

Raytheon Canada Limited, ELCAN Optical Technologies
Standard Terms and Conditions of Sale

Unless otherwise agreed to by Raytheon Canada Limited, ELCAN Optical Technologies (“**ELCAN**”) agrees otherwise in writing, any purchase order or other contractual document (“**Order**”) submitted by a customer (“**Buyer**”), as well as any subsequent Order amendment(s), will only be accepted by ELCAN with the understanding that the products intended to be purchased by the Buyer under the Order (“**Products**”), and/or services being provided to the Buyer by ELCAN under the Order (“**Services**”), are being supplied pursuant to these Terms and Conditions. Together, the Order and the Terms and Conditions constitute the agreement between the parties (“**Agreement**”). ELCAN rejects all additional or different terms, however proposed by Buyer, even if such terms and conditions are included on the Order from Buyer.

Whereas, the Buyer has a requirement for Product(s) and/or Services which ELCAN can provide, and ELCAN has the specific knowledge and abilities to provide such Product(s) and/or Services;

Now therefore, in consideration of the mutual covenants, conditions and agreements contained herein, ELCAN and Buyer agree as follows:

1. **Acceptance of Firm Orders.**

- a) Should ELCAN be unable to meet Buyer’s delivery schedule or quantity requirements or otherwise be unable to accept a firm Order, ELCAN shall so notify the Buyer in writing. Except when otherwise expressly agreed in writing, ELCAN will not start the performance of an Order before said Order has been duly accepted by ELCAN. Except as otherwise set out herein, any firm Order for Products and/or Services can only be cancelled, terminated or modified by the Buyer with ELCAN’s written consent and shall be subject to cancellation and/or other charges, as applicable.

2. **Prices.**

- a) Unless otherwise agreed to in writing, prices for Products and/or Services identified under a firm Order shall remain consistent with the pricing as quoted by ELCAN to the Buyer and shall remain effective for the period covered by the firm Order. Any differences or errors in the pricing set out in an Order, including the applicable quantity amounts for such pricing, all as confirmed in a pricing proposal presented by ELCAN, will be identified as an error by ELCAN and communicated back to the Buyer to correct.
- b) Any additional Products and/or Services listed on an Order, or additions/modifications to the firm Order, will be billed at the price prevailing at the time of shipment. In the event of any delays in the completion or shipment of an Order due to any changes requested by Buyer, or as a result of any delay on Buyer’s part in furnishing information required for completion or shipment of the Order, then such delays may result in a change in price for the applicable Products.
- c) Unless otherwise stated in a quotation, all prices are exclusive of any transactional taxes, including sales and use, value-added, goods and services or any other taxes, fees, tariffs, or duties levied in regard to any transactions covered by an Order. There will be added to the quoted price any sales or other tax or duty which ELCAN may be required to collect or pay upon the sale and/or delivery of Products and/or Services.

3. **Payment.**

- a) Following delivery of Products and/or completion of Services, ELCAN shall submit invoices to Buyer stating amounts due. Payment for each delivery of Products, or provision of Services, shall be made by the Buyer according to terms net thirty (30) days. Payments for U.S. and Canadian sales are to be made to the remit to address indicated on ELCAN’s invoices, or by way of a wire transfer using Electronic Data Interchange transmission, with any such payment being subject to confirmation of payment to ELCAN’s accounts receivable systems for immediate credit.
- b) ELCAN may, at any time, require advance payment, suspend performance of any Order, or require payment in cash, security, or other adequate assurance satisfactory to ELCAN, when in ELCAN’s reasonable opinion, the financial condition of the Buyer or any reasonable grounds for insecurity warrant such action.

- c) In the event of any late payments made by the Buyer, ELCAN reserves the right to charge interest on late payments at a rate of 3% per annum which will be assessed on a weekly basis. Non-payment by Buyer shall be considered a material breach of the Agreement for which ELCAN may terminate the Agreement, or any Order, as set out in clause 10, or suspend any work on any Order until such time as late payments have been rectified.

