



TERMS AND CONDITIONS FOR SOFTWARE AS A SERVICE

**THESE TERMS AND CONDITIONS FOR SOFTWARE AS A SERVICE CONTAIN INDEMNITY OBLIGATIONS.
PLEASE READ CAREFULLY.**

These Terms and Conditions for Software as a Service (“Terms and Conditions”) apply to every software-as-a-service transaction between Supplier and Buc-ee’s, Ltd. or its Affiliates (“Buc-ee’s”) and related transactions, unless otherwise agreed in writing and signed by Buc-ee’s and Supplier.

1. DEFINITIONS

In addition to the terms defined elsewhere in these Terms and Conditions, the following terms shall have the following meanings:

- 1.1 **“Acceptance”** means Buc-ee’s agreement that a Service meets the applicable Acceptance Criteria.
- 1.2 **“Acceptance Criteria”** means Acceptance criteria, requirements and/or Specifications set out in the applicable SOW. If no such criteria, requirements or specifications are provided for particular Services, then the applicable Specifications.
- 1.3 **“Affiliate” or “Affiliates”** means any person directly or indirectly controlled by that Party, including any person which becomes an Affiliate. For purposes of the foregoing, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person through the direct or indirect ownership of at least fifty-one percent (51%) of the voting interests of such person, through contract or otherwise.
- 1.4 **“Applicable Law(s)”** means those laws (common or statutory), rules, regulations, codes, administrative and judicial orders and directives, rulings, interpretations, permit conditions and restrictions or similar requirements or actions of any federal, state, or local government, or any agency or executive or administrative body or any of the foregoing, in each case that govern or pertain, as of the date of the applicable Purchase Order, to the Parties’ respective obligations under these Terms and Conditions or any Purchase Order.
- 1.5 **“Buc-ee’s Data”** means i) information of or concerning Buc-ee’s or its Affiliates or users of the Services that is provided to or obtained by Supplier in connection with these Terms and Conditions, a Statement of Work and/or Purchase Order, and performance by Supplier thereunder and ii) any data, facts, or statistics that are collected together for reference or analysis by Supplier during its provision of Services to Buc-ee’s, including Usage Data.
- 1.6 **“Buc-ee’s Group”** means individually, or in any combination, Buc-ee’s, Ltd., Buc-ee’s Management, LLC, Buc-ee’s Holdings, Inc., and their respective Affiliates as well as the officers, directors, managers, members, shareholders, employees, agents, consultants, invitees, licensees, representatives, and successors or assigns or both of the entities identified above.
- 1.7 **“Business Day”** means Monday through Friday, except for public holidays.
- 1.8 **“Change Order”** means a document signed by an authorized representative of each Party documenting the Parties’ mutual agreement as to any material change to the scope of, permitted charges for, or other contractual commitments of a Party with respect to, the Services being provided by Supplier under an SOW.
- 1.9 **“Claim”** means all claims (actual or threatened), damages, liabilities (including contractual liabilities), losses, demands, liens, encumbrances, government imposed fines or penalties, investigations, causes of action of any kind

or character (including those for property damage, personal injury, disease or death), obligations, costs and expenses, judgments, interest and awards whether under judicial proceedings, administrative proceedings or otherwise (including those requiring reasonable attorneys' fees, or other costs of litigation) arising out of or in any way relating to these Terms and Conditions, the Software and/or the Services, and expressly includes any claims that may be brought by (or losses suffered by) spouses, heirs, survivors, legal representatives, successors or assigns or both.

- 1.10 “Confidential Information”** means confidential, non-public information pertaining to Buc-ee’s business, including, without limitation, Buc-ee’s Data, any information regarding customer lists, advertising and marketing plans, business strategies, company processes, suppliers, profit margins, seasonal plans, goals, objectives, projections, stores, product segments, product lines, recipes, inventions, ideas, sales and expenses, and other trade secrets, and know-how, and any other information that would reasonably be considered to be proprietary given the nature of the information.
- 1.11 “Deliverable”** means any work product, in any form, resulting from performance of the Services that is either specifically identified as a Deliverable in a Statement of Work or is developed for Buc-ee’s pursuant to a Statement of Work.
- 1.12 “Documentation”** means Supplier’s and/or any relevant third-party manufacturer’s user, operating and training manuals and guides and written specifications concerning the Services and Software.
- 1.13 “Error”** means any error, defect, degradation or malfunction.
- 1.14 “Error Correction”** means a repair, modification or other appropriate fix that corrects an Error.
- 1.15 “Force Majeure”** means any act or event that renders it wholly impossible for the affected Party to perform its obligations under these Terms and Conditions, any Purchase Order or Statement of Work or materially delays the affected Party’s ability to do so, when such act or event (i) is beyond the reasonable control of the affected Party, (ii) is not due to the fault or negligence of the affected Party, and (iii) could not have been avoided by the affected Party by the exercise of reasonable diligence.
- 1.16 “Indemnify” or “Indemnification”** means indemnify, defend and hold harmless.
- 1.17 “Intellectual Property”** means all copyrights, patents, trade secrets, trademarks, trade dress or other intellectual property rights associated with or incorporated in any ideas, concepts, know-how, techniques, processes, reports, or works of authorship owned, developed, created by, or licensed to Buc-ee’s.
- 1.18 “Machine Learning Output”** means all learnings, trained algorithms, trained models, optimizations, predictions, patterns and other output generated by employing artificial intelligence techniques (including machine learning), to the extent the foregoing are generated in connection with the provision of the Services to, or the use of the Services by or on behalf of, Buc-ee’s, including all encodings and derivatives thereof.
- 1.19 “Party”** means Buc-ee’s or Supplier singularly, collectively, “Parties”.
- 1.20 “Price(s)” or “Charges”** means the amounts, rates, arithmetical value derived from a formula or calculation, or any combination thereof, to be paid by Buc-ee’s to Supplier for Software and Services, as described in a Purchase Order or Statement of Work.
- 1.21 “Purchase Order”** means an order to purchase Services.
- 1.22 “Security Breach”** means (a) any actual, potential, attempted, suspected, threatened, or reasonably foreseeable circumstance that compromises, or could reasonably be expected to compromise, the security of any Buc-ee’s Data, Confidential Information, Buc-ee’s software, systems or network, or personally identifiable information that Supplier was granted access to by Buc-ee’s or b) any unauthorized acquisition, access, destruction, alteration, loss, disclosure,

or use (in all cases whether intentional or not) of, or the inability to locate, Buc-ee's Data, Confidential Information or personally identifiable information.

1.23 "Service(s)" means the Software-as-a-Service ("SaaS") services and the Software, or any ancillary implementation, maintenance and support services, and as may be more particularly described in a Purchase Order or a Statement of Work, including but not limited to a subscription to the Software.

1.24 "Service Disruption" means an event that interrupts normal business, functions, operations or processes whether anticipated (e.g. hurricane) or unanticipated (e.g. a blackout, terror attack, technology failure, or earthquake) for an unacceptable length of time that extends beyond the RTO (as defined herein) established for the Services.

1.25 "Service Level(s)" means a metric to measure the performance of the Software and Supplier's provision of Services.

1.26 "Software" means all software to be provided by Supplier in connection with the SaaS solution(s) provided under these Terms and Conditions.

1.27 "Specifications" means the technical specifications, design characteristics, functions and features, and performance and operating characteristics specified in the applicable SOW or otherwise mutually agreed by Supplier and Buc-ee's.

1.28 "Statement of Work" or "SOW" means a document which describes specific Services to be provided by Supplier to Buc-ee's.

1.29 "Subcontractor" means any third party (including a Supplier Affiliate) to whom Supplier subcontracts any function(s) constituting a part of the Services, including a third party to whom a Subcontractor further delegates any subcontracted duties or obligations.

1.30 "Supplier Personnel" means any and all personnel assigned by Supplier to perform any part of the Services, including employees and independent contractors and agents of Supplier and any of its Subcontractors.

1.31 "Update" means any Error Correction, bug fix, enhancement, maintenance release, upgrade, improvement, modification, extension, new version, successor or replacement product of or to any component of the Services.

1.32 "Usage Data" means all data (including metadata) collected, generated or derived by Supplier or any Supplier personnel from use of the Services by or on behalf of Buc-ee's, including navigational, transactional, processing, billing, computer (such as IP address and browser), demographical, statistical and other analytical data.

2. SERVICES

2.1 Statements of Work

- (a) Supplier will provide the Services, including any ancillary implementation, maintenance and support Services, described in a written Statement of Work or Purchase Order, which has been fully executed by Supplier and either Buc-ee's or a Buc-ee's Affiliate. Each SOW will include, at minimum: (i) a unique name or number; (ii) a contact for each Party; (iii) detailed descriptions of the Services, Specifications and other technical requirements, and Acceptance Criteria; (iv) the cost breakdowns and basis for payment for the Services; (v) Service Levels; and (vi) Supplier primary facilities and backup facilities from where the Services will be performed.
- (b) Absent the execution of an SOW, these Terms and Conditions do not, in and of themselves, represent a commitment by Buc-ee's to order, receive, or pay for any Services. Any SOWs executed hereunder will be a part of these Terms and Conditions as if fully included within its body. Except as otherwise provided in these Terms and Conditions or the applicable SOW, Supplier is responsible for providing all software, tools, and supplies that are required to perform the Services.
- (c) If any services, functions or responsibilities that are not specifically described in the SOW or Purchase Order are reasonably required for the proper performance and provision of the Services, such services, functions and responsibilities will be deemed to be implied by and included within the scope of the Services to the same extent and in the same manner as if specifically described in the SOW (i.e., they will be provided at no additional charge to Buc-ee's other than the Charges permitted under the applicable SOW or Purchase Order).

