

UNIVERSITY PROCUREMENT TERMS AND CONDITIONS

STANDARD TERMS INCORPORATED INTO ALL PURCHASE ORDERS

1. DEFINITIONS

1.1. “Agreement” means a single integrated accord between the Parties evidenced by one of the following sets of documents: (i) a master service agreement, any amendment thereto, any related Statement of Work and Purchase Order and the Terms & Conditions; (ii) a service agreement, any amendment thereto, any related Purchase Order and the Terms & Conditions; or (iii) a Purchase Order and the Terms & Conditions.

1.2. “Artificial Intelligence” or “AI” means any machine-based system that, based on human-defined objectives, is capable of generating predictions, recommendations, or decisions that influence physical or digital environments. This includes, without limitation, generative AI, machine learning, deep learning, and neural networks.

1.3. “AI-Generated Content” means any material, output, or result that is created, developed, or substantially modified by an Artificial Intelligence (AI) system, whether autonomously or with human input. This includes, without limitation, text, images, audio, video, software code, or other data produced or altered through machine-based processes.

1.4. “AI System” means any Artificial Intelligence tool, platform, application, or service made available or provided by the Supplier to Rutgers, whether directly or through third-party integrations, and used to generate, process, or analyze data, content, or outputs.

1.5. “Documentation” means all written, printed, or electronic material that provides information, including specifications, designs, sketches, blueprints, patterns, models, manuals, handbooks, informational diagrams, system architecture, database schemas, drawings, engineering changes, and any other similar materials.

1.6. “Include” and “Including” and similar words used in the Agreement means “including but not limited to” and shall not be interpreted to indicate a finite set, unless otherwise expressly stated.

1.7. “Intellectual Property Rights” means any rights under patent law, copyright law, trademark law, moral rights law, trade secret law, and other similar law concerning proprietary rights (whether such rights are registered or unregistered).

1.8. “Merchandise” means goods, products, materials or supplies.

1.9. “Party” means either Rutgers or the Supplier, while **“Parties”** means both Rutgers and the Supplier.

1.10. “Personal Information” means any information that identifies, or when in combination with other information could be used to identify, an individual, which is collected, used, processed, stored, or generated as the result of the use of the Work and the Services by Rutgers, or to which the Supplier has access or otherwise receives from Rutgers pursuant to this Agreement including, without limitation, an individual’s social security number or other government-issued identification number, date of birth, address, telephone number, biometric data including a fingerprint, voice print, retina or iris image, or other unique physical representation or digital representation, mother’s maiden name, email address, credit card information, or an individual’s name in combination with any other of the elements listed herein or in combination with a password or security question. Personal Information also means “Personal data” as defined in the New Jersey Data Privacy Law, P.L. 2023, c. 266.

1.11. “Purchase Order” or “PO” means the document issued by Rutgers which defines the services, merchandise and associated fees.

1.12. “Rutgers” means Rutgers, The State University of New Jersey and any school, institute, unit or controlled affiliate thereof.

1.13. “Rutgers Data” means, collectively: (i) any information that Rutgers provides to the Supplier, or information belonging to Rutgers to which the Supplier otherwise has access to, in connection with the Agreement; (ii) any information, data, reports, studies, recommendations, or other information that the Supplier makes or develops in connection with, or resulting from, the Work; and (iii) derivatives of (i) and (ii) above.

1.14. “Securely Destroy” refers to performing actions that make data stored on physical media (such as

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hardcopy documents, microfiche) or electronic media completely unrecoverable by any means, whether ordinary or advanced. These actions must comply with, and preferably exceed, the requirements outlined in the relevant sections of the most current revision of the National Institute of Standards and Technology (NIST) Special Publication 800-88, for data classified as high security.

1.15. "Services" means design, engineering, installation, testing, evaluation, training, maintenance, repair, management, consulting, data analysis or any other services necessary to fulfill the Supplier's obligations under this Agreement, including any deliverables resulting from said services.

1.16. "Statement of Work" or "SOW" shall mean the specifications, qualities, nature, type, properties, amounts and other descriptions of and requirements for Merchandise or Services provided by the Supplier.

1.17. "Supplier" means any seller furnishing Merchandise or Services to Rutgers.

1.18. "Terms & Conditions" means these Rutgers University Procurement Terms and Conditions.

1.19. "Work" means, collectively: (i) the furnishing of all services, labor, goods, materials, equipment, Documentation, and deliverables; (ii) the services, labor, goods, materials, equipment, Documentation, and deliverables themselves; and (iii) all other incidentals including any other required construction, furnishing, installation, and performance required by the Agreement. The term "Work" expressly includes all Merchandise and Services.

1.20. "Work Product" means all inventions, improvements, discoveries, formulas, processes, computer programs, algorithms, designs, trade secrets, works of authorship whether or not fixed in a tangible medium of expression and other information and know-how made, discovered or developed by the Supplier either alone or in conjunction with any other person or entity during the term of this Agreement.

2. ORDER OF PRECEDENCE

The Agreement constitutes a single integrated agreement between the Parties. These Terms & Conditions constitute the default governing framework of the Agreement and apply to all Purchase Orders except to the extent expressly modified pursuant to items (1) or (2) of the order of precedence below. In the event of any conflict, inconsistency, or ambiguity among the documents comprising the Agreement, such conflict shall be resolved in the following order of precedence: (1) any Amendment to this Agreement; (2) any master service agreement or service agreement executed by authorized representatives of both Parties (including any negotiated Terms & Conditions incorporated therein); (3) the Purchase Order; (4) the SOW; (5) the Terms & Conditions; and (6) any other document(s) thereafter. Notwithstanding the foregoing, these Terms & Conditions apply to all Purchase Orders and shall not be deemed superseded, modified, or waived by any document described in items (1) or (2) of the order of precedence above unless such document expressly references these Terms & Conditions and specifically states the intent to modify or supersede provisions hereof. In the absence of such express reference and statement, these Terms & Conditions shall control to the extent of any conflict. Any preprinted, standard form, or non-negotiated terms and conditions contained in any document issued by the Supplier (including, without limitation, quotes, proposals, acknowledgments, invoices, order forms, or online terms), whether or not signed by Rutgers, shall be of no force or effect and shall be deemed to be subordinate to and governed by these Terms & Conditions. For avoidance of doubt, such Supplier-issued standard form terms shall not be deemed to constitute a document described in item (2) of this order of precedence, even if signed or otherwise executed by Rutgers, unless such document expressly identifies itself as a negotiated agreement between the Parties and expressly references and modifies these Terms & Conditions. Where any such Supplier-issued document is signed by both Parties but does not meet the requirements of item (2) of this order of precedence, it shall rank last in priority and shall be subordinate to all other components of the Agreement. To the extent permitted by applicable law, the Parties agree that the express terms of this Agreement shall govern in lieu of any conflicting or supplementary provisions that might otherwise be implied under the Uniform Commercial Code Article 2 or other applicable law. Rutgers shall have the sole right to resolve any errors, inconsistencies, ambiguities, or discrepancies, including typographical errors in the Agreement, and the Supplier agrees to be bound by such resolutions.

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3. OFFER AND ACCEPTANCE

Any term or condition in any offer, invoice, order form, or other document issued by the Supplier that modifies, adds to, or changes these Terms & Conditions is rejected and will not be part of the Agreement unless expressly agreed to by Rutgers in writing, and signed by the duly authorized signatory as per the Rutgers signatory matrix. If an offer issued by the Supplier is referenced in a PO, it is hereby included and made part of the PO only to the extent of specifying the nature of the Merchandise or Services ordered, the price thereof and delivery date, and then only to the extent that such terms are consistent with these Terms & Conditions. The Supplier shall not perform Services or deliver Merchandise absent a valid PO issued by Rutgers containing a PO number. Any performance by Supplier in the absence of a valid PO shall be at Supplier's sole risk and shall not create any obligation on the part of Rutgers. By fulfilling a Rutgers PO, the Supplier agrees to furnish the Merchandise or Services covered by the PO and to be bound by and to comply with these Terms & Conditions. This Agreement shall be deemed accepted if the Supplier: (1) commences Services; (2) ships all or part of the Merchandise ordered in a PO; or (3) gives any other expression of acceptance of the Terms & Conditions hereof. Upon the Supplier's acceptance, the PO and the Terms & Conditions shall be binding on both Parties in accordance with the Order of Precedence set forth in the Agreement. Rutgers reserves the right to revoke the PO at any time before acceptance by the Supplier. Rutgers' inclusion of a hyperlink or reference to these Terms & Conditions in a PO shall constitute sufficient incorporation of these Terms & Conditions into the Agreement. No course of dealing, course of performance, prior dealings between the Parties, usage of trade, payment, acceptance of goods or services, or failure or delay in enforcement shall operate as a waiver of, or modify, any provision of the Agreement, nor shall any such conduct be used to interpret, supplement, or contradict the express terms of the Agreement, unless expressly agreed to in a written Amendment executed by Rutgers in accordance with its authorized signatory requirements pursuant to its signatory matrix.

