

**NORTHWESTERN UNIVERSITY – PURCHASE ORDER TERMS AND CONDITIONS**

Northwestern University is a private, not for profit, nonsectarian, coeducational institution, created by Charter by the State of Illinois in 1851, realizing exempt status under Internal Revenue Service Code, Section 501(a), as an organization described in Section 501(c)(3) (“**Northwestern**”). The purchase order, quotation, or other contract, agreement or document to which these terms and conditions are attached or in which these terms and conditions are referenced or incorporated (the “**Order**”) is Northwestern’s offer to the vendor, seller or service provider indicated in the Order (the “**vendor**”) to purchase the goods or services described in the Order (as applicable, the “**goods**” or “**services**”) and is subject to the terms and conditions indicated below (the “**Terms and Conditions**”).

1. **Entire Agreement.** The Order along with these Terms and Conditions (collectively, the “**Agreement**”) constitute the entire agreement between the parties with respect to the goods and/or services and supersede all prior oral or written agreements and understandings between the parties. Northwestern expressly objects to all additions, deletions, exceptions, or modifications to this Agreement, whether contained in any printed proposal, acknowledgment, or other form of vendor or elsewhere, unless agreed in a written modification or other agreement signed by an authorized signatory of each party. This Agreement becomes a binding contract between Northwestern and vendor, subject to the terms hereof, when accepted by acknowledgement or commencement of performance of any part of the Order by the vendor.
2. **Inspection of Goods.** All goods will be subject to inspection and approval of Northwestern after proper delivery thereof. Northwestern reserves the right to reject and return at the risk and expense of the vendor any goods which fails to comply with the specifications therefor set forth in Order, labeling, end-user technical specifications, documentation, product manuals, and/or training manuals made available by vendor to Northwestern in writing (“**Specifications**”), is not manufactured in accordance with applicable laws, or is otherwise defective or adulterated without invalidating the remainder of the Order. Vendor shall, within thirty (30) days of the return of any goods rejected by Northwestern, at Northwestern’s option, either (i) ship replacement goods free of charge, or (ii) grant Northwestern a full credit equal to the purchase price of such rejected goods. Payment for any goods shall not be deemed acceptance.
3. **Acceptance of Services.** Northwestern shall have a period of not less than thirty (30) calendar days following delivery (the “**Acceptance Period**”) of any Work Product (as defined below) or the completion of any services (each, a “**Delivery**”) to inspect and, in its reasonable discretion, reject such Delivery if it fails to satisfy the specifications or criteria therefor in the Order. A Delivery will be considered accepted (a) when Northwestern provides vendor written notice of acceptance of such Delivery, or (b) if Northwestern has not provided vendor with written notice of rejection thereof during the Acceptance Period for such Delivery. Payment for any Delivery shall not be deemed acceptance. If Northwestern notifies vendor during the applicable Acceptance Period of its rejection of a Delivery, vendor will use its commercially reasonable efforts to correct any deficiencies identified in such notice within thirty (30) days after vendor’s receipt thereof. In the event such deficiencies are not corrected within such thirty (30) day period, then Northwestern shall have the option to: (i) extend the period in which vendor may cure and correct any such deficiencies, (ii) accept the applicable Delivery without warranty, on an “AS IS” basis, subject to a reasonable price adjustment, or (iii) terminate this Agreement or the applicable Order with respect to such Delivery, in which case vendor shall promptly refund to Northwestern all sums paid by Northwestern under this Agreement or the applicable Order with respect to such Delivery. Northwestern’s election to extend the correction period in accordance with clause (i) shall not bar Northwestern from electing to terminate this Agreement or the applicable Order in accordance with clause (iii) in the event vendor fails to correct any deficiencies during such additional period.
4. **Warranties.**
  - a. **Warranty for Goods.** Vendor represents and warrants to Northwestern that (i) vendor shall convey good and marketable title to the goods to Northwestern free and clear of any and all liens, encumbrances, or other defects in title, (ii) the goods are merchantable, fit for their ordinary purpose, free from defects or adulterations, and shall conform to and perform in all respects in accordance with the Specifications, (iii) the goods have been manufactured, produced, packaged, stored, delivered, and sold in accordance with all applicable laws; and (iv) when vendor knows or has reason to know of any particular purpose for which the goods are required, and Northwestern is relying on the vendor’s skill or judgment to select or furnish suitable goods for such purpose, such goods shall be fit for such purpose.
