

Request for Proposal (RFP) for Threat and Weapons Detection Software and Equipment

**Solicitation #
46-22**

Tab 1 – Master Agreement

Submission Date: 17 November 2022

Prepared for:

**National Cooperative Purchasing Alliance
& Region 14 Education Service Center**
P.O. Box 701723
Houston TX, 77270
Email: questions@ncpa.us



Prepared by:

**Mike Lahiff, CEO and Co-Founder
ZeroEyes**
555 E North lane, Bldg C, Ste 5050
Conshohocken, PA 19428
Email: mike@zeroeyes.com



This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of—or in connection with—the submission of this data, the Government shall have the right to duplicate, use or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets- ALL.

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TAB 1

MASTER AGREEMENT - GENERAL TERMS AND CONDITIONS

Customer Support

The vendor shall provide timely and accurate technical advice and sales support. The vendor shall respond to such requests within one (1) working day after receipt of the request.

Disclosures

Respondent affirms that he/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this contract.

The respondent affirms that, to the best of his/her knowledge, the offer has been arrived at independently, and is submitted without collusion with anyone to obtain information or gain any favoritism that would in any way limit competition or give an unfair advantage over other vendors in the award of this contract.

Renewal of Contract

Unless otherwise stated, all contracts are for a period of three (3) years with an option to renew for up to two (2) additional one-year terms or any combination of time equally not more than 2 years if agreed to by Region 14 ESC and the vendor.

Funding Out Clause

Any/all contracts exceeding one (1) year shall include a standard "funding out" clause. A contract for the acquisition, including lease, of real or personal property is a commitment of the entity's current revenue only, provided the contract contains either or both of the following provisions:

Retains to the entity the continuing right to terminate the contract at the expiration of each budget period during the term of the contract and is conditioned on a best efforts attempt by the entity to obtain appropriate funds for payment of the contract.

Shipments (if applicable)

The awarded vendor shall ship ordered products within seven (7) working days for goods available and within four (4) to six (6) weeks for specialty items after the receipt of the order unless modified. If a product cannot be shipped within that time, the awarded vendor shall notify the entity placing the order as to why the product has not shipped and shall provide an estimated shipping date. At this point the participating entity may cancel the order if estimated shipping time is not acceptable.

Tax Exempt Status

Since this is a national contract, knowing the tax laws in each state is the sole responsibility of the vendor.

Payments

The entity using the contract will make payments directly to the awarded vendor or their affiliates (distributors/business partners/resellers) as long as written request and approval by NCPA is provided to the awarded vendor.

Adding Authorized Distributors/Dealers

Awarded vendors may submit a list of distributors/partners/resellers to sell under their contract throughout the life of the contract. Vendor must receive written approval from NCPA before such distributors/partners/resellers considered authorized.

Purchase orders and payment can only be made to awarded vendor or distributors/ business partners/resellers previously approved by NCPA.

Pricing provided to members by added distributors or dealers must also be less than or equal to the pricing offered by the awarded contract holder.

All distributors/partners/resellers are required to abide by the Terms and Conditions of the vendor's agreement with NCPA.

Pricing

All pricing submitted shall include the administrative fee to be remitted to NCPA by the awarded vendor. It is the awarded vendor's responsibility to keep all pricing up to date and on file with NCPA.

All deliveries shall be freight prepaid, F.O.B. destination and shall be included in all pricing offered unless otherwise clearly stated in writing

Warranty

Proposal should address the following warranty information:

- Applicable warranty and/or guarantees of equipment and installations including any conditions and response time for repair and/or replacement of any components during the warranty period.
- Availability of replacement parts
- Life expectancy of equipment under normal use
- Detailed information as to proposed return policy on all equipment

Products: Vendor shall provide equipment, materials and products that are new unless otherwise specified, of good quality and free of defects

Construction: Vendor shall perform services in a good and workmanlike manner and in accordance with industry standards for the service provided.

Safety

Vendors performing services shall comply with occupational safety and health rules and regulations. Also all vendors and subcontractors shall be held responsible for the safety of their employees and any conditions that may cause injury or damage to persons or property.

Permits

Since this is a national contract, knowing the permit laws in each state is the sole responsibility of the vendor.

Indemnity

The awarded vendor shall protect, indemnify, and hold harmless Region 14 ESC and its participants, administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the vendor, vendor employees or vendor subcontractors in the preparation of the solicitation and the later execution of the contract.

Franchise Tax

The respondent hereby certifies that he/she is not currently delinquent in the payment of any franchise taxes.

Supplemental Agreements

The entity participating in this contract and awarded vendor may enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in this contract i.e. invoice requirements, ordering requirements, specialized delivery, etc. Any supplemental agreement developed as a result of this contract is exclusively between the participating entity and awarded vendor.

Certificates of Insurance

Certificates of insurance shall be delivered to the Public Agency prior to commencement of work. The insurance company shall be licensed in the applicable state in which work is being conducted. The awarded vendor shall give the participating entity a minimum of ten (10) days notice prior to any modifications or cancellation of policies. The awarded vendor shall require all subcontractors performing any work to maintain coverage as specified.

Legal Obligations

It is the Respondent's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services identified in this RFP and any awarded contract and shall comply with all while fulfilling the RFP. Applicable laws and regulation must be followed even if not specifically identified herein.

Protest

A protest of an award or proposed award must be filed in writing within ten (10) days from the date of the official award notification and must be received by 5:00 pm CST. Protests shall be filed with Region 14 ESC and shall include the following:

- Name, address and telephone number of protester
- Original signature of protester or its representative
- Identification of the solicitation by RFP number
- Detailed statement of legal and factual grounds including copies of relevant documents and the form of relief requested

Any protest review and action shall be considered final with no further formalities being considered.

Force Majeure

If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders and regulation of any kind of government of the United States or any civil or military authority; insurrections; riots; epidemics; pandemic; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty

Prevailing Wage

It shall be the responsibility of the Vendor to comply, when applicable, with the prevailing wage legislation in effect in the jurisdiction of the purchaser. It shall further be the responsibility of the Vendor to monitor the prevailing wage rates as established by the appropriate department of labor for any increase in rates during the term of this contract and adjust wage rates accordingly.

Termination

Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order.

Open Records Policy

Because Region 14 ESC is a governmental entity responses submitted are subject to release as public information after contracts are executed. If a vendor believes that its response, or parts of its response, may be exempted from disclosure, the vendor must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, the respondent must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s).

The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 14 ESC must provide the OAG sufficient

information to render an opinion and therefore, vague and general claims to confidentiality by the respondent are not acceptable. Region 14 ESC must comply with the opinions of the OAG. Region14 ESC assumes no responsibility for asserting legal arguments on behalf of any vendor. Respondent are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

PROCESS

Region 14 ESC will evaluate proposals in accordance with, and subject to, the relevant statutes, ordinances, rules, and regulations that govern its procurement practices. NCPA will assist Region 14 ESC in evaluating proposals. Award(s) will be made to the prospective vendor whose response is determined to be the most advantageous to Region 14 ESC, NCPA, and its participating agencies. To qualify for evaluation, response must have been submitted on time, and satisfy all mandatory requirements identified in this document.

Contract Administration

The contract will be administered by Region 14 ESC. The National Program will be administered by NCPA on behalf of Region 14 ESC.

Contract Term

The contract term will be for three (3) year starting from the date of the award. The contract may be renewed for up to two (2) additional one-year terms or any combination of time equally not more than 2 years.

It should be noted that maintenance/service agreements may be issued for up to (5) years under this contract even if the contract only lasts for the initial term of the contract. NCPA will monitor any maintenance agreements for the term of the agreement provided they are signed prior to the termination or expiration of this contract.

Contract Waiver

Any waiver of any provision of this contract shall be in writing and shall be signed by the duly authorized agent of Region 14 ESC. The waiver by either party of any term or condition of this contract shall not be deemed to constitute waiver thereof nor a waiver of any further or additional right that such party may hold under this contract.

Price Increases

Should it become necessary, price increase requests may be submitted at any point during the term of the contract by written amendment. Included with the request must be documentation and/or formal cost justification for these changes. Requests will be formally reviewed, and if justified, the amendment will be approved.

Products and Services Additions

New Products and/or Services may be added to the resulting contract at any time during the term by written amendment, to the extent that those products and/or services are within the scope of this RFP.

Competitive Range

It may be necessary for Region 14 ESC to establish a competitive range. Responses not in the competitive range are unacceptable and do not receive further award consideration.

Deviations and Exceptions

Deviations or exceptions stipulated in response may result in disqualification. It is the intent of Region 14 ESC to award a vendor's complete line of products and/or services, when possible.

Estimated Quantities

While no minimum volume is guaranteed, the estimated (but not limited to) annual volume for Products and Services purchased under the proposed Master Agreement is \$500 million dollars annually. This estimate is based on the anticipated volume of Region 14 ESC and current sales within the NCPA program.

Evaluation

Region 14 ESC will review and evaluate all responses in accordance with, and subject to, the relevant statutes, ordinances, rules and regulations that govern its procurement practices. NCPA will assist the lead agency in evaluating proposals. Recommendations for contract awards will be based on multiple factors, each factor being assigned a point value based on its importance.

Formation of Contract

A response to this solicitation is an offer to contract with Region 14 ESC based upon the terms, conditions, scope of work, and specifications contained in this request. A solicitation does not become a contract until it is accepted by Region 14 ESC. The prospective vendor must submit a signed Signature Form with the response thus, eliminating the need for a formal signing process. Contract award letter issued by Region 14 ESC is the counter-signature document establishing acceptance of the contract.

NCPA Administrative Agreement

The vendor will be required to enter and execute the National Cooperative Purchasing Alliance Administration Agreement with NCPA upon award with Region 14 ESC. The agreement establishes the requirements of the vendor with respect to a nationwide contract effort.

Clarifications/Discussions

Region 14 ESC may request additional information or clarification from any of the respondents after review of the proposals received for the sole purpose of elimination minor irregularities, informalities, or apparent clerical mistakes in the proposal. Clarification does not give respondent an opportunity to revise or modify its proposal, except to the extent that correction of apparent clerical mistakes results in a revision. After the initial receipt of proposals, Region 14 ESC reserves the right to conduct discussions with those respondent's whose proposals are determined to be reasonably susceptible of being selected for award. Discussions occur when oral or written communications between Region 14 ESC and respondent's are conducted for the purpose clarifications involving information essential for determining the acceptability of a proposal or that provides respondent an opportunity to revise or modify its proposal. Region 14 ESC will not assist respondent bring its proposal up to the level of other proposals through discussions. Region 14 ESC will not indicate to respondent a cost or price that it must meet to neither obtain further consideration nor will it provide any information about other respondents' proposals or prices.

Multiple Awards

Multiple Contracts may be awarded as a result of the solicitation. Multiple Awards will ensure that any ensuing contracts fulfill current and future requirements of the diverse and large number of participating public agencies.

Past Performance

Past performance is relevant information regarding a vendor's actions under previously awarded contracts; including the administrative aspects of performance; the vendor's history of reasonable and cooperative behavior and commitment to customer satisfaction; and generally, the vendor's businesslike concern for the interests of the customer.

EVALUATION CRITERIA

Pricing (40 points)

Electronic Price Lists

- Products, Services, Warranties, etc. price list
- Prices listed will be used to establish both the extent of a vendor's product lines, services, warranties, etc. available from a particular bidder and the pricing per item.

Ability to Provide and Perform the Required Services for the Contract (25 points)

- Product Delivery within participating entities specified parameters
- Number of line items delivered complete within the normal delivery time as a percentage of line items ordered.
- Vendor's ability to perform towards above requirements and desired specifications.
- Past Cooperative Program Performance
- Quantity of line items available that are commonly purchased by the entity.
- Quality of line items available compared to normal participating entity standards.

References and Experience (20 points)

- A minimum of ten (10) customer references for product and/or services of similar scope dating within past 3 years
- Respondent Reputation in marketplace
- Past Experience working with public sector.
- Exhibited understanding of cooperative purchasing

Value Added Products/Services Description, (8 points)

- Additional Products/Services related to the scope of RFP
- Marketing and Training
- Minority and Women Business Enterprise (MWBE) and (HUB) Participation
- Customer Service

Technology for Supporting the Program (7 points)

- Electronic on-line catalog, order entry use by and suitability for the entity's needs
- Quality of vendor's on-line resources for NCPA members.
- Specifications and features offered by respondent's products and/or services

1. Signed Master Agreement

SIGNATURE FORM

The undersigned hereby proposes and agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing. The undersigned further certifies that he/she is an officer of the company and has authority to negotiate and bind the company named below and has not prepared this bid in collusion with any other Respondent and that the contents of this proposal as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any person engaged in this type of business prior to the official opening of this proposal.

Prices are guaranteed: **120 days**

ZeroEyes, Inc.
Company Name

555 East North Ln.
Address

Conshohocken PA 19428
City State Zip

814-298-7448
Telephone Number Fax Number

jt@zeroeyes.com
Email Address

JT Wilkins SVP of Sales
Printed Name Position

James Wilkins
Authorized Signature

Request for Proposal (RFP) for Threat and Weapons Detection Software and Equipment

**Solicitation #
46-22**

Tab 2 – NCPA Administration Agreement

Submission Date: 17 November 2022

Prepared for:

**National Cooperative Purchasing Alliance
& Region 14 Education Service Center**
P.O. Box 701723
Houston TX, 77270
Email: questions@ncpa.us



Prepared by:

**Mike Lahiff, CEO and Co-Founder
ZeroEyes**
555 E North lane, Bldg C, Ste 5050
Conshohocken, PA 19428
Email: mike@zeroeyes.com



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1. NCPA Administration Agreement

TAB 2 NCPA ADMINISTRATION AGREEMENT

This Administration Agreement is made as of December 1, 2022, by and between National Cooperative Purchasing Alliance ("NCPA") and ZeroEyes, Inc. ("Vendor").

Recitals

WHEREAS, Region 14 ESC has entered into a certain Master Agreement dated December 1, 2022, referenced as Contract Number 14-22, by and between Region 14 ESC and Vendor, as may be amended from time to time in accordance with the terms thereof (the "Master Agreement"), for the purchase of Threat and Weapons Detection Software and Equipment ;

WHEREAS, said Master Agreement provides that any state, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution, other government agency or nonprofit organization (hereinafter referred to as "public agency" or collectively, "public agencies") may purchase products and services at the prices indicated in the Master Agreement;

WHEREAS, NCPA has the administrative and legal capacity to administer purchases under the Master Agreement to public agencies;

WHEREAS, NCPA serves as the administrative agent for Region 14 ESC in connection with other master agreements offered by NCPA

WHEREAS, Region 14 ESC desires NCPA to proceed with administration of the Master Agreement;

WHEREAS, NCPA and Vendor desire to enter into this Agreement to make available the Master Agreement to public agencies on a national basis;

NOW, THEREFORE, in consideration of the payments to be made hereunder and the mutual covenants contained in this Agreement, NCPA and Vendor hereby agree as follows:

General Terms and Conditions

- The Master Agreement, attached hereto as Exhibit 1 and incorporated herein by reference as though fully set forth herein, and the terms and conditions contained therein shall apply to this Administration Agreement except as expressly changed or modified by this Administration Agreement.
- NCPA shall be afforded all of the rights, privileges and indemnifications afforded to Region 14 ESC under the Master Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to NCPA under this Administration Agreement including, but not limited to, Contractor's obligation to provide appropriate insurance and certain indemnifications to Region 14 ESC.

