

SEATTLE COLLEGES DISTRICT VI

GENERAL TERMS AND CONDITIONS

FOR CLIENT SERVICES CONTRACTS

DEFINITIONS: As used throughout this contract, the following terms shall have the meaning set forth below:

- *"Client"* shall mean individual(s) receiving services under this contract.
 - *"Contract Administrator"* shall mean the individual authorized in writing to execute or amend a contract on behalf of the Purchaser.
 - *"Contractor"* shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract and shall include all employees of the Contractor.
 - *"Contractor's Authorized Representative"* shall mean the party authorized by the Contractor to execute the Contract and any amendments.
 - *"Project Manager"* shall mean the party responsible for day-to-day operation of the project and completion of the work.
 - *"Personal Information"* means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
 - *"Purchaser"* shall mean Seattle Colleges District VI, any division, section, office, unit or other entity of the Purchaser, or any of the officers or other officials lawfully representing the Purchaser.
 - *"Subcontractor"* shall mean one not in the employment of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractor" means Subcontractor(s) in any tier.
1. **ACCESS TO DATA:** The Contractor shall provide access to data generated under this contract to the Purchaser, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.

2. **ADVANCE PAYMENTS PROHIBITED:** No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the Purchaser.
3. **AMENDMENTS:** This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.
4. **AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35:** The Contractor must comply with the ADA and the Washington Law Against Discrimination, RCW 49.60, which provide comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.
5. **ASSIGNMENT:** Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the Contractor without prior written consent of the Purchaser.
6. **ATTORNEYS' FEES:** In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.
7. **CHANGE IN STATUS:** In the event of substantive change in the legal status organizational structure or fiscal reporting responsibility of the contractor, contractor agrees to notify the Purchaser of the change. Contractor shall provide notice as soon as practicable but no later than thirty-days after such a change take effect.
8. **CONFIDENTIALITY/SAFEGUARDING OF INFORMATION:** The Contractor shall not use or disclose any information concerning the Purchaser, or information that may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the Purchaser, or as may be required by law. The contractor shall safeguard such information and shall return or certify destruction of the information upon contract expiration or termination.
9. **CONFLICT OF INTEREST:** Notwithstanding any determination by the Executive Ethics Board or other tribunal, the Purchaser may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by the Contract Administrator that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Contractor in the procurement of, or performance under this contract.

In the event this contract is terminated as provided above, the Purchaser shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of the Purchaser provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Contract Administrator makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

10. **COPYRIGHT PROVISIONS:** Unless otherwise provided, all materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the Purchaser. The Purchaser shall be considered the author of such materials. In the event the materials are not considered "works for hire" under the U.S.

Copyright laws, Contractor hereby irrevocably assigns all right, title, and interest in materials, including all intellectual property rights, to the Purchaser effective from the moment of creation of such materials.

- a. Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.
- b. For materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, Contractor hereby grants to the Purchaser a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the Purchaser.
- c. The Contractor shall exert all reasonable effort to advise the Purchaser, at the time of delivery of materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document that was not produced in the performance of this contract.
- d. The Purchaser shall receive prompt written notice of each notice or claim of infringement received by the Contractor with respect to any data delivered under this contract. The Purchaser shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

11. **COVENANT AGAINST CONTINGENT FEES:** The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for securing business. The Purchaser shall have the right, in the event of breach of this clause by the Contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

12. **DISALLOWED COSTS:** The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

13. **DISPUTES:** Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with Director of Purchasing.

- a. The request for a dispute hearing must:
 - (i) Be in writing;
 - (ii) State the disputed issue(s);
 - (iii) State the relative positions of the parties;
 - (iv) State the requestor's name, address, and contract number; and

- (v) Be mailed to the Director of Purchasing and the respondent within 3 working days after the parties agree that they cannot resolve the dispute.
- b. The respondent shall send a written answer to the requestor's statement to both the Director of Purchasing and the requester within 5 working calendar days.
- c. The Director of Purchasing shall review the written statements and reply in writing to both parties within 10 working days. The Director of Purchasing may extend this period if necessary by notifying the parties.
- d. The decision shall be admissible in any succeeding judicial or quasi-judicial proceeding.
- e. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution method in addition to the dispute resolution procedure outlined above.

- 14. **DUPLICATE PAYMENT:** The Purchaser shall not pay the Contractor, if the Contractor has charged or will charge the State of Washington or any other party under any other contract or agreement, for the same services or expenses.
- 15. **GOVERNING LAW:** This contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for King County.
- 16. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless the Purchaser and all officials, agents and employees of the Purchaser, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim," as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom.

Contractor's obligations to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the Purchaser for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the contract.

Contractor's obligation to indemnify, defend, and hold harmless the Purchaser shall not be eliminated or reduced by any actual or alleged concurrent negligence of the Purchaser or its agents, employees and officials.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the Purchaser and its officials, agents or employees.

