



## WeWork Online Vendor Terms and Conditions | United States & Canada

### 1. PARTIES; CONTRACT DOCUMENTS.

**1.01. Contract Documents, Order of Precedence.** These Vendor Terms and Conditions ("T&Cs"), together with any purchase orders, order forms, service orders, statements of work, authorization letters or other written communications issued by WeWork (each, an "Order"), set forth the terms and conditions that shall apply to purchases of goods and services ("Goods" and "Services" respectively, or collectively "G&S") by the affiliate of WeWork Companies LLC identified in the applicable Order ("WeWork") from the vendor entity identified in the applicable Order (together with its affiliates, "Vendor"). In the event of any conflict between these T&Cs and the terms of an Order, then the terms of the Order shall supersede to the extent of such conflict, provided that no Order shall be effective to expand, eliminate or restrict the scope of any indemnity obligation or any limitation of liability set forth in herein or absent herefrom. These T&Cs and the accompanying Order shall be collectively referred to as the "Agreement." Any additional or different terms contained in Vendor's general terms of sale or any proposal, quote, acknowledgement, or other document prepared by Vendor are hereby rejected by WeWork and will not modify this Agreement or be binding on the Parties unless set forth in a duly executed amendment.

**1.02. Issuance and Acceptance of Orders.** WeWork may issue Orders to Vendor in writing including e-mail or other electronic means. An Order is not binding on WeWork until the earlier of Vendor's (a) written acceptance or execution and delivery of an Order to WeWork, (b) delivery of Goods under the Order, or (c) commencement of performance of Services under the Order. Each of the foregoing shall be deemed to constitute Vendor's acceptance of such Order and these T&Cs. WeWork may withdraw any Order by notice to Vendor at any time prior to Vendor's acceptance thereof.

**1.03. Affiliates.** Vendor agrees to look solely to the WeWork entity identified on the applicable Order for, and hereby disclaims all rights against and otherwise releases WeWork Companies LLC and all other WeWork affiliates from, any and all: (a) payment obligations, (b) breaches of this Agreement by such WeWork entity, (c) acts or omissions caused by such WeWork entity in connection with this Agreement, and (d) loss, damage, liability or expense incurred by Vendor as a result of the participation of such WeWork entity in this Agreement.

### 2. TERM; TERMINATION.

**2.01. Term.** This Agreement shall commence upon Vendor's acceptance of the applicable Order and shall continue until Vendor has fully delivered and WeWork has accepted all G&S under such Order, unless terminated as set forth herein ("Term").

#### 2.02. Termination.

a) Except in relation to WeWork's payment obligations, either party may terminate this Agreement for cause upon written notice to the other party if the other party (i) materially breaches this Agreement, (ii) files a petition in bankruptcy or becomes insolvent, or (iii) fails to provide the other party, upon request, with reasonable assurances of future performance.

b) WeWork may terminate this Agreement for convenience upon written notice to Vendor at any time during the Term.

c) Vendor may terminate this Agreement upon written notice to WeWork if WeWork fails to pay undisputed amounts to Vendor within sixty (60) days after Vendor notifies WeWork in writing that such amounts are past due.

#### 2.03. Rights & Obligations Upon Termination.

a) Upon the expiration or termination of this Agreement for any reason: (i) Vendor shall cease to perform, deliver, and/or produce the G&S immediately upon receipt of the termination notice from WeWork, or on the date of termination specified in such notice; (ii) Vendor shall promptly deliver to WeWork all works-in-progress, Confidential Information, and Work Product in Vendor's possession and at its expense; (iii) WeWork shall pay

Vendor, upon receipt of Vendor's applicable and accurate invoice, for the portion of the Services satisfactorily performed and those conforming Goods delivered; and (iv) Vendor shall refund to WeWork all prepaid fees for any portion of the Goods not delivered or Services not performed, in addition any refunds or costs owed under subsection (b) hereof.

b) Upon termination of this Agreement by WeWork for cause, WeWork may, at its option: (i) return any previously delivered G&S at Vendor's expense and receive a full refund; or (ii) accept such G&S and deduct appropriate offsets from the price of such G&S for costs incurred as a result of Vendor's breach, including any additional costs to be incurred by WeWork in procuring replacement G&S.

