



PURCHASE ORDER TERMS AND CONDITIONS

1. Definitions

- (A) "Key Affiliate" shall mean those entities controlled by, or under common control of Key for as long as such relationship remains in effect. All Affiliates of Key may order Goods and/or Services. "Affiliates," means all current or future corporations that, directly or indirectly, through one or more intermediaries, control or are controlled by, or are under common control with, Key or that are successors (whether by change of name, dissolution, merger, consolidation, reorganization or otherwise) to any such corporations or their businesses and assets. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity through the majority ownership of voting securities.
- (B) Goods - shall be defined as the items described on the face of the Purchase Order.
- (C) Purchase Order - shall be defined as a written or electronic order issued by Key for the procurement of goods and/or services.
- (D) Supplier - shall be defined as the entity to whom this Purchase Order Agreement is directed as specified on the Purchase Order.
- (E) Services - shall be defined as the tasks to be performed by Supplier as specified in a Purchase Order and/or Supplier's proposal. (F) "Confidential Information" means and includes (a) this Agreement; (b) Personal Information as defined herein; (c) "Customer Information" (as defined in Appendix B to 12 CFR §30); (d) all information collected by Provider which was gathered from or submitted by Key or any Subscriber, including but not limited to, any Key customer, employee, consultant, or agent information, pursuant to this Agreement or in connection with the access to or use of the Services, Goods or Supplier network; and (e) all information that may be conveyed verbally, graphically, electronically or any other form, including, but not limited to Supplier's or Key's product plans, data, designs, costs, product prices and names, finances, marketing plans, business opportunities, customers, personnel, research, development, know-how or any information that reasonably may be considered confidential, the use and disclosure of which is specifically regulated or could be used to facilitate or perpetrate fraud or other similar acts.
- (G) "Personal Information" means and includes any one or more of the following: a person's name, social security number, telephone number, driver's license or state ID number, account number, loan number, credit/debit card account number, access code or pin number, password, identification number, security code, as well as any other information that reasonably may be considered personal, the use and disclosure of which is specifically regulated or could be used to facilitate or perpetrate identity theft, fraud or other similar acts.

2. Formation of Contract

- (A) The Purchase Order shall constitute Key's offer to buy from Supplier and Supplier's offer to sell to Key the Goods and/or Services specified in the Purchase Order. Supplier's acceptance of this Purchase Order shall be by either prompt written acknowledgment, delivery of an invoice, delivery of goods or by commencement of services, and shall be strictly limited to the terms stated herein.
- (B) Key is not bound by any printed or written conditions on Supplier's acknowledgment forms or invoices that impose conditions in conflict with the terms on the Purchase Order or this Agreement.

3. Delivery

- (A) The obligation of Supplier to meet the delivery dates, specifications, and quantities as set forth on the Purchase Order and herein shall be a basic assumption of the transaction as contemplated hereby, and time is of the essence of the Purchase Order. Supplier will strictly adhere to the delivery and completion schedules specified in the Purchase Order. If, at any time, Supplier believes it may be unable to comply with the delivery or completion schedules, Supplier shall immediately notify Key in writing of the probable length of any anticipated delay and the reasons for same, and shall provide Key with an acceptable written recovery schedule. Supplier will continue to notify Key of any material change in Supplier's ability to comply with its obligations hereby on an on-going basis. If Supplier fails to deliver Goods within any delivery schedule provided hereby, Key may require Supplier to ship Goods, at Supplier's expense, by



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airfreight or expedited routing.

