

Purchase Order Clauses

The following clauses apply to this Purchase Order:

1. **Authority.** This Purchase Order (“Order”) is issued and administered by the Sergeant at Arms (“SAA”) Contracting Officer or delegate (“Contracting Officer”). The Contracting Officer is authorized to make modifications and decisions regarding this Order, subject to authority delegated to the Contracting Officer. No modifications shall be effective without a written Change Order.

2. **Order of Precedence.** The following documents are hereby incorporated into this Order and any inconsistency herein shall be resolved by giving precedence in the following order:

- (a) Pricing Table;
- (b) Scope of Work (if applicable);
- (c) Purchase Order Clauses, set forth in this document;
- (d) Addendum to Commercial Agreements (if applicable);
- (e) Contractor’s GWAC Terms & Conditions (GSA Schedule/NASA SEWP/Other GWAC) if quotation is subject to those terms and conditions; and,
- (f) Terms & conditions, including any original equipment manufacturer (OEM) terms & conditions (together referred to as “Contractor Specific Terms”), but only to the extent that Contractor Specific Terms are consistent with the U.S. Senate Procurement Regulations and applicable federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Anti-Assignment statutes (31 U.S.C. § 3727, 41 U.S.C. § 6305), Treatment of Electronic Services (2 U.S.C. § 6628, as amended by Pub. L. 116-260, div. FF, title IV, § 401), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any terms and conditions are inconsistent with U.S. Senate Procurement Regulations and applicable Federal law, such inconsistent terms shall be rejected, unenforceable and of no legal force or effect in all resultant orders.
- (g) Contractor’s quotation or proposal.

3. **Security.** The Contractor shall comply with all Senate security regulations and procedures that pertain to vendors and suppliers in the performance of this Order.

4. **Acceptance.** The SAA has the right to inspect and evaluate all goods and services provided or performed under this Order at all reasonable times and in a manner that will not unreasonably delay the work. If any of the goods or services provided or performed do not conform to Order requirements, the Contracting Officer may require the Contractor to correct or to re-perform the services in conformity with Order requirements, at no increase in Order price. Goods and services provided to the Senate must comply, at a minimum, with the technical features and functionality represented or warranted by the Contractor including, but not limited to, the Contractor quotation incorporated into this Order.

5. **Incorporating other Terms by Reference.** Any terms and conditions referenced as hyperlinks, or in other documents including third party terms, are not applicable to this Order unless submitted in full text, in searchable PDF, with the quotation. Incorporation of any terms and conditions after

the time of award may only be performed by bilateral modification with the approval of the Contracting Officer. Any OEM or third party supplier shall be brought into the negotiation, if applicable. All Contractor Specific Terms that incorporate third party terms by reference are hereby rejected.

6. Price. Contractor may offer an hourly rate or price reduction at any time effective upon the date offered by the Contractor. The reduced rates will apply to all services performed on or after the effective date of the price change. Price increases must be mutually agreed to and incorporated into the Order through a modification or change order hereto.

7. Taxes. The United States Senate, including the SAA, is tax exempt as a Federal instrumentality and pays no state and local taxes. Except as may be otherwise provided in this Order, the price is inclusive of all Federal, state, and local taxes and duties.

8. Changes. The Contracting Officer may make changes, by modification or change order, within the general scope of this Order. The Parties may negotiate or agree upon such changes before they are made to this Order. The Contracting Officer may also make unilateral changes and modify this Order by issuing a written modification or change order. The Contractor shall assert any claim for equitable adjustment within thirty days of its receipt of the change order.

9. Payment and Invoicing. The SAA shall approve payment to the Contractor within a reasonable time after receipt of invoices approved by the Contracting Officer or their designee. The SAA does not pay late payment fees, interest, penalties, or equivalent charges. All Contractor Specific Terms that require the U.S. Senate to pay any future fees, charges, or penalties are hereby rejected.

The Contractor shall submit invoices electronically upon acceptance of deliverables. At a minimum, the invoice shall reflect: the company letterhead with name, address, telephone number, remittance address, billing or accounts receivable email address, the Order number, a description of the service with reference to the purchase order line number, and period of performance for services rendered.

For Time and Material orders, the Contractor shall provide, at a minimum, an invoice that reflects a breakdown by task, hours worked and billed, and other direct costs every two weeks for use by the Senate in reconciling and verifying invoices for payment.

For Blanket Purchase orders, the Contractor shall provide an invoice that reflects order dates, order placed by and shipment dates. Each line item (quantity and unit price) on the invoice must be accurately reflected and all resulting line-item amounts must sum to the total invoice amount.

Electronic invoices for payment will be in a non-editable, searchable Portable Document Format (PDF) file. The Contractor is responsible for ensuring invoices are submitted in the correct format. Invoices are subject to acceptance for payment purposes and must be legible. Original Invoices shall be sent electronically to AP@saa.senate.gov. The subject line of the email must contain the vendor name, purchase order number and invoice number.

