






691 N. Squirrel Road, Suite 220 Auburn Hills, Michigan 48326 USA

ePS Supplier eConnect Subscription Services Agreement GSA Commercial Platforms Program

SUPPLIER INFORMATION:					
Supplier Name :		Email:		Phone:	
Street Address:		City:		State/Prov:	
Postal Code:		Country: USA			
Supplier Technical Contact:		Address (if different from above):			
SUBSCRIPTION TERM: 1 year		Agreement Start Date:		Agreement End Date:	
ACCOUNTING INFORMATION:					
Supplier Purchase Order Number:					
Accounts Payable Contact Name:			Email:		
Phone:		Ext.		Fax:	
Billing Street Address:			City:		State/Prov:
Postal Code:			Country:		
ePS eConnect for GSA Commercial Platforms Program					
<p>The above-named "Supplier" shall be included as a supplier in the GSA Commercial Platforms Program (CPP) supported by e-Procurement Services, LLC ("ePS") through ePS Supplier eConnect Subscription Services Agreement for GSA CPP ("ePS eConnect"). This Agreement solely covers the supply of goods using ePS eConnect for agencies participating in CPP through ePS. Use of ePS eConnect for NDVSB eMarketplace or other uses of ePS eConnect are subject to a separate agreement between Supplier and ePS. As a supplier to government agencies through ePS eConnect and subject to the terms of this Agreement, Supplier shall be provided use and access of the following modules of ePS eConnect in order to sell Supplier's goods to agencies participating in the CPP through ePS.</p>					
	ePS Fulfill™	Electronic receipt and processing tools including managing of Purchase Orders; sending of electronic ship notices and invoices and transaction reporting (Purchase Orders, Ship Notices, Invoices, Returns including payment, tax and line item reports).			
	ePS Catalog™	Catalog Engine and end-user picture capable, electronic catalog utility, including Supplier-populated, fully integrated, catalog management tool, automated catalog content creation and administration capabilities including change management on a linear or aggregate basis by Customer.			
	Additional Services	Implementation and project management services in connection with the Application; hosting services; automated purchase card authorization and funds settlement to Supplier merchant account for invoices processed by ePS for payment and technical support and maintenance services. Any additional services shall be subject to a Statement of Work negotiated separately and made part of this Agreement.			
FEES AND SERVICES: Please reference Schedule B for Scope of Work					
<i>Fees (\$US) – Description</i>	<i>Due Date</i>	<i>Amount Due</i>	<i>Fees - Description</i>	<i>Due Date</i>	<i>Amount Due</i>
One-Time Implementation Fee	Due Upon Invoice	\$250	Subscription Fees (Annual)	Due Upon Invoice	\$750
Monthly Transaction Fees for ePS eConnect	See Terms and Conditions	9%	Additional Services	To be set forth in SOW	TBD / Optional

Supplier's Agreement with ePS consists of this Order Form together with the following:

Schedule A – ePS Supplier eConnect Subscription Services Agreement Terms including Appendix 1 Product Listing and Order Requirements

This Agreement supersedes and replaces any prior Subscription of other Agreements entered into between ePS and Supplier related to ePS eConnect for GSA Commercial Platforms Program.

ACCEPTED AND AGREED TO:

Subscriber Name

Authorized Signer Name

Signature

Title

Date

e-Procurement Services, LLC

David Saroli
Authorized Signer Name

Signature

CEO
Title

Date

SCHEDULE A

ePS Supplier eConnect Subscription Services Agreement Terms

THIS SUBSCRIPTION SERVICES AGREEMENT ("AGREEMENT") IS A LEGAL AND BINDING AGREEMENT BETWEEN e-PROCUREMENT SERVICES, LLC ("ePS") AND SUBSCRIBER, THE SUPPLIER IDENTIFIED ON THE ORDER FORM TO WHICH THIS AGREEMENT IS ATTACHED ("Supplier"), REGARDING THE USE OF ePS' ECONNECT SOFTWARE SERVICE ("ePS eConnect") FOR SALES OF GOODS TO GOVERNMENT AGENCIES PARTICIPATING IN THE GSA COMMERCIAL PLATFORMS PROGRAM ("CPP") THROUGH ePS. SUBMITTING AN ORDER FORM THAT INCORPORATES THIS AGREEMENT BY REFERENCE SIGNIFIES SUBSCRIBER'S ACCEPTANCE TO THESE TERMS.