### 3. DELIVERY AND PERFORMANCE

**3.01. Delivery and Performance of G&S.** Vendor shall, in accordance with the terms of this Agreement, deliver Goods in the quantities and on the date(s) specified in the Order and/or perform the Services in accordance with the performance schedule set forth on the Order (each, the "Delivery Date"). All Goods shall be delivered to, and all Services shall be performed at, the address specified in the Order (the "Delivery Location") during WeWork's normal business hours or as otherwise instructed by WeWork.

**3.02. Time of Delivery and Performance.** Time is of the essence with respect to Vendor's performance of its obligations under this Agreement, including the timely delivery and performance of the G&S (including any partial deliveries or milestones). If Vendor fails, or has reason to believe that it will fail, to deliver the Goods or perform the Services on the Delivery Date:

a) Vendor shall immediately notify WeWork of the delay, propose a new delivery date, and use best efforts to expedite delivery or performance of delayed G&S at its sole cost and expense; and

b) WeWork may, at its option, (i) accept Vendor's proposed new delivery date and offset any costs incurred by WeWork as a result of such late delivery or performance, (ii) cancel the portion of the Order for G&S not yet delivered or performed, or (iii) terminate this Agreement for Vendor's material breach pursuant to Section 2.02(a).

WeWork shall have no liability for any damage resulting from any termination of the Agreement or cancellation of any portion of the Order due to Vendor's late delivery or performance. WeWork may reject or store, at Vendor's sole risk and expense, any Goods delivered more than five (5) days in advance of the Delivery Date. If so rejected, Vendor will redeliver such Goods on the Delivery Date at Vendor's sole risk and expense.

**3.03. Shipment; Title; Risk of Loss.** Vendor shall prepare and pack for shipment all Goods in accordance with good commercial practices, and in a manner sufficient to ensure that such Goods are delivered to WeWork in undamaged and unspoiled condition. Unless otherwise stated in the Order, WeWork will not pay charges for packing, crating, shipping or delivery, and if any Goods are imported from a country that is different from that of the Delivery Location, Vendor shall act as importer of record and pay any applicable customs or importation. Title and risk of loss with respect to any Goods shall pass to WeWork upon delivery at the Delivery Location and acceptance by WeWork in accordance with this Agreement.

**3.04. Acceptance and Rejection of G&S.** WeWork shall have a reasonable time after it receives the Goods or Vendor completes the Services to inspect such G&S for nonconformity to the Order, any applicable specifications, any other terms of this Agreement, and with respect to Goods, incorrect quantities or defects in design, material or workmanship (any of the foregoing, "Nonconforming G&S"). G&S will be deemed accepted upon the earlier of (a) WeWork's written notice of acceptance; (b) thirty days after complete delivery of the Goods and/or complete performance of the Services; or (c) with respect to Goods, WeWork's use thereof. If WeWork rejects any Nonconforming G&S,

in whole or in part, then WeWork may, at its option: (i) accept the defective or Nonconforming G&S at a reasonably reduced price, (ii) return any Nonconforming Goods at Vendor's risk and/or cancel any Nonconforming Services, and receive a refund or discount equal to the pro-rata price of such returned or cancelled G&S plus any related costs incurred by WeWork, (iii) require Vendor to replace, re-perform or correct the Nonconforming G&S at no additional cost to WeWork, or (iv) terminate this Agreement for cause pursuant to Section 2.02(a). WeWork's inspection of or payment for G&S shall not constitute acceptance thereof and shall not affect Vendor's warranty obligations, which shall survive WeWork's inspection, acceptance, payment and/or use.

**3.05. On-Site Work.** To the extent Vendor is performing Services or delivering Goods at WeWork's premises or WeWork Members' premises, Vendor and its contractors shall observe all applicable building rules and regulations, and shall take all safety precautions necessary for the prevention of accidents. WeWork shall not be responsible nor be held liable for any damage to person or property arising from the use, misuse or failure of any rigging, blocking, scaffolding or other equipment used by Vendor or any of its contractors, notwithstanding WeWork's ownership, provision or loan of such equipment to Vendor or to any of its contractors.