4. PAYMENT

4.1. Payment. Rutgers shall pay undisputed invoices within forty-five (45) days of receipt of the Supplier's invoice. If any portion of the Merchandise or Services does not conform to the requirements of this Agreement, a corresponding portion of the price may be withheld by Rutgers until the nonconformity is corrected. No additional charges of any kind, including, but not limited to, charges for boxing, packing, transportation, insurance, or container charges, will be allowed unless specifically agreed to in writing by Rutgers. Invoices must be sent directly to Rutgers Accounts Payable at accountspayable@finance.rutgers.edu with the Purchase Order number clearly identified on the invoice. Invoices submitted without a valid Rutgers PO number will not be processed.

4.2. Taxes. Rutgers is generally not subject to any sales or excise taxes. Taxes are not to be included in any quotations or invoices to Rutgers unless applicable. The Supplier can find additional Rutgers tax information at <http://uco.rutgers.edu/tax-services>. Upon request, Rutgers will issue an exemption certificate to the Supplier.

4.3. Royalties and Other Fees. Unless agreed upon by the Parties in writing, any fees, such as royalties (e.g., BMI, ASCAP, SESAC) or union dues, which may be required in connection with or as a result of this Agreement are the sole responsibility of the Supplier.

5. TERMINATION

5.1. Termination for Convenience. Rutgers may terminate this Agreement in whole or in part at any time without cause upon at least thirty (30) days written notice to the Supplier. If this Agreement is a subcontract (with Rutgers being the contractor to another party, and the Supplier being Rutgers' subcontractor), then Rutgers may immediately terminate this Agreement upon written notice to the Supplier if the prime contract is terminated for any reason. If Rutgers terminates this Agreement without cause, Rutgers will promptly pay the Supplier for its Services performed through the effective date of termination, in accordance with the terms of this Agreement.

5.2. Termination for Cause. Either Party may terminate this Agreement upon at least 30 days' written notice to the other Party, for breach of this Agreement by the other Party, unless during such notice period, the Party fully cures the breach to the other Party's reasonable satisfaction.

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5.3. Immediate Termination. Rutgers shall have the right to terminate immediately: (i) upon the institution by or against the Supplier of insolvency, receivership or bankruptcy proceedings or any other proceeding for the settlement of debts; (ii) upon the Supplier making an assignment for the benefit of creditors; (iii) upon the Supplier's dissolution or ceasing to do business or (v) as set forth in Section 7.2 of these Terms & Conditions.

5.4. Return of Rutgers Data. Pertaining to Rutgers Data, any deliverables then under development, and Rutgers proprietary materials, regardless of designation, in the Supplier's possession or control, upon the expiration, or sooner termination of this Agreement, in whole or in part, and upon Rutgers' written request, the Supplier shall, within thirty (30) business days following the expiration, or sooner termination of this Agreement or Rutgers' written request, provide to Rutgers, without charge and without any conditions or contingencies whatsoever, with a final extract of Rutgers Data, any deliverables then under development, and Rutgers proprietary materials, regardless of designation, in the Supplier's possession or control. Further, the Supplier must Securely Destroy any Rutgers Data, regardless of designation, within the possession or control of the Supplier, but such destruction shall occur only after Rutgers Data, regardless of designation, has been confirmed by Rutgers as returned to Rutgers. The Supplier agrees to provide documentation of data destruction. For greater certainty, Rutgers acknowledges that notwithstanding the Supplier's attempts to return or Securely Destroy all Rutgers Data within the Supplier's possession or control, copies of Rutgers Data may still reside in the Supplier's electronic mail back-up records, back-up server tapes, and any records of similar automated record-keeping or other retention systems which cannot be completely destroyed or erased. To the extent such copies continue to exist, these materials so retained shall continue to be held in accordance with the confidentiality terms of this Agreement.

5.5. Transition Services. Following the expiration or sooner termination, in whole or in part, of this Agreement, the Supplier shall provide to Rutgers and to the successor vendor selected by Rutgers (such vendor shall be known as the "Successor Vendor"), if any, assistance reasonably requested by Rutgers and within the scope of the amendment as shown in section 5.5.1 below, to effect the orderly transition of the Services, in whole or in part, to Rutgers or to Successor Vendor (such assistance shall be known as the "Transition Services").

5.5.1. The pricing for Transition Services shall be negotiated as an amendment to this Agreement and may include: (a) developing a plan for the orderly transition of the terminated Services from the Supplier to Rutgers or Successor Vendor; (b) if required by Rutgers, transferring Rutgers' data to Rutgers or the Successor Vendor; (c) using commercially reasonable efforts to assist Rutgers in acquiring any necessary rights to legally and physically access and use any third-party technologies and documentation then being used by the Supplier in connection with the Services; (d) using commercially reasonable efforts to make available to Rutgers, pursuant to mutually agreeable terms and conditions, any third-party services then being used by the Supplier in connection with the Services; (e) transitioning to Rutgers all documentation, tools, Rutgers' data, and procedural and design documents related to this Agreement; and (f) such other activities upon which the Parties may agree.

5.5.2. All terms and conditions of this Agreement shall apply to the Transition Services, unless expressly agreed otherwise by the Parties in the amendment.

5.6. Limitation of Damages. Rutgers' liability and the Supplier's recovery for any damages arising out of the termination of any part of this Agreement shall be limited to the lesser of: (i) the reasonable costs incurred by the Supplier prior to such termination; or (ii) the balance remaining for this Agreement.

6. CONFIDENTIALITY AND SECURITY

6.1. Confidential Information; Non-Disclosure and Standard. The Supplier shall treat as confidential all information that is disclosed or provided to the Supplier (or to which Supplier otherwise has access), whether oral or in writing, in connection with the Agreement (collectively, the "Confidential Information"). The term "Confidential Information" expressly includes Rutgers Data. The Supplier shall not use Confidential Information for any purpose not expressly permitted in the Agreement (and in all cases such Confidential Information shall only be used for Rutgers' benefit), and the Supplier shall disclose such Confidential Information only to those employees, contractors, subcontractors, suppliers, and agents who have a need-to-know basis for access to such Confidential Information for the purpose of performing under the Agreement; provided, however, that

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such recipients are under a duty of confidentiality no less restrictive than the Supplier's duty hereunder and by applicable law. The Supplier shall protect Confidential Information from unauthorized use, access, or disclosure in the same manner as Supplier protects its own confidential or proprietary information but shall in no event use less than a reasonable standard of care and diligence. Upon Rutgers' request, the Supplier shall promptly provide copies of any requested Confidential Information in electronic form, all at the Supplier's sole cost and expense.

6.2. Rutgers' Obligations. Rutgers shall treat as confidential all of the Supplier's proprietary methodologies, software and materials that the Supplier provides to Rutgers hereunder and which are marked "Confidential" or "Proprietary." In no event will the Supplier's Confidential/Proprietary Information be deemed to include any Rutgers Confidential/Proprietary Information.

6.3. Exceptions. Except for Personal Information, for which there shall be no exception, the Supplier's obligations with respect to Confidential Information shall not apply to Confidential Information that the Supplier can demonstrate in writing (to Rutgers' satisfaction): (i) was already known to the Supplier at the time of disclosure by Rutgers; (ii) was or becomes available to the Supplier on a non-confidential basis from a third party, provided that such third party is not bound by a confidentiality obligation to Rutgers with respect to such Confidential Information; (iii) is or has become generally available to the public through no fault of the Supplier; (iv) is independently developed by the Supplier without access to, or use of, the Confidential Information, as evidenced through proper documentation; or (v) is required by law to be disclosed, provided that the Supplier notifies Rutgers of such required disclosure promptly and in writing, and cooperates with Rutgers, at Rutgers' reasonable request and expense, in any lawful action to contest or limit the scope of such disclosure.

