

# **HYUNDAI AMERICA TECHNICAL CENTER, INC.**

## **GENERAL TERMS AND CONDITIONS**

**Effective September 25, 2024**

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**HYUNDAI AMERICA TECHNICAL CENTER, INC. (HATCI)  
GENERAL TERMS AND CONDITIONS**

**1. Definitions.**

- 1.1. Defined Terms. The following terms shall have the meanings herein specified unless the context otherwise requires.
  - 1.1.1. "Buyer" means HATCI or HATCI Related Company identified on the face of the Purchase Order.
  - 1.1.2. "Deliverables" means the goods, products, or services to be provided by the Vendor to the Buyer under this Agreement.
  - 1.1.3. "Facility" shall mean any building or facility to the extent owned, leased, or otherwise controlled by a Party where any obligation under the Order is to be performed.
  - 1.1.4. "Goods" shall mean collectively or individually, the products, software, equipment, supplies, and any other goods which Buyer may purchase from Vendor under the Purchase Order.
  - 1.1.5. "Person" shall mean any individual or joint venture, partnership, corporation or other business or legal entity.
  - 1.1.6. "Order" shall mean all contracts, agreements, Purchase Orders, SOWs, formal Change Orders, and business relations of any kind between Buyer and Vendor.
  - 1.1.7. "Party" or "Parties" refers to Buyer and Vendor collectively or individually, as the context requires.
  - 1.1.8. "Personnel" shall mean the officers, directors, agents, and employees of any Party.
  - 1.1.9. "Purchase Order" shall mean any written, electronic, or other order(s) issued by Buyer to Vendor under the Order for the specific purchase of Goods or Services.
  - 1.1.10. "Services" shall mean, collectively or individually, the services and tasks which Vendor will provide or render for or on behalf of Buyer under the Order.
  - 1.1.11. "SOW" shall mean a statement of work entered between the Parties and which shall set forth in detail the unique purchase requirements pursuant to which the Goods and/or Services shall be produced and rendered including without limitation the specifications, technical requirements, project milestones, delivery dates and charges for the Goods and Services.
  - 1.1.12. "Vendor" means the seller or supplier of goods or services identified on the face of the Purchase Order.

**2. Scope.**

- 2.1. Deliverables. These General Terms and Conditions ("Terms") govern the purchase of goods and services ("Deliverables") by the Buyer from the Vendor.
- 2.2. Purchase Order. The Purchase Order serves as a formal document specifying the goods and services being purchased. It includes details such as the Buyer's and Vendor's names and addresses. No Deliverables shall be authorized, or invoices approved, without a valid Purchase Order issued by the Buyer to the Vendor.
- 2.3. Statement of Work. Each Purchase Order shall contain a final Vendor-generated proposal or quotation as agreed upon by both Parties, including the scope of work requirements, warranty terms and details, schedule and deadlines, project activities and tasks, reports and milestones, compensation, reimbursable expenses, and any other related details of and specific requirements for the Deliverables.

**3. Terms and Conditions.**

- 3.1. General. The Purchase Order serves as the formal Contract between the Buyer and the Vendor for the purchase of Deliverables. It includes the General Terms and Conditions and any other applicable documents issued or signed by both Parties. Collectively, these documents constitute the Agreement.

- 3.2. Vendor Terms and Conditions. Unless the Buyer provides written acceptance, no other terms and conditions apply to this Agreement. This includes any contract terms submitted by the Vendor. Vendor agrees to these Terms even if additional to or different from any terms and conditions in Vendor's offer.

#### **4. Contract Formation.**

- 4.1. Buyer's Offer. When the Buyer issues a Purchase Order, it constitutes an offer to purchase Deliverables from the Vendor based on the terms and conditions specified in Section 3.
- 4.2. Vendor Acceptance. The Contract is formed when the Vendor accepts the Buyer's offer. This acceptance occurs either when the Vendor begins work or notifies the Buyer of acceptance.
- 4.3. Rescission. Buyer may rescind any Purchase Order at any time before the Vendor accepts it.
- 4.4. Modifications. Buyer has the authority to modify the design (including drawings, materials, and specifications), processing, packing, shipping method, and delivery date or location of the Deliverables. If such changes impact cost or timing, the purchase price and delivery schedules will be adjusted accordingly. The Vendor shall not make any changes without Buyer's instructions or written approval.
- 4.5. Change Orders. Any changes to the scope of work, deliverables, or other aspects of this Agreement must be documented in a written change order. Authorized representatives from both parties must sign the change order. It should specify the nature of the change, its impact on cost and schedule, and any relevant details.

#### **5. Payment; Invoicing; Taxes.**

- 5.1. Payment. Buyer agrees to pay Vendor for Deliverables received under this Agreement as specified in the Purchase Order. Unless otherwise stated, Buyer shall settle all invoices within thirty (30) days of receipt. Invoices mailed to Buyer shall be deemed received by Buyer three (3) business days after invoices are deposited in the U.S. Mail by Vendor to Buyer. If any obligation between Vendor and Buyer is disputed or unliquidated, Buyer may defer payment until resolution.
- 5.2. Invoicing. Vendor must include the applicable Purchase Order number on all submitted invoices. To ensure prompt payment, Vendor should submit invoices by the end of the calendar year unless otherwise specified in the Purchase Order. Any invoices submitted contrary to the agreed payment terms, solely for compliance, will not be paid by Buyer.
- 5.3. Taxes. Unless otherwise indicated on the Purchase Order, the purchase price covers all federal, state, provincial, or local taxes, duties, and fees related to the Deliverables. If Vendor is legally obligated to collect taxes, they will itemize these on the invoice. However, if Buyer provides evidence of exemption, Vendor won't collect such taxes. Vendor must comply with relevant tax laws and indemnify Buyer against any assessed amounts resulting from non-compliance. Vendor will provide necessary documents for tax credits, rebates, or refunds.