4. **Shipment and Packing.**

- a) Unless otherwise agreed to in writing as part of an Order, all Products shall be sold and shipped FCA Midland (free carrier, Incoterms 2020) by way of ELCAN's factory. For the purposes of this Agreement, Buyer shall be considered the importer of record.
- b) Delivery dates indicated on quotations are approximate only. Actual delivery of Product(s) shall be on the dates agreed to by the parties as part of the final Order. Early and/or partial deliveries are permissible.
- c) Unless otherwise agreed, the Buyer shall receive Products through a third party intermediary (ie. Freight forwarder). It shall be the Buyer's freight forwarder's responsibility to provide ELCAN with all details for shipment of Products. ELCAN shall pack and mark the Products according to its standard procedures for domestic and/or export shipment.
- d) In the event that the Buyer is not based in the United States, but is using a US-based intermediary (ie. Freight forwarder) for delivery, any agreement between Buyer and such intermediary should set out that the intermediary is responsible for obtaining the proper export authorizations prior to delivery to the Buyer.
- e) Title to Products shall transfer to Buyer upon payment, and risk for the Products shall transfer to Buyer upon delivery.
- f) ELCAN shall inform the Buyer promptly upon learning if there are indications that it will not be able to meet the delivery date, as agreed to under the an applicable Order.

5. **Warranty.**

- a) All Products sold by ELCAN under an Order are warranted to conform to drawings and specifications mutually agreed upon in writing and to be free from defects in material and workmanship under normal use and service for the time period the Products are at Buyer's factory, but in no case longer than twelve (12) months. Any Service(s) provided by ELCAN under an Order are warranted to be performed in a workmanlike manner in accordance with applicable industry standards.
- b) ELCAN's sole obligation, and Buyer's exclusive remedy, under this warranty is for:
- i. ELCAN to repair or replace the Product, or refund Buyer's purchase price for any part of the Product which fails to meet the foregoing warranty; or
 - ii. in the case of Services, re-perform such Services.
- c) Buyer shall notify their ELCAN customer service representative of any Product or part thereof which fails to meet the foregoing warranty, and if ELCAN agrees that the Product, or part thereof, is defective, then the ELCAN customer service representative will provide the Buyer with a Return Application Form to fill out, listing all defective parts in need of repair. Buyer shall complete and execute the Return Application Form and provide it to ELCAN for receipt of a Return Material Authorization ("RMA") number. Upon receipt of the RMA number, and at ELCAN's option, Buyer shall return to an ELCAN plant location designated by ELCAN during the (12) twelve-month period, shipped as delivered duty unpaid ("DDU") to ELCAN (Incoterms 2020), any Product for which a claim is made, with a written explanation of any claimed failure.
- d) The provisions of this warranty shall not apply to Products:
- i. used for purposes for which they are not designated or intended;
 - ii. which have been repaired or altered without ELCAN's prior written consent;

- iii. which have been subjected to normal wear and tear, misuse, negligence, accident or improper maintenance or installation; or
 - iv. which, based on ELCAN's examination, do not disclose to ELCAN's satisfaction non-conformance to the warranty.
- e) No other warranties, express or implied, are made with respect to the Products including, but not limited to, any implied warranty of merchantability or fitness for a particular purpose. ELCAN shall return the Products DDU to the Buyer's factory.

6. **Limitation of Liability.**

- a) The total liability of ELCAN, if any, and Buyer's sole and exclusive remedy for damages for any claim of any kind whatsoever with respect to the Products or Services, as well as any supplemental sale of Products with respect to any of the Products covered thereby, and regardless of the legal theory or the delivery or non-delivery of Products, will not be greater than the total contract value of the Order with respect to which such claim is made.
- b) Under no circumstances will ELCAN be liable to Buyer for any indirect, special, incidental, multiple, punitive or consequential damages, or any damage deemed to be of an indirect or consequential nature (including, but not limited to, costs of removal and reinstallation of items, loss of goodwill, loss of revenues or profits, loss of use, injury to persons or property, or liquidated damages arising from late delivery) arising out of or related to its performance under an Order or related to any breach of this Agreement, whether based upon breach of the Order, warranty, or active or passive negligence, and whether such damages are labelled in tort, contract, or indemnity, even if ELCAN has been advised of the possibility of such damage.

