

## **GENERAL TERMS AND CONDITIONS**

These general terms and conditions ("**GTCs**") constitute an agreement between MoneyGram Payment Systems, Inc. ("**Customer**") and you ("**you**" or "**Supplier**") related to your provision of Goods and/or Services to Customer. Terms capitalized herein but undefined shall have the definitions assigned them in the MSA executed between the Parties.

### **1. Pricing and Payment Terms.**

- 1.1. In consideration of the Goods delivered and/or the Services provided by Supplier in accordance with the Contract Documents, all prices are firm and shall not be subject to change, except as provided in the Contract Documents. Supplier's price includes all taxes, fees and/or duties (including tariffs) applicable to the Goods and/or Services purchased by Customer; provided, however, that any value added tax that is recoverable by Customer, state and local sales, use, excise and/or privilege taxes, if applicable, shall not be included in Supplier's price but shall be separately identified on Supplier's invoice. If Supplier is legally obligated to pay value added and/or similar tax, Supplier shall invoice Customer in accordance with applicable rules to enable Customer to reclaim such tax.
- 1.2. Supplier shall submit invoices in an auditable form, complying with applicable laws, generally accepted accounting principles and the specific Customer requirements, containing the following minimum information: (i) Supplier name, address and reference person including contact details, (ii) invoice date, (iii) invoice number, (iv) applicable SOW number, (v) address of Customer Delivery Location (if applicable), (vi) quantity of Goods, if applicable, (vii) price (total amount invoiced), (viii) tax or sales tax amount, and (ix) payment terms as agreed.
- 1.3. Invoices must be sent to InvoiceSubmission@moneygram.com (or as otherwise agreed with Customer). Customer shall pay an Invoice in accordance with the payment terms agreed in the Contract Documents. Customer will reimburse expenses that are out-of-pocket and at cost and to the extent agreed in writing. Services charged on the basis of hourly rates require written confirmation of Supplier's time sheets by Customer. Supplier shall submit such time sheets to Customer for confirmation as may be instructed by Customer. Customer is not obliged to pay invoices based on time sheets which are not confirmed by Customer in writing. Customer reserves the right to set off or withhold payment for Goods and/or Services not provided in accordance with the Contract Documents. Customer may withhold payment pending receipt of evidence from Supplier, as reasonably required by Customer, to establish the absence of liens, encumbrances and claims against any property of Customer related to the Goods and/or Services that are the subject of the Contract Documents.
- 1.4. As of the date the amount stated on an Invoice ("**Amount Due**") is sent by Customer to Supplier, the Supplier, on its behalf and on behalf of its successors, assigns, and respective past or present, affiliates, subsidiaries, subcontractors, partners, members, shareholders, trustees, fiduciaries, directors, officers, managers, employees, agents, attorneys, advisors and representatives ("**Associated Parties**") generally, irrevocably, unconditionally and completely waives, releases and forever discharges Customer, its successors, assigns, and respective past or present, affiliates, subsidiaries, partners, members, shareholders, trustees, fiduciaries, directors, officers, managers, employees, agents, attorneys, advisors and representatives (collectively, the "**Released Parties**"), from and against any and all past, present and future claims, controversies, disputes, rights, causes of action, suits, demands, damages, costs, expenses, liabilities and obligations of any nature whatsoever, whether currently known or unknown, suspected or unsuspected, disclosed or undisclosed, absolute or contingent, at law or in equity, that Supplier or any Associated Party of

such Supplier now has, has ever had or may have in the future against any of the Released Parties arising out of or relating, directly or indirectly, to Goods and/or Services or the Amount Due, including but not limited to liens, offsets, restrictions, encumbrances, or rights of repossession or replevin related to the Goods and/or Services, or claims of ownership or title to the Goods and/or Services.