  - b. **Warranty for Services.** Vendor represents, warrants and covenants to Northwestern that vendor shall (and shall cause all of its employees, affiliates, or subcontractors engaged to perform services hereunder (collectively, “**Personnel**”) to): (i) perform all services and deliver all Work Product in a timely, professional, and workmanlike manner consistent with industry standards as practiced by a reasonable member of the vendor’s professional community, and in accordance with all applicable laws and the specifications for the services set forth in the Order; (ii) comply with all of Northwestern’s rules, regulations and policies applicable to vendor, its Personnel, and/or the performance of the services and vendor’s other obligations hereunder, including Northwestern’s Vendor Code of Conduct found at <https://www.northwestern.edu/procurement/vendors/vendor-code-of-conduct.html>; and (iii) obtain and maintain throughout the period of performance of the services all applicable permits, licenses, and governmental or regulatory approvals necessary to perform the services hereunder.
  - c. **Infringement Warranty.** Vendor represents and warrants to Northwestern that the goods, services, Work Product, and the use thereof by Northwestern or any of its employees, contractors, agents, or students, do not and will not infringe, violate, or misappropriate any patent, trademark, trade name, service mark, copyright, trade secret, or other intellectual property or proprietary right (“**Intellectual Property**”) of any third party, and vendor is not aware of any actual or threatened claim that any of the goods purchased by Northwestern under this Agreement infringes, violates, or misappropriates any Intellectual Property of any third party.
5. **Delivery.** Goods shall be delivered to Northwestern DDP (Incoterms 2020) Northwestern’s facilities, unless otherwise agreed in writing by the parties. Time is of the essence for this Order. If delivery of goods is not made when and as specified in the Order, Northwestern reserves the right to, at its option and without limitation to any of its other rights or remedies available under this Agreement, at law or in equity, (a) terminate this Agreement or the Order, in whole or in part, in accordance with Section 16, or (b) require vendor pay for and ship goods via expedited routing to comply with such Order.
6. **Changes.** No changes of any type may be made in this Order by vendor, including changes in quantity, type of goods, delivery date, price, or any other provision of this Order, without Northwestern’s express written approval.
7. **Recall.** In the event vendor or any applicable governmental authority institutes a recall, product withdrawal, or field corrective action in relation to any goods (each, a “**Recall**”), (i) vendor shall, at its cost, use its commercially reasonable efforts to offer a comparable substitute product to Northwestern, or, (ii) if no such comparable product is immediately available, Northwestern shall have the right to cancel any outstanding Order for goods, terminate this Agreement or any applicable Order, and receive a refund of any amounts paid for any Recalled goods.
8. **Debarment and Conflicts of Interest.** Vendor represents, warrants and covenants that: (a) neither it nor any of its Personnel is currently Debarred (as defined below) or otherwise disqualified by the United States Food and Drug Administration (the “**FDA**”) or any other regulatory or governmental authority; (b) neither it nor any of its Personnel nor, to vendor’s knowledge, any employee of Northwestern involved in the purchasing of the goods or the performance of the services, has a conflict of interest relating to the vendor, the goods, the services, or this Agreement; and (c) it will not employ

or contract with any Debarred or disqualified persons to perform any of its obligations under this Agreement. Northwestern may immediately terminate any Order or this Agreement without further liability or obligation to vendor if any of the representations, warranties and covenants of this Section is violated or ceases to be true during the period of performance of any Order, and vendor will immediately notify Northwestern in writing of any such violation or breach. "**Debarred**" means excluded from participation in any government healthcare program, debarred from or under any other federal program, convicted of any offense defined in 42 U.S.C. Section 1320a-7, included on the Specially Designated Nationals list maintained by the U.S. Department of Treasury's Office of Foreign Assets Control or any other similar list, domestic or foreign, or otherwise deemed ineligible for participation in healthcare programs, including by the FDA under the United States Federal Food, Drug and Cosmetic Act, as the same may be amended from time to time.

9. **On-Campus Services.** To the extent vendor or any Personnel will provide any services on Northwestern's premises, vendor shall, and shall cause its Personnel to, comply with Northwestern's COVID-19 Campus Visitors Requirements found at <https://www.northwestern.edu/coronavirus-covid-19-updates/campus-return/expectations/visitors/visitors-requirements.html> and its Contractor Safety Program found at <https://www.northwestern.edu/risk/environmental-health-safety/facility-safety/contractor-safety.html> (collectively, the "**On-Campus Policies**"). Vendor shall maintain its status as an approved contractor under the On-Campus Policies throughout the period of performance of any Order.
