

Mood Media Supplier Terms and Conditions Agreement (US)

These Mood Media Supplier Terms and Conditions (the “**Terms and Conditions**”) are made on the date of the Purchase Order between Muzak LLC (the “**Buyer**”) and the supplier whose details are completed on the Purchase Order (the “**Supplier**”), together referred to as the Parties or individually as a Party, to govern the terms of any purchase order, agreement, addendum, exhibit, SOW or the like between the Parties (“**Purchase Order**”). These Terms and Conditions shall govern the purchase of goods and/or services between Buyer and Supplier. In the event of a conflict between these Terms and Conditions and any Purchase Order between the Parties, then these Terms and Conditions shall take precedence. These Terms and Conditions may not be assigned by Supplier without Buyer’s prior written consent.

1. **Price Increases.** Unless authorized by Buyer in writing, there shall be no increases to the prices set forth in any Purchase Order between the Parties. Any and all taxes, if applicable, shall be billed to Buyer as separate items on Supplier’s invoices. For the avoidance of doubt, Supplier shall pay all tariffs, import taxes and duties and any other items as referred to in the Purchase Order, unless explicitly agreed otherwise in a binding mutually agreed upon written agreement between the Parties.
2. **Title.** Subject to Buyer’s payment of the balance due on the applicable invoice, title and risk of loss to any purchased goods covered by a Purchase Order (“**Products**”) shall pass to Buyer on the date the Products are delivered to the delivery location specified by Buyer (the “**Delivery Location**”). Passing of title and risk of loss shall not in any way affect Buyer’s rights of inspection and acceptance testing.
3. **Licensing.** For licensed services, including software and SaaS as applicable, Supplier grants Buyer a non-exclusive, worldwide, royalty-free license to use the software, all related documentation, and any other licensed services provided by Supplier to Buyer for Buyer’s internal business purposes, or for external business purposes if agreed to between the parties.
4. **Invoices.** Supplier shall invoice Buyer for Products and services shipped to Buyer and any applicable taxes based on a valid Purchase Order, unless Buyer provides Supplier with a valid tax exemption certificate. Buyer shall pay Supplier all undisputed invoice amounts net seventy five (75) days of receipt of undisputed invoice. The parties shall cooperate in good faith to determine the final amounts due and owing to Supplier or to be credited to Buyer following Supplier’s receipt of the dispute notice from Buyer regarding a disputed invoice. All invoices are to be sent to Buyer’s Accounts Payable Department at the email address and/or the postal address on the Purchase Order. If a dispute arises regarding an invoice, Supplier agrees not to hold or delay any orders or deliveries during the period where the parties are cooperating in good faith to resolve the disputed invoice.
5. **Acceptance.** All Products and services are subject to Buyer’s inspection and rejection, and Buyer’s payment for the Products does not constitute acceptance.
6. **Warranty.** Supplier warrants that the Products and services will (a) conform to the applicable Specifications; (b) will be of good material and workmanship and fit for the purpose held out by the Supplier or made known to the Supplier by the Buyer; (c) will be free from defects for a period of twenty-four (24) months from the date of Buyer’s acceptance unless an alternate period is agreed upon by the Parties; (d) will not infringe on rights of any third parties, (e) for software and/or SaaS services, the services will not contain any viruses, malware, or other harmful code, and (f) for software and/or SaaS services, Supplier will maintain the software and/or SaaS in a commercially reasonable manner to ensure continued operation and functionality. In addition, Supplier warrants that the Products and services will be free and clear of all liens and encumbrances.
7. **Indemnification.** In addition to any Indemnification obligations by Supplier within a Purchase Order, Supplier agrees to defend, indemnify and hold harmless, Buyer and its respective directors, officers, employees, and agents (each, a “**Buyer Indemnitee**” and collectively, the “**Buyer Indemnitees**”) from and against all claims, actions, losses, expenses, damages or other liabilities, including reasonable attorneys’ fees (collectively, “**Damages**”) incurred by or assessed against any of the foregoing, but solely to the extent the same arise out of third-party claims relating to: (a) any actual injury or damage to any person or property caused, or alleged to be caused, by a Product or service sold or licensed by Supplier to Buyer hereunder; (b) any infringement by the Product of the intellectual property rights of any third party and Supplier shall have no liability if and to the extent an alleged infringement is caused by Buyer’s combination of the Products or services with non-Supplier or third party products or software to the extent the liability does not arise out of the Products or services; or (c) any material misrepresentations by Supplier, regardless of the form of action, with respect to the Products or services.
8. **Insurance Requirements.** In addition to any insurance obligations by Supplier within a Purchase Order, during the term of any Purchase Order or during the period in which Supplier is providing good or services to Buyer under a Purchase Order and for a period of 6 years thereafter, Supplier shall maintain, at its own cost and expense, insurance policies issued by insurers with an A.M. Best rating of A- (Excellent) or better, providing the following minimum coverage, which may be obtained through primary, excess or umbrella policies (or a combination thereof), unless otherwise agreed upon in writing by the Parties:
 - a. Supplier shall maintain Commercial General Liability (CGL) Insurance covering bodily injury, property damage, personal injury, and advertising injury, on an occurrence basis, with limits of not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products and completed operations aggregate. This coverage shall apply to all premises and operations of the Supplier and include contractual liability coverage. If applicable to physical goods, Supplier shall maintain Product Liability Insurance with limits of not less than \$2,000,000 per occurrence and \$2,000,000