7. **Product Changes.**

- a) The Buyer shall have the right by written Order to make changes from time to time in the Products to be furnished or Services to be rendered by ELCAN hereunder, or to make changes from time to time to the delivery date(s). If such changes cause an increase or decrease in the cost of performance of this Order, or the time required for its performance, an equitable adjustment to pricing and/or delivery dates shall be negotiated promptly and the Order shall be modified in writing accordingly.
- b) Any claim by ELCAN for adjustment under this clause 7 must be asserted in writing within thirty (30) business days from the date of receipt by ELCAN of the notification of the change in Products or Services or delivery schedules, and shall be followed as soon as practicable with specification of the amount claimed. However, nothing herein shall excuse ELCAN from proceeding with the Order as existing pending resolution of the claim. In the event that the parties are unable to agree on applicable cost changes to the Products and or Services being changed, such will be considered a dispute and will be handled in accordance with clause 16 herein.

8. **Intellectual Property (IP) Rights.**

- a) For the purposes of this clause, the following definitions shall apply:
 - i. **"Intellectual Property"** shall mean any and all inventions, patents, trademarks (registered or unregistered), trade secrets, copyrights (registered or unregistered), data, technology and know-how, including without limitation any and all registered and unregistered designs, layouts and any other data or rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields, that is utilized, incorporated within, or that relates in any manner with the development, design or manufacturing of the Product or any technologies related thereto as is contemplated by the terms of this Agreement.
 - ii. **"Foreground Intellectual Property"** shall mean all Intellectual Property and tangible work product conceived, created, acquired, or first reduced to practice in connection with the Order.
 - iii. **"Background Intellectual Property"** shall mean all Intellectual Property other than Foreground Intellectual Property which a party owned before entering into this Agreement or which was derived outside of the scope of this Agreement.
- b) Each party shall retain its existing rights in Background Intellectual Property. Should the Buyer require a license for the use of any of ELCAN's Background Intellectual Property for use in the end Product, such license will only be

applicable for the purchased Product(s) as it was intended to be used, and not individual components of such Product(s), and shall be licensed on a worldwide, non-sublicensable, non-transferable, non-exclusive basis.

- c) Unless otherwise expressly agreed upon in writing to the contrary, all Intellectual Property coming out of this Agreement shall be considered to be the Foreground Intellectual Property of ELCAN, notwithstanding any Buyer Background Intellectual Property that may be incorporated therein which will continue to be owned by Buyer. Should ELCAN require a license for the use of any of Buyer Background Intellectual Property, Buyer shall grant such license on a limited, royalty free and non-exclusive basis.
- d) ELCAN shall become the sole owner of Intellectual Property Rights, including rights to the Foreground Intellectual Property, related to the Product(s), methodologies, designs, plans, processes, tools and other results (whether in the form of written, printed, magnetic or optic media and/or in the form of binary, source or object code with respect to the Products) as generated, designed, invented and/or created by, and wholly funded by, ELCAN pursuant to the performance of the Order. Should the Buyer require a license for the use of any of ELCAN's Foreground Intellectual Property, such license will only be applicable for the purchased Product(s) as it was intended to be used and shall be licensed on a worldwide, non-sublicensable, non-transferable, non-exclusive basis.

9. **Intellectual Property (IP) Warranty.**

- a) ELCAN makes no warranty or representation that any Products purchased by Buyer hereunder will be free from infringement of any patent or any other IP right. ELCAN shall not be under any obligation to defend Buyer or anyone claiming under or through Buyer against any claim or suit arising out of Buyer's purchase hereunder, nor shall ELCAN be liable for any damage assessed as a result of such claim or suit. ELCAN's monetary liability under this Agreement of infringing Products is, in any event, specifically limited in accordance with clause 6 herein.
- b) Buyer warrants that the specifications and designs that it furnishes to ELCAN, if applicable, are free from infringement of any third party intellectual property rights, and Buyer will indemnify, defend and hold ELCAN harmless against any such claim which arises out of ELCAN's reliance on Buyer's direction, specifications and/or designs.
- c) In the event of any indemnification obligations under clause 9 b), Buyer may control the responsibility for defending any alleged claim and ELCAN shall reasonably cooperate with the Buyer in the defense of the alleged claim. Should it choose to do so, ELCAN may participate in any such defense with its own legal representation at its own expense.

