



# UTG INDEPENDENT CONTRACTOR AGREEMENT

THIS UTG INDEPENDENT CONTRACTOR AGREEMENT (this "Agreement") is entered into by and between Upwork Talent Group Inc. ("UTG"), a Delaware corporation with its principal place of business at 2625 Augustine Drive, Suite 601, Santa Clara, CA 95054, and Freelancer, as of the date Freelancer accepts this Agreement via the Site (the "Effective Date"). UTG and Freelancer are sometimes referred to collectively herein as the "Parties" and individually as a "Party." "Upwork Client" refers to [UPWORK ENTERPRISE COMPLIANCE CLIENT]. UTG and Freelancer agree as follows:

## 1. BACKGROUND AND INITIAL OBLIGATIONS.

### 1.1 Use of Platform.

UTG and Freelancer agree to use the marketplace for services owned and operated by Upwork Global Inc. ("Upwork") at the domain and sub-domains of <http://www.upwork.com> (the "Site") for the designation of, delivery of and payment for Freelancer's services under this Agreement. UTG and Freelancer specifically incorporate into this Agreement and agree to be bound by the Site's Terms of Service available at <https://www.upwork.com/legal/> ("Terms of Service"), as they may be amended from time to time. Capitalized terms not defined in this Agreement have the meanings given to them in the Terms of Service. To the extent that any provision of this Agreement conflicts with a provision of the Terms of Service, the applicable provision of this Agreement will control.

### 1.2 Identity of Freelancer.

The "Freelancer" is the self-employed individual or entity whose legal name and address are listed in the Tax Information section of the Account on the Site of the User accepting this Agreement via the Site.

- a. Any person who accepts this Agreement on behalf of a corporation, limited company or other legal entity represents and warrants that they accept this Agreement on behalf of such legal entity and that they have the legal authority and authorization to contractually bind that legal entity. A Freelancer that is a legal entity further represents and warrants that it is in good standing under the laws of the jurisdiction(s) where Freelancer conducts business and will promptly provide proof of its organization, registration and good standing upon request.
- b. If Freelancer was offered the Project as an Agency Member, Freelancer represents and warrants that it is accepting this Agreement on behalf of the Agency whose Agency Account it is associated with and that Freelancer has the legal authority and authorization to do so. In such cases, except as used in this paragraph, the term "Freelancer" in this Agreement refers to and includes the Agency.

### 1.3 Work for Upwork Client.

UTG has contracted with Freelancer to provide certain services or deliverables to the Upwork Client (the "Project"). Freelancer acknowledges and agrees that the Upwork Client is an express third-party beneficiary of this Agreement,

including without limitation the Arbitration Provision contained in section 15, below, having the right to enforce this Agreement in accordance with its terms.

## 1.4 UPWORK CLIENT CONFIDENTIALITY.

THE IDENTITY OF THE UPWORK CLIENT AND THE NATURE OF THE UPWORK CLIENT'S WORK ARE UPWORK CONFIDENTIAL INFORMATION AND THE UPWORK CLIENT CONFIDENTIAL INFORMATION UNDER THIS AGREEMENT. FREELANCER AGREES NOT TO DISCLOSE THIS INFORMATION AT ANY TIME, DURING OR AFTER THE PROJECT, WITHOUT ADVANCE WRITTEN APPROVAL BY THE UPWORK CLIENT.

## 1.5 The Project.

Freelancer agrees to complete the Project described in the contract offer on the Site related to this Project and to comply with all terms or specifications about the work to be completed agreed to by Freelancer on the Site (collectively, "Project Terms"). Freelancer further agrees that Project Terms are incorporated into this Agreement by this reference.

## 1.6 Use of the Upwork Site.

Freelancer agrees to use the Site, including Upwork Messages, for any communications with UTG, to record time spent working on hourly contracts, to request payment for contract milestones, and to submit any other invoice under this Agreement. Freelancer further understands and agrees that in order to receive payment for the Project all invoicing and payment must be completed through the Site.

## 1.7 Upwork Enterprise.

Freelancer agrees that Freelancer's profile may be included in the Upwork Client's Talent Cloud network on the Site for future consideration by the Upwork Client.

## 1.8 Upwork Enterprise Compliance.

For clarity, and for the avoidance of doubt, this Independent Contractor Agreement exclusively applies to Upwork Enterprise Compliance clients where UTG is the agent of record.

# 2. PROJECT AND PERFORMANCE OF SERVICES.

## 2.1 Project Work Product.

Freelancer agrees to complete the Project specified by the Upwork Client in the Project Terms and to deliver the Work Product (defined below) to the Upwork Client by any deadline(s) set forth in the Project Terms or such other time as Freelancer may agree. UTG will pay Freelancer for Work Product in accordance with this Agreement and the Project Terms. As used in this Agreement, the term "Work Product" means any and all work and work product developed by Freelancer in completing the Project or delivered to the Upwork Client in performing the Project. This Agreement is only for the Work Product completed in accordance with this Agreement, and UTG will not pay Freelancer a regular salary or any minimum regular payment.

## 2.2 Performance of Services.

Freelancer will perform the services necessary to complete the Project in a timely and professional manner, consistent with industry standards, at a location, place and time (including specific hours), that Freelancer deems appropriate. Freelancer has the sole right to determine and control, and will determine and control, the manner and means of performing the Project. In completing the Project, Freelancer will provide and use Freelancer's own equipment, tools, and other materials at Freelancer's own expense. UTG is the agent of record for contracting purposes and is not involved in Freelancer's work performance or completion of the Work Product. Freelancer is not performing services for this Project on Upwork's behalf. Freelancer will perform the Project Terms without training from UTG or Upwork Client regarding the project performance. Freelancer will not perform services at UTG's physical business location. Freelancer will not include in the Work Product any material that is owned by, copyrighted by, or that requires licensing, permission or authorization from a third party without the advance written permission of the Upwork Client.