- (B) Supplier shall deliver all Goods specified in the Purchase Order to Key at the delivery address set forth on the face hereof.
- (C) Key may, at its option, either retain (and store at Supplier's expense) any Goods received in excess of fifteen (15) calendar days in advance of the specified Purchase Order delivery schedule(s) or return them to Supplier at Supplier's risk and expense. If such Goods are retained, time for payment and discount shall be calculated on the basis of scheduled delivery dates.
- (D) Unless specified by Key, Supplier shall be responsible for selecting packaging methods and materials to provide adequate protection at minimum cost. Commercial packaging is normally acceptable for shipment to Key. Packaging methods and material selected should consider, as a minimum, fragility, part composition, surface finish, size, weight and transportation mode. Any packaging specified or referenced in the Purchase Order must be adhered to unless written deviation is authorized by Key. Nonconforming packaging is subject to rejection by Key or repackaging by Supplier at Supplier's expense.
- (E) A packing memorandum must accompany each shipment arising under the Purchase Order, and the package containing such memorandum must be clearly indicated. The Purchase Order number shall be identified on all packages, shipping papers, and other subordinate documents.
- (F) Except as specifically authorized by the Purchase Order, Key shall not be responsible for payment of Goods delivered by Supplier, which are not in conformance to the quantities, or specifications of the Purchase Order. Upon receipt of any nonconforming Goods, Key will notify Supplier of same and allow forty-eight (48) hours for Supplier's determination of whether Supplier will:
 - (i) Take possession of such nonconforming Goods at Key; or
 - (ii) Authorize packing and return shipment at Supplier's sole expense.

4. Inspections

Key may inspect and test all Goods and Services under the Purchase Order. Such inspections and tests, to the extent practicable, may occur at all times and places, including the period and place of manufacture or performance, and in any event, before acceptance. Key will perform any inspections and tests in a manner that will not unduly delay any tasks necessary for fulfillment of the Purchase Order.

5. Acceptance and Rejection

- (A) Key will have thirty (30) days from receipt of Goods or Services to accept or reject such Goods delivered or Services performed by Supplier. Any rejection of Goods or Services shall be communicated by written notice of rejection delivered by Key to Supplier within said thirty (30) day period.
- (B) If Supplier tenders Goods to Key that fail to conform in any respect with said Good's published specifications, documentation, or other written representations, Key, in its sole discretion, may require Supplier to replace or correct such Goods, at no increase in Purchase Order price. If Supplier is unable to correct or replace nonconforming Goods within the delivery schedule specified herein, Key may continue to require their delivery and make an equitable price reduction.
- (C) If Services fail to conform to the requirements of the Purchase Order, Key may require Supplier to perform the Services again in conformity with Purchase Order requirements, at no increase in Purchase Order price. When defects in Services cannot be corrected by re-performance, Key may equitably reduce the Purchase Order price to reflect the reduced value of the Services performed.



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6. Software

- (A) In the event software is procured through the submission of a Purchase Order, the parties agree that any pre-printed terms, shrink-wrap terms or click agreement(s) shall not be applicable, but the terms of this Agreement shall apply.
- (B) Key shall be granted a non-exclusive, fully paid, perpetual and irrevocable license to use the software for any business purpose. The license is deemed to be an enterprise license for Key and its Affiliates.
- (C) Any of Key's employees, agents, consultants, contractors, customers and outsourcers may use the software for the performance of their duties for Key and who are authorized and enabled by Key to access and utilize the software. The software may be used, without limitation, by Key to process data for Key's partners, clients, customers or other financial institutions in Key's ordinary course of business, which may change from time to time.
- (D) Supplier warrants that the software shall operate per its intended purpose and that Supplier has the right to grant a license to use the software and that the software is free of all liens, claims, encumbrances, and other restrictions and without otherwise violating any rights of any third party, including any intellectual property rights, patent, copyright, trade secret or other proprietary rights.
- (E) The parties expressly disclaim and waive the application of the Uniform Computer Information Transactions Act ("UCITA") to this agreement and any claims arising under or related to this Agreement.
- (F) Supplier shall provide to Key, upon the delivery of the Software, all published documentation and specifications that are necessary to enable Key to operate the software. Key shall have the right to copy all documentation.

7. Title and Risk of Loss

Supplier shall accept all risk of loss until Key receives Goods ordered hereunder. Title to Goods ordered hereunder shall pass to Key upon Key's receipt thereof.

8. Invoices and Payment

Payment terms for all invoices under the Purchase Order will be net forty-five (45) days from the date of invoice.

9. Taxes

The fees and charges under this Agreement do not include any sales, use, excise, transaction or other similar taxes levied against or upon the licensing of software or the furnishing or receipt of services or goods pursuant to this Agreement. If such taxes are applicable, they shall be separately stated in the Order and on the invoice, except where Supplier provides Key with a direct pay permit number, and Licensee shall pay them. Key shall have no obligation to pay any taxes or fees that are (i) based upon Supplier's net or gross income or gross receipts; (ii) based on any state's Single Business Tax; (iii) franchise taxes or other taxes based on Supplier's corporate existence or status; (iv) personal property taxes on Software; and (v) due in whole or in part because of any failure by Supplier or its agents to file any return or information required by law, rule, or regulation.

