

## **Terms and Conditions of Purchase**

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, James Enterprise, Inc., a Colorado corporation (“JEI”) and the vendor to which a PO (as defined below) is issued (hereinafter “Vendor”) agree as follows:

1. **Basis of the Bargain.** Acceptance of the PO by Vendor shall evidence Vendor’s agreement that JEI’s purchase is expressly governed by these JEI Purchase Order Terms and Conditions (“PO Terms and Conditions”). If, however, the parties have entered into a separate, written, general, master or other agreement intended to govern the purchases being made under the PO (“Existing Agreement”), such Existing Agreement shall govern, and the PO Terms and Conditions that conflict with such Existing Agreement shall be of no effect. Except to the extent set forth above, these PO Terms and Conditions form the basis of the bargain for the Goods and/or Services and, subject to the foregoing, constitute the entire agreement between JEI and Vendor with respect thereto. JEI will review Vendor’s quote or proposal, and if approved, JEI will then issue an appropriate PO to Vendor. JEI’s obligation to accept delivery of any Vendor Goods and/or Services is contingent upon Vendor’s acceptance of these PO Terms and Conditions. These PO Terms and Conditions control over any Vendor terms and conditions regardless of the means of delivery (*e.g.*, with any invoice, a statement of sale, a sales order acknowledgement, or any other Vendor document), all of which shall be deemed rejected and null and void unless otherwise explicitly agreed to in writing and signed by both parties prior to Vendor’s shipment of Goods and/or commencement of Services. JEI may amend these PO Terms and Conditions at any time by posting a revised version on its website located at [www.james-enterprise.com/suppliers](http://www.james-enterprise.com/suppliers). The amended version will become effective and replace the prior version at the time it is posted. Vendor will be bound by and comply with the terms and conditions posted at the time a PO is issued by JEI. Unless otherwise indicated on the PO or the Existing Agreement, all PO’s are nonexclusive and JEI does not make any commitment or guarantee for any minimum or maximum amount of purchases.

2. **Select Definitions.** As used herein, the following terms have the meaning ascribed to them as set forth below:

“JEI” means James Enterprise, Inc., a Colorado corporation, or one of its affiliated companies.

“DDP” means “Delivered Duty Paid” as defined by Incoterms 2020.

“Delivery Date” means each specific date enumerated in the applicable PO requiring delivery by Vendor.

“End-of-Life” means any termination of manufactured Goods.

“Goods” means all items of hardware or software, or other tangible or intangible assets, as set out in the applicable PO.

“PO” means a purchase order submitted by JEI’s authorized representative.

“Proposition 65” means the Safe Drinking Water and Toxic Enforcement Act enacted in California in 1986.

“Rejected Goods” means any Goods that are damaged, defective, or do not conform to the pertinent PO.

“Services” means the labor and effort necessary to fulfill the duties, commitments, obligations, and responsibilities of Vendor as set out in the applicable PO. Services may include, without limitation, providing ideas, concepts, recommendations, interpretations, procedures, practices, processes, training, advice, knowledge, skill, talent, expertise and other such intangibles. All right, title and interest in and to

the Services, shall, at all times and in perpetuity after the expiration or earlier termination of the work or deliverable, belong to, and remain with JEI.

3. Vendor's Acceptance or Rejection. Vendor's acceptance of and agreement with these PO Terms and Conditions will be effective upon the earliest to occur of: a) Vendor's commencement of work on the Goods or Services ordered by JEI in the applicable PO; b) Vendor's shipment of Goods; c) JEI's receipt of Goods delivered by Vendor; or d) Vendor's written notice to JEI accepting JEI's PO. Vendor will sell and, if applicable, license the Goods and/or Services to JEI subject to (i) these PO Terms and Conditions, (ii) any applicable Existing Agreement, and (iii) all applicable JEI policies related to privacy, security, and access to JEI's networks, systems, equipment, property or premises made known to Vendor. If no deemed event of acceptance (as described above) occurs or, if no time frame is indicated in the applicable PO, within 15 days after the date JEI places such PO with Vendor (beginning on the date of the applicable PO), then JEI may deem that Vendor has rejected JEI's PO. In addition, JEI may deem that Vendor has rejected the applicable PO if Vendor partially accepts any terms (whether communicated by notice or otherwise (including, but not limited to, delivery of Goods that fail to conform fully with JEI's order or any delivery that fails in any way to conform with the applicable PO)). In either event, JEI may avail itself of alternative vendors and shall not incur any penalties or be assessed any costs, damages, or liability in doing so.

