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|  | **GOODS AND SERVICES CONTRACT** |

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| **TITLE:** Everywhere Hub, Mobile Application and Garmin GPS Equipment/Support | **WDFW NUMBER:** 24-24892 |
| **CONTRACTOR:** EVERYWHERE Communications, Inc. | **CONTRACT PERIOD:** 06/03/2024 to 06/30/2026 |
| **TYPE:** Payable / Goods and Services / Information Technology Goods and Services | **CONTRACT VALUE:** $700,000 |

1. ***PARTIES TO THIS CONTRACT***

This contract is entered into between the Washington State Department of Fish and Wildlife (WDFW), PO Box 43135, Olympia, WA 98504-3135; and EVERYWHERE Communications, Inc. (Contractor), 30 West Street, Annapolis, Maryland 21401; and shall be binding upon the agents and all persons acting by or through the parties.

1. ***PURPOSE OF CONTRACT***

This contract sets out the terms and conditions by which the Contractor shall provide goods and/or services to WDFW.

1. ***DESCRIPTION OF PROJECT***

The Contractor shall perform the project as described in Attachments, which are incorporated herein by this reference: Attachment “A” General Terms and ConditionsAttachment “B” Contract/Project Summary

Attachment “C” Statement of Work

Attachment “D” Contractor’s Government Terms and Conditions

1. ***PERIOD OF PERFORMANCE***

The performance period under this Contract shall commence on 06/03/2024 and terminate on 06/30/2026. No expenditures made before or after this period are eligible for reimbursement unless incorporated by written amendment into this Contract. The Contract may be terminated or the performance period extended pursuant to terms set forth in Attachment "A." This Contract may be extended for up to two additional one-year periods subject to mutual agreement. The maximum period of performance for this Contract may not exceed forty-nine months.

1. ***COMPENSATION / PAYMENT***

The total dollars provided by WDFW for this project shall not exceed $700,000.00without an amendment to increase this amount. The Contractor shall be responsible for all project costs exceeding this amount. Only eligible reimbursement activities that are in direct support of the project deliverables identified in this Contract will be reimbursed. Any additional services provided by the Contractor must have prior written approval of WDFW.Compensation for services rendered shall be payable upon receipt of properly completed invoices, which shall be submitted to the Project Manager by the Contractor not more often than monthly. The invoices shall describe and document to WDFW's satisfaction a description of work performed, activities accomplished, or the progress of the project. The rates shall be in accordance with those herein agreed to.

Payment shall be considered timely if made by WDFW within 30 days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor. WDFW may, in its sole discretion, terminate the contract or withhold payments claimed by the Contractor for the services rendered if the Contractor fails to satisfactorily comply with any term or conditions of this contract.

1. ***RIGHTS AND OBLIGATIONS***All rights and obligations of the parties of this contract are subject to this contract, including the Attachments, which are incorporated herein by this reference. By signing this contract the Contractor acknowledges that they have read, fully understand, and agree to be bound by all terms and conditions set forth in this contract.
2. ***COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND WDFW POLICIES***The Contractor shall comply with, all applicable state, federal, and local laws and regulations, including published WDFW policies, while performing under this contract
3. ***Order of Precedence***In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

Applicable Federal and State of Washington statutes and regulations.Special Terms and Conditions as contained in this Contract.

Attachment “D” – Contractor’s Government Terms and Conditions

Attachment “A” - General Terms and Conditions.Any other provision, term or material incorporated herein by reference or otherwise incorporated.

1. ***PROJECT MANAGERS***

The below named individuals for each of the parties shall be the contact people for all communications and billings regarding the performance of this contract. All written communications regarding this contract shall be sent to these individuals at the addresses below unless notified in writing of any change.

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| **Contractor's Project Manager** Tim Fallon 30 West StreetAnnapolis Maryland 21401 (410) 716 1513 Tim.fallon@everywherecomms.com |  | **WDFW's Project Manager**Jeffrey HugdahlPO Box 43135Olympia Washington 98504-3135(360) 902-2230Jeffrey.Hugdahl@dfw.wa.gov |

1. ***ENTIRE CONTRACT***

This Contract, along with all attachments and exhibits, constitutes the entire agreement of the parties. No other understandings, verbal or otherwise, regarding this contract shall exist or bind any of the parties.

1. ***APPROVAL***

This contract shall be subject to the written approval of WDFW'S authorized representative and shall not be binding until so approved. This contract may be altered, amended, or waived only by a written amendment executed by both parties per Attachment “A”.

IN WITNESS WHERE, WDFW and the Contractor have signed this contract.

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| **EVERYWHERE COMMUNICATIONS, INC.** | **WASHINGTON DEPARTMENT OF FISH AND WILDLIFE** |
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| Signature and Date | Signature and Date |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Printed Name and Title | Printed Name and Title |

Attachment A -

**GENERAL TERMS AND CONDITIONS**

**Services Contract**

**DEFINITIONS**As used throughout this contract, the following terms shall have the meaning set forth below:

1. "AGENCY" or “WDFW” shall mean the **Department of Fish and Wildlife** of the State of Washington, any division, section, office, unit or other entity of the AGENCY, or any of the officers or other officials lawfully representing that AGENCY.
2. "AGENT" shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.
3. “CFR” shall mean the Code of Federal Regulations of the United States. All references in the contract to CFR titles or sections shall include any successor, amended or replacement regulation.
4. "CONTRACTOR" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.
5. “RCW” shall mean the Revised Code of Washington. All references in the contract to RCW chapters or sections shall include any successor, amended or replacement statutes.
6. "SUBCONTRACTOR" shall mean one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.

**ACCESS TO DATA**In compliance with RCW 39.26.180, the CONTRACTOR shall provide access to data generated under this contract to AGENCY, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the CONTRACTOR’S reports, including computer models and methodology for those models.

**ADVANCE PAYMENTS PROHIBITED**No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the AGENCY. This does not preclude the AGENCY for paying for maintenance services up to one year in advance as identified in this contract.

**AMENDMENTS**This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

**AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35**The CONTRACTOR must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

**ASSIGNMENT**Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of the AGENCY.

**ATTORNEYS’ FEES**In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

**CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**The CONTRACTOR shall not use or disclose any information concerning the AGENCY, or information that may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the AGENCY, or as may be required by law.

**CONFLICT OF INTEREST**Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by the AGENT that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract. In the event this contract is terminated as provided above, the AGENCY shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the contract by the CONTRACTOR. The rights and remedies of the AGENCY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the AGENT makes any determination under this clause shall be an issue and may be reviewed as provided in the “Disputes” clause of this contract.

* **COPYRIGHT PROVISIONS**Unless otherwise provided, all materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the AGENCY. The AGENCY shall be considered the author of such materials. In the event the materials are not considered “works for hire” under the U.S. Copyright laws, CONTRACTOR hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the AGENCY effective from the moment of creation of such materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, CONTRACTOR hereby grants to the AGENCY a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The CONTRACTOR warrants and represents that CONTRACTOR has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the AGENCY.

The CONTRACTOR shall exert all reasonable effort to advise the AGENCY, at the time of delivery of materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this contract.

The AGENCY shall receive prompt written notice of each notice or claim of infringement received by the CONTRACTOR with respect to any data delivered under this contract. The AGENCY shall have the right to modify or remove any restrictive markings placed upon the data by the CONTRACTOR.

**COVENANT AGAINST CONTINGENT FEES**The CONTRACTOR warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the CONTRACTOR for securing business. The AGENCY shall have the right, in the event of breach of this clause by the CONTRACTOR, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

**DISALLOWED COSTS**The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

**DISPUTES**Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with AGENT.

1. The request for a dispute hearing must:
* Be in writing;
* State the disputed issue(s);
* State the relative positions of the parties;
* State the CONTRACTOR’S name, address, and contract number; and
* Be mailed to the AGENT and the other party’s (respondent’s) contract manager within 3 working calendar days after the parties agree that they cannot resolve the dispute.
1. The respondent shall send a written answer to the requester’s statement to both the agent and the requester within 5 working calendar days.
2. The AGENT shall review the written statements and reply in writing to both parties within 10 working days. The AGENT may extend this period if necessary by notifying the parties.
3. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this contract shall be construed to limit the parties’ choice of a mutually acceptable alternate dispute resolution method in addition to the dispute resolution procedure outlined above.

**DUPLICATE PAYMENT**The AGENCY shall not pay the CONTRACTOR, if the CONTRACTOR has charged or will charge the State of Washington or any other party under any other contract or agreement, for the same services or expenses.

**Filing Requirement**The provisions of Chapter 39.26 RCW may require the agency to file this contract as a sole source contract with the Department of Enterprise Services (DES) for approval. If so filed the effective date of this contract is upon DES approval of the contract, the tenth (10th) working day after it is filed with DES, or as agreed between the parties, whichever is later.

* **Final Invoice**
The Contractor shall submit the final invoice not later than 60 calendar days from the end of the contract period.

**GOVERNING LAW**This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**INDEMNIFICATION**To the fullest extent permitted by law, the CONTRACTOR shall indemnify, defend, and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. “Claim,” as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney’s fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom. The CONTRACTOR’S obligations to indemnify, defend, and hold harmless includes any claim by the CONTRACTORS’ agents, employees, representatives, or any subcontractor or its employees. The CONTRACTOR expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to the CONTRACTOR’S or any subcontractor’s performance or failure to perform the contract. The CONTRACTOR’S obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials. The CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

**INDEPENDENT CAPACITY OF THE CONTRACTOR**The parties intend that an independent contractor relationship will be created by this contract. The CONTRACTOR and his or her employees or agents performing under this contract are not employees or agents of the AGENCY. The CONTRACTOR will not hold himself/herself out as or claim to be an officer or employee of the AGENCY or of the State of Washington by reason hereof, nor will the CONTRACTOR make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

**INSURANCE**The CONTRACTOR shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontractor, or agents of either, while performing under the terms of this contract.

The CONTRACTOR shall provide insurance coverage, which shall be maintained in full force and effect during the term of this contract, as follows:

1. Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than $1,000,000 per occurrence. Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
2. Automobile Liability. In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is $1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.
3. Marine Insurance. If the CONTRACTOR will be using a vessel or boat in the performance of this contract, the CONTRACTOR shall maintain a Commercial Marine Protection and Indemnity (P&I) Policy with P&I limit of not less than $1,000,000 per occurrence and with a deductible not to exceed $25,000 (to include diving operations if diving is a part of the contracted service for any liability which includes coverage for injury to the crew and passengers).
4. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give AGENCY thirty (30) calendar days advance notice of any insurance cancellation.

The CONTRACTOR shall submit to AGENCY within fifteen (15) calendar days of the contract effective date, a certificate of insurance that outlines the coverage and limits defined in this section. The CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract; the failure of the AGENCY to enforce this term in no way reduces the CONTRACTOR’s responsibilities under this section.

**LICENSING, ACCREDITATION AND REGISTRATION**The CONTRACTOR shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

**LIMITATION OF AUTHORITY**Only the AGENT or AGENT’S delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the AGENT.

**Minority, Women and Veteran-Owned Businesses**
The AGENCY encourages participation by minority and women-owned business enterprises certified by the Office of Minority and Women’s Business Enterprises (OMWBE); and veteran-owned businesses certified by the Department of Veteran’s Affairs (DVA). If any part of this contract is subcontracted to an OMWBE or DVA-certified firm the Contractor shall submit a statement of participation indicating what OMWBE or DVA certified firm was used and the dollar amount of their subcontracts.

**NONDISCRIMINATION**

1. Default. Notwithstanding any provision to the contrary, AGENCY may suspend CONTRACTOR, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until AGENCY receives notification that CONTRACTOR, including any subcontractor, is cooperating with the investigating state agency. In the event CONTRACTOR, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), AGENCY may terminate this contract in whole or in part, and CONTRACTOR, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. CONTRACTOR or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
2. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of contract termination or suspension for engaging in discrimination, CONTRACTOR, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. AGENCY shall have the right to deduct from any monies due to CONTRACTOR or subcontractor, or that thereafter become due, an amount for damages CONTRACTOR or subcontractor will owe AGENCY for default under this provision.

**PRIVACY**Personal information including, but not limited to, “Protected Health Information,” collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as otherwise required by law.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless the AGENCY for any damages related to the CONTRACTOR’S unauthorized use of personal information.

**PUBLICITY**The CONTRACTOR agrees to submit to the AGENCY all advertising and publicity matters relating to this contract wherein the AGENCY’S name is mentioned or language used from which the connection of the AGENCY’S name may, in the AGENCY’S judgment, be inferred or implied. The CONTRACTOR agrees not to publish or use such advertising and publicity matters without the prior written consent of the AGENCY.

**RECORDS MAINTENANCE**The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract. The CONTRACTOR shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

**REGISTRATION WITH DEPARTMENT OF REVENUE**The CONTRACTOR shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

* **RIGHT OF INSPECTION**The CONTRACTOR shall provide right of access to its facilities to the AGENCY, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.
* **Rights to Inventions**
* If this contract meets the definition of “funding agreement” under 37 CFR § 401.2 (a) regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under this contract, the CONTRACTOR 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 related implementing regulations issued by the Federal funding agency and WDFW.

