

## VENDOR AGREEMENT

The terms and conditions of this Vendor Agreement shall apply to each Statement(s) of Work that incorporates by reference this Vendor Agreement between the BRIGHTSTAR entity named in the Statement of Work ("BRIGHTSTAR") and you ("Vendor") with respect to your supply of Products and/or Services to BRIGHTSTAR and its Subsidiaries. Details regarding Products and/or Services supplied by you to BRIGHTSTAR are set out in each Statement of Work.

THIS VENDOR AGREEMENT (the "Vendor Agreement") dated and effective as of the last date of signature of the Statement of Work (the "Effective Date"), is by and between BRIGHTSTAR and Vendor.

In consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Vendor and BRIGHTSTAR hereby agree as follows:

### 1. DEFINITIONS.

"Affiliate" means (i) with respect to BRIGHTSTAR, (a) Brightstar Lottery PLC ("Parent") and any entity that is directly or indirectly controlled by Parent for as long as BRIGHTSTAR or such entity is controlled by Parent, or (b) any entity that is directly or indirectly controlling, controlled by or under common control with BRIGHTSTAR after BRIGHTSTAR is no longer controlled by Parent; and (ii) with respect to Vendor, any person that is directly or indirectly controlling, controlled by or under common control with Vendor.

"Agreement" means this Vendor Agreement, any Attachment, any SOW, any PO and any documents generated by BRIGHTSTAR which indicate they are part of the Agreement.

"Attachment" means a document generated by BRIGHTSTAR and attached hereto containing supplemental terms governing the Products and Services provided by Vendor and is a part of the Agreement.

"Background Intellectual Property Rights" means all Intellectual Property Rights that: (i) are owned or licensable by a party or Affiliate prior to the Effective Date of the Agreement, or (ii) are conceived, created, developed, authored, or made independently or separate from any work performed under the Agreement by a party or Affiliate after the Effective Date.

"Confidential Information" means all information that is disclosed by a party or its Affiliate ("Discloser") to the other party or its Affiliates ("Recipient") which is marked "confidential" or which is identified as confidential at the time of disclosure. Confidential Information shall not include any information that was or is: (i) generally available to the public through no fault of Recipient or its employees, directors, consultants, or agents; (ii) rightfully in the possession of Recipient without restriction before its disclosure by Discloser; (iii) independently developed by Recipient or its employees, directors, consultants, or agents, without access to such Confidential Information; or (iv) rightfully received by Recipient from a third party without any duty of confidentiality.

"Foreground Intellectual Property Rights" means all Intellectual Property Rights that are conceived, created, developed, authored, or made at any time in connection with any work performed under the Agreement, whether created solely or jointly by the parties or their Affiliates, including all such Intellectual Property Rights included in the Products or Services.

"Generative AI" means a type of artificial intelligence that uses learning algorithms to recommend decisions and generate or create new digital content, including text, code, imagery, audio and synthetic data, rather than simply analyzing or acting on existing data.

"Global Anti-Corruption Laws" means the U.S. Foreign Corrupt Practices Act, the UK Bribery Act, and other applicable anti-bribery and anti-corruption laws and regulations of the jurisdictions in which the Vendor operates or performs services.

"Intellectual Property Rights" means, collectively, all rights in, to, and under any of the following that may exist or be created or recognized under the laws of any governmental authority in any jurisdiction in the world: (i) rights associated with works of authorship, including exclusive exploitation rights, copyrights (including the copyright on software in any code), and mask works; (ii) Trademarks; (iii) trade secret rights; (iv) patents and industrial property rights; (v) any similar rights of any type; and (vi) all registrations, renewals, extensions, continuations, divisions, or reissues of, and applications for, or other pre-grant or post-grant forms, of any of the foregoing.

"Moral Rights" means any rights to claim authorship of the Product or Services, to object to or prevent any modification of a Product or Service, to withdraw from circulation or control the publication or distribution of any Product or Service, and any similar right, existing under judicial or statutory law of any country in the world, or under any treaty, regardless of whether or not such right is called or generally referred to as a "moral right."

"Open Source Materials" means software or other material that is distributed as "open source software" or under similar licensing or distribution terms (including the GNU General Public License (GPL), GNU Lesser General Public License (LGPL),

Mozilla Public License (MPL), Apache Software License, any of the Creative Commons suits of licenses, and any other licenses identified as open source licenses at [www.opensource.org](http://www.opensource.org)).

“Personnel” means Vendor’s employees and contractors.

“PO” means an BRIGHTSTAR generated purchase order.

“Products” means (i) the goods described in a SOW, which may include multiple deliverables as described therein; and (ii) all Intellectual Property Rights included therein.

“Records” means all books of account and copies of all documents, invoices, and other materials of Vendor relating to the Agreement, including but not limited to records and data reasonably necessary to show Vendor’s compliance with all provisions of the Agreement.

“Representative” means any Vendor officer, director, employee, contractor and/or agent.

“Restrictive Open Source Materials” means Open Source Materials that are subject to a “copyleft” license or other agreement that requires as a condition of use, modification or distribution of such code, that such code or other software code combined or distributed with such code, be: (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no cost, including, without limitation, any software code subject to the GNU General Public License or Lesser General Public License or any similar license.

“Services” means the services performed by Vendor pursuant to a SOW, which may include multiple deliverables as described therein.

“SOW” means statement(s) of work. Unless otherwise indicated, references to SOWs shall also be deemed to include POs. Notwithstanding the foregoing, any pre-printed text or terms and conditions included on a PO shall be subordinate to the other terms and conditions contained within this Agreement in accordance with Section 15(B) hereof.

