last) written quotation provided by Cyberhawk to Customer in relation to the provision by Cyberhawk of the Work.</p> <p>"Supplementary Conditions" means those terms and conditions, if any, detailed in the covering correspondence from Cyberhawk to Customer enclosing these Conditions and/or accompanying the Quotation.</p> <p>"Work" means the services and/or goods (including, without prejudice to the foregoing generality, reports, images and/or data) to be supplied by Cyberhawk identified in the Quotation.</p>	<p>8.</p> <p>8.1</p> <p>8.2</p> <p>8.3</p> <p>8.3.1</p> <p>8.3.2</p> <p>8.3.3</p> <p>8.3.4</p> <p>8.4</p>	<p>TITLE/OWNERSHIP AND RISK</p> <p>Ownership and possession of the Work shall remain in Cyberhawk until the whole of the price and all other sums which are or become due have been paid, irrespective of whether any of the Work has been completed in whole or in part, and Cyberhawk reserves the right to recover any reports, images, data, equipment and materials for which payment is overdue.</p> <p>Risk in the Work will transfer to Customer upon delivery of any data, images and/or reports to be provided under the Contract. Unless otherwise stated in the Contract, delivery will be deemed to have occurred on the date of sending the data and/or reports to Customer.</p> <p>Until such title has passed to Customer, Customer shall:</p> <p>8.3.1 hold such property in the Work on a fiduciary basis;</p> <p>8.3.2 store such property in the Work separately from all other goods held by Customer so that they remain easily identifiable as Cyberhawk's property;</p> <p>8.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to such property in the Work; and</p> <p>8.3.4 maintain such property in the Work in a satisfactory condition and keep them in Cyberhawk's behalf for their full price against all risks with an insurer that is reasonably acceptable to Cyberhawk. Customer shall obtain an endorsement of Cyberhawk's interest in the property of the Work on its insurance policy, subject to the insurer being willing to make the endorsement. On request, Customer shall allow Cyberhawk to inspect such property in the Work and the insurance policy.</p> <p>If before title to the property in the Work passes to Customer, Customer becomes subject to any of the events in clause 17 then, provided that such property in the Work has not been used and without limiting any other right or remedy Cyberhawk may have, Cyberhawk may, at any time, require Customer to return such property in the Work and, if Customer fails to do so promptly, enter any of the premises where the relevant property in the Work are stored in order to recover them.</p>
<p>2.2</p> <p>2.3</p> <p>2.4</p> <p>2.5</p> <p>2.6</p> <p>2.7</p> <p>2.8</p> <p>2.9</p> <p>2.10</p> <p>2.11</p>	<p>Clause and paragraph headings shall not affect the interpretation of these Conditions.</p> <p>A <b>person</b> includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assignees.</p> <p>A reference to a <b>company</b> shall include any company, limited liability company, partnership, limited partnership, corporation or other body corporate, wherever and however incorporated or established.</p> <p>Words in the singular shall include the plural and vice versa.</p> <p>A reference to one gender shall include a reference to the other gender.</p> <p>A reference to a statute, statutory provision or any regulation made under a statute is to such statute, provision or regulation a reference to the statute, provision or regulation as it may be amended or re-enacted from time to time.</p> <p>A reference to <b>writing</b> or something that is <b>written</b> includes faxes and such electronic media as is acceptable to both parties.</p> <p>Any obligation in these Conditions on a person not to do something includes an obligation not to agree or allow that thing to be done.</p> <p>References to clauses are to the clauses of these Conditions</p> <p>Any phrase introduced by the terms <b>"including," "include," "in particular"</b> or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.</p>	<p>9.</p> <p>10.</p> <p>10.1</p> <p>10.2</p> <p>10.3</p> <p>10.4</p> <p>10.5</p> <p>10.6</p>	<p>PRICES</p> <p>The Quotation is based on the costs of labor, equipment, materials, plant, transport, and conformity with statutory obligations prevailing at the date of the Quotation; in the event of any increase in any of the costs affecting the Work between the date of Quotation and the date of delivery or, if applicable, the date of provision or completion of the Work under the Contract, the labor, equipment, materials, plant and transport will be invoiced on the basis of the prices prevailing on the date of delivery or provision of the Work. State and Local taxes on the sale of services and tangible and intangible property are not included in any quotation. Customer is solely responsible for any such tax imposed. Customer is not responsible for taxes imposed on Cyberhawk's income or profits.</p>