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NCPA And ESC-14; Submitted 17 November 2022**

- Contractor shall perform all duties, responsibilities and obligations required under the Master Agreement in the time and manner specified by the Master Agreement.
- NCPA shall perform all of its duties, responsibilities, and obligations as administrator of purchases under the Master Agreement as set forth herein, and Contractor acknowledges that NCPA shall act in the capacity of administrator of purchases under the Master Agreement.
- With respect to any purchases made by Region 14 ESC or any Participating Agency pursuant to the Master Agreement, NCPA (a) shall not be construed as a dealer, re-marketer, representative, partner, or agent of any type of Contractor, Region 14 ESC, or such Participating Agency, (b) shall not be obligated, liable or responsible (i) for any orders made by Region 14 ESC, any Participating Agency or any employee of Region 14 ESC or Participating Agency under the Master Agreement, or (ii) for any payments required to be made with respect to such order, and (c) shall not be obligated, liable or responsible for any failure by the Participating Agency to (i) comply with procedures or requirements of applicable law, or (ii) obtain the due authorization and approval necessary to purchase under the Master Agreement. NCPA makes no representations or guaranties with respect to any minimum purchases required to be made by Region 14 ESC, any Participating Agency, or any employee of Region 14 ESC or Participating Agency under this Administration Agreement or the Master Agreement.
- With respect to any supplemental agreement entered into between a Participating Agency and Contractor pursuant to the Master Agreement, NCPA, its agents, members and employees shall not be made party to any claim for breach of such agreement.
- This Administration Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Administrative Agreement which is not contained herein shall be valid or binding.
- Contractor agrees to allow NCPA to use their name and logo within website, marketing materials and advertisement. Any use of NCPA name and logo or any form of publicity regarding this Administration Agreement or the Master Agreement by Contractor must have prior approval from NCPA.
- If any action at law or in equity is brought to enforce or interpret the provisions of this Administration Agreement or to recover any administrative fee and accrued interest, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which such party may be entitled.
- Neither this Administration Agreement nor any rights or obligations hereunder shall be assignable by Contractor without prior written consent of NCPA, provided, however, that the Contractor may, without such written consent, assign this Administration Agreement and its rights and delegate its obligations hereunder in connection with the transfer or sale of all or substantially all of its assets or business related to this Administration Agreement, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all assigned obligations of its assignor under this Administration Agreement.
- This Administration Agreement and NCPA's rights and obligations hereunder may be assigned at NCPA's sole discretion, to an existing or newly established legal entity that has the authority and capacity to perform NCPA's obligations hereunder.

Term of Agreement

This Agreement shall be in effect so long as the Master Agreement remains in effect, provided, however, that the obligation to pay all amounts owed by Vendor to NCPA through the

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termination of this Agreement and all indemnifications afforded by Vendor to NCPA shall survive the term of this Agreement.

Fees and Reporting

The awarded vendor shall electronically provide NCPA with a detailed quarterly report showing the dollar volume of all sales under the contract for the previous quarter. Reports are due on the fifteenth (15th) day after the close of the previous quarter. It is the responsibility of the awarded vendor to collect and compile all sales under the contract from participating members and submit one (1) report. The report shall include at least the following information as listed in the example below:

Entity Name	Zip Code	State	PO or Job #	Sale Amount

Total _____

Each quarter NCPA will invoice the vendor based on the total of sale amount(s) reported. From the invoice the vendor shall pay to NCPA an administrative fee based upon the tiered fee schedule below. Vendor's annual sales shall be measured on a calendar year basis. Deadline for term of payment will be included in the invoice NCPA provides.

Annual Sales Through Contract	Administrative Fee
0 - \$30,000,000	2%
\$30,000,001 - \$50,000,000	1.5%
\$50,000,001+	1%

Supplier shall maintain an accounting of all purchases made by Public Agencies under the Master Agreement. NCPA and Region 14 ESC reserve the right to audit the accounting for a period of four (4) years from the date NCPA receives the accounting. In the event of such an audit, the requested materials shall be provided at the location designated by Region 14 ESC or NCPA. In the event such audit reveals an under reporting of Contract Sales and a resulting underpayment of administrative fees, Vendor shall promptly pay NCPA the amount of such underpayment, together with interest on such amount and shall be obligated to reimburse NCPA's costs and expenses for such audit.

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NCPA And ESC-14; Submitted 17 November 2022

ACKNOWLEDGMENT OF CONTRACTOR REQUIREMENTS

National Cooperative Purchasing Alliance
Organization

ZeroEyes, Inc.
Vendor Name

Matthew Mackel
Name

JT Wilkins
Name

Director, Business Development
Title

SVP of Sales
Title

PO Box 701273
Address

555 East North Ln.
Address

Houston, TX 77270
Address

Conshohocken, PA 19428
Address


Signature


Signature

December 1, 2022
Date

11/15/22
Date

Request for Proposal (RFP) for Threat and Weapons Detection Software and Equipment

**Solicitation #
46-22**

Tab 3 – Vendor Questionnaire

Submission Date: 17 November 2022

Prepared for:

**National Cooperative Purchasing Alliance
& Region 14 Education Service Center**
P.O. Box 701723
Houston TX, 77270
Email: questions@ncpa.us



Prepared by:

**Mike Lahiff, CEO and Co-Founder
ZeroEyes**
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Email: mike@zeroeyes.com



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1. Vendor Questionnaire

**TAB 3
 VENDOR QUESTIONNAIRE**

Please provide responses to the following questions that address your company's operations, organization, structure, and processes for providing products and services.

Locations Covered

- Bidder must indicate any and all locations where products and services can be offered.
- Please indicate the price co-efficient for each location if it varies.

<input checked="" type="checkbox"/> All 50 States & District of Columbia (Selecting this box is equal to checking all boxes below)			
<input type="checkbox"/> Alabama	<input type="checkbox"/> Illinois	<input type="checkbox"/> Montana	<input type="checkbox"/> Rhode Island
<input type="checkbox"/> Alaska	<input type="checkbox"/> Indiana	<input type="checkbox"/> Nebraska	<input type="checkbox"/> South Carolina
<input type="checkbox"/> Arizona	<input type="checkbox"/> Iowa	<input type="checkbox"/> Nevada	<input type="checkbox"/> South Dakota
<input type="checkbox"/> Arkansas	<input type="checkbox"/> Kansas	<input type="checkbox"/> New Hampshire	<input type="checkbox"/> Tennessee
<input type="checkbox"/> California	<input type="checkbox"/> Massachusetts	<input type="checkbox"/> New Jersey	<input type="checkbox"/> Texas
<input type="checkbox"/> Colorado	<input type="checkbox"/> Michigan	<input type="checkbox"/> New Mexico	<input type="checkbox"/> Utah
<input type="checkbox"/> Connecticut	<input type="checkbox"/> Minnesota	<input type="checkbox"/> New York	<input type="checkbox"/> Vermont
<input type="checkbox"/> Delaware	<input type="checkbox"/> Mississippi	<input type="checkbox"/> North Carolina	<input type="checkbox"/> Virginia
<input type="checkbox"/> D.C.	<input type="checkbox"/> Missouri	<input type="checkbox"/> North Dakota	<input type="checkbox"/> Washington
<input type="checkbox"/> Florida	<input type="checkbox"/> Kentucky	<input type="checkbox"/> Ohio	<input type="checkbox"/> West Virginia
<input type="checkbox"/> Georgia	<input type="checkbox"/> Louisiana	<input type="checkbox"/> Oklahoma	<input type="checkbox"/> Wisconsin
<input type="checkbox"/> Hawaii	<input type="checkbox"/> Maine	<input type="checkbox"/> Oregon	<input type="checkbox"/> Wyoming
<input type="checkbox"/> Idaho	<input type="checkbox"/> Maryland	<input type="checkbox"/> Pennsylvania	

<input checked="" type="checkbox"/> All U.S. Territories and Outlying Areas (Selecting this box is equal to checking all boxes below)	
<input type="checkbox"/> American Somoa	<input type="checkbox"/> Northern Marina Island
<input type="checkbox"/> Federated States of Micrones	<input type="checkbox"/> Puerto Rico
<input type="checkbox"/> Guam	<input type="checkbox"/> U.S. Virgin Islands
<input type="checkbox"/> Midway Islands	

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<input checked="" type="checkbox"/> All Canada Provinces and Territories (Selecting this box is equal to checking all boxes below)	
<input type="checkbox"/> Alberta	<input type="checkbox"/> Prince Edward Island
<input type="checkbox"/> British Columbia	<input type="checkbox"/> Quebec
<input type="checkbox"/> Manitoba	<input type="checkbox"/> Saskatchewan
<input type="checkbox"/> New Brunswick	<input type="checkbox"/> Northwest Territories
<input type="checkbox"/> Newfoundland and Labrador	<input type="checkbox"/> Nunavut
<input type="checkbox"/> Nova Scotia	<input type="checkbox"/> Yukon
<input type="checkbox"/> Ontario	

If awarded a Master Agreement, will your company extend the terms offered in your Proposal to public agencies in Canada? If no or maybe, please explain.

Yes Maybe No

If awarded a Master Agreement, will your company extend the terms offered in your Proposal to private sector customers?

Yes Maybe No

Minority and Women Business Enterprise (MWBE) and (HUB) Participation

It is the policy of some entities participating in NCPA to involve minority and women business enterprises (MWBE) and historically underutilized businesses (HUB) in the purchase of goods and services. Respondents shall indicate below whether or not they are an M/WBE or HUB certified.

Minority/Women Business Enterprise
Respondent Certifies that this firm
a Minority / Women Business Enterprise

Historically Underutilized Business
Respondent Certifies that this firm is a
Historically Underutilized Business

Small Business, MWBE and HUB Growth

If Proposer is a Large, National or Multinational Organization/Corporation, what programs are in place that partners or supports the growth of small and MWEB and HUB business? If yes, please describe.

N/A, we are a recognized small, MWEB or HUB organization

No, we do not have any programs in place.

Yes, we have programs in place.

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Residency

Responding Company's principal place of business is in the city of Conshohocken,
State of Pennsylvania.

Felony Conviction Notice

Please Check Applicable Box (If the 3rd box is checked, a detailed explanation of the names and convictions must be attached):

- A publicly held corporation; therefore, this reporting requirement is not applicable.
- Is not owned or operated by anyone who has been convicted of a felony.
- Is owned or operated by the following individual(s) who has/have been convicted of a felony

Distribution Channel

Which best describes your company's position in the distribution channel:

- Manufacturer Direct Certified education/government reseller
- Authorized Distributor Manufacturer marketing through reseller
- Value-added reseller Other: _____

Processing Contact Information

Contact Person JT Wilkins

Title SVP of Sales

Company ZeroEyes, Inc.

Address 555 East North Ln.

City/State/Zip Conshohocken, PA 19428

Phone 302-357-8390

Email jt@zeroeyes.com

Pricing Information

In addition to the current typical unit pricing furnished herein, the Vendor agrees to offer all future product introductions at prices that are proportionate to Contract Pricing. If answer is no, attach a statement detailing how pricing for NCPA participants would be calculated for future product introductions.

- Yes No

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Pricing submitted includes the required NCPA administrative fee. The NCPA fee is calculated based on the invoice price to the customer.

Yes No

Cooperatives

List any other cooperative or state contracts currently held or in the process of securing.

Cooperative/State Agency	Discount Offered	Expires	Annual Sales Volume

Request for Proposal (RFP) for Threat and Weapons Detection Software and Equipment

**Solicitation #
46-22**

Tab 4 – Vendor Profile

Submission Date: 17 November 2022

Prepared for:

**National Cooperative Purchasing Alliance
& Region 14 Education Service Center**
P.O. Box 701723
Houston TX, 77270
Email: questions@ncpa.us



Prepared by:

**Mike Lahiff, CEO and Co-Founder
ZeroEyes**
555 E North lane, Bldg C, Ste 5050
Conshohocken, PA 19428
Email: mike@zeroeyes.com



This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of—or in connection with—the submission of this data, the Government shall have the right to duplicate, use or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets- ALL.

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1. Vendor Questionnaire

a. Company's official registered named

ZeroEyes, Inc.

b. Brief history of company, including the year it was established

ZeroEyes was founded in 2018 by a team of Navy SEALs and military veterans who have lived through countless active shooter situations. As veterans and fathers, ZeroEyes' co-founders were compelled to develop a proactive solution to keep people safe after seeing and hearing about the mass shootings occurring in schools and other public places and the impact these have on our society. ZeroEyes deploys a patented A.I. gun detection solution that integrates into existing security cameras to stop mass shootings and gun violence by reducing response times, providing actionable, human-verified intelligence and delivering clarity – ultimately saving lives.

c. Company's Dunn & Bradstreet Number

081214393

d. Company's Organizational Chart of Individuals Involved in Contract

Mike Lahiff, MBA

Project Position	Chief Executive Officer and Co-Founder
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Responsibilities and Qualifications

Mike serves as Chairman and Chief Executive Officer of ZeroEyes. Prior to founding ZeroEyes, Mr. Lahiff served as Director of Digital Programs at Comcast NBC Universal where he oversaw the coordination between project management teams and software development teams in order to deliver multiple digital products. Prior to joining Comcast, Mr. Lahiff was the managing member of Horsemen Partners, a private fund focused on acquisitions of small and medium sized businesses. Mr. Lahiff also spent ten years in the United States Navy as a Navy SEAL. Mr. Lahiff holds a Bachelor of Science degree in Business Administration and Finance from Columbia College and a Master of Business Administration in Private Equity & Venture Capital from the Wharton School at the University of Pennsylvania. ***Mike will provide executive oversight over operations stemming from this contract vehicle.***

Adam Nelson

Project Position	Director of Project Management
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Responsibilities and Qualifications

Adam has been the Director of Project Management at ZeroEyes since 2019. In this role, he implements project management processes for product installation and monitoring. He also defines and disseminates organization-wide program management tools, metrics, and standards. Prior to joining ZeroEyes, Adam served as an IT Support Specialist at the University of Pennsylvania. He is also CEO of Philly Esports. Adam graduated with a bachelor's degree in Information Science and Technology from Penn State. ***Adam will lead each project kickoff team and ensure all benchmarks are met for clients.***

Vince Martinez, MBA

Project Position	Director of Technical Solutions
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Responsibilities and Qualifications

Vince Martinez is the Director of Technical Solutions at Zero Eyes. A results-oriented Operations and Organizational Leadership professional, he offers 20+ years of technical industry experience leading key strategic initiatives and delivering data-driven, enterprise-level strategic direction. Vince is known as an expert in his field; providing innovative, reliable, cost-effective solutions and strategies that impact business growth in a dynamic environment. Vince holds a Master's in Business Administration from Columbia University. He was also a Green Beret and served in the Special Forces. ***Vince will help clients purchasing from this contract determine which cameras are optimal for ZeroEyes technology.***

ZeroEyes

Confidential and Proprietary

Page 1 of 20

Dustin Brooks, MBA

Project Position	Chief Customer Officer and Co-Founder
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Responsibilities and Qualifications

Dustin Brooks is the Chief Customer Officer & Co-Founder of ZeroEyes. Before founding ZeroEyes in 2018, Dustin worked at Global Asset Technologies as a Military Instructor developing Navy SEAL candidates. Mr. Brooks served in the US Navy as a Navy SEAL for 6 years. He earned his MBA from the Owen Graduate School of Management at Vanderbilt University, and a Bachelor of Science in Finance from Pennsylvania State University. *In support of this contract, Dustin will go on-site to train clients on active shooter response using ZeroEyes. He will also ensure all client personnel are comfortable using our mobile and desktop applications.*

JT Wilkins

Project Position	Senior Vice President of Sales
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Responsibilities and Qualifications

JT Wilkins is the Senior Vice President of Sales at ZeroEyes. Before joining the ZeroEyes team, JT led federal sales teams, managed government innovation security projects, and operated at every level of the Department of Defense, working directly with the Intelligence Community, Department of Justice, and other governmental agencies to mitigate threats against the United States and Allied Nations. JT is a decorate Marine, graduate of American Military University and is in pursuit of his MBA from The Pennsylvania State University. *JT will be the point of contact for all sales resulting from this contract.*

e. Corporate office location

The corporate office is located at 555 E North lane, Bldg C, Ste 5050, Conshohocken, PA 19428.

f. Number of sales and services offices for states being bid in solicitation

ZeroEyes' headquarters is in Conshohocken, PA. We also have employees located throughout the nation who support clients remotely.

g. Names and key contacts at each office with title, address, phone and email

Name	Title	Address	Phone	Email
Mike Lahiff	CEO and Co-Founder	555 E North Lane Bldg C, Ste 5050 Conshohocken, PA 19428	(814) 298-7448	mike@zeroeyes.com
Sam Alaimo	CRO and Co-Founder	555 E North Lane Bldg C, Ste 5050 Conshohocken, PA 19428	(814) 298-7448	sam@zeroeyes.com
Tim Sulzer	CTO and Co-Founder	555 E North Lane, Bldg C Ste 5050, Conshohocken PA 19428	(814) 298-7448	tim@zeroeyes.com
Rob Huberty	COO and Co-Founder	555 E North Lane Bldg C, Ste 5050 Conshohocken, PA 19428	(814) 298-7448	rob@zeroeyes.com
JT Wilkins	SVP, Sales	555 E North Lane Bldg C, Ste 5050 Conshohocken, PA 19428	(814) 298-7448	jt@zeroeyes.com