## **2. Covenants: Representation and Warranties**

- 2.1. Supplier shall provide the Goods and/or Services in compliance with all relevant laws, regulations, and codes of practice. Supplier represents and warrants that it is and will remain fully compliant with all applicable Laws, trade and customs laws, regulations, instructions, and policies, including, but not limited to, satisfying all necessary clearance requirements, proofs of origin, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the provision of services, the release or transfer of goods, hardware, software and technology, including, but not limited to, those required under the Export Administration Regulations and the International Traffic in Arms Regulations (“**ITAR**”).
- 2.2. Supplier represents and warrants that no goods, materials, equipment, components, parts, technology, or services that are included in, incorporated into, or provided in connection with the Goods and/or Services originate in any country or region that is subject to a comprehensive embargo maintained by any government authority that Customer deems, in its sole discretion, may impose penalties or other measures against Customer, including, but not limited to, the Office of Foreign Assets Control (“**OFAC**”) of the US Department of the Treasury. Such embargoed countries or regions may include, but are not limited to, Cuba, Crimea, Iran, North Korea, and Syria. If any of the Goods and/or Services are or will be subject to export restrictions, it is Supplier’s responsibility to promptly inform Customer (and any relevant Affiliate) in writing of the particulars of such restrictions. Further, Supplier represents and warrants that no goods, materials, equipment, components, parts, technology, or services that are included in, incorporated into, or provided in connection with the Goods and/or Services will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or the Anti-Terrorism Order (Executive Order No. 13,224, 66 Fed. Reg. 49,079 (2001), issued by the President of the United States of America (Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or any enabling legislation or executive order relating to any of the same. Without limiting the generality of the foregoing, the Supplier and its Affiliates: (a) are not and will not become a blocked person described in Section 1 of Anti-Terrorism Order; and (b) does not knowingly or will knowingly engage in any dealings or transactions or be otherwise knowingly associated with any such blocked person. The Supplier and its Affiliates are in compliance, in all material respects, with the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism Act (USA Patriot Act of 2001).
- 2.3. Supplier represents and warrants that it is not a person subject to economic or financial sanctions imposed by a government entity, including any Sanctioned Persons. Supplier acknowledges that Sanctioned Persons may include persons who are not explicitly included on any sanctions list maintained by a government entity, as well as persons who are directly or indirectly owned 50 percent or more in the aggregate by one or more Sanctioned Persons. Supplier further represents and warrants that no Sanctioned Person has any property interest, financial interest, or other interest in the Goods and/or Services and that the provision of the Goods and/or Services shall not involve the transferring, paying, exporting, or withdrawing of any property or interests in property of any Sanctioned Person.