6.4. Public Records. Notwithstanding anything to the contrary, the Supplier acknowledges that (i) Rutgers may be subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq. and other laws relating to the disclosure or production of information in Rutgers' possession (collectively, the "Public Records Law"), and (ii) any documents in Rutgers' possession may be subject to the Public Records Law.

6.5. Treatment of Confidential Information Upon Termination. Upon termination or expiration of the Agreement for any reason, or promptly upon Rutgers' request, the Supplier shall at its sole cost and expense and at Rutgers' direction either: (i) return to Rutgers all Confidential Information (including copies and other derivatives of the same in the Supplier's possession, custody, or control (except for electronic mail back-up records, back-up server tapes and any records of similar such automated record-keeping or other retention systems; provided, in each case, that any such materials so retained shall continue to be held in accordance with the confidentiality terms of this Agreement), or (ii) Securely Destroy such Confidential Information (including copies and other derivatives of the same) and certify in writing to such destruction.

6.6. Information Security.

6.6.1. Information Security Program. The Supplier represents and warrants that it has established, and shall maintain and comply with throughout the Term its information security program that includes administrative, technical, and physical safeguards that sufficiently: (i) protect the security, confidentiality, and integrity of Confidential Information; (ii) protect against anticipated threats or hazards to the security, confidentiality, and integrity of Confidential Information; (iii) protect against unauthorized access to or use of Confidential Information; (iv) ensure compliance with an active incident response program; and (v) ensure the proper disposal of Confidential Information. Notwithstanding anything to the contrary, the Supplier further agrees to comply with all applicable federal, state, local, and foreign data protection laws, and all other applicable regulations and directives in connection with its collection, access, use, storage, disposal, and disclosure of Confidential Information.

6.6.2. Security Incident Response. The term "Security Incident" means the actual or potential breach of the security, confidentiality, or integrity of Confidential Information, regardless of whether such breach requires disclosure under applicable law. In the event of a Security Incident, the Supplier shall notify Rutgers in the most expedient time possible and, in no event, more than seventy-two (72) hours after the suspicion, discovery, or notification of a Security Incident. Such notification shall be sent via email to abuse@rutgers.edu, and the receipt of such email shall be immediately confirmed via telephone at 833-OIT-HELP. The Security Incident notification shall be written and include to the extent known: (i) a

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detailed description of the Security Incident; (ii) the specific Confidential Information impacted; (iii) measures taken by the Supplier to identify, prevent, and mitigate the effects of the Security Incident; and (iv) any other relevant information and documentation that Rutgers requests. The Supplier shall update the notice with additional information upon Rutgers' request.

6.6.3. Security Incident Remedial Steps. Unless otherwise required or prohibited by law, the Supplier shall not disclose to any third party the occurrence of, or any information relating to, a Security Incident without Rutgers's prior written approval. Subject to the preceding sentence, upon discovery or notification of a Security Incident, the Supplier shall take immediate action, at its own expense and in compliance with applicable law, to: (i) investigate the Security Incident; (ii) identify, prevent, and mitigate the effects of the Security Incident; (iii) perform all other actions reasonably necessary to remedy the Security Incident, prevent future incidents of the same or similar nature, and otherwise restore the confidentiality, security, and integrity of Confidential Information in the Supplier's possession or control; and (iv) perform those actions and provide the support reasonably requested by Rutgers. The Supplier shall, at Rutgers's direction, pay for or reimburse Rutgers for all damages, costs, losses, fines, penalties, and expenses related to a Security Incident, including those incurred by Rutgers in connection with preparing and providing notice to impacted data subjects, as well as other related support services such as credit monitoring services and call center services.

6.6.4. Right to Security Audit. Upon reasonable notice, Rutgers shall be entitled to engage a qualified, independent third party (a "Security Reviewer") audit to review, examine and test the Supplier's relevant security controls and safeguards regarding data security, privacy, and AI systems, as required by these Terms & Conditions (a "Security Compliance Audit"). A Security Compliance Audit shall not take place more than once in any calendar year, unless good cause is found by Rutgers to warrant more frequent audits. Rutgers shall be responsible for the fees and expenses of the Security Reviewer (the "Reviewer Fees"), unless the results of the Security Compliance Audit demonstrate the Supplier's material non-compliance with its obligations, in which case the Supplier shall reimburse Rutgers its reasonable Reviewer Fees upon submission of supporting documentation. The assessments, work papers, and other materials generated or used by the Security Reviewer during the course of the Security Compliance Audit shall be treated as Confidential Information.

7. REPRESENTATIONS AND WARRANTIES

7.1. Authority to Execute. Rutgers and the Supplier hereby represent, warrant, and guarantees that each Party has the legal capacity to execute and perform this Agreement.

7.2. Debarment. The Supplier represents, warrants, and guarantees: (i) that it is not debarred, suspended, proposed for debarment, or declared ineligible by any State or Federal agency; (ii) that the execution and performance of this Agreement by the Supplier does not, and will not, violate or conflict with any law, rule, regulation, judgment or order of any court or other adjudicative entity or regulatory agency binding on the Supplier; (iii) that the Supplier knows of no reason why the Supplier is in any way (physically, legally or otherwise) precluded from performing the obligations under this Agreement in accordance with its terms; and (iv) that it does not have any non-disclosure, confidentiality, non-competition or other similar obligations to any current or former employer or any other person or entity, concerning proprietary, secret or confidential information used in this Agreement. In the event the Supplier becomes debarred or learns that a person performing on its behalf under this Agreement has been debarred or has become subject of debarment proceedings, the Supplier shall promptly notify Rutgers and Rutgers shall have the right to immediately terminate this Agreement without penalty.

7.3. Conflict of Interest. The Supplier represents, warrants, and guarantees that there exists no actual, potential, or appearance of conflict between the Supplier and Rutgers. Furthermore, the Supplier represents that it has not offered (and will not offer during the term of this Agreement) any compensation, reward, gift, favor, service, outside employment, reimbursement of expenses, loan, ownership interest, or anything else of value, to any officer, employee, or faculty member of Rutgers as an inducement to enter into or renew this Agreement. The Supplier will notify Rutgers in writing of any change in conditions that might give the

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appearance of a conflict of interest.

7.4. Services. The Supplier represents, warrants, and guarantees that any Services provided under this Agreement shall be: (i) conducted in a timely manner, and in accordance with the Agreement, applicable federal, state, and local laws, rules, and regulations and university policy (and university updates to the same); (ii) correct and appropriate for the purposes contemplated in this Agreement and befitting an institution of higher learning; and (iii) provided in a skillful, workmanlike and highly-professional manner and consistent with generally accepted industry practices and procedures. The Supplier will, at its sole cost and expense, obtain all required governmental and third-party licenses, approvals, and permits appropriate for the provision of Services. Supplier warrants that the Services will not infringe or misappropriate the rights of any third-party, and that Supplier has all power and authority to convey ownership of the Services to Rutgers in accordance with this Agreement.

7.5. Malware. The Supplier represents, warrants, and guarantees that any deliverables resulting from the Services do not include, and that any method of transmitting said deliverables to Rutgers will not introduce, any program, routine, subroutine, or data (including malicious software or “malware,” viruses, worms, back doors, and Trojan Horses) that are designed to disrupt the proper operation of the deliverables or any other software or system used by Rutgers, or which, upon the occurrence of a certain event, the passage of time, or the taking of or failure to take any action, will cause the deliverables resulting from the Services or any system or software used in connection therewith to be destroyed, damaged or rendered inoperable.

7.6. Data Usage for AI Training. The Supplier represents, warrants, and guarantees that no Rutgers Data, including confidential information, shall be used to train, develop, or improve any AI models, whether owned by the Supplier or by third parties, without Rutgers’ prior, written, and explicit consent. This restriction applies to all forms of AI model development, including pre-training, fine-tuning, and reinforcement learning.