**SAVINGS**In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the AGENCY’S discretion under those new funding limitations and conditions.

**SEVERABILITY**The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

**SITE SECURITY**While on AGENCY premises, CONTRACTOR, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

**Statewide Vendor Payment Registration**The Contractor is required to be registered in the Statewide Vendor Payment System prior to submitting a request for payment under this contract. The Washington State Office of Financial Management (OFM) maintains the Statewide Vendor Payment System; to obtain registration materials contact the Statewide Payee Desk at (360) 407-8180; or go to: https://ofm.wa.gov/it-systems/statewide-vendorpayee-services.

**SUBCONTRACTING**Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the AGENCY. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Department for any breach in the performance of the contractor’s duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract. Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as provided by law.

**TAXES**All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

**TERMINATION FOR CAUSE**In the event the AGENCY determines the CONTRACTOR has failed to comply with the conditions of this contract in a timely manner, the AGENCY has the right to suspend or terminate this contract. Before suspending or terminating the contract, the AGENCY shall notify the CONTRACTOR in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the CONTRACTOR shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

The AGENCY reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the CONTRACTOR from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the CONTRACTOR or a decision by the AGENCY to terminate the contract. A termination shall be deemed a “Termination for Convenience” if it is determined that the CONTRACTOR: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of the AGENCY provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

**TERMINATION FOR CONVENIENCE**Except as otherwise provided in this contract, the AGENCY may, by 10 calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the AGENCY shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

**TERMINATION PROCEDURES**Upon termination of this contract, the AGENCY, in addition to any other rights provided in this contract, may require the CONTRACTOR to deliver to the AGENCY any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The AGENCY shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by the AGENCY, and the amount agreed upon by the CONTRACTOR and the AGENCY for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by the AGENCY, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AGENT shall determine the extent of the liability of the AGENCY. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The AGENCY may withhold from any amounts due the CONTRACTOR such sum as the AGENT determines to be necessary to protect the AGENCY against potential loss or liability.

The rights and remedies of the AGENCY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the AGENT, the CONTRACTOR shall:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
3. Assign to the AGENCY, in the manner, at the times, and to the extent directed by the AGENT, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case the AGENCY has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Transfer title to the AGENCY and deliver in the manner, at the times, and to the extent directed by the AGENT any property which, if the contract had been completed, would have been required to be furnished to the AGENCY;
5. Complete performance of such part of the work as shall not have been terminated by the AGENT; and
6. Take such action as may be necessary, or as the AGENT may direct, for the protection and preservation of the property related to this contract, which is in the possession of the CONTRACTOR and in which the AGENCY has or may acquire an interest.
* **TREATMENT OF ASSETS**
1. Title to all property furnished by the AGENCY shall remain in the AGENCY. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the AGENCY upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the AGENCY upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the AGENCY in whole or in part, whichever first occurs.
2. Any property of the AGENCY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the AGENCY, be used only for the performance of this contract.
3. If any AGENCY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the AGENCY and shall take all reasonable steps to protect the property from further damage.
4. The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract
5. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR'S employees, agents or SUBCONTRACTORS.

**WAGE LAWS COMPLIANCE**

By signing this contract the CONTRACTOR warrants that the CONTRACTOR has NOT been determined by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of RCW chapters 49.46, 49.48, or 49.52 within three (3) years prior to the start date of this contract. The CONTRACTOR further warrants that it will remain in compliance with these requirements during the performance period of this contract. The Contractor will immediately notify the Agency of any finding of a willful violation entered by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction entered during the performance period of this contract.

**WAIVER**Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by authorized representative of the AGENCY.

* **Approved as to Form by the Office of the Attorney General 2/12/2024**

**Attachment B -**

**CONTRACT/PROJECT SUMMARY**

|  |  |
| --- | --- |
| **TITLE:** Everywhere Hub, Mobile Application and Garmin GPS Equipment/Support | **WDFW CONTRACT NUMBER:**  24-24892 |
| **PERIOD:** 06/03/2024 to 06/30/2026**CONTRACTOR:** EVERYWHERE Communications, Inc.**CONTRACTOR CONTACT:** Tim Fallon(410) 716 1513 **CONTRACT TYPE:** Payable / Goods and Services / Information Technology Goods and Services | **WDFW MANAGER:** Jeffrey Hugdahl(360) 902-2230 |
| **SUMMARY CONTRACT DESCRIPTION:** Garmin GPS devices/associated equipment and GPS device management software services for WDFW staff remote work communications. Pay as coded on payment documents; do not encumber. |
| **Master Index Number(s):** As coded on payment documents. |
| **CFDA Number** | **Award Year** | **Award Number** | **Research & Development?** |
| N/A |  |  |  |

**Attachment C -**

**STATEMENT OF WORK**

1. **Description of all Project Requirements**

The purpose of this contract is to provide WDFW with equipment and services to enable the functionality of an inventory of Garmin global positioning system (GPS) handheld communication devices; establish connectivity from Garmin devices to a network of satellites which facilitates for communications from field units/personnel in remote locations where landline telephones, cellular telephones, and radio coverage is limited or nonexistent; and provide a computer platform/hub which allows for the monitoring and messaging to and from Garmin GPS devices.

1. **Project Schedule/Deliverables for Conduct of Work**

a. The Contractor will provide to WDFW its Basic satellite service plan with dedicated short message service (SMS) for enterprise-wide management and communciations through WDFW's Garmin GPS devices. Basic satellite service includes:

* Up to 50 monthly messages
* A 30 minute message/track delivery rate
* 24/7 global SOS monitoring
* Custom message retention
* Geofences
* Scheduled location monitoring
* A dedicated telephone number for each enrolled GPS device for SMS.

b. The Contractor will act as a third-party reseller of Garmin GPS devices and associated equipment. The Contractor will configure and enroll Garmin GPS devices as stated on ordering documents prior to shipment in order to allow WDFW to immediately assign each specific device to a WDFW employee on receipt.

c. The Contractor will provide the following professional maintenance and training services associated with Garmin GPS device management:

* EVERYWHERE academy training services
* Network status dashboard
* Technical support during Contractor business hours

d. The provision of services and equipment provided by the Contractor to WDFW through this contract are governed by Attachment D, Government Terms and Conditions.

1. **Budget**

a. For Garmin GPS Basic satellite service plan with dedicated SMS, WDFW will reimburse the Contractor at a rate of $383.40 per year/$31.95 per month for each Garmin device enrolled. WDFW may select a higher level of service for specific Garmin GPS devices as identified in order documents.

b. For Garmin GPS devices and associated equipment WDFW will reimburse the Contractor at the manufacturer’s suggested retail price.

c. For additional professional maintenance and training services WDFW will pay the Contractor $46,406 per year. This cost is payable in advance and is based on 650 Garmin devices enrolled; this cost may be renegotiated if the number of Garmin devices enrolled exceeds this amount. For the month of June 2024 WDFW will pay the Contractor a pro-rated share of these costs ($3,867); the Contractor will invoice WDFW for these costs for a twelve month period (July through June) thereafter.

d. WDFW will reimburse the Contractor a one-time activiation fee of $30 per GPS device enrolled.

**Attachment D -**

**CONTRACTOR’S GOVERNMENT TERMS AND CONDITIONS**

These Government Terms and Conditions (“**Government Terms**”), in connection with the Ordering Document that references these Government Terms (collectively, the “Agreement”), is a legally binding contract between EVERYWHERE Communications, Inc., a Delaware corporation (“**EVERYWHERE**”) with offices located at 30 West Street, Annapolis, Maryland 21401 USA and the government agency or department named on the Ordering Document that references this Agreement (“**Customer**”).

EVERYWHERE PROVIDES THE PRODUCTS, SERVICES, AND EVERYWHERE SATELLITE SERVICES SOLELY ON THE GOVERNMENT TERMS SET FORTH IN THIS AGREEMENT AND ON THE CONDITION THAT CUSTOMER ACCEPTS AND COMPLIES WITH THEM. IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, EVERYWHERE WILL NOT AND DOES NOT LICENSE THE PRODUCTS, SERVICES, AND EVERYWHERE SATELLITE SERVICES TO CUSTOMER AND CUSTOMER MUST NOT DOWNLOAD OR INSTALL THE PRODUCTS, SERVICES, AND EVERYWHERE SATELLITE SERVICES.

**WHEREAS** EVERYWHERE offers a satellite hotspot Service enabling smartphone data applications to connect people and Internet of Things (IoT) operating everywhere;

**WHEREAS** Customer desires to utilize certain aspects of the Products, Services, and EVERYWHERE Satellite Services offered by EVERYWHERE; and

**WHEREAS** Customer desires to utilize certain Training Services provided by EVERYWHERE if detailed in Ordering Documents.

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree as follows:

**1.     Definitions**.  EVERYWHERE and Customer collectively shall be referred to herein as the “**Parties**” and each individually as a “**Party**."  The following terms used in this Agreement shall have the meanings set forth in this Section 1.  Unless specifically stated otherwise, capitalized terms used in Exhibits and Ordering Documents shall have the meaning set forth in this Agreement.

“**Affiliate**” means any corporation or other entity that controls, is controlled by, or is under common control with a Party.  A corporation or other entity shall be deemed to control another if it owns or controls directly or indirectly more than fifty percent (50%) of the voting stock or other ownership interest of the corporation or entity or has the right to direct the management of such entity.

“**Agreement**” means these Government Terms, the attached Exhibits, and Ordering Documents.

“**Airtime**” means the satellite service which is powered by the Iridium constellation of low-earth orbiting (LEO) satellites, the ground network and Iridium communication equipment.

“**Authorized Government Customer**” means a U.S. government department, agency or other US Government-sponsored entity who is eligible to receive Airtime via the EMSS Iridium Government Gateway.

"**Cellular Network**” means, for purposes of this Agreement, a network of wireless carriers that enable the transmission of data including, but not limited to Messages, to and from mobile devices such as Smartphones.

“**Commercial Device**” means a Device that is capable of operating in connection with the EVERYWHERE Satellite Services.  A Commercial Device may not be used in connection with the EMSS Iridium Government Gateway.

“**Device**” means a mobile device capable of receiving and transmitting satellite signals using Airtime.

“**Documentation**” means all End User documentation made available by EVERYWHERE to Customer and any succeeding changes thereto.  The Documentation shall be considered a component of the Products, Services or EVERYWHERE Satellite Services.  The Documentation, including all materials provided or made available online by EVERYWHERE and its Licensors is provided “AS IS” and “AS AVAILABLE” and without condition, endorsement, representation, or warranty of any kind by EVERYWHERE and its Licensors. EVERYWHERE and its Licensors assume no responsibility for any typographical, technical, or other inaccuracies, errors, or omissions in the Documentation.

“**EMSS Device**” means certain Government Devices which may be sold by EVERYWHERE or provided by an Authorized Government Customer and used only by Authorized Government Customers using Airtime provided via the EMSS Iridium Government Gateway.

“**End User**” means an authorized employee or other individual person who is designated by Customer as being licensed to use the Products, Services, and EVERYWHERE Satellite Services.

“**EVERYWHERE Apps**” mean the secure and encrypted mobile applications developed and/or licensed by EVERYWHERE that operate on Smartphones and are used in connection with the EVERYWHERE Hub.  The EVERYWHERE App uses EVERYWHERE Intelligent Routing™ to seamlessly and automatically switch between Cellular Networks, Wi-Fi, and Airtime (when paired with a compatible Device) to utilize features such as Messaging, alert notifications, global SOS, advanced mapping with live location information, and other features as more fully described in Ordering Documents.

“**EVERYWHERE Device**” means a Device manufactured or resold by EVERYWHERE and used solely in connection with the EVERYWHERE Hub as described in Ordering Documents.  An EVERYWHERE Device may NOT be used in connection with the EMSS Iridium Government Gateway.

“**EVERYWHERE Hub**” means the online hosting services, owned, operated or controlled by EVERYWHERE consisting of various infrastructure components, including but not limited to servers, website portal, networking components, system software, internet access, and content all as more specifically defined in Ordering Documents.

“**EVERYWHERE Satellite Service**” means Airtime resold by EVERYWHERE that may NOT be used in connection with the EMSS Iridium Government Gateway.

“**Exhibits**” mean the documents attached hereto and incorporated by this reference.  In the event of any inconsistency, the documents shall take precedence in the following order: Government Terms, Ordering Documents, all other Exhibits.  Exhibits include, without limitation, the following:

**Exhibit A: Returns**

**Exhibit B: Open-Source Software**

**Exhibit C: Factal Add-On Services**

**Exhibit D: Twilio SMS Add-On Services**

“**Factal**” means Factal Inc., a Delaware corporation, with a principal place of business at 600 1st Ave., Seattle, Washington 98104, U.S.A.