10. Changes

- (A) Key may, at any time, upon issuance of a written change order, make changes within the general scope of the Purchase Order, which affect the:
 - (i) drawings, designs or specifications;
 - (ii) method of shipment or packing;
 - (iii) place of inspection, delivery or acceptance;
 - (iv) quantities and delivery schedules;
 - (v) description of time or place of performance of Services;



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- (B) If any such change causes an increase or decrease in the cost of or the time required for performance of the Purchase Order, an equitable adjustment shall be made in the Purchase Order price or delivery schedule or both, and the Purchase Order shall be modified in writing accordingly. Any claim by Supplier for adjustment under this provision must be asserted in writing to Key not later than thirty (30) calendar days after the date of receipt by Supplier of the written change authorization or within such extension as Key may grant in writing. Key may, in its sole discretion, consider any claim received from Supplier regardless of when asserted. Such claim shall be in the form of a complete change proposal fully supported by factual information.
- (C) Pending any such adjustment, Supplier will diligently proceed with the Purchase Order as modified. If the cost of property made excess or obsolete as a result of a change is included in Supplier's claim for adjustment, Key shall have the right to direct the manner of disposition of such property. Key shall have the right to examine any of Supplier's pertinent books and records for the purpose of verifying Supplier's claims.
- (D) Notwithstanding any dispute under this Article, Supplier will proceed with performance of the Agreement as changed.

11. Warranties

- (A) Supplier warrants that all Goods, when and as delivered to Key, will conform to their specifications, and will be free from defects in materials and workmanship.
- (B) Supplier warrants that all Services performed under the Purchase Order will be performed with professional diligence and skill and will conform to the requirements of the Purchase Order in all material respects.
- (C) Supplier warrants that its performance and/or provision of Goods to Key as called for hereunder does not and shall not violate (i) any applicable law, rule, or regulation now or hereafter imposed; (ii) any contracts with third parties; or (iii) any third-party rights in any patent, trademark, copyright, trade secret, or similar right.
- (D) Supplier warrants that it has developed and maintains affirmative action programs for minorities, women, handicapped persons, disabled veterans and veterans of the Vietnam Era. If this Agreement meets the requirements of a subcontract under Executive Order 11246, Section 503 of the Rehabilitation Act, or Section 402 of the Vietnam Era Veterans Readjustment Assistance Act, the Equal Opportunity Clause(s) applicable under those orders, laws and regulations are specifically incorporated herein by reference. By accepting this Agreement, the Supplier certifies that it is undertaking a commitment to equal opportunity employment and compliance with the aforementioned laws, orders and regulations.
- (E) Supplier warrants that the title conveyed to Key shall be good and merchantable and its transfer rightful, and that all Goods shall be delivered free from any security interest or other lien or encumbrance.
- (F) Supplier warrants that the price of Goods delivered or Services performed under the Purchase Order do not exceed the price charged by Supplier to any other customer purchasing the same Goods or Services in like or lesser quantities and under the same or similar circumstances.
- (G) If Supplier breaches the warranties as set forth herein, Key may, at no increase in Purchase Order price (i) require Supplier to promptly repair or replace, at Supplier's election, defective or nonconforming Goods; (ii) require Supplier to promptly furnish materials or parts and installation instructions required to successfully accomplish the correction of defective or nonconforming Goods, and equitably reduce the Purchase Order price to account for the cost of removal and installation; (iii) require Supplier to promptly redesign defective or nonconforming Goods not manufactured pursuant to designs furnished by Key and require Supplier to promptly repair or replace Goods manufactured in accordance with such defective design; (iv) require Supplier to promptly correct or re-perform, at Supplier's election, defective or nonconforming Services; or (v) equitably reduce the Purchase Order price.
- (H) The Supplier represents and warrants to Key (which representations and warranties will survive the termination of this Agreement) that it: (a) is a corporation duly organized, validly existing, and in good



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standing under the laws of the jurisdiction in which it is incorporated; (b) has the corporate power and authority to carry on its business as now being conducted; (c) is qualified to do business in every jurisdiction in which the doing of business requires such qualification; (d) has the corporate power to execute, deliver, and perform its obligations hereunder and (e) has authorized, by all requisite corporate action, the execution, delivery and performance of this Agreement.

