OpenAI

OpenAI Purchase Order Terms

1. Agreement.

   1.1. Generally. These Purchase Order Terms are entered into between the OpenAI entity ("OpenAI"), and the supplier, identified on the Purchase Order ("Supplier"). These Purchase Order Terms, along with the applicable Purchase Order and Ordering Document, collectively form the agreement that governs OpenAI's purchase of the Ordered Items from Supplier (the "Agreement"). In this Agreement OpenAI and Supplier are each referred to as a "Party" and collectively as the "Parties." This Agreement is effective as of the Effective Date.

   1.2. Existing Agreement. This Agreement constitutes the entire agreement between OpenAI and Supplier for the purchase of the Ordered Items. However, if the Parties have an Existing Agreement, the terms of the Existing Agreement will prevail to the extent the Existing Agreement conflicts with these Purchase Order Terms, unless the Existing Agreement expressly states otherwise.

   1.3. Specific Terms. This Agreement governs Suppliers provision of Ordered Items to OpenAI. Ordered Items may include Goods, Services, or Software. The additional terms that apply to OpenAI's purchase of Ordered Items from Supplier, are set forth below.

      a. Goods. The Goods Terms apply to OpenAI's purchase of Goods.

      b. Services. The Services Terms apply to OpenAI's purchase of Services.

      c. Software. The Software Terms apply to OpenAI's purchase of Software.

2. Ordered Items.

   2.1. Provision. Supplier will provide the Ordered Items to those business units and Affiliates of OpenAI, and any other entities as specified by OpenAI in Purchase Orders, or mutually executed Ordering Documents, issued under this Agreement.

   2.2. Ordering Documents. This Agreement governs Suppliers provision of Ordered Items to OpenAI. Ordered Items may include Goods, Services, or Software. The Ordering Documents for each of these items can vary and are set forth below.

      a. For Goods or Software. OpenAI may order Goods or Software from Supplier either by providing a Purchase Order to Supplier, or pursuant to a mutually executed Order Form.

      b. For Services. OpenAI may order Services from Supplier either by providing a Purchase Order to Supplier, or pursuant to a mutually executed SOW.

      c. Order Forms. All Order Forms must include a description of the Ordered Items, and details regarding any technical support services or Setup Services to be provided by Supplier to OpenAI. Supplier agrees that any Order Forms signed by OpenAI will be governed by the terms of this Agreement. Any other terms listed on an Order Form will not apply.

   2.3. Purchase Orders. OpenAI may submit Purchase Orders to Supplier in hard copy form or via electronic transmission. Unless the Parties mutually agree otherwise in writing, Purchase Orders will state prices, delivery dates, and delivery locations for Ordered Items.

3. Changes.

   3.1. Permitted. OpenAI may, upon written notice to Supplier at any time before the scheduled delivery or completion date, at no cost to OpenAI: (i) reschedule Ordered Items; (ii) change the delivery destination for Goods in an Ordering Document; (iii) change the Services provided under an Ordering Document; or (iv) cancel an Ordering Document. Supplier will not unreasonably withhold or delay agreement to any change requested by OpenAI.

   3.2. Price Adjustments. If OpenAI's requested changes under Section 3.1 materially increase or decrease the cost to provide Ordered Items, the Parties will negotiate an appropriate adjustment to their obligations under the Purchase Order and the Purchase Order will be modified accordingly in writing. Supplier claims for an adjustment will be invalid unless asserted within twenty days from receipt of OpenAI's change notification. Nothing in this Section 3.2 is intended to excuse Supplier from proceeding with this Agreement as changed or amended.

   3.3. Cancellation. Supplier will stop work on the applicable Purchase Order immediately upon receipt of a cancellation notice from OpenAI. If OpenAI cancels a Purchase Order for Services before the scheduled delivery date, Supplier may invoice OpenAI for work completed at a pro-rated price based upon the percentage of work completed prior to the date of cancellation, and Supplier will immediately ship to OpenAI all Ordered Items and work-in-progress that are the subject of the invoice.

4. Timing and Location.

   4.1. Timing. Time is of the essence in Supplier's performance of its obligations. Supplier will immediately notify OpenAI if Supplier's timely performance under the Agreement is delayed or likely to be delayed. Receipt of notice of delay does not constitute OpenAI's waiver of any Supplier obligations.

   4.2. Location. Supplier is responsible for delivering the Ordered Items to the OpenAI facility designated in the Purchase Order and will pay all costs in doing so unless otherwise agreed in writing.

5. Acceptance, Rejection.

    5.1. Acceptance.

        a. Generally. Ordered Items are subject to final inspection and acceptance at OpenAI's facility within a reasonable time after delivery. Unless acceptance criteria are set forth in the Purchase Order, Ordered Items will not be deemed accepted until the OpenAI contact listed in the Purchase Order provides written notice of acceptance to Supplier.

        b. Timing. Any Ordered Item not rejected within thirty days of receipt will be deemed accepted by OpenAI. OpenAI's payment to Supplier for Ordered Items will not constitute OpenAI's acceptance.

    5.2. Rejection. OpenAI has the right to reject and return to Supplier, at Supplier's risk and expense, Ordered Items that are: (a) not accepted under Section 5.1; or (b) Defective.

    5.3. Defective Ordered Items.

        a. Options. If an Ordered Item is Defective Supplier will, at its expense and OpenAI's option: (i) replace or repair the Defective Ordered Item and re-deliver the repaired or replaced Ordered Item to OpenAI within a commercially reasonable timeframe agreed to by OpenAI; (ii) refund OpenAI the Ordered Item purchase price within thirty days of receiving OpenAI's notice that an Ordered Item is Defective; or (iii) reimburse OpenAI for the reasonable cost to have the Ordered Item repaired within thirty days after receiving OpenAI's invoice.

        b. Responsibility. Supplier is responsible for all costs, damages, and liabilities incurred by OpenAI as a result of Defective Ordered Items. Replacing or repairing an Ordered Item does not relieve Supplier of any warranties or obligations under this Agreement relating to those Ordered Items or Deliverables.

    5.4. Corrections. Any Ordered Item or Deliverable that has been rejected or required to be corrected must be replaced or corrected by and at the expense of Supplier promptly after notice. If, after a OpenAI request, Supplier fails to promptly replace or correct any Defective Ordered Item, then OpenAI may: (i) replace or correct the item and charge to Supplier the cost of such replacement item; or (ii) require an appropriate reduction in price.