#### **6. Shipping and Delivery.**

- 6.1. Shipping. Unless otherwise specified in the Purchase Order, all goods shall be shipped Freight on Board ("FOB") destination. The cost and expense of shipping and delivery will be borne by the Vendor, and the goods must be delivered to the designated Buyer facility. Risk of loss does not transfer until the Goods are delivered and accepted by Buyer in accordance with the terms of this Agreement.
- 6.2. Vendor's Responsibilities. Vendor will ship the products as specified in the Purchase Order. Deliveries will be made to the address indicated on the Purchase Order. Time and quantities are of the essence with respect to all delivery schedules established by Buyer. If Vendor fails to meet delivery requirements due to its actions or omissions, Vendor must use the most expeditious transportation method available. Any additional costs incurred due to expedited shipping will be the Vendor's responsibility. Vendor is liable for any losses incurred by the Buyer if the Vendor fails to deliver conforming products on time.
- 6.3. Delivery. Buyer is not obligated to accept early deliveries, late deliveries, partial deliveries, or any other delivery that is not a 100% conforming delivery. Buyer will pay the Purchase Order price only for conforming products that are delivered and accepted. Early deliveries or quantities exceeding those authorized by the Buyer are at the Vendor's risk of loss. Buyer may return or dispose of nonconforming deliveries without liability to the Vendor. Buyer reserves the right to refuse acceptance of late deliveries or impose penalties at its discretion. Acceptance of nonconforming deliveries does not waive Buyer's right to reject other nonconforming shipments.

- 6.4. Hazardous Materials. For Goods that may contain potentially hazardous materials, if requested by Buyer, Vendor shall promptly furnish to Buyer in whatever form and detail Buyer requests (i) a list of all potentially hazardous ingredients in the Goods (ii) the quantity of one or more such ingredients and (iii) information concerning any changes in or additions to such ingredients. Before shipping the Goods, Vendor agrees to furnish to Buyer sufficient warning and notice in writing (including appropriate labels on the Goods, containers and packing) of any hazardous material that is an ingredient or a part of any of the Goods, together with such special handling instructions necessary to advise carriers, Buyer, and their respective employees how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the Goods, containers and packing shipped to Buyer. Vendor shall comply with all applicable federal, state, provincial and local laws and regulations pertaining to product and warning labels. When applicable, Vendor shall provide an electronic copy of any MSDS document(s) according to the Code of Federal Regulations 30 CFR 47.51 to Buyer Health and Safety Manager at [GA-AASupportHotline@hatci.com](mailto:GA-AASupportHotline@hatci.com).
- 6.5. Export Controls. HATCI follows U.S. laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities, and its obligations hereunder are contingent on compliance with applicable U.S. export laws and regulations (including the Arms Export Control Act, as amended, and the Export Administration Act of 2018). Vendor agrees to comply with all applicable U.S. export laws and regulations, including those in the U.S. and other jurisdictions, in providing goods, services, or technology under this Agreement. The Vendor shall not export, re-export, or transfer any items in violation of such laws. Each Party shall secure, at its own expense, such licenses and export documents as are necessary for each respective party to fulfil its obligations under this Agreement. If required government approvals cannot be obtained, HATCI may terminate, cancel, or otherwise be excused from performing any obligations it may have under this Agreement. Vendor will notify HATCI of any export-related restrictions and non-compliance may result in immediate termination of the Agreement.
- 6.6. Customs. For each international shipment, Vendor will comply with the customs invoicing and documentation requirements of the destination country. Vendor will include a priced invoice (if required) with the primary packing slip and upon request will furnish all other documentation required for export from Vendor's country or import into Buyer's country. All benefits or credits resulting from a Purchase Order with Buyer including but not limited to trade credits, export credits, customs drawbacks, rebate of taxes, fees, etc., will belong to Buyer (unless otherwise stated on a Purchase Order or a country's practice is to let credits remain with Vendor). Vendor upon request will furnish all documents required to obtain the foregoing benefits and credits and will identify the country of origin of the materials used in the Goods and the value added thereto in each country.