**3.06. Work In Progress.** Vendor shall bear the risk of loss of all G&S until final completion and acceptance, and shall, in case of any loss or damage to any unfinished G&S, repair and replace the G&S so lost or damaged, at Vendor's expense.

**3.07. WeWork Property.** All materials, supplies, or equipment furnished or paid for by WeWork to be used by Vendor in the provision of the G&S shall remain WeWork's property, shall be maintained by Vendor in good condition, shall be used by Vendor only for and as instructed by WeWork, and shall be returned to WeWork or otherwise disposed of as directed by WeWork upon completion of the G&S or termination of this Agreement.

## 4. CHANGES

**4.01. WeWork-Initiated Changes.** At any time prior to full delivery of the Goods or completion of the Services, WeWork may, upon written notice to Vendor, make changes to the G&S including but not limited to changing the Delivery Date or Delivery Location, changing to the specifications of the G&S, or cancelling any undelivered or unperformed G&S. If the changes will materially change the cost or timing of the G&S, Vendor shall make a written proposal for a change to price and/or schedule within three (3) business days. If WeWork accepts Vendor's proposal, Vendor shall proceed with the change. If WeWork and Vendor cannot agree on a schedule or price adjustment, WeWork may withdraw the change.

**4.02. Vendor-Initiated Changes.** Vendor shall not make any material changes to the G&S unless approved in writing by WeWork. Vendor shall give WeWork written notice of any such change a reasonable time, but no less than three (3) days, in advance of making any such change. Such notice shall include a detailed description of the proposed change and, if applicable, a proposal for adjustments to the price or schedule. Upon receipt of such notice, WeWork may accept the change, direct Vendor to perform per the original Order, or cancel the Order.

## 5. WARRANTIES

**5.01. Warranty on G&S.** Vendor warrants, represents and covenants to WeWork and its affiliates, successors, assigns, and WeWork Members, that all G&S (including any Work Product) shall:

- a) conform to the terms of the Order and any applicable specifications;
- b) not infringe or otherwise misappropriate the rights of any third parties;
- c) with respect to Goods: (i) be free from defects in design, material and workmanship; (ii) be merchantable, safe, and appropriate for the purpose for which Goods of such kind are normally used; (iii) together with their packaging, labeling and

accompanying materials be properly contained, packaged, marked and labeled; (iv) be conveyed to WeWork with clear and marketable title, free and clear of all liens, security interests or other encumbrances; and

d) with respect to Services, be performed diligently in a good, professional and workmanlike manner consistent with contemporaneous best industry practices and relevant standards of care, using personnel of appropriate skill, experience and qualifications, and devoting adequate resources to meet Vendor's obligations under this Agreement.

**5.02. Warranty Period.** Vendor warrants that all G&S delivered hereunder shall comply with the foregoing Section 5.01 for the longer of (the "Warranty Period"): (a) a period of 12 months after final acceptance of the G&S by WeWork, or (b) the period provided in Vendor's standard warranty covering the G&S. These warranties survive any delivery, inspection, acceptance or payment of or for the G&S. If at any time during the Warranty Period the G&S do not comply with these representations and warranties, Vendor shall, at its own risk and expense and at WeWork's option, repair or replace the defective Goods, reperform the defective Services or issue a refund equal to the price paid for the G&S.

**5.03. Cumulative Warranties.** WeWork's warranty rights hereunder are cumulative and in addition to, but shall not be limited by, any standard warranties offered by Vendor and any other warranties, express or implied, available to WeWork under applicable law (including the Uniform Commercial Code or any state variation of the same) or equity. Vendor shall and hereby does assign, or shall effect the assignment of, all warranties that it receives from suppliers or manufacturers of materials and equipment provided in connection with the G&S.

## 6. FORCE MAJEURE

**6.01. Definition.** "Force Majeure" means an event or circumstance which (a) is beyond a party's control and not due to such party's fault or negligence; and (b) such party could not have reasonably foreseen, avoided or overcome.