7.7. Data Localization and Access Restrictions. The Supplier understands that in providing Services, including Work involving AI or automated processing, it may store or process data outside the jurisdiction where it originated. The Supplier shall ensure all such transfers and processing activities comply with applicable data protection laws. The Supplier must disclose all jurisdictions where data will be stored or processed, including those used for AI model training or inference, and obtain prior written approval from Rutgers before using any new jurisdiction or AI System.

7.8. AI Output and Accuracy Liability. The Supplier shall not rely on a generic “as-is” disclaimer to exclude liability for inaccurate, erroneous, or fabricated outputs (“hallucinations”) generated by its AI System. The Supplier acknowledges the inherent risks associated with generative AI technologies and remains liable for damages resulting from grossly negligent or reckless system design, implementation, or deployment.

7.9. Merchandise. The Supplier represents, warrants, and guarantees that any Merchandise provided under this Agreement shall be: (i) provided in accordance with the SOW and/or PO and correct and appropriate for the purposes contemplated in this Agreement; (ii) is fit for the purpose for which similar materials and articles are ordinarily employed; (iii) is free from defects in materials and/or workmanship, and merchantable; (iv) was not manufactured and is not being priced or sold in violation of any federal, state or local law, including without limitation those relating to health and safety; (v) will perform or be performed according to industry standards; and (vi) will not infringe or misappropriate the rights of any third-party. These warranties shall survive acceptance of and payment for the Merchandise and shall be in addition to any other warranties or service guarantee, express or implied, given by the Supplier to Rutgers. Replaced and repaired goods shall be warranted for the remainder of the warranty period or six (6) months, whichever is longer.

7.10. Equipment. The Supplier represents, warrants, and guarantees that any equipment provided under this Agreement shall be: (i) the manufacturer’s latest model in production; (ii) that parts are all in production and not likely to be discontinued; (iii) that trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request may emanate within a 48-hour period; and (iv) that during the warranty period for such equipment the Supplier shall replace immediately any equipment which is rejected for failure to meet the requirements of this Agreement.

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8. INDEMNIFICATION

The Supplier will indemnify, hold harmless, and defend Rutgers, its governors, board, trustees, officers, faculty, students, agents, and employees (the "Rutgers Indemnitees") against any and all damages, suits, actions, claims, liabilities, losses, judgments, costs, and expenses arising out of or relating to: (i) injury to persons, deaths, or property damage caused by the Supplier; (ii) the Supplier's breach of this Agreement; (iii) any acts or omissions of the Supplier or its agents, subcontractors, or employees; (iv) the Supplier's failure to comply with law; and (v) an infringement or misappropriation of any third-party intellectual property or proprietary rights (including, without limitation, trademark, trade secret, copyright or patent) by the Services or Work Product. Rutgers shall use its good faith efforts to notify the Supplier within a reasonable time of the assertion of any claim for which the Rutgers Indemnitees are seeking indemnification (each, an "Indemnified Claim"). If Rutgers decides to conduct the defense of the Indemnified Claim, then the Supplier shall reimburse the Rutgers Indemnitees for all reasonable costs and expenses (including attorneys' fees) that the Rutgers Indemnitees incur in connection with their defense of the Indemnified Claim, and the Supplier shall cooperate fully with Rutgers in such defense, at the Supplier's sole cost and expense. If Rutgers decides to have the Supplier defend the Indemnified Claim, then Rutgers shall notify the Supplier of such in writing and: (i) the Supplier shall hire Rutgers-approved counsel; (ii) the Supplier shall bear all costs and expenses associated with the Indemnified Claim; (iii) the Supplier shall have sole control of the defense and settlement of the Indemnified Claim, provided that the Rutgers Indemnitees are fully indemnified and that any settlement does not include the admission of guilt, wrongdoing, negligence, or comparable pleas, the imposition of civil or criminal penalties or indictments, or the entering of consent decrees or orders of any kind, by the Rutgers Indemnitees or the Supplier of behalf of the Rutgers Indemnitees without Rutgers' express written consent; (iv) Rutgers shall cooperate fully with the Supplier in the defense of the Indemnified Claim, at the Supplier's sole cost and expense; and (v) Rutgers shall be entitled but not obligated to participate in any defense at its own expense and with counsel of its choosing. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, AND EXCEPT FOR THE SUPPLIER'S OBLIGATIONS SET OUT IN SECTION 6 (CONFIDENTIALITY AND SECURITY); SECTION 8 (INDEMNIFICATION); THE SUPPLIER'S BAD FAITH REFUSAL TO PERFORM THE SERVICES OR ANY OTHER OBLIGATIONS UNDER THE AGREEMENT; BODILY INJURY OR DEATH; PROPERTY DAMAGE; VIOLATIONS OF APPLICABLE LAW; AND GROSS NEGLIGENCE OR RECKLESS MISCONDUCT, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOST PROFITS, LOST BUSINESS, OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES.

9. INSURANCE

The Supplier shall, and cause its subcontractors of any tier, to maintain, at its own cost and expense, the insurance policies described herein and submit to Rutgers prior to PO issuance as evidence thereof in the form of current certificates of insurance certifying all coverage. All policies and certificates of insurance, except workers' compensation, shall be endorsed to name Rutgers as an additional insured and provide for the insurer's waiver of subrogation in favor of Rutgers. **Such coverage shall be deemed primary coverage irrespective of any insurance maintained by Rutgers.** All policies and certificates shall contain the provision that the insurance shall not be cancelled for any reason, except after thirty (30) days written notice to Rutgers. Failure to maintain insurance coverage consistent with the provisions of this Section shall be considered a material breach of contract. The following insurance coverage is the minimum required and shall not relieve the Supplier of any liability where liability for injury, death, and property damage is greater than the insurance coverage:

9.1. Commercial General Liability Insurance. Shall cover bodily injury, death or property damage with minimum combined single limits of \$2,000,000.00 per occurrence and in the aggregate. This policy shall include broad form contractual liability, products liability and completed operations coverage.

9.2. Workers' Compensation and Employer's Liability Insurance. Shall provide statutory coverage in accordance with the Workers' Compensation Laws of the State of New Jersey and Employers' Liability coverage with limits of not less than: \$1,000,000 each employee for Bodily Injury by Accident; \$1,000,000 each employee for Bodily Injury by Disease; and \$1,000,000 Bodily Injury by Disease policy limit.

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9.3. Business Automobile Liability Insurance. Shall cover all owned, non-owned and hired vehicles with a combined single limit of \$1,000,000 each accident and in the aggregate. If the Supplier is providing transportation services utilizing buses or vans, it shall maintain Business Automobile Liability insurance with a combined single limit of not less than \$5,000,000.

9.4. Professional Liability or Errors and Omissions Insurance. Shall cover the work under this Agreement in the following amounts, \$1,000,000 per claim, \$3,000,000 in the aggregate.

9.5. Cyber/Privacy Liability Insurance. Shall cover the work under this Agreement with limits/sublimits not less than \$1,000,000, which provides, at a minimum, coverage for: (i) Security and Privacy Liability, including defense and indemnity for liability and damages (including investigations, fines, and penalties) resulting from any failure to protect, misuse, misappropriation, unauthorized disclosure, or other breach of private information and personally identifiable information and Rutgers' data; and (ii) event management, including but not limited to data breach notification, public relations, forensics, credit monitoring, and related costs; arising from the Supplier's performance of services. In cases where protected health information (PHI), electronic protected health information (ePHI), electronic health records (EHR) or FERPA records are involved, insurance with limits/sublimits not less than \$5,000,000 for liability and damages resulting from any misuse, misappropriation, unauthorized disclosure or other breach of private information and personally identifiable information, arising from the Supplier's performance of services is required. Such damages shall include notification costs and/or forensics costs, fines, penalties, and related damages. The Cyber/Privacy Liability insurance requirement can be satisfied by a stand-alone policy or by an endorsement to the Commercial General Liability or the Professional Liability/ Errors & Omissions policy.

10. OWNERSHIP RIGHTS

10.1. Work Made for Hire. The Supplier shall disclose promptly all Work Product to Rutgers. The Supplier agrees that all Work Product made, discovered, developed, authored, prepared or conceived by Supplier in connection with the furtherance of this Agreement whether alone or in combination with another, whether or not on Rutgers' premises, shall belong solely and exclusively to Rutgers. To the extent permitted by law, the Supplier acknowledges that no rights whatsoever in the Work Product are retained by the Supplier including the right to prepare derivative works and that any work of authorship shall be deemed a work made for hire.