<p>3.</p> <p>3.1</p> <p>3.2</p> <p>4.</p> <p>5.</p> <p>5.1</p> <p>5.1</p> <p>5.2</p> <p>5.3</p> <p>5.4</p> <p>5.5</p> <p>6.</p> <p>6.1</p> <p>6.2</p>	<p>DESCRIPTIONS, ETC</p> <p>Customer assumes responsibility that services and any reports stipulated by Customer are sufficient and suitable for its purpose, save insofar as Customer's stipulations are in accordance with Cyberhawk's specific advice in writing in respect of the Contract.</p> <p>Specifications, drawings, particulars of inspection scope and duration and similar information submitted by Cyberhawk in the Quotation, or prior to formation of the Contract, shall be considered approximate only. Descriptions, illustrations and other details contained in Cyberhawk's published literature, price lists, data sheets, and other advertising matter are intended by way of identification and to present a general idea of the services and/or goods described therein, and none of these shall form part of the Contract unless separately and specifically confirmed by Cyberhawk in writing in respect of the Contract. Any drawings, firm information and data which Cyberhawk is required to provide by the Contract will be provided or confirmed at the appropriate time following establishment of the Contract.</p> <p>INSPECTIONS AND TESTS</p> <p>If the Contract requires that any inspection or test is carried out in the presence of Customer or its representative, Cyberhawk will provide not less than three days' notice of such inspection or test. In the event of any delay on the part of Customer or its representative in carrying out such inspection or attending such test, the inspection or test will proceed in the absence of Customer or its representative and shall be deemed to have been made in the presence of the same.</p> <p>CUSTOMER OBLIGATION</p> <p>Customer shall</p> <p>5.1 provide for Cyberhawk, its agents, sub-contractors and employees, in a timely manner and at no charge, access to any premises designated by Customer where any part of the Work is to be carried out and data and other facilities which Cyberhawk may request;</p> <p>5.2 provide such information as Cyberhawk may request for the purposes of the Work and ensure it is accurate in all material respects;</p> <p>5.3 be responsible (at its own cost) for preparing and maintaining any premises and/or assets designated by it where any part of the Work is to be carried out, including identifying, monitoring, removing and disposing of any hazardous materials in accordance with all applicable laws, before and during the Work at those premises;</p> <p>5.4 be liable to pay to Cyberhawk, on demand, all reasonable costs, charges or losses sustained or incurred by Cyberhawk arising from Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to Cyberhawk confirming such costs, charges and losses to Customer in writing;</p> <p>5.5 be responsible for all costs incurred, including but not limited to, loss arising from any loss of equipment and loss of revenue caused either directly or indirectly by Customer's operational devices.</p>	<p>11.</p> <p>12.</p> <p>13.</p> <p>13.1</p>	<p>PAYMENT</p> <p>If payment terms are stated in the Supplemental Conditions, invoices will be submitted and payment will be due in accordance with those terms. If no terms are stated, invoices will be submitted at any time after completion of Work has been notified to Customer, and payment in full and in cleared funds shall be due within 30 days from the date of invoice. Payment shall be made to the bank account nominated by Cyberhawk in writing.</p> <p>Time for payment shall be of the essence of the Contract, and in the event of Customer's failure to comply with the terms as to payment (whether the price be payable by installments or otherwise), Cyberhawk shall have the option to treat the Contract as terminated and to remove any Work, equipment and/or materials whether already delivered or not, or to suspend performance of the Contract until such terms have been complied with, and Customer will be liable to indemnify Cyberhawk against any cost, loss, expense or liability arising out of or in connection with such termination or suspension of the Contract and no alleged fault or deficiency in any Work, equipment, materials or workmanship or other form of counter-claim or right of set-off shall entitle Customer to withhold any payment provided for by the Contract.</p> <p>Without prejudice to Cyberhawk's right to treat the Contract as terminated upon non-payment or to suspend the same and to claim indemnity as aforesaid, and any other remedies available to it, interest shall be payable from the date at which any payment falls due at the rate of 6% per annum unless such rate is in excess of that permitted by law, and in such instance the rate shall be reduced to the maximum permissible rate.</p> <p>The prices stated in the Contract do not include any allowance for Sales and Use Taxes which may be chargeable to Customer and shall be shown as a separate amount on each invoice and shall be payable by Customer at the prevailing rate in addition to the Contract price.</p> <p>Payment made in currency other than USD may, at Cyberhawk's sole option, result in a reasonable contingency fee being added to the invoice to cover currency fluctuations. Any contingency fee balance remaining following currency conversion into USD will be returned to Customer upon completion of the transaction.</p> <p>Any cancellation of Work which arises as a result of Customer operations will be charged at the full amount stated in the Contract unless written notice of cancellation is received at least ten (10) Business Days before scheduled mobilisation to any site.</p> <p>Neither party may set off any amounts owed to it by the other party against any amounts payable by it to the other party.