

## Purchase Order Terms & Conditions for Goods and Services

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These terms and conditions apply to and are incorporated by reference into the Purchase Order between COMPANY and CONTRACTOR, as identified on the face of the Purchase Order (the "CONTRACT"). If a Master Services Agreement between the parties exists and is currently in place, the terms and conditions of such Agreement shall prevail over these terms and conditions. In all other instances, these terms and conditions are binding between COMPANY and CONTRACTOR and supersede and replace any CONTRACTOR terms and conditions or previous contracts for SCOPE. In no event shall CONTRACTOR's terms and conditions be incorporated in this CONTRACT, and COMPANY shall not be bound thereby. In the event CONTRACTOR's proposal is attached to, or referenced in, any portion of the CONTRACT or description of the SCOPE, any terms, conditions, qualifications, obligations, price related information or rights set forth therein are excluded, of no consequence and do not bind the parties.

### 1. DEFINITIONS.

Capitalized words and expressions have the following meanings when interpreting the CONTRACT:

- a. **ACCEPTANCE:** COMPANY accepts SCOPE in writing or is deemed to have accepted SCOPE in the manner specified by the CONTRACT.
- b. **AFFILIATE:** in reference to a PERSON, any other PERSON that: (a) directly or indirectly controls or is controlled by the first PERSON; or (b) is directly or indirectly controlled by a PERSON that also directly or indirectly controls the first PERSON. A PERSON controls another PERSON if that first PERSON has the power to direct or cause the direction of the management of the other PERSON, whether directly or indirectly, and whether by ownership of shares or other equity interests, the holding of voting rights or contractual rights, by being the general partner of a limited partnership, or otherwise.
- c. **ANTI-BRIBERY LAWS:** all APPLICABLE LAWS that prohibit the bribery of, or the providing of unlawful gratuities, facilitation payments, or other benefits to, any government official or any other PERSON, including: (a) the United States Foreign Corrupt Practices Act of 1977; and (b) the United Kingdom Bribery Act 2010.
- d. **APPLICABLE LAWS:** as amended from time to time: (a) statutes and regulations; (b) national, regional, provincial, state, municipal, or local laws; (c) judgments and orders of courts of competent jurisdiction; (d) rules, regulations, codes and orders issued by government agencies, authorities, and other regulatory bodies; and (e) regulatory approvals, permits, licenses, approvals, and authorizations.
- e. **BOOKS AND RECORDS:** books, accounts, contracts, records, and documentation, in electronic format or otherwise, in respect of the CONTRACT and performance of SCOPE.

- f. **BUSINESS PRINCIPLES:** collectively, COMPANY's (i) Supplier Principles; (ii) Supplier Code of Conduct; and (iii) Helpline.
- g. **CHANGE:** a modification or alteration of, addition to, or deletion of, all or part of SCOPE, including but not limited to the time in which the SCOPE will be performed.
- h. **CHANGE ORDER PROPOSAL:** a proposal prepared by CONTRACTOR in respect of a CHANGE in which it provides full detail of the following: (a) the impact of the proposed CHANGE on SCOPE; (b) a detailed schedule for the performance of adjusted SCOPE; (c) the effect on the CONTRACT PRICE (if any), determined in accordance with the CONTRACT; and (d) any other information COMPANY reasonably requests.
- i. **CHANGE ORDER:** a written order for a CHANGE authorized by COMPANY.
- j. **COMPANY:** The Motiva entity identified on the face of the Purchase Order.
- k. **COMPANY GROUP:** COMPANY and (a) any AFFILIATE of COMPANY; and (b) any director, officer, employee, or other individual working under the direct control and supervision of COMPANY, or the AFFILIATES of COMPANY.
- l. **CONFIDENTIAL INFORMATION:** all technical, commercial, or other information, and all documents and other tangible items that record information, whether on paper, in machine readable format, by sound or video, relating to a PERSON's business, and solely with respect to COMPANY GROUP any WORK PRODUCT, PERSONAL DATA, COMPANY IP and SCOPE provided to that PERSON, business plans, property, way of doing business, business results or prospects, the terms and negotiations of the CONTRACT, proprietary software, IP RIGHTS, and business records.
- m. **CONSEQUENTIAL LOSS:** (a) indirect or consequential losses; and (b) loss of production, loss of product, loss of use, and loss of revenue, profit, or anticipated profit, whether direct, indirect, or consequential, and whether or not the losses were foreseeable at the time of entering into the CONTRACT. CONSEQUENTIAL LOSS does not include any LIQUIDATED DAMAGES.
- n. **CONTRACT PRICE:** the total amount payable by COMPANY to CONTRACTOR.
- o. **CONTRACTOR EQUIPMENT:** any machinery, plant, tools, equipment, goods, materials, supplies, and other items (including all appropriate associated spare parts, storage containers, packing, and securing) owned, leased or contracted for by CONTRACTOR GROUP, provided title has not passed and will not pass to COMPANY under the CONTRACT.
- p. **CONTRACTOR GROUP:** CONTRACTOR and: (a) its SUBCONTRACTORS, (b) any AFFILIATE of CONTRACTOR or its SUBCONTRACTORS; and (c) any director, officer, employee or other PERSON employed by or acting for and on behalf of CONTRACTOR, its SUBCONTRACTORS, or the AFFILIATES of CONTRACTOR and its SUBCONTRACTORS.
- q. **GOODS:** goods, materials, products, and equipment to be supplied by CONTRACTOR under the CONTRACT.
- r. **HSSE STANDARDS:** (a) all [HSSE Requirements](#), including policies, manuals, standards, rules, and procedures, as communicated to CONTRACTOR, designed to manage

HSSE risks during performance of SCOPE under the CONTRACT; (b) all APPLICABLE LAWS relating to HSSE; and (c) any other rules and procedures (whether issued by COMPANY GROUP or otherwise) in force at a relevant COMPANY GROUP WORKSITE at the time of performance of SCOPE.

