

Numerator Purchase Order Terms and Conditions

These Numerator Purchase Order Terms and Conditions apply to the provision of products and services by Vendor (“Vendor”) to Market Track, LLC (“Company” or “Numerator”). Numerator and Vendor may be referred to individually as Party and collectively as Parties.

- 1. Definitions.** “Company” or “Numerator” means Market Track LLC dba Numerator, Numerator India Private Limited, and affiliates. “Vendor” means the vendor or seller identified on the Purchase Order and its affiliates. “Deliverables” means goods, materials, products, software, technical data, intellectual property, personnel, services, or items identified or listed in the Purchase Order for Numerator’s use.
- 2. Agreement.** These Purchase Order terms and conditions set forth the entire understanding between Numerator and Vendor and superseded (i) all prior agreements, written or oral, between Numerator and Vendor with respect to the subject matter of this purchase (except where the Parties have expressly agreed in a separate written agreement, in which case the terms and conditions of that written agreement apply and supersede these Purchase Order Terms and Conditions) and (ii) any additional or conflicting terms contained on Vendor’s acknowledgment, confirmation, invoice or similar documents.

If a Purchase Order states that a Deliverable is being licensed to Numerator by Vendor and such Purchase Order fails to outline the scope of the license applicable to such Deliverable, Vendor hereby grants to Numerator a royalty-free, worldwide, perpetual, sublicensable, transferable, and irrevocable license to use, reproduce, prepare derivative works, perform, display, make, have made, use, offer for sale, sell, market, import, and distribute such Deliverable.

- 3. Deliverable Acceptance.** Upon Numerator’s receipt of a Deliverable, or if Vendor provides implementation, installation, or other services for a Deliverable, upon the completion of such services, Numerator reserves the right to inspect and evaluate the items or services. Any nonconforming or defective Deliverable may be rejected, and the Vendor shall promptly replace or refund them. Failure to provide Deliverables in accordance with the applicable Purchase Order will be deemed a material breach of the Agreement. Payment for Deliverables, or receipt that the Deliverables shall not affect Numerator’s right to reject the Deliverables.
- 4. Prices.** The price for a Deliverable may not be higher than those shown on the Purchase Order unless such increased price has been expressly agreed to by Numerator in writing. Price is inclusive of applicable taxes, freight, all packaging and handling, transportation, and insurance unless explicitly indicated on the Purchase Order or agreed to in writing by Numerator.
- 5. Taxes.** Any tax, tariff, or duty which is imposed upon the Vendor by any government authority and included by the Vendor in the price shall be separately stated on the Vendor’s invoice(s).
- 6. Invoicing.** The Vendor will invoice Numerator for the amounts set forth in the applicable Purchase Order. Amounts not invoiced within 90 days following acceptance of the Deliverable will be deemed waived by Vendor.