10. **Work Product.** All work product, findings, documents, drawings, surveys, software (including object code and/or source code), deliverables, and other information, data and results, including those in electronic form, created, produced, developed, discovered, delivered, gathered, or prepared by or on behalf of vendor in connection with the services, and all Intellectual Property rights therein (collectively, "**Work Product**"), are the property of Northwestern. Vendor agrees that all Work Product shall be "works made for hire," as such term is defined under Title 17 of the United States Copyright Act, and if such Work Product is deemed not to be "works made for hire" for any reason, vendor hereby assigns and agrees to assign immediately on the creation thereof to Northwestern vendor's entire right, title and interest in and to the Work Product.
11. **Confidentiality.** Vendor may receive Confidential Information in connection with this Agreement or the goods or services provided hereunder. Vendor agrees to (a) maintain the Confidential Information in confidence and not disclose such Confidential Information to any third party without Northwestern's written consent except as permitted under this Agreement; (b) protect the Confidential Information with the same degree of care as vendor protects its own information of like importance, but at least utilizing a reasonable degree of care, including employing industry standard security procedures to prevent unauthorized disclosure of the Confidential Information; and (c) not use the Confidential Information except in the performance of vendor's obligations under this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall be construed to restrict vendor from disclosing the Confidential Information as required by law, subpoena, court order, or other governmental order or request; provided, that vendor shall provide Northwestern with prompt prior written notice of such disclosure and shall cooperate with Northwestern's reasonable and lawful actions to avoid and/or minimize the extent of such disclosure. Confidential Information furnished pursuant to this Agreement, including any and all copies made thereof, shall remain the property of Northwestern and shall, upon expiration or earlier termination of this Agreement or at Northwestern's request, promptly be returned or destroyed by vendor. Vendor shall comply with the confidentiality obligations hereunder during the period of performance of any Order and for a period of four (4) years thereafter. "**Confidential Information**" means information that Northwestern identifies as confidential upon disclosure, or that vendor should reasonably understand to be confidential under the circumstances, whether such information is in written, oral, electronic or other form. For the avoidance of doubt, all Work Product will constitute the Confidential Information of Northwestern.
12. **Records; Audit Rights.** Vendor shall maintain accurate and complete records relating to the goods provided and services performed hereunder, including the payment of fees hereunder, in accordance with applicable laws, generally accepted accounting principles and prevailing professional and industry standards, and shall retain such records for a period of seven (7) years following the completion of performance of its obligations hereunder. Upon reasonable prior notice to vendor, Northwestern shall have the right to audit and/or review vendor's relevant documentation, systems and data, as well as conduct on-site visits at vendor's facilities during normal business hours, to ensure vendor's compliance with the terms of this Agreement (including the accuracy of invoices and payments hereunder), Northwestern's policies, and all applicable laws. If overpayments by Northwestern to the vendor are discovered as part of any such audit, vendor agrees to reimburse Northwestern for such overpayments and Northwestern's costs of audit.
13. **Insurance.** Vendor shall procure and maintain (at its sole expense) the following insurance, which shall cover itself and any of its permitted subcontractors: (a) comprehensive general liability in an amount not less than \$3 million for each occurrence; (b) automobile liability insurance in an amount not less than \$1 million combined single limit; (c) statutory workers' compensation insurance, and employer's liability insurance in an amount of not less than \$500,000 each employee/each accident; and, to the extent vendor provides any services hereunder, (d) professional liability insurance in an amount not less than \$1 million per claim. Northwestern, its affiliates, officers, directors, trustees, volunteers, and employees shall be named as additional insureds under the General Liability, Automobile Liability and any Excess Umbrella policies on a primary, non-contributory basis. All policies shall waive rights of subrogation against Northwestern. Insurance shall be placed with reputable insurers with a Best's rating of A- or better. The insurance limits required in this Section are to be considered as minimum requirements and shall in no way limit the liability of vendor hereunder. Vendor shall furnish Northwestern with certificates of insurance outlining the coverage above. Failure of Northwestern to notify vendor of any deficiencies in the required insurance policies or to request insurance certificates shall not relieve the vendor from the responsibility to provide the specified insurance coverages.
14. **Indemnification.** Vendor shall indemnify, defend, and hold harmless Northwestern, and its trustees, officers, agents, and employees from and against any and all claims, demands, suits, proceedings, damages, liabilities, losses, fines, penalties, costs and expenses (including reasonable attorneys' and professionals' fees and court costs), including each of the foregoing imposed by law, arising out of or relating to (a) any act or omission by vendor or any of its Personnel in connection with this Agreement or any of the goods, services, or Work Product provided hereunder, or (b) any breach of vendor's representations, warranties, covenants or obligations under this Agreement by vendor or any of its Personnel.
