

# IRIDIUM COMMUNICATIONS INC.

## CODE OF BUSINESS CONDUCT AND ETHICS

### INTRODUCTION

We are committed to maintaining the highest standards of business conduct and ethics. This Code of Business Conduct and Ethics (the “*Code*”) reflects the business practices and principles of behavior that support this commitment. We expect every employee, officer and director to read and understand the Code and its application to the performance of his or her business responsibilities. References in the Code to employees are intended to cover officers and, as applicable, directors.

Officers, managers and other supervisors are expected to develop in employees a sense of commitment to the spirit, as well as the letter, of the Code. Supervisors are also expected to ensure that all agents and contractors conform to Code standards when working for or on behalf of Iridium Communications Inc. and its subsidiaries (collectively, the “*Company*”). The compliance environment within each supervisor’s assigned area of responsibility will be a factor in evaluating the quality of that individual’s performance. In addition, any employee who makes an exemplary effort to implement and uphold our legal and ethical standards will be recognized for that effort in his or her performance review. Nothing in the Code alters the at-will employment policy of the Company.

The Code addresses conduct that is particularly important to proper dealings with the people and entities with whom we interact but reflects only a part of our commitment. From time to time we may adopt additional policies and procedures with which our employees, officers and directors are expected to comply, if applicable to them. However, it is the responsibility of each employee to apply common sense, together with his or her own highest personal ethical standards, in making business decisions where there is no stated guideline in the Code.

Action by members of your immediate family, significant others or other persons who live in your household (referred to in the Code as “*family members*”) also may potentially result in ethical issues to the extent that they involve the Company business. For example, acceptance of inappropriate gifts by a family member from one of our suppliers could create a conflict of interest and result in a Code violation attributable to you. Consequently, in complying with the Code, you should consider not only your own conduct, but also that of your immediate family members, significant others and other persons who live in your household.

**YOU SHOULD NOT HESITATE TO ASK QUESTIONS ABOUT WHETHER ANY CONDUCT MAY VIOLATE THE CODE, VOICE CONCERNS OR CLARIFY GRAY AREAS. SECTION 15 BELOW DETAILS THE COMPLIANCE RESOURCES AVAILABLE TO YOU. IN ADDITION, YOU SHOULD BE ALERT TO POSSIBLE VIOLATIONS OF THE CODE BY OTHERS AND REPORT SUSPECTED VIOLATIONS, WITHOUT FEAR OF ANY FORM OF RETALIATION, AS FURTHER DESCRIBED IN SECTION 15.**

Violations of the Code will not be tolerated. Any employee who violates the standards in the Code may be subject to disciplinary action, which, depending on the nature of the violation and the history of the employee, may range from a warning or reprimand to and including

termination of employment and, in appropriate cases, civil legal action or referral for regulatory or criminal prosecution.

The Company conducts periodic reviews of its business practices, procedures, policies, and internal controls for compliance with this Code. We also conduct periodic evaluation of the effectiveness of our ethics and compliance programs, as well as periodic monitoring and auditing to detect criminal conduct. All employees are expected to cooperate fully during any reviews and audits.

## **1. Honest and Ethical Conduct**

It is the policy of the Company to promote high standards of integrity by conducting our affairs in an honest and ethical manner. The integrity and reputation of the Company depends on the honesty, fairness and integrity brought to the job by each person associated with us. Unyielding personal integrity is the foundation of corporate integrity.

## **2. Legal Compliance**

Obedying the law, both in letter and in spirit, is the foundation of this Code. Our success depends upon each employee operating within legal guidelines and cooperating with local, national, and international authorities. We expect employees to understand the legal and regulatory requirements applicable to their business units and areas of responsibility. We hold periodic training sessions to ensure that all employees comply with the relevant laws, rules and regulations associated with their employment, including laws prohibiting insider trading and that impose additional compliance obligations on Government contractors (which are discussed in further detail in Sections 3 and 13 below). While we do not expect you to memorize every detail of these laws, rules and regulations, we want you to be able to determine when to seek advice from others. If you do have a question in the area of legal compliance, it is important that you not hesitate to seek answers from your supervisor or the Compliance Officer.

Disregard of the law will not be tolerated. Violation of domestic or foreign laws, rules and regulations may subject an individual, as well as the Company, to civil and/or criminal penalties. You should be aware that conduct and records, including emails, are subject to internal and external audits and to discovery by third parties in the event of a Government investigation or civil litigation. It is in everyone's best interests to know and comply with our legal obligations.

## **3. Insider Trading**

Employees who have access to confidential (or "*inside*") information are not permitted to use or share that information for stock trading purposes or for any other purpose except to conduct our business. All non-public information about the Company or about companies with which we do business is considered confidential information. To use material non-public information in connection with buying or selling securities, including "tipping" others who might make an investment decision on the basis of this information, is not only unethical, but also illegal. Employees must exercise the utmost care when handling material inside information. For further detail, please refer to the Company's Insider Trading Policy.

#### **4. International Business Laws**

Our employees are expected to comply with the applicable laws in all countries to which they travel, in which they operate and where we otherwise do business, including laws prohibiting bribery, corruption or the conduct of business with specified individuals, companies or countries. The fact that, in some countries, certain laws are not enforced or that violation of those laws is not subject to public criticism will not be accepted as an excuse for noncompliance. In addition, we expect employees to comply with U.S. laws, rules and regulations governing the conduct of business by its citizens and corporations outside the United States.

These U.S. laws, rules and regulations, which extend to all our activities outside the United States, include:

- The Foreign Corrupt Practices Act, which prohibits directly or indirectly giving anything of value to a Government official to obtain or retain business, favorable treatment or other advantage and requires the maintenance of accurate books of account, with all company transactions being properly recorded;
- U.S. Embargoes and Sanctions, which generally prohibit U.S. companies, their subsidiaries and their employees from doing business with or in countries, or traveling to countries, subject to sanctions imposed by the U.S. Government (currently, Cuba, Iran, North Korea, Sudan and Syria), as well as specific companies and individuals identified on lists published by the U.S. Treasury Department;
- U.S. Export Controls, which prohibit or restrict (1) exports from the United States and re-exports from other countries of goods, software and technology, (2) disclosures of technology and software to foreign nationals, (3) transfers of U.S.-origin items to specific companies and entities identified on lists published by the U.S. Commerce Department, and (4) the use of U.S.-origin items for certain military or proliferation purposes; and
- Antiboycott Regulations, which prohibit U.S. companies from taking any action that has the effect of furthering or supporting a restrictive trade practice or boycott imposed by a foreign country against a country friendly to the United States or against any U.S. person.

If you have a question as to whether an activity is restricted or prohibited, seek assistance before taking any action, including giving any verbal assurances that might be regulated by international laws.

#### **5. Antitrust**

Antitrust laws are designed to protect the competitive process. These laws are based on the premise that the public interest is best served by vigorous competition and will suffer from illegal agreements or collusion among competitors. Antitrust laws generally prohibit:

- agreements, formal or informal, with competitors that harm competition or customers, including price fixing and allocations of customers, territories or contracts;
- agreements, formal or informal, that establish or fix the price at which a customer may resell a product; and
- the acquisition or maintenance of a monopoly or attempted monopoly through anti-competitive conduct.

Certain kinds of information, such as pricing, production and inventory, should not be exchanged with competitors, regardless of how innocent or casual the exchange may be and regardless of the setting, whether business or social.

Antitrust laws impose severe penalties for certain types of violations, including criminal penalties and potential fines and damages of millions of dollars, which may be tripled under certain circumstances. Understanding the requirements of antitrust and unfair competition laws of the various jurisdictions where we do business can be difficult, and you are urged to seek assistance from your supervisor or the Compliance Officer whenever you have a question relating to these laws.

