

TECHNOLOGY PURCHASE ORDER GENERAL TERMS AND CONDITION (Effective August 26, 2022)

1. Suppliers must have a valid contract or purchase order (herein this "Purchase Order") with the signature of the Chief Procurement Officer to receive payment for technology services and equipment provided. Suppliers who perform work without a valid Purchase Order or approved contract will not be paid.
2. Technology services, software and equipment provided by the Supplier pursuant to this Purchase Order (the "Services, Software and/or Equipment"), are subject to the review, approval, and acceptance of the City for completeness and fulfillment of the requirements of this Purchase Order. Neither the City's review, approval nor payment for any of the amounts listed in the Purchase Order shall be construed to operate as a waiver of any rights under the Purchase Order, and the Supplier shall be and will remain liable in accordance with applicable law for all damages to the City caused by the Supplier's incorrect performance or nonperformance of the Services, Software and/or Equipment, furnished under the Purchase Order.
3. The City and the Supplier expressly acknowledge their mutual understanding and agreement that there are no third-party beneficiaries to the Purchase Order and that the Purchase Order shall not be construed to benefit any persons other than the City and the Supplier.
4. The City will not directly or indirectly through any third parties attempt to reverse-engineer or de-compile the operation of any software acquired by the Purchase Order in any manner through current or future available technologies, except that the City may perform all authorized acts under the terms of this Purchase Order, including without limitation, modifying the City's data.
5. In addition to any other rights granted to the City under the Purchase Order or by operation of law, the Supplier hereby grants the City a perpetual, royalty free license to work product, if any, for unlimited use by the City for any lawful purpose. During the term of the Purchase Order the Supplier shall provide the City access to work product immediately upon the City's request. Upon its termination of the Purchase Order the Supplier shall deliver or provide immediate access to the City to all Data and work product. This covenant shall survive the termination of the Purchase Order. For the purposes of this section 5 work product shall mean the originals, or copies when originals are unavailable, of all materials prepared by the Supplier or the City under the Purchase Order or in anticipation of the Purchase Order, including but not limited to the data, data schemas, studies, briefs, drawings, maps, models, photographs, files, records, computer printouts, estimates, memoranda, computations, papers, supplies, notes, recordings, and videotapes, whether such materials are reduced to writing, magnetically or optically stored, or kept in some other form. Work product as used hereunder does not include any of the Supplier's intellectual property.
6. The Supplier will provide the City with sixty (60) days prior written notice in case the Supplier discontinues use of the cloud platform as described in its scope of work or proposal, if applicable.
7. The City shall be entitled to provide the Supplier with information and feedback concerning the System's functional requirements and product definition which are not addressed in the description of the software and which the Supplier shall consider when formulating the product development roadmap and plans. This co-operative process between Supplier and the City does not create any ownership interest on the part of the City in the software or equipment so developed by the Supplier should the Supplier incorporate any of the City's suggestions into the development plan or ultimately into the software or equipment.
8. For each calendar year during the term of this Purchase Order, Supplier agrees to provide, at no cost, to the City, within the earlier of (i) ninety (90) days after the end of each calendar year or (ii) thirty (30) days after Supplier's receipt, a copy of the SOC Type 2 audit report containing a detailed description of how the Supplier is managing the data, including how data is kept secure from unauthorized use and how it is securely processed.
9. The Supplier hereby grants the City a non-exclusive, non-transferable right to Use and access the software purchased pursuant to the Purchase Order for the City's internal business purposes, during the term of the Purchase Order.
10. **OWNERSHIP OF DATA**
All data collected during the City's use of the Services, Software and/or Equipment, or supplied by the City during the term of the Purchase Order shall be owned by the City. Except as required to deliver the technology services, software

or equipment, the Supplier may not use, disclose, sell, rent, transfer or copy (or authorize or permit a third party to perform such acts) any such data for any purpose, unless the City has provided prior written permission for the Supplier. After the term of the Purchase Order, the Supplier shall immediately return all data to the City and otherwise destroy all data in its possession.

