

FLATIRON HEALTH
PURCHASE ORDER TERMS AND CONDITIONS

1. APPLICABILITY. These terms and conditions (the “**Terms and Conditions**”) shall apply to the extent incorporated by reference in any purchase orders, service orders, statements of work or other written communications or electronic transmissions (each, an “**Order**”) issued by Flatiron Health, Inc., its affiliate(s) or related entities (such entity, “**us**”, “**our**”, “**we**” or “**Flatiron**”) and set forth the terms and conditions that apply to all purchases of goods and services specified on the relevant Order (“**Goods**” and “**Services**”, respectively) by us from the party to whom the Order is addressed (“**you**” or “**your**”); provided that if is a separately negotiated agreement between you and Flatiron which contemplates the current transaction, such separate agreement shall apply and these Terms and Conditions shall not apply. Upon your execution of the relevant Order or the delivery of any goods or performance of any services pursuant to such Order, the Order as governed by these Terms and Conditions (together, the “**Agreement**”) shall become legally binding between the parties. The unmodified Order as issued by Flatiron shall supersede any conflict with these Terms and Conditions. The Agreement constitutes the entire understanding between the parties with respect to the subject matter in the Agreement and prevails over any other terms or conditions contained in any other documentation.

2. DELIVERY OF GOODS AND SERVICES; PERFORMANCE OF SERVICES.

- a. Delivery. You shall: (i) deliver the Goods to the location stated in the Order, or if not so stated, as instructed by Flatiron (the “**Delivery Location**”) and in the quantities specified on the Order, and (ii) deliver the Goods on the date(s), and provide the Services in accordance with the performance schedule, in each case, as specified in the Order or as otherwise agreed in writing by us (the “**Delivery Date**”).
- b. Delivery Failure. Time is of the essence with respect to your performance of your obligations under the Agreement, including the timely delivery of the Goods and Services. If you fail to deliver the Goods or perform the Services in full on the applicable Delivery Date (including any delivery milestones), you shall (exclusive of other remedies we may have) (i) immediately notify us of such failure in writing, (ii) propose a new Delivery Date, (iii) use best efforts to expedite delivery or performance of delayed Goods or Services at your sole cost and expense, and (iv) at our option, issue a refund to us (on a pro rata basis) of, or a discount (equal to the cost incurred by us as a result of such late delivery) on, the purchase price for the Goods or Services delivered or performed late. In addition to the foregoing, we may, at our option and upon written notice to you at any time prior to full delivery or performance of the late Goods or Services: (A) terminate the Agreement, (B) cancel an Order (in whole or in part) for late Goods or Services not yet delivered or performed, or (C) purchase replacement products or services from another supplier at your sole cost and expense. We will have no liability for any damage resulting from any termination of the Agreement or cancellation of an Order due to your late delivery or performance.
- c. Services and Service Levels. The Goods and Services include any and all Work Product (defined below), services, materials, parts, products, machines, tooling, test equipment,

technical data, software, documentation, creative designs, artwork and other tangible items or documentary information furnished or required to be furnished by you in connection with the proper provision of Goods or performance of the Services hereunder. You shall provide the Services in a manner so as to meet or exceed all service levels specified in the Order.

3. **PACKING AND SHIPMENT; RISK OF LOSS.** Unless otherwise specified in an Order, you shall not charge us, and we will not pay, charges for packing, crating, handling, transportation, storage, or other delivery fees. Title and risk of loss with respect to all Goods pass to us upon delivery of such Goods at the Delivery Location. Unless otherwise specified by us in writing, you will prepare and package all Goods in a manner that is (a) in accordance with good commercial practice, (b) acceptable to common carriers for shipment at the lowest rate for the particular goods, and (c) adequate to insure arrival of the Goods at the Delivery Location, in a safe, undamaged, unspoiled condition and during our normal business hours. You will mark all containers with necessary lifting, handling, and shipping information, and with Order numbers, date of shipment and the names of the consignee and consignor. An itemized packing list must accompany each shipment of Goods. Our count as to the quantity of Goods delivered shall be accepted as final and conclusive on all shipments that are not accompanied by a packing slip indicating the quantity delivered.
4. **INSPECTION AND ACCEPTANCE.** Notwithstanding any prior inspection or payments, we shall have a reasonable time after our receipt of the Goods at the Delivery Location or after you complete the Services to inspect such delivered Goods or Services and run adequate tests for conformity to any applicable warranties, drawings, samples or specifications provided by us, and the Agreement (collectively, the “**Specifications**”). In addition to any other rights available to us, if we identify any nonconformity with the Specifications (“**Nonconformity**”) or defect in design, material, manufacture or workmanship (“**Defect**”) in the Goods or Services, we will have the right upon notice to you, in our sole discretion and in whole or in part, to: (i) reject the Goods or Services, (ii) require you to replace, re-perform or correct any such Defects and Nonconformities during the Warranty Period in accordance with the process set forth in the Warranty stated herein and at no additional cost to us, or (iii) accept the Defective or Nonconforming Goods or Services with a reasonable adjustment in price (including reductions to reflect any costs incurred by us in relation to such Defective or Nonconforming Goods or Services).
5. **YOUR PERSONNEL; OUR PREMISES.**
 - a. Your Personnel. You shall ensure that your and your affiliates’ employees, subcontractors and agents, and the employees and agents of your subcontractors, in each case, that are providing Services, delivering Goods or otherwise performing your obligations under the Agreement (“**Personnel**”) comply with the Agreement, and are bound by substantially similar contractual requirements to comply with all confidentiality and security requirements set forth herein and all applicable laws and regulations.
 - b. Our Premises. When materials, property, equipment or tangible or intangible assets are furnished by or on behalf of us for your use (“**Flatiron Property**”), you shall maintain such Flatiron Property in good condition, and shall receive, unload, store and handle all Flatiron