“**Factal Services**” means the services used to provide Factal content through the EVERYWHERE Hub as described in more detail in the Specifications.

“**FCC**” means the U.S. Federal Communications Commission.

“**Garmin**” means Garmin Services, Inc.

“**Government Device**” means a Device that is capable of operating in connection with the EMSS Iridium Government Gateway.

“**Licensor**” means EVERYWHERE’s licensors or suppliers who provide products or services to EVERYWHERE that are either resold or sublicensed to Customer or used to facilitate the Products, Services, and EVERYWHERE Satellite Services under the terms of this Agreement.

“**Marks**” means the trade names, trade dress, trademarks, service marks, commercial symbols, domain names, brands, designs, logos and/or any other marks used to denote the owner or licensors as the source of the products and services.

“**Message**” means a message sent or received from a Device or an EVERYWHERE App through the EVERYWHERE Hub.  Messages may be transmitted via Airtime or over the Cellular Network using SMS and other messaging and email systems.

“**Order**” means an Ordering Document that is provided by Customer that is consistent with the provisions of Section 13 (Process for Orders).  Orders typically include purchase orders provided by Customer.

“**Ordering Documents**” means any written document that places an order for Products, Services, EVERYWHERE Satellite Services and/or Training Services under the Terms of this Agreement.  An Ordering Document may be styled as Orders, task order, purchase order, or other type of authorizing agreement.

“**Privacy Policy**” means the EVERYWHERE privacy policy set forth at <https://everywherecomms.com/privacy-policy>, also available upon request.

“**Products**” mean, if so specified in an Ordering Document: EVERYWHERE Devices, EVERYWHERE Apps, and accessories for Devices.

“**Services**” mean, if so specified in an Ordering Document: (i) EVERYWHERE Hub; (ii) Factal Services; (iii) Twilio SMS Services; and (iv) the Training Services.  Services do not include EVERYWHERE Satellite Services.

“**Smartphone**” means a smartphone capable of installing and operating an EVERYWHERE App.

“**Specifications**” means, as appropriate: (i) the specifications for the EVERYWHERE Devices as set forth in any applicable Ordering Documents; (ii) the specifications for the EVERYWHERE Hub set forth in any applicable Ordering Documents; (iii) the specifications for the EVERYWHERE Apps set forth in any applicable Ordering Documents; and (iv) the specifications for the Factal Services set forth in Exhibit C (Factal Add-On Services) and any applicable Ordering Documents; (v) the specifications for the Twilio SMS Services set forth in Exhibit D (Twilio SMS Add-On Services) and any applicable Ordering Documents.

“**Subscription Fees**” means the subscription fees for Services as well as the EVERYWHERE Satellite Services.

“**Subscription Period**” means the period of time set forth in Ordering Documents during which those Services that are subject to Subscription Fees are being provided.

“**Subscription Plan**” means a subscription plan for Services set forth in any applicable Ordering Documents.

“**Training Services**” means services provided by EVERYWHERE and its authorized training consultants whereby EVERYWHERE shall train Customer employees in accordance with the curriculum and other training content (“**Training Content**”) agreed to between the Parties in Ordering Documents.

“**Twilio SMS Services**” means the Twilio Short Message Service (SMS) provided through the EVERYWHERE Hub as described in more detail in the Specifications.

**2.     Scope.**  Ordering Documents shall document the Licenses and Specifications Products, Services, and EVERYWHERE Satellite Services provided directly to Customer for use within its own internal operations.  Ordering Documents shall also document Training Services. This Agreement, absent Ordering Documents, does not obligate Customer to License or purchase any Products, Services or EVERYWHERE Satellite Services from EVERYWHERE.  All Ordering Documents together with this Agreement shall each constitute an agreement between the Parties.

**3.     Term and Renewal.**

**3.1      Agreement Term**.  This Agreement shall commence as of the date set forth on the Ordering Document to start use of the Products, Services, and EVERYWHERE Satellite Services, or if no such start date is specified on the Ordering Document (“**Effective Date**”), then the Agreement shall commence on the date of the Ordering Document (the “**Term**”).

**3.2      Services Term.**  The term for the specific Subscription Period is set forth in each Ordering Document that begins on the commencement date of the applicable Subscription Period and remains in effect until the expiration of the Subscription Period specified in the applicable Ordering Document (the “**Subscription Period**”), unless earlier terminated as provided herein.

**4.     Appointments**

**4.1      EVERYWHERE’s Appointment as Service Provider.**  Customer hereby appoints EVERYWHERE, and EVERYWHERE hereby accepts appointment, as a service provider solely for purposes of implementing this Agreement and providing the Services and EVERYWHERE Satellite Services set forth in Ordering Documents.

**4.2      Not for Resale**.  Unless the Parties otherwise agree in writing, Customer’s license access to the Services and EVERYWHERE Satellite Services or purchase of the Products indicated in Ordering Documents shall be for Customer’s own internal use and not for resale to third parties.  This appointment is limited to Customer only and may not be assigned or transferred by Customer or otherwise extended to any other party except as set forth in Section 21.4 (Assignment) of the Agreement.

**5.     Licenses.** Subject to the terms and conditions of this Agreement including any payment obligations, EVERYWHERE grants to Customer, and Customer accepts, strictly during the Term of this Agreement the following licenses (collectively, the “**Licenses**”):

**5.1      EVERYWHERE Hub Access License Grant.**  If specified in an Ordering Document, and in consideration for Customer’s payment obligations for Subscription Fees set forth in Ordering Documents, EVERYWHERE grants Customer a limited, nontransferable, and nonexclusive right to access and use the EVERYWHERE Hub during the Subscription Period for the Services (“**Hub** **Access License**”) as set forth in the Ordering Document and in accordance with the Specifications.  No license is granted under any Hub Access License to access, copy, or use the software that supports the EVERYWHERE Hub, except in connection with the Hub Access License.

**5.2      EVERYWHERE App License Grant.**  If Customer has contracted with EVERYWHERE in an Ordering Document to license the EVERYWHERE Apps (an “**EVERYWHERE App License**”), then EVERYWHERE grants Customer in consideration for the Customer’s payment obligations for the EVERYWHERE App License, a limited, nontransferable, and nonexclusive right to use, execute, and copy the EVERYWHERE Apps (but not create derivative works thereof) on Smartphones during the Subscription Period for  the EVERYWHERE App License as set forth in the Ordering Document and in accordance with the Specifications consistent with the provisions of this Agreement and Ordering Documents.  No license is granted under this Agreement to access, copy, or use the source code to the EVERYWHERE Apps.

**5.3      Limitations on Use.**  No license is given to Customer to the source code embedded within the Products or underlying the Services.  Without the express written authorization from EVERYWHERE, Customer shall not (nor through any third party): (i) use, copy, duplicate or reproduce all or any portion of the Products or Services (including the Documentation)  for any purpose other than as specified in this Agreement and Ordering Documents; (ii) decompile, disassemble, re-program, analyze, reverse engineer, decode, or unlock  any of the Products or Services (in whole or in part) or otherwise attempt to reconstruct, identify or discover any underlying ideas, underlying user interface techniques or algorithms, or source code, or disclose any of the foregoing (except to the extent such restriction is prohibited by law); (iii) except as expressly authorized herein, sell, rent, lease, license, sublicense or in any way redistribute any or all of the Products, Services or EVERYWHERE Satellite Services; (iv) except as expressly authorized herein, use the Products or Services to create a service bureau, timesharing arrangement, or application service provider; (v) modify, enhance, alter, adapt, translate, prepare derivative works of all or any portion of the Products or Services or attempt to do so;  (vi) remove, destroy, obscure or alter EVERYWHERE’s or its Licensors’ product identification, copyright notices, Marks, trade secret or other proprietary rights notices affixed to or contained within the Products, Services or EVERYWHERE Satellite Services or Documentation; (vii) permit the Products, Services or Airtime or Documentation to be used, examined, reviewed or inspected by others, other than by Customer’s employees, auditors or governmental agencies as required by law; (viii) disclose the results of any benchmark or evaluation of the Products, Services or EVERYWHERE Satellite Services to any third party (whether or not obtained with EVERYWHERE’s assistance) without EVERYWHERE’s prior express written consent; (ix) use the Products or Services, Documentation or any information contained therein or otherwise provided by EVERYWHERE or its Licensors for the purposes of developing, or having developed, any products or services competitive with the Products or Services; (x) authorize or allow End Users to use the Products, Services or EVERYWHERE Satellite Services while driving any motorized vehicle; (xi) attempt to circumvent or defeat the security or content usage rules contained in the Products or Services and/or use the Products or Services in violation of any law or third party rights; (xii) incorporate, link, or distribute the Products or Services with any code or software licensed under the GNU General Public License (“**GPL**”), Lesser General Public License (“**LGPL**”), Mozilla, or any other open source license, in any manner that could cause or could be interpreted or asserted to cause the Products or Services (or any modifications thereto) to become subject to the terms of the GPL, LGPL, Mozilla or such other open source license. Customer shall not authorize, or acquiesce in, any other person engaging in any of the foregoing activities or attempting to do so.

**5.4      Open-Source.**  Certain EVERYWHERE Apps contain the Open-Source Software listed in Exhibit B (Open-Source Software). Usage of EVERYWHERE Apps is subject to certain rights and responsibilities with respect to the Open-Source Software and are governed according to the terms of the applicable Open-Source License specified in Exhibit B.  “**Open-Source Software**” means software made available to others under the terms of an Open-Source License. “**Open-Source License**” means a software license that includes, but is not limited to, terms that: (a) permit distribution or redistribution of the Open-Source Software, including free of charge and for sale, by others without royalty or fee and allows for such distribution/redistribution to include source code and compiled code; (b) permits modifications, compilations, and derived works be created from the Open-Source Software and be distributed under the same terms as the original Open-Source Software; or (c) attach to the Open-Source Software and applies to all persons, entities, groups, organizations and institutions (the “**Recipients**”) to whom the Open-Source Software is distributed and/or who redistribute the Open-Source Software without the need for the Recipients to execute or otherwise acquire an additional license.

**5.5      Privacy Policies.**  Customer's use of the Products or Services by End Users is subject to the terms and conditions of EVERYWHERE’s Privacy Policy as well as Garmin’s inReach® privacy policy set forth at https://www.garmin.com/en-US/privacy/inreach/policy (the “**Garmin** **Privacy Policy**”).  EVERYWHERE and Garmin collects, uses, and shares information from and about End Users and Products used by End Users, provided that EVERYWHERE does not share information with Garmin collected using Secure inReach®Devices.  The Privacy Policy and the Garmin Privacy Policy describe what EVERYWHERE and Garmin do with that information. End Users shall consent to the collection, use, and sharing of information described in the Privacy Policy and the Garmin Privacy Policy in any revisions thereto, which may be modified as described in those documents, as well as any additional terms and conditions set forth in Exhibits for add-on Services.

**5.6      Reserved Rights.**  EVERYWHERE reserves all rights not expressly granted under this Agreement.

**6.     EVERYWHERE Hub.**

**6.1      Scope and Performance of the EVERYWHERE Hub.**  EVERYWHERE will implement the EVERYWHERE Hub in accordance with the Specifications.  EVERYWHERE will not be responsible for implementation delays or service degradations that are not within its control including, without limitation, implementation delays or service degradations caused by Customer, End Users, third-party service providers, the Cellular Network, or any interconnecting communications carrier.  Title to any communications equipment and computer hardware installed by EVERYWHERE in connection with the performance of the EVERYWHERE Hub will remain with EVERYWHERE and its Licensors.

**6.2      EVERYWHERE Hub Dependencies.**  EVERYWHERE and its Licensors do not own or control the Cellular Network and/or email service providers who receive the Messages generated from the EVERYWHERE Hub, and EVERYWHERE and its Licensors are not responsible for any delays by the email service providers and the Cellular Network related to these Messages. Cellular Network providers and/or Internet service providers may charge Customer, its End Users, or the recipients, for Messages sent via SMS, MMS, email, and/or data sent using the EVERYWHERE Hub and EVERYWHERE or its Licensors are not responsible for any such charges or fees.  The EVERYWHERE Hub relies on wireless communication networks and the Global Positioning System ("**GPS**") satellite network. The EVERYWHERE Hub functionality uses location information about the End User’s Device, and it only works if GPS satellite signals are unobstructed and available in that place.  Messages may include End Users location information.  EVERYWHERE and its Licensors do not own or control the service providers that operate the links between the satellite ground stations, including satellite antennas and supporting equipment, and the GPS satellites, nor does EVERYWHERE own or control the Airtime, and cannot be responsible for any service interruptions that are associated with the Airtime, GPS or ground stations and the interconnecting networks.  End Users are solely responsible (and EVERYWHERE and its Licensors have no responsibility to End Users, Customer or to any third-party) for any content that is created, transmitted, or displayed on or through Devices and/or the EVERYWHERE Hub (“**Content**”) and for the consequences of such End Users’ actions by doing so.  The EVERYWHERE Hub may become limited or temporarily unavailable without notice from time to time.