- 2.4. Supplier represents and warrants that: (a) the Goods and/or Services it provides Customer are not covered telecommunications equipment or services, and (b) the Goods and/or Services it provides Customer do not use covered telecommunications equipment or services, as defined in Section 889(a)(1) of the U.S. National Defense Authorization Act for Fiscal Year 2019 and its implementing regulations. Supplier further represents and warrants that it will notify Customer within one (1) business day in the event Supplier discovers that the Goods and/or Services it provides Customer are or use such covered telecommunications equipment or services.
- 2.5. Each Party warrants that it has not and it will not, directly or indirectly, and that each has no knowledge that other persons will, directly or indirectly, offer, promise or make any payment, gift kickback or other commitment to its customers, to government officials or employees or to agents, directors and employees of each Party, or any other party, for obtaining or rewarding favorable treatment by Customer with respect to the terms, conditions, price, performance or award of a Contract Documents, or in a manner contrary to applicable laws (including but not limited to the U. S. Foreign Corrupt Practices Act, the UK Bribery Act 2010 and, where applicable, legislation enacted by member states and signatories implementing the OECD Convention Combating Bribery of Foreign Officials), and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption. Nothing in the Contract Documents will render either Party or any of its Affiliates liable to reimburse the other for any such consideration given or promised.
- 2.6. Supplier covenants it shall (i) respect the human rights of its employees, provide a safe and appropriate working environment, eliminate discrimination, and provide equal opportunity in employment; (ii) not tolerate, and cause its suppliers not to tolerate, forced labor, underage labor or illegal alien labor, and comply with applicable laws and regulations of related countries or regions regarding employment terms including wages and working hours; (iii) not have any affiliation with anti-social forces, organizations and movements (including, without limitation, gangsters, criminal organizations and terrorist organizations) and warrants that it will not hold itself out as, or knowingly engage the services of or provide contributions of any form to the same for any reason; (iv) require its suppliers and business partners to agree to accept the same obligations as Supplier has undertaken under this Section 2.6.
- 2.7. Any material violation of an obligation contained in this Section 2 and its subsections is a material breach of the Contract Documents and entitles Customer to terminate the Contract Documents with immediate effect and without prejudice to any further rights or remedies available thereunder or at law.
- 2.8. If requested in writing, Supplier agrees to certify to Customer, by separate writing, that it complies with the IT/Cyber Security requirements of FAR 52.204-21, DFAR 252.204-7009, and DFAR 252.204-7012. Furthermore, Supplier covenants that it is not debarred, suspended, or proposed for debarment, or otherwise ineligible to perform any contract by any U.S. executive agency or other U.S. governmental entity.
- 2.9. Customer is an equal opportunity employer. As applicable, the Parties agree that they shall abide by the requirements of Executive Order 11246, as amended by Executive Order 11375 (Equal Employment Opportunity); 38 U.S.C. §4212 (Vietnam Era Veterans Readjustment Assistance Act of 1974); 29 U.S.C. §793 (Section 503 of the Rehabilitation Act of 1973); and the implementing regulations found at 41 CFR Section 60-1.4(a); 41 CFR Section 60-300.5(a); 41 CFR Section 60-741.5(a); and 29 CFR Part 471, Appendix A to Subpart A, and that these requirements are incorporated herein. These 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, sexual orientation, gender identity or national origin, and notification of employee rights. Additionally, these regulations prohibit employers from discharging, or otherwise discriminating against, employees or applicants who inquire about, discuss, or disclose their compensation or the compensation of other employees or applicants. Moreover, these regulations require that Supplier take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

- 2.10. Supplier shall notify Customer of all "hazardous materials" (as that term is defined in applicable federal, state and local statutes) and such other identification of materials used in the provision of Services or contained in the Goods as may be required by Customer from time to time, and provide any appropriate special handling instructions. Supplier shall furnish Customer with copies of all applicable "material safety data sheets" for such materials no later than the shipment date under the Contract Documents.
- 2.11. Supplier further represents, warrants, and covenants for itself and each of its Subcontractors that (i) the Goods and/or Services and the media on which the Goods and/or Services are performed and/or delivered will be free of viruses, Trojan horses, trap doors, backdoors, Easter eggs, logic bombs, worms, time bombs, cancelbots, and/or other computer programming routines that may potentially damage, interfere with, intercept, disable, deactivate, or expropriate any of Customer's or any user's information system(s), (ii) the Goods and/or Services do not and will not infringe or misappropriate the intellectual property rights of any third party, (iii) all Goods and/or Services furnished hereunder are and will be: (a) free and clear of all liens, claims and encumbrances, (b) new and free from defects in design, materials and workmanship, and (c) of merchantable quality and fit for the purposes for which they are intended. All Goods and/or Services not conforming to these requirements, including substitutions not properly approved and authorized, may, at the election of Customer, be considered in breach of the Contract Documents.
- 2.12. Supplier covenants for itself and each of its Affiliates and Representatives that: (i) it and its Affiliates and subcontractor(s) is/are a validly existing business entity, duly licensed and qualified to carry on its business/operations and perform its obligations, (ii) it and its Affiliates and Representatives has/have all rights, licenses, permits, qualifications and consents necessary to perform its and/or their respective obligations, (iii) it and its Affiliates and Representatives' performance under the Contract Documents does not and will not violate or cause a breach of the terms of any other agreement to which it is a party, (iv) it and its Affiliates and Representatives have the financial viability to fulfill the obligations under the Contract Documents (and Supplier will provide prompt written notice to Customer of any event or condition that results in, or is reasonably likely to result in, a material adverse change to Supplier's or its and its Affiliates and subcontractors' financial condition, reputation or operation), (v) there are no undisclosed collective bargaining agreements or other labor agreements to which Supplier and its Affiliates and Representatives is a party or by which it or its Affiliates and subcontractor(s) are bound (vi) it and its Affiliates and Representatives will take all necessary precautions to prevent injury to any person or damage to any property while delivering Goods and/or performing Services, and (vii) it and its Affiliates and Representatives is/are not in default of any other agreement and there are no proceedings threatened or pending under order of any court, arbitrator, administrative agency or other authority, which would affect performance under the Contract Documents.
- 2.13. If any Goods and/or Services do not comply with any breach of warranty or representation made by Supplier, in addition to any other remedies Customer may have, Customer may require Supplier to, in the following order (at Supplier's sole cost and expense): (i) procure for Customer or its Affiliates the right to continue using the affected Goods and/or Services, (ii) if applicable, replace