4. Price, Authorization, and Taxes. JEI will pay the applicable PO price for the Goods and/or Services as set forth in the applicable PO. All PO prices for hardware and other tangible Goods are DDP (Incoterms 2020) Vendor's factory, distribution center or warehouse, provided that such shipment point shall be in the continental United States ("Vendor's Domestic Shipping Point"). All software and other intangible Goods shall be delivered by electronic transfer to and download by JEI at its Pueblo, CO location (and not on tangible media). For the avoidance of doubt, PO prices include (i) all charges for packaging and crating Goods for shipment, and (ii) any and all (whether now in effect or hereafter imposed) taxes, tariffs, duties, or other charges levied, assessed or imposed on the Goods and/or Services or charged by any foreign (as to the United States) or any United States governmental authority associated with importing the Goods and/or Services into the United States. Any price increase that does not conform to the applicable PO must be explicitly approved by JEI in advance and in writing. All additional expenditures or costs not set forth in an applicable PO or otherwise authorized by these PO Terms and Conditions must be authorized by JEI in writing. Any sales and use or value added taxes on hardware and other tangible Goods that JEI has a direct legal obligation to pay and that Vendor has paid on JEI's behalf, will be billed to JEI by Vendor as a separate line item on the applicable invoice. Vendor will not incur or pay any taxes on software or other intangible Goods, or Services, and will not invoice JEI for such taxes without JEI's express prior written consent. JEI will pay only such taxes as are appropriately authorized and itemized on the invoice. Vendor is responsible for all taxes related to the Goods and/or Services not appropriately authorized and/or itemized on the applicable invoice.

5. Inspection.

(a) Goods. All PO Goods are subject to JEI's inspection and approval. Rejected Goods will be returned at Vendor's expense and risk. If within 30 days of delivery any Goods are rejected by JEI, then JEI will determine in its sole discretion whether it will accept either: i) a refund, ii) a credit, or iii) a replacement of the Goods. In the event JEI decides upon replacement Goods, Vendor must obtain new shipping instructions from JEI. Any replacement Goods delivered without new shipping instructions may be returned to Vendor at Vendor's expense and risk for reshipment in accordance with JEI's specifications. Goods supplied in excess of specified quantities may be either returned to Vendor at Vendor's expense and risk (such payment to be made prior to the return of Goods by JEI) or retained by JEI without additional charge. Neither inspection nor payment by JEI for Goods will constitute JEI's acceptance thereof.

Should JEI receive a shortage of Goods, or receive Goods that are damaged, defective, and/or non-conforming which is not apparent upon initial inspection but may become apparent upon further examination or use of such Goods, then JEI reserves the right to return the Goods to Vendor with all rights JEI has with respect to Rejected Goods. JEI shall be entitled to full indemnity and reimbursement for all damages, loss, or expenses of any kind incurred by JEI in connection with defective, non-conforming, recalled, or damaged Goods delivered by or on behalf of Vendor including, without limitation, labor, downtime, freight, storage, replacement, repossession, truck rolls, transportation, third-party property damage, and all other costs that directly or indirectly arise from defective, non-conforming, recalled, or damaged Goods, unless caused solely by JEI's willful or gross negligence.

(b) Services. JEI has the right to evaluate the Services, as applicable, to determine whether the same meet the requirements that are specified in the pertinent PO and/or Existing Agreement, or as may otherwise be agreed upon in writing by the parties. If JEI determines in its sole discretion that the Services do not meet such requirements, JEI may notify Vendor in writing that it is rejecting the applicable Services and the reasons for such rejection. Vendor shall re-perform the applicable rejected Services for JEI as soon as commercially possible, but in no event later than 10 calendar days, and JEI may re-evaluate such Services after such re-performance to determine whether the re-performed Services meet the applicable requirements of the pertinent PO, or as otherwise agreed to by the parties in writing during the course of performance ("Correction Process"). If Vendor does not, in JEI's determination, remedy the rejected Services, JEI may elect to allow Vendor to repeat the Correction Process until JEI accepts the re-performed Services or request a refund of all sums previously paid by JEI thereunder for such rejected Services and, if applicable, cancel the PO related to such Services.

