



Terms & Conditions for Inbound Services

Last updated: May 2022

Subject to the express terms of any other valid agreement Consultant (as defined below) has with Precisional (as defined below), Consultant's provision of Services (as defined below) for Precisional are governed by these Terms and Conditions for Inbound Services ("**Terms**"). "**Precisional**" means Precisional LLC and/or its divisions, subsidiaries, affiliates, joint ventures and partnerships identified in the SOW (as defined below). "**Consultant**" means the service provider named in the SOW, including all employees, subcontractors, agents, and associates of such named service provider. Any contrary or additional terms or conditions appearing on Consultant quotations or associated documentation will be of no effect.

Consultant agrees to furnish the Services and provide the Deliverables (as defined below) upon these Terms. These Terms include the terms and conditions of any purchase orders, quotations, statements of work, scopes of work, or other similar document for the provision of services by Consultant that references these Terms and is accepted by Precisional in writing (collectively referred to herein as an "**SOW**"). Each SOW will set forth: (i) a description of the Services and Deliverables to be performed and tendered by Consultant; (ii) deadlines for performance and delivery; (iii) acceptance criteria, if applicable; (iv) Consultant's compensation; and (v) any applicable special terms.

Each accepted SOW will be interpreted as a single set of Terms, independent of other orders and/or SOWs. Consultant's quotations are accepted as valid and binding only when confirmed by Precisional in writing. Accepted quotations cannot be canceled for any reason without the prior written consent of Precisional.

1. **DEFINITIONS.**

In addition to any other definitions appearing in these Terms, the following words and phrases shall have the meanings indicated.

1.1 "**Confidential Information**" means any and all information related to Precisional's business (including trade secrets, technical information, Intellectual Property, know-how, business forecasts and strategies, marketing plans, customer and supplier lists, personnel information, financial data, and proprietary information of third parties provided to Precisional in confidence) that is labeled or identified as "confidential" or "proprietary" or that Consultant otherwise knows, or would reasonably be expected to know, Precisional considers to be confidential or proprietary or that Precisional has a duty to treat as confidential. Without limiting the foregoing, Confidential Information includes all Deliverables and SOWs.

1.2 **“Deliverables”** means the results of all Services, including but not limited to all Intellectual Property, and all other work product or subject matter developed under these Terms.

1.3 **“Intellectual Property”** means every invention, device, design, apparatus, machine, technique, process, method, tool, product, model, procedure, improvement, algorithm, computer program, know-how, trade secret, trademark, work of authorship of any kind and any other form of technology or intellectual property (including all intermediate and partial versions thereof and documentation relating thereto), whether or not patentable or copyrightable.

1.4 **“Open Source Software”** means any “open source” code (as defined by the Open Source Initiative), “free” code (as defined by the Free Software Foundation), community source code, including any libraries or code licensed under the General Public License, or any other software that is generally made available for free on the Internet in source code form.

1.5 **“Pre-Existing Intellectual Property”** means any proprietary methodologies, tools, models, software, procedures, documentation, know-how, processes, trade secrets, inventions, works of authorship or other intellectual property that have already been conceived or developed by Consultant before Consultant renders Services under these Terms.

1.6 **“Services”** means all forms of labor and assistance, including the creation of Deliverables, defined in an SOW. At the direction of Precisional, Consultant shall provide Services directly to Precisional or to customers of Precisional on Precisional’s behalf.

1.7 **“Third Party Materials”** means any proprietary methodologies, tools, models, code, procedures, libraries, programs, software, documentation, know-how, processes, trade secrets, inventions, works of authorship or other intellectual property of any type that is not created solely by Consultant.

2. **SERVICES AND DELIVERABLES.**

2.1 Consultant agrees to use Consultant’s best efforts, knowledge and experience to perform the Services and tender the Deliverables meeting the acceptance criteria and deadlines specified on the applicable SOW.

