1. **SERVICES/GOODS.** Supplier shall perform the services and/or provide the goods (“Services” and/or “Goods”) in accordance with the Purchase Order and these Terms and Conditions (collectively, the “Order”).
2. **ACCEPTANCE /ENTIRETY.** Acceptance of this Order by the Supplier shall be deemed effective upon Supplier’s acknowledgment of the Order, delivery of Goods, or commencement of the Services. Any attempt by Supplier to vary the terms & conditions stated herein is hereby rejected. This Order shall constitute the entire agreement with reference to its subject matter and shall not be amended without Tableau’s written consent.
3. **PERFORMANCE/INSPECTION OF GOODS/WARRANTY/REMEDIES:** Supplier warrants that it will perform all Services and provide all Goods in a good, workmanlike and professional manner, in accordance with the specifications, drawings, samples, or other data or descriptions furnished or approved in writing by Tableau (the “Specifications”). Tableau reserves the right to inspect and either accept or reject Goods that contain any defect in materials, workmanship or design or fail to conform to the Specifications (“Defective Product(s)”). Supplier warrants to Tableau that the Goods purchased under this P.O. are: (i) free of defects in materials, workmanship or design, (ii) in conformance with the Specifications, (iii) free and clear of all liens, encumbrances, security interests, burdens and/or other claims; and (iv) free of infringement or violation of any copyright, trademark or other intellectual property rights. The warranty period is one (1) year from date of receipt of goods by Tableau. The warranty period for repaired or replaced goods is one (1) year from the date of acceptance. If a defect or nonconformance in materials, workmanship or design is discovered during the warranty period, Tableau may, at its option: (i) return the Defective Product to Supplier at Supplier’s expense for a full refund of the purchase price; (ii) require Supplier to repair or replace the Defective Product within five (5) days of receipt thereof; or (iii) exercise any other rights that Tableau may have in law or in equity. If Tableau returns Defective Products to Supplier for repair or replacement, Supplier shall repair or replace goods with non-defective, conforming goods within five (5) days of receipt thereof and shall pay all costs related to repairing or replacing such goods, including, but not limited to: labor, materials, inspection and shipping costs to and from Tableau’s facilities. If Tableau incurs any such costs directly, Tableau may recover such costs from Supplier or offset such amount against unpaid purchase orders for other goods. Supplier will transfer any manufacturer’s warranties to Tableau.
4. **FAILURE TO COMPLY.** If Supplier fails to comply with this Order or Terms and Conditions, in addition to any other remedies Tableau may have under law or this Order, Tableau may: (i) terminate the Order; (ii) require Supplier to immediately re-perform Services at no additional charge; (iii) require a refund of amounts paid by Tableau; (iv) withhold payments due to Supplier and apply same to payment of any obligations of Supplier to Tableau or to third parties; and/or (v) perform or cause to be performed, at Supplier’s expenses, the Services that Supplier failed to perform.
5. **COMPLIANCE WITH LAWS.** Supplier shall comply with all laws, rules and regulations applicable to the Order. Supplier warrants that it is licensed to the extent required by all applicable law and will, at its sole cost, maintain such licensing throughout the performance of Services. Supplier will apply for and obtain, at Supplier's expense, all approvals and permits required by governmental and quasi-governmental authorities having jurisdiction over the performance of the Services.
6. **INSURANCE.** During the performance of the agreement period, Seller shall maintain and keep in force at its own expense, commercial general liability insurance, including products and contractual liability, in amounts customary for businesses operating in Supplier’s industry. Supplier shall provide a certificate of insurance to Tableau upon request.
7. **TERMINATION.** Tableau reserves the right to terminate this Order, or any part hereof, solely for its convenience. In the event this Order is terminated, Tableau shall be liable to Supplier only for such sums as shall represent the applicable charges under this Order for Goods or Services authorized by Tableau and actually performed or delivered by Supplier in accordance with this Order. In the event of termination for cause, Tableau shall have the right to withhold all payments which have become due to Supplier and all payments which may thereafter become due. Further, in the event of such termination for cause, Supplier shall be liable to Tableau for any and all damages, including, but not limited to, attorneys’ fees, incurred by Tableau by reason of Supplier’s default and termination.
8. **CONFIDENTIALITY.** Supplier will hold any information concerning Tableau’s business, or any other information about Tableau, in absolute and strict confidence. Supplier will not refer to Tableau in any advertising, press release, client list or other promotional or marketing material.
9. **TABLEAU’S TRADEMARKS.** Supplier is not authorized to use Tableau trademarks, trade names, logos or brand names without prior written approval.
10. **Access to Tableau’s Systems or Premises**. Access, if any, to any Tableau software, hardware, or systems owned, utilized or held by Tableau (“Tableau Systems”) or to Tableau’s premises is granted solely to allow Supplier to provide the Services and is limited to those specific Tableau Systems, locations, time periods, and personnel as are separately designated by Tableau in writing. Access is subject to business control and information protection policies. Any other use or access not authorized by Tableau is expressly prohibited. Supplier will be solely responsible for the safety of Supplier and its employees and subcontractors and their respective employees on or about Tableau’s property. But for Tableau’s gross negligence, Supplier acknowledges that Tableau will have no obligation to Supplier or its subcontractors, their respective employees or other agents regarding security while on Tableau’s property.
11. **INDEMNIFICATION.** TO THE FULLEST EXTENT PERMITTED BY LAW, SUPPLIER SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND TABLEAU, TABLEAU’S AFFILIATES AND ALL OF THEIR OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES (“TABLEAU RELATED PARTIES”) FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS’ FEES, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF SUPPLIER, PROVIDED THAT ANY SUCH CLAIM, DAMAGE, LOSS OR EXPENSE (A) IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR INTELLECTUAL PROPERTY INFRINGEMENT, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PERSONAL OR REAL PROPERTY INCLUDING LOSS OF USE RESULTING THEREFROM, AND (B) IS CAUSED IN WHOLE OR IN PART BY ANY ACT OR OMISSION OF SUPPLIER OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY IT OR ANYONE FOR WHOSE ACTS IT MAY BE LIABLE, OR IS CAUSED BY OR ARISES OUT OF THE USE OF ANY GOODS, MATERIAL, OR EQUIPMENT FURNISHED BY SUPPLIER.
12. **LIMITATION OF LIABILITY/DAMAGES.** Tableau shall not be liable for any CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ALLEGEDLY SUFFERED BY SUPPLIER, INCLUDING LOST PROFITS AND BUSINESS INTERRUPTION REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL TABLEAU’S AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE FEES DUE TO BE PAID TO SUPPLIER HEREUNDER.
13. **MISCELLANEOUS.** Supplier is an independent contractor and not an employee of Tableau. Tableau’s failure to insist on performance of any of the terms and conditions or to exercise any of the rights or privileges contained herein, or Tableau’s waiver of any breach hereunder, shall not thereafter waive any other terms, conditions or privileges contained herein or future breaches. This Order will be governed by and construed in accordance with the law of the State of Washington and the exclusive venue for any action brought under this Order will be in King County, Washington. The prevailing party in any legal proceeding brought under this Order shall be entitled to recover its reasonable attorneys’ fees, court costs and other expenses from the non-prevailing party. If any provision of this Agreement is held illegal, invalid or unenforceable under present or future applicable Law, such provision will be fully severable and this Order will be construed and enforced as if such provision were not a part of this Order. In the event of any conflict between the terms in this Order and a negotiated, fully executed services agreement between the parties, the negotiated services agreement shall prevail.