Property only for and as instructed by us. Flatiron Property will remain our property (i.e., title will not transfer to you) and you shall return it or otherwise dispose of it as directed by us. If you are required to relocate Flatiron Property in order to deliver Goods or Services, you will restore such Flatiron Property to its original location as soon as possible, but in any event no later than upon your full completion of the delivery of the Goods or Services. You and your Personnel shall take all safety precautions necessary for the prevention of accidents while on our premises and in case of any accident, destruction or injury to any person, Flatiron Property or our premises in connection with your Personnel's performance of your obligations hereunder, you shall: (i) immediately notify us in writing, and (ii) in the case of damage, destruction or injury to our premises or Flatiron Property, repair and replace such premises or Flatiron Property so injured, damaged or destroyed, at your sole expense and to our satisfaction. You shall be fully responsible for the safety of your Personnel and pre-approved visitors and invitees while at our premises, and we will not be responsible or held liable for any damage to person or property arising from the use, misuse or failure of any equipment, notwithstanding our ownership, provision or loan of such equipment (including Flatiron Property) to any of your Personnel. You shall keep the area in which you are providing the Services or delivering the Goods safe, clean and sanitary at all times and arrange for the regular, safe and orderly removal and legal disposal of any waste. You must obtain our prior written consent prior to storing any materials at our premises.

- c. Access. You will not (i) copy or share with any third party any access credentials received from us, whether physical (e.g., key cards), electronic (e.g., access codes), or other or (ii) otherwise cause or allow any third parties (including any visitor or invitee) to access our premises without prior written permission from us.

6. PRICING AND INVOICING

- a. Prices. Subject to the timely delivery of the Goods and Services in accordance with the Agreement, we shall pay you the amount specified in the applicable Order upon receipt of proper invoices (as detailed below). The amounts specified in the applicable Order are firm and shall fully compensate you for providing the Goods and Services under such Order, all of the resources and materials used by you to provide such Goods and Services, and your assignment of rights to us hereunder. We will not be responsible for payment to you for any charges, fees or other amounts not expressly set forth in an applicable Order, including duties, taxes, work conducted by you after regular working hours or incremental fees incurred by you to comply with a Delivery Date. Unless otherwise specified, the prices set forth in the applicable Order are in the currency set forth on such Order. If no currency is stated, then the currency is the local currency of the entity issuing the Order.
- b. Invoices. You shall submit to us invoices showing the following information: Order number, item number, description of item, size of item (if applicable), quantity of item, unit prices, each applicable tax, extended totals and any other information specified elsewhere in the Order. A bill of lading or receipt must accompany each invoice for Goods. We will pay all properly invoiced amounts within 60 days after receipt of the applicable, accurate invoice. Payment of

invoice will not, on its own, constitute acceptance of Goods or Services by us and will be subject to adjustment for errors, shortages, defects in the Goods or Services or other failure by you to meet the requirements of the Agreement. Without prejudice to any other rights or remedies we may have under the Agreement or otherwise, we may at any time set off any amount we owe to you against any amount you owe to us. No interest charges or other penalties for late payment may be assessed by you without our prior written consent. If, in good faith, we dispute an amount charged on an invoice, we will be entitled to withhold the disputed amount pending resolution of the dispute, but shall timely pay all amounts not subject to dispute and you shall continue performing your obligations in accordance with the Agreement notwithstanding any dispute or actual or alleged nonpayment that is the subject of the dispute. We will not be liable for the payment of any invoice received more than 120 days after accrual of the charges covered by such invoice.