10.2. Work Product Rights. The Supplier agrees to and hereby does assign all right, title and interest in and to any Work Product to Rutgers, including any intellectual property rights attached to the work product. Rutgers shall have the right to apply for, prosecute, obtain, retain and transfer any and all copyrights, trademarks, registrations, patents or any such similar right or property interest arising from or in connection with the Work Product. The Supplier agrees to cooperate with and provide all reasonable assistance to Rutgers, its designees, assignees or licensees in connection with the foregoing.

10.3. Supplier's Rights. Notwithstanding the foregoing, the Supplier will retain ownership of its pre-existing and proprietary materials and other intellectual property that may be incorporated into the Work Product, provided that the Supplier will inform Rutgers in writing before incorporating any pre-existing material or pre-existing intellectual property into the Work Product. The Supplier hereby grants Rutgers a perpetual, irrevocable, royalty-free, worldwide right and license (with the right to sublicense) to freely use, make, have made, reproduce, disseminate, display, perform, and create derivative works based on such pre-existing materials and intellectual property as may be incorporated into the Work Product or otherwise provided to Rutgers in the course of performing the Services.

10.4. Recording Rights. The Supplier grants to Rutgers a nonexclusive, nontransferable license and right to make an audio and/or video recording or photographic images of the services rendered, and to retain a copy of the audio, video and/or photographs for the purpose of archival records and certain personal use, such as educational, informational, advertising or other commercial use, provided such use does not result in direct monetary payment to Rutgers. Supplier hereby acknowledges and agrees that Rutgers shall be, and is, the sole owner of all rights, title and interest in and to the audio, video and/or photographs, including the copyright.

10.5. Grant of Rights to Rutgers in Work. The Supplier hereby grants to Rutgers a worldwide, non-exclusive, sublicensable, fully paid-up, royalty-free license in and to those Intellectual Property Rights

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necessary to permit

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Rutgers: (i) to copy, distribute, modify, and otherwise use and exploit the Work, and (ii) to make, use, and transfer items that embody the Work; provided, however, that Rutgers shall exercise such rights solely for the purposes specified in or contemplated by the Agreement and Rutgers's operations. Rutgers shall retain such rights for the useful life of the Work, as determined by Rutgers.

10.6. Grant of Rights to the Supplier in Rutgers Data. Subject to the terms and conditions of the Agreement, including those set out in Section 6 (Confidential or Private Information), Rutgers, under its Intellectual Property Rights, hereby grants to the Supplier during the Term, a limited, non-exclusive, non-transferrable, non-sublicensable license to copy and modify Rutgers Data, but solely for the purpose of the Supplier fulfilling its obligations to Rutgers under the Agreement, and for no other purpose. The Supplier acknowledges that the rights granted to it pursuant to this Section 10.6 (Grant of Rights to the Supplier in Rutgers Data) shall immediately terminate upon any Agreement termination or expiration.

10.7. Ownership of Rutgers Data. The Supplier acknowledges that (i) Rutgers Data is licensed, not sold, to the Supplier, and (ii) as between the Supplier and Rutgers, and subject to Section 10.6 (Grant of Rights to the Supplier in Rutgers Data), Rutgers is the sole and exclusive owner of all of the right, title, and interest in and to Rutgers Data, and in and to all associated Intellectual Property Rights.

10.8. No Implied Rights. Nothing in the Agreement shall be construed to grant the Supplier any rights other than those expressly provided herein. Any rights granted to the Supplier under the Agreement must be expressly provided herein, and there shall be no implied rights pursuant to the Agreement, based on any course of conduct or other construction or interpretation thereof. All rights and licenses not expressly granted herein by Rutgers are reserved.

10.9. Bankruptcy Code Section 365(n). The licenses granted to Rutgers in the Agreement are rights to "intellectual property" for purposes of Section 365(n) of the U.S. Bankruptcy Code, and Rutgers shall be entitled to exercise all rights provided by Section 365(n). The Supplier agrees that it shall not interfere with Rutgers' exercise of such rights and further agrees that Rutgers shall maintain the licenses under the terms of the Agreement, even if the Supplier ceases operations or is purchased or merges into another entity.

10.10. Feedback Disclaimer. During the Term of this Agreement, Rutgers may provide to the Supplier any input, comments or suggestions for the modification, correction, improvement or enhancement of the Products and/or Services (collectively "Feedback"). Nothing in this Agreement will restrict the Supplier's right to use or otherwise exploit Feedback, without compensating or crediting Rutgers or the individual providing such Feedback, except to the limited extent that Section 6 (CONFIDENTIALITY AND SECURITY) governs Feedback that constitutes Rutgers' Confidential Information and subject to the Supplier's compliance with Sections 13.20-13.22.

11. DELIVERY AND TITLE

11.1. Timely Delivery. Time is of the essence in the Supplier's performance of this Agreement. Rutgers is relying upon the promised delivery date, installation and/or service performance set forth in this Agreement and basic to Rutgers' acceptance. If the Supplier fails to deliver or perform as and when promised, Rutgers, in its sole discretion, may terminate this Agreement, PO, or any part thereof, without prejudice to its other rights, return all or part of any shipment made, and charge the Supplier with any loss or expense sustained as a result of such failure to deliver or perform as promised.

11.2. Delivery. Delivery of Merchandise required by this Agreement must be made in the quantities specified by Rutgers. Unless otherwise agreed upon in writing, all Merchandise under this Agreement shall be delivered to Rutgers DDP (delivery duty paid) during Rutgers' normal business hours. Unless otherwise agreed, items received must be new and, if type of materials normally packaged for protection and convenience in storage, shall be in proper container.

11.3. Ownership and Transfer. The Supplier certifies that it has all power and authority to convey ownership of the Merchandise to Rutgers in accordance with this Agreement, that the Merchandise is free and clear of all liens and encumbrances, and that the Supplier has a good and marketable title to same. The Supplier agrees to defend and indemnify Rutgers for any liability and damages resulting from third party claims challenging the Supplier's or Rutgers' title to the Merchandise.

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11.4. Title and Risk of Loss; Inspection. Title to and risk of loss shall remain with the Supplier until receipt by Rutgers, subject to Rutgers' right of inspection and rejection in the event of nonconformance. For a reasonable time after delivery and before acceptance, Rutgers shall have the right to inspect and test the Merchandise. Rutgers shall notify the Supplier if the Merchandise does not conform to this Agreement. At its sole option, Rutgers may return to the Supplier any rejected Merchandise. Such rejected goods shall remain at the Supplier's risk until returned to the Supplier at Supplier's expense. Rutgers may, at its sole option, demand that Supplier promptly correct, repair or replace all nonconforming Merchandise at its sole expense. Payment for Merchandise by Rutgers prior to inspection shall not constitute acceptance thereof and is without prejudice to any and all claims that Rutgers may against the Supplier.

11.5. Accessibility to Rutgers Data and Work. Rutgers shall have full access at all times to all Rutgers Data (including drafts of Rutgers Data and documentation related to Work contemplated in the Agreement) that are within the Supplier's possession or control. The Supplier shall immediately provide Rutgers with copies of all such Rutgers Data upon Rutgers' request. This Supplier obligation applies even if the Supplier is in dispute with Rutgers or may otherwise claim or have the right to withhold any such materials from Rutgers.

12. COMPLIANCE WITH LAWS; CODES; RULES; REGULATIONS

12.1. Anti-Kickback Statute. Each Party certifies that it shall not violate the federal anti-kickback statute, set forth at 42 U.S.C. §1320a-7b(b) ("Anti-Kickback Statute"), or the federal prohibition on physician self-referrals, set forth at 42 U.S.C. § 1395nn ("Stark Law"), with respect to the performance of its obligations under this Agreement.

