

Purchase Order Terms & Conditions

Acceptance & Agreement

The Purchase Order together with these Purchase Order Terms and Conditions (these "Terms and Conditions") shall constitute the entire and exclusive agreement between New CCH, LLC d/b/a Element Critical and its affiliates, including SICIP HOLDCO, LLC and Safanad I DC LLC, and their subsidiaries (the "Purchaser") and the vendor (the "Vendor") identified in the Purchase Order relating to such goods or services. Each Purchase Order represents a separate contract and shall be governed by these Terms and Conditions individually and separate from all other Purchase Orders. For the benefit of clarity, no Purchaser entity has any obligations under or with respect to a Purchase Order, except for the Purchaser entity provided for in the Purchase Order. No modification shall be effective unless in writing signed by duly authorized agents of Purchaser and Vendor. Purchaser's offer to enter into a contract with Vendor is expressly made subject to and conditioned upon Vendor's acceptance of all of these Terms and Conditions, without modifications, amendments or additions thereto, and no contract between Purchaser and Vendor shall be inferred or construed other than according to the Terms and Conditions stated herein, and no others. Vendor's commencement of performance of services, or commencement of the production or supply of such goods, or shipment of goods, whichever occurs first shall be deemed an effective mode of acceptance of this Purchase Order and these Terms and Conditions. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence regarding the sale of the goods and/or services, the terms and conditions of such contract shall prevail to the extent they are inconsistent with these Terms and Conditions.

Termination for Convenience of Purchaser

Purchaser reserves the right to terminate this Purchase Order or any part hereof for its sole convenience. In the event of such termination, Vendor shall immediately stop all production of goods or performance of services hereunder and shall immediately cause any of its vendors or subcontractors to cease such services. Vendor shall be paid only for the goods produced or services completed prior to the notice of termination. Vendor shall not be paid for any goods produced or services completed after receipt of the notice of termination, nor for any costs incurred by Vendors or subcontractors which Vendor could reasonably have avoided.

Termination for Cause

Purchaser may terminate this Purchase Order or any part hereof for cause in the event of any default by the Vendor, or if the Vendor fails to comply with any of the terms and conditions of this Purchase Order. Late deliveries, deliveries of goods which are defective or which do not conform to this Purchase Order, and failure to provide Purchaser, upon request, reasonable assurances of future performance shall all be causes allowing Purchaser to terminate this Purchase Order for cause. In the event of termination for cause, Purchaser shall not be liable to Vendor for any amount, and Vendor shall be liable to Purchaser for any and all damages sustained by reason of the default which gave rise to the termination.

Payment Terms

Payment will be made within forty-five (45) days of Purchaser's receipt of the invoice, provided there is no dispute regarding the amount, and all required lien waivers have been submitted. The amount specified in the Purchase Order represents the total consideration for the goods and/or services, including all materials and labor. However, for certain purchases, such as emergency services, the final invoice amount may vary. The Vendor must submit all invoices electronically to AP@elementcritical.com within ninety (90) days of service completion and/or goods delivery. Purchaser is not obligated to pay any invoices submitted more than six months after the completion of services or receipt of goods.

If applicable, the Vendor must provide a fully executed Final Release and Lien Waiver within five (5) business days of Purchaser's request. For progress payments, the Vendor must submit a fully executed Partial Release and Lien Waiver for all amounts paid by Purchaser within five (5) business days of Purchaser's request. All lien waivers must be submitted electronically to lienwaivers@elementcritical.com. The payment term will not commence until Purchaser has received both the invoice and the appropriate lien waiver, if applicable.

Proprietary Information- Confidentiality

Vendor shall consider all information furnished by Purchaser to be "confidential" and shall not disclose any such information to any other person, or use such information itself for any purpose other than performing its obligations under this Purchase Order, unless Vendor obtains prior written permission from Purchaser. This paragraph shall apply to drawings, specifications, or other documents prepared by Vendor for Purchaser in connection with this Purchase Order. Vendor shall not advertise or publish the fact that Purchaser has contracted to purchase goods from Vendor, nor shall any information relating to this Purchase Order be disclosed without Purchaser's prior written permission. Unless otherwise agreed in writing, no commercial, financial or technical information disclosed in any manner or at any time by Vendor to Purchaser shall be deemed secret or confidential and Vendor shall have no rights against Purchaser with respect thereto except such rights as may exist under patent laws.