12. Intellectual Property Rights

Supplier will promptly disclose to Key in writing any invention, works of authorship, improvement, development, discovery or mask work (herein collectively "Intellectual Property") conceived or reduced to practice by Supplier, either solely or in collaboration with others, using funds paid by Key under the Purchase Order. For all such Intellectual Property, Supplier agrees to assign, and upon creation of each such piece of Intellectual Property hereby automatically assigns, to Key, and its successors and assigns, all right, title, and interest in and to any and all United States and international copyrights in each and every such piece of Intellectual Property. Upon Key's request, Supplier shall confirm such assignment by execution and delivery of such assignments, confirmations, or other written instruments as Key may reasonably request. Key shall have the right to obtain and hold in its own name all copyright registrations and other evidence of rights that may be available for such Intellectual Property.

13. Indemnification

Supplier shall indemnify Key, its affiliates, officers, directors, employees, subscribers, consultants, and agents, and undertakes to defend same against and hold same harmless from any claims, allegations, actions, suits, loss, damages, expenses and costs (including, but not limited to, attorneys' fees) arising out of or relating to: (a) any claim of infringement of a third party's intellectual property rights arising from the Services, Supplier's network, or Goods; (b) any claims that the Services, Supplier network, or Goods violate or do not comply with any applicable law, rule or regulation; (c) any claims that the Services, Supplier network, or Goods were not original, or that Provider did not hold valid Intellectual Property Rights in the Provider Network or Products; (d) any claims regarding the use, license, or purchase of the Services, Supplier network, or Goods; (e) any claims regarding unauthorized use of or access to Key's Confidential Information by Supplier, Supplier's employees, agents, or any third party; (f) judgments or liabilities arising out of the negligent performance or attempted performance of the provisions hereof; including any willful, negligent or intentional acts or omissions of supplier or its subcontractors, or its officers, directors, employees, agents, successors and assigns; (g) any breach of this Agreement or of any representation, warranty or covenant made by Supplier; (h) third party claims against Key derived from the dissatisfaction of any Key client or customer with the Services and/or Goods, Supplier network, or Goods; or (i) any fines, costs, or penalties Key may be assessed in connection with any breach of the warranty provisions in this Agreement. Supplier shall promptly notify Key in the event that Supplier becomes aware of any actual, threatened or potential claims.

14. Confidentiality

Supplier agrees that it shall not, without the written consent of Key, use or disclose any of Key's Confidential created, developed, produced or otherwise obtained in the course of the work required hereunder for any purpose except as necessary to implement or perform the Purchase Order and this Agreement and shall protect same using the same standard of care as it uses to protect its own confidential information. Supplier further agrees that it will not divulge any matter known to it, the disclosure of which would be detrimental to the interests of Key as determined by Key. The foregoing obligations of confidence shall not apply to (i) information in the public domain through no fault of Supplier (ii) information previously and lawfully known by Supplier prior to disclosure by Key (iii) information rightfully learned from a third party not under restriction of disclosure, or (iv) information disclosed pursuant to court order, judicial subpoena or requirement of government authority with reasonable prior notice given to Key by Supplier.



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15. Termination for Convenience

- (A) Key in its sole discretion may terminate performance of work under the Purchase Order in whole or in part, by delivering to Supplier a written Notice of Termination specifying the extent of termination and the effective date thereof. Upon termination as provided for herein, Supplier shall be entitled to reasonable payment for (i) any Goods delivered and accepted but previously unpaid for or (ii) effort expended prior to the date of termination.
- (B) In the event of termination for convenience as provided for herein, Supplier will submit to Key a fully supported written claim for any amounts due within ten (10) business days after receipt of a Notice of Termination. All amounts so claimed must be accompanied by supporting material reasonably sufficient to permit Key to substantiate the amounts thereof. If Supplier fails to timely submit a fully supported claim, Key will determine the amount due, if any, and Supplier will be bound by Key's determination.