#### 6. Transportation and Packaging.

(a) Shipping Requirements. When requested by JEI, Vendor will hold and consolidate orders and Vendor will ship only once per day, per destination. All shipments of tangible Goods will be DDP (Incoterms 2020) Vendor's Domestic Shipping Point. Once Goods are at Vendor's Domestic Shipping Point, customs cleared, JEI shall be responsible for (i) the cost of shipment, subject to the remaining provisions of this Section 6(a), from Vendor's Domestic Shipping Point to JEI's ship-to location(s) and (ii) any taxes or other charges levied, assessed, or imposed by a United States governmental authority on the sale of the delivered Goods or measured by the prices or the value of, or imposed upon the use of, the Goods after shipment, DDP Vendor's Domestic Shipping Point, customs cleared; provided, however, that, notwithstanding any other provision of these PO Terms and Conditions to the contrary, in order for JEI to be responsible for payment of any such taxes or other charges so levied, assessed, or imposed, Vendor must include as a separate line item on the invoice for the applicable Goods the amount of taxes or other charges that Vendor is required to collect in connection with the sale of such Goods or provision thereof to JEI. Specific methods for shipping tangible Goods from Vendor's Domestic Shipping Point to JEI's ship-to location(s) may be mutually agreed upon in writing (including via PO); provided, however, that in the absence of any such other written agreement, the provisions of this Section 6(a) shall apply.

(b) Delivery Dates. Unless otherwise mutually agreed, Vendor is required to meet the delivery dates specified in any PO. In the event a delivery date is not met, then, without limiting any other rights and remedies available to JEI at law or in equity, Vendor agrees to: (i) if tangible goods, immediately ship the pertinent Goods to JEI or (ii) if software or other intangible Goods, immediately deliver electronically. Vendor will use reasonable efforts to maintain a safety stock inventory on long lead-time Goods.

(c) Packaging Requirements. Vendor shall handle and package all Goods ordered by JEI hereunder so as to protect such Goods from loss or damage and in conformance with commercially reasonable practices,

government regulations, and other applicable standards. Packages and containers, including each box, shall be marked according to JEI's requirements. Vendor shall adhere to the following guidelines and requirements in packing Good(s):

- Each Goods container shall be labeled with the item master number SKU and product description.
- Date sensitive material shall be noted on the outside of the case pack and any associated pallet.
- Case quantity shall be noted on case lots.
- Box quantity shall be noted on each box.
- Items with differing item master numbers will not be packaged in the same box.
- Bar coding and labeling, including the JEI part number, PO number, and case pack quantity is required.
- Maximum weight of individual case packs shall not exceed 50 lbs.
- Case packs, wherever possible, shall be of dimensions that maximize utilization of a standard 48 x 40 inch pallet.

Vendor shall be responsible for all loss, damage or harm to any of the Goods which are damaged during transit as a result of Vendor's inadequate or improper packing, or failure to pack and ship in accordance with these PO Terms and Conditions.

7. Payment Terms. JEI will pay undisputed and accurate invoices by check or credit card or such other mutually agreed upon payment method, within 30 days of JEI's receipt of the pertinent invoice. JEI may execute a 1% payment discount if payment is made within 20 days of receipt of the invoice. Disputed, incorrect, or incomplete invoices may result in delayed payment and may be returned by JEI to Vendor for correction and reissue. Payment of any invoice shall not constitute acceptance or approval of the respective Goods and/or Services. Each invoice must contain a reference to the applicable PO number.

8. Change Orders. JEI may at any time issue a change order to the drawings, designs, requirements, or specifications applicable to the Goods and/or Services. If any change order affects the cost of the Goods and/or Services, the parties will work in good faith to mutually agree upon an equitable adjustment to the purchase price. Vendor cannot make any substitution of any Goods and/or Services without JEI's prior written approval.

