

Purchase Order



| | | | | |
|-------------------------------------|---|---------------------------|-------------------------------|------------------|
| Purchase Order 0000027096 | BU FLCMP | Date 11/15/2022 | Revision | Page 1 |
| Payment Terms Net 30 | Freight Terms FOB-Destination | | Ship Via BestMethod | |

CSU Fullerton
FULLERTON, CA 92834-9480

Supplier: 0000020542
Tel: 240/264-3295
Email: Milan.Bush@convergintfederal.com; signet.bill

SIGNET TECHNOLOGIES INC
6650 ELI WHITNEY DR
COLUMBIA MD 21046

Ship To: RECEIVING (657) 278-2531
CAL STATE FULLERTON
800 N STATE COLLEGE BLVD
FULLERTON CA 92831-3599

Bill To: ACCOUNTS PAYABLE (657) 278-4278
CAL STATE FULLERTON CP-300
PO BOX 6808
FULLERTON CA 92834-6808

| Line-Sch | Quantity | UOM | Description | Unit Price | Extended Amt | Due Date |
|----------|----------|-----|---|------------|--------------|------------|
| 1 - 1 | 1.00 | LOT | Cameras, three (3) outdoor cameras + mounting equipment, [REDACTED] | 10,591.72 | 10,591.72 | 12/30/2022 |

Reference attached Quote EF02491174P, dated 10/20/2022, for pricing and details (8 pages).

CSUF Arboretum Contact: Marta McDaniel, (657) 278-4793, mmcdaniel@fullerton.edu
CSUF Philanthropic Foundation Contact: Susan Cervantes (657) 278-4420, scervantes@fullerton.edu

Supplier is required to submit invoice(s) referencing this purchase order number to the Bill To address noted above or AP@fullerton.edu in order to receive payment.

In the event the performance of this Purchase Order requires Contractor, its employees, agents, and/or subcontractors to enter any campus, property, or facility owned or operated by the Trustees of the California State University (hereinafter CSU Property), Contractor shall comply, and shall ensure its employees, agents, and subcontractors comply, with CSUs COVID-19 Vaccination Interim Policy, ID 9779821, located at <https://calstate.policystat.com/policy/9779821/latest/>, or with such CSU COVID-19 Vaccination Policy as may be in effect at the time Contractor, its employees, agents, and/or subcontractors seek to enter CSU Property. Moreover, Contractor agrees to reasonably cooperate with CSU to ensure its compliance and that of its employees, agents, and subcontractors with any applicable CSU COVID-19 Vaccination Policy. CSU reserves the right to modify or rescind the CSU COVID-19 Vaccination Interim Policy and/or any other related policy at any time based on federal, state, and/or local public health guidance.

Vendor shall review and comply with CSUF General COVID-19 Safety for Visitors & Vendors for all onsite work.

CSUF is a smoke and tobacco free campus. Smoke Free means the use of cigarettes, pipes, cigars, and other smoke emanating products including e-cigarettes, vapor devices and other like products are prohibited on all University properties. Tobacco Free means the use of cigarettes, pipes, cigars, smokeless tobacco, snuffs, and other tobacco products are prohibited on all University properties.

| | | | | |
|------------------------------|--------------------------|--------------------------------------|------------------------|---------------------------|
| Subtotal 10,591.72 | Sales Tax 0.00 | Misc. Charge/Discount 0.00 | Freight 0.00 | Total 10,591.72 |
|------------------------------|--------------------------|--------------------------------------|------------------------|---------------------------|

Internal Use Only R25159, 3 cameras, Arboretum

This order is issued in accordance with California State University (CSU) General Provisions for Acquisition of Goods, Service Acquisitions, Information Technology Acquisitions and Maintenance Tasks. These provisions are available at: <https://tinyurl.com/av5z2fnb> No change or modification in terms, quantities, or specifications may be made without express authorization in writing from the University Purchasing Office. Any additional or different terms proposed by the Vendor are deemed to be material alterations and notice of objection to them is hereby given. No other CSU officer or employee may authorize changes.

CERTIFICATION AND APPROVAL OF PURCHASE ORDER
I hereby certify on my own knowledge that this order for the purchase of the items specified is issued in accordance with the procedure prescribed by law governing such items for the Trustees of the CSU and that all such legal requirements have been met.