2.2 *Third Party Materials.* Consultant shall not incorporate any Third Party Materials into a Deliverable, furnish any Third Party Materials in conjunction with a Deliverable, or develop a Deliverable in a manner that requires Precisional to use any Third Party Materials in order to use such Deliverable, unless Consultant (i) has specifically identified such Third Party Materials in the applicable SOW or otherwise obtained Precisional’s prior written consent and (ii) has obtained a license for Precisional’s (and Precisional’s licensees’) benefit which is as extensive as the license set forth in Section 6.5(ii) below. Consultant agrees to provide Precisional with a copy of the license for all Third Party Materials included in any Deliverable.

2.3 *Use of Open Source.* Consultant shall not incorporate any Open Source Software into a Deliverable, furnish any Open Source Software in conjunction with a Deliverable, or develop a Deliverable in a manner that requires Precisional to use any Open Source Software in order to use such Deliverable, unless Consultant has specifically identified such Open Source Software in the applicable SOW or otherwise obtained Precisional's prior written consent. If Precisional approves use by Consultant of any Open Source Software in connection with a Deliverable, Consultant shall include documentation with each such Deliverable identifying any and all Open Source Software that is included in such Deliverable and provide Precisional a copy of the applicable license prior to inclusion. Precisional acknowledges that its license to any such disclosed Open Source Software shall be solely the license to the open source code listed in such documentation.

2.4 *Types of Open Source Never Allowed.* Notwithstanding the foregoing, Consultant shall not provide as part of any Deliverable, or otherwise use in connection with the Services, any software which contains any Open Source Software which is licensed under the "General Public License", a similar "viral" license or any other license which could (i) compromise or interfere in any way with Precisional's intellectual property rights or (ii) require Precisional to publicly release the source code to any Deliverable, to any Precisional software, or to any of Precisional's customers' or clients' software.

2.5 *Consultant's Obligations.* Consultant shall:

- (i) before the date on which any Services are to start, obtain, and at all times during the term of this Agreement, maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of such Services;
- (ii) comply with all rules, regulations and policies of Precisional, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by Precisional to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures;
- (iii) maintain complete and accurate records relating to the provision of any Services under this Agreement, including records of the time spent and materials used by Consultant in providing the Services in such form as Precisional shall approve. During the Term and for a period of two years thereafter, upon Precisional's written request, Consultant shall allow Precisional to inspect and make copies of such records and interview Consultant personnel in connection with the provision of the Services;
- (iv) ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Consultant, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform any Services;
- (v) ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by Precisional; and

(vi) keep and maintain any Precisional equipment in its possession in good working order and shall not dispose of or use such equipment other than in accordance with the Customer's written instructions or authorization.

3. PRECISIONAL ASSISTANCE; CONTACTS.

3.1 Except as otherwise provided in the applicable SOW, Consultant will have exclusive control over the manner and means of performing the Services, including the choice of place and time, and will use its expertise and creative talents in performing the Services. Consultant acknowledges that time is of the essence with respect to Consultant's obligations hereunder and that prompt and timely performance of all such obligations is strictly required. Except as otherwise provided in the applicable SOW, Consultant will provide, at its own expense, a place of work and all equipment, tools, and other materials necessary to complete the SOW. Consultant agrees that if Consultant uses Precisional's equipment or facilities, regardless of whether Precisional grants permission to Consultant to do so (which if granted, will be gratuitous), Consultant will be responsible for any injury (including death) to any person or damage to any property (including Precisional property) arising from such use, regardless of whether or not such injury or damage is claimed to be based upon the condition of such equipment or facilities, or is alleged to be based upon the negligence of Precisional in permitting such use. Each party will appoint one or more employees or agents of such party to act as the point(s) of contact for all consultations between the parties related to the Services.

