

Google Purchase Order Terms and Conditions

Google wants to work with suppliers, contractors, and consultants who provide high quality goods and services at competitive prices, and share our corporate values. We look forward to working with you!

1. Introduction. A Google-issued purchase order ("**Purchase Order**"), together with these terms and conditions ("**Terms and Conditions**"), and any attachments incorporated therein (the foregoing, collectively, the "**Purchase Agreement**"), applies to the purchase of specified goods and/or services ("**Products**") by Google Inc. and/or its affiliates ("**Google**"). This Purchase Agreement constitutes the entire agreement between Google and the Seller listed on the Purchase Order ("**Seller**") with respect to the Products described therein. If another agreement governing the purchase of such Products exists between Google and Seller, the terms of such agreement shall prevail.

2. Acceptance and Precedence of Terms. Seller's acknowledgement of this Purchase Agreement or commencement of performance shall constitute Seller's acceptance of these Terms and Conditions. Any additional or different terms in Seller's documents are hereby deemed material alterations and notice of objection and rejection of them is hereby given. Except as otherwise set forth in Section 1 of these Terms and Conditions, this Purchase Agreement shall be controlling over any additional, inconsistent or conflicting terms of any purchase order, quotation, confirmation, invoice, acknowledgement, release, or other written correspondence, even if accepted in writing by both parties. Acceptance of the Products delivered under this Purchase Agreement shall not constitute acceptance of Seller's terms and conditions.

3. Provision of Goods and/or Services. Seller will provide Products as specified in the Purchase Order.

4. Shipment and Delivery

a. Timing. Time is of the essence in Seller's performance of its obligations. Seller will immediately notify Google if Seller's timely performance under the Purchase Agreement is delayed or likely to be delayed. Google's acceptance of Seller's notice will not constitute Google's waiver of any of Seller's obligations.

b. Terms. Unless otherwise expressly agreed to in writing, delivery condition is FCA carrier's facility Incoterms 2010.

c. Incorrect Delivery. Incorrect deliveries are Products delivered: (i) in excess of the amounts stated on this Purchase Agreement; (ii) more than three (3) business days prior to the delivery date listed on this Purchase Agreement ("**Delivery Date**"); or (iii) after the Delivery Date. At Google's option and Seller's risk and expense, Google has the right to store such Products for a reasonable amount of time, or reject such Products and return to Seller.

d. Import/Export. Seller will provide all information required to comply with any applicable import and export laws and regulations, including but not limited to import classification (such as Harmonized Tariff Schedule), export classification (such as Export Control Classification Number), and country of origin of all Products supplied to Google. The relevant information must appear on the commercial invoice and the packing list. If applicable, Seller agrees to comply with U.S Customs Security Filing ("ISF") requirements and agrees to include the following "ISF data elements" on the commercial invoice:

- (1) Manufacturer name and address
- (2) Seller name and address
- (3) Buyer name and address
- (4) Ship to name and address
- (5) HTSUS number
- (6) Country of Origin

Seller will provide the invoice to Google, including the "ISF" data, at least 72 hours prior to Products being laden on the vessel in the foreign port. Failure to provide such invoice on a timely basis may result in the rejection of the associated Products.

e. Packing. Seller shall preserve, pack, package, and handle the Products to protect them from loss or damage and in accordance with good commercial practice and Google's specifications. Seller shall be liable for and shall promptly refund to Google the amount of any loss or damage due to Seller's failure to properly preserve, pack, package or handle such Products. Seller shall include with each shipment of Products an itemized packing list that sets forth the number of this Purchase Agreement, product numbers, a description and the quantity of each of the Products shipped, weight, and the date of shipment. The Purchase Order number shall be plainly visible on every invoice, package, bill of lading, and shipping order provided by Seller.