By: *Loren Skoug Alex Rosales*
Skoug, Loren Buyer Trainee
Tel: 657/278-5735
email: lskoug@fullerton.edu
Contracts and Procurement



September 20, 2022

To Convergint Federal for the Project at:

Quotation: EF02491174P

California State University
Fullerton
800 North State College Blvd.,
Fullerton, California 92831

Attention: ConvergintFed Purchasing

Attention(Customer POC):

Reference: CSU Fullerton Arboretum
CSU Fullerton Arboretum

Quotation: EF02491174P

Dear Project Management,

On behalf of Convergint's global network of colleagues, I would like to personally thank you for providing Convergint with the opportunity to present this proposal addressing the security requirements of the project referenced above. We are confident that the solution we are proposing is comprehensive and compliant with the specifications and requirements of the solicitation and the amendments.

Convergint is providing this firm fixed price solution and takes seriously its responsibility to provide equipment that meets or exceeds the solicitation requirement and that complies with the following federal government initiatives designed to protect federal networks from adversarial threats and to promote the use of products made in the US and by our allies:

- NDAA Section 889 Compliant
- Buy American Act Compliant
- Trade Act Agreement Compliant

As your single point of contact, please feel free to contact me with any additional questions you may have. Thank you again for trusting Convergint as your partner.

Sincerely,

Eric Freking

Eric Freking, Account Executive



CAGE CODE: 4A8Z7
DUNS: 171856222

Phone 714-922-3845 Mobile 626-825-4561
eric.freking@convergint.com

September 20, 2022

California State University Fullerton
California State University Fullerton
800 North State College Blvd. Fullerton, California 92831
Attention:

Quotation: EF02491174P
RFP#:
License/Cert

Reference: CSU Fullerton Arboretum
CSU Fullerton Arboretum

On behalf of Convergint's global network of colleagues, I would like to personally thank you for providing Convergint with the opportunity to present this proposal addressing your electronic security needs. We are confident that this proven solution is both comprehensive and customized to meet your needs today, and in the future.

Convergint's reputation for service excellence is backed by a foundational commitment to our core value of service, and we have been recognized as the #1 Systems Integrator by SDM Magazine. This recognition reflects the strong relationships Convergint has developed with the industry's top technology manufacturers, and our history of success with providing exceptional service to our customers.

Our guiding principle has always been to be our customers' best service provider. Our dedicated and certified team of professionals strives to uphold our customer-focused, service-based mission to make a daily difference for our customers. After achieving a successful on-time and on-budget project installation, Convergint will provide you with the industry's best ongoing service, including our 24/7 customer portal iCare, designed to track service work orders, project progress, and provide you with detailed metric reporting for continuous improvement.

The following security proposal is specifically designed to meet your needs. As your single point of contact, please feel free to contact me with any additional questions you may have. Thank you again for trusting Convergint as your partner.



Statement of Work

- Provide

| Services | | | | | | |
|--------------|-------------|--------------------------|-----|------|------------|----------------|
| Manufacturer | Part Number | Description | SIN | Qty | Unit Price | Extended Price |
| | | Project Manager | | 0.00 | \$ 153.00 | \$ 0.00 |
| | | Engineering / Design | | 0.00 | \$ 125.00 | \$ 0.00 |
| | | Drafting / CAD | | 0.00 | \$ 94.00 | \$ 0.00 |
| | | Specialist - Programming | | 0.00 | \$ 140.00 | \$ 0.00 |
| | | Specialist - Testing | | 0.00 | \$ 140.00 | \$ 0.00 |
| | | Installation - Foreman | | 0.00 | \$ 103.50 | \$ 0.00 |
| | | Installation - Installer | | 0.00 | \$ 103.50 | \$ 0.00 |
| | | Program Manager | | 0.00 | \$ 180.00 | \$ 0.00 |
| | | PSG Labor | | 0.00 | \$ 230.00 | \$ 0.00 |