## 2.3 Agreements with Upwork Client.

Freelancer acknowledges that Freelancer has contracted to perform work for the Upwork Client, and that material conditions of UTG agreeing to contract with Freelancer are that Freelancer maintain the Upwork Client's confidentiality and that the Upwork Client owns all Work Product created by Freelancer while providing services to the Upwork Client, all as provided in this Agreement. Freelancer acknowledges that Upwork Client may require Freelancer to enter into a direct agreement addressing confidentiality and Work Product obligations as a condition to accepting the Project and performing services under it. In such instances, Freelancer agrees that it will not accept any Project from the Upwork Client or otherwise provide any services to Upwork Client unless and until Freelance reviews, accepts and enters into any such direct agreement required by the Upwork Client.

## 3. COMPENSATION.

UTG will, subject to the terms and conditions of this Agreement, pay Freelancer the fee specified in the Project Terms. Payment will be made by UTG to Freelancer through the Site in accordance with the applicable provisions of the Terms of Service. Freelancer agrees that UTG will make payment under this section provided the Upwork Client's account is current at the time the Freelancer's payment is due. Freelancer also agrees that the Upwork Client is responsible for payment of the fee specified in the Project Terms if the Upwork Client's account is terminated or suspended. Freelancer will be responsible for all expenses incurred in performing services under this Agreement.

## 4. INDEPENDENT CONTRACTOR RELATIONSHIP.

Freelancer's relationship with UTG, the Upwork Client and any of their parents, subsidiaries, affiliates, or successors will be that of an independent contractor, and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship.

### 4.1 No Employment or Agency.

Freelancer acknowledges and agrees that Freelancer (a) is not an employee of UTG, the Upwork Client or any of their parents, subsidiaries, affiliates, or successors; (b) is not the agent of UTG, the Upwork Client or any of their parents, subsidiaries, affiliates, or successors; (c) is not authorized to make or hold itself out as authorized to make any statement, representation, contract, or commitment on behalf of UTG, the Upwork Client or any of their parents, subsidiaries, affiliates, or successors; and (d) is not and will not be entitled to any of the benefits that UTG, the Upwork Client or any of their parents, subsidiaries, affiliates, or successors makes available to its employees, such as group insurance, stock plans, profit-sharing or retirement benefits (and waives the right to receive any such benefits).

## 4.2 Tax and Regulatory Compliance.

Freelancer is and will at all times remain solely responsible for all tax returns and payments required to be filed with or made to any national, federal, state, or local tax authority with respect to Freelancer's performance of services and/or receipt of fees under this Agreement. If applicable, UTG will report amounts paid to Freelancer by filing a Form 1099 with the Internal Revenue Service (IRS), as required by law. Freelancer agrees to complete the tax information fields on the Site and, as requested by UTG, to complete an IRS Form W-9, Form W-8 or other tax form. Freelancer accepts sole and exclusive liability for complying with all applicable national, federal, state, provincial and local laws, including laws governing self-employed individuals and other businesses, such as laws related to payment of taxes, social security, disability, and other contributions based on fees paid to Freelancer under this Agreement. Where such coverage is required by law, Freelancer represents and warrants that Freelancer has appropriate workers' compensation coverage or, if it does not already have such coverage, agrees to obtain coverage before beginning work under this Agreement. Neither UTG nor any Upwork Client will withhold or make payments for social security, any pension or social insurance plan, unemployment insurance or disability insurance contributions, any employer health taxes or other payroll taxes, including penalties and interest, or obtain workers' compensation insurance on Freelancer's behalf. Freelancer hereby agrees to make any such required payments and obtain any required insurance and to indemnify and defend and hold harmless UTG and the Upwork Client from and against any and all such taxes or contributions, including penalties and interest. Freelancer agrees to provide proof of payment of appropriate taxes on any fees paid to Freelancer under this Agreement upon reasonable request by UTG.

## 4.3 Withholding.

Upon execution of this Agreement and thereafter as may be reasonably requested by UTG, Freelancer shall complete and provide to UTG any form reasonably requested by UTG or required by a relevant taxing authority in order to certify that UTG is not required to withhold from Freelancer's fees or pay on Freelancer's behalf any income or other tax withholding on any payment of fees under this Agreement. In the event any such tax is required by law to be withheld by UTG on compensation payable under this Agreement, UTG may terminate this Agreement immediately. If UTG elects to continue the Agreement, UTG will have the right to pay such tax on behalf of Freelancer to the appropriate governmental authority, offset the compensation by such tax and furnish Freelancer with proof of payment of such tax. Any such tax required to be withheld will be an expense of and borne by Freelancer.

# 5. INTELLECTUAL PROPERTY RIGHTS.

## 5.1 Definition of Inventions and Intellectual Property Rights.

"Invention" means any copyrightable material, notes, records, ideas, concepts, information, materials, processes, data, programs, know-how, improvements, discoveries, developments, designs, artwork, formulae, techniques, or trade secrets conceived, authored, discovered, invented, developed or reduced to practice by Freelancer, solely or in collaboration with others, during the term of this Agreement, and all Intellectual Property Rights therein. "Intellectual Property Rights" means all trade secrets, copyrights, trademarks, mask work rights, patents, moral rights, and other intellectual property rights recognized by the laws of any country.

## 5.2 Definition of use of Background Technology.

As used in this Agreement, the term "Background Technology" means all Inventions developed by Freelancer other than in the course of providing services hereunder and all Inventions acquired or licensed by Freelancer that Freelancer uses in performing services under this Agreement or incorporates in the Work Product. Freelancer will disclose in advance in

writing to the Upwork Client and in the Project Terms any Background Technology that Freelancer proposes to incorporate into Work Product or upon which use or distribution of the Work Product will depend. The Upwork Client will have the right to reject the use or incorporation of such Background Technology in the Upwork Client's sole and absolute discretion. If Freelancer discloses no Background Technology, Freelancer warrants that it will not incorporate any Background Technology into Work Product. Freelancer will separately provide, with each delivery of Work Product to the Upwork Client, a third-party bill of materials that identifies all Background Technology and other third-party materials that have been incorporated into the Work Product and will provide, for each item of Background Technology identified, (a) the name and any associated version number (b) the applicable license or licensing terms, (c) whether the item has been modified by Freelancer, and (d) how the item has been incorporated into, is used by, or is relied upon by the Work Product. Notwithstanding the foregoing, unless otherwise agreed in the Project Terms, Freelancer agrees that it will not incorporate into Work Product or otherwise deliver to the Upwork Client any software code for which the use or distribution of the code will create (or purport to create) obligations for the Upwork Client to grant any rights or immunities under the Upwork Client's Intellectual Property Rights to a third party, including, without limitation, any obligation that the Work Product or the Upwork Client software combined with, derived from, or distributed with such Work Product (x) be disclosed or distributed in source code form, (y) be licensed for the purpose of making derivative works, or (z) be redistributable at no charge.