1. AGREEMENT.

This Agreement governs the terms of Supplier's use and access of ePS eConnect, including the modules specified on the Order Form to which this Agreement is attached (the "**Order Form**"), without regard to any additional or different terms that may be contained in ordering and acceptance documentation of the parties.

2. SUPPLIER PRODUCTS.

- a. ePS eConnect is an internet-based platform and ancillary service provided by ePS to (i) allow individuals from government agencies participating in the CPP who are authorized to make purchases through ePS eConnect to order Supplier's goods and products and products of third parties sold or distributed by Supplier on a wholesale or other basis ("**Supplier Products**") (ii) allow Supplier to track fulfillment, processing and payment; and (iii) allow ePS' credit card processor to process credit card payments for Supplier Products; and (iv) allow ePS to collect monies from the credit card processor for remittance to Supplier. ePS is not involved in the actual transaction between Supplier and purchasers of Supplier Products through ePS eConnect except as specifically provided in this Agreement.
- b. Supplier is responsible for obtaining all rights necessary to list and sell Supplier Products and for complying with all laws, ordinances, rules, regulations, licenses, or other requirements of any governmental authority related to the sale of Supplier Products (including export and import laws) (collectively "**Laws**"). The Product Listing and Orders Requirements (**Appendix 1**) shall apply with respect to all Supplier Products offered for sale through ePS eConnect. Supplier is solely responsible for all fulfillment of Supplier Products, and any returns, warranties, or other claims with respect to the Supplier Products, even if the Services allow for tracking fulfillment activities or facilitating or monitoring returns and warranties.
- c. ePS shall collect proceeds from the sale of Supplier Products and remit collected amounts to Supplier as provided in Appendix 1. If ePS determines that Supplier's actions or performance may result in returns, chargebacks, claims, disputes, violations of CPP terms or policies, violations of law or other risks to ePS or third parties, ePS may in its sole discretion terminate this Agreement and withhold any payments to Supplier for as long as

any related risks to ePS or third parties persist. For any amounts owed to ePS, ePS may (a) offset any amounts that are payable to ePS (in reimbursement or otherwise) against any payments it may make to Supplier or amounts it may owe to Supplier; (b) invoice Supplier for amounts due to ePS, in which case Supplier must pay the invoiced amounts upon receipt; (c) reverse any credits to Supplier; or (d) collect payment or reimbursement by any other lawful means.

- d. Supplier shall be responsible for all sales, goods, excise, import, export, valued added, consumption and other taxes of any kind and nature or charges or duties assessed, incurred or required to be collected or paid to any governmental authority for any reason (collectively "Taxes") in connection with any advertisement, offer or sale of Supplier Products using ePS eConnect.

3. TERM AND TERMINATION.

The term of this Agreement will start on execution and acceptance of the Order Form and shall continue for the entire Subscription Term as provided on the Order Form until terminated as provided below (the "Term"). Upon expiration of the Term, this Agreement shall automatically renew for successive 12 month periods unless terminated by either party at least 60 days prior to the next renewal period. ePS may suspend or terminate this Agreement immediately if it determines that (a) Supplier materially breaches the Agreement and fails to cure within 7 days of a cure notice; (b) Supplier fails to meet the KPIs as provided in Appendix 1, Section 15; (c) Supplier's account has been, or our controls identify that it may be used for deceptive or fraudulent, or illegal activity; (d) Supplier's use of ePS eConnect has harmed, or our controls identify that it might harm, other sellers, customers, or ePS' legitimate interests; (e) if ePS is no longer authorized to participate in CPP or Supplier is disqualified from participating in CPP; (f) if Supplier fails to comply with Section 889 requirements as provided in Appendix 1, Section 14; or (g) if required by applicable Laws. Upon termination or expiration of this Agreement, ePS shall use commercially reasonable efforts to assist Supplier in effecting an orderly transition of return of Supplier's Materials (as defined below) to Supplier and shall promptly return to Supplier, on media mutually agreed to by the Parties, all Supplier Materials, in each case at Supplier's expense. All rights of Supplier to use and access the Services shall terminate upon termination or expiration of this Agreement.