in the aggregate, protecting against claims arising out of defects in the design, manufacture, or sale of Supplier's products.

- b. If Supplier provides SaaS, software, or other services, Supplier shall maintain Professional Liability/Errors & Omissions (E&O) Insurance with limits of not less than \$2,000,000 per claim and \$4,000,000 in the aggregate, covering liabilities arising from professional negligence, errors, or omissions in the performance of Supplier's services or software. If Supplier processes or stores Buyer's data, provides SaaS, or operates IT infrastructure, Supplier shall maintain Cyber Liability and Data Breach Insurance with limits of not less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate, covering losses arising from data breaches, network security failures, privacy violations, and cyberattacks. Such coverage must include regulatory fines, penalties, and costs related to breach response and notification.
- c. Supplier shall also maintain Workers' Compensation and Employer's Liability Insurance as required by applicable state laws for all employees of Supplier, with employer's liability coverage limits of not less than \$1,000,000 per accident for bodily injury, \$1,000,000 per employee for disease, and \$1,000,000 policy limit for disease. If Supplier uses vehicles in performing its obligations, it shall maintain Automobile Liability Insurance covering bodily injury and property damage arising out of owned, hired, and non-owned vehicles, with limits of not less than \$1,000,000 per occurrence. For vendors with high-risk exposure, Supplier shall also maintain Umbrella/Excess Liability Insurance providing excess limits beyond the underlying policies (CGL, product liability, and auto liability), with limits of not less than \$2,000,000 per occurrence.

Supplier shall name Buyer, its affiliates, officers, directors, and employees as additional insureds under the Commercial General Liability, Product Liability, and Umbrella/Excess Liability policies. All policies shall include a waiver of subrogation in favor of Buyer and its affiliates, to the extent permissible by law. Supplier shall provide Buyer with valid certificates of insurance evidencing the required coverage prior to commencing any work or delivering any Products and annually thereafter. Each certificate shall indicate that no modification, cancellation, or expiration of coverage shall occur without at least thirty (30) days' prior written notice to Buyer. Supplier shall also ensure that all subcontractors performing any services for Buyer maintain insurance coverage consistent with the requirements of this section and provide Buyer with certificates of insurance upon request. Supplier's maintenance of the required insurance coverage shall not be construed as limiting Supplier's liability under these Terms and Conditions or any related Purchase Order or otherwise.

