The following terms and conditions are incorporated into and are made a part of the purchase order or request for proposal (the “Purchase Order”). The Purchase Order is an offer by Allstream Business US, LLC or Allstream Business Inc. (“Buyer”), to purchase the goods and/or services listed on the face of the Purchase Order (any goods collectively and individually the “Products”, and any services, collectively and individually the “Services”). Acceptance of the offer by the party to whom it is addressed (“Seller”), whether by verbal confirmation, written quotation, shipment of Products, performance of services or otherwise, and notwithstanding any prior agreement(s) whether oral or written, shall constitute Seller’s acceptance of the following terms and conditions together with any additional terms shown on the face of the Purchase Order and any terms expressly incorporated herein and signed by Buyer. **BUYER OBJECTS TO, AND HEREBY REJECTS, ANY DIFFERENT OR ADDITIONAL TERMS TO WHICH BUYER HAS NOT AGREED TO IN WRITING. FOR CLARITY, Seller’s acceptance of this offer is expressly limited to these terms.**

**1. PRECEDENCE**. The Purchase Order, MSA and any attachment to either constitutes the entire agreement between the Buyer and Seller with regard to the Products and/or Services and supersedes all previous representations, statements, negotiations, commitments and writings relating to such Products. Any terms on Seller’s website, product schedule or other ordering document, or contained in any “shrinkwrap” or “clickwrap” agreement, will have no force or effect if the provisions conflict with the terms of the Purchase Order. If there is a conflict between the Purchase Order and any other document related to the Products and/or Services, the order of precedence of the documents is as follows: (a) master agreement or other written agreement (which by its terms would reasonably be considered to be a master agreement) between Buyer and Seller signed by an authorized representative of Buyer; (b) statement of work if any; (c) supplemental terms set forth on the Purchase Order; (d) Purchase Order terms and conditions; and (e) other documents incorporated into the Purchase Order by reference. In the event that a master agreement or other written agreement between Buyer and Seller signed by an authorized representative does not exist, then these printed Purchase Order terms and conditions, together with any supplemental terms set forth on the Purchase Order if any, will be first in the order of precedence, followed by statement or work if any, followed by other documents incorporated into the Purchase Order by reference.

**2. PRICE AND PAYMENT**. Prices shown in the Purchase Order shall be firm and fixed unless otherwise agreed to in writing by Buyer. Seller’s invoice shall include all applicable federal, state and local taxes. Unless otherwise specified on the face of this purchase order, Buyer shall pay the invoiced amount within thirty (30) days after receipt by Buyer of a correct invoice. Payment shall not constitute acceptance.

**3. GENERAL SHIPPING INSTRUCTIONS.** Where applicable, Seller shall forward to Buyer the receipt or bill of lading signed by the carrier with Seller’s invoice as evidence of shipment. Seller shall receive and retain mailing receipts for uninsured parcel post. For shipments made F.O.B: (a) all shipments moving in one day to the same location via the same carrier shall be consolidated on one bill of lading. Multiple packages in the same UPS shipment shall be tied into bundles; (b) unless otherwise specifically instructed, shipments via limited liability carriers (such as Air Freight, UPS), and those subject to released value ratings, shall be declared at the value which will secure the lowest transportation charge; (c) Seller shall comply with Buyer shipping and routing instructions. Seller shall not use premium, overnight, or express cost transportation unless authorized by Buyer; and (d) losses and/or excess charges resulting from deviation from Buyer instructions will be charged to Seller’s account.

**4. DELIVERY AND ACCEPTANCE.** TIME IS OF THE ESSENCE in making deliveries under the Purchase Order. Seller shall strictly adhere to the delivery and completion schedules stated on the Purchase Order. Seller shall provide Buyer Notice (as defined in Section 19 of this Purchase Order) immediately of any difficulty in meeting the delivery or completion schedule. Following Notice, or in the event of actual failure to comply with the delivery or completion schedule, Buyer may, in addition to its other remedies: (a) require Seller to ship the Products via air freight or other expedited method at Seller’s expense; or (b) cancel the Purchase Order, purchase comparable Products elsewhere, and hold Seller accountable for any additional costs or damages incurred by Buyer. Seller shall suitably pack or otherwise prepare for shipment all Products to prevent damage in transit **Acceptance of delivery and passage of title shall not impair the right of Buyer to inspect and reject Products.** Final inspection and acceptance of Products shall be on Buyer’s premises unless otherwise agreed to in writing. Seller shall bear all risks and costs as to nonconforming Products including inbound transportation costs and applicable handling expenses. Rejected Products shall be deemed to be the property of Seller.

**5. TITLE AND RISK OF LOSS.** Title to the Products and risk of loss shall pass to Buyer upon delivery to, and acceptance by, Buyer. If the Products are destroyed, in whole or in part, prior to title passing to Buyer, Buyer may, at its option, either (i) cancel the Purchase Order or (ii) require delivery of substitute Products of equal quantity and quality of those destroyed, or (iii) require delivery of the Products not destroyed and cancel the Agreement with regard to the Products destroyed. Delivery of the replacement Products will be made as soon as commercially practicable.