9. Suspension or Termination. JEI reserves the right to suspend (for a reasonable period) or terminate any PO at any time for convenience (without cause), in whole or in part, by providing prior written notice to Vendor. In such event, Vendor shall immediately stop all production or processing of the Goods and/or all work associated with the Services and cause any suppliers and/or subcontractors to cease all production or processing related to the applicable Goods and/or all work associated with the Services. Upon a termination under this Section by JEI, JEI shall pay Vendor the following amounts: (i) the PO price for all unpaid Goods and/or Services delivered to and accepted by JEI; and (ii) the actual cost incurred (exclusive of profit) by Vendor up to the date of termination, as properly allocable under generally accepted accounting practices, of Goods in the process of delivery and/or Services that have been concluded (where the Goods have actually left Vendor's point of shipping origin). In no event will JEI's payment for Goods and/or Services exceed the applicable PO price. Notwithstanding anything to the contrary stated herein, Vendor will not be paid for Goods and/or Services, work or costs incurred by Vendor or Vendor's suppliers and subcontractors that Vendor could reasonably have avoided after the date of termination. JEI may terminate any PO, in whole or in part, for cause, and JEI will not be liable to Vendor for any amount other than for the Goods and/or Services delivered to and accepted by JEI in writing up to the date of termination, and Vendor shall be liable to JEI for all costs, expenses and damages sustained by JEI due to the cause that gave rise to the termination. For purposes of this Section, the "date of termination" shall be the date of the notice of

termination sent by JEI to Vendor, and “cause” shall mean any failure of Vendor to fulfill any of the warranties set forth herein or otherwise or any failure to comply with these PO Terms and Conditions (including but not limited to the delivery by Vendor of Goods and/or Services that are damaged, defective, or otherwise do not conform to specifications).

10. Intellectual Property. Ownership: All ideas, concepts, designs, slogans, plans, advertising or promotional materials, or any other materials submitted, created, or developed by Vendor for JEI pursuant to these PO Terms and Conditions, including without limitation the deliverables and all associated documentation, excluding any incorporated materials previously created and owned by Vendor (and identified as such, in writing, prior to incorporation into any deliverable, as set forth below) (collectively, the “JEI Materials”), shall be JEI’s sole and exclusive property, free from any claim, lien for balance due, or rights of retention thereto on the part of Vendor. Each deliverable resulting from the Services will be a “work made for hire” as that term is defined in the Copyright Act. If under any applicable law the fact that any deliverable is a work made for hire is not effective to place ownership of such deliverable and all rights therein in JEI, or if for any reason any such deliverable is deemed not to be a work made for hire, then to the fullest extent allowable under such applicable law, Vendor hereby assigns and transfers to JEI all rights, including the copyright, in such deliverable. Vendor shall have no right to disclose or use any of the JEI Materials for any purpose whatsoever without JEI’s prior written consent. These PO Terms and Conditions constitutes Vendor’s express assignment of the JEI Materials and all associated documentation and the assignment is effective as soon as possible under any law, statute or regulation.

11. Further Assistance: Vendor agrees, at JEI’s sole cost and expense, to (i) assist JEI in taking any legal action that may be required to perfect and defend JEI’s copyrights, trademarks, trade dress, patents, trade secrets, and other intellectual properties in and to any of the JEI Materials, and (ii) sign, upon JEI’s request, any further documents to perfect the assignment of rights as set forth herein or as otherwise may be necessary for JEI’s full enjoyment and exploitation of such rights.