10. **Termination of Order.**

- a) Either party may terminate any Order if the other party:
 - i. materially breaches the Order and does not take steps to correct such breach within thirty (30) business days after receipt of written notice from the notifying party specifying such breach;
 - ii. becomes insolvent, or enters or is placed in bankruptcy, receivership, liquidation, transfer of assets for the benefit of creditors, dissolution or similar proceeding, provided such event is not vacated or nullified within fifteen (15) business days of such event; or
 - iii. a significant portion of the assets of the other party necessary for the conduct of its business becomes subject to attachment, embargo or expropriation.
- b) In the event that the Buyer's requirements for the Product(s) and/or Services goes away in its entirety, then the Buyer shall also have the right to cancel any Order at its convenience upon providing ELCAN with written notice at least sixty (60) business days in advance of such termination.
- c) In the case where ELCAN is the defaulting party, Buyer shall be responsible to pay for those Product units already delivered and/or any Services completed by ELCAN, as well as any Product units completed but not yet delivered, and finally any work in progress at a prorated value based on price of finished Products, up to the point of termination.
- d) In the case where Buyer is the defaulting party, or where Buyer has terminated an Order at its convenience in accordance with clause 10 b), then the Buyer shall be responsible to pay ELCAN for:

- i. Product units already delivered and/or any Services completed by ELCAN, as well as any Product units completed but not yet delivered, and finally any work in progress at a prorated value based on the price of finished Products, up to the point of termination;
- ii. Any and all costs incurred by ELCAN as a result of such termination, including, but not limited to, any vendor cancellation costs and any raw materials reasonably purchased upfront by ELCAN in order to fulfill the Order placed by the Buyer; and
- iii. A reasonable amount due to ELCAN as a result of anticipated lost profits, such fee will be based on the costs incurred by ELCAN as set out in sub-point ii. above.

All such costs will be due immediately and shall be collectable by ELCAN through whatever means necessary. Further, upon such termination, the parties agree that any and all rights, title and interest in and to Foreground Intellectual Property developed pursuant to this program will immediately be vested in ELCAN, and any and all limitations on the use thereof by ELCAN shall be immediately deemed null and void.

11. **Acceptance by Buyer.**

- a) All Products and/or Services provided by ELCAN under an Order shall be accepted or rejected by the Buyer within thirty (30) business days of receipt of such Products and/or Services by the Buyer at the Buyers premises. If the Products and/or Services are not rejected within this period, or if Buyer, or its end customer, as applicable, has put any Product to use within this period, then the Buyer will be deemed to have accepted the Products and/or Services by default.

12. **Force Majeure.**

- a) Any delay or failure of a party to perform its obligations hereunder shall be excused to the extent that it is caused by an event or occurrence beyond its reasonable control such as, by the way of example and not by way of limitation, acts of god, actions by any governmental authority at any level (whether valid or invalid), fires, floods, windstorms, explosions, riots, pandemics, natural disasters, wars, sabotage, labor problems (including lockouts, strikes, and slowdowns) at ELCAN's facility, its source plant or suppliers, inability to obtain power, material, labor, equipment, or transportation, or court injunction or Order. Such party shall inform the other party, in writing, within fifteen (15) calendar days of the occurrence, about the circumstances in which a case of Force Majeure exists, as well as the cessation of the Force Majeure condition. Time for performance of ELCAN's contractual obligations shall be extended by a period at least equal to the duration of such Force Majeure event.
- b) In the event that an event of Force Majeure exceeds a continuous period of sixty (60) calendar days from the date of notice being provided, and if it is not possible to agree on further mitigation actions, then either party may cancel the applicable Order upon providing the other party with written advanced notice of at least sixty (60) business days.
- c) In the case where the Buyer is the terminating party, the Buyer shall be responsible for all costs set out in clause 10 d) above, and in the case where ELCAN is the terminating party; the Buyer shall be responsible for all costs set out in clause 10 c) above.

13. **Government Approvals.**

- a) ELCAN and Buyer, respectively, shall be responsible for compliance with and for the obtaining of such approvals and/or permits as may be required under national, provincial, and local laws, ordinances, regulations, and rules as may be applicable to the performance of their respective responsibilities and obligations under this Agreement. However, and notwithstanding the generality of the foregoing, it is understood and agreed that Buyer shall bear any and all responsibility for any regulatory requirements, domestic or foreign, for the Products or Services or as may be required relating to the use of the Products in any way or form.