- 7. Payment Terms.** Unless different payment terms are expressly stated on the Purchase Order, payment terms shall be sixty (60) days from Numerator's receipt of the Vendor's properly submitted invoice. A properly submitted invoice contains (i) Numerator's Purchase Order number, (ii) an itemized description of the Deliverables purchased, (iii) separate line items for any taxes or shipping charges as may be applicable itemized by country, and (iv) addressed to the email account set forth in the Purchase Order.
- 8. Remedies.** In the event a Deliverable fails to meet any of the warranties in the Agreement, Vendor must, at Vendor's expense and Numerator's election, immediately: (a) replace the Deliverable (and, if the Deliverable constitutes a service, re-perform such service), (b) modify the Deliverables, or (c) refund the fees paid by Numerator to Vendor for such Deliverable. The foregoing remedies are in addition to, and not in lieu of, any other remedies that Numerator may have in law or in equity.
- 9. Proprietary Rights.**
- a) Vendor agrees that all right, title, and interest in and to all work product, property, data, documentation, Deliverables, information, or materials conceived, discovered, developed, or created by Vendor pursuant to this Agreement (collectively, the "Work Product") shall be and remain the sole and exclusive property of Numerator. Immediately upon the creation of any Work Product, Vendor will disclose and deliver to Numerator all information and data in its possession, power, or control necessary for a full understanding, application, and, where applicable, registration of the Work Product. To the greatest extent possible, any Work Product shall be deemed to be a "work made for hire" (as defined in the United States Copyright Act, 17 U.S.C.A. Section 101 et seq., as amended) and owned exclusively by Numerator. Vendor hereby unconditionally and irrevocably transfers and assigns to Numerator all right, title, and interest in or to any Work Product.
 - b) "Intellectual Property Rights" means copyright, trade secrets, database rights, moral rights, patents, registered or unregistered design rights, registered or unregistered trademarks, and all other industrial, commercial or intellectual property in any jurisdiction in the world and all the rights to apply for the same along with any extensions and renewals thereof.
 - c) To the extent that any of the rights described above do not vest in Numerator by operation of law or under this Agreement, Vendor hereby exclusively, unconditionally, and irrevocably transfers and assigns all present and future Intellectual Property Rights in the Work Product, including, but not limited to, the exclusive use, marketing, and distribution rights to Work Product. Vendor irrevocably releases any and all rights it may have in the Work Product, now or in the future, including any Intellectual Property Rights therein. Vendor agrees to render to Numerator any and all assistance reasonably required to effectuate and protect Numerator's ownership rights provided herein, including, executing all applications relating to Intellectual Property Rights, domestic or foreign, assignments and other papers necessary to secure and enforce rights relating to the Work Product. Vendor irrevocably waives any and all moral rights or any rights to similar effect in any country or at common law that Vendor may have with respect to the Intellectual Property Rights, to the extent those rights have not been assigned above.
 - d) For the avoidance of doubt, the Parties agree that Vendor retains all ownership rights to Vendor Pre-Existing Intellectual Property Rights. To the extent that any Vendor Pre-Existing Intellectual Property Rights are contained in any Work Product or used in connection with the Services,

Vendor grants Numerator an irrevocable, non-exclusive, worldwide, perpetual, fully paid up license to use the Vendor Pre-Existing Intellectual Property Rights included in any Work Product or used in connection with the Services provided to Numerator in order to achieve the intended benefit of the Services or Work Product so provided.

- e) All Numerator information, property, and materials made available to Vendor in connection with this Agreement (“Numerator Materials”) shall be and remain the property of Numerator, and Vendor shall:
- i) use any Numerator Materials, including any Intellectual Property Rights contained therein, only as authorized in advance in writing for the specified purposes that Numerator so authorizes and for no other purposes whatsoever;
 - ii) keep the Numerator Materials in good order and condition;
 - iii) be responsible for any loss or damage to the Numerator Materials while in the possession or control of Vendor; and
 - iv) return the Numerator Materials to Numerator or otherwise dispose of it as directed by Numerator and by this Agreement.
 - v) All rights in Numerator’s trademarks, name, logo, service marks, product names, or other identifying names or marks shall remain exclusively with Numerator and Vendor shall acquire no right or interest therein. Except as explicitly set forth herein, neither this Agreement, nor the provision of Deliverables hereunder, will give either Party any license, ownership interest in or rights to the Intellectual Property Rights of the other Party.

10. Confidentiality.

a) The Vendor shall keep strictly confidential and not disclose to any person (except to its employees and individual contractors on a need-to-know basis for the purpose of performing this Agreement) any information that the Vendor receives or obtains in connection with this Agreement and that: (i) relates to the business or affairs of the Numerator or any of the Numerator's affiliates or clients; or (ii) is marked as confidential; or (iii) would appear to a reasonable person to be confidential or proprietary from the nature of the information or circumstances in which it was disclosed or obtained. Without limiting the foregoing, the Vendor shall use the same degree of care to protect such information as it uses to protect its own confidential information, but in no circumstances less than reasonable care.

b) The obligations in this Section 10 shall not apply to information that: (i) was already known to the Vendor without an obligation of confidentiality at the time the Vendor obtained the information under or in connection with this Agreement; (ii) is publicly known or becomes publicly known through no wrongful act of the Vendor; (iii) is approved for release by written authorization of Numerator; or (iv) is developed (now or in the future) independently by the Vendor without reference to the information acquired under or in connection with this Agreement.

c) The obligations in this Section 11 shall survive five years from the date of expiry or termination of this Agreement, except in the case of trade secret information, in which event the obligations shall survive in perpetuity.

