



## PURCHASE ORDER TERMS AND CONDITIONS

### Introduction; Applicable Terms.

(A) These Purchase Order Terms and Conditions ("**Terms and Conditions**") together with a Purchase Order form an "**Agreement**" between the Boston Dynamics entity specified on the Purchase Order ("**Boston Dynamics**") and the supplying party specified on the Purchase Order ("**Supplier**") for the purchase of all Products or Services provided by Supplier, directly or indirectly, to or for Boston Dynamics, under the applicable Purchase Order. Supplier together with Boston Dynamics are sometimes referred to herein as the "**Parties**" or each individually as a "**Party**."

(B) No terms other than the Agreement, including any proposal or other document from Supplier that includes different or additional terms that vary from the terms of the Agreement, will apply to Supplier's provision of Products or Services, except to the extent that there is a valid agreement between the Parties pertaining to the subject matter of the Purchase Order, and such agreement is not a credit application, quote or order form. Any reference contained in a Purchase Order to Supplier's quote or any other document does not imply acceptance of any term, condition or instruction therein, but is solely to incorporate the description or specifications of the Products or Services to be supplied to Boston Dynamics, and only then to the extent that such description or specifications are not in conflict with the description or specifications contained in such Purchase Order. Written acceptance of a Purchase Order, commencement of performance of any work or Services pursuant to a Purchase Order or delivery of Products or Services under a Purchase Order, shall constitute Supplier's acceptance of these Terms and Conditions. If there is a conflict between these Terms and Conditions and any Purchase Order, the Terms and Conditions will govern.

### 1. Definitions.

1.1 "**Background IP**" means all Intellectual Property owned, licensed, or developed by a Party: (A) before Supplier performs Services, or (B) outside the scope of the Agreement.

1.2 "**Business Day**" means any day except, Saturday, Sunday and any day which is a legal holiday in the Commonwealth of Massachusetts.

1.3 "**Defect**" or "**Defective**" means failure to meet the warranties in Sections 7.2(A) through 7.2(D).

1.4 "**Deliverables**" means any work product (including third party material) provided by Supplier pursuant to Services under a Purchase Order.

1.5 "**Developed IP**" means any IP (other than Background IP) created or discovered by Supplier or Boston Dynamics during its performance under the Agreement.

1.6 "**Intellectual Property**" or "**IP**" means anything protectable by, or any embodiment of, an Intellectual Property Right.

1.7 "**Intellectual Property Rights**" means all rights associated with or arising out of any of the following in any jurisdiction throughout the world: (a) all U.S. and foreign patents, identified invention disclosures, and all related reissuances, divisionals, provisionals, continuations, continuations-in-part, revisions, renewals, extensions (including all supplementary protection certificates), and reexaminations thereof, and all applications and registrations therefor; (b) all Trade Secrets and corresponding rights in trade secrets, Confidential Information and other non-public information (whether or not patentable), including ideas, formulas, compositions, inventor's notes, discoveries and improvements, know-how, manufacturing and production processes and techniques, practices, methods, design manuals, testing information (including testing protocols and results), research and development information, prototypes, inventions, invention disclosures, developments, unpatented blueprints, drawings, specifications, designs, plans, proposals and technical data, business and marketing plans, market surveys, market know-how and customer lists and information, including all tangible embodiments of the foregoing; (c) all registered or unregistered copyrights, copyrightable works, rights in databases, data collections, "moral" rights, mask works, copyright registrations, applications and extensions thereof and corresponding rights in works of authorship or any subject matter protected by related rights, including all works of authorship under Section 102 of Title 17 of the United States Code, under the copyright and related rights laws of every country and jurisdiction throughout the world, now or hereafter known, whether registered or unregistered, for their



entire term of protection, including all extensions, licenses, renewals or reversions thereof; (d) all trademarks, service marks, names, corporate names, logos, domain names, slogans, trade dress and trade names, design rights, and other similar designations of source or origin (whether registered, common law, statutory or otherwise), all registrations and applications to register the foregoing anywhere in the world and all goodwill associated therewith; and (e) all computer software and code, including assemblers, applets, compilers, source code, object code, executables, development tools, design tools, utilities, library files, user interfaces and data, and all documentation and manuals related to such computer software and code in any form or format, however fixed.

1.8 **"Personnel"** means Supplier (if an individual) and all employees and agents of Supplier and its subcontractors and agents.

1.9 **"Product"** means product, including hardware and software, sold or licensed by Supplier, including any Deliverables.

1.10 **"Purchase Order"** means a purchase order (including any incorporated attachments) for Product or Services submitted to Supplier by Boston Dynamics.

1.11 **"Services"** means services provided by Supplier.

1.12 **"Specifications"** means those specifications (if any) identified in a Purchase Order or as the Parties may otherwise agree to in writing.