In addition, there are special antitrust rules that apply to Government contractors. Please refer to Section 13(i) below, “Special Antitrust Considerations: Teaming Agreements and Joint Ventures,” for a description of these specific requirements and obligations.

## **6. Conflicts of Interest**

We respect the rights of our employees to manage their personal affairs and investments and do not wish to impinge on their personal lives. At the same time, employees should avoid conflicts of interest that occur when their personal interests may interfere in any way with the performance of their duties or the best interests of the Company. A conflicting personal interest could result from an expectation of personal gain now or in the future or from a need to satisfy a prior or concurrent personal obligation. We expect our employees to be free from influences that conflict with the best interests of the Company or might deprive the Company of their undivided loyalty in business dealings. Even the appearance of a conflict of interest where none actually exists can be damaging and should be avoided. Whether or not a conflict of interest exists or will exist can be unclear. Conflicts of interest are prohibited unless specifically authorized as described below.

The Company is also required to avoid “Organizational Conflicts of Interest” that may arise in the Government procurement context. Please refer to Section 13(c) below for a detailed description of this special type of conflict of interest.

If you have any questions about a potential conflict or if you become aware of an actual or potential conflict, and you are not an officer or director of the Company, you should discuss the matter with your supervisor or the Compliance Officer (as further described in Section 15). Supervisors may not authorize conflict of interest matters or make determinations as to whether a problematic conflict of interest exists without first seeking the approval of the Compliance

Officer and providing the Compliance Officer with a written description of the activity. If the supervisor is involved in the potential or actual conflict, you should discuss the matter directly with the Compliance Officer. Officers and directors may seek authorizations and determinations from the Audit Committee. Factors that may be considered in evaluating a potential conflict of interest include, among others:

- whether it may interfere with the employee's job performance, responsibilities or morale;
- whether the employee has access to confidential information;
- whether it may interfere with the job performance, responsibilities or morale of others within the organization;
- any potential adverse or beneficial impact on our business;
- any potential adverse or beneficial impact on our relationships with our customers or suppliers or other service providers;
- whether it would enhance or support a competitor's position;
- the extent to which it would result in financial or other benefit (direct or indirect) to the employee;
- the extent to which it would result in financial or other benefit (direct or indirect) to one of our customers, suppliers or other service providers; and
- the extent to which it would appear improper to an outside observer.

Although no list can include every possible situation in which a conflict of interest could arise, the following are examples of situations that may, depending on the facts and circumstances, involve problematic conflicts of interests:

- **Employment by (including consulting for) or service on the board of a competitor, customer or supplier or other service provider.** Activity that enhances or supports the position of a competitor to the detriment of the Company is prohibited, including employment by or service on the board of a competitor. Employment by or service on the board of a customer or supplier or other service provider is generally discouraged and you must seek authorization in advance if you plan to take such a position.
- **Owning, directly or indirectly, a significant financial interest in any entity that does business, seeks to do business or competes with us.** In addition to the factors described above, persons evaluating ownership in other entities for conflicts of interest will consider the size and nature of the investment; the nature of the relationship between the other entity and the Company; the employee's access to confidential information and the employee's ability to influence the Company

decisions. If you would like to acquire a financial interest of that kind, you must seek approval in advance.

- **Soliciting or accepting gifts, favors, loans or preferential treatment from any person or entity that does business or seeks to do business with us.** See Section 9 for further discussion of the issues involved in this type of conflict.
- **Soliciting contributions to any charity or for any political candidate from any person or entity that does business or seeks to do business with us.**
- **Taking personal advantage of corporate opportunities.**
- **Moonlighting without permission.**
- **Conducting our business transactions with a family member or a business in which you have a significant financial interest.** Material related-party transactions approved by the Audit Committee and involving any executive officer or director will be publicly disclosed as required by applicable laws and regulations.
- **Exercising supervisory or other authority on behalf of the Company over a co-worker who is also a family member.** The employee's supervisor and/or the Compliance Officer will consult with the Human Resources department to assess the advisability of reassignment.

Loans to, or guarantees of obligations of, employees or their family members by the Company could constitute an improper personal benefit to the recipients of these loans or guarantees, depending on the facts and circumstances. Some loans are expressly prohibited by law and applicable law requires that our Board of Directors approve all loans and guarantees to employees. As a result, all loans and guarantees by the Company must be approved in advance by the Compliance Officer or, in the case of executive officers or directors, the Audit Committee.

## **7. Maintenance of Corporate Books, Records, Documents and Accounts; Financial Integrity; Public Reporting**

The integrity of our records and public disclosure depends upon the validity, accuracy and completeness of the information supporting the entries to our books of account. Therefore, our corporate and business records should be completed accurately and honestly. The making of false or misleading entries, whether they relate to financial results or test results, is strictly prohibited. Our records serve as a basis for managing our business and are important in meeting our obligations to customers, suppliers, creditors, employees and others with whom we do business. As a result, it is important that our books, records and accounts accurately and fairly reflect, in reasonable detail, our assets, liabilities, revenues, costs and expenses, as well as all transactions and changes in assets and liabilities. We require that:

- no entry be made in our books and records that intentionally hides or disguises the nature of any transaction or of any of our liabilities or misclassifies any transactions as to accounts or accounting periods;

- transactions be supported by appropriate documentation;
- the terms of sales and other transactions with the Government or any commercial customer be reflected accurately in the documentation for those transactions and all such documentation be reflected accurately in our books and records;
- costs must be properly allocated and charged to a contract or project and only charged or allocated if they have been incurred in the performance of, or are otherwise properly allocable to, that contract or project;
- time must be properly charged, time reports must accurately record the amount of time spent, and the activity must be described in sufficient detail so it can be determined that the time is properly charged;
- expenses associated with travel, materials, and supplies must be competitive and reasonable and in accordance with Government guidelines;
- employees comply with our system of internal controls and Government cost accounting regulations; and
- no cash or other assets be maintained for any purpose in any unrecorded or “off-the-books” fund.

Our accounting records are also relied upon to produce reports for our management, stockholders and creditors, as well as for Governmental agencies. In particular, we rely upon our accounting and other business and corporate records in preparing the periodic and current reports that we file with the SEC. Securities laws require that these reports provide full, fair, accurate, timely and understandable disclosure and fairly present our financial condition and results of operations. Employees who collect, provide or analyze information for or otherwise contribute in any way in preparing or verifying these reports should strive to ensure that our financial disclosure is accurate and transparent and that our reports contain all of the information about the Company that would be important to enable stockholders and potential investors to assess the soundness and risks of our business and finances and the quality and integrity of our accounting and disclosures.

In addition, it is imperative that Company personnel provide proposals, billing, accounting statements and other submissions to the Government that are accurate, and avoid any falsity, deception, or perception that the Company is other than completely honest in all its business dealings. Violation of this requirement may result in civil and/or criminal liability under the False Claims Act and/or False Statements Act, as described in more detail in Sections 13(l) and 13(m), below.

In light of the foregoing:

- no employee may take or authorize any action that would intentionally cause our financial records or financial disclosure to fail to comply with generally accepted

accounting principles, the rules and regulations of the SEC or other applicable laws, rules and regulations;

- all employees must cooperate fully with our accounting and legal departments, as well as our independent public accountants and counsel, and Government representatives, respond to their questions with candor and provide them with complete and accurate information to help ensure that our books and records, as well as our reports filed with the SEC and submitted to the Government, are accurate and complete; and
- no employee should knowingly make (or cause or encourage any other person to make) any false or misleading statement in any of our reports filed with the SEC or to any Government customer or agency or knowingly omit (or cause or encourage any other person to omit) any information necessary to make the disclosure in any of our reports accurate in all material respects.