2.2 SaaS Services

- (a) Supplier will include in the SaaS Services the functionality to: (i) prevent access to the SaaS Services by any unauthorized user; (ii) promptly restrict and remove users from having access to the SaaS Services; (iii) store Buc-ee's Data (without restriction on storage capacity) logically separated from any data of Supplier's other customers; (iv) make Buc-ee's Data (other than Usage Data and Machine Learning Output) available to authorized users in real-time, immediately after inputting or uploading, and allow them to interrogate and download it; and (v) create and maintain backups and logs of Buc-ee's Data in a manner and frequency that meets Buc-ee's reasonable requirements.
- (b) Supplier will implement and configure the Software in the relevant online operating environment and complete the same by the implementation date set out in the applicable SOW. Before implementation is complete, Supplier will deliver the Documentation to Buc-ee's in electronic format only (such as via download from Supplier's website), unless the applicable SOW expressly indicates delivery to be made on physical media. As soon as Supplier has verified that the implemented and configured Software is fully and properly functioning, Supplier will notify Buc-ee's accordingly. Buc-ee's and the Service Recipients will be entitled to make copies of the Documentation as reasonably required.
- (c) Supplier will provide all necessary training in the operation and use of the Services.
- (d) Supplier will provide support and maintenance in respect of the Services in accordance with Exhibit A (Service Level Agreement).

2.3 Updates

- (a) Supplier will promptly make available to Buc-ee's all Updates issued generally by Supplier to its customers or users of the Services and such Updates as are needed to ensure the Services' continued compliance with the requirements of these Terms and Conditions and any SOW, as applicable. Supplier will provide Buc-ee's with at least ten (10) days' written notice of the release of each Update. All Updates will be accompanied by appropriate release notes and Documentation.
- (b) If Buc-ee's requests Supplier to demonstrate any Update to Buc-ee's, Supplier will promptly do so. Updates will, upon implementation, be deemed part of the Services.
- (c) Supplier will deploy, at Buc-ee's option, any Updates into production or non-production Services. Supplier will support two (2) major (i.e., where there are significant functionality changes from the prior version) versions of the Services and Software: (i) the then-currently available production major version of the Services and Software and (ii) the production major version immediately preceding the then-current production major version of the Services and Software; provided, however, that Supplier will support any major version preceding the currently available production major version for a minimum period of two (2) years or as long as Supplier offers support to any other similarly-situated customer. All Updates will, at a minimum, be consistent with industry standards then in-effect, and be backwardly compatible with the data structures, databases and system architectures employed with previous versions of the Services and Software then in-use by Buc-ee's.
- (d) Supplier will use industry standard best practices to ensure a secured development lifecycle and will conduct such design reviews, code reviews, penetration testing, static analyses and dynamic analyses, as appropriate, to identify and resolve security vulnerabilities prior to delivering any and all Updates. No Update will result in any material loss or degradation of the performance, security, functionalities, capabilities or features of the Services or Software as set forth in the Documentation and applicable SOW.
- (e) If Supplier renames, reintroduces or newly introduces any service or product as a different service or product, but which performs substantially the same features and function of the Services and Software, the renamed, reintroduced or newly introduced service or product will be considered to be the Services and Software, and Buc-ee's will be granted the right to use such service or product hereunder.

2.4 Non-exclusivity

The Parties acknowledge that these Terms and Conditions do not grant to Supplier an exclusive privilege to provide to Buc-ee's any or all of the Services of the type described in these Terms and Conditions. Buc-ee's may contract with other suppliers for the procurement of comparable services.

2.5 Affiliates

Supplier acknowledges and agrees that although the Services under these Terms and Conditions and any SOW will be deemed to be provided to Buc-ee's, the Services may be received, accessed, and used not only by Buc-ee's, but also by its Affiliates, business units, divisions, partnerships, joint ventures, agents, consultants, and other business partners.

2.6 Change Management

Buc-ee's may request changes to an SOW at any time by providing written notice to Supplier. Within a commercially reasonable period of time, but in any event no later than ten (10) business days, Supplier will provide Buc-ee's with an estimate of the impact, if any, of such requested change on (a) the cost to perform the Services, (b) the Service Levels, and (c) any other provision of the SOW, as well as a schedule for implementing and completing the change. If the Parties mutually agree to such change, a written Change Order will be prepared, which both Parties must sign. A Change Order may not modify these Terms and Conditions, which may be modified only by a written amendment to these Terms and Conditions signed by the duly authorized representatives of both Parties.

3. NATURE OF THE RELATIONSHIP

Supplier is an independent contractor of Buc-ee's, and these Terms and Conditions shall not be construed to create any association, partnership, joint venture, employee, or agency relationship between Supplier and Buc-ee's for any purpose. Supplier has no authority (and shall not hold itself out as having authority) to bind Buc-ee's, and Supplier shall not make any agreement or representations on Buc-ee's behalf without Buc-ee's prior written consent. Nothing in these Terms and Conditions shall create a contractual relationship with or a cause of action in favor of a third party against Buc-ee's. Buc-ee's shall not control the manner, means, time or place which Supplier, its employees or Suppliers, perform the Services. Unless otherwise set forth in a Statement of Work, Supplier shall furnish, at its own expense, the equipment, supplies, and other materials used to perform the Services.

4. PERFORMANCE

4.1 Standards of Performance

- (a) Supplier will perform the Services at a level of performance that is equal to or better than the performance metrics identified in Exhibit A (Service Level Agreement) and the applicable SOW (each such metric a "**Service Level**"). In cases where these Terms and Conditions do not prescribe or otherwise regulate the manner of Supplier's performance of the Services, Supplier will render the Services in accordance with Supplier's prevailing practices, which will be at least as good (from Buc-ee's perspective) as the established good practices followed by the leading providers of similar services.
- (b) To the extent Supplier fails to meet a Service Level, Supplier will (i) promptly investigate and perform a root cause analysis of the failure, gathering and preserving pertinent information; (ii) advise Buc-ee's of the failure and the status of remedial efforts being undertaken; (iii) promptly take steps to minimize the duration and adverse impacts of the failure on Buc-ee's and to resume meeting the Service Levels as quickly as possible under the circumstances; and (iv) take appropriate preventive measures so that the problem does not recur. If the same Service Level is repeatedly failed, Buc-ee's may require Supplier to propose a formal remediation plan which, once agreed with Buc-ee's, Supplier will implement and report its progress against at intervals agreed in such plan. If requested by Buc-ee's at any time, Supplier will promptly meet with Buc-ee's to discuss Supplier's performance.
- (c) Supplier recognizes that its failure to meet Service Levels may have a material adverse impact on Buc-ee's business and operations, and that the damage from Supplier's failure to meet a Service Level is not susceptible of precise determination. Accordingly, if Supplier fails to meet Service Levels, then in addition to any non-monetary remedies available to Buc-ee's under these Terms and Conditions, at law or in equity, Buc-ee's may elect to recover the monetary credits ("**Service Level Credits**") specified in Exhibit A (Service Level Agreement) or the applicable SOW. Supplier will credit such amount against the next invoice or, if none, provide such amount as a refund. The Parties agree that Service Level Credits are a price adjustment to reflect the reduced value received by Buc-ee's from the relevant Services (as a result of their inferior quality) and are not an estimate of loss or damage that may be suffered as a result of Supplier's failure to meet the relevant Service Levels. As such, they are without prejudice to any other right or remedy available to Buc-ee's in respect of such failure. The provision of any Service Level Credits will not relieve Supplier of its obligation to continue to meet the relevant Service Levels.
- (d) Supplier will utilize the necessary measurement and monitoring tools and procedures required to measure and report Supplier's performance of the Services against the applicable Service Levels. Such measurement

and monitoring will permit reporting at a level of detail sufficient to verify compliance with the Service Levels, and will be subject to audit by Buc-ee's. Supplier will provide Buc-ee's with information and access to such tools and procedures upon request, for purposes of verification.

4.2 Time of Performance

Supplier will perform the Services diligently and in accordance with any timeframes set forth in the applicable SOW. Supplier will maintain an online status page that provides information regarding the availability of the Services, any planned outages, releases, and changes. If Supplier does not maintain such a status page, Supplier will send alert notifications regarding the availability of the Services, any planned outages, releases, and changes to Buc-ee's. Supplier agrees that i) access to Supplier's status page will be provided to all users of the Services and ii) users will have the ability to subscribe to specific service alerts, if Supplier provides such alerts. Supplier will promptly notify Buc-ee's upon becoming aware of any outages, downtime or Service Disruption, or any other circumstances that may reasonably be expected to jeopardize the timely performance or completion of any Services.