- 9. **Intellectual Property Ownership.** All intellectual property, including but not limited to patents, trademarks, copyrights, trade secrets, know-how, software, and any other proprietary rights, whether registered or unregistered, that are owned, developed, created, or licensed by Buyer, including any modifications, enhancements, or derivatives thereof (collectively, "**Buyer IP**"), shall remain the sole and exclusive property of Buyer. Supplier acknowledges that it has no ownership or rights in any Buyer IP and agrees not to use, reproduce, modify, or disclose any Buyer IP except as expressly permitted by Buyer in writing. Any intellectual property created or developed by Supplier specifically for Buyer under these Terms and Conditions shall be deemed "work made for hire" and shall become the exclusive property of Buyer upon creation. If, for any reason, such work is not considered "work made for hire," Supplier agrees to assign all rights, title, and interest in such intellectual property to Buyer.

10. Confidentiality.

- a. Definition. "**Confidential Information**" means all non-public information disclosed by a party ("**Discloser**") to the other party ("**Recipient**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Buyer Confidential Information includes without limitation any information about the Buyer's services, software and offerings, including user interface design and layout, pricing information, and any drawings, models, samples, specifications, technical information, and other proprietary data.
- b. Protection of Confidential Information. Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care) not to disclose or use any Confidential Information for any purpose outside the scope of these Terms. Recipient must make commercially reasonable efforts to limit access to Confidential Information to those of its employees and contractors who need such access for purposes consistent with these Terms and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of these Terms.
- c. Exclusions. Confidential Information excludes information that: (i) is or becomes generally known to the public without breach of any obligation of confidentiality, (ii) was known to Recipient prior to its disclosure by the Discloser, (iii) is received from a third party without breach of any obligation of confidentiality, or (iv) was independently developed by Recipient without use or access to the Confidential Information. Recipient may disclose Confidential Information to the extent required by law or court order, but will provide Discloser with advance notice to seek a protective order. Discloser agrees that Recipient has the right, without liability to Discloser, to disclose any information to law enforcement authorities, government officials, or otherwise as Recipient believes is reasonably necessary or appropriate to enforce and/or verify compliance with these Terms.
- d. For the avoidance of doubt, any drawings, models, samples, specifications, technical information, proprietary data, or other information provided to Supplier shall remain Buyer's property. Any and all written or tangible copies of this information shall be returned to Buyer, upon Buyer's request, and shall be kept confidential by Supplier and used only for

the purpose of executing Supplier's obligations to Buyer under the terms of these Terms and Conditions and any Purchase Order.