Any employee who becomes aware of any departure from these standards has a responsibility to report his or her knowledge promptly to a supervisor, the Compliance Officer, the Audit Committee or one of the other compliance resources described in Section 15 or in accordance with the provisions of the Company's Open Door Policy for Reporting Complaints Regarding Accounting and Auditing Matters.

## **8. Fair Dealing**

We strive to outperform our competition fairly and honestly. Advantages over our competitors are to be obtained through superior performance of our products and services, not through unethical or illegal business practices. Acquiring proprietary information from others through improper means, possessing trade secret information that was improperly obtained, or inducing improper disclosure of confidential information from past or present employees of other companies is prohibited, even if motivated by an intention to advance our interests. If information is obtained by mistake that may constitute a trade secret or other confidential information of another business, or if you have any questions about the legality of proposed information gathering, you must consult your supervisor or the Compliance Officer, as further described in Section 15.

You are expected to deal fairly with our customers, suppliers, employees and anyone else with whom you have contact in the course of performing your job. Be aware that the Federal Trade Commission Act provides that "unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are declared unlawful." It is a violation of the Act to engage in deceptive, unfair or unethical practices and to make misrepresentations in connection with sales activities.

Employees involved in procurement have a special responsibility to adhere to principles of fair competition in the purchase of products and services by selecting suppliers based exclusively on normal commercial considerations, such as quality, cost, availability, service and reputation, and not on the receipt of special favors.



## 9. Gifts and Entertainment

Business gifts and entertainment are meant to create goodwill and sound working relationships and not to gain improper advantage with customers or facilitate approvals from Government officials. The exchange, as a normal business courtesy, of meals or entertainment (such as tickets to a game or the theatre or a round of golf) is a common and acceptable practice as long as it is not extravagant. Unless express permission is received from a supervisor or the Compliance Officer, gifts and entertainment cannot be offered, provided or accepted by any employee unless consistent with customary business practices and not (a) of more than token or nominal monetary value, (b) in cash, (c) susceptible of being construed as a bribe or kickback, (d) made or received on a regular or frequent basis, or (e) in violation of any laws. This principle applies to our transactions everywhere in the world, even where the practice is widely considered “a way of doing business.” Employees should not accept gifts or entertainment that may reasonably be deemed to affect their judgment or actions in the performance of their duties. Our customers, suppliers and the public at large should know that our employees’ judgment is not for sale.

Under some statutes, such as the Foreign Corrupt Practices Act (further described in Section 4), giving anything of value to a Government official to obtain or retain business or favorable treatment is a criminal act subject to prosecution and conviction. Discuss with your supervisor or the Compliance Officer any proposed entertainment or gifts if you are uncertain about their appropriateness.

In addition, there are specific rules regarding gratuities, gifts, and entertainment that apply to U.S. Government contractors. Please refer to Section 13(a) below for a description of these particular requirements and obligations.

## 10. Protection and Proper Use of Company Assets

All employees are expected to protect our assets and ensure their efficient use. Theft, carelessness and waste have a direct impact on our profitability. Our property, such as office supplies, computer equipment, buildings and products, are expected to be used only for legitimate business purposes, although incidental personal use may be permitted. You may not, however, use our corporate name, any brand name or trademark owned or associated with the Company or any letterhead stationery for any personal purpose.

You may not, while acting on behalf of the Company or while using our computing or communications equipment or facilities, either:

- access the internal computer system (also known as “*hacking*”) or other resource of another entity without express written authorization from the entity responsible for operating that resource; or
- commit any unlawful or illegal act, including harassment, libel, fraud, sending of unsolicited bulk email (also known as “*spam*”) in violation of applicable law, trafficking in contraband of any kind or espionage.

If you receive authorization to access another entity’s internal computer system or other

resource, you must make a permanent record of that authorization so that it may be retrieved for future reference, and you may not exceed the scope of that authorization.

Unsolicited bulk email is regulated by law in a number of jurisdictions. If you intend to send unsolicited bulk email to persons outside of the Company, either while acting on our behalf or using our computing or communications equipment or facilities, you should contact your supervisor or the Compliance Officer for approval.

All data residing on or transmitted through our computing and communications facilities, including email and word processing documents, is the property of the Company and subject to inspection, retention and review by the Company, with or without an employee's or third party's knowledge, consent or approval, in accordance with applicable law. Any misuse or suspected misuse of our assets must be immediately reported to your supervisor or the Compliance Officer.

## **11. Confidentiality**

One of our most important assets is our confidential information. As an employee of the Company, you may learn of information about the Company that is classified, restricted, confidential and/or proprietary. You also may learn of information before that information is released to the general public. Employees who have received or have access to confidential information should take care to keep this information confidential. Confidential information includes all non-public information of the Government. It also includes all non-public information that might be of use to competitors or harmful to the Company, its customers or the Government if disclosed, such as business, marketing and service plans, financial information, product architecture, source codes, engineering and manufacturing ideas, designs, databases, customer lists, pricing strategies, personnel data, personally identifiable information pertaining to our employees, customers or other individuals (including, for example, names, addresses, telephone numbers and social security numbers), and similar types of information provided to us by our customers, suppliers and partners. This information may be protected by patent, trademark, copyright and trade secret laws.

In addition, because we interact with other companies and organizations, there may be times when you learn confidential information about other companies before that information has been made available to the public. You must treat this information in the same manner as you are required to treat our confidential and proprietary information. There may even be times when you must treat as confidential the fact that we have an interest in, or are involved with, another company or are seeking a contract or relationship with a particular Government agency or program.

You are expected to keep confidential and proprietary information confidential unless and until that information is released to the public through approved channels (usually through a press release, an SEC filing or a formal communication from a member of senior management, as further described in Section 12). Every employee has a duty to refrain from disclosing to any person confidential or proprietary information about us or any other company learned in the course of employment here, until that information is disclosed to the public through approved channels. This policy requires you to refrain from discussing confidential or proprietary information with outsiders and even with other Company employees, unless those fellow

employees have a legitimate need to know the information in order to perform their job duties. Unauthorized use or distribution of this information could also be illegal and result in civil liability and/or criminal penalties.

You should also take care not to inadvertently disclose confidential information. Materials that contain confidential information, such as memos, notebooks, computer disks and laptop computers, should be stored securely. Unauthorized posting or discussion of any information concerning our business, information or prospects on the Internet is prohibited. You may not discuss our business, information or prospects in any “chat room,” regardless of whether you use your own name or a pseudonym. Be cautious when discussing sensitive information in public places like elevators, airports, restaurants and “quasi-public” areas within the Company or at Government sites, such as cafeterias. All Company emails, voicemails and other communications are presumed confidential and should not be forwarded or otherwise disseminated outside of the Company, except where required for legitimate business purposes.

In addition to the above responsibilities, if you are handling information protected by any privacy policy published by us, then you must handle that information in accordance with the applicable policy.

## **12. Media/Public Discussions**

It is our policy to disclose material information concerning the Company to the public only through specific limited channels to avoid inappropriate publicity and to ensure that all those with an interest in the Company will have equal access to information. We have designated each of the following executive officers of the Company as a Company spokesperson (collectively, the “*Spokespersons*”): our Chief Executive Officer, Chief Financial Officer, the Vice President of Investor Relations and the Vice President of Global Marketing and Corporate Communications. All public disclosures of information and communications with analysts, investors, potential investors, stockholders, media and other members of the public about the Company shall be made by a Spokesperson. The Spokespersons may designate other officers or employees of the Company to respond to inquiries regarding specific areas of interest. All third party inquiries for Company information shall be referred to a Spokesperson. No other individual is authorized to disclose information regarding the Company to any third party without the prior consent of a Spokesperson. You also may not provide any information to the media about us off the record, for background, confidentially or secretly.

