These Terms and Conditions, together with any issued Purchase Agreement documents, shall jointly govern the purchase of the Products and/or Services delivered by CRYSTAL to BUYER.

CRYSTAL reserves the right to modify these Terms and Conditions from time to time. All of these Terms and Conditions shall apply to the delivery of both Product(s) and Services unless the application to one or the other is specified.

DEFINITIONS

The following terms shall have the meaning as assigned below:

"Affiliate" shall be any company or entity (i) controlling; (ii) controlled by; or (iii) under common control with BUYER, or CRYSTAL. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to a person or entity, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management policies of such person or entity, whether through the ownership of voting securities or otherwise, and to select a majority of the Board of Directors of such person or entity.

"Business Day" shall be a day on which CRYSTAL is ordinarily open for business.

"BUYER" shall be the company receiving the Purchase Agreement, and other associated documents from CRYSTAL, or any of BUYER's Affiliate issuing a Purchase Order, or otherwise contracting with CRYSTAL in respect to the Product(s) and/or Services.

"CRYSTAL" shall be the d/b/a name for Crystal Computer Corporation, a State of Georgia Corporation, 4550 River Green Parkway, Suite 220, Duluth, GA 30096, and any Affiliate delivering Product(s) or Services to BUYER.

"Deliverables" shall be the Product(s) and/or Services delivered by CRYSTAL to BUYER according to the SOD.

"Delivery" or "Delivered" shall be the act of delivering or placing the Products and/or Services to the BUYER at the designated Place of Delivery by the Delivery Method, according to the SOD, and completion of the SAT.

"Delivery Date" shall be the date determined by CRYSTAL and BUYER in the SOD and shall be reaffirmed in the BUYER's Purchase Order.

"Delivery Method" means the way of delivering the Products and Services as specified in the SOD and confirmed by BUYER's Purchase Order.

"Due Date" shall be the date of the SAT in the case of CRYSTAL Products, representing the complete fulfillment of the SOD and verified in the BUYER's Purchase Order.

"Proposal" shall be a document provided by CRYSTAL to BUYER wherein CRYSTAL has described Product(s) and/or Services to be provided to BUYER, which are designed to serve a specific purpose in benefit to BUYER with features which desirable outcomes mutually agreed by CRYSTAL and BUYER to be optimum.

"Place of Delivery" shall be the location where the Product(s) are to be delivered, or Services to be performed by CRYSTAL according to the SOD and in the BUYER's Purchase Order.

"Product(s)" shall be the Software Applications licensed to BUYER by CRYSTAL as defined in the SOD and in the BUYER's Purchase Order.

"Purchase Agreement" jointly shall only be the following CRYSTAL documents; (i) Terms and Conditions of Sale, (ii) Proposal, (iii) Quote, (iv) SOD, (v) SAT, and (vi) the BUYER's Purchase Order if required.

"Purchase Order" shall be the document issued by BUYER, affirming the Purchase Agreement, or a sale agreement, or contract to purchase mutually agreed upon by BUYER and CRYSTAL.

"Purchase Price" shall be the dollar amount specified in the CRYSTAL Quote, and affirmed by the BUYER's Purchase Order.

"Quote" shall be a document provided by CRYSTAL to BUYER wherein CRYSTAL has specifically described Product(s) and/or Services to be sold to BUYER and the pricing associated therewith.

"Service(s)" shall be the CRYSTAL Service(s) specified in the CRYSTAL Quote and SOD, and referred to in the BUYER's Purchase Order.

"Services Location" shall be the location as specified in the Purchase Agreement where CRYSTAL shall perform Services.

"Site Acceptance Test" or "SAT" shall be the Delivery Date, and the date on which CRYSTAL's Production Department shall turn the Product(s) over to BUYER as fully delivered, and to be subsequently maintained, by CRYSTAL's Service Department for service, maintenance, and support during the warranty period, and prior to BUYER's purchase of an extended service plan.

"Statement of Delivery" or "SOD" shall be the CRYSTAL document provided to BUYER defining the Product(s), and Services to be delivered, method of delivery, and time to be delivered as quoted by CRYSTAL affirming expectations as mutually defined by CRYSTAL and BUYER.

"Terms and Conditions" shall be these CRYSTAL Terms and Conditions of Sale, as written and provided to BUYER.

