On-Site Software Services Terms and Conditions

F-RAMS, Inc., a Texas corporation ("Provider")

Effective Date: [_____]

These On-Site Software Services Terms and Conditions (these "Terms") govern all software installation, configuration, integration, implementation, training, support, and related professional services that Provider performs for the customer identified in the applicable Order ("Customer"), in whole or in part at Customer's premises. By signing or accepting an Order that references these Terms, or by permitting Provider to begin performing Services, Customer agrees to these Terms. Provider and Customer are each a "Party" and together the "Parties."

1. Definitions

1.1 Capitalized terms have the meanings given below or where they are first used in these Terms.

(a) "Agreement" means these Terms together with each Order and Change Order issued under them.

(b) "Change Order" means a written document signed by both Parties that modifies the scope, schedule, fees, or other terms of an Order.

(c) "Customer Environment" means all hardware, equipment, networks, servers, devices, operating systems, databases, firmware, middleware, software, cloud services, interfaces, and other technology owned, leased, licensed, controlled, or supplied by or for Customer (including by Customer's other vendors), and any configuration or customization of any of the foregoing, other than Deliverables provided by Provider.

(d) "Customer Site" means any facility, office, data center, or other location owned, leased, or controlled by Customer, its affiliates, or its end customers at which Customer requests that Provider perform Services.

(e) "Deliverables" means the reports, documentation, configurations, scripts, code, and other materials that Provider is expressly required to deliver to Customer under an Order.

(f) "Order" means a statement of work, quotation, proposal, or order form that describes Services, is accepted by both Parties, and references these Terms.

(g) "Provider Materials" means all software, tools, templates, methodologies, know-how, scripts, utilities, and other materials owned or licensed by Provider that exist before an Order or are developed independently of it, including all modifications, enhancements, and derivatives of them.

(h) "Services" means the services described in an Order, including any services performed at a Customer Site or remotely in connection with on-site work.

2. Services and Orders

2.1 **Performance.** Provider will perform the Services described in each Order in accordance with this Agreement. Each Order will identify, as applicable, the scope of Services, the Customer Site, the anticipated schedule, the Deliverables, the fees and fee basis (time and materials or fixed fee), and any Customer-specific requirements.

2.2 **Schedule.** Provider will use commercially reasonable efforts to meet any dates stated in an Order. Unless an Order expressly states that a date is binding, all dates are estimates, and Provider is not liable for delays caused by Customer, the Customer Environment, third parties under Customer's control, or events described in Section 16.

2.3 **Changes.** Either Party may request changes to an Order. No change is binding unless set out in a Change Order. Provider may adjust fees, schedule, or both to reflect any change in scope, assumptions, or the Customer Environment, and will not be obligated to perform out-of-scope work absent a Change Order.

2.4 **Order of Precedence.** If there is a conflict between these Terms and an Order, these Terms control unless the Order expressly identifies the provision of these Terms it is intended to override. Any purchase order, vendor registration form, or similar Customer document is for Customer's administrative convenience only, and any terms in it that add to or differ from this Agreement are rejected and of no effect, even if Provider signs or accepts it.

3. Site Access and Customer Responsibilities

3.1 **Access to Customer Site.** Customer will provide Provider's personnel with timely, safe, and sufficient access to each Customer Site during normal business hours and at such other times as reasonably necessary to perform the Services, including access to parking, building entry, badges or visitor passes, suitable workspace, power, telephone, and internet connectivity.

3.2 **Access to Customer Environment.** Customer will provide Provider, at no charge, with timely physical and logical access to all hardware, equipment, systems, networks, software, data, and documentation in the Customer Environment that are reasonably necessary to perform the Services, including administrator-level or other credentials, user accounts, remote access (such as VPN) where required, and any necessary third-party consents or licenses. Customer represents and warrants that it has all rights, licenses, and consents necessary to permit Provider to access, use, install on, modify, and configure the Customer Environment as contemplated by each Order.

3.3 **Cooperation and Personnel.** Customer will designate a project contact with authority to make decisions on Customer's behalf, and will make knowledgeable personnel available to answer questions, provide information, and make timely decisions and approvals.

3.4 **Environment Readiness.** Unless an Order provides otherwise, Customer is solely responsible for (a) ensuring that the Customer Environment meets any minimum specifications or prerequisites identified by Provider or by the relevant software publisher; (b) maintaining current, tested backups of all data, configurations, and systems before and during the Services; (c) the operation, maintenance, security, and support of the Customer

Environment; and (d) obtaining and maintaining all licenses for third-party software in the Customer Environment.

3.5 **Safety and Site Rules.** Customer will provide a safe working environment that complies with applicable health and safety laws and will inform Provider in advance of any hazards and of any reasonable site safety, security, and conduct rules that apply to Provider's personnel. Provider will instruct its personnel to comply with such written rules while at the Customer Site. Provider may withdraw its personnel from any Customer Site that Provider reasonably believes is unsafe, and any resulting delay will be treated as a Customer Delay.

3.6 **Customer Delays.** Provider is excused from performance to the extent it is prevented or delayed by Customer's failure to perform its obligations, by the unavailability, malfunction, or inadequacy of the Customer Environment, or by the acts or omissions of Customer's other vendors (each, a "Customer Delay"). Customer will pay, at Provider's then-current rates, for time Provider's personnel spend on standby or idle at a Customer Site because of a Customer Delay, together with any resulting re-scheduling, re-mobilization, or non-refundable travel costs.

4. Fees, Expenses, and Payment

4.1 **Fees.** Customer will pay the fees set out in each Order. Unless an Order states otherwise, time-and-materials Services are billed at Provider's then-current rates in increments of [one-quarter hour], and work performed outside normal business hours ([8:00 a.m. to 6:00 p.m.], local time, Monday through Friday, excluding holidays) or on weekends or holidays, at Customer's request, is billed at [1.5] times the applicable rate. Travel time is billed at [the applicable rate / [50]% of the applicable rate / as stated in the Order].