5. Change Orders. Google has the right, at any time prior to the Delivery Date, by a written request (including via email or facsimile) to suspend its purchase of Products hereunder or make changes in: (i) the quantities, scope, or Delivery Date of Products ordered; (ii) applicable drawings, designs, and/or specifications; (iii) the method of shipment or packing; and/or (iv) the place of delivery or service location. If such a change by Google causes an increase in the cost of, or the timing required for Seller's performance, and Seller immediately notifies Google in writing, then the price and/or delivery schedule of the Products corresponding to such changed portion(s) of this Purchase Agreement shall be equitably adjusted as mutually agreed upon by both parties, and the parties shall modify this Purchase Agreement accordingly in writing. Seller shall request such an adjustment no later than five (5) days from the date of Seller's receipt of Google's notification of change; however, such period may be extended upon Google's written approval. Nothing in this Section 5 is intended to excuse Seller from performing pursuant to this Purchase Agreement as changed or amended. Up to the point of termination or suspension, Google will be responsible for expenses accrued by Seller up to the date of notice.

6. Acceptance. Acceptance of the Products will be in accordance with the acceptance criteria set forth in this Purchase Agreement. If there are no such criteria, then the Products must be accepted by the Googler listed in the Purchase Order to be deemed accepted by Google. Google's payment to Seller for Products will not be deemed as acceptance by Google.

7. Return. Google has the right to return to Seller, at Seller's own risk and expense, including, without limitation, transportation and insurance charges, Products that: (i) do not meet the warranties specified herein; (ii) are not accepted pursuant to Section 6; and (iii) constitute over-shipments or early shipments by Seller.

8. Prices. The prices for the Products provided hereunder shall be as listed on the Purchase Order.

9. Payments. All payments due hereunder to Seller shall be paid to Seller in United States dollars not later than thirty (30) days following the later of: (i) the Delivery Date; (ii) the date of Google's acceptance of all of the Products hereunder; or (iii) Google's receipt of a correct invoice and certifications

of conformance of the Products to the specifications, if applicable. Expenses will be reimbursed only when pre-approved by Google and supported by appropriately detailed records. Except for state and local sales or use taxes levied on purchases under the Purchase Agreement and required by law to be collected by Seller, Google will not be liable for any sales, use, excise, value added, ad valorem and other taxes unless otherwise specified in the Purchase Agreement. Seller shall separately state on all invoices any sales or use taxes imposed. Seller shall not collect or remit, and Google shall not be liable for, any such taxes if Google has provided Seller with a tax exemption certificate. In the event any tax included was not required, Seller shall notify Google and promptly take all necessary and proper steps to procure a refund and pay such amount to Google. Seller shall comply with any reasonable request by Google regarding payments under protest, and regarding any refunds, claims, litigation, or proceedings with respect to any such taxes and shall make appropriate adjustments to afford Google the benefit of any refund or reduction in such taxes.

10. Warranties.

a. Performance Warranties. Seller warrants to Google and Google's customers for the longer of Seller's normal warranty period or for one (1) year following the date of Google's acceptance of the Products that: (i) when received by Google from Seller, the Products will be free from defects in design, material, workmanship and manufacture; (ii) the Products will conform to the applicable documentation, or to other descriptions set forth in this Purchase Agreement; (iii) the Products will be suitable for the purposes for which they are intended including without limitation purposes made known to Seller; and (iv) all Products will be new and unused, unless otherwise specified by Google. The foregoing warranties are in addition to all other warranties, whether express or implied, and will survive delivery, inspection, acceptance, or payment by Google.

b. Performance Remedies. Notwithstanding any acceptance by Google under Section 6, if any of the Products delivered by Seller do not meet the warranties specified herein or otherwise applicable, Google has the right, at its option, to: (i) require Seller to correct any defective or non-conforming Products by repair or replacement at no charge to Google; (ii) return such defective or non-conforming Products to Seller at Seller's expense and recover from Seller all amounts paid heretofore; (iii) correct the defective or non-conforming Products itself and charge Seller the cost of such correction; (iv) obtain a refund from Seller for all amounts paid for any defective or non-conforming Products; or (v) utilize the defective Products and require an appropriate reduction in price. Google's approval of Seller's product, services or design shall not relieve Seller of the warranties set forth herein, nor shall waiver by Google of a requirement pertaining to any acceptance criteria, drawing or specification for one or more of the Products constitute a waiver of such requirements for the remaining Products to be delivered hereunder unless so stated by Google in writing.