12.2. Non-Discrimination. Rutgers is an equal opportunity employer and federal contractor or subcontractor. The Supplier hereby represents that it is an equal opportunity the Supplier and it and its subcontractors (if any) agree to comply with the laws and regulation pursuant to the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq.; the Civil Rights Act of 1964, Title VI and VII, 42 U.S.C.A. §200d and e, et seq.; Title IX of the Education Amendments of 1972; the Age Discrimination in Employment Act, 29 U.S.C.A. §621, et seq.; the Americans with Disabilities Act, 42 U.S.C.A §12101, et seq.; the Vietnam Era Veterans Readjustment Assistance Act of 1974; Section 503 of the Vocational Rehabilitation Act of 1973; Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), as applicable, relating to the notice of employee rights under federal labor laws; and all other laws guaranteeing equal employment. Consequently, the Parties agree that, as applicable, they will abide by the requirements 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment and otherwise treat qualified individuals without discrimination based on their status as protected veteran or individual with a disability.

12.3. Additional Affirmative Action Requirements. If this Agreement is for \$50,000 or greater, and is for a goods or services contract as defined by N.J.A.C. 17:27 Exhibit A is incorporated herein by reference. Upon request, the Supplier is required to provide Rutgers with a copy of either a federally approved Affirmative Action program or a certificate of Employment Information Report. If neither federal form is available, the Supplier must provide a copy of a completed AA-302 form. Certificates are to be mailed to University Procurement Services, Rutgers, The State University of New Jersey, Attn: Affirmative Action Administrator: 33 Knightsbridge Road, First Floor, Piscataway, NJ 08854.

12.4. Federal Funding. If this Agreement is funded by the federal government the following clauses apply:

12.4.1. The Supplier is required to comply with all applicable federal laws, which are hereby incorporated by reference as if they were set forth herein, including, but not limited to all laws, regulations and rules. Procurements made with federal funds are subject to compliance with the standards and requirements as set for in 2 CFR, Part 215, OMB Circular A-133, Paragraph 5. All procurement requirements contained in the above Circular are incorporated herein by reference. In accordance with Federal law

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and the U.S. Department of Agriculture civil rights regulations and policies, Rutgers is prohibited from

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discriminating on the basis of race, color, national origin (including limited English proficiency), sex, age, disability, and reprisal or retaliation for prior civil rights activity. The Supplier represents that no federal funds are or will be used by Supplier for programs that discriminate based on protected characteristics, including on the basis of race, color, national origin (including limited English proficiency), sex, age, disability, and reprisal or retaliation for prior civil rights activity.

12.4.2. In connection with the performance of Work under this Agreement, the Supplier agrees as follows: (1) the Supplier will not engage in any racially discriminatory DEI activities, as defined in section 2 of the Executive Order of March 26, 2026 (Addressing DEI Discrimination by Federal Contractors); (2) the Supplier will furnish all information and reports, including providing access to books, records, and accounts, as required by the contracting agency pursuant to the Executive Order of March 26, 2026 (Addressing DEI Discrimination by Federal Contractors), for purposes of ascertaining compliance with this clause; (3) in the event of the Supplier's or a subcontractor's noncompliance with this clause, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Supplier or subcontractor may be declared ineligible for further Government contracts; (4) the Supplier will report any subcontractor's known or reasonably knowable conduct that may violate this clause to the contracting department or agency and take any appropriate remedial actions directed by the contracting department or agency; (5) the Supplier will inform the contracting department or agency if a subcontractor sues the Supplier and the suit puts at issue, in any way, the validity of this clause; and (6) the Supplier recognizes that compliance with the requirements of this clause are material to the Government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code (False Claims Act).

12.5. ARRA Funding. If this Agreement is funded from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, the Supplier is required to comply with all applicable laws, hereby incorporated by references as if they were set forth herein including, but not limited to the Davis-Bacon Act and Buy American Act.

12.6. Recovered Materials. If this Agreement is funded by the federal government, any goods (or services where applicable) delivered by the Supplier must comply with the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 and must contain the highest percentage of recovered materials practicable.

12.7. Patient Information. In the event that this Agreement involves access to patient care areas and/or access to or use of protected health information, the Supplier agrees to execute a Rutgers' Business Associate Agreement or Addendum, as required by the HIPAA Privacy Rule codified at 45 C.F.R. Part 160 and 164, which shall be obtained from the University Director of Privacy.

12.8. "Public Works" Projects. Any Supplier awarded a Purchase Order by Rutgers for all "public works" projects, as defined by the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.26 et seq. ("PWA"), shall adhere to all requirements of the PWA. The PWA, N.J.S.A. 34:11-56.26(5), defines "public works" as "construction, reconstruction, demolition, alteration, custom fabrication, repair work, maintenance work, including painting and decorating." Supplier guarantees that neither it nor any subcontractor it might employ to perform Services covered by this Purchase Order has been suspended or debarred by the Commissioner of Labor and Workforce Development for violation of the provisions of the PWA. The Supplier agrees that it shall comply with the provisions of the Public Works Contractor Registration Act, N.J.S.A. 34:11-56.48, where required. The Supplier shall comply with the provisions of the Public Works Contractor Registration Act, N.J.S.A. 34:11-56.48, where required. The Supplier shall submit certified payroll records to the Department of Labor and Workforce Development via the New Jersey Wage Hub. The Supplier is also responsible for ensuring that all subcontractors' certified payroll is also submitted via the New Jersey Wage Hub. At Rutgers' request certified payroll records shall also be submitted to Rutgers for the project for each payroll period within ten (10) days of payment of wages in accordance with N.J.A.C. 12:60-62. The Supplier is also responsible for obtaining and submitting all subcontractors' certified payroll records.

12.9. Building Services. With respect to any Purchase Order for "Building Services," the employees of the Supplier or its subcontractor shall be paid prevailing wage for "Building Service" rates, as provided in N.J.S.A. 34:11.56.60. N.J.S.A. 34:11.56.59 defines "Building Services" as "any cleaning or building maintenance work,

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including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling or other work in connection with the care, securing or maintenance of an existing building.” The prevailing wage shall be adjusted annually during the term of this Purchase Order.

12.10. PCI Compliance. Credit Card Data (PCI-DSS Compliance) – The Supplier certifies that their Information Technology practices conform to and meet Payment Card Industry Data Security Standard (PCI DSS) requirements as defined by The Payment Card Industry Security Standards Council (PCI SSC) at: <https://www.pcisecuritystandards.org>. The Supplier will monitor these PCI DSS requirements and its own Information Technology practices and will notify Rutgers within five (5) business days if its IT practices do not conform to such requirements. If the Supplier is unable to conform its Information Technology practices to the PCI DSS requirements within 30 days of its notification of nonconformity to Rutgers, Rutgers shall have the right to terminate this Agreement. The Supplier will provide either a letter of certification to attest to meeting this requirement or, if subject to PCI DSS or Payment Application Data Security Standard (PA-DSS), appropriate validation documentation as defined by the PCI SSC. The Supplier agrees that it may (1) create, (2) receive from or on behalf of Rutgers, or (3) have access to, payment card records or record systems containing cardholder data including credit card numbers, cardholder names, service codes or expiration dates (collectively, the “Cardholder Data”) and shall accept responsibility for such Cardholder Data that the Supplier has in its possession in accordance with PCI-DSS Requirement. The Supplier shall comply with the Payment Card Industry Data Security Standard (PCI DSS) requirements for Cardholder Data that are prescribed by PCI SSC member card brands, as they may be amended from time to time (collectively, the “PCI DSS Requirements”). The Supplier acknowledges and agrees that Cardholder Data may only be used for assisting in completing a card transaction, for fraud control services, for loyalty programs, or as specifically agreed to by PCI SSC member card brands, for purposes of the Agreement or as required by applicable law.