- c. Taxes. Unless otherwise agreed to in writing, the prices set forth in the Order exclude all applicable sales, federal, state and local taxes and other similar taxes and governmental charges levied in connection with the Goods and Services provided pursuant to the Agreement. We are not liable for the payment or reimbursement to you of any corporate franchise, business license or payroll withholding taxes or fees, or any taxes measured by or against your income or property. You are responsible for the payment of your federal, state and local employment taxes. You will indemnify our Indemnitees for all of your tax liability set forth in this Section, including any interest and penalties.

7. PROPRIETARY RIGHTS.

- a. Rights in Deliverables. Unless otherwise specified in an Order and except as provided in this Section, services performed under the Order shall be deemed to be a work made for hire and made in the course of the services rendered, Flatiron is the sole and exclusive owner of all deliverables specified in or otherwise provided under an Order ("**Deliverables**") and you hereby irrevocably assign and transfer to Flatiron all of your worldwide right and title to, and interest in, the Deliverables, including all associated Intellectual Property Rights (as defined below). To the extent that exclusive title or ownership rights in a Deliverable may not originally vest in Flatiron as contemplated hereunder, you irrevocably assign, transfer and convey to Flatiron all right, title and interest therein. You shall require your Personnel to execute intellectual property assignments or license agreements which permit your assignment to the Deliverables herein free and clear of third party claims. "**Intellectual Property Rights**" means any and all tangible and intangible: (i) copyrights and other rights associated with works of authorship throughout the world, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents, designs, algorithms, utility models, and other industrial property rights, and all improvements thereto; (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise; and (vi) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

- b. Preexisting Materials. Unless otherwise specified in a SOW, each party owns all right, title, and interest in and to any of its Preexisting Materials. “**Preexisting Materials**” means any Intellectual Property Rights or tangible personal property created before the date of the Order or outside the scope of the Order; providing, however, in your case, you advise Flatiron of any such Intellectual Property Rights in writing prior to incorporating the same into any Goods or Services. Supplier hereby grants Flatiron a perpetual, irrevocable, worldwide, transferable, royalty-free, nonexclusive license, with the right to sublicense and authorize the granting of sublicenses, to use and reproduce Supplier's Preexisting Materials, including any Intellectual Property Rights of third parties, in the Deliverables to the extent necessary for Flatiron's exercise and exploitation of its rights in the Deliverables. You will deliver copies of licenses for Intellectual Property Rights of third parties to Flatiron upon Flatiron's reasonable request.

- c. Publicity. You shall not use any of our trademarks, service marks, trade dress, trade names or other indicia of source or origin (together with all goodwill associated therewith or symbolized thereby, “**Marks**”) or refer to us directly or indirectly in any marketing materials, media release, public announcement or disclosure, in each case, without our prior written consent prior to each such use or release. Any usage of our Marks will be on a non-exclusive basis and in accordance with our usage guidelines, as provided to you or as otherwise communicated to you in writing. Should we consent to our Marks being used by you, any goodwill arising from such use will inure to our sole benefit and we will retain all right, title and interest in and to such Marks.

8. CONFIDENTIAL INFORMATION.

- a. Existing NDA. Any non-disclosure agreement (“**NDA**”) between Flatiron and you which covers disclosure of confidential information under the Order shall apply and this Section (*Confidential Information*) shall not apply. If the term of the NDA expires before the expiration or termination of the Order, then the term of the NDA shall be automatically extended to match the term of the Order.

- b. Confidential Information. Each of the following shall be considered our “**Confidential Information**”: (i) all information provided by or on behalf of us, or accessed by you or your Personnel and related to, us, our products, affiliates, related entities or our customers, (ii) all Specifications, (iii) all documents prepared by you in connection with an Order, (iv) the fact that we have contracted to purchase Goods or Services from you, (v) Protected Health Information (“**PHI**”), as defined under the Health Insurance Portability and Accountability Act of 1996 (as amended), “personal data” as defined under the General Data Protection Regulation 2016/679, and other sensitive or personal identifying information, (vi) the terms or subject matter of the Agreement and (vii) all other non-public information relating to the Agreement. Confidential Information does not include any information (excluding personally identifiable information) which is now or becomes generally publicly known through no wrongful act or omission committed by you. You and your Personnel shall maintain the confidentiality of the Confidential Information and shall use or access Confidential Information solely to the extent

necessary to provide the Goods and Services in a manner in accordance with the Agreement and applicable law.