### 5.3 Ownership and Assignment of Work Product.

Upon receipt of payment of undisputed amounts from UTG, Freelancer hereby unconditionally and irrevocably assigns to the Upwork Client, without further consideration, all right, title and interest worldwide in and to all Work Product, including without limitation all Intellectual Property Rights in and to the Work Product. Except as set forth below, Freelancer retains no rights to use the Work Product and agrees not to challenge the validity of the Upwork Client's exclusive rights in and ownership of the Work Product, including without limitation all Intellectual Property Rights therein. Freelancer hereby waives unconditionally and irrevocably for the benefit of the Upwork Client and its successors and assigns, without further consideration, any and all moral or similar rights in or to any Work Product (including without limitation, any rights of identification of authorship; any rights of approval; or restrictions or limitations on use, subsequent modification or development of derivative works) in which copyright may subsist in each jurisdiction throughout the world, to the extent that such rights may be waived in each respective jurisdiction. Freelancer agrees to, at the request of the Upwork Client and without any right to further consideration, sign all lawful papers, make all rightful oaths and execute all divisional, continuing, continuation-in-part or reissue applications, all assignments, all registration applications and all other instruments or papers, to carry into full force and effect, the assignment hereby made or intended to be made and generally do everything necessary or helpful for title to the Work Product, and all Intellectual Property Rights therein, to be clearly and exclusively owned and held by the Upwork Client. Freelancer hereby grants to the Upwork Client a power of attorney to execute any of the aforementioned documents on Freelancer's behalf in order to give effect to the assignment hereby made.

### 5.4 License to Background Technology.

Freelancer hereby automatically upon receipt of payment of undisputed amounts from UTG, and without further consideration, grants to the Upwork Client a non-exclusive, perpetual, fully-paid and royalty-free, irrevocable, non-terminable and world-wide right, with rights to sublicense through multiple levels or tiers of sublicensees, to reproduce, make derivative works of, distribute, publicly perform, and publicly display in any form or medium, whether now known or later developed, make, have made, use, sell, import, offer for sale, and exercise any and all present or future rights in the Background Technology incorporated or used in the Work Product.

### 5.5 License to or Waiver of Other Rights.

If Freelancer has any right to the Work Product that cannot be assigned by Freelancer to the Upwork Client, Freelancer hereby automatically upon receipt of payment of undisputed amounts from UTG unconditionally and irrevocably grants to the Upwork Client, without further consideration and during the term of such rights, an exclusive, even as to Freelancer, irrevocable, perpetual, non-terminable, worldwide, fully paid up and royalty-free license, with rights to sublicense through multiple levels or tiers of sublicensees, to reproduce, make derivative works of, distribute, publicly perform and publicly display in any form or medium, whether now known or later developed, make, have made, use, sell, import, offer for sale and exercise any and all such rights. If Freelancer has any rights to the Work Product that cannot be assigned or licensed to the Upwork Client, Freelancer hereby automatically upon receipt of payment of undisputed amounts from UTG unconditionally and irrevocably, without further consideration, waives the enforcement of such rights around the world, and all claims and causes of action of any kind against the Upwork Client, its successors and assigns, or related to the Upwork Client's customers, with respect to such rights, and agrees, at UTG or the Upwork Client's request and expense, to consent to and join in any action to enforce such rights.

## 5.6 Assistance.

Freelancer agrees to, at the request of the Upwork Client and without any right to further consideration, to assist the Upwork Client in every way, during and after the term of this Agreement, to obtain and enforce United States and foreign Intellectual Property Rights relating to the Work Product, in all countries, including to sign all lawful papers, make all rightful oaths and execute all divisional, continuing, continuation-in-part or reissue applications, all assignments, all registration applications and all other instruments or papers, to carry into full force and effect the assignment hereby made or intended to be made and generally do everything necessary or helpful for title to the Work Product, and all Intellectual Property Rights therein, to be clearly and exclusively owned and held by the Upwork Client, including testifying in a suit or other proceeding regarding such Inventions. Freelancer hereby grants to the Upwork Client a power of attorney to execute any of the aforementioned documents on Freelancer's behalf in order to give effect to the assignment hereby made. This power of attorney shall be deemed coupled with an interest, and shall be irrevocable. Freelancer further agrees that Freelancer's obligations under this Section 5.6 shall continue after termination of this Agreement.

## 6. CONFLICTING PROJECTS.

UTG and the Upwork Client acknowledge that Freelancer may enter into other contracts and accept work from any other persons or entities during the term of this Agreement; however, Freelancer agrees not to enter into a contract or accept an obligation that would conflict with the provisions of this Agreement or prevent Freelancer from meeting its obligations under this Agreement. Freelancer represents and warrants that there is no such contract or obligation in effect as of the Effective Date. Freelancer further agrees not to disclose to, deliver to, or induce UTG or the Upwork Client to use any confidential information that belongs to anyone other than UTG, the Upwork Client or Freelancer.