“Trademarks” means trademarks, service marks, trade names, certification marks, and any other proprietary rights to any words, names, symbols, slogans, logos, devices or combinations thereof used to indicate the source or origin of goods or services.

## **2. VENDOR DUTIES.**

A. The Vendor shall perform the Services and/or provide the Products to BRIGHTSTAR pursuant to and in accordance with the applicable SOW which shall be signed by duly authorized representatives of BRIGHTSTAR and the Vendor. The SOW and subsequent SOWs, if any, shall be sequentially numbered and incorporated therein

B. Vendor shall only use its Personnel to create the Products and/or perform the Services under the Agreement. Vendor shall cause Vendor’s Personnel, while working on BRIGHTSTAR’s premises, accessing BRIGHTSTAR’s networks or providing Products and Services hereunder, to comply with (i) the rules and policies of BRIGHTSTAR relating to security of, access to or use of BRIGHTSTAR’s premises, information, networks or systems located at [Vendor Security Guidance](#), which may be amended from time to time, and (ii) any other rules and procedures of BRIGHTSTAR provided or made available to Vendor.

C. Vendor shall ensure that its Personnel performing Services hereunder have, prior to commencing performance of such Services, received training in anti-corruption, anti-bribery, anti-harassment, harassment prevention, data privacy, and information security matters. Additionally, Vendor shall, if requested by BRIGHTSTAR, ensure that such Personnel have received training in additional matters as specified by BRIGHTSTAR within thirty (30) days of any such request.

D. Prior to any Personnel performing Services hereunder, Vendor shall conduct a background check on such Personnel and shall submit a 1020 BRIGHTSTAR contractor background information form to BRIGHTSTAR. BRIGHTSTAR shall provide such form upon request. Such background checks shall include searches of/for: criminal records (all felony convictions, misdemeanor convictions for the past ten (10) years), federal criminal district, national criminal locator, Office of Foreign Asset Control, and Department of Justice sex offender registry.

E. If requested by BRIGHTSTAR, Vendor shall annually provide to BRIGHTSTAR financial statements, including income statements and balance sheets (collectively, “Financial Statements”). The Financial Statements shall be prepared pursuant to GAAP. Vendor shall keep BRIGHTSTAR informed of significant changes in Vendor’s financial position, organization and management.

## **3. COMPENSATION AND EXPENSES.**

A. Notwithstanding the existence of an executed SOW, BRIGHTSTAR shall only be liable to pay for Products and Services that are described on a valid PO issued by BRIGHTSTAR to Vendor

B. The fees associated with each SOW shall be set forth therein. Payments by BRIGHTSTAR shall be made net 60 days from the date of receipt of an acceptable invoice. Any fees, costs or expenses not expressly set forth in the SOW must be authorized by BRIGHTSTAR in advance and in writing. Authorized expenses shall be borne directly by the Vendor and recharged to BRIGHTSTAR at cost, when justified by adequate supporting original documents. For Services provided on a time and materials basis, all invoices shall be accompanied by a detailed time-sheet describing the Personnel and Services rendered as well as adequate supporting original documentation for the authorized expenses.

#### **4. CONFIDENTIALITY.**

A. Recipient shall not disclose or permit any Confidential Information to be accessed by any third party. Recipient will use Confidential Information solely for carrying out its obligations under the Agreement during its term. Recipient may disclose Confidential Information to its officers, directors, employees, agents, and/or subcontractors who have a need to know and have agreed in writing to confidentiality obligations at least as restrictive as the requirements herein. Recipient will be liable for failure of such persons to treat Discloser's Confidential Information in accordance with the requirements of the Agreement. Recipient will use the same duty of care as it uses for its own confidential information of similar importance to prevent any unauthorized use or disclosure to any third party, but no less than reasonable care.

B. If Recipient is required by applicable law, regulation or a valid legal order to disclose Discloser's Confidential Information, Recipient shall, unless prohibited by such law, regulation or order, give the Discloser prompt written notice of such requirement together with a description of the Confidential Information that Recipient is required to disclose. If Recipient is legally compelled to make such disclosure, it: (a) shall only disclose that portion of the Confidential Information that it is required to disclose; (b) shall use reasonable efforts to ensure that such Confidential Information is afforded confidential treatment if a protective order or other remedy is not granted; and (c) agrees that such Confidential Information shall continue to be "Confidential Information" for purposes of the Agreement.

C. Recipient acknowledges and agrees that any use, misappropriation or disclosure of the Confidential Information other than as provided herein, shall constitute a material breach and will cause irreparable injury or harm to Discloser and therefore, upon any breach or any threat thereof, Discloser shall be entitled to seek and obtain injunctive relief in addition to whatever remedies it might have at law or equity.

D. All Confidential Information is and shall remain the exclusive and valuable property of Discloser and Recipient shall not obtain any license or other interest in or to Discloser Confidential Information.

E. Recipient's obligations regarding Confidential Information will continue for a period of three (3) years after the initial date of disclosure of such Confidential Information.

#### **5. TERM AND TERMINATION.**

A. This Vendor Agreement shall continue in full force and effect unless and until terminated in accordance with this Section 5.

B. The Vendor Agreement may be terminated by either party, provided there are no in-progress SOWs at the time of termination, effective upon thirty (30) days prior written notice to the other party.

C. BRIGHTSTAR may terminate any SOW at any time and for any reason, effective upon thirty (30) days prior written notice to the Vendor, in which case BRIGHTSTAR shall pay Vendor for all work completed and delivered to BRIGHTSTAR up to the effective date of termination. BRIGHTSTAR may immediately and without any further obligation or liability terminate any SOW upon Vendor's material breach thereof, provided that, if the breach is reasonably capable of being cured, BRIGHTSTAR has provided written notice to Vendor of such breach and Vendor has not cured the breach within ten (10) days of such notice.

