

TRICENTIS PURCHASE ORDER TERMS AND CONDITIONS

1. SCOPE AND DEFINITION.

- 1.1. Entire Agreement.** In the event the parties have not executed a Master Agreement for the Products contemplated by this Purchase Order (PO), this Purchase Order Terms and Conditions constitute the entire agreement between Company and Vendor regarding the subject matter hereof and supersedes all prior oral and written communications, however, the Purchase Order Terms and Conditions may also be incorporated by way of reference in an PO. In the event of any conflict or inconsistency, the order of precedence shall be (1) these Tricentis Purchase Order Terms and Conditions, (2) the PO. Any reference on the face of this PO to Vendor's proposal or any other document published by Vendor shall be deemed to incorporate only the description of the goods, services, and prices offered by Vendor and not any standard printed terms or conditions of Vendor's documents. All terms and conditions not expressly included in this PO are hereby rejected by Company.
- 1.2. Out of Scope.** This Purchase Order Terms and Conditions does not govern the sale of Products between Vendor and Company that are the subject of a duly signed written agreement by and between Vendor and Company. In such cases, the signed agreement shall apply, and the PO serves only to describe the Product and its Fees.
- 1.3. Definitions.** Capitalized terms not otherwise defined shall have the meaning set forth in this section.
- 1.3.1. **"Affiliate"** means any individual, corporation, partnership, or business entity that controls, is controlled by, or is under common control by an entity with an ownership of more than 50% of the voting shares.
- 1.3.2. **"Agreement"** means these Tricentis Purchase Order Terms and Conditions, the applicable PO and any schedule and appendices thereto.
- 1.3.3. **"Company"** means the entity identified in the PO, which provides the Products in accordance with the terms of this Agreement. Notwithstanding the foregoing, if no entity is specified **Tricentis Americas, Inc.**, 3424 Peachtree Road NE Suite 1000, Atlanta, GA 30326, USA, mean Company.
- 1.3.4. **"Confidential Information"** means any data or information that is disclosed to one party ("**Recipient**") by the other party ("**Discloser**") and not generally publicly available in whatever form, whenever and however disclosed, including but not limited to the Product and Documentation, including all data, code, techniques, algorithms, methods, logic, architecture, and designs embodied or incorporated therein, client lists, information security plans, business continuity plans, trade secrets and proprietary information, personal identifiable data or any data or information which is either identified as confidential, or which by its nature a reasonable business person would consider to be proprietary or confidential.
- 1.3.5. **"Vendor"** means the entity identified in the PO.
- 1.3.6. **"Intellectual Property Rights" or "IP Rights"** mean any worldwide common law and statutory rights, whether arising under the applicable law or any other state, country, jurisdiction, government, or public legal authority, associated with (i) patents, utility models, and invention disclosures and applications therefor, (ii) trade secrets, or proprietary information, (iii) copyrights; (iv) trademarks and service marks, (v) industrial designs, (vi) all rights in databases and data collections; (vii) all economic rights of authors and inventors, however denominated, (viii) rights to apply for, file for, certify, register, record, or perfect or any similar or equivalent rights to any of the foregoing, provided those rights or applications for any of those rights (where such applications can be made) are capable of protection in the applicable jurisdiction.
- 1.3.7. **"Purchase Order" or "PO"** means the order form, or any other document as agreed by the parties, specifying the options chosen by Company for the Products as well as Fees and additional conditions which incorporate these Tricentis Purchase Order Terms and Conditions by reference.
- 1.3.8. **"Personnel"** means Vendors' employees, agents and subcontractors who perform any work, services or deliverables under this Agreement.
- 1.3.9. **"Products"** mean collectively the goods, software, the platform services, professional services and/or deliverables provided, developed, or otherwise made available by Vendor to Company as identified in the PO.

2. IP RIGHTS

- 2.1. Ownership.** Unless otherwise specified in a PO, as between Company and Vendor, Products provided hereunder are "Works made

for hire" and Company will own and, to the extent permissible under applicable law, Vendor hereby assigns to Company all proprietary rights in any and all Products. Vendor agrees to execute such documents as may be necessary to implement and carry out the provisions of this section.

