



STANDARD TERMS AND CONDITIONS

The parties to this agreement are Heartland Business Systems, LLC (“Seller”), with corporate headquarters located at 1700 Stephen Street, Little Chute, WI 54140, and customer (“Buyer”).

1. **ACCEPTANCE OF TERMS.** Buyer accepts these Standard Terms and Conditions as a condition of Buyer’s purchase of any products or services from Seller.
2. **PAYMENT.** All invoices provided by Seller to Buyer shall be paid within 30 days of the invoice date with the exception of HBSFLEX Agreement invoices. HBSFLEX Agreement invoices shall be paid upon receipt of the invoice. In the event that Buyer is delinquent on paying any amount, Seller reserves the right to charge interest on the unpaid amount at the rate of 1.5% per month. A service charge of \$35.00 will be assessed for each check that is returned for insufficient funds.
3. **FORCE MAJEURE.** Seller’s performance hereunder shall be excused if such nonperformance or delay of performance is due to any cause beyond the reasonable control of Seller and is the direct or indirect result of, but not limited to, acts of God; acts of the public enemy; acts of the United States of America, or any state, territory or political subdivision thereof; fires; war; riots; terrorism; floods; epidemics; quarantine restrictions; insurrection; strikes; labor shortage; shipping delays; materials shortage; inability to obtain products or services; loss, failure or malfunction of computer or other systems; loss of data or freight embargoes. Any force majeure occurrence shall allow Seller to extend the period for performance for the duration of the delay or to terminate such performance.
4. **SHIPPING.** With respect to any products that are to be shipped, shipment shall be FOB Seller’s place of business, by common or contract carrier, or, in the case of drop shipment, FOB a manufacturer’s or distributor’s place of business, by common or contract carrier. Freight charges shall be Buyer’s responsibility. Delivery shall be deemed completed when the goods have been placed into the hands of the common or contract carrier. Any shipping, delivery, completion or other dates are estimates only. Any claim for loss or damage during shipment must be made as follows: Buyer shall note the loss or damage on the delivery slip at the time of signing, and Buyer shall also provide written notification to Seller within one business day. Title to any software shall remain with the applicable licensor, and Buyer’s rights are contained in the license agreement between the licensor and Buyer.
5. **WARRANTY.** Any hardware, software, parts, licenses or third-party services sold to Buyer, or integrated, included or utilized as part of any Seller service offering sold to Buyer, may be subject to a warranty made by the manufacturer or other third party to Buyer and, if so, the terms and conditions of such warranty are set forth in other documents. Buyer acknowledges that Seller is not a party to any such warranty, and that any rights or remedies that Buyer may have pursuant to said warranty are against the manufacturer or other third party directly, and is not assertable against Seller. Buyer shall look solely to the manufacturer or other third party for any loss, claims, damages or indemnification arising from or related to the above-mentioned products or third-party services. Buyer may also be subject to additional terms and conditions imposed by the manufacturer or other third party. **SELLER MAKES NO WARRANTY WITH RESPECT TO THE PRODUCTS OR SERVICES SOLD HEREUNDER. BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY WARRANTY OR REPRESENTATION BY SELLER WITH RESPECT TO THE PRODUCTS OR SERVICES SOLD HEREUNDER, EXCEPT AS ARE EXPRESSLY CONTAINED HEREIN. ANY IMPLIED WARRANTY OF MERCHANTABILITY, AND ANY IMPLIED WARRANTY THAT THE PRODUCTS OR SERVICES SOLD HEREUNDER ARE FIT FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.**
6. **PROFESSIONAL SERVICES.** Seller may provide professional services as requested by Buyer. All services provided by Seller, which include labor and travel charges, are subject to the terms and conditions as set forth in this Agreement. Services provided by Seller to Buyer may be covered under a manufacturer or other third party warranty, may be applied to a pre-paid HBSFLEX Agreement purchased by Buyer, at the rates set forth in the most current version of the HBSFLEX Volume Service Schedule, as updated from time to time, or may be billed out to Buyer at the then-prevailing hourly rate. Regardless whether the services are covered under warranty, applied to a HBSFLEX Agreement or billed out at an hourly rate, all terms of this Agreement apply. Seller’s records shall be the sole measurement of professional services and/or time expended by Seller. HBSFLEX Agreements may not be used to purchase products, and each HBSFLEX Agreement shall automatically expire eighteen months after the date of invoice for that HBSFLEX Agreement.
 - A. **Warranty.** If services provided are in connection with a problem that is covered by a manufacturer or other third-party warranty, then such services shall not be counted against a HBSFLEX Agreement or billed out at the then-prevailing hourly rate, to the extent of the warranty coverage. Please refer to your manufacturer or third party provided documentation, which will define what is covered under warranty. Any labor or travel provided that is not covered under the manufacturer or third-party warranty will be applied to a HBSFLEX Agreement or billed out at the then-prevailing hourly rate, whichever applies.
 - B. **HBSFLEX Agreements.** Buyer may choose to purchase a pre-paid HBSFLEX Agreement from Seller. When a HBSFLEX Agreement is purchased, labor and travel charges incurred will be applied against the HBSFLEX Agreement. Buyer will receive informational invoices detailing the services as they are provided.
 1. When a pre-paid HBSFLEX Agreement is exhausted an additional HBSFLEX Agreement may be purchased. If an additional HBSFLEX Agreement is not purchased, then services will be billed out at the then-prevailing hourly rates.