4.2 **Travel and Expense Reimbursement.** In addition to fees, Customer will reimburse Provider for all reasonable travel, lodging, meal, and incidental expenses actually incurred by Provider's personnel in connection with travel to, from, and between Customer Sites, including airfare (economy or coach class for domestic flights), rental cars or ground transportation, mileage for use of personal vehicles at the then-current IRS standard mileage rate, parking, tolls, lodging, and meals or a per diem allowance. Provider will (a) use commercially reasonable efforts to minimize such expenses; (b) comply with Customer's written travel and expense policy if Customer provides it to Provider before the relevant travel is booked, to the extent consistent with this Section; and (c) obtain Customer's prior approval, which may be given by email, for any single expense exceeding [$_____] or for aggregate expenses under an Order exceeding [$_____]. Expenses are billed at cost, without markup, and Provider will provide receipts or other reasonable supporting documentation upon request.

4.3 **Invoicing and Payment.** Unless an Order provides otherwise, Provider will invoice fees and expenses monthly in arrears (or, for fixed-fee Services, in accordance with the payment milestones in the Order). Customer will pay each invoice in U.S. dollars within [thirty (30)] days after the invoice date. Customer must notify Provider in writing of any good-faith dispute about an invoice within [fifteen (15)] days after the invoice date, describing the dispute in reasonable detail, and must timely pay all undisputed amounts.

4.4 **Late Payment.** Overdue amounts bear interest at the lesser of [1.5]% per month or the maximum rate permitted by law, from the due date until paid. Customer will reimburse Provider's reasonable costs of collection, including attorneys' fees. If any undisputed amount is more than [fifteen (15)] days overdue, Provider may, upon written notice, suspend performance of the Services until all overdue amounts are paid, and the schedule will be equitably adjusted.

4.5 **Taxes.** Fees and expenses exclude all sales, use, value-added, goods and services, withholding, and similar taxes, duties, and charges. Customer is responsible for all such taxes, other than taxes based on Provider's net income, property, or employees. If Customer is required by law to withhold any tax, Customer will gross up its payment so that Provider receives the amount it would have received absent the withholding.

5. Acceptance

5.1 Unless an Order specifies other acceptance criteria, each Deliverable will be deemed accepted upon the earlier of (a) Customer's written acceptance; (b) Customer's use of the Deliverable in a production environment; or (c) [five (5)] business days after delivery, unless Customer delivers to Provider within that period a written notice identifying in reasonable detail a material nonconformity of the Deliverable with the specifications in the applicable Order. Provider will use commercially reasonable efforts to correct any such reported nonconformity and resubmit the Deliverable, which will then be subject to the same acceptance procedure. Nonconformities caused by the Customer Environment are not grounds for rejection.

6. Intellectual Property

6.1 **Provider Materials.** Provider and its licensors retain all right, title, and interest, including all intellectual property rights, in and to the Provider Materials. No rights are granted to Customer except as expressly stated in this Agreement.

6.2 **Deliverables.** Subject to Customer's payment in full of all amounts due under the applicable Order, Provider grants Customer a non-exclusive, non-transferable (except under Section 17.3), perpetual license to use, copy, and modify the Deliverables, and any Provider Materials incorporated in them, solely for Customer's internal business purposes. [Alternative: Subject to payment in full, Provider assigns to Customer all right, title, and interest in Deliverables specifically identified in an Order as "Customer-Owned Deliverables," excluding any Provider Materials, which are licensed as stated above.]

6.3 **Third-Party Software.** Any third-party software that Provider installs, configures, or provides is subject solely to the license and warranty terms of its publisher. Provider grants no license to, and makes no warranty regarding, third-party software.

6.4 **Customer Materials.** Customer retains all rights in its data and materials furnished to Provider and grants Provider a non-exclusive license to use them solely to perform the Services.

6.5 **Residual Knowledge; Feedback.** Nothing in this Agreement restricts Provider from using the general skills, know-how, and experience acquired in performing the Services,

provided Provider does not disclose Customer's Confidential Information in violation of Section 8. Provider may freely use any suggestions or feedback Customer provides about Provider's services or materials.

7. Personnel and Relationship of the Parties

7.1 **Provider Personnel.** Provider will determine the personnel assigned to perform the Services and may use qualified subcontractors, remaining responsible for their performance. Provider will use reasonable efforts to honor Customer's reasonable request to replace any individual whose conduct at a Customer Site is unsatisfactory for lawful reasons.

7.2 **Independent Contractor.** Provider is an independent contractor. Provider's personnel are not employees or agents of Customer, and Provider is solely responsible for their compensation, benefits, and employment taxes. Neither Party has authority to bind the other.

7.3 **Non-Solicitation.** During the term of any Order and for [twelve (12)] months thereafter, Customer will not directly or indirectly solicit for employment or engagement any Provider employee or subcontractor who performed Services, without Provider's prior written consent. General solicitations not targeted at Provider personnel do not violate this Section. If Customer breaches this Section, Customer will pay Provider, as liquidated damages and not as a penalty, an amount equal to [fifty percent (50%)] of the individual's annualized compensation at Provider.

8. Confidentiality

8.1 **Definition.** "Confidential Information" means non-public information disclosed by one Party ("Discloser") to the other ("Recipient") that is marked or identified as confidential or that a reasonable person would understand to be confidential, including information observed at a Customer Site or within the Customer Environment and Provider's pricing and Provider Materials. Confidential Information excludes information that (a) is or becomes publicly available without Recipient's fault; (b) was known to Recipient without restriction before disclosure; (c) is rightfully received from a third party without a duty of confidentiality; or (d) is independently developed without use of Discloser's Confidential Information.

8.2 **Obligations.** Recipient will use Discloser's Confidential Information only to perform or receive the Services, will protect it with at least reasonable care, and will disclose it only to its and its affiliates' employees, contractors, and advisors who need to know it and are bound by confidentiality obligations at least as protective as these. Recipient may disclose Confidential Information when required by law or legal process, after giving Discloser prompt notice (where lawful) and reasonable cooperation in seeking protective treatment.

8.3 **Return.** Upon Discloser's written request after the applicable Order ends, Recipient will return or destroy Discloser's Confidential Information, except for copies retained in routine backups or as required by law, which remain subject to this Section.

