

DIR CONTRACT NO. DIR-TSO-4304
Appendix D

Supply and Services Agreement

This USA SUPPLY & SERVICES AGREEMENT, together with any schedules and attachments (the "Agreement") is made and entered into by and between ALE USA Inc., a Delaware corporation, ("ALE") and the ____ ("Customer") (each a "Party" and collectively the "Parties"). This Agreement is effective as of _____ (the "Effective Date"). In consideration of the promises, the Parties agree as follows:

1. SCOPE

- 1.1. This Agreement provides for: (a) the sale by ALE to Customer of new standard equipment and components made commercially available for sale by ALE ("Equipment"), (b) the license by ALE to Customer of standard software and firmware (including third-party software and firmware) made commercially available for license by ALE, regardless of the form or media on which it is delivered, solely in object code form and excluding source code ("Software"), (c) the license by ALE to Customer of commercially available standard documentation relating to any Equipment or Software ("Documentation") and (d) the performance of services by ALE ("Services"). The Parties will enter into one or more statements of work (each an "Addendum" and collectively "Addenda") to supplement this Agreement for specific Products or Services. All references to "Agreement" include this document and its schedules together with any and all Addenda and their attachments. The term "Product" refers to Equipment, Software and/or Documentation, and the term "Licensed Materials" refers to Software and/or Documentation.
- 1.2. The term of this Agreement begins on the Effective Date and, unless otherwise earlier terminated under this Agreement, will continue for a period of five years.
- 1.3. All Products and Services furnished by ALE to Customer are for Customer's own internal use in the United States only. Customer represents and warrants that it shall not resell any Equipment. Customer has no right to sublicense any Licensed Materials.

2. ORDERING PROCEDURE

- 2.1. Customer will purchase Equipment, license Licensed Materials and/or engage ALE to perform Services by delivering to ALE a written order (an "Order"). Each Order is a firm offer and must (i) identify the Customer by full name and address; (ii) itemize the quantity, part number and description of the Equipment that Customer desires to purchase, the Licensed Materials that Customer desires to license, and/or the Services that Customer desires to engage ALE to perform; (iii) state the price of the itemized Products and Services in accordance with Appendix C of DIR Contract DIR-TSO-4304 (the "Price"), (iv) identify the "bill-to" address, (v) identify the "ship-to" address, (vi) set forth the requested delivery dates (and any shipping instructions) and/or performance dates, consistent with ALE's standard published intervals, (vii) provide a Customer contact name and telephone number, and (ix) explicitly refer to the number of this Agreement. Customer's "bill-to" and "ship-to" address must be located within the United States. All Orders are subject to review and written acceptance by ALE. Each Order is subject only to the terms and conditions of DIR Contract DIR-TSO-4304. Terms and conditions contained in an Order, which are inconsistent with this Agreement or applicable Quotation, including any pre-printed terms and conditions on such Order, are ineffective and void.
- 2.2. Upon written acceptance of an Order, ALE shall deliver to Customer the requested Products and perform the requested Services in accordance with the terms of DIR Contract No. DIR-TSO-4304.
- 2.3. Customer may request in writing changes to an Order ("Change Request") that ALE has previously accepted. In response to a Change Request, ALE will provide written Quotations, including any changes to prices, license fees, delivery dates or completion dates. A Change Request is a separate Order subject to ALE's change order process and written acceptance and the terms of DIR Contract No. DIR-TSO-4304.

3. PRICES

- 3.1. The Price of a Product or Service is set forth in Appendix C of DIR Contract DIR-TSO-4304 and offered to Customer in a valid, specific, written quotation from ALE (a "Quotation"). A Quotation is valid for 30 days after issuance, except as otherwise provided therein. All Quotations are deemed to incorporate this Agreement. If Customer submits an Order other than in response to a Quotation, then the Price of the requested Product or Service must be that set forth in Appendix C of DIR Contract DIR-TSO-4304.