16. Termination for Default

- (A) Key may, by written notice of default to Supplier, terminate the Purchase Order in whole or in part (i) if Supplier fails to deliver Goods or to perform Services within the time specified by the Purchase Order or any written extension; (ii) If Supplier fails to perform any other provision of the Purchase Order or fails to make progress, so as to endanger performance of the Purchase Order, and, in either of these two circumstances, does not cure the failure within ten (10) calendar days after receipt of notice from Key specifying the failure; or (iii) in the event of Supplier's suspension of business, insolvency, institution of bankruptcy, liquidation proceedings by or against Supplier, appointment of a trustee or receiver for Supplier's property or business, or any assignment, reorganization or arrangement by Supplier for the benefit of its creditors.
- (B) If Key terminates the Purchase Order in whole or in part, in addition to remedies provided by law, Key may require Supplier to transfer title and deliver to Key, as directed by Key, any (i) completed Goods, and (ii) any partially completed Goods and materials, parts, fixtures, plans, drawings, information, and contract rights (collectively, "Manufacturing Materials") that Supplier has specifically produced or acquired for the terminated portion of the Purchase Order. Upon direction from Key, Supplier will also protect and preserve property in its possession in which Key has an interest.
- (C) Key will pay the price stated herein for Goods or Services accepted. Payment for manufacturing materials accepted by Key and for the protection and preservation of property will be at a price determined in accordance with Section 15 (Termination for Convenience). Key may withhold from any amount due under the Purchased Order any sum Key determines to be necessary to protect Key against loss because of outstanding liens or claims of former lien holders.
- (D) If, after termination, it is determined that Supplier was not in default, the rights and remedies of the parties would be as if the Purchase Order had been terminated in accordance with Section 15 (Termination for Convenience).

17. FDIC Resolution.

- (A) Notwithstanding any termination rights herein, in the event KeyBank enters receivership, Supplier shall not terminate the Agreement or any active statements of work for convenience or for cause based on the receivership status of KeyBank. In addition, this prohibition shall survive the assignment of the Agreement by operation of law to a newly formed bridge bank or to the FDIC in its corporate capacity.
- (B) In the event that this Agreement expires or terminates for any reason after KeyBank enters receivership, Provider shall provide to a newly formed bridge bank, the FDIC in its corporate capacity, or any purchaser of any part of the business of KeyBank the type of transition services requested of the bridge bank, FDIC, or purchaser.



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18. Disputes

A court of competent jurisdiction located in Cuyahoga County, Ohio will decide any dispute that arises under or is related to the Purchase Order. Pending final resolution of any dispute arising under or related to the Purchase Order, Supplier will proceed with performance of the Purchase Order in accordance with Key's instructions.

19. Non-Discrimination

The following is applicable to only those contracts that are performed in the United States. **To the extent applicable, Provider and its approved subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. This Supplier and its approved subcontractors shall also abide by the requirements of 29 CFR Part 471, Appendix A.**

20. Applicable Law and Jurisdiction

The laws of the State of Ohio shall govern this Agreement. In the event that there is a dispute, the parties agree to bring all disputes to a court of competent jurisdiction within Cuyahoga County, Ohio.

21. No Waiver

The failure by either party to enforce any right or to insist upon strict compliance with the terms and conditions of this Purchase Order shall not at any time constitute a waiver of such right or any other right, and will not modify the rights and obligations of either party under this Agreement.

22. Rights and Remedies

The rights and remedies of the parties set forth in this Agreement are cumulative and in addition to any other rights or remedies that the parties may have at law or in equity.

23. Compliance with Statutes and Regulations

Supplier shall procure all necessary licenses or permits and shall abide by all applicable statutes, laws, regulations, and ordinances of the United States and of the state, territory, and political subdivision in which any work under the Purchase Order is performed.

24. No Assignment

Neither the Purchase Order, this Agreement nor any interest therein, nor claim thereunder may be assigned or transferred by Supplier except as expressly authorized in writing by Key.