**6.02. Excusable Delays.** Neither party will be liable for any failure or delay to perform, including failure to accept performance of Services or take delivery of the Goods, to the extent caused by a Force Majeure event, provided that the party experiencing the Force Majeure event promptly notifies the other party stating the period of time the Force Majeure event is expected to continue, and uses reasonable efforts to correct its failure to perform and ensure the effects of such Force Majeure event are minimized. Either party may terminate this Agreement upon written notice to the other party if a Force Majeure event prevents or delays performance of either parties' obligations for a period lasting longer than ninety (90) consecutive days.

## 7. COMPLIANCE

**7.01. Representations and Warranties.** Vendor warrants, represents and covenants that:

a) Vendor shall comply with, and the G&S shall comply and/or be performed in compliance with (i) all applicable laws, rules, regulations and industry standards and (ii) WeWork's Vendor Code of Conduct available at [www.wework.com/info/vendor-code](http://www.wework.com/info/vendor-code);

b) Vendor has obtained, and shall at all times during the Term maintain, all necessary licenses and consents applicable to or necessary for the delivery of the G&S; and

c) Vendor shall ensure that all persons, including directors officers, managers, employees, agents, or any other person acting for or on behalf of Vendor ("Vendor's Personnel"), are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to deliver the G&S.

**7.02. Equal Opportunity Employer.** WeWork is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. 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. 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, sexual orientation, gender identity, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

## 8. RECORD KEEPING & AUDITS

**8.01. Record Keeping.** Vendor shall maintain complete, accurate and reasonably detailed records relating to the performance of its obligations under this Agreement. As applicable, such records shall include the basis for any charges billed to WeWork hereunder, including the time spent, materials used, and costs incurred by Vendor in connection with the provision of G&S.

**8.02. Audits.** Upon request during the Term and for a period of six (6) years thereafter, during regular business hours and upon reasonable notice, Vendor shall permit WeWork or its representatives to inspect, examine, and/or audit Vendor's records or facilities as may be necessary in order to assess Vendor's compliance with this Agreement. Such audits may include but may not be limited to review of Vendor's records and supporting documentation as may be requested by WeWork to determine if the charges hereunder are accurate and in accordance with this Agreement. If any audit reveals that Vendor has overcharged WeWork, upon notice of the amount of such overcharge: (a) Vendor shall immediately reimburse WeWork the amount of such overcharge, together with interest at the rate of 10% per annum or the maximum amount allowed by applicable law; and (b) if the amount of the overcharge is greater than 10% of the sum of valid charges due hereunder during the period covered by such audit, Vendor shall promptly reimburse WeWork for the reasonable costs incurred in connection with such audit.

## 9. PRICE & PAYMENTS.

**9.01. Payment Terms.** Subject to Vendor's timely delivery and performance of the G&S and WeWork's receipt of an accurate, applicable invoice in accordance with the terms of this Agreement, WeWork shall pay Vendor the amount specified in the Order. WeWork shall pay all properly invoiced amounts within sixty (60) days after the later of (a) receipt of the applicable, accurate invoice or (b) acceptance of the G&S. WeWork will not be responsible for payment to Vendor for any expenses, charges, fees or other amounts not expressly set forth in an Order. No interest charges or other penalties for late payment may be assessed by Vendor. The amounts specified in the Order are firm and are not subject to increase for any reason (except as set forth in Section 4 hereof), including changes in Vendor's cost to deliver the G&S. Payment of the amount specified in the Order shall fully compensate Vendor for providing the G&S, all of the resources and materials used by Vendor to provide such Goods, and the assignment of rights to WeWork as provided in this Agreement. Without prejudice to any other rights or remedies WeWork may have under this Agreement or otherwise, WeWork may (i) withhold from payment any amount disputed by WeWork in good faith, pending resolution of the dispute, or (ii) set off any amount owed to WeWork by Vendor, under this Agreement or otherwise, against any amount payable by WeWork to Vendor.