11. WARRANTIES

The Supplier makes the following representations and warranties specifically in connection with the Services, Software and/or Equipment provided by the Purchase Order:

- a. The Services, Software and/or Equipment shall perform according to the specifications and representations set forth in any documentation provided by the Supplier.
- b. The Supplier has the full and unencumbered rights and powers to provide the Services, Software and/or Equipment.
- c. The City's use of the Services, Software and/or Equipment as provided by the Supplier will not infringement any of the intellectual property rights or any third parties.
- d. There are no existing or threatened legal proceedings brought against the Supplier in respect of the Services, Software and/or Equipment, or the Supplier's right to grant others the right to access and use the Services, Software and/or Equipment. Should the Supplier become aware of any such conflict, infringement or violation or potential conflict, infringement or violation, the Supplier will notify the City immediately.
- e. The Supplier has reviewed the Privacy and Security Policies and hereby represents and warrants that the System will comply with the requirements of the Privacy and Security Policies.
- f. The Supplier will allow the City to perform audits of the Supplier's compliance with the Privacy and Security Policies; and
- g. If the Supplier is providing software, that any software is:
 - i. free of any software, programs or routines, commonly known as "disabling code," that are designed to cause damage to, or otherwise make inoperable the software or any City technological system inoperable;
 - ii. free of any spyware and malware; and
 - iii. free of any known or reasonably discoverable computer program, code or set of instructions, commonly known as a "computer virus."

12. INSURANCE

The Supplier shall maintain, at a minimum and at its expense during the term of this Purchase Order, insurance as specified in the bid or RFP related to this Purchase Order, or as otherwise specified by the City in writing:

- a. If during the term of the Purchase Order, changed conditions or other pertinent factors, should in the reasonable judgment of the City, render inadequate the insurance limits, the Supplier will furnish on demand such additional coverage as may reasonably be required under the circumstances. All such insurance shall be affected at the Supplier's expense, under valid and enforceable policies issued by insurers licensed to offer insurance in Michigan.
- b. All policies shall name the Supplier as the insured and shall be accompanied by a commitment from the insurer that such policies shall not be canceled or reduced without at least thirty (30) days' prior notice to the City. The Commercial General Liability insurance policy shall name the "City of Detroit" as an additional insured. Certificates of insurance evidencing such coverage shall be submitted to the Office of Contracting and Procurement prior to the commencement of performance under this Purchase Order and at least fifteen (15) days prior to the expiration dates of expiring policies.

13. INDEMINIFICATION

The Supplier agrees to indemnify, defend, and hold the City harmless against and from any and all liabilities, obligations, damages, penalties, third-party claims, costs, charges, losses and expenses (including, without limitation, fees and expenses for attorneys, expert witnesses and other consultants) that may be imposed upon, incurred by, or asserted against the City or its departments, officers, employees, or agents by reason of any of the following occurring during the term of the Purchase Order:

- a. Any claim for negligent or tortious act, error, or omission attributable in whole or in part to the Supplier or any of its Associates.
- b. Any failure by the Supplier or any of its Associates to perform their obligations, either express or implied, under this Contract.
- c. Any claim for infringement of any patent, copyright, trademark, trade secret, license agreement or any other proprietary rights arising from the City's proper use of the Services, Software or Equipment furnished under the Purchase Order.
- d. Any breach of any of the warranties and representations made by the Supplier in section 9 of this Purchase Order terms and conditions.
- e. Any and all injury to the person or property of an employee of the City where such injury arises out of the Supplier's or any of its Subcontractors' performance of the Purchase Order, including, but not limited to any malfunction or lack of function of the technology services or equipment furnished under the Purchase Order.

14. INVOICING

The Suppliers must register in the Supplier Portal for invoicing for payment. Invoice submission instructions for Supplier Portal usage can be found on the City of Detroit's website at <http://www.detroitmi.gov/Supplier>. Suppliers are required to be set up for Automatic Clearing House (wireless payment) in order to receive payment.