- s. **INDEMNIFY:** release, save, indemnify, defend, and hold harmless.
- t. **IP:** all tangible and intangible intellectual and industrial property created, developed or reduced to practice, including, without limitation: trademarks, service marks, and other source identifiers, patents, patent applications, patentable inventions, copyrights, SOFTWARE, data, compilations of data, computer databases, documentation, reports, studies, abstracts, summaries, flow-charts, specifications, technical information, tools, methodologies, processes, techniques, analytical frameworks, algorithms, formulas, designs, industrial designs, drawings, blueprints, architectural plans, trade secrets, know-how, business methods, CONFIDENTIAL INFORMATION, inventions, ideas, improvements, models, products, schemas, prototypes, and all other related materials.
- u. **IP RIGHTS:** any and all rights, in any jurisdiction, provided under (a) patent law; (b) copyright law (including moral rights); (c) trademark law (including laws governing trademarks, trade names, trade dress and logos); (d) design patent or industrial design law; or (e) any other statutory provision (including laws governing domain names) or common law principle (including trade secret law and law relating to information of the same or similar nature and protected in the same or similar way) governing intellectual property, whether registered or unregistered.
- v. **LIABILITIES:** liabilities for all claims, losses, damages, costs (including legal fees), and expenses.
- w. **LIENS:** liens, attachments, charges, claims, or other encumbrances against SCOPE or property of COMPANY GROUP.
- x. **LIQUIDATED DAMAGES:** amounts agreed in the CONTRACT that CONTRACTOR must pay to COMPANY if certain events, milestones or performance as specified in the CONTRACT are not timely achieved.
- y. **PERSON:** (a) a natural person; or (b) a legal person, including any individual, partnership, limited partnership, firm, trust, body corporate, government, governmental body, agency, or instrumentality, or unincorporated venture.
- z. **PERSONAL DATA:** any information relating to an identified or identifiable individual, unless otherwise defined under APPLICABLE LAWS related to the protection of individuals, the processing of such information, and security requirements for and the free movement of such information.
- aa. **RESTRICTED JURISDICTION:** countries or states that are subject to comprehensive trade sanctions or embargoes (as may be amended by the relevant governmental authorities from time to time). For purposes of this definition, trade sanctions do not include tariffs.
- bb. **RESTRICTED PARTY:** (a) any PERSON targeted by national, regional, or multilateral trade or economic sanctions under APPLICABLE LAWS; (b) any PERSON designated

- on the United Nations Financial Sanctions Lists, European Union (EU) or EU Member State Consolidated Lists, US Department of the Treasury Office of Foreign Assets Control Lists, US State Department Non-proliferation Sanctions Lists, or US Department of Commerce Denied Persons List, in force from time to time; or (c) any AFFILIATES or PERSONS acting on behalf of such PERSONS.
- cc. SCOPE:** all activities and obligations to be performed by or on behalf of CONTRACTOR under the CONTRACT, including those set out in the Purchase Order, including any activities incidental to performance of such SCOPE.
  - dd. SERVICES:** services to be supplied by CONTRACTOR under the CONTRACT, including the results of those services.
  - ee. SOFTWARE:** any software forming part of SCOPE or necessary for the intended use of SCOPE, including, as applicable, the database and all machine codes, binaries, object codes or source codes, whether in a machine or human readable form, and all improvements, modifications, and updates, flow charts, logic diagrams, passwords, and output tapes, and any future updates, releases, and generally available associated software items, together with the license to use them or ownership rights in them.
  - ff. STANDARDS OF PRACTICE:** the sound standards, principles, and practices that are ordinarily exercised in the performance of SERVICES or supply of GOODS.
  - gg. SUBCONTRACT:** any contract between CONTRACTOR and a SUBCONTRACTOR or between a SUBCONTRACTOR and another SUBCONTRACTOR of any tier for the performance of any part of SCOPE.
  - hh. SUBCONTRACTOR:** any party to a SUBCONTRACT, other than COMPANY and CONTRACTOR (except as explicitly provided otherwise).
  - ii. TAXES:** all taxes, duties, levies, import, export, customs, stamp or excise duties (including clearing and brokerage charges), charges, surcharges, withholdings, deductions, or contributions that are imposed or assessed by any competent authority of the country where SCOPE is performed or any other country in accordance with APPLICABLE LAWS.
  - jj. TRADE CONTROL LAWS:** all APPLICABLE LAWS concerning the import, export, or re-export of goods, software, or technology, or their direct product, including: (a) applicable customs regulations, Council Regulation (EC) No. 428/2009; (b) any sanction regulations issued by the Council of the European Union; (c) the International Traffic in Arms Regulations ("ITAR"); (d) the Export Administration Regulations ("EAR"); and (e) the regulations and orders issued or administered by the US Department of the Treasury, Office of Foreign Assets Control in relation to export control, anti-boycott, and trade sanctions matters.
  - kk. WORK PRODUCT:** any and all information, reports, data, documentation, spread sheets, presentations, analyses, results, conclusions, findings, solutions, calculations, studies, concepts, codes, manuals, recommendations, working notes, specifications or other information, documents, or materials, which arise out of or are made, created, or generated for COMPANY, directly or indirectly, in the course

of performance of SCOPE, or which are made, created, developed or generated from or incorporated in COMPANY GROUP'S IP, including all elements of composition contained therein, any enhancements, revisions, alterations or modifications thereto or derivations thereof, in any form or medium.