## **7. Inspections and Rejections.**

- 7.1. Goods. For Buyer to verify Vendor's compliance with the Contract, Buyer may inspect and evaluate all Goods (including all tooling and material used in their manufacture), at times and places designated by Buyer. Buyer reserves the right to request third-party inspections at Vendor's expense. Vendor will perform its inspections as designated by Buyer and Vendor will make inspections systems, procedures, and records available to Buyer upon request. Notwithstanding payment or any prior inspection, Buyer may reject, require Vendor to correct, or return to the Vendor (all at Vendor's expense and risk of loss) any shipments that do not conform to the agreed requirements.
- 7.2. Services. If the Services do not meet Buyer's requested specifications, Buyer shall have the right, in addition to any other right or remedy it may have, to demand that Vendor correct the Services that Buyer determined were unsatisfactory or that Buyer rejected. If the Vendor fails to correct the Services to the Buyer's satisfaction within a specified timeframe, Buyer reserves the right to seek services from a different vendor at the original Vendor's expense. Buyer reserves the right, even after having paid for the Services, to file a claim against Vendor regarding any of the Services that Buyer considers unsatisfactory or defective or failing to meet any of the specifications set forth in the Contract.
- 7.3. Remedies. Without limiting its remedies, after notice to Vendor, Buyer may either (i) replace or correct any nonconforming Goods or Services and charge Vendor the cost of such replacement or correction, (ii) terminate, cancel or rescind the Contract for default, (iii) require Vendor, at Buyer's option and at Vendor's expense (including applicable shipping, administrative and labor costs), to either repair or replace the non-conforming Goods, or (iv) require Vendor to re-perform the Services, without charge, until Vendor's Services meet the agreed specifications.

## **8. Representations and Warranties.**

- 8.1. Period. The warranty period for Deliverables shall be the greater of one year after final acceptance by Buyer, or the period specified on Buyer's Purchase Order.
- 8.2. Goods. Vendor warrants that during the applicable Warranty Period the Goods will (i) conform in all respects to the drawings, specifications, statements of work, samples and other descriptions and requirements relating to the Goods that have been furnished, specified or approved by the Buyer; (ii) comply with all regulations in force in the countries in which the Goods are to be provided; (iii) be merchantable; (iv) be free from defects in design to the extent furnished by the Vendor, its related companies or their subcontractors, even if the design or specification has been approved by the Buyer; (v) be free from defects in materials and workmanship; and (vi) be suitable for their intended use by the Buyer, including the specified performance in the facility or equipment specified by the Buyer and the environment in which the Goods are or reasonably may be expected to perform.
- 8.3. Services. Vendor warrants that the Services will (i) conform in all respects to the specifications, statements of work, and other descriptions and requirements relating to the Services that have been furnished, specified or approved by the Buyer; (ii) comply with all regulations in force in the countries in which the Services are to be provided; (iii) be suitable for their intended use by the Buyer, including the specified performance in the facility or equipment specified by the Buyer and the environment in which the Services are or reasonably may be expected to perform; and (iv) be provided by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Buyer to expect in the circumstances.
- 8.4. Claim for Breach of Warranty. The Vendor's Warranty and any rights of the Buyer to make a claim under it will be effective even if the Buyer has accepted all or a portion of the Goods and/or Services.
- 8.5. Corporate Existence. Vendor represents and warrants it is a corporation duly organized, validly existing and in good standing under the laws of the state in which it is incorporated; and (a) has the corporate power, authority and the legal right to enter into this Agreement and to perform its obligations hereunder and (b) has taken all necessary corporate action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder.
- 8.6. Conflict. Vendor represents and warrants at the time of execution of this Agreement, the terms of this Agreement are not inconsistent with, nor conflict with any other contractual or legal obligation it may have with any third party. In the event Vendor believes that any Deliverables it provides in the performance of this Agreement may be inconsistent with the terms of this Agreement, it shall promptly notify Buyer, to the extent such notification does not breach confidentiality provisions or understandings between any third party. Buyer retains the right to determine whether to terminate this Agreement because of notification.
- 8.7. Ownership. Vendor represents and warrants it is the lawful owner or licensee of all programs and materials used by it in the performance and provision of the Deliverables contemplated hereunder; and such programs and materials have been lawfully developed or acquired and it has the right to permit access to or use of such programs and materials to third Parties.
- 8.8. Intellectual Property Warranty. Vendor represents and warrants that none of the Deliverables provided under this Agreement will infringe upon any patent, copyright, trademark, trade secret, or other intellectual property rights of any third party. Furthermore, Vendor agrees to defend, indemnify, and hold harmless Buyer, its parent company, subsidiaries, affiliates, employees, and representatives. This indemnification covers all costs and expenses associated with defending or settling any claim that the Deliverables infringe upon a patent, copyright, trademark, trade secret, or other intellectual property right. If Vendor is responsible for the infringement, it shall pay any resulting judgments or settlements.
- 8.9. Care of Work. Vendor warrants its performance, including all Deliverables rendered under this Agreement, will comply with all applicable federal, state, or local government regulations. Vendor must take reasonable measures to protect the Deliverables, materials, raw data, computer products, documents, and other components in its possession. These protections should prevent losses or damages until the Deliverables are accepted by the Buyer—except for losses or damages resulting from the Buyer's negligence or willful misconduct. Additionally, Vendor must handle any Buyer-owned property entrusted to its custody during the Agreement with the same care it assigns to its own property, but never less than a reasonable standard of care.
- 8.10. Familiarity with Work. By executing this Agreement, Vendor warrants (a) it has thoroughly investigated and considered all work described and to be performed under this Agreement; (b) it has carefully considered how the Deliverables should be developed and produced; and (c) it fully understands the difficulties and restrictions in performance of this Agreement. If Vendor discovers any latent or unknown conditions materially differing from those inherent in the Deliverables or as represented or requested by Buyer, Vendor



shall immediately inform Buyer of such difference(s) and shall not proceed until written instructions are received from Buyer's Contract Officer.