Supplier shall enter its banking information corresponding to the account to which Supplier elects to have the City send payments due pursuant to this Purchase Order (the "Designated Account"). Supplier acknowledges and accepts that the City shall send payments due to Contractor to the Designated Account, and the City shall bear no liability for any error in the information provided by Supplier with respect to the Designated Account. The City has no obligation to independently investigate the information provided by Supplier with respect to the Designated Account.

Invoices must meet the following conditions for payment:

All invoices submitted against a contract must include part or item numbers and/or description. The quantity (for goods) and/or the amount (for services) must correlate to the price listed on the Purchase Order.

Invoicing for goods and/or services should only be entered in the Supplier Portal after goods have been shipped or services have been provided. Invoicing prior to shipment or provision of services is prohibited. Any invoice received prior to shipment or provision of the services will result in the delay of payment.

Timely submission of invoices will result in timely payments.

Questions should be directed to procurementinthecloud@detroitmi.gov.

15. NON-DISCRIMINATION CLAUSE

In accordance with all Federal and State Legislation and Regulations governing Fair Employment, including, but not limited to, Title VII of the Civil Rights Act of 1964 the Michigan Civil Rights Act and the Michigan Handicappers Civil Rights Act, the Supplier agrees that it will not discriminate against employees or applicants for employment with respect to hire, tenure, terms, conditions or privileges of employment because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status or handicap that is unrelated to the ability of the individual to perform the duties of a particular assignment or position. The Supplier recognizes the right of the United States and the State of Michigan to seek judicial enforcement of the foregoing covenants against the Supplier or its sub-suppliers, or both, in order to provide for efficient cooperation and coordination in the handling of Contract compliance programs as provided in the Elliott-Larsen Civil Rights Act, as amended, and the Michigan Handicappers Civil Rights Act, as amended. The Civil Rights, Inclusion and Opportunity Department, The Detroit Human Rights Commission, the Michigan Department of Civil Rights and the Michigan Civil Rights Commission by mutual agreement, have authorized the Civil Rights, Inclusion and Opportunity Department in a contract compliance program to monitor all Suppliers doing business with the City and to review the employment practices of Suppliers seeking to do business with the City prior to doing business with the Supplier so that the Supplier complies with Section 209 of the Michigan Civil Rights Act.

16. CONFLICT OF INTEREST

The Supplier covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of the services under this Purchase Order. The Supplier further covenants that in the performance of this Purchase Order no person having any such interest shall be employed. The Supplier further covenants that no officer, agent, or employee of the City and no other public official who exercise any functions or responsibilities in the review or approval of the undertaking or carrying out of this Purchase Order has any personal or financial interest, direct or indirect, in this Purchase Order or in the proceeds thereof via corporate entity, partnership, or otherwise. The Supplier also hereby warrants that it will not and has not employed any person to solicit or secure this Purchase Order upon any agreement or arrangement for payment of a commission, percentage, brokerage, contingent fee, other than bona fide employees working solely for the Supplier either directly or indirectly, and that if this Warranty is breached, the City may, at its option, terminate this Purchase Order without penalty, liability or obligation, or may, at its election, deduct from any amounts owed to the Supplier hereunder, any amounts of any such commission, percentage, brokerage, or contingent fee.

In accordance with Section 4-122 of the Detroit City Charter, the contractor shall provide a statement listing all political contributions and expenditures ("Statement of Political Contributions and Expenditures"), as defined by the Michigan Campaign Finance Act, MCL 169.201, et seq., made by the contractor, its affiliates, subsidiaries, principals, officers, owners, directors, agents or assigns, to elective City officials within the previous four (4) years. Individuals shall also list any contributions or expenditures from their spouses. This Purchase Order is not valid unless and until the Statement of Political Contributions and Expenditures is provided. The Statement of Political Contributions and Expenditures shall be filed by the contractor on an annual basis for the duration of the Purchase Order, shall be current up to and including the date of its filing, and shall also be filed with all contract renewals and change orders, if any.