c. General Warranties. Seller represents and warrants that: (i) Seller has good, unencumbered title to the Products and has conveyed such good, unencumbered title to Google; (ii) the Products will be of professional quality and/or performed consistently with generally accepted industry standards; (iii) there exists no actual or potential conflict of interest concerning the Products; (iv) Seller's performance under this Purchase Agreement does not require the breach of any agreement or obligation to keep in confidence the proprietary information of another party; (v) Seller will comply with all applicable laws and regulations; (vi) Seller will comply with all applicable import and export laws and regulations, and will ensure that any employees providing services to Google do not appear on relevant restricted party lists, including the U.S. Treasury Department's Specially Designated Nationals list and the U.S. Commerce Department's Denied Persons List; (vii) Seller and its directors, officers, employees and agents ("**Personnel**") will comply with all applicable anti-bribery laws, and have not and will not offer, pay,

promise or authorize the payment, directly or through any other person or entity, of anything of value for the purpose of inducing or rewarding any favorable action or influencing any act or decision in connection with Google's business to a candidate for public office or to an official or employee of a government, government-controlled entity, public international organization or political party; (viii) Seller is an equal-opportunity employer, does not discriminate on the basis of age, race, creed, color, religion, sex, sexual orientation, national origin, disability, marital or veteran status or any other basis that is prohibited by law and will not so discriminate in providing the Products; (ix) if a Seller processes, transmits or stores credit card PANs (Primary/Personal Account Numbers) for any purpose, Seller will be currently and demonstrably PCI DSS compliant, via a "letter of attestation" or similar, and will maintain its compliance status as long as Google is a customer and for as long as Seller is obligated by law to store such PAN information; and (x) Google is an equal employment opportunity employer and is a federal contractor, and consequently, the parties agree that, to the extent applicable, they will comply with Executive Order 11246, the Vietnam Era Veterans Readjustment Assistance Act of 1974 and Section 503 of the Vocational Rehabilitation Act of 1973 and also agree that these laws are incorporated herein by this reference. Seller also agrees to comply with the provisions of Executive Order 13496 (29 CFR Part 471), relating to the notice of employee rights under federal labor laws.

11. Termination.

a. Services. Google has the right to terminate this Purchase Agreement with respect to services, at any time, with or without cause, by providing Seller with written notice. Termination is effective immediately unless otherwise specified in the termination notice, but Google will pay any fees previously accrued for services performed as set forth in this Purchase Agreement.

b. Goods. Google has the right to terminate this Purchase Agreement with respect to goods, in whole or in part, at any time, with or without cause, by providing Seller with written notice. Termination is effective immediately unless otherwise specified in the termination notice. Upon such termination, Seller will, to the extent and at the times specified by Google; (i) stop all work under this Purchase Agreement; (ii) place no further orders for materials to complete such work; (iii) if requested by Google, assign to Google all of Seller's rights, title and interests under terminated subcontracts and orders; (iv) settle all claims hereunder (after obtaining Google's prior written approval); (v) protect all property in which Google has or may acquire an interest; and (vi) transfer title and make delivery to Google of all articles, materials, work in process, and other things held or acquired by Seller in connection with the terminated portion of this Purchase Agreement. Seller will promptly comply with Google's instructions respecting each of the foregoing without awaiting settlement or payment of any amounts it may claim against Google. Within six (6) months after such termination, Seller may submit to Google its written claim, with supporting documentation, for any unavoidable material costs resulting from the termination. Failure to submit such claim within such six (6) month period will constitute Seller's waiver of all claims against Google and a release of all of Google's liability arising out of the termination. The parties may, after conferring with each other in good faith, agree upon the amount to be paid by Google to Seller for such termination. Absent such agreement, Google will pay Seller the following amounts: (a) the price set forth in this Purchase Agreement for all goods rendered in accordance with this Purchase Agreement to the extent not previously paid for; (b) the reasonable actual costs incurred and paid by Seller which are properly allocable under recognized commercial accounting practices to the terminated portion of this Purchase Agreement; and (c) the reasonable actual costs incurred and paid by Seller in making settlement hereunder and in protecting property in which Google has or may acquire an interest. Payments made under this section shall not exceed the aggregate price of the goods specified in the terminated portion of

