

Attachment A - OOI Standardized Terms and Conditions

1. Offer & Agreement. The following terms together with those on the face of this Agreement, other documents as may be incorporated by reference or attached hereto, and additional terms in any Change Order issued to this subcontract, constitute the offer of the New Jersey Office of Innovation (“OOI”) to the Vendor and shall, when accepted, constitute the entire agreement ("Agreement") between OOI and Vendor. The terms herein shall be incorporated in the Vendor’s subcontract agreements that support this subcontract. This Agreement shall be deemed to have been accepted upon Vendor’s signed acceptance of this subcontract. Any reference herein to any proposal, quotation, or other communication by Vendor shall, unless indicated to the contrary herein, be deemed to be limited to the description of the services and to be limited by the terms set forth or incorporated by reference herein. This Agreement supersedes and replaces all prior written or oral agreements, negotiations, and understandings regarding such subject matter. These terms prevail over any of Vendor’s terms and conditions regardless of whether or when Vendor has submitted such terms to OOI. This Agreement expressly limits Vendor’s acceptance to the terms of this Agreement.

2. Independent Contractor. The relationship between Vendor and OOI is that of independent contractor. Nothing in this Agreement will be construed as creating any agency, partnership, joint venture, employment, or other relationship between the parties. Neither party shall have the authority to contract for or bind the other. Vendor shall comply with all laws and assume all risks incident to Vendor's status as an independent contractor. This includes, but is not limited to, responsibility for all applicable income taxes, associated payroll and business taxes, licenses and fees, and such insurance as is necessary for Vendor's protection in connection with work performed under this Agreement.

3. Goods and Services. Vendor shall supply the goods and/or services described on the subcontract in the quantities, at the prices, and on the delivery or performance dates specified in the subcontract and in accordance with the terms of this Agreement. The quantity and quality of goods and services shall conform in all respects to the requirements of the subcontract. Vendor shall perform all services using personnel with the required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.

4. Price and Terms of Payment. The prices or rates specified in the subcontract are firm, fixed, and all-inclusive covering performance of all of Vendor's obligations pursuant to this Agreement, including but not limited to, delivery of Goods and successful performance of all Services; warranty-related costs and charges; packing; shipping, and any and all other costs and charges of whatever description or amount in connect with, necessary for, or resulting from Vendor's required performance under this Agreement. Requests for payment for materials costs under Time and Materials agreements must be supported by receipts for all items invoiced. Subject to any superseding terms on the face hereof, Vendors should invoice OOI, referencing the applicable Contract Number at <to be provided upon award> and will be paid upon completion/acceptance of the required supplies/services. OOI payment terms are Net 30.

5. Timely Performance; Notice of Delay; Excusable Delays. Time is of the essence with respect to the goods and services and Vendor's obligations under this Agreement. If Vendor fails to deliver or perform within the specified time, Vendor shall be in default and shall be liable to OOI for all damages and expenses OOI incurs as a result of late delivery or performance. Vendor shall promptly notify OOI in writing of any factors, conditions, or events that may delay or impede its ability to timely and successfully perform its obligations under this Agreement. Neither party shall be in default because of any delay or failure to perform under the terms of this Agreement if the failure arises from an occurrence or circumstance beyond the affected party's reasonable control and without the fault or negligence of the affected party, such as, without limitation, acts of God or the public enemy, floods, fires, earthquakes, epidemics, strikes, embargoes, or unusually severe weather. If such an occurrence arises, the affected party shall notify the other party in writing of the occurrence or circumstances causing such delay or failure and provide an estimate of the impact on performance. The affected party shall use all diligent efforts to end the delay or nonperformance, or minimize its effects, and resume timely performance under this Agreement.

6. Inspection/Acceptance. (a) Vendor shall work within professional standards and limitations specified on work statements, drawings and specifications covering the work and shall make such inspections as are deemed necessary to insure Vendor compliance, unless deviation there from is authorized in writing by OOI. (b) All shipments of goods shall be subject to final inspection by OOI after receipt by OOI at destination. If goods supplied or services performed by Vendor are found to be defective, Vendor shall be given the

opportunity to correct any deficiencies within a reasonable period of time. If correction of such work is impracticable, Vendor shall bear all risk after notice of rejection and shall, if so requested by OOI and at Vendor's own expense including transit and associated costs, promptly make all necessary replacements. (c) Vendor shall provide immediate notice to OOI of any potential failure on the part of its suppliers to provide supplies/services required hereunder. Vendor is responsible for any deficiency on the part of its suppliers. (d) In the event of failure of the Vendor to deliver/complete any part of this subcontract, then OOI shall, at its sole discretion, have the right to accept any delivered/completed part and unilaterally reduce the agreed upon price accordingly. (e) OOI acceptance of partial deliveries shall not constitute a waiver of any of the Vendor's remaining obligations hereunder. (f) Final inspection and acceptance by OOI shall be conclusive except for latent defects, fraud, or for any rights provided by any product warranty.