    5.5. No Waiver. OpenAI's acceptance or approval of Supplier's Ordered Items will not relieve Supplier of any warranties. OpenAI's waiver of requirements for one or more of the Ordered Items is not a waiver of those requirements for remaining Ordered Items, unless OpenAI states otherwise in writing.

6. Payment.

    6.1. Payment. Unless the Purchase Order states otherwise, OpenAI will pay any undisputed invoice within forty-five days following the later of: (a) the delivery of the Goods or Software, or the completion of the Services; (b) the date that OpenAI accepts the Ordered Items; or (c) forty-five days from receipt of the invoice by OpenAI. The prices for Ordered Items are as listed on the Purchase Order.

    6.2. Invoices. Supplier will invoice OpenAI upon OpenAI's acceptance of the Ordered Items. Correct invoices must include: an invoice number, invoice date, supplier name, address and tax registration number, valid purchase order number, correct Bill to and (if required) Ship to address, OpenAI contact, invoice currency, quantities, unit prices, applicable taxes, invoice total, product part numbers, and any other information specified in the Purchase Order. Invoices must meet all the applicable tax authority's invoicing requirements (e.g. VAT invoicing, etc.). Supplier will submit all invoices to invoices@openai.com.

    6.3. Invoice Disputes. If OpenAI initiates an invoice dispute, OpenAI will include a written description of the disputed portion of the invoice. Upon OpenAI request, Supplier will issue separate invoices for undisputed and disputed amounts. Payment of undisputed amounts will not limit OpenAI's right to object and refuse payment of disputed amounts.

    6.4. Costs and Timing. Unless specifically stated otherwise in a Purchase Order, Supplier will be responsible for all its costs in providing the Ordered Items. OpenAI is not obligated to pay any invoice submitted ninety days or more after a Goods are shipped, Software is provided, or Services are completed.

    6.5. Taxes.

        a. Generally. All fees specified in this Agreement are exclusive of sales, excise, VAT, GST or similar taxes. Supplier agrees to invoice and OpenAI agrees to pay applicable sales, use, VAT, GST or similar taxes excluding taxes based solely on Supplier's franchise, net income or similar taxes.

        b. Tax Withholding. If OpenAI is required to withhold Withholding Taxes, OpenAI will do so and will make these payments. Any Withholding Taxes paid by OpenAI to the tax authority will be deducted from the amount due to Supplier, such that the amount paid to Supplier will be net of the Withholding Taxes. Upon Supplier's request, OpenAI shall provide Supplier with a copy of the tax receipt or tax certificate for the Withholding Tax paid.

        c. Payroll. Supplier will be responsible for all payroll reporting and payment in connection with income or compensation Supplier or any representative of Supplier receives pursuant to this Purchase Order.

    6.6. Offsets. In addition to other rights and remedies OpenAI may have, OpenAI may offset any payment obligations to Supplier that OpenAI may incur under the Agreement against any fees owed to OpenAI and not yet paid by Supplier under the Agreement or any other agreement between Supplier and OpenAI.

7. Representations and Warranties.

   7.1. Performance Warranties. Supplier represents and warrants the following.

      a. Title. Supplier owns or has properly licensed all components of the Ordered Items provided by Supplier under this Agreement and OpenAI will acquire good and clear title, or sufficient licensed rights, to every part of the Ordered Items.

      b. Specifications. The Ordered Items will comply with their specifications and will be of satisfactory quality and reasonably fit for any purpose made known to Supplier.

      c. Pass-Through. Supplier will obtain and assign or otherwise provide to OpenAI the benefits of its warranties and guarantees provided by manufacturers or suppliers of material or equipment incorporated into the Ordered Items and will perform its responsibilities so that all warranties or guarantees remain in full effect.

   7.2. General Warranties. Supplier represents and warrants the following.

      a. No Conflict. There exists no actual or potential conflict of interest concerning Supplier's performance under this Agreement.

      b. Supplier Code of Conduct. Supplier will comply with OpenAI's Supplier Code of Conduct.

      c. Confidential Information. Supplier's performance under this Agreement does not require the breach of any agreement or obligation to keep in confidence the proprietary information of another party. Supplier will not bring to OpenAI, or use in providing Services, any materials or documents of another party considered confidential or proprietary without the written authorization of that party and OpenAI.

      d. Compliance with Laws. Supplier will comply with all applicable laws and regulations in its performance under the Agreement and provision of the Goods, Services, and Software.

      e. Export. Supplier will comply with all U.S. Export Control Laws. Supplier is not identified on OFAC's List of Specially Designated Nationals, or any other government prohibited parties list, and Supplier will not allow any person or entity identified on those lists to provide Services to OpenAI. Supplier does not provide services into or within any U.S. embargoed country or region, or to governments or governmental instrumentalities of any U.S. embargoed country or region, absent a license or other necessary governmental authorization.

      f. Anti-Bribery. Supplier will comply with all Anti-Bribery Laws and shall not receive, accept, offer, promise, authorize, or provide anything of value to any person, including any government official, to obtain or retain business or secure any advantage with the intent to corruptly or improperly influence the recipient, or otherwise take any action that would cause OpenAI to violate the Anti-Bribery Laws. Supplier will not make any facilitation payments, which are payments to induce officials to perform routine functions they are otherwise obligated to perform.

      g. EEO. Supplier is an equal-opportunity employer, does not discriminate based on age, race, creed, color, religion, sex, sexual orientation, national origin, disability, marital or veteran status or any other basis that is prohibited by law, and will not so discriminate in providing the Services.

      h. Tax Compliance. Supplier will comply with all tax laws, including tax withholding requirements, social security taxes, federal, state and local income taxes, unemployment, workers' compensation, and disability insurance, health care and other charges, and tax filings and payments on compensation received hereunder. Supplier will assume full and sole responsibility for Supplier's compensation and expenses.

   7.3. Other Warranties. The representations and warranties above are in addition to all other warranties, whether express or implied, and will survive any delivery, inspection, acceptance or payment by OpenAI. All warranties run to the benefit of OpenAI, its third-party contractors, and customers.

8. Confidential Information.

   8.1. Use and Nondisclosure. Supplier will hold Confidential Information in strict confidence and treat that information with the same degree of care as it uses in dealing with its own confidential information, but no less than a reasonable degree of care. Supplier will use Confidential Information solely for the purposes of performing its obligations under this Agreement. Supplier may share Confidential Information with its employees, directors, agents, or third-party contractors who need to know it and if they have agreed with either Party in writing to terms at least as restrictive as those in this Agreement. Other than as allowed in the preceding sentence, Supplier will not disclose or make Confidential Information available to any third party, except as specifically authorized by OpenAI.