- 8.11. Compliance With Law. Vendor must comply with all relevant laws, rules, regulations, and standards of the destination country. This includes matters related to the manufacture, labeling, transportation, importation, licensing, approval, or certification of the Deliverables. It also covers environmental considerations, wages, working hours, employment conditions, subcontractor selection, non-discrimination, occupational health and safety, and motor vehicle safety. At Buyer's request, Vendor shall certify in writing its compliance with any or all the foregoing. Buyer requires strict compliance with this provision and has the right to immediately terminate the Agreement if there is a breach.
- 8.12. Background Investigations. Vendor represents and warrants its employees, agents, subcontractors and its agent's and subcontractor's employees, assigned to work on the Deliverables or assigned to work on the premises of Buyer in the performance of this Agreement (i) have not been convicted of a Crime during the last seven (7) years; and (ii) have a valid Social Security Number or work permit. For purposes of this provision the term "Crime" shall mean a crime, if committed in the United States, that would be classified as a felony.
- 8.13. Debarment Eligibility. By acceptance of this Agreement Vendor certifies to the best of Vendor's knowledge and belief, Vendor is not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts (including subcontracts), by any agency of the U.S. Federal Government.
- 8.14. Disclaimer. Buyer expressly disclaims making any representation or warranty of any kind, express or implied, to the Vendor, including without limitation, with respect to Buyer information, Buyer Background IP, and any other information or property of any kind provided by or otherwise made available to the Vendor hereunder.

## **9. Insurance and Indemnification.**

- 9.1. Insurance. Vendor is required to obtain and maintain commercial general liability insurance at their own expense. This insurance covers claims related to injuries or property damage resulting from Vendor's actions or omissions during the performance of this Agreement. Vendor must also carry Workers' Compensation Insurance in compliance with relevant laws. Such insurance shall be kept in effect during the term of this Agreement and the broker or insurance provider shall provide thirty (30) days advance written notice of cancellation to Buyer. The insurance policy should include a severability of interest clause, ensuring that coverage is primary for losses arising from Vendor's performance and neither Buyer nor its insurers shall be required to contribute to any such loss. Additionally, Vendor must promptly deliver a certificate naming Buyer as an additional insured for covered claims. The insurance requirements do not limit or expand Vendor's indemnification obligations to Buyer. Vendor shall maintain commercial general liability insurance, including endorsement or coverage for contractual liability with limits of at least Two Million and 00/100 Dollars (\$2,000,000.00) per occurrence and in the aggregate. When applicable, Vendor shall also maintain automobile liability insurance with a minimum combined single limit of One Million and 00/100 Dollars (\$1,000,000.00). Coverage limits may be satisfied through a combination of primary and excess insurance policies.
- 9.2. Indemnification. Each Party shall indemnify, defend and hold harmless the other Party, including its employees, principals, officers, partners, shareholders or holders of an ownership interest and agents, from and against any claims, demands, loss, damages, expenses, breach, defaults and attorney fees directly caused by the negligence or willful misconduct of the indemnifying Party, its personnel or agents in the exercise of the indemnifying Party's rights or the performance or observance of the indemnifying Party's obligations under this Agreement, except to the extent such loss is caused by the other Party's own negligence or willful misconduct or of its employees, principals or agents. For the sake of clarity, the Parties acknowledge, to the extent either Party maintains an insurance policy covering any of the claims specified in the foregoing indemnity, the indemnifying Party is not entitled to subtract from the amount owed to the Party being indemnified the deductible applicable to the indemnifying Party's relevant insurance policy. The provisions of this Section shall survive any termination or expiration of this Agreement.
- 9.3. Copyright or Trade Secret Infringement Claims. Regarding copyright or trade secret infringement claims related to Deliverables, Vendor will defend Buyer at its expense. However, Vendor won't indemnify Buyer if the infringement is caused by Buyer's misuse, failure to use corrections, distribution for third-party benefit (excluding certain corporate entities), or materials provided by Buyer or third parties not under Vendor's

direction. If a Deliverable is infringing, Vendor can either secure Buyer's right to continue using it, replace it with a non-infringing equivalent, modify it, or refund the fees paid by Buyer.