| Equipment | | | | | | |
|--------------|-------------|---|-----|------|-------------|----------------|
| Manufacturer | Part Number | Description | SIN | Qty | Unit Price | Extended Price |
| Avigilon | [REDACTED] | [REDACTED] Enterprise camera channel | | 3.00 | \$ 209.97 | \$ 629.91 |
| Avigilon | [REDACTED] | [REDACTED] Enterprise Smart Plan; 5 year | | 3.00 | \$ 77.60 | \$ 232.80 |
| Avigilon | [REDACTED] | [REDACTED] Camera Only | | 1.00 | \$ 2,053.24 | \$ 2,053.24 |
| Avigilon | [REDACTED] | [REDACTED] Camera Only | | 2.00 | \$ 2,346.56 | \$ 4,693.12 |
| Avigilon | [REDACTED] | [REDACTED] Pole mount adapter | | 3.00 | \$ 88.00 | \$ 264.00 |
| Avigilon | [REDACTED] | [REDACTED] wVideo mount adapter. | | 3.00 | \$ 92.89 | \$ 278.67 |
| Avigilon | [REDACTED] | [REDACTED] | | 3.00 | \$ 156.43 | \$ 469.29 |
| Avigilon | [REDACTED] | [REDACTED] Outdoor pendant mount adapter; | | 3.00 | \$ 156.43 | \$ 469.29 |
| Avigilon | [REDACTED] | [REDACTED] | | 3.00 | \$ 322.64 | \$ 967.92 |



| | | |
|-----------------------------------|----|-----------|
| Equipment | \$ | 10,058.24 |
| Services | \$ | 0.00 |
| Subcontractors/Other Costs | \$ | 533.48 |
| Freight/Warranty | \$ | 0.00 |
| Total Project Price | \$ | 10,591.72 |



Clarifications and Exclusion

1. All work proposed herein, shall be performed during normal business hours Monday through Friday 8:00 am - 5:00 pm.
2. Low voltage wiring shall be installed via open air code approved methods.
3. Provision or installation of conduit, wire, boxes, fittings or other electrical installation materials unless specifically listed under Inclusions or Bill of Materials.
4. Permits or associated fees are not included.
5. Customer to provide static IP addresses and network connections at panel locations.
6. Customer to provide a secured staging & storage area for project related materials.
7. Pricing assumes that electronic Auto CAD files are available from customer for our use in creating submittal drawings.
8. Twenty-Five percent (25%) of the proposed sell price shall be payable to Convergent for project mobilization. Mobilization shall be invoiced and due upon customer acceptance of this proposal.
9. Proposal does not include sales tax unless otherwise noted.
10. Anything in the Contract Documents notwithstanding, in no event shall either Contractor or Subcontractor be liable for special, indirect, incidental or consequential damages, including commercial loss, loss of use, or lost profits, even if either party has been advised of the possibility of such damages.
11. Convergent reserves the right to negotiate mutually acceptable contract terms and conditions with customer by making mutually agreeable changes to the formal contract included in the Bid Documents.
12. Customer acknowledges that supply-chain and shipping difficulties may result in unavoidable delays in deliveries of materials despite timely placement of orders and efforts by Convergent and its suppliers to avoid such delays. Customer agrees to provide Convergent with reasonable extensions of time to the extent of any such delays and Convergent agrees to make reasonable efforts to avoid or minimize such delays. Customer further acknowledges that the above-referenced supply-chain and shipping difficulties may result in unanticipated increases to Convergent's proposal pricing on products covered by this quote or any resulting agreement and that such increases may occur between the time this quote is provided, or any resulting contract is executed and the time when Convergent actually purchases the products covered by this quote or a resulting agreement. Customer agrees that it will pay any such increase in Convergent's initial pricing of obtaining the products above the proposal pricing upon which the quote or agreement was based, by change order or otherwise, and Convergent agrees that it shall make commercially reasonable efforts to minimize any such increase.