Figure 1: ZeroEyes Headquarters' Points of Contact

h. Define standard terms of payment

All payments for recurring monthly Subscription Services and for any hardware products provided by ZeroEyes are due in full before Company ships, delivers or provides such product or Subscription Services, and all other payments owed under this Agreement by Customer are due within thirty (30) days of receiving an invoice from Company.

i. Competition in the marketplace

ZeroEyes competition is broadly broken into four categories: (1) direct competition, to include other start-up video analytics companies; (2) acoustic gunshot detection solutions; (3) broader “AI” companies that say they can classify any object, and (4) millimeter wave solutions such as airport scanners. *ZeroEyes is the only video analytics company fully focused on weapons detection and as a result is the industry’s leading solution by both sales volume and customer traction.*

l. Key differentiators from competitors

ZeroEyes is the only weapons detection technology company today providing the fully integrated bundle of technology, methodology, and client services to K-12 institutions, commercial property groups, big box retail, shopping malls, religious organizations, and corporate campuses. Outlined below are key differentiators from our competitors:

- ✓ **Department of Homeland Security (DHS) SAFETY Act Designated** -ZeroEyes is the only video analytics manufacturer in the history of the program to achieve a designation.
- ✓ **Patented Video Analytic for Weapons Detection** -ZeroEyes is the industry leader in developing proprietary AI-based video analytics to detect firearms from static cameras.
- ✓ **AI (artificial intelligence)** – ZeroEyes utilizes AI technology to detect and identify guns (handguns, rifles, shotguns, military-style assault weapons)
- ✓ **Existing Institution Camera Infrastructure** –ZeroEyes monitors feeds from the existing camera infrastructure on school campuses and inside school buildings
- ✓ **Proprietary Technology and Methodology** - We developed proprietary methodology and algorithms that train its AI software to accurately detect weapons. These include:

- Training its AI software in real-world scenarios, (onsite, real weapons, green-screen scenarios that train on specific client locations and sites, low-light, black-on-black, and various weather scenarios conditions
 - Creating, maintaining, and continuously updating its proprietary data set to identify new weapons and scenarios (ZeroEyes does not use synthetic data)
 - Maintaining and updating its propriety algorithms to accurately identify the most common weapons used in active shooter scenarios
- ✓ **Active, Staffed, 24-7-365 Monitoring** - ZeroEyes operates its own monitoring centers in support of its clients. These centers are staffed by highly trained former military veterans who monitor, in real-time, every system-generated alert before the alert is dispatched to the client. This added layer of security and support:
- Eliminates the potential for false-positive weapon detections being dispatched to the client assures genuine and vetted detections are dispatched to the client in under ten (10) seconds from the initial AI detection
 - Provides a human backup to assure clients are aware of all dispatched alerts
- ✓ **Open Architecture** -ZeroEyes provides an open-architecture platform to enable integration with other client-owned safety and security systems in use in their district, including:
- access controls systems
 - video management systems
 - mass notification systems
 - crisis communication applications
 - CAD and mapping software platforms

A visual overview of our key features compared to other weapons vendors are presented below:

Key Features and Consideration	ZeroEyes	Other Vendors
Integrates into existing security cameras	√	√
Detects & alerts authorized personnel without false alerts	√	
Organically developed/proprietary to the company	√	
Non-invasive and protects privacy rights	√	
Does not include any third party or open-source data	√	
In-house US veteran verification to prevent false positives	√	
Awarded the U.S. Department of Homeland Security SAFETY Act designation	√	

Figure 2: ZeroEyes Key Differentiators

m. How company will market contract if awarded

ZeroEyes has a robust marketing team that will develop a white paper that provides an overview of the NCPA contract. The marketing team will also author and distribute a press release targeting the various sectors we serve in all 50 states. We will also utilize leverage the contract through our network of pre-existing relationships spanning multiple industries.

n. How ZeroEyes will introduce NCPA to the company

JT Wilkins, ZeroEyes' Senior Vice President (SVP) of Sales, will introduce NCPA to the company. JT is a seasoned project manager, and prior to his current role, acted as the former Senior Vice President of Government Solutions at ZeroEyes.

o. Firm's capabilities and functionality of on-line catalog/ordering

Prospective clients can inquire about our solution through the website, and a responsive staff will assign a knowledgeable account executive instantaneously to the inquiry. Our solution is customized to meet customer's unique security needs. Therefore, we perform an initial intake so our experts can help customer's understand which security cameras are optimal for ZeroEyes patented technology.

p. Company's Customer Service Department

As referenced above, ZeroEyes operates its own monitoring centers in support of its clients. These centers are staffed by highly trained former military veterans who monitor, in real-time, every system-generated alert before the alert is dispatched to the client. ZeroEyes currently maintains (2) monitoring centers located in Conshohocken, PA and Honolulu, HI to support human performance needs during hours of darkness. ZeroEyes intends to expand its monitoring presence across each time zone as needs grow.

q. Green initiatives

N/A

r. Antidiscrimination Policy

ZeroEyes does not and shall not discriminate on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations. These activities include, but are not limited to, hiring and firing of staff, selection of vendors, and provision of services. We are committed to providing an inclusive and welcoming environment for all members of our staff and clients.

s. Vendor certifications

Delaware
The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE RESTATED CERTIFICATE OF "ZEROEYES, INC.", FILED IN
THIS OFFICE ON THE FIFTEENTH DAY OF JANUARY, A.D. 2021, AT 7:09
O`CLOCK P.M.




Jeffrey W. Bullock, Secretary of State

6812657 8100
SR# 20210135114

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 202316361
Date: 01-19-21

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ZEROEYES, INC.

SECOND AMENDED AND RESTATED CERTIFICATE OF INCORPORATION

(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)

ZeroEyes, Inc., a corporation organized and existing under and by virtue of the provisions of the
General Corporation Law of the State of Delaware (the "*General Corporation Law*").

DOES HEREBY CERTIFY:

1. That the name of this corporation is ZeroEyes, Inc., and that this corporation was originally incorporated pursuant to the General Corporation Law on February 20, 2020 under the name ZeroEyes, Inc.
2. That the Board of Directors duly adopted resolutions proposing to amend and restate the Amended and Restated Certificate of Incorporation of this corporation, declaring said amendment and restatement to be advisable and in the best interests of this corporation and its stockholders, and authorizing the appropriate officers of this corporation to solicit the consent of the stockholders therefor, which resolution setting forth the proposed amendment and restatement is as follows:

RESOLVED, that the Certificate of Incorporation of this corporation be amended and restated in its entirety to read as follows:

ARTICLE I: NAME.

The name of this corporation is ZeroEyes, Inc. (the "*Corporation*").

ARTICLE II: REGISTERED OFFICE.

The address of the registered office of the Corporation in the State of Delaware is 614 N. DuPont Highway, Suite 210, in the City of Dover, County of Kent, Zip Code 19901. The name of its registered agent at such address is Registered Office Service Company.

ARTICLE III: DEFINITIONS.

As used in this Second Amended and Restated Certificate of Incorporation (the "*Certificate*"), the following terms have the meanings set forth below:

"*Board Composition*" means (i) for so long as no less than 1,000,000 shares of Preferred Stock remain outstanding, the holders of record of the shares of Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation (the "*Series Seed Director*"), (ii) the holders of record of the shares of Common Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Corporation, (iii) the Corporation's Chief Executive Officer, (ii) the Corporation's Chief Operating Officer, and (v) any additional directors shall be elected by the affirmative vote of a majority of the Preferred Stock and Common Stock, voting together as a single class on an as-converted basis.

"*Original Issue Price*" means the Series Seed Original Issue Price, the Series Seed-2 Original Issue Price, and the Series Seed-3 Original Issue Price, as applicable.

"*Series Seed Original Issue Price*" means \$1.00 per share for the Series Seed Preferred Stock.

State of Delaware
Secretary of State
Division of Corporations
Delivered 07:09 PM 01/15/2021
FILED 07:09 PM 01/15/2021
SR 20210135114 - File Number 6812657

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“*Series Seed-2 Original Issue Price*” means \$2.1712 per share for the Series Seed-2 Preferred Stock.

“*Series Seed-3 Original Issue Price*” means \$2.78 per share for the Series Seed-3 Preferred Stock.

“*Requisite Holders*” means the holders of at least a majority of the outstanding shares of Preferred Stock (voting as a single class on an as-converted basis).

ARTICLE IV: PURPOSE.

The nature of the business or purposes to be conducted or promoted by the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

ARTICLE V: AUTHORIZED SHARES.

The total number of shares of all classes of stock that the Corporation has authority to issue is 13,550,868, consisting of (a) 10,000,000 shares of Common Stock, \$0.001 par value per share (“*Common Stock*”), such shares being designated as follows: (i) 9,805,000 shares of Class A Common Stock, and (ii) 195,000 shares of Class B-1 Common Stock, and (b) 3,550,868 shares of Preferred Stock, \$0.001 par value per share (the “*Preferred Stock*”), such shares being designated as follows: (i) 2,500,000 shares of Series Seed Preferred Stock (“*Series Seed Preferred Stock*”), (ii) 690,868 shares of Series Seed-2 Preferred Stock (“*Series Seed-2 Preferred Stock*”), and (iii) 360,000 shares of Series Seed-3 Preferred Stock (“*Series Seed-3 Preferred Stock*”). The Preferred Stock may be issued from time to time in one or more series, each of such series to consist of such number of shares and to have such terms, rights, powers and preferences, and the qualifications and limitations with respect thereto, as stated or expressed herein.

A. COMMON STOCK

The following rights, powers privileges and restrictions, qualifications, and limitations apply to the Common Stock.

1. General. The voting, dividend and liquidation rights of the holders of the Common Stock are subject to and qualified by the rights, powers and privileges of the holders of the Preferred Stock set forth in this Certificate. Except with respect to dividends and distributions, as set forth below, the holders of all of the Common Stock shall be entitled to the same rights, powers and privileges. Distributions made by the Corporation on account of the Common Stock with respect to a Deemed Liquidation (as defined below) shall be made to the holders of Common Stock as follows:

1.1 First, to the holders of the Class A Common Stock, pro rata, until the cumulative distributions paid to such holders pursuant to this subsection equal \$6,500,000; and

1.2 Then to the holders of all classes of Common Stock, pro rata.

2. Voting. The holders of the Common Stock are entitled to one vote for each share of Common Stock held at all meetings of stockholders (and written actions in lieu of meetings). Unless required by law, there shall be no cumulative voting. The number of authorized shares of Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by (in addition to any vote of the holders of one or more series of Preferred Stock that may be required by the terms of the Certificate) the affirmative vote of the holders of shares of capital stock of the Corporation representing a majority of the votes represented by all outstanding shares of capital stock of the Corporation entitled to vote, irrespective of the provisions of Section 242(b)(2) of the General Corporation Law.

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B. PREFERRED STOCK

The following rights, powers and privileges, and restrictions, qualifications and limitations, shall apply to the Preferred Stock. Unless otherwise indicated, references to “Sections” in this Part B of this Article V refer to sections of this Part B.

1. Liquidation, Dissolution, or Winding Up; Certain Mergers, Consolidations and Asset Sales.

1.1 Payments to Holders of Preferred Stock. In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Corporation or any Deemed Liquidation Event (as defined below), before any payment shall be made to the holders of Common Stock by reason of their ownership thereof, the holders of shares of Preferred Stock then outstanding shall be paid out of the funds and assets available for distribution to its stockholders, an amount per share equal to the greater of (a) the applicable Original Issue Price for such share of Preferred Stock, plus any dividends declared but unpaid thereon, or (b) such amount per share as would have been payable had all shares of Preferred Stock been converted into Common Stock pursuant to Section 3 immediately prior to such liquidation, dissolution or winding up or Deemed Liquidation Event. If upon any such liquidation, dissolution, or winding up or Deemed Liquidation Event of the Corporation, the funds and assets available for distribution to the stockholders of the Corporation are insufficient to pay the holders of shares of Preferred Stock the full amount to which they are entitled under this Section 1.1, the holders of shares of Preferred Stock will share ratably in any distribution of the funds and assets available for distribution in proportion to the respective amounts that would otherwise be payable in respect of the shares of Preferred Stock held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

1.2 Payments to Holders of Common Stock. In the event of any voluntary or involuntary liquidation, dissolution, or winding up or Deemed Liquidation Event of the Corporation, after the payment of all preferential amounts required to be paid to the holders of shares of Preferred Stock as provided in Section 1.1, the remaining funds and assets available for distribution to the stockholders of the Corporation will be distributed among the holders of shares of Common Stock pursuant to the terms of this Certificate.

1.3 Deemed Liquidation Events.

1.3.1 Definition. Each of the following events is a “**Deemed Liquidation Event**” unless the Requisite Holders elect otherwise by written notice received by the Corporation at least five (5) days prior to the effective date of any such event:

(a) a merger or consolidation in which (i) the Corporation is a constituent party or (ii) a subsidiary of the Corporation is a constituent party and the Corporation issues shares of its capital stock pursuant to such merger or consolidation, except any such merger or consolidation involving the Corporation or a subsidiary in which the shares of capital stock of the Corporation outstanding immediately prior to such merger or consolidation continue to represent, or are converted into or exchanged for equity securities that represent, immediately following such merger or consolidation, at least a majority, by voting power, of the equity securities of (1) the surviving or resulting party or (2) if the surviving or resulting party is a wholly owned subsidiary of another party immediately following such merger or consolidation, the parent of such surviving or resulting party; *provided* that, for the purpose of this Section 1.3.1, all shares of Common Stock issuable upon exercise of options, rights or warrants to subscribe for, purchase or otherwise acquire Common Stock or Convertible Securities (as defined below) outstanding immediately prior to such merger or consolidation or upon conversion of Convertible Securities outstanding immediately prior to such merger or consolidation shall be deemed to be outstanding

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immediately prior to such merger or consolidation and, if applicable, deemed to be converted or exchanged in such merger or consolidation on the same terms as the actual outstanding shares of Common Stock are converted or exchanged; or

(b) the sale, lease, transfer, exclusive license or other disposition, in a single transaction or series of related transactions, by the Corporation or any subsidiary of the Corporation of all or substantially all the assets of the Corporation and its subsidiaries taken as a whole, or, if substantially all of the assets of the Corporation and its subsidiaries taken as a whole are held by such subsidiary or subsidiaries, the sale or disposition (whether by merger or otherwise) of one or more subsidiaries of the Corporation, except where such sale, lease, transfer or other disposition is to the Corporation or one or more wholly owned subsidiaries of the Corporation.

1.3.2 Amount Deemed Paid or Distributed. The funds and assets deemed paid or distributed to the holders of capital stock of the Corporation upon any such merger, consolidation, sale, transfer or other disposition described in this Section 1.3 will be the cash or the value of the property, rights or securities paid or distributed to such holders by the Corporation or the acquiring person, firm or other entity. The value of such property, rights or securities shall be determined in good faith by the Board.

2. Voting.

2.1 General. On any matter presented to the stockholders of the Corporation for their action or consideration at any meeting of stockholders of the Corporation (or by written consent of stockholders in lieu of meeting) excluding election of directors (subject to the terms of any written agreement between the Company and any of its stockholders), each holder of outstanding shares of Preferred Stock may cast the number of votes equal to the number of whole shares of Common Stock into which the shares of Preferred Stock held by such holder are convertible as of the record date for determining stockholders entitled to vote on such matter. Fractional votes shall not be permitted and any fractional voting rights available on an as-converted basis (after aggregating all shares into which shares of Preferred stock held by each holder could be converted) will be rounded to the nearest whole number (with one-half being rounded upward). Except as provided by law or by the other provisions of this Certificate, holders of Preferred Stock shall vote together with the holders of Common Stock as a single class on an as-converted basis, shall have full voting rights and powers equal to the voting rights and powers of the holders of Common Stock, and shall be entitled, notwithstanding any provision of this Certificate, to notice of any stockholder meeting in accordance with the Bylaws of the Corporation.

2.2 Election of Directors. The holders of record of the Company's capital stock are entitled to elect directors as described in the Board Composition. Any director elected as provided in the preceding sentence may be removed without cause by the affirmative vote of the holders of the shares of the class, classes, or series of capital stock entitled to elect the director or directors, given either at a special meeting of the stockholders duly called for that purpose or pursuant to a written consent of stockholders. At any meeting held for the purpose of electing a director, the presence in person or by proxy of the holders of a majority of the outstanding shares of the class, classes, or series entitled to elect the director constitutes a quorum for the purpose of electing the director.