4. CONSULTANT'S COMPENSATION.

4.1 Subject to Consultant's performance under each SOW, Precisional shall, within the limits of a duly authorized Precisional purchase order, pay Consultant compensation in the amount(s) and at or within the time(s) described in the applicable SOW, provided that Consultant has submitted to Precisional:

(i) an invoice setting forth the applicable Precisional purchase order number and stating that Consultant has (a) performed all obligations on which any fixed-fee compensation is based or (b) submitted all time records on which any hourly compensation is based; and

(ii) all information or certifications as Precisional may reasonably require to satisfy any applicable government regulations.

Precisional shall only pay for those Services and Deliverables actually requested and rendered.

4.2 To the extent approved by Precisional in the applicable SOW, Precisional or its customers will reimburse Consultant, pursuant to Precisional's standard reimbursement policies, for all reasonable and previously-approved out-of-pocket expenses incurred by Consultant pursuant to the Services. Consultant shall itemize and submit receipts for all such expenditures.

4.3 Unless otherwise specified in the applicable SOW, (i) all payments are due in U.S. Dollars within 45 days of Precisional's receipt of an undisputed invoice, and (ii) Consultant shall not invoice Precisional until Precisional's acceptance of the Services or Deliverables (as applicable) in accordance with the payment schedule set forth in the applicable SOW. Consultant will be responsible for all sales, service, and value added taxes, withholdings, duties and levies in connection with the Services (excluding taxes based on the net income or profits of Precisional).

4.4 Consultant acknowledges that this Section 4 sets forth the only compensation which Consultant is entitled to receive in exchange for the Services and that Consultant shall not be entitled to any other payments, benefits, reimbursements, royalties or consideration of any kind.

5. **TERM AND TERMINATION OF SERVICES.**

5.1 *Term.* These Terms shall become effective as between Precisional and Consultant as of the effective date of the first SOW between the parties and shall continue in effect for so long as there are any outstanding SOWs, unless earlier terminated as herein provided (the "**Term**").

5.2 *Termination by Precisional.* Precisional may terminate these Terms or any SOW at any time with or without cause for its convenience, effective upon ten (10) days prior written notice to Consultant. Precisional may also terminate these Terms or any SOW: (i) immediately upon written notice to Consultant if Consultant breaches these Terms or the SOW, as the case may be, and does not fully cure the breach to Precisional's satisfaction within ten (10) business days after Precisional gives notice of the breach to Consultant; (ii) if Consultant ceases operation without a successor; or (iii) if Consultant seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against Consultant (and not dismissed within 60 days thereafter). Precisional may terminate these Terms or any SOW immediately upon written notice if Precisional determines that Consultant is unable to perform the duties assigned to Consultant by Precisional.

5.3 *Termination by Consultant.* Consultant may terminate these Terms or the applicable SOW if Precisional fails to cure any material breach of these Terms or the applicable SOW within 30 days after receiving written notice of such breach.

5.4 *Right to Earned Fee.* If Precisional terminates an SOW prior to completion of Services other than for Consultant's material breach, Consultant is entitled to be paid any unpaid compensation earned for authorized activities performed before the date of termination on a proportional basis, and to be reimbursed for prior approved expenses incurred before the date of termination, but Consultant will not be entitled to any other compensation.

5.5 *Effect of Termination; Survival.* Neither the expiration nor the termination of these Terms or an SOW shall relieve either party of any payment or other obligation incurred prior to such termination or expiration. Following termination, Section 1 (Definitions),

Section 5.5 (Effect of Termination; Survival), Section 6 (Proprietary Rights), Section 7 (Confidential Information), Section 8 (Representations and Warranties; Restrictions on Consultant), Section 10 (Indemnification), Section 11 (Limitation of Liability), Section 12 (Bankruptcy) and Section 13 (General) will survive.