D. BRIGHTSTAR may terminate this Agreement hereunder immediately upon written notice to the Vendor without any further obligation or liability if (i) any proceeding in bankruptcy or arrangement for the appointment of a receiver or trustee of assets or any other legal proceeding for the relief of creditors is instituted by or against Vendor, (ii) Vendor makes an assignment for the benefit of creditors, or (iii) Vendor ceases to do business for any reason.

E. Upon the termination of the Agreement for any reason, Vendor shall destroy or deliver promptly to BRIGHTSTAR all materials containing Confidential Information of BRIGHTSTAR, as requested by BRIGHTSTAR, and all property furnished by BRIGHTSTAR to Vendor under the provisions of the Agreement.

F. Upon termination of the Agreement for any reason, the following provisions in the Agreement entitled Confidentiality, Intellectual Property Rights, Representations and Warranties, Indemnification, Limitation of Liability, Regulatory Compliance, Compliance with Global Anti-Corruption Laws, and General Terms shall remain in effect and survive the termination of the Agreement.

#### **6. REPRESENTATIONS AND WARRANTIES.**

A. The Vendor represents and warrants that:

- i. (i) it is not prohibited by any prior agreement with any third party from entering into the Agreement and/or fully performing its obligations under the Agreement; (ii) it is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization;
- ii. (i) all Products and Services will be created or performed to the best of Vendor's ability and in an effective, timely, professional and workmanlike manner in accordance with the highest applicable industry standards and practices; (ii) all Products and Services will be created and performed in accordance with the SOW; (iii) no Products and Services will infringe any third party intellectual property rights; and (iv) all Products will comply with the SOW for one (1) year from delivery to BRIGHTSTAR. Any Product found to be defective will be returned at Vendor's expense;
- iii. (i) all work performed under the Agreement will be performed by Personnel who have employment authorization to create the Products and perform the Services in accordance with the immigration and employment laws of the country where the Personnel are working; (ii) Vendor is in compliance with all employment and tax laws of the country in which the Personnel are working; (iii) Vendor has particular knowledge and experience required to provide the Products or Services and does not require or request training or instructions from BRIGHTSTAR with respect to the means and methods of rendering the Services or creating the Products; and (iv) Vendor has all necessary licenses, permits, and regulatory approvals, in accordance with any applicable law, required to create the Products and perform the Services; and
- iv. the Products and Services do not contain any software, hardware or other technologies, devices, or means, the purpose or effect of which is to: (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner, the operation of BRIGHTSTAR's or any of its licensee's or customer's (i) computer, software, firmware, hardware, system or network, or (ii) any application or function of any of the foregoing or the integrity, use, or operation of any data processed thereby; (b) prevent BRIGHTSTAR or any authorized user from accessing or using the Products or Services as intended by the Agreement; or (c) transmit or install any virus, bug, Trojan horse, worm, backdoor, or other malicious computer code or any time bomb or drop dead device.

B. If any Products or Services fail to comply with any of the foregoing representations and warranties, as applicable, Vendor shall promptly correct such failure at no additional charge to BRIGHTSTAR. If such correction is not promptly provided as determined by BRIGHTSTAR, BRIGHTSTAR may terminate the respective SOW or the Agreement and receive a full refund of any fees paid for such defective Products or Services.

## **7. INTELLECTUAL PROPERTY RIGHTS.**

A. Subject to the terms and conditions of the Agreement, BRIGHTSTAR grants Vendor a limited, revokable, non-exclusive, non-sublicensable, and non-transferable license to BRIGHTSTAR Background Intellectual Property Rights in material provided by BRIGHTSTAR under the Agreement solely for use by the Vendor Personnel to fulfill Vendor's obligations under the Agreement.

B. BRIGHTSTAR owns all Foreground Intellectual Property Rights immediately as the Services are performed and/or as the Products (or any components thereof) are created. In the event that any Foreground Intellectual Property Rights are deemed for any reason not to be owned by BRIGHTSTAR, Vendor, on behalf of itself, its Personnel and its third party provider(s), agrees to assign and hereby assigns to BRIGHTSTAR, all right, title and interest in the Foreground Intellectual Property Rights. Vendor agrees to execute such further documents and to perform such further acts, at the expense of BRIGHTSTAR, as may be necessary or desirable to perfect the foregoing assignment and to protect the Foreground Intellectual Property Rights. Vendor, on behalf of itself and its Personnel, hereby waives and agrees never to assert any Moral Rights that Vendor or its Personnel may have in or with respect to the Products or Services.

C. In the event any Product or Service uses, includes or is linked to any third party technology, in addition to expressly describing such content in the SOW, Vendor also agrees to secure prior written agreements with such third parties that at a minimum provide the same rights, licenses, representations, warranties, indemnifications, and other protections to BRIGHTSTAR that Vendor provides under the Agreement.

D. Vendor will not use, include, or link to any (i) Restrictive Open Source Materials, or (ii) Generative AI, in any Product or Service without BRIGHTSTAR's advance written consent.

E. Vendor shall identify in writing all Open Source Materials included in any Product or Service along with all underlying license agreements.

F. Vendor grants to BRIGHTSTAR an irrevocable, non-exclusive, worldwide, perpetual, royalty-free license, with the right to grant sublicenses, to use Vendor's Background Intellectual Property Rights contained or linked within or otherwise reasonably necessary to make, have made, use, offer for sale, sell, import, copy, reproduce, modify, create derivative works of, publicly display, publicly perform, distribute, and otherwise exploit the Products and Services.