4.3 Place of Performance

- (a) Each SOW will identify the Supplier facilities (or facilities of a Supplier Subcontractor) at or from which the Services are to be provided and, if applicable, at which Buc-ee's Facilities Supplier is required to perform any on-site Services.
- (b) To the extent that Supplier Personnel perform any Services at Buc-ee's facilities (such facilities, including associated resources and devices, collectively, the "*Buc-ee's Facilities*"), Supplier will use the Buc-ee's Facilities for the sole purpose of providing the Services. Any Buc-ee's Facilities will be made available to Supplier on an "as is, where is" basis. Supplier will use the Buc-ee's Facilities efficiently and so as not to adversely affect Buc-ee's business operations in any material respect. Supplier will be responsible for any damage to the Buc-ee's Facilities caused by Supplier, its agents, subcontractors, employees or invitees, reasonable wear and tear excepted.
- (c) Supplier will use due care while using any assets of Buc-ee's provided to Supplier for Supplier's use in performing the Services. If such assets are located at Supplier's premises, Supplier will maintain adequate physical security measures to prevent unauthorized access to or theft of such assets. Assets provided by Buc-ee's will remain the absolute unencumbered property of Buc-ee's. Under no circumstances may such assets be subject to any charge, lien or other interest of Supplier. Upon Buc-ee's request, the termination or expiration of these Terms and Conditions for any reason, or the date on which a particular asset is no longer required by Supplier in order to render the Services hereunder, Supplier will promptly return such assets to Buc-ee's.

4.4 Supplier Quality Assurance

In performing the Services, Supplier will follow quality assurance and improvement procedures and best practices to validate that the Services are performed with a high degree of professional quality and reliability. Supplier will adhere to the highest fiduciary standards, ethical practices and standards of care and competence in the performance of Services hereunder.

4.5 Cooperation and Coordination

If Buc-ee's performs itself, or retains a third party to perform, any services that interface or interact with Supplier's Services, Supplier will cooperate and coordinate with Buc-ee's or such third party as reasonably requested or required by such third parties to perform their duties.

4.6 Compliance with Laws and Buc-ee's Policies

- (a) Supplier is responsible, at its cost and expense, for obtaining and maintaining in force all necessary regulatory approvals, licenses, and permits applicable to its business or necessary for Supplier to provide the Services.
- (b) Supplier will comply (and cause its Subcontractors and Supplier personnel to comply) at all times with all Applicable Laws relevant or applicable to Supplier's and its Subcontractors' businesses, to the Services, and to Supplier's other obligations under these Terms and Conditions, including Applicable Laws relating to privacy, data security, financial controls, export and import control, anti-kickback, anti-bribery, fair labor, antitrust, money laundering, racketeering, health and safety (e.g., pandemic-related), telemarketing, and economic sanctions programs, as such Applicable Laws may change from time to time.
- (c) Supplier will bear the risk of and have financial responsibility for any change in Applicable Laws applicable to its (or its Subcontractors') business or the performance of its obligations under these Terms and Conditions.

4.7 Business Continuity and Disaster Recovery

- (a) Business Resiliency Program. Supplier shall implement and maintain a comprehensive enterprise-wide written document that details procedures developed and maintained in readiness to guide its organization on how to rapidly respond, recover, resume and restore all aspects of the business to a pre-defined level of operation following a Service Disruption (a “**Business Resiliency Plan**”). Upon written request, Supplier will provide Buc-ee’s, within ten Business Days of such request, with (i) a current copy of its Business Resiliency Plan and (ii) results of any testing of the elements of the Business Resiliency Plan, including testing dates, a list of all of the Supplier systems and applications that were tested, and the original testing recovery time objective (“**RTO**”) and final recovery time actuals (“**RTA**”) for all items tested.

5. SUPPLIER PERSONNEL AND SUBCONTRACTING

5.1 General Requirements for Supplier Personnel

- (a) Supplier will ensure that Supplier Personnel who perform the Services are properly educated, trained, familiar with, and fully qualified for the Services they are assigned to perform and capable of performing the tasks assigned to them in a timely and high-quality manner. Supplier will manage, supervise, and provide direction to Supplier Personnel and cause them to comply with the obligations and restrictions applicable to Supplier under these Terms and Conditions. Supplier is responsible for the acts and omissions of Supplier Personnel under or relating to these Terms and Conditions.
- (b) Supplier Personnel will at all times be considered employees or agents of Supplier (or its applicable Subcontractor) and will not be considered employees or agents of Buc-ee’s or Buc-ee’s Affiliates for any purpose. As between Supplier and Buc-ee’s, Supplier is solely responsible for payment of all wages, salaries, benefits, and other amounts due to or in respect of Supplier Personnel, including wages, salaries, benefits and other amounts that may accrue to such personnel.

5.2 Subcontracting

- (a) Supplier may subcontract performance of Services only: (i) as expressly provided in an SOW, or (ii) to the extent permitted by Buc-ee’s prior written approval. Supplier is responsible for managing any permitted Subcontractors and is responsible for their acts and omissions to the same extent as if the acts and omissions were those of Supplier, and for purposes of these Terms and Conditions such work will be deemed performed by Supplier. Supplier will be Buc-ee’s sole point of contact regarding the Services and will be solely responsible for any payments owed to its Subcontractors. Supplier will not disclose any Buc-ee’s Confidential Information to a Subcontractor unless such Subcontractor has agreed in writing to protect the confidentiality of Buc-ee’s Confidential Information in a manner equivalent to that required of Supplier under these Terms and Conditions. Supplier’s agreements with its Subcontractors will contain appropriate provisions to flow down applicable duties and responsibilities of Supplier under these Terms and Conditions to the Subcontractor.
- (b) Upon Buc-ee’s written request, Supplier will provide Buc-ee’s with a list of its Subcontractors and a detailed description of the functions and services they perform that are related to the Services under these Terms and Conditions.
- (c) Any subcontracting in violation of this Section 5.2 by Supplier will be deemed a material breach of these Terms and Conditions.

6. ACCEPTANCE

6.1 General

- (a) The Services provided pursuant to these Terms and Conditions will be subject to Acceptance by Buc-ee’s (“**Acceptance Process**”). Acceptance requires Buc-ee’s written confirmation that the Services and Deliverables, as applicable, meet the Acceptance Criteria specified in the applicable SOW.
- (b) Test procedures for the Services will be provided in or developed as set forth in the applicable SOW and be sufficiently rigorous to verify that the Services conform in all material respects to all applicable Specifications, Acceptance Criteria, and performance requirements.

6.2 Acceptance Process

- (a) When Supplier has completed implementation of the Services, Buc-ee's may perform an operational test reasonably acceptable to Buc-ee's to verify that the Services function properly. Supplier will notify Buc-ee's in writing when such Services are ready for Acceptance testing. The acceptability of any Services will be based on Buc-ee's determination that the Services either (i) meet the applicable Acceptance Criteria in all material respects, or (ii) if there are no Acceptance Criteria specified, meet Buc-ee's reasonable satisfaction.
- (b) When Services provided to Buc-ee's for review are determined by Buc-ee's to meet the applicable Acceptance Criteria or Buc-ee's reasonable satisfaction, as applicable, Buc-ee's will notify Supplier in writing of its Acceptance. There will be no deemed Acceptance by Buc-ee's of any Services, including through the lapse of time or the use of such Services by Buc-ee's.
- (c) If Buc-ee's determines that the Services deviate in any material respect from its Specifications, Acceptance Criteria, or performance requirements, or otherwise fail to pass applicable Acceptance tests (a "*Defect*"), Buc-ee's will inform Supplier in writing, describing the Defects in sufficient detail to allow Supplier to recreate them. Supplier will, at no additional charge, correct any Defects as quickly as possible after receiving Buc-ee's Defect notice, but in no event more than thirty (30) days after receiving such notice, unless otherwise specified in the applicable SOW or agreed to in writing by Buc-ee's. Supplier will provide the corrected Services to Buc-ee's for re-testing.
- (d) Buc-ee's will have a reasonable additional period of time after receipt of the corrected Service to re-test it so as to confirm its proper functioning. Supplier will, at no charge to Buc-ee's, correct any further Defects identified by Buc-ee's during the re-test as quickly as possible, but in no event more than thirty (30) days after Buc-ee's notifies Supplier of the further Defects.
- (e) If any revised and corrected Services contain any Defect after the second round of Acceptance tests, Buc-ee's may (i) require Supplier to continue revising and correcting the Services as described in Section 6.2(d), or (ii) reject the Services, receive its money back for the Services and any other Services that are of diminished value to Buc-ee's as a result of the rejection, or terminate these Terms and Conditions or any SOW, with no termination-related fee or further financial obligations, and receive a refund of any prepaid Charges.