**9.02. Invoicing.** Vendor shall submit to WeWork invoices referencing the Order number and setting forth the amounts payable by WeWork under this Agreement. Vendor shall only invoice for G&S actually delivered and performed. Unless otherwise set forth in the Order, Vendor shall submit its invoice upon acceptance of the G&S, but no later than ninety (90) days following WeWork's receipt of the Goods or full performance of the Services. Upon WeWork's request, invoices shall be

accompanied by lien waivers from Vendor and its contractors and consultants in a form satisfactory to WeWork.

## 10. TAXES

**10.01. Liability for Taxes.** Except as provided below, Vendor shall be liable for all taxes imposed on, based on, or in respect of the G&S, and all taxes that are imposed on Vendor's acquisition, ownership, or use of property or services in the course of providing G&S to WeWork. Except as expressly set forth in this Agreement or required by applicable law, WeWork shall have no responsibility to pay or withhold any tax from any payment to Vendor under this Agreement.

**10.02. Transaction Taxes.** Where required by applicable law, Vendor will charge WeWork sales tax, excise tax, use tax, value added tax, goods and services tax, consumption tax, or equivalent type charges ("**Transaction Taxes**") that are owed by WeWork solely as a result of the provision of the G&S and which are required or permitted to be collected from WeWork by Vendor under applicable law. Such Transaction Taxes must be expressly set forth in the Order and separately indicated on the invoice for the applicable G&S. If WeWork provides Vendor with a valid exemption certificate, Vendor shall not collect the Transaction Taxes covered by such certificate. All charges will be supported by valid tax invoices provided by Vendor to WeWork. WeWork will not be responsible for or pay any penalties or interest based on Vendor's failure to properly remit any Transaction Taxes.

**10.03. Withholding Tax.** Where any relevant taxation authority imposes an income tax on payments made by WeWork to Vendor and requires WeWork to withhold such tax ("**Withholding Tax**"), WeWork may, in its sole discretion, deduct such Withholding Tax from the payment to Vendor and remit such Withholding Tax to the relevant taxing authority on behalf of Vendor, and Vendor shall accept the resulting net payment as full settlement for the applicable G&S. In no event shall WeWork be required to "gross-up" or increase any payment to Vendor for G&S due to such payment being subject to a lawful withholding of taxes. Vendor shall promptly reimburse WeWork for any Withholding Tax that WeWork is required to remit to a taxing authority but did not withhold from its payments to Vendor.

## 11. INTELLECTUAL PROPERTY

**11.01. Work Product.** WeWork shall own all right, title and interest in and to all materials made, invented, created, conceived or reduced to practice in connection with or as part of the G&S ("**Work Product**"), including all trademarks, service marks, slogans, designs, trade dress, copyright, patents, industrial design, know-how, and other intellectual property rights ("**Intellectual Property**") therewith, and all such Work Product shall be deemed "works made for hire" to the extent permitted by applicable law. Vendor hereby assigns to WeWork, without requirement of additional consideration, all right, title and interest in and to the Work Product. If and to the extent right, title or interest in or to any Work Product cannot be assigned to WeWork, Vendor hereby irrevocably grants to WeWork a perpetual, irrevocable, unlimited, assignable, sublicensable, world-wide, fully paid up, royalty-free and exclusive license to use all Work Product in any way now known or invented in the future. Vendor hereby waives and shall cause all authors of any Work Product to waive, perpetually and irrevocably for the benefit of WeWork, all moral rights and any similar non-assignable rights throughout the world, in the Work Product.

**11.02. Background Intellectual Property.** Except as expressly provided in this Agreement, nothing herein will be construed to constitute a grant, transfer, sale, or license, expressly, impliedly or otherwise, of Intellectual Property that was owned or developed by one party prior to the Effective Date. Notwithstanding the foregoing, Vendor hereby grants to WeWork a perpetual, royalty-free, non-exclusive license to: (a) use any of Vendor's Intellectual Property reasonably necessary for WeWork to use the Work Product and the G&S; and (b) use and display Vendor's name, trademarks and logos in connection with promotion of WeWork's business, products and services.