the affected Goods and/or Services with conforming and/or non-infringing Goods and/or Services at no cost or loss (in time, revenue, or opportunity) to Customer, (iii) modify the affected Goods and/or Services so that such Goods and/or Services conform or become non-infringing without detracting from their functionality or performance, or (iv) if the foregoing alternatives are not commercially available, within fifteen (15) days, refund to Customer all fees paid to Customer for such non-conforming or infringing Goods and/or Services.

- 2.14. To the extent permitted by applicable Law, any implied warranties which favor the Supplier shall be excluded from these GTCs and any other agreement between Customer, the Supplier, and/or their respective Affiliates. The provisions of this Section 2 shall survive any performance, acceptance or payment pursuant to any Contract Documents between the Parties or their Affiliates and shall extend to any substituted or remedial Goods and/or Services provided by the Supplier.
- 2.15. The terms and conditions of Contract Documents shall apply to the Supplier's Representatives as if such persons or parties were signatories hereto and thereto, and the Supplier agrees that it shall (i) ensure its Representatives observance performance and compliance with the terms of the Contract Documents, and (ii) be directly liable to the Customer or its Affiliates for any action or inaction by any of its Representatives in breach of any of the Contract Documents without limitation, proportionality, or offset. For the avoidance of doubt, nothing hereunder shall be considered consent to Subcontractors in the absence of the requirements as set forth in Schedule H to the MSA.
- 2.16. Supplier warrants that in the performance of Supplier's duties under this Agreement, Supplier shall adhere to the highest fiduciary standards, ethical practices and standards of care and competence. Supplier warrants that there exists no actual or potential conflict of interest between Supplier, Supplier's Personnel, Supplier's business or financial interests or Supplier's services under this Agreement, and in the event of a potential change in Supplier's interests which may then become conflicting, Supplier shall immediately seek Customer's written approval which may be granted or rejected at Customer's sole discretion.

### **3. Delivery and Acceptance**

- 3.1. The Services shall be provided at the Delivery Location.
- 3.2. Delivery of Goods or provision of Services shall not be deemed to be acceptance of such Goods or Services by Customer. Customer (or its nominated Affiliate at the Delivery Location) shall have reasonable time to inspect or test the Goods and/or Services and to report any defects to Supplier. If a defect in the Goods and/or Services was not reasonably detectable during the inspection, Customer (or its nominated Affiliate at the Delivery Location) shall have reasonable time to provide notice of such defect after it has become apparent and/or to reject the Goods and/or Services. Supplier shall inform Customer (and any relevant Affiliate) in writing within a reasonable time period in advance when the Goods and/or Services are ready for acceptance. Customer may enforce any remedy defined in the Contract Documents for any rejected Goods or Services.
- 3.3. Supplier shall deliver the Goods and provide the Services: (i) in accordance with the applicable Laws and regulations, (ii) in accordance with the Contract Documents (including by providing any necessary documentation) and all Customer instructions, (iii) free from defects and from any rights of third parties, (iv) fit for any particular purpose specified in the Contract Documents or, in absence thereof, fit for the purposes for which such Goods and/or Services would ordinarily be used, (v) in material compliance with the terms and conditions of the applicable licenses related

to Integrated Software governing the use thereof, and the Goods or the use thereof by Customer shall not cause Customer or Customer's Intellectual Property Rights to be subject to the terms or conditions of a copyleft license, or require Customer to fulfil any open source license obligations, and (vi) free of restrictive devices (i.e. any key, node lock, time-out, time bomb, or other function, whether implemented by electronic, mechanical, or other means,), viruses, malware, and other harmful code which may interfere with the use of the Goods regardless of whether Supplier or its personnel purposefully placed such code in the Goods.