- 3.2. The taxes shall be handled in accordance with Appendix A of DIR Contract DIR-TSO-4304, Section 8.E, Tax-Exempt.
- 3.3. In accordance with Appendix A, Section 8.D of DIR Contract DIR-TSO-4304, the Price to the Customer under this Contract shall include all shipping and handling fees. Shipments will be Free On Board Customer's Destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited or special delivery, Customer will be responsible for any charges for expedited or special delivery.
- 3.4. The Price for a Service is based on the specific assumptions, requirements, Product quantities, configuration(s), and location(s) set forth in the Quotation and Appendix C of DIR Contract DIR-TSO-4304.
- 3.5. In addition to the Price for Services, Customer shall also pay charges incurred under this Agreement, including charges for: (a) work undertaken by ALE at Customer's request that is not included in the Quotation; (b) time (including certain minimum charges), materials if Services are performed outside of the hours applicable to the Quotation; (c) support Services, including a response by ALE to a fault report or request for assistance where no problem is found to exist or when the problem reported is one not covered by the Service Quotation; and (d) Services for which increased costs are the result of Customer's failure to comply with its obligations herein.
- 3.6. Expenses for travel, lodging and meals incurred by ALE personnel who perform Services at a location other than their normal place of work shall be in accordance with Appendix A, Section 8.F of DIR Contract DIR-TSO-4304.

4. PAYMENT TERMS

- 4.1. Invoices shall be in accordance with Appendix A, Section 8.I of DIR Contract DIR-TSO-4304. ALE will issue invoices as follows: (a) for Products, upon shipment; (b) for non-recurring Services, including engineering and installation Services, as such Services are incurred; and (c) for recurring Services, including maintenance and management Services, upon commencement of such Services.
- 4.2. Each invoice will describe the requested Products or Services and their respective Prices and will also show the total amount due to ALE from Customer, including charges that are Customer's responsibility (the "Invoice Total"). Customer shall pay each Invoice in accordance with Appendix A, Section 8.J of DIR Contract DIR-TSO-4304.

5. DELIVERY, TITLE, AND RISK OF LOSS

- 5.1. Delivery is Free On Board Customer's Destination in accordance with Appendix A, Section 8.D of DIR Contract DIR-TSO-4304.
- 5.2. Title to Equipment, and risk of loss and damage to any Product, shall be in accordance with Appendix A, Section 10.A(4) of DIR Contract DIR-TSO-4304.

6. ACCEPTANCE AND VERIFICATION TESTING

- 6.1. Products are deemed accepted upon shipment to Customer, unless ALE is obligated to install the Products by the terms of an applicable Order.
- 6.2. When ALE is required by the terms of Order to install a Product, ALE will perform its standard verification tests after the installation Service for that Product is complete, and upon successful completion, ALE shall advise Customer that the installation has been verified. Upon the earlier of Customer's commercial or beneficial use of a Product or receipt of such advice (a) the Product will be deemed accepted by Customer and (b) any failure by ALE to perform the related installation Services will be deemed waived by Customer. If Customer's actions cause a delay in ALE's installation for more than 15 days (in aggregate) following delivery, Customer's acceptance will be deemed to occur on the 16th day after the delivery date.
- 6.3. Acceptance of Services is deemed to occur as Services are completed.

7. GRANT OF LICENSE

- 7.1. Customer shall use all Licensed Materials in accordance with this Section 7. Upon delivery of any Licensed Material and subject to Customer's payment of the applicable fees for such Licensed Material and compliance with the other terms and conditions of this Agreement, ALE grants to Customer, and Customer accepts, a personal, nonexclusive, nontransferable license to use the portions of the Licensed Material for which activation has been authorized by ALE, solely on or with the single unit or arrangement of Equipment for which the Licensed Material was delivered, for Customer's internal use in the United States.
- 7.2. Customer acknowledges and agrees that: (a) ALE may have encoded within the Software optional functionality, features and/or capacity, which may be accessed only through the purchase of the applicable license extension from ALE at an additional Price (no licenses are granted to such functionality, features and/or capacity unless Customer

purchases the applicable license extension); and (b) Customer may need to obtain a new or additional application key from ALE to use such Software.