4. ePS eCONNECT LICENSE.

Provided Supplier is not in default of this Agreement, ePS grants to Supplier a non-exclusive, non-sub-licensable, non-transferable license to use and access ePS eConnect solely to supply Supplier Products to purchasers at agencies participating in the CPP through ePS. Supplier may only allow use of and access to ePS eConnect to Supplier's employees, contractors and consultants who are using ePS eConnect for Supplier's internal business purposes (the "**Authorized Users**"). Supplier may not allow third parties other than Authorized Users to use and access ePS eConnect. Supplier shall be responsible for all activities of Authorized Users. Supplier may not modify, copy, create derivatives of, reverse engineer, decompile or translate ePS eConnect or integrate it with other software. Supplier's license only extends to ePS eConnect for GSA Commercial Platforms Program. Use of ePS eConnect for NDVSB

eMarketplace or other uses of ePS eConnect are subject to a separate agreement between Supplier and ePS.

5. SUPPLIER MATERIALS LICENSE.

Supplier is responsible for loading Supplier Product information (pictures, product descriptions and pricing) into ePS eConnect (“**Supplier Materials**”). Supplier Materials will be owned by Supplier and Supplier grants to ePS, a royalty-free, non-exclusive, worldwide right and license during the Term to use any and all Supplier Materials and associated intellectual property and trademarks and tradenames for the purpose of offering Supplier Products through ePS eConnect, provided, that ePS may not alter any Supplier trademarks or tradenames from the form provided by Supplier (except to re-size trademarks to the extent necessary for presentation, so long as the relative proportions of such trademarks remain the same) and will comply with Supplier removal requests as to specific uses of Supplier intellectual property (provided Supplier is unable to do so using standard functionality made available via ePS eConnect).

6. SUPPLIER REPRESENTATIONS.

Supplier represents and warrants that: (a) it is duly organized, validly existing and in good standing under the law of its jurisdiction of incorporation or organization; (b) it has registered and will at all times maintain valid registration in the System for Award Management (SAM) through sam.gov; (c) it has all requisite right, power, and authority to enter into this Agreement, perform its obligations, and grant the rights, licenses, and authorizations in this Agreement; (d) any information provided or made available to ePS or through ePS eConnect, including Supplier Information, is at all times accurate, complete, and not misappropriated, Supplier owns or has all rights necessary to transmit, use and display such information, and the use of such information with ePS eConnect shall not infringe, misappropriate or otherwise violate any third party intellectual property rights; (e) it is not subject to sanctions or otherwise designated on any list of prohibited or restricted parties or owned or controlled by such a party, including but not limited to the lists maintained by the United Nations Security Council, the US Government (e.g., the US Department of Treasury’s Specially Designated Nationals list and Foreign Sanctions Evaders list and the US Department of Commerce’s Entity List), the European Union or its member states, or other applicable government authority and it has all authorizations necessary to participate in the CPP; and (f) it will comply with Appendix 1 all applicable Laws in performance of its obligations and exercise of its rights under this Agreement.

7. EPS Warranties.

ePS warrants that during the Term, (i) ePS eConnect shall perform in accordance with the specifications in documentation furnished by ePS and without material deficiency or defects; (ii) the Services shall comply with all applicable U.S. federal, state and Laws; (iii) that ePS owns or has sufficient rights to provide ePS eConnect to Supplier as contemplated by this Agreement; and (iv) that to the knowledge of ePS, ePS eConnect shall not infringe, misappropriate, or otherwise violate any third party intellectual property rights. In the event of any claim of infringement of third-party rights, ePS may terminate this Agreement and refund to Supplier a pro-rated portion of the Subscription Fees paid by Supplier.