1.13 **"Tax(es)"** means all government-imposed sales taxes and duties, except for taxes based on Supplier's or Personnel's net income, net worth, asset value, property value, or employment.

1.14 **"Third Party Materials"** means any information or materials owned by a third party or any open source materials.

1.15 **"Transfer Law"** means: (A) applicable law implementing Council Directive 2001/23/EC; and (B) any other laws, directives, regulations, and rules implementing provisions to safeguard and transfer employee rights on a change in service provider, in any jurisdiction applicable to Supplier and the Services under the Agreement.

1.16 **"Warranty Period"** means, for any Product or Service, the greater of (a) Supplier's standard warranty period offered for such Product or Service and (b) the 12 month-period starting on the date that Boston Dynamics accepts a Product or Service.

## **2. Ordering Product and Services.**

2.1 **Purchase Orders.** Boston Dynamics may submit Purchase Orders in writing, including electronic transmission. Unless the Parties mutually agree otherwise in writing, Purchase Orders will state prices, delivery dates, and delivery locations for Products and Services.

2.2 **Changes.** Boston Dynamics may reschedule Products or Services, change the delivery destination for Products in any Purchase Order, change the Services provided under any Purchase Order, or cancel any Purchase Order upon written notice to Supplier at any time before the scheduled delivery or completion date, as applicable, at no cost to Boston Dynamics, except that if requested changes materially increase or decrease the cost to provide Products or Services, the Parties will negotiate an appropriate adjustment to their obligations under the Purchase Order. Supplier will not unreasonably withhold or delay agreement to any change requested by Boston Dynamics.

2.3 **Cancellation.** Supplier will stop work on the applicable Purchase Order immediately upon receipt of a cancellation notice from Boston Dynamics. If Boston Dynamics cancels a Purchase Order for Services before the scheduled delivery date, Supplier may invoice Boston Dynamics 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 Boston Dynamics all Deliverables and work-in-progress that are the subject of such invoice.

## **3. Delivery.**

### **3.1 Product.**

(A) **Delivery Terms; Title Transfer.** Unless otherwise specified in the Purchase Order, Supplier will deliver Products DDP (Incoterms 2020) to the delivery destination stated in the Purchase Order. Title and risk of loss for such Products shall transfer from Supplier to Boston Dynamics at the delivery

destination upon receipt and acceptance by Boston Dynamics or its designee.

(B) Product Packing. Supplier will package Products according to any reasonable instructions Boston Dynamics provides in a Purchase Order, and if none are provided, then according to good commercial practice to ensure safe arrival of the Products.

(C) Trade Compliance. When Supplier is responsible for exporting or importing Product, Supplier will obtain all authorizations and permits necessary to fulfill all applicable government requirements for Product shipment.

(D) Import/Export Information. Upon Boston Dynamics' request, Supplier will provide Boston Dynamics with any information Boston Dynamics reasonably requests regarding Product importation, exportation or distribution.

(E) Advance Delivery. Boston Dynamics may refuse any delivery made more than 5 days before the delivery date and Supplier will re-deliver the Product on the correct date at Supplier's expense.

(F) Late Delivery. Time is of the essence for all Supplier's delivery obligations under the Agreement; the quantities specified in the Purchase Order must be delivered within the period specified therein. If a Product shipment (or part of a shipment) is likely to be delayed, Supplier will: (a) promptly notify Boston Dynamics in writing and immediately propose a new delivery date, (b) use commercially reasonable efforts to expedite delayed Product at Supplier's expense, and (c) issue Boston Dynamics a discount or refund on the purchase price for Product delivered late, unless otherwise agreed by the Parties. Boston Dynamics may also (i) cancel without liability the applicable SOW or Purchase Order or portions thereof for late Product not yet delivered, or (ii) cover for late Product by sourcing products from another supplier, at Supplier's reasonable expense.

3.2 Services. Supplier will:

(A) develop, test, and deliver to Boston Dynamics the Services and all Deliverables in accordance with the applicable Purchase Order, and, if requested by Boston Dynamics, provide Boston Dynamics with supporting documentation evidencing Supplier's testing, and all assistance necessary for Boston Dynamics to fully inspect the Services and Deliverables;

(B) provide all materials, equipment, and Personnel necessary for performing the Services unless stated otherwise in the Purchase Order;

(C) provide Boston Dynamics with status reports regarding Supplier's progress on the Services and Deliverables, at the frequency requested by Boston Dynamics; and

(D) comply with all applicable Boston Dynamics policies if and when Supplier is at Boston Dynamics' facilities.

#### **4. Inspection and Acceptance; Rejection; Defect Replacement.**

4.1 Inspection and Acceptance. Boston Dynamics shall have a reasonable time after the receipt of Products or Services to inspect them for conformity to the applicable Purchase Order and Specifications. Products and Services received prior to Boston Dynamics' inspection shall not be deemed accepted prior to such inspection and acceptance. Payment to Supplier for Products or Services will not be treated as their acceptance by Boston Dynamics.