- c. Permitted Disclosures. You shall not transfer or disclose Confidential Information to third parties unless such transfer or disclosure is: (i) necessary to provide the Goods and Services, you have received our prior written consent, and prior to any such transfer or disclosure, you enter into a written, valid and enforceable agreement with such third party that includes terms that are no less restrictive than the obligations applicable to Confidential Information contained in the Agreement, or (ii) required by applicable law, in which case you shall notify us promptly in writing before complying with any such transfer or disclosure request and comply with all of our reasonable directions relating thereto. For transfers and disclosures permitted under this subsection (*Permitted Disclosures*), you will transfer or disclose only the minimum amount of Confidential Information necessary to deliver the Goods or Services or to comply with applicable law, as applicable.
 - d. Return of Confidential Information. Within 10 business days following expiration or termination of the Agreement in whole or in part, or at any time upon our request, you shall return or destroy all Confidential Information, including all originals and copies in any medium, and any materials derived from or incorporating such Confidential Information. Upon our request, you shall send us a written certification acknowledging that all of our Confidential Information has been returned or destroyed pursuant to the foregoing. For the avoidance of doubt, where the Agreement is terminated in part or where we request only the partial return of Confidential Information, you shall continue to comply with all obligations in the Agreement with respect to any Confidential Information that remains in your possession and control, but shall not further process or use such Confidential Information after expiration or termination of the Agreement or after our request for the return or destruction of such Confidential Information.
 - e. PHI. The separately-negotiated subcontractor Business Associate Agreement between you and Flatiron ("**BAA**") shall apply to the Services if you are accessing or have the ability to access any PHI. In the event of any conflict between this Agreement and the BAA with respect to PHI, the BAA shall control to the extent of the conflict.
9. **SECURITY**. You shall limit access to Confidential Information and Flatiron's systems, to those of your Personnel who have a need to know for the purposes of performing your obligations under the Agreement. Prior to providing access to Confidential Information to your Personnel, you shall: (a) inform such Personnel of its confidential nature, and (b) require such Personnel to execute nondisclosure agreements with provisions substantially similar to those set forth in the Agreement (copies of which shall be provided to us upon request). You shall use the same amount of care to protect Confidential Information that you use to protect your own information of like kind, but in any event not less than reasonable care. Without limiting the foregoing, you shall take all appropriate legal, organizational and technical measures to protect against unlawful and unauthorized processing of Confidential Information (including maintaining reasonable operating standards and security procedures), and shall use your best efforts to secure Confidential Information through the use of appropriate physical and logical security measures (including appropriate network security and

encryption technologies) and reasonable user identification or password control requirements, including multiple-factor authentication, strong passwords, session time-outs, and other security procedures as may be issued from time to time by us or otherwise required by applicable law or relevant industry standards. If requested by us at any time during the term of the Agreement, you shall provide us with a copy of your most current information security policy. You shall notify us within seventy-two (72) hours of learning of or having reason to believe that (i) any such breach or attempted breach of your security measures, or (ii) that any person or entity has gained unauthorized access to Confidential Information (“**Information Security Breach**”). Upon any such discovery, you shall, at your own cost and expense: (i) investigate such Information Security Breach and reasonably cooperate with us in connection with such investigation, (ii) not make any public announcements or any other notification relating to such Information Security Breach that references or otherwise identifies us or Confidential Information without our prior written consent, (iii) take all necessary and appropriate corrective action to prevent the recurrence of such Information Security Breach, and (iv) take or, at our request, assist us in taking, all remediation efforts necessary to prevent, remediate, or mitigate such Information Security Breach, including remediation efforts requested by us or required by applicable law or any governmental authority in similar circumstances, regardless of whether applicable law explicitly imposes such remediation obligations on you or us or both. You shall promptly reimburse us for all costs and expenses, including attorney’s fees, reasonably incurred by us, our affiliates or related entities in connection with an Information Security Breach.