11. **Governing Law and Venue.** These Terms and Conditions shall be governed and construed in all respects in accordance with the domestic laws and regulations of the state of Texas as if entered into by and between residents of Texas, without regard to its conflicts of laws provisions, and the courts of Austin, Texas shall have the exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms and Conditions and/or Purchase Order. The parties specifically agree that the 1980 United Nations Convention on Contracts for the International Sale of Goods, as may be amended from time to time, shall not apply to these Terms and Conditions.
12. **Non-discrimination.** This Buyer and Supplier shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a), only if and as applicable, which 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, or national origin and require that covered parties take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
13. **Limitation of Liability.** In no event shall Buyer's total aggregate liability to Supplier exceed the sum of all amounts paid by Buyer to Supplier under the terms of these Terms and Conditions and/or Purchase Order. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL BUYER BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, COVER, PUNITIVE OR INDIRECT DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR LOST SAVINGS) EVEN IF SUPPLIER HAS ADVISED BUYER OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE.
14. **Data Security and Privacy.** The following definitions apply in this clause **Error! Reference source not found.:**
Controller, Processor, Data Subject, Personal Data a Personal Data Breach, processing and appropriate technical an organisational measures: as defined in the Data Protection Legislation.
Data Protection Legislation: means the applicable definition in the relevant piece of personal data protection legislation which may include: (i) EU Regulation 2016/679 ("GDPR"); (ii) any laws or regulations ratifying, implementing, adopting, supplementing or replacing the GDPR; (iii) US data privacy laws (CCPA, CDPA etc. as applicable); and (iv) any laws and regulations implementing or made pursuant to EU Directive 2002/58/EC, as amended by 2009/136/EC (including, in the UK, the Privacy and Electronic Communications (EC Directive) Regulations 2003); in each case, as updated, amended or replaced from time to time.
 - a. Both parties will comply with all applicable requirements of the Data Protection Legislation.
 - b. The parties acknowledge that for the purpose of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor.
 - c. The Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Agreement: (i) Process the Personal Data only on the documented written instruction of the Buyer unless the Supplier is required by domestic law to otherwise process that Personal Data; (ii) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Buyer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it); (iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and (iv) If the data processing involves an international transfer, and if the data importer is situated outside the EU/EEA in a country for which the EU Commission has not issued an adequacy decision, based on art. 45 of the GDPR, the Parties undertake to observe and apply the provisions of the contractual clauses annexed to the European Commission's Implementing Decision 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council; and/or in respect of UK Personal Data, the international data transfer addendum to the European Commission's standard contractual clauses for international data transfers adopted pursuant to or permitted under the UK GDPR.
 - d. notify the Buyer without undue delay on becoming aware of a Personal Data breach;
 - e. at the written direction of the Buyer, delete or return Personal Data and copies thereof to the Buyer on termination of the Agreement unless required by domestic law to stall the Personal Data.
15. **Legal Compliance.** Supplier agrees to comply with all applicable federal, state, local, national and international laws, statutes, ordinances, regulations, and codes, including but not limited to those relating to anti-corruption, export controls, , labor, environmental, and health and safety laws, in the performance of its obligations under these Terms and Conditions, as well as any other policies and/or codes of conduct provided by Buyer (including Buyer's [Supplier Code of Conduct](https://us.moodmedia.com/wp-content/uploads/2025/05/P016-Mood-Media-Supplier-Code-of-Conduct-Website.pdf) available at <https://us.moodmedia.com/wp-content/uploads/2025/05/P016-Mood-Media-Supplier-Code-of-Conduct-Website.pdf>), which may be updated from time to time.

16. **Transitional Support.** Without affecting any other right or remedy available to it, the Buyer may terminate the Agreement with immediate effect by giving written notice to the Supplier if there is a change of control of the Supplier or for convenience by giving the Supplier 1 months' written notice. Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if (i) the other party commits a material breach which is irremediable or (if such breach is remediable) to remedy that breach within a period of 30 days after being notified to do so; (ii) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, and less for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or (iv) the other party suspends or threatens to suspend or ceases or threatens to cease to carry on all or a substantial part of its business. Upon termination or expiration of any agreement, or end of life of product or service, for hardware, software or SaaS services, Supplier shall provide reasonable assistance to Buyer to transition equipment, services and data to a replacement provider or Buyer's internal systems, if requested.
17. **Time is of the Essence.** Time is of the essence in the performance of the parties' respective obligations set forth in these Terms and Conditions and all the terms, provisions, covenants, and conditions hereof. If required dates cannot be met by Supplier, Supplier must notify Buyer immediately and communicate in order to reach a new date which is agreeable to Buyer. Notwithstanding the foregoing, Buyer's acceptance or agreement to an alternative date will not impact any of Buyer's rights or remedies under these Terms and Conditions.
18. **Severability.** If any provision of these Terms and Conditions is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such provision shall be eliminated or limited to the minimum extent necessary so that the remaining provisions of these Terms and Conditions remain in full force and effect and enforceable. The parties agree to negotiate in good faith to replace any invalid, illegal, or unenforceable provision with a valid, legal, and enforceable provision that achieves, to the greatest extent possible, the economic, business, and other purposes of the invalid, illegal, or unenforceable provision.
19. **No partnership or agency.** Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorize either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
20. **Entire agreement.** The 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.
21. **Third party rights.** Unless it expressly states otherwise, the Agreement does not give rise to any rights to third parties to enforce any term of the Agreement.
22. **Notice.** All notices to be given hereunder shall be given by recorded delivery or traceable mail service and shall be deemed given 2 (two) Business Days after posting