4.2 Rejection. Boston Dynamics may reject any Product or Service that does not conform to the applicable Purchase Order and Specifications. Boston Dynamics will return nonconforming Products and Deliverables at Supplier's expense, and Supplier will immediately replace returned Products or re-perform the applicable Services at its expense, including all freight costs.

4.3 Defect Replacement; Service Re-performance.

(A) For any Product, Service or Deliverable that is discovered Defective during the Warranty Period, Supplier will, at its expense (including all transportation costs and Taxes) and at Boston Dynamics' option,

(1) replace or repair the Defective Product or Deliverable, re-perform the Defective Services, and re-deliver such repaired, replaced or re-performed Products, Services or Deliverables to Boston Dynamics within a commercially reasonable time agreed to by Boston Dynamics,

(2) refund Boston Dynamics the Product purchase price within 30 days of receiving

Boston Dynamics' notice that a Product, Service or Deliverable is Defective, or

(3) reimburse Boston Dynamics for the reasonable cost to have the Product or Deliverable repaired or the Services re-performed, within 30 days after receiving Boston Dynamics' invoice.

(B) Supplier is responsible for all costs, damages, and liabilities incurred by Boston Dynamics as a result of Defective Products, Services and Deliverables.

(C) All Products and Deliverables undergoing repair will at all times remain Boston Dynamics' property.

(D) Supplier warrants replacement Products and Deliverables for the longer of (1) 90 days following Boston Dynamics' acceptance of the replacement Product or Deliverable and (2) the remainder of the original applicable Warranty Period.

## **5. Intellectual Property Rights.**

5.1 Software. The following terms apply as relevant to Boston Dynamics' license of any software (including all updates, revisions, error corrections, and subsequent versions thereof, "**Software**") pursuant to the Agreement:

(A) License Grant and Limitations. Supplier grants to Boston Dynamics and Boston Dynamics' contractors, consultants, and/or agents, a nonexclusive, transferable, worldwide, royalty-free, fully paid, perpetual license (unless specified otherwise in an ordering document) to use, display and reproduce the Software. Supplier reserves all rights not expressly granted to Boston Dynamics herein. Boston Dynamics shall not decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Software except as permitted by law or the Agreement.

(B) Title to Software. Supplier retains title and intellectual property rights to the Software provided hereunder, and does not convey any proprietary interest therein to Boston Dynamics other than the license specified above. Notwithstanding anything to the contrary included in the Agreement, all right, title and interest in and to the following shall vest in Boston Dynamics and shall be the sole and exclusive property of Boston Dynamics, and Boston Dynamics does not convey any proprietary interest therein to Supplier: (a) any data used in combination with the Software; (b) all output derived from the use of the Software; and (c) any additional computer programs that Boston Dynamics develops to operate in combination with the Software for purposes of, including but not limited to, interoperability with Boston Dynamics or third party systems, technology and/or software and/or development of application programming interfaces.

(C) Software Warranties. In addition to, and without limiting the warranties set forth in Section 7, Supplier represents and warrants that: (a) all Software shall conform in all respects to all applicable documentation; (b) any disk(s) or other media on which the Software is recorded will be free from defects in materials and workmanship under normal use and service for the Warranty Period; (c) the Software and documentation are not subject to any open source or third party licenses that would impose any obligations, encumbrances, royalties, restrictions or requirements on Boston Dynamics; (d) the Software is free of any and all viruses, Trojan horses, trap doors, protecting codes or any other internal components, devices or mechanisms which are intended to: (i) cause the Software to perform any material functions other than those described in the documentation provided to Boston Dynamics; (ii) halt, disrupt, limit access or grant improper access to or sabotage the Software or any other system, process or device; or (iii) reveal any data or other information accessed through or processed by the Software or other systems, processes or devices without the user's consent; and (e) the remedies set forth in Section 4 shall apply to any defective or non-conforming Software provided hereunder.

(D) Limitations. Nothing in the Agreement grants a Party any license, right, or interest in the other Party's trademark(s), trade name(s) or service mark(s). Neither Party will alter or modify any proprietary rights notices on the other Party's IP.

5.2 Deliverables.

(A) Ownership. Subject to Supplier's Intellectual Property Rights in any of Supplier's

Background IP incorporated in any Deliverables (and any applicable third parties' Intellectual Property Rights in Third Party Materials approved by Boston Dynamics in accordance with Subsection (D)):

- (1) Title to the Deliverables will transfer to Boston Dynamics upon delivery.
- (2) Boston Dynamics owns any Developed IP.
- (3) To the extent that Supplier or any of its Personnel, own any rights in the

Developed IP, Supplier assigns (or will procure assignment of) all rights (including Intellectual Property Rights), title, and interest in the Developed IP to Boston Dynamics. If applicable law prevents future assignments, Supplier will assign (or will procure the assignment of) such rights as these are created.