9. Data and Security

9.1 Provider will comply with Customer's reasonable written information security policies provided in advance while accessing the Customer Environment, to the extent applicable to the Services. Customer will not provide Provider with access to personal information, protected health information, payment card data, or export-controlled data unless reasonably necessary for the Services and identified in the applicable Order, and the Parties will enter into any data processing or business associate agreement required by applicable law before such access. Customer is responsible for the security of the Customer Environment, including antivirus protection, firewalls, access controls, and backups.

10. Warranties and Disclaimers

10.1 **Mutual.** Each Party represents and warrants that it has full power and authority to enter into and perform this Agreement.

10.2 **Services Warranty.** Provider warrants that the Services will be performed in a professional and workmanlike manner consistent with generally accepted industry standards. Customer must notify Provider in writing of any breach of this warranty within [thirty (30)] days after performance of the nonconforming Services. As Customer's sole and exclusive remedy and Provider's entire liability for breach of this warranty, Provider will, at its option, re-perform the nonconforming Services or refund the fees paid for them.

10.3 **Exclusions.** The warranty in Section 10.2 does not apply to any nonconformity caused by (a) the Customer Environment; (b) Customer's failure to perform its responsibilities under Section 3; (c) modification, misuse, or operation of any Deliverable by anyone other than Provider, or contrary to Provider's instructions; (d) third-party software, hardware, or services; or (e) accident, power failure, viruses, or other causes outside Provider's reasonable control.

10.4 **Customer Environment Disclaimer. CUSTOMER ACKNOWLEDGES THAT THE CUSTOMER ENVIRONMENT IS NOT DESIGNED, MANUFACTURED, SUPPLIED, OR CONTROLLED BY PROVIDER. ACCORDINGLY, AND NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR ANY ORDER, PROVIDER MAKES NO WARRANTY, REPRESENTATION, OR GUARANTEE, AND EXPRESSLY DISCLAIMS ALL LIABILITY, REGARDING (A) THE COMPATIBILITY, INTEROPERABILITY, OR INTEGRATION OF ANY SOFTWARE, DELIVERABLE, OR SERVICE WITH, OR ITS ABILITY TO INTERACT WITH, ANY HARDWARE, SOFTWARE, SYSTEM, NETWORK, OR DATA IN THE CUSTOMER ENVIRONMENT; (B) THE PERFORMANCE, FUNCTIONALITY, OPERATION, AVAILABILITY, OR SECURITY OF THE CUSTOMER ENVIRONMENT, WHETHER BEFORE, DURING, OR AFTER THE SERVICES; OR (C) THE CONTINUED FUNCTIONING OF ANY SOFTWARE OR DELIVERABLE FOLLOWING ANY CHANGE, UPDATE, PATCH, OR UPGRADE TO THE CUSTOMER ENVIRONMENT. ANY ASSESSMENT, RECOMMENDATION, OR STATEMENT BY PROVIDER REGARDING THE CUSTOMER ENVIRONMENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. ANY WORK**

REQUIRED TO REMEDIATE INCOMPATIBILITIES OR DEFECTS IN THE CUSTOMER ENVIRONMENT IS OUTSIDE THE SCOPE OF THE SERVICES AND WILL BE PERFORMED ONLY UNDER A CHANGE ORDER AT PROVIDER'S THEN-CURRENT RATES. PROVIDER IS NOT RESPONSIBLE FOR ANY LOSS OR CORRUPTION OF DATA, DOWNTIME, OR DAMAGE TO THE CUSTOMER ENVIRONMENT, EXCEPT TO THE EXTENT DIRECTLY CAUSED BY PROVIDER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

10.5 **General Disclaimer. EXCEPT AS EXPRESSLY STATED IN SECTIONS 10.1 AND 10.2, PROVIDER MAKES NO OTHER WARRANTIES, AND HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND ACCURACY. PROVIDER DOES NOT WARRANT THAT THE SERVICES OR ANY DELIVERABLE WILL BE ERROR-FREE OR UNINTERRUPTED, OR WILL ACHIEVE ANY PARTICULAR RESULT.**

11. Indemnification

11.1 **By Provider.** Provider will defend Customer against any third-party claim alleging (a) bodily injury, death, or damage to tangible property to the extent caused by the negligence or willful misconduct of Provider's personnel while at a Customer Site; or (b) that a Deliverable, excluding third-party software and any Customer-supplied materials, infringes a U.S. patent, copyright, or trademark or misappropriates a trade secret, and will pay any damages finally awarded or agreed in settlement. Provider has no obligation under clause (b) for claims arising from modifications not made by Provider, combination with items not supplied by Provider (including the Customer Environment), or use contrary to this Agreement. If a Deliverable becomes or is likely to become subject to an infringement claim, Provider may procure the right for Customer to continue using it, modify or replace it to be non-infringing, or, if neither is commercially reasonable, require its return and refund the fees paid for it. This Section 11.1 states Provider's entire liability and Customer's exclusive remedy for infringement claims.

11.2 **By Customer.** Customer will defend Provider and its personnel against any third-party claim arising from (a) the Customer Environment, Customer's data or materials, or Customer's instructions to Provider; (b) Customer's breach of its representation in Section 3.2; (c) bodily injury, death, or damage to tangible property to the extent caused by unsafe conditions at a Customer Site or the negligence or willful misconduct of Customer's personnel; or (d) Customer's violation of applicable law, and will pay any damages finally awarded or agreed in settlement.

11.3 **Procedure.** The indemnified Party will give the indemnifying Party prompt written notice of the claim (provided that delay relieves the indemnifying Party only to the extent prejudiced), sole control of its defense and settlement (except that no settlement imposing non-monetary obligations on the indemnified Party may be made without its consent, not

to be unreasonably withheld), and reasonable cooperation at the indemnifying Party's expense.