8. INDEMNIFICATION.

a. Supplier Indemnification Obligations. Supplier will defend, indemnify, and hold harmless ePS, and its officers, directors, employees, and agents, against any third-party claim, loss, damage, settlement, cost, expense, or other liability (including, without limitation, attorneys' fees) (each, a "Claim") arising from or related to (a) Supplier non-compliance with applicable Laws; (b) Supplier Products, including the offer, sale, fulfillment, refund, cancellation, return, or adjustments thereof, any actual or alleged infringement of any intellectual property rights by any of the foregoing, and any personal injury, death (to the extent the injury or death is not caused by ePS), or property damage related thereto; (c) Supplier Products are counterfeit, forgeries, or unauthorized copies or duplicates, (d) Supplier Taxes and duties or the collection, payment, or failure to collect or pay Taxes, or the failure to meet tax registration obligations or duties; (e) any actual or alleged infringement by Supplier of the Supplier Products or third party intellectual property rights; or (f) actual or alleged breach of any representations of Supplier under this Agreement including Appendix 1.

b. ePS' Indemnification Obligations. ePS will defend, indemnify, and hold harmless Subscriber and Subscriber officers, directors, employees, and agents against any third-party Claim arising from or related to: (a) ePS' non-compliance with applicable Laws; or (b) allegations that the operation of an ePS Site infringes or misappropriates that third party's intellectual property rights, subject to Section 7.

c. Process. If any indemnified Claim might adversely affect ePS, it may, to the extent permitted by applicable Law, voluntarily intervene in the proceedings at ePS expense. No party may consent to the entry of any judgment or enter into any settlement of an indemnified Claim without the prior written consent of the other party, which may not be unreasonably withheld; except that a party may settle any claim that is exclusively directed at and exclusively affects that party.

9. DISCLAIMER AND GENERAL RELEASE.

a. ePS eCONNECT, INCLUDING ALL CONTENT, SOFTWARE, FUNCTIONS, MATERIALS, AND INFORMATION MADE AVAILABLE ON OR PROVIDED IN CONNECTION WITH ePS eCONNECT AND ALL SERVICES, ARE PROVIDED "AS-IS." EXCEPT AS PROVIDED IN SECTION 7, ePS DISCLAIMS: (i) ANY REPRESENTATIONS OR WARRANTIES REGARDING THIS AGREEMENT, ePS eCONNECT, ePS SERVICES OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT; (ii) IMPLIED WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE; AND (iii) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM, OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM ePS NEGLIGENCE. ePS DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN ePS eCONNECT AND OTHER ePS SERVICES WILL MEET SUPPLIER'S REQUIREMENTS OR BE AVAILABLE, TIMELY, SECURE, UNINTERRUPTED, OR ERROR FREE, AND ePS WILL NOT BE LIABLE FOR ANY SERVICE INTERRUPTIONS, INCLUDING BUT NOT LIMITED TO SYSTEM FAILURES OR OTHER INTERRUPTIONS THAT MAY AFFECT THE RECEIPT, PROCESSING, ACCEPTANCE, COMPLETION, OR SETTLEMENT OF ANY TRANSACTIONS RELATED TO SUPPLIER PRODUCTS.

b. BECAUSE ePS IS PROVIDING A ORDERING, PROCESSING AND PAYMENT SERVICE AND IS NOT RESPONSIBLE FOR SUPPLIER PRODUCTS OR TRANSACTIONS BETWEEN

CUSTOMERS AND SELLERS OF SUPPLIER PRODUCTS, IF A DISPUTE ARISES BETWEEN SUPPLIER AND ONE OR MORE PARTICIPANTS IN A TRANSACTION RELATED TO SUPPLIER PRODUCTS, SUPPLIER AND EACH PARTICIPANT RELEASES ePS (AND ITS AGENTS AND EMPLOYEES) FROM CLAIMS, DEMANDS, AND DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES.