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Warranty

Vendor expressly warrants that all goods or services furnished under this Purchase Order shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Vendor warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled. Vendor warrants that all goods or services furnished hereunder will be merchantable and will be safe and appropriate for the purpose for which goods or services of that kind are normally used. If Vendor knows or has reason to know the particular purpose for which Purchaser intends to use the goods or services, Vendor warrants that such goods or services will be fit for such particular purpose. Vendor warrants that goods or services furnished will conform in all respects to samples. Inspection, test, acceptance or use of the goods or services furnished hereunder shall not affect the Vendor's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Vendor's warranty shall run to Purchaser, its successors, assigns and customers, and users of goods sold by Purchaser. All manufacturer warranties for materials and equipment shall be issued in the name of the Purchaser or be transferable to the Purchaser and shall commence upon completion of the Services. Vendor shall take all commercially reasonable actions to affect the transfer of any manufacturer warranties to Purchaser in the event that such warranties are not originally issued in the name of Purchaser. If any portion of the construction or installation of materials or equipment is found to be defective within one (1) year after the completion of the services, then Vendor shall correct it promptly after receipt of notice of such defective condition from the Purchaser provided that Purchaser provides such notice within thirty (30) days after discovery of the defective condition. Vendor agrees to replace or correct defects of any goods or services not conforming to the foregoing warranty promptly, without expense to Purchaser, when notified of such nonconformity by Purchaser, provided Purchaser elects to provide Vendor with the opportunity to do so. In the event of failure of Vendor to correct defects in or replace nonconforming goods or services promptly, Purchaser, after reasonable notice to Vendor, may make such corrections or replace such goods and services and charge Vendor for the cost incurred by Purchaser in doing so.

Price Warranty

Vendor warrants that the prices for the goods or services sold to Purchaser hereunder are not less favorable than those currently extended to any other customer for the same services or similar goods in similar quantities. In the event Vendor reduces its price for such goods or services during the term of this Purchase Order, Vendor agrees to reduce the prices hereof correspondingly. Vendor warrants that prices shown on this Purchase Order shall be complete, and no additional charges of any type shall be added without Purchaser's prior written consent. Such additional charges include, but are not limited to, travel expenses, mileage, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, crating.

Force Majeure

Neither party shall be responsible for any delay or failure to fulfill its obligations hereunder to the extent beyond its reasonable control, including, but not limited to, pandemics, epidemics, acts or omissions of government or military authority, acts of God, transportation delays, fires, natural disasters, diseases, labor disturbances, riots, or wars (each a "Force Majeure Event") so long as the party affected by the Force Majeure Event provides prompt written notice to the other party of its invocation of this provision and makes reasonably diligent efforts to resume its performance. In the event that a Force Majeure Event (i) causes a delay in excess of sixty (60) days; or (ii) performance is rendered objectively impossible or due to a frustrating event not reasonably foreseeable for Vendor to provide the goods or services as required by this Purchase Order, then either party may terminate the Purchase Order by giving five (5) days' written notice of such termination to the other party. In the event of such a termination, the Vendor shall be paid for all goods delivered and services performed through the date of termination.

Intellectual Property

Any copyrightable works, ideas, discoveries, inventions, patents, goods, or other information (collectively "Intellectual Property") developed in whole or in part by or on behalf of Vendor in connection with or relating to the goods or services shall be the exclusive property of Purchaser. Vendor hereby assigns to Purchaser forever (including initial and extended copyright terms) all right, title and interest, including, but not limited to all rights under copyright and intellectual property laws, in any and all particular Intellectual Property, title to which shall automatically pass to the Purchaser upon payment to Vendor. Before ownership of a particular Intellectual Property passes to Purchaser in accordance with this Paragraph, Purchaser shall have an exclusive, perpetual, royalty-free license to use, reproduce and distribute such Intellectual Property.