**11.03. Third Party Intellectual Property.** Vendor warrants that all G&S (including any Work Product) shall not infringe or otherwise misappropriate the Intellectual Property rights of any third parties. In addition to Vendor's indemnification obligations herein, in the event any G&S becomes the subject of a claim that such G&S or any part thereof infringes, misappropriates or otherwise violates any third party Intellectual Property, Vendor shall, at Vendor's sole expense and WeWork's option, (a) replace or modify the affected Goods or Services so that they are non-infringing but have the affected Goods remain fully equivalent in functionality and aesthetic; or (b) obtain for WeWork, its affiliates, related entities, distributors, subcontractors, and/or WeWork Members the right to continue using the affected G&S. If Vendor cannot accomplish any of the foregoing within a reasonable time, then Vendor shall promptly refund all amounts paid for the G&S that are the subject of such claim and WeWork may terminate this Agreement for cause.

## 12. CONFIDENTIALITY & DATA PROTECTION

**12.01. Confidential Information.** Vendor, Vendor's Personnel, and its advisors (collectively, "**Representatives**"), shall consider as WeWork's "**Confidential Information**" all non-public or proprietary information provided by WeWork, its affiliates or WeWork Members, all specifications or other documents prepared by Vendor in connection herewith, the fact that WeWork has contracted to purchase G&S from Vendor, the terms of this Agreement and all other non-public information relating hereto, including any of the foregoing disclosed prior to the Term. Confidential Information does not include any information which was previously known or disclosed to Vendor without any confidentiality restriction, or is publicly available through no fault of Vendor.

**12.02. Use and Protection of Confidential Information.** Without WeWork's prior written consent, Vendor shall not (a) disclose or use Confidential Information for any purpose other than performing its obligations under this Agreement, (b) announce, publicize or discuss with third parties the subject matter of this Agreement, (c) include WeWork's name or trademarks in any marketing materials or (d) disclose that WeWork is Vendor's customer. Vendor will use the same amount of care to protect Confidential Information that it uses to protect its own information of like kind, but in any event not less than reasonable care. Vendor agrees not to copy, alter, or directly or indirectly disclose any Confidential Information. Vendor agrees (i) to limit its internal distribution of Confidential Information to Representatives who have a need to know, and to take steps to ensure that the dissemination is so limited, including the execution by Representatives of nondisclosure agreements with provisions substantially similar to those set forth in this Agreement, and (ii) that Vendor shall be responsible for any breach by any such Representatives of any such agreement. All Confidential Information is and shall remain WeWork property. This Agreement does not grant, or otherwise give, Vendor any rights to any Confidential Information or any other WeWork intellectual property or proprietary materials.

**12.03. Member Property.** Vendor may receive access to information, property, and other tangible and intangible assets ("**Member Property**") of WeWork's customers and any other individuals and entities occupying a WeWork facility or using WeWork's services (collectively, "**WeWork Members**"), including confidential information or Personal Information regarding such WeWork Members and their actual or potential employees, customers, and/or business partners. Vendor will not use, remove, copy, manipulate, access, damage, destroy, disclose or otherwise engage with any Member Property except to the extent necessary for Vendor to deliver the G&S in accordance with this Agreement and all Applicable Data Privacy Laws. Vendor will not (a) copy or share with any third party any access credentials received from WeWork, whether physical (e.g. key cards) or electronic (e.g. access codes), or (b) otherwise cause or allow any third parties without proper permission from WeWork, or the applicable WeWork Member, to access a WeWork facility and/or any Member Property. If the Services require Vendor to remove and/or

transport any property, including Member Property, away from a WeWork facility, Vendor will take all necessary measures to protect and secure such property from unauthorized access, damage or destruction at all times while such property is not in a WeWork facility, including, without limitation, by ensuring that such property is not left unattended or unsecured at any point.

