

- (b) Without limiting the generality of the foregoing requirement, the Parties agree that to the extent required under the Prime Contract, except for SUB Property (as defined below) incorporated in Works with TCS' prior written consent, all ideas, know-how, processes, information, drawings, documents, designs, models, inventions, copyrightable material and other tangible and intangible materials authored, prepared, created, made, delivered, conceived or reduced to practice, in whole or in part, by SUB in the course of providing the Services, including without limitation computer programs, computer systems, data and documentation, and all deliverables and data to be delivered under this Agreement (collectively, the "Works") are the sole and exclusive property of TCS (with the right to transfer any of it to Customer) and shall be considered works made for hire. As used herein, "SUB Property" means any inventions, tools, methodology, computer programs, processes and any other documentation (whether or not patentable) created by SUB (a) prior to its engagement under this Agreement under any particular SOW, or (b) during the Term of this Agreement or any SOW but not created or developed pursuant to or as part of the Services under the terms of a separate SOW, which SUB may use as general tool, process, methodology or program in performing its Services under this Agreement.
- (c) As between the Parties hereto, all intellectual property in SUB Property shall remain with SUB notwithstanding the use of any such SUB Property for the provision of the Services hereunder. SUB shall not incorporate any SUB Property in any Works without the prior written consent of TCS. To the extent any SUB Property is incorporated in any Works under an SOW with TCS' prior written consent, or necessary for the use of any Works, SUB hereby grants a nonexclusive worldwide license to TCS and Customer for use in connection with Services or any deliverables delivered by SUB. In the event any Works do not fall within the specifically enumerated works that constitute works made for hire under the United States copyright laws, SUB hereby irrevocably, expressly, and automatically assigns all right, title and interest worldwide in and to such Works to TCS, including, without limitation, all copyrights, patent rights, trade secrets, trademarks, moral rights, and all other applicable proprietary and intellectual property rights. If SUB has any rights to the Works that cannot be assigned to TCS and Customer, SUB unconditionally and irrevocably: (1) waives the enforcement of such rights; and (2) grants to TCS and Customer during the term of such rights, an exclusive, irrevocable, perpetual, worldwide, royalty-free license to reproduce, create derivative works of, distribute, publicly perform and publicly display such Works, by all means now known or later developed, with the right to sublicense such rights through multiple levels of sublicenses. SUB agrees to render all reasonably required assistance, at no cost to SUB, to TCS and Customer to protect TCS's and Customer's rights herein above described.
- (d) To the extent any SUB Property is incorporated in any Works without TCS' prior written consent, section 4(a) shall apply without any restrictions and such Works shall be solely and completely owned by TCS or, where required under the Prime contract, Customer.

5. Representation and Warranties.

SUB represents and warrants that:

- (a) (i) SUB's performance of the Services called for by this Agreement, including without limitation, the development and delivery of the Works and (ii) the use of the Services and Works by TCS and TCS Germany with the goal to perform the Prime Contract as well as (iii) the use of the Services and Works by Customer and any of Customer's affiliates in or for the Target Markets, does not and shall not violate: (1) any applicable law, rule, or regulation; (2) any contracts with third parties; or (3) any third-party rights, including without limitation, rights in any patent, trademark, copyright, trade secret, or any other proprietary or intellectual property right.
- (b) SUB has full authority and sufficient right, title, and interest in and to the Works, to grant and convey the rights accorded to TCS under Paragraph 5 hereof.