2. Either party may terminate a pre-paid HBSFLEX Agreement by giving notice to the other, in writing by mail to the party's last known address, of such intent. If this Agreement is terminated before the HBSFLEX Agreement is expended, then Seller shall refund 75% of the unused portion of the fee and may retain the balance.

C. Hourly Rates. Should services provided not be covered under a manufacturer or third-party warranty or should Buyer not have purchased or not have time available on a HBSFLEX Agreement, then all labor and travel will be billed out at Seller's then-prevailing hourly rates.

7. PROFESSIONAL SERVICE ESTIMATES. At times, Buyer may request time estimates for service situations. Seller will provide a best estimate based upon the information that is known at the time of the request. This is to be considered an estimate for service only and not a guarantee. Actual service hours may be less or may be more than the estimate provided.

8. FOUR-HOUR RESPONSE; AFTER HOURS WORK. For calls received on normal business days, excluding holidays, Seller will use its best effort to respond to Buyer's request for service within four business hours (the hours between 8:00 a.m. and 5:00 p.m. CT) of Buyer's request. Any work occurring after 5:00 p.m. or before 8:00 a.m. CT or on weekends is subject to a bill rate of 1.5 times the normal rates.

9. ASSIGNABILITY. Seller may delegate all, or any part of, its duties hereunder to a subcontractor.

10. EXCLUDED EQUIPMENT. Seller may discontinue providing services with respect to any hardware for which it can no longer readily obtain repair parts or technical assistance.

11. BUYER'S RESPONSIBILITY. Buyer shall use its best efforts to cooperate with Seller in connection with Seller's carrying out its duties hereunder, and Buyer shall refrain from any act or omission that could frustrate Seller's performance. Buyer shall designate one employee for each location at which services may be rendered under this Agreement, with full authority to act for Buyer in the event that Buyer's input is required regarding such services. If Seller agrees to provide services at Buyer's property, Buyer shall maintain sufficient insurance coverage to protect the property and Seller.

12. LICENSING. Buyer warrants and represents to Seller that it possesses a proper license for all software being used by Buyer's organization, and Buyer shall hold Seller harmless from any claims or suits premised upon breach of any third party's proprietary rights with respect to such software.

13. BACKUP AND SECURITY. Buyer warrants and represents to Seller that Buyer's data and system has been properly backed up, and Buyer understands that Seller shall have no liability whatsoever, under any circumstances, for any damages suffered by Buyer as a result of improper backup situations or data which has not been backed up and that is lost, for any reason, in connection with the services or use of the products sold hereunder. Buyer warrants and represents to Seller that Buyer has properly secured its network and systems, in accordance with current industry best standards, and Buyer understands that Seller shall have no liability whatsoever, under any circumstances, for any damages suffered by Buyer as a result of Buyer's failure to properly secure its network or systems.