11. Indemnification; Limitations of Liability.

- a) **Infringement Indemnity.** Vendor agrees to indemnify, defend and hold harmless Numerator, its clients, affiliates, successors and assigns and each of their respective officers, directors, employees, agents and servants (collectively, the “Indemnitees”) from and against any and all claims by third parties for damages, liabilities, penalties, fines, losses, costs and expenses including reasonable attorneys’ fees (collectively, “Losses”) arising from or relating to any claim or allegation that the Services and/or Deliverables violate, misappropriate or infringe any Intellectual Property Rights, or misappropriate any trade secret, of any third party or violate the terms of any third party software license contained within the Deliverables or any software provided as part of the Deliverables or Services.
- b) EXCEPT FOR A BREACH OF CONFIDENTIALITY OBLIGATIONS AND ANY INDEMNIFICATION OBLIGATIONS OF EACH PARTY, VENDOR’S AGGREGATE MAXIMUM LIABILITY TO THE OTHER UNDER THIS AGREEMENT AND ANY ORDER FORM, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, SHALL BE LIMITED TO THE FEES PAID BY CLIENT THAT APPLY TO SERVICES PROVIDED DURING THE PRECEDING TWELVE (12) MONTHS PURSUANT TO THE ORDER FORM UNDER WHICH SUCH LIABILITY AROSE. EXCEPT FOR A BREACH OF CONFIDENTIALITY OBLIGATIONS AND ANY INDEMNIFICATION OBLIGATIONS OF EACH PARTY, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, OR INCIDENTAL DAMAGES, SUCH AS DAMAGES FOR LOST PROFITS, BUSINESS FAILURE, BUSINESS INTERRUPTION OR LOSS, INACCURATE INFORMATION, OR LOSS OF INFORMATION OR COST OF COVER EVEN IF ADVISED OF THE POSSIBILITY OF SAME. THE FOREGOING LIMITATIONS SHALL REMAIN EFFECTIVE EVEN IF CLIENT’S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

12. Insurance. Vendor must obtain and maintain, at no expense to Numerator, all applicable and appropriate insurance (including, without limitation, business, workers’ compensation, auto, errors and omissions, professional and commercial general and liability insurance) in an amount consistent with Vendor’s industry practice including, but not limited to, insurance coverage of an amount no less than that reasonably required to repair or replace the Deliverable in the event of loss, damage, theft, or destruction. Upon request, Vendor must provide Numerator with evidence of such coverage before commencing performance under the Agreement.

13. General.

- a) **Changes and Amendments.** Changes to the Purchase Order must be mutually agreed upon in writing. The Vendor should promptly acknowledge and accommodate any approved changes.
- b) **Non-Restrictive Relationship.** Nothing in the Agreement will be construed to preclude Numerator or any of its Affiliates from independently developing or providing services or materials which may be the same as or similar to any of the Deliverables or related materials or from obtaining services or materials from a third party which are the same as or similar to any of the Deliverables and related materials being provided by Vendor under any Purchase Order.

- c) **Publicity.** The Vendor will not, without Numerator's prior written consent: (i) make any public announcement or statement that the Vendor provides or has provided goods and/or services to Numerator; or (ii) use the name, logo, trade mark or symbol of Numerator or any Numerator affiliate in any advertising, client lists, press releases, or promotional or marketing material.
- d) **Notices.** Notices provided hereunder must be in writing and sent by email or certified mail, in both cases return receipt is requested. Notices will be sent to the address of the recipient set out in the applicable purchase order.
- e) **Vendor Code of Conduct.** Vendor shall abide by the Numerator Vendor Code of Conduct.
- f) **Non-Discrimination.** Vendor and any subcontractors performing the services on behalf of Vendor shall not discriminate or permit discrimination against any person or group of persons on the basis of race, color, religion, national origin or ancestry, age, sex, sexual orientation, gender identity, marital status, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status, or in any manner prohibited by federal, state or local laws.