Vendor agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against Purchaser or its agents, customers, or other sellers for alleged patent infringement, as well as for any alleged unfair competition resulting from similarity in design, trademark or appearance of goods or services furnished hereunder, and Vendor further agrees to indemnify Purchaser, its agents and customers against any and all expenses, losses, royalties, profits and damages including court costs and reasonable attorney's fees resulting from any such suit or proceeding, including any settlement. Purchaser may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by Vendor.

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Independent Contractor

In the event that Vendor's obligations hereunder require or contemplate performance of services by Vendor's employees, or persons under contract to Vendor, to be done on Purchaser's property, or property of Purchaser's customers, the Vendor agrees that all such work shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the Purchaser. Vendor is responsible for withholding and paying all required local, state and federal taxes. Vendor shall hire and pay all of its employees and agents, all of whom shall be at all times entirely under Vendor's supervision, direction and control. Purchaser will not make disability insurance contributions on behalf of Vendor; and Purchaser will not obtain workers' compensation insurance on behalf of Vendor.

Insurance

During the term of this Purchase Order, Vendor shall, at its own expense, maintain and carry insurance in full force and effect which includes but is not limited to, Workers' Compensation, Employer's Liability, Commercial General Liability, Commercial Automobile Liability, Professional Liability, Cybersecurity Liability, Pollution Liability, and Umbrella Liability insurance. Vendor shall indemnify and save harmless and defend Purchaser from any and all claims or liabilities arising out of the work covered by this Paragraph. Purchaser shall be named as an additional insured on a primary and non-contributory basis with respect to the Commercial General Liability, Commercial Automobile Liability and Umbrella Liability policies. Vendor will ensure Purchaser receives new certificates of insurance within thirty (30) days of the renewal of a required policy. Other than with respect to the Professional Liability and Cybersecurity Liability policies, Vendor's insurance shall contain waivers of subrogation in favor of Purchaser. Vendor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the goods are to be delivered or the services are to be performed with an A. M. Best rating of A-/VIII or better. A certificate of insurance evidencing such coverage and the additional insured endorsements shall be provided to Purchaser prior to Vendor entering Purchaser's premises to deliver goods or perform services in connection with this Purchase Order.

Indemnification

To the fullest extent permitted by law, Vendor shall protect, defend (with counsel acceptable to Purchaser), indemnify and hold harmless Purchaser against all claims or demands for losses, including but not limited to damage to property or for injury to or death of any persons, as well as against any fines or penalties, directly or indirectly resulting from any act or omission of Vendor, its employees, subcontractors or agents, occurring in the performance of Vendor's obligations or a defect in goods purchased hereunder, any breach of these Terms and Conditions or of this Purchase Order. This indemnification shall be in addition to the warranty obligations of Vendor. This Paragraph shall survive the expiration or termination of this Purchase Order indefinitely.

Changes

Purchaser shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made and this Purchase Order shall be modified in writing accordingly. Vendor agrees to accept any such changes subject to this Paragraph.

Inspection

Payment for the goods delivered or services performed hereunder shall not constitute acceptance thereof. Purchaser shall have the right to inspect such goods and to reject any or all of said goods that are in Purchaser's sole judgment defective or nonconforming. Goods rejected and goods supplied in excess of quantities called for herein may be returned to Vendor at its expense and, in addition to Purchaser's other rights, Purchaser may charge Vendor all expenses of unpacking, examining, repacking, and reshipping such goods. In the event Purchaser receives goods whose defects or nonconformity is not apparent on examination, Purchaser reserves the right to require replacement, as well as payment of damages. Nothing contained in this Purchase Order shall relieve in any way the Vendor from the obligation of testing, inspection and quality control.

Audit Right

Where appropriate, Purchaser shall have the right to audit product quality at Vendor's premises.