Do not include invoices with deliveries or send to the SAA Contracting Officer Representative, or Buyer. Contractor questions regarding payment information should be directed to the email address above.

10. Advertising. Clauses in the Contractor Specific Terms referencing advertising are rejected and not applicable to this Order. The Contractor agrees not to refer to its work with the Senate in

commercial advertising, promotional materials, or press releases in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Senate or is considered by the Senate to be superior to other goods or services. Without limiting the scope of any provision of the Order, the Contractor specifically agrees that it will not use for promotional purposes any information related to the Order and will not disclose any such information to any entity outside the Senate except by express written permission of the Contracting Officer.

The Contractor agrees to submit any proposed commercial advertising, promotional materials, or press releases referring to its work with this purchase order to the Contracting Officer for written approval. The Contractor shall not conduct or contribute to any news releases or press conferences pertaining to this purchase order or mention of the Senate as a customer without prior written approval of the Contracting Officer. This clause applies to all media, including corporate and social media web sites. The Contractor shall not use the Seal of the Senate under any circumstances in any of its materials.

11. Gratuities. The SAA may, by written notice, terminate this Order if it is found gratuities (e.g., entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agency or representative of the Contractor, to any employee of the Senate to secure favorable treatment to award or make any determination with respect to the performance of this Order.

In the event this Order is terminated as provided by in this paragraph, the Senate shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Order by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Chairman of the Senate Committee on Rules and Administration or their duly authorized representative) which shall be not less than three (3) nor more than ten (10) times the cost incurred by the Contractor in providing any such gratuities, to any other rights and remedies provided by law or under this Order.

The rights and remedies of the Senate provided in this paragraph shall not be exclusive and are in addition to any rights and remedies provided by law applicable to this Order.

12. Conflict of Interest. The Contractor warrants it has no conflict of interest, direct or indirect, financial or otherwise, which would be applicable to the performance of the obligations covered by this Order. If an allegation of a conflict of interest is brought to the attention of the United States Senate, the Contractor agrees to fully cooperate with any investigation of the allegation(s), and will disclose to the United States Senate any other contract(s) or order(s) to which the Contractor is party, public or private, or which the Contractor undertakes during the period of this Order (including orders entered into during the period of this Order which includes duties to be fulfilled after the termination of the Order). No member of or delegate to the United States Congress shall be admitted to any share or part of this Order or to any benefit that may arise thereupon.

13. Termination for Cause. The SAA may terminate this Order, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the SAA, upon request, with adequate assurances of future performance. In the event of termination for cause, the SAA shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the

Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

14. Termination for Convenience. The SAA reserves the right to terminate this Order, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this Order, the SAA shall be liable only for payment in accordance with the payment provisions of this Order for products delivered or services rendered prior to the effective date of termination.

15. Excusable Delay. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, riots, fires, floods, strikes, unusually severe weather, or delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

16. Disputes. Clauses in the Contractor Specific Terms referencing disputes, including choice of law and venue, are rejected and not applicable to this Order. All disputes arising under this Order, which are not disposed of by agreement, shall be decided pursuant to the U.S. Senate Procurement Regulations and applicable Federal law. Contractor Specific Terms that allow the Contractor to choose arbitration, mediation, or other forms of alternate dispute resolution are hereby rejected.

17. Equitable Remedies. In the absence of a direct citation to a statute permitting equitable remedies, all clauses in the Contractor Specific Terms referencing equitable remedies are rejected and not applicable to this Order.

18. Senate Data Protection.

(a) Definitions.

- (1) “Agent of the Office of the SAA” includes a provider of electronic communication service or remote computing service commissioned or used through the Office of the SAA by a Senate office to provide such services to the Senate office, including but not limited to the Contractor, its officers, employees, suppliers, team members, agents, business affiliates, and subcontractors under this Order;
- (2) “Electronic Communication” means any transfer of signs, signals, writing, images, sounds, data, or information of any nature transmitted in whole or in part by wire, radio, electromagnetic, photoelectronic, or photo optical system;
- (3) “Electronic Communication Service” means any service which provides to users thereof the ability to send or receive wire, wireless, or electronic communications;
- (4) “Electronic Communications System” means any wire, radio, electromagnetic, photo optical or photoelectronic facilities for the transmission of wire, wireless, or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