25. Force Majeure

Neither party is liable hereunder for any failure or delay in its performance under the Purchase Order arising from any cause beyond the defaulting party's reasonable control, including acts of God, such as fires and floods, earthquakes, epidemics, wars, governmental actions, civil disturbances, strikes and riots. Provided the defaulting party has used every available and reasonable means to remedy or mitigate its failure to perform, the time for performance will be extended by the amount of the delay.

26. Entire Agreement

The Purchase Order and this Agreement state the entire agreement between Key and Supplier with respect to



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the subject matter hereof and supersedes all prior understandings, both written and oral. This Agreement may not be amended in any material form unless authorized in writing by Key.

27. Survival of Terms

Supplier's warranties under Section 13, (Indemnification), Section 14, (Confidentiality), Section 27, (Privacy), and Section 30 (Personal Information Breach) shall survive any expiration or termination of this Agreement.

28. Precedence

In the event of any conflict or inconsistency between the terms of this Agreement and any inconsistent supplemental terms specified by Supplier, the terms and conditions of this Agreement shall govern.

29. Privacy

Each party shall comply with all federal and state laws, and rules and regulations of regulatory agencies, protecting the Confidential Material and privacy rights of Key, its customers and consumers, including, without limitation, Title V of the federal Gramm-Leach-Bliley Act and the federal Economic Espionage Act (18 U.S.C. Section 1831 et seq). Supplier will not directly or indirectly reuse or redisclose to any Affiliate, or any unaffiliated entity or person, any Confidential Material, including but not limited to, any personally identifiable consumer information, provided by Key under this Agreement for any purpose other than to perform the activities contemplated by this Agreement.

30. Security Program

- (A) Supplier may receive or otherwise have access to "Customer Information" (as defined in Appendix B to 12 CFR §30), in connection with providing Services and Goods to Key pursuant to the terms of the Agreement. Supplier shall implement and maintain an appropriate security program for Customer Information designed to meet the following Objectives, as defined below, of the Interagency Guidelines Establishing Standards for Safeguarding Customer Information pursuant to the authority of Section 501(b) of the Gramm-Leach-Bliley Act of 1999. "Objectives" means a program designed to (i) ensure the security and confidentiality of Customer Information; (ii) protect against any anticipated threats or hazards to the security or integrity to Customer Information; and (iii) protect against unauthorized access to or use of Customer Information that could result in substantial harm or inconvenience to any "Customer" (as defined in 12 CFR § 40.3 (h)). Supplier shall provide Key, upon request, with a copy of its security program and any updates or amendments thereto.
- (B) In the event that Supplier is providing services to a non-banking securities affiliate with the possibility of receiving or otherwise having access to "personally identifiable financial information" (as defined in 17 CFR Part 248), in connection with providing services pursuant to the terms of this Agreement. Supplier shall implement and maintain written policies and procedures that address the administrative, technical, and physical safeguards for the protection of customer records and information. These policies and procedures must be reasonably designed to: (a) Insure the security and confidentiality of customer records and information; (b) protect against any anticipated threats or hazards to the security or integrity of customer records and information; and (c) protect against unauthorized access to or use of customer records or information that could result in substantial harm or inconvenience to any customer. For the purposes of this provision, the term "customer" shall be defined as set forth in 17 CFR part 248. Supplier shall provide, upon request, with a copy of its security program and any updates or amendments thereto.



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31. Right to Audit.

Supplier shall allow Key or persons authorized by and acting on behalf of Key, including its independent public accountants, and federal and state governmental and bank regulatory authorities having jurisdiction over Key's business, reasonable access during normal business hours to the books, records, procedures and facilities of Supplier related to this Agreement to inspect, review, examine and audit such books, records, procedures and facilities. Supplier shall reasonably cooperate with Key, such other persons authorized by Key and any governmental and bank regulatory authorities in the conduct of such examination and audit, including giving them access for discussion of any audit, to officers and the independent public accountants of Supplier. Any third party provider, subcontractor or agent of Supplier in the performance of this Agreement shall be required by Supplier to grant Key, its authorized persons and such governmental and bank regulatory authorities the same access and audit rights.

