



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 within thirty (30) calendar days after proper delivery and/or installation thereof (the “**Inspection Period**”). Northwestern, without invalidating the remainder of the Order, reserves the right to reject and return at the risk and expense of the vendor any good which (i) fails to comply with the specifications therefor set forth in the Order, labeling, end-user technical specifications, documentation, product manuals, and/or training manuals made available by vendor to Northwestern in writing (“**Specifications**”); (ii) is not manufactured in accordance with applicable laws, or (iii) is otherwise defective or adulterated. Vendor shall, within thirty (30) days of the return of any goods rejected by Northwestern, at Northwestern’s option, either (a) ship replacement goods free of charge, (b) repair or correct any deficiencies in such goods, or (c) issue Northwestern, at Northwestern’s option, a full credit or refund equal to the purchase price of such rejected goods. Goods will be considered accepted (x) when Northwestern provides vendor written notice of acceptance of such goods, or (y) if Northwestern has not provided vendor with written notice of rejection thereof within the Inspection Period for such 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 Northwestern’s Contractor Safety Program found at <https://www.northwestern.edu/risk/environmental-health-safety/facility-safety/contractor-safety.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 15, or (b) require vendor to 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, promptly repair such goods (if reasonably capable of repair) or offer a comparable substitute product to Northwestern, or, (ii) if prompt repair or replacement of the Recalled goods is not commercially reasonable, Northwestern shall have the right to cancel any outstanding Order for goods, terminate this Agreement or any applicable Order, and receive a prompt refund from vendor of any amounts paid for any Recalled goods.

8. **Debarment, Conflicts of Interest, and Anti-Corruption.** Vendor represents, warrants and covenants that: (a) neither it nor any of its Personnel is currently a Restricted Party (as defined below); (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; (c) it will not employ or contract with any Restricted Party to perform any of its obligations under this Agreement; (d) neither it nor any of its Personnel has made, offered or agreed to offer anything of value to any Entity in any manner which would result in vendor being in violation of any Anti-Corruption Laws; (e) neither it nor any of its Personnel has been convicted of, pleaded guilty to, or entered into any settlement, plea agreement or deferred prosecution agreement with respect to, any violation of any Anti-Corruption Laws; and (f) neither it nor any of its Personnel is currently nor has been previously the subject of an investigation, inquiry, audit, or compliance assessment, or been the recipient of a subpoena, letter of investigation or other document alleging a violation, or possible violation, of any Anti-Corruption Laws. 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. **"Restricted Party"** means any person or entity: (i) located in or a national of Cuba, Iran, North Korea, Syria, certain regions of Ukraine (Crimea, Donetsk, Luhansk, and Sevastopol), or any other countries or regions that may, from time to time, become subject to U.S. export controls for anti-terrorism reasons or with which U.S. persons are generally prohibited from engaging in financial transactions; (ii) on the U.S. Department of Commerce Denied Person's List, Entity List, or Unverified List; U.S. Department of the Treasury list of Specially Designated Nationals and Blocked Persons or any other similar list, domestic or foreign; the U.S. Department of Defense 1286 List; or U.S. Department of State List of Debarred Parties; (iii) engaged in activities involving nuclear materials or weapons, missile or rocket technologies, or proliferation of chemical or biological weapons; (iv) affiliated with or a part of any non-U.S. military organization; (v) excluded or disqualified from or otherwise deemed ineligible for participation in, or debarred from or under, any government program, including any federal healthcare program; (vi) convicted of any offense defined in 42 U.S.C. Section 1320a-7, or otherwise deemed ineligible for participation in healthcare programs by the United States Food and Drug Administration under the United States Federal Food, Drug and Cosmetic Act, as the same may be amended from time to time; (vii) designated by the U.S. Government to have a status equivalent to any of the foregoing. **"Anti-Corruption Laws"** means all applicable U.S. and foreign laws, regulations, rules or judicial or administrative orders relating to anti-bribery or anti-corruption (governmental or commercial), including the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act of 2010, all national and international Laws enacted to implement the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions, and all other laws and regulations prohibiting the corrupt or improper payment, offer, promise or authorization of the payment or transfer of anything of value (including gifts or entertainment), directly or indirectly, to any (A) foreign or domestic governmental official, political party, party official or candidate for government office, or any employee, representative, or other person or entity acting in an official capacity for or on behalf of any governmental entity, (B) company, business, enterprise or other entity owned, in whole or in part, or controlled by any person or entity described in clause (A), or (C) commercial entity (clauses (A) – (C), collectively, "Entities", and each, individually, an "Entity"), in each case, to obtain any kind of business or any improper advantage.
9. **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 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. To the maximum extent allowable under applicable law, all Work Product shall be considered "works made for hire," as such term is defined under Title 17 of the United States Copyright Act.. Vendor agrees to execute any document reasonably requested by Northwestern to further effectuate the assignment of rights hereunder.
10. **Confidentiality.** Vendor may receive Confidential Information from Northwestern or its representatives or agents 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.
11. **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.
12. **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 \$1 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 \$1,000,000 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.
13. **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.

14. **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.
15. **Termination.**
- 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.
 - 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.
 - 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.
16. **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.
17. **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.
18. **Governing Law and Dispute Resolution.** This Agreement and all Disputes (as defined below) 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 (collectively, "**Disputes**") 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.
19. **Research Award Flow Down Terms.** If purchases under this Agreement are made using funds from an external research grant, award, or contract (each, a "Research Award"), the applicable clauses and terms of the Research Award are hereby incorporated by reference in this Agreement, and vendor shall (and shall cause its Personnel to) comply with all such clauses and terms.
20. **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.
21. **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 and contact information of such official shall be provided upon request.
22. **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.
23. **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.
24. **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.

25. **Remedies.** Vendor acknowledges that any actual or threatened breach of any provision of this Agreement, including Sections 10 (Confidentiality) or 23 (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.
26. **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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