- 17. **INDEPENDENT CAPACITY OF THE CONTRACTOR:** The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his or her employees or agents performing under this contract are not

employees or agents of the Purchaser. The Contractor will not hold himself/herself out as or claim to be an officer or employee of the Purchaser or of the State of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with the CONTRACTOR.

18. **INDUSTRIAL INSURANCE COVERAGE:** The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, Purchaser may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. The Purchaser may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the Purchaser under this contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the CONTRACTOR.

19. **INSURANCE REQUIREMENTS:** Insurance requirements for all contracts are as follows:

a. General Requirements:

- (i) Contractor shall, at their own expense, obtain and keep in force insurance as follows until completion of the Contract and such additional period following completion of the contract as may be set forth elsewhere in this contract. Upon request, Contractor shall furnish evidence in the form of a certificate of insurance and applicable endorsements satisfactory to the Purchaser that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in Contract cancellation.
- (ii) Contractor shall include all Subcontractors as insured under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

All insurance provided in compliance with this Contract shall be primary and non-contributory as to any other insurance or self-insurance programs afforded to or maintained by the Purchaser.

b. Specific Requirements:

- (i) **Employers Liability (Stop Gap):** The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than \$1,000,000.00. The Purchaser will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.
- (ii) **Commercial General Liability Insurance:**

1. The Contractor shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.
2. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor's premises/operations, independent Contractors, products/completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured's (cross liability) conditions.
3. Contractor waives all rights against the Purchaser for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

General Aggregate Limits (other than products-completed operations)	\$2,000,000
Personal and Advertising Injury Aggregate	\$1,000,000
Each Occurrence (applies to all of the above)	\$1,000,000
Fire Damage Limit (per occurrence)	\$50,000
Medical Expense Limit (any one person)	\$5,000

(iii) Professional Liability Insurance:

1. The Contractor shall maintain Professional Liability or Errors and Omissions Insurance if such insurance coverage is generally available for the services provided under this contract. The Contractor shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all program activities by the Contractor and licensed staff employed or under contract to the Contractor.

(iv) Business Auto Policy (BAP):

1. In the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, Subcontractor, or anyone employed by either.
2. Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include all autos or other vehicles.
3. Contractor waives all rights against the Purchaser for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

c. Additional Insurance Provisions: All above insurance policies shall include, but not be limited to, the following provisions:

- (i) Additional Insured: The Purchaser shall be named as an additional insured on all general liability, umbrella and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.
- (ii) Notice of Policy Cancellation/Non-renewal: For insurers subject to Chapter 48.18 of the Revised Code of Washington (Admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the Contract Administrator forty-five (45) calendar days prior to cancellation or any material change to the policy as it relates to this Contract. Written notice shall include the affected Contract reference number.
- (iii) Surplus Lines: For insurers subject to Chapter 48.15 of the Revised Code of Washington (Surplus Lines) a written notice shall be given to Contract Administrator (20) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.
- (iv) Cancellation for Non-payment to Premium: If cancellation on any policy is due to non-payment of premium, a written notice shall be given the Contract Administrator ten (10) calendar days prior to cancellation. Written notice shall include the affected Contract reference number.
- (v) Identification: Policy (Policies), Endorsements and Certificates of Insurance shall include the affected Contract reference number.
- (vi) Insurance Carrier Rating: The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports.

d. Request for Exception or Modification of Requirements: Contractors may request an exception by submitting a written request and evidence of insurance to the Contract Administrator prior to execution of the Contract. If an

insurer is not an admitted carrier, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 of the Revised Code of Washington and Chapter 284-15 of the Washington Administrative Code.

- (i) **Excess Coverage:** The limits of all insurance coverages required by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.
- (ii) **Limit Adjustments:** The Purchaser reserves the right to increase or decrease limits as appropriate upon issuance of a written notice to the Contractor sixty (60) days prior to the effective date of the requirement of the increase or decrease.

20. **LICENSING, ACCREDITATION AND REGISTRATION:** The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

21. **LIMITATION OF AUTHORITY:** Only the Contract Administrator shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract on behalf of the Purchaser. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Contract Administrator. The Purchaser may, at its discretion, identify a separate Project Manager responsible for day to day oversight of the project on behalf of the Purchaser.

22. **NONDISCRIMINATION:**

- a. **Nondiscrimination Requirement:** During the term of this Contract, Contractor, including any subcontractor, must not discriminate on the basis of age, sex, marital status, sexual orientation, gender identity, race, creed, color, national origin, citizenship or immigration status, honorable discharged veteran or military status, the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal by a person with a disability, genetic information, or any other protected status, in compliance with applicable state and federal law, including RCW 49.60.530. In addition, Contractor, including any subcontractor, must give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.
- b. **Investigation of Alleged Discrimination.** Contractor and any subcontractor must cooperate and comply with any Washington state agency investigation of alleged discrimination prohibited by this Contract.

Notwithstanding any provision to the contrary, Purchaser may suspend Contractor or subcontractor, upon notice of failure to cooperate in any state agency investigation into alleged discrimination prohibited by this Contract until Purchaser receives notice from investigating state agency that the failure to cooperate has been cured. In the event Contractor or subcontractor is determined to have engaged in discrimination identified at RCW 49.60.530(3), Purchaser

may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200.