12. Goods Warranties. Without in any way disclaiming implied remedies or limiting remedies for breach, Vendor represents and warrants that: (i) all Goods delivered will be free from defect of material and workmanship, will be merchantable, safe, fit and appropriate for the purpose for which Goods of that kind are normally used; (ii) all Goods will substantially conform to the specifications, drawings, requirements, and/or descriptions of the Goods that are made a part hereof and will be equivalent in all respects to any samples approved by JEI; (iii) all trademarks, trade names, patents, copyrights, intellectual property, trade secrets, rights of publicity, and all other proprietary or protected interests (other than those of JEI) used by Vendor in connection with the Goods are either owned by Vendor or Vendor has all authorizations and licenses necessary to deliver the Goods to JEI; (iv) Vendor has all rights necessary to grant a license for JEI’s use of all software Goods and all software will substantially conform to published specifications current at the time of delivery or, if customized, to JEI’s specifications; (v) all Goods will be produced, labeled, shipped, invoiced, furnished, provided, and delivered in compliance with all laws, regulations and ordinances, including without limitation, U.S. import and export laws; and (vi) Vendor will comply with all additional requirements of JEI when the procurement, performance, delivery, or provision of the Goods necessitate that an employee, agent, or subcontractor of Vendor work within or upon JEI’s premises for thirty (30) days or more. For third party Goods, Vendor hereby assigns or agrees to otherwise pass through, to the extent possible, the manufacturer’s or licensor’s warranties. Whether supplying components or finished goods, supplier shall warrant compliance with the notification requirements of the California Safe Drinking Water and Toxic Enforcement Act of 1986, otherwise known as “Proposition 65”.

13. End-of-Life. Vendor will provide JEI with no less than 12 months’ prior written notice of any termination of the manufacturing or maintenance and support of any Goods (“End-of-Life”). Any

applicable PO issued prior to the end of such 12-month period will be fulfilled without interruption. Vendor will make available for JEI (if necessary) maintenance, support, repair service and replacement parts for at least 2 years following the pertinent End-of-Life for all Goods.

14. Services Warranties. If Vendor provides any Services to JEI, then Vendor represents and warrants that it: (i) possesses adequate skill, training, expertise, knowledge and experience to perform the Services in a competent and professional manner; (ii) has sufficient personnel and equipment available to perform the Services within the milestones, timelines and time frames specified by JEI; (iii) will deliver and perform the Services in substantial conformance with the requirements, specifications, timelines and instructions of JEI; (iv) possesses or will possess all necessary rights, whether owned or acquired from third parties, to grant to JEI the stated ownership interests and licenses in and to the Services delivered hereunder (including, if necessary any right, title, and interest in and to all work or work product developed or produced in connection with the Services); (v) will perform the Services in a good and workmanlike manner and in compliance with applicable laws, regulations and ordinances; (vi) will provide Services and any associated deliverables that do not and will not infringe upon, violate or misappropriate the patent, copyright, trade secret, intellectual property or other protected rights or interests of any third party and Vendor has not received any communication from any third Party alleging an infringement, violation or misappropriation; (vii) will maintain insurance as required herein or in compliance with applicable law so long as the Services are being provided; (viii) will assign and transfer to JEI all warranties, including warranties granted to Vendor and warranties granted to third party(s) associated with any Services in order for JEI to utilize the Services including any and all components or products, when and as appropriate and to the extent permissible; (ix) will not do or perform any act not required by these PO Terms and Conditions and will not warehouse any materials or items required to create or deliver the Services other than as expressly set out in the applicable PO and to do so will entitle JEI to immediately terminate its relationship with Vendor; and (x) without limiting anything in Section 5 of these PO Terms and Conditions, the Services will be free from defects in materials and workmanship for a period of 12 consecutive months following completion of the applicable Services.

15. Indemnification; Liens.

(a) Indemnification. Vendor shall, at its own cost and expense, reimburse, indemnify, defend, and hold JEI and its officers, directors, employees, agents, parent, subsidiaries, and affiliates harmless from and against all claims, demands, actions, causes of action, proceedings, damages, judgements, awards, penalties, fines, levies, losses, costs, expense and/or liabilities including, without limitation, litigation expenses and reasonable attorneys' fees actually incurred, arising from, related to or based upon:

(i) actual or alleged injury (including death) to any persons or property (real or personal) that is caused by, connected with or related to (A) the performance of the Services, (B) the delivery or use of the Goods, (C) any defects in the Services or the Goods, and/or (D) the actions or omissions of Vendor, its employees, agents, representatives, licensees, invitees, designees, or permitted subcontractors;

