

# ALTAIR ENGINEERING, INC. - STANDARD TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

## SCOPE OF SERVICES

**1.1 Services.** Supplier shall perform all of the consulting services and/or goods ("Services") described and called for herein and/or under a purchase order or project order (either being hereinafter referred to as a "PO") issued by Altair to Supplier. Commencement of Services identified on each such PO shall indicate "Supplier acceptance" to these Terms and Conditions and any on the face of the PO.

## TERMINATION

**2.1 Termination.** Upon termination of any PO for any reason, Supplier shall promptly deliver to Altair all work products produced, in part, or in whole, under the PO and within thirty (30) days of said termination, Supplier shall submit to Altair an itemized invoice for all pre-approved outstanding fees which accrued under this Agreement prior to the date of termination.

## FEES, EXPENSES AND PAYMENT

**3.1 Fees.** In consideration of the Services to be performed and/or goods to be provided by Supplier as described in the PO, compensation shall be paid to Supplier as detailed in the PO.

**3.2 Invoices.** Unless otherwise stated in an applicable PO, Supplier shall invoice Altair no more often than monthly following provision of the Services, which invoice shall include the compensation and the pre-approved expenses incurred during that period. If the Services being procured by Altair are for an Altair client, then Altair shall pay Supplier within 15 days of receiving payment from Altair's client. If the Services are for Altair only, then Altair shall pay 'net 30' from receipt of an accurate invoice.

## RELATIONSHIP OF THE PARTIES

**4.1 Independent Contractor.** All work performed by Supplier and its personnel in connection with the Services described in this Agreement shall be performed by Supplier as an independent contractor and not as the agent or partner of or joint venture with Altair for any purpose. Nothing in this Agreement shall be construed as creating or establishing the relationship of employer and employee between Altair and either Supplier or any employee or agent of Supplier. Supplier agrees it may not subcontract any of the work to be performed under any PO without the prior written consent of Altair.

**4.2 Taxes.** Supplier acknowledges that it will be solely responsible for complying with all laws, rules and regulations relating to employment, income and other applicable taxes, worker's compensation, safety and health related matters and that it shall pay all legally required taxes and applicable insurance costs. Supplier shall not be entitled to participate in health or disability insurance, retirement benefits, or other welfare or pension benefits (if any) to which employees of Altair may be entitled.

**4.3 Insurance.** Supplier shall provide evidence of insurance coverage required by law in the state where the Services are to be performed or as reasonably requested by Altair to satisfy the mandatory minimum requirements, including coverage for Worker's Compensation, Automobile Liability, General and Employer Liability.

**4.4 Indemnification.** Supplier shall defend, indemnify, and hold harmless Altair from and against all losses, claims, costs, damages, fines, or other liabilities of any kind, including reasonable attorneys' fees, arising out of or related to (i) Supplier's acts or omissions in connection with the Services to be provided under this Agreement or (ii) Supplier's breach of a material provision of this agreement or (iii) any claim, demand, action or suit made or raised against Altair (or their directors, officers and employees) by reason of Supplier's infringement of any patent, trade secret, trademark, copyright or any other intellectual property right of any third party in relation to Services performed by and or the deliverables provided by Supplier hereunder.

## CONFIDENTIALITY

**5.1 Restrictions.** All information disclosed by Altair to Supplier under this PO, including the terms and conditions hereof, is confidential and or proprietary information of Altair ("Confidential Information"). Altair retains all right, title and interest in all Confidential Information, and Supplier acquires no intellectual property rights in such Confidential Information, except to the extent necessary to perform the Services hereunder. Supplier agrees: (i) to hold and maintain such Confidential Information in strict confidence, (ii) not to disclose Confidential Information to any other party without the express written consent of Altair, and (iii) to not use such Confidential Information for any other purpose. Supplier agrees to return all Confidential Information and any copies thereof upon completion of the Services or Altair's request. Confidential Information shall not include information which: (i) is or becomes part of the public domain; (ii) is lawfully received by Supplier from a third party having the right to make such disclosure; or (iii) was known to Supplier prior to disclosure by Altair hereunder, as evidenced by Supplier's written records.