14. NON-SOLICITATION. To the extent allowed by applicable law, during the term of this Agreement, and for a period of one year after the termination of this Agreement by either party for whatever reason, Buyer shall not, directly or indirectly, encourage any employee of Seller, who became known to Buyer by virtue of such employee's providing services under this Agreement, to terminate his or her employment with Seller. In addition, to the extent allowed by applicable law, during the term of this Agreement, and for a period of one year after the termination of this Agreement by either party for whatever reason, Buyer shall not, directly or indirectly, solicit any employee of Seller, who became known to Buyer by virtue of such employee's providing services under this Agreement, for employment which would end or diminish that employee's service with Seller. Buyer acknowledges that Seller will suffer irreparable harm as a result of Buyer's violation of this paragraph and that Seller may bring an action for injunctive relief and/or actual damages to enforce this provision.

15. DELINQUENCY. Seller shall have the right to immediately suspend or terminate providing any products and services in the event that Buyer is delinquent on payment of any outstanding invoices or Buyer becomes the subject of a voluntary or involuntary petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation or the benefit of creditors.

16. EXCLUSIVE REMEDY/LIMITATION OF LIABILITY. Notwithstanding any other provision herein, Seller's sole and exclusive liability to Buyer for any breach of this Agreement, or breach of any warranty, express or implied, found to have been made in connection with this Agreement, shall be to repair or replace, at its option, any defective hardware, software, or parts sold hereunder, in accordance with the applicable manufacturer's warranty pursuant to Section 5 above. Seller shall have no liability for any indirect, incidental, special, punitive, exemplary, liquidated or consequential damages, or any loss of profits, revenue, data or data use. In the event that Seller is found liable for any damages, Seller's total aggregate liability for whatever cause, whether in an action in contract or in tort or otherwise, shall not exceed the lesser of the total amount that Buyer actually paid to Seller during the one-year period immediately preceding such claim, or Seller's insurance coverage in the amount of three million dollars. Seller shall have no liability whatsoever to Buyer if computer software or computer hardware sold hereunder is subsequently

upgraded, or is otherwise used with software or hardware that was not used with the software and/or hardware sold hereunder at the time of installation, or if any such software or hardware has been serviced by anyone other than Seller. Seller shall have no liability whatsoever, under any circumstances, for any damages suffered by Buyer arising out of or related to data that has not been backed up, or data that is lost, damaged, corrupted, compromised for any reason (including but not limited to weak passwords or network security), or otherwise unsecured, in connection with any services or use of any products sold hereunder, and Buyer shall indemnify Seller for the same. In the event that Seller recommends a course of action for an engagement, but Buyer instructs Seller to pursue a different course of action despite Seller's recommendation, Buyer shall assume sole responsibility for any problems that arise from Buyer's course of action, and Seller shall have no liability for the same.

17. ACCEPTANCE. Except as stated in the following sentence, Buyer shall be deemed to have irrevocably accepted the products and services sold hereunder if Buyer has not given to Seller a written notice of rejection and any other necessary documentation in order to establish that the product or service is defective, within ten business days after delivery. Product returns, cancellations and order changes are only allowed pursuant to the manufacturer's policies. All data and intellectual property provided by Seller in connection with this Agreement shall belong to Seller ("Seller Materials"). Seller shall retain all rights and interests in and to the Seller Materials after the completion of this Agreement.

18. CLOUD SERVICES. Buyer agrees and acknowledges that in order to provide a high level of service, Seller may store Buyer's information in the public, private or hybrid cloud (collectively the "Cloud"). This information may include but is not limited to drawings, pictures, equipment layouts, passwords, backups, or configuration files. Buyer agrees and acknowledges that the Cloud is a separate and independent network, which is not controlled by Seller, and that Seller shall have no liability whatsoever, under any circumstances, for any damages arising out of or relating to the use of the Cloud, including but not limited to the loss of any information. In addition, Seller shall have no liability for the accuracy of any data uploaded by Buyer or any other users. If Buyer is dissatisfied with any Cloud services, Buyer's sole and exclusive remedy is to discontinue use of such services. In the event that Buyer has Seller perform services relating to Buyer's subscription-based services, Buyer shall be responsible for any charges incurred relating to the use of the subscription-based services.