- II. **WORKSITE:** lands, waters, and other places on, under, in, or through which SCOPE or activities in connection with SCOPE are to be performed, including manufacturing, fabrication, or storage facilities, offshore installations, floating construction equipment, vessels, or offices. WORKSITE does not include any lands, waters, or other places used during transportation to and from WORKSITES.

**2. REQUIREMENTS PERTAINING TO SCOPE.**

- a. This CONTRACT is non-exclusive and carries no requirement for COMPANY to place any orders or purchase any minimum quantities. COMPANY may acquire same or similar SCOPE from other suppliers.
- b. Time is of the essence for CONTRACTOR's performance of SCOPE.
- c. Any information supplied by COMPANY is the property of COMPANY and will not be used by CONTRACTOR for any purpose other than for performance of the CONTRACT.
- d. CONTRACTOR will perform its SCOPE diligently, efficiently, and carefully, in a good and professional manner, and in accordance with the CONTRACT and all STANDARDS OF PRACTICE. With respect to SERVICES, CONTRACTOR will furnish all skills, labor, supervision, equipment, goods, materials, supplies, transport, and storage required for SERVICES.
- e. Where required by COMPANY, CONTRACTOR will perform at its own expense security background checks and obtain entry credentials for CONTRACTOR employees on COMPANY GROUP WORKSITES.

**3. DELIVERY, TITLE AND RISK OF LOSS**

- a. Delivery of all GOODS shall be made by the date set forth in the CONTRACT. The GOODS shall be subject to expediting by COMPANY. CONTRACTOR will pack the GOODS so that they may be transported and unloaded safely. CONTRACTOR represents that, on delivery, the GOODS will have been accurately described, classified, marked, and labelled, in accordance with the CONTRACT, all APPLICABLE LAWS, and STANDARDS OF PRACTICE.
- b. CONTRACTOR retains risk of loss of and damage to the GOODS until delivery is complete in accordance with the INCOTERMS in any case where INCOTERMS are specified, otherwise when COMPANY takes physical possession of the GOODS.
- c. Title to the GOODS will pass to COMPANY at the earlier of: (i) risk of loss of and damage to the GOODS passing to COMPANY; or (ii) as COMPANY makes payment for the GOODS.

**4. WARRANTY.**

- a. CONTRACTOR warrants and guarantees that the GOODS and SERVICES supplied in connection with the performance of SCOPE will be: (i) without fault, defect, or deficiency; (ii) with respect to GOODS, new on delivery, unless otherwise specified in the CONTRACT; (iii) fit for their intended purpose; and (iv) in strict conformance with the CONTRACT and any specification, drawing, or other description supplied by COMPANY to CONTRACTOR.
- b. Unless a different period is specified in the SCOPE, CONTRACTOR's warranty applies to all defects arising within 18 months of COMPANY'S ACCEPTANCE. CONTRACTOR's proposal, if attached to or referenced in this CONTRACT, shall not shorten any warranty period.
- c. If a defect in SCOPE is discovered during the warranty period, (i) CONTRACTOR will provide a plan to remedy such defect and will remedy such defect in an expeditious manner and (ii) the warranty period will be extended by the number of calendar days between the date such defect is first discovered and the date on which such defect is finally remedied. Without prejudice to other remedies it may have, COMPANY may perform or have others perform some or all of the remedial actions, and CONTRACTOR will pay or promptly reimburse COMPANY for all costs CONTRACTOR would have been liable for under the CONTRACT where: (i) emergency situations or other HSE risks require the immediate performance of remedial actions; (ii) CONTRACTOR presents a plan which does not provide for expeditious completion of warranty work; or (iii) CONTRACTOR does not timely complete the actions according to the agreed schedule.
- d. CONTRACTOR's warranties against defects are assignable, and CONTRACTOR will assign to COMPANY all manufacturers' warranties or will pursue for COMPANY or its assignee all warranties that cannot be assigned.
- e. The warranties set out in this Article are not in lieu of all other rights and remedies available to COMPANY under APPLICABLE LAWS, common law or the CONTRACT.

**5. QUALITY, INSPECTIONS, TESTING, AND ACCEPTANCE.**

- a. CONTRACTOR must have quality assurance programs in place adequate to support its performance of SCOPE.
- b. To confirm SCOPE complies with the CONTRACT, CONTRACTOR will perform all tests and inspections required by the CONTRACT, APPLICABLE LAWS and STANDARDS OF PRACTICE. COMPANY shall also have the right, but not the obligation, to perform any inspections of CONTRACTOR's SCOPE, at any time.
- c. CONTRACTOR will request ACCEPTANCE from COMPANY: i) of GOODS by completion of delivery; or ii) of SERVICES by writing on completion of SCOPE. Other than to start the period for any warranty of limited duration, ACCEPTANCE does not limit or waive any remedies and does not indicate approval or acknowledgement that CONTRACTOR's SCOPE was performed in accordance with the CONTRACT.