6. PROPRIETARY RIGHTS.

6.1 *Disclosure and Assignment of Intellectual Property.* Consultant agrees to promptly disclose to Precisional all Intellectual Property and other Deliverables arising out of performing Services. For example and without limitation, this includes all Deliverables and Intellectual Property that (i) result from any work performed by Consultant for Precisional or (ii) were invented utilizing Precisional's equipment, supplies, facilities, time, or any Confidential Information. All of the Deliverables that contain copyrightable subject matter are explicitly considered by Consultant and Precisional to be specially commissioned by Precisional, and to constitute "works made for hire" to the extent permitted by law. To the extent not constituting works made for hire, consultant hereby irrevocably assigns to Precisional all Intellectual Property and other subject matter (whether or not patentable or copyrightable), and all proprietary and intellectual property rights in or arising from any of the foregoing (and further including the right to sue for past, present or future infringements or misappropriations thereof), that either: (a) arise out of the Services or (b) constitute (or are the subject of) a patent application which incorporates any Intellectual Property or Confidential Information and is filed by Consultant (either alone or with others). With respect to any right that cannot be assigned, Consultant grants to Precisional during the term of such rights, an exclusive (even as to Consultant), irrevocable, perpetual, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, under and to all of such rights in and to all Deliverables. The "work made for hire" designation and assignments in this Section 6.1 shall not apply to any Pre-Existing Intellectual Property.

6.2 *Consultant's Assistance.* Upon request of Precisional, Consultant agrees to cooperate with and assist Precisional in perfecting, maintaining, protecting, and enforcing Precisional's rights in the Deliverables, including, without limitation, obtaining patents, copyrights or other forms of proprietary rights requiring registrations. Consultant also agrees to sign all documents and do all things necessary to obtain and perfect such patents, copyrights or other proprietary rights, to assign them to Precisional, and to assist in protecting them against infringement or attack by other parties. The obligations of this paragraph are continuing and survive the termination of these Terms. In the event that Precisional requires Consultant's assistance under this paragraph after the termination of these Terms, Consultant will be compensated for time actually spent in providing assistance at an hourly rate equal to Consultant's average hourly rate under these Terms.

6.3 *Appointment of Agent.* Consultant irrevocably appoints Precisional to act as Consultant's agent and attorney in fact to perform all acts necessary to obtain patents, copyrights or other proprietary rights to any assigned Intellectual Property or other Deliverable, if (i) Consultant refuses to perform those acts or (ii) is unavailable, within the meaning of any applicable patent, copyright or other proprietary rights laws.

6.4 *No Filings by Consultant.* Consultant shall not apply to register or perfect any proprietary right that is assigned to, or is otherwise owned by, Precisional pursuant to these Terms.

6.5 *Pre-Existing Intellectual Property.*

(i) *Pre-Approval.* Consultant shall not use any Pre-Existing Intellectual Property in connection with these Terms unless Consultant (a) has specifically identified such Pre-Existing Intellectual Property in the applicable SOW and (b) has the right to use such Pre-Existing Intellectual Property for Precisional's (and Precisional's licensees') benefit and to issue the licenses set forth in this Section 6.5.

(ii) *License.* Consultant hereby grants Precisional a non-exclusive, royalty-free, irrevocable, worldwide, perpetual license, with the right to sublicense through multiple levels of sublicensees, in and to the Pre-Existing Intellectual Property incorporated into or necessary for Precisional to fully utilize and capitalize the Deliverables, to make, have made, sell, offer to sell, execute, reproduce, modify, adapt, display, publicly perform, distribute, digitally transmit, create derivative works of, import, disclose and otherwise use, in any medium or format, whether now known or hereafter discovered, the Pre-Existing Intellectual Property or products and services used in conjunction with Precisional's use of the Deliverables.

6.6 *Records on Deliverables.* Consultant must keep complete and accurate records on all Deliverables in the manner and form requested by Precisional. Such records, and all copies thereof, are the property of Precisional. Consultant must promptly surrender the records at the request of Precisional, or in any event, upon the termination of these Terms. Consultant shall not retain copies of such records without the express written permission of Precisional for each record retained.