- 7.3. This Agreement applies to all updates, upgrades, maintenance releases, revisions and enhancements for the Licensed Materials which ALE may supply to Customer from time to time.
- 7.4. Customer may copy Licensed Materials as reasonably necessary for backup and archival purposes if the copies contain all of the ALE proprietary notices contained in the original Licensed Materials. All copies of all Licensed Materials (including partial copies) are ALE Confidential Information. All rights, title and interest in and to the Licensed Materials, including all intellectual property rights, remain vested in ALE, its suppliers and licensors, and Customer is granted only a limited license to use the Licensed Materials in conjunction with the Equipment, as set out in this Section 7.
- 7.5. Customer shall not directly or indirectly: (a) modify, copy, transmit, alter, merge, decompile, disassemble, reverse engineer or adapt any Licensed Material or portion thereof; (b) encumber, time-share, rent or lease the rights granted herein; (c) manufacture, adapt, create derivative works of, localize, port or otherwise modify any Licensed Material or portion thereof; (d) disclose or otherwise make available any Licensed Material or portion thereof to any third party; (e) enable any Software functionality, feature or capacity which ALE licenses as a separate product, without ALE's prior written consent; (f) take any action that may result in the Software becoming subjected to the terms of a license that requires it to be (i) disclosed or distributed in source code form, (ii) licensed for the purpose of making derivative works, or (iii) redistributable at no charge; or (g) use any Licensed Material or portion thereof except in accordance with this Section 7.
- 7.6. Upon reasonable prior written notice, ALE may inspect and audit Customer's compliance with this Section 7 during normal business hours. Customer shall cooperate with the audit and shall grant assistance and access to applicable records, materials, personnel, Equipment, and any other information or products which may reasonably enable ALE to determine whether the use, copying and disclosure of the Licensed Materials comply with this Agreement. In addition, Customer shall provide remote access to its systems to enable ALE to electronically audit Customer's compliance with this Section 7. If an audit reveals that Customer possesses or at any time possessed unlicensed copies of any Licensed Materials, or used any Licensed Materials beyond the licensed functionality, features or capacity restrictions or beyond the terms stated herein, then Customer shall pay ALE the applicable license fees (plus interest) and the costs incurred in the audit immediately upon request.
- 7.7. Certain Software may be delivered with its own specific license ("Additional License"). In such a case, the terms of the Additional License will be delivered to Customer, such as in a separate license.txt file or as part of a tear-open document, and will govern use of the Software by Customer to the extent ALE does not have a right to supersede them in this Agreement. ALE's licensors are third party beneficiaries of this Agreement with respect to their Licensed Materials.
- 7.8. If Customer's license or Additional License is cancelled or terminated, or when Customer no longer uses the Licensed Materials, Customer shall return or destroy the Licensed Materials and all copies and certify to ALE that it has done so.