7. Title and Risk of Loss. Title to and risk of loss of, each good or service to be delivered hereunder shall pass from Vendor to OOI upon acceptance of such product/service by OOI regardless of when or where OOI takes physical possession.

8. General Warranty. Vendor warrants all goods and services to be free from all materials defects and expressly represents that all such required goods and services are merchantable and fit for use for the particular purpose described in the subcontract capable of performing the function or service for which they were intended. Vendor agrees to pass on all manufacturer's warranties to OOI.

9. Liens. Vendor agrees to deliver the products/services which are the subject-matter of this subcontract to OOI free and clear of all liens, claims, and encumbrances.

10. Confidentiality. Vendor shall treat non-public, confidential, or proprietary information disclosed by OOI in connection with this Agreement, including, but not limited to, documentation, drawings, written and oral communications, specifications, and software, to be confidential, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether marked as confidential. Vendor shall not disclose any such information to any other person or use such information itself for any purpose other than that for which it was intended in completing this subcontract, with OOI's written permission. Vendor shall take all reasonable steps to protect OOI's confidential information from unauthorized use or disclosure. Vendor agrees to execute OOI's standard Non-Disclosure Agreement upon request.

11. Work Product/Intellectual Property. All deliverables, and all other writings, data, databases, information, designs, know-how, software (object and source code), inventions, and other material in any media, form, or format developed or prepared in the course of, or resulting in any way from, Vendor's performance under this Agreement, (collectively, "Work Product"), and all intellectual property rights associated with such Work Product, shall be the sole and exclusive property of OOI, exclusive of any Contractor Intellectual Property (defined below). Work Product shall be deemed "work made for hire" but to the extent the Work Product does not qualify as work made for hire, or title to the Work Product does not vest in OOI by operation of law, Vendor hereby irrevocably and unconditionally assigns all right, title, and interest in the Work product to OOI. Vendor agrees to take all actions and execute all documents necessary to establish or confirm OOI's ownership of the Work Product or to obtain or maintain patent, trademark, copyright or other legal protection relating to the Work product and associated intellectual property rights.

Contractor may utilize certain proprietary data, source code and software ("Contractor Intellectual Property") in delivering services to the Client and developing Work Product. Contractor shall retain all rights, title, and interest in and to Contractor Intellectual Property, and OOI shall obtain no rights to Contractor Intellectual Property other than the license rights granted below.

To the extent that any Work Product (i) incorporates or embodies or (ii) is derived from or require the use of, any Contractor Intellectual Property, Contractor grants to OOI and the State of New Jersey a perpetual royalty-free, transferable and sublicensable license and right to utilize, distribute, reproduce, create derivative works, and publicly perform, display, or release, including on an open source platform, such Contractor Intellectual Property in connection with their use of the Work Product, or any derivative work thereof.

12. Stop Work. (a) OOI shall have the right to direct Vendor to stop work at any time. Such direction must be in writing and shall be effective for a period of not more than 30 days after which time Vendor may not continue work absent direction to do so or a notice of termination.

13. Termination. (a) This subcontract may be terminated by OOI for convenience upon advance written notice to the Vendor, whether or not Vendor is in default of any obligations under this Agreement. Vendor shall be paid for goods delivered and services completed and shall be reimbursed all actual costs for work in process incurred, on or before the

effective date of termination specified in the notice, inclusive of any associated administrative costs, restocking charges, vendor cancellation charges and settlement costs. Under no circumstances shall Vendor receive more than the original value of this subcontract. (b) If either party defaults on any obligation under this Agreement and fails to correct it within ten (10) days of notification of default, the non-defaulting party may immediately terminate this subcontract upon written notice. In the event of termination for default by OOI, OOI shall have no obligation to pay Vendor for any goods or services that have not been accepted by OOI pursuant to Section 0 above as of the effective date of termination. The election to terminate for cause shall not be construed as an election of remedies and the non-defaulting party shall be entitled to all available remedies available at law or in equity. (c) If Vendor is declared insolvent or bankrupt, makes an assignment for the benefit of creditors, files or has filed against it a petition in bankruptcy, or has a trustee or receiver appoint for it or any of its assets, OOI shall be entitled to terminate this subcontract without further liability for any goods or services not accepted by OOI pursuant to Section 0 above as of the effective date of termination.