19. VENDORS. The parties agree and acknowledge that Seller shall have the right to utilize vendors or subcontractors located in any geographic area, including but not limited to vendors or subcontractors who may provide technical or other support at Buyer's request. For purposes of providing a high level of service, these vendors or subcontractors may have the ability to use or access any of Buyer's information in connection with such services. This provision shall supersede any conflicting language in any agreement between the parties. Seller may also refer Buyer to other providers from time to time. Buyer agrees and acknowledges that Buyer is required to conduct its own due diligence before hiring any provider, that Seller makes no guarantees regarding the quality of any such provider's work, and that Seller shall have no liability whatsoever for any acts or omissions of any such provider.

20. INDEMNIFICATION. Buyer agrees to indemnify, hold harmless and defend Seller and its affiliates, officers, employees, and agents from and against all claims, actions, damages, suits, liabilities, obligations, costs, fees, charges, and any other expenses whatsoever, including costs and attorneys' fees, arising out of, or related to Buyer's performance under any agreement between the parties, violation of any law by Buyer, any misrepresentation, negligence or misconduct of Buyer, any claim that Buyer has infringed the intellectual property rights of a third party, Buyer's violation of any end user agreement, or Buyer's use or modification of any products or services.

21. AI. AI related products and services include but are not limited to Microsoft OpenAI, Microsoft 365 Copilot, Microsoft Copilots, Azure AI Search, and all other AI services. The parties acknowledge that AI related products or services do not always function as intended, and that errors, defects, or other unintended consequences may occur from time to time. Seller does not sell or support industrial internet of things technologies, and Seller is unable to provide any guarantee or warranty regarding the effectiveness, accuracy, performance, or outcome of any AI related products or services provided or utilized by Seller or any third parties. Buyer agrees and acknowledges that the use of any AI related products or services is strictly at Buyer's sole risk, and that Seller shall have no liability whatsoever, under any circumstances, for any damages arising out of or relating to the use or misuse of any AI related products or services.

22. CHOICE OF LAW; JURISDICTION. This Agreement, and any claim arising under it, or related to the transaction evidenced by it, shall be construed and determined under the laws of Wisconsin. The parties agree to the exclusive jurisdiction of the courts located in Outagamie County, Wisconsin for the resolution of any disputes arising from or related to this Agreement. Each party submits to and accepts, generally and unconditionally, the exclusive jurisdiction of such court. Each party waives any claim that such court is not a convenient forum or the proper venue. The parties agree that neither party may bring or join in any class action litigation against the other party. No action arising out of this Agreement may be brought by Buyer more than one year after the cause of action has arisen.

23. ATTORNEY FEES. In the event that legal action is taken by either party upon any claim arising from this Agreement or in any way related to the transaction that is evidenced by this Agreement, Seller shall, if it prevails, be entitled to recover from Buyer its costs and reasonable attorney fees incurred in connection therewith.

24. SEVERABILITY. If any portion of this Agreement is determined by a court or government agency having competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect to the extent permitted by law.

25. BINDING EFFECT. This Agreement shall bind and inure to the benefit of the parties, and their respective heirs, successors, personal representatives, beneficiaries and assigns.

26. ADDITIONAL WORK. In the event that Seller agrees to provide additional products or services at any time, the terms and conditions of this Agreement shall govern.

27. EXPORT CONTROL. Buyer shall be required to provide written notice to Seller before providing Seller with access to any information that may be subject to the International Traffic in Arms Regulations, U.S. Export Administration Regulations, or any other similar laws, regulations and orders. Buyer shall also be required to label any such information with the appropriate classification so that Seller is informed of the regulations applicable to such information.

28. ENTIRE AGREEMENT. This Agreement, together with any Quote or Statement of Work executed by the parties, is the entire agreement of the parties respecting the sale of any products or services from Seller to Buyer. This Agreement supersedes and replaces any prior agreements between the parties with respect to the subject matter hereof. No modification, addition, or amendment shall be binding unless in writing and signed by both parties.