## 7. CONFIDENTIAL INFORMATION OF THE UPWORK CLIENT.

Freelancer agrees that during the term of this Agreement and thereafter, except as expressly authorized in writing by the Upwork Client, Freelancer (a) will not use or permit the use of Client Confidential Information (defined below) in any manner or for any purpose not expressly set forth in this Agreement; (b) will not disclose, lecture upon, publish, or permit others to disclose, lecture upon, or publish any such Client Confidential Information to any third party without first obtaining the Upwork Client's express written consent on a case-by-case basis; (c) will limit access to Client Confidential Information to Freelancer Personnel who need to know such information in connection with the Project and who are likewise bound by non-use and non-disclosure obligations at least as restrictive as those set forth in this section; and (d)

will not remove any tangible embodiment of any Client Confidential Information from the Upwork Client's premises without the Upwork Client's prior written consent. "Client Confidential Information" means and includes, but is not limited to, all Work Product and all non-public information related to the business of the Upwork Client or any of its parents, subsidiaries, affiliates, or successors and the actual or anticipated research and development of the Upwork Client or any of its parents, subsidiaries, affiliates, or successors, including without limitation (i) trade secrets, inventions, ideas, processes, computer source and object code, formulae, data, databases, programs, other works of authorship, know-how, improvements, discoveries, developments, designs, and techniques; (ii) information regarding products or plans for research and development, marketing and business plans, budgets, financial statements, contracts, prices, suppliers, and customers; (iii) information regarding the skills and compensation of the Upwork Client's employees, contractors, and any other Freelancers; (iv) the existence of any business discussions, negotiations, or agreements between the Upwork Client and any third party; and (v) all such information related to any third party that is disclosed during the course of the Project. Confidential Information will not include any such information which Freelancer can establish (x) was publicly known or made generally available prior to the time of disclosure to Freelancer; (y) becomes publicly known or made generally available after disclosure to Freelancer through no wrongful action or inaction of Freelancer; or (z) is in the rightful possession of Freelancer, without confidentiality obligations, at the time of disclosure as shown by Freelancer's then-contemporaneous written records; provided that any combination of individual items of information shall not be deemed to be within any of the foregoing exceptions merely because one or more of the individual items are within such exception, unless the combination as a whole is within such exception.

## 8. CONFIDENTIAL INFORMATION OF UTG.

Freelancer agrees that during the term of this Agreement and thereafter, except as expressly authorized in writing by UTG, it (a) will not use or permit the use of UTG Confidential Information (defined below) in any manner or for any purpose not expressly set forth in this Agreement; (b) will not disclose, lecture upon, publish, or permit others to disclose, lecture upon, or publish any such UTG Confidential Information to any third party without first obtaining UTG's express written consent on a case-by-case basis; (c) will limit access to UTG Confidential Information to Freelancer Personnel who need to know such information in connection with their work for UTG and who are likewise bound by non-use and non-disclosure obligations at least as restrictive as those set forth in this section; and (d) will not remove any tangible embodiment of any UTG Confidential Information from UTG's premises without UTG's prior written consent. "UTG Confidential Information" means and includes, but is not limited to, all non-public information related to UTG's and/or its affiliates', subsidiaries', or parent company's business and its/their actual or anticipated research and development, including without limitation (i) trade secrets, inventions, ideas, processes, computer source and object code, formulae, data, databases programs, other works of authorship, know-how, improvements, discoveries, developments, designs, and techniques; (ii) information regarding products or plans for research and development, marketing and business plans, budgets, financial statements, contracts, prices, suppliers, and customers; (iii) information regarding the skills and compensation of UTG's, its affiliates', subsidiaries', or parent company's employees, contractors, and any other Freelancers; (iv) the existence of any business discussions, negotiations, or agreements between UTG, its affiliates, subsidiaries, or parent company, and any third party; and (v) all such information related to any third party that is disclosed during the course of the Project. Confidential Information will not include any such information which Freelancer can establish (x) was publicly known or made generally available prior to the time of disclosure to Freelancer; (y) becomes publicly known or made generally available after disclosure to Freelancer through no wrongful action or inaction of Freelancer; or (z) is in the rightful possession of Freelancer, without confidentiality obligations, at the time of disclosure as shown by Freelancer's then-contemporaneous written records; provided that any combination of individual items of information shall not be deemed to be within any of the foregoing exceptions merely because one or more of the individual items are within such exception, unless the combination as a whole is within such exception.

Immunity for Certain Disclosures. As set forth in the U.S. Defend Trade Secrets Act, 18 U.S.C. section 1833, please note

that a disclosure of trade secrets or other Confidential Information is immune from prosecution or civil action under U.S. Federal or State trade secret law if the disclosure (a) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

Provision Applicable to New York City. Nothing in this Agreement, including but not limited to its provisions relating to confidentiality, prohibits (or should be construed as prohibiting) any Freelancer residing in, or engaged to provide services in, New York City under this Agreement from disclosing the terms of this Agreement to the Director of the Office of Labor Standards.

## 9. FREELANCER'S AGENTS AND SUBCONTRACTORS.

Freelancer is free to rely on its employees or subcontractors to assist with performance of services under this Agreement. If at any time Freelancer has any employee, independent contractor or other person or entity performing work on Freelancer's behalf in connection with the Project, however, Freelancer agrees Freelancer remains responsible for the quality of the Work Product and agrees to the following representations and obligations:

### 9.1 Project and Performance of Services.

a. Work Product Ownership, Confidential Information and Other Contractual Provisions. Before any employee, independent contractor or other person or entity employed or engaged by Freelancer (collectively, "Freelancer Personnel") performs any services in connection with the Project or has access to any Client Confidential Information or UTG Confidential Information, Freelancer will enter into a binding written agreement with such Freelancer Personnel that (i) contains provisions with the same effect as the Agreement sections titled "Intellectual Property Rights," "Confidential Information of Upwork Client" and "Confidential Information of UTG"; and (ii) specifies that Freelancer Personnel do not have any employment relationship with Upwork Client or UTG or any of their parents, subsidiaries, affiliates or successors and are not entitled to or eligible for any benefits that Upwork Client or UTG or any of their parents, subsidiaries, affiliates or successors may make available to any of their respective employees. In addition, Freelancer will limit access to Client Confidential Information and UTG Confidential Information to Freelancer Personnel who have a reasonable need to have such access in order to perform services for the Project.

b. Freelancer Personnel Not Employed by Upwork Client or UTG. Freelancer acknowledges and agrees that Freelancer Personnel are not engaged by, supervised by, directed by or assigned work by Upwork Client, UTG, or any of their respective parents, subsidiaries or affiliates. Freelancer further acknowledges and agrees that neither Upwork Client nor UTG determine or control, or have the right to determine or control, any terms and conditions of employment or engagement of any Freelancer Personnel, including without limitation their selection, hiring, work assignment, work hours, compensation, work methods, discipline, working conditions, or termination. For the avoidance of doubt, Freelancer Personnel are not employees of Upwork Client or UTG or any of their respective parents, subsidiaries or affiliates. Freelancer will be fully responsible for the acts, work and safety of Freelancer Personnel at all times.