12. Limitation of Liability

12.1 **Exclusion of Damages. EXCEPT FOR EXCLUDED CLAIMS, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR FOR ANY LOSS OF PROFITS, REVENUE, BUSINESS, GOODWILL, OR DATA, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR BUSINESS INTERRUPTION, ARISING OUT OF OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

12.2 **Cap. EXCEPT FOR EXCLUDED CLAIMS, EACH PARTY'S TOTAL CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT WILL NOT EXCEED THE FEES PAID AND PAYABLE TO PROVIDER UNDER THE ORDER GIVING RISE TO THE CLAIM DURING THE [TWELVE (12)] MONTHS PRECEDING THE EVENT GIVING RISE TO LIABILITY.**

12.3 **Excluded Claims.** "Excluded Claims" means (a) Customer's obligations to pay fees and expenses; (b) a Party's indemnification obligations under Section 11; (c) a Party's breach of Section 8 (excluding claims relating to data in the Customer Environment, which are subject to the cap in Section 12.2); (d) Customer's breach of Section 6 or Section 7.3; and (e) liability for gross negligence, willful misconduct, or fraud, or that cannot be limited under applicable law.

12.4 **Basis of the Bargain.** The Parties agree that the limitations and disclaimers in Sections 10 and 12 are an essential basis of the bargain and reflect an allocation of risk reflected in the fees, and that they apply even if any limited remedy fails of its essential purpose.

13. Insurance

13.1 During the performance of Services at any Customer Site, Provider will maintain, with insurers rated A- or better by A.M. Best, (a) commercial general liability insurance of at least [$1,000,000] per occurrence; (b) workers' compensation insurance as required by law and employer's liability insurance of at least [$1,000,000]; (c) automobile liability insurance of at least [$1,000,000] combined single limit; and (d) technology errors and omissions insurance of at least [$_____] per claim. Provider will provide certificates of insurance upon Customer's reasonable request.

14. Term and Termination

14.1 **Term.** These Terms remain in effect until terminated under this Section. Each Order remains in effect until the Services under it are completed or the Order is terminated.

14.2 **Termination for Convenience.** Either Party may terminate an Order for convenience upon [thirty (30)] days' written notice to the other Party. If Customer cancels or reschedules on-

site Services less than [ten (10)] business days before their scheduled start, Customer will pay a cancellation fee of [__]% of the fees for the affected scheduled days, plus any non-refundable travel expenses already incurred.

14.3 **Termination for Cause.** Either Party may terminate this Agreement or any Order upon written notice if the other Party (a) materially breaches this Agreement and fails to cure the breach within [thirty (30)] days after receiving written notice describing it (or [ten (10)] days for non-payment); or (b) becomes insolvent, makes an assignment for the benefit of creditors, or becomes subject to bankruptcy or similar proceedings that are not dismissed within [sixty (60)] days.

14.4 **Effect of Termination.** Upon any termination or expiration, Customer will pay Provider for all Services performed and expenses incurred through the effective date of termination, plus any non-cancelable commitments made by Provider on Customer's behalf, and Provider will deliver to Customer any completed or partially completed Deliverables that have been paid for. Termination of these Terms does not affect any Order then in effect, which will continue to be governed by these Terms unless also terminated.

14.5 **Survival.** Sections 1, 4 (as to amounts accrued), 6, 7.3, 8, 10.3 through 10.5, 11, 12, 14.4, 14.5, and 17, and any other provisions that by their nature are intended to survive, survive termination or expiration.

15. Compliance

15.1 Each Party will comply with all laws applicable to its performance under this Agreement, including anti-corruption and export control laws. Customer is responsible for determining whether any Deliverable is suitable for Customer's regulatory requirements. Customer will obtain any permits, approvals, or authorizations required for Provider to work at a Customer Site.

16. Force Majeure

16.1 Neither Party is liable for any failure or delay in performance (other than payment obligations) caused by events beyond its reasonable control, including acts of God, fire, flood, severe weather, epidemic or pandemic, government orders, travel restrictions, war, terrorism, civil unrest, labor disputes (other than of the affected Party's own workforce), utility or internet failures, or failures of third-party carriers. The affected Party will promptly notify the other and use reasonable efforts to resume performance. Customer will reimburse non-refundable travel expenses incurred by Provider before a force majeure event affecting scheduled on-site Services.

17. General

17.1 **Governing Law; Venue.** This Agreement is governed by the laws of the State of Texas, without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (as enacted in any jurisdiction) do not apply. Each Party submits to the exclusive jurisdiction of the state and federal courts located in Williamson County, Texas

for any action arising out of or relating to this Agreement, except that either Party may seek injunctive relief in any court of competent jurisdiction.

17.2 **Notices.** Notices under this Agreement must be in writing and delivered by hand, by nationally recognized overnight courier, or by certified mail (return receipt requested) to the addresses set out in the applicable Order (or as updated by notice), with a copy by email. Notices are effective upon receipt. Routine operational communications, including expense approvals under Section 4.2, may be given by email.

17.3 **Assignment.** Neither Party may assign this Agreement without the other Party's prior written consent, not to be unreasonably withheld, except that either Party may assign it without consent to an affiliate or to a successor in connection with a merger, acquisition, or sale of all or substantially all of its assets or business to which this Agreement relates. Any other attempted assignment is void. This Agreement binds and benefits the Parties and their permitted successors and assigns.

17.4 **Entire Agreement; Amendment.** This Agreement is the entire agreement between the Parties regarding its subject matter and supersedes all prior and contemporaneous proposals, understandings, and agreements. This Agreement may be amended only by a writing signed by both Parties.

17.5 **Severability; Waiver.** If any provision is held unenforceable, it will be enforced to the maximum extent permissible and the remaining provisions will remain in effect. No waiver is effective unless in writing, and no failure or delay in exercising any right operates as a waiver.

17.6 **Equitable Relief.** Each Party acknowledges that a breach of Section 6 or Section 8 may cause irreparable harm for which monetary damages would be inadequate, and that the non-breaching Party may seek injunctive relief without posting bond.

17.7 **No Third-Party Beneficiaries.** Except for the indemnified persons under Section 11, there are no third-party beneficiaries of this Agreement.

17.8 **Publicity.** Neither Party will use the other's name or marks in publicity without prior written consent, except that Provider may identify Customer as a customer in customer lists.