</p> <p>INSURANCE</p> <p>Each Party shall purchase and maintain throughout the term of the Contract insurance or indemnity protection that is co-equal with its indemnity obligations. This shall include, but not necessarily be limited to (1) broad form commercial general liability insurance (including, as appropriate, products coverage if goods are being provided, and completed operations coverage, if services are being provided), (2) personal/commercial automobile liability insurance (including, as appropriate, owned, hired, and borrowed auto coverages), and (3) professional liability/errors and omissions (if legal, accounting, consulting, IT consulting, or similar professional services are provided). The limit of liability for such coverage shall be no less than \$1 million per claim/occurrence, and the other Party and its directors, officers and employees, to the extent of the owed indemnity obligations, shall be named as "additional insureds" under such policies. Each Party shall also maintain workers' compensation insurance in amounts and coverages required under the laws of the jurisdiction where the Contract is to be performed.</p> <p>DEFECTS</p> <p>Insofar as permitted by law, Cyberhawk's liability shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of the Work, and save as provided in this clause and in clause 16, Cyberhawk shall not be under any liability, whether in contract, tort or otherwise, in respect of defects in the Work.</p> <p>TERMINATION</p> <p>Without prejudice to any other rights or remedies the parties may have, they shall have the right to terminate the Contract by thirty (30) days' prior notice in writing to the other party.</p>

<p>13.2 Without prejudice to any other rights or remedies Cyberhawk may have, Cyberhawk shall have the right to terminate the Contract if, on arrival on site, Cyberhawk discovers the specification in respect of the provision of the Work is not as previously advised.</p> <p>13.3 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving prior written notice to the other if:</p> <p>13.3.1 the other party commits a material breach of any of the terms of the Contract and (if such breach is remediable) fails to remedy that breach within 30 days of the party being notified in writing of the breach; or</p> <p>13.3.2 any process is levied upon any of the other party's assets; or</p> <p>13.3.3 the other party ceases or threatens to cease to carry on its business; or</p> <p>13.3.4 the financial position of the other party deteriorates to such an extent that in the opinion of the other party its capability to adequately fulfill its obligations under the Contract is insecure.</p> <p>13.4 On termination of the Contract for any reason:</p> <p>13.4.1 Customer will immediately pay Cyberhawk's outstanding unpaid invoices and interest and, in respect of Work done and/or Work in progress at the date of termination and for which no invoice has been submitted, Cyberhawk may submit an invoice which will be payable immediately on receipt;</p> <p>13.4.2 Customer will return all of Cyberhawk's equipment and materials and, if Customer fails to do so, Cyberhawk may enter the premises where any such equipment and materials are located and take possession of them.</p> <p>13.5 Upon termination of the Contract, however arising, such termination shall be without prejudice to the rights and duties of Cyberhawk that accrued prior to termination. The clauses which expressly or impliedly are to have effect after termination shall continue to be enforceable notwithstanding termination.</p> <p>14. HEALTH AND SAFETY</p> <p>14.1 Cyberhawk shall use all reasonable efforts to observe all health and safety rules and regulations and any other reasonable security requirements that apply to Customer's premises and that have been communicated to Cyberhawk in writing, provided that Cyberhawk shall not be liable under the Contract if, as a result of complying with health and safety rules and regulations and security requirements, Cyberhawk is in breach of any of its obligations under the Contract.</p> <p>14.2 When Cyberhawk's employees, officers or agents are present at Customer's premises, Customer shall be responsible for providing all safety equipment and other such materials necessary to comply with all health and safety legislation, and in the event that any part of the Contract is being performed outside of the United States, Customer shall provide free medical coverage and emergency evacuation to the contiguous states of the United States for Cyberhawk's personnel for the duration of the Contract.</p> <p>15. PATENTS AND INTELLECTUAL PROPERTY RIGHTS</p> <p>15.1 Cyberhawk shall not be liable for the infringement of any patent, registered design, trademark or other Intellectual Property Right where such infringement results from Work being manufactured or carried out to Customer's design, instructions or using Customer's equipment or software and Customer will fully indemnify Cyberhawk against any claim in respect thereof howsoever arising.