10. LIMITATION OF LIABILITY.

ePS WILL NOT BE LIABLE (WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY, OR OTHER THEORY), OR OTHERWISE) TO SUPPLIER OR ANY OTHER PERSON FOR COST OF COVER, RECOVERY, OR RECOUPMENT OF ANY INVESTMENT MADE IN CONNECTION WITH THIS AGREEMENT, OR FOR ANY LOSS OF PROFIT, REVENUE, BUSINESS, OR DATA OR PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF ePS HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE COSTS OR DAMAGES. FURTHER, ePS' AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED WILL NOT EXCEED AT ANY TIME THE TOTAL AMOUNTS DURING THE PRIOR SIX MONTH PERIOD PAID BY SUPPLIER TO ePS.

11. CONFIDENTIALITY.

- a. During the course of Supplier's use of ePS eConnect, Supplier may receive Confidential Information of or regarding ePS or ePS eConnect. Supplier agrees that for the term of the Agreement and 5 years after termination: (a) all Confidential Information will remain ePS' exclusive property; (b) Supplier will use Confidential Information only as is reasonably necessary for use of ePS eConnect; (c) Supplier will not otherwise disclose Confidential Information to any other party except as required to comply with the Law; (d) Supplier will take all reasonable measures to protect the Confidential Information against any use or disclosure that is not expressly permitted in this Agreement; and (e) Supplier will retain Confidential Information only for so long as its use is necessary for use with ePS eConnect or to fulfill statutory obligations (e.g. tax) and in all cases will delete such information upon termination or as soon as no longer required for the fulfillment of statutory obligations.

- b. "Confidential Information" means information relating to ePS, ePS eConnect or ePS customers that is not known to the general public including, but not limited to, any information identifying or unique to specific customers; reports, insights, and other information about ePS eConnect; data derived from ePS eConnect except for data (other than customer personal data) arising from the sale of Supplier Products comprising of products sold, prices, sales, volumes and time of the transaction; and technical or operational specifications relating to ePS eConnect.

12. SUGGESTIONS OR OTHER INFORMATION.

If Supplier elects to provide or make available suggestions, comments, ideas, improvements, or other feedback or materials to ePS in connection with or related to any ePS products or

services, including ePS eConnect, ePS will be free to use, disclose, reproduce, modify, license, transfer and otherwise distribute, and exploit any of the foregoing information or materials in any manner. In order to cooperate with governmental requests, to protect ePS systems and customers, or to ensure the integrity and operation of ePS business and systems, ePS may access and disclose any information it considers necessary or appropriate, including but not limited to user contact details, IP addresses and traffic information, usage history, and posted content.

13. PASSWORD SECURITY.

Any password or login access ePS may provide to Supplier may be used only during the Term to use and access ePS eConnect (or other tools ePS provides, as applicable), to accept transactions regarding Supplier Products and to review completed transactions. Supplier is solely responsible for maintaining the security of passwords or login access. Supplier may not disclose passwords or login access to any third party (other than third parties authorized by Supplier to access Supplier's account in accordance with this Agreement) and Supplier is solely responsible for any use of, or action taken under Supplier's password or login. If Supplier's password or log in information is compromised, Supplier must immediately change same.

14. MISCELLANEOUS.

- a. Neither party shall be liable for and each party shall be excused from, any failure to deliver or perform or for delay in delivery or performance due to force majeure events or causes beyond its reasonable control, including, but not limited to, governmental actions, fire, work stoppages, epidemic, pandemic, public health emergency, civil disturbances, transportation problems, interruptions of power or communications, failure of Suppliers or subcontractors, natural disasters or other acts of God.
- b. This Agreement shall be binding upon the parties and their respective permitted successors and assigns. Neither party shall assign any of its rights or obligations under this Agreement without the prior written consent of the other party, provided, that a party may assign this Agreement to an affiliate or to a third party in connection with a sale of its relevant business or assets, by operation of law or otherwise, provided that notice is given and the assignee agrees to be bound by this Agreement.
- c. All notices given pursuant to this Agreement shall be in writing and shall be effective when received if hand-delivered, sent by overnight courier service or sent by United States first class or certified mail, to the address recipient set forth on the Order Form (or to such other address as a party provides in writing).
- d. If any provision of this Agreement, or portion thereof, is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of the Agreement shall remain in full force and effect.
- e. The Order Form and any amendments, schedules or exhibits hereto shall be deemed to be incorporated in and made a part of this Agreement.