10. REPRESENTATIONS, WARRANTIES AND COVENANTS. You expressly represent, warrant and covenant that:

- a. all Goods and Services, and the use thereof as contemplated in the Agreement, will: (i) comply with the requirements of the Agreement, including all Specifications and all applicable laws and regulations (including any applicable industry codes and standards); and (ii) not infringe, misappropriate or otherwise violate the Intellectual Property Rights of any third parties, and there are no such claims pending or threatened as of your commencement of performance hereunder;
- b. all Goods delivered will (i) be of merchantable quality and will be fit for the particular purposes intended by us (to the extent disclosed to you), (ii) together with its packaging, labeling and accompanying materials, be properly contained, packaged, marked and labeled, and (iii) be conveyed to us with clear and marketable title, free and clear of all liens, security interests, liabilities for royalties or other encumbrances;
- c. you and your Personnel shall perform the Services: (i) diligently, in a timely, competent, professional and workmanlike manner that equals or exceeds prevailing industry practices and relevant standards of care, using Personnel of required skill, experience and qualifications, and (ii) devoting adequate resources to meet your obligations under the Agreement;
- d. You and your Personnel shall take all necessary precautions, and such additional precautions as we may prescribe, to prevent the occurrence of any injury to persons or property during the progress of work on our Premises;
- e. you have obtained, and shall at all times during the term of this Agreement maintain, all necessary licenses and consents applicable to, or necessary for the performance of, your obligations under this Agreement;

- f. no liens, encumbrances, security interests, or other third party claims shall attach to any Flatiron Property or our premises or other property owned or leased by us, our affiliates or other entities in relation to your performance hereunder;
- g. for a period equal to the longer of: (i) 12 months after final delivery, (ii) the period provided in the original manufacturer's (including your) standard warranty covering the Goods or Services, or (iii) the warranty periods or statutes of limitation under applicable law (the "**Warranty Period**"), all Goods and Services delivered hereunder will be free from Defects and Nonconformities. If we require the replacement, re-performance or correction of Defects or Nonconformities during the Warranty Period, you shall, at your risk and expense, promptly upon receiving written notice from us, replace, re-perform or correct such Defects and Nonconformities and pay for all related expenses, including transportation charges for return and the delivery of replacement Goods and Services. Such replacement, re-performance or correction will not be considered accepted (including for purposes of the commencement of the Warranty Period) unless and until the applicable Defects or Nonconformities are corrected and we accept the Goods and Services. The applicable Warranty Period will be extended by an additional six months for any replaced, re-performed or corrected Goods or Services. If you fail to timely deliver replacement or corrected Goods or Services, we may: (A) return such Defective or Nonconforming Goods to you at your expense and recover from you the applicable order price, (B) require, and you shall provide, an appropriate reduction in price for such Defect or Nonconformity, (C) replace or correct such Goods or Services and charge you, and you shall pay, the cost of such replacement or correction, or (D) terminate the Agreement, in whole or in part, for cause as permitted herein.

The foregoing warranties will survive any delivery of Goods or Services by you, or any inspection, acceptance, approval or payment by us. For the avoidance of doubt, our warranty rights hereunder will not be limited by any standard warranties offered by you or any other warranties, express or implied, available to us under applicable law (including the Uniform Commercial Code or any state variation of the same) or equity. You shall and hereby do assign to us all warranties that you receive from suppliers or manufacturers of Goods provided to us hereunder.

11. INDEMNIFICATION.

- a. Your Indemnification Obligations. You shall indemnify, defend and hold harmless Flatiron and each of our affiliates and related entities, together with each of our and their respective employees, managers, agents, representatives, officers, directors, successors and assigns (collectively, "**Flatiron Indemnitees**") from and against any and all claims, demands, actions, proceedings, judgements, obligations, settlements, deficiencies, awards, fees, losses, damages, liabilities, fines, interest, penalties, costs, and expenses (including reasonable attorneys' fees and costs) of any nature (collectively, "**Losses**") incurred by a Flatiron Indemnitee to the extent arising out of or in any way connected to any demand, suit, action, investigation, allegation, complaint or any other proceeding (each, a "**Claim**"), related to, directly or indirectly: (i) personal injury (including death) to any person, property damage or destruction, or contamination of the environment and any associated clean-up costs arising from any act or omission by you or your Personnel related to the Agreement, (ii) your or your Personnel's negligence, omissions or willful misconduct, (iii) the violation or noncompliance of

your Goods or Services with applicable laws or regulations, (iv) your failure to pay taxes that you are required to pay as and when due, (v) your or your Personnel's failure to perform or improper performance under the Agreement, (vi) any breach or alleged breach by you or your Personnel of any covenant, representation or warranty herein, or (vii) an Information Security Breach. For purposes of clarity, Losses include attorneys' fees, damages, and other expenses of Flatiron Indemnitees arising from Claims against you by Flatiron Indemnitees, including those that would not otherwise be recoverable in the absence of your indemnification obligations.