**6.3      Misuse of the EVERYWHERE Hub.**Customer shall: (a) not unlock, modify or reverse engineer any EVERYWHERE Device in order to render it incapable of working in connection with the EVERYWHERE Hub; and (b) not use the EVERYWHERE Hub: (i) to abuse or misuse the SOS Emergency Services;  (ii) for the commercial tracking of assets that Customer does not own or are not otherwise authorized to monitor; (iii) to track personnel who have not provided Customer with consent and who have not been provided the Privacy Policy or the Garmin Privacy Policy; (iv) to send Messages that are offensive, defamatory, abusive or obscene or intended to harass; (v) for any purpose in violation of law; (vi) in any manner that infringes or misappropriates third party rights; (vii) in any manner which overloads or unreasonably interferes with the EVERYWHERE Hub or the Airtime; (viii) with Devices or products other than EVERYWHERE Devices and may not use any other equipment in connection with the EVERYWHERE Hub unless expressly approved by EVERYWHERE; (ix) in an effort to unlock or modify, or reverse engineer the EVERYWHERE Hub in order to modify it or render it capable of performing functions outside the approved Airtime; or (x) for any purpose otherwise not permitted by this Agreement.

**6.4      Customer Support Obligations of the Parties.**  EVERYWHERE shall be responsible for support services only if and as defined in Ordering Documents.

**6.5      Third Party Services.**  If End Users use any services provided by third parties including, but not limited to the Cellular Network, in connection with the EVERYWHERE Hub (“**Third Party Services**”), then Customer acknowledges the applicable terms and conditions of the Third Party Services made available by that third party is a binding agreement solely between Customer and that third party, and not between Customer and EVERYWHERE, and that EVERYWHERE is acting solely as an intermediary between Customer and that third party. EVERYWHERE is not responsible for the terms of service made available by such third party for the Third-Party Services, and EVERYWHERE has no obligations or liabilities under those terms of service. Third Party Services may be protected by intellectual property rights which are owned by such third party. Any reference or links to any third-party content does not constitute endorsement, sponsorship, or recommendation by EVERYWHERE or its Licensors. Third party products and service information are the sole responsibility of each individual third-party vendor. It is possible that some third-party content with the Third-Party Services may be offensive, indecent, or objectionable, and Customer acknowledges that use of the Third-Party Services is at Customer’s own risk. Any opinions, advice, statements, services, offers, or other information or content expressed or made available by third parties are those of the respective authors and not of EVERYWHERE or its Licensors.  EVERYWHERE and its Licensors do not endorse nor are they responsible for the accuracy or reliability of any opinion, advice, information, or statement by anyone other than authorized EVERYWHERE employees acting in their official capacities. Customer understands and acknowledges that EVERYWHERE and its Licensors are not responsible for and does not monitor third party content for accuracy, infringement, or reliability.

**6.6      End User Warning Notice.**  In the event that Customer has elected to cancel their subscription for the Services for some, but not all Devices, under this Agreement (provided that such cancellation is otherwise permitted under the terms of the applicable Ordering Document and this Agreement) (a “**Cancellation**”)), then Customer must notify in writing or via email any End User in possession of the Device that was receiving the Services or group of End Users that had access to the Device that **the Services will no longer be active on the cancelled Devices, including, but not limited to, the ability to use the SOS button or SOS functionality**(the **“End User Warning Notice”**).  The End User Warning Notice shall also include the effective date of the Cancellation. This provision does not confer upon Customer any right to cancel any Services.

**7.     EVERYWHERE Satellite Services**

**7.1      EVERYWHERE Satellite Services Authorized.**  If Customer has contracted with EVERYWHERE in an Ordering Document to utilize EVERYWHERE Satellite Services, then EVERYWHERE shall supply the EVERYWHERE Satellite Services to Customer on a non-exclusive basis, strictly in connection with Customer’s use of Commercial Devices and/or the EVERYWHERE Apps, in consideration for Customer’s payment obligations, during the term set forth in the Ordering Document and in accordance with the Specifications, and provisions of this Agreement and Ordering Documents.

**7.2      Misuse of EVERYWHERE Satellite Services.**  Customer agrees that its End Users will not  use the Products, Services or EVERYWHERE Satellite Services: (i) to abuse or misuse any emergency services; (ii) to send Messages that are offensive, defamatory, abusive or obscene or intended to harass; (iii) for any purpose in violation of law; (iv) in any manner that infringes or misappropriates third-party rights; or (vi) in any manner which overloads or unreasonably interferes with the EVERYWHERE Hub or the EVERYWHERE Satellite Service.

**7.3      FCC Restrictions.**  FCC regulations prohibit using the Products and Airtime in a civil aircraft unless the Products have a direct physical connection to the aircraft cabin or cockpit communications system.

**7.4      EVERYWHERE Satellite Services Availability is Not Unlimited**.  The EVERYWHERE Satellite Services is only available on the Iridium satellite network.  The EVERYWHERE Satellite Services may become limited or temporarily unavailable without notice from time to time. EVERYWHERE does not own or control the service providers that operate the links between the satellite ground stations, including satellite antennas and supporting equipment, and the satellites, nor does EVERYWHERE own or control the Iridium satellite constellation, and cannot be responsible for any service interruptions that are associated with the Iridium satellite constellation or ground stations and the interconnecting networks. Iridium satellites are wireless and require a clear line of sight toward the satellite; therefore, the EVERYWHERE Satellite Services is inherently subject to transmission and reception limitations caused by: (i) End User’s location, including conditions that obstruct the line of sight between the End User and the satellite systems; (ii) the condition of the satellite systems and ground stations; (iii) the condition of the End User’s Device; and (iv) weather conditions, atmospheric conditions, magnetic interference, environmental, and other conditions beyond EVERYWHERE’s control.  EVERYWHERE SATELLITE SERVICES IS NOT AVAILABLE AT ALL GLOBAL LOCATIONS, PARTICULARLY IN REMOTE OR ENCLOSED AREAS, OR AT ALL TIMES. The area End Users are located in may affect the EVERYWHERE Satellite Services that EVERYWHERE can provide to End Users, including routing EVERYWHERE Satellite Services.

**7.5      Causes of EVERYWHERE Satellite Services Failure.**EVERYWHERE Satellite Services may not work properly if:

a.     End Users have not maintained Devices in good working order;

b.     End Users do not comply with all applicable laws;

c.     End Users try to add, connect, or modify any equipment or software in the Devices (such as plugging Devices into the Device’s electrical system or diagnostic port);

d.     The Device is not compatible with the EVERYWHERE Satellite Services; or

e.     Other problems arise that EVERYWHERE cannot control that interfere with the delivery or quality of the EVERYWHERE Satellite Services or the Cellular Network, such as hills, tall buildings, tunnels, weather, damage to Devices, or Cellular Network or Airtime congestion or jamming.

**7.6      Delays or Failed Performance**.  EVERYWHERE and its Licensors are not responsible for any delay or failure in performance that: (a) may have been prevented by End Users taking reasonable precautions or (b) is caused by events of Force Majeure.

**7.7      Data Transmission Use.**  Due to the technical nature of data setups and the inherent sophistication of data transmission through Airtime and the Cellular Network, EVERYWHERE makes no representation as to the successful transmission of Messages using the Cellular Network or the EVERYWHERE Satellite Services.  Customer agrees that all Messages transmission attempts regardless of ultimate successful transmission and termination will be paid for and no credits will be given in the event of disputes of this nature. Along with potential incorrect use (i.e.: next to a building/obstruction), Airtime (including low earth orbiting satellite constellations) and the Cellular Network have inherent flaws and anomalies that can cause transmission failures or create dropped calls of either voice or data nature. Undelivered Messages will not be credited.

**8.     SOS Monitoring Services.  IN NO EVENT DOES THIS AGREEMENT CREATE A DUTY TO RESCUE ANY END USER OR ANY THIRD PARTY AS A RESULT OF ANY SOS EMERGENCY SIGNAL RECEIVED BY EVERYWHERE.**

**8.1      Customer Monitored SOS.**When Customer has contracted with EVERYWHERE in an Ordering Document to notify a call center designated by Customer (the “**Customer Emergency Call Center**”) when a Device has generated an emergency signal (a “**SOS Emergency Signal**”), then all of the provisions of this Section 8.1 apply:

8.1.1      **Customer Emergency Call Center.**  When an End User generates an SOS Emergency Signal on their Device or EVERYWHERE App, the Services shall commence the process of notifying the Customer Emergency Call Center that an SOS Emergency Signal has been generated.  Customer is solely responsible for providing EVERYWHERE with all necessary and correct contact information, including updates to such information, to enable the EVERYWHERE Hub to communicate with the Customer Emergency Call Center.  EVERYWHERE shall make the applicable registration data information and available location coordinates available to the Customer Emergency Call Center.

**8.2      EVERYWHERE** **Monitored** **SOS.**  When Customer has contracted with EVERYWHERE in an Ordering Document to receive SOS emergency monitoring services (“**SOS Emergency Services**”) from EVERYWHERE, then when an End User generates an emergency signal on their Device or EVERYWHERE App (an “**SOS Emergency Signal**”), then all of the provisions of this Section 8.2 apply:

8.2.1      **EVERYWHERE SOS Response Center.**  When an End User generates an SOS Emergency Signal on their Device or EVERYWHERE App, the Services shall commence the process of notifying the EVERYWHERE’s response center (the “**EVERYWHERE SOS Response Center**”).  The EVERYWHERE SOS Response Center may be outsourced to a third-party SOS provider (the “**Third-Party SOS Provider**”).  The provision of SOS emergency monitoring services is subject to the terms of this Agreement.  EVERYWHERE reserves the right to disclose personal and location data to the Third Party SOS Provider, and/or to competent legal authorities in order to assist in the effectuation of a rescue (if an End User resides in New Zealand, where necessary to prevent or lessen a serious threat (as defined in the Privacy Act 1993) to public health or public safety, or to the life or health of the individual concerned or another individual).  EVERYWHERE or its Third-Party SOS Provider may remotely activate SOS features when notified by competent legal authorities that a distress situation exists for an End User. EVERYWHERE intends that the EVERYWHERESOS Response Center will be available at all times in all locations where a Device works; however, it is possible that at some times and some locations, the EVERYWHERE SOS Response Center will not receive SOS Emergency Signals or that SOS Emergency Signals will be delayed. The emergency responders (and not EVERYWHERE or the Third-Party SOS Provider) shall determine when, how, and even if, to conduct a search and rescue in accordance with their standard policies and procedures, subject to such constraints as operational limitations, available resources, technical feasibility, meteorological conditions, medical and/or safety concerns whether for the intended End User or the emergency responders.

8.2.2      **SOS Monitoring.**  When the Services transmit the SOS Emergency Signals to the EVERYWHERE SOS Response Center, it also includes the applicable registration data information and available location coordinates. The EVERYWHERE SOS Response Center maintains a database of emergency responders in regions throughout the world (the “**SOS Database**”) and provides SOS Emergency Signal monitoring twenty-four (24) hours a day, seven (7) days a week and 365 days a year.  Upon receipt of an SOS Emergency Signal, EVERYWHERE SOS Response Center personnel will: (i) contact, if available, the primary and secondary contacts identified by Customer in its registration data to attempt to validate the SOS Emergency Signal, (ii) use the SOS Database to identify appropriate emergency responder(s) according to available location coordinates; (iii) contact the appropriate emergency responder(s) and inform them of the relevant facts in the Third Party SOS Provider’s possession (including the registration data information and/or location coordinates); (iv) if the End User is traveling outside of the End User’s home territory, and it is consistent with the Third Party SOS Provider’s procedures, contact the Embassy of the End User’s government consistent with the registration data, either in the location identified by the Location Information or their Washington, D.C. based Embassy, and provide them all relevant facts in the Third Party SOS Provider’s possession; and, (v) provide updates of location coordinates as available to the identified emergency responder. Upon contacting the emergency responder(s) and/or, as appropriate, the applicable embassy, and informing them of all relevant facts.  EVERYWHERE, its Licensors, and the Third-Party SOS Provider are released from all further responsibility and/or obligation to take any further action whatsoever. Should EVERYWHERE or the Third-Party SOS Provider have reasonable cause to believe that an emergency condition does not exist, then EVERYWHERE and the Third-Party SOS Provider reserve the right to solely contact the primary and secondary contacts identified by the End User.

8.2.3      **False SOS Emergency Transmissions.**  Customer is solely responsible for any charges that may be assessed by emergency responders for either false SOS Emergency Signals and/or in relation to search and rescue activities resulting from End Users’ transmission of a SOS Emergency Signal.  Should an End User deliberately or negligently misuse the SOS Emergency Service, EVERYWHERE reserves the right to assess a fee in order to recoup their costs in relation to responding to such misuse. Negligent and deliberate misuse includes, but is not limited to, pressing the SOS button to “see if it works” or otherwise knowingly pressing the SOS button when no emergency situation exists.