(4) If applicable law prevents Supplier from transferring ownership of any Developed IP to Boston Dynamics, Supplier grants Boston Dynamics a perpetual, irrevocable, exclusive, royalty-free, fully-paid, transferable, worldwide license (with the right to sublicense) to make, use, import, offer for sale, sell, export any component of, reproduce, prepare derivative works of, distribute, publicly perform, and publicly display the Developed IP.

(5) If requested by Boston Dynamics, Supplier will timely perform all acts reasonably necessary to accomplish the assignments and other transactions specified in the Agreement.

(6) Supplier will not assert, and to the extent permitted by applicable law, otherwise waives, any moral rights in the Deliverables and Developed IP, and will ensure that all Personnel, and other third parties who have moral rights in the Deliverables will also not assert, and to the extent permitted by applicable law, will waive, those moral rights.

(B) Supplier Background IP License. If Supplier includes any Supplier Background IP in any Deliverable, Supplier must describe such Background IP in writing, and Supplier grants to Boston Dynamics and its affiliates a perpetual, irrevocable, non-exclusive, royalty-free, fully-paid, worldwide license (with the right to sublicense) to:

(1) reproduce, prepare derivative works of, distribute, publicly perform, publicly display, and otherwise use the Supplier Background IP, in connection with the Deliverables and Developed IP; and

(2) make, use, sell, offer for sale, import, export any component of, and otherwise dispose of the Supplier Background IP, in connection with the Deliverables and Developed IP.

(C) Boston Dynamics Resources License.

(1) License. If Boston Dynamics provides Supplier with any Boston Dynamics Background IP or Developed IP, software, equipment, tooling, or other materials in connection with the Agreement to provide Services ("**Boston Dynamics Resources**"), Boston Dynamics grants Supplier a limited, non-exclusive, non-transferable, royalty-free license (with the right to sublicense only to its subcontractors authorized by Boston Dynamics under Section 11.7) to use those Boston Dynamics Resources solely for the purpose of, and only to the extent needed for, performing Services or developing Deliverables for Boston Dynamics.

(2) Conditions. Supplier will be responsible for the use and protection of the Boston Dynamics Resources and will, at Boston Dynamics' option, replace or reimburse Boston Dynamics for the replacement cost of any Boston Dynamics Resources lost or damaged before its return to Boston Dynamics.

(3) Return. Supplier will return the Boston Dynamics Resources to Boston Dynamics immediately after provision of all Deliverables and Services or any termination of the Agreement.

(D) Third Party Materials. Supplier will not incorporate any Third Party Materials into any Deliverable without Boston Dynamics' prior written approval of such incorporation and any applicable license terms.

(E) Background IP Limitations. Nothing in the Agreement grants a Party any license, right, or interest in the other Party's Background IP under the Agreement, except for the licenses granted in this Section.

## 6. Payment.

### 6.1 Invoice Issuance and Payment.



(A) Supplier will invoice Boston Dynamics upon Boston Dynamics' acceptance of the Products and Services by submitting invoices to Boston Dynamics as set forth in the applicable Purchase Order.

(B) Except as specifically stated in the Purchase Order, Supplier will be responsible for all costs it incurs in connection with providing the Services, including Personnel expenses.

(C) Boston Dynamics will pay any undisputed portion of an invoice for accepted Products or Services within Net 30 days following the later of: (1) delivery of the Products or completion of Services, and (2) receipt of a correct invoice by Boston Dynamics' accounts payable department. Correct invoices must include Purchase Order number, complete bill-to address, Product part numbers and quantities, description of Products or Services, unit prices, applicable taxes or other charges, and extended totals.

(D) Boston Dynamics is not obligated to pay any invoice submitted 180 days or more after a Product is shipped or Service is completed.

(E) In addition to other rights and remedies Boston Dynamics may have under the Agreement, Boston Dynamics may offset any payment obligations to Supplier that Boston Dynamics may incur under the Agreement against any fees owed to Boston Dynamics and not yet paid by Supplier under the Agreement or any other agreement between Supplier and Boston Dynamics.

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

6.3 Taxes.

(A) Invoicing, Payment and Withholding. Prices do not include any applicable Taxes. Boston Dynamics will pay itemized, correctly-stated Taxes for applicable Products or Services, unless Boston Dynamics provides Supplier with a valid Tax exemption certificate. If legally required, Boston Dynamics will withhold Taxes from its payments to Supplier and provide a withholding Tax certificate.

(B) VAT/GST Invoice. Boston Dynamics will only be required to pay value-added tax or goods and services tax on receipt of a valid value-added tax or goods and services tax invoice that meets all of the relevant tax authority's requirements (to allow Boston Dynamics to obtain relief from such tax if such relief procedure is available).

