

Scoping Workshop Terms

These Scoping Workshop terms will be incorporated into a signed Order Form between LabVantage and Customer.

1. Definitions

“Agreement” means these Scoping Workshop Terms, together with the Order Form and Statement of Work, each of which must be executed by both parties to form an agreement.

“Customer” means the customer identified on the Order Form.

“LabVantage” means the LabVantage entity identified on the Order Form.

“Statement of Work” or “SOW” means the executed document that specifies the scope of the Professional Services.

2. Professional Services

LabVantage will provide the professional services for a scoping workshop described in the Order Form and SOW (the **“Professional Services”**) on a time and materials basis. LabVantage’s time and any work product delivered are the only deliverables due under the Agreement. LabVantage will not: (a) access Customer’s systems; or (b) deliver computer code or intellectual property.

3. Fees and Invoicing

LabVantage will invoice Customer monthly for Fees and any travel and living expenses incurred in the performance of the Professional Services. Any applicable taxes are additional. Payment is due net thirty (30) days.

4. Customer’s Responsibilities

Customer will: (a) provide accurate information and access to required Customer personnel; and (a) implement reasonable measures to prevent LabVantage’s inadvertent access to any unnecessary confidential. LabVantage is not liable for any performance delays caused by Customer’s failure or delay to perform these responsibilities.

5. Change Management.

For any change to the scope of Professional Services or the assumptions, the parties will mutually agree to a written change order. A change order cannot be used to modify these Professional Services terms or the Order Form.

6. Ownership

This agreement does not transfer any ownership rights. LabVantage and its licensors retain title to all software, materials, work product, source code, and

any techniques, skills, concepts, know-how or intellectual property LabVantage utilizes or develops while performing the Agreement.

7. Term

The Agreement will be effective as of the last date of the Order Form and SOW. The Agreement will terminate upon the earlier of six (6) months or the completion of the Professional Services. However, either party may terminate this Agreement by providing written notice to the other, provided that Customer must pay LabVantage for any Professional Service performed and expenses incurred prior to termination.

8. Warranty

LabVantage warrants that the Professional Services will be performed by skilled personnel. As Customer’s exclusive remedy for breach of this warranty, LabVantage will refund the Fees paid for the Professional Services at issue.

9. Insurance

During the term, LabVantage will maintain insurance policies for:

- (a) Workers Compensation – Statutory (in the amounts required by applicable law);
- (b) Commercial General Liability – USD \$1,000,000 combined limit per occurrence and USD \$2,000,000 aggregate;
- (c) Automobile Liability - USD \$1,000,000 combined limit per occurrence; and
- (d) Umbrella Liability - USD \$2,000,000.

10. Limitation and Liability; Exclusions of Damages

10.1 Limitation of Liability. NEITHER PARTY’S AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL EXCEED FEES PAID BY CUSTOMER FOR THE OFFERING AT ISSUE DURING THE TWELVE (12) MONTHS PRECEDING THE CLAIM REGARDLESS OF WHETHER THE CLAIM ARISES FROM TORT, BREACH OF CONTRACT OR OTHER CAUSE OF ACTION.

10.2 Exclusions of Damages. NEITHER PARTY WILL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST BUSINESS,

PROFITS, DATA OR USE OF ANY SERVICE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF SUCH DAMAGES ARE FORESEEABLE OR THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.3 Applicability. The Limitation of Liability and Exclusion of Damages sections of this Agreement do not apply to liability arising from willful misconduct or gross negligence, breach of either party's intellectual property rights, or the Indemnity section of this Agreement. LabVantage's liability will be reduced in the proportion in which the Customer's culpable action or omission, if any, contributed to the damage.

11. Indemnity

LabVantage will indemnify Customer for any third-party claim for bodily injury or death to the extent caused by LabVantage's negligence or willful misconduct by paying for costs and attorneys' fees, damages finally awarded, and/or settlements approved by LabVantage.

Customer must (a) promptly notify LabVantage of any claim under this section claim, (b) give LabVantage sole control of the defense and settlement of the claim, (c) not incur any costs or expenses without LabVantage's consent; and (d) cooperate with the LabVantage's defense and settlement of the claim. However, Customer may elect to participate at its own expense.

12. Applicable Law.

12.1 Governing Law. The Agreement will be governed by the laws of New York USA, excluding choice of law provisions and excluding the United Nations Convention on Contracts for the International Sale of Goods.

12.2 Export. LabVantage intellectual property originates from the United States and the EU. Both parties agree to comply with US and EU export laws and regulations.

13. General

13.1 Non-solicitation. Neither party will solicit for hire any individual who participates in the Professional Services for twelve (12) months after the completion of the Order Form. This section does not prevent either party from hiring individual who applies through a public job posting without being prompted by such party.

13.2 Confidentiality. Each party may have access to certain information of the other party that is identified or reasonably understood to be confidential ("**Confidential Information**"). The

recipient will use the discloser's Confidential Information only to perform its obligations under the Agreement and will not disclose Confidential Information to any third parties without Discloser's prior written approval. This restriction does not apply to information that is: (a) generally available to the public; (b) released by discloser without restriction; (c) independently developed or acquired by recipient; (d) known to the recipient prior to receipt from discloser; or (e) revealed pursuant to court order or as required by applicable law, provided that recipient uses reasonable efforts to promptly notify discloser of such requirement prior to compliance in order to permit discloser to seek protection against disclosure. Confidential Information will continue for five (5) years from the date of initial disclosure. For this section, LabVantage affiliates are not "third parties." No source code or personal information will be disclosed under this Agreement.

13.3 Waiver. Either party's failure to require compliance with a part of the Agreement is not a waiver of that part.

13.4 Independent Contractors. LabVantage, its employees, and subcontractors are independent contractors and not or agents of Customer. Neither party has the authority to bind the other party.

13.5 Severability. If any Agreement term is unenforceable, that term will be reformed to achieve the intent to the extent possible, and the remainder of the Agreement will remain in full force.

13.6 Force Majeure. Each party will be excused from delay or failure to perform any obligation due to causes beyond its control including without limitation: acts of God, fire, strikes, riots, acts of terrorism or war, epidemics, cyberattacks, Internet, network or communication line failures, third party equipment failures, and power failures. This section does not relieve Customer of its obligations to pay Fees due under the Agreement.

13.7 Complete Agreement. The Agreement is the parties' complete statement relating to its subject matter. LabVantage rejects any additional or conflicting terms on purchase orders or other purchasing documents. This Agreement may not be modified unless accepted in writing by an authorized representative of both parties.

End of Document