#### **4. General Provisions**

- 4.1. Neither Party (nor any Affiliate receiving the Goods and/or Services) will be liable for any delay or failure to perform its obligations under a Contract Documents if the delay or failure results from an event of Force Majeure. If a Force Majeure event exceeds thirty (30) calendar days, either Party may terminate the Contract Documents forthwith by written notice without liability. Each Party shall use reasonable efforts to minimize the effects of the Force Majeure event.
- 4.2. Supplier may neither assign, nor novate, transfer, encumber or subcontract the Contract Documents, nor any parts thereof (including any monetary receivables from Customer) without prior written approval of Customer.
- 4.3. Customer may assign, novate, transfer, subcontract or deal in any other manner with the Contract Documents, in whole or in part, at any time, and on more than one occasion thereof to its Affiliates, or to any successor-in-interest or title which acquires that part of Customer's group of companies' business to which the relevant Contract Documents relates (and such transferee may do the same). For purposes of this Agreement, the post-acquisition activities of Customer by Madison Dearborn Partners, LLC, its affiliates or subsidiaries (collectively, "MDP") and/or Mobius Parent Corp., a Delaware corporation and an affiliate of MDP, Mobius Merger Sub, Inc., a Delaware corporation and wholly owned subsidiary of Mobius Parent Corp shall not be subject to review and/or approval of Supplier for any subsequent public offering of securities of Customer, or a direct or indirect parent entity of Customer, that results in MDP owning less than 50% of the voting securities of Customer but does not result in any other Person owning more than 50% of the voting securities of Customer shall not be deemed a Change of Control or Assignment for purposes of this Agreement.
- 4.4. Failure to enforce or exercise any term of the Contract Documents does not constitute a waiver of such term and does not affect the right later to enforce such or any other term therein contained.
- 4.5. The Contract Documents are governed by the laws stated in the MSA, including the Uniform Commercial Code adopted therein, but excluding the provisions of the United Nations Convention on International Sale of Goods. If Customer and Supplier are registered in the same country, any dispute arising in connection with the Contract Documents which cannot be settled amicably shall be submitted for resolution to the jurisdiction of the State Court stated in the MSA or the applicable U. S. District Court corresponding thereof. If Customer and Supplier are registered in different countries, any dispute arising in connection with the Contract Documents which cannot be settled amicably shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance therewith. Place of arbitration shall be Customer's place of registration. The language of the proceedings and of the award shall be English.
- 4.6. The invalidity or unenforceability of any term of the Contract Documents will not adversely affect the validity or enforceability of the remaining terms. The Contract Documents will be given effect as if the invalid or unenforceable term had been replaced by a term with a similar economic effect.

- 4.7. Provisions of the Contract Documents which either are expressed to survive its termination or from their nature or context it is contemplated that they are to survive such termination will remain in full force and effect notwithstanding such termination. The obligations set forth in Section 2, Section 3, Section 4, and Section 5 exist for an indefinite period of time and survive expiration or termination of the Contract Documents for any reason.