- 2.2. Perpetual Rights.** To the extent ownership rights cannot be assigned under applicable law and to the extent the following is allowed by the laws in the various countries, Company and its Affiliates will have a perpetual, assignable, non-exclusive, royalty-free license (with the right to sublicense) to do all things necessary to implement the recommendation, to make, use, sell, offer for sale, copy and distribute all Products, to create works of authorship derived from Products, and to use, sell, copy and distribute any such derivative works.

3. DELIVERY

- 3.1. Time of Essence.** Shipment and delivery date(s) specified are of the essence of this PO. Company shall not be liable to accept any part of such Products which are delayed and may, at its option, cancel the PO. Vendor agrees to insert the substance of this clause in any subcontract hereunder, with appropriate changes as to the identity of the parties. Company may delay delivery or acceptance of the Products, or this PO may be canceled by Company at any time prior to delivery if its business is interrupted by causes beyond Company's reasonable control, provided that Company shall give prompt notice to Vendor. Vendor shall hold Products at the direction of Company and shall deliver them when the cause of the delay has been removed.

- 3.2. Shipping Instructions.** Packing slips must accompany each shipment and should clearly identify the Company PO number. Company's count will be accepted as final and conclusive on all shipments not accompanied by packing slips. All articles are to be suitably packed or otherwise prepared for shipment so as to secure the lowest transportation and insurance rates and to meet carrier requirements. No charges will be allowed for drayage, boxing or packing unless specifically stated on the PO. Products must be shipped as provided for in this PO. In the absence of such instructions, shipments shall be routed via the most economical mode of commercially reasonable transportation available consistent with the time requirements established for the PO and risk of loss on the Products shall be borne by Vendor until delivery at the facility or destination designated by Company.

- 3.3. Acceptance.** All Products furnished will be subject to inspection and testing upon arrival or performance, and such g Products found by Company in its sole discretion to be not in accordance with the specifications, drawings, plans, instructions, samples or otherwise not in conformance with the terms of this PO shall be subject to rejection, return and back charge as appropriate, together with the necessary costs of handling and shipping. Company's payment of all or any part of the purchase price prior to such inspection, testing and non-acceptance of the Products involved shall not constitute a waiver of any of Company's rights hereunder. If Vendor fails to promptly correct defects in or replace nonconforming Products, Company may make such corrections or replace such Products, and charge Vendor any cost incurred. Products supplied in excess of quantities stated in this PO may be returned to Vendor at its expense.

- 3.4. Right to Audit.** Vendor shall, and ensure that its subcontractors shall, maintain a true and correct set of records pertaining to all activities relating to the Products, and all transactions related thereto, in a manner which is commercially reasonable and in line with industry best practices as well as in automated or electronic form. Vendor agrees, and shall ensure that its subcontractors agree, to retain all such records for a period of not less than three (3) years after the completion of this PO and that all records pertaining to charges made to Company under this PO will be subject to audit by Company or representatives of Company. Company, or its representatives, shall have access to Vendor's property, facilities and infrastructure and shall be provided adequate and appropriate workspace in order to conduct audits. Company shall have the right to interview current and former Vendor employees as part of any such audit. Should errors, overcharges or undercharges occur, reimbursement shall be made to the appropriate party.

4. FEES

- 4.1. Pricing.** Fees shall be firm and not subject to adjustment or variation unless specifically approved in writing by Company. Company shall have no obligation for reimbursement of any expenses, including travel expenses, incurred by Vendor unless such expenses have been approved.

- 4.2. Invoice Procedures.** After delivery and/or completion of the Products, Vendor shall submit an invoice with accurate billing and contact information and notify Company of any changes to such information to Company and Company shall, after acceptance of such Products, pay such invoice in accordance with the terms noted on the front of this PO or if no such terms are noted, within 30 days after acceptance. Company may require a financial statement from Vendor at any time during the term of this PO for the purpose of determining Vendor's financial responsibility and may request assurances of Vendor's future performance against the terms of this PO.