   8.2. Exceptions. Supplier's confidentiality obligations under Section 8.1 do not apply to information that: (a) was known to Supplier without restriction before receipt from OpenAI; (b) is publicly available through no fault of Supplier; (c) is rightfully received by Supplier from a third party without a duty of confidentiality; or (d) is independently developed by Supplier without reference to any Confidential Information as demonstrated by written records.

   8.3. Required Disclosure. Supplier may disclose Confidential Information when compelled to do so by law, but only if it: (a) promptly provides prior notice to OpenAI and an opportunity for OpenAI to seek a protective order; and (b) discloses only the minimum amount of Confidential Information that is necessary to comply with the required disclosure.

8.4. <u>Return</u>. Upon OpenAI's written request, Supplier will promptly return all Confidential Information and copies, or certify in writing that it has destroyed all such materials.

8.5. <u>No Publicity</u>. Neither Party will issue any public statements or promotional materials disclosing the existence of this Agreement, or their performance under it, without the other Party's prior written consent.

8.6. <u>Section 1833 Notice</u>. Consistent with 18 U.S.C.§ 1833(b), the Parties have the right to: (a) confidentially disclose trade secrets to federal, state and local government officials, or to any attorney, for the sole purpose of reporting or investigating a suspected violation of the law; and (b) disclose trade secrets in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal and protected from public disclosure. Nothing in this Agreement is intended to conflict with 18 U.S.C. § 1833(b) or to create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C.§ 1833(b).

9. <u>Security; Privacy</u>.

9.1. <u>Security</u>. To the extent Supplier receives access to any OpenAI systems, or receives, accesses, or processes any OpenAI personal data or OpenAI Confidential Information, Supplier will comply with the Security Measures.

9.2. <u>Privacy</u>. To the extent Supplier receives, accesses, or processes any personal data from OpenAI, Supplier will comply with the Supplier DPA.

9.3. <u>Physical Security</u>. To the extent Supplier has access to any OpenAI facilities, Supplier will comply with all OpenAI policies, and with all reasonable instructions provided by OpenAI to Supplier, regarding physical security at the facilities.

10. <u>Term and Termination</u>.

10.1. <u>Term</u>. This Agreement takes effect on the Effective Date and continues until the earlier of: (a) Supplier completes its provision of the Ordered Items; or (b) termination as specified below.

10.2. <u>Termination</u>.

a. <u>For Breach</u>. Either Party may terminate this Agreement: (i) immediately for breach of confidentiality; and; (ii) upon written notice if the other Party materially breaches any other provisions of this Agreement and fails to remedy that breach within thirty days after written notice.

b. <u>For Convenience</u>. OpenAI may terminate this Agreement for convenience upon thirty days' written notice.

10.3. <u>Effects of Termination</u>.

a. <u>Agreement</u>. Termination of the Agreement terminates all outstanding Purchase Orders effective as of the termination notice date.

b. <u>Replacement Ordered Items</u>. If a Purchase Order or this Agreement is terminated for Supplier's default, OpenAI may procure, in addition to other available remedies, upon terms and in a manner OpenAI deems appropriate, items similar or substantially similar to those terminated. Supplier will be liable to OpenAI for excess costs of the replaced Ordered Items.

c. <u>Accepted Ordered Items</u>. Payment for completed or partially completed Ordered Items accepted by OpenAI will be as agreed upon by Supplier and OpenAI but will not exceed the price in the Purchase Order. However, Supplier's obligation to carry out OpenAI's direction as to delivery, protection and preservation of the property will not be contingent upon OpenAI and Supplier's prior agreement on the amount to be paid by OpenAI.

d. <u>Remaining Purchase Orders</u>. Nothing in this Section 10 is intended to excuse Supplier from proceeding with any portion of a Purchase Order that was not terminated.

e. <u>Survival</u>. Those Sections that should by their nature survive cancellation or termination of any Purchase Order, will survive.

11. <u>Indemnification</u>.

11.1. <u>Indemnification</u>. Supplier will defend, indemnify, and hold harmless OpenAI, its officers, directors, employees, and affiliates from and against any and all damages, liabilities, and expenses (including settlement costs and reasonable attorneys' fees) incurred by OpenAI arising from any third party claims related to: (a) allegations that Ordered Items or Deliverables infringe or misappropriate any third-party's Intellectual Property Rights; (b) Supplier's breach of warranty, negligence, willful misconduct, fraud, misrepresentation, or violation of law; (c) any alleged Defect in the Ordered Items or Deliverables; (d) any obligation imposed by law on OpenAI to pay any Withholding Taxes, social security, unemployment or disability insurance, or similar items in connection with compensation received by Supplier under this Agreement; (e) any liabilities for royalties, mechanics liens or other encumbrances on the Ordered Items or Deliverables; or (f) any property damage, personal injury or death related to Supplier's performance of the Services.

11.2. <u>General</u>. OpenAI will have the right to approve any counsel retained to defend against any claim in which OpenAI is named a defendant and will not unreasonably withhold this approval. OpenAI will have the right to control and participate in the defense of any claim concerning matters that relate to OpenAI, and Supplier will not settle any claim without OpenAI's reasonable consent. If, in OpenAI's reasonable judgment, a conflict exists between the interests of OpenAI and Supplier in a claim, OpenAI may retain its own counsel whose reasonable fees will be paid by Supplier.

11.3. Repair or Replace. Supplier will promptly repair or replace any property on OpenAI's premises damaged by Supplier or its personnel. If an injunction is issued as the result of Supplier's infringement, Supplier agrees, at OpenAI's option, to: (a) refund to OpenAI the amounts paid to Supplier for the Ordered Items covered by the injunction; or (b) promptly furnish OpenAI with acceptable and non-infringing Ordered Items.

12. Limitation of Liability.

12.1. Limitation on Indirect Liability. IN NO EVENT WILL OPENAI HAVE ANY LIABILITY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOST PROFITS, LOSS OF DATA, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE ORDERED ITEMS, HOWEVER CAUSED, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY AND WHETHER OR NOT OPENAI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

12.2. Limitation on Amount of Liability. IN NO EVENT WILL OPENAI'S AGGREGATE LIABILITY TO SUPPLIER OR ANY THIRD PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AMOUNTS ACTUALLY PAID OR DUE BY OPENAI TO SUPPLIER FOR PURCHASE OF THE ORDERED ITEMS UNDER THE PURCHASE ORDER.