- (5) “Office of the SAA” means the Office of the Sergeant at Arms and Doorkeeper of the Senate;
- (6) “Provider for a Senate Office” means a provider of electronic communication service or remote computing service directly commissioned or used by a Senate office to provide such services including but not limited to the Contractor, its officers, employees, suppliers, team members, agents, business affiliates, and subcontractors under this Order;
- (7) “Remote computing service” means the provision to the public of computer storage or processing services by means of an electronic communications system;
- (8) “Senate Data”, with respect to Senate Office, means any electronic mail or other electronic or data communication, other data (including metadata), or other information of the Senate Office; and
- (9) “Senate Office” means a committee or office of the Senate, including a Senator, an officer of the Senate, or an employee of, intern at, or other agent of a committee or office of the Senate.
- (b) **Senate or SAA Data Possession.** Any Agent of the Office of the SAA or Provider for a Senate Office understands and agrees that they shall not be treated as acquiring possession, custody, or control of any data, metadata, electronic communication, emails (regardless of age), or other information by reason of such communication being transmitted, processed, or stored (whether temporarily or otherwise), through use of any data center, platform, electronic systems or software, which is owned, operated, used, or maintained in order to provide services to any Senate Office as a result of this Order.
- (c) **Notification.** Any Agent of the Office of the SAA or Provider for a Senate Office understands and agrees to notify a Senate Office of any legal or investigative process seeking disclosure of Senate Data of the Senate Office that is transmitted, processed, or stored (whether temporarily or otherwise) through the use of an electronic system established, maintained, or operated, or the use of electronic services provided, in whole or in part by the Agent of the Office of the SAA or Provider for a Senate Office.
- As provided by 2 U.S.C. § 6628, notwithstanding any other provision of law or rule of civil or criminal procedure, any Agent of the Office of the SAA or Provider for a Senate Office that is providing services to a Senate Office shall not be barred, through operation of any court order or any statutory provision, from notifying a Senate Office of such legal or investigative process.
- (d) **Protection of Senate Information.** Any Agent of the Office of the SAA or Provider for a Senate Office understands and agrees that Senate Data provided to or uploaded to an Agent of the Office of the SAA or Provider for a Senate Office may include legislative information; documents; correspondence; or other data including metadata, protected in its entirety, from compelled disclosure by the U.S. Constitution, federal law, and/or case law. In the event that an Agent of the Office of the SAA or Provider for a Senate Office receives any legal or investigative process seeking disclosure of Senate Data, the Agent of the Office of the SAA or Provider for a Senate Office agrees that it:

- (1) will not disclose Senate Data outside of the Contractor except as directed or approved by the applicable Senate Office in regard to Senate Data that applies to that applicable Senate Office;
 - (2) will advise the individual or entity seeking disclosure of the Senate Data of the provisions in 2 U.S.C. § 6628; and
 - (3) will notify the applicable Senate Office immediately of the legal or investigative process seeking disclosure and provide a full copy of the request for Senate Data to the applicable Senate office.
- (e) **Notice.** With respect to notification requirements in this Section, the Contractor may contact the Contracting Officer as to how to effectuate notice or obtain authorization from the applicable Senate Office.
- (f) **Relevant Statutory Authorities.** This provision references 2 U.S.C. § 6628, as amended (see, Pub. L. 116-260, div. FF, title IV, § 401 (2020)); 18 U.S.C. § 2711; 18 U.S.C. § 2510.

19. Privacy and Confidentiality.

- (a) **General.** During the course of performance of this Order, the Contractor may have access to information and communications considered confidential by the Senate. The Contractor shall not disclose to any other person or entity any “Confidential Information” obtained from the Senate or in connection with delivery of the services related to this Order.
- (b) “Confidential Information” means (i) all information related to this Order, the Senate, and all information collected, processed or otherwise accessed by the Contractor in performing under this Order, and any data or information collected in connection with delivery of the services related to this Order, and (ii) all other information that is identified (orally or in writing) as confidential or of such a nature that a reasonable person would understand such information to be confidential to the Senate.
- (c) The Contractor shall provide notification of any loss of or unauthorized access to Confidential Information, and shall use all efforts to mitigate the effect of such loss and to recover all Confidential Information. The Contractor shall (i) notify the applicable Senate Office within 24 hours of identifying the incident, describe in reasonable specificity and detail all Confidential Information (ii) take corrective actions to eliminate any further disclosure, and (iii) work with the Senate to investigate the incident and provide an After Action Report documenting the incident, the cause, and steps taken to resolve the matter.
- (d) **Non-Use and Non-Disclosure of Confidential Information.** The Contractor shall not (i) use Confidential Information for any purpose whatsoever other than the performance of Contractor in providing the services, or (ii) disclose Confidential Information to any third party. It is understood that Confidential Information shall remain the sole property of the applicable Senate Office. The Contractor shall take all reasonable precautions to prevent any unauthorized use or disclosure of Confidential Information. To the extent the Contractor feels it needs to disclose Confidential Information, it may do so only after obtaining written authorization from the applicable Senate Office. In the event that a

Contractor receives any legal or investigative process seeking disclosure of Confidential Information, the Contractor will follow the terms set forth in Section 18 above.