(ii) actual or alleged misappropriation or infringement of any trade secret, copyright, patent or other intellectual property rights of a third party that may be raised, occur, or otherwise arise from (A) the Goods or JEI's use of the Goods; (B) any article, item, material, software or process supplied (or the deployment, use, and/or incorporation thereof) in the Services performed by Vendor, its employees, agents, representatives, licensees, invitees, designees or permitted subcontractors hereunder; or (C) the actions or omissions of Vendor, its employees, agents, representatives, licensees, invitees, designees or permitted subcontractors;

- (iii) claims made by any subcontractor of Vendor that it has not been paid for services undertaken by such subcontractor, specifically including, but not limited to, claims for any monies retained by Vendor;
- (iv) Vendor's failure to timely meet, or otherwise fulfill, Vendor's obligations under Section 15(b) of these PO Terms and Conditions;
- (v) Vendor's obligations or liability for compensation, tax, unemployment compensation, workers compensation, insurance, or benefit matters;
- (vi) any allegation or claim brought by any employee of Vendor related to hiring, retention, promotion, discharge, compensation, or other terms or conditions of employment;
- (vii) any determination by any federal, state or local government, agency, any court or other authority that Vendor or an employee, agent, representative, or subcontractor of Vendor is an employee of JEI for any purpose;
- (viii) the delivery, nature, or intended use of the Goods and/or Services;
- (ix) any breach of warranty or misrepresentation by Vendor hereunder; and/or
- (x) any noncompliance by Vendor or its employees, agents, representatives, licensees, invitees, designees or subcontractors with any of its obligations under these PO Terms and Conditions.

(b) Liens. If any person or entity employed or hired by, through or under Vendor, files any claim against JEI (each, a "Claim") or files a mechanic's or materialmen's lien against property owned or leased by JEI (each a "Lien"), then Vendor shall, at its cost and expense and within 10 days after receipt of written notice advising of the Claim or the Lien, cause the same to be bonded over, paid and released, or otherwise released of record. This provision is not intended to, and does not imply, that JEI is consenting to the filing of any such Lien. If Vendor fails to comply with the aforementioned 10-day payment and release provision, Vendor shall be in material breach of these PO Terms and Conditions and JEI may withhold any payment or amounts due until such time as Vendor has complied with this Section 15(b) and take whatever other measures are reasonably necessary, including, without limitation, the payment of fees, charges and other amounts required to release such Lien and Vendor will, upon demand, reimburse JEI for any costs and expenses incurred by JEI in releasing such Lien.

16. Insurance. Except as otherwise expressly agreed to in writing by JEI, Vendor shall obtain and maintain, at its expense, insurance of the following types and in the following amounts: commercial general liability insurance (including completed operations and contractual liability coverage) with limits (in combination with excess liability insurance) of One Million Dollars (\$1,000,000) per occurrence combined single limit and Two Million Dollars (\$2,000,000) in the aggregate; Commercial Automobile Liability, Bodily Injury and Property Damage including Owner, Non-Owned and Hired Vehicles, in the amount of One Million Dollars (\$1,000,000) per occurrence; and, in those circumstances where the Services involve data management, transmission or storage, or access to JEI's network, Cyber Security Liability in the amount of Five Million Dollars (\$5,000,000). Vendor's insurance will be considered the primary coverage for claims relating to the Goods and/or Services. Vendor shall maintain Workers' Compensation Insurance coverage in an amount equal to the minimum required by applicable law. If Vendor does not provide JEI with certificates of insurance when requested or if, in JEI's opinion, Vendor's insurance coverage does not provide adequate coverage, and Vendor does not furnish evidence of acceptable coverage within fifteen (15) days after JEI so notifies Vendor, JEI shall have the right to: (a) immediately terminate any applicable PO(s) and all outstanding authorizations of expenditure in whole or in part; or (b) withhold payment for the

Goods until evidence of acceptable coverage is provided. Vendor shall not pursue any claim against JEI relating to the Goods until Vendor first makes claim against Vendor's insurance.