6.3 Deliverable Acceptance Process

- (a) The acceptability of any Deliverable will be based on Buc-ee's determination that the Deliverable either (i) meets the applicable Acceptance Criteria in all material respects, or (ii) if there are no Acceptance Criteria specified, meets Buc-ee's reasonable satisfaction.
- (b) When a Deliverable provided to Buc-ee's for review is determined by Buc-ee's to meet the applicable Acceptance Criteria or Buc-ee's reasonable satisfaction, as applicable, Buc-ee's will notify Supplier in writing of its Acceptance. There will be no deemed Acceptance by Buc-ee's of a Deliverable, including through the lapse of time or the use of such Deliverable by Buc-ee's.
- (c) If any Deliverable does not meet the foregoing requirements for Acceptance, Buc-ee's will notify Supplier specifying its reasons in reasonable detail, and Supplier will, at no additional cost to Buc-ee's, promptly conform the Deliverable to the applicable Acceptance Criteria or as needed to meet Buc-ee's reasonable satisfaction, as applicable.
- (d) If within ten (10) days of notification by Buc-ee's (or such other time period as the Parties may agree in writing), any Deliverable still does not meet the Acceptance Criteria in all material respects, or does not meet Buc-ee's reasonable satisfaction, as applicable, Buc-ee's may, at its option and without obligation or liability of any kind: (i) terminate the applicable SOW, in whole or in part, and receive a prompt refund of all Fees for the portion of the SOW so terminated and any other Deliverables that are unusable as a result of such rejection; or (ii) without prejudice to Buc-ee's right to terminate pursuant to (i) above, extend the time for Supplier to correct the affected Deliverable.
- (e) If Buc-ee's extends the time for Supplier to correct the Deliverable, Supplier will, at no additional charge, correct such nonconformities as quickly as possible after receiving Buc-ee's notice, but in no event more than thirty (30) days after receiving such notice, unless otherwise agreed to in writing by Buc-ee's, and Supplier will provide the corrected Deliverable to Buc-ee's for re-evaluation. Buc-ee's will have a reasonable additional period of time after receipt of

the corrected Deliverable to reevaluate it. Supplier will, at no charge to Buc-ee's, correct any further nonconformities identified by Buc-ee's, as quickly as possible, but in no event more than thirty (30) days after Buc-ee's notifies Supplier.

7. PRICING; INVOICING AND PAYMENT; TAXES; AND AUDIT

- 7.1 Pricing.** Prices for Services shall be at the rates and amounts established in a Statement of Work or Purchase Order. Supplier's order price, discounts, terms, and conditions for the Services will always be Supplier's lowest price and most favorable discounts, terms, and conditions offered to any customer for that Service, regardless of any special terms, conditions, rebates, or allowances of any nature. If Supplier offers or contracts to render any Services to any customer at a lower price or with more favorable discounts, terms, or conditions, Supplier will match it and adjust the price, discounts, terms, and/or conditions offered to Buc-ee's, as applicable, for all outstanding and future invoices for such Services, and Supplier will rebate to Buc-ee's an amount equal to the difference in the price paid by Buc-ee's and the lower price for any invoices already paid by Buc-ee's for such Service. Such adjustments and rebates shall be calculated from the date Supplier first offered the Service at the lower price or with the more favorable discounts, terms, or conditions. Buc-ee's may request a certification by Supplier's financial officer that Supplier has materially complied with this provision.
- 7.2 Invoicing and Payment.** Non-recurring fees (if any) will be invoiced upon Acceptance of the applicable Software or Services. Recurring Charges will be invoiced annually in advance (unless otherwise provided in the applicable SOW or Purchase order) commencing (subject to Acceptance) from the date that implementation of the Software is completed. Supplier shall submit invoices for the full amount due, along with any supporting documentation, as instructed through the computer maintenance management software utilized by Buc-ee's. Unless otherwise agreed to by the Parties, Buc-ee's shall pay the undisputed Price(s) and other amounts stated on each invoice submitted by Supplier net thirty (30) days of the date of receipt of the invoice. Buc-ee's shall have no obligation to pay invoices submitted ninety (90) days or more from the date Services were provided. Supplier shall provide Buc-ee's with duly authorized payment instructions.
- 7.3 Disputed Fees.** If Buc-ee's in good faith disputes any Fees included on a Supplier invoice, Buc-ee's will notify Supplier of the disputed Charges in writing on or before the payment due date and may withhold payment of the disputed Charges pending resolution of the dispute. Pending settlement or resolution of any dispute with respect to Charges, Buc-ee's non-payment of such disputed items will not constitute a default by Buc-ee's and will not entitle Supplier to suspend or delay its performance of the Services. The parties agree to cooperate in good faith to promptly resolve any disputed Charges.
- 7.4 Taxes and Fees.** To the extent Supplier is required under Applicable Law to collect sales, use, local, state, federal, foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added (each a "**Tax**" and collectively "**Taxes**"), Supplier will invoice Buc-ee's for any Taxes due by Buc-ee's as a result of the Services rendered under these Terms and Conditions and Buc-ee's will be responsible for payment of the same to Supplier. Supplier's invoices will include any Taxes applicable to Supplier's Services or Charges included in the invoice as a separate line item. Supplier's invoices will include a breakout between taxable and non-taxable Services and show the jurisdiction from which each Service is rendered and the Services to which each tax applies, the tax rate, the value against which the tax rate is applied, and the total amount of tax due. Provided that Buc-ee's has paid such invoiced Taxes to Supplier. Supplier is solely responsible to remit any applicable taxes on Services and Fees directly to the appropriate taxing authority. SUPPLIER WILL INDEMNIFY AND HOLD BUC-EE'S GROUP HARMLESS FOR ANY LOSS, DAMAGE, FINES, PENALTIES, INTEREST, LATE FEES, EXPENSE (INCLUDING REASONABLE ATTORNEY FEES), COST OR LIABILITY CUSTOMER INCURS AS A RESULT OF SUPPLIER'S FAILURE TO COLLECT APPLICABLE TAX FROM BUC-EE'S OR REMIT SUCH TAXES TO THE APPROPRIATE TAXING AUTHORITY.
- 7.5 Audit.** Supplier shall maintain complete accounting records in such detail as to permit verification of charges made to Buc-ee's for Services ("**Records**"). Supplier shall keep Records in accordance with commonly accepted accounting practices and retain such records for a period of two (2) years following completion of the Services. If as a result of an audit conducted by Buc-ee's it is determined that any amount previously paid to Supplier was an overcharge on Supplier's part, the amount of such overcharge, plus interest at a rate of ten percent (10%) per annum, will be promptly refunded to Buc-ee's by Supplier. If an amount previously paid to Supplier is determined to be an undercharge on

Supplier's part, in no event shall Buc-ee's pay the amount of such undercharge if such undercharge was found more than two (2) years following completion of the applicable Services.

8. REPRESENTATIONS, WARRANTIES AND COVENANTS

Supplier represents, warrants and covenants as follows, which representations, warranties and covenants will be considered to be given anew upon the execution of each SOW and Purchase Order:

8.1 Authority

Supplier has the requisite corporate power and authority and the right to enter into these Terms and Conditions and each SOW and perform the Services thereunder.

8.2 Software, Deliverables and Services

- (a) The Software will perform in all material respects in accordance with: i) the description of the Software, Acceptance Criteria, Documentation and ii) any other standards that are set forth in the applicable SOW at the time of Buc-ee's Acceptance and for one (1) year following such Acceptance. Supplier will correct and repair, at no cost to Buc-ee's, any defect, malfunction or non-conformity that prevents the Software from conforming and performing as so warranted and that occurs during such warranty period;
- (b) The Software operates, and will continue to operate, properly in conjunction with Buc-ee's chosen operating environment(s) (and all standard upgrades to such environment(s)) and without Error or, if any Error does occur, Supplier will promptly correct it in accordance with the applicable Service Level Agreement;
- (c) The Specifications and Documentation and other materials provided by Supplier under an SOW will accurately reflect the Software provided to Buc-ee's hereunder;
- (d) Each Deliverable will perform in accordance with the applicable Acceptance Criteria and other standards set forth in the applicable SOW at the time of Buc-ee's Acceptance of such Deliverable and for one (1) year following such Acceptance. Supplier will correct and repair, at no cost to Buc-ee's, any defect, malfunction or non-conformity that prevents such Deliverable from conforming and performing as so warranted and that occurs during such warranty period; and
- (e) The Services do not contain or include, and are not designed to interact or interconnect (in any manner) with, and do not require, in order to function in their intended fashion, the use of any third-party software or other third-party work subject to an open source license or any 'copyleft' terms that: (i) grant, or purport to grant, to any third party any right to or in Intellectual Property or other proprietary rights; (ii) could cause, or be interpreted or asserted to cause, any Intellectual Property or other proprietary materials to become subject to the terms of any open source or similar license; (iii) require Buc-ee's to make any source code (or any part or derivative work thereof) available to third parties under any circumstances; or (iv) otherwise subject Buc-ee's to any obligation not expressly set out in these Terms and Conditions or an SOW.

8.3 Non-infringement

- (a) The Software, Deliverables, Services and any materials provided by Supplier to Buc-ee's will not infringe or misappropriate any Intellectual Property Rights of any third party;
- (b) Supplier has all rights and licenses necessary to grant the licenses granted by Supplier under these Terms and Conditions; and
- (c) Buc-ee's receipt and use of the Software, Services and other materials provided by Supplier (whether directly or indirectly through its agents or Subcontractors) will not infringe, or constitute an infringement or misappropriation of, any intellectual property rights of any third party.

8.4 Interoperability. Any Software, Deliverables, Documentation, Updates, and materials provided by Supplier under these Terms and Conditions and/or an SOW that are intended to interact or otherwise shall work together as part of a

functioning system will be compatible and will properly interoperate and work together as components of an integrated system.