8. LIMITED WARRANTY

- 8.1. ALE warrants to Customer that for the warranty period defined in Section 8.2: (a) Equipment and Software media manufactured by ALE (including those manufactured for ALE by a contract manufacturer and based on ALE's procurement specification) and purchased hereunder will, under normal use and service, be free from defects in material and workmanship; (b) Equipment manufactured by ALE or Software owned by ALE and purchased or licensed hereunder will materially conform to ALE's specifications in effect on the date of shipment; and (c) Services purchased hereunder will be performed in accordance with ALE's written standards, or in the absence of such standards, in a professional and workmanlike manner. However, ALE makes no warranty that any Software will operate uninterrupted or error free. For Products or partial assembly of Products furnished by ALE where the Equipment and Software media was not manufactured by ALE and/or the Software is not owned by ALE, ALE hereby assigns, to the extent permitted, the warranties given to ALE by its suppliers or licensors of such items.
- 8.2. The warranty period for ALE Equipment and Software is 12 months and begins on the shipment date, unless ALE performs installation Services for the Equipment or Software, in which case the warranty period begins on the date of Product acceptance as determined under Section 6. The warranty period for Services is 30 days beginning on the date of completion.
- 8.3. If any Equipment is not as warranted in this Section 8, then (a) Customer must obtain from ALE a return authorization number and properly pack and return the Equipment at its expense, together with the authorization number and a detailed description of the problem, to ALE's designated repair facility; and (b) ALE shall repair or replace the

Equipment and return it at ALE's expense to Customer's point of shipment. Customer has the risk of loss and damage to any Equipment returned to ALE for repair or replacement until receipt by ALE of such Equipment. ALE shall assume the risk of loss and damage to any Equipment returned to ALE for repair or replacement from receipt until delivery to Customer's point of shipment. If ALE ascertains that Equipment is not readily returnable for repair, then at its option, ALE may elect to repair or replace the Equipment at Customer's site. In such instances, Customer, at its expense, shall make the Equipment accessible for repair or replacement and shall restore the site after ALE has completed its repair or replacement. For any Equipment or parts thereof repaired or replaced under this Section 8, the warranty period applicable to the Equipment will continue for the longer of (c) the remainder of the original warranty period or (d) 90 days after shipment date of the repaired or replaced Equipment.

- 8.4. Upon notice from Customer that any Software is not as warranted in this Section 8, ALE shall correct the Software by (a) electronic means or (b) delivery to Customer of suitable media chosen solely by ALE. The warranty period for the corrected Software via fixes and/or patches will be the remainder of the original warranty period.
- 8.5. Upon notice from Customer that any Service is not as warranted in this Section 8, ALE shall correct the Service. The warranty period for the corrected Service will be the remainder of the original warranty period.
- 8.6. If ALE determines that it cannot, in a commercially reasonable manner: (a) repair or replace any Equipment, (b) correct any Software, or (c) correct any Services, then ALE may, in its sole discretion, credit to Customer the Price of the Product or Services, less a reasonable adjustment for beneficial use. In repairing or replacing any Equipment, part of Equipment, or Software medium under this warranty, ALE may use new, remanufactured, reconditioned, refurbished, or functionally equivalent Equipment, parts of Equipment, or Software medium.
- 8.7. Notwithstanding any provision of this Agreement to the contrary, ALE has no obligation to repair or replace any Equipment, correct any Software, or correct any Services if (a) the Product has been modified, repaired or reworked by anyone other than ALE; or (b) the defect is the result of (i) any improper storage, handling or use by anyone other than ALE, (ii) failure to provide a suitable climatic and/or operational environment (including, by way of example, failure to provide the facilities prescribed in ALE's specifications, failure to provide for adequate control of humidity or failure to prevent the ingress of dust particles), (iii) operator error, (iv) improper installation of the Product by anyone other than ALE, (v) use in a manner not in accordance with the Documentation, (vi) failure to implement any new releases or updates to the Software, (vii) any use of the Product in conjunction with another non-ALE product (except to the extent provided in the Documentation), (viii) consumable items, including fuses, light bulbs, motor brushes and the like, (ix) Products which have had their serial numbers or month and year of manufacture removed, altered, defaced, or deleted, or (x) any damage by power failure, fire, explosion or any act of God or other cause beyond ALE's control. The warranties set forth in this Section 8 are nontransferable.
- 8.8. If ALE determines that any returned Equipment or Software is not defective, Customer shall pay ALE's costs of handling, inspecting, testing, and transportation and, if applicable, travel and living expenses.
- 8.9. Warranty does not include: ALE assisting in diagnostic efforts; access to ALE's technical support web sites, databases, or tools; Product integration; on-site assistance; or Documentation updates. These Services may be available during and after the warranty period at ALE's published prices.
- 8.10. THE LIMITED WARRANTY SET FORTH IN THIS SECTION FOR PRODUCTS AND SERVICES IS THE EXCLUSIVE WARRANTY. ALE DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS AND/OR CONDITIONS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR NON-INFRINGEMENT. THE REMEDIES PROVIDED UNDER SECTIONS 8.3, 8.4 AND 8.5 ARE CUSTOMER'S EXCLUSIVE REMEDIES FOR FAILURE OF PRODUCTS OR SERVICES TO CONFORM TO THE WARRANTY.