Performance Items

| Items Included | |
|--|---|
| Items Excluded | |
| 120 VAC Power and Fused Disconnect Switch | 120 VAC Power Receptacles |
| Additional Lighting Requirements for Cameras | Applicable Taxes |
| Attend General Contractor Project Meetings | Attend Owner Project Meetings |
| Authority having Jurisdiction permit drawing (requires customer CAD) | Cable |
| Ceiling Tiles and Ceiling Grid Repairs | Connection to Building Fire Alarm Panel |
| Correction of Wiring Faults Caused by Others | Door wiring typical connections |
| Electrical Installation Permit | Electrified Door Locking Hardware |
| Engineering and Drawings | Equipment rack layout drawing |
| FA Permit and Plan Review Fees | Fire Stopping (Excludes Existing Penetrations) |
| Fire Watch | Floor Coverings for Lifts |
| Floor plan with device placement and numbering (requires customer CAD) | Freight (prepaid) |
| Horizontal Core Drilling | Installation of Bridle Rings |
| Installation of CCTV Cameras | Installation of Conduit, Boxes and Fittings |
| Installation of Control Equipment Enclosures | Installation of Control Panels |
| Installation of Intercom Systems | Installation of Intrusion Panels |
| Installation of Low Voltage Wire | Installation of Network Cabling to Card Readers |
| Installation of Network Cabling to IP Cameras | Installation of Network Cabling to IP Intercoms |
| Installation of Specialty Backboxes | Installation of Terminal Cabinets |
| Installation of Video Recorders (DVR/NVR) | Installation of Wire and Cable |
| Installation of Wire Hangars | Lifts |
| Loading Software on Customer Provided Computer | Low Voltage Permits |
| Material (listed in the BOM) | Mounting/Termination of Proposed Devices |
| On-Site Lockable Storage Facility | One-Year Warranty on Labor |
| One-Year Warranty on Parts | Operations & Maintenance Manuals |
| Owner to Provide DHCP Lease Reservations for Network Connected Devices | Owner to Provide Static IP Addresses |
| Owner Training | Panel Wall Elevation drawing (may require customer CAD) |
| Panel wiring with point to point connections | Patch and Paint |
| Payment & Performance Bonds | Project Management |
| Record Documentation (As-Built) | Riser drawing with home run wiring |
| Servers by Convergent | Servers by Others |
| Specialty Backboxes | Submittal Drawings |
| System Engineering | System is Design-Build |
| System Meets Plans/Drawings | System Programming |
| Terminal Cabinets | Termination of Control Equipment Enclosures |
| Testing of all Proposed Devices | Vertical Core Drilling |
| Wire | Workstations by Convergent |
| Workstations by Others | |



Total Project Investment:

\$ 10,591.72

Thank you for considering Convergent for your Security needs. If you have any questions or would like additional information, please don't hesitate to contact me immediately. If you would like to proceed with the scope of work as outlined in this proposal, please sign below and return to my attention.

Sincerely,

Eric Freking

Convergent
Eric Freking

By signing below, I accept this proposal and agree to the Terms and Conditions contained herein

Customer Name (Printed)

Date

Authorized Signature

Title



Throughout this Time and Materials Proposal, the term, "Convergent" refers to the Convergent Technologies' affiliate operating in the state/province in which the work is being performed, specifically, "Convergent Technologies LLC" or "Convergent Technologies LTD" or "Convergent Federal Solutions"

SECTION 1. THE WORK

This Time and Materials Proposal takes precedence over and supersedes any and all prior proposals, correspondence, and oral agreements or representations relating to the work set forth in the attached scope of work ("Work") This Time and Materials Proposal commences on the Start Date as specified in the attached scope of work, and represents the entire agreement between Convergent and Customer (the "Agreement") and may only be amended by a written document signed by both Convergent and Customer. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force

Convergent agrees:

- a To submit shop drawings, product data, samples and similar submittals if required in performing the Work;
- b To pay for all labor, materials, equipment, tools, supervision, programming, testing, startup and documentation required to perform the Work in accordance with this Agreement.
- c Secure and pay for permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work; and
- d Hire subcontractors and material suppliers to perform part of the Work, if necessary, while remaining responsible for the completion of the Work.

Customer agrees and at no cost to Convergent:

- a To provide access to all areas of the facility which are necessary to complete the Work.
- b To supply suitable electrical service as required by Convergent; and
- c That in the event of any emergency or systems failure, reasonable safety precautions will be taken by Customer to protect life and property during the period of time from when Convergent is first notified of the emergency or failure and until such time that Convergent notifies the Customer that the systems are operational or that the emergency has cleared.

Title to the Work, including any materials comprising the Work, shall pass to Customer as the Work is completed and the materials are incorporated into the Work at Customer's site. If materials are earlier stored on Customer's site pursuant to agreement between Customer and Convergent, title with respect to such materials shall pass to Customer upon delivery to Customer site

SECTION 2. PRICING

Pricing and amounts proposed shall remain valid for 30 days unless otherwise specified. Sales taxes, (and in Canada GST/PST) and any other taxes assessed on Customer, shall be added to the price upon invoice to Customer

SECTION 3. INVOICE REMITTANCE AND PAYMENT

Customer agrees to pay the amount due to Convergent as invoiced, within thirty (30) days of the date of such invoice. If Customer is overdue in its payment to Convergent, Convergent has the right to charge an interest rate of 1 and 1/2% percent per month, (or the maximum rate permitted by law), and may avail itself of any other legal or equitable remedy (LS)

SECTION 4. WARRANTY

Convergent provides the following warranty to the Customer:

For the period of one (1) year FROM THE DATE OF PROVIDING SUCH SERVICES, ("Warranty Period"):

- a That Work performed under this Agreement will be of good quality;
- b That all equipment will be new unless otherwise required or permitted by this Agreement;
- c That the Work will be free from defects not inherent in the quality required or permitted; and
- d That the Work will conform to the requirements of this Agreement.