2.3 Preferred Stock Protective Provisions. At any time when at least 1,000,000 shares of Preferred Stock remain outstanding, the Corporation shall not, either directly or indirectly by amendment, merger, consolidation or otherwise, do any of the following without (in addition to any other vote required by law or the Certificate) the written consent or affirmative vote of the Requisite Holders, given in writing or by vote at a meeting, consenting, or voting (as the case may be) separately as a single class:

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(a) alter the rights, powers or privileges of the Preferred Stock set forth in the Certificate or Bylaws, as then in effect, in a way that adversely affects the Preferred Stock;

(b) increase or decrease the authorized number of shares of any class or series of capital stock;

(c) authorize or create (by reclassification or otherwise) (i) any new class or series of capital stock having rights, powers, or privileges set forth in the certificate of incorporation of the Corporation, as then in effect, that are senior to or on a parity with any series of Preferred Stock or (ii) any security convertible into or exercisable for any such new class or series of capital stock;

(d) redeem or repurchase any shares of Common Stock or Preferred Stock, other than (i) pursuant to employee or consultant agreements giving the Corporation the right to repurchase shares at the original cost thereof upon the termination of services pursuant to the terms of the applicable agreement, (ii) an exercise of a right of first refusal in favor of the Corporation pursuant to an agreement with the stockholders of the Corporation or any employee or consultant, which exercise has been approved by the Board, including the Series Seed Director or (iii) as approved by the Board, including the Series Seed Director;

(e) declare or pay any dividend or otherwise make a distribution to holders of Preferred Stock or Common Stock;

(f) increase or decrease the number of directors of the Corporation;

(g) liquidate, dissolve, or wind-up the business and affairs of the Corporation, effect any Deemed Liquidation Event, or consent, agree or commit to do any of the foregoing without conditioning such consent, agreement or commitment upon obtaining the approval required by this Section 2.3;

(h) exclusively license any technology or intellectual property rights of the Corporation or any of its subsidiaries that would constitute the effective disposition of all or substantially all of the technology or intellectual property of the Corporation and its subsidiaries, taken as a whole, other than any such licenses that expire or can be terminated by the Corporation within one year and that are limited in scope to particular countries or other geographical regions and/or to particular fields of use;

(i) create, or authorize the creation of, or issue, or authorize the issuance of any debt security, if the aggregate indebtedness of the Corporation for borrowed money following such action would exceed \$1,000,000, excluding any equipment leases;

(j) create or hold capital stock in any subsidiary that is not a wholly-owned subsidiary of the Corporation or dispose of any subsidiary stock or all or substantially all of any subsidiary assets; or

(k) amend or waive any of the provisions of this Section 2.3.

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3. Conversion. The holders of the Preferred Stock have the following conversion rights (the “*Conversion Rights*”):

3.1 Right to Convert.

3.1.1 Conversion Ratio. Each share of Preferred Stock is convertible, at the option of the holder thereof, at any time, and without the payment of additional consideration by the holder thereof, into such number of fully paid and nonassessable shares of Class A Common Stock as is determined by dividing the applicable Original Issue Price for the series of Preferred Stock by the Conversion Price for that series of Preferred Stock in effect at the time of conversion. The “*Conversion Price*” for each series of Preferred Stock means the applicable Original Issue Price for such series of Preferred Stock, which initial Conversion Price, and the rate at which shares of Preferred Stock may be converted into shares of Class A Common Stock, is subject to adjustment as provided in this Certificate.

3.1.2 Termination of Conversion Rights. Subject to Section 3.3.1 in the case of a Contingency Event herein, in the event of a liquidation, dissolution, or winding up of the Corporation or a Deemed Liquidation Event, the Conversion Rights will terminate at the close of business on the last full day preceding the date fixed for the first payment of any funds and assets distributable on such event to the holders of Preferred Stock.

3.2 Fractional Shares. No fractional shares of Class A Common Stock will be issued upon conversion of the Preferred Stock. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash equal to such fraction multiplied by the fair market value of a share of Class A Common Stock as determined in good faith by the Board. Whether or not fractional shares would be issuable upon such conversion will be determined on the basis of the total number of shares of Preferred Stock the holder is at the time converting into Class A Common Stock and the aggregate number of shares of Class A Common Stock issuable upon such conversion.

3.3 Mechanics of Conversion.

3.3.1 Notice of Conversion. To voluntarily convert shares of Preferred Stock into shares of Class A Common Stock, a holder of Preferred Stock shall surrender the certificate or certificates for the shares of Preferred Stock (or, if such registered holder alleges that any such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate), at the office of the transfer agent for the Preferred Stock (or at the principal office of the Corporation if the Corporation serves as its own transfer agent), together with written notice that the holder elects to convert all or any number of the shares of the Preferred Stock represented by the certificate or certificates and, if applicable, any event on which the conversion is contingent (a “*Contingency Event*”). The conversion notice must state the holder’s name or the names of the nominees in which such holder wishes the certificate or certificates for shares of Class A Common Stock to be issued. If required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by a written instrument or instruments of transfer, in form reasonably satisfactory to the Corporation, duly executed by the registered holder or such holder’s attorney duly authorized in writing. The close of business on the date of receipt by the transfer agent (or by the Corporation if the Corporation serves as its own transfer agent) of the certificates (or lost certificate affidavit and agreement) and notice (or, if later, the date on which all Contingency Events have occurred) will be the time of conversion (the “*Conversion Time*”), and the shares of Class A Common Stock issuable upon conversion of the shares represented by such certificate shall be deemed to be outstanding of record as of such time. The Corporation shall, as soon as practicable after the Conversion Time, (a) issue and deliver to the holder, or to the holder’s nominees, a certificate or certificates for the number of full shares of Class A Common Stock issuable upon the conversion in accordance with the provisions of this

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Certificate and a certificate for the number (if any) of the shares of Preferred Stock represented by the surrendered certificate that were not converted into Class A Common Stock, (b) pay in cash such amount as provided in Section 3.2 in lieu of any fraction of a share of Class A Common Stock otherwise issuable upon such conversion and (c) pay all declared but unpaid dividends on the shares of Preferred Stock converted.

3.3.2 Reservation of Shares. For the purpose of effecting the conversion of the Preferred Stock, the Corporation shall at all times while any share of Preferred Stock is outstanding, reserve and keep available out of its authorized but unissued capital stock that number of its duly authorized shares of Class A Common Stock as may from time to time be sufficient to effect the conversion of all outstanding Preferred Stock; and if at any time the number of authorized but unissued shares of Class A Common Stock is not sufficient to effect the conversion of all then-outstanding shares of the Preferred Stock, the Corporation shall use its best efforts to cause such corporate action to be taken as may be necessary to increase its authorized but unissued shares of Class A Common Stock to such number of shares as shall be sufficient for such purposes, including, without limitation, engaging in best efforts to obtain the requisite stockholder approval of any necessary amendment to this Certificate. Before taking any action that would cause an adjustment reducing the Conversion Price of a series of Preferred Stock below the then-par value of the shares of Class A Common Stock issuable upon conversion of such series of Preferred Stock, the Corporation shall take any corporate action that may be necessary so that the Corporation may validly and legally issue fully paid and nonassessable shares of Class A Common Stock at such adjusted Conversion Price.

3.3.3 Effect of Conversion. All shares of Preferred Stock that shall have been surrendered for conversion as provided in this Certificate shall no longer be deemed to be outstanding and all rights with respect to such shares will immediately cease and terminate at the Conversion Time, except only the right of the holders thereof to receive shares of Class A Common Stock in exchange therefor, to receive payment in lieu of any fraction of a share otherwise issuable upon such conversion as provided in Section 3.2, and to receive payment of any dividends declared but unpaid thereon. Any shares of Preferred Stock so converted shall be retired and cancelled and may not be reissued.

3.3.4 No Further Adjustment. Upon any conversion of shares of Preferred Stock, no adjustment to the Conversion Price of the applicable series of Preferred Stock will be made with respect to the converted shares for any declared but unpaid dividends on such series of Preferred Stock or on the Class A Common Stock delivered upon conversion.

3.4 Adjustment for Stock Splits and Combinations. If the Corporation at anytime or from time to time after the date on which the first share of a series of Preferred Stock is issued by the Corporation (such date referred to herein as the "**Original Issue Date**" for such series of Preferred Stock) effects a subdivision of the outstanding Common Stock, the Conversion Price for each series of Preferred Stock in effect immediately before that subdivision shall be proportionately decreased so that the number of shares of Class A Common Stock issuable on conversion of each share of that series will be increased in proportion to the increase in the aggregate number of shares of Common Stock outstanding. If the Corporation at any time or from time to time after the Original Issue Date for a series of Preferred Stock combines the outstanding shares of Common Stock, the Conversion Price for each series of Preferred Stock in effect immediately before the combination will be proportionately increased so that the number of shares of Class A Common Stock issuable on conversion of each share of such series shall be decreased in proportion to such decrease in the aggregate number of shares of Common Stock outstanding. Any adjustment under this Section 3.4 becomes effective at the close of business on the date the subdivision or combination becomes effective.

3.5 Adjustment for Certain Dividends and Distributions. If the Corporation at any

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time or from time to time after the Original Issue Date for a series of Preferred Stock makes or issues, or fixes a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable on the Common Stock in additional shares of Common Stock, then and in each such event the Conversion Price for such series of Preferred Stock in effect immediately before the event will be decreased as of the time of such issuance or, in the event a record date has been fixed, as of the close of business on such record date, by multiplying such Conversion Price then in effect by a fraction:

(a) the numerator of which is the total number of shares of Common Stock issued and outstanding immediately prior to the time of the issuance or the close of business on the record date, and

(b) the denominator of which is the total number of shares of Common Stock issued and outstanding immediately before the time of such issuance or the close of business on the record date plus the number of shares of Common Stock issuable in payment of such dividend or distribution.

Notwithstanding the foregoing, (i) if such record date has have been fixed and the dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, such Conversion Price shall be recomputed accordingly as of the close of business on such record date and thereafter such Conversion Price shall be adjusted pursuant to this Section 3.5 as of the time of actual payment of such dividends or distributions; and (ii) no such adjustment shall be made if the holders of such series of Preferred Stock simultaneously receive a dividend or other distribution of shares of Class A Common Stock in a number equal to the number of shares of Class A Common Stock that they would have received if all outstanding shares of such series of Preferred Stock had been converted into Class A Common Stock on the date of the event.

3.6 Adjustments for Other Dividends and Distributions. If the Corporation at any time or from time to time after the Original Issue Date for a series of Preferred Stock shall makes or issues, or fixes a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation (other than a distribution of shares of Common Stock in respect of outstanding shares of Common Stock), then and in each such event the Corporation shall make, simultaneously with the distribution to the holders of Common Stock, a dividend or other distribution to the holders of the series of Preferred Stock in an amount equal to the amount of securities as the holders would have received if all outstanding shares of such series of Preferred Stock had been converted into Class A Common Stock on the date of such event.

3.7 Adjustment for Reclassification, Exchange and Substitution. If at any time or from time to time after the Original Issue Date for a series of Preferred Stock the Class A Common Stock issuable upon the conversion of such series of Preferred Stock is changed into the same or a different number of shares of any class or classes of stock of the Corporation, whether by recapitalization, reclassification, or otherwise (other than by a stock split or combination, dividend, distribution, merger or consolidation covered by Sections 3.4, 3.5, 3.6 or 3.8 or by Section 1.3 regarding a Deemed Liquidation Event), then in any such event each holder of such series of Preferred Stock may thereafter convert such stock into the kind and amount of stock and other securities and property receivable upon such recapitalization, reclassification or other change by holders of the number of shares of Class A Common Stock into which such shares of Preferred Stock could have been converted immediately prior to such recapitalization, reclassification or change.

3.8 Adjustment for Merger or Consolidation. Subject to the provisions of Section 1.3, if any consolidation or merger occurs involving the Corporation in which the Common Stock (but not a series of Preferred Stock) is converted into or exchanged for securities, cash, or other property (other than

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a transaction covered by Sections 3.5, 3.6 or 3.7), then, following any such consolidation or merger, the Corporation shall provide that each share of such series of Preferred Stock will thereafter be convertible, in lieu of the Class A Common Stock into which it was convertible prior to the event, into the kind and amount of securities, cash, or other property which a holder of the number of shares of Class A Common Stock of the Corporation issuable upon conversion of one share of such series of Preferred Stock immediately prior to the consolidation or merger would have been entitled to receive pursuant to the transaction; and, in such case, the Corporation shall make appropriate adjustment (as determined in good faith by the Board) in the application of the provisions in this Section 3 with respect to the rights and interests thereafter of the holders of such series of Preferred Stock, to the end that the provisions set forth in this Section 3 (including provisions with respect to changes in and other adjustments of the Conversion Price of such series of Preferred Stock) shall thereafter be applicable, as nearly as reasonably may be, in relation to any securities or other property thereafter deliverable upon the conversion of such series of Preferred Stock.

3.9 Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment of the Conversion Price of a series of Preferred Stock pursuant to this Section 3, the Corporation at its expense shall, as promptly as reasonably practicable but in any event not later than 15 days thereafter, compute such adjustment or readjustment in accordance with the terms of this Certificate and furnish to each holder of such series of Preferred Stock a certificate setting forth the adjustment or readjustment (including the kind and amount of securities, cash, or other property into which such series of Preferred Stock is convertible) and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, as promptly as reasonably practicable after the written request at any time of any holder of any series of Preferred Stock (but in any event not later than 10 days thereafter), furnish or cause to be furnished to such holder a certificate setting forth (a) the Conversion Price of such series of Preferred Stock then in effect and (b) the number of shares of Class A Common Stock and the amount, if any, of other securities, cash, or property which then would be received upon the conversion of such series of Preferred Stock.

3.10 Mandatory Conversion. Upon either (a) the closing of the sale of shares of Common Stock to the public in a firm-commitment underwritten public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended or (b) the date and time, or the occurrence of an event, specified by vote or written consent of the Requisite Holders at the time of such vote or consent, voting as a single class on an as-converted basis (the time of such closing or the date and time specified or the time of the event specified in such vote or written consent, the "**Mandatory Conversion Time**"), (i) all outstanding shares of Preferred Stock will automatically convert into shares of Class A Common Stock, at the applicable ratio described in Section 3.1.1 as the same may be adjusted from time to time in accordance with Section 3 and (ii) such shares may not be reissued by the Corporation.

3.11 Procedural Requirements. The Corporation shall notify in writing all holders of record of shares of Preferred Stock of the Mandatory Conversion Time and the place designated for mandatory conversion of all such shares of Preferred Stock pursuant to Section 3.10. Unless otherwise provided in this Certificate, the notice need not be sent in advance of the occurrence of the Mandatory Conversion Time. Upon receipt of the notice, each holder of shares of Preferred Stock shall surrender such holder's certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice, and shall thereafter receive certificates for the number of shares of Class A Common Stock to which such holder is entitled pursuant to this Section 3. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form reasonably satisfactory to the Corporation, duly executed by the registered holder or such holder's attorney duly authorized in writing. All rights with respect to the Preferred Stock converted pursuant to Section

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3.10, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate at the Mandatory Conversion Time (notwithstanding the failure of the holder or holders thereof to surrender the certificates at or prior to such time), except only the rights of the holders thereof, upon surrender of their certificate or certificates (or lost certificate affidavit and agreement) therefor, to receive the items provided for in the next sentence of this Section 3.11. As soon as practicable after the Mandatory Conversion Time and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Preferred Stock, the Corporation shall issue and deliver to such holder, or to such holder's nominee(s), a certificate or certificates for the number of full shares of Class A Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in Section 3.2 in lieu of any fraction of a share of Class A Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends on the shares of Preferred Stock converted. Such converted Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Preferred Stock (and the applicable series thereof) accordingly.

4. **Dividends.** The Corporation shall declare all dividends pro rata on the Common Stock and the Preferred Stock on a pari passu basis according to the number of shares of Common Stock held by such holders. For this purpose each holder of shares of Preferred Stock will be treated as holding the greatest whole number of shares of Common Stock then issuable upon conversion of all shares of Preferred Stock held by such holder pursuant to Section 3.

5. **Redeemed or Otherwise Acquired Shares.** Any shares of Preferred Stock that are redeemed or otherwise acquired by the Corporation or any of its subsidiaries will be automatically and immediately cancelled and retired and shall not be reissued, sold or transferred. Neither the Corporation nor any of its subsidiaries may exercise any voting or other rights granted to the holders of Preferred Stock following any such redemption.

6. **Waiver.** Any of the rights, powers, privileges and other terms of the Preferred Stock set forth herein may be waived prospectively or retrospectively on behalf of all holders of Preferred Stock by the affirmative written consent or vote of the holders of the Requisite Holders.