15. **Limitation of Liability.** EXCEPT AS SET FORTH IN THIS SECTION, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS OR REVENUE, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY TO: (a) VENDOR'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT OR ANY BREACH THEREOF; OR (b) A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, OR ANY OTHER LIABILITY THAT MAY NOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW.
16. **Termination.**
  - a. *Termination for Cause.* Northwestern may, by written notice to vendor, terminate this Agreement or the Order, in whole or in part, if vendor fails to provide adequate assurance of its performance to Northwestern within ten (10) days of Northwestern's request therefor, fails to deliver any goods or services within the time or quantities specified or in strict conformance to the applicable Specifications or requirements set forth herein, or breaches any other term of this Agreement. In the event of such termination, Northwestern reserves the right to purchase or obtain the goods or services elsewhere and vendor shall be liable for the difference between the prices set forth in the Order and the actual cost thereof to Northwestern, as well as for any other loss sustained by Northwestern as a result of such termination. The rights and remedies of Northwestern

provided in this Section shall not be exclusive and are in addition to any other rights and remedies available to Northwestern under this Agreement, at law or in equity.

- b. **Termination for Convenience.** Northwestern may terminate this Agreement or the Order at any time, in whole or in part, with or without cause, upon written notice to vendor. In the event of such termination, Northwestern shall pay vendor, as full compensation for vendor's performance hereunder, the unit or pro rata price set forth in the Order for the goods, services and Work Product delivered, completed, and accepted by Northwestern.
- c. Upon any termination of this Agreement or the Order, vendor shall immediately stop all work and services hereunder, and title to all completed or in-process goods and Work Product paid for by Northwestern shall vest in Northwestern, and vendor shall promptly deliver these items to Northwestern and take all necessary action to protect such property prior to such delivery.
17. **Payment.** Northwestern shall pay vendor for all undisputed amounts set forth in an invoice prepared and submitted by vendor in accordance with the Order and Northwestern's policies within thirty (30) days from the date of delivery and acceptance of the applicable goods or services, or date of receipt of correct invoice, whichever is later. Time in connection with discounts offered will be computed from date of delivery or date of receipt of a correct invoice, whichever is later.
18. **Taxes.** Vendor acknowledges that Northwestern is a tax-exempt entity and will not be responsible for payment of taxes from which it is exempt at the time such taxes are levied or assessed. Northwestern's Illinois State tax exemption identification number is **E 9990-4055**. Northwestern is also exempt from the Federal excise tax as an exempt institution (sec. 4222,IRC). Northwestern's Federal excise tax exemption certificate registry number is **3673-0269F**. Upon vendor's request, Northwestern will provide vendor with a certificate of tax exemption.
19. **Governing Law and Dispute Resolution.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Illinois, excluding its choice of law rules. The parties expressly agree that the UN Convention on the International Sale of Goods shall not apply to this Agreement. All disputes relating to this Agreement, the Order, or any of the goods or services purchased or provided hereunder that are not resolved between the parties shall be resolved by binding arbitration administered exclusively by the International Institute for Conflict Prevention & Resolution in accordance with its arbitration rules. The place of arbitration shall exclusively be Chicago, Illinois. Notwithstanding the foregoing, to the extent a party is seeking injunctive relief, such party may immediately bring a proceeding seeking preliminary injunctive relief in a court having competent jurisdiction, and this relief shall remain in effect until the parties reach a resolution or so long as the arbitrator(s) feel is appropriate.
20. **Discrimination, Harassment, and Sexual Harassment.** Northwestern prohibits discrimination against any member of its community on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, parental status, marital status, age, disability, citizenship, or veteran status. Harassment, whether verbal, physical, or visual, that is based on any of these characteristics is a form of discrimination. Northwestern also prohibits sexual harassment of any member of its community. This includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. **Northwestern's policies on discrimination, harassment, and sexual harassment apply to the conduct of vendors, contractors, and third parties.** The vendor shall inform all of its Personnel (and the employees of its subcontractors and agents) that discrimination, harassment and sexual harassment are a violation of Northwestern policy, and will not be tolerated on any Northwestern job site or anywhere else on Northwestern property. The vendor shall remove from any Northwestern job site and Northwestern property any of its Personnel who improperly conduct themselves in any manner toward Northwestern students, faculty, staff, or guests, and shall be responsible for any acts by its Personnel that violates Northwestern's policy.