**6. COMPENSATION, PAYMENT, AND INVOICING.**

- a. The CONTRACT PRICE includes all costs associated with the SCOPE, including but not limited to all applicable TAXES, insurance, permits, freight, handling and delivery costs.
- b. CONTRACTOR will invoice only after ACCEPTANCE of SCOPE, except as otherwise provided in the CONTRACT. CONTRACTOR shall comply with all invoicing requirements set forth in the CONTRACT.
- c. Unless otherwise expressly agreed by COMPANY in writing, COMPANY will pay CONTRACTOR any undisputed amount within sixty (60) days after receipt of a correct and adequately supported invoice. An invoice is considered unsupported when COMPANY cannot reasonably verify the legitimacy or accuracy of the invoice using the information provided by CONTRACTOR or if supporting documentation is missing. CONTRACTOR agrees to supply all information reasonably requested by COMPANY in support of an invoice.
- d. Payment of an invoice is not: (i) by itself an accord and satisfaction, or otherwise a limitation of the rights of the parties in connection with the matter; (ii) acceptance or approval by COMPANY; or (iii) evidence SCOPE was performed in accordance with the CONTRACT.
- e. If COMPANY disputes an invoice, COMPANY may withhold payment of any disputed part of an invoice and pay only the undisputed part. COMPANY may set off any liabilities between CONTRACTOR and COMPANY arising out of the CONTRACT or any other agreement. Any exercise by COMPANY of its rights under this provision will be without prejudice to any other rights or remedies available to COMPANY.
- f. Failure to invoice COMPANY for work within ninety (90) days after completion of SCOPE shall be deemed a waiver of CONTRACTOR's right to receive payment for such SCOPE, and COMPANY shall not be responsible for any such compensation.

**7. TAXES AND CUSTOMS**

- a. CONTRACTOR is solely responsible for all TAXES associated with performance of its SCOPE. COMPANY is not liable for any of CONTRACTOR's income taxes, withholding taxes, franchise tax minimum, alternative minimum tax, inventory-based taxes, ad valorem taxes, property taxes or any TAXES imposed by law on CONTRACTOR that are prohibited by law from being passed on to COMPANY. COMPANY is not liable to CONTRACTOR for any employment related TAXES, fees, or charges.
- b. If CONTRACTOR is required to collect TAXES on a transaction governed by this CONTRACT, CONTRACTOR will invoice those TAXES as a separate line item on the invoice.
- c. CONTRACTOR will not collect any TAXES for which COMPANY furnishes to CONTRACTOR a valid and properly completed exemption certificate or valid license for which CONTRACTOR may claim an available exemption from TAXES. If

a refund opportunity arises with respect to any TAXES paid by CONTRACTOR as a result of the transactions governed by the CONTRACT, both parties will cooperate to pursue the refund to pay to the party that incurred the TAX burden.

- d. If CONTRACTOR holds a valid exemption certificate, it will provide copies or further information to substantiate an entitlement to avoid the withholding, which COMPANY may then rely on to apply the exemption.
- e. If the CONTRACT involves GOODS imported into the customs territory of the United States, the party acting as the importer of record for US Customs purposes is responsible for filing the clearance declaration and is liable for paying any applicable import related fees or TAXES, such as customs duties, harbor maintenance fees, merchandise processing fees, and oil spill fees. CONTRACTOR will provide the importer of record all documentation necessary to support the customs declaration. If the CONTRACT involves GOODS for which United States import duty drawback can be claimed, the parties may separately negotiate the sharing of the drawback refund.
- f. CONTRACTOR will provide to COMPANY a properly completed Internal Revenue Service Form W-8 or Internal Revenue Service Form W-9, as appropriate, to enable COMPANY to determine if United States income tax withholding is required. If United States withholding applies, COMPANY will withhold amounts on its payments to CONTRACTOR as required under United States law, unless CONTRACTOR provides COMPANY with the appropriate documentation to mitigate the TAX.

**8. CHANGES.**

COMPANY may make CHANGES within the general scope of this CONTRACT. If such CHANGES cause an increase or decrease in the CONTRACT PRICE or time for performance, CONTRACTOR shall promptly notify COMPANY and provide a CHANGE ORDER PROPOSAL. CONTRACTOR shall not proceed with a CHANGE absent issuance of a written CHANGE ORDER. CONTRACTOR is not entitled to a CHANGE for matters that were included in SCOPE, or matters that CONTRACTOR agreed to perform or take into account in connection with the CONTRACT.

**9. SUSPENSION.**

- a. COMPANY may suspend the CONTRACT for cause by written notice with immediate effect where COMPANY concludes CONTRACTOR has breached the CONTRACT. Where suspending for cause, CONTRACTOR will not be entitled to any CHANGE or other compensation.
- b. COMPANY may suspend the CONTRACT for convenience at its own discretion with seven (7) days' prior written notice. CONTRACTOR may seek a CHANGE if actions required by suspension impact the schedule or timing of SCOPE.
- c. COMPANY may at any time withdraw by written notice all or part of a suspension and CONTRACTOR will resume performance.