## **8. INDEMNIFICATION.**

Vendor shall defend and indemnify BRIGHTSTAR and its Affiliates, including their respective agents, directors, employees and officers (each an "Indemnified Party") from all claims, demands, allegations, proceedings or lawsuits (each, a "Claim") brought by a third party, including Personnel (the "Claimant") against an Indemnified Party for all losses, costs, liabilities, damages, fines, and expenses of any kind and nature (including but not limited to reasonable attorney's fees and costs) incurred by an Indemnified Party or paid to Claimant, whether as the result of a judgment or settlement, arising out of or in connection with: (i) Vendor's performance or non-performance under the Agreement; (ii) a breach or inaccuracy of any representation, warranty or covenant made by Vendor in the Agreement; (iii) any negligence, willful or reckless actions or misconduct of Vendor, or any of its Personnel, and (iv) any Claim that the Services or Products infringe a third party's Intellectual Property Rights. BRIGHTSTAR shall promptly notify Vendor of the existence of any Claim to which Vendor's defense and indemnification obligations under this Section would apply or related to infringement of a third party's Intellectual Property Rights pursuant to the terms of the Agreement; provided, however, that failure to provide such notice shall not relieve Vendor from its liability, indemnification or defense obligations hereunder. BRIGHTSTAR shall give Vendor thirty (30) days after notice to defend the Claim at its own expense and with counsel of its own selection; provided that BRIGHTSTAR shall at all times also have the right to fully participate in the defense and settlement of the Claim at its own expense. If Vendor shall, within thirty (30) days after notice of a Claim, fail to defend BRIGHTSTAR, BRIGHTSTAR shall have the right, but not the obligation, to undertake the defense of, and to compromise or settle (exercising reasonable business judgment), the Claim at the risk and expense of Vendor. Any failure by Vendor to respond to a notice of a Claim within thirty (30) days shall constitute acceptance of the Claim and Vendor's obligations hereunder.

## **9. LIMITATION OF LIABILITY.**

BRIGHTSTAR SHALL NOT BE LIABLE TO VENDOR OR ANY OTHER PARTY FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OR WASTED EXPENDITURE, HOWEVER CAUSED AND WHETHER OR NOT SUCH DAMAGES OR WASTED EXPENDITURE ARE FORESEEABLE. BRIGHTSTAR SHALL HAVE NO LIABILITY TO ANY PERSONNEL OF VENDOR. BRIGHTSTAR'S MAXIMUM LIABILITY TO VENDOR UNDER A SPECIFIC SOW SHALL BE THE FEES SPECIFIED IN SUCH SOW. BRIGHTSTAR'S MAXIMUM TOTAL LIABILITY TO THE VENDOR UNDER THIS AGREEMENT SHALL BE THE TOTAL FEES PAID BY BRIGHTSTAR TO VENDOR UNDER ALL SOWS IN THE ONE (1) YEAR PRECEDING THE EVENT GIVING RISE TO A CLAIM.

## **10. REGULATORY COMPLIANCE.**

A. Vendor agrees to, and shall also require its Personnel to: (i) cooperate with requests, inquiries, or investigations of regulatory or law enforcement authorities, at its own expense, in connection with the performance of the Agreement; (ii) cooperate with BRIGHTSTAR in the completion of any necessary due diligence background investigation by or on the behalf of BRIGHTSTAR or any applicable regulatory authority; and (iii) provide written notice to BRIGHTSTAR within five (5) days upon a material change in its corporate composition or its owners, management or business lines. BRIGHTSTAR reserves the right to immediately terminate the Agreement, without liability to BRIGHTSTAR, based on the results of the due diligence conducted on Vendor or its Representatives.

B. BRIGHTSTAR may immediately terminate the Agreement in the event that BRIGHTSTAR discovers facts with respect to Vendor or the Agreement that would, in the reasonable opinion of BRIGHTSTAR, jeopardize the licenses, permits or status of BRIGHTSTAR or any of its Affiliates with any applicable regulatory or law enforcement agency. In the event of such termination, neither party shall have any further rights hereunder.

C. Vendor acknowledges that the performance of Services in some roles may require that the person providing the Services be appropriately licensed by or registered with the regulatory authority where the Services will be performed. Vendor agrees, on its own behalf and on behalf of its Personnel, to cooperate in obtaining such licenses or registrations, to complete any required applications and provide any required documentation, including an authorization for release of personal information. Where an employee of Vendor is responsible for obtaining such licenses and registrations, Vendor's employee shall: i) provide proof of the same to BRIGHTSTAR; and ii) notify BRIGHTSTAR of any change of name, address, marital status, and the occurrence of any arrests or bankruptcy proceedings. Vendor shall promptly notify BRIGHTSTAR of any disciplinary actions, terminations, suspensions or removals from BRIGHTSTAR projects of such employees. Vendor's Personnel required to hold one (1) or more licenses must maintain that license as long as such Personnel are in a role that requires such license(s). BRIGHTSTAR retains the right to withdraw licensure for and/or terminate any Vendor Personnel for violations of any regulation, local, state or federal law, and BRIGHTSTAR's Supplier Code of Conduct agreed to by Vendor in the previously executed Vendor Master Self-Disclosure Sheet.

## **11. NON-SOLICITATION.**

During the term of an applicable SOW and for twelve (12) months thereafter, Vendor agrees not to initiate direct recruitment or solicitation for employment any BRIGHTSTAR employee that Vendor works with under the applicable SOW. The foregoing shall not prevent Vendor from (i) indirectly recruiting or soliciting for employment or hiring any such BRIGHTSTAR employee or (ii) recruiting, soliciting or hiring any such BRIGHTSTAR employee who makes the initial contact with Vendor inquiring about employment.