- b. Indemnification Procedure. You shall not enter into any settlement or compromise of any third party Claim which requires an admission of guilt by Flatiron or imposes any non-pecuniary penalty on Flatiron (which shall be paid by you as an indemnified Claim). You agree to pay or reimburse all costs that may be incurred by a Flatiron Indemnitee in enforcing your indemnification obligations or in pursuing any insurance providers, including attorneys' fees. We may, at our option, join in the defense of a third party Claim with our own counsel. At our option, you shall take control of the defense of any third party Claim.
- c. Infringement Remedies. In addition to your indemnification obligations herein and except as provided below, in the event any Goods or Services, or any part thereof (including Work Product), becomes or is likely to become the subject of a third party Claim that such Goods or Services, or any part thereof (including Work Product), infringes, misappropriates or otherwise violates the Intellectual Property Rights of any third party, you shall, at your sole cost and expense and at our option, either: (i) replace or modify the affected Goods or Services, or any part thereof (including Work Product) so as to make them non-infringing or to avoid such misappropriation or violation, while providing equivalent functionality and features, or (ii) procure for us and our affiliates, related entities, distributors, contractors, and customers the right to continue use of such affected Goods or Services, or any part thereof (including Work Product). If you cannot accomplish any of the foregoing within a reasonable time after using commercially reasonable efforts, then you shall promptly issue a pro rata refund to us of the amounts paid to you for the affected Goods or Services, or any part thereof (including Work Product) that are the subject of such third party Claim. We shall not be obligated to cease or modify our use of such affected Services or Goods, or any part thereof (including Work Product), unless and until you have used commercially-reasonable efforts to achieve the alternatives in (i) and (ii) above, and provide us with written notification that you have done so and that replacement or modification is required.

12. LIABILITY.

- a. DISCLAIMER OF INDIRECT DAMAGES. EXCEPT AS SET FORTH IN THE EXCLUSIONS BELOW, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING FOR LOSS OR INTERRUPTION OF BUSINESS, LOST REVENUE, PROFITS OR GOODWILL), WHETHER FORESEEABLE OR UNFORESEEABLE AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, ARISING OUT OF THE AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES OR OTHERWISE, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF

THE POSSIBILITY OF THOSE DAMAGES.

- b. LIABILITY CAP. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE EXCLUSIONS BELOW, EACH PARTY'S (TOGETHER WITH ITS AFFILIATES' AND RELATED ENTITIES') AGGREGATE LIABILITY FOR ALL CLAIMS, LOSSES, LIABILITIES AND DAMAGES (INCLUDING REASONABLE ATTORNEYS' FEES) THAT ARISE OUT OF OR ARE RELATED TO THE AGREEMENT (INCLUDING ANY APPLICABLE ORDER) SHALL BE LIMITED TO THE TOTAL AMOUNT OF FEES PAID UNDER THE AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE EVENT FIRST GIVING RISE TO THE APPLICABLE CLAIM.
- c. EXCLUSIONS. THE LIMITATIONS OF LIABILITY HEREIN DO NOT APPLY TO: (I) LIABILITY ARISING OUT OF OR RELATED TO SUCH PARTY'S FRAUD, GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OR NON-CONDUCT, (II) A PARTY'S INDEMNIFICATION OBLIGATIONS; (III) CLAIMS FOR DEATH, BODILY INJURY OR DAMAGE TO TANGIBLE PROPERTY; (IV) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS; AND (V) A PARTY'S VIOLATION OF APPLICABLE LAW OR REGULATION.
- d. TIME LIMIT. YOU MUST COMMENCE ANY ACTION AGAINST US ARISING FROM THE AGREEMENT WITHIN ONE (1) YEAR FROM THE DATE THE CAUSE OF ACTION ACCRUES.

13. INSURANCE. During the term of the Agreement, you shall, at your sole cost and expense, obtain and maintain insurance coverage of the types and in the amounts that are required for compliance with applicable law and best practices and standards of care in your industry. Such insurance includes commercial general liability insurance, comprehensive automobile liability insurance, all risk property insurance, cyber-risk insurance and professional liability insurance. You agree that we may, from time to time, reasonably require in writing that you obtain and maintain additional types or amounts of insurance as we deem necessary based on the nature and scope of the Goods to be delivered and Services to be performed. Neither our receipt nor review of any certificates of insurance or insurance policies nor our failure to request such certificates of insurance or policies will relieve you of any of your insurance obligations described in the Agreement or in any writing we provide to you. You shall ensure that all your affiliates and subcontractors providing Goods or Services comply with the insurance requirements of the Agreement. Your responsibility and liability (including your liability to a Flatiron Indemnitee in connection with your indemnification obligations herein) will not be limited by any insurance policies or the recovery of any amounts from any insurance policies.