## **10. Reports, Records, and Audits.**

- 10.1. Reports. Vendor shall periodically prepare and submit to Buyer, as Buyer reasonably requires, such reports concerning the performance of this Agreement.
- 10.2. Records. Vendor is required to maintain books and records related to the work specified in this Agreement and shall enable Buyer to evaluate such books and records as Buyer reasonably requires. These records should include time records and expense receipts. Buyer shall have access to such books and records upon fourteen (14) days prior written notice; during normal business hours, during the term of this Agreement and for two (2) years thereafter, solely for the purpose of substantiating the amount billed to Buyer, including the right to inspect, copy, audit and make records and transcripts from such records. Buyer shall always have access to work-in-progress for ascertaining full knowledge of the progress and character of Vendor's performance under this Agreement.
- 10.3. Audits. Buyer shall have the right, at its own expense and with reasonable notice, to audit Vendor's records, processes, and facilities to ensure compliance with the terms of this Agreement. Vendor shall provide all necessary access and assistance for such audits.
- 10.4. Vendor Verification. Furthermore, Vendor agrees to provide to Buyer, upon request, Vendor's Dun and Bradstreet number ("D-U-N-S Number"), for purposes of Vendor verification, prior to Buyer acceptance of Vendor, or at any additional time Buyer reasonably deems necessary under this Agreement.
- 10.5. Ownership and Return of Materials. All Deliverables including but not limited to goods, reports, data, policies, procedures, protocols, and any other materials produced by Vendor in connection with the Agreement shall be the sole property of Buyer and shall not be reproduced or published without the prior written consent of Buyer. Vendor agrees to promptly return, following termination of this Agreement or upon earlier request by Buyer, all drawings, tracings, and written materials in Vendor's possession which were: (i) supplied by Buyer in conjunction with Vendor's performance under this Agreement; or (ii) generated by Vendor in the performance of this Agreement and not generated during Vendor's own activities. Vendor shall have no claim for further employment or additional compensation because of the exercise by Buyer of its ownership of the documents and materials hereunder.
- 10.6. Background Information. Any background information developed by either Party outside of this Agreement shall remain the property of the Party developing such background.

## **11. Confidentiality.**

- 11.1. Definitions. For the purposes of this Agreement, "Confidential Information" or "Proprietary Information" includes all information and materials furnished by either Party in connection with the Deliverables. This includes, but is not limited to, written, oral, visual, and magnetic media communication, system architecture, software, graphics, computer programs, design ideas, concepts, flow charts, diagrams, progress reports, methods research, inventions, future product plans, product designs, products (including prices, cost, sales or content), and any other personal or intellectual property relating to either Party, its respective parent or subsidiaries. However, "Confidential Information" does not include: (a) Information already in the public domain at the time of communication; (b) information that becomes public through no fault of the receiving Party; (c) information obtained in good faith from a third party not bound by a confidentiality agreement; or (d) information independently developed by employees or agents without access to the other Party's Confidential Information. All Confidential Information shall remain the property of the disclosing Party and must be returned upon termination of this Agreement or at the disclosing Party's request.
- 11.2. Obligations. Each Party agrees and acknowledges it shall have no proprietary interest in the Confidential Information of the other Party and will not disclose, communicate nor publish the nature or content of such information to any third party, person or entity, (except, to those employees or representatives as necessary to carry out its obligations or rights under this Agreement), nor use, except as authorized in writing by the disclosing Party, any of the Confidential Information it receives, acquires or obtains from such party. Each Party shall immediately advise its employees and others to whom the Confidential Information is disclosed of their obligations under this Agreement and shall take reasonable steps to ensure the Confidential Information is securely maintained. Each Party shall notify the other upon discovery of any unauthorized use or disclosure of that Party's Confidential Information. The obligations of the Parties set forth in this section shall survive the termination or expiration of this Agreement.

- 11.3. Disclosure of Agreement Terms. Neither Party shall disclose any Confidential Information to any third party without the prior written consent of the other Party except as required by applicable law; provided however, either Party may disclose the terms or conditions of this Agreement to a third party under an obligation of confidentiality to such Party in connection with a proposed sale or in the event of a proposed merger, change in control, consolidation, or other similar transaction. If either Party becomes legally compelled to disclose any of the Confidential Information, such Party shall provide the other with prompt notice thereof and shall not divulge any information until the non-disclosing Party has had the opportunity to seek a protective order or other appropriate remedy to curtail such disclosure. If such actions by such Party are unsuccessful, or the non-disclosing Party otherwise waives its right to seek such remedies, the disclosing Party shall disclose only that portion of the Confidential Information which it is legally required to disclose.
- 11.4. Data Confidentiality and Public Release. Any research, marketing, and other data collected under this Agreement is proprietary information and not intended for public release outside of Buyer's organization. The term "public release" includes all research intended for direct or indirect release to the public via any print or electronic media. Additionally, the term "public release" encompasses all research results expressly intended to enter or reasonably expected to enter the public domain. Thus, the "public release" category includes all research and/or marketing materials, documents that may be used in litigation or in testimony before a court, regulatory agency, or legislative body. Vendor and Buyer must cooperate to prevent public release of the data. All Deliverables provided or work developed under this Agreement require prior written consent from Buyer for public release. In the event of a breach of this provision, the non-breaching Party is entitled to seek injunctive relief to prevent further dissemination of the research/marketing data. If legal action is initiated, the breaching Party shall pay the non-breaching Party's costs and reasonable attorneys' fees to obtain and enforce the injunctive relief or any other legal remedy.
- 11.5. Protection of Respondent Information. Ethical survey research requires protecting the identity of individual respondents. Respondent-identifying information is not part of the Deliverables under this Agreement. Vendor will not release respondent-identifying information without express written consent. "Respondent" includes any individual participating in a research study conducted by Vendor. "Respondent-Identifying Information" includes personal identifiable information (PII) that uniquely identifies a person. Express consent is required for disclosure of respondent identity or specific responses to third parties. Buyer complies with privacy laws and protects personally identifiable information.
- 11.6. Data Protection and Security. Vendor shall implement and maintain appropriate technical and organizational measures to protect Buyer's data against unauthorized access, theft, or disclosure. Vendor must comply with all applicable data protection laws and promptly notify Buyer in the event of any data breach.