"Warranties or Warranties" shall be the warranties provided by CRYSTAL to BUYER under these Terms and Conditions together with any warranties imposed by law.

2. AGREEMENT AND ACCEPTANCE

CRYSTAL agrees to sell and BUYER agrees to purchase the Deliverables as specified in the Purchase Agreement. BUYER's acceptance of the Purchase Order shall acknowledge BUYER's acceptance of these Terms and Conditions of Sale, and the Purchase Agreement, are deemed read, understood, and unconditionally accepted. Any additional, inconsistent or conflicting terms and conditions that BUYER seeks to impose in the Purchase Order or other written correspondence are not applicable to the Purchase Agreement.

3. LICENSE APPLICATIONS; PRODUCTS & SERVICES

All Software Applications, or Products ("Product(s)") sold, shall be non-exclusive licenses for use by BUYER only, and the services associated with the delivery thereof ("Services"); implementation, configuration, and commissioning of Products, shall be considered the Confidential Information of CRYSTAL as hereinafter defined, to assure that they stay protected. Providing Products or Services furnished only according to these terms and conditions ("Terms and Conditions of Sale"), and the details written in any proposal or quotation, on which they are attached, are authorized and licensed to the BUYER terms and conditions in any specific order documentation, preprinted or otherwise, except as to identification and quantity of Products.

For absolute clarity and to remove all doubt; any additional or different terms and conditions proposed by BUYER, whether proposed in advance or incorporated in a purchase order are hereby rejected, and shall have no effect despite any usage of trade or course of performance, unless an authorized representative of CRYSTAL and BUYER signed a separate agreement. CRYSTAL's acceptance of any order or performance of any contract is expressly conditional on BUYER's agreement to these Terms and Conditions of Sale, and in the absence of said agreement shall not create any contractual obligation, and shall be fulfilled as CRYSTAL's acceptance of any proposed BUYER's terms and conditions. BUYER's acceptance of Delivery, using or paying for any CRYSTAL Product or Service shall constitute BUYER's unqualified acceptance of these Terms and Conditions.

If this Purchase Agreement is a U.S. Government subcontract, U.S. Government clauses which provide rights, benefits or protections to BUYER shall equally apply to provide the same rights, benefits or protections from BUYER to CRYSTAL. In all other respects these Terms and Conditions of Sale shall govern BUYER's relationship with CRYSTAL.

4. PRICES

CRYSTAL's prices for Products and Services are subject to the following: (a) All CRYSTAL prices ("Prices") are for Products and Services only, and exclude technical data, proprietary information, patent rights, qualification, environmental or other than CRYSTAL's standard tests, and other than CRYSTAL's normal commercial packaging, unless expressly agreed to in writing by CRYSTAL. CRYSTAL may change all published Prices without notice.
(b) BUYER may at any time request changes to an existing order, but CRYSTAL shall not be obligated to proceed with such change unless and until BUYER provides its written agreement to CRYSTAL changes in the previously scheduled delivery or delivery schedule according to a mutually agreed upon Change Order, or by mutual agreement to a modification of the SOD by CRYSTAL and BUYER.
(c) Prices exclude and BUYER is responsible for all ordinary and necessary charges incidental to the sale, including but not limited to taxes, sales, use, excise, value added, service or other similar taxes), license fees, customs fees, duties, insurance and other charges and costs related to the transportation and insurance of the Product(s) and/or Services, including any sales or other taxes and without limitation all charges for taxes (sales, use, excise, value added, service or other similar taxes), license fees, customs fees, duties, insurance and other charges and costs related to the transportation and commissioning of Products and Services, and levying authority. (d) Published weights and dimensions are approximate only, and manuals are the latest available or applicable.
version. (e) Prices in any Quotation shall be good for no more than thirty (30) days from the date on the quotation, and are only fair estimates of any Product or Services until a definitive SOD has been executed by BUYER.

7. FORCE MAJEURE

CRYSTAL shall not be liable for any delay in delivery or other performance which is due to unforeseen circumstances, or to causes beyond its control, including, without limitation, strike, lockout, fire, flood, earthquake, weather, natural disasters, disease, pandemic, act of God, accident, insurrection, riot, war (declared or undeclared), terrorists, explosion, failure or breakdown of component(s) necessary to the order or order completion process, or, in the event the default or BUYER caused delays; inability to obtain, or substantial rises in the prices of, supplies, labor, materials or manufacturing facilities; curtailment of or failure to obtain sufficient electrical or other energy supplies; or, due to any governmental law, regulation, or order, including but not limited to Canadian or U.S. Export Laws and regulations as described below.