- f.* This Agreement shall be construed and enforced in accordance with the laws of the State of Michigan. The parties irrevocably consent to jurisdiction and venue in any state or federal court located in or serving Oakland County, Michigan. No action against ePS, regardless of form, arising in connection with this Agreement or the Services may be brought more than one (1) year after the date such cause of action shall have arisen.
- g.* This Agreement, the Order Form and all schedules and exhibits hereto, constitute the entire agreement between ePS and Supplier, and supersedes all proposals, purchase orders, understandings, representations, prior agreements or communications relating to this Agreement.
- h.* Nothing expressed or mentioned in or implied in this Agreement is intended or shall be construed to give any person other than Supplier and ePS any legal or equitable right, remedy, or claim under or in respect of this Agreement.

Appendix 1

Product Listing and Orders Requirements

1) Products and Product Information.

- a) Supplier will provide accurate and complete product information on template provided by ePS for each Supplier Product offered through ePS eConnect may include but not limited to the following: (a) description, including as applicable, location-specific availability and options; (b) SKU and UPC/EAN/JAN numbers, and other identifying information as ePS may reasonably request; (c) information regarding in-stock status and availability, shipping limitations or requirements, and shipment information (in each case, in accordance with any categorizations prescribed by ePS from time to time); (d) categorization within each ePS product category and browse structure as prescribed by ePS from time to time; (e) digitized image that accurately depicts only Supplier's Product and does not include any additional logos, text or other markings; (f) purchase price; (g) any text, disclaimers, warnings, notices, labels, warranties, or other content required by applicable law to be displayed, or that are necessary for the safe use of the Supplier Product, in connection with the offer, merchandising, advertising, or sale of the Supplier; (h) any vendor requirements, restocking fees or other terms and conditions applicable to such product that a customer should be aware of prior to purchasing the product; (i) brand; (j) model; (k) product dimensions; (l) weight; (m) a delimited list of technical specifications; (n) the state or country the Supplier Product originates from; and (o) any other information reasonably requested by ePS.
- b) Supplier will update Supplier Product information and pricing as necessary to ensure it at all times remains accurate and complete. Supplier will ensure that all sales of Supplier Products comply with all applicable Laws (including all minimum age, marking, and labeling requirements) and do not contain any sexually explicit, defamatory, or obscene materials. Suppliers must provide any and all warnings for a product for sale on ePS eConnect that requires a warning under any U.S. or State law.
- c) ePS reserves the right to exclude certain products from product catalogs. These restrictions are not all inclusive, as ePS must comply with any changing federal government restrictions. Examples include: (a) All products offered must adhere to federal regulations as specified in the Federal Acquisition Regulation Part 4 including 4.20 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and 4.21 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (b) The following products are explicitly excluded from sale within the eMarketplace: alcohol, tobacco, firearms, ammunition, cannabis, and cannabis products. (c) Sale of AbilityOne products is prohibited unless proof of authorization to distribute AbilityOne Program products to Federal customers is provided to ePS (d) Other future Federal Acquisition Security Council (FASC)-identified exclusions

2) Product Listing; Merchandising; Order Processing. ePS will enable Supplier to list Supplier Products on ePS eConnect. ePS will provide order and shipping information ("Order Information") to Supplier for each order of Supplier Products through ePS

eConnect. Payments for orders of Supplier Products will be processed through ePS credit card processor. ePS shall collect all proceeds from the Supplier Products sales from the credit card processor and will remit proceeds to Supplier as provided below.