**6. WARRANTIES.** In the case of Products, in addition to all other express and implied warranties, Seller warrants all Products will: (a) be free from defects in materials or workmanship, and fit for the purpose intended for the period of Seller’s standard warranties, or for a period of twelve (12) months from delivery to Buyer, whichever is greater; (b) be new and will not be used or refurbished (unless otherwise agreed); (c) conform strictly to the specifications, drawings or sample specified or furnished and any supplementary documentation referenced herein; (d) be free of any and all liens, encumbrances, or security interests; (e) not infringe any patent, copyright, trademark, service mark, intellectual property right, or misappropriate any trade secret, or violate any right of publicity or a nondisclosure obligation; and (f) not contain any software viruses or other malicious computer instructions, devices or techniques that can or were designed to threaten, infect, damage, disable or shut down a computer system or any component of a computer system, including its security or user data. Seller further warrants that Seller shall comply with the requirements of all applicable federal, state and local laws, rules, ordinances and regulations.

In the case of Services, in addition to all other express and implied warranties, Seller warrants: (a) all Services will be performed by experienced personnel in accordance with the highest applicable standards of professionalism for comparable or similar services; (b) Seller has all required permits, authorizations and licenses to perform the Services; (iii) all Services will be performed in compliance with all applicable federal, state and local laws, ordinances, codes, rules, regulations or standards, including without limitation, applicable data protection and/or privacy laws, rules and/or regulations, employment, tax, export control and environmental laws.

These warranties shall survive any inspection delivery or acceptance of the Products or Services, or payment for such Products or Services by Buyer.

**7. CHANGE ORDER.** No amendment of any kind shall be binding upon Buyer unless agreed to in writing signed by an authorized member of Buyer’s purchasing department, such writing to expressly state that it is intended to be an amendment of the Purchase Order. Buyer may at any time, by a written order, make changes within the general scope of the Purchase Order in any one or more of the following: (a) drawings, designs or specifications; (b) method of shipment or packing; or (c) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, delivery of the Products or Services, an equitable adjustment shall be made in the price of a delivery schedule, or both, and the Purchase Order shall be modified in writing accordingly. Any claim by Seller for adjustment under this clause must be asserted in writing within thirty (30) days from the date of receipt by Seller of the Notice of change.

**8. TERMINATION FOR CONVENIENCE.** Buyer may terminate any part of the Purchase Order, for Buyer’s convenience and without cause, by providing Notice to Seller. Upon receipt of the Notice of termination, Seller shall immediately cease work on the Purchase Order and cause any subcontractors to do the same. Upon receipt of notice of such termination, Seller will inform Buyer of the extent to which it has completed performance as of the date of the notice, if applicable. Buyer will pay Seller for all work performed and accepted up to the date of termination. Buyer will have no further payment obligation in connection with any termination.

**9. TERMINATION FOR DEFAULT.** In the event: (a) Seller breaches any of the terms of the Purchase Order, including warranties, fails to make adequate progress toward fulfillment of its obligations by the scheduled delivery or completion date, or fails to deliver Products when due; or (b) of any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against Seller, including any reorganization or arrangement proceeding, or in the event of the appointment, with or without the Seller’s consent, of an assignee for the benefit of creditors or of a receiver, Seller shall be treated as having terminated the Purchase Order (or, if segregable, the portion of the Purchase Order for which it is or will be unable to perform), and Buyer will provide Notice to Seller that Buyer deems termination to have occurred. In the event of termination under this Section 9, Buyer shall be entitled to all the remedies provided at law or in equity. In addition, Buyer may withhold any amounts due to Seller to protect Buyer against third partly lien holders for Products already delivered by Seller and to compensate Buyer for additional costs incurred in obtaining substitute performance.

**10. THIRD PARTY CONTRACT/ASSIGNMENT**. Neither the Purchase Order nor any rights and obligations under it shall be assigned or contracted by Seller to third parties without the prior written consent of Buyer, and subject to the provisions of this Section 10. Seller shall promptly provide Buyer with Notice and a signed copy of any assignment approved by prior written consent of Buyer. Payment to an assignee shall be subject to setoff or recoupment for any present or future claim or claims which Buyer may have against Seller except to the extent that any such claims may be expressly waived in writing by Buyer. Seller shall ensure that subject to the foregoing, any third party contract and/or assignment made hereunder shall incorporate the provisions of the Purchase Order by specific reference hereto.