17.9 **Counterparts; Electronic Signatures.** Orders and Change Orders may be executed in counterparts, and electronic signatures and electronically transmitted copies are deemed originals.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

F-RAMS, INC.	**[CUSTOMER LEGAL NAME]**
By: _____	By: _____
Name:	Name:
Title:	Title:
Date: _____	Date: _____

Terms and Conditions F-RAMS, INC. – TERMS AND CONDITIONS OF SALE

All quotations and sales by F-Rams, Inc. are subject to these terms and conditions. This document and not any purchase order or other customer document (which, if construed to be an offer is hereby rejected), will be deemed an offer or counter-offer and is a rejection of any other terms or conditions. Customer, by accepting any Products, making any payments, or ordering any Products having previously received these terms and conditions, will be deemed to have prior or later communication from customer and whether or not F-Rams, Inc. will specifically or expressly object to any of customer's terms. F-Rams, Inc. failure to object to any document, communication or act of customer will not be deemed a waiver of any of these terms and conditions. Any addition or change to these terms and conditions must be specifically agreed to in writing by a duly authorized officer of F-Rams, Inc. before becoming binding on F-Rams, Inc.

1. General:

1.1 Validity of sales agreement: F-Rams, Inc. quotations are non-binding unless otherwise expressly stipulated in writing. Orders are accepted as valid and binding only when confirmed by F-Rams, Inc. in writing. Orders cannot be canceled, rescheduled, or reconfigured without F-Rams, Inc. prior written authorization and in such event; customer will be liable to F-Rams, Inc. for any additional cost and expenses incurred by F-Rams, Inc. In such case, F-Rams, Inc. may claim compensation under section 3.2 below.

1.2 Intellectual property ownership of tender materials:

F-Rams, Inc. retains title and full intellectual property ownership of all tender documents and materials, including without limitation, calculations, drawings, models, plans, sets of tools, etc. All such documents and materials are considered confidential and Buyer shall not copy such documentation or materials or disclose them to third parties without F-Rams, Inc. prior written consent.

1.3 Basic Order Terms – Fixed:

All Purchase Orders for Products shall include the following information: (i) Products in quantities, (ii) prices, (iii) shipping instructions, and (iv) the F-Rams, Inc. part number, (collectively, Basic Order Terms). All basic order terms are fixed and final upon F-Rams, Inc. acceptance of the order. F-Rams, Inc. obligation to Buyer is limited to the contract terms.

1.4 Software License:

Any software not developed by F-Rams, Inc. included in or relating to Products is supplied by the software manufacturer. F-Rams, Inc. makes no representation or warranty with respect thereto and will have no liability in connection therewith. Customer agrees to comply with the manufacturers or other requirements with regard to proprietary and similar rights in and to such software (including any requirement to enter into a separate license agreement and prohibitions against duplicating or disclosing the same), even if the seal on any "shrink wrapped" software has been broken by F-Rams, Inc., and will indemnify F-Rams, Inc. against and hold it harmless from any and all liability, cost or expense arising from a breach or purported breach of such requirements. One registered copy of an F-

Rams, Inc. package can be installed on a single computer and used by one or more people at that computer.

2. Delivery of goods:

2.1 Delivery time:

Delivery times are established when the order is received and accepted in writing by F-Rams, Inc. F-Rams, Inc. will use commercially reasonable efforts to meet Buyers requested delivery dates, unless Buyer is in default under the contract or F-Rams, Inc. performance is otherwise excused. F-Rams, Inc. shall not be liable for late or delayed shipment. Late or delayed shipment shall not be a basis for Buyers cancellation of any order.

2.2 Delivery terms:

Delivery of the Products will be made on an FCA (Incoterms 2000) F-Rams, Inc. facility basis; except that delivery of Products sold by F-Rams, Inc. and delivered to Customer outside the United States will be made on an FCA (Incoterms 2000) destination basis. Title and risk of loss or damage to the Products covered by these Terms and Conditions shall pass to Customer upon delivery (except for title to software Products, in which case only title to the media shall pass). Unless otherwise agreed, F-Rams, Inc. will deliver the Product freight prepaid; provided that Buyer will pay or reimburse F-Rams, Inc. for all costs of carriage, freight insurance (if applicable), taxes, duty and other related shipping charges in connection with shipment hereunder. Buyer shall make such payment to F-Rams, Inc. within thirty (30) days after date of F-Rams, Inc. invoice. F-Rams, Inc. has the right to make partial deliveries. In the absence of prior agreement as to shipping, F-Rams, Inc. may select a carrier. F-Rams, Inc. responsibility for any loss or damage ends, and title passes, when Products are delivered to the carrier, to customer, or to customer's agent, whichever occurs first. Customer will pay for storage charges if Products are held by F-Rams, Inc. at customer's request pending instructions or rescheduled delivery. Freight and Handling charges are NON-REFUNDABLE under any circumstance. Shipments will be made via US Mail, UPS or Fed Ex. Standard method of shipping for F-Rams, Inc. is Ground. All next day shipments will have a $25.00 rush order charge attached without exception. This applies to part orders, repairs or any service F-Rams, Inc. offers. The Buyer agrees that it will not hold F-Rams, Inc. accountable for delays in delivery occasioned by weather or other circumstances over which we have no direct control.

3. Acceptance, Inspection, Notice of Nonconformance:

3.1 Buyers acceptance of ordered Products shall be deemed to occur at delivery to the FCA point. It is Buyers responsibility to give prompt written notice of identified damage or nonconformance of goods. Upon receipt, Buyer shall inspect the condition of the packaging and the Products and indicate any damage to the carrier on the delivery note, have the carrier's agent sign the document and within two (2) days thereof, send all documents by e-mail or fax to F-Rams, Inc., Georgetown, Texas from which shipment took place, together with the carrier's references. F-Rams, Inc. must be notified within (10) days of delivery of incorrect materials, and concealed loss or damage claims must be made by Buyer to

the carrier by requesting an inspection and filing a claim with the carrier, with written notice, which shall also be given to F-Rams, Inc. within (10) days of delivery. If Buyer retains the Product without giving notice within the designated period, Buyer will be deemed to have waived its right to reject the order.