- 3) **Shipping and Handling Charges.** Supplier will determine the shipping method and shipping and handling charges subject to standard functionality of ePS eConnect which charges shall be included in the pricing of the Supplier Products if paid by the customer.
- 4) **Credit Card Fraud.** ePS will bear the risk of (a) credit card fraud (i.e., a fraudulent purchase arising from the theft and unauthorized use of a third party's credit card information) occurring in connection with sales of Supplier Products. Supplier will bear all other risk of fraud or loss.
- 5) **Sale and Fulfillment.** Supplier will: (a) source, offer, sell, and fulfill orders for Supplier Products in accordance with the terms of the applicable Order Information, this Agreement, and all terms provided on ePS eConnect with respect to the Order and Supplier shall be solely responsible for and bear all risk for those activities; (b) Supplier shall package all Supplier Products in a commercially reasonable manner complying with all applicable packaging and labeling requirements, including any warnings or instructions necessary to safely use the Supplier Products and shall ship such Supplier Products on or before the expected ship date; (c) retrieve Order Information at least once each business day; (d) only cancel an order transaction as permitted pursuant to Supplier's terms and conditions appearing on ePS eConnect at the time of the applicable order or as may be required under this Agreement; (e) provide to ePS information regarding fulfillment and order status and tracking (to the extent available), in each case as requested by ePS using the processes designated by ePS; (f) include an order-specific packing slip, and, if applicable, any tax invoices, within each shipment of Supplier Products; (g) identify Supplier as the seller of each of Supplier Product on all packing slips or other information included or provided in connection with Supplier Products and as the party to which a customer may return the applicable product; and (h) not send customers emails confirming orders or fulfillment of Supplier Products.
- 6) **Cancellations, Returns, and Refunds.** Supplier will promptly accept, calculate, and process cancellations, returns, refunds, and adjustments in accordance with this Agreement using functionality within ePS eConnect. Without limiting Supplier obligations, ePS may in its sole discretion accept, calculate, and process cancellations, returns, refunds, and adjustments for the benefit of customers. Supplier will route any payments to customers in connection with sales of Supplier Products through ePS. ePS will make any payments to customers in the manner it determines, and Supplier will reimburse ePS for all amounts it pays, or such amounts shall be offset against amounts owed to ePS by Supplier.
- 7) **Delivery Errors and Nonconformities; Recalls.** Supplier is responsible for any non-performance, non-delivery, mis delivery, theft, or other mistake or act in connection with the fulfillment of Supplier Products. Supplier shall not sell products which are counterfeit, forgeries, or unauthorized copies or which otherwise violate the rights of any third party or Laws. Supplier is responsible for any non-conformity or defect in, any

public or private recall of, or safety alert of any of Supplier Products. Supplier will notify ePS promptly as soon as it has knowledge of any public or private recalls, or safety alerts.

- 8) **Compensation.** Supplier will pay to ePS all Subscription Fees and Implementation Fees at agreement signing. Subscription Fees shall be invoiced and billed annually according to the agreement's start date. Subscription Fees and Implementation Fees are non-refundable. ePS will collect proceeds from the credit card processor for the sale of Supplier Products ("**Sales Proceeds**"), shall retain ePS Transaction Fees from such collections, and shall remit to Supplier the balance collected on a bi-monthly basis (or at ePS option, on a more frequent) basis, less any Taxes that ePS automatically calculates, collects and remits to a tax authority according to applicable Law.

ePS may establish a reserve on Supplier's account based on assessment of risks to ePS or third parties posed by Supplier's actions or performance, and ePS may modify the amount of the reserve from time to time at its sole discretion.

Supplier shall provide all bank account information for remittance and keep such information current.

- 9) **ePS' Websites and ePS eConnect.**

ePS has the right to determine the design, content, functionality, availability and appropriateness of its ePS eConnect, its websites, selection, and any product or listing in ePS eConnect. ePS may assign any of these rights or delegate any of its responsibilities.