c. Freelancer Personnel Compensation, Taxes and Benefits. In accordance with all applicable law, Freelancer will be solely responsible for determining and paying all compensation of Freelancer Personnel and will be solely responsible for and pay any taxes, contributions and/or benefits owed to or on behalf of Freelancer Personnel. Neither Upwork Client nor UTG nor any of their respective parents, subsidiaries or affiliates will be liable to Freelancer or to Freelancer Personnel for Freelancer's failure to perform Freelancer's compensation, tax or benefit

obligations with respect to Freelancer Personnel. Freelancer will indemnify, defend and hold Upwork Client and UTG and any of their parents, subsidiaries, affiliates or successors harmless from and against all such taxes, contributions and benefits and will comply with all associated governmental regulations, including the filing of all necessary reports and tax returns.

d. Background Screening of Freelancer Personnel. If requested by UTG or Upwork Client and permitted by applicable law, Freelancer will conduct reasonable background screening measures with respect to Freelancer Personnel (the "Screenings") and will be responsible for all costs and fees relating to such Screenings. Freelancer will conduct Screenings in accordance with applicable laws and will obtain written authorization from Freelancer Personnel to share the results of such screening with Upwork Client and/or UTG upon request.

e. Work Diary. Freelancer agrees to record and invoice through Work Diary on the Site all work performed by any Freelancer Personnel for Projects performed on a time and material or hourly basis under this Agreement. Freelancer acknowledges that UTG has no obligation to pay Freelancer, and may not approve payment of Freelancer, for time spent on hourly Projects that is not recorded in the Work Diary.

## 9.2 Freelancer Responsible for Freelancer Personnel.

a. Employees. With respect to Freelancer Personnel, Freelancer is solely responsible for and will comply with all applicable employment laws, including without limitation laws governing workers' compensation, unemployment and disability insurance, health insurance and other employee benefits, wage and hour, employment discrimination and harassment, leaves of absence, and health and safety. Freelancer is responsible for providing meal and rest breaks to employees in accordance with any applicable laws and for complying with all paycheck requirements. If applicable, Freelancer will also comply with all licensing and other regulatory steps necessary to employ workers. Freelancer assumes full responsibility for any claims brought by, on behalf of or in connection with Freelancer's employees (or other Freelancer Personnel alleging they are or should have been classified as employees) and agrees to indemnify, defend and hold Upwork Client, UTG and any of their parents, subsidiaries, affiliates and successors harmless from and against any such claims.

b. Independent Contractors. With respect to Freelancer Personnel, Freelancer is solely responsible for properly classifying and engaging any Freelancer Personnel as independent contractors or as its employees and will comply with all applicable laws defining or governing the independent contractor or employment relationship. Freelancer warrants and represents that any Freelancer Personnel treated as an independent contractor is properly classified and assumes full responsibility for any claims brought by, on behalf of or in connection with Freelancer Personnel working as independent contractors and agrees to indemnify, defend and hold Upwork Client, UTG and any of their parents, subsidiaries, affiliates and successors harmless from and against any such claims.

## 9.3 Intellectual Property Rights.

Freelancer agrees that all copyrightable material, notes, records, drawings, designs, inventions, improvements, developments, discoveries and trade secrets conceived, discovered, developed or reduced to practice by Freelancer Personnel, solely or in collaboration with others, during the term of this Agreement that relate in any manner to the business of Upwork Client will belong exclusively to Upwork Client. Freelancer will ensure that Freelancer Personnel execute appropriate agreements with Freelancer to confirm such ownership, narrowed if and to the extent required by applicable law to be enforceable in the applicable jurisdiction, and to confirm that Freelancer Personnel will not challenge the validity of Upwork Client's ownership in Work Product, including without limitation the Intellectual Property Rights in Work Product.

## 9.4 Indemnification.

In addition to the indemnification obligations set forth elsewhere in this Agreement, Freelancer will defend, indemnify, and hold harmless UTG, Upwork Client and each of their parents, subsidiaries, affiliates and successors, individually and collectively, against any damage, cost, loss or expense arising from any claim, suit, proceeding, investigation, government inquiry or other action brought against UTG, Upwork Client or any of their parents, subsidiaries, affiliates or successors (a) alleging that any Freelancer Personnel is an employee of UTG, Upwork Client or any of their parents, subsidiaries, affiliates or successors or (b) arising out of the failure (whether negligent, willful, intentional, or unintended in cases of strict liability) of Freelancer to comply with this Agreement or any applicable law or regulation.

## 10. FREELANCER'S COVENANTS, REPRESENTATIONS AND WARRANTIES.

Freelancer hereby covenants, represents and warrants to UTG and to Upwork Client that (a) Freelancer will perform the services necessary to perform the Project in a timely and professional manner, consistent with industry standards, and all in accordance with this Agreement; (b) except any pre-approved Background Technology used or incorporated as part of the Work Product, the Work Product will be an original work of Freelancer and any third parties will have executed assignment of rights prior to being allowed to participate in the development of the Work Product; (c) the Work Product will fully conform to the requirements and terms set forth in this Agreement, including any Project Terms; (d) the Work Product will be free from material errors, faults and defects of any kind; (e) the Work Product will not contain any virus, Trojan horse, malicious code, trap door, time bomb, or shutdown mechanism, or any other software code or functionality that will "lock" or prevent the use of or access to the Work Product or otherwise cause the Work Product to cease functioning, or which is otherwise designed to harm any systems, servers, computers or websites of Upwork Client, UTG or any of their parents, subsidiaries, affiliates or successors; (f) neither the Work Product nor any element thereof does or will infringe or misappropriate the Intellectual Property Rights of any third party; (g) neither the Work Product nor any element thereof will be subject to any restrictions or to any mortgages, liens, pledges, security interests, or encumbrances; (h) Freelancer will not grant, directly or indirectly, any rights or interest whatsoever in the Work Product to third parties other than the Upwork Client; (i) Freelancer has full right and power to enter into and perform this Agreement without the consent of any third party; (j) Freelancer has an unqualified right to grant the license to all Background Technology as set forth in the section titled "License to Background Technology"; (k) if Freelancer is required to possess or maintain any license, registration, or other authorization necessary to provide the Work Product or to provide independent contractor services under this Agreement, then it possess such a license, registration, or other authorization and will maintain such license, registration, or other authorization during the term of this Agreement; (l) Freelancer will not use or incorporate as part of the Work Product any Open Source Code other than as expressly authorized in this Agreement; (m) Freelancer will promptly update changes to Freelancer's contact information as outlined in the Terms of Service; and (n) Freelancer will comply with all laws and regulations applicable to Freelancer's obligations under this Agreement.