## **13. Government Contracts Compliance**

This Section of the Code summarizes the principles that will guide all employees in the conduct of business with public sector customers, agencies or other representatives of the federal, state, or local Government. It is important to understand that doing business in the public sector is very different from doing business in the commercial marketplace. The laws related to contracting with the Government are far reaching and complex, placing responsibilities on the Company that are beyond those faced in the commercial sector. Many of these laws apply to both prime contracts and subcontracts with (as well as grants and funding from) the Government.

Statutes and regulations define the way in which Government contracts are conceived, structured, competed, awarded, and performed. Contract terms and the manner in which contracts are administered are defined by these statutes and regulations. This means that many behaviors that are acceptable and often expected in a commercial setting are not allowed in the Government context. Even the natural desire to “please the customer” can result in unexpected consequences in the public sector. For example, certain types of gifts, meals, and entertainment that are a standard part of doing business with commercial customers are forbidden under Government contract rules.

In this environment, the failure to comply with applicable laws or contractual obligations can have consequences that go beyond what is typical in a commercial setting. For example, submitting an invoice or filing a claim that relies upon false supporting data can lead to civil fines or penalties and even criminal prosecution in the most serious cases. Similarly, improper conduct by a contractor can result in price reduction, cancellation of a contract, and the contractor’s suspension or debarment from doing business with the Government. In short, doing business with the Government, as a prime contractor or subcontractor, exposes a company and its employees to a range of monetary and other sanctions for failure to comply with applicable laws and regulations.

It is, therefore, imperative that employees solicit, procure and conduct Company business with the Government in accordance with all applicable laws and regulations. The ethical standards and guidelines that follow are modeled on federal requirements, but most state and local Governments follow similar ethical standards. Therefore, the guidance in this Code is generally applicable and should be followed in your dealings with all Governmental entities. Employees are required to read and follow this Section of the Code when contracting with the Government. Practical examples are provided to help you understand these special Government contracting rules. For questions, clarification, and additional information, employees are encouraged to seek the advice of the Compliance Officer and/or utilize the other compliance resources described in Section 15 below.

**(a) Gratuities, Gifts, and Entertainment**

Federal statutes and regulations preclude federal employees from accepting certain gifts, gratuities or things of value from contractors. The standard “Gratuities” clause authorizes a contracting officer to terminate a contract if the agency determines that: (i) a gratuity was offered to and/or accepted by a Government official; and (ii) the gratuity was intended “to obtain a contract or favorable treatment under a contract.” Federal Acquisition Regulation (“*FAR*”) 52.203-3(a).

A “gratuity” is anything of monetary value, including:

- gift
- favor
- discount

- entertainment
- hospitality
- transportation
- loan
- forbearance
- training
- local travel
- lodging
- meals

The following items, among certain others, are not defined as “gratuities”:

- modest items of food and refreshment (such as soft drinks, coffee, and donuts) offered other than as part of a meal;
- favorable rates/discounts available to the public or all Government employees; and
- greeting cards and items with little intrinsic value (such as plaques, certificates, and trophies).

The following items, among certain others, are exceptions to the general rule prohibiting gratuities to federal employees:

- non-cash gifts of \$20 or less, not to exceed \$50 annually from any one person/company (*e.g.*, book, CD, golf balls, mousepad, magazine subscription);
- gifts based on a personal relationship; and
- free attendance, under certain conditions, (*e.g.*, tradeshow) at widely attended gatherings and other events.

However, notwithstanding the above exceptions, a federal employee may not:

- accept a gratuity in return for being influenced;
- coerce the offering of a gratuity; or
- accept a gratuity where the timing and nature of the gratuity would cause a reasonable person to question the employee’s impartiality in a pending matter.

Be aware that when problems do occur in the more egregious cases contractors have been the subject of criminal charges under 18 U.S.C. §§ 201(b) and (c).

### **Examples**

- A Company employee goes to a deli with an DoD employee during the course of a conference they are both attending. When the bill for their sandwiches arrives, the Company employee pays for the DoD employee's sandwich. This is acceptable because the sandwich was valued at less than \$20. However, the Company employee should be careful not to pay for more than \$50 worth of gifts to this individual annually. As a matter of policy, however, Company employees should avoid buying lunch for federal employees even on an occasional basis.
- A Company employee works closely with a U.S. Navy employee during the course of a facilities audit. On a regular basis during the facilities audit, the Company employee drives to the airport on his way to work and gives the agent a ride to the Company's operations center. Cab fare for this trip would be \$25.00. The Company employee has regularly violated Company policy by providing transportation valued at more than \$20 to a federal employee, as well as transportation, in the aggregate, of more than \$50 per year.

The Company's interaction with its Government customers should be free from the perception that favorable treatment was sought, received, or given in exchange for business courtesies such as entertainment, gifts, or gratuities. A business courtesy must be consistent with acceptable marketplace practices, not lavish or extravagant.

As a general rule, employees must not give anything of value (including, but not limited to, money, services, loans, travel, entertainment, or meals) to Government employees or officials for any reason. Providing gifts of even a nominal value to Government employees or officials can create, at minimum, an appearance of impropriety that the Company wishes to avoid. In rare situations, gifts of the following types may be provided:

- Company advertising or promotional items of little intrinsic value (generally \$20.00 or less) such as a coffee mug, calendar, golf balls, or similar item displaying the Company logo;
- Modest refreshments such as soft drinks, coffee, and donuts on an occasional basis in connection with business activities; and
- Business-related meals and local transportation valued at \$20.00 or less per occasion, provided that such items do not in the aggregate exceed \$50.00 in a calendar year. Although it is the responsibility of the Government employee to track and monitor these thresholds, no Company employee shall knowingly provide meals or transportation exceeding these limits.

Before providing gifts of these types to Government employees or officials, however, you must obtain approval from the Compliance Officer, who will consider the circumstances and, if

necessary, seek legal advice.

**(b) Hiring And Employment Discussions With Government Employees**

Former Government employees typically are subject to “revolving door” rules that limit their efforts to influence Government decision-making. Former U.S. Government employees are permanently barred from appearing before a Government agency on matters in which they personally participated or had a direct and substantial interest while employed by the Government. There also are two-year and one-year restrictions on former Government employees holding certain positions within the Company or representing the Company in connection with certain matters or activities.

In addition, pursuant to the rules governing “Procurement Integrity” (*see* FAR 3.104), it is improper to even communicate with a U.S. Government employee regarding employment if the Company is involved in a procurement valued in excess of \$100,000 and the Government employee is participating personally and substantially in that procurement. Personal and substantial participation has been interpreted broadly, so this rule may apply to a wide range of Government employees.