**9.     Provider of Training**.  If so specified in an Ordering Document, EVERYWHERE shall provide Customer at a location to be mutually agreed upon or via an Internet-based webinar, Training Services for Customer's employees, with training in provisioning, use and application of Products, Services or EVERYWHERE Satellite Services, subject to availability of such training courses.  Customer may use material provided to conduct courses for End Users provided that EVERYWHERE’s copyright notices are retained thereon.

**10.  Customer Obligations**

**10.1    Access and Passwords.**  After the EVERYWHERE Hub is ready for use by Customer, EVERYWHERE shall issue (a) a link to Customer that will enable Customer to access the EVERYWHERE Hub; and (b) a password to access the EVERYWHERE Hub. Customer and its End Users are responsible for accessing the EVERYWHERE Hub in accordance with the terms of this Agreement and maintaining the confidentiality of all passwords at all times and for ensuring that issued passwords are used only by the authorized End Users.  Customer is entirely responsible for all activities that occur under Customer's account and all charges incurred in connection with use of the EVERYWHERE Hub using Customer’s passwords.  Customer shall immediately notify EVERYWHERE of any unauthorized use of Customer's account, including, without limitation, each password of an End User accessing the EVERYWHERE Hub by means of Customer's account, or any other breach of this Agreement or any security breach known to Customer. EVERYWHERE shall have no liability for any loss or damage arising from Customer's failure to comply with these requirements.

**10.2    Cooperation and Assistance.**  Customer shall provide EVERYWHERE with access to technical personnel and information in connection with performance of the Products, Services, and EVERYWHERE Satellite Services and will furnish all information and assistance required to be provided by Customer under the Ordering Document.  Customer will promptly notify EVERYWHERE in sufficient detail of any defect, deficiency or error known to or discovered in the Products, Services, and EVERYWHERE Satellite Services by Customer in sufficient detail to enable EVERYWHERE to duplicate the condition.

**11.  Changes to Products, Services or EVERYWHERE Satellite Services; End-Of-Life**

**11.1    End-Of-Life Notice**.  EVERYWHERE shall make commercially reasonable efforts to provide Customer with ninety (90) days prior written notice of any termination of support for specific Products, Services or EVERYWHERE Satellite Services (“**End-Of-Life**”). Such notice shall be posted on EVERYWHERE’s website and shall contain the details of the last order by dates.   Notwithstanding the foregoing, nothing in this provision shall reduce any warranty period or any support period for any Products, Services or EVERYWHERE Satellite Services purchased or licensed under an existing Ordering Document.

**11.2    Products or Services Changes**. EVERYWHERE, in its sole discretion, may alter the design of the Products or Services including, but not limited to, the following reasons, if the alteration: (i) does not result in any material deviation from the Specifications for such Products or Services; (ii) is required to avoid infringement of any third party intellectual property; or (iii) is required to conform with laws or applicable governmental regulations.  In addition, EVERYWHERE’s Licensors may make changes to Products or Services in order to comply with applicable laws, to maintain or improve the Products or Services or for other business reasons, without notice to Customer and without liability for any changes in Customer’s use the Products or Services, including compatibility issues, as a result of such changes. These updates may take the form of bug fixes, enhanced functions, new software modules and completely new versions. This Agreement does not grant any rights to obtain future upgrades, updates or supplements to the Products or Services.  If upgrades, updates or supplements of the Products or Services are obtained, however, the use of such upgrades or updates is governed by this Agreement and the amendments that may accompany it and may be subject to additional payments and conditions. EVERYWHERE recommends all Products have the most recent version available.  EVERYWHERE reserves the right to require the installation of the most recent version in order to obtain continued service. Any such mandatory updates will be offered at no additional cost to Customer.

**12.      Customer Internal Use Prices.**In consideration for Customer’s internal use and access to the Services and EVERYWHERE Satellite Services and purchase or license of the Products, Customer shall pay the prices (“**Prices**”) for such Products, Services or EVERYWHERE Satellite Services in the price lists set forth in Ordering Documents (the “**Price List**”) during the applicable Subscription Periods specified in the Ordering Document.

**13.  Process for Orders**

**13.1    Placing Orders.**  Any Orders placed by Customer for Products, Services, and EVERYWHERE Satellite Services are governed by these Government Terms.  The Order and these Government Terms comprise the entire Agreement between the Parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral.   Fulfillment of Customer’s Order does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Government Terms, including any Orders that are received after the Effective Date of this Agreement unless expressly agreed upon in writing by EVERYWHERE. Orders shall specifically include a reference to this Agreement.  Such Order may include additional terms for the quantity of Products, Services, and EVERYWHERE Satellite Services purchased or licensed, the requested delivery date, the unit price for each of the Products, Services, and EVERYWHERE Satellite Services (provided that the Price in the Order is consistent with the Price Lists), the billing address, and the delivery location. Any other additional terms or any different terms made to these Terms by Customer in Orders (including, but not limited to, Customer’s standard purchasing terms and conditions on purchase orders or references thereto) are void, have no effect, and shall not be considered as an amendment to this Agreement. Any changes to warranty terms, title or intellectual property rights are considered material changes. An inadvertent omission of a reference to this Agreement in Orders shall not affect the application of this Agreement to Orders.

**13.2    EVERYWHERE Acceptance of Orders.**  An Order sent by Customer to EVERYWHERE that: (i) is executed by EVERYWHERE, if required; and (ii) is consistent with the provisions of Section 13.1 (Placing Orders) shall be considered accepted by EVERYWHERE, unless EVERYWHERE either rejects the Order or provides an acknowledgement of the Order (“**Acknowledgement**”), in either case, in writing and within two (2) business days from EVERYWHERE’s receipt of the Order, unless written notice is provided by EVERYWHERE extending the period by an additional two (2) business days. EVERYWHERE shall use commercially reasonable efforts to fill all Orders but shall not be obligated to accept or provide an Acknowledgement of any Orders, particularly Orders which contain delivery dates, special requirements or other fulfillment terms that EVERYWHERE, through reasonable commercial efforts, is unable to meet. In any of the foregoing events, EVERYWHERE and Customer shall work cooperatively to determine the most appropriate delivery schedule. In addition, EVERYWHERE shall not be obligated to accept any Order or provide Acknowledgement of any Order should Customer fail to comply with the material terms of this Agreement, including meeting payment terms of previous Orders or due to the general financial condition of Customer.

**13.3    Shipment of Devices.**  Shipment of all Devices and accessories shall be FOB EVERYWHERE’s or its Licensors’ shipping dock and Customer assumes all risk of loss upon delivery of the Devices and accessories to the shipping carrier.  Title to Devices and accessories shall pass to Customer upon delivery of the Devices and accessories to the shipping carrier.  Customer or its designated freight forwarder shall be the importer of record (“**Importer of Record**”) of the Devices and accessories.  The Importer of Record shall be responsible for (a) keeping all records, documents, correspondence and tracking information required by applicable laws, rules and regulations arising out of or in connection with the importation or delivery of the Devices and accessories; (b) customs and other regulatory clearance of the Devices and accessories; and (c) payment of all tariffs, duties, customs, fees, expenses and charges payable in connection with the importation and delivery of the Devices and accessories.  Customer shall be responsible for all shipping and insurance costs.

**13.4    Drop Shipment of Orders Outside the U.S.**  EVERYWHERE will not drop ship Products to locations outside the United States.

**14.  Invoicing, Payment, and Billing**

**14.1    Calculation and Timing of Charges**.  Unless otherwise specified in an Ordering Document, the timing for the calculation of charges to be billed by EVERYWHERE to Customer are as follows (the “**Charges**”):

14.1.1    **Products Billing.**   EVERYWHERE shall calculate the Charges for the Products upon shipment of the Products from EVERYWHERE’s or its Licensor’s site based on the Price List.

14.1.2    **Subscription Fee Billing.**  If the Ordering Document specifies that billing for the Subscription Fees will be on an annual basis, then EVERYWHERE shall calculate the Charges for the Subscription Fees on an annual basis and the Charges for the first year of the Subscription Fees shall be calculated upon Acknowledgement of the Orders and on the anniversary of such date thereafter for all multi-year Orders, in advance of service.  No refunds shall be provided for any EVERYWHERE plans containing Subscription Fees.

**14.2    Invoices.**  Unless specified otherwise in the Ordering Document, all Charges shall be invoiced on the date the Charges are calculated.

**15.  Intellectual Property Rights**

**15.1    EVERYWHERE Intellectual Property Rights.**  Customer acknowledges and agrees that the intellectual property rights underlying the Products, Services, EVERYWHERE Satellite Services, and Training Content (collectively, “**EVERYWHERE IP**”) are owned by, and shall remain the sole property of EVERYWHERE and its Licensors, that the EVERYWHERE IPcontains, embodies and is based upon worldwide patented or patentable inventions, trade secrets, copyrights and other intellectual property rights (collectively, “**Intellectual Property Rights**”) owned or licensed by EVERYWHERE and its Licensors, and that EVERYWHERE and its Licensors shall continue to be the sole owner of all Intellectual Property Rights in and to the EVERYWHERE IPworldwide including, without limitation, any derivative works.  This Agreement does not convey to Customer title or ownership of the Intellectual Property Rights underlying the EVERYWHERE IP, but only a right of limited use in accordance with this Agreement.  Customer acknowledges that the EVERYWHERE IPprovided by EVERYWHERE pursuant to this Agreement is entitled to protection under applicable copyright and other intellectual property laws and constitute valuable assets, trade secrets and proprietary rights of EVERYWHERE or its Licensors.

**15.2    US Government Rights.** The Products and Services contain commercial computer software, as such term is defined in 48 C.F.R. §2.101 (Definitions). Accordingly, if Customer is the US Government or any contractor therefor, Customer shall receive only those rights with respect to the Products and Services  and Documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors.

**15.3    Survival of Intellectual Property.**  This Section 15 (Intellectual Property Rights) shall survive any termination or expiration of this Agreement.

**16.  Security**

**16.1    EVERYWHERE Systems and Security Obligations.** EVERYWHERE will employ security measures in accordance with applicable law and industry practice.

**16.2    Customer Control and Responsibility.** Customer has and will retain sole responsibility for: (a) Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by Customer or through the use of third-party services ("**Customer Systems**"); (b) the security and use of Customer's access credentials to the EVERYWHERE Hub; and (c) all access to and use of the EVERYWHERE Hub directly or indirectly by or through the Customer Systems including all results obtained from, and all conclusions, decisions and actions based on, such access or use.

**17.  Warranties**

**17.1    End User Warning Notice Warranty.**  Customer represents and warrants that during the Term of this Agreement that it shall comply with the End User Warning Notice requirement set forth in Section 6.6 (End User Warning Notice) and its failure to do so is a material breach of this Agreement.  Customer acknowledges that: (a) EVERYWHERE has no way of knowing the identity or contact information of the End Users whose Services were subject to Cancellation; and (b) failing to provide the End User Warning Notice could result in an End User falsely believing that he/she might be rescued after pressing the SOS button on a Device when, in fact, their Services were cancelled and the SOS functionality will not operate and no SOS Emergency Services will be activated.

**17.2    EVERYWHERE App Software Warranty**.  EVERYWHERE warrants during the applicable Subscription Period that the EVERYWHERE Apps set forth in any applicable Ordering Documents will operate in material accordance with the Specifications. Customer’s sole remedy for any claims under this Section 17.2 shall be to correct such failures at no charge to Customer.

**17.3    DISCLAIMER OF WARRANTY FOR THE EVERYWHERE HUB.**CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE EVERYWHERE HUB IS AT CUSTOMER’S SOLE RISK.  TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EVERYWHERE HUB IS PROVIDED “AS IS” AND “AS AVAILABLE” AND EVERYWHERE DOES NOT REPRESENT THAT THE EVERYWHERE HUB WILL MEET CUSTOMER’S REQUIREMENTS. EVERYWHERE AND ALL ITS LICENSORS MAKE NO WARRANTY IN RELATION TO THE AVAILABILITY, SUITABILITY, ACCURACY OR QUIET ENJOYMENT OF THE EVERYWHERE HUB, OR IN RELATION TO AVAILABILITY, SUITABILITY OR MAINTENANCE OF THE EVERYWHERE HUB.  CUSTOMER IS SOLELY RESPONSIBLE FOR ANY DAMAGE TO ANY DEVICES, OR LOSS OF DATA THAT RESULTS FROM USE OF THE EVERYWHERE HUB.  THE EVERYWHERE HUB IS NOT INTENDED FOR USE IN THE OPERATION OF NUCLEAR FACILITIES, LIFE SUPPORT SYSTEMS, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL SYSTEMS, OR ANY OTHER ACTIVITIES IN WHICH THE FAILURE OF THE EVERYWHERE HUB COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

**17.4    DISCLAIMER OF WARRANTY FOR EVERYWHERE SATELLITE SERVICES AND CELLULAR NETWORK.**CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF EVERYWHERE SATELLITE SERVICES AND THE CELLULAR NETWORK IS AT CUSTOMER’S SOLE RISK.  TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVERYWHERE SATELLITE SERVICES IS PROVIDED “AS IS” AND “AS AVAILABLE” AND EVERYWHERE DOES NOT REPRESENT THAT EVERYWHERE SATELLITE SERVICES COVERAGE OR THE CELLULAR NETWORK WILL MEET CUSTOMER’S REQUIREMENTS. EVERYWHERE AND ALL ITS LICENSORS MAKE NO WARRANTY IN RELATION TO THE AVAILABILITY OF EVERYWHERE SATELLITE SERVICES AND THE CELLULAR NETWORK, OR IN RELATION TO AVAILABILITY, SUITABILITY OR MAINTENANCE OF THE SATELLITE SYSTEMS OR THE CELLULAR NETWORK USED BY EVERYWHERE TO TRANSMIT DATA TRANSMISSIONS, INCLUDING SOS EMERGENCY SIGNALS AND/OR HELP TRANSMISSIONS FOR ASSISTANCE.  CUSTOMER IS SOLELY RESPONSIBLE FOR ANY DAMAGE TO ANY DEVICES, OR LOSS OF DATA THAT RESULTS FROM USE OF EVERYWHERE SATELLITE SERVICES AND THE CELLULAR NETWORK.