- 4.8. The relationship of the Parties is that of independent parties dealing at arm's length and nothing in the Contract Documents may be construed to constitute Supplier as an agent or employee of Customer (or of any Affiliate) or so as to have any kind of partnership with Customer or any Affiliate, and Supplier must not represent itself as or act on behalf of Customer or its Affiliates. The Contract Documents does not imply any employment relationship between Customer (or any Affiliate), and Supplier, or between Customer (or any Affiliate) and Supplier's employees assigned to the execution of the Contract Documents. Customer and its Affiliates remain free of any responsibility or liability for labor, social security or taxes with respect to Supplier and its employees assigned to the execution of the Contract Documents.
- 4.9. The Parties acknowledge electronic signature (e.g. DocuSign, Adobe Sign), applied by authorized persons, to be sufficient and binding for any documents related to the Contract Documents, including, without limitation, documents for which the Contract Documents requires written form, or which require to be signed by the Parties.
- 4.10. During the term of this Agreement and for twelve (12) months after termination with or without cause, neither party will, directly or indirectly solicit for employment or hire or cause to be solicited or hired any employee of the other party provided, however, that this Section shall not prohibit any advertisement or general solicitation, or recruiting efforts by a recruitment agency (or hiring as a result thereof) that is not specifically targeted at the other party's existing employees.
- 4.11. Supplier shall not assign any Personnel who perform any portion of the Services for Customer to perform work for the benefit of any competitor of Customer within one year after such Personnel's assignment to Customer has terminated, unless Customer has expressly agreed otherwise in writing.
- 4.12. Supplier is solely responsible for maintaining workers' compensation coverage sufficient to cover any injury to Personnel while working on any matter for Customer. Supplier accepts responsibility, through workers' compensation, for any compensable injury to Personnel while working on any matter for Customer. Supplier agrees to indemnify and hold Customer harmless in the event of any negligence claim or other claim by Personnel, if such claim arguably would have been covered under workers' compensation laws had the injury been to an employee of Customer. Supplier shall waive any subrogation rights against Customer for workers' compensation benefits and shall obtain a waiver from any insurance carriers with whom Supplier carries workers' compensation insurance releasing their subrogation rights against Customer.
- 4.13. All Personnel are employees or subcontractors of Supplier. None of the Personnel shall be employees of Customer, and none of the Personnel shall be entitled to any of the benefits to which Customer's employees may be entitled. Any employee benefits to which Personnel may be entitled shall depend upon what Supplier makes available, and such benefits shall be provided solely by Supplier. With respect to all Personnel, Supplier will assume all obligations of the employer, including hiring, firing, discipline, testing and training, performance evaluations, resolving complaints or grievances of Personnel, maintaining personnel and payroll records for Personnel, and distributing paychecks to Personnel. Supplier shall ensure that all Personnel are properly documented and authorized to work in the United States or in any other country where such Personnel will be providing any portion of the Services under this Agreement.
- 4.14. If at any time, and for any reason, Customer asks Supplier to remove any Personnel from any Customer facility or from performing any portion of the Services, Supplier will promptly do so. Supplier will select replacement Personnel if appropriate. Any Personnel who have been removed



from performing any portion of the Services for any performance-based or conduct-based reason shall not be re-assigned by Supplier to perform any further work for Customer whatsoever, absent Customer's prior written consent. Customer will not be required to pay for any portion of the Services that were performed in an unsatisfactory manner by such replaced Personnel or for the time spent to train or orient replacement Personnel.

## **5. Definitions**

5.1. The following capitalized terms used herein shall have the following meanings:

**Delivery Location** means a location specified by Customer.

**Force Majeure** means an event that was not foreseeable by the affected Party (or Affiliate) at the time of execution of the Contract Documents, is unavoidable and outside the reasonable control of the affected Party (or Affiliate), provided that it cannot overcome such event despite all reasonable efforts, and that it provides notice to the other Party (and, in the case of Supplier being affected, to any relevant Affiliate) within five (5) calendar days from occurrence of the Force Majeure event.

**Goods** means items to be delivered by Supplier in accordance with the Contract Documents and/or all materials, documents, or other deliverables which are the result of Services provided by Supplier under the Contract Documents in any form or media, including but without limitation to data, diagrams, drawings, reports and specifications.

**Integrated Software** means, to the extent that the Goods contains software necessary for operation of Goods, was not developed for Customer or its Affiliates, and is embedded in and delivered as integral part of Goods.

**MSA** means the master services agreement executed by and between Customer and the Supplier.

**Sanctioned Persons** means a person included on the Specially Designated Nationals and Blocked Persons List administered by OFAC.