14. Liquidated Damages. Vendor acknowledges and agrees that time is of the essence with respect to the goods and/or services, and that it is difficult to ascertain at the time of entering into an agreement the precise nature and amount of actual damages that OOI will incur in the event of any failure or delay in Vendor's performance. If the Vendor fails to deliver the goods or perform the services within the time specified in this agreement, OOI may require that Vendor pay, in place of actual damages, liquidated damages in the amount of one percent (1%) of the agreement value for each calendar day of delay which may be deducted from payments due to the vendor. If OOI terminates this agreement in whole or in part for default, Vendor is liable for liquidated damages accruing until such time that OOI reasonably obtains delivery or performance from another vendor. These liquidated damages shall be in addition to any excess costs for re-purchase. Vendor will not be charged with liquidated damages when delay of delivery or performance is beyond the control and without the fault or negligence of the Vendor.

15. Insurance. Vendor shall, at its sole cost and expense, obtain and maintain the following minimum insurance coverage and coverage limits. (1) workers compensation insurance (or its local equivalent) as required by the laws of the applicable jurisdiction, as well as employers' liability coverage with minimum limits of \$1,000,000, covering all of Vendor's employees who are engaged in any work under the Agreement; and any of the work is subcontracted, Vendor shall require the subcontractor to provide the same coverage for

any of its employees engaged in any work under the Agreement; (2) commercial general liability coverage on a comprehensive broad form on an occurrence basis in the minimum amount of \$1,000,000 combined single limit (where the defense is in excess of the limit of liability); and (3) automobile liability covering all owned, hired, and non-owned vehicles used in connection with this Agreement, with a minimum combined single limit of \$1,000,000 bodily injury and property damage. Such insurance shall be obtained from financially sound and reputable companies that are authorized to provide such coverage in the applicable jurisdiction. At OOI's request, Vendor shall provide certificates of insurance evidencing the coverage required in this section.

16. Liability. Vendor shall indemnify, defend, and hold harmless OOI and its officers, directors, employees, agents, affiliates, successors, and assigns (collectively, "Indemnified Parties") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of any kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder (collectively, "Losses") arising out of, resulting from, or related in any way to the goods and/or services or performance under this Agreement By Vendor, Vendor's employees, or Vendor's suppliers, sub-vendors or subcontractors. In no event shall OOI be liable to Vendor for special, incidental, consequential, or punitive damages.

17. Assignment. Vendor may not assign this subcontract or any benefits arising from this subcontract without the prior written consent of OOI, and, unless otherwise agreed in writing, the rights of any assignee shall be subject to all set-offs, counterclaim, and other comparable rights arising hereunder.

18. Recordkeeping. The Vendor will maintain books, records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this Agreement. These records will be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of OOI or its funding sponsor. The Vendor will retain all such records concerning this Agreement for a period of seven (7) years after the expiration of such Agreement unless a longer period is specified in the specific terms and conditions of the Agreement. If any litigation, claim or audit is started before the expiration date of this seven-year period, the records will be retained until all litigation, claims or audit findings involving the records have been resolved.

19. Changes and Modifications. Any proposed change to this Agreement must be authorized by a written modification to this Agreement before performance of the change may begin. Any effort undertaken by the Vendor pursuant to oral instructions or technical directions issued other than in accordance with the provisions of this Agreement will be at the Vendor's risk of performing activities outside the scope of work of this Agreement and may not be eligible for payment of the costs incurred.

20. Notices. All notices concerning business or administrative matters under this Agreement will be in writing and will be directed to the OOI Designated Representative named in the Agreement or Contract.

21. No Waiver. The invalidity in whole or in part of any provision of this Agreement will not affect the validity of other provisions. A waiver of a breach of any provision of this Agreement will not constitute a waiver of any subsequent breach of that provision or a breach of any other provision of this Agreement. The failure of OOI to enforce at any time or from time to time any provision of this Agreement will not be construed as a waiver of the provision.