**17.5    Purchased Devices Warranty**.

17.5.1    **Device Warranty.**  EVERYWHERE is not the manufacturer of the Devices.  EVERYWHERE provides Customer a pass through of the Devices’ warranties provided by the Devices’ manufacturers (the “**Manufacturer’s Warranty**”) but only for any Devices purchased from EVERYWHERE, except for any language in the Manufacturer’s Warranty that is expressly excluded herein.  Upon request, EVERYWHERE shall make the text of the Manufacturer’s Warranty available to Customer.  Unless the applicable Ordering Document specifies a different warranty period (the **“Device Warranty Period**”), the Device Warranty Period shall be as set forth in the Manufacturer’s Warranty.  Although the Manufacturer’s Warranty specifies the exact Device Warranty Period, typically the Device Warranty Period is for a period of one (1) year from the date the Device was originally purchased by Customer.  **Notwithstanding the fact that the Manufacturer’s Warranty applies, all warranty issues for Devices purchased from EVERYWHERE shall be directed to EVERYWHERE and not the manufacturer**.  Any repairs not performed by EVERYWHERE will void this warranty.

17.5.2    **RMA Process.**  Any RMA or other return processes set forth in the Manufacturer’s Warranty, including the cost and process for shipping Devices under warranty, is hereby excluded and governed by this Section.  Prior to returning any Device under warranty to EVERYWHERE for repairs or replacement, Customer must obtain a Return Merchandise Authorization number (“**RMA#**”) from EVERYWHERE by calling or emailing EVERYWHERE’s Customer Care group using the contact information set forth in Exhibit A (Returns) and Ordering Documents.  In addition to providing an RMA#, EVERYWHERE shall provide the ship-to address for the returned Device.  Devices shipped to EVERYWHERE without an RMA# will be returned to Customer at Customer’s expense.  Customer agrees to pay all shipping and freight charges and Customer assumes all risk of loss FOB EVERYWHERE’s offices, for all Devices sent to EVERYWHERE.  After repairing or replacing the Device, EVERYWHERE shall pay all shipping and freight charges, FOB EVERYWHERE offices, to return the Device back to Customer unless (i) Customer has sent the Device to EVERYWHERE that is out of warranty; or (ii) the Device sent to EVERYWHERE is in working condition and not in need of repair or replacement; or (iii) the Device was sent to EVERYWHERE without an RMA# issued by EVERYWHERE.  Under the preceding conditions, Customer agrees to pay or reimburse EVERYWHERE for all shipping and freight charges.  Customer acknowledges that it is solely responsible for backing-up and safeguarding any data stored on the Device at all times including before shipment to EVERYWHERE.  If Customer ships any Device to EVERYWHERE or its designee, EVERYWHERE is only responsible for any loss or damage that occurs (a) while at the site of EVERYWHERE or its designee and (b) where the loss or damage is caused by the negligence or willful misconduct of EVERYWHERE or its designee. In that case, Customer’s only remedy and EVERYWHERE’s sole liability to Customer shall be to repair or replace the lost or damaged Device.

**17.6    DISCLAIMER FOR EMERGENCY SERVICES.**  TO THE EXTENT PERMITTED BY APPLICABLE LAW, EVERYWHERE AND ITS LICENSORS ARE NOT RESPONSIBLE FOR ANY FAILURES CAUSED BY THE AIRTIME, THE CELLULAR NETWORK OR THE EVERYWHERE HUB’S ERRORS, MISDIRECTED OR REDIRECTED TRANSMISSIONS, FAILED INTERNET CONNECTIONS, INTERRUPTIONS OR FAILURES IN THE TRANSMISSION OF DATA (INCLUDING BUT NOT LIMITED TO SOS EMERGENCY SIGNALS), ANY COMPUTER VIRUS, OR ACTS OR OMISSIONS OF THIRD PARTIES THAT DAMAGE THE AIRTIME’S NETWORK OR IMPAIRED AIRTIME OR THE CELLULAR NETWORK, DAMAGE OR INJURY CAUSED BY A FAILURE OR DELAY IN CONNECTING A CALL OR SOS EMERGENCY SIGNALS TO ANY ENTITY, INCLUDING ANY CUSTOMER EMERGENCY CALL CENTERS, THE THIRD PARTY SOS RESPONSE CENTER, OR ANY OTHER EMERGENCY CALL SERVICE, OR OTHER TECHNICAL DEFECT, WHETHER HUMAN OR TECHNICAL IN NATURE.

**17.7    WARRANTY DISCLAIMER.** THE FOREGOING WARRANTIES ARE IN LIEU OF, AND CUSTOMER AND EVERYWHERE, ON BEHALF OF ITS LICENSORS AND THEIR LICENSORS, EXPRESSLY DISCLAIM, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, TITLE, NON-INFRINGEMENT, AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. EVERYWHERE AND ITS LICENSORS SPECIFICALLY DISCLAIM ANY WARRANTY THAT THE OPERATION OF THE PRODUCTS, SERVICES, AND EVERYWHERE SATELLITE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR OF SATISFACTORY QUALITY TO THE EXTENT PERMITTED BY APPLICABLE LAW.  EVERYWHERE DOES NOT WARRANT OR MAKE ANY CONDITIONS OR REPRESENTATIONS REGARDING THE SUITABILITY, AVAILABILITY, ACCURACY, RELIABILITY, COMPLETENESS, OR TIMELINESS OF ANY DATA OR MATERIAL OF ANY KIND CONTAINED WITHIN THE PRODUCTS, SERVICES, AND EVERYWHERE SATELLITE SERVICES FOR ANY PURPOSE.  EVERYWHERE AND ITS LICENSORS MAKE NO REPRESENTATIONS THAT THE PRODUCTS, SERVICES, AND EVERYWHERE SATELLITE SERVICES WILL BE FREE FROM LOSS, INTERRUPTION, CORRUPTION, ATTACK, VIRUSES, WORM, TIME BOMB, LOGIC BOMB, SIMILAR COMPUTER BASED INTRUSIONS OR INTERFERENCE, HACKING OR OTHER SECURITY INTRUSION, AND THAT ANY DEFECTS IN THE PRODUCTS, SERVICES, AND EVERYWHERE SATELLITE SERVICES WILL BE CORRECTED AND EVERYWHERE AND ITS LICENSORS DISCLAIM ANY LIABILITY RELATING THERETO. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ANY REPRESENTATIVES OF EVERYWHERE SHALL CREATE A WARRANTY.  END USERS ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO PRODUCTS, OTHER DEVICES OR LOSS OF DATA THAT RESULTS FROM SUCH USE.

**17.8**THE DISCLAIMERS OF WARRANTIES SET FORTH IN THIS SECTION 17 DO NOT LIMIT OR DISCLAIM ANY OF THE WARRANTIES SPECIFIED IN THE GSA SCHEDULE 70 CONTRACT UNDER FAR 52.212-4(O) (CONTRACT TERMS AND CONDITIONS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES – WARRANTY).  IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL RIGHTS AND REMEDIES UNDER THE CONTRACT, THE FAR, AND THE CONTRACT DISPUTES ACT, 41 U.S.C. 7101-7109 (CONTRACT DISPUTES).

**18.  Limitation of Liability.**The Limitations of Liability set forth in this Section 18 shall apply to the extent that FAR 46.805 (Contract clauses) does not apply to this Order.

**18.1    LIMITATION ON INDIRECT DAMAGES.** TO THE FULLEST EXTENT PERMITTED BY LAW, EVERYWHERE AND EVERYWHERE’S LICENSORS SHALL NOT BE LIABLE FOR INDIRECT, PUNITIVE, CONSEQUENTIAL, ECONOMIC, RELIANCE, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES, LOSS, COSTS OR EXPENSES (INCLUDING WITHOUT LIMITATION LOST PROFITS, LOSS OF BUSINESS REVENUE OR EARNINGS, MEDICAL AND OTHER EXPENSES, LOSS OF GUIDANCE, CARE AND COMPANIONSHIP, LOST DATA, LOSS OF OPPORTUNITY, LOSS OF ANTICIPATED SAVINGS, DAMAGES CAUSED BY DELAYS, OR A FAILURE TO REALIZE EXPECTED SAVINGS) DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER RESULTING FROM CONTRACT, TORT (INCLUDING LIABILITY FOR NEGLIGENCE OR BREACH OF STATUTORY DUTY) OR OTHERWISE IN RESPECT OF ANY LOSS, DAMAGE, COSTS, EXPENSES OR OTHER CLAIMS RESULTING FROM THE ACTS OR OMISSIONS OF EVERYWHERE, WHETHER OR NOT SUCH DAMAGES COULD REASONABLY BE FORESEEN OR THEIR LIKELIHOOD HAS BEEN DISCLOSED TO EVERYWHERE AND EVERYWHERE’S LICENSORS.

**18.2    NO LIABILITY FOR EVERYWHERE’S LICENSORS.**  CUSTOMER EXPRESSLY ACKNOWLEDGES THAT EVERYWHERE’S LICENSORS AND THEIR AFFILIATES SHALL HAVE NO LIABILITY TO CUSTOMER FOR DAMAGES OR COSTS WHETHER DIRECT, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL, WHETHER FORESEEABLE OR NOT, INCURRED AS A RESULT OF LOSS OF TIME, SAVINGS, PROPERTY, DATA, PROFITS, OR GOODWILL, UNDER ANY THEORY OF LIABILITY, INCLUDING NEGLIGENCE, TORT, STRICT LIABILITY, PRODUCTS LIABILITY, CONTRACT, WARRANTY OR OTHER LEGAL OR EQUITABLE THEORY AND REGARDLESS OF WHETHER EVERYWHERE’S LICENSORS OR ITS AFFILIATES HAVE BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES CAUSED BY:

18.2.1    ANY FORCE MAJEURE EVENT; OR

18.2.2    FAILURE, DELAY, OR INACCURACY OF THE GPS SATELLITES IN PROVIDING LOCATION COORDINATES; OR

18.2.3    FAILURE, DELAY, OR INACCURACY OF THE PRODUCTS TO PROCESS AND/OR TRANSMIT DATA TRANSMISSIONS, INCLUDING SOS EMERGENCY SIGNAL(S), AND/OR LOCATION COORDINATES, TO THE SATELLITE SYSTEMS; OR

18.2.4    FAILURE OF OR DELAY IN THE SATELLITE SYSTEMS AND/OR GROUND STATIONS TO PROCESS DATA TRANSMISSIONS, INCLUDING BUT NOT LIMITED TO SOS EMERGENCY SIGNALS, LOCATION COORDINATES, PREPROGRAMMED MESSAGES AND DISPLAY, AND TRANSMIT TO THE IDENTIFIED POINTS OF CONTACT AND/OR THE APPLICABLE EMERGENCY CALL CENTER; OR

18.2.5    FAILURE OF OR DELAY IN THE EMAIL OR CELLPHONE PROVIDER TO TRANSMIT THE MESSAGE TO AN END USER, OR FAILURE OF OR DELAY IN THE APPLICABLE EMERGENCY CALL CENTER IN RESPONDING TO SOS EMERGENCY SIGNALS; OR

18.2.6    FAILURE OF, OR DELAY IN THE PRODUCTS TO TRANSMIT OR RECEIVE ANY MESSAGES; OR

18.2.7    FAILURE OF, OR DELAY BY, SERVICE PROVIDERS TO PERFORM THE APPLICABLE SERVICE FOR WHICH EACH IS CONTRACTED; OR

18.2.8    FAILURE TO OBTAIN A CLEAR LINE OF SIGHT TOWARD THE SATELLITE SYSTEMS; OR

18.2.9    FAILURE TO PROPERLY INSTALL SOFTWARE OR CONFIGURE THE PRODUCTS; OR

18.2.10  FAILURE OF EVERYWHERE, ITS LICENSORS, AND THEIR SERVICE PROVIDERS TO PROVIDE THE SERVICES, INCLUDING SOS EMERGENCY SERVICES, DUE TO THE SERVICES HAVING BEEN CANCELLED OR TERMINATED PURSUANT TO THIS AGREEMENT; OR

18.2.11  NON-COMPATIBILITY OF PRODUCTS WITH SMARTPHONE OPERATING SYSTEMS AND THIRD-PARTY SOFTWARE; OR

18.2.12  FAILURE OR INADEQUACY OF POWER SUPPLY FOR PRODUCTS AND/OR ASSOCIATED ACCESSORIES.

**18.3    LIMITATION ON DIRECT DAMAGES.** BOTH PARTIES SHALL ONLY BE LIABLE TO THE OTHER PARTY FOR PROVEN DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED, IN THE AGGREGATE FOR ALL CLAIMS, HOWSOEVER CAUSED AND WHETHER FOR BREACH OF CONTRACT, IN TORT, BY WAY OF NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, EVEN IF EVERYWHERE IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF SUCH DAMAGES WERE REASONABLY FORESEEABLE, THE TOTAL AMOUNT OF REVENUE GENERATED UNDER THE APPLICABLE ORDERING DOCUMENT FROM WHICH THE CLAIM AROSE IN THE MOST RECENT TWELVE (12) MONTH PERIOD FROM WHEN THE CLAIM AROSE; PROVIDED, HOWEVER, THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION 18 SHALL NOT APPLY TO INTENTIONAL OR RECKLESS ACTS OR GROSS NEGLIGENCE ON THE PART OF EVERYWHERE.