17. LIMITATION OF JEI'S LIABILITY. IN NO EVENT WILL JEI BE LIABLE TO VENDOR FOR LOST OR ANTICIPATED PROFITS OR FOR INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES UNDER ANY PURCHASE ORDER. JEI'S MAXIMUM AGGREGATE LIABILITY ON ANY CLAIM OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THE GOODS AND/OR SERVICES DELIVERED OR PERFORMED UNDER ANY PURCHASE ORDER WILL BE LIMITED TO THE TOTAL AMOUNT PAID BY JEI TO VENDOR FOR SUCH GOODS AND/OR SERVICES. IF GOODS AND/OR SERVICES ARE ONGOING, JEI'S MAXIMUM AGGREGATE LIABILITY TO VENDOR WILL BE LIMITED TO THE TOTAL AMOUNT PAID BY JEI TO VENDOR DURING THE SIX MONTHS PRIOR TO THE OCCURRENCE OF THE LAST EVENT GIVING RISE TO LIABILITY.

18. Remedies. Each party's rights and remedies are cumulative and additional to remedies provided at law or in equity. A waiver of a breach of any term or condition by either party does not constitute a waiver of a subsequent breach of the same provision or a breach of any other provision.

19. Force Majeure Event; Business Continuity.

(a) Neither party will be liable for delays in the performance of any obligations under these PO Terms and Conditions when the delays are caused by war, acts of nature or other similar causes beyond the reasonable control of the nonperforming party; provided, however, that such event is objectively unforeseeable (at the time of entering into these PO Terms and Conditions), unavoidable (in terms of occurrence or impact) and impossible to overcome (each, a "Force Majeure Event"). The nonperforming party may not rely upon a Force Majeure Event to excuse performance to the extent nonperformance would have resulted without regard to such Force Majeure Event, or if the fault or negligence of the nonperforming party contributed to such Force Majeure Event. Additionally, obligations of indemnification under these PO Terms and Conditions will not be relieved, delayed or limited due to Force Majeure Events. The foregoing notwithstanding, the nonperforming party, in order to be entitled to postponement of its performance in accordance with the foregoing, must comply with the following: (1) as promptly as practicable upon becoming aware of a delay, or potential delay, in connection with a Force Majeure Event, the nonperforming party notifies the other party in writing (i) specifying the nature of the delay and the nonperforming party's estimate of the length of the delay and (ii) conferring with the other party as to whether the other party may be able to assist with efforts of mitigation or removal of the delay in a manner mutually agreeable between the parties; (2) the nonperforming party uses commercially reasonable efforts to minimize the length, and mitigate the effects, of the delay; and (3) once the Force Majeure Event no longer prevents performance, the nonperforming party promptly proceeds with diligence to perform all of its obligations. At JEI's request, Vendor agrees to provide JEI with the opportunity to use "self-help" to obtain or accomplish one or more aspects of the Goods or Services that may be the cause of the delay, in which case JEI will have the right to offset the costs and expenses incurred in connection with JEI's self-help efforts against the PO price. In the event that a Force Majeure Event lasts more than 15 calendar days, JEI may, in its sole discretion, terminate the underlying PO.

(b) Vendor represents and warrants that it has implemented and will maintain a business continuity plan whereby Vendor can continue to operate its business in the event of a natural disaster or government shutdown or civil order issued in connection with a global, national or regional health crises (including, but not limited to, the COVID-19 pandemic).



20. Law and Jurisdiction. These PO Terms and Conditions will be governed by the laws of Colorado and specifically by the UCC of Colorado as to the duties, obligations and rights of the parties to the extent not expressly set forth herein. Vendor and JEI each submit to the exclusive venue and jurisdiction of the federal and state courts located in Pueblo County, Colorado for disputes pertaining to the Goods and/or Services delivered under any applicable PO. Vendor must file any claim alleging or otherwise resulting from a breach by JEI of any obligations arising with respect to these PO Terms and Conditions within one (1) year after the pertinent cause of action arises.