## **10. REDUCTION, TERMINATION AND DEFAULT.**

### **10.1. Reduction or Termination by COMPANY**

- a. COMPANY may terminate the CONTRACT, reduce SCOPE or take actions to correct or supplement CONTRACTOR's SCOPE, at CONTRACTOR's cost, for cause by written notice with immediate effect if: (i) in connection with the performance of the CONTRACT, CONTRACTOR breaches COMPANY's BUSINESS PRINCIPLES or CONTRACTOR's equivalent principles; (ii) any member of CONTRACTOR GROUP violates ANTI-BRIBERY LAWS, applicable competition laws, TRADE CONTROL LAWS, other APPLICABLE LAWS, or HSSE STANDARDS or causes COMPANY to be in violation of those laws; (iii) any member of CONTRACTOR GROUP becomes a RESTRICTED PARTY; or (iv) CONTRACTOR ceases business, is insolvent, files for bankruptcy, enters into an arrangement for the benefit of its creditors or is subject to any other event relating to its insolvency.
- b. COMPANY may terminate the CONTRACT, reduce SCOPE or take actions to correct or supplement CONTRACTOR's SCOPE, at CONTRACTOR's cost, for cause where COMPANY determines CONTRACTOR materially breached a term or condition of the CONTRACT other than those set out in the preceding paragraph. COMPANY will first provide written notice which may require CONTRACTOR to remedy the breach, or COMPANY may terminate the CONTRACT if COMPANY determines the breach is not capable of timely remedy, or it is not promptly remedied.
- c. COMPANY may terminate the CONTRACT or reduce SCOPE for convenience at its sole discretion with seven (7) days' written notice.

### **10.2. Termination by CONTRACTOR**

- a. CONTRACTOR may terminate the CONTRACT with prior written notice of at least thirty (30) days when: (i) COMPANY fails to pay an undisputed amount to CONTRACTOR that is properly presented, due, and payable for more than sixty (60) days; and (ii) COMPANY fails to cure or provide proper grounds for non-payment during the thirty (30)-day notice period.
- b. CONTRACTOR'S termination rights do not apply to non-payment in the case of COMPANY'S valid exercise of set off rights.
- c. CONTRACTOR waives any right to terminate, rescind or otherwise end the CONTRACT on grounds other than those set forth in this Article 10.2.

### **10.3. CONTRACTOR Obligations on Termination**

- a. On any termination or reduction, CONTRACTOR will promptly cease performance of the terminated or reduced SCOPE, give access to SCOPE in progress, avoid unreasonable interference with others, and take reasonable steps to allow COMPANY to complete SCOPE, including turning over all documentation for SCOPE and SOFTWARE which was to be supplied in connection with the CONTRACT.

### **10.4. Compensation in the Event of Termination**

- a. In the event of termination, COMPANY will determine and pay (subject to valid set offs) the amounts owed to CONTRACTOR for SCOPE properly performed prior to termination, less any costs or damages incurred by COMPANY as a result of CONTRACTOR's default, breach or termination, including any increased costs to complete CONTRACTOR's SCOPE.
- b. If COMPANY terminates the CONTRACT "for convenience" or CONTRACTOR validly terminates for non-payment, COMPANY will also pay reasonable, unavoidable, and auditable demobilization costs that COMPANY has specifically agreed elsewhere in the CONTRACT to pay on termination for convenience by COMPANY. CONTRACTOR waives its right to recover any other costs, including but not limited to any profit or additional costs with respect to the terminated or reduced SCOPE.

**11. LIQUIDATED DAMAGES.**

Any LIQUIDATED DAMAGES set forth in the CONTRACT are genuine and reasonable pre-estimates of the losses that are difficult to calculate but may be sustained by failure of performance. COMPANY may claim demonstrated general damages in any case where LIQUIDATED DAMAGES are unenforceable or when LIQUIDATED DAMAGES are not set forth in the CONTRACT.

**12. LIABILITIES, INDEMNITIES AND WAIVER OF CONSEQUENTIAL DAMAGES.**

- a. **To the fullest extent permitted by APPLICABLE LAWS, CONTRACTOR shall INDEMNIFY COMPANY GROUP from any and all LIABILITIES arising out of or resulting from this CONTRACT or the performance of the SCOPE, provided such LIABILITIES are attributable to bodily injury, disease, or death, or destruction of or damage to tangible to property, but only to the extent caused by the acts or omissions of CONTRACTOR GROUP or any breach of this CONTRACT.**
- b. **Neither party will be liable to the other for that other party's own CONSEQUENTIAL LOSS, REGARDLESS OF NEGLIGENCE OR FAULT.**
- c. **Neither party excludes nor limits its LIABILITIES to the extent they may not be excluded under APPLICABLE LAW.**
- d. **Solely for purposes of any workers' compensation law that might be applicable to CONTRACTOR' employees involved in performance of the CONTRACT, COMPANY is considered the "statutory employer", as that term is defined under the appropriate workers' compensation law or case law interpreting it in cases where activities related to the CONTRACT make it applicable. Nothing in this sub-article negates any other provision of the CONTRACT that addresses the independent contractor status of CONTRACTOR, nor does this sub-article mean that any member of COMPANY GROUP is the employer of any CONTRACTOR employee.**

**13. INSURANCE.**

Prior to commencement of SCOPE, CONTRACTOR shall, at its sole cost and expense, obtain and maintain in force at all times of this CONTRACT, (i) Workers' Compensation and

Employer's Liability Insurance in accordance with APPLICABLE LAWS; (ii) Commercial General Liability Insurance with products liability/completed operations and contractual liability insurance to cover LIABILITIES assumed under this CONTRACT, with minimum limits of \$1,000,000 per occurrence; (iii) Automobile Liability Insurance with combined single limit of \$1,000,000; and (iv) Excess Liability with a minimum limit of \$4,000,000. COMPANY shall be additional insured on any liability policy procured by CONTRACTOR. All such policies shall be procured from companies with A.M. Best financial strength rating no less than A- and financial size rating no less than VII, waive rights of subrogation concerning claims that may be asserted against COMPANY GROUP, and shall be primary and non-contributory. Satisfaction of the obligation to procure such insurance will not relieve CONTRACTOR of any other obligations or LIABILITIES.