**18.4    Survival of Limitations.**  The limitations of liability set forth in this Section 18 shall survive termination or expiration of this Agreement.

**18.5    No Prejudice**. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 18 SHALL NOT IMPAIR THE U.S. GOVERNMENT’S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. 3729-3733.  FURTHERMORE, THIS SECTION SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT’S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE GSA SCHEDULE CONTRACT (E.G., CLAUSE 552.238-75 – PRICE REDUCTIONS, CLAUSE 52.212-4(H) – PATENT INDEMNIFICATION, AND GSAM 552.215-72 – PRICE ADJUSTMENT – FAILURE TO PROVIDE ACCURATE INFORMATION).

**19.  Suspension.**Upon EVERYWHERE’s reasonable belief that criminal or otherwise improper activity may be associated with Customer's use of the Services or EVERYWHERE Satellite Services, EVERYWHERE may, without incurring any liability, temporarily suspend or discontinue Customer’s use of the Services or EVERYWHERE Satellite Services.

**20.  Termination.**

**20.1    Termination By Either Party.**  Except as otherwise provided in 41 U.S. Code Chapter 71 (Contract Disputes), a non-breaching Party may terminate this Agreement for cause by written notice to breaching Party upon the occurrence of any of the following events: (i) the material breach by breaching Party of any term, provision, representation or warranty of this Agreement that remains uncured thirty (30) days after the non-breaching Party provides written notice thereof; or (ii) a material breach of any of its intellectual property, confidentiality obligations.

**20.2    EVERYWHERE Termination.** EVERYWHERE may terminate this Agreement by providing Customer with thirty (30) days advanced written notice if any government authority or EVERYWHERE Licensor terminates or materially limits EVERYWHERE’s rights to provide a service or product that is required by EVERYWHERE to provide the Products, Services or EVERYWHERE Satellite Services hereunder.

**20.3    Rights Upon Termination.**  Upon termination or expiration of this Agreement by either Party:

a)    all Licenses granted hereunder shall terminate immediately;

b)    Each Party will promptly cease using and destroy or return to the other Party all items that contain any Confidential Information of the other Party;

c)     EVERYWHERE shall immediately invoice Customer for any outstanding sums which may be owing; and

d)    termination or expiration of this Agreement shall not release either party from: (i) any liability which has already accrued to the other Party hereto at the time of termination or expiration; (ii) any liability which thereafter may accrue with respect to any act or omission prior to termination or expiration; or (iii) any obligation which is expressly stated herein to survive termination or expiration.

**21.  General Provisions**

**21.1    Disputes.** Any dispute, controversy, or claim arising out of, relating to, or having any connection with the Agreement with Customers who are U.S. Government agencies shall be resolved in accordance with 41 U.S. Code Chapter 71 (Contract Disputes).

**21.2    Publicity.** Neither Party shall issue a press release or make any similar public announcement without the other Party’s prior written consent to the specific language and intended distribution of such press release or announcement. Notwithstanding the foregoing, the Parties agree to issue a joint press release so that both Parties can make reference to this in marketing and promotional material. EVERYWHERE may use Customer’s name and logo in EVERYWHERE’s customer lists which may be posted on EVERYWHERE’s website, provided that no such listing shall imply that the U.S. Government endorses or prefers EVERYWHERE’s Products or Services or considers them to be superior to other products or services. Notwithstanding the foregoing, the Parties acknowledge that the U.S. Government has an obligation to comply with Federal laws, such as the Freedom of Information Act, 5 USC 552, and except as required by law the Government will maintain confidentiality.

**21.3    Force Majeure.**  Neither Party shall be liable to the other Party or shall be subject to termination of the Agreement by the other Party for any delay, nonperformance, loss or damage (other than for failure to pay any amount when due) because of reasons beyond its reasonable control including, but not limited to, acts of god, natural casualties, acts of government, floods, fires, earthquakes, hostilities, civil unrest, acts of terror, labor or material shortages, strikes, communication systems or satellite systems failures, internet service provider failures or delays, or denial of service attacks, war, riots, power failures, fire, explosion, flood, snow, fog or other inclement weather conditions, damage caused by electromagnetic interference, theft, malicious damage, lock out or industrial action of any kind, transportation conditions or other causes beyond the reasonable control of the respective Party or not anticipated by the respective Party in its business judgment  (each a “**Force Majeure Event**”).  The Party seeking relief from the Force Majeure Event will notify the other Party in a timely fashion if it is unable to perform due to a Force Majeure Event. The other Party agrees that the Party seeking relief shall not be responsible or liable in any way for any delay or non-performance due to a Force Majeure Event (other than for failure to pay any amount when due).

**21.4    Assignment.**  This Agreement and the rights and obligations hereunder may not be assigned, delegated, sublicensed, or transferred without the prior written consent of the other Party.  This Agreement may be transferred or assigned only in accordance with the procedures of FAR Part 42.12 (Novation and Change-of-Name Agreements).

**21.5    Subcontractors Permitted.** EVERYWHERE may engage subcontractors to perform all or any portion of its duties under this Agreement provided that any such subcontractor agrees in writing to be bound by confidentiality obligations at least as protective as the terms of this Agreement regarding confidentiality, and provided further that EVERYWHERE remains responsible for the performance of such subcontractors.

**21.6    Amendments.**  No modification, amendment, supplement to or waiver of these Government Terms or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by the Parties.

**21.7    Miscellaneous Provisions.**  A failure or delay of either Party to this Agreement to enforce any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions.  In the event that any provision of this Agreement shall be held to be invalid, the remaining provisions of this Agreement shall be unimpaired, and the invalid provisions shall be replaced by a mutually acceptable provision.  The Parties agree that where the context of any provision indicates an intent that it shall survive the termination or expiration of this Agreement, then it shall so survive.  This Agreement shall not create, or in any way be interpreted as a joint venture, partnership, or formal business organization of any kind.  Except as set forth in this Agreement, neither Party has the right to make commitments of any kind for the other Party. Under no circumstances shall any personnel of either Party be considered to be an employee or agent of the other Party.  Except for any express provisions of this Agreement conferring third party beneficiary status, if any, there are no other intended third-party beneficiaries of any provision of this Agreement.  This Agreement may be delivered by electronic means.  This Agreement will not be construed in favor of or against either Party solely on the basis of a Party’s drafting or participation in the drafting of any portion of this Agreement.  All notices required hereunder shall be in writing and transmitted to EVERYWHERE at its address as first set forth in these Government Terms, and to Customer’s address as set forth in the applicable Ordering Document. Notices shall be effective upon the date of confirmed delivery or at such time as delivery is refused by addressee upon presentation.  Email communications are acceptable methods of communication for any provision under this Agreement that requires the mutually written agreement of the Parties.  The preamble hereto shall form an integral part of this Agreement.  The headings in this Agreement are for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any of its provisions.  All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa, as the context may require.  The Parties expressly request that this Agreement and any document related thereto be drafted in the English language.  This Agreement shall be governed by the laws of the United States of America.

**EXHIBIT A**

**RETURNS**

 **Part I: Return Merchandise Authorization (RMA)**

 Please direct all RMA requests to RMA@everywherecomms.com.

**EXHIBIT B**

**OPEN-SOURCE SOFTWARE**

|  **Open SourceSoftware Name** | **Ver.** | **Download Link** | **Open Source License** |
| --- | --- | --- | --- |
| **Name** | **Full Text Available at** |
| EVERYWHERE Apps (Android version) |
| **Google Protobuff** | 3.4.0 | https://github.com/protocolbuffers/protobuf | 3-Clause BSD License | https://github.com/protocolbuffers/protobuf/blob/master/LICENSE |
| Required Notices:Copyright 2008 Google Inc. All rights reserved.  Neither the name of Google Inc. nor the names of itscontributors may be used to endorse or promote products derived fromthis software without specific prior written permission.See the Full Text of the 3-Clause BSD License referenced above for other conditions and restrictions. |
| **Bouncy Castle** | 1.57.0 | https://rtyley.github.io/spongycastle/ | Modified MIT X11 | http://www.bouncycastle.org/licence.html |
| Required Notices:Copyright (c) 2000 - 2018 The Legion of the Bouncy Castle Inc. (https://www.bouncycastle.org)Permission is hereby granted, free of charge, to any person obtaining a copy of this software and associated documentation files (the "Software"), to deal in the Software without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, sublicense, and/or sell copies of the Software, and to permit persons to whom the Software is furnished to do so, subject to the conditions set forth in the Full Text of the Modified MIT X11 Open Source License referenced above. |
| **MapBox** | 5.6.5 | https://github.com/mapbox/mapbox-gl-native | 3-Clause BSD | https://github.com/mapbox/mapbox-gl-native/blob/master/LICENSE.md |
| Required Notices:mapbox-gl-native copyright (c) 2014-2018 Mapbox.See the Full Text of the 3-Clause BSD License referenced above for other conditions and restrictions. |
| **Orhanobut Logger** | 2.1.1 | https://github.com/orhanobut/logger | Apache 2.0 | http://www.apache.org/licenses/LICENSE-2.0 |
| **Gson** | 2.8.1 | https://github.com/google/gson | Apache 2.0 | http://www.apache.org/licenses/LICENSE-2.0 |
| **Realm** | 4.1.1 | https://github.com/realm/realm-java | Apache 2.0 | http://www.apache.org/licenses/LICENSE-2.0 |
| EVERYWHERE Apps (iOS version) |
| **IDZSwiftCommonCrypt** | 0.10.0 | https://github.com/iosdevzone/IDZSwiftCommonCrypto | The MIT License | https://opensource.org/licenses/MIT |
| Required Notices:Copyright (c) 2014 idzSee the Full Text of the MIT License referenced above for other conditions and restrictions. |
| **MapBox** | 5.6.5 | https://github.com/mapbox/mapbox-gl-native | 3-Clause BSD | https://github.com/mapbox/mapbox-gl-native/blob/master/LICENSE.md |
| Required Notices:mapbox-gl-native copyright (c) 2014-2018 Mapbox.See the Full Text of the 3-Clause BSD License referenced above for other conditions and restrictions. |
| **RealmSwift** | 3.1.1 | https://github.com/realm/realm-cocoa | Apache 2.0 | http://www.apache.org/licenses/LICENSE-2.0 |
| **SwiftMessages** | 4.1.0 | https://github.com/SwiftKickMobile/SwiftMessages | The MIT License | https://opensource.org/licenses/MIT |
| Required Notices:Copyright (c) 2016 SwiftKick Mobile LLCSee the Full Text of the MIT License referenced above for other conditions and restrictions. |
| **SwiftProtobuf** | 1.0.2 | https://github.com/apple/swift-protobuf | Apache 2.0 | http://www.apache.org/licenses/LICENSE-2.0 |
| **SwityBeaver** | 1.5. | https://github.com/SwiftyBeaver/SwiftyBeaver | The MIT License | https://opensource.org/licenses/MIT |
| Required Notices:Copyright (c) 2015 Sebastian KreutzbergerSee the Full Text of the MIT License referenced above for other conditions and restrictions. |
| **Chatto** | 3.2.0 | https://github.com/badoo/Chatto | The MIT License | https://opensource.org/licenses/MIT |
| Required Notices:Copyright (c) 2015 Badoo DevelopmentSee the Full Text of the MIT License referenced above for other conditions and restrictions. |
| **ChattoAdditions** | 3.2.0 | https://github.com/badoo/Chatto | The MIT License | https://opensource.org/licenses/MIT |
| Required Notices:Copyright (c) 2015 Badoo DevelopmentSee the Full Text of the MIT License referenced above for other conditions and restrictions. |

Note: Full text of any Open-Source can be provided upon request.