## 12. COMPLIANCE WITH GLOBAL ANTI-CORRUPTION LAWS.

A. Vendor represents and warrants that Vendor and its Representatives are each in compliance with all Global Anti-Corruption Laws. Vendor shall, and shall ensure that its Representatives comply with all Global Anti-Corruption Laws and BRIGHTSTAR's Supplier Code of Conduct located at [Brightstar Supplier Code of Conduct](#), which may be amended from time to time. The Vendor is responsible for the breach of the Code of Conduct by the Vendor's Representatives.

B. Vendor represents, warrants and covenants that neither it, nor any of its 5% direct or indirect owners of Vendor or its Representatives: (i) have been debarred, suspended or otherwise determined ineligible for government procurement programs in any jurisdiction; (ii) have at any time within the last five years been convicted or otherwise found responsible for conduct which would constitute a breach of any Global Anti-Corruption Law; or (iii) are currently subject to any actions, suits, investigations or proceedings related to actual or potential violations of any Global Anti-Corruption Law, before or by any national, state, provincial, local or other governmental or non-governmental department, commission, board, bureau, agency or instrumentality.

C. Vendor shall notify BRIGHTSTAR in writing within five (5) days if it or any Representative (i) receives any request to take any action which would or may violate the obligations set forth in this Section, or (ii) becomes subject to any investigation or inquiry (including any proposed meetings, interviews, inspections or audits) for violation of Global Anti-Corruption Laws. Vendor shall cooperate, and shall ensure its Representatives cooperate, in any anti-corruption investigation, audit, or program review conducted by BRIGHTSTAR, including making relevant Representatives available for interview and relevant books and records available for inspection and consenting to BRIGHTSTAR's disclosure to a government of any information related to non-compliance with the provisions of Section 12 of this Agreement. Upon request by BRIGHTSTAR, Vendor shall certify on an annual basis its compliance with the provisions of this Section.

## 13. ENVIRONMENTAL

Vendor shall undertake reasonable efforts to assist BRIGHTSTAR in achieving its environmental commitments stated in the Environmental Policy located at [Environmental Policy](#) and respond promptly to reasonable inquiries made by BRIGHTSTAR for the purpose of improving environmental performance and reporting on environmental policy implementation.

## 14. RECORDS; AUDIT.

A. Vendor shall keep full and accurate Records at Vendor's principal office during the term of and for at least five (5) years after the termination of the Agreement. Vendor shall provide BRIGHTSTAR copies of Records as reasonably requested by BRIGHTSTAR.

B. BRIGHTSTAR has the right, through its internal and external auditors, to audit (including to inspect, perform onsite fieldwork, make copies, and review) the complete Records (both electronic and hard copy) as are reasonably required to verify Vendor's compliance with each term and condition of the Agreement.

C. Vendor shall provide to BRIGHTSTAR's auditors the Records during reasonable business hours. BRIGHTSTAR shall provide Vendor with no less than ten (10) days' written notice of its intent to audit the Records, and Vendor shall have all Records ready for inspection prior to the arrival of BRIGHTSTAR or its auditor(s) at Vendor's facilities and shall also promptly provide additional documentation as may be reasonably requested. Such notice shall indicate the period to be audited, the identity of the auditor(s), and the scope for the audit. In a subsequent notice, BRIGHTSTAR may identify additional auditor(s), if such identity(ies) was/were not disclosed in the first notice.

D. BRIGHTSTAR shall pay all costs associated with the audit. If such audit of the Records reveals that Vendor has overcharged BRIGHTSTAR or BRIGHTSTAR has overpaid fees due hereunder, then Vendor shall promptly pay the costs associated with the audit and reimburse BRIGHTSTAR such overcharge or overpaid fees.

## 15. GENERAL TERMS.

A. **Affiliate Participation.** Each of BRIGHTSTAR's Affiliates shall have the right to request Products and/or Services under the Agreement and execute any SOW. Vendor's Affiliates may provide Products and/or Services to BRIGHTSTAR and its Affiliates under the Agreement and execute any SOW. Any BRIGHTSTAR Affiliate entering into a SOW hereunder shall be referred to as "BRIGHTSTAR" for purposes of the applicable SOW only, and any Vendor Affiliate entering into a SOW hereunder shall be referred to as "Vendor" for purposes of the applicable SOW only. Vendor shall enforce the terms and conditions of the Agreement solely against the BRIGHTSTAR Affiliate for the applicable SOW. Vendor shall remain liable for each of its Affiliates providing Products and/or Services under the Agreement.

B. **Entire Agreement.** The Agreement constitutes the entire agreement between the parties concerning the subject matter hereunder and all prior agreements, representations and understandings with respect thereto are merged into and superseded by the statements, representations and understandings set out and included in this Agreement, and which are the only statements, representations, and understandings upon which the parties have relied. The Agreement shall govern all Products and Services provided by Vendor to BRIGHTSTAR and its Affiliates during the term of the Agreement regardless of whether the Agreement is referenced in any SOW, PO, proposals or other documentation exchanged by the parties. If there is a conflict between the terms of the body of this Vendor Agreement and a SOW or Attachment, then the terms of the SOW or Attachment shall prevail over the terms of the body of the Vendor Agreement, and if there is a conflict between the terms of a SOW and Attachment, then the terms of the SOW shall prevail over the terms of the Attachment. If there is a conflict between the preprinted terms on a PO and any other terms of the Agreement, the terms of the Agreement shall prevail over the terms of the PO.

C. **No Other Rights Granted.** Each party only receives the rights expressly granted to such party herein. No other rights are granted by implication, estoppel or otherwise and such other rights are reserved by the other party.

D. **Counterparts.** The Agreement is effective on the Effective Date. The Agreement and any amendments thereto may be executed in counterparts, including by facsimile or PDF, each of which shall be deemed an original, but all of which together shall constitute a single Agreement.