12.11. Digital Accessibility. For all applicable Merchandise and Services provided by the Supplier, the Supplier shall comply with the Americans with Disabilities Act, 42 U.S.C.A S12101 et seq. (“ADA”), in a manner consistent with the W3C Web Content Accessibility Guidelines, version 2.1, at conformance level AA (“WCAG 2.1 AA”). If applicable Merchandise or Services do not fully conform to WCAG 2.1 AA, the Supplier shall inform Rutgers of non-conformance prior to the execution of this Agreement and shall provide a plan to achieve conformance within thirty (30) days of execution of this Agreement at the Supplier’s sole expense. If during the term of this Agreement, the Supplier fails to maintain compliance with the ADA consistent with WCAG 2.1 AA, or Rutgers identifies an accessibility barrier in the Merchandise or Services that renders the Merchandise or Services inaccessible or unusable to people with disabilities pursuant to the ADA, Rutgers may notify the Supplier of non-compliance. The Supplier shall have thirty (30) days to meet the requirements of the ADA consistent with WCAG 2.1 AA. If the Supplier fails to meet the requirements within the thirty (30)-day timeline, Rutgers may terminate this Agreement, and the Supplier shall refund to Rutgers a pro-rata share of any pre-paid fees. The Supplier agrees to promptly respond to and resolve any complaint regarding accessibility of its Merchandise or Services that is brought to its attention. The Supplier further agrees to indemnify and hold harmless Rutgers for its failure to comply with the ADA and requirements of this section.

13. GENERAL TERMS

13.1. Governing Law; Jurisdiction. This Agreement shall be construed in accordance with the laws of the State of New Jersey. The Parties agree that any and all disputes arising out of this Agreement shall be filed and heard in the New Jersey Superior Court, Middlesex County or the United States District Court for the District of New Jersey, and the Parties hereto consent to the jurisdiction of said courts.

13.2. Collection, Attorney or Litigation. Except as otherwise provided in Section 8 (INDEMNIFICATION), each Party will be responsible for their own attorney, litigation, or collection fee, and each Party will be responsible for their own arbitration and/or court cost no matter who is the prevailing party.

13.3. Independent Contractor. The Supplier is an independent contractor, and nothing in this Agreement constitutes the Parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking, or allow either Party to create or assume any obligation on behalf of the other Party for any

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purpose whatsoever. Furthermore, the Supplier and its employees or agents, are not, and shall not be considered, employees of Rutgers. The Supplier acknowledges full responsibility for compliance with all Federal, State, and City tax regulations regarding taxes that may accrue for the Services, including expenses, if any, paid to the Supplier as a result of services rendered to Rutgers. Further, Rutgers will not provide any medical, health, insurance or similar plans or workers' compensation or any other benefit whatsoever to the Supplier, its agents or employees. The Supplier has no actual authority, nor shall the Supplier give the impression of having apparent authority, to bind or represent Rutgers with regard to any third-parties.

13.4. Subcontracting or Assignment. the Supplier shall not assign, delegate or subcontract any of the Work or Services covered by this Agreement, nor shall any interest in this Agreement be assigned or transferred, without prior written approval of Rutgers. If the Supplier engages subcontractors in connection with this Agreement, then the Supplier agrees that it shall remain fully and directly liable for all obligations under the Agreement as though no such subcontracting had occurred. The Supplier shall be solely responsible for ensuring that any subcontractors it engages fully comply with the Supplier's obligations under this Agreement as if such subcontractor were the Supplier.

13.5. Third Parties. This Agreement shall not confer any rights or remedies upon any third-party other than the Parties to this Agreement and their respective successors and permitted assigns.

13.6. Premises. the Supplier shall confine its facilities, materials, tools and equipment in areas specified by Rutgers for that purpose, if applicable. The Supplier shall on a daily basis and on completion of Services, clean up and remove all waste materials, rubbish, tools and machinery and leave adjoining premises, driveways and streets free and clear from all obstructions. At the completion of the Services, the Supplier shall return Rutgers' site to its original condition or as otherwise required in this Agreement. Damages to the premises caused by the Supplier or their staff, either intentionally or through negligence, shall be paid for by the Supplier, deducted from the payment, or result in the payment being withheld by Rutgers.

13.7. Alcohol and Drugs. Intoxicating beverages or substances are not permitted to be in the possession of any person performing under this Agreement. The Supplier's employees, agents and guests are prohibited from having alcoholic beverages or controlled dangerous substances on Rutgers property. The Supplier shall inform all of its employees, agents and guests of this prohibition, and shall assist Rutgers in enforcing this policy. In the event the Supplier, its employees, agents or guests arrive at the service location under the influence of intoxicating beverages or substances, Rutgers may terminate this Agreement without liability and deem such conduct a breach of the Agreement.

13.8. Multi-Agency Use. The Supplier agrees that any Rutgers affiliate, subsidiary, or foundation can utilize the same pricing, terms, and conditions set out in the Agreement.

13.9. No Personal Liability. No governor, trustee, officer, faculty, student, or employee of Rutgers shall be charged personally by the Supplier, its employees, agents, contractors, or subcontractors, nor be personally responsible for any liability arising under this Agreement, whether expressed or implied.

13.10. Freedom of Action. Rutgers is free and without restriction to procure any goods and services as it sees fit, and to engage other third parties to assist in the same or otherwise provide goods and services, including those that compete directly with the Supplier.

13.11. Favored Customer. The Supplier represents the prices, terms, warranties, and benefits specified in its proposal are comparable to or better than the equivalent terms being offered by the Supplier to any present customer where the volume and product mix purchased are similar and made under comparable terms and conditions within the same industry for comparable purchase volumes.

13.12. Required Legal Provisions. As a public entity, Rutgers is required by law, rule, or regulation to include certain provisions in agreements that it enters into with third parties (collectively, the "Required Legal Provisions"). Notwithstanding anything to the contrary, if any Required Legal Provision is not included in this Agreement, or included incorrectly, then this Agreement shall be deemed amended so as to include the Required Legal Provision in the required form, and such Required Legal Provision shall be binding on the Parties.

13.13. Amendment. No changes to this Agreement shall be made except in writing by Rutgers and signed by Rutgers and the Supplier.

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13.14. Click-Throughs Superseded. In the event the Supplier enters into terms of use, end user agreement, or other agreements or understandings, whether electronic, click-through, or shrink-wrap, and whether verbal or written, with Rutgers' employees or other end users, such agreements apply to end users in their individual capacity. The Supplier agrees that such agreements do not apply to Rutgers.

13.15. Notices. Any notices regarding this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) when sent by confirmed electronic mail if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day; or (iii) as indicated by a tracking report or signed delivery receipt if sent via an overnight courier service, in each case properly addressed to the Party to receive the same. All written notices to Rutgers shall be sent to procure@finance.rutgers.edu or Rutgers, The State University of New Jersey at 33 Knightsbridge Road, East Wing – First Floor, Piscataway, NJ 08854, to the attention University Procurement Services, and the Supplier at its address as set forth in this Agreement, or at such other address as either party may designate in writing to the other party. Either Party may change its addressee or other information by providing written notice thereof to the other Party.

13.16. Non-Waiver. The failure of either Party to exercise any of its rights under this agreement for a breach thereof shall not be deemed to be a waiver of such rights, nor shall the same be deemed to be a waiver of any subsequent breach, either of the same provision or otherwise.

13.17. Severability. If any provision of this Agreement shall be determined to be void, invalid, unenforceable or illegal for any reason, it shall be ineffective only to the extent of such prohibition and the validity and enforceability of all the remaining provisions shall not be affected thereby.

13.18. Survival. The following sections shall survive termination or expiration of this Agreement: Section 2, 5, 6, 7, 8, 9, and 13.

13.19. Remedies. The Supplier acknowledges that Rutgers will be irreparably harmed if the Supplier's obligations hereunder are not specifically enforced and that Rutgers would not have an adequate remedy at law in the event of an actual or threatened violation by the Supplier of its obligations hereunder. Therefore, the Supplier agrees and consents that Rutgers shall be entitled to seek an injunction, including preliminary, or any appropriate

decree of specific performance for any actual or threatened violation or breach by the Supplier or any agent of the Supplier, without the posting of any bond, and such other relief as may be just and proper, including the right to recover all losses or damages suffered by Rutgers resulting from any such breach or threatened breach. In the event Rutgers applies to seal any papers produced or filed in any judicial proceedings to preserve confidentiality, the Supplier specifically agrees not to oppose such application and to use its best efforts to join such application.

13.20. Use of Name. The Supplier will not use the name, insignia, or symbols of Rutgers, its faculties or departments, or any variations or combination thereof, or the name of any governors, trustees, faculty member, other employee, or student of Rutgers for any purpose whatsoever without Rutgers' prior written consent.