Shipment

If in order to comply with Purchaser's required delivery date it becomes necessary for Vendor to ship by a more expensive way than specified in this Purchase Order, any increased transportation costs resulting therefrom shall be paid for by Vendor unless the necessity for such rerouting or expedited handling has been caused by Purchaser.

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Delivery

Time is of the essence of this contract and if delivery of goods or rendering of services is not completed by the time promised, Purchaser reserves the right, without liability in addition to its other rights and remedies, to terminate this Purchase Order by notice effective when received by Vendor as to goods not yet shipped or services not yet rendered and to purchase substitute goods or services elsewhere and charge Vendor with any loss incurred.

Assignments and Subcontracting

No part of this Purchase Order may be assigned or subcontracted without the prior written approval of Purchaser.

Compliance with Laws

Vendor agrees that all goods shipped to the Purchaser under this Purchase Order will be produced in full compliance with all applicable laws, ordinances, rules, regulations, and orders of any public authority having jurisdiction over the premises including, but not limited to, the Fair Labor Standards Act. Vendor, its employees, agents, and subcontractors of every tier shall maintain all licenses, applicable permits, and certifications required to perform the services in full compliance with applicable laws. Vendor further agrees that it shall not engage in the employment of child, forced, indentured, involuntary, prison or uncompensated labor. Purchaser may, upon notice, inspect Vendor's plant and facilities at reasonable times to determine compliance with the provisions set forth herein. In addition to any other remedies contained herein, Purchaser shall have the right to immediately terminate this Purchase Order and any other Purchase Order with Vendor if it determines that Purchaser is in violation of this Paragraph.

PCI DSS Compliance

Any Vendor that handles, has access to, or otherwise stores, processes or transmits customer cardholder data or sensitive authentication data, or manages the customer's cardholder data environment on behalf of a customer must maintain all applicable PCI DSS requirements. Vendor accepts responsibility for the security of the Purchaser's credit card data in its possession, even if all or a portion of the services to Purchaser are subcontracted to third parties.

Notices

All notices between the parties shall be in writing and addressed to the parties at the addresses indicated on this Purchase Order. A copy of any notice delivered to Purchaser shall also be delivered to Element Critical, Attn: General Counsel, 7990 Quantum Drive, Vienna, Virginia 22182. All notices shall be considered to have been given when hand-delivered, one (1) business day after delivery to a recognized overnight delivery service prepaid or charged to an existing account for next day delivery, or two (2) days after delivery to the United States Postal Service postage prepaid for first class mail delivery. The parties may change their addresses by notice to the other parties.

Waiver

Purchaser's failure to insist on strict performance of any one or more instances, herein or to exercise any right or privilege or Purchaser's waiver of any breach hereunder shall not thereafter be construed as a waiver or relinquishment future right of any other terms, conditions or privileges whether of the same or similar type. No waiver by Purchaser of any provision of this Purchase Order or these Terms and Conditions shall be binding unless expressed in writing signed by Purchaser.

Choice of Law

This Purchase Order and these Terms and Conditions shall be governed by, and construed under the internal laws of the State of Virginia irrespective of the principles of choice of law. The parties agree to the exclusive jurisdiction and venue of the state and federal courts located in Fairfax County, Virginia, regardless of any forum *non conveniens* principles, and the parties irrevocably consent to the personal jurisdiction of the state and federal courts sitting therein.

Severability

The provisions of these Terms and Conditions are severable. If any part of these Terms and Conditions are held to be invalid or unenforceable, then the remainder of these Terms and Conditions shall remain in full force and effect as if the invalid or unenforceable part had not been included in these Terms and Conditions.

Entire Agreement

This Purchase Order and these Terms and Conditions constitute the entire agreement between the parties for the goods or services and supersedes any prior agreement, written or oral. No course of dealing shall be deemed to have modified or waived any provision of this Purchase Order or these Terms and Conditions.

Clarification

For clarification or other questions regarding these Purchase Order Terms and Conditions, please contact purchasing@elementcritical.com.