- c. **Remedies for Breach.** Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Purchaser may deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Purchaser under this provision.

23. **OVERPAYMENTS AND ASSERTION OF LIEN:** In the event that the Purchaser establishes overpayments or erroneous payments made to the Contractor under this contract, the Purchaser may secure repayment plus interest, if any, through the filing of a lien against the Contractor's real property or by requiring the posting of a bond, assignment of deposit or some other form of security acceptable to the Purchaser or by doing both.

24. **PRIVACY:** Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this Contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Purchaser or as provided by law.

Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The Purchaser reserves the rights to monitor, audit or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing or investigating may include but is not limited to “salting” by the Purchaser.

Contractor shall certify the return or destruction of all personal information upon expiration of this contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The contractor agrees to indemnify and hold harmless the Purchaser for any damages related to the contractor’s unauthorized use of personal information.

For the purposes of this provision, personal information includes but is not limited to information identifiable to an individual that relates to a natural person’s health, finances, education, business, use or receipt of governmental services or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

25. **PUBLICITY:** The Contractor agrees to submit to the Purchaser all advertising and publicity matters relating to this contract wherein the Purchaser’s name is mentioned or language used from which the connection of the Purchaser’s name may, in the

Purchaser's judgment, be inferred or implied. The Contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of the Purchaser.

26. **RECORDS MAINTENANCE:** The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the Purchaser, personnel duly authorized by the Purchaser, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

27. **REGISTRATION WITH DEPARTMENT OF REVENUE:** The Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.
28. **RIGHT OF INSPECTION:** The Contractor shall provide right of access to its facilities to the Purchaser, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.
29. **SAVINGS:** In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the Purchaser may terminate the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the Purchaser's discretion under those new funding limitations and conditions.
30. **SEVERABILITY:** The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.
31. **SITE SECURITY:** While on Purchaser premises, the Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.
32. **SUBCONTRACTING:** Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the Purchaser. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Purchaser for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Additionally, the Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts. Contractor and its subcontractors agree not to release, divulge,

publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Purchaser or as provided by law.

33. **TAXES:** All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

34. **TERMINATION FOR CAUSE:** In the event the Purchaser determines the Contractor has failed to comply with the conditions of this contract in a timely manner, the Purchaser has the right to suspend or terminate this contract.

The Contract Administrator may suspend the Contractor immediately upon issuance of written notice of the suspension.

Before terminating the contract, the Purchaser shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

The Purchaser reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the Purchaser to terminate the contract.

a. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor:

i. was not in default; or

ii. failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of the Purchaser provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

35. **TERMINATION FOR CONVENIENCE:** Except as otherwise provided in this contract, the Purchaser may, by 10 calendar days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the Purchaser shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

36. **TERMINATION PROCEDURES:** Upon termination of this contract, the Purchaser, in addition to any other rights provided in this contract, may require the Contractor to deliver to the Purchaser any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The Purchaser shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the Purchaser, and the amount agreed upon by the Contractor and the Purchaser for:

- (i) completed work and services for which no separate price is stated,
- (ii) partially completed work and services,
- (iii) other property or services that are accepted by the Purchaser, and
- (iv) the protection and preservation of property, unless the termination is for default, in which case the Contract Administrator shall determine the extent of the liability of the Purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The Purchaser may withhold from any amounts due the Contractor such sum as the Contract Administrator determines to be necessary to protect the Purchaser against potential loss or liability.

The rights and remedies of the Purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Contract Administrator, the Contractor shall:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
3. Assign to the Purchaser, in the manner, at the times, and to the extent directed by the Contract Administrator, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contract Administrator to the extent Contract Administrator may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to the Purchaser and deliver in the manner, at the times, and to the extent directed by the Contract Administrator any property which, if the contract had been completed, would have been required to be furnished to the Purchaser;
6. Complete performance of such part of the work as shall not have been terminated by the Contract Administrator; and
7. Take such action as may be necessary, or as the Contract Administrator may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which the Purchaser has or may acquire an interest.

37. **TREATMENT OF ASSETS:** Title to all property furnished by the Purchaser shall remain in the Purchaser. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Purchaser upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Purchaser upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Purchaser in whole or in part, whichever first occurs.
- a. Any property of the Purchaser furnished to the Contractor shall, unless otherwise provided herein or approved by the Purchaser, be used only for the performance of this contract.
 - b. The Contractor shall be responsible for any loss or damage to property of the Purchaser that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
 - c. If any Purchaser property is lost, destroyed or damaged, the Contractor shall immediately notify the Purchaser and shall take all reasonable steps to protect the property from further damage.
 - d. The Contractor shall surrender to the Purchaser all property of the Purchaser prior to settlement upon completion, termination or cancellation of this contract
 - e. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.
38. **WAIVER:** Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this contract unless stated to be such in writing and signed by authorized representative of the Purchaser.

END OF CLIENT SERVICES GENERAL TERMS AND CONDITIONS