6.4 Late Payment. Supplier may charge interest at the rate of 2% per annum above the base rate of Barclays Bank PLC from time to time, from the due date until the date of actual payment, whether before or after judgment, on any amount which is overdue under the Agreement.

## **7. Representations and Warranties.**

7.1 Mutual. Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the laws of its place of organization, as applicable; (b) it has full power and authority to enter into and fulfill its obligations under the Agreement, and the execution, delivery and performance of the Agreement and the transactions and other documents contemplated thereby have been duly authorized by all necessary action on the part of such Party; and (c) it will comply with all applicable laws, rules, and regulations in fulfilling its obligations under the Agreement.

7.2 Supplier. Supplier represents and warrants that:

(A) Specifications. The Products and Services will comply with their Specifications and will be of satisfactory quality and reasonably fit for any purpose made known to Supplier.

(B) Products. Products 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 during the Warranty Period.

(C) Services. Services will be completed in a professional, workmanlike manner, with the degree of skill and care that is required by current, good, and sound professional procedures, and free from defects in materials and workmanship during the Warranty Period.

(D) License Rights; No Claims. Supplier (1) owns or has properly licensed all Products and Services provided by Supplier under the Agreement and Boston Dynamics will acquire good and clear title thereto, and (2) has no knowledge of any unresolved claims, demands, or pending litigation alleging that

the Products or Services infringe or misappropriate any Intellectual Property Rights of any third party.

(E) Pass-Through. Supplier will, to the extent it is contractually permitted to do so, provide to Boston Dynamics the benefits of manufacturers' or suppliers' warranties and guarantees for material or equipment incorporated into the Products or Services, and will perform its responsibilities so that such warranties or guarantees remain in full effect.

(F) Confidentiality. Supplier and Personnel will (1) keep confidential the terms of the Agreement and all non-public and proprietary Boston Dynamics information, and will only use such information to provide Products and Services under the Agreement, and will not disclose such information except to the extent required by law after giving reasonable notice to Boston Dynamics, if permitted by law; and (2) not use in providing Products or Services or disclose to Boston Dynamics any materials or documents of another party considered confidential or proprietary unless it has obtained written authorization from that party and Boston Dynamics.

(G) Insurance. Supplier will maintain at all times while performing under the Agreement, insurance (including as required by law) with a reputable and financially responsible carrier(s) with adequate coverage for losses and risks that could arise from the Products and Services provided under the Agreement, including in the following areas: (1) general liability and property damage, (2) workers compensation, including employer's liability coverage; (3) cyber liability and technology errors and omissions; (4) commercial auto liability; and (5) additional insurance areas and limits as Boston Dynamics may reasonably require.

(H) Compliance with Law. Supplier represents and warrants that in the performance of the Agreement, it will comply with, and cause its employees and agents to comply with, all applicable statutes, laws, rules and regulations, orders of the United States, foreign countries, and any state or political subdivision thereof. This includes, but is not limited to, compliance with laws and regulations pertaining to anti-bribery, conflict minerals, the environment (including meeting the requirements of RoHS EC-guideline 2002/957EG and the REACH regulation (EC) no. 1907/2006), labor (including forced labor and the Uyghur Forced Labor Prevention Act enacted by the United States), wages, hours, and other conditions of employment, applicable to price ceiling, if any, and that the Products and Services delivered under the Agreement will be produced in compliance with the U.S. Fair Labor Standards Act. Supplier will further comply with those U.S. Federal Acquisition Regulations (FARs) that are made known to Supplier as being applicable to any of Boston Dynamics' orders for Products and Services.

(I) Compliance with Boston Dynamics' Procedures, Policies, and Code of Conduct. Supplier and Personnel will comply with all procedures and policies provided by Boston Dynamics, including Boston Dynamics' environmental, health, safety, and security procedures, and related management systems when performing Services at Boston Dynamics facilities.

7.3 Personal Information Safeguards. Under the Agreement, Supplier will not receive, or have access to, use, process, or store Personal Information (as defined below). If, however, Supplier receives, or has access to, uses, processes, or stores Personal Information under the Agreement, then this Subsection will apply (in addition to Section 7.2(F)).

(A) **"Data Protection Law"** means: (1) the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 (as updated); (2) the California Consumer Privacy Act of 2018 (as updated); (3) any other applicable data privacy legislation or regulation; and (4) Boston Dynamics' privacy policy.

(B) **"Personal Information"** means any information relating to an identified natural person or a directly or indirectly identifiable natural person. Personal Information includes "Personal Data" as defined in Data Protection Law.