7. **Notice of Record Date.** In the event:

(a) the Corporation takes a record of the holders of its Common Stock (or other capital stock or securities at the time issuable upon conversion of the Preferred Stock) for the purpose of entitling or enabling them to receive any dividend or other distribution, or to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities, or to receive any other security; or

(b) of any capital reorganization of the Corporation, any reclassification of the Common Stock of the Corporation, or any Deemed Liquidation Event; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Corporation,

then, and in each such case, the Corporation shall send or cause to be sent to the holders of the Preferred Stock a written notice specifying, as the case may be, (i) the record date for such dividend, distribution, or right, and the amount and character of such dividend, distribution or right, or (ii) the effective date on which such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up is proposed to take place, and the time, if any is to be fixed, as of which the holders of record of Common Stock (or such other capital stock or securities at the time issuable upon the conversion of the Preferred

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Stock) will be entitled to exchange their shares of Common Stock (or such other capital stock or securities) for securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, transfer, dissolution, liquidation or winding-up, and the amount per share and character of such exchange applicable to the Preferred Stock and the Common Stock. The Corporation shall send the notice at least 20 days before the earlier of the record date or effective date for the event specified in the notice.

8. Notices. Except as otherwise provided herein, any notice required or permitted by the provisions of this Article V to be given to a holder of shares of Preferred Stock must be mailed, postage prepaid, to the post office address last shown on the records of the Corporation, or given by electronic communication in compliance with the provisions of the General Corporation Law, and will be deemed sent upon such mailing or electronic transmission.

ARTICLE VI: PREEMPTIVE RIGHTS.

No stockholder of the Corporation has a right to purchase shares of capital stock of the Corporation sold or issued by the Corporation except to the extent that such a right may from time to time be set forth in a written agreement between the Corporation and the stockholder.

ARTICLE VII: BYLAW PROVISIONS.

A. AMENDMENT OF BYLAWS. Subject to any additional vote required by this Certificate or bylaws of the Corporation (the "*Bylaws*"), in furtherance and not in limitation of the powers conferred by statute, the Board is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws.

B. NUMBER OF DIRECTORS. Subject to any additional vote required by this Certificate or any other written agreement between the Company and its Stockholders, the number of directors of the Corporation will be determined in the manner set forth in the Bylaws.

C. BALLOT. Elections of directors need not be by written ballot unless the Bylaws so provide.

D. MEETINGS AND BOOKS. Meetings of stockholders may be held within or without the State of Delaware, as the Bylaws may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the Board or in the Bylaws.

ARTICLE VIII: DIRECTOR LIABILITY.

A. LIMITATION. To the fullest extent permitted by law, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. If the General Corporation Law or any other law of the State of Delaware is amended after approval by the stockholders of this Article VIII to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law as so amended. Any repeal or modification of the foregoing provisions of this Article VIII by the stockholders will not adversely affect any right or protection of a director of the Corporation existing at the time of, or increase the liability of any director of the Corporation with respect to any acts or omissions of such director occurring prior to, such repeal or modification.

B. INDEMNIFICATION. To the fullest extent permitted by applicable law, the Corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the Corporation (and any other persons to which General Corporation Law permits the Corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of

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stockholders or disinterested directors or otherwise, in excess of the indemnification and advancement otherwise permitted by Section 145 of the General Corporation Law.

C. MODIFICATION. Any amendment, repeal, or modification of the foregoing provisions of this Article VIII will not adversely affect any right or protection of any director, officer or other agent of the Corporation existing at the time of such amendment, repeal or modification.

ARTICLE IX: CORPORATE OPPORTUNITIES.

The Corporation renounces any interest or expectancy of the Corporation in, or in being offered an opportunity to participate in, or in being informed about, an Excluded Opportunity. "***Excluded Opportunity***" means any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of, (i) any director of the Corporation who is not an employee of the Corporation or any of its subsidiaries, or (ii) any holder of Preferred Stock or any affiliate, partner, member, director, stockholder, employee, agent or other related person of any such holder, other than someone who is an employee of the Corporation or any of its subsidiaries (a "***Covered Person***"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of the Corporation.

* * *

3. That the foregoing amendment and restatement was approved by the holders of the requisite number of shares of this corporation in accordance with Section 228 of the General Corporation Law.
4. That this Certificate of Incorporation, which restates and integrates and further amends the provisions of this Corporation's Certificate of Incorporation, has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law.

[Signature Page Follows]

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This Second Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on January 15, 2021.

ZEROEYES, INC.

DocuSigned by:
By: Mike Lahiff
Name: ~~Michael Lahiff~~
Title: Chief Executive Officer

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Request for Proposal (RFP) for Threat and Weapons Detection Software and Equipment

Solicitation #
46-22

Tab 5 – Products and Services

Submission Date: 17 November 2022

Prepared for:

**National Cooperative Purchasing Alliance
& Region 14 Education Service Center**
P.O. Box 701723
Houston TX, 77270
Email: questions@ncpa.us



Prepared by:

**Mike Lahiff, CEO and Co-Founder
ZeroEyes**
555 E North lane, Bldg C, Ste 5050
Conshohocken, PA 19428
Email: mike@zeroeyes.com



This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of—or in connection with—the submission of this data, the Government shall have the right to duplicate, use or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets- ALL.

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iv. Ability to work with legacy equipment4

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vi. Major integration partners4

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1. Products and Services

a. Warranty

i. Applicable warranty and/or guarantees of equipment and installations

5 Year ProSupport Plus Warranty from Original Equipment Manufacturer (OEM) for Next Business Day (NBD) support.

ii. Availability of replacement parts

The 5 Year ProSupport Plus Warranty covers any technical issues and/or support required with the product. It's our key objective to ensure continuity in service and security.

iii. Life expectancy of equipment under normal use

5 Years.

iv. Proposed return policy on all equipment

All hardware should be returned at termination of the contract

b. Products

ZeroEyes will provide equipment, materials and products that are new, of good quality and free of defects.

c. Construction

ZeroEyes will perform services in a good and workmanlike manner and in accordance with industry standards for the service provided.

i. Proposed Technology Category

ZeroEyes' solution is categorized as **surveillance hardware and software.**

ii. Hardware Specs

ZeroEyes proprietary Artificial Intelligence, "DeepZero" **integrates with IP camera systems and networking devices, both indoor and outdoor. The 2U server contains Nvidia Graphics Processing Units (GPUs).**

iii. Uptime

ZeroEyes ensures 100% camera uptime. If a weapon is detected by the "DeepZero" software that still frame image will be sent to our 24/7/365 Operations Center where the Human in the Loop will verify it is a firearm and dispatch to CMS and local first responders per the clients Standard Operating Procedures for Active Shooter Emergency Response. This process takes three to five seconds and bypasses the traditional dispatch process.

iv. Weapons detected

ZeroEyes specializes in the detection of firearms (handguns, rifles, shotguns, and military-style assault weapons). We've mastered our A.I. technology solely for object detection – in our case, any make or model of gun – which eliminates potential privacy concerns and identifies real weapon threats with higher accuracy than other security options.

v. Sounds detected

ZeroEyes technology does not detect sounds.

vi. Monitoring and alert process/event response.

As referenced above, as soon as our technology detects a weapon in a timeframe, it is verified

immediately by our operational staff, all of whom are military veterans. Security and first responders are then alerted within 3 to 5 seconds. Our solution also provides real-time actionable intelligence to first responders such as the physical description and geolocation of the suspect. Depending on the needs of each individual location, the software and alerts can be programmed to send information to specific individuals or groups at large. The frequency and appearance of such alerts can also be customized. An overview of the detection and alert process is below:



Figure 1: ZeroEyes' Monitoring and Alert Process

vii. Is the product touchless?

Yes, the product is touchless.

viii. Example images of dashboard

Examples images from ZeroEyes' Mobile application is included in Figure 2 below:

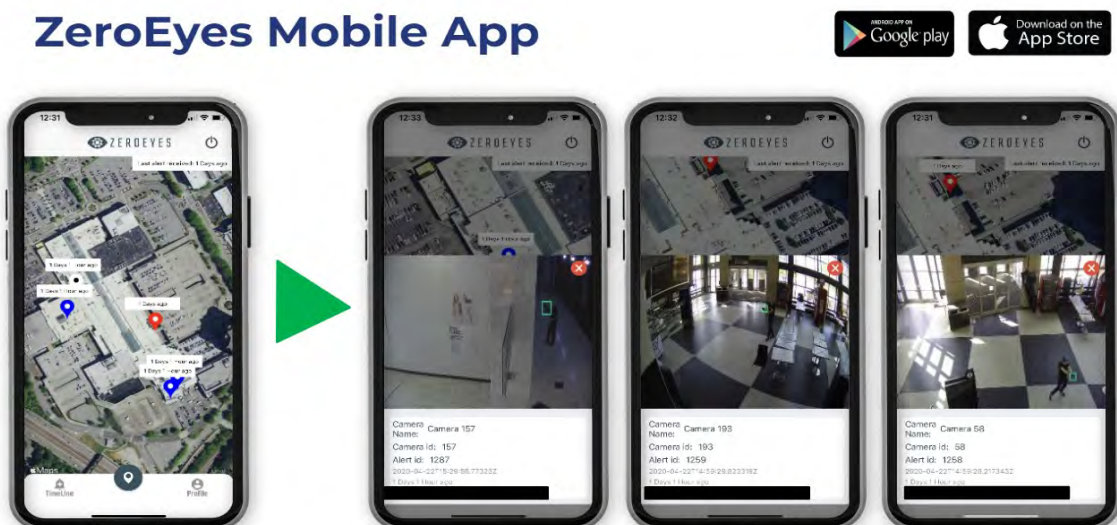


Figure 2: ZeroEyes Mobile App

An image of an actual gun detection utilizing our technology is displayed in **Figure 3**:

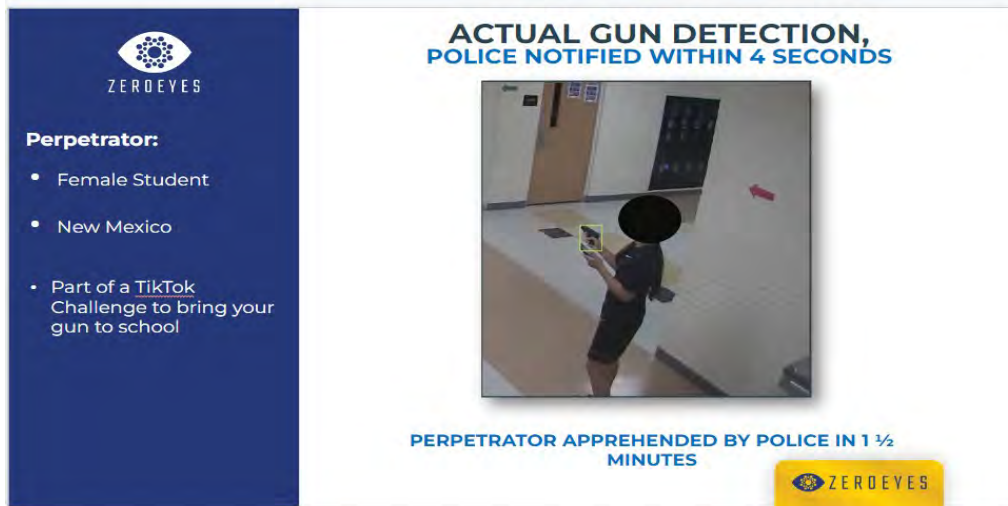


Figure 3: Actual Gun Detection Using ZeroEyes Technology

ix. Technology used.

ZeroEyes utilizes our proprietary AI technology, “DeepZero”. Our team uses an extensive, labor-intensive, trial-and-error process that involves testing our technology, rather than relying on online footage. From there, a comprehensive dataset with thousands of images and videos is constructed to continuously train our A.I. weapons detection model for improvements. As referenced above, our solution is integrated with the existing IP camera system and networking devices, both indoor and outdoor, and our 2U server contains Nvidia Graphics Processing Units (GPUs).

x. Number of staff required to operate

2-3 ZeroEyes Operations Center Analysts depending on camera deployment. Each analyst in the Operations Center can handle between 4000-5000 camera streams at a time.

xi. False Positive Rate

ZeroEyes has a false positive rate of zero due to human verification of a firearm prior to first responders and/or law enforcement being alerted.

d. Additional Questions

i. Patents held

ZeroEyes has a patent for system and method “ZeroEyes Software Patent [0001] Intelligent Video Surveillance System and Method, Serial Number 62/849,417” filed 17 May 2019.

ii. Deployment Timeframe

45 Days from completion of initial Information Technology meeting with all stakeholders.

iii. How supply chain issues are handled

ZeroEyes and the OEM have stocked up to 50 appliances to support demand. Any shortage of equipment will be communicated to the customer in a timely manner.

iv. Ability to work with legacy equipment

ZeroEyes integrates into existing camera systems. To get online, we require access to the switch(s) that connect the camera network to the internet connection.

v. Infrastructure updates needed to deploy

We require a *minimum of 500 Mbps*. Specifically, 2u rackspace for each appliance.

vi. Major integration partners

Milestone, Genetec, Axis Communications, NVIDIA, AWS, and Google Cloud

e. Network/Cyber Security Plan

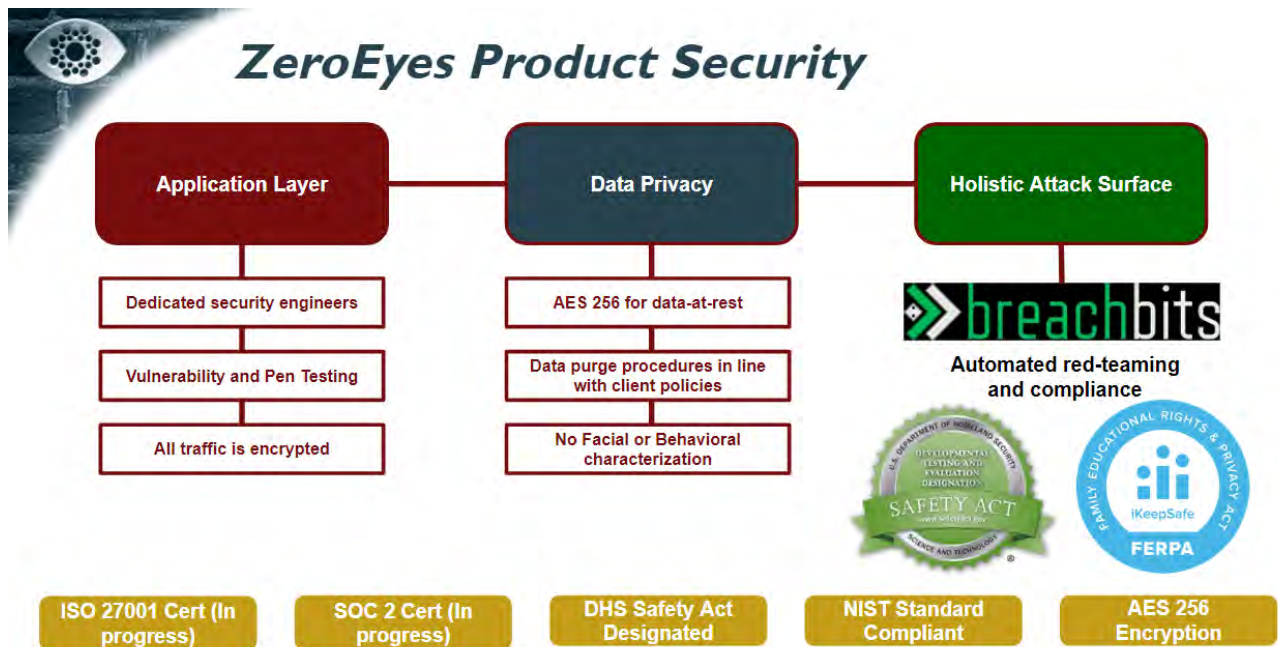


Figure 4: ZeroEyes Cyber Security Plan

Request for Proposal (RFP) for Threat and Weapons Detection Software and Equipment

**Solicitation #
46-22**

Tab 8 – Value Added Products and Services

Submission Date: 17 November 2022

Prepared for:

**National Cooperative Purchasing Alliance
& Region 14 Education Service Center**
P.O. Box 701723
Houston TX, 77270
Email: questions@ncpa.us



Prepared by:

**Mike Lahiff, CEO and Co-Founder
ZeroEyes**
555 E North lane, Bldg C, Ste 5050
Conshohocken, PA 19428
Email: mike@zeroeyes.com



This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of—or in connection with—the submission of this data, the Government shall have the right to duplicate, use or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets- ALL.

