

SUBCONTRACTOR TERMS AND CONDITIONS**1. General Provisions.**

- a. These Subcontractor Terms and Conditions (“Terms and Conditions”) govern the provision of goods and services (collectively, “Work”) provided by subcontractor (“Subcontractor”) to: Outbound Technologies, Inc. (“Outbound”) pursuant to the attached purchase order or other agreement.
- b. The agreement (“Agreement”) between Outbound and Subcontractor consists of: 1) these Terms and Conditions; and 2) the applicable purchase order or other agreement, including any written specifications, proposal, or quotation agreed to by the parties. The Agreement supersedes all previous and contemporaneous agreements, proposals, and representations, written or oral, concerning the Work and represents the entire agreement between the parties. Any additional, conflicting, or inconsistent Subcontractor terms (whether set forth in a proposal, acknowledgement, or in any other document) are expressly rejected by Outbound.
- c. To the extent Outbound’s work on any project includes Subcontractor’s Work and Outbound’s work is subject to additional terms and conditions required by the end-user, Subcontractor likewise shall comply with such terms and conditions. Outbound shall provide a copy of such end-user terms and conditions to Subcontractor upon Subcontractor’s written request. To the extent there is any irreconcilable conflict between the end-user terms and these Terms and Conditions, the terms and conditions that impose the greater responsibility on Subcontractor shall apply.

2. Performance.

- a. Subcontractor agrees to provide Outbound with the Work identified in the Agreement at the stated price and quantity. Outbound is not obligated to purchase any minimum quantity or dollar amount of work from Subcontractor.
- b. The Work shall be delivered or completed according to the schedule set forth in the Agreement. Subcontractor must provide prompt written notification to Outbound of any delay in schedule, including the reason for the delay, as well as a request for an extension of time for the estimated duration.
- c. Subcontractor shall only use workers, agents, or sub-subcontractors that are suitably trained, skilled, and experienced to perform the Work. Subcontractor shall not sub-subcontract or assign any part of the Agreement without Outbound’s prior written consent.
- d. Subcontractor shall comply with all applicable laws, ordinances, building codes, rules, and regulations (“Applicable Law”) and with all private restrictions, covenants, and conditions in its provision of the Work. Prior to performing the Work, Subcontractor shall acquire (at its expense) all necessary permits,

registrations, and licenses to do business in the location of the Work.

- e. Notwithstanding payment, the Work is subject to final inspection or rejection by Outbound, including revocation of acceptance thereafter. Any acceptance by Outbound is not a release or waiver of its rights under the Agreement.
- f. Title to the Work shall remain with Subcontractor until delivery and risk of loss shall pass to Outbound upon final written acceptance of the Work by Outbound. Any loss or damage to the Work prior to such final acceptance shall be at Subcontractor’s sole risk.
- g. Outbound may make changes to the Work by issuing written notice to Subcontractor. If such change causes an increase or decrease in the price or schedule, Outbound will make the appropriate adjustments. Such changes and adjustments will be effective unless Subcontractor disagrees with the change in writing within five (5) business days. In the absence of any written disagreement, Subcontractor waives any right to any further adjustment to the price or schedule due to such change. To the extent Subcontractor disagrees in writing with any aspect of the change, including schedule or compensation, Subcontractor shall nevertheless proceed with the change with the price and schedule adjustments that Outbound is willing to make subject to the results of later dispute resolution.

3. Warranties.

- a. Subcontractor warrants that all goods provided as part of the Work will be free from defects in design, material, and workmanship; do not infringe on any intellectual property rights; conform in all respects to the terms of the Agreement; are merchantable and fit for the purposes for which they are intended; and are new and of the best quality.
- b. Subcontractor warrants that all services provided as part of the Work will be performed in a workmanlike manner consistent with current and generally recognized standards in the industry, be free from defects, errors, and omissions and in accordance with all specifications provided in the Agreement.
- c. For a period of one (1) year after the Work is first used for its intended purpose by Outbound or the end user, Subcontractor, upon notice, shall promptly correct any failure or defect of the Work to meet the warranties above. Subcontractor will either replace or re-perform the nonconforming Work at Subcontractor’s sole cost and expense or, at Outbound’s option, refund Outbound the amounts paid for the nonconforming Work.

4. Indemnity.

- a. Subcontractor shall indemnify, defend, and hold harmless Outbound and its successors in interest, assigns, affiliates and subsidiaries and each of their officers, directors, managers, shareholders, members, partners, employees, agents, and representatives from and against any and all liabilities, claims, demands, actions, proceedings, attorneys' fees, costs, expenses, losses and damages ("Claims") arising out of, pertaining to, or relating to: (i) Subcontractor's breach of these Terms and Conditions, including the breach of any terms or conditions imposed on Outbound by the end-user; (ii) Subcontractor's intentional misconduct or negligent acts or omissions, including those of Subcontractor's employees, agents, or sub-subcontractors; (iii) any claimed personal injury, sickness, death, or property damage alleged to be caused by the Work, including but not limited to exposure to, use, handling, consumption, shipment, or delivery of the Work; (iv) any assertion that the Work does not conform to or comply with the specifications, warranties, guarantees, or obligations undertaken by Subcontractor in the Agreement; (v) any alleged violations of law pertaining to the Work; (vi) any allegation of infringement of any patent, copyright, or other proprietary interest of a third-party; or (vii) any lien or encumbrance which may be placed, filed, or recorded against any property where Outbound or Subcontractor has furnished labor or delivered services, materials, supplies, tools, equipment, or machinery for the Work.