13. General.

13.1. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of California, excluding its body of law controlling conflict of laws. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in the Northern District of California and the Parties irrevocably consent to the personal jurisdiction and venue therein.

13.2. Severability. Unenforceable provisions will be modified to reflect the Parties' intention and only to the extent necessary to make them enforceable and the remaining provisions of the Agreement will remain in full effect.

13.3. Entire Agreement. This Agreement supersedes any prior agreements or understandings between the Parties. This Agreement constitutes the entire Agreement between the Parties related to this subject matter, and any change to its terms must be in writing and signed by the Parties. If the terms of this Agreement conflict with the terms of any Purchase Order, the terms of the Purchase Order will control. This Agreement incorporates by reference all attachments to this Agreement and Purchase Orders entered between the Parties.

13.4. Notices. All notices required or permitted under this Agreement will be in writing, will reference this Agreement, and will be deemed given: (i) when delivered personally; (ii) one business day after deposit with a nationally recognized express courier, with written confirmation of receipt; or (iii) three business days after having been sent by registered or certified mail, return receipt requested, postage prepaid. Notices to OpenAI must be sent to 1960 Bryant Street, San Francisco, CA 94110, attn: Legal, with a copy to contract-notices@openai.com and all invoices shall be emailed to billing@openai.com.

13.5. Waiver. A waiver of any default is not a waiver of any subsequent default.

13.6. Assignment. Supplier may not assign or transfer this Agreement or any rights or obligations under this Agreement without the written consent of OpenAI. OpenAI may not assign this Agreement without providing notice to Supplier, except OpenAI may assign this Agreement or any rights or obligations under this Agreement to an Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all its assets without providing notice. Any other attempt to transfer or assign is void.

13.7. Force Majeure. Neither Party will be liable for inadequate performance to the extent caused by a Force Majeure event, provided the delayed Party gives the other Party prompt notice of the event. If Supplier is unable to perform for a period of thirty consecutive days because of a continuing Force Majeure event, OpenAI may cancel the Purchase Order, Ordering Document, and this Agreement at no penalty or cost.

13.8. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

13.9. Insurance. Supplier will maintain insurance policies in accordance with the Insurance Requirements.

13.10. Independent Contractors. The Parties are independent contractors. This Agreement does not create a partnership, agency or employee relationship, or joint venture.

13.11. Delegation and Subcontracting. Supplier may not subcontract any of its obligations under this Agreement without OpenAI's prior written consent. Supplier will remain liable for all subcontracted obligations and all acts or omissions of its subcontractors.

13.12. Background Checks. To the extent applicable, Supplier will comply with the Background Check Requirements.

13.13. Business Continuity. Supplier will maintain a reasonable business continuity and recovery plan that is consistent with generally accepted industry standards.

13.14. No use of logo or publicity. Except with OpenAI's express prior written agreement in each instance, Supplier will not (i) include OpenAI's name or logo on Supplier's websites, media, or marketing materials; or (ii) make any public statement about its relationship with OpenAI or this Agreement.

13.15. <u>Records and Audits</u>. OpenAI may examine the Ordered Items at any time. Supplier will keep and maintain complete and accurate books, records, and accounts relating to this Agreement and any Purchase Order. During the term of this Agreement, and for a period of one year thereafter, OpenAI may audit Supplier's relevant records to confirm Supplier's compliance with this Agreement. OpenAI's auditor will only have access to those books and records of Supplier which are reasonably necessary to confirm compliance.

14. <u>Definitions</u>.

"<u>Affiliate</u>" of a Party means any entity controlled by, controlling, or under common control with such Party where "control" in any of the foregoing forms means ownership, either direct or indirect, of more than fifty percent (50%) of the equity interest entitled to vote for the election of directors or equivalent governing body.

"<u>Anti-Bribery Laws</u>" means all applicable commercial and public anti-bribery laws including, without limitation, the U.S. Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act of 2010, and any other applicable foreign or domestic anti-bribery or anti-corruption laws.

"<u>Background Check Requirements</u>" means OpenAI's requirements for background checks set forth below

"<u>Background Technology</u>" means all Technology owned, created or discovered by a Party: (a) prior to a Purchase Order effective date and, in the case of Supplier, identified in the Purchase Order; or (b) on or after the Purchase Order effective date independent of the Services performed pursuant to the Purchase Order.

"<u>Confidential Information</u>" means any information marked confidential when disclosed, identified verbally as confidential when disclosed, or that a reasonable person would consider confidential under the circumstances. Confidential Information includes OpenAI's Background Technology, Developed Technology, the Deliverables, and the terms of this Agreement.

"<u>Defective</u>" means defective in material or workmanship, failing to comply with the Specifications, or failing to comply with this Agreement, in whole or in part.

"<u>Deliverables</u>" means the work product that Supplier creates when providing the Services, including any materials provided by Supplier to OpenAI while performing Services.

"<u>Developed Technology</u>" means any Technology other than Background Technology created or discovered by Supplier or OpenAI in connection with this Agreement.

"<u>Effective Date</u>" means the earlier of either Supplier's agreement to provide the Ordered Items, or Supplier's commencement of its performance under this Agreement.

"<u>Existing Agreement</u>" means another written agreement governing the purchase of the Ordered Items has been executed between OpenAI and Supplier.

"<u>Force Majeure</u>" means an event or circumstance that prevents a Party from performing its obligations under this Agreement and that event or circumstance: was not anticipated as of the Effective Date; is not within the reasonable control of that Party or is not the result of that Party's negligence; and cannot be overcome or avoided by that Party using reasonably diligent efforts.

"<u>Goods</u>" means the goods ordered by OpenAI pursuant to an Ordering Document and as listed on a Purchase Order.

"<u>Goods Terms</u>" means the terms applicable to OpenAI's purchase of Goods from Supplier, which are set forth below.

"<u>Insurance Requirements</u>" means the OpenAI Supplier insurance requirements set forth below.

"<u>Intellectual Property Rights</u>" means all patent rights, copyrights, trademark rights, rights in trade secrets, database rights, moral rights, and any other intellectual property rights, registered or unregistered, throughout the world.

"<u>OpenAI Systems</u>" means any OpenAI software, hardware or systems used or made available by OpenAI.

"<u>Ordering Document</u>" means the ordering document for Ordered Items. Depending on what is ordered, the Ordering Document can be a Purchase Order, an Order Form, or a SOW. If both a Purchase Order and an Order Form exist for the same items, or if there is a conflict between the Purchase Order and an Order Form, the Purchase Order will control.