14. TERMINATION.

- a. Termination. We may terminate the Agreement, in whole or in part, or permanently or temporarily cancel performance of the Services or the delivery of Goods: (i) for convenience, upon five (5) days' prior written notice to you, or (ii) immediately for cause if you: (A) fail to perform under the Agreement or otherwise breach the Agreement, or (B) file a petition in bankruptcy, become insolvent, dissolve or fail to provide us, upon request, with reasonable assurances of future performance. If we terminate the Agreement in part, we may also, at our sole discretion, choose to terminate all or any portion of outstanding Orders or permit you to continue performance under any such outstanding Orders (in which case these Terms and Conditions shall remain in full force and effect until your performance of such outstanding

Orders is completed). Nothing in this Section 14.a is intended to excuse your performance with respect to any un-cancelled portion of the Agreement.

- b. Effect of Termination or Expiry. Upon termination or expiration of the Agreement in whole or in part for any reason: you shall (i) to the extent and at the times we specify in writing, stop, and instruct your Personnel to stop, all work under the Agreement; (ii) place no further orders for materials; (iii) ; (iii) protect all property (including any completed Goods or Work Product) in which we have or may acquire an interest, and transfer title to us (as applicable), (iv) (v) cancel any invoices for amounts related to Goods or Service which were not delivered prior to the date of expiry or termination and promptly refund to us all prepaid fees for the unused or undelivered portion of the Goods and Services; (vi) promptly deliver to us all partially completed Goods or Work Product and all copies and notes with respect to the foregoing in your possession and at your expense; and (ix) promptly cease use of Confidential Information. If shipments of Goods are en route to the Delivery Location at the time of termination or expiry of the Agreement, we will have the option to accept delivery of such Goods and pay the full amount for such Goods upon acceptance of same in accordance with the Agreement or return the Goods to you at your sole cost and risk.
- c. Survival. The expiration or termination of the Agreement will not relieve either party of any obligations that may have accrued prior to the termination or expiry of the Agreement, provided however, that we shall not be required to make any payments to you that did not become due prior to the termination or expiration date. Provisions of the Agreement that, by their nature, should apply beyond their terms will remain in force and effect after any termination or expiration of the Agreement, including Section 6 (Pricing and Invoicing), Section 7 (Proprietary Rights), Section 8 (Confidentiality), Section 9 (Security), Section 12 (Representations, Warranties and Covenants), Section 11 (Indemnification), Section 12 (Liability), Section 14 (Termination), Section 15 (Audit), Section 18 (General Terms).

15. AUDIT. You shall maintain complete and accurate written or electronic records relating to: (a) the accuracy of the amounts charged under the Agreement, including records of the time spent and materials used by you in connection therewith, (b) your compliance with applicable laws and (c) our account and your compliance with the Agreement ((a)-(c) collectively, "**Records**"). During the term of the Agreement and for a period of one (1) year thereafter, we and our internal and external auditors shall have the right, at our own expense, to conduct audits of the Records and interview your Personnel during normal business hours, upon giving reasonable notice of our intent to conduct such an audit. In the event of such audit, you shall comply with our reasonable requests for access to Records and Personnel and provide access in a timely manner. If any inspection, examination or audit discloses any overcharges by you, you shall promptly: (i) pay us the amount of such overcharges, together with interest on such overcharges at the rate of three percent per annum, or the maximum amount allowed by applicable law, whichever is less, calculated from the date of each such overcharge until reimbursed to us, and (ii) reimburse us for all costs and expenses incurred by us in connection with such inspection, examination or audit. Any such inspection, examination or audit shall not relieve you of any obligation, responsibility or liability hereunder or otherwise constitute our approval of or consent to any actions undertaken by you.