14. **Export Control.**

- a) Both parties shall comply with all applicable export control laws relevant to them, and specifically the United States and Canadian export control laws and regulations, including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2794, the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq., as well as the specifics of ITAR Part 130, the Export Administration Act, 50 U.S.C. app. 2401-2420, and the Export Administration Regulations, 15 C.F.R. 730-774 the Defence Production Act R.S., 1985, c.D.1, and the Export and Import Permits Act R.S., 1985, c.E-19, all provided that such requirements are given to the ELCAN in writing by the Buyer at the time of Order placement.
- b) Each party shall notify the other party if any use, sale, import or export of Products by the notifying party to be delivered under this Order is restricted by any export control laws or regulations applicable to the notifying party.
- c) Each party shall provide reasonable assistance to the other party to obtain necessary import authorizations, export licenses, permits, agreements or amendments thereto as may be required by law to effect the export or import of Products, technical data or services related to the work, provided, however, that each party provides in a timely fashion all information, duly executed International Import Certificates and/or end user statements required to support the other party's application for the export or import of Products, technical data or services. In the event that such required documentation is not provided by the other party when required, the requesting party shall not be held responsible for any resultant delays or consequences. ELCAN will not be able to proceed with any resultant Order in the absence of necessary approvals.
- d) Each party shall immediately notify the other party if the notifying party is listed in any denied parties list or if the notifying party's export privileges are otherwise denied, suspended or revoked in whole or in part by any government entity or agency.
- e) For Orders related to ITAR controlled products, technical data, or services, the Buyer certifies that it is appropriately registered with its country's Department of State as an exporter, manufacturer and provider of defense services.
- f) For Orders concerning other non-ITAR controlled data, products, or services, Buyer hereby certifies that it is appropriately registered with its government's Department of State as an exporter, manufacturer, and provider of services pursuant to the Products to be manufactured under this Order.
- g) Each party shall:
 - i. maintain records relating to any controlled export, re-export, or retransfer occurring pursuant to the Order, including but not limited to records of the importation into the destination country, end use, and proof of payment, for a minimum of seven years after the date of the last shipment pursuant to the Order, or for such longer period as required by law;
 - ii. make those records available for inspection by the other party to the extent required to support export authorizations or otherwise comply with applicable law; and
 - iii. notify the other party immediately upon becoming aware of any suspected violations of export or import control laws or regulations.
- h) The Buyer shall immediately notify ELCAN of any changes that may change the status of an applicable Order and which may require ELCAN to seek any new authorizations, or a revision or amendment to an existing authorization, or that may impact ELCAN's ability to perform under an Order.
- i) The Buyer shall indemnify ELCAN for all liabilities, penalties, losses, damages, costs, or expenses that may be imposed on or incurred by ELCAN in connection with any violations of export or import laws that result from the failure of the Buyer to provide and update information that the Buyer is required by applicable law or the contract to provide.

15. **End Use and Retransfer.**

- a) The Buyer shall not re-transfer or permit the re-transfer of any Products to any customer or end-user without the prior written consent of such re-transfer by ELCAN, except for transactions in which the end users are Government

customers who are members of NATO (excluding Turkey), EU, Switzerland, Australia, Japan or New Zealand. The Buyer shall confirm by provision of an End User Certificate that the sale is to one of these Government customers, for end use solely by that Government customer, in order to satisfy ELCAN's transactional due diligence, and shall further retain documentation, for verification by ELCAN upon request, of the delivery to the certified end use country.