E. **Notices.** Any notice, consent, approval, request, waiver or statement given, made or provided for under the Agreement shall be in writing and: (a) personally delivered; (b) mailed by pre-paid certified or express mail service of the United States Postal Service, by Federal Express or similar overnight delivery service, with acknowledgement of receipt, fees prepaid, to the other party at the address set forth above; or (c) sent by e-mail, "OFFICIAL BUSINESS" in the subject line to the email address listed in the applicable Statement of Work. Any such notice sent as provided above shall be effective at the time of personal delivery, three (3) days after deposit in the U.S. mail, or three (3) days after the date on which such email is transmitted. Such addresses and email addresses may be updated from time to time by email.

F. **Assignment.** Neither party shall assign the Agreement or its rights or obligations hereunder without the other party's prior written consent. Any purported assignment without such consent will be null and void. Notwithstanding the foregoing, BRIGHTSTAR may assign this Agreement in its entirety to any Affiliate or in connection with any purchase, merger, corporate reorganization, or sale of all or substantially all of its assets, without the prior written consent of Vendor. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's successors and assigns.

G. **Third Party Beneficiaries.** The Agreement is solely for the benefit of Vendor, BRIGHTSTAR, and BRIGHTSTAR Affiliates that enter into a SOW (but only for the purposes of the applicable SOW).

H. **Severability.** If any provision of the Agreement is found or held to be invalid or unenforceable under the law of any jurisdiction, the meaning of that provision will be construed, to the extent feasible, so as to render the provision enforceable in that jurisdiction and if no feasible interpretation shall save such provision, it will be severed from the remainder of the Agreement and the parties will negotiate in good faith to modify the Agreement so as to effect the original intent of the parties regarding such provision.

I. **Waiver.** No failure of either party to exercise or enforce any of its rights under the Agreement will act as a waiver of such rights.

J. **Amendment.** The Agreement may not be modified, and no provision herein shall be waived, except by a written instrument signed by both parties.

K. **No Presumption.** The Agreement shall be construed without regard to any presumption or rule requiring construction of interpretation against the party drafting or causing any instrument to be drafted.

L. **Relationship of the Parties.** The relationship of the parties under the Agreement is that of independent contractors. Vendor acknowledges that it is solely responsible for its actions or inactions, and that nothing in the Agreement will be construed to create an agency or employment relationship between BRIGHTSTAR and Vendor or its Personnel. Vendor is not authorized to enter into contracts or agreements on behalf of BRIGHTSTAR or to otherwise create obligations of BRIGHTSTAR to third parties. Neither Vendor nor any of its Personnel are BRIGHTSTAR employees for any purpose.

M. **Use of BRIGHTSTAR's Name.** Vendor shall not use the name or logo of BRIGHTSTAR or any of its Affiliates nor the fact that it is doing business with BRIGHTSTAR, in any publicity, advertising or similar activity without prior written consent from BRIGHTSTAR.

N. **Choice of Law; Forum; Costs.** The Agreement is governed by and interpreted and enforced under the laws of the State of Delaware, without giving effect to any conflicts or choice of law principles. BRIGHTSTAR and Vendor agree that any legal action or proceeding arising out of the Agreement shall be brought exclusively in the state or federal courts of Delaware, and

both parties irrevocably submit to the exclusive jurisdiction of the State of Delaware courts for any such action or proceeding. The prevailing party in any action or proceeding related to the interpretation or enforcement of the Agreement shall be entitled to recover its expenses (including reasonable attorneys' fees) incurred in connection with such action or proceeding and any appeal.

O. **Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY DISPUTE OR CAUSE OF ACTION BASED UPON, ARISING OUT OF, OR OTHERWISE RELATED TO THE AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY AGREES THAT THE FOREGOING WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR IT TO ENTER INTO THE AGREEMENT AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

P. **Headings.** The headings in the Agreement are inserted merely for the purpose of convenience and will not affect the meaning or interpretation of the Agreement.

Q. **Interpretation.** Unless otherwise expressly provided, for purposes of the Agreement, the following rules of interpretation shall apply: (i) the word "including" or any variation thereof means (unless the context of its usage requires otherwise) "including, but not limited to," and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it; (ii) the term "all" means any and all; and (iii) any required approval hereunder shall be required to be in writing.

R. **Execution.** The parties have duly executed the Statement of Work, they agree to be bound by the terms and conditions of this Vendor Agreement, the Agreement and the Statement of Work.



## **VENDOR AGREEMENT**

### **INSURANCE ATTACHMENT**

THIS INSURANCE ATTACHMENT is part of the Vendor Agreement between BRIGHTSTAR and Vendor and is governed by the terms thereof. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Vendor Agreement and the Agreement.

#### **1. INSURANCE.**

A. Prior to the commencement of the Agreement, Vendor shall obtain the following insurance coverage, at its own expense, and maintain it for one (1) year after termination of the Agreement. Such insurance shall be issued by insurance carriers satisfactory to BRIGHTSTAR with minimum limits as set forth below. Such insurers must be licensed and admitted in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of not less than A:

- i. Commercial General Liability including Products, Completed Operations and Contractual Liability insurance against the liability assumed in the Agreement with the following minimum limits for Bodily Injury and Property Damage on an Occurrence basis:
  - a. \$2,000,000 per occurrence for Bodily Injury, Property Damage and Personal Injury, with the following separate aggregate limits:
  - b. \$2,000,000 General Aggregate (other than Products/Completed Operations); and \$2,000,000 Products/Completed Operations Hazards.
  - c. If the Vendor has Claims Made Liability, then such insurance shall be maintained in full force and effect for a minimum period of five (5) years and Vendor's Retroactive date must precede the acceptance of the first Products supplied to BRIGHTSTAR. In the event coverage is rewritten with a Retroactive date after the acceptance of the first Product, Vendor will add an Extended Reporting Period Endorsement to the expiring policy with a minimum of five (5) years extension of coverage.
- ii. Comprehensive Automobile Liability Insurance covering any automobile, including owned, non-owned and hired automobiles used in connection with the work covering Bodily Injury and Property Damage with a minimum limit of \$2,000,000 per accident.
- iii. Statutory Workers Compensation as required by state and Employer's Liability with a minimum limit of \$1,000,000 per accident. Vendor agrees to waive subrogation against BRIGHTSTAR for any injuries to its employees, agents or designees, or damage to its employees, agents or designees arising out of or in any way related to Vendor's performance of Services and creation of the Products under the Agreement.
- iv. An Umbrella Policy with limits of no less than \$5,000,000 to include all of the above listed primary policies.
- v. If Vendor, its employees, agents or designees are involved with the design, installation, modification, operation or maintenance of any hardware or software, Vendor will be required to provide Errors & Omissions Professional Liability Insurance with limits of not less than \$5,000,000.
- vi. Commercial Crime Insurance in the amount of \$1,000,000 for losses caused by the dishonest acts of Vendor, Vendor's employees, agents or designees.

B. Without limiting Vendor's indemnification duties as outlined in the Agreement, the insurance policies described above shall name BRIGHTSTAR, its subsidiaries, employees, officers, and agents as additional insureds for any losses or claims arising out of, allegedly arising out of, or in any way connected to the Vendor's Products or performance of Services under the Agreement.

C. Upon the Effective Date of the Agreement, Vendor shall provide to BRIGHTSTAR a Certificate of Insurance for each carrier showing the policy number(s), dates of expiration, and limits of liability. Vendor agrees the insurance will not be canceled or changed until BRIGHTSTAR receives at least thirty (30) days written notification of such cancellation or change. The liability insurers shall agree that the Vendor's insurance is primary and any insurance maintained by BRIGHTSTAR shall be excess and non-contributing to the Vendor's insurance. In addition to the certificate of insurance demonstrating BRIGHTSTAR's additional insured status, upon BRIGHTSTAR's request, the Vendor shall provide copies of the actual insurance policies if requested by BRIGHTSTAR at any time.

Certificate Holder to read:

Attention: Corporate Risk Management  
BRIGHTSTAR  
10 Memorial Boulevard  
Providence, Rhode Island, 02903

## **VENDOR AGREEMENT**

### **PRODUCTS ATTACHMENT**

This Products Attachment (this "Products Attachment") is part of the Vendor Agreement between BRIGHTSTAR and Vendor and is governed by the terms thereof. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Vendor Agreement and the Agreement.

**1. SCOPE.** This Products Attachment contains terms and conditions that govern the purchase of Products by BRIGHTSTAR and its Affiliates from Vendor or its Affiliates pursuant to the applicable SOW.

**2. DEFINITIONS.**

"Part" or "Parts" means parts and assemblies necessary to repair and maintain the Products purchased under the Agreement.

"Product Lifecycle" means the seven (7) year product lifecycle time-period beginning on the date of delivery of the first Product to BRIGHTSTAR.

"RSL" has the meaning in Section 7(A) below.

**3. SHIPPING.** Unless otherwise set forth in the SOW, the following terms shall apply to the shipment of all Products:

A. Products shall be shipped on DAP Incoterms (2020) to 9295 Prototype Drive, Reno, Nevada or as otherwise specified in the applicable SOW ("BRIGHTSTAR Location") destination basis. Vendor shall bear costs of shipping, insurance and risk of loss until delivery at the BRIGHTSTAR Location.

B. Where applicable, Vendor must obtain, at its own risk and expense, any export license and other official authorization and carry out all customs formalities necessary for the export of the Products and for their transport through any country prior to delivery.

C. Vendor will deliver Products in accordance with BRIGHTSTAR's instructions as set forth herein or in the applicable SOW. Delivery shall be considered on time if made no more than seven (7) business days early and zero days later than the delivery date specified on the SOW. If Products are delivered more than seven (7) days early, BRIGHTSTAR may, at its option, either: (i) return Products to Vendor at Vendor's risk and expense; or (ii) retain such Products and make payment on the date payment would have been due based on the correct delivery date. If Products have not been delivered by the delivery date specified in the SOW, BRIGHTSTAR may, at its option: (i) require Vendor, at Vendor's expense, to use air freight; (ii) reject the Products and return at Vendor's risk and expense; and (iii) terminate the applicable SOW with no payment obligations and a full refund of any fees paid to Vendor.

**4. ACCEPTANCE; REJECTION.** Vendor acknowledges and agrees that Notice, Acceptance, and Rejection terms for the Products shall be set forth in an applicable SOW.

**5. HAZARDOUS MATERIALS.** Vendor shall provide BRIGHTSTAR with a Safety Data Sheet ("SDS") for any hazardous material the Vendor intends to use, which shall include a list of all ingredients and materials incorporated in the Products, the amount of such ingredients and materials, and information concerning any changes in or additions to such ingredients and materials. No hazardous material shall be brought onto any BRIGHTSTAR property prior to BRIGHTSTAR approval. All containers of hazardous materials brought onto BRIGHTSTAR property shall comply with the labeling and warning requirements of 29CFR1910.1200 (OSHA Hazard Communication Standard). There shall be no rinsing or dumping of any chemical product into any BRIGHTSTAR sanitary sewer system or storm drain nor shall these materials be placed in any trash container located on BRIGHTSTAR property. All left-over or waste materials shall be removed from BRIGHTSTAR property and disposed of in accordance with Environmental Protection Agency, Nevada Division of Environmental Protection, and/or local environmental control requirements, as applicable. Vendor shall notify BRIGHTSTAR (by inclusion on the SDS or by other means) of each Product's (or ingredient's) Toxic Substances Control Act inventory status. For each shipment of Products, Vendor shall provide BRIGHTSTAR, in writing, sufficient advance warning and notice (in addition to including appropriate labels on Products, containers and packing) of any hazardous or restricted material that is an ingredient or a part of the shipment, together with such special handling instructions as may be necessary to advise logistics providers, handlers of the Products and personnel of how to exercise that measure of care and precaution that will comply with any applicable laws and prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the goods, containers and packing.