21. **Sponsored Project Flow Down Terms.** If this Agreement is a subcontract under an externally funded sponsored project award, the applicable clauses of the award are hereby incorporated herein by reference.
22. **General Government Provisions.** All applicable government statutes, rules, regulations, and executive orders are hereby incorporated in this Agreement and made part of any resulting transaction, including FAR 52.249-09 Default and FAR 52.245-01 Government Property. In addition, the vendor certifies that it will comply with all applicable government rules, regulations, and executive orders, including: 1) Environmental Protection issues, 2) Employee Directives covering provisions of the Fair Labor Standards Act as amended and the Davis-Bacon Act as amended, and those covering drug-free workplace/ workforce, and contract work hours, and 3) Specified Administrative Requirements covering buy/fly American and non-delinquency of federal debt. Such rules, regulations, and executive orders are hereby incorporated by reference in this Agreement.
23. **Federal Government Provisions, as amended, when applicable:**
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| <p>A. The vendor certifies compliance with the following:<br/> FAR 52.203-6 Restrictions of Subcontractor Sales to Government<br/> FAR 52.203-7 Audit-Kickback Procedures<br/> FAR 52.223-3 Hazardous Material Identification and Material Safety Data (when applicable)<br/> DFAR 252.227-7037 Validation of Restrictive Markings on Technical Data.<br/> FAR 52.225-1 Buy American Act - Supplies<br/> FAR 52.247-63 Preference for U.S.-Flag Air Carriers<br/> FAR 52.203-11 and P.L. 101-121 Lobbying<br/> Subpart 9.5—Organizational and Consultant Conflicts of Interest</p> <p>B. For orders exceeding \$2,500.00, the vendor certifies compliance with the following:<br/> FAR 52.222-36 and E.O. 11758, Affirmative Action for Workers With Disabilities.29 USC 651 Occupational Safety and Health FAR 22.10 Service Contracts Act<br/> 40 USC 327-330 Contract Work Hours and Safety Standards</p> <p>C. For orders exceeding \$10,000.00, the vendor certifies compliance with the following:<br/> FAR 52.215-1 Examination of Records by Comptroller General (if document was entered by negotiation)<br/> FAR 52.215-2 Audit Negotiations (if document was entered by negotiation)<br/> FAR 52.222-20 Walsh-Healy Public Contracts Act</p> | <p>FAR 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans</p> <p>D. For orders exceeding \$25,000.00, the vendor certifies compliance with the following:<br/> FAR 52.227-1 Authorization and Consent<br/> FAR 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement<br/> FAR 52.246-16 Responsibility for Supplies<br/> FAR 52.209-5 and E.O. 12549 Debarment and Suspension</p> <p>E. For orders exceeding \$50,000.00, the vendor certifies compliance with the following:<br/> FAR 52.222-26 and E.O. 11246 as amended Equal Opportunity</p> <p>F. For orders exceeding \$100,000.00, the vendor certifies compliance with the following:<br/> FAR 52.215-10 Price Reduction for Defective Cost or Pricing DATA<br/> FAR 52.215-12 and 52.215-13 Subcontractor Cost or Pricing Data (and Modifications thereto)<br/> E.O. 11738 Clean Air and Water<br/> FAR 52.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns</p> <p>G. For orders exceeding \$500,000.00, the vendor certifies compliance with the following:<br/> FAR 52.219-9 Small Business and Small Disadvantaged Business Subcontracting Plan, as applicable</p> |
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24. **Export Controls.** The vendor is responsible for complying with all applicable export control regulations. Any such export-controlled items, equipment, or information MUST be properly handled and labeled by the vendor as part of the vendor's responsibility. The burden shall be on

Vendor to prevent such export-controlled information from being improperly disclosed to Northwestern and shall obtain the appropriate license or approval from the relevant authorities or to invoke an available exception, exemption, or exclusion before disclosing any export controlled materials to Northwestern. In the event that the vendor seeks to provide Northwestern with any such controlled disclosures, the vendor will so inform Northwestern in writing, and shall NOT forward or provide ANY export-controlled information to Northwestern without the express written permission of Northwestern official in charge of such matters. The name of such official shall be provided upon request.