**11. PROPRIETARY INFORMATION.** Seller shall not divulge to any person (except with the prior written authorization of Buyer) any information or knowledge relating to Buyer’s business or any other confidential proprietary information of Buyer or use any such information except to perform its obligations to Buyer. Seller shall take all reasonable measures to protect such information, which shall be at least equal to the measures used by Seller to protect its own proprietary information. Any tangible embodiment of proprietary information provided by Buyer to Seller shall be returned to Buyer at the conclusion of Seller’s performance. Buyer does not accept any obligation of confidentiality to Seller with respect to ideas, data, information, or designs divulged by Seller, and no private data or proprietary information of any kind is to be provided by Seller to Buyer unless a separate non-disclosure agreement has been executed between Seller and Buyer. Seller authorizes Buyer to reproduce Seller’s copyrighted material at no cost to Buyer, for the purpose of including such material in documents provided to Buyer’s customers or prospective customers in the normal course of Buyer’s business. Seller shall promptly provide to Buyer copies of all revisions to such information

**12. INDEMNIFICATION.** Seller shall indemnify, defend at its own expense, and hold Buyer, its officers, directors, employees, agents and customers (collectively the “Buyer Indemnitees”) harmless from any lawsuit, claim, demand, cause of action, liability, loss or expense (including reasonable attorneys’ fees) brought against any Buyer Indemnitees, resulting from (a) any act or omission of Seller arising under, related to, or in connection with the Purchase Order, (b) any injury to persons or damage to tangible or intangible property, (c) actual or alleged infringement of any trademarks, patents, copyrights or other intellectual property rights, or misappropriation of any trade secret, arising from Seller’s performance under the Purchase Order.

**13. OWNERSHIP.** Any Products, works of authorship and deliverables purchased by Buyer under the Purchase Order that qualify as a work made for hire under applicable copyright law, will be considered a work made for hire. Seller agrees to promptly disclose and assign and hereby assigns to Buyer any and all intellectual property generated, conceived or developed under the Purchase Order. At no additional charge to Buyer, Seller will provide reasonable assistance to Buyer to secure intellectual property protection. Seller will pay its employees any compensation due in connection with the assignment of any intellectual property or invention. Seller warrants to Buyer that Seller's employees are subject to agreements that will secure Buyer's rights under this paragraph 13. To the extent that any intellectual property, including software, provided under the Purchase Order is not deemed to be owned by Buyer under this paragraph 13, Seller grants to Buyer a fully paid-up, worldwide, irrevocable, perpetual, non-exclusive license to install, execute, use, copy, test, display, perform and distribute such intellectual property for Buyer’s business purposes, including the provision of managed services, web-hosting services and application service provider and application infrastructure provider services.

**14. LIMITATION OF LIABILITY.** BUYER WILL NOT BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THE PURCHASE ORDER. SELLER’S SOLE REMEDY IN THE EVENT OF A BREACH OF THIS PURCHASE ORDER BY BUYER, OR OTHERWISE, WILL NOT EXCEED THE LESSER OF: (I) THE PRICE OF THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM; OR (II) $10,000.

**15. INSURANCE.** Seller shall maintain, at Seller’s sole cost and expense, not less than the following insurance, in accordance with the law of the states and provinces in which Seller is providing the Products and/or Services: general liability with coverage and professional liability coverage not less than $1,000,000.00, plus workers’ compensation and auto liability in sufficient amounts to insure its performance under the Purchase Order. Upon request, Seller will furnish Buyer a certificate of insurance evidencing this coverage.

**16. FORCE MAJEURE.** Buyer shall not be liable for any failure to perform including failure to (i) accept performance of Services or, (ii) acceptance of the Products as provided caused by circumstances beyond its control which make such performance commercially impractical including, but not limited to, acts of God, fire, flood, acts of war, government action, accident, labor difficulties or shortage, inability to obtain materials, equipment or transportation. In the event Buyer is so excused, either party may terminate the Agreement and Buyer return any Products received to the place of shipment.

**17. PUBLICITY.** Seller shall not issue any news release, advertisement, publicity or promotional material regarding the Purchase Order without Buyer’s prior written consent.

**18. GOVERNING LAW.** In the case of Products and/or Services purchased in Canada, the Purchase Order shall be governed by the laws of the Province of Ontario. In the case of Products and/or Services purchased in the US, the Purchase Order shall be governed by the laws of the State of Oregon.

**19. NOTICE.** All notices, requests, consents, claims, demands, waivers and other communications (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of this Purchase Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Purchase Order, Notice is effective only: (a) upon receipt of the receiving party; and (b) if the party giving the Notice has complied with the requirements of this Section 19.

**20.** **ASSIGNMENT; WAIVER**. Seller may not assign this Purchase Order or any of its rights or obligations under this Purchase Order, without the prior written consent of Buyer. Any assignment or transfer without such written consent shall be null and void. A waiver of any default hereunder or of any term or condition of this Purchase Order shall not be deemed to be a continuing waiver or a waiver of any other default or any other term or condition.

**21. WAIVER OF JURY TRIAL.** Each party waives its right to a jury trial in any court action arising between the parties, whether under the PO or otherwise related to the PO, and whether made by claim, counterclaim, third party claim or otherwise.

**22. EQUAL OPPORTUNITY/FEDERAL CONTRACTOR COMPLIANCE.**

**This contractor and subcontractor 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, national origin, or for inquiring about, discussing, or disclosing information about compensation. Moreover, these regulations require that covered prime contractors and subcontractors 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. Contractor/subcontractor agrees to comply with all the provisions set forth in 29 CFR Part 471, Appendix A to Subpart A (Executive Order 13496).**