- 10) **Continuing Guarantees.**

a. **Pesticides.** If any of Supplier Products is a "pesticide" being offered or sold in the United States or other product regulated under the US Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA") or its implementing regulations, Supplier provides to ePS the following continuing guaranty that: (a) Supplier is a resident of the United States; and (b) with respect to each such product, the pesticides and other FIFRA regulated products comprising each sale, shipment, or other delivery made previously or hereafter are: (i) lawfully registered with the US Environmental Protection Agency at the time of sale, shipment, or delivery, or fully qualified for a specific exemption from the FIFRA registration requirements at the time of sale, shipment, or delivery, (ii) compliant with all requirements of FIFRA and its implementing regulations at the time of sale, shipment, or delivery, and (iii) provided by Supplier in the original, unbroken packaging.

b. **Foods, Drugs, Medical Devices, and Cosmetics.** If any of Supplier Product is a "food", "drug", "medical device", or "cosmetic" being offered or sold in the United States or other product regulated under the U.S. Federal Food, Drug, and Cosmetic Act ("FFDCA") or its implementing regulations, Supplier provides the following continuing guaranty that with respect to all such products comprising each sale, shipment, or other delivery made previously or hereafter are: (i) not adulterated or misbranded within the meaning of the FFDCA, (ii) compliant with all requirements of FFDCA and its implementing regulations at the time of sale, shipment, or delivery, and (iii) provided by supplier in the original, unbroken packaging.

- 11) **Payments Processing Agency Appointment.**

Supplier authorizes ePS and its designated credit card processor to act as Supplier's agent for purposes of processing payments, refunds, and adjustments for ePS eConnect transactions, receiving and holding Sales Proceeds on Supplier's behalf, remitting Sales Proceeds to Supplier's bank account, and paying ePS amounts owed in accordance with this Agreement.

When a buyer instructs ePS to pay Supplier, Supplier agrees that the buyer authorizes and orders ePS to commit the buyer's payment (less any applicable fees or other amounts ePS may collect under this Agreement) to Supplier. Supplier agrees that buyers satisfy their obligations to Supplier for sales transactions when ePS receives the Sales Proceeds. ePS will remit funds to Supplier in accordance with this Agreement.

12) Holding of Funds.

Supplier Sales Proceeds will be held in an account with the applicable credit card processor (a "**Seller Account**"). Sales Proceeds are not insured by the Federal Deposit Insurance Corporation, nor does Supplier have any right or entitlement to collect Sales Proceeds directly from any customer. Prior to disbursing funds to Supplier, ePS may combine Sales Proceeds held with the funds of other users of ePS eConnect, invest them, or use them for other purposes permitted by applicable Laws. Supplier will not receive interest or any other earnings on any Sale Proceeds. ePS will not use any funds held on supplier's behalf for its corporate purposes, will not voluntarily make such funds available to its creditors in the event of bankruptcy or for any other purpose, and will not knowingly permit its creditors to attach such funds.

13) Verification.

ePS may at any time require Supplier to provide any financial, business or personal information ePS requests to verify its identity. Providing accurate identity verification, upon request, is a condition precedent to further disbursements following account suspension or termination.

14) 889 Attestation.

Supplier shall at all times be registered with SAM.gov and shall comply with Section 889, the Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment, of the 2019 National Defense Authorization Act and all rules and regulations promulgated thereunder ("Section 89"). Supplier shall complete and provide all required Section 889 attestations with respect to Supplier Products.

15) Key Performance Indicators. ePS and/or CPP and supporting government agencies will be permitted to track or have access to Supplier performance, Supplier Product and other information related to Supplier's participation in CPP in order to determine Supplier performance with benchmarks, key performance indicators or other metrics established by ePS and/or CPP ("KPI's"). KPI's will be published or be otherwise made available to Supplier from time to time and Supplier shall be responsible for meeting KPI metrics. In the event that Supplier fails to meet applicable KPI's, ePS may require corrective action, which may include suspension of Supplier catalog. Failure to complete required corrective action may result in termination of the Agreement.