## 11. UTG DISCLAIMER; LIMITATION OF LIABILITY.

### 11.1 Disclaimer.

UTG MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE PROJECT, THE PROJECT TERMS, OR IN CONNECTION WITH UTG'S PERFORMANCE OF ITS OBLIGATIONS AND RESPONSIBILITIES HEREUNDER, AND FREELANCER ACKNOWLEDGES AND AGREES THAT THE SAME ARE BEING PROVIDED OR PERFORMED HEREUNDER "AS IS" AND WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. UTG HEREBY EXPRESSLY DISCLAIMS ALL SUCH REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS,

IMPLIED, WRITTEN, ORAL OR STATUTORY, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, AND/OR VALIDITY. SOME STATES AND JURISDICTIONS DO NOT ALLOW FOR ALL THE FOREGOING EXCLUSIONS, SO TO THAT EXTENT, IF ANY, SOME OR ALL OF THESE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY.

## 11.2 Limitation of Liability.

IN NO EVENT WILL UTG, UPWORK CLIENT OR ANY OF THEIR PARENTS, SUBSIDIARIES, AFFILIATES, OR SUCCESSORS BE LIABLE TO FREELANCER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION, LOST PROFITS), EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF THEY WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE THEORY OF LIABILITY UNDER WHICH ANY SUCH DAMAGES ARE SOUGHT. SOME STATES AND JURISDICTIONS DO NOT ALLOW FOR ALL THE FOREGOING EXCLUSIONS AND LIMITATIONS OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO TO THAT EXTENT, IF ANY, SOME OR ALL OF THESE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY.

## 12. INDEMNIFICATION.

Freelancer will defend, indemnify, and hold harmless UTG, Upwork Client or any of their parents, subsidiaries, affiliates, or successors, individually and collectively, against any and all damage, cost, loss or expense arising from any claim, suit or proceeding, actual or alleged, brought or asserted against UTG, Upwork Client and/or any of their parents, subsidiaries, affiliates, or successors (a) alleging that any Work Product that Freelancer delivers pursuant to this Agreement or the Project infringes upon any intellectual property rights; (b) alleging that any Work Product that Freelancer delivers pursuant to this Agreement or the Project misappropriates any trade secrets of UTG, Upwork Client and any of their parents and affiliates, or any third party; (c) arising from or related to Freelancer's breach of any representation or warranty; (d) arising from or related to Freelancer's failure to pay any taxes or fees due as a result of Freelancer's work under this Agreement; (e) arising from or related to Freelancer's or Freelancer's personnel's failure to comply with any applicable law or regulation; or (f) arising from or related to Freelancer's breach of any other terms of this Agreement.

## 13. INSURANCE.

Freelancer, at its sole cost and expense, will maintain appropriate insurance in accordance with any applicable laws and regulations and in no event less than industry standards, including but not limited to unemployment and workers' compensation insurance. Upon request, Freelancer will furnish proof of insurance in a form acceptable to UTG and the Upwork Client.

## 14. TERM AND TERMINATION.

### 14.1 Term.

The term of this Agreement (the "Term") will begin on the Effective Date and will terminate on the first to occur of: (a) the end date in the Project Terms; or (b) the date that the Project is fully completed and thus closed on the Site.

### 14.2 Termination with Cause.

Either Party has the right to terminate this Agreement immediately in the event that the other Party has materially breached the Agreement and fails to cure such breach within 15 calendar days of receipt of notice by the non-breaching

Party, setting forth in reasonable detail the nature of the breach. UTG may also terminate this Agreement immediately, in writing, in its sole discretion in the event of Freelancer's material breach of section 5, 6, 7, 8 or 9 (including subsections), or if Freelancer engages in unlawful activities while rendering the services specified in the Project.

### 14.3 Return of Property.

Upon termination of the Agreement or upon UTG's or Upwork Client's request at any other time, Freelancer will deliver to UTG or Upwork Client, as applicable, all of UTG's or the Upwork Client's property together with all copies thereof and any other documents or materials that contain any Work Product, Client Confidential Information or UTG Confidential Information.

### 14.4 Survival.

The following provisions will survive the expiration or termination of this Agreement for any reason: sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.3, 14.4, 15, and 16, each including subsections. For the avoidance of doubt, Freelancer acknowledges and agrees that the license rights and other rights granted by Freelancer in section 5 above are perpetual in nature and will continue in perpetuity notwithstanding the expiration or termination of this Agreement, regardless of the cause, and the expiration or termination of this Agreement will not affect, limit, or otherwise impair such rights.

## 15. DISPUTES; ARBITRATION PROVISION.

### 15.1 Dispute Process.

The Parties agree to resolve any claim, dispute, or controversy that arises out of or relates to (a) this Agreement, (b) Freelancer's relationship with or work for UTG, the Upwork Client or any of their parents, subsidiaries, affiliates, or successors (each of which are express third-party beneficiaries of this Arbitration Provision), including without limitation any claimed employment, or the termination of any relationship referred to in this Agreement, and/or (c) the Site or the Site Services (each, a "Claim") in accordance with this section 15 (sometimes referred to as "Arbitration Provision").