**EXHIBIT C**

**FACTAL ADD-ON SERVICES**

 **Part I.   Factal Services Description**

**1.     EVERYWHERE Safeguard App w/ Factal Part Nos. Vary**

The EVERYWHERE Safeguard App w/ Factal is an EVERYWHERE App that operates on either an Android or iOS smartphone, purpose built for enterprise and government entities with employees on-the-go with the added functionality of the Factal data feed. The Factal data feed provides Factal Risk Intelligence in the EVERYWHERE App for incidents within 50 miles of the End User’s current location. The EVERYWHERE Safeguard App operates in standalone mode when accessing Wi-Fi, using data from wireless cellular providers, or it may be paired via Bluetooth with EVERYWHERE Garmin inReach Mini to provide global connectivity and communications. The EVERYWHERE Safeguard App provides Global SOS, secure personnel and team tracking and communications to provide mobile situational awareness.

**2.     EVERYWHERE Satellite Risk Intelligence Notifications w/ Factal                                                Part Nos. Vary**

EVERYWHERE Satellite Risk Intelligence Notifications with Factal provides enterprise and government entities with employees on-the-go with the added functionality of Factal alerting. Factal Content delivered over Airtime (Iridium Satellite) provides End Users with Factal alert messages delivered directly to an End User’s Safeguard App or their EVERYWHERE inReach Devices for Severity Five (5) incidents occurring within 50 miles of the End User’s current location.

**Part II.      Contractual Pass-Through Provisions for Factal Services**

As the Factal Services are a component of the overall Services, all of the terms and conditions related to Services as defined in the Agreement also apply to the Factal Services.  In addition, the following supplemental terms and conditions also apply to the Factal Services.

**1.     License to Factal Services.**

**1.1      Factal Services License Grant.**  If specified in an Ordering Document, and in consideration for Customer’s payment obligations for Subscription Fees set forth in Ordering Documents, EVERYWHERE grants Customer a limited, nontransferable, and nonexclusive right to access and use the Factal Services, including the right to retrieve information, functionality, and/or data (“**Factal Content**”) from databases provided with the Factal Services, only during the Subscription Period for the Factal Services (“**Factal** **License**”) as set forth in the Ordering Document and in accordance with the Specifications.  No license is granted under any Factal License to access, copy, or use the software that supports the Factal Services, except in connection with the Factal License.  The Factal License shall be considered one of the Licenses granted under the Agreement.

**1.2      Factal Use Restrictions**. Except as may be agreed to in writing by EVERYWHERE, Customer shall not, and shall not permit or enable any other person or entity to: (i) use the Factal Services beyond the scope of the Factal License; (ii) use the Factal Services in violation of any federal, state or local law, regulation or rule; (iii) use or enable End User to use the Factal Services for the purposes of testing or comparison of Factal Services, machine learning, or for any purpose competitive with Factal Services; (iv) distribute or allow access or linking to the Factal Services other than through the EVERYWHERE Services; (v) use the Factal Services in a way that is false or misleading;  (vi) use the Factal Services for surveillance of individuals without their consent; or (vii) use the Factal Services for or on behalf of, or make available to, government entities engaged in military or law enforcement; or to paramilitary organizations.

**1.3      Compliance Measures**. The Factal Services may contain security features designed to prevent unauthorized use of the Factal Services, such as use of the Factal Services in violation of any restrictions set forth in this Agreement. Customer shall not, and shall not attempt to, remove, disable, circumvent or otherwise create or implement any workaround to any such security features.

**1.4      Consent to Collection and Use of Information**. Customer agrees: (a) to the terms of Factal’s privacy policy located at https://www.factal.com/privacy (“**Factal Privacy Policy**”); and (b) that Factal and its affiliates may collect and use information regarding use of the Factal Services by Customer or through the Factal Services and about equipment through which it is accessed and used consistent with the Factal Privacy Policy and that such information will be used for (i) improving the performance of the Factal Services or developing updates or enhancements thereto; and (ii) verifying Customer’s compliance with the terms of this Agreement and enforcing EVERYWHERE’s and Factal’s rights in the Factal Services. Any such information shall be considered Confidential Information of Customer and Factal.  No End User personally identifiable information is provided by EVERYWHERE to Factal.

**2.     Warranties.**

**2.1      Factal Services Warranty.**  EVERYWHERE warrants during the applicable Subscription Period that the Factal Services set forth in any applicable Ordering Documents will operate in material accordance with the Specifications. Customer’s sole remedy for any claims under this Section shall be to correct such failures at no charge to Customer.

**2.2      Warranty Disclaimer**. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE FACTAL SERVICES, FACTAL CONTENT, AND DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. EVERYWHERE DOES NOT WARRANT THAT THE FACTAL SERVICES, FACTAL SERVICES, OR DOCUMENTATION WILL MEET CUSTOMER’S REQUIREMENTS.  FURTHER, THE FACTAL SERVICES MAY BE TEMPORARILY UNAVAILABLE FOR UNFORESEEN HARDWARE, SOFTWARE, TELECOMMUNICATIONS, SERVICE PROVIDER FAILURES, AND/OR SCHEDULED MAINTENANCE. IN ANY SUCH CASE, EVERYWHERE CANNOT GUARANTEE THE DURATION OF ANY OUTAGE BUT WILL USE REASONABLE EFFORTS TO RESTORE ACCESS TO THE FACTAL SERVICES WITHIN A REASONABLE TIME.

**EXHIBIT D**

**TWILIO SMS ADD-ON SERVICES**

 **Part I.   Twilio SMS Services Description**

 EVERYWHERE Dedicated SMS Number allows EVERYWHERE Garmin inReach End Users to use a directly-assigned phone number to two-way Message from their inReach Device. End Users can share their Dedicated SMS Number with team members who can initiate Messages and communicate directly to inReach Devices.

**Part II.      Contractual Pass-Through Provisions for Twilio SMS Services**

As the Twilio SMS Services are a component of the overall Services, all of the terms and conditions related to Services as defined in the Agreement also apply to the Twilio SMS Services.  In addition, the following supplemental terms and conditions also apply to the Twilio SMS Services.

**1.     Definitions**

“**Dedicated SMS Number**” means a 10-digit phone number available under the numbering plan for the Public Switched Telephone Network for the United States and Canada (NANP).

“**End User Data**” means data and other information made available by End Users to Twilio in connection with your use of the Twilio SMS Services under this Agreement.

“**Service Usage Data**” means any data that is derived from the use of the Twilio SMS Services that does not directly or indirectly identify End Users or any natural person and includes (a) data such as volumes, frequencies, bounce rates, and Twilio SMS Services performance data and (b) subject to any restrictions under applicable law or regulation, data that is anonymized, de-identified, and/or aggregated such that it could no longer directly or indirectly identify End Users or any natural person.

“**SMS Guidelines**” mean the guidelines provided by Twilio at https://www.twilio.com/en-us/guidelines/sms.

“**Twilio**” means, as applicable:

(i)   Twilio Inc., a Delaware corporation, with a place of business at 101 Spear Street, 5th Floor, San Francisco, California, 94105, USA, if the entity using the Twilio SMS Services is domiciled in any country outside of the European Economic Area or its regions or territories, the United Kingdom, Switzerland, Andorra, Vatican City, or Monaco, other than Japan;

(ii) Twilio Ireland Limited, a company registered in the Republic of Ireland, whose registered address is 3 Dublin Landings, North Wall Quay, Dublin 1, Ireland if the entity using the Twilio SMS Services is domiciled in any country within the European Economic Area or its regions or territories, the United Kingdom, Switzerland, Andorra, Vatican City, or Monaco;

(iii) Twilio Japan G.K., a Japanese company with a place of business at Link Square Shinjuku 16F, 5-27-5 Sendagaya, Shibuya-ku, Tokyo 151-0051, Japan if the entity using the Twilio SMS Services is domiciled in Japan.

“**Twilio Acceptable Use Policy**” means certain terms relating to the use of the Services, including the Twilio SMS Services and Country Specific Requirements set forth therein, the current version of which is available at https://www.twilio.com/legal/aup, upon the Customer’s request.

“**Twilio Data Protection Addendum**” means the personal data processing-related terms for the Twilio SMS Services, the current version of which is available at https://www.twilio.com/legal/data-protection-addendum, upon the Customer’s request.

**2.     License to Twilio SMS Services.**

**2.1      Twilio SMS Services License Grant.**  If specified in an Ordering Document, and in consideration for Customer’s payment obligations for Subscription Fees set forth in Ordering Documents, EVERYWHERE grants Customer a limited, nontransferable, and nonexclusive right to access and use the Twilio SMS Services only during the Subscription Period for the Twilio SMS Services (“**Twilio SMS License**”) as set forth in the Ordering Document and in accordance with the Specifications.  No license is granted under any Twilio SMS License to access, copy, or use the software that supports the Twilio SMS Services, except in connection with the Twilio SMS License.  The Twilio SMS License shall be considered one of the Licenses granted under the Agreement.

**2.2      Customer Responsibilities.**  Each country has its own regulatory framework governing the use of SMS Messages. Regulatory provisions may differ by sender type and use case. They may include additional registration requirements and define prohibited use cases.  End Users are responsible for compliance with the applicable country-specific regulations. End Users should review the SMS Guidelines for a country before the End User considers enabling its SMS Geo Permissions.  Customer will: (i) be solely responsible for all use of the Twilio SMS Services and Documentation under its account; (ii) use the Twilio SMS Services only in accordance with this Agreement, the Twilio Acceptable Use Policy, the applicable Documentation, any applicable Ordering Document, and applicable law or regulation; (iii) be solely responsible for all acts, omissions, and activities of its End Users, including their compliance with this Agreement, the Twilio Acceptable Use Policy, the SMS Guidelines, the applicable Documentation, any applicable Ordering Document, and applicable law or regulation; (iv) provide reasonable cooperation regarding information requests from law enforcement, regulators, or telecommunications providers; and (v)  comply with your representations and warranties set forth in Section 3 (Representations, Warranties, and Disclaimer).

**2.3      Suspension of Twilio SMS Services.**  EVERYWHERE or Twilio may suspend the Twilio SMS Services upon written notice to Customer if EVERYWHERE or Twilio, in good faith, determines: (a) that the End User materially breached the Twilio Acceptable Use Policy; (b) there is an unusual and material spike or increase in your use of the Twilio SMS Services and that such traffic or use is fraudulent or materially and negatively impacting the operating capability of the Twilio SMS Services; (c) that its provision of the Twilio SMS Services is prohibited by applicable law or regulation; (d) there is any use of the Services by End Users that threatens the security, integrity, or availability of the Twilio SMS Services; or (e) that information in the End User’s account is untrue, inaccurate, or incomplete. Customer remains responsible for the Subscription Fees for the Twilio SMS Services.

**3.     Data Ownership Rights**

**3.1      Service Usage Data.**  As between the Parties, Twilio exclusively owns and reserves all rights, title, and interest in and to the Twilio SMS Services, the Documentation, Twilio's Confidential Information, and Service Usage Data.

**3.2      Customer Data**.  Customer agrees to grant EVERYWHERE and Twilio and their Affiliates the right to process End User Data as necessary to provide the Twilio SMS Services in a manner that is consistent with this Agreement and the Twilio Data Protection Addendum. End Users are responsible for the content of the End User Data they create.

**4.     Warranties.**

**4.1      Twilio SMS Services Warranty.**  EVERYWHERE warrants during the applicable Subscription Period that the Twilio SMS Services set forth in any applicable Ordering Documents will operate in material accordance with the Specifications. Customer’s sole remedy for any claims under this Section shall be to correct such failures at no charge to Customer.

**4.2      Warranty Disclaimer**. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE TWILIO SMS SERVICES AND DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. CUSTOMER ACKNOWLEDGES THE INTERNET AND TELECOMMUNICATIONS PROVIDERS’ NETWORKS ARE INHERENTLY INSECURE AND THAT EVERYWHERE AND TWILIO WILL HAVE NO LIABILITY FOR ANY CHANGES TO, INTERCEPTION OF, OR LOSS OF END USER DATA WHILE IN TRANSIT VIA THE INTERNET OR A TELECOMMUNICATIONS PROVIDER’S NETWORK.

**5.     EXCEPTIONS TO THE LIMITATION OF LIABILITY.**  NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE SECTION OF THE AGREEMENT CAPTIONED “LIMITATION OF LIABILITY”, SUCH LIMITATIONS DO NOT APPLY TO ANY BREACH OF THE OBLIGATIONS SET FORTH IN SECTION 2.2 (CUSTOMER RESPONSIBILITIES) OF THIS EXHIBIT BY CUSTOMER OR ITS END USERS.

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