The Customer's sole remedy for any breach of this warranty is that Convergent shall remove, replace and/or repair at its own expense any defective or improper Work, discovered within the Warranty Period, provided Convergent is notified in writing of any defect within the Warranty Period

Any equipment or products installed by Convergent in the course of performing the Work hereunder shall only carry such warranty as is provided by the manufacturer thereof, which Convergent hereby assigns to Customer without recourse to Convergent. Upon request by Customer, Convergent will use all reasonable efforts to assist Customer in enforcing any such third party warranties. This warranty excludes remedy for damage or defect caused by abuse, modifications not executed by Convergent, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. NO FURTHER WARRANTIES OR GUARANTIES, EXPRESS OR IMPLIED, ARE MADE WITH RESPECT TO ANY GOODS OR SERVICES PROVIDED UNDER THIS AGREEMENT, AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED

SECTION 5. FORCE MAJEURE

Neither Customer nor Convergent shall be responsible or liable for, shall incur expense for, or deemed to be in breach of this Agreement because of any delay in the performance of their respective obligations pursuant to this Agreement due solely to circumstances beyond their reasonable control ("Force Majeure") and without the fault or negligence of the party experiencing such delay, provided that the party experiencing the delay shall promptly give written notification to the other party within five (5) days after such party has learned of the Force Majeure. A Force Majeure event shall include, but not be limited to: accident, fire, storm, water, flooding, negligence, vandalism, power failure, installation of incompatible equipment, improper operating procedures, source current fluctuations or lighting. If performance by either party is delayed due to Force Majeure, the time for that performance shall be extended for a period of time reasonably necessary to overcome the effect of the delay. Any Services required by Convergent due to reasons set forth in this Section 5 shall be charged to Customer in addition to any amounts due under this Agreement

SECTION 6. INSURANCE

Convergent shall have the following insurance coverage during the term of this Agreement, and shall provide certificates of insurance to the Customer prior to beginning work hereunder:

| | |
|------------------------------|---------------------------------------|
| Worker's Compensation | Statutory Limits |
| Employer's Liability | \$1,000,000 per occurrence /aggregate |
| Commercial General Liability | \$1,000,000 per occurrence |
| | \$2,000,000 general aggregate |
| Automobile Liability | \$1,000,000 per occurrence/aggregate |
| Excess/Umbrella Liability | \$10,000,000 per occurrence/aggregate |

All insurance policies carried by Convergent hereunder shall be primary to and noncontributory with the insurance afforded to Customer, and shall name the Customer as "additional insured", with respect to liability

arising out of work performed by Convergent, as applicable, but only to the extent of liabilities falling within the indemnity obligations of Convergent, pursuant to the terms of this Agreement. Convergent shall provide to the Customer no less than thirty (30) days notice prior to the termination or cancellation of any such insurance policy

SECTION 7. INDEMNIFICATION

Convergent shall indemnify and hold Customer harmless from and against claims, damages, losses and expenses, (including, but not limited to, reasonable attorney's fees), attributable to bodily injury, sickness, disease or death, or to destruction of tangible property, but only to the extent caused by: a) the negligent or

willful acts or omissions of Convergent or Convergent's employees or subcontractors while on Customer's site, or b) the malfunction of the equipment supplied by Convergent, or c) Convergent's breach of this Agreement. IN NO EVENT SHALL EITHER CONVERGENT OR CUSTOMER BE LIABLE TO THE OTHER PARTY HERETO FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING COMMERCIAL LOSS, LOSS OF USE OR LOST PROFITS, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL CONVERGENT BE LIABLE TO CUSTOMER FOR ANY AMOUNTS IN EXCESS OF THE AMOUNTS PAID BY CUSTOMER TO CONVERGENT

It is understood and agreed by the parties hereto that Convergent is or may be providing monitoring and or intrusion products which are designed to provide notification of certain events but are not intended to be guarantees or insurers against any acts for which they are supposed to monitor or inform. As required by the monitoring and intrusion industry and the manufacturers thereof, Convergent's indemnification obligation pursuant to Section 7 herein, does not apply to the extent the loss indemnified against is caused by any monitoring or intrusion product or software provided by but not manufactured by Convergent. Convergent shall have no liability to Customer for any losses to the extent such losses are caused by the monitoring or intrusion product or software. Customer shall indemnify, defend, and hold harmless Convergent, from and against all claims, lawsuits, damages, losses and expenses by persons not a party to this Agreement, but only to the extent caused by such monitoring or intrusion product or software provided by but not manufactured by Convergent