3.2 If Buyer rejects conforming Products under an accepted order, F-Rams, Inc. shall be entitled to claim reasonable compensation for restocking and other expenses it has actually incurred. All returns are subject to a 30% restocking fee if accepted by F-Rams, Inc. without exception. Returned equipment will be retrofitted to new condition at customer's expense. The risk of accidental loss or destruction of sold Products shall pass to the Buyer at the time Buyer rejects conforming Products.

4. Return of Product:

4.1 Any return of Product will be subject to F-Rams, Inc. prior written consent and must be made pursuant to F-Rams, Inc. Product return procedures then in effect. Products must be returned, transport prepaid, to F-Rams, Inc., Georgetown, TX (no C.O.D. or Collect Freight accepted) in original boxes and packing material, unless otherwise agreed by F-Rams, Inc. The Products travel at the risk and responsibility of Buyer. Product not eligible for return shall be returned to Buyer by F-Rams, Inc., freight collect. For approved returns, Buyer will receive credit equal to the lesser of the Products invoice price or current replacement value, less any applicable charges or fees.

4.2 Customer shall have 30 days after the date of shipment to inspect the F-Rams, Inc. Products and to notify F-Rams, Inc. in writing of any defect or deficiency. If no such notice is given within that time, then the Products shall be deemed accepted and thereafter are only returnable for warranty repair. Prior to returning any F-Rams, Inc. Products, Customer must have been issued a return authorization number by F-Rams, Inc. The RMA (Returned Material Authorization) number assigned is to be place on the package or packing slip that is being shipped back to F-Rams, Inc. Products returned shall be packaged in the original shipping containers or equivalent. If not so packed, F-Rams, Inc. may refuse to accept return of the Products. In order to receive a refund on a Product for the purchase price, the Product must not have been damaged by the Buyer or by the carrier chosen by the buyer to return the goods. The Product must be returned in complete condition, meaning that all cables, manuals, software, etc., are included. The Product must be in as-new or resalable condition to quality for refund. Refunds are not issued for shipping charges, installations, travel expense, etc. Items returned in as-new or resalable condition within 30 days of shipment qualify for a full purchase price refund less 30% restocking charge. Items returned after 30 days and before 60 days of original shipment will be subject to a minimum 30% restocking charge. Additional charges may apply for damaged or missing parts. Products returned after 60 days from the date of purchase, or Products that are not returned in as-new or re-salable condition, do not qualify for refund or credit and will be returned to the Buyer.

5. Pricing, Terms of Payment:

5.1 Unless otherwise stated by F-Rams, Inc. in writing, payment terms shall be net (30) days from date of F-Rams, Inc. invoice. No discount will be granted for advance payment. Down payment of 1/3 is due at the time of all orders and or complete system orders, with balance due in full upon delivery. Acceptable forms of payment include check, money order or bank transfer. All payments must be made in US dollars and are subject to change without prior notice. Checks returned to F-Rams, Inc. due to Non-Sufficient Funds are subject to a $25.00 service charge. Terms of Sale are COD UNTIL SUCH TIME AS CREDIT IS APPROVED. Upon approved credit, terms of sale are Net 30 days. When credit is extended, payments will be made within 30 days from the date of shipment. Each invoice will be subject to a 5% charge per month if not paid within 30 days. Should applicant default in payment, F-Rams, Inc. shall be entitled to add incurred collection costs and Attorney's fees to the unpaid balance. Prices stated on the invoice are NET F.O.B. shipping point (Georgetown, TX USA) and do not include federal, state or local taxes. F-Rams, Inc. shall be entitled to offset payments against prior debt balances in Buyers account. Products or services purchased under F-Rams, Inc. schedules will be subject to all of the pricing and other terms, conditions described. Prices are subject to change without notice.

5.2 F-Rams, Inc. shall have the continuing right to review Buyers credit and change Buyer's payment terms and, without limiting the foregoing, may at any time demand advance payment satisfactory security (such as, but not limited to, a confirmed, irrevocable letter of credit acceptable to F-Rams, Inc.) or a guarantee of prompt payment, prior to shipment.

5.3 Interest shall be charged on all overdue sums owing to F-Rams, Inc. under these terms and conditions at the rate of five percent (5%) per month (or the highest legal limit, if lower than said amount), and shall be calculated from the date the sums in question were payable to the date on which payment is made in full.

5.4 Buyer grants F-Rams, Inc. a purchase money security interest in each Product shipped to Buyer until payment is made in full to F-Rams, Inc. for such Products. Customer agrees to execute any financing statements F-Rams, Inc., may request in order to protect F-Rams, Inc., security interest and hereby authorized F-Rams, Inc. to execute and irrevocably appoints F-Rams, Inc., its attorney in fact for the execution of such financing statement. Upon any breach by customer of these terms and condition, F-Rams, Inc., will have all rights and remedies of a secured party under the Uniform Commercial Code, which rights and remedies will be cumulative and not exclusive. Customer is responsible for all cost and expenses incurred by F-Rams, Inc. in collecting any sum owning by customer (which may include, but are not limited to, collection agency and reasonable attorneys' fees). If F-Rams, Inc. incurs cost collecting on any judgment arising out of customer's breach, customer will be responsible for them, and his provision will survive the entry of any such judgment. Upon request from F-Rams, Inc., Buyer will cooperate with F-Rams, Inc. in perfecting any such security interest.

5.5 Buyer shall be liable for any costs incurred by F-Rams, Inc. in the event of variation or suspension of any order by Buyer. And in case of international payment transaction, Buyer shall be liable for any additional costs incurred.

5.6 Stated Product prices do not include any applicable sales taxes. Value Added Tax, export or import charges, transportation or insurance charges, customs and duty fees, personal property or similar taxes; all of which shall be paid by Buyer. Any tax that F-Rams, Inc. may be required to collect or pay upon the sale or delivery of the Product shall be paid by Buyer to F-Rams, Inc. unless Buyer provides direct payment authority or an exemption certificate valid in the state and/or country to which the Product will be shipped.

5.7 F-Rams, Inc. is required by law to collect all applicable sales taxes for the state, counties and cities of Texas. Companies, individuals and organizations who are exempt from sales tax should provide us with their resale certificate by US Mail or by fax to 512-868-9115.