9. CONFIDENTIAL INFORMATION

- 9.1. Confidentiality shall be in accordance with Appendix A, Section 5.E and Section 10.H of DIR Contract DIR-TSO-4304.

10. EXPORT CONTROL

- 10.1. The Parties acknowledge that Products, Licensed Materials and Confidential Information may be subject to the export laws and regulations of the United States. Customer shall not use, distribute, export, re-export, transfer, or transmit the Products, Licensed Materials or Confidential Information (even if incorporated into other items) in violation of the Export Laws. If requested by ALE, Customer will sign written assurances and other export-related documents as may be required for ALE to comply with the Export Laws.

11. INFRINGEMENT INDEMNITY

11.1 Indemnification shall be in accordance with Appendix A, Section 10.A of DIR Contract DIR-TSO-4304.

12. SERVICES

- 12.1. The term of performance for each Service will begin when specified in the Service Quotation and will continue until the earlier of: (a) the expiry date specified in the Quotation or Addendum; (b) the date the Service has been accepted or completed, as the case may be; or (c) the date it is terminated under this Agreement.
- 12.2. Customer understands that ALE is in the business of providing services drawing upon the knowledge, understanding and expertise ALE has gained from working with many varied customers. Nothing in this Agreement will be deemed to assign rights to or limit ALE's use of any information, know-how or knowledge to the extent it does not contain Customer's Confidential Information.
- 12.3. Customer hereby grants to ALE a non-exclusive, personal, royalty-free and non-transferable license to make, have made, use, execute, perform, copy (as reasonably necessary), display, modify and make derivative works under any and all intellectual property rights owned by Customer to the extent necessary for furnishing Services and deliverables under this Agreement and to perform its obligations under this Agreement. Except as expressly set forth in this Agreement, no right or license is either granted or implied by either Party to the other with respect to any technical or business information, or with respect to rights in any patents, trademarks, copyrights, trade secrets, mask work protection rights, and other intellectual property. Subject to Customer's right, title and interest in Customer's Confidential Information, any and all inventions, derivative works, improvements, developments or innovations that ALE (and its contractors or consultants, as the case may be) may make, conceive or devise in the course of performing Services and/or furnishing deliverables under this Agreement, are the sole and exclusive property of ALE, including all patents, copyrights, trademarks and trade secrets embodied in them.
- 12.4. ALE will make reasonable efforts consistent with sound business practices to honor Customer's specific requests regarding assignment of employees, but ALE reserves the sole right to determine the assignment of its personnel to perform Services hereunder. ALE personnel at all times are subject to the employment conditions of ALE and not those of Customer.
- 12.5. During the term of this Agreement (including any extensions) and for one year after termination or expiration of this Agreement, Customer shall not, except with ALE's prior written consent, solicit for employment ALE employees performing Services under this Agreement. This does not restrict Customer from placing employment advertising in trade or general media or from using recruiters provided that such advertising and recruiters do not target ALE employees.