(C) To the extent Supplier receives, or has access to, uses or stores Personal Information under the Agreement, Supplier will:

- (1) immediately notify Boston Dynamics;
- (2) implement and maintain reasonable and appropriate administrative, physical, and technical safeguards to protect Personal Information against accidental loss, alteration, unauthorized disclosure, or access ("**Safeguards**"). Safeguards will meet or exceed relevant industry standards that

protect the security and privacy of Personal Information. Supplier will not permit access to Personal Information except to those who need to know it in order to perform under the Agreement and who are subject to a duty of confidentiality, and will ensure that any third party accessing Personal Information contract in writing to protect it with Safeguards at least as strong as Supplier's Safeguards;

(3) upon Boston Dynamics' instruction, either delete such Personal Information immediately or return it to Boston Dynamics in a secure manner and delete all remaining copies of Personal Information after such return and provide documentation of the deletion to Boston Dynamics;

(4) not use the Personal Information for any other purpose than compliance with its obligations under the Agreement unless required to do so by Data Protection Law applicable to Supplier, in which case Supplier will inform Boston Dynamics of that legal requirement before disclosure unless prohibited from doing so by applicable law;

(5) if Supplier has reason to believe that Personal Information is reasonably likely to have been accessed for an unauthorized purpose or by unauthorized persons (an "**Incident**"): (a) promptly notify Boston Dynamics by emailing; (b) reasonably assist Boston Dynamics in investigating and remedying any Incident and any related inquiry or claim; and (c) provide Boston Dynamics with reasonable assurance that Supplier has corrected all circumstances under Supplier's control that led to the Incident;

(6) assist Boston Dynamics in responding to individuals exercising their rights under Data Protection Law; and

(7) acknowledge that Supplier is aware processing or exporting Personal data in or from a member state of the European Union to a data recipient outside of the EEA subjects it to obligations under the European Data Protection Directive (Directive 95/46/EC of the European Parliament and the Council of 24 October 1995). Supplier represents and warrants it will not violate any laws, regulations, or frameworks, including Data Protection Laws, as applicable, and will not, by act or omission, place Boston Dynamics in breach of those laws.

#### 7.4 Personnel.

(A) Responsibility. Supplier is responsible for:

- (1) Personnel's acts and omissions;
- (2) staffing, instructing, and managing Personnel performing Services;
- (3) determining Personnel's compensation (i.e., any stated rates for Services provided are not wage rates);
- (4) any income tax withholding applicable to Personnel;
- (5) all costs associated with terminating Personnel, including costs arising under applicable law, costs arising under an agreement between Supplier and Personnel, and any costs incurred by Boston Dynamics as a result of such termination.

(B) Employment.

- (1) Unless Boston Dynamics agrees otherwise in writing, Supplier will only use employees to provide Services.
- (2) Supplier and Personnel will not be entitled to any compensation, stock, options, or other rights or benefits provided to Boston Dynamics employees, waive any right to them, and promise never to claim them.
- (3) Supplier will comply with all applicable employment and occupational health and safety laws and regulations, including those related to employment practices, wages, and worker classification.

(C) No Transfer of Employment. Boston Dynamics and Supplier intend that no Transfer Law will apply to the Services or the Agreement.

### 8. Indemnity.

8.1 Obligations. Supplier will defend, indemnify and hold harmless Boston Dynamics and its affiliates and vendors, and each of their respective directors, officers, and employees against all liabilities, damages, losses, costs, fees (including legal fees), and expenses relating to any third-party allegation or legal



proceeding (including action by a government authority) to the extent arising from any:

- (A) injury, death or property damage resulting, in whole or in part, from any negligent act or omission on the part of Supplier or which may result from the installation, operation or use of the Products or Services in accordance with Supplier's instructions;
- (B) Defect in the Products or Services;
- (C) allegation that use, possession, or sale of the Products or Services violates or infringes any third party's Intellectual Property Rights or any other rights;
- (D) violation of law by Supplier; or
- (E) allegation that any Personnel are entitled to employee compensation, benefits, or other rights or Transfer Law rights, except to the extent caused by Boston Dynamics' unlawful acts or omissions.

8.2 **Remedies.** If an injunction preventing continued use of any Products or Services is threatened or granted, Supplier will do the following at its sole expense:

- (A) procure the right to continue providing the Products or Services in compliance with the Agreement;
- (B) modify the Products or Services to make them non-infringing without materially reducing their functionality; or
- (C) replace the Products or Services with non-infringing, functionally-equivalent alternative.

8.3 **Control of Defense.** Boston Dynamics will tender sole control of the indemnified portion of the legal proceeding to Supplier. However, any settlement requiring Boston Dynamics to admit liability, pay money, or take (or refrain from taking) any action, will require Boston Dynamics' prior written consent.

## **9. Limitations of Liability.**

9.1 **Liability.** In this Section, "liability" means any liability, whether under contract, tort, or otherwise, including for negligence.