#### **14. COMPLIANCE WITH APPLICABLE LAWS, BUSINESS PRINCIPLES, AND HSSE STANDARDS.**

##### **14.1. Applicable Laws**

- a. CONTRACTOR is properly licensed in accordance with all APPLICABLE LAWS to perform the SCOPE. CONTRACTOR will comply with APPLICABLE LAWS in the performance of the CONTRACT and will notify COMPANY of any material breaches.
- b. CONTRACTOR and COMPANY will comply with the US Occupational Safety and Health Administration ("OSHA") Hazard Communication Standard ("HCS") - 29 CFR 1910.1200 (and any state OSHA Standard) in connection with the supply or use of hazardous chemicals, as applicable. Material Safety Data Sheets ("MSDS" or now called "Safety Data Sheets" or "SDS") provided in connection with those requirements will be current, in English, and otherwise meet the requirements of the HCS. Where supplying a chemical substance, CONTRACTOR will provide only chemical substances listed in the Toxic Substances Control Act Chemical Substance Inventory ("TSCA Inventory"), which is maintained by the US Environmental Protection Agency. CONTRACTOR will verify each chemical's inclusion on the TSCA Inventory by sending COMPANY a letter or an MSDS that expressly verifies the chemical's TSCA Inventory Listing. If CONTRACTOR becomes aware of a chemical substance that has been supplied which is not on the TSCA Inventory, CONTRACTOR will immediately notify COMPANY in writing.
- c. To the extent applicable (i) CONTRACTOR GROUP will abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), and 60-741.5(a). Those regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, those regulations require that, where applicable, members of CONTRACTOR GROUP take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status, or disability; (ii) CONTRACTOR GROUP will comply with the Trafficking Victims

Protection Act of 2000, Executive Order 13627 Strengthening Protections Against Trafficking in Persons in Federal Contracts, Federal Acquisition Regulation; Ending Trafficking in Persons and any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and (iii) CONTRACTOR confirms that it is and will remain in compliance with all ethics rules for US government contractors, and executive orders, laws, and regulations pertaining to US government contractors. CONTRACTOR will notify COMPANY in writing if a member of CONTRACTOR GROUP is a former employee of a federal agency who is prohibited from receiving compensation under 41 U.S.C. § 2104.

- d. CONTRACTOR agrees that entry onto COMPANY GROUP WORKSITES constitutes consent to and recognition of the right of COMPANY GROUP and its authorized representatives to search the person, vehicle, and other property of individuals while on those premises. CONTRACTOR must have in place at its own expense a substance abuse policy meeting applicable STANDARDS OF PRACTICE.
- e. Where permitted by APPLICABLE LAW, CONTRACTOR will establish a fitness to work program acceptable to COMPANY for performing job tasks identified by COMPANY as included in those requirements, and compliance therewith be at CONTRACTOR's expense.

**14.2. Business Principles**

- a. CONTRACTOR acknowledges that it has reviewed COMPANY's BUSINESS PRINCIPLES
- b. CONTRACTOR agrees that it and each member of CONTRACTOR GROUP will adhere to and notify COMPANY of violations of the principles contained in COMPANY's Supplier Principles (and where CONTRACTOR has adopted equivalent principles, to those equivalent principles) in all its dealings with or on behalf of COMPANY, in connection with this CONTRACT and related matters.
- c. If CONTRACTOR GROUP supplies staff that work on behalf of COMPANY or represent COMPANY, CONTRACTOR commits that the staff will behave in a manner that is consistent with COMPANY's Code of Conduct.

**14.3. Anti-Bribery and Corruption**

- a. CONTRACTOR represents that it is knowledgeable about ANTI-BRIBERY LAWS applicable to the CONTRACT and performance of SCOPE, has not violated any such laws and will comply with those laws.
- b. CONTRACTOR will immediately notify COMPANY if CONTRACTOR receives or becomes aware of any request from a GOVERNMENT OFFICIAL or any other PERSON that is prohibited by the preceding paragraph.
- c. CONTRACTOR will maintain adequate internal controls and procedures to ensure compliance with ANTI-BRIBERY LAWS, including the ability to demonstrate compliance through its BOOKS AND RECORDS.
- d. CONTRACTOR will INDEMNIFY COMPANY GROUP for any LIABILITIES arising out of CONTRACTOR's breach of ANTI-BRIBERY LAWS or any breach of this Article.

**14.4. Export and Trade Controls**

- a. CONTRACTOR will comply with all applicable TRADE CONTROL LAWS and will provide COMPANY with necessary data to comply with TRADE CONTROL LAWS.

**14.5. Personal Data Protection**

- a. CONTRACTOR will implement all appropriate security measures to protect PERSONAL DATA against accidental, unlawful, or unauthorized (i) destruction, (ii) loss, (iii) alteration, (iv) disclosure, or (v) access (including remote access). CONTRACTOR will protect PERSONAL DATA against all other forms of unlawful processing and unnecessary collection, transfer, or processing beyond what is strictly necessary for the performance of SCOPE.
- b. CONTRACTOR is not authorized to and will not process COMPANY GROUP PERSONAL DATA, whether or not included in the SCOPE description, unless CONTRACTOR has first entered into a data privacy agreement as instructed by COMPANY.

**14.6. Health, Safety, Security, and Environment (“HSSE”)**

- a. In performing SCOPE at COMPANY GROUP WORKSITES, CONTRACTOR will at all times: (i) pursue COMPANY'S HSSE principle of Health, Safety and Environment commitment; (ii) comply with COMPANY'S “Life Saving Rules”; and (iii) comply with other applicable HSSE STANDARDS.