13. CUSTOMER'S RESPONSIBILITIES

- 13.1. At all times during the performance of any Services at Customer's site, Customer shall (a) ensure that all easements, rights-of-way and other permits necessary to permit the performance of the Services are in effect, (b) ensure that the site is safe and free from actual or potential hazards and equipped with reasonable heat, light, plumbing, working and staging space, electricity and ventilation, (c) provide sufficient on-site storage space for ALE's equipment and materials, (d) ensure that ALE's personnel have access to the site and to the applicable Products during the times necessary to perform the Services, and (e) timely comply with ALE's reasonable requests for information necessary to permit ALE to perform the Services properly. While performing Services, ALE personnel shall comply with any and all site security rules provided and agreed to by ALE in advance.
- 13.2. Customer shall cooperate with ALE in the performance of Services hereunder, and perform Customer's responsibilities specified in each Service Quotation or Addendum. In addition, Customer shall: (a) provide experienced, qualified personnel having appropriate skills to perform their assigned tasks and duties in a competent, timely fashion and assist ALE in completing the Services; (b) promptly render all reviews, decisions and approvals so as not to delay or impede ALE's performance of Services; (c) ensure that a Customer representative is available during regular business hours to provide such information and assistance as ALE may require in connection with the Services, (d) promptly notify ALE of any issues or concerns; (e) regularly back up files and all data; (f) conduct acceptance tests for Services and Products following the procedures in any Service Quotation or Addendum, or as agreed in writing; (g) unless site preparation is specified as a Service to be provided by ALE, prepare its site for installation of any Products, providing a standard telecommunications environment according to the applicable site and equipment specifications including the removal and proper disposal of all asbestos or other hazardous materials; and (h) furnish to ALE the appropriate interface specifications necessary to connect Equipment to, or use the Licensed Materials on or with, Customer's network infrastructure, and all rights necessary to use such interface specifications to connect Equipment to, or use the Licensed Materials on or with, Customer's network infrastructure.

Customer shall ensure the accuracy and completeness of such interface specifications, and ALE is not responsible for any consequences resulting from inaccurate or incomplete interface specifications.

- 13.3. Customer understands that ALE's performance is dependent on Customer's timely and effective satisfaction of Customer's responsibilities under this Agreement, including timely decisions and approvals. If Customer fails to meet any of its responsibilities stated in this Agreement or in applicable Addenda or Service Quotations, ALE will be excused from performing its obligations until Customer provides what ALE requires to perform.

14. LIMITATION OF LIABILITY

- 14.1 Limitation of Liability shall be in accordance with Appendix A, Section 10.K of DIR Contract DIR-TSO-4304.

15. TERMINATION

- 15.1 Termination shall be in accordance with Appendix A, Section 11.B of DIR Contract DIR-TSO-4304.

16. CUSTOMER NOT A U.S. FEDERAL GOVERNMENT ENTITY

- 16.1. Customer represents and warrants during the term of this Agreement that it (a) is not an instrumentality of the federal government of the United States of America (including any of its departments, agencies, branches, or offices) or a quasi federal government entity (such as a government-sponsored enterprise (GSE)) or a federally funded research and development corporation (FFRDC) or a federally chartered corporation or nonprofit organization and (b) will not use the Products or Services to provide any hosted or managed services specifically to or for any of the foregoing or use the Products or Services to provide, build or maintain network capacity dedicated specifically for any of the foregoing.