16. Governing Law and Arbitration.

- a) This Agreement shall be governed by and construed according to the laws of the Province of Ontario, Canada, excluding conflicts of laws principles. This Agreement shall also specifically exclude the application of the UN Convention on Contracts for International Sale of Goods. Notwithstanding any term or requirement to the contrary, both parties should comply with applicable laws and regulations in the Province of Ontario and neither party should be required to take any action inconsistent with applicable laws or regulations.
- b) If a dispute arises, the parties shall meet and negotiate in good faith to settle any allegation of breach or question of interpretation relating to these terms. If parties are unable to settle the matter within thirty (30) calendar days after their first meeting, then upon the demand of either party, the matter shall be submitted to binding arbitration if:
 - (i) in the case of a U.S. or Canadian based Buyer, in accordance with the rules of the American Arbitration Association's International Centre for Dispute Resolution; or
 - (ii) in the case of customers who are not a U.S. or Canadian based Buyer, in accordance with the International Chamber of Commerce (ICC) International Court of Arbitration. The arbitration proceeding shall take place in Toronto, Ontario, Canada, and shall be conducted in the English language. The arbitration tribunal shall consist of three (3) members, one (1) appointed by each party and the third appointed by the first two members. The arbitration tribunal shall resolve the questions submitted, award the relief to which each party may be entitled, and allocate the costs of arbitration. The arbitration award shall be final, binding on the parties, not subject to appeal, and enforceable by any court having jurisdiction over the necessary party or its assets.

17. Anti-Corruption Legislation.

- a) For purposes of this Agreement:
 - i. the term "**FCPA**" means the *Foreign Corrupt Practices Act of 1977 of the United States of America*, as amended by the *Foreign Corrupt Practices Act Amendments of 1988* and as may be further amended and supplemented from time to time;
 - ii. the term "**OECD**" shall mean the *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, December 17, 1997*, as amended and as implemented by the signatory party nations thereto;
 - iii. the term "**CFPOA**" shall mean the *Canadian Corruption of Foreign Public Officials Act of 1998*, as may be further amended from time to time;
 - iv. the term "**UK Bribery Act**" shall mean the *Bribery Act of 2010 of the United Kingdom*, as may be further amended from time to time; and
 - v. the term "**UN Convention**" shall mean the *United Nations Convention against Corruption (2000)* as amended and as implemented by the signatory party nations thereto.Together, the above shall be the "**Anti-Corruption Acts**".

- b) The Buyer represents and warrants to ELCAN, and covenants and agrees that:
 - i. It is familiar with the Anti-Corruption Acts and their purposes. In particular, it is familiar with the prohibition of the acts described in this clause.
 - ii. In connection with its performance of this Agreement and with the sale of any Products or Services in connection with an Order, Buyer has not, directly or indirectly, offered, paid, promised to pay or authorized the payment of any money or gift, or offered, promised to give, or authorized the giving of anything of value to, and will not, directly or indirectly, offer, pay, promise to pay or authorize the payment of any money or gift, or offer, promise to give, or authorize the giving of anything of value to:

- A. any customer official, any political party or official thereof, or any candidate for political office (each such official, political party or official thereof, or candidate or person being herein called a “**Restricted Person**”);
- B. any person while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to any such Restricted Person;
- C. any officer, director, shareholder, employee or agent of a customer, for the purpose of:
 - influencing any act or decision of such Restricted Person or officer, director, shareholder, employee or agent of any customer in its official capacity, or inducing such Restricted Person, or officer, director, shareholder, employee or agency of any customer to do or omit to do any act in violation of the lawful duty of such Restricted Person or officer, director, shareholder, employee or agency of any customer.
 - inducing such Restricted Person or officer, director, shareholder, employee or agent of any customer to use its influence with such customer or instrumentality thereof or any customer to affect or influence any act or decision of such customer or instrumentality or customer; in order to assist either party hereto in obtaining or retaining business for or with, or directing business to, any person.
- iii. None of the Buyer’s officers, directors, shareholders, employees and agents is a Restricted Person. Neither the Buyer, nor any of its shareholders, directors, officers, employees or agents has performed or will perform any act which would constitute a violation of the Anti-Corruption Acts or which would cause ELCAN to be in violation of the Anti-Corruption Acts.
- iv. No Restricted Person has a right to share directly or indirectly in the proceeds of any sales contract obtained pursuant to this Agreement. All payments under any related subcontract will be paid solely by check or bank transfer to the party, no payment will be made hereunder in cash or bearer instrument; no payment will be made hereunder to any person other than the party; and no payment will be made to the party under this Agreement other than payment under the contracts or subcontracts in accordance with the terms hereof. The payments made hereunder have not been used, and will not be used, for any activity or purpose that would violate the Anti-Corruption Acts or that might expose either party to liability under the Anti-Corruption Acts.
- v. Within thirty (30) days of the effective date, Buyer will certify in writing to ELCAN that to the best of its knowledge none of its personnel or capture team members for the current Order pursuant, or any Order under this Agreement, who:
 - A. Are or were previously the subject of a government agency’s formal corruption investigation; or
 - B. Was previously in a Program Management or a Finance Management position on any program that was the subject of a government agency’s formal corruption investigation.
- vi. If a government agency initiates a formal corruption investigation related to an Order against Buyer or its employees, agents or representatives, within five (5) business days from becoming aware of the investigation, the Buyer shall notify ELCAN. Thereafter, the ELCAN shall have the right to propose the implementation of reasonable remedial measures, which may include removal of personnel under investigation from involvement on the Services of an Order.
- vii. Buyer acknowledges that it may be subject to anti-corruption legislation enacted in the jurisdiction of the Buyer which does not have its origins in any treaty or convention identified above. Buyer hereby agrees that it will take no action that may have the purpose or effect of violation of such anti-corruption legislation.
- viii. If at any time, Buyer becomes aware of information or circumstances that suggest any of its representations, warranties and covenants required by this clause or it has provided in response to Sections E(8)-(12) of Raytheon Form E-3 (International Party Questionnaire), may no longer be accurate, it shall notify ELCAN in writing no more than fifteen (15) days after becoming aware of such circumstances. Upon request by ELCAN, Buyer shall fill in and submit a required E-3 Form, which will permit it to be an approved customer of ELCAN. Until such time as the E-3 Form is submitted and approved, ELCAN reserves the right to suspend any RFQs or Orders, as it sees fit until such due diligence has been completed to ELCAN’s satisfaction.
- ix. If Buyer is fined, pleads guilty, is found guilty with legal force, or enters into a criminal, civil or administrative settlement with respect to any violation of the Anti-Corruption Acts or this clause in general (hereinafter referred to as the “**Indemnifying Party**”), it shall indemnify ELCAN and its directors, officers, employees,