"<u>Order Form</u>" means Supplier's ordering document for Goods or Software.

"<u>Ordered Items</u>" means the Goods, Services, or Software, ordered by OpenAI from Supplier pursuant to an Ordering Document.

"<u>Purchase Order</u>" means a purchase order issued by OpenAI that includes or incorporates the Purchase Order Terms by reference.

"<u>Purchase Order Terms</u>" means these OpenAI Purchase Order Terms.

"<u>Security Measures</u>" means the security measures at openai.com/policies/supplier-security-measures, which are incorporated herein by this reference.

"<u>Services</u>" means the services ordered by OpenAI pursuant to an Ordering Document and as listed on a Purchase Order.

"<u>Services Terms</u>" means the terms applicable to OpenAI's purchase of Services from Supplier, which are set forth below.

"<u>Software</u>" means the software, including software as a service, ordered by OpenAI pursuant to an Ordering Document, including any Maintenance Releases.

"Software Terms" means the terms applicable to OpenAI's purchase of Software from Supplier, which are set forth below.

"SOW" means a statement of work executed by Supplier and OpenAI under which Supplier will perform Services for OpenAI.

"Security Measures" means the security measures at openai.com/policies/supplier-security-measures, which are incorporated herein by this reference.

"Specifications" means those specifications for the Ordered Items, if any, identified in an Ordering Document, made publicly available by Supplier, or as the Parties may otherwise agree to in writing.

"Supplier" means the entity identified on the Purchase Order as the one providing the Ordered Items to OpenAI.

"Supplier Code of Conduct" means the OpenAI supplier code of conduct set forth at the following link: https://openai.com/policies/supplier-code/ which is incorporated herein by this reference.

"Supplier DPA" means OpenAI's Supplier Data Processing Agreement, available at openai.com/policies/supplier-dpa, which is incorporated herein by this reference.

"U.S. Export Control Laws" means all U.S. export control laws and sanctions regulations in connection with the Supplier's provision of the Services, including the Export Administration Regulations of the Bureau of Industry and Security ("BIS"), U.S. Department of Commerce; the International Traffic in Arms Regulations administered by the U.S. Department of State; and economic sanctions administered by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury.

"Technology" means all technical information, know-how, ideas, concepts, processes, procedures, designs, schematics, works of authorship, inventions, and discoveries that are protectable by an Intellectual Property Right.

"Withholding Taxes" means any taxes OpenAI is required to withhold for any payment under this Agreement by virtue of the statutes, laws, codes or governmental regulations of a country or state in which this Agreement applies.

Goods Specific Terms. To the extent OpenAI purchases Goods from Supplier, these Goods Specific Terms apply.

1. Shipment and Delivery.

    1.1. Delivery; Title Transfer. Unless otherwise specified in the Purchase Order, Supplier will deliver Goods DDP (Incoterms 2010) to the delivery destination stated in the Purchase Order, with title and risk of loss transferring from Supplier to OpenAI at the delivery destination.

    1.2. Delivery. If Supplier wants to recoup amounts it paid to ship Goods to OpenAI, such amounts must be agreed upon in advance and listed on the applicable Ordering Document. Supplier must provide OpenAI with a paid freight bill or equivalent documentation as requested by OpenAI.

        a. Early Delivery. OpenAI may refuse any delivery made more than five days before the delivery date and Supplier will re-deliver the Goods on the correct date at Supplier's expense.

        b. Over-shipments. OpenAI will pay only for the quantities ordered. OpenAI will either: (i) store over-shipments at Supplier's risk and expense for a reasonable time awaiting shipping instructions; or (ii) return to Supplier, at Supplier's expense, any quantity of Goods exceeding that specified in the Purchase Order.

        c. Late Delivery. If a Goods shipment is late, in whole or in part, Supplier will: (i) immediately propose a new delivery date; (ii) use best efforts to expedite delayed Goods at Supplier's expense; and (iii) issue OpenAI a discount or refund on the purchase price for Goods delivered late, unless otherwise agreed by the Parties. Despite the foregoing, OpenAI may: (x) cancel without liability the applicable Purchase Order or portions of the Purchase Order for late Goods not yet delivered; or (y) cover for late Goods by sourcing goods from another supplier, at Supplier's reasonable expense.

    1.3. Import/Export. Upon OpenAI's request, Supplier will provide OpenAI with any information OpenAI reasonably requests regarding Goods importation, exportation, or distribution. For international shipments, Supplier will provide all documentation and data elements required for accurate customs entry.

    1.4. Packing. Supplier will package Goods according to any instructions OpenAI provides in a Purchase Order, and if none are provided, then according to good commercial practice to ensure safe arrival of the Goods.

2. Licenses.

    2.1. Portions of Goods that are Deliverables. For those portions of Goods that are Deliverables, Section 1.2 of the Services Terms will apply.

    2.2. Portions of Goods that are not Deliverables. For those portions of Goods that are not Deliverables, Supplier grants OpenAI, its affiliates, distributors, and end users a perpetual, irrevocable, non-exclusive, worldwide, fully paid-up, royalty-free license to use, modify, sell, offer for sale, import, and otherwise dispose of the Goods, including any bug fixes, updates or upgrades developed by Supplier for the Goods.

    2.3. Limitations. Nothing in this Agreement grants a Party any license, right, or interest in the other Party's trademarks. Neither Party will modify proprietary rights notices on the other Party's products.

3. Additional Warranty. Goods will be new, unused, and not refurbished at the time of delivery, and will be safe for normal use and free from defects in design, materials, and workmanship for a period of twelve months after delivery to OpenAI.

Services Specific Terms. To the extent OpenAI purchases Services from Supplier, these Services Specific Terms apply.

1. Services Intellectual Property Rights and Licenses.

   1.1. Background Technology. Neither Party will own the other Party's Background Technology and acquires no rights or interest under this Agreement to the other Party's Background Technology, except for the licenses granted in Section 1.3 below.