this Purchase Agreement, less payments otherwise made or to be made by Google. Any amounts payable to Seller by Google under this section shall exclude amounts relating to goods that are lost, damaged, stolen, or destroyed. Upon the occurrence of any one of the following events, Google shall have the unrestricted right, at its option, to cancel and terminate this Purchase Agreement without cost or liability to Google: (1) Seller's insolvency or inability to meet obligations as they become due; (2) filing of voluntary or involuntary petition of bankruptcy by or against Seller; (3) institution of legal proceedings against Seller by creditors or stock holders; or (4) appointment of a receiver for Seller by any court of competent jurisdiction.

12. Proprietary Interest. Seller agrees that Google is the sole and exclusive owner of all software (including modifications and documentation), products, inventions, documents, writings and other materials created, conceived, prepared, made, discovered or produced by Seller that are provided to Google pursuant to this Purchase Agreement (the "**Deliverables**"). Seller irrevocably assigns and transfers to Google all of its worldwide right and title to, and interest in, the Deliverables, including all associated copyright, patent, trade secret, trademark and any other intellectual property or proprietary rights ("**Intellectual Property Rights**"). Additionally, Seller grants to Google a non-exclusive, worldwide, royalty-free, irrevocable, perpetual, non-terminable, transferable, sublicensable license to all Intellectual Property Rights used in the creation of the Deliverables in order for Google to exercise its rights in the Deliverables as contemplated by this Purchase Agreement. Without limiting the foregoing in this Section 12, (i) the Deliverables are "works made for hire" to the extent permitted by law, and (ii) Seller will not assert, and otherwise waives, any "moral rights" in the Deliverables and assigns to Google all "moral rights" in the Deliverables. If for any reason such Deliverables are not works made for hire, Seller hereby assigns all right, title and interest in such materials to Google and agrees to assist Google, at Google's expense, to perfect such interest.

13. Confidentiality. Seller agrees that all information, data, and material it obtains from Google in connection with this Purchase Agreement shall be "**Confidential Information**" and is the sole property of Google. Seller will use Confidential Information solely for the purposes of providing Products under this Purchase Agreement. Seller will not disclose or make Confidential Information available to any third party, except as specifically authorized by Google in writing. Upon Google's written request, Seller will promptly return all Confidential Information and copies, or certify in writing that it has destroyed all such materials. Seller will not bring to Google or use in connection with the Products any information, data, materials, or documents of a third party considered confidential or proprietary without the written authorization of such party and Google. Confidential Information does not include information that: (i) was known to Seller without restriction before receipt from Google; (ii) is publicly available through no fault of Seller; (iii) is rightfully received by Seller from a third party without a duty of confidentiality; or (iv) is independently developed by Seller without reference to any Confidential Information. Seller may disclose Confidential Information when compelled to do so by law if it provides reasonable prior notice to Google.

14. Indemnification.

a. General. Seller shall indemnify, defend and hold Google and its officers, directors, agents, employees, successors and customers harmless against any and all claims, liabilities, losses, damages, settlements, costs and expenses (including attorneys' fees) made against or sustained by Google arising from: (i) any property damage, personal injury or death related to the Products; (ii) all loss, liability, and damages arising from or caused directly or indirectly by any act or omission of Seller's agents, employees, or subcontractors; and (iii) royalty claims, liens or any other encumbrances on the Products supplied hereunder.

b. Intellectual Property. Seller shall indemnify, defend and hold Google and its officers, directors, agents, employees, successors and customers harmless against any and all claims, liabilities, losses, damages, settlements, costs and expenses (including attorneys' fees) made against or sustained by Google arising from any claim that the Products infringe or misappropriate any third party Intellectual Property Rights. If Google's use of any of the Products is enjoined or, in Google's reasonable opinion, is likely to be enjoined as result of any such claim or allegation of Intellectual Property Infringement, Seller agrees, at Google's option to: (i) accept return of the Products from Google and refund to Google the amounts paid by Google with respect to such Products; (ii) modify the Products so that they become non-infringing but equivalent in functionality, quality, compatibility and performance; or (iii) procure for Google and its customers the right to continue using and distributing the Products. The foregoing obligation of Seller does not apply with respect to any Product: (a) made in accordance to Google's specifications, if the alleged infringement would not have occurred but for such specifications; or (b) which are modified after shipment to Google, if the alleged infringement would not have occurred but for such modification.