9.2 **Exclusion.** SUBJECT TO SECTION 9.4, IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THE AGREEMENT TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, LOSS OF TIME, SHUTDOWN OR SLOWDOWN COSTS, INCONVENIENCE, LOST BUSINESS OPPORTUNITIES, DAMAGE TO GOODWILL OR REPUTATION, OR OTHER ECONOMIC LOSS, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.

9.3 **Limitations.** Subject to Sections 9.2 and 9.4, each Party's aggregate liability arising out of or relating to the Agreement is limited to the greater of the amount payable by Boston Dynamics to Supplier under the applicable Purchase Order or USD \$1,000,000.

9.4 **Exceptions to Limitations.** Nothing in the Agreement excludes or limits either Party's Liability for:

- (A) death or personal injury resulting from its negligence or the negligence of its employees or agents;
- (B) a Party's obligations under Section 8;
- (C) fraud or fraudulent misrepresentation;
- (D) breach of any implied condition as to title or quiet enjoyment;
- (E) breach of Section 7.2(F) (Confidentiality) or 7.3 (Personal Information Safeguards);
- (F) infringement of the other Party's Intellectual Property Rights; or
- (G) matters for which liability cannot be excluded or limited under applicable law.

## **10. Termination.**

10.1 **Termination.**

- (A) Either Party may terminate the Agreement:
  - (1) immediately for breach of Section 7.2(F) or 7.3; and
  - (2) upon written notice if the other Party materially breaches any other provisions of

the Agreement and fails to remedy that breach within 30 days after written notice.

(B) Boston Dynamics may terminate the Agreement for convenience upon 45 days' written notice.

(C) Termination of the Agreement terminates all outstanding Purchase Orders effective as of the termination notice date, subject to Section 2.3.

10.2 Survival. Supplier's obligation to deliver non-cancelled Product and Sections 1, 2.3, 4, 5, 6, 7, 8, 9, 10.2, and 11 will survive any termination of the Agreement.

## 11. **General.**

11.1 Background Checks. To the extent applicable, Supplier will comply with the background check requirements set out in each applicable SOW.

11.2 Entire Agreement; Modification. The Agreement constitutes the entire agreement between Boston Dynamics and Supplier with respect to the subject matter hereof and may only be modified or amended in a writing signed by an authorized representative of each Party. All prior and contemporaneous proposals, negotiations, representations, understandings and agreements with reference to the subject matter of the Agreement are void and of no force or effect. Both Parties waive the future right to claim, contend or assert that the Agreement was modified, canceled, superseded or changed at any time and in any respect by any other means, including an oral agreement, course of conduct or by estoppel.

11.3 Notices. All notices, requests, consents, claims, demands, waivers and other communications under the Agreement shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the addresses provided on the Purchase Order (or at such other address for a Party as shall be specified in a notice given in accordance with this Subsection).

11.4 Governing Law and Jurisdiction. The Agreement will be governed by, and construed in accordance with, the laws of Massachusetts, excluding its conflict of laws rules that would cause the application of the laws of any jurisdiction other than Massachusetts. Any action to enforce any of the rights herein or interpret any provision hereof must be brought and adjudicated in a state or federal court located within Middlesex County, Massachusetts, and each Party irrevocably submits to the jurisdiction and venue of any such court. To the extent permitted by applicable law, the Parties agree to waive any right to trial by jury with respect to any claim, counterclaim or action arising from the terms of the Agreement. If the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act are otherwise applicable, the Parties expressly exclude them from applicability under the Agreement.

11.5 Records and Site Audit Rights. Supplier will maintain in reasonable detail accurate records relating to the Agreement. For a period of one year after the date of each Purchase Order, (A) Boston Dynamics or its third party auditor may audit Supplier's relevant records to confirm compliance with the Agreement, and (B) Supplier will promptly notify Boston Dynamics and provide Boston Dynamics with reasonably-requested information if a government authority audits Supplier's business related to the Products or Services.

11.6 Independent Contractors. The Parties are acting hereunder as independent contractors, and nothing herein shall be construed to imply a joint venture, partnership, employee or agency relationship between the Parties. Personnel supplied by either Party will be deemed employees of such Party

and will not for any purpose be considered employees or agents of the other Party. Each Party shall be solely responsible for the supervision, daily direction and control of its employees and payment of their salaries (including withholding of appropriate payroll taxes), workers' compensation, disability and other benefits. Neither Party shall have any right to enter into any contracts or commitments on behalf of the other Party without such other Party's prior written consent. Neither Party shall in any manner state, imply or indicate that such Party is a partner, joint venturer, authorized representative or agent of the other Party, except with respect to the express appointments set forth herein. Neither Party shall hold itself out as having authority to make contracts or promises on behalf of the other Party. In the event that either Party engages an independent contractor in connection with the Agreement, such Party shall in all instances remain responsible for the activities of such independent contractor with respect to the Agreement.