### 15.2 Informal Dispute Resolution.

Before serving a demand for arbitration of a Claim, or otherwise seeking relief for any Claim, Freelancer and UTG agree to first notify the other Party or Parties (the "Notice"). The Parties will then seek informal resolution of the Claim. The Notice must be in writing and include Freelancer's name, pertinent account information, a brief description of the Claim, and the drafting Party's contact information, so that the receiving Party may evaluate and attempt to informally resolve the Claim. The receiving Party will have 60 calendar days from the date of its receipt of the Notice to informally resolve the Claim, which, if successful, will avoid the need for further action. Notice to UTG of the Claim will be sent to Upwork Global Inc. Headquarters as listed on its Site (<https://www.upwork.com/about/contact/>), Attn: Legal or [legalnotices@upwork.com](mailto:legalnotices@upwork.com). Notice to the Upwork Client will be made through any means by which Freelancer communicates with the Upwork Client about the Work Product. Notice to Freelancer will be provided to the most current physical or email address on the Site.

### 15.3 Binding Arbitration and Class Action/Jury Trial Waiver (Does Not Apply to Freelancers Located Outside the United States and Its Territories).

This Arbitration Provision applies to all Freelancers except Freelancers located outside of the United States and its territories. In the unlikely event the Parties are unable to resolve a Claim within 60 calendar days of the receipt of the applicable Notice, Freelancer, UTG and any of their parents, subsidiaries, affiliates, or successors, and Upwork Client and

any of its parents, subsidiaries, affiliates, or successors agree to resolve the Claim by final and binding arbitration before an arbitrator from JAMS. JAMS may be contacted at [www.jamsadr.com](http://www.jamsadr.com). If for any reason JAMS will not administer the arbitration, either Party may apply to a court of competent jurisdiction with authority over the location where the arbitration will be conducted for appointment of a neutral arbitrator.

a. Scope of Arbitration Agreement and Conduct of Arbitration

Arbitration as provided in this Arbitration Provision is governed by the United States Federal Arbitration Act (9 U.S.C. §§ 1 *et seq.*). This Arbitration Provision applies to any and all Claims (as defined in section 15.1). For the avoidance of doubt, Claims include, but are not limited to, all claims, disputes, or controversies arising out of or relating to this Agreement, the Project, the Terms of Service, escrow payments or agreements, any payments or monies Freelancer claims are due, trade secrets, unfair competition, false advertising, consumer protection, privacy, compensation, worker classification, minimum wage, seating, expense reimbursement, overtime, breaks and rest periods, termination, retaliation, discrimination or harassment and all claims arising under the Defend Trade Secrets Act, the Civil Rights Act of 1964, 42 U.S.C. §1981, the Rehabilitation Act, the Civil Rights Acts of 1866 and 1871, the Civil Rights Act of 1991, the Pregnancy Discrimination Act, the Equal Pay Act, the Americans With Disabilities Act, the Age Discrimination in Employment Act, the Family Medical Leave Act, the Fair Labor Standards Act, the Employee Retirement Income Security Act, the Affordable Care Act, the Genetic Information Non-Discrimination Act, the Uniformed Services Employment and Reemployment Rights Act, the Worker Adjustment and Retraining Notification Act, all state statutes or regulations addressing the same or similar subject matters, and all other federal, state or local legal claims arising out of or relating to Freelancer's relationship with or work for UTG or the Upwork Client or any of their parents, subsidiaries, affiliates, or successors and/or the termination of that relationship. The Upwork Client is an express third party beneficiary and may enforce the agreement to the full extent as though it were a signatory.

Disputes between the parties that may not be subject to a pre-dispute arbitration agreement as provided by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203) or as provided by an Act of Congress or lawful, enforceable Executive Order, are excluded from the coverage of this Agreement.

Except as otherwise provided herein, arbitration will be conducted in Santa Clara County, California in accordance with the JAMS Comprehensive Arbitration Rules and Procedures under the Optional Expedited Arbitration Procedures then in effect for JAMS. Notwithstanding the foregoing, any Claims by Freelancers that allege employment or worker classification disputes will be conducted within 25 miles of where Freelancer is located in accordance with the JAMS Employment Arbitration Rules and Procedures then in effect. The JAMS arbitration rules may be found at [www.jamsadr.com](http://www.jamsadr.com) or by searching online for "JAMS Comprehensive Arbitration Rules and Procedures" or "JAMS Employment Arbitration Rules." The Parties agree that any Party will have the right to appear at the arbitration by telephone and/or video rather than in person.

The Parties will follow the applicable JAMS rules with respect to arbitration fees. In any arbitration under the JAMS Employment Arbitration Rules and Procedures, Freelancer will pay JAMS arbitration fees only to the extent those fees are no greater than the filing or initial appearance fees applicable to court actions in the jurisdiction where the arbitration will be conducted, with UTG to make up the difference, if any. The arbitrator must follow applicable law and may award only those remedies that would have applied had the matter been heard in court. Judgment may be entered on the arbitrator's decision in any court having jurisdiction.

This Arbitration Provision does not apply to litigation to which Freelancer is a party that is or was already pending in a state or federal court or arbitration before the Effective Date. This Arbitration Provision also does not apply to claims for workers compensation, state disability insurance or unemployment insurance benefits. Either Freelancer or UTG may apply to a court of competent jurisdiction for provisional injunctive relief in connection with an

arbitrable controversy, but only upon the ground that the award to which that party may be entitled may be rendered ineffectual without such relief; the arbitrator will render the final judgment in the matter.

Nothing in this Arbitration Provision prevents Freelancer from making a report to or filing a claim or charge with a government agency, including without limitation the U.S. Equal Employment Opportunity Commission, U.S. Department of Labor, U.S. Securities and Exchange Commission, National Labor Relations Board, or Office of Federal Contract Compliance Programs. Nothing in this Arbitration Provision prevents the investigation by a government agency of any report, claim or charge otherwise covered by this Arbitration Provision. This Arbitration Provision also does not prevent federal administrative agencies from adjudicating claims and awarding remedies based on those claims, even if the claims would otherwise be covered by this Arbitration Provision. Nothing in this Arbitration Provision prevents or excuses a party from satisfying any conditions precedent and/or exhausting administrative remedies under applicable law before bringing a claim in arbitration. UTG will not retaliate against Freelancer for filing a claim with an administrative agency or for exercising rights (individually or in concert with others) under Section 7 of the National Labor Relations Act.