   1.2. Developed Technology; Deliverables. Unless stated otherwise in a Purchase Order, and subject to Supplier's Intellectual Property Rights in any Supplier Background Technology incorporated in any Deliverables:

      a. OpenAI owns all Deliverables and any Developed Technology.

      b. The Deliverables and Developed Technology are works made for hire to the extent permitted by applicable law, and OpenAI retains all Intellectual Property Rights in the Deliverables and Developed Technology.

      c. If any of the Deliverables or Developed Technology do not qualify as works made for hire, Supplier assigns and will assign to OpenAI all right, title and interest and all Intellectual Property Rights, and the right to sue for past infringement of such Intellectual Property Rights, in the Deliverables, the Developed Technology, and all extensions and renewals thereof.

      d. If requested by OpenAI, Supplier will timely perform the acts, execute and deliver the instruments and documents, and do all other things as may be reasonably necessary to accomplish the transactions contemplated in this Agreement. If Supplier fails to do so, Supplier grants to OpenAI the power and interest to act as Supplier's attorney-in-fact to execute these documents.

      e. Supplier will not assert, and otherwise waives, any "moral rights" in the Deliverables and Developed Technology and assigns to OpenAI Inc. any "moral rights" in the Deliverables and Developed Technology.

   1.3. Licenses.

      a. OpenAI Background Technology. Unless stated otherwise in a Purchase Order, if OpenAI provides Supplier with any of OpenAI's Background Technology under this Agreement to facilitate Supplier's performance, OpenAI grants to Supplier a limited, nonexclusive, nontransferable, royalty-free license, with the right to sublicense to its delegates and subcontractors authorized by OpenAI pursuant to Section 13.11, to the provided OpenAI Background Technology, solely for the purpose of performing its obligations under this Agreement.

      b. Third-Party Materials. Supplier will not incorporate any proprietary information owned by a third party or any open-source materials into any Deliverable without OpenAI's prior written permission. If OpenAI approves the inclusion of any third-party material, Supplier must obtain all necessary rights to provide OpenAI the license in Section 1.3(c).

      c. Supplier Background Technology. Unless stated otherwise in a Purchase Order, if Supplier includes any Supplier Background Technology or any third-party materials in any Deliverables, Supplier: (i) must describe the Supplier Background Technology or third-party material to OpenAI in writing; and (ii) grants OpenAI a nonexclusive, royalty-free, fully paid, perpetual, irrevocable, worldwide license with the right to sublicense, to the included Supplier Background Technology or to the included third-party materials.

      d. Developed Technology. Unless stated otherwise in the Purchase Order, OpenAI grants to Supplier a limited, nonexclusive, worldwide, nontransferable, royalty-free license, with the right to sublicense to its delegates and subcontractors authorized by OpenAI pursuant to Section 13.11, to the Developed Technology solely for the purpose of performing its obligations under this Agreement.

      e. Termination of Licenses. The licenses OpenAI grants under Sections 1.3(a) and 1.3(d) above will terminate immediately upon the earlier of the termination of the applicable Purchase Order, the completion of any Services, or termination of this Agreement.

2. Additional Warranty. The Services will be of professional quality and performed consistently with generally accepted industry standards.

Software Specific Terms. To the extent OpenAI purchases Software from Supplier, these Software Specific Terms apply.

1. Evaluation.

   1.1. Generally. If OpenAI wants to evaluate the Software prior to purchasing, Supplier will issue OpenAI an Order Form stating it is providing OpenAI the Software for evaluation. All evaluations will be provided by Supplier to OpenAI at no cost.

   1.2. Terms. Use of the Software by OpenAI, including for evaluation purposes, is subject to this Agreement. If Supplier's Order Form does not specify an Evaluation Period, then the Evaluation Period is ninety days, beginning on the date the Software is first made available to OpenAI.

   1.3. Completion of Evaluation.

      a. Without a New Order Form. At the conclusion of an evaluation, Supplier's evaluation Order Form will not automatically convert into an OpenAI purchase of the Software. If a new Order Form is not signed by OpenAI at the conclusion of the evaluation, then the evaluation terminates without an OpenAI obligation to purchase the Software.

      b. With a New Order Form. To convert an evaluation into a purchase by OpenAI, OpenAI must sign a new Order Form for the purchase. If OpenAI signs an Order Form for the purchase of the Software, then that Order Form and this Agreement govern that purchase by OpenAI.

2. License.

   2.1. License Grant. Supplier hereby grants to OpenAI and its Affiliates during the Software Term the right and license to use the Software and Documentation throughout the Territory pursuant to this Agreement. The rights and licenses hereby granted are non-exclusive, royalty-free, irrevocable (except as set forth in Section 10 Term and Termination), non-transferable (except as set forth in Section 13.6 Assignment) non-sublicensable (except to Affiliates) and will be fully paid up upon OpenAI's payment of the License Fee.

   2.2. Users. Subject to the License Grant in Section 2.1 above, OpenAI and its Affiliates each have the right and license to use the Software. OpenAI and its Affiliates may also allow their employees, contractors, and consultants to use the Software, provided OpenAI remains responsible for their compliance with this Agreement, and their use is only as part of providing services to OpenAI or its Affiliates.

   2.3. Restrictions. Unless, and only to the extent, permitted by the Agreement or as reasonably necessary to use the Software, OpenAI will not, and will not permit others to: (a) modify, correct, adapt, translate, enhance or otherwise prepare derivative works or improvements of the Software; or (b) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Software available to any third party; or (c) reverse engineer, disassemble, decompile, decode or adapt the Software, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part, except and only to the extent: (i) this restriction is prohibited by applicable law; (ii) such action is taken for purposes of ensuring or assessing interoperability or otherwise qualifies as a "fair use" under the US Copyright Act or other applicable law or; (iii) with respect to open-source components included in the Software, these acts are permitted under the applicable open-source license.

   2.4. Open-Source. If any component of the Software is offered under an open-source license, Supplier will notify OpenAI and make the license available to OpenAI.

3. Delivery, Installation, and Documentation.

   3.1. Delivery and Installation. Promptly and on a mutually agreed upon date after the execution of the relevant Ordering Document, Supplier will deliver and, if applicable, install the Software. Risk of loss of any tangible media on which any Software is delivered will not pass to the OpenAI unless and until OpenAI's Acceptance of such Software in accordance with Section 4 (Testing and Acceptance).

   3.2. Documentation. Supplier will provide OpenAI with complete and accurate Documentation for all Software prior to or concurrently with its delivery. Supplier will provide Documentation in both hard copy and electronic form, in such formats and media as OpenAI may otherwise reasonably request.