5. Safety.

- a. Subcontractor is solely responsible for initiating and supervising all safety precautions and programs in connection with its performance of the Work. Subcontractor will make all reasonable efforts to protect against injury or loss to persons or property. Subcontractor shall always keep its work site in a clean and safe condition and will properly dispose of all debris.
- b. For Work done at an Outbound or end user's facility, Subcontractor shall follow all applicable safety requirements and immediately notify Outbound of any safety concerns.

6. Confidentiality.

- a. "Confidential Information" includes any proprietary or confidential information of a party that is related to the Work or the Agreement. Confidential Information does not include information: (i) previously known to the receiving party free of an obligation to keep it confidential; (ii) that is or later becomes public knowledge through no act of the receiving party; (iii) obtained from a third-party with no obligation of confidentiality; or (iv) independently developed by the receiving party.

- b. Each party agrees to hold the Confidential Information of the other party in strict confidence and shall use same solely for the purposes of the Agreement, and further agrees it shall not disclose such information to anyone except those who have a need to know to carry out the Work.

7. Insurance.

- a. Prior to commencement and until final acceptance of the Work, Subcontractor and each of its sub-subcontractors shall maintain, at a minimum, the following insurance policies:
 - i. Worker's compensation: as required by Applicable Law.
 - ii. Employer's liability: \$500,000 per incident.
 - iii. Commercial general liability (including Products/Completed Operations): \$1,000,000 per occurrence; \$2,000,000 per project aggregate.
 - iv. Comprehensive automobile liability: \$1,000,000 per occurrence.
 - v. Umbrella liability: \$1,000,000 per occurrence; \$1,000,000 per project aggregate.
- b. Each policy will contain a waiver of subrogation in favor of Outbound and will name Outbound and the end user as additional insureds.

8. Termination.

- a. Subcontractor is in default if it: (i) fails to perform in accordance with the Agreement or any terms or conditions of the end-user applicable to the Work; (ii) makes an assignment for the benefit of its creditors or bankruptcy or insolvency proceedings are instituted by or against it; or (iii) in Outbound's reasonable judgment, is in a financial state or progress on the Work such that timely performance is endangered.
- b. In the event of a default, Outbound may provide written notice of such default to Subcontractor. If Subcontractor fails to cure such default within the timeframe stated in such notice from Outbound, and in addition to all other remedies, Outbound may: (i) terminate the Agreement and pay Subcontractor for Work delivered prior to termination; (ii) hire a third-party to complete the Work and charge same to Subcontractor; (iii) recover from Subcontractor all increased costs and other damages relating to such default; and (iv) recover attorneys' fees and costs of suit, plus interest. If Outbound terminates the Agreement for cause and it is later determined that Subcontractor was not in default, it shall be deemed a termination for convenience per subsection (c) below.
- c. Outbound may terminate the Agreement at any time for its own convenience upon thirty (30) days' written notice to Subcontractor. Upon such termination, Subcontractor's performance of the Work shall cease, and it shall be entitled to receive, as its sole remedy in connection with such termination, the cost of the Work delivered prior to termination but not any future profit for Work not yet performed. Termination shall not

relieve Subcontractor of its obligations with respect to the Work, including warranty obligations.

9. Property Rights.

Subcontractor hereby assigns to Outbound all property rights, title, and interest (including intellectual property rights) to all Work, products and deliverables supplied by Subcontractor for the project.

10. Dispute Resolution.

In the event Outbound and Subcontractor cannot resolve any claim or dispute between them arising out of or related to the Agreement or the scope of work through direct negotiations, such dispute shall be subject to arbitration in accordance with the Construction Arbitration Rules of the American Arbitration Association. Such arbitration proceedings will be held in Michigan before a single arbitrator. The prevailing party (as determined by the arbitrator) will be entitled to recover from the other party all costs incurred in resolving the dispute, including reasonable attorneys' and expert fees and the costs of arbitration. The arbitrator's award shall be final and may be entered as a judgment in any court with jurisdiction.

11. Limitation of Liability.

In no event shall Outbound be liable for any incidental, special, punitive, or consequential damages of any kind, including without limitation loss of use, productivity, reputation, financing, business opportunities, or profits. MOREOVER, TO THE FULLEST EXTENT PERMITTED BY LAW, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR STRICT LIABILITY), IN NO EVENT WILL OUTBOUND'S TOTAL AGGREGATE LIABILITY RELATED TO THE WORK, DELIVERABLES OR PROPOSAL EXCEED THE AMOUNT OF COMPENSATION PAID BY OUTBOUND TO SUBCONTRACTOR FOR THE PROJECT.

12. Non-Solicitation.

To the fullest extent permitted by law, during the course of the Project and for one year thereafter, Subcontractor agrees that it will not hire or retain, or offer to hire or retain, any of Outbound's employees that have been involved in performing the Work, nor will Subcontractor otherwise induce or seek to induce, directly or indirectly, any such Outbound employees to leave Outbound's employment. In the event of breach resulting in the departure of an Outbound employee, Subcontractor and Outbound agree that, as a reasonable estimate of the damage to Outbound and not a penalty, Subcontractor shall pay liquidated damages to Outbound in the amount of the solicited employee's yearly salary.

13. Miscellaneous.

- a. In the event any provision of the Agreement is found to be invalid, the remaining terms will remain in effect. The failure of either party to exercise its rights under the Agreement shall not be deemed a waiver of such right.
- b. Subcontractor is an independent contractor of Outbound and will have sole charge over, and be solely responsible for, (a) the payment of its employees and subcontractors and (b) the means, methods, techniques and sequences used in the performance of the Work and the creation of its deliverables. The employees of Subcontractor are not employees of Outbound. Subcontractor shall not have any right, power, or authority to create any obligation, express or implied, on behalf of Outbound nor any authority to represent itself as an agent of Outbound.
- c. The Agreement shall be interpreted, governed, and enforced under the laws of the State of Michigan without reference to its choice or conflict of law provisions.