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1. Value Added Products and Services

a. Marketing and Training

All customers are trained by ZeroEyes operations staff prior to going live. In addition, the ZeroEyes team will conduct periodic training as changes and/or updates occur. We also maintain a staff of 20+ marketing professionals and retain a leading NYC PR firm to support our communications efforts.

b. Customer Service

ZeroEyes 24/7/365 managed service monitors all feeds on the platform for weapons detection, camera status (health), and the health of the algorithm operating on prem. We also offer a 24/7/365 dedicated IT support to ensure rapid outage resolution. ZeroEyes also has a dedicated customer success team to ensure quality control, reporting of ZeroEyes metric data, and regular customer touch points. In addition, our licensing fee covers all maintenance/upgrades and monitoring. Lastly, ZeroEyes conducts both physical and virtual site assessments to determine camera quality, placement, and count.

c. Recruitment of Veteran Talent

ZeroEyes heavily recruits and retains veteran talent, one of the most underemployed groups in the United States.

Request for Proposal (RFP) for Threat and Weapons Detection Software and Equipment

**Solicitation #
46-22**

Tab 9 – Required Documents

Submission Date: 17 November 2022

Prepared for:

**National Cooperative Purchasing Alliance
& Region 14 Education Service Center**
P.O. Box 701723
Houston TX, 77270
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1. Required Documents

TAB 9 REQUIRED DOCUMENTS

- Federal Funds Certifications
- Clean Air and Water Act & Debarment Notice
- Contractors Requirements
- Required Clauses for Federal Assistance by FTA
- Federal Required Signatures
- Antitrust Certification Statements Texas Government Code § 2155.005
- State Notice Addendum

FEDERAL FUNDS CERTIFICATIONS

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. The following certifications and provisions may be required and apply when a Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

- Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency and Offeror reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

- Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror as detailed in the terms of the contract

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

- Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay

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wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions
- Any Participating Agency will include any current and applicable prevailing wage determination in each issued solicitation and provide Offeror with any required documentation and/or forms that must be completed by Offeror to remain in compliance the applicable Davis-Bacon Act provisions.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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- Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended— Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non- Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

- Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

- Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of an award the offeror or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the offeror will notify the Participating Agency

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- Pursuant to Federal Rule (I) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the

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offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- o No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- o If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- o The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and all subrecipients shall certify and disclose accordingly.

**RECORD RETENTION REQUIREMENTS FOR CONTRACTS
INVOLVING FEDERAL FUNDS**

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

**CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY
AND CONSERVATION ACT**

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Participating Agencies will clearly identify whether Buy America Provisions apply in any issued solicitation. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

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CERTIFICATION OF ACCESS TO RECORDS

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any non-financial documents, papers, or other records of offeror that are pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents. This right of access will last only as long as the records are retained.

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

CLEAN AIR AND WATER ACT AND DEBARMENT NOTICE

By the signature below (Under Federal Required Signatures), I, the Vendor, am in compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970, as Amended (42 U.S. C. 1857 (h), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15 as required under OMB Circular A-102, Attachment O, Paragraph 14 (1) regarding reporting violations to the grantor agency and to the United States Environment Protection Agency Assistant Administrator for the Enforcement.

I hereby further certify that my company has not been debarred, suspended or otherwise ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension", as described in the Federal Register and Rules and Regulations.

CONTRACTOR REQUIRMENTS

Contractor Certification

Contractor's Employment Eligibility

By entering the contract, Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA), and all other federal and state immigration laws and regulations. The Contractor further warrants that it is in compliance with the various state statutes of the states it is will operate this contract in.

Participating Government Entities including School Districts may request verification of compliance from any Contractor or subcontractor performing work under this Contract. These Entities reserve the right to confirm compliance in accordance with applicable laws.

Should the Participating Entities suspect or find that the Contractor or any of its subcontractors are not in compliance, they may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

The offeror complies and maintains compliance with the appropriate statutes which requires compliance with federal immigration laws by State employers, State contractors and State subcontractors in accordance with the E-Verify Employee Eligibility Verification Program.

Contractor shall comply with governing board policy of the NCPA Participating entities in which work is being performed.

Fingerprint & Background Checks

If required to provide services on school district property at least five (5) times during a month, contractor shall submit a full set of fingerprints to the school district if requested of each person or employee who may provide such service. Alternately, the school district may fingerprint those persons or employees. An exception to this requirement may be made as authorized in Governing Board policy. The district shall conduct a fingerprint check in accordance with the appropriate state and federal laws of all contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the district. Contractor, subcontractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

The offeror shall comply with fingerprinting requirements in accordance with appropriate statutes in the state in which the work is being performed unless otherwise exempted.

Contractor shall comply with governing board policy in the school district or Participating Entity in which work is being performed.

Business Operations in Sudan, Iran

In accordance with A.R.S. 35-391 and A.R.S. 35-393, the Contractor hereby certifies that the contractor does not have scrutinized business operations in Sudan and/or Iran.

REQUIRED CLAUSES FOR FEDERAL ASSISTANCE PROVIDED BY FTA

ACCESS TO RECORDS AND REPORTS

Contractor agrees to:

- a) Maintain all non-financial books, records, accounts and reports required under this Contract for a period of not less than two (2) years after the date of termination or expiration of this Contract or any extensions thereof except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until the FTA Administrator, the U.S. DOT Office of the Inspector General, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
- b) Permit any of the foregoing parties to inspect all non-financial work, materials, and other data and records that pertain to the Project, and to audit the non-financial books, records, and accounts that pertain to the Project and to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed for the purpose of audit and examination. The right of access detailed in this section continues only as long as the records are retained.

FTA does not require the inclusion of these requirements of Article 1.01 in subcontracts.

CIVIL RIGHTS / TITLE VI REQUIREMENTS

- 1) Non-discrimination. In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12132, and Federal Transit Law at 49 U.S.C. § 5332, Contractor or subcontractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, marital status age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other applicable implementing requirements FTA may issue that are flowed to Contractor from Awarding Participating Agency.
- 2) Equal Employment Opportunity. The following Equal Employment Opportunity requirements apply to this Contract:
 - a. Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal Transit Law at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable Equal Employment Opportunity requirements of U.S. Dept. of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, 41 CFR, Parts 60 *et seq.*", and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may affect construction activities undertaken in the course of this Project. Contractor agrees

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to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, marital status, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue that are flowed to Contractor from Awarding Participating Agency.

- b. Age. In accordance with the Age Discrimination in Employment Act (ADEA) of 1967, as amended, 29 U.S.C. Sections 621 through 634, and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act", 29 CFR Part 1625, prohibit employment discrimination by Contractor against individuals on the basis of age, including present and prospective employees. In addition, Contractor agrees to comply with any implementing requirements FTA may issue that are flowed to Contractor from Awarding Participating Agency.
 - c. Disabilities. In accordance with Section 102 of the Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. Sections 12101 *et seq.*, prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Contractor agrees that it will comply with the requirements of the Equal Employment Opportunity Commission (EEOC), "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR, Part 1630, pertaining to employment of persons with disabilities and with their responsibilities under Titles I through V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions.
 - d. Segregated Facilities. Contractor certifies that their company does not and will not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not and will not permit their employees to perform their services at any location under the Contractor's control where segregated facilities are maintained. As used in this certification the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise. Contractor agrees that a breach of this certification will be a violation of this Civil Rights clause.
- 3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation, made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and the regulations relative to non-discrimination on the grounds of race, color, creed, sex, disability, age or national origin.

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- 4) Sanctions of Non-Compliance. In the event of Contractor's non-compliance with the non-discrimination provisions of this Contract, Public Agency shall impose such Contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to: 1) Withholding of payments to Contractor under the Contract until Contractor complies, and/or; 2) Cancellation, termination or suspension of the Contract, in whole or in part.

Contractor agrees to include the requirements of this clause in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

DISADVANTAGED BUSINESS PARTICIPATION

This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs", therefore, it is the policy of the Department of Transportation (DOT) to ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in the performance of DOT-assisted contracts.

- 1) Non-Discrimination Assurances. Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out all applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or other such remedy as public agency deems appropriate. Each subcontract Contractor signs with a subcontractor must include the assurance in this paragraph. (See 49 CFR 26.13(b)).
- 2) Prompt Payment. Contractor is required to pay each subcontractor performing Work under this prime Contract for satisfactory performance of that work no later than thirty (30) days after Contractor's receipt of payment for that Work from public agency. In addition, Contractor is required to return any retainage payments to those subcontractors within thirty (30) days after the subcontractor's work related to this Contract is satisfactorily completed and any liens have been secured. Any delay or postponement of payment from the above time frames may occur only for good cause following written approval of public agency. This clause applies to both DBE and non-DBE subcontractors. Contractor must promptly notify public agency whenever a DBE subcontractor performing Work related to this Contract is terminated or fails to complete its Work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and perform that Work through its own forces, or those of an affiliate, without prior written consent of public agency.
- 3) DBE Program. In connection with the performance of this Contract, Contractor will cooperate with public agency in meeting its commitments and goals to ensure that DBEs shall have the maximum practicable opportunity to compete for subcontract work, regardless of whether a contract goal is set for this Contract. Contractor agrees to use good faith efforts to carry out a policy in the award of its subcontracts, agent agreements, and procurement contracts which will, to the fullest extent, utilize DBEs consistent with the efficient performance of the Contract.

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ENERGY CONSERVATION REQUIREMENTS

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plans issued under the Energy Policy and Conservation Act, as amended, 42 U.S.C. Sections 6321 *et seq.* and 41 CFR Part 301-10.

FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, listed directly or by reference in the Contract between Public Agency and the FTA, and those applicable regulatory and procedural updates that are communicated to Contractor by Public Agency, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this Contract.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding Contract provisions. All contractual provisions required by the DOT and applicable to the scope of a particular Contract awarded to Contractor by a Public Agency as a result of solicitation, as set forth in the most current FTA Circular 4220.1F, published February 8th, 2016, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor agrees not to knowingly perform any act, knowingly fail to perform any act, or refuse to comply with any reasonable public agency requests that would directly cause public agency to be in violation of the FTA terms and conditions.

NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

Agency and Contractor acknowledge and agree that, absent the Federal Government's express written consent and notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to agency, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.

Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Contract. Upon execution of the underlying Contract, Contractor certifies or affirms, to the best of its knowledge, the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to me

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made, pertaining to the underlying Contract or the FTA assisted project for which this Contract Work is being performed.

In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

STATE NOTICE ADDENDUM

The National Cooperative Purchasing Alliance (NCPA), on behalf of NCPA and its current and potential participants to include all county, city, special district, local government, school district, private K-12 school, higher education institution, state, tribal government, other government agency, healthcare organization, nonprofit organization and all other Public Agencies located nationally in all fifty states, issues this Request for Proposal (RFP) to result in a national contract.

For your reference, the links below include some, but not all, of the entities included in this proposal:

http://www.usa.gov/Agencies/State_and_Territories.shtml

<https://www.usa.gov/local-governments>

FEDERAL REQUIRED SIGNATURES

Offeror certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted in the pages above. It is further acknowledged that offeror agrees to comply with all federal, state, and local laws, rules, regulations and ordinances as applicable.

Offeror ZeroEyes, Inc.

Address 555 East North Ln.

City/State/Zip Conshohocken, PA 19428

Authorized Signature *James Wilkins*

Date 11/15/22

ANTITRUST CERTIFICATION STATEMENTS
TEXAS GOVERNMENT CODE § 2155.005

I affirm under penalty of perjury of the laws of the State of Texas that:

(1) I am duly authorized to execute this contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;

(2) In connection with this bid, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

(3) In connection with this bid, neither I nor any representative of the Company has violated any federal antitrust law; and

(4) Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this bid to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Company Name ZeroEyes, Inc.

Address 555 East North Ln.

City/State/Zip Conshohocken, PA 19428

Telephone Number 302-357-8390

Fax Number _____

Email Address jt@zeroeyes.com

Printed Name JT Wilkins

Title SVP of Sales

Authorized Signature *James Wilkins*

Order Form

Customer: _____ (“Customer”).

Customer Address: _____

Customer Main Contact: Name: _____ Title: _____ Email: _____

Effective Date: _____ (“Order Effective Date”)

The following subscription services (“Subscription Services”) and professional services are covered by this Order Form (“Order”) entered into by Customer and ZeroEyes, Inc., a Delaware corporation, with an address at 555 E North Lane, Suite 5050, Conshohocken, PA 19428 (“Company”) with the following setup:

Services	Pricing	Video Cameras	Subscription Term	Notes
Subscription Services: [Insert name of subscription service] [Weapon Detection Service; Image Screening Service] [Equipment]	[\$X per month, per Camera]	[Up to X number of cameras]	Start Date: Order Effective Date End Date: XX Months after Go Live Date	Maximum of 10 application users up to 500 cameras. Can add 1 additional user for every 50 cameras purchased beyond 500
Professional Services: [Platform Setup Services]	[Platform Fee]			

The Subscription Services and Equipment are described in more detail here: [<https://zeroeyes.com/technology/>]

Upon execution by both Customer and Company (electronic signature acceptable), this Order becomes binding on each Party. This Order is subject to the terms and conditions of the Subscription Agreement attached to this Order or entered into by Customer and Company separately and referencing this or referenced by this Order.

Acknowledged and agreed by each Party:

_____ (**Customer**)

ZEROEYES, INC. (Company)

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Subscription Agreement

This Subscription Agreement (“Agreement”) is made and entered into by and between Company and Customer (each a “Party”) and together the “Parties”), as defined in the Order Form (Order) attached above or entered into by Company and Customer separately. This Agreement is effective as of the Order Effective Date, as specified in the first Order entered into by the Parties (the “Effective Date”).

A. The Company develops and commercializes a cloud-based platform and related services for weapon detection, including Software-as-A-Services (SAAS) functionality, and other related software and services; and

B. Company and Customer desire to enter into this Agreement to enable Customer to receive certain services and license certain software from Company under this Agreement as specified in one or more Orders and/or SOWs.

In consideration of the mutual promises and covenants set forth in this Agreement, the Parties, intending to be legally bound, hereby agree as follows.

1. **Definitions.**

1.1 Definitions. Unless specifically defined below, capitalized terms are defined in Schedule A below.

2. **Subscription Services and Professional Services.**

2.1 License. Subject to Customer’s compliance with this Agreement, Company grants to Customer a non-exclusive, non-assignable (except as permitted in Section 8.3 below) license to receive the Subscription Services from Company, and to use the Subscription Services described in each Order, in the form provided by Company, during the applicable Subscription Term specified in that Order, and subject to any additional limitations specified in each Order. The foregoing license includes the right for Customer to permit the Authorized Users to receive, access and use the Subscription Services within the scope of the foregoing license granted to Customer, and otherwise subject to this Agreement. The licenses granted herein (and the related payment obligations) commence on the Effective Date unless the Order states otherwise. The Customer acknowledges and agrees that the Equipment delivered and setup as part of the Platform Setup Services (as defined below) contains preinstalled Software providing access to the Subscription Services even if the monitoring Services commence following the delivery of the Equipment and/or the Effective Date.

2.2 Weapon Detection and Image Screening. As part of the Subscription Services, upon receiving an Image from the Equipment, Company will provide the following services to Customer:

(a) Promptly after receiving such Image from the Equipment, the Operator will view the Image in an attempt to determine if the Image portrays someone with a weapon. If the Operator determines that there is reasonable cause to conclude that the Image portrays someone with a weapon, the Operator will initiate an Alert and transmit Data to the Authorized Users in accordance with the Company’s then current policies, procedures or practices and thereafter continue to transmit such additional Alerts and Data as may be received from the Equipment. Company will transmit all Alerts and Data in accordance with the Company’s then current policies, procedures or practices applicable to the transmission of Alerts and Data.

(b) If after reviewing the Image received from the Equipment the Operator determines that there is reasonable cause to conclude that the Image does not portray someone with a weapon, Operator will take no further action (other than to log the Image). Operator will make all such determinations in Operator’s sole and absolute discretion.

2.3 Updates and Security. Company may update the Subscription Services and the applicable specifications from time to time, including to improve or add new functionality to the Subscription Services, or to reflect changes in laws, regulations, rules, technology, industry practices, patterns of system use, and availability of third party services or content (as defined below). Customer will reasonably cooperate with Company to help secure the Subscription Services as requested by Company from time to time, including to help Company install security patches and deploy other risk mitigation or prevention techniques. Company may suspend Customer’s access to the Subscription Services at any time in case of actual or suspected security risks or threats to the Subscription Services, in which case Company will notify Customer of the respective issue as soon as reasonably possible.