8.5 Security; PCI Compliance

- a) Supplier will implement and maintain physical, technical and operational measures under a written information security program (a) reasonably designed, taking into account the circumstances of Supplier's business, to (i) ensure the security, integrity and confidentiality of Buc-ee's Data; (ii) protect against any anticipated threats or hazards to the security, integrity or confidentiality of Buc-ee's Data; and (iii) protect against any unauthorized access to, use of, or alteration to Buc-ee's Data, internally or externally; and (b) that complies with any additional mutually agreed upon security-related requirements. Supplier's security procedures will, at all times during the term of an SOW or Purchase Order, (i) comply with all Applicable Laws, (ii) meet or exceed the information security standards consistent with National Institute of Standards and Technology, United States Department of Commerce (NIST) guidelines or equivalent industry standards and practices that are commonly utilized by the leading service providers in Supplier's industry, and (iii) in no event offer less protection than that which Supplier affords to its own confidential information and materials.
- b) Upon Buc-ee's written request, Supplier will provide within ten (10) business days i) internal and external independent audit reports, including SSAE 18 (or such standards as may be issued in the future in replacement thereof), SOC 1, SOC 2, SOC3 for cybersecurity (or such types as may be issued in the future in replacement thereof); ii) any assurances and evidence of information security methodology, such as, but not limited to an independent audit report prepared by a nationally recognized auditor opining on the design, effective operation and continuity of control procedures associated with the processing of Buc-ee's Data and the Services; iii) security reports (or an alternate document acceptable to Buc-ee's).
- c) As applicable, Supplier represents and warrants, that Supplier will maintain PCI-DSS Compliance. "**PCI-DSS Compliance**" means compliance with the Payment Card Industry Data Security Standard as promulgated by the Payment Card Industry Security Standards Council. Upon the written request of Buc-ee's, Supplier agrees to provide Buc-ee's the PCI Attestation of Compliance ("**AOC**") letter reflecting the results of Supplier's most recent annual PCI compliance audit conducted.

8.6 Malicious Code

- a) Supplier will not cause or permit any viruses, malware, or similar items ("**Malicious Code**") to be coded or introduced into Supplier systems or Buc-ee's systems to which Supplier is given access and, if Malicious Code is introduced, Supplier will assist Buc-ee's in reducing the effects of the Malicious Code, including restoring any loss of data, operational efficiency and mitigating any security risks;
- b) Supplier systems (and any third-party systems who Supplier grants access to Buc-ee's Data) where Buc-ee's Data is stored or that connect with Buc-ee's systems are free from Malicious Code and maintained in compliance with industry leading security practices;
- c) None of the Software or Services contain any code or protocol that would: (i) permit the surreptitious monitoring of the use or operation of any Software, Services or system; or (ii) disable or impair any Software, Services or system, in any way, based on the elapsing of a period of time, the exceeding of an authorized number of copies or scope of use or the advancement to a particular date or other numeral.

8.7 Work Standards

- (a) All Services will be rendered promptly, diligently and efficiently, in a competent and workmanlike manner, in accordance with high professional standards;
- (b) Supplier Personnel will be qualified to perform the tasks and functions that they are assigned; and
- (c) Supplier will staff each SOW with sufficient resources to reasonably meet deadlines and timetables set forth in such SOW.

In the event of a breach of any of the warranties in this Section 8, in addition to any other remedies that may exist in law or in equity, Buc-ee's may require re-performance of the applicable Services at Supplier's expense.

9. CONFIDENTIAL INFORMATION; SECURITY BREACH; INTELLECTUAL PROPERTY; DATA; PUBLICITY; USE OF MARKS

9.1 Confidential Information.

- (a) Supplier shall protect and safeguard the confidentiality of all Confidential Information with at least the same degree of care as Supplier would protect its own confidential information, but in no event with less than a commercially reasonable degree of care. Supplier shall not use Confidential Information, or permit it to be accessed or used, for any purpose other than to the extent necessary to accomplish the purpose of these Terms and Conditions, and in any event shall not use Confidential Information in any manner to Buc-ee's detriment.
- (b) Supplier shall not disclose any Confidential Information, except to Supplier's representatives who (i) need to know such information in order to accomplish the purpose of these Terms and Conditions, (ii) are informed by Supplier of the confidential nature of the Confidential Information, and (iii) are subject to confidentiality duties or obligations to Supplier that are no less restrictive than the terms and conditions herein.
- (c) In the event Supplier is required to disclose Confidential Information by a governmental authority pursuant to a law or regulation, Supplier shall promptly notify Buc-ee's of the terms and circumstances surrounding the request or order and reasonably assist Buc-ee's in seeking an appropriate protective order or otherwise obtaining reliable assurance that confidential treatment will be accorded to the disclosed Confidential Information.
- (d) The confidentiality obligations herein shall continue for the term of any SOW or a Purchase Order and for three (3) years after the termination of either such agreement, except that with respect to trade secrets, the confidentiality obligations shall last for as long as such Confidential Information qualifies as a trade secret.

9.2 Security Breach.

- (a) Upon discovery or notification of any Security Breach, Supplier will, at its own expense: (i) as promptly as practicable and, in any case, within twenty-four (24) hours, notify Buc-ee's of such Security Breach (including providing Buc-ee's with a detailed description of the incident, the types of data, information, materials or systems that were the subject of the Security Breach, the identity of affected individuals, if any (e.g., Buc-ee's employees, Buc-ee's customers), and any other information Buc-ee's may request concerning the details of the breach); (ii) investigate such Security Breach and report its findings on a daily basis to Buc-ee's; (iii) provide Buc-ee's with a remediation plan, acceptable to Buc-ee's, to identify, prevent and mitigate the effects of such Security Breach and to prevent any further incidents; (iv) execute the approved plan in order to remediate such Security Breach and remedy the impact; (v) conduct a forensic investigation to determine what systems, data and information have been affected by such event, the results of which investigation will be provided to Buc-ee's; (vi) cooperate with any Buc-ee's investigation of the Security Breach, including promptly providing any information that Supplier has with respect to the Security Breach; and (vii) at Buc-ee's request, cooperate with any law enforcement or regulatory officials, credit reporting companies, and credit card associations investigating such Security Breach. Buc-ee's will make the final decision on notifying Buc-ee's employees, customers, suppliers, regulators and/or the general public of such Security Breach, and the implementation of the remediation plan. Supplier agrees to bear any cost or loss Buc-ee's may incur as a result of a Security Breach caused by Supplier, including the cost of notifying customers if Buc-ee's determines to do so.
- (b) Notwithstanding the foregoing, nothing herein will be construed as limiting Buc-ee's right to recover damages in connection with any such breach or potential breach of security or to pursue any other rights or remedies in connection with any such Security Breach. Notwithstanding anything in these Terms and

Conditions to the contrary, Buc-ee's will have the right to terminate an SOW and/or Purchase Order without penalty in the event of a Security Breach.

9.3 Intellectual Property.

- (a) Buc-ee's is and shall be, the sole and exclusive owner of all right, title and interest throughout the world in and to all the results and Deliverables of the Services performed under these Terms and Conditions and any SOW.
- (b) Buc-ee's retains all right, title, and interest in and to Intellectual Property, and, except as otherwise expressly provided herein, nothing shall be construed as an assignment, grant, option, license, or other transfer of any right, title, or interest whatsoever in or to such Intellectual Property.
- (c) Notwithstanding the foregoing and limited to the extent necessary to provide the Services by Supplier pursuant to these Terms and Conditions, including Deliverables, Buc-ee's grants a limited, non-exclusive, non-transferable, non-sublicensable, revocable, royalty-free, right and license to use Intellectual Property, solely for the benefit of Buc-ee's. Supplier shall not use any Intellectual Property on any social media or similar platform, or technology, now known or later developed, without Buc-ee's prior express written consent.
- (d) Any Deliverables and any new artwork, illustration, design or other intellectual property created under or relating to these Terms and Conditions or otherwise at the request of Buc-ee's ("New IP") are solely works made for hire for Buc-ee's, shall be and remain the property of Buc-ee's; to the extent such Deliverables or New IP do not qualify as works made for hire, Supplier irrevocably assigns, in each case without additional consideration, all right, title, and interest throughout the world in and to the Deliverables and New IP, including all intellectual property rights therein, to Buc-ee's, or any designee Buc-ee's may at its discretion elect. Any Deliverables and New IP shall be included in the definition of Intellectual Property. Supplier shall execute and deliver such additional documents, instruments, conveyances, and assurances, and take such further actions as may be requested by Buc-ee's to carry out the provisions hereof and give effect to the transactions contemplated hereunder. To the fullest extent permitted by Applicable Law, Supplier hereby waives, and shall cause Supplier's employees, agents, Suppliers, consultants, and anyone else acting at Supplier's direction or under its control, who are sole or joint authors of the New IP, to waive, all rights of paternity, integrity, attribution, disclosure, withdrawal, and any other rights that may be known as "moral rights" vested in such author in relation to the New IP.
- (e) Supplier shall not acquire a proprietary interest in Intellectual Property. All use of Intellectual Property by Supplier shall be for, and inure to the benefit of, Buc-ee's. Supplier shall not (i) dispute Buc-ee's ownership of Intellectual Property, (ii) do anything inconsistent with Buc-ee's ownership of Intellectual Property, or (iii) use any intellectual property that is substantially similar to the Intellectual Property for any commercial purpose. Supplier will take no action that will or could reasonably be expected to jeopardize or affect the validity of Intellectual Property or Buc-ee's rights in the Intellectual Property.

9.4 Data. Buc-ee's retains ownership and control of Buc-ee's Data. Supplier may use Buc-ee's Data solely in the performance of its obligations under these Terms and Conditions and shall not use, sell, or otherwise transfer Buc-ee's Data without Buc-ee's prior written consent. Supplier agrees that it shall seek Buc-ee's written consent regardless of whether such desired use entails anonymized or aggregated data or not.