- 4.3. Taxes.** All fees payable by Company to Vendor under this Agreement are exclusive of all sales and use, goods and services, value added, excise, or any other taxes, levies, and assessments of any jurisdiction ("Taxes"). Vendor shall invoice Company for all Taxes that Vendor is required to collect from Company in relation to this Agreement under any applicable law, rule, or regulation. If any deduction or withholding is required by law to be made by Company, Company is expressly directed to deduct from all fees payable to Vendor under this Agreement and remit to the applicable governmental authority all withholding taxes and source deductions, as may presently, or after this Agreement takes effect, be imposed by law or regulation as an obligation upon Company with respect to any such amounts payable to Vendor. All invoices issued by Vendor to which Company applied such deduction or withholding are considered to be paid in full to Vendor. **VENDOR AGREES THAT IT IS LIABLE FOR AND SHALL, WITHOUT LIMIT AND AT ITS OWN COST, INDEMNIFY, DEFEND AND HOLD COMPANY HARMLESS FROM AND AGAINST ALL CLAIMS RESULTING FROM VENDOR'S**

FAILURE TO PAY ANY TAXES THAT ARE VENDOR'S RESPONSIBILITY UNDER THIS SECTION.

5. WARRANTY, LIABILITY, INDEMNIFICATION

5.1. Warranty. Vendor represents, warrants, and covenants to Company that:

- 5.1.1. All Products covered by this PO are unencumbered and will be performed in a professional and workmanlike manner using reasonable skill, care and diligence and in accordance with or exceeding industry standards and conform to the design and performance specifications or other description furnished or adopted by Company; will be well made, of good materials, merchantable, fit and sufficient for the purpose intended, including any special requirements of Company which have been disclosed to Vendor; shall be free from defects, whether latent or patent, in material and workmanship.
- 5.1.2. Vendor shall at all times comply with all applicable local, state and federal laws, rules, regulations and ordinances, and all Products furnished hereunder will comply with said laws, rules, ordinances, standards and regulations.
- 5.1.3. Vendor complies with Company's Code of Conduct available at: <https://www.tricentis.com/legal-information/contracts/>;
- 5.1.4. Vendor shall consider all information furnished by Company to be confidential and shall not use or disclose Company's confidential information to others.
- 5.1.5. Vendor warrants that the Products will not infringe on any IP Rights.

5.2. Remedy. Vendor shall immediately replace or repair free of charge, f.o.b. Company's location, any Products supplied hereunder which prove to be defective in workmanship or material.

5.3. Liability. IN NO EVENT SHALL COMPANY BE LIABLE TO VENDOR FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.

5.4. Indemnity. Vendor hereby agrees to indemnify and hold harmless Company, its affiliated companies and their agents and employees from all claims and suits for money or damages to property including incidental and consequential damages or injuries, including death, to persons, and from all judgments recovered therefor, and from all expenses in defending said claims or suits, including court costs, attorneys' fees and other expenses, caused by, or arising out of: (i) the act or omission of Vendor, its agents, and employees while on or about the premises of Company for the purposes of delivering, installing or providing the Products required by this PO; (ii) the negligence or wrongful acts or omissions of Vendor, its agents, and employees; (iii) any misrepresentation, breach of warranty, non-fulfillment of any obligation or agreement made by Vendor in connection with this PO; (iv) any defect or nonconformance in the Products purchased hereunder; and (v) any and all claims, demands and liens for the value of Products furnished or labor performed under this PO (vi) any copyright, intellectual property infringement, misappropriation of Confidential Information. In the event Company's use of any item provided by Vendor is interrupted as a result of such a claim, then Vendor shall either (i) procure for Company, at no cost to Company, the right to continue using the infringing item as though it were non-infringing, or (ii) replace or modify the infringing item with a functionally equivalent item that is non-infringing and that does not violate the property rights of others. The Company Indemnified Parties shall have the right to be present and represented by counsel, at its own expense, at all times during litigation or other discussions relating to claims under this provision. Neither Vendor nor a Company Indemnified Party shall settle or compromise any such litigation without the consent of the other if such settlement or compromise obligates the other to make any payment or part with any property or assume any obligation or grant any license or other rights or be subject to any injunction by reason of such settlement or compromise.

6. CONFIDENTIAL INFORMATION

6.1. Confidentiality Obligations. Except as otherwise set forth in a separate Non-Disclosure Agreement, during the Term and five (5) years thereafter, the Recipient shall (i) use Confidential Information solely for performing its obligations or exercising its rights under this Agreement, (ii) keep all Confidential Information in strict confidence; and (iii) not disclose, cause or permit disclosure of the Confidential Information to any third party, except as permitted under this Agreement. Specifically, the Recipient shall limit disclosure of any Confidential Information to its directors, officers, employees, Affiliates, agents, or representatives (collectively "**Representatives**") that have a "need to know" in order to carry out the purpose set forth above and ensure that such Representatives have signed an agreement containing disclosure and use provisions similar to those set forth herein. The Recipient shall be held responsible to the same standard of care as it applies to its own confidential information, which shall not be less than reasonable care. The Recipient is responsible for any breach of this Agreement by any of its Representatives.