**SOW** means a statement of work executed between the Parties.

**Intellectual Property Rights** means (i) patents, utility models, copyrights, database rights and rights in trademarks, trade names, designs, knowhow, and invention disclosures (whether registered or unregistered); (ii) applications, reissues, confirmations, renewals, extensions, divisions or continuations for any of these rights; and (iii) all other intellectual property rights and similar forms of worldwide protection.

**Confidential Information** means all information disclosed by Customer to Supplier, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure.

## **6. Supplier Use of Subcontractors**

Supplier may not use subcontractors to perform the Services, unless such subcontractors are first approved by Customer. Any use of subcontractors by Supplier is at Supplier's sole expense. Prior to engaging any subcontractor to perform Services for Customer, Supplier shall provide Customer with the bill rate Supplier will pay for any subcontractor resource and/or other information related to the amount Supplier will pay to

the subcontractor for the performance of the subcontracted portion of the Services. Customer shall have the sole right to reject any of Supplier's subcontractors whose qualifications, in Customer's sole judgment, are insufficient for the satisfactory performance of the obligations required by this Agreement or for any other reason. Where subcontractors are used, Supplier shall remain responsible for the performance of Services by any subcontractor, and all subcontractors employed by Supplier shall be subject to all provisions of this Agreement. Any subcontractors shall be identified as such on the applicable SOW once they have been accepted by Customer. Any subcontractors used by Supplier in the performance of the Services are included within the definition of Personnel.

## **7. Supplier Sub-vendors/Subcontracted Activities**

Supplier may not use any sub-vendors to perform the Services, unless such sub-vendors are first approved by Customer. Any use of sub-vendors by Supplier is at Supplier's sole expense. Supplier shall send a written notice informing Customer of plans to subcontract any performance of the Services or part thereof or plans to make a material change to an existing subcontract. The notice shall be given at least 30 (thirty) calendar days before the proposed effective date of the new sub-vendor or of the proposed material change. Notice will include at least a detailed description of the sub-vendor, the nature of the subcontracted activities, the duration of the proposed subcontracting arrangement and the proposed place of performance of the Services.

Customer may require Supplier to terminate a subcontract where the acts or omissions of the relevant sub-vendor have given rise to Customer's right of termination under this Agreement. Where sub-vendors are used, Supplier shall remain responsible for the performance of Services by any sub-vendor, and all sub-vendors shall be subject to all provisions of this Agreement.

## **8. Audit**

Supplier and its Affiliates grant an unrestricted right of information, inspection, audit, physical access, system access and data access with respect to the Services to (i) Customer and its Affiliates, (ii) Customer's Representatives, and (iii) any Supervisory and Regulatory Authorities (such parties in (i), (ii), and (iii), collectively "***Auditors***"), at all times insofar as may be necessary or desirable, in Customer's judgment, to determine Supplier's compliance with its obligations under the Contract Documents or in compliance with applicable law. The Auditors will have access to Supplier's and its Affiliates' Records, books, and operations at all reasonable times, with or without prior notice and Supplier agrees to cooperate in all respects necessary to enable the Auditors to carry out the intent and purposes of this section. Customer may notify Supplier of any deficiencies in performance discovered in any such audit, which deficiencies shall be promptly corrected by Supplier. In the event an audit discloses any billing discrepancy in Customer's favor, Supplier shall, at Customer's option, refund the amount of any such overpayment within thirty (30) days after receipt of written notice from Customer or credit the amount of such overpayment to subsequent invoice(s). Supplier shall notify Customer as soon as possible of any event that could potentially lead to prolonged service failure or disruption in the provision of the Goods and/or Services. "***Records***" means all recorded information, regardless of physical form or characteristics, made or received for the purpose of and relevant to all proceedings relating to the Goods and/or Services and relating to Supplier's obligations under the Contract Documents. "***Supervisory and Regulatory Authorities***" means any governmental authority (including courts) with jurisdiction over Customer or their respective Affiliates, with respect to the Services and/or any other matters relating to the performance by either Party of its obligations under this Agreement.