attorneys and agents, (hereinafter referred to as the “**Indemnified Party**”) from, and hold each of them harmless against, any and all losses, liabilities, claims, damages or expenses (hereinafter referred to as “**Expenses**”) incurred by the Indemnified Party caused by and as a result of governmental investigations, litigation, or other proceeding giving rise to the fine, guilty plea, conviction, or criminal, civil or administrative settlement, including without limitation the reasonable fees and disbursements of counsel, but excluding any such losses, liabilities, claims, damages or expenses incurred by reason of the gross negligence or willful misconduct of the Indemnified Party.

- x. Violations of this clause shall be a considered a breach of a material provision of this Agreement to which ELCAN may terminate the Agreement and/or any Order in accordance with Section 10 a.

18. Data Privacy

- a) The following definitions are applicable to this clause 19: (a) “**Data Privacy Laws**” shall mean applicable national, federal, and state laws and regulations relating to data privacy and the protection of personal information or personal data; and (b) “**Personal Information**” shall mean any information or data provided by one party to the other party or its agents or representatives in connection with this Agreement, and the transactions thereunder that relate to any identified or identifiable natural person, or, to the extent of a conflict with applicable law, that is subject to any Data Privacy Laws.
- b) Each party shall:
 - i. comply with all applicable Data Privacy Laws;
 - ii. only collect, access, use, or share Personal Information, or transfer Personal Information to authorized third parties in performance of its obligations for the purpose, in conformance with the other party’s instructions, or to comply with legal obligations;
 - iii. not share, transfer, disclose or provide access to Personal Information to any third party except as may be explicitly permitted elsewhere herein or as required by law. If such party does share, transfer, disclose or provide access to the other party’s Personal Information to a third party, it shall: (1) be responsible for the acts and omissions of any third party, that processes (within the meaning of the applicable Data Privacy Laws) the Personal Information on it’s behalf in the same manner and to the same extent as it is responsible for its own acts and omissions with respect to such Personal Information; and (2) ensure that such third party is bound by a written agreement that contains the same or equivalent obligations and protections as those set forth in this clause 19;
 - iv. maintain reasonable and appropriate technical, physical, and administrative safeguards intended to protect the other party’s Personal Information, by including reasonable restrictions upon physical access to any locations containing Personal Information, such as the storage of such records in locked facilities, storage areas, or containers; and
 - v. provide written notice to the other party as soon as possible and, endeavor to provide such notice within forty-eight (48) hours of any reasonably suspected incident of accidental or unlawful destruction or accidental loss, alteration, unauthorized or accidental disclosure of or access to such Personal Information of which it becomes aware (a “**Security Breach**”). The party shall take reasonable measures to contain and remedy the Security Breach and provide the other party with information regarding the investigation and remediation of the Security Breach, unless restricted by law