6.7 *Restrictions on Documents and Equipment.* All documents and equipment relating to the business of Precisional, whether prepared by Consultant or otherwise, coming into Consultant's possession, are the exclusive property of Precisional, and must not be removed from the premises of Precisional except as required in the course of performance under these Terms. All such documents and equipment must be returned to Precisional upon request, and in any event, upon the termination of these Terms.

7. **CONFIDENTIAL INFORMATION.**

7.1 *Confidentiality.* Other than in the performance of these Terms, neither Consultant nor Consultant's agents, employees, or contractors shall use or disclose to any person or entity any Confidential Information of Precisional (whether in written, oral, electronic or other form). The provisions of this Section 7 shall not apply to any information that Consultant can prove, by clear and convincing evidence: (i) is rightfully known to Consultant prior to disclosure by Precisional; (ii) is rightfully obtained by Consultant from any third party without restrictions on disclosure; (iii) is or is, or through no fault of Consultant has become, available to the public without restrictions; or (iv) is disclosed by Consultant with the prior written approval of Precisional. Consultant warrants and

represents that each employee, agent, and contractor who performs work under these Terms has been informed of the confidentiality obligations contained herein and has agreed to be bound by them.

7.2 *Standard of Care.* Consultant will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as Consultant protects its own confidential or proprietary information of a similar nature, and with no less than the greater of reasonable care and industry-standard care.

7.3 *No Publicity.* Consultant agrees that it shall not issue or make any press releases, publications or public references regarding its relationship with Precisional unless Consultant first informs Precisional of such proposed publicity, submits all proposed publicity materials to Precisional for review and obtains Precisional's prior consent in writing, in each particular instance.

7.4 *Removal; Return.* Consultant will not remove any tangible embodiment of any Confidential Information from Precisional's facilities or premises without Precisional's express prior written consent. Upon Precisional's request and upon any termination or expiration of the Term, Consultant will promptly (i) return to Precisional or, if so directed by Precisional, destroy all tangible embodiments of the Confidential Information (in every form and medium); (ii) permanently erase all electronic files containing or summarizing any Confidential Information; and (iii) certify to Precisional in writing that Consultant has fully complied with the foregoing obligations.

7.5 *Reverse Engineering* Unless and except to the extent expressly authorized by Consultant to do so in the applicable SOW, Consultant will not attempt to reverse engineer, de-encrypt, or otherwise derive the design, internal logic, structure or inner workings of any Intellectual Property of Precisional.

8. REPRESENTATIONS AND WARRANTIES; RESTRICTIONS ON CONSULTANT.

8.1 *No Conflicting Contracts or Interests.* Consultant represents and warrants that Consultant has full right, power, and authority to enter into these Terms and each SOW without the consent of any third party, including the right to grant all licenses granted by Consultant hereunder and thereunder. Consultant represents and warrants that Consultant is not a party to and will not become a party to any contract or commitment with any other party that would interfere with Consultant's compliance with these Terms or any SOW, or which would constitute a conflict of interest in Consultant's availability for or performance of the Services contemplated in any SOW. Consultant will not disclose to Precisional, will not bring into Precisional's facilities, and will not induce Precisional to use any confidential or proprietary information of any third party.

8.2 *Consultant Performance.* Consultant warrants that the Services shall be rendered and Deliverables shall be produced to the best of Consultant's abilities, knowledge and experience, shall be timely, professional and workmanlike, shall comply with the

applicable SOW, and shall meet or exceed the highest reasonable standards of Consultant's industry.

8.3 *Insurance Coverage.* During the Term, Consultant warrants that it shall obtain and maintain at Consultant's expense any and all insurance coverage as requested by Precisional in writing, including but not limited to, insurance coverage for Worker's Compensation, and shall provide Precisional evidence of such insurance coverage within ten (10) days of execution of an SOW. Without limiting the foregoing, Consultant shall provide adequate coverage for any Precisional property under the care, custody or control of Consultant or Consultant's personnel.