13.21. Trademark and Licensing. The Supplier agrees to comply with all licensing and trademark policies and procedures for Merchandise sold by the Supplier with the Rutgers logo. Requirements may be found at Rutgers' website, <https://communications.rutgers.edu/brand-policies/trademark-licensing> (and updates thereto). All costs associated with this process will be borne by the Supplier.

13.22. Advertising and Publicity. To the fullest extent permitted by law, the Supplier shall not publicize, issue, or disclose any release, statement, or other information relating to the Work or Rutgers in any manner, including in advertisements, publications, case studies, press releases, articles, websites, social media, or speeches, without Rutgers's prior written approval, which may be withheld or withdrawn for any reason.

13.23. Force Majeure. Rutgers shall not be liable for, nor deemed in default due to, any failure or delay in performance of its obligations under this Agreement, nor for any loss or damage resulting there from, due to causes beyond its reasonable control, including, without limitation; acts of God; acts of public enemy; war; terrorism; riots; civil unrest; fires; floods; natural disasters; pandemics; epidemics; public health emergencies; labor shortages; supply chain disruptions; utility failures; failures of transportation; cyber incidents;

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governmental action, directive, order, or inaction; changes in law or regulation; funding reductions; or any other

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cause beyond Rutgers' reasonable control. In the event of such failure or delay, the date of delivery or performance shall be extended for a period not to exceed the time lost by reason of the failure or delay; provided that Rutgers may terminate this Agreement if the period of failure or delay exceeds fifteen (15) days. Rutgers shall have no obligation to make any payments to the Supplier during the period of failure or delay for any Services affected by the Force Majeure. Each Party shall notify the other promptly of any failure or delay in, and the effect on, its performance.

13.24. Access to Records. Rutgers shall have full access to the Supplier records, including, but not limited to financial records, in connection with this Agreement. All financial records shall be subject to audit by Rutgers upon advanced notice. The Supplier shall maintain all documentation related to Merchandise, Services and transactions under the Agreement for a period of five years from date of final payment. Such records shall be made available to the New Jersey Office of State Comptroller upon request.

13.25. Non-Solicitation. The Supplier agrees that, during its engagement by Rutgers and for a period of twelve (12) months thereafter, it will not and will not attempt to, directly or indirectly, influence, solicit or canvass, any employee of Rutgers, to work for the Supplier or any individual, partnership, firm, corporation, or other entity associated with the Supplier.

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ADDITIONAL TERMS INCORPORATED INTO ENGAGEMENTS WITH ARTISTS OR PERFORMERS

14. ARTIST / PERFORMER TERMS

14.1. Logistics. The Supplier must provide Rutgers with the following information, in writing, at least 30 days prior to the Services: (i) full technical requirements to be provided for the event; (ii) scheduled time of the Supplier's arrival to the Services location; (iii) scheduled time of any sound checks; and (iv) diagram indicating placement of equipment on stage or at venue. The Supplier shall furnish all materials to perform the Services, except where agreed to in advance by both Parties. If Rutgers deems any of the logistics unreasonable, then Rutgers has the right to terminate without any liability to the Supplier for all fees and expenses. The Supplier shall reimburse Rutgers for any additional costs at the time of the event incurred by Rutgers as a result of changes required by the Supplier from the technical requirements.

14.2. Advertising. Services are for the Rutgers community and invited guests; therefore, the Supplier shall not conduct any outside advertising or radio promotions unless agreed upon in writing by Rutgers.

14.3. Merchandise. The Supplier shall not sell any products while performing the Services, including but not limited to the sale of CD's, records, tapes or other mementos, unless agreed upon in writing by Rutgers.

14.4. Control of Services. If the Supplier is not punctual in arrival according to the schedule provided by the Supplier to Rutgers, the Supplier shall reimburse Rutgers for any additional costs incurred by Rutgers as a result of such tardiness (e.g., facilities maintenance services, electrician's fees, etc.). If the Supplier fails to appear for the Services, the Supplier shall reimburse Rutgers for all bona fide costs related to the event and this Agreement will be voidable by Rutgers. Notwithstanding the foregoing provisions of this Agreement, if the Supplier fails to perform to the specifications of this Agreement, payment may be reduced or withheld by Rutgers. The Supplier will control the details and manner of the Services but it is agreed to and understood that Rutgers shall have the right to direct the Supplier to discontinue any activity constituting violation of a university policy, state statute, applicable ordinances, direction of lawful authority, or, if Rutgers determines, in its sole discretion, that the Services is disruptive to the normal functions of the university. Such discontinuation shall not be considered a breach of this Agreement. Municipal law imposes an 11 p.m. sound amplification curfew Sunday through Thursday and 12 a.m. sound amplification on Friday and Saturday curfew on all outdoor, on-campus live performances at Rutgers University, New Brunswick/Piscataway campuses. There are also a 10 p.m. sound amplification curfew on the Newark campus and a 10 p.m. sound amplification curfew on the Camden campus. The Supplier shall end the Services before or by the curfew time.

14.5. Security. The Supplier shall comply with all security measures and procedures adopted by Rutgers, including but not limited to metal detector scanning. The Supplier agrees not to engage in, or encourage audience participation in behaviors that in any way threaten or endanger personal safety or security, including but not limited to stage diving, crowd surfing, floating, or moshing. The Supplier agrees not to enter the audience at any point during the event, nor invite or encourage audience members to come on stage, unless previously approved in writing by Rutgers as part of the event. The Supplier acknowledges that such behaviors significantly increase the risk of injury to patrons. The Supplier shall be responsible for any and all damage or injury arising from any such incident.

UNIVERSITY PROCUREMENT TERMS AND CONDITIONS**ADDITIONAL TERMS INCORPORATED INTO HOSPITALITY AGREEMENTS****15. HOSPITALITY TERMS**

15.1. Attrition Fees. Rutgers shall pay the Supplier if Rutgers does not utilize 80% of the total room nights committed in the room block. Rutgers will be invoiced following the official end date, as liquidated damages and not as penalty, for the difference between 80% of the total room nights and Rutgers' actual usage of rooms, multiplied by the single group room rate.

15.2. Mitigation/Resell of Guest Rooms or Meeting Space. The Supplier shall undertake all reasonable efforts to resell any unused or cancelled rooms and any unused or cancelled function space, and it will credit those revenues against any penalties, attrition fees, performance clause fees, or liquidated damages. For any day that the Supplier achieves 100% occupancy during the official event dates, Rutgers will receive credit for full achievement of the contracted guest room block for that day. The Supplier must submit to Rutgers a copy of the daily occupancy report documenting that the rooms were not resold and were available for sale. Any revenue received by the Supplier from the resell of guest rooms or function space over the cancelled event dates shall be credited back to Rutgers within thirty (30) days after the final date of the meeting.

15.3. Food and Beverage Minimum Charge. The Supplier shall establish an 80% Minimum Food and Beverage Charge which it shall require Rutgers to fulfill for any functions at which food and/or beverage services are required at the event ("Food and Beverage Functions"). Should the expected guest count drop below the agreed-upon estimated number of guests prior to the event, the Supplier shall advise Rutgers of alternatives for food and beverage which shall bring the function back up to the Minimum Food and Beverage Charge for the function.

15.4. Cancellation. Rutgers may cancel any event upon written notice to the Supplier at any time prior to the event date. Such termination and cancellation shall be followed by a cancellation payment to the non-canceling party based on the following scale:

120 days up to 91 days prior to start date of event	25% of Guestroom Revenue only
90 days up to 61 days prior to start date of event	50% of Guestroom Revenue only
60 days up to 31 days prior to start date of event	75% of Guestroom Revenue, 40% of Food & Beverage, and Rental Minimums
30 days prior to start date of event	85% of Guestroom Revenue, 80% of Food & Beverage, and Rental Minimums

15.4.1. Change in Management. The Supplier shall promptly notify Rutgers if there is a change in its management prior to the event and Rutgers shall have the right to cancel this Agreement without liability upon written notice to the Supplier.

15.4.2. Construction/Renovation. In the event that the Supplier will be undergoing any construction or renovation during the event dates, the Supplier shall promptly notify Rutgers and Rutgers shall have the right to cancel this Agreement without liability upon written notice to the Supplier, if in the reasonable judgment of Rutgers such construction or renovation may unreasonably affect the use of the facilities or the quality of service to be provided under this Agreement.