## **12. Buyer's Intellectual Property Rights.**

- 12.1. Ownership and Use of Buyer's IP. Vendor agrees Buyer, its parent company, subsidiaries, or affiliates own and will retain sole and exclusive ownership of their names, logos, trademarks, patents, service marks, copyrights, and proprietary technology currently used, or which may be developed under this Agreement for Buyer ("Buyer's IP"). Any products or materials furnished by Buyer shall (a) remain the exclusive property of Buyer; (b) be used exclusively for Buyer's purposes by the Vendor; and (c) be clearly marked as Buyer's property and keep separate when not in use. Vendor agrees not to use, disclose, or reproduce Buyer's IP for any purpose other than as necessary to perform its obligations under this Agreement. Vendor shall take all necessary precautions to protect Buyer's IP from unauthorized use or disclosure.
- 12.2. Ownership of Work Product. Vendor acknowledges any trade secret information, copyrightable work product, Deliverables, and other intellectual property rights developed, derived from, or generated solely or jointly by Vendor in performing services hereunder, (including written or electronic documents, illustrations, drawings, notes, models and computer software), or which was developed with the use of time, materials, equipment or facilities of Buyer, shall be owned by and belong exclusively to Buyer, its parent company, subsidiaries or affiliates, and deemed to be "**works made for hire,**" (as commonly understood and as specifically defined under 17 U.S.C. §101).
- 12.3. Assignment of Rights. If such work product does not fall under the definition of "works made for hire," Vendor hereby assigns and agrees to assign to Buyer, its parent company, subsidiaries or affiliates the ownership of all rights, titles, and interests in such, which is conceived or developed solely or jointly by Vendor, including without limitation, inventions (whether patentable or unpatentable) and copyrightable work product. Buyer, its parent company, subsidiaries, or affiliates shall have the right to obtain and hold in their own name, without obligation of any kind to Vendor, patents, copyrights, or other protection that may be available with respect to such. Vendor agrees to assist Buyer, its parent company, subsidiaries or affiliates, or their designee, at their expense, in every proper way to secure Buyer, its parent company, subsidiaries or affiliates' rights in the Proprietary Information, including the disclosure to Buyer, its parent company subsidiaries or affiliates of all pertinent information and data, with respect thereto, and the execution of all applications, specifications, oaths, assignments, and all other instruments that Buyer, its

parent company, subsidiaries or affiliates may reasonably deem necessary in order to apply for and obtain such rights, assignment and conveyance, even after the termination or expiration of this Agreement.

### **13. Vendor's Intellectual Property Rights.**

- 13.1. Ownership of Vendor's IP. Buyer acknowledges and agrees Vendor, its parent company, subsidiaries, or affiliates owns and shall retain sole and exclusive ownership of all of Vendor's products, background information, materials, services, technology, and intellectual property or in which Vendor has a proprietary interest ("Vendor's Property"). Vendor's proprietary intellectual property includes, but is not limited to Vendor's names, logos, trademarks, patents, service marks, copyrights, and all accompanying curriculum, activities, training, and consulting materials ("Vendor's IP"). Vendor's Property is not considered work product or "works made for hire" under the terms of this Agreement. Vendor grants Buyer, its parent company, subsidiaries or affiliates a perpetual, non-exclusive, nontransferable, royalty free license to use Vendor's IP.
- 13.2. Use of Vendor's Background Information. Buyer accepts, during the performance of any Deliverables, Vendor may use and/or apply Vendor's background information. The Vendor shall disclose, when reasonably practicable to do so, all background information owned by Vendor prior to being utilized in the performance of any Deliverables. Buyer, its parent company, subsidiaries, or affiliates shall not obtain or have any rights in such background information, or any development, modification, improvement, or variation thereof made by Vendor or on Vendor's behalf, or any representation of the same whether developed or made by Vendor or on Vendor's behalf, in connection with Vendor's performance hereunder. All title and intellectual property rights in the background information, and any such development, modification, improvement, or variation thereof shall remain the sole and exclusive property of Vendor.
- 13.3. Breach and Legal Action. In case of a breach of these IP provisions under Sections 12 and 13 of this Agreement, the non-breaching Party can seek injunctive relief to prevent further dissemination of intellectual property information. If legal action is initiated, the breaching Party must cover the non-breaching Party's costs and reasonable attorneys' fees. These obligations continue beyond the expiration or termination of Vendor's engagement with Buyer under this Agreement and apply to Vendor's assigns, executives, administrators, and other legal representatives.