4. Testing and Acceptance.

   4.1. Testing. OpenAI will conduct Acceptance Tests promptly following delivery of the Software.

   4.2. Notice. OpenAI will notify Supplier within five business days of the completion of the Acceptance Tests. This notice will include any applicable Nonconformance Notice.

      a. With a Nonconformance Notice. If OpenAI's Acceptance Test completion notice includes a Nonconformance Notice, the Parties' rights, remedies and obligations will be as set forth in Sections 4.3 (Correction) and 4.4 (Repeated Nonconformity).

      b. Without a Nonconformance Notice. If OpenAI's Acceptance Test completion notice does not include a Nonconformance Notice, then this notice will constitute OpenAI's Acceptance of the tested Software or Documentation.

   4.3. Correction. Supplier, at its sole cost and expense, will correct all Nonconformities and re-deliver the Software or Documentation, as promptly as commercially possible, but no more than seven business days following the applicable Nonconformance Notice.

4.4. <u>Repeated Nonconformity</u>. If Acceptance Tests identify a Nonconformity in the Software after OpenAI has already provided a Nonconformance Notice, or Supplier fails to re-deliver Software on a timely basis, OpenAI may, in its sole discretion, by written notice to Supplier: (a) continue the process set forth in this Section 4; (b) accept the nonconforming Software, in which case the License Fee and any related fees will be reduced equitably to reflect the value of the Software as received relative to the value of the Software had it conformed to the requirements and specifications of this Agreement and the Documentation; or (c) deem the failure to be a non-curable material breach of this Agreement and terminate this Agreement pursuant to Section 10 (Termination).

4.5. <u>Deemed Acceptance</u>. If not accepted pursuant to this Section 4, any Software of Documentation that is not the subject of a Nonconformance Notice within thirty business days of receipt by OpenAI will be deemed accepted by OpenAI.

5. <u>Maintenance Releases; Services</u>.

5.1. <u>Maintenance Releases</u>. During the Software Term, Supplier will provide OpenAI, at no additional charge, with all Maintenance Releases each of which will constitute Software and be subject to the terms and conditions of this Agreement. OpenAI is not obligated to install or use any Maintenance Release.

5.2. <u>Services</u>.

   a. <u>Setup Services</u>. If Supplier will perform Setup Services, they will be specified in the Order Form, including a description of what the Setup Services include. Setup Services and any associated deliverables are deemed included in the "Software" for purposes of Supplier's representations, warranties, and indemnification obligations, and OpenAI's usage rights.

   b. <u>Technical Support</u>. Supplier will provide OpenAI, at no additional charge, training or technical support services for the Software on the same basis as it provides these services to similarly situated customers.

6. <u>Software Warranties</u>. Supplier represents and warrants the following.

6.1. <u>General Warranty</u>. The Software will not damage, interfere with, or permit unauthorized access to any other existing products or systems on which it is installed or any information residing on those products or systems.

6.2. <u>Performance Warranty</u>. The Software, Setup Services, and technical support services will be of professional quality and performed consistently with generally accepted industry standards. Supplier will provide the Software in accordance with its generally published specifications and any applicable Order Form.

6.3. <u>Remedy of Defects</u>. If OpenAI reports a breach of the Performance Warranty, Provider will, at no charge, correct or repair the Software so that it conforms to the Performance Warranty. If Provider does not cause the Software to operate as warranted within ten days after OpenAI's notice, then OpenAI may terminate this Agreement and Provider will refund to OpenAI any prepaid fees for the terminated period and for the period in which the Software did not meet the warranty.

6.4. <u>Background Technology</u>. Supplier will comply with Section 1.3(c) of the Services Specific Terms to the extent Supplier includes any Supplier Background Technology or any third-party materials in the Software.

7. <u>Definitions</u>.

"<u>Acceptance Test</u>" means: (i) regarding the Software, tests conducted in accordance with Section 4 to determine if the Software conforms to the requirements of this Agreement, including the full operability, integration, interoperability and compatibility of the Software with the components and functions of OpenAI's operating environment, in accordance with the Documentation; and (ii) regarding the Documentation, tests to determine if the Documentation effectively supports the Software, and is complete and free of any material deficiencies.

"<u>Documentation</u>:" (a) means all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, or technical or other components, features or requirements, of the Software; and (b) will include all technical and functional specifications and other such information as may be reasonably necessary for the effective installation, testing, use, support and maintenance (as applicable) of the Software as anticipated for its intended purpose, including the effective configuration, integration, and systems administration of the Software, and the operation and the performance of all its functions.

"<u>Evaluation Period</u>" means the duration of OpenAI's evaluation of the Software at no cost. If the Evaluation Period is not set forth on the applicable Order Form, the Evaluation Period will be ninety days.

"<u>Initial Software Term</u>" means the term for the Software beginning on the date upon which OpenAI accepts the Software and continuing for the duration set forth on the Order Form. If the Order Form does not specify the duration of either the Initial Term or a Renewal Term, then the duration will be twelve months.

"<u>License Fee</u>" means the amount OpenAI will pay Supplier for the Software for the Software Term.

"<u>Maintenance Release</u>" means any update, upgrade, release or other adaptation or modification of the Software, including any updated Documentation, that Supplier may generally provide to its licensees from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Software, and includes any new versions.

"<u>Nonconformity</u>" means when the Software or Documentation fail an Acceptance Test.

"<u>Nonconformance Notice</u>" means the notice from OpenAI to Supplier including relevant details about any uncorrected Nonconformity in the tested Software or Documentation.

"<u>Performance Warranty</u>" means the warranty set forth in Section 6.2 of the Software Specific Terms.

"<u>Renewal Software Term</u>" means, unless otherwise agreed to in writing by the Parties, the twelve-month renewal term following either the Initial Software Term, or a previous Renewal Software Term.

"<u>Setup Services</u>" means implementation or customization services for the Software.

"<u>Software Term</u>" means the Initial Software Term and all Renewal Software Terms.

"<u>Territory</u>" means the geography within which OpenAI can use the Software, which is worldwide.

<u>Insurance Requirements</u>

During the Term and at its own expense, Supplier will maintain the following insurance coverage, with insurance carriers rated A- or better by A.M. Best Company:

1. <u>Standard Coverage</u>. Supplier may use any combination of the following insurance to meet the total limit requirements of this Section.

    1.1. <u>Commercial General Liability</u> insurance, including contractual liability coverage, on an occurrence basis for bodily injury, death, "broad form" property damage, products and completed operations, and personal and advertising injury, with coverage limits of not less than US$1,000,000 per occurrence.

    1.2. <u>Workers' Compensation</u> insurance as required by law in the state where the Services will be provided, including employer's liability coverage for injury, disease and death, with coverage limits of not less than US$1,000,000 per accident and employee.