22. Compliance with Law. Vendor agrees during performance under this Agreement to comply with any and all applicable executive orders, Federal, State, municipal, and local laws and ordinances, and rules, orders, requirements and regulations relating to the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 276c and 18 USC 874 as supplemented by Department of Labor regulations at 29 CFR part 3, and as supplemented by Department of Labor at 29 CFR part 5, the Contract Work Hours and Safety Standards Act (40 USC 327-333), and the Byrd Anti-Lobbying Amendment (31 USC 1352) and by reference; of Equal Opportunity Clause of 41 CFR 60-250.4 relating to disabled and Vietnam era veterans; and the provision of 41 CFR 60-741.4 relating to handicapped workers. In addition, the Vendor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime Vendors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. Otherwise agreed, governing law

shall be that of New York. Vendors are hereby notified of your obligation to annually file a Standard Form 100. Equal Employment Opportunity Employer Information Report EEO-1 (EEO1 Report) with the Joint Reporting Committee. The mailing address and other contact information for this Committee are as follows. EEO-1 Joint Reporting Committee, P.O. Box 19100, Washington, DC 20036- 9100; Telephone 1-800-286-640; Facsimile 202-663-7185; TTY 202-663-7184; Email. el.techassistance.eeoc.gov

23. Debarment, Suspension, Ineligibility, and Voluntary Exclusion. Vendor certifies by acceptance of this agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any U.S. Federal Government department or agency and the host government. Furthermore, vendor certifies that it will comply with 2 CFR Part 200, Appendix II, paragraph (H) Debarment and Suspension Executive Order 12549 and 12689), before establishing any subcontracts for this subcontract/agreement.

24. Gratuities. This agreement shall be terminated for cause should it be determined by OOI that Vendor offered or gave a gratuity (e.g. entertainment, gift, services or money) to any OOI employee or other persons responsible for or connected to those responsible for the decision to award this agreement or the acceptance of performance under this agreement and that gratuity was intended to obtain this award or favorable treatment during performance of the award.

25. Payment for Reimbursable Expenses. Requests for payment for materials costs under Time and Materials agreements must be supported by receipts for all items invoiced.

26. Standards of Ethics and Business Conduct. The Vendor acknowledges and accepts OOI's emphasis on the importance of accountability to those who benefit from OOI's work, and the parties' mutual accountability to each other, to project collaborators, and to our sponsors. The vendor must promptly disclose to OOI whenever, in connection with the subcontract (including any activities or subawards thereunder), it has credible evidence of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act ([31 U.S.C. 3729-3733](#))

27. Personal Data Protection. Vendor is responsible for ensuring its compliance with any applicable data protection laws related to its services, including but not limited to, General

Data Protection Regulation (GDPR). To the extent Vendor processes any personal data on behalf of OOI and in relation to which OOI is the Controller, as defined by applicable data protection laws, Vendor shall: (a) act only on instructions from OOI when processing personal data and keep records of all processing activities; (b) take all appropriate technical and organizational measures to protect against unauthorized or unlawful processing of, or accidental loss, destruction, or damage to, personal data; (c) process personal data in accordance with the applicable data protection laws; (d) not do or permit anything to be done which might cause OOI or any of its affiliates to be in violation of applicable data protection laws; (e) immediately inform OOI if it believes performance of the services or compliance with any OOI instruction violates or might reasonably be considered to violate any applicable data protection laws; (f) immediately notify OOI of receipt of any complaint, data subject access request, notice, or communication which relates directly or indirectly to the processing of personal data under this Agreement, and provide full co-operation and assistance to OOI in responding to such complaint, request, notice, or communication; (g) notify OOI promptly and without undue delay upon becoming aware of any unauthorized loss, corruption, damage, destruction, alteration, disclosure, or access to, or unauthorized or unlawful processing of, any personal data ("Personal Data Breach"), or any circumstances that are likely to give rise to a Personal Data Breach, timely providing OOI with sufficient information for it to meet its obligation, if any, to report a Personal Data Breach under applicable data protection laws; (h) cooperate with OOI and take commercially reasonable steps as may be directed by OOI to assist in the investigation, mitigation, and remediation of any Personal Data Breach; (i) cooperate as requested by OOI to enable it to comply with any exercise by a data subject of rights under applicable data protection laws with respect to personal data processed by Vendor under this Agreement, or to comply with any assessment, inquiry, notice, or investigation under applicable data protection laws; (j) only permit a third party sub-processor to process personal data subject to OOI's prior written consent and provided that the sub-processor's contract includes terms that are substantially the same as those set out in this section; and (k) not transfer, permit a third-party processor to transfer, or allow access to personal data outside the country with restrictions on transferring data to another country without OOI's prior written consent, subject to any conditions OOI may impose, at its sole discretion. Vendor agrees that OOI may from time to time have reasonable access to Vendor's premises, systems, and records in order to audit Vendor's security measures and procedures in connection with the processing of personal data and to ensure Vendor's compliance with this section. Vendor shall indemnify, defend, and hold OOI and its affiliates