During the term of this Agreement and for a period three (3) years after termination of this Agreement, Customer reserves the right to audit Supplier, its subcontracts, sub-vendors or other third-party suppliers' records for the purpose of determining compliance with the terms and conditions of this Agreement, any addendums, associated statements of work, rate cards, price lists, or purchase orders. Audits may

commence within 24 hours of Customer providing written notification to the Supplier. The audit will be performed by Customer or its designated third-party auditor selected by Customer. Records to be maintained by Supplier, its subcontracts, sub-vendors or other third-party suppliers for the purposes of the audit include, but are not limited to, executed amendments to this Agreement, invoices, rate cards, proof of insurance, and any other documentation deemed by Customer as reasonably necessary to substantiate any billing. Records should be maintained by Supplier, its subcontractors, sub-vendors or other third-party suppliers for a period of no less than four (4) years or from the inception of the entity's existence, whichever is shorter. Supplier will provide the audit team with reasonable access to Supplier's records and facility, and the ability to make copies of records for audit evidence. Exceptions identified during the audit will immediately be refunded to Customer. Any exceptions that are not refunded timely by Supplier may be deducted from future payments to Supplier. Exceptions exceeding a material threshold of \$50,000 or one percent (1%) of total annual spend, whichever is lesser, will result in the following:

- Supplier will reimburse Customer for the cost of the audit, including any amounts paid to any auditor or fees paid to outside counsel.
- Supplier will reimburse all overpayments due to Customer on the actual and true amounts due, plus interest at one half of one percent (0.5%) per month of the overpayment.

With Supplier's acceptance of the audit terms, Supplier will make its best efforts to provide the necessary access to the third-party auditor in order to complete the audit within sixty (60) days. Supplier will be subject to liquidated damages not to exceed ten thousand dollars (\$10,000) for failure to comply with the audit timeline.

## **9. Confidential Information.**

Supplier shall keep in strict confidence any Confidential Information. Supplier shall restrict disclosure of such Confidential Information to such of its Representatives; provided, however, (i) such Confidential Information is disclosed on a strict need-to-know basis for the purpose of the provision of the Goods and/or Services to Customer; and (ii) such Representatives who are not internal to the Supplier sign a confidentiality agreement with terms substantially similar hereto for the benefit of the Supplier, or, where applicable, are required to comply with codes of professional conduct ensuring confidentiality of such Confidential Information. Supplier shall comply with, and ensure that the Representatives comply with, any security procedure, policy or standard provided to Supplier by Customer or any of its Affiliates from time to time. Supplier will be liable for any unauthorized disclosures by it or its Representatives. The term "Representatives" shall specifically exclude any parties that are in competition with Customer or any of its Affiliates.

- 9.1 Supplier must not: (i) use Confidential Information for any other purposes than for providing the Goods and/or Services; or (ii) reproduce the Confidential Information in whole or in part in any form except as may be required by the Contract Documents; or (iii) disclose Confidential Information to any third party, except to Representatives or with the prior written consent of Customer.
- 9.2 Confidential Information shall not include any information that Supplier can prove (i) is generally available to the public prior to disclosure by Customer to Supplier, (ii) was in Supplier or its Representatives' possession prior to disclosure by Customer, or (iii) is required by an order of a court with jurisdiction over the Supplier; provided, however, in the case of (iii), Supplier must immediately notify Customer in writing upon receiving such requirement, and withhold any disclosure of Confidential Information to allow Customer an opportunity to seek an injunction,

repudiation, or limitation of such requirement prior to disclosing Confidential Information subject to such requirement.

9.3 Unless otherwise provided herein, upon expiration or termination of the MSA for any reason:

The limited right to use the Confidential Information granted to Supplier hereunder shall immediately terminate and neither Supplier nor their Representatives shall have any further right to use Confidential Information in any way;

Supplier shall immediately return to Customer, or destroy at Customer's request, any developed software in source code and object code forms and all related documentation, all documents, drawings, apparatus, sketches, designs, source code, object code and any other tangible items containing any Confidential Information including all complete or partial copies, recordings, abstracts, notes or reproductions of any kind made from or about such tangible items or information contained therein; and

Supplier shall provide to Customer written certification, made under oath, that Supplier has returned or destroyed all of the items identified above to Customer, upon Customer's request.