17. COMPLIANCE WITH LAWS

The Supplier shall comply with and shall require its subcontractors to comply with all applicable federal, state and local laws. The Supplier shall hold the City harmless with respect to any damages arising from any violation of law by it or its subcontractors. The Supplier shall require as part of any subcontract that the subcontractor comply with all applicable laws and regulations.

18. DEFAULT

Default is defined as the failure of the Supplier to fulfill the obligations of this Purchase Order as determined in the sole discretion of the Chief Procurement Officer or designee.

19. TERMINATION OF CONTRACT FOR CONVENIENCE

The City reserves the absolute right to terminate this Purchase Order in whole or in part, for the convenience of the City at its sole discretion on thirty (30) days written notice to the Supplier.

20. TERMINATION OF CONTRACT FOR CAUSE

The Supplier agrees that the City shall have the right to terminate this Purchase Order Supplier based upon a Default by the Supplier, upon the giving of ten (10) days' notice.

21. CHANGE IN SUPPLIER INFORMATION

Supplier shall notify the Office of Contracting and Procurement upon any change of address, telephone number, facsimile number and electronic mail address, where applicable, within five (5) business days of such change. The notice shall be submitted in writing to procurementinthecloud@detroitmi.gov identified on this Purchase Order and shall include all of Supplier's changed information and the effective date of such change.

22. OFFICE OF THE INSPECTOR GENERAL

In accordance with Section 2-106.6 of the City Charter, any this Purchase Order shall be voidable or rescindable at the discretion of the Mayor or Inspector General at any time if a Public Servant who is a party to this Purchase Order has an interest in this Purchase Order and fails to disclose such interest.

This Purchase Order shall also be voidable or rescindable if a lobbyist or employee of the Supplier offers or has offered a prohibited gift, gratuity, honoraria or payment to a Public Servant in relation to this Purchase Order. A fine shall be assessed to the Supplier in the event of a violation of Section 2-106.6 of the City Charter. If applicable, the actions of the Supplier, and its representative lobbyist or employee, shall be referred to the appropriate prosecuting authorities.

Pursuant to Section 7.5-306 of the City Charter, the Inspector General shall investigate any Public Servant, City agency, program or official act, contractor and subcontractor providing goods and services to the City, business entity seeking contracts or certification of eligibility for City contracts and person seeking certification of eligibility for participation in any City program, either in response to a complaint or on the Inspector General's own initiative in order to detect and prevent waste, abuse, fraud and corruption.

Any Public Servant who willfully and without justification or excuse obstructs an investigation of the Inspector General by withholding documents or testimony, is subject to forfeiture of office, discipline, debarment or any other applicable penalty.

In accordance with Section 7.5-310 of the City Charter, it shall be the duty of every Public Servant, contractor, subcontractor, and licensee of the City, and every applicant for certification of eligibility for a City contract or program, to cooperate with the Inspector General in any investigation pursuant to Article 7.5, Chapter 3 of the City Charter.

23. ENTIRE AGREEMENT

Unless there is a signed contract that has been negotiated by the Supplier and the City, and approved by City Council, this Purchase Order contains the entire agreement between the parties and all prior negotiations and agreements are merged into this Purchase Order. Neither the City nor the City's agents have made any representations except those expressly set forth in the Purchase Order, and no rights or remedies are, or shall be, acquired by the Supplier by implication or otherwise unless expressly set forth in the Purchase Order. The Supplier waives any defense it may have to the validity of the execution of the Purchase Order. Notwithstanding any language to the contrary therein, no terms or conditions stated in any Supplier license, user agreement, or any other Supplier contract documentation shall be incorporated into or form any part of the Purchase Order, and all such terms or conditions shall be null and void.