harmless from and against all costs, claims, damages, or expenses incurred by them due to any failure by Vendor to comply with any of its obligations under this section.

28. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. In accordance with Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year (FY) 2019 (Pub. L. 115–232), U.S. government contractors and grant recipients, such as OOI, may not use certain telecommunications and video surveillance services or equipment. Vendor acknowledges and understands this prohibition. Specifically, Vendor understands and agrees that under this Contract, Vendor shall not procure or use any equipment, system, or service that uses “covered telecommunications equipment or services” as a substantial or essential component of any system, or as critical technology as part of any system. “Covered telecommunications equipment or services” includes telecommunications or video surveillance equipment or services (including, but not limited to, cell phones, security cameras, network switches, routers, and modems) manufactured by or with components from the following Chinese companies or their subsidiaries or their affiliates: (a) Huawei Technologies Company; (b) ZTE Corporation; (c) Hytera Communications Corporation; (d) Hangzhou Hikvision Digital Technology Company; (e) Dahua Technology Company. In the event Vendor identifies the use of “covered telecommunications equipment or services” under this Contract, Vendor shall immediately notify OOI Designated Representative identified on the subsequent Agreement or Contract in writing.

29. Reimbursement Limitation for Time and Materials Contracts. Reimbursable materials and travel expenses are projected to remain under \$50,000 throughout the duration of the contract. Consequently, reimbursement will be strictly limited to actual incurred expenses, with no provision for overhead or additional burdens.

30. Time and Materials Notification. The Contractor shall under no circumstances perform work billable in excess of the amount currently funded on the subcontract or agreement for time and materials subcontracts or agreements.

31. Clean Air Act and Federal Water Pollution Control Act. If this Agreement is for an amount in excess of \$150,000, Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the OOI.

32. Domestic Preferences for Procurements. To the greatest extent practicable and consistent with law, when acquiring goods supporting this contract, the Contractor should provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

33. Access to Records. The Contractor shall make available any record created by the Contractor for this contract to any federal agency, State of New Jersey office, Inspectors General, the Comptroller General of the United States, or any of their authorized representatives must have the right of access to any record funded by federal fund for purposes of performing audits, execute site visits, or for any other official use. This right also includes timely and reasonable access to the Contractor's personnel for the purpose of interview and discussion related to such documents or the contract in general.

34. Prohibiting Discrimination. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and U.S. Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs activities receiving federal financial assistance. The following language must be included in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignees shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the U.S. Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, U.S.C. § 2000d et seq., as implemented by the U.S. Treasury's Title VI regulations, CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

35. Advertising. The Vendor shall not use the State of New Jersey's name, seal, or logos as a part of any commercial advertising, promotion, or publicity without first obtaining the

prior written consent from OOI. The Vendor shall not use a State of New Jersey Department or Using Agency's name, seal, logos, images, or any data or results arising from this subcontract as a part of any commercial advertising without first obtaining the prior written consent from OOI.

36. News Releases. The Vendor is not permitted to issue news releases pertaining to any aspect of the services being provided under this subcontract without the prior written consent of OOI.

37. Contractor Travel. The subcontract outlines specific travel events eligible for reimbursement. Contractors seeking to claim expenses for an eligible travel event must first seek approval pre-approval OOI for each planned trip at least 30 calendar days prior to the departure date to ensure adequate time for OOI review and authorization. Reimbursement for travel expenses will comply with the maximum per diem rates established by the Federal Travel Regulation (FTR), outlined in 41 CFR Parts 300-304. All travel expenses must be substantiated with appropriate documentation, including receipts for airfare, accommodation, and meals, in accordance with FTR requirements.