17. GENERAL

- 17.1. Each Party giving any notice or making any request, demand or other communication required or permitted by this Agreement must do so in writing and must use one of the following methods of delivery: (a) personal delivery, (b) certified first class mail, postage prepaid, return receipt requested, (c) facsimile transmission with confirmation copy by certified mail, return receipt requested, or (d) nationally recognized overnight courier, with all fees prepaid. A Party giving a notice shall address the notice to the appropriate person at the receiving Party (the "Addressee") at the address listed on the signature page of this Agreement or to another Addressee or another address as designated by a Party in a notice pursuant to this Section. A notice is effective only if the Party giving the notice has complied with this Section and if the Addressee has received the notice.
- 17.2. A Party may be excused from performance under the Contract in accordance with Appendix A, Section 11.C of DIR Contract DIR-TSO-4304.
- 17.3. Except as otherwise expressly provided in this Agreement, each Party shall bear any and all costs and expenses incurred by it in connection with the exercise of its rights and the performance of its obligations under this Agreement.
- 17.4. If a taxing authority or other governmental entity audits either Party, the other Party agrees to reasonably cooperate with the Party being audited in order to respond to any audit inquiries in an appropriate and timely manner, so that the audit and any resulting controversy may be resolved expeditiously.
- 17.5. ALE may issue a press release or make other public announcements announcing the execution, existence or implementation of this Agreement. Except as provided in the preceding sentence, neither Party shall release or publish news releases, announcements, advertising or other publicity relating to the Products or Services or mentioning or implying the name, trademarks, logos, service marks or other identification of the other Party or its affiliates or their respective personnel without the prior review and written consent of the other Party.
- 17.6. Assignment shall be in accordance with Appendix A, Section 4.D of DIR Contract DIR-TSO-4304.
- 17.7. The Parties may amend, supplement, or rescind this Agreement only in a writing executed by both Parties. The Parties may not waive any provision of this Agreement, except pursuant to a writing executed by the Party against whom any waiver is sought to be enforced. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement and no course of dealing between the Parties will operate as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose that it is given and is not to be construed as a waiver on any future occasion or against any other person. No single or partial exercise of any right or remedy under this Agreement precludes the simultaneous or subsequent exercise of any other right or remedy.

- 17.8. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force and effect, if the essential terms and conditions of this Agreement for both Parties remain valid, legal and enforceable.
- 17.9. The laws shall be handled in accordance with Appendix A, Section 4.F of DIR Contract DIR-TSO-4304.
- 17.10. The Parties have taken all necessary action to secure all consents, approvals and authorizations for the execution, delivery and performance of this Agreement, and to consummate all the transactions contemplated thereby. Assuming due authorization, execution and delivery hereof by the Parties, this Agreement is a legal, valid and binding obligation of each of the Parties, enforceable against each of them under its terms. Each Party's execution and delivery of this Agreement do not, and the performance of their respective obligations under it, will not conflict with any law or regulation to which each may be subject or conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any agreement to which each may be a party or by which each is bound. Each individual executing this Agreement on behalf of a Party has the actual authority and legal power to bind such Party to this Agreement. As used in this Agreement, "include," "includes," and "including" and the words that follow them are intended to be, and should be construed as, inclusive and not exclusive.
- 17.11. The Parties have jointly participated in the negotiation and drafting of this Agreement. This Agreement will not be construed against either Party due to authorship. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the Parties.
- 17.12. DIR Contract DIR-TSO-4304, this Agreement constitutes the final agreement between the Parties, and supersedes all prior oral and written negotiations and agreements between the Parties, on the matters contained in this Agreement. The provisions of this Agreement may not be explained, supplemented, or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither Party has relied upon any statement, representation, warranty, or agreement of the other Party except for those expressly contained in here. There are no conditions precedent to the effectiveness of this Agreement other than execution and delivery. In case of any conflict between a provision of DIR Contract DIR-TSO-4304, this Agreement and that of any attachment, the provision of the DIR Contract DIR-TSO-4304 takes precedence.
- 17.13. Each Party agrees that: (a) a facsimile of its signature printed from an unaltered scanned version of its original signature such as by a receiving facsimile machine or a printer printing an unaltered Portable Document Format (PDF) file supplied by the Party be regarded as an original signature; and (b) this Agreement can be executed in counterparts.

[Signatures on following page]

IN WITNESS WHEREOF, the duly authorized representatives of the Parties hereby execute this Agreement as of the Effective Date.

ALE USA INC.

CUSTOMER:

By:

By:

Name:

Name:

Title:

Title:

ALE USA Inc.
26801 Agoura Road
Calabasas, CA 91301