**12.04. Data Privacy.** Vendor shall at all times comply with its obligations under all laws relating to the protection of Personal Information, confidentiality, cybersecurity and/or the privacy of individuals ("**Applicable Data Privacy Laws**"). "**Personal Information**" means information that identifies, relates to, describes or is linked or linkable, to an individual, and which is provided by or on behalf of WeWork to the Vendor or which the Vendor comes into possession of, or is created, generated or processed by the Vendor as a result of or in connection with its delivery and performance of the G&S. Vendor agrees that it shall process Personal Information only as instructed by WeWork and solely and exclusively for the specific purpose of performing under this agreement and shall not use, sell, rent, transfer, distribute, or otherwise disclose or make available Personal Information for its own purposes or for the benefit of anyone other than WeWork, without WeWork's prior consent. Personal Information is Confidential Information.

**12.05. Information Security.** Vendor shall take all appropriate legal, organizational and technical measures to protect against unlawful and unauthorized processing of Confidential Information. Vendor shall maintain reasonable operating standards and security procedures, and shall secure Confidential Information through the use of appropriate physical and logical security measures. In the event that Vendor learns or has reason to believe that any person or entity has breached or attempted to breach Vendor's security measures, or gained unauthorized access to Confidential Information ("**Information Security Breach**"), Vendor shall promptly notify WeWork and mitigate the effects of the Information Security Breach.

## 13. INDEMNIFICATION

To the fullest extent permitted by law, Vendor shall defend, indemnify and hold harmless WeWork and its affiliates, directors, officers, managers, members, employees, agents, and representatives from and against any and all liabilities, penalties, losses, damages, costs and expenses (including reasonable attorneys' fees and costs) of any nature incurred by WeWork in connection with any claim, demand, suit, action, allegation, or other proceeding brought by a third party in connection with the provision or use of the G&S ("**Third Party Claims**"). The foregoing obligations shall not apply to the extent the Third Party Claim is due to or arises from the gross negligence or wilful misconduct of WeWork. If any Third Party Claim arises for which Vendor may be required to indemnify WeWork under this Section 13:

a) each party shall give the other party written notice promptly after becoming aware of any Third Party Claim subject to this Section 13;

b) at WeWork's option, WeWork may require Vendor to take control of the defense of the Third Party Claim;

c) WeWork may be represented by and participate through its own counsel with respect to any such Third Party Claim; and

d) Vendor shall not make any admission of liability or settle any such suit or Third Party Claim without WeWork's prior written approval.

Vendor shall pay or reimburse all costs, including attorneys' fees, that may be incurred by WeWork in enforcing this Section 13 against Vendor or any insurance providers.

## 14. INSURANCE

During the Term of this Agreement, Vendor shall, at its sole cost and expense, have in effect and keep in force Commercial General Liability, Worker's Compensation including Employer's Liability, and if applicable, Automobile Liability and Umbrella/Excess Liability, insurance coverage which is primary and non-



contributory as to any insurance maintained by WeWork, with reputable insurance companies maintaining an A.M. best rating of A- VII or better. WeWork shall be named as an additional insured on all such policies, except the worker's compensation and employer's liability policies. All insurance shall also include waiver of subrogation provisions in favor of WeWork. The minimum insurance coverage to be maintained by Vendor shall be in the types and amounts reasonably related to the scope and the nature of the services to be performed under this agreement, subject to any greater coverage requirements mandated by WeWork in its reasonable discretion, applicable law or the common best practice and standards of care in Vendor's industry. Vendor shall notify WeWork 30 days in advance of Vendor's intention to cancel or materially alter such policies but only to the extent a gap in coverage would be reasonably expected to occur. Upon request, Vendor shall provide WeWork with certificates of insurance or evidence of coverage and shall file renewal certificates with WeWork as necessary to ensure that a current certificate is on file with WeWork at all times during the Term. Vendor shall not commence delivery or performance of any portion of the G&S until it has obtained all insurance required hereunder. Vendor's liability shall not be limited by said insurance policies or the recovery of any amounts from any insurance policies.