2.4 Use of Services. Customer will not itself, and will not permit others to: (a) use the Subscription Services to harass any person; cause damage or injury to any person or property; publish any material that is false, defamatory, harassing or obscene; violate privacy rights; promote bigotry, racism, hatred or harm; send unsolicited bulk e-mail, junk mail, spam or chain letters; infringe property rights; or otherwise violate applicable laws, ordinances or regulations; (b) perform or disclose any benchmarking or availability testing of the Subscription Services; (c) perform or disclose any performance or vulnerability testing

of the Subscription Services without Company's prior written approval, or perform or disclose network discovery, port and service identification, vulnerability scanning, password cracking or remote access testing of the Subscription Services; (d) use the Subscription Services to perform cyber currency or crypto currency mining, (e) share passwords among Authorized Users, or otherwise permit more than one Authorized User to access the Subscription Services using a single corresponding account, ((a) through (e) collectively, the "Use Policy"). In addition to its other rights and remedies under this Agreement, Company has the right to take immediate remedial action if Customer violates or permits the violation of the Use Policy, including to remove or disable access to material that violates the Use Policy. Customer will ensure that all passwords and all access to the accounts held by Authorized Users within the Subscription Services are kept secure and confidential, and Customer will be responsible for all access and losses that may occur to the extent caused by security lapses, failure to keep confidential access credentials, or other misconduct by Authorized Users.

2.5 Third Party Services. The Subscription Services may rely on technology or services not provided by Company (e.g., the Customer's computers or network infrastructure, data transmissions over the Internet or local networks, and other factors outside the control of Company) ("Third Party Services"). Consequently, Customer assumes the risk that certain functionalities of the Subscription Services may not be available from time to time to the extent that such functionalities rely on Third Party Services. Company shall have no liability in connection with this Agreement for any loss in functionality of the Subscription Services to the extent such loss is caused, directly or indirectly, by Third Party Services.

2.6 Customer Obligations. Customer will comply with Schedule B (Customer Responsibilities).

2.7 Professional Services. Company shall use commercially reasonable efforts to perform the Professional Services as set forth in applicable mutually executed Orders and/or SOWs. Each such Order and/or SOW, as applicable, will include, at a minimum: (a) a description of the scope of Professional Services, (b) any work product or other deliverables to be provided to Customer (each a "Deliverable"), (c) the schedule for the provision of Professional Services, and (d) the applicable fees and payment terms for such Professional Services. All SOWs shall be deemed part of and subject to this Agreement. If there is any inconsistency between an SOW and this Agreement, the SOW shall control. If either Customer or Company requests a change to the scope of Professional Services described in a SOW, the party seeking the change shall propose such change by written notice. Promptly following the other party's receipt of the written notice, the parties shall discuss and agree upon the proposed changes. Company will prepare a change order document describing the agreed changes to the SOW or Order and any applicable change in fees and expenses (a "Change Order"). Change Orders are not binding unless and until executed by both Parties. Executed Change Orders shall be deemed part of, and subject to, this Agreement. Company and Customer shall cooperate to enable Company to perform the Professional Services according to the dates of performance and delivery terms set forth in each Order or SOW, as applicable. In addition, Customer shall perform any Customer obligations specified in each Order and SOW. In the event the Professional Services are not performed in accordance with the terms of the applicable SOW, Customer shall notify Company in writing no later than thirty calendar days after performance of the affected Professional Services by Company. Customer's notice shall specify the basis for non-compliance with the Order or SOW, as applicable, and if Company agrees with the basis for non-compliance, then at Company's sole option, Company shall re-perform the Professional Services at no additional charge to Customer or refund to Customer the applicable fees for the affected Deliverable or Professional Service. THE FOREGOING CONSTITUTES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND COMPANY'S SOLE AND EXCLUSIVE LIABILITY WITH RESPECT TO PERFORMANCE OR NON-PERFORMANCE OF THE PROFESSIONAL SERVICES. Without limiting the foregoing, each initial Order shall include, as part of the Professional Services, the Platform Setup Services (as defined below). Promptly following the execution of an initial Order, if specified in such Order and subject to the payment of the Platform Fee specified therein, Company shall promptly deliver to the location designated on the Order the Equipment specified thereon and shall perform those acts that are reasonable necessary to onboard the Customer onto the Subscription Services (collectively, the "Platform Setup Services").

3. **Financial.**

3.1 Fees. The fees for Subscription Services and the Platform Setup Services are set forth in applicable Orders and/or SOWs entered into by Company and Customer.

3.2 Payments. Licensee will pay all amounts specified under each Order that was accepted by both Licensee and Company or otherwise due under this Agreement. Unless otherwise agreed upon by Licensee and Company in an Order as part of the ordering process, all payments for recurring monthly Subscription Services and for any hardware products provided by Company are due in full before Company ships, delivers or otherwise provides such product or Subscription Services, and all other payments owed under this Agreement by Customer are due within thirty (30) days of receiving an invoice from Company. In the event that the Licensee continues using the Subscription Services beyond the Term, the Licensee will be charged for a full month for each month (or partial month) the Subscription Services are used. Payments that are not made on time by Licensee will bear interest at the rate of 1% of the unpaid balance per month (or the maximum amount allowed by law, if lower). Costs of collection

for late or unpaid amounts under this Agreement (including any applicable legal fees and other collection fees and expenses) will be paid by Customer.

3.3 **Scope of Use.** Customer will limit use of the Subscription Services in accordance with any limitations specified in each Order, including any limits on the number of Authorized Users. If Customer exceeds the number of Authorized Users specified in an Order, Company has the right to block access to the Subscription Services by the additional Authorized Users, or to invoice Company for the additional number of Authorized Users. Customer will pay all amounts invoiced by Company under this Section 3.3 within thirty days of receiving the invoice.

3.4 **Taxes.** Prices specified under this Agreement are net of taxes. To the extent any taxes and other charges (including sales and use taxes, withholding taxes, gross receipts taxes, and other charges such as duties, customs, tariffs, imposts and other government-imposed surcharges) ("Taxes") are applicable to the payments made by Customer to Company under this Agreement, Customer will be responsible for those Taxes and will pay them to the appropriate authorities. Customer will reimburse Company for any such Taxes that Company may pay on behalf of Customer. Company will reasonably cooperate with Customer to help the Customer obtain evidence of Tax payments under this Agreement to the extent Customer needs such evidence to claim tax credits. Each Party is responsible for its own respective income taxes.

3.5 **Payment Logistics.** For any payment for which a specific payment arrangement is not made in writing by the Parties in connection with the corresponding Order, provision of Subscription Services will require advanced credit card or ACH payment. If for Customer's convenience Customer provides to Company a credit card number on file or an electronic account, Customer gives Company permission to automatically charge that credit card or account for future payments and charges corresponding to Subscription Services that are purchased, received or otherwise authorized by Customer in connection with this Agreement, including for ongoing Subscription Services to which Customer subscribes; Customer may revoke Company's authorization to automatically charge Customer's credit card or account at any time by notifying Company in writing of such revocation. In addition to its other rights, Company reserves, until full payment has been received, a security interest in all hardware deliverables provided to each Licensee. Customer agrees to execute any document appropriate or necessary to perfect the security interest of Company, or in the alternative, Company may file this Agreement as a financing statement and/or chattel mortgage.

3.6 **Currency.** Unless otherwise agreed in writing by the Parties, all amounts under this Agreement are stated and calculated, and will be paid in United States Dollars (\$ U.S.) to a bank account designated by Company in the USA.

4. **Intellectual Property**

4.1 **Ownership and Reservation of Rights.** Except for the right to use the Subscription Services in accordance with Section 2, Company owns and will retain all right, title and interest in and to the Subscription Services and all related Software and other technology used to deliver the Subscription Services, and to all IP Rights in and to all such Subscription Services, Software and other technology. Company will retain ownership of its own respective technology (including software and hardware), services and IP Rights. The Company shall be the sole owner of any IP Rights and new work product that relate to Company's technology and services (including the Subscription Services and Software), including any improvements, modifications or extensions of such technology and services, or that are otherwise developed by Company in connection with any other services performed by Company for Customer in connection with the Subscription Services. Neither Party intends to grant, and neither Party does actually grant in connection with this Agreement any license or other right that is not expressly stated in this Agreement with respect to any IP Rights, Subscription Service, or Software, whether by implication, statute, inducement, estoppel or otherwise, and Company and Customer each hereby reserves all of its rights other than the rights expressly granted in this Agreement. Customer hereby assigns to the Company any IP Rights developed by the Customer with respect to the Subscription Services and all related Software and other technology used to deliver the Subscription Services, and to all IP Rights in and to all such Subscription Services, Software and other technology. Each Party will reasonably collaborate with the other Party to assist the other Party to perfect its ownership and rights to any IP Rights assigned to the other Party under this Agreement.

5. **Confidentiality.**

5.1 Each Party will comply with the confidentiality obligations in Schedule C (Confidentiality).

6. **Warranties and Disclaimers**

6.1 **Warranties.** With respect to each Subscription Service made available by Company to Customer under an Order, Company warrants to Customer that the respective Subscription Service (excluding Third Party Services) will operate substantially in accordance with Company's applicable documentation made available by Company to Customer. The foregoing warranty in this Section 6.1 will remain in effect for the duration of applicable Order.

6.2 Performance. Each Party warrants and represents that it is a corporation or other legal entity duly organized, validly existing and in good standing with the applicable authorities, and that it has all necessary corporate power and authority to execute and deliver this Agreement and each Order executed by it, and perform its obligations under this Agreement and such Order.

6.3 Compliance with Laws. Each Party shall comply, in all material respects, with all laws, rules and regulations applicable to its business and operations in connection with this Agreement. Customer will comply with all applicable laws and regulations while using the Subscription Services in connection with this Agreement, including any employment and privacy laws applicable to the Customer's personnel whose data may be processed through the Subscription Services, and will indemnify and hold Company harmless from any claims brought against Company or its personnel and affiliates as a result of Customer's noncompliance with such laws, rules or regulations.

6.4 Licenses and Permits. The municipality where a Premises is located may require a license, permit or other approval for the use of the Subscription Services. Customer is solely responsible for complying with such obligations and providing Company with any then current license, permit number or approval. Company makes no promise of the installation of any Equipment or commencement of the Subscription Services by any particular date and shall not be liable for any loss, damage or expense resulting from any delay. Title in the Equipment shall remain with the Company at all times. Customer shall, at Company's expense, take all reasonable action required by Company to further evidence and maintain Company's rights in and to the Equipment. Customer warrants to Company that Customer will comply with Schedule B.

6.5 Mutual Disclaimers. EXCEPT AS EXPRESSLY SPECIFIED IN THIS AGREEMENT, NEITHER COMPANY, NOR CUSTOMER PROVIDES ANY OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY, TO EACH OTHER OR TO ANY THIRD PARTY, WITH RESPECT TO ANY PRODUCTS OR SERVICES (INCLUDING ANY IP RIGHTS, SUBSCRIPTION SERVICES, PROFESSIONAL SERVICES SOFTWARE OR CONTENT), AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF TITLE, AVAILABILITY, RELIABILITY, USEFULNESS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR ARISING FROM COURSE OF PERFORMANCE OR USAGE. As Customer's sole and exclusive remedy for any warranty breach under this Section 6, Company will make commercially reasonable efforts to address any material deviations from the applicable Company documentation that may occur in the operation of Subscription Services and to work with Customer in good faith to address such deviations.

6.6 Mutual Limitations. Neither Party will be liable for any costs of procurement of substitute deliverables or other products or services, nor for any loss of business, loss of use or of data, interruption of business, lost profits or goodwill, or other indirect, special, incidental, exemplary or consequential damages of any kind arising in connection with this Agreement, even if it has been advised of the possibility of such loss, and notwithstanding any failure of essential purpose of any limited remedy. This exclusion includes any liability that may arise out of third-party claims. Except for the obligation to pay the fees due for Subscription Services in the normal course of this Agreement under applicable Orders, under no circumstances shall the total and aggregate liability of all kinds arising out of or related to this Agreement and all Orders, regardless of the forum and regardless of whether any action or claim is based on contract, indemnification obligations, tort or otherwise, exceed for either Party at any point in time the total amount paid to Company under this Agreement for the Subscription Services giving rise to such liability over the twelve (12) months prior to that point in time. The foregoing limitation in this Section 6.6 is cumulative, with all payments for claims or damages being aggregated to determine satisfaction of the limit, and the existence of one or more claims will not enlarge that limit. Each Party acknowledges that these limitations will apply notwithstanding any failure of essential purpose of any limited remedy. No claim, suit or action will be brought under this Agreement against either Party more than one year after the related cause of action first occurred.

7. **Term and Termination**

7.1 Term.

(a) This Agreement becomes effective on the Effective Date and will continue in effect until terminated in accordance with this Section 7 ("Term").

(b) Each Order will automatically renew upon expiration of the corresponding Subscription Term by a renewal term equal to the original Subscription Term, unless either Party provides written notice of non-renewal at least sixty (60) days prior to the upcoming renewal date. Company may change the fees for Subscription Services after the first twelve months of each Subscription Term with thirty (30) days prior written notice to Customer.

7.2 Termination.

(a) Termination for Convenience. Either Party may terminate this Agreement or any Order or SOW, in whole or in part, at any time, by giving prior 60-day written notice of termination to the other Party, except that neither Party may terminate for convenience (i) any Order before the end of all Subscription Terms defined in that Order, or (ii) this Agreement until all Subscription Terms included in all Orders have expired.

(b) Termination for Cause. This Agreement may also be terminated immediately, by written notice, (i) by either Party in the event of a material breach of this Agreement by the other Party if the circumstances that led to such breach remain uncured for 30 days from receipt of written notice of default, or (ii) by either Party if the other Party ceases to do business, makes an assignment for the benefit of creditors, or files or has filed against it a petition of bankruptcy or other insolvency proceeding.

7.3 Effect of Termination. The provisions of Sections 1, 3 (to the extent payments remain due after the termination or expiration date), 4, 5, 6.5, 6.6, 7.3 and 8 and Schedules A and D will survive any termination or expiration of this Agreement.

8. **General**

8.1 Insurance. During the term of this Agreement and for at least one year after any termination or expiration of this Agreement, each Party will maintain insurance policies with financially sound and nationally reputable insurers rated A-VII or better by A.M. Best Company as follows: (a) Commercial General Liability Insurance with limits of at least \$1 Million per occurrence and at least \$2 Million in the aggregate; (b) Workers' Compensation and Employers' Liability Insurance, of the type and amount required by laws and regulations applicable to that Party under this Agreement; and (c) coverage for Cyber and Privacy liability arising out of technology services, including invasion of privacy violations and data security breach of networks that are under that Party's control, with a limit of at least \$1 Million per occurrence and at least \$1 Million in the aggregate. Each Party will provide the other Party with certification of such insurance upon request.

8.2 Publicity; Use of Name. Company may publish, advertise or otherwise make known the existence of this Agreement, including, without limitation, Customer's use of the Services. Company shall have the right to state factually on any of its websites and other advertising or promotional materials that Customer is a customer of the Company without seeking prior approval from Customer. Customer agrees that it will provide Company with marketing support. Such support includes, without limitation, (i) allowing Company to use Customer's name and logo in a list of Company's Customers in presentations, on Company's website, and in other public forums, including but not limited to, investor relations calls held by Company, (ii) Company and Customer to run a joint press conference, (iii) Company to issue a press release to include an approved Customer quote, (iv) Appropriate spokesperson from Customer to participate in press interviews, both written and broadcast, (v) serve as a reference account to other Company customers and potential customers, (vi) participate in activities, such as events and case studies, (vii) jointly develop a mutually agreed upon social campaign to boost effectiveness and acceptance of system. Customer shall not use any Company trademark, name, logo, or other related intellectual property in any Customer advertisement without Customer prior written consent.

8.3 Assignment. Neither Party may assign this Agreement or any Order without the express consent of the other Party, except that either Party may assign this Agreement (together with all Orders) without the need to obtain such consent in connection with a corporate reorganization or a sale or transfer of all or substantially all of its stock, assets or business relating to this Agreement, provided that the assignee agrees to assume this Agreement and be bound by its terms.