21. Confidentiality. All non-public information contained in any PO or any correspondence, quote, proposal or written communication concerning a PO or that is disclosed in connection with the Vendor's delivery of any Goods or performance of any Services pursuant to a PO (whether identified as confidential or which by its contents a reasonably prudent person would consider proprietary or confidential) to Vendor or accessed by Vendor, including but not limited to: information pertaining to the terms, prices, services, records, data and locations of the Services, JEI trade secrets or business plans, or JEI's customers or employees, is considered confidential information of JEI. Vendor will not disclose any such confidential information to any third party without the prior written consent of JEI. Vendor will notify JEI of any actual or reasonably suspected compromise, unauthorized use or disclosure of any such confidential information. Upon JEI's written request, Vendor shall return, or certify the destruction of, all of JEI's confidential information. Neither party shall use the other party's names, marks, codes, drawings or specifications in any advertising, promotional efforts or publicity of any kind without the prior written permission of the other party. Neither party shall issue any press release or any other public announcement regarding any applicable PO, including the existence thereof, without the prior written approval of the other party. The obligations of confidentiality set forth in this Section 20 shall survive for three (3) years from the date of or earlier termination of the applicable PO to which these PO Terms and Conditions apply.

22. Assignment. Vendor may not assign any PO, in whole or in part, without the written consent of JEI.

23. Surviving Provisions. The following sections, along with any other sections or provisions that by their nature should survive, will survive the termination of this PO for any reason and the delivery of Goods or Services: "Inspection and Rejection," "Warranties," "Indemnification; Liens," "LIMITATION OF JEI'S LIABILITY," "Remedies," and "Law and Jurisdiction."

24. No Third Party Beneficiaries. The parties agree that these PO Terms and Conditions hereof and the parties' respective performance of obligations are not intended to benefit any person or entity not a party to the applicable PO, that the consideration provided by each party only runs to the parties thereto, and that no person or entity not a party to the applicable PO shall have any rights under it nor the right to require the performance by either of the respective parties.

25. Notice. Any notice required by these PO Terms and Conditions must be in writing and must be sent overnight by a nationally recognized courier service or postage prepaid by certified mail, return receipt requested. Notices to JEI will be sent to: James Enterprise, Inc., 1981 Aspen Cir, Pueblo, CO 81006, Attention: Accounts Payable. Notices to Vendor will be sent to Vendor at Vendor's address listed on the applicable PO unless Vendor notifies JEI otherwise. Notice is deemed given (effective) upon the date of receipt thereof when sent by courier service or 5 days after being placed in the United States mail when sent by certified mail.

26. Amendments. These PO Terms and Conditions may not be amended, superseded or replaced by terms and conditions of sale that are part of a Vendor's invoice, statement of sale, sales order acknowledgement, other Vendor document or any other means unless JEI expressly agrees in advance to such amendment,

superseding or replacement as evidenced by authorized signature by the appropriate JEI representative and in any event, not by action or inaction after receipt of a Vendor document.

27. Independent Contractor. The parties agree that Vendor and its employees and agents are independent contractors for all purposes and not employees or partners of, or joint ventures' with, JEI. Nothing herein or in any applicable PO shall be deemed to constitute a fiduciary relationship between JEI and Vendor, nor shall anything be deemed to create an agency relationship between Vendor and JEI. Neither Vendor nor JEI shall be or become liable or bound by any representation, act or omission whatsoever of the other. Vendor will furnish at its cost and expense all labor, equipment, materials, travel, supervision, training and any other items necessary to provide the Goods and/or Services. Vendor will be solely responsible at all times for withholding or payment of all Federal, State and local income and other payroll taxes with respect to its employees, including contributions from them as required by law, and for its acts and omissions or the acts and omissions of its agents, employees, and subcontractors.

28. Entire Agreement. These PO Terms and Conditions, together with the applicable PO(s) and/or any attachments issued or entered into pursuant to these PO Terms and Conditions, and any applicable Existing Agreement, constitute the entire agreement between the parties. Any prior or contemporaneous oral or written communications or agreements of the parties with respect to the Goods and/or Services not expressly set forth herein, in the applicable PO and/or attachments are of no force or effect and these PO Terms and Conditions supersede all other prior or contemporaneous representations, discussions, negotiations and agreements, whether written or oral between the parties relating to the subject matter hereof. No waiver of any provision hereof or any right or obligation of a party will be effective unless in writing and signed by the party waiving such provision or right. The failure of either party to enforce a right shall not constitute a waiver.

29. Severability. In case any provision in these PO Terms and Conditions shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.