## 15. LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMITTED BY LAW, WEWORK AND VENDOR WAIVE ALL CLAIMS AGAINST EACH OTHER FOR ANTICIPATED PROFITS, SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR PENALTIES OF ANY KIND ARISING OUT OF OR RELATING TO THIS AGREEMENT. WEWORK'S LIABILITY ON ANY CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL IN NO CASE EXCEED THE PRICE PAID OR PAYABLE BY WEWORK FOR THE G&S OUT OF WHICH THE CLAIM ARISES. THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY TO ANY LIABILITY, CLAIMS, DAMAGES, LOSSES, COSTS OR JUDGMENTS ARISING FROM (A) GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, (B) ANY UNLAWFUL OR CRIMINAL ACT OR OMISSION, OR (C) THE PARTIES' OBLIGATIONS UNDER SECTIONS 11, 12, 13, OR 14 OF THIS AGREEMENT.

## 16. GOVERNING LAW & DISPUTE RESOLUTION

**16.01. Governing Law & Venue.** This Agreement shall be governed by the laws of the State of New York, without regard to the conflict of laws provisions that would require the application of the laws of a different jurisdiction. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. Any claim or dispute arising from or relating to this Agreement shall be brought in the federal or state courts sitting in New York County. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and waives to the fullest extent permitted by applicable law any objection it may have, including claims of *forum non conveniens*, to the laying of venue in such courts.

**16.02. Waiver of Jury Trial.** Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement.

**16.03. Remedies.** Except as expressly provided in this Agreement, all rights and remedies are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law or in equity. Vendor acknowledges and agrees that (a) a breach or threatened breach by Vendor of any of its obligations under this Agreement may cause irreparable harm to WeWork for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by Vendor of any such obligations, WeWork shall, in addition to any and all other rights and remedies that may be available, be entitled to equitable relief without any requirement to post security or prove that monetary damages will not afford an adequate remedy.

**16.04. Performance During Dispute.** In the event of any dispute or claim under this Agreement, Vendor shall continue performing its obligations in accordance herewith, including performance and delivery of the G&S, pending the resolution of such claim or dispute.

## 17. GENERAL PROVISIONS

**17.01. Notices.** Any notice under this Agreement shall be deemed sufficient if delivered to the contact information set forth on the Order and delivered (a) by hand; (b) by certified mail; or (c) by email if email receipt is acknowledged by the recipient. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

**17.02. Assignment.** Except in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of the shares or assets of Vendor or its parent corporation, Vendor may not transfer or otherwise assign any of its rights or obligations under this Agreement without WeWork's prior consent. WeWork may assign this Agreement without Vendor's consent.

**17.03. No Third Party Beneficiaries.** This Agreement shall inure solely to the benefit of and be binding upon the parties hereto and to their respective successors and assigns, and nothing in this Agreement confers on any third party any legal or equitable right to enforce its terms.

**17.04. Relationship of Parties.** Nothing in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the parties. Neither party shall have any express or implied authority to bind the other party by contract or otherwise.

**17.05. Vendor's Personnel.** Any persons employed or engaged by Vendor in connection with the performance of the G&S shall be Vendor's employees or contractors and not WeWork's employees, regardless of where they perform Services. Vendor shall be solely responsible for the supervision, daily direction and control of its employees and contractors, and assumes responsibility for their actions and omissions including breach of this Agreement or violation of applicable law. Vendor shall be responsible for all compensation and benefits of such employees and contractors including any taxes related thereto.

**17.06. Entire Agreement, Merger.** This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. If any provision of this Agreement is or becomes illegal, invalid or unenforceable, it shall not affect the validity or enforceability of any other provision of this Agreement.

**17.07. Amendment, Modification and Waiver.** This Agreement shall not be varied, modified, altered, or amended except in writing signed by the parties, and its terms shall not be modified or interpreted by reference to any prior course of dealing, usage of trade or course of performance. No provision of this Agreement may be waived by any party except in writing. The waiver by any party of any right or remedy under this Agreement shall not operate or be construed as a waiver of any subsequent right or remedy which may arise under this Agreement. No failure or delay by either party to exercise any right or remedy provided under this Agreement or by law, nor the partial exercise of any such right or remedy, shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

**17.08. Survival.** Those obligations or responsibilities contained in this Agreement that are continuing in nature shall survive the expiration or termination of this Agreement.

V. November 1, 2021