9.5 Publicity and Use of Marks. Supplier shall not announce in any press release or otherwise publicly state that Buc-ee's and Supplier have entered into a business arrangement without the prior written consent of Buc-ee's. The provisions of this Section 9.5 shall survive termination of these Terms and Conditions. Neither Party will use the name or marks of, refer to, or identify the other Party (or any related entity) in publicity releases, interviews, promotional or marketing materials, public announcements, listings, testimonials or advertising without the prior written consent of the other Party. Neither Party will remove any copyright or proprietary rights notice attached to or included on any tangible material provided by the other party. All such notices will be reproduced on any copies of such tangible material.

10. USAGE DATA AND MACHINE LEARNING OUTPUT

- 10.1** Buc-ee's will have exclusive title and ownership rights, including all intellectual property rights, throughout the world, in all Usage Data and Machine Learning Output. To the extent that such rights may not originally vest in Buc-ee's, Supplier hereby irrevocably assigns to Buc-ee's all such rights in the Usage Data and Machine Learning Output. Buc-ee's Usage Data and Machine Learning Output will be deemed to be Buc-ee's Confidential Information, and subject to the confidentiality requirements outlined in Section 9.
- 10.2** Supplier will not, without Buc-ee's prior written consent, capture any Usage Data, except to the extent strictly necessary for the purpose of performing Supplier's obligations under the applicable SOW or as otherwise expressly set out in such SOW. Buc-ee's grants to Supplier a limited, revocable, non-transferrable, non-sublicensable, non-exclusive license to use Buc-ee's Usage Data and Machine Learning Output (if any), for the applicable SOW Term, solely for the purpose of performing Supplier's obligations under such SOW. Supplier will: (i) not dispose of, distribute or share with any third party, or otherwise exploit the Usage Data or Machine Learning Output (or any part of them); (ii) not assert any lien or other right over any Usage Data or Machine Learning Output; and (iii) provide Buc-ee's with a log of the Usage Data as reasonably requested by Buc-ee's from time to time.

11. LAWS AND REGULATIONS

- 11.1 Compliance.** Supplier shall comply with all Applicable Laws and maintain all permits, licenses, or other authorizations necessary to carry out its obligations under these Terms and Conditions, any SOW and any Purchase Order. Supplier shall comply with all applicable policies of Buc-ee's relating to business and office conduct, health and safety, vendor guidelines including the requirements of Buc-ee's computer maintenance management software, and use of Buc-ee's facilities, supplies, information technology, equipment, networks, and other resources. Supplier shall indemnify Buc-ee's for any Claims arising from Supplier's failure to comply with this Section 11.1. Buc-ee's shall have the right to immediately suspend its performance or terminate the relationship with Supplier, and will not be in breach or default as a result of such suspension or termination, if Supplier is in violation of any Applicable Laws.

12. INSURANCE

In support of its indemnity obligations under these Terms and Conditions, and not as an obligation separate or independent therefrom, Supplier shall procure and maintain throughout the term of an SOW or a Purchase Order, as applicable, at its sole expense, policies of insurance for commercial general liability (including product and completed operations, personal injury, contractual liability coverage, independent contractor, and premises damage liability) with a minimum of \$1,000,000 each occurrence; \$1,000,000 general aggregate limit and \$1,000,000 products and completed operations aggregate limit written on an occurrence form. Aggregate limits shall apply on an annual basis. Such insurance can be any combination of primary or umbrella/excess. If Supplier's employees, agents, or subcontractors enter Buc-ee's premises for any purpose relating to these Terms and Conditions, Supplier will also have each of the following insurance policies in minimum limits of \$1,000,000: (1) workers' compensation and employers' liability insurance per accident/occurrence for bodily injury and property damage; (2) cyber liability insurance; (3) professional errors and omissions insurance; and (4) auto liability with \$1,000,000 per accident for bodily injury and property damage limits for each accident, including owned, non-owned and hired vehicles. Such amounts are not to be construed to void or limit the indemnities contained herein, nor do they represent any limitation on the insurance coverage Supplier may obtain. The insurance required herein shall (a) provide that defense costs will not apply against coverage limits; (b) contain a waiver of subrogation in favor of Buc-ee's; (c) provide that such insurance is primary, non-contributory, and not excess coverage; (d) provide coverage for claims occurring worldwide; and (e) name Buc-ee's as additional insured, or, as to worker's compensation, an alternate employer. Additional insured coverage must be under or as broad as that afforded under ISO Form CG 20 10 11 85. Alternatively, CG 20 10 Edition Dates 10 93, 03 97, or 10 01 are acceptable but endorsement CG 20 37 10 01 must be added. Supplier's coverage shall include contractual liability sufficient to cover Supplier's indemnity obligations under this contract. Each insurance policy shall be issued by a company with an AM Best's Rating of A-XII or better and shall not be suspended, voided, cancelled, reduced in coverage or in limits except after sixty (60) days prior written notice shall have been given to Buc-ee's by the insurance carrier(s). Supplier shall furnish Buc-ee's evidence of such required insurance promptly after execution of these Terms and Conditions as well as upon request by Buc-ee's throughout the Term. Buc-ee's reserves the right to require complete and certified copies of all such insurance policies at any time (including, without limitation, the additional insured and waiver of subrogation provisions or endorsements). By requiring the insurance as set out, Buc-ee's does not represent that coverage and limits will necessarily be adequate to

protect Supplier, and nothing contained herein obligates Buc-ee's to purchase or obtain any insurance of any kind. Supplier shall furnish proof of renewal at least fifteen (15) days prior to expiration of any policy of insurance required hereunder. Failure to maintain insurance shall constitute an event of default of these Terms and Conditions.

13. DISENGAGEMENT ASSISTANCE

Upon expiration or termination of these Terms and Conditions, an SOW or a Purchase Order for any reason, as applicable, Buc-ee's will have a reasonable period of time, not to exceed eighteen (18) months, following the effective date of expiration or termination, in which to continue using the Software and other Services until it can successfully transition to a substitute service provider. During such time period, the Parties agree that Buc-ee's will continue to pay the rates and Prices agreed to by the Parties before the expiration or termination of the applicable SOW or Purchase Order. In addition to continuing to provide any Software and Services being terminated, Supplier shall provide to Buc-ee's, the assistance, cooperation, provision of information (including, but not limited to, any data or other information under the control or possession of any third-party service provider described in these Terms and Conditions) and other activities necessary to facilitate the orderly migration and smooth transition of Services to Buc-ee's or its designee, or the orderly wind-down of terminated Services ("**Disengagement Assistance**"). If, and to the extent that, Supplier's Disengagement Assistance requires the use of different or additional resources beyond those then being used or required to render the Services in accordance with these Terms and Conditions, Buc-ee's will compensate Supplier at rates agreed to by the Parties, except if Buc-ee's terminates a Purchase Order or an SOW for cause, in which case Supplier will provide the incremental resources without charge.

14. INDEMNIFICATION; INFRINGEMENT CLAIM; INDEMNIFICATION PROCEDURES

14.1 INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW SUPPLIER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS BUC-EE'S GROUP FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS, THE SERVICES, OR ANY ACT OR OMISSION OF SUPPLIER, INCLUDING BUT NOT LIMITED TO CLAIMS ARISING OUT OF RELATING TO: A SECURITY BREACH; SUPPLIER'S NEGLIGENCE OR WILLFUL MISCONDUCT; SUPPLIER'S FAILURE TO COMPLY WITH APPLICABLE LAWS; SUPPLIER'S BREACH OF ITS CONFIDENTIALITY OR DATA PROTECTION OBLIGATIONS HEREUNDER; AND ANY CLAIM THAT ANY SOFTWARE, DELIVERABLE AND/OR SERVICES FURNISHED BY OR ON BEHALF OF SUPPLIER CONSTITUTES AN INFRINGEMENT, MISAPPROPRIATION OR UNLAWFUL USE OR DISCLOSURE OF A THIRD PARTY'S INTELLECTUAL PROPERTY (AS DESCRIBED IN SECTION 14.2). BUC-EE'S SHALL CONTROL THE SELECTION OF COUNSEL FOR THE DEFENSE OF THE CLAIMS. SUPPLIER SHALL NOT ENTER INTO ANY SETTLEMENT THAT AFFECTS THE RIGHTS OR INTERESTS OF BUC-EE'S GROUP WITHOUT BUC-EE'S PRIOR WRITTEN CONSENT. ANY CAUSE OF ACTION BUC-EE'S MAY HAVE AGAINST SUPPLIER FOR ANY BREACH OF THESE TERMS AND CONDITIONS EXISTS INDEPENDENTLY OF SUPPLIER'S INDEMNITY OBLIGATIONS UNDER THESE TERMS AND CONDITIONS. SUPPLIER FURTHER AGREES TO REIMBURSE BUC-EE'S GROUP FOR ANY ATTORNEYS FEES AND COSTS INCURRED BY BUC-EE'S GROUP IN THE ENFORCEMENT OF THIS SECTION 14.1. THE INDEMNITIES SET FORTH IN THIS SECTION 14.1 SHALL APPLY REGARDLESS OF WHETHER THE CLAIM OR LOSS IS CAUSED BY THE SOLE, JOINT, CONTRIBUTORY OR CONCURRENT NEGLIGENCE (IN ANY AMOUNT), GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, STRICT LIABILITY, PRODUCTS LIABILITY, BREACH OF WARRANTY, BREACH OF CONTRACT, BREACH OF STATUTE OR OTHER FAULT OR FORM OF LIABILITY OF ANY MEMBER OF BUC-EE'S GROUP OR A THIRD PARTY, OR ANY PRE-EXISTING CONDITION.