16. GENERAL TERMS.

- a. Force Majeure. Neither party will be liable to the other for any delay or failure in performing its obligations under the Agreement (including failure to accept performance of Services or take delivery of Goods) to the extent that the delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without that party's fault or negligence, and that by its nature could not have been foreseen by that party or, if it could have been foreseen, was unavoidable, including acts of God, war or government action ("**Force Majeure Event**"), provided that the party experiencing a Force Majeure Event: (i) promptly notifies the other party, (ii) uses commercially reasonable efforts to correct its failure to perform, (iii) ensures that the effects of any Force Majeure Event are minimized and (iv) resumes performance under the Agreement as soon as practicable upon the conclusion of such Force Majeure Event. Your economic hardship or changes in market conditions are not considered Force Majeure Events. If a Force Majeure Event prevents you from carrying out your obligations under the Agreement for a continuous period of more than 10 business days, we may terminate the Agreement immediately, in whole or in part, by giving written notice to you.
- b. Waiver. No provisions of the Agreement may be waived by any party except in writing. Our failure to enforce at any time any of the provisions of, to exercise any election or option provided in, or to require at any time your performance of any of the provisions set forth in, the Agreement will not in any way be construed to be a waiver of those provisions.
- c. Remedies Cumulative. The remedies stated in the Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law, in equity or otherwise.
- d. Assignment. You may not assign, subcontract, novate, delegate or otherwise transfer the Agreement (including by change of control), or your performance, or any of your rights or obligations under the Agreement (including the right to receive monies due), in whole or in part, whether voluntarily or by operation of law, without our prior written consent, and any purported assignment, subcontract, novation, transfer or delegation without our consent will be void. We may, at any time, assign or transfer any or all of our rights or obligations under the Agreement without your prior written consent. No assignment or delegation shall relieve you of any of your obligations hereunder, and our approval of any delegatee or subcontractor shall not relieve you of your obligations under the Agreement, and you shall remain fully responsible for the performance of each such delegatee and subcontractor and their employees and for their compliance with the Agreement as if they were you or your own employees. The Agreement inures to the benefit of, and shall be binding upon, the successors and permitted assigns of each party.
- e. Governing Law; Venue. The existence, validity and interpretation of the Agreement, or any disputes arising out of or in relation to the Agreement ("**Dispute**"), will be exclusively governed by the laws of the following jurisdiction, without giving effect to principles of conflicts of laws that would require the application of laws of a different jurisdiction, and the sole and exclusive venue shall be as follows: (i) if the Flatiron contracting entity is organized in the United States of America, the laws of the State of New York and the federal or state courts of the city, county and state of New York, NY, (ii) if the Flatiron contracting entity is organized in the United Kingdom, the laws of England and Wales and the courts located in London, England, (iii) if the Flatiron contracting entity is organized in Germany, the laws of Germany and the courts

located in Berlin, Germany, (iv) if the Flatiron contracting entity is organized in Japan, the laws of Japan and the courts located in Tokyo, Japan, and (v) if the Flatiron contracting entity is organized in any other jurisdiction, the laws of the State of New York and arbitration as described below located in New York City. The application of the United Nations Convention for the International Sale of Goods is expressly excluded. Disputes subject to arbitration shall be resolved by arbitration in New York, NY in English and in accordance with the rules of the American Arbitration Association. The parties hereby expressly consent to such exclusive jurisdiction and venue and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. YOU AND FLATIRON EACH WAIVE THEIR RIGHT TO A JURY TRIAL WITH REGARD TO ANY DISPUTE ARISING IN CONNECTION WITH THIS AGREEMENT.

- f. Severability. If any term or provision of the Agreement is held invalid, illegal, or unenforceable in any jurisdiction, the invalidity, illegality, or unenforceability will not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- g. Amendment. No change, variation, modification, alteration or amendment to the Agreement is binding upon us unless it is in writing, specifically states that it amends the Agreement and is signed by our authorized representative.
- h. Relationship of Parties. The relationship between the parties is that of independent contractors. Nothing contained in the Agreement will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between us and you, and neither party will have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity will be construed from the Agreement.
- i. Third Party Beneficiaries. Unless otherwise specifically provided for herein, the Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of the Agreement. If applicable, this Agreement does not create or confer any rights or benefits enforceable by any person not a party to it within the meaning of the UK Contracts (Rights of Third Parties) Act 1999.
- j. Interpretation. The section headings in the Agreement are for convenience of reference only and will not be considered in the interpretation of the Agreement. Examples given in the Agreement, which may be preceded by "including," or similar language, are solely intended to be illustrative and are not limiting. Except where the context otherwise requires, wherever used the: (i) singular shall include the plural and the plural the singular, (ii) words "or", "and", and "any" are used in the inclusive sense, and (iii) terms "hereof," "herein," and other like terms refer to the Agreement as a whole, including any Order.
- k. Notice. All notices and other communications given or made pursuant to the Agreement shall be in writing and shall be deemed effectively given upon delivery when sent by: (a) personal delivery to the party to be notified; (b) registered or certified mail, return receipt requested, postage prepaid; or (c) nationally recognized overnight courier, with written verification of receipt. All communications to you shall be sent to your address set forth on the Order, or to

such address as subsequently modified by written notice given in accordance with this section, and all notices to Flatiron shall be sent to Flatiron at the address set forth on the Order for the attention of "Legal", or to such address as subsequently modified by notice given in accordance with this Section.