6.2. Exceptions. Confidential Information shall not include information that the Recipient can demonstrate (i) was in the Recipient's possession prior to disclosure hereunder; (ii) is or becomes publicly available through no fault of or failure to act by the Recipient in breach of this Agreement; (iii) was rightfully known by the Recipient prior to disclosure of such information by the Discloser to the Recipient; (iv) was independently developed by the Recipient without any use of or access to the Confidential Information; and (v) is required to be disclosed by a judicial or governmental order, and Discloser has been given timely notice (if legally permissible) of such order so that Discloser may seek an injunction or protective order. If only particular parts or aspects of Confidential Information become subject to any of the foregoing exceptions, all other portions or aspects shall remain subject to this Agreement.

7. DATA PRIVACY AND IT-SECURITY

7.1. Personal Data. Each party warrants that it shall use, collect, store and/or process personal identifiable data or personal information as defined under and in accordance with any applicable privacy laws ("**Personal Data**").

7.2. Data Collection. Each party acknowledges it is necessary for the cooperation to exchange and allow the use of the other party's contact information relating to their respective Representatives for (i) invoicing, billing and other business inquiries, (ii) contract and customer management and (iii) order fulfilment and deliveries to Company ("**Contact Data**") and hereby authorizes such exchange, use and processing of Contact Data by the receiving party or its respective Affiliates. Each party agrees that it shall process Contact Data as a controller (where this concept is under the applicable law), in compliance with all applicable privacy laws and regulations and their respective privacy policies and in a safe and secure manner preventing unauthorized access, use or disclosure use of Contact Data only for the purposes outlined herein.

7.3. Data Processing. Vendor shall not use any Personal Data in connection with, to input into and process with the Products. Unless a data processing agreement ("**DPA**") is executed, neither party authorizes any exchange, use or processing of other Personal Data (other than Contact Data). Notwithstanding the foregoing, if a party requests a DPA to regulate the processing of Personal Data, the DPA shall be deemed an appendix to this Agreement.

7.4. Security. Vendor will use adequate contractual and technical mechanisms to protect any data received by Company.

8. INSURANCE.

8.1. Insurance. Vendor shall carry and maintain for the term of this Agreement, at its own expense, insurance coverage adequate for the defense and indemnification of any and all claims, demands, or actions arising out of any actions taken by Vendor in the performance of Vendor's obligations under this contract, including but not limited to general business liability and professional liability insurance, and shall provide Company with evidence of same upon request.

8.2. Subcontracting. Vendor shall not contract for the performance of any part of the work herein required without imposing similar obligations on any subcontractor so employed.

9. TERM AND TERMINATION

9.1. Right to Cancel. This PO may be terminated by Company at any time if Vendor (i) is in default hereunder; (ii) fails to use properly skilled personnel; (iii) fails to make prompt payment for any materials, labor or any other expenses it incurs in the development or the performance of the Products; (iv) fails to deliver the entirety of Products hereunder per the delivery schedule; (v) delivers Products which are defective or do not conform to this PO; or (vi) is deemed insolvent or in the event of the institution of any proceeding by or against Vendor in bankruptcy or insolvency. Any termination pursuant to this section shall be deemed to be a termination for default.

9.2. Termination for Convenience: Company may terminate any PO with Vendor at any time and from time to time for its sole convenience by giving Vendor at least thirty (30) days prior written notice to such effect. In the event of any such termination, Vendor shall immediately stop all services (including the shipment of Products) within the required (30) days and, unless notified by Company to the contrary, shall immediately cancel orders and commitments to its subcontractors and cause all subcontractors to cease all work related to this PO. In the event of such termination for convenience, Company shall pay Vendor as a termination charge that portion of the total consideration specified in the PO equal to the portion of the Products completed and/or delivered to Company's satisfaction prior to such termination, together with Vendor's actual, reasonable, verifiable direct costs, if any, incurred in closing-out such services, less any payments made prior to such termination. Vendor shall not be paid for any Products performed or Products shipped after receipt of any notice of termination nor for any costs incurred by Vendor's subcontractors that Vendor could reasonably have avoided. Vendor shall have no further claim against Company on account of such termination. Company reserves the right to cancel all or any part of this PO without a cancellation cost if shipment is not made within the specified time.