32. Diverse Business

Supplier shall provide diverse businesses the maximum practicable opportunity to participate in the subcontracts and orders it may award in connection with this Agreement. The target goal for utilization of diverse businesses under this Agreement is set at twenty percent (20%) Direct Second Tier spend. For purposes of this Agreement, Direct Second Tier spend means funds spent by Provider with a diverse Business or subcontractor(s) that fulfills some or all of the Provider's obligations to Key under the Agreement. Should Direct Second Tier spend be a challenge, Provider may contact Key's supplier diversity department at supplier_diversity@keybank.com for any issues, questions, or concerns related to any aspect of the diversity goal attainment.

33. OFAC Compliance

Supplier warrants that neither Supplier, nor any person who owns a direct interest in Supplier, nor any of its subsidiaries, Affiliates, directors, officers, agents, or employees is:

- (1) an individual or entity that is listed in the annex to, or is otherwise subject to the prohibitions contained in, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "Executive Order") or the Office of Foreign Asset Control ("OFAC") regulations;
- (2) an individual or entity with whom Key or any financial institution is prohibited from dealing or otherwise prohibited from engaging in business under any U.S. law, regulation, executive order or list published by OFAC ; or
- (3) an individual or entity that is named on the most current list of "Specially Designated Nationals and Blocked Persons" published by OFAC as its official website or any replacement website or other replacement official publication of such list.

If at any time any of the representations contained in this section are no longer true, Supplier will immediately notify Key.

34. Personal Information Breach

In the event Supplier knows or reasonably believes that there has been any unauthorized acquisition of or access to data that compromises the security, confidentiality, or integrity of "personal information" maintained by or for Supplier (a "Breach"), Supplier shall take the following actions:

- (a) Immediately notify Key of such Breach;
- (b) Identify to Key at no cost to Key what specific data, by customer and/or account number has or may have been Breached;
- (c) Monitor any affected accounts for any unusual activity (if appropriate);
- (d) Take measures to contain and control the incident to prevent further unauthorized access;
- (e) Remedy the circumstances that permitted such Breach to occur; and
- (d) Cooperate with Key as necessary to facilitate Key's compliance with any applicable federal or state law regarding unauthorized access of customer personal



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information.

For the purposes of this section, "personal information" shall include any one of the following: a person's name, address, social security number, telephone number, driver's license or state ID number, account number, credit/debit card account number, access code, password, identification number, or security code.

35. Insurance

In the event that Supplier provides Services, Supplier shall maintain at all times during the term of this Agreement the following insurance coverages. Vendors and subcontractors engaged by Supplier to provide Services under this Agreement shall also be required to maintain the insurance described herein at limits acceptable to Supplier and Key:

- (a) Worker's Compensation providing statutory benefits as required in each state or other jurisdiction where work is performed in connection with this Agreement.
- (b) Employer's Liability, at limits not less than \$1,000,000 per accident, \$1,000,000 per employee for injury by disease, and \$1,000,000 per policy year for injury by disease.
- (c) Disability Benefits Law coverage, providing statutory benefits, if required in the state or other jurisdiction where work is performed in connection with this Agreement.
- (d) Commercial General Liability insurance on an occurrence basis, on Insurance Services Office ("I.S.O.") form CG 00 01 or its equivalent, at a limit not less than \$1,000,000 per occurrence/\$2,000,000 aggregate. This insurance shall be endorsed to include as Additional Insured "KeyCorp and its subsidiary and affiliated companies, as their interests may appear." The required limits may be arranged through a combination of primary and excess policies, as needed. A copy of the additional insured endorsement must be attached to the certificate of insurance Supplier provides to Key.
- (e) Automobile Liability insurance for any vehicles operated by the contractor or its employees in connection with work or Services performed, including owned, non-owned, borrowed, and hired autos, at limits not less than \$1,000,000 per accident.
- (f) Professional Liability or Errors & Omissions insurance, at a limit not less than \$1,000,000, for claims of damages arising from Services of a professional nature and/or beyond the scope of general liability coverage. Higher limits may be required for specific assignments.
- (g) For contracts where Service Personnel will have access to or control over physical or electronic property of Key and/or its customers and/or clients, Employee Dishonesty coverage (also known as a Fidelity Bond), covering all employees and agents of the Supplier, at a limit not less than the greater of \$100,000 for each occurrence or the annual value of the contract. This policy shall be endorsed to include as Loss Payees "KeyCorp and its subsidiary and affiliated companies, as their interests may appear," and shall extend to the misappropriation of physical or electronic property of others in the possession or control of Service Personnel, including any leased employees. Upon request, Supplier shall provide Key with a copy of this policy prior to commencing work upon Key's request, and thereafter annually upon Key's reasonable request. A copy of the Loss Payee endorsement or provisions shall also be attached to any certificate of insurance Supplier provides to Key as evidence of this coverage.
- (h) For contracts where Confidential Information will be captured or stored in Supplier's servers, computers, laptops or other electronic devices, Information Security/Cyber Liability coverage insuring against liability for the wrongful release, theft, duplication or misappropriation of Confidential Information resulting from unauthorized penetration of or access to Supplier's systems and from negligent acts of Supplier's employees, leased employees, directors, officers, agents or contractors, at