14.2 Effect of an Infringement Claim. In the event of any Claim that any Software, Deliverable(s), works, information, material(s) and/or Services furnished by or on behalf of Supplier, or the use thereof by Buc-ee's, constitutes an infringement, misappropriation or unlawful use or disclosure of a third party's intellectual property, Supplier will promptly either: (x) obtain the rights necessary for Buc-ee's to continue using any allegedly infringing item; (y) modify or replace any allegedly infringing item with a functionally equivalent item that is not infringing; or (z) if neither (x) or (y) is reasonably attainable, have the right to terminate the applicable Purchase Order and/or the applicable Statement of Work, and in the event of such termination, Supplier will refund all paid fees to Buc-ee's.

14.3 Indemnification Procedures

- (a) Buc-ee's will provide the indemnifying Party prompt notice of each such Claim received by Buc-ee's; provided, however, that no failure to so notify Supplier will relieve Supplier of its obligations under these Terms and Conditions.
- (b) Supplier will have the right and authority to control and direct the investigation, defense, and settlement of such Claim, provided that (i) Buc-ee's will be entitled to participate in the defense of such Claim and to employ counsel at its own expense, and (ii) if a settlement imposes an obligation or restriction on Buc-ee's, or requires Buc-ee's to make an admission, Supplier will obtain the prior written approval of Buc-ee's (such approval not to be unreasonably conditioned, delayed, or withheld) before entering into any settlement of such Claim.
- (c) Buc-ee's will have no liability for settlements or agreements entered into without its prior written consent.

15. LIMITATION OF LIABILITY

15.1 Consequential Damages Waiver. Buc-ee's Group shall not be liable to Supplier for, and Supplier hereby waives and releases Buc-ee's Group from and against, any and all Claims for Consequential Damages. "**Consequential Damages**" means (i) any and all indirect, incidental, special, punitive, exemplary, or consequential damages or consequential losses of any nature whatsoever (whether or not foreseeable), and (ii) damages or losses, whether direct or indirect, for lost products or production, lost profits or revenues, loss of or inability to use property or equipment, lost business, failure to meet contractual commitments or deadlines, or business interruption.

15.2 Liability Cap. Buc-ee's Group's maximum aggregate liability with respect to Claims arising out of, or in any way relating to these Terms and Conditions or any Services, whether sounding in contract or tort (including negligence, gross negligence, willful misconduct, strict liability and breach of statutory duty), at law or in equity, shall be limited to the aggregate amounts paid to Supplier for all Services performed during the twelve (12) month period immediately preceding the event giving rise to the Claim, not to exceed \$250,000.00, in the aggregate ("**Liability Cap**"). Supplier hereby releases Buc-ee's Group from and agrees to Indemnify Buc-ee's Group against any such liability in excess of the Liability Cap.

16. GENERAL

16.1. Headings. The headings, subheadings, and captions used in these Terms and Conditions are for convenience purposes only and shall not affect in any way or be used to construe the meaning or interpretation of these Terms and Conditions.

16.2. Severability. If any one or more of the provisions contained in these Terms and Conditions shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and these Terms and Conditions will remain in full force and effect, adjusted as necessary so as to give maximum effect to the original intent and economic effect of the Parties.

16.3. Non-Waiver. A waiver by either Party of the breach or violation of any provision of these Terms and Conditions or a failure to insist upon strict performance of any of the provisions contained in these Terms and Conditions shall not diminish either Party's right to full performance thereafter nor operate as, or be construed to be, a waiver of any subsequent breach of these Terms and Conditions.

16.4. Surviving Provisions. Any right or obligation which by its nature extends beyond termination of a Purchase Order will survive such termination for a period not less than two (2) years, unless otherwise specified herein.

16.5. Specific Performance. Any breach of these Terms and Conditions may result in irreparable damage to Buc-ee's for which Buc-ee's may not have an adequate remedy at law. Buc-ee's may seek, without any requirement to post a bond or other security (a) a decree or order of specific performance to enforce the performance of any covenants or obligation under these Terms and Conditions; and (b) an injunction restraining such breach or threatened breach. The remedies provided in this Section 16.5 shall be cumulative of all of Buc-ee's rights and remedies at law or in equity.

16.6. Non-solicitation. Buc-ee's and Supplier acknowledge and agree that during the term of a Statement of Work or a Purchase Order, as applicable, and for one (1) year thereafter, unless mutually agreed upon in writing, neither Buc-ee's nor Supplier will directly or indirectly, on Buc-ee's or Supplier's own behalf or in the service or on behalf of

others, in any capacity, induce or attempt to induce any officer, director, or employee to leave their company, provided, however, that general advertising in mass media shall not constitute solicitation for purposes hereof.

- 16.7. Force Majeure.** Neither Party shall be considered in breach of these Terms and Conditions if prevented from performing due to a Force Majeure.
- 16.8. Assignment.** Supplier may not assign these Terms and Conditions, SOW, or Purchase Order, or any rights or interest therein, without the prior written consent of Buc-ee's. Supplier shall promptly provide Buc-ee's written notice of any change in ownership.
- 16.9. Governing Laws and Venue.** these Terms and Conditions shall be governed by the laws of the State of Texas without giving effect to any choice of law provision or rule, and performance of obligations hereunder shall be deemed to be in Brazoria County, Texas. The rights and obligations of the Parties under these Terms and Conditions shall not be governed by the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods, as amended, modified, supplemented or superseded. Any action or proceeding arising out of or relating to the Agreement Documents shall be brought in the courts situated in Brazoria County, Texas, and each Party hereby submits to the personal jurisdiction and exclusive venue of such courts in any such action or proceeding.
- 16.10. JURY TRIAL WAIVER. THE PARTIES BOTH KNOWINGLY, WILLINGLY, INTENTIONALLY, VOLUNTARILY AND IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY FOR ANY CLAIMS ARISING OUT OF THESE TERMS AND CONDITIONS OR ANY SOW. THIS WAIVER DOES NOT AFFECT ANY REMEDIES AVAILABLE UNDER ANY APPLICABLE LAWS; RATHER, THE PARTIES WAIVE ONLY THE RIGHT TO TRIAL BY JURY AND WILL PRESENT ANY CONTROVERSY INVOLVING THEM IN A BENCH TRIAL TO A JUDGE.**
- 16.11. Relationship of the Parties.** Supplier is an independent contractor, and not an agent or employee of Buc-ee's. Nothing herein shall be construed to create a joint venture, partnership, association, profit sharing arrangement or like relationship between the Parties, nor shall an SOW, Purchase Order or the relationships established in connection therewith be deemed to give rise to any fiduciary obligation on the part of either Party. Nothing herein shall create a contractual relationship with or a cause of action in favor of a third party against Buc-ee's.
- 16.12. Notices.** Any notice, request, demand or other communication required or permitted hereunder to Buc-ee's shall be in writing and, unless otherwise set forth herein, shall be sufficiently made or given when delivered personally, or on the date of mailing if sent via registered mail or other traceable delivery, postage prepaid, addressed to Buc-ee's at the address below. A copy of all notices to Buc-ee's must also be sent by email to legal@buc-ees.com. Oral notice is not effective. Buc-ee's relies on strict compliance with this provision to ensure notification reaches persons in authority and the parties agree no substantial compliance is acceptable.
- To Buc-ee's at:
Buc-ee's, Ltd.
General Counsel
11200 W. Broadway, Suite 2350
Pearland, TX 77584

Unless Supplier provides an address to Buc-ee's for notice to Supplier, Buc-ee's will provide all notices to Supplier's employee or representative or as required by law.

- 16.13. Entire Agreement; Disclaimer of Reliance; and Modification.** These Terms and Conditions, any SOW or Purchase Order, together with any specifications and documents attached to an SOW or a Purchase Order, and herein incorporated by reference, constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede and merge all prior or contemporaneous proposals, discussions, negotiations, understandings, promises, representations, conditions, communications and agreements, whether written or oral, between the Parties with respect to such subject matter and all past courses of dealings or industry custom. In executing a contract with Buc-ee's, including a Purchase Order, Supplier is relying solely upon Supplier's own independent knowledge, understanding, and investigation, and has not relied upon any promises, representations, covenants, or warranties, whether written or oral, express or implied, made by Buc-ee's, that are not expressly stated in these Terms and Conditions. Supplier agrees that Buc-ee's had no duty to make any disclosures. Supplier hereby waives, releases, and disclaims any right or ability to seek to revoke, rescind, vacate, or otherwise avoid the operation and effect of these Terms and Conditions based on any alleged fraudulent inducement, misrepresentation, or material omission by Buc-ee's. No agreement or understanding modifying these Terms and Conditions, either before or after the execution

hereof, shall be binding upon Buc-ee's unless in writing and signed by a Buc-ee's representative listed in Section 16.16.