Unless the delay is material or indefinite (defined as exceeding six (6) months after notice), performance shall be deemed suspended during the time it is so delayed, and after the delay has ended the BUYER shall accept continued performance. In the interest of conservation of scarce materials, and efficient use of high value parts and components, CRYSTAL may substitute remanufactured parts and components which will meet the same quality standards as other materials and are covered by the same warranty applicable to new parts and components.

CRYSTAL may, in its sole discretion and without notice to BUYER, discontinue any Product, introduce new Products, alter or incorporate changes to the configuration of any Products, including models and part numbers previously delivered to BUYER, which will meet the same quality standards as Products previously delivered.

8. ACCEPTANCE

The Delivery of a Product by CRYSTAL to the BUYER shall constitute acceptance of that Product by the BUYER, and final acceptance is deemed to have occurred upon Delivery and completion of a SAT by CRYSTAL, unless notice of defect or nonconformity is received by CRYSTAL in writing within ten (10) days of Delivery; provided that, for Products for which CRYSTAL has agreed in writing to perform acceptance testing after installation at BUYER’s facility or via remote access or at CRYSTAL’s facility by a CRYSTAL Certified Production Engineer (“CPE”), the completion of CRYSTAL’s applicable acceptance testing, or completion of the SAT by CRYSTAL, shall constitute final acceptance of the Product by BUYER. Notwithstanding the above, any use of a Product by BUYER, its agents, employees, contractors or licensees, for any purpose, other than acceptance testing if applicable, after its receipt, shall constitute acceptance of said Product by BUYER. BUYER provides CRYSTAL with a detailed written description of perceived defect or nonconformity any time before acceptance, CRYSTAL may use commercially reasonable efforts to remedy the default, and repeat acceptance testing if applicable, or, at CRYSTAL’s discretion, replace defective or nonconforming parts. BUYER’s sole remedies after acceptance are provided in CRYSTAL’s standard Warranty.

9. ASSIGNMENTS AND TERMINATIONS

General: BUYER shall not assign its rights nor delegate its requirements under or related to the Purchase Agreement, or without the prior written consent of CRYSTAL. All purported assignments of rights or delegations of requirements without CRYSTAL’s prior written consent are prohibited and are void from the outset, and having no legal force or binding effect whether voluntary or involuntary, by merger, consolidation, dissolution, operation of law, or any other manner.

No BUYER Purchase Order may be canceled, terminated or modified by BUYER, nor shall shipment be rescheduled or postponed by BUYER, unless by mutual agreement in writing. Any attempt to do so without CRYSTAL’s written consent shall result in additional costs to BUYER.

Termination for Default: If BUYER notifies CRYSTAL of its intent to terminate the Purchase Agreement, in whole or in part, for alleged non-conformity, default or material breach of contract, BUYER shall specify its reasons in a written statement of all defaults on which BUYER proposes to rely. Within fifteen (15) days of receiving such notice, CRYSTAL may submit a plan to cure the alleged breach and shall include in such plan an estimation of the cure costs. If termination for default occurs, and after such termination it is determined that CRYSTAL was not in default, or that the default was excusable in whole or in part, or was in non-compliance with a party’s obligations, the parties shall be the same as under Termination for Convenience.

Termination for Convenience: Before the scheduled shipment date, and conditioned upon BUYER or BUYER’s customer having terminated its Purchase Agreement with BUYER for convenience, BUYER may request cancellation of the Purchase Agreement, or, cancellation of Delivery for its convenience only upon written notice to CRYSTAL and payments to CRYSTAL as follows.

Termination Charges: In all cases, including Termination for Default, BUYER shall pay CRYSTAL: (1) the applicable Purchase Agreement cost for any Product or Services not yet delivered and paid for by CRYSTAL, and Products completely manufactured and allocable to
BUYER at the time CRYSTAL receives notice of termination; and (2) all costs, direct and indirect, incurred by CRYSTAL with regard to Products not completely manufactured at the time CRYSTAL receives notice of termination.