The procurement integrity rules dictate the appropriate bounds of interaction with federal employees in the context of a competitive procurement and, as a result, employees involved in the competitive process must be familiar with the rules. In general terms, the current procurement integrity regulations require the following:

- Federal employees must notify a supervisor of contacts regarding potential employment with a contractor and either take appropriate action to recuse themselves from the procurement or formally reject the employment opportunity.
- Federal employees cannot accept employment from a contractor for one year, if the contractor received a contract on which the federal employee was substantially involved in certain procurement or contract functions.
- As discussed below, present or former Government procurement officials are prohibited from disclosing certain types of procurement information, and contractors are not permitted to obtain such information during a competition. This includes both source selection information as well as competition-sensitive, contractor-supplied information.
- These rules on employment of U.S. Government employees are complex and, if violated, can have significant adverse effects for both the Company and the employee. In cases in which violations of these obligations occur, the possibility of criminal prosecution and civil fines exist. In addition, the Government can cancel or rescind a contract or reduce the contract price. *See* FAR 52.203-8 and 52.203-10. All employees therefore must be sensitive to and abide by the Company policy below whenever the Company is contemplating the hire or hiring a former Government employee.

## Examples

- A former senior official of DoD approaches the Company about employment. He is interviewed by the Company and, seven months after leaving the Government, is hired by the Company or retained by it as a consultant. Shortly thereafter, the former DoD official learns that the agency is considering issuing a solicitation. He offers to intercede with DoD on behalf of the Company. The Company and its employee may have violated the conflicts of interest statute. As a former senior DoD official, he is prohibited, within one year of his termination from Government service, from attempting to influence his former agency.
  
- A contracting officer with whom the Company has dealt on a current U.S. Government contract is planning to retire from the Government. Four months before his planned retirement date, he mentions to a Company manager that he is helping to draft the Request for Proposals (“**RFP**”). In the same conversation, he also tells the manager that the Company has done a superb job on past contracts and he hopes to work for a similarly successful company upon his retirement. The manager thanks the Government employee, tells him that the Company has openings in its Sales group, and invites the Government employee to submit his resume for consideration. The Company may have violated the Procurement Integrity Act because prior to the award of the contract (for which the Company is likely to compete), it had employment discussions with a federal agency procurement official who is personally and substantially involved in the procurement.

As a rule, no Company employee should contact a current or former Government employee, regardless of seniority, about employment with the Company (as either an employee or consultant) without the approval of the Compliance Officer. In addition, the Company may require current or former Government employees to seek advice from their agency’s Compliance Officer or the legal department before taking on: (i) any assignment related to their former agency; or (ii) any tasks that relate to matters that they know or should have known were pending under their official responsibility during their last year of employment.

### **(c) Organizational Conflicts of Interest**

An Organizational Conflict of Interest (“**OCI**”) arises when factors create an actual or potential conflict of interest for the Company on a contract, or when the nature of the work to be performed by the Company on one contract creates an actual or potential conflict of interest on a future procurement. In deciding whether an improper conflict exists, the two underlying principles are:

- Preventing the existence of conflicting roles for the Company that might bias the Company’s judgment in one of those roles; and
  
- Preventing an unfair competitive advantage, including situations in which the Company may obtain access to proprietary or competitively sensitive Government information.



A common OCI problem involves the drafting of a solicitation by a contractor. When a contractor develops the specifications or statement of work for a competitive procurement, and the same contractor (or an affiliate) then submits a proposal under that procurement, an OCI typically arises. In this instance, to avoid a situation in which the contractor could draft specifications or work statements favoring its own products or capabilities, the U.S. Government typically disqualifies the contractor from competing in the procurement.

Another OCI problem arises when a contractor provides systems engineering and technical direction (or system test and evaluation services) on a program. In this instance, the contractor typically may not be awarded a contract or subcontract to supply the system or any of its major components.

Finally, contractors are prohibited from knowingly obtaining other contractor bid or proposal information or source selection information before the award of a Government procurement contract or subcontract to which that information relates. Contractor bid or proposal information means the type of information the Company would not want its competitors to obtain (*i.e.*, pricing information, proprietary processes and techniques, and any information marked with a legend prohibiting disclosure outside the Government). Source selection information means information the Government develops or relies upon internally to conduct a procurement (*i.e.*, source selection plans, rankings of offerors, information designated as “***source selection information***”). Significant civil fines and criminal penalties, including imprisonment, may apply to violators. The Government also can take administrative actions, such as canceling or rescinding a contract or reducing the contract price.

### **Examples**

- DHS determines that it requires a new tracking and monitoring system. Unsure of its exact needs, DHS competitively awards a contract to the Company to develop a baseline specification for the system. Later, DoD solicits contractors to develop, manufacture, and deliver the system. The Company bids and is awarded the DoD contract. The Company then learns of a bid protest by a disappointed bidder who claims that the competition was unfair. In similar situations, the Government Accountability Office (“***GAO***”) has overturned the award because of an OCI and directed the agency to resolicit the contract.
- A recently retired Government official is hired by the Company to coordinate business development activities at a particular location. The former official had helped draft the agency’s source selection plan on a countermeasure procurement for which the Company intends to compete. Prior to the submission of the Company’s proposal, he discusses the agency’s source selection plan with other Company employees. This may violate procurement integrity laws. The Company has obtained source selection information (the source selection plan) prior to the award of a procurement contract.

It is important to determine, prior to competing for or accepting award of a Government contract for preparation of any part of a solicitation or specification, whether the Company would be better served by competing for the follow-on contract instead. If so, the Company

should not participate in the process of drafting or otherwise preparing the solicitation or specification. While the Company is unlikely to encounter such circumstances when pursuing Government contracts, it nonetheless is important to understand these restrictions.

Also, the Company does not solicit or otherwise attempt to obtain procurement sensitive information prior to the award of a Government contract or subcontract. If you become aware that such information has been obtained, inadvertently or otherwise, your responsibility is to stop reading the information as quickly as possible, quarantine the information immediately, and promptly notify the Compliance Officer. If the Company wishes to participate in a procurement that may involve any of the foregoing circumstances, the Compliance Officer should be consulted for advance review and approval of the effort.

#### **(d) Prohibitions Against Kickbacks**

The Anti-Kickback Act, 41 U.S.C. §§ 51-58, prohibits the giving or receiving of a kickback for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or subcontract under a Government program. The inclusion of the cost of a kickback in the price of a contract is also a violation. “Favorable treatment” is broadly defined. For example, a kickback resulting in the award of a subcontract, as well as granting unwarranted waivers of deadlines or acceptance of non-conforming services, also fall within the “favorable treatment” covered by the Act. Both civil and criminal penalties are provided under the law.

To implement the requirements of the Act, federal contracts include a clause, “Anti-Kickback Procedures,” FAR 52.203-7, that requires a contractor or subcontractor with a prime or subcontract exceeding \$100,000 to have in place and follow “reasonable procedures designed to prevent and detect possible violations [of the Act].” The clause further requires the contractor or subcontractor to report possible violations to the appropriate agency’s Inspector General and to cooperate in any investigation. The contracting officer also can order the refund of a portion of the contract or subcontract price affected by the kickback.

#### **Examples**

- The Company hires a subcontractor for certain services required under a Government prime contract. After the subcontractor misses the first two scheduled milestone dates, the subcontractor offers the Company free services on another project in exchange for a waiver of the missed milestone dates. If the Company accepts the offer, it may be violating the Anti-Kickback Act. The payment (free work) in exchange for unwarranted favorable treatment (schedule slippage) under the subcontract may qualify as a kickback.
- The Company has been awarded a contract by the U.S. Navy. The Company intends to issue a competitive solicitation for a subcontract for certain services required for the development project. A representative from Firm X approaches the Company and states that it will make a contribution to a charity chosen by the Company, if it is awarded the subcontract. If the Company accepts this arrangement, it may be violating the Anti-Kickback Act. Despite its charitable

nature, the payment is still a thing of value that is provided in order to improperly obtain a subcontract.