8.4 *No Infringement.* Consultant warrants that (i) except for any Third Party Materials and Pre-Existing Intellectual Property incorporated therein as expressly approved by Precisional pursuant to an SOW and consistent with these Terms, each Deliverable is and will be an original work of Consultant and (ii) the Services and Deliverables will not violate, infringe or misappropriate any Intellectual Property of any third party, or any copyright, trade secret, trademark, patent or other proprietary or intellectual property rights therein. In addition, Consultant will not grant, directly or indirectly, any right or interest in any Deliverable (other than any Pre-Existing Intellectual Property it may contain) to any other person.

8.5 *No Competitive Planning or Solicitation of Customers.* During the Term, Consultant agrees not to undertake any work for any outside business activity competitive with Precisional unless Consultant has first notified an officer of Precisional in writing of such activity. Consultant agrees not to disclose the identity of Precisional's customers. Consultant agrees not to use any Confidential Information to divert or attempt to divert (by solicitation or other means) Precisional's customers.

8.6 *No Solicitation of Precisional Employees.* During the Term, and for a period of one (1) year thereafter, Consultant agrees not to use any confidential information of Precisional or its affiliates to encourage or solicit any of Precisional's employees or independent contractors to become an employee or independent contractor of Consultant.

8.7 *No Commitment of Precisional.* Consultant is not authorized to make any commitments whatsoever to any third party on behalf of Precisional except as otherwise authorized in writing by Precisional; and Consultant shall, when appropriate, inform third parties of this limitation.

8.8 *No Harmful Code.* The Services and all Deliverables shall be free of any: (i) viruses, worms, time bombs, Trojan horses or other harmful, malicious or destructive code; (ii) software disabling devices, time-out devices, counter devices and devices intended to collect data regarding usage of software without the knowledge of Precisional; and (iii) Open Source Software, except as expressly authorized by Precisional in writing in accordance with Section 2.

8.9 *Remedy of Defects.* Consultant shall, without charge, correct any non-conformity, defect or malfunction in any Deliverable reported by Precisional within 30 days of receipt of notice from Precisional, or if Consultant is unable to make the Deliverable operate as warranted within such 30-day period, then

9. ACCESS TO PRECISIONAL SYSTEMS

9.1 *Access to Precisional's Systems.* Access, if any, to Precisional's computer, telecommunication or other information systems (including computers, networks, voice mail, etc.) or those of any Precisional client or customer ("**Systems**") is granted solely to facilitate the business relationship described in these Terms, and is limited to those specific Systems, time periods, and personnel designated by Precisional. Access is subject to business control and information protection policies as may be provided by Precisional. Any access to or use of any Systems except as expressly authorized is expressly prohibited. Without limiting the foregoing, Consultant warrants that it has adequate security measures in place to comply with the above obligations and to ensure that access granted hereunder will not impair the integrity and availability of Systems. Upon reasonable notice, Precisional may audit Consultant to verify Consultant's compliance with these obligations.

9.2 *Access to Precisional's Software.* Solely to the extent Precisional determines it is necessary for Consultant to have access to certain Precisional software or tools ("**Precisional Software**") in order to perform the Services, subject to the terms and conditions of these Terms, Precisional grants to Consultant a non-exclusive, non-transferable, non-sublicensable, royalty-free license, to use the Precisional Software solely for the performance of the Services. Consultant will not use any of the trade secrets, algorithms, Intellectual Property, or technology revealed or embodied by the Precisional Software except as necessary to perform the Services. No right is granted by these terms for the use of the Precisional Software directly or indirectly by others. Consultant may not sublicense or otherwise transfer, by contract, operation of law, or otherwise, any of the rights granted to Consultant herein. All rights not expressly licensed herein are reserved to Precisional and its affiliates, customers and suppliers.