25. **Assignment and Delegation.** Vendor shall not assign, delegate, or subcontract any of its rights or obligations under, or any of its interest in, this Agreement without the prior written consent of Northwestern. Any assignment in violation of the foregoing shall be null and void. Northwestern reserves the right to approve any of vendor's subcontractors and to require vendor to replace any such subcontractors that Northwestern determines to be unacceptable. All of vendor's Personnel will be subject to the requirements of this Agreement, and no such performance by such Personnel will release vendor from its obligations hereunder. Vendor will be responsible for the performance of its obligations hereunder by any of its Personnel, including any failure of any such Personnel to comply with the requirements of this Agreement. If Northwestern reasonably suspects or determines that any Personnel has (i) violated the terms of this Agreement, any Northwestern policies, or any applicable laws, or (ii) failed to satisfactorily perform any of the services, Northwestern may, upon notice to vendor, require such Personnel to leave Northwestern's premises and/or require vendor to remove or replace such Personnel in connection with performance of the services. Vendor will remove or replace any such Personnel within thirty (30) days after receipt of Northwestern's notice.
26. **Publicity.** All indicia, including names, logos, marks, trademarks, emblems and designs, associated with or identifying Northwestern are owned and legally protected by Northwestern and may not be used without Northwestern's prior written consent. In addition, no publicity, including news releases, promotional literature, or commercial advertisements, pertaining to this Agreement or its existence or terms, the relationship between the parties, or the goods sold or the services provided hereunder to Northwestern shall be made without Northwestern's prior written approval, and then only in accordance with the explicit written instructions from Northwestern.
27. **Independent Contractor; No Joint Venture.** Vendor is an independent contractor, and this Agreement shall not be deemed or construed to create or establish any relationship of partnership, joint venture, employer and employee, agent, or similar relationship or arrangement between Northwestern and vendor or any of its Personnel, and nothing in this Agreement shall authorize or empower vendor or any of its Personnel to speak for, represent, bind or obligate Northwestern in any way. As such, neither vendor nor any of its Personnel shall be entitled to any of Northwestern's health or retirement benefits, insurance, or other benefits or offerings available to Northwestern's employees. Vendor shall retain complete control over and responsibility and liability for its employees, agents, and representatives.
28. **Remedies.** Vendor acknowledges that any actual or threatened breach of any provision of this Agreement, including Sections 11 (Confidentiality) or 26 (Publicity), by vendor or its Personnel would cause irreparable harm to Northwestern, the extent of which would be difficult and impracticable to assess, and that money damages or other remedies at law would not be an adequate remedy for such breach. Therefore, in addition to any other remedies available to Northwestern, vendor agrees that Northwestern shall have the right to obtain specific performance, injunctive relief, or other equitable relief, without the necessity of posting bond, against any actual or threatened breach of this Agreement by vendor or its Personnel.
29. **General.** No failure or delay of either party in exercising any right or remedy shall be a waiver thereof. None of the terms of this Agreement shall be deemed to be waived by either party unless such waiver is in writing and executed by the party granting such waiver. The waiver by either party of any right, claim, default or breach of this Agreement will not constitute a waiver of any other or subsequent right, claim, default or breach. This Agreement and the promises and agreements contained herein shall be binding on the respective successors, representatives, agents, and assigns of the parties hereto. Except as expressly set forth herein, the parties hereto agree that there are no third-party beneficiaries of any kind to this Agreement. If any term or other provision of this Agreement is determined to be invalid, illegal or unenforceable by any rule of law or public policy, all other terms and provisions of this Agreement shall remain in full force and effect. Upon such determination, the parties shall negotiate in good faith to modify this Agreement so as to give effect to the original intent of the parties to the fullest extent permitted by applicable law. Unless expressly agreed to by the parties in this Agreement, this Agreement establishes a non-exclusive offer by Northwestern to purchase the goods and/or services, including the Work Product, from vendor. Accordingly, the parties agree that nothing in this Agreement shall be construed as prohibiting Northwestern from entering into business relationships with other third parties that involve products, services, or technologies that are similar or identical to, or compete with, the goods and/or services provided hereunder, or any other product, service, or technology contemplated or offered by vendor. The provisions of this Agreement which by their explicit terms or their manifest intent are to survive, including those which relate to indemnification, confidentiality, and use of Northwestern's name or logos, shall survive termination, cancellation, or expiration of this Agreement. Paragraph and Section headings are inserted in this Agreement for convenience only and are not intended to affect the meaning or interpretation of the terms of this Agreement. Whenever the words "include", "includes", or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation". The words "hereof," and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Each party has reviewed and approved this Agreement and the rule of construction that resolves ambiguities against the drafting party shall not be employed in the interpretation of this Agreement.

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