6. Warranty:

6.1 Product Limited Warranty:

Unless the limited warranty included with any Product covered by these terms and condition grants different rights to the Buyer. F-Rams, Inc. warrants to Buyer and only to Buyer that the F-Rams, Inc. Products furnished under the contract shall be designed and manufactured to conform to F-Rams, Inc. specifications and all parts are and will be free from defects in material and workmanship for a period of twelve (12) months from date of shipment. During the warranty period, F-Rams, Inc. liability is limited to replacing or repairing any Product that is returned to F-Rams, Inc. by the original purchaser freight prepaid and which upon inspection is determined by F-Rams, Inc. to be defective in materials or workmanship. F-Rams, Inc. repair or replacement of a defective Product as provided in this section is Buyers only and exclusive remedy for a defective Product, and is made subject to the terms of this warranty.

6.2 Warranty Exclusions:

The foregoing Product limited warranty shall only apply in the event and to the extent that (a) the Product is properly and correctly installed, configured, interfaced, maintained, stored, and operated in accordance with F-Rams, Inc. applicable operator's manual and specifications, and (b) the Product is not modified or misused. This Product limited warranty shall not apply to, and F-Rams, Inc. shall not be responsible for defects or performance problems resulting from (i) the combination or utilization of the Product with hardware or software Products, information, data, systems, interfaces or devices not made, supplied or specified by F-Rams, Inc.; (ii) the operation of the Product under any specification other than, or in addition to. F-Rams, Inc. standard specifications for its Products; (iii) the unauthorized, installation, modification, repair or use of the Product; (iv) damage caused by accident, lightning or other electrical discharge, fresh or salt water immersion or spray (outside Product specifications); or exposure to environmental conditions for which the Product is not intended; (v) normal wear and tear on consumable part (e.g. batteries) or (vi) cosmetic damage. F-Rams, Inc. does not warrant or guarantee the results obtained through the use of the Product. F-Rams, Inc. makes no warranties whatsoever with respect to services, which if provided hereunder are provided as-is.

6.3 Warranty Disclaimer:

The foregoing limited warranty terms state F-Rams, Inc. entire liability, and your exclusive remedies, relating to performance of the F-Rams, Inc. Product. Except as otherwise expressly provided herein, the Product, accompanying documentation and materials are provided “AS-IS” and without express or implied warranty of any kind, by either F-Rams, Inc. or anyone, who has been involved in its creation, Production, installation, or distribution, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose, title, and noninfringement. The state express warranties are in lieu of all obligations or liabilities on the part of F-Rams, Inc. arising out of, or in connection with, any Product. Some states and jurisdictions do not allow limitations on duration or the exclusion of an implied warranty, so the above limitation may not apply or fully apply to you. In no event may Buyer, if a Reseller of the Product(s), make or pass on to its own customers any warranty or prepresentation on behalf of F-Rams, Inc. other than or inconsistent with, the applicable limited warranty provided to Buyer.

NOTE: THE ABOVE APPLIES ONLY TO F-RAMS, INC., GEORGETOWN, TEXAS MANUFACTURED PRODUCTS. PRIVATE LABEL, OEM AND PRODUCTS MANUFACTURED BY F-RAMS, INC. LICENSE FEES ARE SPECIFICIALLY EXCLUDED FROM THE ABOVE MANUFACTURER WARRANTY. ELECTRONIC PRODUCTS REQUIRING INSTALLATION, START UP AND SERVICING BY F-RAMS, INC. TRAINED SERVICE REPRESENTATIVES. IN ABSENSE OF INSTALLATION, START UP AND SERVICING OF ELECTRONIC PRODUCTS BY SELLER TRAINED SERVICE REPRESENTATIVES, THIS WARRANTY IS NULL AND VOID. SELLERS OBLIGATIONS AS SET FORTH SHALL NOT APPLY TO ANY PRODUCTS OR ANY COMPONENT PART THEREOF, WHICH IS NOT PROPERLY INSTALLED, USED, MAINTAINED OR REPAIRED, OR WHICH IS MODIFIED OTHER THAN PERSUANT TO SELLERS INSTRUCTIONS OR APPROVAL. REPAIR OR REPLACEMENT SHALL BE THE SOLE REMEDY OF THE DEFECT AND SHALL BE MADE FREE OF CHARGE; EX-WORKS PROVIDED FACTORY INSPECTION BEFORE VALIDITY OF CUSTOMERS CLAIM. F-RAMS, INC. SHALL NOT BE LIABLE FOR CONSEQUENT DAMAGES WHETHER OR NOT ARISING OUT OF WARRANTY, NEGLIGENCE OR OTHERWISE.

7. Warranty Repair Service:

7.1 Warranty Repair Procedure:

F-Rams, Inc. reserves the right to refuse warranty services if the date of purchase of the Product cannot be proven or if a claim is made outside the warranty period. Claims for shipment damage (evident or concealed) must be filed with the carrier by Buyer in accordance with Section 3.1 above. No Product may be returned for repair, whether in warranty or out of warranty, without F-Rams, Inc. approval. No credit will be given nor repairs made to Products returned without such approval. Products must be returned, transport prepaid, to F-Rams, Inc. (no C.O.D. or Collect Freight accepted) in accordance with F-Rams, Inc. Product return procedures then in effect. The status of any Product returned later than (10) days after approval by F-Rams, Inc. will be subject to review.

7.2 Warranty Determination of Returned Products:

Following F-Rams, Inc. or its authorized representative’s examination, warranty or out-of-warranty status will be determined. If upon examination a warranted defect exists, then the Product(s) will be

repaired at no charge and shipped, prepaid back to Buyer. Where F-Rams, Inc. elects to replace a Product or part, repair part and replacement Products will be provided on an exchange basis and will be either new, equivalent to new or reconditioned. All replaced parts and Products become the property of F-Rams, Inc. Warranty repairs do not extend the original warranty period.

7.3 Non-Warranty Determination of Returned Products:

Following F-Rams, Inc. examination, Buyer shall be notified of the repair cost of Products out-of-warranty. At such time, Buyer must issue a valid purchase order to cover the cost of the repair and freight, or authorize the Product(s) to be shipped back as is, at Buyers expense.