**6. PERFORMANCE METRICS.** Vendor shall comply with BRIGHTSTAR's delivery, quality, customer service, and cost standards as set forth below:

A. Delivery Metrics.

- i. Products to be minimum 99% on time based on agreed delivery date set forth in the applicable SOW.

B. Quality Metrics.

- i. Production parts to meet Defective Per Million (DPM) metric of 1,500 DPM or below.
- ii. Vendor to meet the standards set forth in the applicable SOW.

C. Customer Service Metrics.

- Response within one (1) business day for phone or email inquiries from BRIGHTSTAR.
- Follow up resolutions and ease of business to be graded by individual BRIGHTSTAR business units.

D. Cost Metrics.

- i. Vendor to provide requested Product cost data in a timely manner. Production parts will require costed bill of material.
- ii. Spare parts costing is to be provided within 10 days of request.

**7. SPARE PARTS.** Vendor agrees to provide spare parts for the Products as follows:

A. **Recommended Spare Parts List.** During the Product Lifecycle and upon request from BRIGHTSTAR, Vendor shall provide a recommended spare parts list ("RSL") that includes all Parts and, for each Part listed, shall identify the Part number, description, drawing or datasheet, price, minimum order quantity and lead time.

- i. During the Product Lifecycle, Vendor shall update the RSL to reflect any material changes thereto.
- ii. Vendor shall include in the RSL a forecast of Parts that must be repaired and/or replaced over the Product Lifecycle.

B. **Discontinued Parts.** During the Product Lifecycle, Vendor shall inform BRIGHTSTAR if any Part(s) for the Products are going to be discontinued or if their procurement has or will become impossible with sufficient time for BRIGHTSTAR to purchase a last batch of Parts for a discounted price agreed to by the parties, and Vendor shall cooperate with BRIGHTSTAR to facilitate the purchase of such Parts.

C. **Safety Stock.** Vendor shall maintain an adequate quantity of safety stock of Parts (such adequate quantity will be discussed and determined by both parties in writing prior to mass production of the Parts), at the most-current design level, based on BRIGHTSTAR's projected consumption.

D. **Spare Part Support.** Vendor shall make all Parts listed on the RSL available to BRIGHTSTAR during the Product Lifecycle. BRIGHTSTAR shall issue POs for spare Parts to Vendor.

- i. During the first four (4) years of the Product Lifecycle, Vendor will provide spare Parts and cover all costs of developing alternate spare Parts for the Products to replace those no longer available on the market. BRIGHTSTAR shall issue POs for spare Parts to Vendor pursuant to the procedure set forth in the Agreement.
- ii. After the first seven (7) years of the Product Lifecycle, BRIGHTSTAR will be responsible for all costs of developing alternate spare Parts for the Product, to replace those no longer available on the market. At the request of BRIGHTSTAR, Vendor will continue to maintain RSLs as described above, and Vendor shall, at BRIGHTSTAR's direction and expense, procure and/or develop alternate spare Parts for the Product to replace those no longer available on the market, using the labor rates agreed to in writing by the parties.

**8. DISCONTINUANCE.** Vendor shall not discontinue the manufacture or supply of Products during the Product Lifecycle. Discontinuances include Vendor's refusal or inability to supply Products and related spare Parts. This Section shall survive termination of the SOW or the Agreement.

**9. RECALL COOPERATION.** Vendor shall cooperate with BRIGHTSTAR and take such actions as requested by BRIGHTSTAR with respect to any public or private recall action undertaken by or on behalf of BRIGHTSTAR with

respect to any Products. Vendor shall be responsible to indemnify and reimburse BRIGHTSTAR for all costs incurred by BRIGHTSTAR in such recall efforts where such recall is attributable to a nonconformance in the Products. Except as contemplated in the preceding sentence, BRIGHTSTAR shall reimburse Vendor for such approved direct costs incurred by Vendor in connection with the recall activities requested by BRIGHTSTAR.

**10. TECH TRANSFER.** Upon termination of any SOW or the reasonable request of BRIGHTSTAR, Vendor shall, within 30 days, conduct a technical transfer of all intellectual property, regulatory records, documentation, tooling, and other materials necessary or useful for the manufacture, assembly, packaging, maintenance, and support of the Products by BRIGHTSTAR.

**11. TERMINATION ASSISTANCE.** Commencing upon any notice of termination as set forth in the Agreement, Vendor shall provide BRIGHTSTAR all reasonable and prompt cooperation toward transferring, with all necessary third-party approvals, all contracts and other arrangements to provide the Products and/or Services.

**12. DESIGN PACKAGE.** Vendor shall provide to BRIGHTSTAR all of the reasonable documentation and other information (in English) required to test, maintain, and support the Product, including spare parts, test specifications, Vendor's internal reference information necessary for identifying the Product, software update procedures, and software in executable format, including all information necessary to evidence compliance with the Specifications.

**13. NO RIGHT TO MANUFACTURE AND SELL GOODS TO OTHER PARTIES.** Vendor shall not manufacture or sell to any third party other products that are similar to the Products.