8.4 Notices. All notices or other communications relating to the performance, enforcement, or other legal aspects of this Agreement will be in writing and will be personally delivered or sent by overnight courier service to each Party, as applicable, at the address set forth in the preamble of this Agreement or in a relevant Order. Any other communications between Customer and Company, including relating to the technical and business collaboration under specific Orders or SOWs, may be conducted over telephone, email, or by other means reasonable under the circumstances and mutually acceptable to Customer and Company.

8.5 Relationship of Parties. The Agreement does not create and will not be construed as creating any relationship of agency, franchise, fiduciary duty, partnership, or employment between the Parties. Accordingly, neither Party will have the authority, either express or implied, to make any contract, commitment or representation, or incur any debt or obligation on behalf of the other Party. This Agreement and relationship are not exclusive for either Party.

8.6 Applicable Law and Venue. This Agreement and all claims relating to the relationship of the parties contemplated herein, whether or not arising directly under this Agreement, will be governed by and construed and interpreted in accordance with the laws of the State of New York, USA, applicable to contracts entered into and to be performed within that state. Customer and Company hereby acknowledge and agree that the United Nations Convention on Contracts for the International Sale

of Goods will not apply to this Agreement. Company and Customer hereby irrevocably consent to the personal jurisdiction and venue of any State or Federal court located in New York, USA.

8.7 Injunctive Relief. Notwithstanding anything to the contrary in this Agreement, in the event of a breach under Schedule C (Confidentiality), each Party, without limiting any of its other respective rights or remedies, will be entitled to specific performance and injunctive and/or equitable relief, in addition to other remedies afforded by law, to protect its interests.

8.8 Force Majeure. Each Party will be excused from performance and will not be liable for any delay in delivery or for non-delivery, in whole or in part, caused by the occurrence of any contingency beyond the reasonable control of that Party, including but not limited to, war (whether an actual declaration thereof is made), sabotage, insurrection, riot or other act of civil disobedience, actual or threatened act of terrorism or of any other public enemy, hacking or other cyber-attacks, failure or delay in transportation, act of any government or any agency or subdivision thereof affecting the terms of this contract or otherwise, judicial action, labor dispute, accident, defaults or suppliers, fires, explosion, flood, storm or other act of God, shortage of labor, fuel, raw material or machinery or technical or yield failures.

8.9 Construction. For purposes of this Agreement, unless otherwise required by the context: the singular number will include the plural, and vice versa; the verb “may” indicates a legal right to perform the respective activity but does not establish a legal obligation to perform that activity; and the words “include,” “including” and “for example,” and variations thereof, will not be deemed to be terms of limitation, but rather will be deemed to be followed by the words “without limitation.” The headings in this Agreement are for convenience of reference only and will not be referred to in connection with the construction or interpretation of this Agreement. English is the official language of this Agreement. This Agreement may be translated and/or executed in languages other than English, but the Parties agree that the English version will control. Each Party waives any rights that it may have under the laws of any country or jurisdiction to have this Agreement written in any local language, or interpreted or superseded by local law in those countries.

8.10 Miscellaneous. No amendment or modification of this Agreement will be valid or binding upon the Parties unless made in writing and executed by authorized representatives of each Party, except as otherwise expressly provided in this Agreement. This Agreement includes all of the attached Schedules, and all such Schedules are expressly incorporated and made a part of this Agreement. This Agreement supersedes all prior agreements and understandings, including oral representations, between the Parties relating to its subject matter. In case of any discrepancy between this Agreement and any SOW, Purchase Order, Quotation or other document, the terms of this Agreement will prevail unless otherwise expressly stated in such SOW, Purchase Order, or document. Waiver of breach of any provision of this Agreement on any occasion will not be deemed a waiver of that provision or of any other provision on any other occasion, nor will such waiver affect the right of either party to terminate this Agreement. If any provision in this Agreement is held to be invalid or unenforceable for any reason, such provision will, to the extent of such invalidity or unenforceability, be severed, but without in any way affecting the remainder of such provision or any other clause in this Agreement, and the provision will be replaced with a provision which, to the extent permitted by applicable law, achieves the purposes intended by the invalid or unenforceable provision. This Agreement may be executed in counterparts.

[Signature Page Follows]

Intending to be legally bound, the Parties have executed this Agreement:

_____ (Customer)

Signature: _____
Name: _____
Title: _____
Date: _____

ZEROEYES, INC.

Signature: _____
Name: _____
Title: _____
Date: _____

Schedule A

Definitions

1. “Alert” means Data (including photographic images) the Company sends to Authorized Users (including Responders) if the Image Screening Service indicates the presence of a weapon at the Premises.
2. “Authorized User” is an individual authorized by Customer to access the Subscription Services on behalf of Customer and for the Customer’s internal business purposes, and otherwise in accordance with this Agreement. Examples of Authorized Users include employees of Customer assigned to administer and manage the Subscription Services on behalf of Customer under this Agreement. For clarification, unless approved by Company in writing (email acceptable), Customer will ensure that each Authorized User is a natural person, and not a legal entity.
3. “Data” means any form of data or information received via the Subscription Services, including any Alerts, Images, other video or audio.
4. “Equipment” means any equipment installed at a Premises to enable Customer to access and use the Services. Equipment may include video cameras, video management system, DVR, NVR and any similar or related systems, software or equipment installed at the Premises or that otherwise function as, or comprises a part of, such system, software or equipment (no matter where located), including any LAN or other network used to transmit or receive Data or Images.
5. “Go Live Date” means the date when the Licensee commences use of the Subscription Services.
6. “Image” means those still photographic images of a person with a weapon that Authorized Users receive and review as part of the Subscription Services.
7. “IP Rights” means any and all intellectual property rights anywhere in the world, including all (a) patents, including utility patents, design patents, utility models, industrial designs, statutory registrations and all other equivalent or similar rights anywhere in the world in inventions and discoveries, together with any applications thereof (“Patents”), (b) copyrights and all other similar rights in Software, documentation, and other works of authorship (“Copyrights”), (c) mask work rights, (d) trade secrets rights and other similar rights in oral and written confidential information, know-how, documentation, technology and Software (“Trade Secrets”), (e) rights in all trade names, logos, common law trademarks and service marks, trademark and service mark registrations, and applications therefore (“Trademark Rights”), (f) rights in mask works, chip topographies, and chip or product layouts and designs; (g) rights in all moral and economic rights of authors and inventors, however denominated; and (h) any other similar, corresponding or equivalent rights to any of the foregoing related to any technology, hardware, software or services.
8. “Monitoring Facility” means the facility at which Operators review Images as part of the Subscription Services.
9. “Operator” means Company’s employees or subcontract personnel at the Monitoring Facility who provide the Image Screening Service.
10. “Premises” means each premises for which Customer purchases any Subscription Services from Company.
11. “Professional Services” means implementation, training or consulting services that Company may perform as described in an Order and/or SOW executed by the Parties.
12. “Responder” means any emergency responder, including any police or other sworn officer, any school resource officer or any medical responder.
13. “Subscription Services” means services made available by Company to Customer under this Agreement on a recurring basis, as specified in an Order. Subscription Services may include SAAS services, API access, and other cloud-based services.
14. “Subscription Term” means, with respect to each item of Subscription Services included in each Order, the term specified in that Order for that item of Subscription Services.
15. “Order” means each order form entered into by the Parties and referencing this Agreement. Orders may be submitted and accepted electronically or in writing.
16. “SAAS” means Software-as-a-Service offerings, as generally known in the industry.
17. “Services” means any Subscription Services and any other services provided by Company to Customer under this Agreement, as particularly specified in an Order or in an SOW.

18. “Software” means (i) computer software and code, in the form made available by Company (whether in source code or object code), including any and all software implementations of algorithms, models and methodologies, assemblers, scripts, macros, applets, compilers; development tools, design tools and user interfaces; (ii) databases and compilations, including any and all data (including technology, image and sound data), whether machine readable or otherwise; (iii) descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing; and (iv) all documentation, including user manuals and training materials, relating to any of the foregoing. Examples of Software include cloud-based Software providing SAAS functionality, mobile apps, client device software, edge computing software modules, and applicable programming interfaces (APIs).

19. “Statement of Work” or “SOW” means each document entered into by the Parties and referencing this Agreement setting forth Professional Services to be performed hereunder. SOWs may be submitted and accepted electronically or in writing.

Schedule B
Customer Responsibilities

20. Customer will comply with the following:

1. Connectivity. Customer will ensure that (a) the Equipment has adequate and continuous power and Internet connection, (b) Customer and its Authorized Users use an Internet browser meeting the requirements specified by Company to access and use the Subscription Services, and (c) the Equipment is able to acquire, process and transmit Images in real time to Company and Operators. Customer understands that if Internet is not reliable or is not available for any reason, the Equipment will not be able to send Images as necessary for the Subscription Services, and the Subscription Services, including weapon detection, would be correspondingly affected or made impossible.
2. Data is Necessary to the Subscription Services. Company is able to provide the Subscription Services only if Operators timely receive Data and Images at the Monitoring Facility. Video received from cameras may be affected by any number of circumstances, including darkness or limited light, sunlight, spotlights, atmospheric conditions, the condition of the camera, including the lens, age and quality, camera location and positioning and system settings as well as issues respecting the Equipment or the transmission of video on the Equipment. Transmission of Data and Images from the Equipment, regardless of the communications equipment or communications Subscription Services used, may be interrupted, circumvented or otherwise compromised for any number of reasons. If the communications equipment or communications service is inoperative or interrupted by any cause, there will be no indication of an interruption unless Customer elects to use and pay for technology that detects and reports such an interruption. Customer may also elect to use redundant or back-up communication equipment or communications service. The accuracy of any location-based functionality may be limited and may not permit others to identify the location of the subject precisely or at all.
3. Certain Customer Responsibilities. Customer is solely responsible for (i) maintaining adequate data privacy and cyber-liability protections for all of Customer's systems, including the Equipment and any local area network or other networks, owned or otherwise used by Customer, including after the time in which Customer may have modified (or caused others to modify) network settings to permit Company to provide the Subscription Services; (ii) each Authorized User's use of and access to the Subscription Services; (iii) ensuring that Company has reasonable access to the Equipment when Company personnel (or subcontractors) are on a Premises to perform any work, including the installation, servicing or removal of the Equipment from the Premises; (iv) the receipt and use of any Alerts, Images, video, audio or other Data from the Subscription Services by an Authorized User or any other person or entity, including any Responder; (v) providing (a) appropriate and adequate electrical power for the Equipment; and (b) a safe, fully-secure and otherwise adequate physical location for the Equipment at the Premises, including a location within the Premises that satisfies the requirements of any manufacturer or seller of the Equipment, including any requirements respecting the environment in which the Equipment is located; (vi) providing adequate (a) security measures to prevent access to the Equipment from persons not authorized for such access and (b) communications equipment and communications Subscription Services with sufficient bandwidth, network stability and access to the Internet for the Equipment and the Subscription Services to permit the Data and Images to be transmitted via a safe, fully-secure and otherwise adequate connection to the Internet to permit the Equipment and Subscription Services to operate as intended; (vii) providing (a) each Authorized User adequate instructions and training regarding the Subscription Services and (b) persons who may be on the Premises from time-to-time adequate instruction, training, practice and drills respecting one or more appropriate course of action or steps to take in the event a person with a weapon approaches or enters a Premises, including shelter in place drills. Customer will take all steps necessary to protect and maintain the Equipment during the Term of this Agreement and will be solely responsible for any damage or destruction of the Equipment while at the Premises; and (viii) Customer should provide all necessary information and assistance related to services provided by Company to include requested camera information, floor plans, necessary networking configuration, and accurate security and Information Technology Points of Contact within ten (10) days of signature. Customer should install and network ZeroEyes appliance within 1 week of receipt and notify Company.

4. The Equipment. Customer alone is responsible for each of the following items, either by performing the requirements of such items or causing another person or entity to do so: (i) the operation of the Equipment in accordance with the requirements of any applicable manufacturer or service provider; (ii) testing the Equipment's transmission of Data to the Monitoring Facility from time-to-time (at least monthly) and each time after the installation, replacement, modification or repair of any communications equipment or communications service; (iii) confirming that the communications equipment or communications Subscription Services are compatible with the Equipment, including after any communications change; (iv) maintaining the Equipment, including any cameras, all peripherals, including cabling or environmental protections in good working order so that the Equipment (including each camera within the Equipment) (a) operates as intended and consistent with the requirements of the Subscription Services and (b) meets Company's then-applicable requirements for cameras and video. Customer is solely responsible for all aspects of the Equipment, including the design, configuration, installation and use of the Equipment.

Schedule C

Confidentiality

1. **Confidential Information**” means any information disclosed by either Party to the other Party in connection with this Agreement (each a “**Discloser**” or “**Recipient**” of Confidential Information, as applicable). Confidential Information includes all information that is communicated orally, or that is in written, electronic, graphic, machine readable or in other tangible form, provided that such information is identified as “Confidential”, “Proprietary” or in some other manner to indicate its confidential nature, or that it should be reasonably known under the circumstances as being confidential. Confidential Information will include all technology, technical and business information, and all other tangible items and electronically stored data, including materials, formulations, compositions, prototypes, structures, designs, software, documentation, systems, files, records, databases, drawings, artwork, designs, displays, audio-visual works, manuals, specifications, flow charts, web pages, customer lists, test cases, customer support information, electronic and other data, tangible embodiments of technical or business data, marketing collateral, market requirement documentation, R&D development specifications, protocol specifications, and any other similar technology, information, data, materials and tangible or intangible items. The Subscription Services and any modifications or extensions made in connection with this Agreement will be the Confidential Information of Company. The Licensee’s technology, and any modifications or extensions made in connection with this Agreement to Licensee’s technology, will be the Confidential Information of the respective Licensee. Notwithstanding the foregoing, Confidential Information will exclude any information that (i) was at the time of disclosure, or later becomes generally known and available in the public domain, through no fault of the Recipient; (ii) was known to the Recipient at the time of disclosure; (iii) is publicly disclosed with the prior written approval of the Recipient; (iv) was, or is later independently developed by the Recipient without any use of the Discloser’s Confidential Information; or (v) becomes known to the Recipient from a source other than the Discloser and not in violation of the Discloser’s rights.

2. **Obligations**. With respect to any Confidential Information disclosed under this Agreement by Discloser, (a) Recipient will treat such Confidential Information as confidential and will handle it using at least the same procedures and degree of care which it uses to prevent the misuse and disclosure of its own confidential information of like importance, but in no event less than reasonable care, (b) Recipient will only use such Confidential Information as expressly permitted under this Agreement and only to the extent necessary, and (c) Recipient will not disclose any such Confidential Information to any of its employees, consultants or other individuals or entities except to the extent necessary for the purposes of this Agreement and subject to confidentiality and nonuse obligations at least as protective of the Discloser as those set forth in this Agreement (in which case Discloser will remain responsible for any noncompliance by such employees, consultants or other individuals or entities). Recipient further agrees to keep confidential the terms of this Agreement. Recipient will not reverse engineer, disassemble or decompile any Subscription Services or other technology made available by the Discloser under this Agreement, except to the extent that this clause is not enforceable under applicable laws.

3. **Consumer Data**. Customer will own all data collected from the Customer’s Premises through Images and processed using the Subscription Services under this Agreement (such data “**Operational Data**”). Customer will comply with all applicable privacy laws in the course of collecting, storing and using the Operational Data. Customer grants to Company a perpetual and irrevocable license, with the right to sublicense to Company’s affiliates, to use the Operational Data in connection with Company’s business, including to assist Customer to configure and use the Subscription Services, and to provide to Customer the analytics, sales reporting and other services available in the Customer’s cloud-based administrative portal. Additionally, Company may use Operational Data in an aggregate and anonymized format (without uniquely identifying individuals or entities) in the course of its business and to improve the Subscription Services, provided that Company makes available to Customer services using such aggregated metrics and data that are similar to those provided to other Company customers. Company will also comply with all privacy laws applicable to Company in connection with the Operational Data to the extent that Company has access to such Operational Data.

4. **Deletion of Data**. Upon any termination or termination of this Agreement or upon request from the Discloser, Recipient will delete all of the Confidential Information received from the Discloser under this Agreement (together with all copies and derivatives of such Confidential Information), except that (a) Recipient may continue to temporarily hold a copy of such information for data retention purposes in accordance with its data retention policy or as required by applicable laws (e.g., as required by PCI DSS data retention requirements), and (b) Recipient may continue to hold and use any Confidential Information received from the Discloser to the extent that such Confidential Information is anonymized and used in accordance with all applicable laws and regulations.