- 16.14. Order of Precedence.** In the event of a conflict between the terms of these Terms and Conditions, an SOW or a Purchase Order, the terms of the agreements below shall control in the order in which they are listed: (a) these Terms and Conditions; (b) an SOW and (c) a Purchase Order. Any additional, contrary, or different terms contained in any of Supplier's confirmations, invoices, or other communications, and any other attempt to modify, supersede, supplement, or otherwise alter these Terms and Conditions, are deemed rejected by Buc-ee's.
- 16.15. Consideration, Acknowledgement and Acceptance.** The Parties agree that the consideration and obligations recited and provided for under these Terms and Conditions collectively constitute substantial benefits to both Parties and are, therefore, adequate consideration for these Terms and Consideration. Buc-ee's may revise and post updates to these Terms and Conditions, from time to time, and all SOWs and Purchase Orders will be subject to the most recently posted version of these Terms and Conditions. Supplier shall be deemed to have accepted these Terms and Conditions, unless Buc-ee's and Supplier have both executed a separate written contract which governs the purchase of Software and/or Services.
- 16.16. Authority.** Buc-ee's only authorized representatives for: (i) changes to Prices or (ii) changes to these Terms and Conditions are: Scott Carpenter, Jeff Nadalo, or Joe O'Leary. Officers of Buc-ee's can also be authorized representatives on the condition precedent that Supplier obtain written confirmation of authority before execution by emailing legal@buc-ees.com. Supplier's representative is the person executing an agreement on behalf of Supplier. Supplier understands Buc-ee's is relying on this representation in entering any agreement with Supplier.

EXHIBIT A
SERVICE LEVEL AGREEMENT

1. Additional Definitions

- (a) “**Availability**” means the percentage of time for which the Services are deemed fully available and usable, calculated per month.
- (b) “**Downtime**” means any period of time, other than any period of Scheduled Maintenance, in which the Services are not fully available and usable.
- (c) “**Latency**” means the difference, in milliseconds, between a user action or input and the expected content being displayed on the relevant user’s screen.
- (d) “**MRC**” means those Charges that are monthly recurring Charges or, if any Charges are payable annually in advance, the equivalent of 1/12th of such charges.
- (e) “**Scheduled Maintenance**” means any pre-planned maintenance that: (i) is notified to Buc-ee’s at least thirty (30) days in advance and which Buc-ee’s has expressly approved; or (ii) is carried out outside of Buc-ee’s business hours (unless Buc-ee’s agrees otherwise) in the place where the Services are received and which does not exceed five (5) hours, in aggregate, per calendar month.
- (f) “**Severity Level**” means the classification that denotes the severity of an Error.
- (g) “**Support Request**” means a notification by or on behalf of Buc-ee’s of the occurrence of an Error or to request some other technical support in relation to the Services.
- (h) “**Workaround**” means any temporary workaround, patch or bypass to temporarily correct the relevant Error, provided that functionality, compatibility or use is not adversely affected and the Workaround is not unduly burdensome to Buc-ee’s.

2. Availability

- (a) Availability Service Level. Supplier will meet or exceed an Availability Service Level of 99.999%.
- (b) Availability Calculation. Availability will be calculated using the following formula:

$$\text{Availability (\%)} = \frac{T - D}{T} \times 100 \quad \text{or in words (\%)} = \frac{\text{Total number of usable minutes}}{\text{Total minutes}}$$

Where:

T = Total number of minutes in the relevant calendar month

D = Total amount of Downtime (in minutes) for the relevant calendar month

Example:

T = 43,200 minutes (in a 30-day month)

D = 60 minutes

$$\text{Availability (\%)} = \frac{43,200 - 60}{43,200} \times 100 = 99.861$$

- (c) Availability Service Level Credits. Buc-ee’s will be entitled to Service Level Credits for any failure of Supplier to meet the relevant Availability Service Level as set out in the following table:

Actual Availability	Service Level Credits
<99.99 - ≥99.5%	15% of MRC
<99.5 - ≥99.0%	20% of MRC
<99.0%	25% of MRC

It will be deemed a material breach by Supplier if the Availability Service Level is 99.75% or less three times in a rolling six-month period.

3. Support and Maintenance

- (a) **Scheduled Maintenance.** Supplier will perform routine and preventative maintenance in respect of the Services and, unless otherwise expressly agreed with Buc-ee's, will do so only during periods of Scheduled Maintenance.
- (b) **Support Requests.** Buc-ee's may place Support Requests via Supplier's helpdesk, which will be contactable using the telephone and email contact details that Supplier will provide to Buc-ee's prior to commencement of the Services.
- (c) **Severity Levels.** Severity Levels will be assigned by Buc-ee's, acting reasonably, when placing the relevant Support Request, in accordance with the following criteria:

Severity Level	Criteria
Severity 1 Error	(i) causes the relevant Services to be unavailable, cease operating or operation to be materially impaired; (ii) may cause the deletion, impairment, damage or corruption of any Buc-ee's Data or system; and/or (iii) may have a material adverse impact on the business of Buc-ee's
Severity 2 Error	causes a significant function of the Services to be impaired although they still operate
Severity 3 Error	causes a minor function of the Services to be impaired which adversely affects, or is likely adversely to affect, the business of Buc-ee's
Severity 4 Error	causes a minor function of the Services to be impaired, but there is no likely adverse effect on the business of Buc-ee's

- (d) **Remote Access.** Supplier will not access, or attempt to access, any Buc-ee's system, except as expressly authorized by Buc-ee's in writing in advance. With such authorization (which may be revoked by Buc-ee's at any time), Supplier may connect remotely to the authorized system(s) solely for the purposes and duration of Error diagnosis and correction. Supplier will ensure that all such access will be only through Buc-ee's security gateways or firewalls, and in conformity with Buc-ee's IT security policies and procedures. If access to any system involves access to software licensed from a third party, Supplier will comply with all license restrictions applicable to such software, as notified to Supplier by Buc-ee's. Supplier will not remove from any system, or retain a copy of, any data or information obtained from, or as a result of access to, such system and will not disable or interfere with Buc-ee's or any Service Recipient's use of any system.
- (e) **Support Response.** Upon receipt of a Support Request, Supplier will promptly:
 - (i) allocate a unique Support Request ticket;
 - (ii) acknowledge receipt of the Support Request (via telephone or email) and notify Buc-ee's of the ticket reference allocated;
 - (iii) commence diagnosis and correction of the relevant Error; and
 - (iv) complete the same (by way of implementation of an Error Correction or Workaround), all as soon as possible and, in any event, in accordance with the relevant timeframe (depending on the Severity Level) set out in Section 3(i) below.

The activities in (i), (ii) and (iii), collectively, constitute a response to the relevant Support Request and are all required for such Support Request to be deemed to have been responded to. If the Support Request relates to a Severity 1 or 2 Error, Supplier will additionally notify Buc-ee's of the engineer assigned to the Support Request who will undertake corrective maintenance in an expeditious manner, keep Buc-ee's advised of progress (including the steps taken to correct the Error) and the expected time for correction of the Error, and notify Buc-ee's of completion of the same. Supplier may request that Buc-ee's provide additional information that is reasonably necessary to diagnose and correct the relevant Error.

- (f) **Workarounds.** Notwithstanding the availability of a Workaround, Supplier will continue to work to correct the Error permanently and, in any event, provide Buc-ee's with a permanent Error Correction within: (i) ten (10) days for a Severity 1 or 2 Error; or (ii) three (3) weeks for a Severity 3 or 4 Error.
- (g) **Error Escalation.** If the relevant Error has not been corrected (by way of implementation of an Error Correction or Workaround) within the relevant timeframe (depending on the Severity Level) set out in Section 3(i) below, Supplier will escalate the Error immediately to one of Supplier's senior engineers, who will continue corrective maintenance in an expeditious manner, keep Buc-ee's apprised of progress (including the steps taken to correct the Error) and the expected time for correction of the Error, and notify Buc-ee's of completion of the same.

- (h) **Support Request Summary.** Within ten (10) days after the last day of each month, Supplier will provide Buc-ee's with a complete summary of all Support Requests and any other issues, questions or requests communicated by Buc-ee's to Supplier's helpdesk or other support or escalation channel. Such summary will include ticket reference, summary, description, severity, status, date opened, resolution utilized, and (if available) date closed.
- (i) **Support and Maintenance Service Levels.** Supplier will ensure its provision of support and corrective maintenance meets the Service Levels set out in the following table:

Severity Level	Response time*	Status update frequency	Time to correct Error*
Severity 1 Error	30 minutes	Every 30 minutes	4 hours
Severity 2 Error	60 minutes	Every 60 minutes	1 Business Day
Severity 3 Error	4 hours	As appropriate	5 Business Days
Severity 4 Error	4 hours	As appropriate	10 Business Days

*Calculated from time the relevant Support Request was placed.

- (j) **Support and Maintenance Service Level Credits.** Buc-ee's will be entitled to Service Level Credits for any failure of Supplier to meet the relevant Service Level for correcting a Severity 1, 2 or 3 Error as set out in the following table:

Actual time to correct Error*	Service Level Credits
2 hours past the relevant Service Level	10% of MRC
4 hours past the relevant Service Level	20% of MRC
6 hours past the relevant Service Level	25% of MRC

*Calculated from time the relevant Support Request was placed.

- (k) **Material Service Level Breach.** It will be deemed a material breach if Supplier fails to: (i) meet the relevant Service Level for correcting a Severity 1 or 2 Error on two (2) or more occasions during any consecutive ninety (90) day period; or (ii) correct a Severity 1 or 2 Error within seventy-two (72) hours of the relevant Support Request being placed.