**15. CONFIDENTIAL INFORMATION.**

- a. CONTRACTOR will not disclose or permit a disclosure to a third party of COMPANY GROUP'S CONFIDENTIAL INFORMATION without the prior written consent of COMPANY and will use COMPANY GROUP'S CONFIDENTIAL INFORMATION only in connection with performance of the CONTRACT.
- b. Information that CONTRACTOR can prove at disclosure (i) is public knowledge, (ii) was lawfully furnished to CONTRACTOR by third parties without restriction on CONTRACTOR as to its disclosure or use, or (iii) was developed independently of COMPANY'S CONFIDENTIAL INFORMATION is not CONFIDENTIAL INFORMATION.
- c. On COMPANY'S request, CONTRACTOR will return promptly any CONFIDENTIAL INFORMATION and delete it from electronic storage and delete or destroy all extracts or analyses that reflect any CONFIDENTIAL INFORMATION.
- d. Except where the obligation is expressly stated elsewhere in the CONTRACT or through a separate agreement, COMPANY GROUP will not have an obligation of non-disclosure or non-use regarding information provided by CONTRACTOR or any other member of CONTRACTOR GROUP.
- e. CONTRACTOR must obtain written approval from COMPANY before proceeding with publication in connection with the CONTRACT, disclosure of business relationships, or use of COMPANY'S trademarks.

**16. INTELLECTUAL PROPERTY.**

- a. Except for CONTRACTOR IP (as defined below), CONTRACTOR acknowledges and agrees that all ownership rights, title, and interest in the IP (including all IP RIGHTS associated with the IP) and WORK PRODUCT created, developed, generated by CONTRACTOR GROUP (whether individually by CONTRACTOR or jointly with other parties) in the performance of the CONTRACT or otherwise associated with the SCOPE will vest in COMPANY (collectively, the "COMPANY IP"). To the extent that ownership of the COMPANY IP does not automatically vest exclusively in COMPANY, CONTRACTOR hereby assigns its right, title and interest in and to any such COMPANY IP (and all IP RIGHTS) to COMPANY.
- b. (b) CONTRACTOR warrants and represents that it has the right to grant the assignment of all right, title and interest in the COMPANY IP (and associated IP RIGHTS) to COMPANY described in Article 16(a), and such assignment will not infringe, misappropriate or otherwise violate any property right of any third party.
- c. (c) CONTRACTOR will not incorporate any CONTRACTOR IP (defined below) in any COMPANY IP without the prior written consent of COMPANY. To the extent any CONTRACTOR IP is included in COMPANY IP with COMPANY'S consent, CONTRACTOR, warranting that it is entitled to do so, grants to COMPANY GROUP the irrevocable, non-exclusive, perpetual, worldwide, royalty-free right and license, with the right to grant sub-licenses, to possess, and use any of CONTRACTOR'S IP RIGHTS embodied in the COMPANY IP or required for the use of the COMPANY IP, including the right to import, export, operate, sell, maintain, modify and repair COMPANY IP. CONTRACTOR warrants that any possession or use of COMPANY IP as delivered by CONTRACTOR or of CONTRACTOR IP will not infringe the IP RIGHTS of any third party.
- d. (d) COMPANY'S ownership rights in any IP under this Article will not extend to any IP (and the IP RIGHTS associated therewith) created by CONTRACTOR that: (i) existed prior to performance under the CONTRACT; or (ii) are developed independently from performance of the CONTRACT and are not related to the SCOPE (collectively, the "CONTRACTOR IP").
- e. (e) CONTRACTOR will INDEMNIFY COMPANY GROUP, assignees, transferees, and sublicensees permitted by this CONTRACT for any LIABILITIES resulting from any claim that the possession or use of any COMPANY IP or CONTRACTOR IP infringes or misappropriates the IP RIGHTS of any third party.

**17. FINANCIAL AND PERFORMANCE AUDIT.**

- a. COMPANY will have the right to audit: (i) invoiced charges; (ii) other BOOKS AND RECORDS; and (iii) the performance of any other of CONTRACTOR'S obligations under the CONTRACT, where capable of being verified by audit.
- b. (b) Based on the findings of the audit the parties will settle any amounts charged incorrectly within forty-five (45) days of any audit finding. The foregoing does not modify or supersede CONTRACTOR'S obligation to timely submit invoices.



- c. (c) CONTRACTOR will keep BOOKS AND RECORDS available for audit for the longer of the following periods: (i) five years following termination of the CONTRACT or any longer period as required by APPLICABLE LAWS; or (ii) two years after the period expires on any obligation of CONTRACTOR to perform or re-perform any SCOPE.
- d. (d) If a longer period is specified in the CONTRACT for retention of relevant records for compliance with ANTI-BRIBERY LAWS, CONTRACTOR will comply with that requirement.

**18. RELATIONSHIP OF THE PARTIES.**

- a. CONTRACTOR is an independent contractor in all aspects of performance under the CONTRACT. CONTRACTOR is responsible for the method and manner of performance to achieve the results required by the CONTRACT.
- b. (b) Neither the CONTRACT nor its performance creates a partnership or joint venture. No party is appointed as agent of the other. The CONTRACT does not permit CONTRACTOR to make any commitment on behalf of COMPANY GROUP.
- c. (c) CONTRACTOR and CONTRACTOR's employees are not to be considered employees of any member of COMPANY GROUP and are not eligible to participate in any of COMPANY GROUP's employee benefit plans. CONTRACTOR will indemnify COMPANY GROUP for any LIABILITIES related to claims for private or governmental benefits by CONTRACTOR.