SECTION 8. COMPLIANCE WITH LAW, EEO and SAFETY

This Agreement shall be governed and construed in accordance with the laws of the state/province in which the Work is being performed. Convergent agrees to comply with all laws and regulations relating to or governing the Work. Convergent agrees to comply with all reporting requirements imposed by law or this Agreement. Convergent shall comply with all safety related laws and regulations and with the safety program of the Customer provided such program is supplied to Convergent prior to beginning work

In the event that Convergent discovers or suspects the presence of hazardous materials, or unsafe working conditions at Customer's facility where the Work is to be performed, Convergent is entitled to stop the Work at that facility if such hazardous materials, or unsafe working conditions were not provided by or caused by Convergent. Convergent in its sole discretion shall determine when it is "safe" to return to perform the Work at Customer's facility. Convergent shall have no responsibility for the discovery, presence, handling, removing or disposal of or exposure of persons to hazardous materials in any form at the Customer's facility. Customer shall indemnify and hold harmless Convergent from and against claims, damages, losses and expenses, including but not limited to, reasonable attorney's fees, arising out of or resulting from undisclosed hazardous materials, or unsafe working conditions at Customer's facility

Customer acknowledges that applicable law or regulation may limit Customer's rights and impose obligations with respect to information or data obtained using software capable of obtaining what may in certain circumstances be characterized as biometric information (individually and collectively, the "Software") and agrees that Customer is solely responsible to ensure its own compliance with such laws or regulations. Customer shall completely indemnify, defend (including pay attorneys fees and disbursements), and hold harmless Convergent, its affiliates, and any employees, agents, contractors or representatives of any of the foregoing from and against any and all losses, liability, damages, penalties, expenses, claims, demands, actions, or causes of action, judgments (finally awarded) or settlements (individually and collectively, "Liabilities") arising from or related to any intentional or negligent acts or omissions of Customer or any of its agents, affiliates, employees, or representatives arising from or related to the Software, any hardware, software, or other services associated with the Software, or the use of any of the foregoing by or on behalf of Customer, including but not limited to those arising from or related to Customer's failure to comply with applicable laws or regulations related to its use of the Software or any hardware, software, or other services associated with the Software, including but not limited to the Customer's failure to obtain any necessary consents from affected individuals or provide any necessary disclosures or protections with respect to the information of such individuals under any applicable privacy or data security law, but excluding matters for which Convergent has agreed to indemnify Customer from and against third party claims for copyright and trade secret infringement under the terms of the End User License Agreement for the Software between Convergent and Customer. Notwithstanding the foregoing, Customer and Convergent agree that Liabilities suffered by a third party (other than an affiliate of Convergent) which are an element of loss subject to indemnification under this paragraph shall be deemed direct damages

SECTION 9. DISPUTES

In the event of any dispute between Convergent and Customer, Convergent and Customer shall first attempt to resolve the dispute in the field, but if that is not successful, then in a meeting between authorized officers of each company. If settlement attempts are not successful, then the dispute shall be subject to and decided by mediation or arbitration. Such mediation or arbitration shall be conducted in accordance with the Construction Industry Mediation or Arbitration Rules of the American Arbitration Association currently in effect and shall be a final binding resolution of the issues presented between the parties

SECTION 10. MISCELLANEOUS

Neither party to this Agreement shall assign this Agreement without the prior written consent of the other party hereto. Convergent may assign this Agreement to any of its parents, subsidiary or affiliated companies or any entity majority owned by Convergent

Notices shall be in writing and addressed to the other party, in accordance with the names and addresses of the parties as shown above. All notices shall be effective upon receipt by the party to whom the notice was sent

A waiver of the terms hereunder by one party to the other party shall not be effective unless in writing and signed by a person with authority to commit the Customer or Convergent and delivered to the non-waiving party according to the notice provision herein. No waiver by Customer or Convergent shall operate as a continuous waiver, unless the written waiver specifically states that it is a continuous waiver of the terms stated in that waiver

The Sections regarding invoicing, warranty and indemnity shall survive the termination of this Agreement