Upon Termination for Convenience, whether before or after Delivery, BUYER shall pay CRYSTAL additional settlement and termination charges determined solely by CRYSTAL to cover reasonable costs of processing, order handling, shipping, restocking, repairing and disposing of the balance of the data portion of the original profit under the License Agreement, and all other Products affected by the termination.

CRYSTAL may use its normal accounting practices to determine costs and other charges. To reduce termination charges, CRYSTAL will divert completed parts, material or work-in-process from termination in substantial part to other customers on which CRYSTAL determines in its sole discretion it is practicable to do so.

If BUYER asks to reschedule or postpone shipment, CRYSTAL may consent on the conditions that BUYER (a) compensates CRYSTAL for any resulting costs (including but not limited to storage costs) and (b) if the delay extends past ten Business Days (10) days before the scheduled shipment date.

Termination for Impossibility: CRYSTAL is excused from liability for damages when its failure to perform any of its obligations is due to an event beyond its control which has been delayed or made impracticable by the occurrence of a contingency the non-occurrence of which was a basic assumption of the Quotation, SOD and on which the Purchase Agreement was made. Impediments include, without limitation, to conclusions or changes in the conditions, the need to allocate production and deliveries among customers, and unreasonable difficulty or expense to manufacture. If, by reason of any such impediment or force majeure, such that performance by CRYSTAL is impossible, CRYSTAL shall so notify BUYER, and if BUYER fails to modify the Purchase Agreement within a reasonable time not exceeding thirty (30) days, the Purchase Agreement shall terminate without liability to either party with respect to any Products or Services.

10. INFRINGEMENT ON PATENTS AND INTELLECTUAL PROPERTY

CRYSTAL shall, at its expense, settle or defend any proceeding or claim against BUYER alleging, as of the date of Delivery, CRYSTAL’s design or manufacturing of any Product to be delivered is infringing any legitimate patent(s) held in the United States, Canada, Japan or the European Community country in which the Product is to be used, and for which CRYSTAL indicated as acceptable. CRYSTAL reserves the right to substitute replacements or convert the Product for any Products or Services that infringe any legitimate patent(s) held in the United States, Canada, Japan or the European Community Country. If CRYSTAL determines in its sole discretion it is impracticable to do so, CRYSTAL may manufacture or provide the Product under a valid and enforceable license for such patent(s). If any Product infringes any foreign patent(s), CRYSTAL may, but shall not be required to, (a) procure for BUYER a license under such a foreign patent(s); (b) modify the Product so as not to infringe; (c) make prompt written demand upon BUYER to take proper precautions under the circumstances; (f) user modification of Products; (g) latent defects discovered after expiration of the applicable warranty period, and (h) equipment, accessories or components furnished by other suppliers and not provided by CRYSTAL as its standard product offerings.

CRYSTAL may from time to time sell experimental, developmental or special application products, or products with a life test exceeding thirty (30) days. Such Products shall be sold at a discount as determined by CRYSTAL. A Quotation for such Products shall be in writing by CRYSTAL in any Quotation and SOD, and are sold without warranty. IN SUCH CASE, CRYSTAL WARRANTS THAT THE PRODUCTS MEET APPLICABLE SPECIFICATIONS WHEN SHIPPED BY CRYSTAL BUT CRYSTAL SHALL HAVE NO OTHER RESPONSIBILITY THEREFOR, WHATSOEVER. THESE LIMITED WARRANTIES ARE EXPRESSLY IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES OR OBLIGATIONS AS TO CONFORMITY OF THE GOODS OR SERVICES. CRYSTAL DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE, USE, OR APPLICATION, OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, ARISING IN FACT OR BY OPERATION OF LAW OR EQUITY, STATUTORY OR OTHERWISE.