</p> <p>15.2 Cyberhawk and, as applicable, its sub-suppliers shall retain ownership of and all rights in Images, designs, software and other Intellectual Property Rights developed or supplied by Cyberhawk. Customer and any servant, agent or client of Customer's shall be granted a perpetual non-transferable royalty-free license to use any such Images, designs, software and intellectual property supplied by Cyberhawk under the Contract to the extent necessary for the purpose of constructing, operating and maintaining the premises or plant for which the Work is intended only, or where the Work was specifically commissioned for some other purpose, for that purpose only. No other rights shall be granted to Customer or any servant, agent or client of Customer's in any intellectual property or that of any of Cyberhawk's sub-suppliers.</p> <p>15.3 Customer shall not disclose to any third party details of the Purchase Order without prior written consent from an officer of Cyberhawk.</p> <p>15.4 Customer shall not attempt to register in any country any of Cyberhawk's Intellectual Property Rights.</p> <p>15.5 Customer undertakes and agrees that Customer will not make any representations or do any act which may be taken to indicate Customer has any right, title or interest in or to the ownership or use of Cyberhawk's Intellectual Property Rights, and acknowledges that nothing contained in the Contract or these Conditions shall give Customer any right, title or interest in or to the Intellectual Property Rights.</p> <p>16. LIMITATION OF LIABILITY</p> <p>16.1 This clause 16 sets out Cyberhawk's entire financial liability (including any liability for the acts or omissions of Cyberhawk's employees, agents and sub-contractors) to Customer in respect of: (i) any breach of the Contract; (ii) any use made by Customer of the Work or any part of it; and (iii) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.</p> <p>16.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.</p> <p>16.3 Nothing in the Contract limits or excludes Cyberhawk's liability for: (i) death or bodily injury caused by Cyberhawk's sole negligence.</p> <p>16.4 Except as provided in clause 16.5, Cyberhawk's total liability to Customer arising out of or in connection with the Contract shall not exceed the Contract price. Cyberhawk shall not be liable to Customer for any indirect or consequential loss, damage or expense arising out of or in connection with the Contract, including, but not limited to, loss of production, loss of profit, loss of contracts, loss of business, deletion of goodwill, loss of goods, corruption of data or information, any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses and loss of use.</p> <p>16.5 If Cyberhawk or its servants or agents are at any site or premises designated by Customer for the purposes of the Contract then, subject to clause 12, Cyberhawk will indemnify Customer against direct damage to Customer's property or that of others occurring while Cyberhawk is on such site to the extent caused by the sole negligence of Cyberhawk or its servants or agents, but not otherwise; provided, however, that Cyberhawk's total liability for damage under this clause 16.5 (including damage caused by our breach of contract, delict, tort or breach of statutory duty) shall not exceed USD \$1,000,000 and Customer shall indemnify Cyberhawk against any liability in excess of that amount.</p> <p>16.6 The provisions of clause 16 shall survive the expiration or termination of the Contract.</p> <p>17. INSOLVENCY</p> <p>In the event of Customer's bankruptcy or insolvency, or in the event of a receivership order being entered against Customer, or in the event Cyberhawk deems itself insecure, then Cyberhawk may at its option terminate the Contract forthwith by notice in writing, whereupon all sums due from Customer shall become due and payable immediately, and Customer shall be liable to Cyberhawk for any loss occasioned in consequence of such termination.</p> <p>18. STATUTORY AND OTHER REGULATIONS</p> <p>If the cost to Cyberhawk of performing its obligations under the Contract is increased or reduced by reason of the making or amendment after the date of contract of any law or of any order, regulation, code or standard, the amount of such increase or reduction shall be added to or deducted from the Contract price as the case may be.</p> <p>19. EQUIPMENT, ETC.</p> <p>Any plant or equipment which Cyberhawk may provide shall be for the use of its employees and agents only. In the event any other person in any way makes use of such plant or equipment (whether or not with Cyberhawk's express or implied consent) while it is at any premises or site designated by Customer, any claim which may arise in connection with any accident arising out of or in connection with the use of such plant or equipment by any such person shall be Customer's sole responsibility, howsoever such accident may be caused, and Customer shall indemnify and hold Cyberhawk harmless from any such claim whatsoever.</p>	<p>20. CYBERHAWK EMPLOYEES</p> <p>Customer agrees not to solicit and agrees not to employ or otherwise entice away from Cyberhawk any officer or employee of Cyberhawk whom Customer has had dealings with during the Contract with a view to employing that individual during the term of the parties' Contract, and for a period of 12 months after termination of this Contract, howsoever arising. In the event of a breach of this clause by Customer, Customer agrees to pay Cyberhawk a sum equal to 12 times the most recent complete month's earnings paid by Cyberhawk to the officer or employee.</p> <p>21. CONFIDENTIALITY</p> <p>21.1 Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to Customer by Cyberhawk, its employees, agents or sub-contractors, and any other confidential information concerning Cyberhawk's business or products which Customer may obtain. Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as needed to know the same for the purpose of discharging Customer's obligations to Cyberhawk, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind Customer.</p> <p>21.2 All materials, equipment and tools, drawings, specifications and data supplied by Cyberhawk to Customer shall, at all times, be and remain Cyberhawk's exclusive property, but shall be held by Customer in safe custody at Customer's risk until returned to Cyberhawk, and shall not be disposed of or used other than in accordance with our written instructions or authorisation.</p> <p>21.3 This clause 21 shall survive the termination of the Contract, howsoever arising.</p> <p>22. DATA PROTECTION</p> <p>Customer acknowledges and agrees that details of its name, address and payment records may be submitted to a credit reference agency, and personal data will be processed by Cyberhawk and on Cyberhawk's behalf in connection with the Work.</p> <p>23. WAIVER</p> <p>A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.</p> <p>24. SEVERANCE</p> <p>24.1 If any provision of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.</p> <p>24.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.</p> <p>25. STATUS OF PRE-CONTRACTUAL STATEMENTS/NO RELIANCE</p> <p>The parties acknowledge and agree that in entering into the Contract they do not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Contract or not) relating to the subject matter of the Contract other than as expressly set out in the Contract.</p> <p>26. ASSIGNMENT</p> <p>Customer will not, without Cyberhawk's prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract. Cyberhawk may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.</p> <p>27. NO PARTNERSHIP OR AGENCY</p> <p>Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).</p> <p>28. RIGHTS OF THIRD PARTIES</p> <p>The Contract is made for the benefit of the parties to it and is not intended to benefit, or be enforceable by, anyone else.</p> <p>29. NOTICES</p> <p>Notice given under the Contract shall be in writing, sent to the attention of the person, and to the address, fax number or, if agreed between the parties, email address, given in the Contract (or such other address, fax number or person as the relevant party may notify to the other party) and shall be delivered personally, sent by fax or email or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of fax, at the time of transmission, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting and if email, following recipient's email confirmation of receipt and, if the deemed receipt under this clause 29 is not within normal business hours (meaning 8:30 am to 4:30 pm Monday to Friday on a day that is a Business Day), then at 8:30 am on the first business day following delivery. To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted or in the case of email following recipient's email confirmation of receipt.</p> <p>30. LAW AND JURISDICTION</p> <p>The Contract shall be governed in all respects by the laws of the State of Texas without the application of its choice of law rules except to the extent they are pre-empted by Federal law. All disputes between the parties shall be resolved by a court located in Harris County, Texas, except as otherwise agreed in writing by the parties. The parties agree to submit to the personal jurisdiction of the courts located within Harris County, Texas for the purpose of litigating all such claims or disputes.</p> <p>31. DISPUTE RESOLUTION/ARBITRATION</p> <p>31.1 Except for disputes involving intellectual property and/or breach of confidentiality, either Cyberhawk or Customer may demand that any dispute between Cyberhawk and Customer must be settled by arbitration utilizing the dispute resolution procedures of the American Arbitration Association (AAA) (Commercial Rules) only in Harris County, Texas; provided, however, that the foregoing shall not prevent either party from seeking injunctive relief in a court of competent jurisdiction. The resolution of any dispute will be limited to Cyberhawk and Customer. The dispute resolution, or any portion of it, will not be consolidated with any other arbitration or lawsuit and will not be conducted on a class-wide, class action or other type of mass action basis.</p> <p>31.2 The arbitration will be conducted before one arbitrator. The arbitrator will be appointed by agreement between the parties. In the event the parties are not able to reach agreement within fourteen (14) days of one party giving notice to the other of its intent to arbitrate, selection of an arbitrator will be made using the procedures of the AAA.</p> <p>31.3 In the event a claim is filed or brought contrary to clauses 30 or 31.1, it shall be considered improperly filed and shall, on the motion of the party that did not bring the improperly filed or brought proceeding, be dismissed.</p> <p>31.4 In all proceedings, each party will bear their respective attorneys' fees and costs during the course of the proceeding. In the event of a dispute and in the further event Cyberhawk is the prevailing party, Cyberhawk shall have the right to recover its reasonable attorneys' fees from Customer.</p> <p>31.5 EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THE CONTRACT.</p>
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