### **14. Performance Schedule.**

- 14.1. Timing. Vendor agrees to use commercially reasonable efforts in providing Deliverables promptly. Vendor will perform all work in accordance with the project schedule as set forth in this Agreement. Time is of the essence. Buyer will provide technical support for input materials or components as needed.
- 14.2. Force Majeure. Neither Party is liable for losses resulting from delays or interruptions caused by unforeseeable events beyond their control. Such events include acts of God, war, terrorism, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, and governmental actions. The Party seeking delay must notify the other Party within three (3) days of the commencement of the delay. The time for performance will be extended during the forced delay.
- 14.3. Liquidated Damages. If Deliverables are not completed according to the agreed-upon schedule, Vendor acknowledges that calculating Buyer's damages would be difficult. As compensation for delay, Vendor agrees to pay liquidated damages not exceeding 1% per week, up to a maximum of 5.0% of the Agreement price. An extension of time must be mutually agreed upon in writing by designated representatives of both Parties.
- 14.4. Representative of Vendor. Vendor must designate a representative authorized to act on its behalf regarding the specified Deliverables. This representative will make decisions related to the project. The designated representative cannot be changed without prior written notice to Buyer.
- 14.5. Buyer's Contract Officer. Buyer's Contract Officer, designated by Buyer, must be kept informed of service progress. Decisions requiring Buyer's input should be referred to the Contract Officer.
- 14.6. Subcontracting or Assignment. Vendor's experience, knowledge, capability, and reputation were significant factors in Buyer entering this Agreement. Vendor shall not assign or subcontract obligations without the Buyer's prior written consent. Any attempted assignment without consent is null and void.
- 14.7. Relationship of the Parties. The Parties' relationship under this Agreement is that of independent contractors. Each Party is solely responsible for the actions of its employees, subcontractors, and agents. Employees, subcontractors, and agents of one Party are not considered as such for the other Party. No Party has the authority to create obligations on behalf of the other Party. This Agreement does not create a joint venture, partnership, agency, trust, or similar association. As an independent contractor, Vendor and its

representatives are not entitled to fringe benefits normally granted to Buyer's associates, including, but not limited to, worker's compensation, voluntary disability, travel accident insurance, medical/dental insurance, life insurance, long-term disability, holiday pay, sick pay, salary continuation pay, leaves of absence (paid or unpaid), pension plan and savings plan. Vendor is responsible for expenses related to its employees, subcontractors, or agents in connection with performance and Deliverables under this Agreement. These responsibilities include, but are not limited to, timely payment of wages and benefits, withholding payroll taxes, compliance with relevant laws, and adherence to employment regulations.

- 14.8. Liability Limitation. Buyer shall not be liable for, and Vendor hereby waives any right to, any special, indirect, incidental, consequential or punitive damages, including lost profits, lost fees, lost business, loss of use, costs associated with business interruptions or like damages ("Excluded Damages"), whether based upon contract, tort or any other legal theory, resulting from or in any way connected with the performance by either Party under this Agreement. Buyer shall not be liable to Vendor for the Excluded Damages, whether foreseeable or not, and even if Buyer has been advised or otherwise has knowledge of the possibility of the Excluded Damages.
- 14.9. Waiver of Rights. No failure or delay in exercising rights, powers, or remedies constitutes a waiver unless it is in writing and signed by the waiving Party. Waiving one right does not waive other rights.
- 14.10. Rights and Remedies are Cumulative. Except for expressly exclusive rights and remedies, both parties' rights and remedies are cumulative. Exercising one right does not prevent the exercise of others for the same or different defaults.

## **15. Term and Termination.**

- 15.1. Term. Unless terminated earlier in accordance with this Agreement, it remains in force from the Effective Date until completion of Services or provision of Goods. At that point, it automatically expires without further notice.
- 15.2. Termination without Cause. Either Party can terminate this Agreement at any time, with or without cause, by providing sixty (60) days' prior written notice. Upon termination, Vendor must: (a) Cease all activities related to this Agreement and (b) deliver all work, materials, and property to Buyer. Vendor will be paid for work performed prior to termination, including authorized work during the notice period.
- 15.3. Termination for Cause. If one Party believes the other has materially failed to perform obligations under this Agreement, then written notice describing the alleged failure must be provided. For payment-related breaches, the breaching Party has forty-five (45) calendar days to cure. For other defaults, if not cured within forty-five (45) days, the non-breaching Party may terminate the Agreement for cause.
- 15.4. Termination due to Bankruptcy. Either Party can immediately terminate this Agreement or an identified project if the other is dissolved or liquidated, makes a general assignment for creditors, or files for bankruptcy or has a receiver appointed.

## **16. Dispute Resolution.**

- 16.1. Claims. The Parties agree to resolve all claims and disputes ("Claims") in accordance with this Section 16. For purposes of the Agreement, a Claim includes any demand, assertion, request, or other claim made with respect to any matter arising out of or related to the Goods, Services and/or the Purchase Order. Claims must be made by written notice specifying the existence and nature of the claim provided within a reasonable time following the occurrence of the event giving rise to the Claim. The responsibility to substantiate Claims shall rest with the Party making the Claim.
- 16.2. Negotiation. In the event of a dispute arising from the Purchase Order, the party raising the matter in dispute shall notify the other party in writing, providing sufficient detail about the nature of the dispute. Subsequently, each party shall appoint one or more representatives to resolve the dispute. These representatives will engage in prompt and good-faith negotiations to reach a fair and equitable settlement. If no resolution is reached within 60 days, either party may terminate discussions and declare an impasse.
- 16.3. Mediation. If an impasse is declared under Section 16.2, the parties will participate in non-binding mediation by a third-party mediator. If the Parties cannot agree on a mediator, the Parties shall submit the Claim to the American Arbitration Association ("AAA") for mediation administered in accordance with the Commercial Arbitration Rules and Mediation Procedures of the AAA ("AAA Rules") then in effect. The cost of the mediator will be shared equally. The mediator has 90 days from the date of appointment to help resolve the dispute.