The Company strictly forbids conduct that presents even the appearance of offering or accepting a kickback or bribe in connection with a Government prime contract or subcontract. If you become aware of a potential violation of this prohibition by another Company employee, a Government employee, or a representative of another vendor in connection with a Company contract or subcontract, you must report the situation to the Compliance Officer.

**(e) Lobbying Restrictions**

The requirements of the 1989 Byrd Amendment, 31 U.S.C. § 1352, are implemented through two contract clauses: (i) “Limitation on Payments to Influence Certain Federal Transactions,” FAR 52.203-12, and (ii) “Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions,” FAR 52.203-11. Generally, these two clauses preclude recipients of federal contracts or subcontracts exceeding \$100,000 from using appropriated funds (*i.e.*, funds received from federal contracts) to influence a Member of Congress or an officer or employee of Congress regarding the award of a contract, grant, cooperative agreement or loan. In effect, the Congress does not want tax money intended to purchase goods or services being used to influence the award of future contracts or subcontracts.

To the extent non-appropriated funds (*i.e.*, dollars obtained through commercial business) are used for such activities, the contractor or subcontractor must disclose to whom such funds will be paid, and the amounts. Finally, offerors are required to certify their compliance with these requirements as a condition of the award of contracts. The restrictions do not apply to reasonable amounts paid to company employees for lobbying activities, or to employees or consultants providing technical or professional services in preparing bids or proposals.

**Example**

- DoD issues a solicitation for a major new contract. The Company determines that, owing to the contract’s potential importance and significant value, it should seek the assistance of its Congressmen. A well-connected firm is retained to emphasize to these Congressmen how important it is for the Company to obtain the contract. The costs for the lobbying firm are accounted for in the Company’s books as overhead. The overhead costs are then allocated to all of the Company’s contracts. The Company may have violated the lobbying restrictions, because the costs of the lobbying will be included in the price charged to federal agencies by reason of the Accounting System’s distribution of non-operating costs. As a result, “appropriated funds” (contract payments by the Government) will be paying part of the lobbying costs.

The Byrd Amendment and implementing clauses require contractors and subcontractors to monitor carefully the expenditure of lobbying funds, particularly by outside consultants, and ensure that they are not included in overhead pools used to compute contract prices. For these reasons, the Company requires that all lobbying activities and related expenditures be pre-approved by the Compliance Officer.

**(f) Use of Consultants, Agents, and Representatives**

Honesty and integrity are key standards for those who represent the Company in the public sector. Paying bribes or kickbacks, engaging in industrial espionage, obtaining the proprietary data of a third party without authority, or gaining inside information or influence are just a few examples of what could give us an unfair competitive advantage in a U.S. Government procurement and could result in serious violations of law.

Use of “marketing consultants” is particularly scrutinized on the theory that contractors may obtain proprietary and Government-sensitive information by acquiring the services of marketing consultants. Contractors are required to make inquiries of marketing consultants to ensure that the consultant has provided no unfair competitive advantage.

**Example**

- The Company hires a consultant to assist in the preparation of a large proposal for a Government contract. Within the past year, the consultant worked for the Company’s principal competitor on a similar project, and he volunteers to brief the Company’s proposal team on the competitor’s cost structure and likely bidding strategy. If the Company accepts such information from the consultant, it may be disqualified from the competition. It also may face Trade Secret actions brought by the competitor.

The Company’s policy is that agents, representatives, or consultants must be willing to certify to their compliance with our policies and procedures and must never be retained to circumvent our ethical and business standards. In addition, the Compliance Officer must review and approve all consulting agreements for the Company.

**(g) Contingent Fees**

Companies often employ an agent or consultant to assist in obtaining commercial business. Using an agent to obtain Government business, however, is a riskier proposition. It is a long-standing public policy of the U.S. Government to prohibit a contractor from entering into a contingent fee agreement to obtain Government contracts. Under the “Covenant Against Contingent Fees” clause (FAR 52.203-5) mandated by FAR 3.404 to be included in all Government contracts exceeding \$100,000, the Company is required to warrant that it has not employed or retained any person or selling agency to solicit or obtain the contract under a contingent fee agreement.

However, an exception exists to that prohibition for any contingent fee agreement made with an established commercial or selling agency maintained by the contractor to obtain business. This exception is known as the bona fide agency exception and is detailed in FAR 3.402. A “bona fide agency” is defined at FAR 3.401 as:

[A]n established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain

any Government contract or contracts through improper influence.  
(Emphasis added)

It is not possible to state with complete certainty whether any particular agreement will fall within the exception. Rather, a series of factors have been identified by the case law that must be weighed to determine whether the agency agreement falls within the scope of the bona fide exception.

The Company requires that the Compliance Officer pre-approve any effort to retain an employee or consultant to facilitate Government business. Similarly, if you are approached regarding entering into a contingent fee arrangement with a person or agency, contact your supervisor immediately.

#### **(h) Suspension and Debarment**

Contractors that have committed certain specified offenses that indicate a lack of business integrity or responsibility may be suspended or debarred from doing business with the U.S. Government and many state and local Governments. The names of the contractors suspended or debarred from federal Government contracting appear in the System for Award Management (“SAM”), which is available on-line at <https://www.sam.gov/portal/SAM/#1>.

Any contractor can be barred from participation in federal contracts for certain specified actions. A suspension is temporary (up to 18 months), while a debarment is generally for three years or longer. Both actions preclude the award of new contracts, or the exercise of options in existing contracts, but do not otherwise affect on-going contracts. Generally, a suspension or debarment prohibits a contractor from being awarded a subcontract in excess of \$25,000.

Debarments can be based on any of the following: (i) commission of fraud or a criminal offense in connection with a Government contract; (ii) antitrust violations; (iii) theft, bribery, forgery and any offenses evidencing lack of business integrity; (iv) breach or willful failure to perform; (v) a history of unsatisfactory performance; or (vi) any other serious or compelling evidence of a lack of responsibility.

Major procurement agencies have “debarment officials” who manage the debarment process and make debarment decisions. Agencies follow procedures that permit contractors noticed for debarment to appear with counsel and dispute the facts on which the debarment is based, present mitigating facts, and make other appropriate arguments. Suspensions and debarments can affect business units other than those immediately involved in the wrongdoing depending upon the nature and origin of the wrongdoing.

The Company’s policy is to refrain from doing business with any contractor or subcontractor that has been suspended or debarred by the U.S. Government. Any employee who has reason to believe that a contractor with whom the Company intends to contract is suspended or debarred must notify the Compliance Officer immediately.

**(i) Special Antitrust Considerations: Teaming Agreements and Joint Ventures**

Teaming agreements and joint ventures are permissible and commonly used in major Government procurements. *See* FAR Subpart 9.6. Nonetheless, these business arrangements warrant particular attention when used in the context of Government programs.

First, Government agencies often encourage companies to enter into such arrangements in the belief that they will result in better overall proposals. Such encouragement from a procuring agency, however, does not remove these arrangements from the operation of the normal antitrust rules.

Second, the Government must be notified in the proposal of the existence of such arrangements, as well as the parties' relationships to one another. If the arrangement is agreed upon after award, the Government must be informed before it takes effect. *See* FAR 9.603. In rare cases, the Government has been known to require the dissolution of such arrangements where they are deemed to violate antitrust laws.

All teaming agreements or joint ventures that the Company is contemplating must be reviewed and approved in advance by the Compliance Officer.

**(j) Equal Opportunity Employment**

As a matter of public policy, the U.S. Government requires prime contractors and subcontractors not to discriminate in employment practices. The "Equal Opportunity" clause (FAR 52.222-26) applies to virtually all Government contracts and subcontracts (regardless of tier) in excess of \$10,000. The clause prohibits contractors and subcontractors from discriminating against any employee or applicant for employment.