12. WARRANTY REPLACEMENT AND ADJUSTMENT

All claims under warranty must be made promptly after occurrence of circumstances giving rise to the claim, be received within the applicable warranty period by CRYSTAL or its authorized representative, and include a full description of circumstances giving rise to the claim. Before any Products are returned for repair or adjustment, BUYER shall obtain written authorization from CRYSTAL or its authorized representative for return to CRYSTAL, to know how and where these Products should be shipped. Any Product returned to CRYSTAL for examination shall be sent prepaid via the means of transportation CRYSTAL indicates as acceptable. CRYSTAL reserves the right to reject any improperly returned claim, modify a warranty claim on any item that has been altered, or has been shipped by unacceptable means of transportation. When any Product is returned for examination and inspection, or for any other reason, BUYER shall be responsible for all damage resulting from improper handling, storage, or transportation at any time before receipt by CRYSTAL.
packing or handling, and for loss in transit, notwithstanding any defect or nonconformity in the Product. In all cases CRYSTAL has sole responsibility for determining the cause and nature of failure, and CRYSTAL shall not be liable for any loss, damage or expense sustained by BUYER or any User caused by the Products or Services, whether caused by the Products or Services, or by their use or by the failure to use the Products or Services, or by the maintenance, repair or operation thereof, except as otherwise specifically agreed to in writing by CRYSTAL. If a Product or Service is returned to CRYSTAL for service, repair, or replacement at the request of BUYER or any User, and no rights or licenses are granted by CRYSTAL expressly or by implication, with respect to any Intellectual Property owned or controlled by CRYSTAL, except as provided as non-exclusive license to use the Product or Service as defined in the Quotation and associated SOD. BUYER shall not re-engineer, reverse engineer, or otherwise reproduce in any form or create or attempt to create or permit, allow or assist others to create or manufacture any derivative of CRYSTAL’s Products derived from Intellectual Property. If BUYER has executed, or shall execute, a Non-Disclosure Agreement (NDA) prior to the issuance of the Purchase Agreement or thereafter, BUYER agrees that CRYSTAL Intellectual Property shall not be used or disclosed under the NDA contrary to the terms and conditions of the NDA shall apply in addition, but not contrary to the obligations of this section.

17. COMPLIANCE WITH LAWS

CRYSTAL and BUYER shall comply with all applicable federal, state, and local laws and regulations and orders of agencies of their respective countries, including but not limited to the following: The substantive law of the State of Georgia, excluding its conflicts of laws rules, and, if applicable, the United Nations Convention for the International Sale of Goods (CISG) shall govern the validity, construction, and performance of this Purchase Agreement. Export Controls: Certain Products, technology, and documentation sold or provided by CRYSTAL to BUYER may be subject to export control laws, regulations and orders of the applicable departments of the United States, Canada, foreign governments, and local agencies, including but not limited to U.S. Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), and Export and Export Permits Act (“Export Laws”). BUYER shall comply with all applicable Export Laws, and shall not export, or transfer for the purpose of re-export, any Product to any prohibited or embargoed country or to any denied, blocked, or designated person or entity under which United States, Canadian or foreign laws or regulations or order. BUYER is responsible to obtain any license to export, re-export or import as may be required, unless previously and expressly agreed upon by CRYSTAL in writing.

Foreign Corrupt Practices Act: CRYSTAL and BUYER will strictly comply with the requirements of the U.S. Foreign Corrupt Practices Act, similar statutes in other countries, and the United Nations Convention against Corruption which prohibit offering, giving or promising, directly or indirectly, money or anything of value to any government or political party official or instrumentality to assist in obtaining or retaining business or securing improper advantage.

18. ENTIRE AGREEMENT

These Terms and Conditions of Sale, any CRYSTAL specifications and other related documents expressly agreed to in writing by both parties, including any quotation, proposal or acknowledgment, and conditions of Purchase Agreement of CRYSTAL and the BUYER with respect to this subject matter, and supersede all previous oral or written agreements, specifications and warranties between CRYSTAL and BUYER. These Terms and Conditions of Sale, incorporated by reference to any Quotation to BUYER, or any other related contract documents submitted for reference, or executed by both parties are intended to be the final expression of the terms of the agreement between CRYSTAL and BUYER, and may not be amended, modified or rescinded, by usage of trade, course of performance or prior course of dealing, unless mutually agreed in writing signed by both parties.

19. ACCEPTANCE

The BUYER agrees to all terms and conditions by acceptance of the Quotation and delivery of any Product or Service by CRYSTAL. Any other terms and conditions submitted by BUYER in connection with the purchase of the Product(s) or Service(s) associated herewith shall be void from the outset and have no legal force or binding effect.

These Terms and Conditions shall be effective as of October 1, 2017 - END OF DOCUMENT -