- 16.4. Arbitration. A party may request the other to participate in binding arbitration following the declaration of an impasse under Section 16.2 or the conclusion of mediation under Section 16.3. The request will be made in a written notice provided within 30 days following the end of the applicable resolution time period, and the other party must respond within 30 days after receipt of the request. Neither party is required to participate in any arbitration proceeding under this Section 16.4.
- 16.5. Litigation. If the dispute has not been resolved within 60 days after the end of the mediation period specified in Section 16.3, litigation may be initiated, unless the parties agree to arbitration under Section 16.4. In any litigation, the parties agree that the litigation will be filed only in the courts of the country in which the Buyer has its principal place of business, regardless of where the Seller may be located or the Supplies may have been designed, manufactured, sold, or delivered. Each party will, in any litigation brought under Section 16.5: (i) Irrevocably submit to the exclusive jurisdiction of: (1) the United States District Court for the Eastern District of Michigan, Southern Division, as to any claim or proceeding over which it may have jurisdiction; or, (2) the Circuit Court for the County of Washtenaw, Michigan as to all other claims or proceedings; (ii) Expressly waive any objection to venue or jurisdiction, including an objection based on the inconvenience of the forum; and (iii) Not seek or accept any award of punitive, exemplary or multiple damages other than a right to recover them under the indemnification provisions in Section 9. The non-prevailing party in any dispute must pay all costs and expenses incurred by the prevailing party.
- 16.6. Governing Law. The Purchase Order will be governed by the laws of the Buyer's principal place of business without regard to any conflict of laws provisions that might otherwise apply. The Buyer's principal place of business is the State of Michigan.

## **17. Equal Opportunity Employer / Nondiscrimination.**

- 17.1. Equal Opportunity Employer. Buyer is an Equal Opportunity Employer. Vendor agrees to comply with and cause its employees, agents and/or subcontractors to comply with the provisions of all applicable federal, state, and local laws, orders, and regulations relating to equal opportunity and nondiscrimination in employment. Additionally, Vendor must ensure that its employees, agents, and subcontractors also adhere to these provisions. If any such laws, orders, or regulations apply to their work under this Agreement, they shall be considered an integral part of this Agreement.
- 17.2. Covenant against Discrimination. Vendor covenants that there will be no discrimination against or segregation of any person or group based on race, color, creed, religion, sex, marital status, national origin, or ancestry. This commitment applies to Vendor, its successors, assigns, and all individuals associated with them.

## **18. Miscellaneous.**

- 18.1. Language. For the purposes of this Agreement, any communications, including but not limited to, notices, Exhibits and/or required approvals exchanged hereunder shall be in English.
- 18.2. Currency. For the purposes of this Agreement, all funds referenced or exchanged shall be in U.S. dollars, unless otherwise specified in the applicable Purchase Order.
- 18.3. Notice. Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person must be in writing and either served personally or sent by certified mail, return receipt requested or overnight delivery to the provided address. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated upon receipt or in four (4) days from the date-stamped time of mailing if mailed as provided in this Section, whichever first occurs.
- 18.4. Integrated Agreement. This Agreement together with any documents added to and incorporated herein from time to time constitutes the entire Agreement and understanding between the Parties and terminates, replaces, and supersedes all other prior or contemporaneous communications between the Parties, (whether written or oral). This Agreement may be modified or amended solely by written agreement (which includes, but is not limited to, Exhibits, Amendments, Addendums and/or Purchase Orders). Each Exhibit under this Agreement shall incorporate the terms and conditions of this Agreement. The language of this Agreement has been chosen by Buyer and Vendor to express their mutual intent. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by Buyer and Vendor, and no presumption or burden of proof will arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement. In the event of a conflict between a provision of this Agreement and a provision contained in any subsequent Purchase Order, the terms of the Purchase Order shall prevail.

- 18.5. Non-Exclusivity. Vendor understands and agrees that Buyer engages its services on a non-exclusive basis and Buyer may place orders with other companies or employ its own staff in any manner and at any time without use of, or compensation to, Vendor and is not obligated to place any volume of work orders with Vendor, under this Agreement.
- 18.6. Severability. The provisions of this Agreement shall be deemed severable, and the unenforceability of any one or more provisions shall not affect the enforceability of any other provisions. In addition, if any provision of this Agreement, for any reason, is declared to be unenforceable, the Parties shall agree upon and substitute an enforceable provision, to the maximum extent possible, in accordance with applicable law, that preserves the original intentions and economic positions of the Parties.
- 18.7. Captions. The captions of the Sections of this Agreement are for reference only and are not to be construed in any way as part of this Agreement.
- 18.8. Survival. All rights and obligations which by their nature should survive or which this Agreement expressly states will survive shall remain in full force an effect following termination or expiration of this Agreement.
- 18.9. Corporate Authority. The individuals executing this Agreement on behalf of the involved Parties warrant that they have proper authorization to do so. By executing this Agreement, the Parties are formally bound by its provisions.