10. INDEMNIFICATION

Consultant will defend, indemnify and hold harmless Precisional, its affiliates, officers, directors, employees, sublicensees, customers and agents from and against any and all claims, losses, liabilities, damages, expenses and costs (including attorneys' fees and court costs) arising from or relating to: (i) any breach or alleged breach of any representation, warranty, covenant or other provision of these Terms by Consultant; (ii) any infringement or alleged infringement by Consultant, the Services or any Deliverable of any third-party intellectual property rights; or (iii) any personal injury or property damage caused by the negligence or willful misconduct of Consultant or its employees, agents, suppliers or subcontractors (a "**Claim**"). Precisional shall give Consultant written notice of any such Claim and Precisional has the right to participate in the defense of any such Claim at its expense. In no event shall Consultant settle any Claim without Precisional's prior written consent (which consent shall not be unreasonably

withheld). From the date of written notice from Precisional to Consultant of any such Claim, Precisional shall have the right to withhold from any payments due Consultant under these Terms the amount of any defense costs, plus additional reasonable amounts as security for Consultant's obligations under this Section 10.

11. **LIMITATION OF LIABILITY**

NEITHER PARTY WILL BE LIABLE FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND 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 PRECISIONAL'S AGGREGATE LIABILITY UNDER THESE TERMS AND ANY SOW EXCEED THE FEES DUE TO BE PAID TO CONSULTANT HEREUNDER AND THEREUNDER IN THE TWELVE MONTHS PRECEDING THE CLAIM. THIS SECTION 11 DOES NOT APPLY WITH RESPECT TO A BREACH UNDER 6 (Proprietary Rights) OR SECTION 7 (CONFIDENTIAL INFORMATION) OR THE INDEMNITY OBLIGATIONS UNDER SECTION 10.

12. **BANKRUPTCY**

All rights and licenses granted to Precisional under or pursuant to these Terms are, and shall otherwise be deemed to be, for purposes of section 365(n) of the United States Bankruptcy Code (the "**Code**"), licenses to rights in "intellectual property," as defined under the Code. The parties hereto further agree that, in the event of the commencement of bankruptcy proceedings by or against Consultant under the Code, Precisional shall be entitled, at its option, to retain all of its rights under these Terms pursuant to Code Section 365(n).

13. **GENERAL PROVISIONS.**

13.1 *Governing Law; Jurisdiction and Venue.* Unless expressly otherwise set forth in an SOW, these Terms and any dispute, claim or controversy arising therefrom shall be governed by and construed under Delaware law and applicable United States federal law, without reference to any choice/conflict of laws principles or provisions. Any suit or proceeding arising out of or relating to these Terms shall be commenced in the federal and state courts located in New Castle County, Delaware, and each party irrevocably submits to the jurisdiction and venue of such courts. The United Nations Convention on Contracts for the International Sale of Goods will not apply.

13.2 *Independent Contractors.* Each party is an independent contractor of the other and neither is an employee, agent, partner or joint venturer of the other. Neither party shall voluntarily or involuntarily bind nor attempt to bind the other to any contract or to the performance of any obligation. Neither party may represent to third parties that it has any right to enter into any obligation on the other's behalf. Consultant shall indemnify and hold

Precisional harmless from and against any unauthorized commitments. The parties hereby agree that there are no third party beneficiaries of these Terms.

13.3 *Assignment; Binding Effect.* These Terms and Consultant's rights and obligations under these Terms may not be assigned, delegated, or otherwise transferred, in whole or in part, by operation of law or otherwise, by Consultant without Precisional's express prior written consent. Any purported delegation, assignment or transfer in violation of the above prohibition shall be void. Precisional may assign these Terms to an affiliate or in the event of a merger, reorganization, acquisition or other transfer of all or substantially all of Precisional's assets or voting securities. These Terms will otherwise be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

13.4 *Notices.* Any notice, report, approval or consent which may be or is required to be given under these Terms shall be in writing to the address(es) specified in the SOW, and shall be deemed to have been received: (i) when delivered personally; (ii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iii) one (1) day after having been sent by a commercial overnight carrier with written verification of receipt. Either party may change its notice address by written notice to the other. In addition, any notice to Precisional shall also include a copy to: Precisional Inc., Attention: Precisional LLC, 3333 Warrenville Rd, Unit 200, Lisle, IL 60532 USA, Attn: Contracting Department.