(e) **Failure to Comply.** The Contractor will preserve the confidentiality of all such information and communications and agrees not to disclose any such Confidential Information for any purposes whatsoever without the prior approval of the applicable Senate Office. Failure to comply with the provisions of this Paragraph may be grounds for Termination for Default. The Contractor is responsible for enforcing these requirements on its subcontractors and third party partners.

(f) **Notice.** With respect to notification requirements in this Section, the Contractor may contact the Contracting Officer as to how to effectuate notice or obtain authorization from the applicable Senate Office.

20. Data Return. The Contractor agrees to return all SAA or Senate Data, as referenced in Section 18 above, or information in its possession to the SAA or the applicable Senate office, respectively, within thirty (30) days, upon termination, cancellation, expiration, other conclusion of this Order, or if requested by the SAA or Senate Office. If return is not feasible, the Contractor agrees to destroy and not retain any copies of the data and furnish the SAA or the applicable Senate office, respectively, with an appropriate Certificate of Destruction of any and all SAA or Senate information that is in the Contractor's possession. The Contractor shall not permit or allow any third parties to access, acquire, or possess SAA or Senate information. The Contractor shall use NIST 800-88 Media Sanitization Guidelines or equivalent data destruction procedures for guidance.

The Senate is not subject to a number of privacy and data protection statutes, regulations, and policies, and the Contractor shall consult the SAA should a question arise regarding the applicability of any such statute or regulation.

21. Incident Notification. If the Contractor, or its subcontractors or third party partners, learns of any incident—defined as a security event that may compromise the integrity, confidentiality, or availability of any Senate Data in performance of this Order, the Contractor will, within 24 hours of an incident, report any incident to the SAA Security Operations Center (SOC) at (202) 228-7620 or csoc@saa.senate.gov. This notification requirement applies, whether the incident is identified by the Contractor or brought to the Contractor's attention by a third party.

The Contractor will report incidents only to the SAA SOC and not to any other government entity.

22. Non-Applicability. Only Federal law that is applicable to the U.S. Senate shall apply to this Order. Non-applicable Federal law, such as but not limited to the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), Freedom of Information Act (5 U.S.C. § 552), and Contract Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), do not apply to the SAA or Senate and shall not apply to this Purchase Order.

23. Assignment. All clauses regarding the Contractor's right to assignment are subject to the Anti-Assignment statutes (31 U.S.C. § 3727, 41 U.S.C. § 6305). All clauses governing the Contractor's assignment in the Contractor Specific Terms are hereby rejected.

24. Change in Control. The Contractor will notify the Contracting Officer thirty (30) days before it merges with or is acquired by another entity, or declares bankruptcy, insolvency, or any other change of ownership proceedings. The SAA reserves the right to cancel the contract upon notice of change of ownership. The SAA may require the Contractor to delete, destroy, or return any Senate Data, as referenced in Section 18 above, in its possession, and sanitize any devices that previously stored SAA or Senate Data.

25. Government Indemnification. In the event the Contractor is seeking Senate or SAA agreement to indemnification, an agreement to indemnify in advance of an appropriation violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301) since the Senate or SAA would be committing to pay an unknown amount at an unknown future time. All Contractor Specific Terms referencing customer indemnities are hereby rejected.

26. Contractor Indemnities. All Contractor Specific Terms that violate the U.S. Department of Justice's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby rejected. Nothing contained in the Contractor's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.

27. Renewals. All Contractor Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby rejected. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301).

28. Option to Extend the Term of the Order. The following clause applies if option periods have been identified in the Order.

- (a) The SAA may extend the term of this Order by written notice to the Contractor during the period of performance of this Order; provided that the SAA gives the Contractor a preliminary written notice of its intent to extend at any time before the order expires. The preliminary notice does not commit the SAA to an extension.
- (b) If the SAA exercises this option, the extended Order shall be considered to include this option clause.

29. Recovery for Fraud. Notwithstanding any terms in this order, including clauses in the contractor specific terms, nothing shall impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this order under any federal fraud statute, including the false claims act (31 USC 3729 to 3733). Furthermore, no clauses shall impair nor prejudice the U.S. Government's right to any express remedies provided under the order or applicable federal law.

30. Warranty. The Contractor represents and warrants that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this Order. In the event that the terms of the Contractor's standard commercial warranty conflict with the warranty terms contained in this clause, the terms of this clause will govern this Order, unless some other resolution is specified in the award document.

31. General. All communications pertaining to contractual and/or administrative matters under this Order should be addressed to Acquisitions@saa.senate.gov. This Order and any written modifications constitute the sole agreement between the Senate and Contractor relating to the

subject matter hereof, and supersedes any other understandings, writing, proposals, representations, or communications, oral or written, of either party.