#### b. Interpretation and Enforcement of this Arbitration Provision

This Arbitration Provision is the full and complete agreement relating to the formal resolution of Claims and replaces all prior agreements between Freelancer and UTG regarding the arbitration of disputes covered by this Arbitration Provision. Except as otherwise provided in this Arbitration Provision, this Arbitration Provision covers, and the arbitrator will have exclusive jurisdiction to decide, all disputes arising out of or relating to the interpretation, enforcement, or application of this Arbitration Provision, including, except as otherwise provided in this Arbitration Provision, the enforceability, revocability, scope, or validity of the Arbitration Provision or whether any portion of the Arbitration Provision is void or voidable. All such matters will be decided by an arbitrator and not by a court.

In the event any portion of this Arbitration Provision is deemed unenforceable, the remainder of this Arbitration Provision will be enforceable. If any portion of the Class Action Waiver in subsection C, below, of this Arbitration Provision is deemed to be unenforceable, the Parties agree that this Arbitration Provision will be enforced to the fullest extent permitted by law.

#### c. Class and Collective Action Waiver

Private attorney general representative actions under the California Labor Code are not arbitrable, not within the scope of this Arbitration Provision and may be maintained in a court of law. However, this Arbitration Provision affects the Parties' ability to participate in class or collective actions. The Parties agree to bring any dispute in arbitration on an individual basis only, and not on a class or collective basis on behalf of others. There will be no right or authority for any dispute to be brought, heard or arbitrated as a class or collective action, or as a member in any such class or collective proceeding ("Class Action Waiver"). Notwithstanding any other provision of this Agreement or the JAMS Rules, disputes regarding the enforceability, revocability, scope, or validity or breach of the Class Action Waiver may be resolved only by a civil court of competent jurisdiction and not by an arbitrator. In any case in which (1) the dispute is filed as a class or collective action and (2) there is a final judicial determination that all or part of the Class Action Waiver is unenforceable, the class or collective action to that extent must be litigated in a civil court of competent jurisdiction, but the portion of the Class Action Waiver that is enforceable shall be enforced in arbitration. Freelancer will not be retaliated against, disciplined or threatened with discipline as a result of exercising any rights under Section 7 of the National Labor Relations Act, if applicable, by filing or participating in a class or collective action in any forum. However, any Party may lawfully seek enforcement of this Arbitration Provision and the Class Action Waiver under the Federal Arbitration Act and seek dismissal of such class or collective actions or claims.

#### d. Right to Opt Out of the Arbitration Provision.

Freelancer may opt out of the Arbitration Provision by notifying UTG in writing within 30 calendar days of the Effective Date. To opt out, Freelancer must send a written notification to UTG to Upwork Global Inc. Headquarters as listed on its Site (<https://www.upwork.com/about/contact/>), Attn: Legal or [legalnotices@upwork.com](mailto:legalnotices@upwork.com) that includes (a) Freelancer's account username, (b) Freelancer's name, (c) Freelancer's address, (d) Freelancer's telephone number, (e) Freelancer's email address, and (f) a statement that Freelancer wishes to opt out of the Arbitration Provision. Freelancer understands that Freelancer has the right to consult with counsel of Freelancer's choice concerning this Agreement and the Arbitration Provision.

## 16. GENERAL PROVISIONS

### 16.1 Choice of Law.

Except as otherwise specifically provided herein, this Agreement and any Claims will be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflict of law provisions and excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG); provided, however, that any Claims by any Freelancer located within the United States will be governed by the law of the state in which such Freelancer resided at the time the Project was performed.

### 16.2 Severability.

If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Section 15.3(C) governs severability of the Class Action Waiver.

### 16.3 No Assignment.

This Agreement, and the Parties' respective rights and obligations herein, may not be assigned or otherwise transferred by either Party without the other's prior written consent, and any attempted assignment or transfer in violation of the foregoing will be null and void; provided, however, UTG may assign this Agreement, its rights and its obligations to an affiliate or to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. The terms of this Agreement will be binding upon assignees.

### 16.4 Injunctive Relief.

Freelancer acknowledges that, because its services are personal and unique and because Freelancer will have access to Confidential Information of UTG and Upwork Client, any breach of this Agreement by Freelancer would cause irreparable injury to UTG or Upwork Client for which monetary damages would not be an adequate remedy and, therefore, will entitle UTG or Upwork Client to injunctive relief (including specific performance). The rights and remedies provided to each Party in this Agreement are cumulative and in addition to any other rights and remedies available to such Party at law or in equity not otherwise waived by this Agreement.

### 16.5 Waiver.

Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

## 16.6 Export.

Freelancer agrees not to export, directly or indirectly, any U.S. technical data acquired from UTG, Upwork or Upwork Client, or any products utilizing such data, to countries outside the United States, because such export could be in violation of the United States export laws or regulations.

## 16.7 Entire Agreement.

This Agreement is the final, complete and exclusive agreement of the Parties with respect to the subject matters hereof and supersedes and merges all prior discussions between the Parties with respect to such subject matters. No modification of or amendment to this Agreement, or any waiver of any rights under this Agreement, will be effective unless in writing and signed by Freelancer and UTG.

## 16.8 Electronic Acceptance.

The Parties expressly agree that this Agreement may be electronically signed and accepted, and that the Site's record of Freelancer's acceptance will be treated, for purposes of validity, enforceability and admissibility, the same as written signatures.

THE PARTIES AGREE THAT BY ACCEPTING THIS AGREEMENT VIA THE SITE, FREELANCER HAS BOUND ITSELF TO THIS AGREEMENT AND CREATED AN AGREEMENT THAT IS ENFORCEABLE AGAINST ALL PARTIES.

FREELANCER ACKNOWLEDGES AND AGREES THAT FREELANCER HAS BEEN GIVEN THE OPPORTUNITY TO OBTAIN INDEPENDENT LEGAL ADVICE WITH RESPECT TO THIS AGREEMENT BEFORE ACCEPTING IT, AND THAT FREELANCER VOLUNTARILY AGREES TO BE BOUND BY THIS AGREEMENT WITH FULL KNOWLEDGE AND UNDERSTANDING OF ITS TERMS.