## RIGHTS IN WORK PRODUCT

**6.1 Work Product Defined.** Supplier shall deliver to Altair all designs, data, documentation, parts, materials, drawings, and information of every kind, in whatever form, first produced or created by Supplier in the performance or arising out of work or rendition of Services for Altair and which are identified as a

deliverable in the applicable PO ("Work Product"). Altair shall own all intellectual property rights in such Work Products, including copyrights created therein.

Notwithstanding the foregoing, nothing in this Agreement shall limit Supplier's right to use any and all skills, knowledge, know-how, ideas, concepts, techniques, methodologies and expertise created, acquired or developed prior to or pursuant to this Agreement so long as no Altair Confidential Information is used in the provision of such services.

## WARRANTY

**7.1 SUPPLIER** warrants that all Services will be performed in a professional manner. SUPPLIER further warrants the deliverables as described in the PO shall perform as described therein. Except for Supplier's obligations under 4.4 (iii) and 5.1, NEITHER ALTAIR NOR SUPPLIER SHALL BE LIABLE TO EACH OTHER OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF THE PARTIES HAD KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES.

## MISCELLANEOUS

**8.1 Force Majeure.** Supplier shall not be liable to Altair for any failure or delay caused by events beyond Supplier's control, including, without limitation, failure or delays in transportation or communication, not the fault of Supplier, labor disputes, shortages of labor, fuel, or raw materials.

**8.2 Governing Law.** This Agreement shall be governed by and construed under the laws of the state of Michigan, without regard to that state's conflict of laws principles. Each party accepts unconditionally the jurisdiction and venue of the Circuit Court for the County of Oakland, Michigan or, if federal jurisdiction is established, the United States District Court for the Eastern District of Michigan with respect to any action arising under this Agreement. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. Each Party waives its right to a jury trial in the event of any dispute arising under or relating to this Agreement. Each party agrees that money damages may not be an adequate remedy for breach of the provisions of this Agreement, and in the event of such breach, the aggrieved party shall be entitled to seek specific performance and/or injunctive relief (without posting a bond or other security) in order to enforce or prevent any violation of this Agreement.

This PO, when funded in whole or in part with federal funds, includes the requirement that the vendor to whom it is issued comply as required under the law with the terms and conditions of Executive Order 11246, as amended, Section 503 of the [Rehabilitation Act of 1973](#), as amended, and The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended. Compliance information may be obtained at: <http://www.dol.gov/elaws/ofccp.htm>.

**8.3 Notices.** All notices required or permitted hereunder shall be in writing addressed to the respective parties as set forth herein, unless another address shall have been designated, and shall be delivered by hand or by registered or certified mail, postage prepaid.

**8.4 Assignment.** Supplier may not assign this Agreement, in whole or in part, without the prior written permission of Altair.

**8.5 Waiver.** The failure of Altair to enforce at any time any provision of this Agreement shall not be construed to be a waiver of the right of Altair thereafter to enforce any such provisions.

**8.6 Severability.** If any provision of this Agreement is held to be invalid, such provision shall be interpreted so as to best accomplish the intent of the parties within the limits of applicable law, and all remaining provisions shall continue to be valid and enforceable.

**8.7 Non-Compete.** Upon Supplier acceptance of the PO, Supplier acknowledges that he is not in violation of any non-compete or other restrictive agreement with another party, and agrees to indemnify Altair for any claim of any kind resulting from any non-compete or other restrictive agreement. Supplier agrees not to provide comparable work to Altair's competitors for a period of one year after completion of the project work as described on the PO or SOW.

**8.8 Entire Agreement.** These Terms and Conditions and any accompanying PO are incorporated herein by reference, and constitute the entire agreement of the parties hereto and supersede all prior representations, proposals, discussions, and communications, whether oral or in writing. In the event that the work to be performed by Supplier is for an Altair client, then the terms and conditions binding Altair shall also bind Supplier and shall take precedence over any conflicting terms in this Agreement. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by the party sought to be bound. No terms in a Supplier's proposal or quote shall be binding on Altair and are hereby rejected.