7.4 Non-responsibility for Lost Data. F-Rams, Inc. shall not be responsible for any modification or damage to, or loss of any programs, data, or other information stored on any media or any part of any Product serviced hereunder, or for the consequence of such damage or loss, e.g., business loss in the event of system, program or data failure. It is your responsibility, prior to servicing to backup data and remove all features, part, alterations, and attachments not covered by warranty prior to releasing the Product to F-Rams, Inc. The Product will be returned to you configured as originally purchased, subject to availability of software.

8. Limitation of Liability:

Without limiting the foregoing, F-Rams, Inc. entire liability to Buyer under or for breach of these terms and conditions shall be limited to the amounts actually paid by Buyer to F-Rams, Inc. under the contract. Further, neither F-Rams, Inc. nor its suppliers shall be liable for any incidental, consequential, punitive damages or other damages, personal injury, or loss of profits, loss of revenue, loss of data, loss of Product, loss of use of the Product or any associated equipment, downtime and user time or for the breach of any express or implied warranty, breach of contract, negligence, strict liability or any other legal theory related to the Product. Except to the extent prohibited by applicable law, any implied warranty of quality or fitness for a particular purpose on this Product is limited in duration to the duration of the foregoing warranty. Additionally, some jurisdictions do not allow the exclusion or limitation of incidental, consequential or specified other damages, or allow limitations on how long an implied warranty lasts, so the above limitations or exclusions may not apply, or may not fully apply.

F-Rams, Inc. will not be liable of any failure or delay in its performance or in the delivery or shipment of Product, or for any damages suffered by customer by reason of such failure or delay, when such failure or delay is caused by, or arise in connection with, any fire, flood, accident, riot, earthquake, severe weather, war, governmental interference or embargo, strike, shortage of labor, fuel, power, materials or supplies, delay in delivery by F-Rams, Inc. suppliers or any other cause or causes beyond F-Rams, Inc. reasonable control. F-Rams, Inc. reserves the right to cancel without liability any order, the shipment of which is or may be delayed for more that 30 days by reason of any such cause. F-Rams, Inc. reserves the right to allocate in its sole discretion among customers or potential customers, or defer or delay the shipment of any Product which is in short supply.

9. Export Procedures:

Buyer is informed that sale and delivery of Products in an export situation may be subject to export regulations of the United States or other countries. Buyer warrants that it will not export or re-export directly or indirectly, any Product in violation of any law or regulation, (including, without limitation, any

law or regulation of the United States Government or any agency), or to embargoed or otherwise restricted countries, or sell Products to companies listed on the denied person lists published by the United States Department of Commerce. Buyer further warrants that it will not export or re-export any Product with knowledge that it will be used in the design, development Production or use of chemical, biological, nuclear or ballistic weapons. Laws and regulations change frequently. It is Buyer's responsibility to know the law pertaining to export/import procedures in the country of destination of the Product. Buyer will defend, indemnify and hold F-Rams, Inc. harmless against any liability (including attorneys fees) arising out of Buyers failure to comply with the terms of this paragraph.

10. Default:

F-Rams, Inc. reserves the right, by written notice of default, to cancel or indefinitely suspend an accepted Product order if: (i) Buyer defaults in the performance of its obligations hereunder, or otherwise breaches the contract, (ii) Buyer ceases business operations or enters into any bankruptcy, insolvency, receivership or like proceeding not dismissed within thirty (30) days, or assigns its assets for the benefit of creditors, or (iii) when obtaining third-party financing in connection with Buyers Product purchases(s) fails to do so in a timely manner on terms satisfactory to F-Rams, Inc..

11. Applicable Law – Settlement of Disputes:

If Buyer purchases the Products from F-Rams, Inc. then these terms and conditions will be governed by and construed in accordance with the laws of the State of Texas and applicable United States federal law, without reference to conflicts of laws provisions or principles. No dispute or legal action arising under this Agreement may be brought by either party more than one (1) year after such cause of action accrued, except that an action for nonpayment may be brought within two (2) years of the date of the last payment.

12. Fair Labor Standard Act:

F-Rams, Inc. certifies that it complies with all applicable requirement of Sections 6, 7 and 15 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof.

13. U. S. Government:

If customer's order is placed under a contract with the United States Government, F-Rams, Inc. agrees to comply with those contract provisions and regulations with which, pursuant to law, it must comply and of which customer has, at the time of order placement, placed F-Rams, Inc. on notice. In no event will United States Government Cost Accounting Standards apply. All rights in technical data and software owned or licensed by F-Rams, Inc. or the manufacturer are hereby reserved and deemed restricted or limited. No provision of customer's contract with the government will be binding on F-Rams, Inc. or the manufacturer except as expressly set forth in this paragraph.

Unless specifically otherwise agreed in writing by F-Rams, Inc., customer acknowledges that Products sold by F-Rams, Inc. are not intended for and will not be used in life support systems, human implantation, nuclear facilities or systems or any other application where Product failure could lead to loss of life or catastrophic Property damage. Customer will indemnify and hold F-Rams, Inc. harmless from any loss, cost or damage resulting from customer's breach of the provisions of this paragraph.

14. Severability:

These terms and conditions may be severable and the invalidity, illegality or unenforceability in whole or in part of any provision shall not affect the validity of other provisions.

15. Loaner:

Customer will evaluate/utilize/demonstrate the aforementioned system upon receipt of Product. This agreement will be valid for a period of 30 calendar days. At the end of this period, Customer will return the Product in the same condition as it was received, freight prepaid and RMA number referenced. All peripheral items shipped with Product (i.e. manuals, cables, adapters, power supplies, and any other equipment) must be returned at the end of this demonstration period. If damage is sustained to the Product due to negligence or mistreatment by the Customer or their agent(s), or if aforementioned Product or any peripheral items (i.e. manuals, cables, etc.) are not returned, Customer assumes full responsibility for the cost of repair/replacement of the Product. Any unit found to have been open during the demonstration period will be subject to a charge. There will be a monthly fee attached to the loaner equipment.