13.5 *Waiver.* Precisional's (i) waiver of any performance by Consultant; (ii) waiver of any condition of these Terms; or (iii) consent to any breach of these Terms by Consultant, shall (a) be effective only if expressly set forth in a writing signed by Precisional and (b) not constitute or require an ongoing waiver of such performance or condition, or consent to any previous, different or subsequent breach, regardless whether such performance, condition or breach is similar, identical or related, and regardless of the course of dealing which develops or has developed between the parties.

13.6 *Headings; Construction.* The headings contained in these Terms are for reference purposes only and shall not affect in any way the meaning or interpretation of these Terms. Unless expressly indicated to the contrary, the term "including" (and variations thereof) means "including, without limitation." Each reference to a signature, approval or a written consent by Precisional shall mean a signature by an authorized representative of Precisional; a signature by an unauthorized representative shall not be binding. Each reference to these Terms shall also include a reference to each SOW between the parties.

13.7 *Entire Agreement; Modifications; Severability.* Both parties agree that these Terms, together with the SOW, are the complete and exclusive statement of the mutual understanding of the parties, and supersede and cancel all previous written and oral agreements and communications relating to the subject matter of these Terms. No provision of any quotation or other business form employed by Consultant will supersede these Terms, and any such document relating to these Terms shall be for administrative purposes only and shall have no legal effect. No change to these Terms or an SOW shall be effective unless in writing and signed by Consultant and Precisional. If any provision of these Terms is held by a court or arbitrator of competent jurisdiction to be unlawful or

unenforceable, the remaining provisions of these Terms shall be enforced to the extent possible.

13.8 *Official Language.* The official language of these Terms is English. If there is a conflict between versions of these Terms in any other language, the English language version controls.

13.9 *Order of Precedence.* In case of any inconsistency, conflict, or ambiguity among these

13.10 *Responsibility of Consultant.* Consultant may not subcontract the Services without the prior express written consent of Precisional. Consultant's use, if any, of third party agents or subcontractors among its personnel shall not relieve Consultant of any of its obligations under these Terms. Each of Consultant's personnel shall have executed a non-disclosure agreement binding such personnel to obligations of confidence no less restrictive than those imposed on Consultant hereunder. Consultant shall remain responsible in law for the compliance of its personnel with these Terms and applicable SOWs, and Consultant covenants to seek any and all remedies available in law or in equity in favor of Precisional for any defaults or breaches of its personnel thereof.

13.11 *Counterparts.* The SOW may be executed in any number of counterparts, each of which will be considered an original and all of which when taken together will constitute a single fully-signed original. Facsimile and other electronic means of signatures on the SOW are binding.

13.12 *Ethics; Compliance with Laws and Regulations.* Consultant acknowledges the importance of upholding the reputation of Precisional, its products and services. Accordingly, Consultant agrees that it will conduct its business activities authorized under these Terms in accordance with the highest quality of business practice and ethical standards. Consultant will comply with all applicable United States, foreign and local laws, rules and regulations, including but not limited to the United States Foreign Corrupt Practices Act of 1977. Without limiting the generality of the foregoing, Consultant covenants and agrees not to make any payments, directly or indirectly (through intermediaries or otherwise), to government officials or other third parties in an effort to influence the award of any contracts or other benefits to Precisional in violation of any applicable laws. If applicable, Consultant is solely responsible for complying with all applicable export and import regulations and obtaining all necessary export and import licenses or permits for the direct or indirect export or import of any products. Consultant will defend, indemnify and hold Precisional harmless against any liability (including attorneys' fees) arising out of Consultant's failure to comply with the terms of this paragraph.

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