9.3. Effect of Termination. All provisions of this PO pertaining to warranties, taxes, audits, intellectual property, confidentiality, indemnity, limitations of liability, choice of law, and jurisdiction are continuing obligations which shall survive completion and acceptance of any Products or the termination of this PO. In addition, no later than ten (10) calendar days after termination or non-renewal, Vendor shall return or certify destruction of all Confidential Information in its possession or control of Company.

10. MISCELLANEOUS

10.1. Notices. All notices shall be in writing and addressed to the office location of the parties as set out in the PO by certified or registered mail, courier or email.

10.2. No Publicity. Vendor shall not disclose or use Company's name, trademarks or logos and shall refrain from making or causing to be made, any public announcement, advertisement, or news release of any kind concerning this PO, without permission of Company.

10.3. Injunctive Relief. Vendor acknowledges and agrees that any breach of its obligations with respect to Confidential Information and IP Rights may cause substantial harm to Company that could not be remedied by payment of damages alone. Accordingly, Company is entitled, in addition to any other rights or remedies, to seek injunctive relief in any jurisdiction where damage may occur.

10.4. Exports. Vendor shall comply with all applicable export trade control laws, rules, and regulations with respect to its use of the Product, including but not limited to International Traffic in Arms Regulations of the U.S. State Department, the Export Administration Regulations promulgated by the U.S. Department of Commerce or sanction regulations of U.S. Treasury Department and shall comply with all restrictions imposed pursuant thereto with respect to complying with prohibitions of trade or transactions with persons or entities whom or which may be sanctioned or blocked by virtue of being subject of an order, directive, proclamation,

regulation or otherwise listed as a blocked, barred, suspended, sanctioned or prohibited person identified by such agencies and departments. Vendor agrees to notify Company promptly if Vendor may be in non-compliance with this section.

- 10.5. No Waiver.** Company's failure or delay in exercising any of its rights shall not constitute a waiver of such rights unless expressly waived in writing.
- 10.6. Relationship.** The parties are independent contractors, and nothing contained in this Agreement shall be construed to constitute as agents, partners, joint ventures, or otherwise as participants in a joint undertaking, that would give a party the express or implied right, power or authority to create any duty or obligation of the other party.
- 10.7. Force Majeure.** Neither party shall be deemed to be in breach of any provision of this Agreement for any failure resulting from acts or events beyond that party's reasonable control, such as act of god. If any of such event has occurred, the non-performing party shall (i) immediately notify the other party in writing describing at a reasonable level of detail the circumstances causing such default or delay and (b) be excused from further performance or observance of is affected obligation(s) for as long as such circumstances prevail and such party continues to use reasonable commercial efforts to recommence performance or observance as soon as possible and to whatever extent possible without delay.
- 10.8. No Assignment.** Vendor may not assign its rights or delegate its duties under this PO without the prior written consent of Company, and any attempted assignment or delegation without such consent shall be void.
- 10.9. Severability.** If any provision of this Agreement is held to be invalid or unenforceable, such provision will be interpreted in a manner that best reflects the parties' intentions, and the remaining provisions of this Agreement will remain in full force and effect.
- 10.10. Law and Jurisdiction.** If not otherwise stated in the PO, this Agreement and the subject matter thereof shall be governed by the laws and construed in accordance with the laws of the State of Georgia, without regard to its conflict of law principles. Any disputes, actions, claims, or causes of action arising out of or in connection with this Agreement or the subject matter thereof will be subject to the exclusive jurisdiction of the courts located in Atlanta, Georgia. The parties hereby disclaim and exclude the application hereto of the United Nations Convention on Contracts for the International Sale of Goods. Notwithstanding the foregoing, Company may bring a claim for equitable relief in any court with proper jurisdiction.
- 10.11. Subsequent Arbitration.** Only if this Agreement is executed by parties located in different countries and such countries have no bilateral treaty regarding litigation and enforcement in place, each party consents to all disputes arising out of or in connection with this Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules and such arbitration shall be final binding and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of arbitration shall be where the Company as specified in the PO is located, and the arbitration language shall be English.

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