    1.3. <u>Umbrella (Excess) Liability</u> insurance on an occurrence form, with coverage limits of not less than US$1,000,000 per occurrence.

2. <u>Specific Coverage</u>.

    2.1. <u>Auto Liability</u>. If Supplier's provision of Services includes Personnel driving, then Supplier will additionally maintain auto liability insurance coverage for all owned, non-owned and hired vehicles with coverage limits of not less than US$1,000,000 per occurrence for bodily injury and property damage.

    2.2. <u>Professional Liability</u>. If Supplier's provision of Services includes consultative, design, or development services, then Supplier will additionally maintain professional liability insurance, with coverage limits of not less than US$1,000,000 per claim.

    2.3. <u>Commercial Crime</u>. If Supplier's provision of Services includes access to financial information, funds, payments, or other financial records, then Supplier will additionally maintain commercial crime insurance on an occurrence form with coverage limits of not less than US$1,000,000 annual aggregate.

    2.4. <u>Network Security and Privacy Liability</u>. If Supplier will collect, store, process or otherwise access any data related to OpenAI, its customers, or its employees, then Supplier will additionally maintain network security and privacy liability insurance with coverage limits of not less than US$1,000,000 per claim, that includes coverage for: (A) Supplier's unauthorized disclosure of, or failure to properly handle, personal or other confidential data; and (B) financial loss, including any related defense expense, resulting from Supplier's wrongful acts in rendering Services. If Supplier's professional liability policy includes coverage for network security and privacy liability, then any combined single limit for the policy must be the sum of the limits required for each (i.e., US$2,000,000).

3. <u>Coverage Requirements</u>. Supplier's policies will be considered primary without right of contribution from OpenAI's insurance policies. Supplier's policies will apply to the full extent provided by the policies. The coverage requirements in Sections 1 (Standard Coverages) and 2 (Specific Coverages) above will not lower the coverage limits of Supplier's policies and will not limit Supplier's obligations or liability under this Agreement (including indemnities). Supplier will name OpenAI and its affiliates and their officers, directors, shareholders, employees, agents and assignees as additional insureds in each of the policies required above except for: workers' compensation, professional liability, and network security and privacy liability policies. Supplier will provide OpenAI with notice of cancellation of any policy required above in accordance with policy provisions.

4. <u>Supplier Responsible for Own Insurance Coverage</u>. All of Supplier's activities under this Agreement will be at Supplier's own risk. Personnel will not be entitled to any benefits under OpenAI's insurance policies. Supplier is solely responsible for ensuring that its sub-Suppliers maintain insurance coverage that is usual, reasonable and customary for the services provided by such sub-Suppliers to ensure that Supplier can meet its requirements and obligations under this Agreement.

5. <u>Certificates of Insurance</u>. Upon OpenAI's request, Supplier will provide evidence of required insurance coverage to OpenAI or OpenAI's third-party vendor. OpenAI's failure to request, review, or object to the terms of Supplier's certificates of insurance will not: waive any of Supplier's obligations under this Agreement; waive any of OpenAI's rights under this Agreement; or limit or diminish Supplier's liability under this Agreement.

1. <u>Applicable Categories</u>. To the extent permitted under applicable law, Supplier will complete the background checks required below prior to Personnel performing Services, unless otherwise notified by OpenAI. These background checks are not intended to affect the employment of Personnel by Supplier. They are required only to comply with legal obligations and to protect the safety and security of OpenAI's personnel, customers, and confidential and personal information.

   1.1. <u>Restricted Individuals</u>. Supplier will ensure that Personnel are not restricted from performing Services by an applicable government authority, including the: U.S. Department of Treasury - Office of Foreign Assets Control; U.S. Department of Commerce - Bureau of Industry and Security; and U.S. Department of State - Directorate of Defense Trade Controls.

   1.2. <u>Criminal Court / Social Security Number</u>. If the Services involve unescorted access to OpenAI's facilities, remote access to internal OpenAI systems, or access to an individual's personal property or personal information, Supplier will additionally perform the following checks on Personnel performing such Services: Criminal court checks for all counties of residence and work for the prior 7 years (or such period permitted by law); and Social Security number traces.

   1.3. <u>Education and Employment Verification</u>. Supplier will perform education and employment verification for all Personnel that are provisioned with OpenAI systems or badged facility access.

   1.4. <u>Driving History</u>. If the Services involve driving, Supplier will additionally perform Department of Motor Vehicles driving history checks on Personnel performing such Services.

   1.5. <u>Credit</u>. If the Services involve access to OpenAI's or OpenAI's users' financial information, Supplier will additionally perform credit checks on Personnel performing such Services.

   1.6. <u>Fingerprint</u>. If the Services involve access to children or vulnerable persons Supplier will additionally perform fingerprint checks on Personnel performing such Services.

2. <u>Proper Notices; Consents</u>. Supplier will provide all required background check notices to, and obtain signed consent from, Personnel.

3. <u>Personnel Eligibility Guidelines.</u>

   3.1. <u>Ineligible to Perform Services</u>. Personnel may not perform any Services if a background check reveals the Personnel is restricted from performing the Services under Section 1.1 (Restricted Individuals) of this Attachment and the Personnel is not able to prove error.

   3.2. <u>May be Eligible to Perform Services but Requires Additional Review</u>. Supplier must perform additional review to determine if Personnel is eligible to perform Services if a background check reveals any of the following.

      a. <u>Criminal Conviction</u>. Personnel has any felony or misdemeanor criminal conviction within the last 7 years (or such period permitted by law).

      b. <u>Misrepresentation</u>. Personnel misrepresents: (a) identification numbers (e.g., Social Security number); or (b) any educational or technical qualifications even if not required to perform the Services, including: (i) an educational degree not earned; (ii) an educational degree for which there is no record of it being earned; or (iii) a different major of study than recorded.

      c. <u>Driving History Issues</u>. For driving history checks: (a) Personnel's driver license is currently suspended or revoked; or (b) Personnel has: (i) two or more driving violations in a 3-year period; or (ii) two or more convictions in the last 5 years for driving while under the influence or driving while intoxicated.

      d. <u>Credit Report Issues</u>. For credit checks, Personnel's credit report shows: (a) one or more items in collections, public records or negative accounts; (b) unpaid collections balance greater than or equal to US$1,000; or (c) any pending bankruptcy or fraud case.

4. <u>Verification of Background Checks</u>. Upon request, Supplier will provide to OpenAI or its third-party vendor verification that it conducted background checks.