In achieving these equal opportunity conditions, the contractor or subcontractor must undertake six basic actions: (i) not discriminate; (ii) take affirmative action to ensure that applicants and employees are treated without regard to race, color, religion, sex, or national origin; (iii) post in conspicuous places the Equal Opportunity notice supplied by the Government contracting officer; (iv) state in all solicitations and advertisements for employees that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin; (v) send to applicable labor unions the notice provided by the contracting officer that advises the union of the contractor's commitments; and (vi) flow down the clause to any covered subcontractor.

It is the Company's policy to hire, promote, and retain employees on a fair, consistent, and equal basis, without regard to race, color, religion, sex, or national origin. The Company also complies with all of the Government's Equal Opportunity requirements, which are completely consistent with the Company's policy for equal treatment of all employees. In the event a Company employee believes the Company or one of its employees has violated the Equal Opportunity requirements, the Compliance Officer or the Human Resources Department should be promptly notified.

### **(k) Drug Free Workplace**

The Drug Free Workplace Act of 1988, 41 U.S.C. § 701 *et seq.*, and the related “Drug-Free Workplace” clause (FAR 52.223-6) obligate a Government contractor with a prime, non-commercial-item contract exceeding \$100,000 to meet certain requirements designed to keep the workplace free of illegal drugs. In particular, the contractor must agree to undertake seven itemized actions (but it is not required to implement drug testing of employees).

These actions include: (i) publishing a statement and notify employees in writing that illegal drugs are prohibited in the workplace, as well as the actions the contractor will take against violators of the drug policy; (ii) establishing a drug-free awareness program for employees; (iii) providing employees performing the contract work the statement identified in item (i); (iv) notifying employees that compliance with the drug prohibition is a condition of employment, and that employees must notify the contractor of any violation of Federal or state drug abuse statutes occurring in the work place within 5 days of conviction; (v) notifying the Government contracting officer in writing within 10 days of receipt of an employee conviction notice; (vi) taking appropriate personnel action within 30 days of receipt of an employee conviction notice or require that the convicted employee participate in an approved drug abuse assistance or rehabilitation program; and (vii) making a good faith effort to maintain a drug-free workplace through the implementation of these requirements.

The Company maintains and strictly enforces a drug-free work environment, consistent with our obligations under Government contracts and in furtherance of the health and safety of our employees. Violations of this policy will result in disciplinary action, which could involve termination of employment.

### **(l) False Claims Act**

Originally enacted in 1863, the False Claims Act (“*FCA*”) has both a civil component (31 U.S.C. § 3729) and a criminal component (18 U.S.C. § 287). Knowing submission of a false or fraudulent claim, or supporting a claim with a false record, along with other specific acts can trigger liability under these statutes. Monetary penalties recoverable under the civil component of the FCA can be substantial.

The FCA is significant for two principal reasons. First, the definition of a “claim” that is subject to the Act is broad. For example, overcharging the Government for products or services is the most typical FCA problem. In addition, product substitution cases are a common form of FCA action because the payment request is tainted by the contractor’s tender of noncompliant goods. Similarly, bid rigging and false proposal certifications also can lead to FCA violations, because the invoices are tainted by the pre-contract conduct or misrepresentations. Second, the FCA includes “*qui tam*” provisions that permit civil FCA actions to be initiated by private parties.

#### **Example**

- The Company incorrectly certifies in a proposal that it has filed all required compliance reports. The DoD awards the Company the contract at issue. Every

invoice under that contract may constitute a false claim. Note that the invoice amounts may be correct. Nonetheless, the Government could assert that it relied upon a misrepresentation in awarding the contract to the Company. Every invoice submitted under the lease may, therefore, be premised upon a falsity. It is important to recognize how false or misleading statements (which themselves are prohibited; see below) can quickly result in the submission of false claims.

The Company expects and requires that its employees submit only accurate and well-supported invoices and other claims for payment to the Government (and other customers). Similarly, as discussed below, Company personnel providing statements to the Government, in the form of certifications and otherwise, must do so accurately and carefully to avoid any falsity, deception, or perception that the Company is other than completely honest in all its business dealings. Violation of this policy will result in employee discipline that could include termination and/or referral for criminal prosecution.

**(m) False Statements Act**

Criminal liability for false statements arises for knowingly falsifying, concealing, or covering up a material fact, or making false, fictitious, or fraudulent statements to a federal Government agency. *See* 18 U.S.C. § 1001. The False Statements Act is frequently used to prosecute companies and individuals for false statements that are made by company employees to agencies in the course of the competition for or performance of a federal Government contract. In this regard, a knowing false representation with respect to a company's ability or agreement to comply with virtually any of the federal Government contract requirements discussed in this Code could subject the Company to prosecution.

**Example**

- The Company submits a proposal under a competitive Government solicitation. In its proposal, in accordance with FAR 52.203-5, the Company warrants that it has not retained a selling agency to help obtain the contract under a contingent fee arrangement (see above). Contrary to that representation, however, the Company in fact engaged a consultant to interact with the agency and otherwise position the Company for contract award, and this relationship included a payment to the consultant contingent on the Company receiving the contract award. As a result, the Company's proposal may be judged to include a false statement, in violation of 18 U.S.C. § 1001.

The Company provides only complete, accurate, and truthful information to its customers. Accordingly, the Company:

- Does not make false statements, oral or written;
- Submits only independent bid and proposal pricing information; and
- Ensures the accuracy and completeness of all submissions to the U.S. Government for payment or approval.



The Compliance Officer and/or his or her designee are the only individuals authorized to certify to the U.S. Government or approve pricing information on behalf of the Company.

**(n) Truth in Negotiations Act**

The Truth in Negotiations Act (“*TINA*”) requires government contractors to certify that cost and pricing data in their proposals, bids, and other submittals are accurate, complete and current. If contractors provide inaccurate, incomplete, or noncurrent data that causes the contract price to be overstated, the Act provides the Government the right to reduce the contract price. The Company expects every employee who participates in the proposal, bid preparation and contract negotiation processes to be aware of the requirements of TINA and to follow them precisely.

**Examples**

- The Company is preparing to bid on a contract for the U.S. Navy to supply satellites. When the Company seeks additional price quotations from other manufacturers for a certain piece of equipment, it receives a lower price quotation from a different qualified subcontractor. However, the Company includes a higher subcontract price in its proposal submitted to the government. This is “defective pricing” and violates TINA.
- The Company has submitted a proposal to a government agency to build a new tracking and monitoring system. The Company had some parts available in its inventory at a lower cost than its proposal to obtain these same parts from a subcontractor. The Company has essentially billed the government twice for certain material parts because its proposal included (1) plans for buying parts and furnishing them to a subcontractor and (2) the subcontractor’s cost estimate to the Company that contained the same parts. This is “defective pricing” and violates TINA.

If a contractor is found to have engaged in “defective pricing,” the Government will lower the contract price. Furthermore, each invoice submitted under the defectively priced contract may be considered a civil or criminal false claim or false statement (see Sections 13(l) and 13(m) above). Intentional failure to comply with TINA may result in criminal fraud charges; penalties can include fines, suspensions, debarment, and even imprisonment.

**(o) Record Retention and Audit Responsibility**

The U.S. Government generally requires contractors and subcontractors to maintain books and records pertaining to a contract or subcontract for three years after final payment. *See FAR 52.215-2 (“Audit and Records – Negotiation”)*. Accordingly, the Company is required to keep for this period in a secure and accessible location all documents (regardless of media) related to any Government contract or subcontract performed by the Company. In addition, the U.S. Government frequently conducts audits and investigations as a means to identify and address procurement fraud.