15. Insurance. Seller shall take such steps as may be reasonably necessary to prevent personal injury or property damage during any work hereunder that may be performed by any employees, agents or subcontractors of the Seller at Google's facilities. Seller shall secure and maintain such insurance against general liability and property damage. Seller shall also maintain workers compensation insurance as required by law in the state where services will be provided, including employer's liability coverage. Depending upon services, Google may require suppliers to carry additional insurance limits and/or coverages. Seller will provide Google (or Google's designated third party vendor) documentation evidencing the required coverage upon Google's (or Google's designated third party vendor's) reasonable request.

16. LIMITED LIABILITY. EXCEPT FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, BREACHES OF CONFIDENTIALITY UNDER SECTION 13, OR INDEMNIFICATION OBLIGATIONS UNDER SECTION 14: (A) NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES; AND (B) NEITHER PARTY'S LIABILITY ARISING OUT OF THIS AGREEMENT WILL EXCEED THE AMOUNT ACTUALLY PAID OR PAYABLE TO SELLER UNDER THIS PURCHASE AGREEMENT.

17. No Exclusivity. Nothing herein is intended nor shall be construed as limiting Google's ability to procure any products and/or services from other providers.

18. No Publicity. Without the prior written approval of the other party, neither party will issue any public statements or promotional materials disclosing the existence of this Purchase Agreement or the delivery and/or performance of Products.

19. Audit. Within 30 days of Google's reasonable request, Seller will provide access to those books and records of Seller which are reasonably necessary for Google to confirm fulfillment and compliance with this Purchase Agreement.

20. Background Checks. If Google requires Seller to conduct background checks on Seller's personnel, Seller will do so according to the policies provided by Google, and will provide confirmation of the results of such checks to Google or its third-party vendor upon request. If Google requests its own background checks, Seller will obtain written consent from its Personnel and supply information reasonably requested by Google. Seller will require its personnel performing services to provide prompt notice of any change of status after the initial background check, and will notify Google of any change of status.

21. Miscellaneous. Except as provided herein, any notice, approval or consent required or permitted hereunder shall be: (i) in writing; (ii) delivered by hand or by overnight courier service to the respective addresses of the parties as set forth in this Purchase Agreement (or such other addresses a party may designate in writing); and (iii) effective upon actual delivery, or upon attempted delivery if receipt is refused. Notices to Google shall be addressed "Attn: Purchasing" to the Google address listed on the Purchase Order. If any provision of this Purchase Agreement shall be judicially determined to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Purchase Agreement shall otherwise remain in full force and effect and enforceable. Except as provided herein, the failure to enforce any provision herein or right or remedy on any one occasion shall not be construed as a waiver on any other occasion. The relationship of Seller and Google is that of independent contractor. Except as provided herein, no term or condition of this Purchase Agreement may be amended or deemed to be waived, except by a writing signed by both parties that refers to this Purchase Agreement. No right or obligation under this Purchase Agreement (including the right to receive monies due) may be assigned, delegated or subcontracted by Seller without the prior written consent of Google, and any purported assignment without such consent shall be void. This Purchase Agreement shall be construed in accordance with the laws of the State of California without regard to its principles of conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act do not apply. The exclusive jurisdiction and venue of any action relating to this Purchase Agreement shall be the Superior Court of California for the County of Santa Clara or the United States District Court for the Northern District of California and each of the parties hereto submits itself to the exclusive jurisdiction of such courts and waives any argument relating to the convenience of forum. The rights and remedies herein provided are in addition to those available to either party at law or in equity. The following Sections shall survive expiration or termination of this Purchase Agreement: 1, 2, 7 (so long as Google has a return right as set forth herein), 10, 11, 12, 13, 14, 16, and 21.