19. Disclosure of Representation.

- a) Both parties shall disclose to the other party, within thirty (30) calendar days of a party’s request, the details of any agreements, either written or oral, between each party and any individual or organization that functions as an agent or representative in connection with an Order and any sales activity thereunder. If at any time, a party becomes aware of information or circumstances that suggest any of the disclosures required by this clause may no longer be accurate, it shall notify the other party in writing no more than fifteen (15) calendar days after becoming aware of such circumstances.

20. Amendments and Waiver.

- a) No amendment or modification to this Agreement shall be binding upon either party unless it is in writing and is signed by authorised representatives of both parties. Failure by either party at any time to enforce any of the provisions of these terms and conditions shall not be construed as a waiver by such party of any provision or in any way affect the validity of this Agreement or any part thereof. Waiver of any provision of this Agreement shall only be deemed to have been made if expressed in writing by the party granting such waiver.

21. Insurance.

- a) ELCAN shall provide appropriate limits and coverages of insurance based upon ELCAN's standard types and limits of insurance necessitated by the scope of work and consistent with ELCAN's experience with similar projects, prevailing market conditions and best industry practices.

22. Severability.

- a) If any provision of these Terms and Conditions shall be held to be invalid, illegal, or unenforceable under any statute, regulation, ordinance, executive order, or other rule of law, that provision shall be deemed severed to the extent necessary to comply with such statute, regulation, ordinance, order, or rule. The remaining provisions hereof shall remain in effect.

23. Publicity.

- a) Neither party shall use any name or trademark of the other party for use in any of its partnership lists, advertising, promotional, or selling materials or in any other communication in relation to the other party without the prior written consent of that party. Further, neither party may issue any press releases, publications or publicity relating to the Agreement, an Order, or their contents without the other party's prior written consent.

24. Independent Contractors.

- a) Both parties are independent contractors, and nothing contained in this Agreement shall operate or be construed to constitute either party as the agent, partner, joint venture or representative of the other party. Neither party will take any action that purports to be done in the name of the other party and will have no power or authority to obligate or bind the other party with respect to any obligations with any third parties.

25. Assignment.

- a) Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement (other than for the purposes of corporate reconstruction, reorganisation, merger or analogous proceeding) without first obtaining the written consent of ELCAN, which should not be unreasonably withheld. ELCAN shall have the right to assign its rights and obligations under this Agreement, including to its subsidiaries and/or affiliates without the requirement of consent.

26. Language.

- a) This Agreement is prepared and shall be executed in the English language. Any translation of this Agreement into another language shall be strictly for convenience, and the English language shall govern any question with respect to interpretation. All Orders shall be prepared and executed in the English language.

27. Proprietary Information.

- a) Neither party shall provide any proprietary information to the other party without prior execution by both parties of a Proprietary Information Agreement or Non-Disclosure Agreement that expressly covers the performance of work under an Order. Notwithstanding the foregoing, any proprietary information that is shared shall at all times be treated as confidential by the parties and will be handled by the receiving party with the same care and in the same manner such party would handle their own proprietary information.

28. Survival.

- a) Notwithstanding the expiration or termination of the Agreement, it is acknowledged and agreed that those rights and obligations which by their nature are intended to survive such expiration or termination shall so survive including without limitation the provisions of clauses 6, 8, 9, 14, 16, 17, 18, 23 and 27.

29. **Entire Agreement.**

- a) This Agreement constitutes a complete and exclusive final written expression of all the terms between the Buyer and ELCAN. It supersedes all previous understandings, agreements, and negotiations, oral or written, concerning the Order in respect of the matters specified herein. Any representations, promises, or warranties made by either party that differ in any way from the terms of this Agreement shall be given no force or effect. No addition to or modification of any provision of this Agreement shall be binding unless made in writing and signed by both parties in accordance with clause 21 herein.