The Company maintains documents and records associated with our Government

contracts in accordance with the three-year requirement and our general record retention policies. If you are approached by an investigator or a Government auditor for any reason, you should contact your supervisor or the Compliance Officer immediately. Moreover, you must not alter, destroy, or conceal any documents relating to an investigation or take any action that could hinder an investigation. Violations of these laws are punishable by fines and/or up to 20 years imprisonment.

**(p) Notification of Employee Rights under the National Labor Relations Act (“NLRA”)**

As a federal contractor, the Company is required to inform its employees of certain rights regarding union membership and payments of union dues or other fees, and to post a notice describing these rights. For further information concerning employees’ rights, they may contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll-free number: National Labor Relations Board, Division of Information, 1099 14th Street, NW., Washington, D.C. 20570, 1-866-667-6572, 1-866-315-6572 (TTY).

In addition to the notice requirements concerning union membership and payments, the Company must ensure that certain clauses with respect to these rights are included in its subcontracts unless certain exceptions apply. The Company takes this notice requirement very seriously; penalties for non-compliance may include contract cancellation, termination, suspension and/or debarment. Please consult with the Compliance Officer to ensure that every subcontract contains the proper provisions concerning these rights.

**(q) Reimbursement for Union-Related Expenses**

Under an Executive Order issued on January 30, 2009 entitled “Economy in Government Contracting,” federal contractors are barred from seeking reimbursement through federal government contracts for their efforts to influence union organizing. Section 2 of the Order directs that:

[C]ontracting departments and agencies...shall treat as unallowable the costs of any activities undertaken to persuade employees... to exercise or not to exercise, or concerning the manner of exercising, the right to organize and bargain collectively through representatives of the employees’ own choosing.

Non-reimbursable activities include preparing or distributing leaflets or other written materials, hiring legal counsel or consultants, holding meetings with employees (including the costs of employee wages while attending those meetings), or providing training to managers, that are designed to influence an employees’ decision whether to organize or be represented by a labor union. Certain costs are allowable, such as costs incurred in maintaining satisfactory relations with employees, and costs connected with labor-management committees and employee publications that are not issued to persuade employees with respect to the exercise of their rights to organize and bargain collectively.

The Company must ensure that non-allowable costs are excluded from any billing, claim, proposal, or disbursement applicable to any federal government contract, and relevant Company

personnel should consult the Compliance Officer for detailed guidance on reimbursement issues relating to efforts to influence union organizing.

#### **14. Waivers**

Any waiver of this Code for executive officers (including, where required by applicable laws, our principal executive officer, principal financial officer, principal accounting officer or controller (or persons performing similar functions)) or directors may be authorized only by our Board of Directors or, to the extent permitted by the rules of The NASDAQ Stock Market, a committee of the Board and will be disclosed to stockholders as required by applicable laws, rules and regulations.

#### **15. Compliance Standards and Procedures**

##### *Compliance Resources*

To facilitate compliance with this Code, we have implemented a program of Code awareness, training and review. We have established the position of Compliance Officer to oversee this program. The Compliance Officer is a person to whom you can address any questions or concerns. The Compliance Officer, William Conner, Vice President, Legal and Compliance, can be reached at (703) 287-7441 or [william.conner@iridium.com](mailto:william.conner@iridium.com). In addition to fielding questions or concerns with respect to potential violations of this Code, the Compliance Officer is responsible for:

- investigating possible violations of the Code;
- training new employees in Code policies;
- conducting annual training sessions to refresh employees' familiarity with the Code;
- distributing copies of the Code annually via email to each employee with a reminder that each employee is responsible for reading, understanding and complying with the Code;
- updating the Code as needed and alerting employees to any updates, with appropriate approval of the Nominating and Corporate Governance Committee of the Board of Directors, to reflect changes in the law, Company operations and in recognized best practices, and to reflect Company experience; and
- otherwise promoting an atmosphere of responsible and ethical conduct.

Your most immediate resource for any matter related to the Code is your supervisor. He or she may have the information you need or may be able to refer the question to another appropriate source. There may, however, be times when you prefer not to go to your supervisor. In these instances, you should feel free to discuss your concern with the Compliance Officer. If you are uncomfortable speaking with the Compliance Officer because he or she works in your department or is one of your supervisors, please contact the Vice President of Human Resources. Of course, if your concern involves potential misconduct by another person and relates to questionable accounting or auditing matters under the Company's Open Door Policy for

Reporting Complaints Regarding Accounting and Auditing Matters, you may report that violation as set forth in the such policy.

The Ethics and Compliance Hotline, a toll-free help line at (877) 874-8416, or website at <https://iridium.alertline.com> is for those who wish to ask questions about the Company policy, seek guidance on specific situations or report violations of the Code. You may register a complaint anonymously if you prefer as there is not a requirement to identify yourself. Please note that for any anonymous complaint, the Compliance Officer will be unable to obtain follow-up details from you that may be necessary to investigate the matter. Whether you identify yourself or remain anonymous, your telephonic or website contact with the Compliance Hotline will be kept strictly confidential to the extent reasonably possible within the objectives of the Code.

### ***Clarifying Questions and Concerns; Reporting Possible Violations***

If you encounter a situation or are considering a course of action and its appropriateness is unclear, discuss the matter promptly with your supervisor or the Compliance Officer; even the appearance of impropriety can be very damaging and should be avoided.

If you are aware of a suspected or actual violation of Code standards by others, you have a responsibility to report it. You are expected to promptly provide a compliance resource with a specific description of the violation that you believe has occurred, including any information you have about the persons involved and the time of the violation. Whether you choose to speak with your supervisor or the Compliance Officer or to call the hotline, you should do so without fear of any form of retaliation. We will take prompt disciplinary action against any employee who retaliates against you, including termination of employment.

Supervisors must promptly report any complaints or observations of Code violations to the Compliance Officer. If you believe your supervisor has not taken appropriate action, you should contact the Compliance Officer directly. The Compliance Officer will investigate all reported possible Code violations promptly and with the highest degree of confidentiality that is possible under the specific circumstances. Neither you nor your supervisor may conduct any preliminary investigation, unless authorized to do so by the Compliance Officer. Your cooperation in the investigation will be expected. As needed, the Compliance Officer will consult with the legal department, the human resources department and/or the appropriate committee of the Board of Directors. It is our policy to employ a fair process by which to determine violations of the Code.

With respect to any complaints or observations of violations that may involve accounting, internal accounting controls and auditing concerns, under the Company's Open Door Policy for Reporting Complaints Regarding Accounting and Auditing Matters, the Compliance Officer shall promptly inform the Audit Committee, and the Audit Committee shall be responsible for supervising and overseeing the inquiry and any investigation that is undertaken.

If any investigation indicates that a violation of the Code has probably occurred, we will take such action as we believe to be appropriate under the circumstances. If we determine that an employee is responsible for a Code violation, he or she will be subject to disciplinary action up to, and including, termination of employment and, in appropriate cases, civil action or referral for criminal prosecution. Appropriate action may also be taken to deter any future Code

violations. With regard to the Company's contracts under Government programs, the Compliance Officer (in consultation with appropriate senior managers and legal counsel) will be responsible for determining when disclosure to the agency contracting officer, inspector general, and/or other Government officials is required or otherwise appropriate, and the Compliance Officer will make the appropriate disclosures. ***FAR 52-203-13 mandates timely disclosure whenever a Government contractor has credible evidence that a principal, employee, agent, or subcontractor of the contractor has committed a violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations, or a violation of the False Claims Act.***