- 11.7 Subcontracting. Supplier may not delegate or subcontract any of its obligations under the Agreement without Boston Dynamics' prior written consent. Supplier will remain liable for all subcontracted obligations and all acts or omissions of its subcontractors.
- 11.8 Assignment. Neither Party may assign, transfer or convey any of its rights, duties or interest under the Agreement, or delegate any of the obligations or duties required to be kept or performed by it thereunder, without the other Party's prior written consent, which consent may not be unreasonably withheld or delayed; provided that a Party may assign the Agreement without consent by operation of law or otherwise to any successor to its business or assets to which the Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise, except to any competitor of the other Party. Any attempted assignment or transfer in violation of the foregoing shall be null and void. The Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns and shall not confer any rights or remedies upon any person or entity not a Party hereto, except where explicitly set forth therein.
- 11.9 Waiver. Either Party's (a) waiver of any performance by the other Party, (b) waiver of any condition of the Agreement, or (c) consent to any breach of the Agreement by the other Party, shall (i) be effective only if expressly set forth in a writing signed by the Party alleged to have waived or consented, and (ii) not constitute or require an ongoing waiver of such performance or condition, or consent to any previous, different or subsequent breach, regardless of whether such performance, condition or breach is similar, identical or related, and regardless of the course of dealing which develops or has developed between the Parties.
- 11.10 Severability. If any provision of the Agreement is held in any proceeding hereunder to be invalid, illegal or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality or unenforceability, or, if that is not possible, such provision shall, to the extent of such invalidity, illegality or unenforceability, be severed, and the remaining provisions of the Agreement shall remain in effect.
- 11.11 Force Majeure; Business Continuity. Neither Party will be liable for any failure or delay in its performance under the Agreement when such delay is due to any cause or event beyond its reasonable control, including acts of nature, fires, floods, earthquakes, acts of civil or military authorities, pandemics, epidemics, riots, wars, provided that the delayed Party: (a) gives the other Party written notice of such cause within 5 days of the discovery of the event; and (b) uses its best efforts to remedy such delay in its performance. Failure or lateness of Supplier's suppliers, subcontractors, or other contracts will not be deemed a cause beyond the reasonable control of Supplier, unless such failure or lateness was caused by an event that constitutes a "force majeure" hereunder and Supplier gives Boston Dynamics written notice of such cause within 5 days of the discovery of the event, and Supplier uses its best efforts to remedy such delay in its performance. If such performance is delayed for more than 30 days, the Party not experiencing the force majeure

event may terminate the applicable SOW or Purchase Order issued under the Agreement.

- 11.12 Equitable Relief. Each Party acknowledges that any breach of the Agreement that relates to (i) the use or disclosure of Confidential Information or (ii) any Intellectual Property Rights, may cause the non-breaching Party irreparable injury, for which the award of damages would not be adequate compensation. Consequently, the non-breaching Party may institute an action to enjoin the breaching Party from any acts in violation of those provisions, which remedy shall be cumulative and not exclusive, and a Party may seek entry of an injunction enjoining any breach or threatened breach of those provisions, in addition to any other relief to which the non-breaching Party may be entitled at law or in equity. Except as otherwise expressly provided herein, no remedy granted to either Party herein shall be exclusive of any other remedy, and each remedy shall be cumulative with every other remedy herein or now or hereafter existing at law, in equity, by statute or otherwise.
- 11.13 No Third Party Beneficiaries. The Agreement is intended for the exclusive benefit of the Parties; nothing herein shall be construed to create any benefits, rights or responsibilities in any of the Parties' Affiliates or any Third Party except where specifically set forth in the Agreement.
- 11.14 Captions and Headings. The Agreement's captions and headings are for convenience of reference only and shall not be deemed part of the Agreement or used as an aid in its construction.
- 11.15 Interpretation. Whenever any provision of the Agreement uses the term "including" (or "includes"), such term will be deemed to mean "including without limitation" (or "includes without limitations"). "Herein," "hereby," "hereunder," "hereof" and other equivalent words refer to the Agreement as an entirety and not solely to the particular portion of the Agreement in which any such word is used. The term "or" means "and/or" hereunder. The words "include," "includes" and "including" will be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Any definition of or reference to any agreement, instrument or other document herein will be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein). All definitions set forth herein will be deemed applicable whether the words defined are used herein in the singular or the plural. Unless otherwise provided, all references to Sections and Schedules in the Agreement are to Sections and Schedules of the Agreement. References to any Sections include Sections and subsections that are part of the related Section (e.g., a section numbered "Section 3.2" would be part of "Section 3," and references to "Section 3.2" would also refer to material contained in the subsection described as "Section 3.2(a)"). Unless otherwise stated, dollar amounts set forth in the Agreement are U.S. dollars.

**[END OF TERMS]**