**19. SUBCONTRACTING.**

- a. CONTRACTOR is responsible for any SCOPE performed by and all activities, omissions, and defaults of any SUBCONTRACTOR as if they were the activities, omissions, or defaults of CONTRACTOR.
- b. CONTRACTOR may not subcontract any part of its obligations under the CONTRACT except as agreed in writing by COMPANY.
- c. CONTRACTOR will ensure that SUBCONTRACTS are in all material respects consistent with the terms and conditions of the CONTRACT.

**20. ASSIGNMENT.**

CONTRACTOR may not assign this CONTRACT, any part hereof, or any amount due hereunder, without the prior written consent of COMPANY.

**21. LIENS.**

CONTRACTOR warrants good and clear title to SCOPE supplied. Prior to receipt of each payment, CONTRACTOR will provide waivers of LIEN from CONTRACTOR and its SUBCONTRACTORS to COMPANY, or other documentation reasonably requested by COMPANY. CONTRACTOR will promptly remove any LIENS by CONTRACTOR GROUP and INDEMNIFY COMPANY GROUP for any LIABILITIES arising therefrom.

**22. FORCE MAJEURE.**

- a. COMPANY and CONTRACTOR are each excused from performance of the affected part of an obligation of the CONTRACT while performance is prevented by a force majeure event, as defined below, unless the event was contributed to by the fault of the party or was due to circumstances that could have been avoided or mitigated by the exercise of reasonable diligence.
- b. Only the following are FORCE MAJEURE EVENTS: (i) riots, wars, blockades, or threats or acts of sabotage or terrorism; (ii) earthquakes, floods, fires, named hurricanes or cyclones, tidal waves, tornadoes, or other natural physical disasters; (iii) radioactive contamination, epidemics, maritime or aviation disasters; (iv) strikes or labor disputes at a national or regional level or involving labor not forming part of CONTRACTOR GROUP or COMPANY GROUP, which materially impair the ability of the party claiming force majeure to perform the CONTRACT; (v) government sanctions, embargoes, mandates, or laws, that prevent performance; (vi) inability of a party to timely obtain licenses, permits, or governmental consents required for performance; or (vii) non-performance of a party's SUBCONTRACTOR where the SUBCONTRACTOR has been or is affected by one of the above FORCE MAJEURE EVENTS. However, performance will only be excused under this sub-paragraph if the parties to the CONTRACT agree that substitute performance by another SUBCONTRACTOR is impracticable under the circumstances.
- c. A party whose performance is delayed or prevented will notify the other party and take reasonable actions to mitigate the effects of any FORCE MAJEURE.
- d. COMPANY may terminate the CONTRACT if any FORCE MAJEURE EVENT results in a delay that exceeds ninety (90) consecutive or one hundred eighty (180) cumulative days.

**23. NOTICES.**

All notices or other communications under the CONTRACT must be in English and in writing, and: (i) delivered by hand; (ii) sent by prepaid courier; (iii) sent by registered post; or (iv) sent by email with confirmation receipt requested. Notices and communications are effective when delivered at the address specified on the Purchase Order.

**24. GOVERNING LAW, DISPUTE RESOLUTION AND REMEDIES.**

**24.1. Governing Law**

- a. This CONTRACT, and any dispute or claim arising out of or in connection with this CONTRACT or its subject matter or formation, including any non-contractual disputes or claims, will be exclusively governed by and construed in accordance with the laws of the State of Texas, excluding conflict of law rules and choice of law principles that require the application of the laws of another jurisdiction. The United Nations Convention on the International Sale of Goods will not apply to this CONTRACT.

**24.2. Dispute Resolution**

- a. Venue for any dispute or claim arising out of or in connection with the CONTRACT or its subject matter or formation, or SCOPE, whether in tort, contract, under statute, or otherwise, will be the district court of Harris County, Texas. Both parties waive the right to a jury trial.
- b. The prevailing party, as determined by the court, shall be awarded its attorneys' fees and costs.

**24.3. Specific Performance**

- a. COMPANY is entitled to specific performance of the CONTRACT.

**25. ADDITIONAL LEGAL PROVISIONS.**

- a. The parties retain their rights and remedies under APPLICABLE LAWS, subject to any provisions in the CONTRACT that provide otherwise.
- b. A provision of the CONTRACT is not waived unless made in writing by an authorized representative of the waiving party.
- c. Provisions that state that they survive or by their nature are intended to survive completion of performance or termination of the CONTRACT, including but not limited to indemnity and warranty provisions, do so, along with all remedies attached to them.
- d. Amendments to the CONTRACT must be made in writing and signed by the parties' authorized representatives in order to be binding.
- e. Members of COMPANY GROUP not a party to the CONTRACT, but conferred rights in it, are entitled to enforce those rights but are not required to consent to amend or terminate those rights.
- f. In no event shall CONTRACTOR have a right or cause of action against any AFFILIATE of COMPANY or any member of COMPANY GROUP (other than COMPANY) arising out of or related to this CONTRACT or the SCOPE.
- g. The CONTRACT sets forth the entire agreement between the parties concerning its subject matter and supersedes any other agreements or statements pertaining to the same subject matter, except those agreements or statements expressly referenced in the CONTRACT as included. Any confidentiality agreement pertaining to the subject matter will remain in effect according to its terms, unless the CONTRACT provides that it is terminated or replaced.