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a limit not less than \$1,000,000 per event. This policy shall be endorsed to include as additional insureds "KeyCorp and its subsidiary and affiliated companies, as their interests may appear;" shall include coverage for the costs of monitoring identity theft and wrongful use of credit in the name of Key customers or consumers affected by such wrongful release, theft, duplication or misappropriation; and shall contain a severability provision such that coverage for any insured shall not be prejudiced by the exclusion or denial of coverage for any other insured.

All coverage shall be maintained with insurers licensed to transact insurance business in the state(s) where Services will be performed in connection with this Agreement. The insurers shall have an A. M. Best rating of A- or better; deviations from that standard are subject to review and approval by Key. Supplier shall furnish Certificates of Insurance and any required copies of policies or endorsements, including provisions for at least 30 days prior written notice of cancellation or material change in coverage with "endeavor to" and "but failure to provide such notice shall impose no obligation or liability upon the insurer" or any equivalent wording struck from the certificate form, prior to commencing any work under this Agreement, and thereafter within 10 days of the renewal or replacement of any of the insurance policies described in the Certificates. Regardless of any limitations to any indemnification of Key by Supplier as may be stated elsewhere in this Agreement, Supplier expressly understands and agrees that if Supplier fails to maintain any of the required insurance coverages, Supplier shall be directly liable for claims that would otherwise be covered by the insurance required of Supplier, its vendors and/or subcontractors. Supplier shall also be responsible for the payment of any applicable deductibles.

36. Affiliates of Key.

With respect to any or all Affiliates(s) of Key, it is the intention of the parties that, at the option of Key, (i) such Affiliate(s) shall be bound by the terms and conditions of this Agreement, (ii) all of the systems, Services, and Goods provided under this Agreement shall be made available to such Affiliate(s), (iii) such Affiliate(s) shall be entitled to enforce this Agreement against Supplier, and (iv) such Affiliate(s) shall be third party beneficiaries to this Agreement. In accordance with Federal Reserve Board Regulation W (12 C.F.R. Part 223), with respect to any Affiliate that is an "affiliate" of KeyBank under Regulation W, nothing in this Agreement shall be construed as stating or suggesting that KeyBank or any of its subsidiaries is responsible in any way for the obligations of such Affiliate.

37. Ethical Conduct.

Supplier that provide Goods and/or Services to Key are expected at all times to conduct their business with honesty in fact and the observance of the highest commercial standards of fair dealing in the trade. Supplier are to avoid conflicts of interest and are expected to abide by all applicable federal, state and local laws, rules and regulations while assuring that all services are conducted with a high degree of professionalism and in accordance with the terms and conditions of the relationship and KeyCorp's Supplier Code of Conduct. If at any time during the contractual relationship, Supplier, its employees or agents believe an impropriety is taking or has taken place the individual should report the concern via processes included in the KeyCorp Code of Ethics found within the Key.com website: <http://www.key.com> or by calling Key's Ethics Helpline at 1-866-458-6194.

39. Non-Exclusivity

The issuance of a Purchase Order is not intended to give Supplier an exclusive right to perform the Services performed under this Agreement, and Key shall be permitted to contract with other vendors to procure the same or similar services.

39. Performance of Service

All Services must be performed in the United States and all Confidential Information, including Key customer information and Key consumer information, must be stored, maintained, accessed from, and utilized only in the United States.



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